

*Status: Point in time view as at 31/03/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Plant Varieties and Seeds Act 1964, SCHEDULE 4. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

Section 10.

#### THE PLANT VARIETY RIGHTS TRIBUNAL

##### Modifications etc. (not altering text)

**C1** Sch. 4 (except paras. 3 and 9(4)) extended (N.I.) by S.I. 1964/1574, art. 1, Sch.

##### *The Chairman*

- 1 (1) The Lord Chancellor shall appoint a chairman for the Tribunal, who shall be [<sup>F1</sup>a person who has a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990 (“a qualifying person”).]
- (2) [<sup>F2</sup>Subject to sub-paragraph (2A) of this paragraph,] The appointment of the chairman shall be for such term as may be determined by the Lord Chancellor before his appointment, and a person who ceases to hold office as chairman of the Tribunal shall be eligible for re-appointment.
- [<sup>F3</sup>(2A) No appointment of a person to be the chairman of the Tribunal shall be such as to extend beyond the day on which he attains the age of 70; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).]
- (3) The chairman may resign his office by notice in writing to the Lord Chancellor.
- (4) If the Lord Chancellor is satisfied that the chairman is unfit to continue in office or incapable of discharging his duties, he may revoke the appointment of the chairman.

##### Textual Amendments

- F1** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), Sch. 10 para. 21(1)
- F2** Sch. 4 para. 1(2): words inserted (31.3.1995) by 1993 c. 8, s. 26, Sch. 6 para.54 (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, art. 2
- F3** Sch. 4 para. 1(2A) inserted (31.3.1995) by 1993 c. 8, s. 26, Sch. 6 para.54 (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, art. 2

- 2 In the case of the temporary absence or inability to act of the chairman, the Lord Chancellor may appoint any other person who is a [<sup>F4</sup>a qualifying person] to act as deputy for the chairman, and the person so appointed shall, when so acting, have all the functions of the chairman.

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**Textual Amendments**

**F4** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), **Sch. 10 para. 21(2)**

- 3 In relation to proceedings before the Tribunal in Scotland—
- (a) paragraphs 1 and 2 of this Schedule shall have effect as if for the references to the Lord Chancellor and to a [<sup>F5</sup>qualifying person] there were substituted respectively references to the Lord President of the Court of Session and to [<sup>F5</sup>an advocate or solicitor in Scotland of at least seven years standing]; and
  - (b) references in paragraphs 5 and 8 of this Schedule to the chairman or deputy chairman shall be construed respectively as references to the chairman or deputy chairman appointed for such proceedings.

**Textual Amendments**

**F5** Words substituted as provided by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), **Sch. 10 para. 21(2)**

*F6*  
 .....

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**Textual Amendments**

**F6** **Sch. 4 para. 4** repealed by [House of Commons Disqualification Act 1975 \(c. 24\)](#), s. 10, **Sch. 3** and [Northern Ireland Assembly Disqualification Act 1975 \(c. 25\)](#), **Sch. 3 Pt. I**

*The two panels*

- 5 (1) The Ministers shall draw up and from time to time revise—
- (a) a panel of persons who have wide general knowledge in the field of agriculture, of horticulture or of forestry; and
  - (b) a panel of persons who have specialised knowledge of particular species or groups of plants [<sup>F7</sup>or of the seeds industry],
- and the members of the Tribunal (other than the chairman and deputy chairman) shall be selected from those panels in accordance with this Schedule.
- (2) The power to revise the said panels shall include power to terminate a person's membership of either of them, and shall accordingly to that extent be subject to [<sup>F8</sup>section 8 of the <sup>M1</sup>Tribunals and Inquiries Act 1971] (which makes it necessary to obtain the concurrence of the Lord Chancellor and of certain judicial officers in Scotland and Northern Ireland to dismissals in certain cases).

**Textual Amendments**

**F7** Words added by [European Communities Act 1972 \(c. 68\)](#), s. 4, **Sch. 4 para. 5(5)**

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**F8** Words substituted by [Tribunals and Inquiries Act 1971 \(c. 62\), s. 18\(4\)](#)

**Marginal Citations**

**M1** [1971 c. 62.](#)

*Remuneration of members of Tribunal*

- 6 The Ministers may pay to members of the Tribunal such remuneration and such allowances as the Ministers may with the approval of the Treasury determine.

*Officers and servants*

- 7 (1) The Ministers may appoint such officers and servants of the Tribunal as the Ministers may with the approval of the Treasury determine.
- (2) There shall be paid to the officers and servants appointed under this paragraph such remuneration and allowances as the Treasury may determine.

*Procedure*

- 8 (1) The jurisdiction of the Tribunal shall be exercised by three members consisting of the chairman and a member selected from each of the two panels; and references in this Act to the Tribunal shall be construed accordingly.
- (2) The member from the panel of those with specialised knowledge shall be selected for his knowledge of the subject matter of a particular case or class or group of cases.
- (3) The members of the panels who are to deal with any case shall be selected as follows—
- (a) the Ministers may select a member or members to deal with that particular case or class or group of cases, or
  - (b) the Ministers may select for a class or group of cases members from amongst whom members to deal with any particular case shall be selected, and the selection from amongst those members of a member or members to deal with the particular case shall then be made either by the Ministers, or, if they so direct, by the chairman.
- (4) Any decision of the Tribunal in exercise of their jurisdiction shall be taken, in the event of a difference between members dealing with the case, by the votes of the majority.
- (5) If, after the commencement of the hearing of any proceedings before the Tribunal, one of the three members of the Tribunal becomes incapable of continuing to hear the proceedings on account of sickness or for any other reason, the proceedings may, with the consent of all parties to the proceedings, be continued before the remaining two members of the Tribunal and heard and determined accordingly, but if the two members differ in opinion the case shall, on the application of any party to the proceedings, be re-argued and determined by the Tribunal as ordinarily constituted.

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- (6) A decision of the Tribunal shall not be questioned on the ground that a member was not validly appointed or selected.
- (7) The Tribunal may sit to hear any proceedings in any place in Great Britain.
- 9 (1) The Tribunal in exercising their statutory jurisdiction may order any party to the proceedings to pay to any other party to the proceedings either a specified sum in respect of the costs incurred by the second-mentioned party in the proceedings, or the taxed amount of those costs; and any costs required by an order under this subparagraph to be taxed may be taxed in the county court according to such of the scales prescribed by county court rules for proceedings in the county court as may be directed by the order or, if the order gives no direction, by the county court.
- (2) The Lord Chancellor may by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make rules as to the procedure in connection with proceedings brought before the Tribunal in exercise of their statutory jurisdiction and, subject to the approval of the Treasury, as to the fees chargeable in respect of those proceedings, and the rules may in particular make provision—
- (a) as to the circumstances in which the Tribunal need not sit, or is not to sit, in public,
  - (b) as to the form of any decision of the Tribunal,
  - (c) as to the time within which any proceedings are to be instituted,
  - (d) as to the evidence which may be required or admitted in any proceedings,
  - (e) as to the examination of the parties, and of witnesses, on oath or affirmation in any proceedings,
  - (f) as to the procedure for securing the attendance of witnesses and the production of documents in any proceedings.
- (3) In this paragraph “statutory jurisdiction” means any jurisdiction of the Tribunal exercisable by or under this Act, except for their jurisdiction in any reference under an arbitration agreement.
- (4) In relation to proceedings in Scotland this paragraph shall have effect as if for subparagraph (1) there were substituted the following—
- “(1) The Tribunal in exercising their statutory jurisdiction may order that the expenses of any proceedings before it incurred by any party shall be paid by any other party, and may tax or settle the amount of any expenses to be paid under any such order or direct in what manner they are to be taxed.”

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