
STATUTORY INSTRUMENTS

1987 No. 189

The Plant Breeders' Rights (Fees) Regulations 1987

Title and commencement

1. These Regulations may be cited as the Plant Breeders' Rights (Fees) Regulations 1987 and shall come into force on 1st April 1987.

Interpretation

2.—(1) In these Regulations—

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

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

“National List” means a list of plant varieties prepared and published in accordance with the Seeds (National Lists of Varieties) Regulations 1982(1);

“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(2);

“renewal fee” means a fee payable in respect of the continued exercise of plant breeders' rights in a plant variety.

(2) Any reference in these Regulations to “the Schedule” shall be construed as a reference to the Schedule to these Regulations.

Payment of fees

3.—(1) There shall be paid to the Controller in respect of matters relating to plant breeders' 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 second column of Part I of the Schedule opposite the reference in the first 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 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 third column of Part II of the Schedule opposite the reference in the first 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 second column of the said Part II and so payable within fourteen days of a written demand made by the Controller;

(c) a renewal fee, being the new fee set out in relation to the particular year of the exercise of such rights in the second and third columns of Part III of the Schedule opposite the reference in the first 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

(1) [S.I. 1982/844](#), amended by [S.I. 1985/1529](#).

(2) [S.I. 1978/294](#), to which there are amendments not relevant to these Regulations.

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 first column of Part IV of the Schedule, being the new fees set out in the third 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 second 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 entry in a National List but no fee is or has been payable under the Seeds (National Lists of Varieties) (Fees) Regulations 1987(3) 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) above a fee in respect of such tests calculated in accordance with Part II of the Schedule as if references to tests in relation to an application for a grant of plant breeders' rights were references to tests in relation to an application for the entry of a plant variety in a National List.

(3) The fee payable in accordance with paragraph (2) above 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) above in respect of any application to amend a document in any application or proceeding or in respect of any application 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 1985(4).

Renewal fees

4.—(1) The renewal fee shall be paid only by the holder of the plant breeders' 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 that fee as the period during which those rights have continued to be enjoyed since the date when the fee became payable bears to the period of 12 months.

(3) Notwithstanding regulation 3 above and paragraph (2) 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 has, not later than fourteen days before the date when that fee became payable, informed the Controller that he did not propose to exercise any of those rights at any time after that date, and
- (b) that person has not exercised any of those rights during the period beginning with the date when the fee became payable and ending with the date when the period for which the rights are exercisable was terminated,

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

(3) S.I. 1987/188.

(4) 1985 c. 6.

Revocation

5. The Plant Breeders' Rights (Fees) Regulations 1985(5) and the Plant Breeders' Rights (Fees) (Amendment) Regulations 1986(6) are revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 5th February 1987.

L.S.

Michael Jopling
Minister of Agriculture, Fisheries and Food

5th February 1987

John J. Mackay
Parliamentary Under-Secretary of State, Scottish
Office

9th February 1987

Nicholas Edwards
Secretary of State for Wales

9th February 1987

Tom King
Secretary of State for Northern Ireland

8th February 1987

Douglas Hurd
Secretary of State for the Home
Department (being the Secretary of State
concerned with matters relating to the Isle of
Man)

We approve,

11th February 1987

T. Sainsbury
Michael Neubert
Two of the Lords Commissioners of Her
Majesty's Treasury

(5) S.I. 1985/357.
(6) S.I. 1986/339.