

## 1985 No. 357

## PLANT BREEDERS' RIGHTS

## The Plant Breeders' Rights (Fees) Regulations 1985

<i>Made</i> - - - - -	7th March 1985
<i>Laid before Parliament</i>	18th March 1985
<i>Coming into Operation</i>	8th April 1985

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland, the Secretary of State for Wales and the Secretary of State for Northern Ireland, acting jointly, in exercise of the powers conferred on them by sections 9(1) and 36 of the Plant Varieties and Seeds Act 1964(a) as extended to Northern Ireland(b) and now vested in them(c), and the said Minister and the Secretary of State, acting jointly, in exercise of the said powers as extended to the Isle of Man(d), with the approval of the Treasury in accordance with section 9(1) of the said Act, and in exercise of all other powers enabling them in that behalf, hereby make the following regulations:—

*Title and commencement*

1. These regulations may be cited as the Plant Breeders' Rights (Fees) Regulations 1985 and shall come into operation on 8th April 1985.

*Revocation of previous regulations*

2. The regulations specified in column 1 of Schedule 1 are hereby revoked.

*Interpretation*

3.— (1) A reference in these regulations to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule bearing that number in these regulations.

(2) In these regulations—

“the Act” means the Plant Varieties and Seeds Act 1964;

“the Controller” means the Controller of Plant Variety Rights;

(a) 1964 c. 14.

(b) By the Plant Varieties and Seeds (Northern Ireland) Order 1964 (S.I. 1964/1574).

(c) In the case of the Secretary of State for Wales, by virtue of S.I. 1978/272.

(d) By the Plant Varieties and Seeds (Isle of Man) Order 1969 (S.I. 1969/1829).

“National List” means a list of plant varieties prepared and published in accordance with the Seeds (National List of Varieties) Regulations 1982(a);

“plant breeders’ rights” means rights which may be granted in accordance with Part I of the Act;

“the principal regulations” means the Plant Breeders’ Rights Regulations 1978(b).

*Payment of fees*

4.— (1) There shall be paid to the Controller in respect of the matters relating to plant breeder’s rights arising under the act or the principal regulations—

- (a) a fee on making an application for a grant of plant breeders’ rights, being the new fee set out in the third column of Part I of Schedule 2 opposite the reference in the second column of the said Part I to the plant variety of the kind to which the application relates, such fee being payable on making the said application;
- (b) a fee payable in respect of tests or examination of a plant variety which is the subject of an application for a grant of plant breeders’ rights, being the new fee set out in the fourth column of Part II of Schedule 2 opposite the reference in the second column of the said Part II to the plant variety of the kind to which the tests or examination relate, such fee being payable for the tests or examination referred to in the third column of the said Part II and so payable within fourteen days of a written demand made by the Controller;
- (c) a fee payable in respect of the continued exercise of plant breeders’ rights in a plant variety, being the new fee set out in relation to the particular year of the exercise of such rights in the third and fourth columns of Part III of Schedule 2 opposite the reference in the second column of the said Part III to the plant variety of the kind for which the rights were granted, such fee being due on, but not payable more than three months before, the anniversary of the date of the grant of the rights with which the particular year begins or within such later period as may have been allowed by the Controller;
- (d) subject to paragraph (4) below the fees payable in respect of the matters referred to in the second column of Part IV of Schedule 2 being the new fees set out in the fourth column of the said Part IV opposite the respective references to those matters, such fees being payable at the times specified in respect of each such matter in the third column of the said Part IV.

(2) If, at the time of the application for a grant of plant breeders’ rights the plant variety in respect of which the application is made is or has been the subject of an application for its addition to a National List but no fee is or has been payable under the Seeds (National Lists of Varieties) (Fees) Regulations 1980(c) in respect of tests which have been or are being undertaken in connection with such application, then there shall be paid to the Controller in addition to the fee payable under paragraph (1)(b) of this regulation a fee in

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(a) S.I. 1982/844.

(b) S.I. 1978/294, to which there is an amendment not relevant to these regulations.

(c) S.I. 1980/330; relevant amending instrument is S.I. 1985/356.

respect of such tests calculated in accordance with Part II of Schedule 2 as if references to tests in relations to an application for a grant of plant breeders' rights were references to tests in relations to an application for the addition of a plant variety to a National List.

(3) The fee payable in accordance with paragraph (2) of this regulation shall be payable within fourteen days of a written demand made by the Controller.

(4) No fee shall be payable in accordance with paragraph (1)(d) of this regulation in respect of any application to amend a document in any application or proceeding or in respect of any applications for the amendment of the register of plant varieties where that application relates solely to the change of the end of the name of a body corporate to "public limited company" or its Welsh equivalent pursuant to the Companies Act 1980(a).

#### *Renewal fees*

5.— (1) The fee payable in respect of the continued exercise of plant breeders' rights in a plant variety (hereinafter referred to as the "renewal fee") shall be paid only by the holder of those rights or by a person acting on his behalf, being either an agent duly authorised in accordance with Regulation 16 of the principal regulations or a person who shall deliver to the Controller with the fee an authority in writing to pay the same, signed by the holder of the rights and if any such fee is tendered or paid otherwise than in accordance with this paragraph, the liability to pay the same shall not be regarded as having been thereby discharged.

(2) In a case where the period for which any plant breeders' rights are exercisable has been terminated in accordance with the principal regulations on the ground that a renewal fee has not been paid there shall only be recoverable by the Controller such a proportion of the said fee as the period during which the said rights have continued to be enjoyed since the date when the said fee became payable bears to the period of 12 months.

(3) Notwithstanding Regulation 4 and the last preceding paragraph of this regulation, in a case where the period for which any plant breeders' rights are exercisable has been terminated in accordance with the principal regulations on the ground that a renewal fee has not been paid and—

- (a) the person entitled to exercise those rights shall, not later than fourteen days before the date when the said fee became payable, have informed the Controller that he did not propose to exercise any of such rights at any time after such date, and
- (b) such person shall not have exercised any of the said rights during the period beginning with the date when the said fee became payable and ending with the date when the said period was terminated,

the Controller shall not be entitled to recover from such person, by any legal proceedings or otherwise, the said fee or any part thereof.

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(a) 1980 c. 22.

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In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 18th February 1985.



*Michael Jopling,*  
Minister of Agriculture, Fisheries and Food.

*George Younger,*  
Secretary of State for Scotland.

20th February 1985.

*Douglas Hurd,*  
Secretary of State for Northern Ireland.

22nd February 1985.

*Nicholas Edwards,*  
Secretary of State for Wales.

25th February 1985.

*Leon Brittan,*  
Secretary of State for the Home Department  
(being the Secretary of State concerned  
with matters relating to the Isle of Man).

6th March 1985.

We approve,

*T. Garel-Jones,*  
*Ian B. Lang,*  
Two of the Lords Commissioners of  
Her Majesty's Treasury.

7th March 1985.

## SCHEDULE 1

## Regulation 2

## REVOCATIONS

Column 1 Regulations revoked	Column 2 References
The Plant Breeders' Rights (Fees) Regulations 1980	S.I. 1980/351
The Plant Breeders' Rights (Fees) (Amendment) Regulations 1981	S.I. 1981/357
The Plant Breeders' Rights (Fees) (Amendment) Regulations 1982	S.I. 1982/1102
The Plant Breeders' Rights (Fees) (Amendment) Regulations 1983	S.I. 1983/292
The Plant Breeders' Rights (Fees) (Amendment No. 2) Regulations 1983	S.I. 1983/1501
The Plant Breeders' Rights (Fees) (Amendment) Regulations 1984	S.I. 1984/242

## SCHEDULE 2

## Regulation 4

## PART I

## FEES PAYABLE ON AN APPLICATION FOR A GRANT OF PLANT BREEDERS' RIGHTS

No.	Plant variety	Amount	
		New fee	Old fee
1	A cereal, potato or oilseed rape variety	£	£(a)
		260	(250) (cereal or potato) (190) (oilseed rape)
2	A fodder, oil and fibre (excluding oilseed rape) field bean or field pea plant variety	200	190
3	Any other plant variety		( 80)
		100	(190) (vegetable)

(a) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1984 (S.I. 1984/242).

## PART II

## FEES PAYABLE IN RESPECT OF TESTS OR EXAMINATION OF A PLANT VARIETY WHICH IS THE SUBJECT OF AN APPLICATION FOR A GRANT OF PLANT BREEDERS' RIGHTS

No.	Plant variety	Tests or examination for which payable	Amount	
			New fee	Old fee
1	A cereal, a potato or an oilseed rape variety	Tests in any one year	£ 505	£(a) (345 to 525)
2	A fodder (including a field bean, field pea or fenugreek) variety, or an oil and fibre (excluding an oilseed rape) variety.	Tests in any one year	340	(185) (field bean or field pea) (345) (other)
3	A year-round perennial chrysanthemum variety	Tests in each flowering season	190	(185)
4	A cymbidium variety	Each examination	190	( 55)
5	Any other variety	Tests in any one year	190	( 55 to 185)

(a) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1984.

**PART III**  
**FEES PAYABLE FOR THE CONTINUED EXERCISE OF PLANT BREEDERS' RIGHTS IN A PLANT VARIETY**

No.	Plant variety	Fees payable for the continued exercise of plant breeders' rights during the years of the exercise of plant breeders' rights indicated below			
		Second to Fifth year each year New fee	£(a) (105 to 275)	New fee	Sixth and each subsequent year Old fee
1	A cereal, a potato or an oilseed rape variety	£ 230	£(a) (105 to 275)	£ 305	£(a) (260) (oil seed rape) (290) (cereal or potato)
2	A fodder (including a field bean, field pea or fenugreek) variety, or an oil and fibre (excluding an oilseed rape) variety.	165	(105 to 220)	275	(260)
3	Any other plant variety	100	( 45 to 130)	135	95 to 145)

(a) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1984.



## PART IV

## FEES PAYABLE IN RESPECT OF OTHER MATTERS

No.	Matter	When payable	Amount	
			New fee	Old fee
1	Application for a compulsory licence	On making the application	£ 19.00	£(a) ( 18.00)
2	Application to extend, limit, vary or revoke a compulsory licence	On making the application	19.00	( 18.00)
3	Application to amend a document in any application or proceeding	On making the application	3.00	( 3.00)
4	Application to rectify an error or omission in the register of plant varieties	On making the application	3.00	( 3.00)
5	Application for extension of time for the service or delivery of a document or thing or for the doing of an act	On making the application	3.00	( 3.00)
6	Making representations in writing to the Controller, by any person other than the applicant, in connection with any application	On delivering the representations	3.00	( 2.00)
7	Making representations in writing to the Controller, by any person other than the holder of plant breeders' rights, in connection with a proposal to terminate those rights or to revoke or terminate any extension of such rights	On delivering the representations	3.00	( 2.00)
8	Attending to be heard by the Controller or by a person appointed by him for the purpose	Before the hearing	19.00	( 18.00)
9	Grant of plant breeders' rights	Before the issue of the document constituting evidence of the grant	75.00	(100.00) (cereal or potato) ( 65.00) (other)
10	Giving a protective direction	Before the issue of the document constituting evidence of the giving of the protective direction	19.00	( 20.00)
11	Application for an extension of the period for payment of a renewal fee	On making the application	19.00	( 18.00)
12	Payment of a renewal fee after the expiration of 7 days from the date when it fell due, except in a case where an application has been made for the period for payment to be extended	On payment of the renewal fee	19.00	( 12.00)
13	Application for the approval of a substituted name for a plant variety	On making the application	19.00	( 18.00)
14	Application for the amendment of the register of plant varieties, except in a case where the plant breeders' rights are transferred to another person	On making the application	3.00	( 3.00)

(a) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1984.

## PART IV (cont.)

## FEES PAYABLE IN RESPECT OF OTHER MATTERS

No.	Matter	When payable	Amount	
			New fee	Old fee
15	Registration of title and amendment of the register of plant varieties on a transfer of plant breeders' rights or a share in such rights	On making the application for registration	£ 19.00	£(a) ( 18.00)
16	Inspection of the register of plant varieties or of a document in the possession of the Controller	Before the inspection	1.00	( 1.00)
17	Supplying copies of documents, per page	Before the delivery of the copies	0.30	( 0.30)
18	Supplying a duplicate of a document constituting evidence of a grant of plant breeders' rights or protective direction	On ordering the duplicate	6.00	( 6.00)
19	Purchase of a report from a testing authority in another country	Within 14 days of demand by the Controller	100.00	(—)

(a) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1984.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations supersede the Plant Breeders Rights (Fees) Regulations 1980. They prescribe an overall increase of fees for matters for which fees were previously charged, and simplify parts of the fees structure by regrouping some plant varieties into fewer groups and by prescribing the same fee for each of the second to fifth years of the exercise of plant breeders' rights in a variety instead of a different fee for each of those years. A new fee of £100 has been imposed for the purchase of a report from a testing authority in another country.

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