



Postponement Questions and Answers (Q&A)

The section below on Frequently Asked Questions relates to the Decision on the extension of time limits and associated postponement matters. The information provided under this section is liable to changes and updates depending on the CPVO's evaluation of the ongoing Covid-19 situation. Therefore, you are advised to consult this section regularly. The information below was last updated on 27 April 2020.

Question 1 Postponement of technical examination

If I have a problem to submit material within the time-limit to submit plant material, can the DUS-test be postponed?

Answer 1

Yes, but upon request. You must send a written request to the CPVO before the end of the regular plant submission period. You should ask the CPVO:

- 1) for a short delay if you want the DUS-test to be carried out in the current growing period or
- 2) for the test to be postponed for one year

In the event that a short delay for plant submission has already been accepted by the CPVO for a DUS-test, a request for postponement of the DUS-test to the following growing period can still be made until the end of the agreed short delay.

Question 2 Extension to pay the fee for the technical examination

If I manage to submit material in time for it to be DUS-tested in the current growing period, can I get an extension to pay the fee for the technical examination?

Answer 2

You should try to pay the examination fee by the due date referred to in the debit note issued by the CPVO. If you have not paid by the due date, the Decision on the extension of time limits means that the CPVO will send you a reminder with a three months deadline to pay the examination fee. This measure is applicable to all outstanding examination fees with a due date until 21 September 2020.

Question 3 Extension to pay the fee for the technical examination to the next growing season

If the DUS-test is postponed to the following growing season, when shall I pay the fee for the technical examination?

Answer 3

The obligation to pay the fee for the technical examination will be postponed until the following growing season.

Question 4 Applicable amount of examination fee following new fees as from 1 April 2020

If the DUS-test is postponed, which amount of the examination fee will I be charged?

Answer 4

The amount of examination fees changed on 1 April 2020. The CPVO will apply the amount of the examination fee according to the date of application when the candidate variety was filed to the CPVO, and not when the DUS-test actually starts.

Question 5 Priority in case my variety is tested a year after another non-distinct variety

If my candidate variety has benefitted from a postponement of DUS-testing to the following growing season, what guarantees do I have that another very similar variety with a later application date ("later variety") but with the DUS test started in 2020, will not be declared **distinct** from my variety ("earlier variety")?

Answer 5

The CPVO already has a policy in place on any postponement of DUS-testing, whereby the application date of candidate varieties takes precedent in the decision on distinctness. If a positive technical report had been issued for the "later variety", following a DUS test in 2020 and a grant of Community plant variety rights were to follow, then the CPVO would have to review its decision. Both the similar varieties would have to be grown in the DUS trial in the following growing season (2021) for the "earlier variety"; if they turned out not to be distinct, then the "earlier variety" would receive a positive technical report, whilst the "later variety" would be reissued with a negative technical report. If a Community plant variety right had already been granted for the "later variety", then the title would be declared null and void.

Question 6 Extension to pay the annual fee for maintaining a CPVR title in force

Will my Community plant variety rights title of protection be cancelled if I do not pay the annual fee in time?

Answer 6

You should try to pay the annual fee by the due date referred to in the debit note issued by the CPVO. If you have not paid by the due date, the Decision on the extension of time limits means that the CPVO will send you a reminder with a three months deadline to pay the annual fee. This measure is applicable to outstanding annual fees with a due date between 17 March 2020 and 21 September 2020. Beyond the new deadline, the CPVO can launch the cancellation procedure for any title of protection which still has an outstanding annual fee.

Question 7 Extensions to other deadlines set by the CPVO

Apart from examination fees and annual fees, can I get an extension to other deadlines set by the CPVO in relation to other ongoing procedures (applications, appeals, etc)?

Answer 7

No, the earlier Decision of 26 March 2020 as amended on 6 April 2020 was taken with the aim of extending time limits expiring between 17 March 2020 and 3 May 2020 inclusive in the context of the coronavirus outbreak. Since CPVO stakeholders have managed to adjust their working procedures according to the current context, it has not been considered necessary to further prolong deadlines to other procedures beyond 4 May 2020.