



# Plant Varieties Act 1997

## 1997 CHAPTER 66

### PART I

#### PLANT VARIETIES

##### *Remedies for infringement*

#### **13 Remedies for infringement**

- (1) Plant breeders' rights shall be actionable at the suit of the holder of the rights.
- (2) In any proceedings for the infringement of plant breeders' rights, all such relief by way of damages, injunction, interdict, account or otherwise shall be available as is available in any corresponding proceedings in respect of infringements of other proprietary rights.

#### **14 Presumptions in proceedings relating to harvested material**

- (1) This section applies to any proceedings for the infringement of plant breeders' rights as respects harvested material.
- (2) If, in any proceedings to which this section applies, the holder of the plant breeders' rights proves, in relation to any of the material to which the proceedings relate—
  - (a) that it has been the subject of an information notice given to the defendant by or on behalf of the holder, and
  - (b) that the defendant has not, within the prescribed time after the service of the notice, supplied the holder with the information about it requested in the notice,

then, as regards the material in relation to which the holder proves that to be the case, the presumptions mentioned in subsection (3) below shall apply, unless the contrary is proved or the defendant shows that he had a reasonable excuse for not supplying the information.

- (3) The presumptions are—

- (a) that the material was obtained through unauthorised use of propagating material, and
  - (b) that the holder did not have a reasonable opportunity before the material was obtained to exercise his rights in relation to the unauthorised use of the propagating material.
- (4) The reference in subsection (2) above to an information notice is to a notice which—
- (a) is in the prescribed form,
  - (b) specifies the material to which it relates,
  - (c) contains, in relation to that material, a request for the supply of the prescribed, but no other, information, and
  - (d) contains such other particulars as may be prescribed.
- (5) In this section, “prescribed” means prescribed by regulations made by the Ministers.

## **15 Presumptions in proceedings relating to products made from harvested material**

- (1) This section applies to any proceedings for the infringement of plant breeders' rights as respects any product made directly from harvested material.
- (2) If, in any proceedings to which this section applies, the holder of the plant breeders' rights proves, in relation to any product to which the proceedings relate—
- (a) that it has been the subject of an information notice given to the defendant by or on behalf of the holder, and
  - (b) that the defendant has not, within the prescribed time after the service of the notice, supplied the holder with the information about it requested in the notice,
- then, as regards the product in relation to which the holder proves that to be the case, the presumptions mentioned in subsection (3) below shall apply, unless the contrary is proved or the defendant shows that he had a reasonable excuse for not supplying the information.
- (3) The presumptions are—
- (a) that the harvested material from which the product was made was obtained through unauthorised use of propagating material,
  - (b) that the holder did not have a reasonable opportunity before the harvested material was obtained to exercise his rights in relation to the unauthorised use of the propagating material, and
  - (c) that no relevant act was done, before the product was made, as respects the harvested material from which it was made.
- (4) An act is relevant for the purposes of subsection (3)(c) above if it is mentioned in section 6(1) above and is—
- (a) done with the authority of the holder, or
  - (b) one in relation to the doing of which he has a reasonable opportunity to exercise his rights.
- (5) The reference in subsection (2) above to an information notice is to a notice which—
- (a) is in the prescribed form,
  - (b) specifies the product to which it relates,
  - (c) contains, in relation to that product, a request for the supply of the prescribed, but no other, information, and

(d) contains such other particulars as may be prescribed.

(6) In this section, “prescribed” means prescribed by regulations made by the Ministers.