



## Application for a declaration of essential derivation

### Sections 1 to 3 to be completed by the Applicant

Note: This application must be accompanied by the prescribed fee.

### Section 1: General information about the Applicant and varieties concerned

Name of Applicant

(person making this request for declaration of essential derivation)

Address

State	Postcode
Country	

Contact person

(if different from applicant)

Contact details

Telephone No.	( )
Facsimile No.	( )
Mobile No.	
Email	

### Initial Variety (details of your granted PBR variety)

PBR Application number

PBR Certificate number

Variety name

Botanical name


Has the initial variety itself been declared to be essentially derived from another variety? Yes  No

### Second Variety (details of the variety you are claiming is essentially derived)

PBR Application number

PBR Certificate number  
(if granted)

Variety name

Botanical name




### Section 3: Declaration by the Applicant

As the grantee of the initial variety stated in this application, I apply under Section 40 of the *Plant Breeder's Rights Act 1994* for a declaration that the second variety stated in this application is essentially derived from the aforementioned variety.

I/We

declare that the information given in all parts of and attachments to this application is true and correct\*.

Signature

Date

Name  
(Please print)

**\* THE PENALTY UNDER SECTION 75(1) FOR MAKING A FALSE STATEMENT  
IN SUPPORT OF AN APPLICATION IS SIX MONTHS IMPRISONMENT.**

**Section 4 to be completed by IP Australia**

**Section 4: Process for assessing an application for essential derivation**

**Prior declarations affecting initial variety**

Has the initial variety been declared essentially derived from another variety?    Yes     No   
If yes, then refuse application for essential derivation and notify applicant

**Application must contain *prima facie* case of essential derivation**

Has a *prima facie* case been established?    Yes     No

If no, has the applicant been notified with reasons for the decision?    Yes     No

If yes, has notification been sent to grantee of second variety allowing 30 days (or other such period as allowed by the delegate) in which to establish that the second variety is not an essentially derived variety of the initial variety?    Yes     No

**Final Declaration**

After considering all relevant information, is the delegate satisfied that the grantee in the second variety has rebutted the *prima facie* case?    Yes     No

If yes, notify both the applicant and grantee of second variety of result; and provide reasons to the applicant.

If no, declare that the second variety **is** essentially derived from the initial variety; notify both the applicant and grantee of second variety, and provide reasons to the grantee of the second variety.

Reasons:


Written notification of the declaration has been provided to the grantee of the initial variety and the grantee of the second variety    Yes     No

Registrar of Plant Breeder's Rights (Delegate of the Secretary)	Dated:
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