

Plant Varieties and Seeds Committee

Provisional Protocol – Proposals for Legislation

Principles

- The purpose of this protocol is to set out the mechanism which allows proposals for legislation on plant breeders' rights, variety registration and certification and marketing to be considered by DAERA, Defra, the Scottish Government, and the Welsh Government.
- Whilst PVS is a devolved policy area, the UK-wide nature of the PVS industry and international obligations requires close co-operation to provide clarity and assurance to business, enforcement authorities and consumers.
- Legislation can be made on a devolved basis for England, Northern Ireland, Scotland and Wales or on a GB basis or a UK basis.
- The possibility to diverge on legislative requirements, following a proposal, is not precluded from the process described in this protocol.
- The Agreement on the Withdrawal of the United Kingdom from the EU sets out the current arrangements where, although remaining within the UK's custom territory, Northern Ireland will remain aligned with the EU on legislation concerned with variety registration and certification and marketing.

Protocol

1. A proposal for the amendment or introduction of legislation can be made to the PVSC in the form of an initial draft paper, or other suitable medium, from the NLSC or any of the NLSC sub-groups, the industry, DAERA, Defra, Scottish Government, Welsh Government, and from within the PVSC.
2. The PVSC will consider a proposal to amend or introduce legislation.
3. All proposals should first be considered by the PVSC. An initial policy evaluation will be undertaken, and arrangements made to undertake a prioritisation exercise via email correspondence or at a meeting as timely as possible. If the proposal is considered a priority and/or necessary by the PVSC, responsibility for producing a detailed paper on the proposal will be agreed. The paper should be drafted to provide evidence, justification and a full consideration of the proposal, to include:
 - 3.1. The rationale;
 - 3.2. Detail of the change being put forward;
 - 3.3. Whether proposed changes should be reflected in the legislation that applies to all/part of UK;
 - 3.4. Consideration of the application of the Windsor Framework including an assessment of the impact and implications of the

- requirement for Northern Ireland to align with EU legislation and whether GB will choose to align;
- 3.5. A consideration of the criteria as described in paragraph 6; and
 - 3.6. A suggested timeline.
4. Where appropriate, the NLSC will consider the proposal as laid out in the paper. They will provide a technical evaluation of the proposal for the PVSC to consider.
 5. The PVSC will review the proposal at the next available convened meeting or if necessary, sooner through an ad-hoc meeting or by correspondence.
 6. The PVSC will assess the proposal against criteria including:
 - 6.1. Technical justification
 - 6.2. Legal implications
 - 6.3. Compliance with International Obligations
 - 6.4. Impact on the functioning of the internal market
 - 6.5. Impact on the UK Administrations
 - 6.6. Application of the Windsor Framework
 - 6.7. Impact on the Crown Dependencies, if relevant
 - 6.8. Impact on trade with other countries
 - 6.9. Feedback from stakeholders
 7. If the PVSC agrees the proposal, then DAERA, Defra, Scottish Government and Welsh Government will work together on the development of the legislation.
 8. If the PVSC does not agree to the proposal, it will be referred back to the proposer to request further information/evidence or to confirm rejection and the reason why.
 9. If the PVSC cannot reach agreement on how to take the proposal forward, then next steps are taken in line with the decision-making part of the PVSC Terms of Reference.