



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 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.
- (4) Subsection (3) above shall not apply to a farmer who is considered to be a small farmer for the purposes of Article 14(3) third indent of the Council Regulation.

Status: This is the original version (as it was originally enacted).

- (5) 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.
- (10) For the purposes of subsection (3) above, remuneration shall be taken to be sensibly lower if it would be taken to be sensibly lower within the meaning of Article 14(3) fourth indent of the Council Regulation.
- (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.
- (12) The Ministers may by order amend this section as they think fit for the purpose of securing that it corresponds with the provisions for the time being of the law relating to Community plant variety rights about farm saved seed.

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.