

Status: Point in time view as at 12/03/1991.

Changes to legislation: Plant Varieties and Seeds Act 1964 is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 1.

PROTECTION OF APPLICANT FOR RIGHTS WHILE APPLICATION IS PENDING

Modifications etc. (not altering text)

C1 Sch. 1 extended (N.I.) by S.I. 1964/1574, art. 1, Sch.

- 1 (1) An applicant for the grant of plant breeders' rights shall in his application state whether he is also applying for a direction by the Controller under this Schedule (in this Schedule referred to as "a protective direction") as respects the plant variety to which the application relates.
- (2) An applicant applying for a protective direction shall include in the application an undertaking to the effect that, subject to the exceptions in the next following sub-paragraph, in the period between the making of the application and the time when the question whether the application is to be allowed or refused is finally determined (or, if the undertaking is discharged under this Schedule at an earlier time, until that earlier time) no plants of the plant variety, and no material forming part of, or derived from, plants of that variety, will be offered or exposed for sale or sold in the United Kingdom by the applicant or with his consent.
- (3) An undertaking under this paragraph shall not prevent [^{F1}the making of] any offer [^{F2}or exposure] for sale or sale which in the period before the application would be permitted by sub-paragraphs (3), (4) or (5) of paragraph 2 of Part II of Schedule 2 to this Act, . . . ^{F3}
- (4) If the Controller is satisfied that the applicant has duly given the undertaking, and that he has furnished the Controller all such information, facilities and material as the Controller may require for the purposes of the application for the grant of plant breeders' rights, the Controller may, if he thinks fit, give a protective direction.
- (5) The Controller [^{F1}may refuse] a protective direction if there is any evidence before him which tends to show that the applicant, or the person whose successor in title the applicant claims to be, is not the person who bred or discovered the plant variety to which the application relates [^{F4}or that the rule set out in paragraph 2 of Part II of Schedule 2 to this Act is not complied with in the case of the variety].
- (6) An appeal shall lie to the Tribunal against a decision to give or refuse a protective direction.

Textual Amendments

F1 Words substituted by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), Sch. 7

F2 Words inserted by Plant Varieties Act 1983 (c. 17, SIF 2:9), ss. 4, 6, Sch. 1 para. 7, Sch. 2

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| F3 | Words repealed by Plant Varieties Act 1983 (c. 17, SIF 2:9) , ss. 4, 6, Sch. 1 para. 7, Sch. 2 |
| F4 | Words added by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34) , Sch. 7 |

- 2
- (1) While a protective direction is in force, anything which, if the plant breeders' rights to which the application in question relates had been granted, would have constituted an infringement of those rights, or would under section 5(6) of this Act have been actionable in proceedings by the holder of those rights, may be the subject of proceedings under this paragraph.
 - (2) Proceedings may be brought under this paragraph by the applicant in whose favour the protective direction is made against any person for an injunction or interdict requiring that person, while the protective direction is in force, not to do any of the things which may be the subject of proceedings under this paragraph, and the court may if it thinks fit grant an injunction or interdict accordingly on such terms as appear to the court to be just.
 - (3) An undertaking not to institute or prosecute proceedings under this paragraph, whether or not a consideration is given for the undertaking, shall be void, and if the Controller is satisfied that an applicant in whose favour a protective direction is made has given such an undertaking, whether or not the undertaking be enforceable at law, he shall withdraw the protective direction.
 - (4) A protective direction shall cease to be in force when the question whether the application for the grant of plant breeders' rights is to be allowed or refused is finally determined, or at such earlier time as is provided under the following provisions of this Schedule.
- 3
- (1) The Controller may at any time, if in all the circumstances it appears to him to be just, withdraw a protective direction, and shall withdraw a protective direction if he is satisfied that there has been a breach of the undertaking given under paragraph 1 of this Schedule by the applicant.
 - (2) An appeal shall lie to the Tribunal against a decision to withdraw a protective direction [^{F5} not being a decision given on the application of the applicant in whose favour the direction was made].
 - (3) The undertaking given by the applicant under paragraph 1 of this Schedule shall cease to be binding when the protective direction is withdrawn.

Textual Amendments

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| F5 | Words substituted by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34) , Sch. 7 |
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- 4
- (1) If at any time the Controller is satisfied that there has been a breach of the undertaking given under paragraph 1 of this Schedule, he may refuse the application for the grant of plant breeders' rights or, as the case may be, may terminate the period for which plant breeders' rights are exercisable.
 - [^{F6}(1A) An appeal shall lie to the Tribunal against a decision under this paragraph to terminate the period for which plant breeders' rights are exercisable.]

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- (2) If there is a breach of an undertaking under paragraph 1 of this Schedule given by an applicant, the applicant shall be guilty of an offence and shall be liable on summary conviction—
- (a) in the case of a first offence under this sub-paragraph, to a fine not exceeding [F7fifty pounds][F7level 3 on the standard scale], and
 - (b) in the case of a second or subsequent offence under this sub-paragraph, to a fine not exceeding [F7one hundred pounds][F7level 3 on the standard scale].

Textual Amendments

- F6** Sch. 1 para. 4(1A) inserted by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), Sch. 7
- F7** Words “level 3 on the standard scale” substituted (S.) for “fifty pounds” and “one hundred pounds” respectively by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289E–289G

Modifications etc. (not altering text)

- C2** Sch. 1 para. 4(2): Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 35 (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.) and S.I. 1984/703 (N.I. 3), arts. 5 (substitution of references to levels on the standard scale), 6 (increase of fines), 9 (in relation to liability on first and subsequent convictions) apply

SCHEDULE 2

Modifications etc. (not altering text)

- C3** Sch. 2 extended (N.I.) by S.I. 1964/1574, art. 1, Sch.

PART I

PRIORITIES BETWEEN APPLICANTS FOR RIGHTS

- 1 (1) If the variety was independently bred or discovered by two or more persons, the first of those persons [F8(and any successors in title of theirs)] who makes an application relating to the variety [F9under] this Act shall be the person entitled to a grant of plant breeders' rights.
- (2) As between two persons making applications on the same date, the one who was first in a position to make a valid application for the grant of plant breeders' rights (or would have been first in that position if Part I of this Act and the relevant scheme had always been in force) shall be the person entitled to a grant of plant breeders' rights.

Textual Amendments

- F8** Words inserted by Plant Varieties Act 1983 (c. 17, SIF 2:9), s. 4, Sch. 1 para. 8(1)
- F9** Word substituted by Plant Varieties Act 1983 (c. 17, SIF 2:9), s. 4, Sch. 1 para. 8(1)

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- 2
- (1) For the purposes of the foregoing paragraph an application duly made in a country to which this paragraph applies when the application is made shall be treated as if duly made under this Act if the conditions in this paragraph are satisfied.
 - (2) No account shall be taken under this paragraph of an application made in a country outside the United Kingdom at a time when the plant variety to which the application relates was not one falling within a species or group prescribed by a scheme under this Act as a species or group in respect of which plant breeders' rights may be granted.
 - (3) Not more than 12 months after the application duly made in that country the applicant must make his application under this Act [^{F10}being an application] which includes a claim in respect of the priority of the application in the said country.
 - (4) Within 3 months of the application under this Act a copy of the documents constituting the application in the said country, certified as correct by the authority in that country to whom the application is made, must be submitted to the Controller.
 - (5) If applications have been made in more than one country to which this paragraph applies, and have been so made at different dates, the period of 12 months mentioned in sub-paragraph (3) of this paragraph shall be taken from the earlier or earliest of those applications, and sub-paragraph (4) of this paragraph shall be construed accordingly.
 - (6) If priority is established for an application by virtue of this paragraph after a grant of plant breeders' rights has been made in pursuance of an application against which priority is established, the Controller shall terminate the period for which the rights under the grant are exercisable.

An appeal shall lie to the Tribunal against a decision of the Controller to act under this sub-paragraph.
 - (7) The Ministers may by order contained in a statutory instrument from time to time designate any country or territory outside the United Kingdom as a country to which this paragraph applies, and from time to time vary or revoke any such order, but not so as to prejudice applications already made in the United Kingdom or elsewhere.

Textual Amendments

F10 Words substituted by [Plant Varieties Act 1983 \(c. 17, SIF 2:9\)](#), s. 4, [Sch. 1 para. 8\(2\)](#)

- 3
- Regulations under section 9 of this Act may provide for the forfeiture of any priority obtained under the foregoing provisions of this Schedule if the person making the application does not within a period prescribed by the regulations satisfy all the requirements which are to be satisfied by an applicant before a grant of plant breeders' rights can be made.

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PART II

RULES FOR GRANT OF RIGHTS

Distinctness

- 1 (1) The variety must be clearly distinguishable by one or more important [^{F11}characteristics which are capable of precise description] from any other variety whose existence is a matter of common knowledge at the time of the application.
- (2) For the purposes of the foregoing sub-paragraph common knowledge may be established by reference to plant varieties already in cultivation or exploited for commercial purposes, or those included in a recognised commercial or botanical reference collection, or those of which there are precise descriptions in any publication.

Textual Amendments

F11 Words substituted by [Plant Varieties Act 1983 \(c. 17, SIF 2:9\)](#), s. 4, [Sch. 1 para. 9\(1\)](#)

Previous commercialisation

- 2 (1) Subject to this Schedule, in the period before the scheme by virtue of which the application is made came into force, no plants of the variety, and no material forming part of, or derived from, plants of the variety may have been offered [^{F12}or exposed] for sale or sold by any person in the United Kingdom or elsewhere.
- (2) Subject to this Schedule, in the period beginning with the date when the said scheme came into force and ending with the date of the application no plants of the variety, and no material forming part of, or derived from, plants of the variety, may have been offered [^{F12}or exposed] for sale or sold by or with the consent of the applicant in the United Kingdom or elsewhere:

[^{F13}Provided that the restriction imposed by this sub-paragraph shall not apply to sales or offers or exposures for sale made outside the United Kingdom—

 - (a) in the case of fruit, forest and ornamental trees and their root-stocks and grapevines and their root-stocks, during the period of six years ending with the date of the application;
 - (b) in any other case, during the period of four years ending with that date.]
- (3) Sub-paragraphs (1) and (2) of this paragraph shall not apply—
 - (a) to an offer for sale of a stock of material of any plant variety in connection with an offer for sale of the title to apply for the grant of plant breeders' rights in respect of that plant variety, or
 - (b) to any sale of material of any plant variety if at the time of the sale or subsequently the purchaser becomes the person entitled to make an application for the grant of plant breeders' rights in respect of that plant variety.

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- (4) Where an applicant makes, or proposes to make, arrangements under which some other person uses reproductive material of the plant variety under the control of the applicant for the purpose of increasing the applicant's stock, or of carrying out tests or trials, and under which the whole of the material produced, directly or indirectly, from that reproductive material, and any unused reproductive material, becomes or remains the property of the applicant, the said sub-paragraphs (1) and (2) shall not apply—
- (a) to a sale or offer [^{F14}or exposure] for sale of the reproductive material by the applicant to any such other person as part of such arrangements, or
 - (b) to a sale by the other person to the applicant of the material produced, directly or indirectly, from that reproductive material.
- (5) The said sub-paragraphs (1) and (2) shall not apply to an offer [^{F14}or exposure] or sale or sale of material, not being reproductive material . . . ^{F15}, produced in the course of—
- (a) the breeding of the plant variety, or
 - (b) increasing the applicant's stock of material of the plant variety, or carrying out tests or trials of the plant variety, . . . ^{F15}

Textual Amendments

- F12** Words inserted by [Plant Varieties Act 1983 \(c. 17, SIF 2:9\)](#), s. 4, [Sch. 1 para. 9\(2\)](#)
- F13** Proviso substituted by [Plant Varieties Act 1983 \(c. 17, SIF 2:9\)](#), s. 4, [Sch. 1](#) para. 9(3)
- F14** Words inserted by [Plant Varieties Act 1983 \(c. 17, SIF 2:9\)](#), s. 4, [Sch. 1 para. 9\(4\)](#)
- F15** Words repealed by [Agriculture \(Miscellaneous Provisions\) Act 1968 \(c. 34\)](#), [Sch. 8](#)

- 3 (1) Where an application in the form prescribed for the purposes of this Schedule by regulations under section 9 of this Act is made at a time not later than 11th May 1965, and the applicant does not ask for a protective direction, sub-paragraphs (1) and (2) of the last foregoing paragraph shall not apply to any offer for sale or sale in the period beginning with 12th November 1963 and ending with that time if the Controller is satisfied that the applicant took all steps reasonably open to him to ensure that any person to whom material of the plant variety has been offered or sold during the said period has been informed in writing that an application for a grant of plant breeders' rights may be made in respect of the variety.
- (2) Where an application is allowed by virtue of this paragraph, section 7(2) of this Act shall not apply to any compulsory licence granted as respects the plant variety to which the application relates.

Uniformity

- 4 The variety must be sufficiently uniform or homogeneous having regard to the or particular features of its sexual reproduction or vegetative propagation.

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Stability

- 5 The variety must be stable in its essential characteristics, that is to say, it must remain true to its description after repeated reproduction or propagation or, where the application prescribes a particular cycle of reproduction or multiplication, at the end of each cycle.

SCHEDULE 3

Section 4.

PLANT BREEDERS’ RIGHTS IN SPECIAL CASES

Modifications etc. (not altering text)

C4 Sch. 3 extended (N.I.) by S.I. 1964/1574, art. 1, Sch.

Sale of cut blooms, fruit, etc.

- 1 ^{F16}(1) If it appears to the Ministers that, in the case of any species or group of plant varieties, plant breeders will not receive adequate remuneration unless there is made such provision as is authorised by this paragraph, and that such provision will be of substantial benefit to plant breeders, they may by a scheme under Part I of this Act provide that, as respects any plant variety of the species or group prescribed by the scheme, plant breeders’ rights shall include the exclusive right to do, and to authorise others to do, as follows—
- (a) to produce or propagate the variety in Great Britain for the purpose of selling such parts or products of the variety as may be prescribed by the scheme; and
 - (b) to sell or offer or expose for sale in Great Britain, so far as they are obtained from plants produced or propagated outside Great Britain, such parts or products of the variety as may be so prescribed.]
- (3) References in this paragraph to parts or products of a plant variety include references to whole plants of that plant variety.

Textual Amendments

F16 Sch. 3 para. 1(1) substituted for subparas. (1)(2) by Plant Varieties Act 1983 (c. 17, SIF 2:9), s. 2

Use of reproductive material for production of certain other plant varieties

- 2 Plant breeders’ rights shall include the exclusive right to do, and to authorise others to do, as follows, that is to use the reproductive material of the plant variety to which the rights relate for the purpose of producing, in order to sell it, the reproductive material of another plant variety if (but only if) the nature of that other variety is such that repeated production of the reproductive material of that other variety is

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not possible without the repeated use of reproductive material of the plant variety to which the rights relate.

SCHEDULE 4

Section 10.

THE PLANT VARIETY RIGHTS TRIBUNAL

Modifications etc. (not altering text)

C5 [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 [^{F17}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) 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.
- (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

F17 Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 71\(2\), Sch. 10 para. 21\(1\)](#)

- 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 [^{F18}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.

Textual Amendments

F18 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 [^{F19}qualifying person] there were substituted respectively references to the Lord President of the Court of Session and to [^{F19}an advocate or solicitor in Scotland of at least seven years standing]; and

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- (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

- F19** Words substituted as provided by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 21\(2\)](#)

F20

4

Textual Amendments

- F20** [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 [^{F21}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 [^{F22}section 8 of the ^{M1}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

- F21** Words added by [European Communities Act 1972 \(c. 68\)](#), s. 4, [Sch. 4 para. 5\(5\)](#)
- F22** 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.

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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.
- (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.

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- (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.”

SCHEDULE 5

. . . F23

Textual Amendments

F23 Sch. 5 repealed by [European Communities Act 1972 \(c. 68\)](#), s. 4, [Sch. 3 Pt. III](#)

SCHEDULE 6

Section 31.

REPEALS OF SEEDS ENACTMENTS

Modifications etc. (not altering text)

C6 The text of Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Chapter	Short Title	Extent of Repeal
32 & 33 Vict. c. 112.	The Adulteration of Seeds Act 1869	The whole Act.
41 & 42 Vict. c. 17	The Adulteration of Seeds Act 1878	The whole Act.
10 & 11 Geo. 5. c. 54.	The Seeds Act 1920	The whole Act.
15 & 16 Geo. 5. c. 66.	The Seeds (Amendment) Act 1925.	The whole Act.
2 & 3 Eliz. 2. c. 39.	The Agriculture (Miscellaneous Provisions) Act 1954.	Section 12.
1963 c. 11	The Agriculture (Miscellaneous Provisions) Act 1963.	Section 24.

SCHEDULE 7

Section 33.

CROSS-POLLINATION INJURING PROTECTED CROPS

- 1 An application under section 33 of this Act seeking the issue of a notice under that section shall be in writing.
- 2 Before deciding whether to issue a notice in accordance with the application the Minister shall serve a notice on the occupier of the land giving him particulars of the application, and of his right to make representations in accordance with the next following paragraph.
- 3 The Minister shall, if requested within such time as may be specified in the notice under paragraph 2 above, afford to the applicant, and to the occupier of the land, an opportunity of appearing before and making representations to a person appointed by the Minister for the purpose.
- 4 In deciding whether to issue a notice in accordance with the application, and in deciding the terms of any such notice, the Minister shall have regard—
 - (a) to the need to maintain, in the interests of the public, the purity of the seed in question,
 - (b) to the degree to which the injurious cross-pollination will or may diminish the value of the protected crop or disturb arrangements made for the purpose of maintaining the purity of the seed in question, and
 - (c) to the value, if any, of the controlled crops or plants and the inconvenience or disturbance involved in complying with a notice.

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