

## AUSTRALIA

Contribution received in reply to UPOV Circular E-24/047 of April 22, 2024

**From:** Isabel Ward <[Isabel.Ward@ipaaustralia.gov.au](mailto:Isabel.Ward@ipaaustralia.gov.au)>  
**Sent:** Tuesday, May 21, 2024 7:48 AM  
**To:** mail, Upov <[upov.mail@upov.int](mailto:upov.mail@upov.int)>  
**Cc:** Bronwyn Davis <[Bronwyn.Davis@ipaaustralia.gov.au](mailto:Bronwyn.Davis@ipaaustralia.gov.au)>  
**Subject:** RE: GENTLE REMINDER: Action by May 20, 2024: call for replies to questions by the WG-SHF (UPOV Circular E-24/047) [SEC=OFFICIAL]

Hi

Please see below Australia's answers to the survey.

1. Is your country/intergovernmental organization implementing the exception "acts done privately and for non-commercial purposes"? If so, how is it implemented?

The exception is implemented in Australian law in Section 16 of the Plant Breeder's Rights Act 1994 (the PBR Act), I have copied the relevant section of the Act below for reference.

### **16 Certain acts done for private, experimental or breeding purposes do not infringe PBR**

Any act done in relation to a plant variety covered by PBR that is done:

- (a) privately and for non-commercial purposes; or
- (b) for experimental purposes; or
- (c) for the purpose of breeding other plant varieties;

does not infringe the PBR.

2. Concerning this exception, are there definitions for the following term: "acts done privately and for non-commercial purposes"?

The terms are not defined in the legislation. As noted below, there has not been any court cases related to the exception.

3. Please specify legislation/regulation and jurisprudence concerning this exception.

To date there have not been any cases related to the exception or judgements which have discussed the issue.

4. Are there any challenges and/or opportunities in implementing this exception in your jurisdiction? Please explain.

Australia has not encountered any challenges and/or opportunities in implementing this exception, we are not aware of any concerns from stakeholders in Australia about the exception or its implementation.

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Kind Regards

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