



# Plant Varieties Act 1997

## 1997 CHAPTER 66

### PART I

#### PLANT VARIETIES

##### *Duties of holder of plant breeders' rights*

#### **16 Maintenance of protected variety**

- (1) The holder of any plant breeders' rights shall ensure that, throughout the period for which the grant of the rights has effect, he is in a position to produce to the Controller propagating material which is capable of producing the protected variety.
- (2) The holder of any plant breeders' rights shall give to the Controller, within such time as he may specify, all such information and facilities as he may request for the purpose of satisfying himself that the holder is fulfilling his duty under subsection (1) above.
- (3) The facilities to be given under subsection (2) above include facilities for the inspection by or on behalf of the Controller of the measures taken for the preservation of the protected variety.

#### **17 Compulsory licences**

- (1) Subject to subsections (2) and (3) below, if the Controller is satisfied on application that the holder of any plant breeders' rights—
  - (a) has unreasonably refused to grant a licence to the applicant, or
  - (b) has imposed or put forward unreasonable terms in granting, or offering to grant, a licence to the applicant,he may grant to the applicant in the form of a licence under this section any such rights as might have been granted by the holder.
- (2) The Controller shall not grant an application for a licence under this section unless he is satisfied—

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*Status: This is the original version (as it was originally enacted).*

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- (a) that it is necessary to do so for the purpose of securing that the variety to which the application relates—
    - (i) is available to the public at reasonable prices,
    - (ii) is widely distributed, or
    - (iii) is maintained in quality,
  - (b) that the applicant is financially and otherwise in a position to exploit in a competent and businesslike manner the rights to be conferred on him, and
  - (c) that the applicant intends so to exploit those rights.
- (3) A licence under this section shall not be an exclusive licence.
- (4) A licence under this section shall be on such terms as the Controller thinks fit and, in particular, may include—
- (a) terms as to the remuneration payable to the holder of the plant breeders' rights, and
  - (b) terms obliging the holder of the plant breeders' rights to make propagating material available to the holder of the licence.
- (5) In deciding on what terms to grant an application for a licence under this section, the Controller shall have regard to the desirability of securing—
- (a) that the variety to which the application relates—
    - (i) is available to the public at reasonable prices,
    - (ii) is widely distributed, and
    - (iii) is maintained in quality, and
  - (b) that there is reasonable remuneration for the holder of the plant breeders' rights to which the application relates.
- (6) An application for a licence under this section may be granted whether or not the holder of the plant breeders' rights to which the application relates has granted licences to the applicant or any other person.
- (7) If and so far as any agreement purports to bind any person not to apply for a licence under this section, it shall be void.
- (8) If—
- (a) a licence under this section is granted as respects a variety of a species or group in relation to which a period is specified for the purposes of this provision by regulations made by the Ministers, and
  - (b) the grant takes place before a period of that length has passed since the date of grant of the plant breeders' rights to which the licence relates,
- the licence shall not have effect until a period of that length has passed since that date.
- (9) The Controller may, at any time, on the application of any person, extend, limit or in any other respect vary a licence under this section, or revoke it.