

Statutory Rules 1995 No. 290<sup>1</sup>

**Plant Breeder's Rights Regulations<sup>2</sup> (Amendment)**

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Plant Breeder's Rights Act 1994*.

Dated 3 October 1995.

BILL HAYDEN  
Governor-General

By His Excellency's Command,

**BOB COLLINS**

Minister for Primary Industries and Energy

**1. Amendment**

1.1 The Plant Breeder's Rights Regulations are amended as set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

**2. Regulation 3 (Interpretation)**

2.1 Subregulation 3 (1):

Insert the following definition:

“ **‘authorised testing establishment’** means an establishment authorised under regulation 3A.”

[NOTE: Words and expressions defined in the Act have the same meaning in these Regulations as they do in the Act. For example:

“**contracting party**” means a State, or an intergovernmental organisation, that is a party to the Convention;

“**Convention**” means the International Convention for the Protection of New Varieties of Plants, a copy of the English text of which is set out in the Schedule to the Act.

Other words and expressions that are defined include “**PBR**”, “**plant variety**” and “**breeder**”.]

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<sup>1</sup> Notified in the *Commonwealth of Australia Gazette* on 10 October 1995.

<sup>2</sup> Statutory Rules 1994 No. 352 as amended by 1994 No. 353.

### **3. New regulation 3A**

3.1 After regulation 3, insert:

#### ***Authorised testing establishment***

“3A. (1) For the purposes of conducting a test growing of a plant variety under section 37 of the Act, the Secretary may authorise, in writing, an establishment to conduct the test growing.

“(2) An establishment may be authorised only if the Secretary is satisfied that it is capable of conducting a test growing of a variety in a manner appropriate to give effect to the obligations of Australia under the Convention.”.

### **4. New regulation 4**

4.1 Add at the end:

#### **Refund and remission of fees in specified circumstances**

“4. (1) If a person has paid, in respect of a matter, an amount greater than the prescribed fee for the matter, the Secretary may refund to the person so much of the amount as excess to the fee.

“(2) If a service in respect of which a person has paid a fee has not been provided, or has been provided only in part, the Secretary may refund the fee, or so much of the fee as is proportionate to the part of the service that has not been provided, as appropriate.

“(3) If a person to whom a refund could be made under subregulation (1) or (2) agrees, the Secretary may remit, against a fee that the person subsequently becomes liable to pay, an amount equal to the amount that could be refunded.”.

### **5. Schedule (Fees)**

5.1 Before item 1, insert:

“1A	Designation of an approved person under section 8	\$50
1B	Renewal of designation of an approved person	\$50”.

#### **5.2 Item 6, Columns 2 and 3:**

Omit paragraph (a), substitute:

“(a) a variety tested under section 37 to establish that the variety is distinct, uniform and stable:

(i) if the testing is conducted by an authorised establishment;	\$ 800
(ii) in any other case	\$1400”.

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