



ANALYSIS

Title
1. Short Title

2. Orders in Council as to convention parties

1999, No. 122

An Act to amend the Plant Variety Rights Act 1987

[14 October 1999]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Plant Variety Rights Amendment Act 1999, and is part of the Plant Variety Rights Act 1987 (“the principal Act”).

2. Orders in Council as to convention parties—(1) The principal Act is amended by inserting, after section 38, the following section:

“38A. For the purpose of giving effect to any international agreement or arrangement to which New Zealand is a party or that applies to New Zealand, the Governor-General may by Order in Council declare that any entity specified in the order that is a party to the agreement or arrangement or to which the agreement or arrangement applies (whether a state, part of a state, a territory for whose international relations a state is responsible, a political union, an international organisation, or any other entity) is a convention party for the purposes of this Act.”

(2) Section 2 of the principal Act is amended by repealing the definitions of the terms “international agreement” and “UPOV country”, and inserting, after the definition of the term “Commissioner”, the following definition:

“‘Convention party’ means an entity that for the time being—

“(a) Is declared by an order under section 38A to be a convention party for the purposes of this Act; or

“(b) Is a contracting party to the body that, on the commencement of the Plant Variety Rights Amendment Act 1999, was known as the International Union for the Protection of New Varieties of Plants (constituted under the international agreement then called the International Convention for the Protection of New Varieties of Plants):”.

(3) Section 12 (1) of the principal Act is amended by repealing paragraphs (a) and (b), and substituting the following paragraphs:

“(a) Any person makes an application for a grant in New Zealand in respect of a variety in respect of which that person has earlier,—

“(i) After a convention party that is a state, part of a state, or a territory for whose international relations a state is responsible most recently became a convention party, made in and under the law of that convention party an equivalent application that has been accepted; or

“(ii) After a convention party that is not a state, part of a state, or a territory for whose international relations a state is responsible most recently became a convention party, made under the rules of that convention party an equivalent application that has been accepted; and

“(b) That application for a grant in New Zealand is made not more than 12 months after that equivalent application (or, if more than 1 equivalent application has been made, whether in or under the rules of several convention parties, the earliest of them) was made; and”.

(4) Section 17 (6) of the principal Act is amended by omitting from paragraphs (a) and (b) the words “UPOV country”, and substituting in each case the words “convention party”.