



Plant Varieties Act 1997

1997 CHAPTER 66

PART I

PLANT VARIETIES

Grant of plant breeders' rights

3 Grant on application

- (1) Subject to this Part of this Act, plant breeders' rights shall be granted to an applicant by the Controller on being satisfied that the conditions laid down in section 4 below are met.
- (2) The Controller may by notice require an applicant for the grant of plant breeders' rights to provide him, within such time as may be specified in the notice, with such information, documents, plant or other material, facilities or test or trial results relevant to the carrying out of his function under subsection (1) above as may be so specified.
- (3) If an applicant fails to comply with a notice under subsection (2) above within the period specified in the notice, the Controller may refuse the application.

4 Conditions for the grant of rights

- (1) The conditions which must be met in relation to an application for the grant of plant breeders' rights are—
 - (a) that the variety to which the application relates is a qualifying variety, and
 - (b) that the person by whom the application is made is the person entitled to the grant of plant breeders' rights in respect of the variety to which it relates.
- (2) For the purposes of subsection (1) above, a variety is a qualifying variety if it is—
 - (a) distinct,
 - (b) uniform,
 - (c) stable, and

Status: This is the original version (as it was originally enacted).

(d) new;

and Part I of Schedule 2 to this Act has effect for the purpose of determining whether these criteria are met.

- (3) Subject to subsections (4) and (5) below, the person entitled to the grant of plant breeders' rights in respect of a variety is the person who breeds it, or discovers and develops it, or his successor in title.
- (4) If a person breeds a variety, or discovers and develops it, in the course of his employment, then, subject to agreement to the contrary, his employer, or his employer's successor in title, is the person entitled to the grant of plant breeders' rights in respect of it.
- (5) Part II of Schedule 2 to this Act shall have effect as respects priorities between two or more persons who have independently bred, or discovered and developed, a variety.
- (6) In this section and Schedule 2 to this Act, references to the discovery of a variety are to the discovery of a variety, whether growing in the wild or occurring as a genetic variant, whether artificially induced or not.

5 Rights in relation to application period

- (1) If an application for plant breeders' rights is granted, the holder of the rights shall be entitled to reasonable compensation for anything done during the application period which, if done after the grant of the rights, would constitute an infringement of them.
- (2) In subsection (1) above, "application period", in relation to a grant of plant breeders' rights, means the period—
 - (a) beginning with the day on which details of the application for the grant of the rights are published in the gazette, and
 - (b) ending with the grant of the rights.