



Territories Legislation (Plant Breeder's Rights) Transitional Rules 2017

I, Fiona Nash, Minister for Local Government and Territories, make the following rules.

Dated 13 April 2017

Fiona Nash
Minister for Local Government and Territories

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1 Name

This instrument is the *Territories Legislation (Plant Breeder's Rights) Transitional Rules 2017*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2017.	1 July 2017

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under item 5 of Schedule 5 to the *Territories Legislation Amendment Act 2016*.

4 Definitions

In this instrument:

application has the same meaning as in the PBR Act.

dependent plant variety has the same meaning as in the PBR Act.

PBR has the same meaning as in the PBR Act.

PBR Act means the *Plant Breeder's Rights Act 1994*.

plant variety has the same meaning as in the PBR Act.

section 11 act means an act referred to in a paragraph of section 11 of the PBR Act.

5 Section 43 (registrable plant varieties)

- (1) This section applies to:
- an application made before 1 July 2017 in relation to which a decision has not been made under section 44 of the PBR Act before 1 July 2017; and
 - an application made on or after 1 July 2017.

Section 6

- (2) For the purposes of an application mentioned in subsection (1), the reference in paragraph 43(6)(a) of the PBR Act to Australia is taken always to have included Norfolk Island.

Note: *Australia* (when used in a geographical sense) has included Norfolk Island since 1 July 2016—see section 2B of the *Acts Interpretation Act 1901*.

6 Section 53 (infringement of PBR)

- (1) Despite subsection 53(1) of the PBR Act, PBR in a plant variety is not infringed by a person doing a section 11 act in respect of the variety or of a dependent plant variety if:
- (a) the PBR was granted before 1 July 2017; and
 - (b) the person does the section 11 act:
 - (i) on or after 1 July 2017; and
 - (ii) only in Norfolk Island; and
 - (c) the person had done a section 11 act, or taken definite steps (by contract or otherwise) to do a section 11 act, in respect of that variety or of a dependent plant variety:
 - (i) between 1 July 2016 and 30 June 2017; and
 - (ii) only in Norfolk Island.
- (2) The section 11 act mentioned in paragraph (1)(c) may be an act of the same or a different kind as the section 11 act mentioned in paragraph (1)(b).