



Plant Varieties and Seeds Act 1964

1964 CHAPTER 14

PART I

PLANT BREEDERS' RIGHTS

5 Naming of protected plant varieties

- (1) The Ministers may by regulations under this section provide for the selection of names for plant varieties which are the subject of applications for plant breeders' rights and for the keeping of a register of the names so selected.
- (2) Notice of all entries made in the register, including alterations, corrections and erasures, shall be published by the Controller in the gazette to be issued under Part IV of this Act, and in such other manner as appears to the Controller to be convenient for the publication of these to all concerned.
- (3) After a section of the Index under Part II of this Act has come into force, the part of the register under this section dealing with the class of plant varieties to which that section of the Index relates shall, so far as practicable, be combined with the Index.
- (4) Regulations under this section may in particular—
 - (a) prescribe the circumstances in which representations may be made regarding any decision as to the name to be registered in respect of any plant variety,
 - (b) make provision for the publication or service of notices of decisions which the Controller proposes to take, and
 - (c) prescribe the times at which, and the circumstances in which, the register may be inspected by members of the public.
- (5) Any regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) If, where a name is registered under this section for a plant variety, any person uses that name, or a name so nearly resembling it as to be likely to deceive or cause confusion, in selling or offering or exposing for sale—
 - (a) reproductive material of a different plant variety within the same class, or

Status: This is the original version (as it was originally enacted).

- (b) where under paragraph 1 of Schedule 3 of this Act plant breeders' rights in the first-mentioned plant variety have been extended to material other than reproductive material, that other material from a different plant variety within the same class,

the use of the name shall be a wrong actionable in proceedings by the holder of the rights; but it shall be a defence to a claim for damages in any such proceedings to prove that the defendant took all reasonable precautions against committing a wrong of the kind alleged and had not when using the name any reason to suspect that it was wrongful.

- (7) In this section the expression " name" includes any designation, and references to plant varieties as being within the same class are references to them as being within the same class being either—
 - (a) a class consisting of all plant varieties of the species or groups prescribed by any one scheme under this Part of this Act, or
 - (b) any other class of plant varieties prescribed for the purposes of this subsection by any such scheme.