



# Plant Varieties Act 1997

## 1997 CHAPTER 66

### PART I

#### PLANT VARIETIES

##### *Exceptions*

#### **8 General exceptions.**

Plant breeders' rights shall not extend to any act done—

- (a) for private and non-commercial purposes,
- (b) for experimental purposes, or
- (c) for the purpose of breeding another variety.

#### **9 Farm saved seed.**

- (1) Subject to subsection (2) below, plant breeders' rights shall not extend to the use by a farmer for propagating purposes in the field, on his own holding, of the product of the harvest which he has obtained by planting on his own holding propagating material of—
  - (a) the protected variety, or
  - (b) a variety which is essentially derived from the protected variety.
- (2) Subsection (1) above only applies if the material is of a variety which is of a species or group specified for the purposes of this subsection by order made by the Ministers.
- (3) If a farmer's use of material is excepted from plant breeders' rights by subsection (1) above, he shall, at the time of the use, become liable [<sup>F1</sup>(subject to any contractual agreement entered into between the farmer and the holder of the plant breeders' rights)] to pay the holder of the rights equitable remuneration, which shall be sensibly lower than the amount charged for the production of propagating material of the same variety in the same area with the holder's authority.

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*Changes to legislation: There are currently no known outstanding effects for the Plant Varieties Act 1997, Cross Heading: Exceptions. (See end of Document for details)*

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- (4) Subsection (3) above shall not apply to a farmer who is [<sup>F2</sup>a small farmer for the purposes of this section].
- (5) [<sup>F3</sup>[<sup>F4</sup>[<sup>F5</sup>Subsection (3) above shall not apply if—
  - (a) before the day on which this Part of this Act comes into force, the farmer has, in relation to the variety concerned, engaged in use of the kind to which subsection (1) above applies, and
  - (b) no remuneration was payable in respect of that use.]]]
- (6) The Ministers may by order provide that, on such date after 30th June 2001 as may be specified in the order, subsection (5) above shall cease to have effect in relation to a variety so specified, or varieties of a species or group so specified.
- (7) The Ministers may by regulations—
  - (a) make provision enabling—
    - (i) holders of plant breeders’ rights to require farmers or seed processors, and
    - (ii) farmers or seed processors to require holders of plant breeders’ rights, to supply such information as may be specified in the regulations, being information the supply of which the Ministers consider necessary for the purposes of this section,
  - (b) make provision restricting the circumstances in which the product of a harvest of a variety which is subject to plant breeders’ rights may be moved, for the purpose of being processed for planting, from the holding on which it was obtained, and
  - (c) make provision for the purpose of enabling the Ministers to monitor the operation of any provision of this section or regulations under this section.
- (8) Regulations under subsection (7)(a) above may include provision imposing obligations of confidence in relation to information supplied by virtue of the regulations.
- (9) Subsections (3) and (4) of section 7 above shall apply for the purposes of subsection (1) (b) above as they apply for the purposes of subsection (2) of that section.
- [<sup>F6</sup>(10) In this section, “small farmer” means—
  - (a) in a case where the material referred to in subsection (3) is used for propagating potatoes, a farmer who grows potatoes in an area no bigger than that which would be needed to produce 185 tonnes of potatoes per harvest, and
  - (b) in a case where the material referred to in subsection (3) is used for propagating any other variety specified for the purpose of subsection (1), a farmer who grows that variety in an area no bigger than that which would be needed to produce 92 tonnes of cereals per harvest.]
- (11) In this section, references to a farmer’s own holding are to any land which he actually exploits for plant growing, whether as his property or otherwise managed under his own responsibility and on his own account.

[<sup>F7</sup>(12) . . . . .

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### Textual Amendments

- F1** Words in s. 9(3) inserted (31.12.2020) by [The Plant Breeders' Rights \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/204\)](#), regs. 1(1), **15(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in s. 9(4) substituted (31.12.2020) by [The Plant Breeders' Rights \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/204\)](#), regs. 1(1), **15(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** S. 9(5) ceased to have effect (W.) (12.5.2006) by virtue of [Plant Breeders' Rights \(Discontinuation of Prior Use Exemption\) \(Wales\) Order 2006 \(S.I. 2006/1261\)](#), arts. 1(1), **2**
- F4** S. 9(5) ceased to have effect (E. and N.I.) (7.11.2005) by virtue of [Plant Breeders' Rights \(Discontinuation of Prior Use Exemption\) Order 2005 \(S.I. 2005/2726\)](#), arts. **1, 2**
- F5** S. 9(5) ceased to have effect in part (S.) (4.11.2005) by virtue of [Plant Breeders' Rights \(Discontinuation of Prior Use Exemption\) \(Scotland\) Order 2005 \(S.S.I. 2005/460\)](#), arts. 1(1), **2**
- F6** S. 9(10) substituted (31.12.2020) by [The Plant Breeders' Rights \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/204\)](#), regs. 1(1), **15(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** S. 9(12) omitted (31.12.2020) by virtue of [The Plant Breeders' Rights \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/204\)](#), regs. 1(1), **15(2)(d)**; 2020 c. 1, Sch. 5 para. 1(1)

## 10 Exhaustion of rights.

- (1) Plant breeders' rights shall not extend to any act concerning material of a variety if the material—
  - (a) has been sold or otherwise marketed in the United Kingdom by, or with the consent of, the holder of the rights, or
  - (b) is derived from material which has been so sold or otherwise marketed.
- (2) Subsection (1) above shall not apply where the act involves—
  - (a) further propagation of the variety, or
  - (b) the export of material which enables propagation of the variety to a non-qualifying country, otherwise than for the purposes of final consumption.
- (3) For the purposes of subsection (2)(b) above, a non-qualifying country is one which does not provide for the protection of varieties of the genus or species to which the variety belongs.
- (4) In this section, “material”, in relation to a variety, means—
  - (a) any kind of propagating material of the variety,
  - (b) harvested material of the variety, including entire plants and parts of plants, and
  - (c) any product made directly from material falling within paragraph (b) above.

**Changes to legislation:**

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