



Animal &
Plant Health
Agency

Variety Listing & Plant Breeders' Rights Fees Refresh in Great Britain and Northern Ireland

Information Paper

17 October 2022

Introduction

It is UK Government policy to charge for many publicly provided goods and services. The standard approach is to set fees to recover the full costs of service delivery. This relieves the general taxpayer of costs, so that they are properly borne by users who benefit from a service. This allows for a more equitable distribution of public resources and enables lower public expenditure and borrowing.

Plant Varieties and Seeds services, including Variety Listing in Great Britain and Northern Ireland (GB/NI VL) and Plant Breeders' Rights (PBR), operate in line with this principle of full cost recovery. In line with government policy, GB/NI VL & PBR fees are reviewed regularly and adjusted to ensure no under, or over, recovery of costs (Managing Public Money, HM Treasury (HMT), March 2022).

These changes are immediate measures to ensure that the full costs of the services provided are reflected in the fees. A wider review of GB/NI VL and PBR fees in the UK is planned in the next few years to take account of the changing volumes of UK applications and work in these areas.

The changes will take effect from 9 January 2023.

GB/NI VL & PBR Fee Changes

Plant Breeders' Rights (PBR, intellectual property (IP) rights)

Voluntary intellectual property rights over plant varieties in the UK are known as plant breeders' rights (PBR). PBR enables breeders to collect royalties on new varieties and control seed and propagating material. They are available for all species of plants and are essential for the economic success of plant breeding.

PBR legislation is established on a UK basis. A UK Controller, appointed under the Plant Varieties Act 1997, is responsible for the operation of the Plant Variety Rights Office (PVRO) in administering PBR. The PVRO is a joint responsibility of the four UK administrations (England, Wales, Scotland, and Northern Ireland) and comprises the UK Controller, UK Deputy Controller, and members of the APHA team responsible for the administration and delivery of UK Plant Breeders' Rights. The National Lists and Seeds Committee (NLSC) advises the PVRO and makes recommendations to it. The UK Controller is responsible for decision-making required for the granting of UK PBR.

Following EU Exit, EU Community Plant Variety Rights (CPVR) legislation no longer apply in the UK. An owner of a CPVR which was granted before the end of December 2020 will automatically own a corresponding PBR in the UK. For new PBR, businesses need to apply in both the UK and EU to gain the same geographical coverage.

Variety Registration

For the main food and feed crops, a plant variety must first be registered on the GB/NI VL before it can be legally marketed in the UK. GB/NI VL & PBR services assure the identity and quality attributes of marketed varieties, drive improvement of agricultural crops, and protect the intellectual property rights of breeders who invest resources in developing new varieties. Following EU Exit, to market seed and propagating material in GB, NI and EU markets, businesses need to apply to have the variety listed on both the GB/NI VL, and a National List of an EU member state.

Variety Listing & Plant Breeders' Rights Fee Changes

The Controller, the Appropriate Authorities (Defra (Department for Environment, Food and Rural Affairs), the Scottish Government, the Welsh Government) and DAERA (Department for Agriculture, Environment and Rural Affairs), may charge fees reasonably incurred for the purposes of these Regulations, as set out in Regulation 4 of the [Plant Breeders' Rights \(Naming and Fees\) Regulations 2006](#), Regulation 10 of the [Seeds \(National Lists of Varieties\) Regulations 2001](#), and Regulation 11 of the [Seeds \(Variety Lists\) Regulations \(Northern Ireland\) 2020](#) respectively. The GB/NI VL

system is administered by APHA (Animal and Plant Health Agency (an Agency of Defra)) on behalf of the Controller, the Appropriate Authorities, and DAERA.

The fee changes are as follows:

(1) Increase the administration fee for GB/NI VL and PBR.

APHA has seen significant increases in the volumes of applications and work in these areas. The increased joint GB/NI VL & PBR administration fee (see Table 4) is therefore required in order to achieve full (eligible) cost recovery in line with HM Treasury's guidance on managing public money, avoiding under, or over, recovery of costs.

The cost for APHA to process applications and administer listing and rights for the life of a variety is based on the APHA HM Treasury approved charge out rates for the relevant grades multiplied by the time taken (see Table 1). Shared Services Connect Limited (SSCL) processing charges and NIAB costs for the maintenance of VTS (the computer system) are also included. The estimated cost for processing the expected volume of applications is £845,002 (see Table 2). The estimated cost for processing the expected volume of applications is then divided by the estimated volume of applications to determine the new joint GB/NI VL & PBR administration fee (see Table 3).

SSCL Processing Charges

SSCL processing charges were implemented in January 2021. SSCL are the organisation that raise invoices and accept payments on behalf of APHA (at a cost of £12.50 per transaction). In the past SSCL processing charges were costed in overall staff overheads but are now costed directly.

NIAB VTS Maintenance Charges

NIAB charge a fixed cost for the annual maintenance of the GB/NI VL & PBR computer database (VTS).

Table 1. Table to show the HM Treasury approved charge out rates per grade multiplied by the % time taken to process applications and administer listing and rights for the life of a variety.

Grade	Charge Out Rate (£)	Number of Staff	% of Time GB/NI VL	% of Time PBR	FTE GB/NI VL	Cost GB/NI VL (£)	FTE PBR	Cost PBR (£)
AO	69,588	1	45	35	0.45	31,314	0.35	24,356
EO	74,550	6.6	75	0	4.95	369,023	0	0
HEO	84,125	3	30	30	0.9	75,713	0.9	75,713
SEO	93,800	3	25	25	0.75	70,350	0.75	70,350
Grade 7	115,988	1	25	25	0.25	28,997	0.25	28,997
Total Time		14.6			7.3		2.25	
Total Cost						575,396		199,415

Table 2. Table to show the estimated cost for processing the expected volume of applications. SSCL processing charges and NIAB's costs for VTS maintenance are also included.

SSCL processing charges	£23,751
NIAB VTS Maintenance Cost	£46,440
GB/NI VL Annual Cost	£575,396
PBR Annual Cost	£199,415
Total GB/NI VL & PBR Annual Cost	£845,002

Table 3. Table to show the calculation for the new joint GB/NI VL & PBR administration fee (total annual cost divided by the predicted number of applications). The cost per application has been rounded up to determine the new administration fee of £598 as there is still considerable uncertainty in the predicted volume of applications. The predicted number of applications for GB/NI VL & PBR uses the current number of NL applications for agricultural species to predict the number of PBR applications for each crop group (agriculture, vegetable, ornamental, and fruit) from their respective proportions of EU PVR applications. This assumes that future applications for UK PBR for each crop group will be in the same proportion as for EU PVR. Full cost recovery will be achieved assuming that the predicted volumes are reasonably accurate.

A full breakdown of these predictions is available upon request.

Total GB/NI VL & PBR Annual Cost	£845,002
Estimated volume of applications	1413
Cost per GB/NI VL & PBR application	£598
Joint GB/NI VL & PBR administration fee	£598

Table 4. Table to show the new joint GB/NI VL & PBR administration fee.

	Existing Fee (£)	New Fee (£)	% Increase
Joint GB/NI VL and PBR administration fee	450	598	32.9%

(2) Increase the administration fee for VCU.

As part of the application process to add an agricultural crop to the GB/NI VL, the proposed plant variety must be tested to confirm whether it has satisfactory value for cultivation or use (VCU). Almost all VCU performance testing is undertaken by industry organisations through competitively awarded contracts via tender.

A VCU administration fee increase of 3% (see Table 7) is required to achieve full (eligible) cost recovery in line with HM Treasury's guidance on managing public money. The new fee will cover staff costs, NIAB VCU technical management fees, Biomathematics and Statistics Scotland (part of the James Hutton Institute) (BioSS) VCU technical management fees, and SSCL processing charges (see Table 5 and Table 6).

NIAB VCU Technical Management Fees

NIAB under a Technical Service Contract (Lot 4) charge APHA for provision of independent review and reporting of VCU trials and disease resistance tests. No departmental or other costs are added to the NIAB VCU Technical Management Fee (and at the moment all allowable costs are recouped on the DUS admin charge).

BioSS VCU Technical Management Fees

BioSS charge APHA under a memorandum of understanding (MOU) for data analysis.

SSCL Processing Charges

SSCL processing charges were implemented in January 2021. SSCL are the organisation that raise invoices and accept payments on behalf of APHA (at a cost of £12.50 per transaction). In the past SSCL processing charges were costed in overall staff overheads but are now costed directly.

Table 5. Table to show the estimated cost for processing the expected volume of VCU applications. Staff costs, NIAB VCU technical management fees, BioSS VCU technical management fees, and SSCL processing charges are included. In order to achieve full cost recovery, the total cost for processing the expected volume of VCU applications must be equal to the total income from the VCU administration fee.

	Existing Fee (£)	New Fee (£)
NIAB VCU Tec Man Fee	84,660	87,369
BioSS VCU Tec Man Fee	36,400	36,400
SSCL Processing Charges	0	9,650
Total Cost	121,060	133,419
Total Income	127,380	133,419
VCU administration fee		
	165	173
Predicted recovery	6,320	0

Table 6. Table to show the calculation for the new joint VCU administration fee (total VCU annual cost divided by the estimated volume of applications per year).

Total VCU Annual Cost	£133,419
Estimated volume of applications	772
Cost per VCU	£173
VCU administration fee	£173

Table 7. Table to show the new VCU administration fee.

	Existing Fee (£)	New Fee (£)	% Increase
VCU administration fee	165	173	4.8%

DUS Fee Changes

As part of the application process to add a plant variety to the GB/NI VL or for the award of a PBR, the plant variety must be tested to ensure it is distinct, uniform, and stable (DUS). DUS tests are carried out at approved centres, typically over a 2-year period. There are 3 test centres for DUS testing of agricultural and vegetable varieties in the UK:

- NIAB
- the Agri-Food and Biosciences Institute (AFBI)
- SASA

NIAB does all DUS testing in the UK for ornamentals.

DUS test and reference variety fees are payable for every candidate variety and parental line sown in each year of testing, usually within three months of the seed being sown. Only one DUS test fee is payable for joint GB/NI VL and PBR applications.

The changes are:

(3) Increase AFBI's DUS fees and annual charge for herbage.

AFBI set an annual fee (£350,000) which is charged to APHA on a quarterly basis. APHA set the DUS test and reference variety fees, which are charged to applicants directly. Through these charges, APHA look to achieve full (eligible) cost recovery (to recoup the annual fee charged by AFBI) in line with HM Treasury's guidance on managing public money, avoiding under, or over, recovery of costs (see Table 8 and Table 9).

Table 8. Table to show the estimated cost for processing the expected volume of AFBI DUS test and reference variety fees. *The £144 under recovery is as close to full cost recovery as possible and will be absorbed by APHA.*

	Existing Fee	New Fee
Total number of DUS applications	136	136
DUS test fee charged by APHA	£788	£1,091
Projected Income from DUS Test Fee <i>(DUS Test Fee x Total DUS Applications)</i>	£107,168	£148,376
Herbage Annual Charge		
Number Of Herbage Varieties Attracting an Annual Charge	345	345
Herbage Annual Charge Made By APHA	£422	£584
Projected Income from Herbage Annual Charge <i>(Herbage Annual Charge x Number of Herbage Varieties)</i>	£145,590	£201,480
AFBI Annual Charge		
AFBI Annual Charge	£350,000	£350,000
Projected income <i>(Projected Income from DUS Test Fee + Projected Income from Herbage Annual Charge)</i>	£252,758	£349,856
Projected recovery <i>(Projected Income - AFBI Annual Charge)</i>	-£97,242	-£144

Table 9. Table to show the new AFBI DUS fee and annual charge for herbage.

	Existing Fee (£)	New Fee (£)	% Increase
DUS Fee	788	1091	38.5%
Annual Charge for herbage	422	584	38.4%

(4) Increase SASA's DUS fees and potato VCU fees.

SASA's new DUS fees and potato VCU fees (see Table 10) were determined using activity tracking data over five years from 2015 to 2019 on the time allocated to conducting DUS trial work at SASA for vegetable and agricultural crops and VCU trial work on potatoes. The average time spent per DUS and VCU candidate was calculated across the staff grades and input into the SASA Cost Allocation Model (CAM). This takes account of all operational costs incurred in delivery of these services and uses Scottish Government average staff costs for 2020/2021.

Table 10. SASA's DUS fees for potatoes, vegetables, and certain fodder species, as well as potato VCU fees.

Test	Crop	Existing Fee (£)	New Fee (£)	% Increase
DUS	Vegetable	1,294	1,525	17.9%
	Vegetable Pea	1,334	1,515	13.6%
	Field Pea	1,394	1,575	13.0%
	Swede	1,010	1,050	4.0%
	Turnip Rape	1,325	1,560	17.7%
	Potato	451	1,080	139.5%
VCU	Potato	1,064	2,058	93.4%

SASA set the DUS test and reference variety fees which are charged to APHA on a quarterly basis (see Table 11).

Table 11. SASA's Proposed New Charges to APHA

Work Area	Current Charge to APHA	Revised Charge to APHA	% Increase
Potato Variety Collection Annual Charge	£212	£235	11%
Swede Variety Collection Annual Charge	£180	£180	No change
New Amateur Vegetable Variety Check †	£10 per sample	£13 per sample	30%
Verification/VCU Check – All crops	£100	£103 per application	3%

The potato DUS fee has shown little increase even in the years before the last revision of the Revised Fees for GB/NI VL and PBR services which came into effect 1st April 2014. The new fee is a more accurate evaluation of the charge when considering current staff and operational costs whilst also meeting the target of full cost recovery.

The potato DUS fee is competitive when compared to, for example, [CPVO](#) and the [Board of Plant Varieties in the Netherlands](#).

A full breakdown of SASA's DUS and potato VCU fee calculations is available upon request. Any enquiries should be sent to VarietyTesting@sasa.gov.scot.

(5) Increase NIAB's DUS fees.

The Secretary of State for Defra and Scottish Ministers, on behalf of the Controller, the Appropriate Authorities and DAERA, for the purposes of the [Plant Breeders' Rights \(Naming and Fees\) Regulations 2006](#), Regulation 10 of the [Seeds \(National Lists of Varieties\) Regulations 2001](#), and Regulation 11 of the [Seeds \(Variety Lists\) Regulations \(Northern Ireland\) 2020](#) respectively, entered an agreement with NIAB to provide DUS services in accordance with the Technical Service Contract (TSC) following a competitive tender process conducted in accordance with the Public Contracts Regulations 2015.

NIAB's DUS charges (see Table 12) are set out in the TSC under Lot 1 ("Contract for the provision of distinctiveness, uniformity, and stability testing (DUS) services and other support services").

Table 12. Increase in NIAB's DUS fees.

	Existing Fees (£)	New Fee (£)	% Increase
Winter cereals	985.00	1,016.52	3.2%
Spring cereals	985.00	1,016.52	3.2%
Field beans arrangement fee*	2,985.00*	3,080.52*	3.2%
Field beans published fee (50% arrangement fee)	1,492.50	1,540.26	3.2%
WOSR, fodder rape + fodder kale	1,755.00	1,811.16	3.2%
Sugar beet	600.00	619.20	3.2%
Ornamentals (glasshouse)	2,250.00	2,322.00	3.2%
Ornamentals (outdoors)	1,950.00	2,012.40	3.2%

* For Field Beans, Defra will continue to support the difference between the agreed Arrangement Fee and the published DUS Test Fee, taking into account any volume changes. The DUS Test Fee for Field Beans will be approximately 50% of the Arrangement Fee.



© Crown copyright 2022

This information is licensed under the Open Government Licence v3.0. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/

This publication is available at www.gov.uk/government/publications

Any enquiries regarding this publication should be sent to us at:
pvs.helpdesk@apha.gov.uk