



CRI

Centre for Regulatory Innovation

Regulators' Capacity Fund

Agriculture and Agri-
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Plant Breeders' Rights Act/UPOV'91 Legal Analysis

In 2015, Canada amended its *Plant Breeders' Rights Act*, the law designed to incentivize investment and innovation in plant breeding, to conform to the latest global convention: the 1991 Act of the International Convention for the Protection of New Varieties of Plants (UPOV'91). The amendments included regulation making authority which could be used to enable stronger intellectual property (IP) protections in the future. These protections could include placing conditions or restrictions on farm-saved seed, which a number of other countries have chosen to do.

To help inform possible regulatory amendments to strengthen IP protections in the future, AAFC, in collaboration with the Canadian Food Inspection Agency (CFIA), conducted a benchmarking legal study and analysis examining the PBR legislation of other developed agriculture nations. The project began with a comparative legal analysis of the regulation of PBR in nine other jurisdictions, followed by an examination of the enabling provision under the Canadian *PBR Act*. This analysis was used to consider options for the design of a fair remuneration system in Canada, taking into account the elements of the most successful systems employed in other jurisdictions.

The comparative analysis showed that many countries have set up remuneration systems for the use of farm-saved seeds, either through regulation or contractual agreements. The study concluded that subsection 75(1)(l.2) of the *PBR Act*, would cover the creation of a payment obligation and the setting of the remuneration rate, as well as the introduction of information obligations. The results of the study will be used to inform the CFIA's planned fall 2023 amendments to the *PBR Regulations* and AAFC's future consideration of the appropriate policy and communications approaches for how best to develop a fair royalty collection system for Canada. Introducing stronger IP protections for PBR in Canada will in turn encourage innovation and competitiveness in Canada's agricultural, horticultural and ornamental sectors.