



# Plant Varieties Act 1997

## 1997 CHAPTER 66

### PART I

#### PLANT VARIETIES

##### *Termination and suspension of plant breeders' rights*

#### **21 Nullity**

- (1) The Controller shall declare the grant of plant breeders' rights null and void if it is established—
  - (a) that when the rights were granted the protected variety did not meet the criterion specified in paragraph (a) or (d) of section 4(2) above,
  - (b) where the grant of the rights was essentially based upon information and documents furnished by the applicant, that when the rights were granted the protected variety did not meet the criterion specified in paragraph (b) or (c) of that provision, or
  - (c) that the person to whom the rights were granted was not the person entitled to the grant of the rights and the rights have not subsequently been transferred to him, or his successor in title.
- (2) If, because of paragraph 6 of Schedule 2 to this Act, priority is established for an application for the grant of plant breeders' rights after such rights have been granted in pursuance of an application against which priority is established, subsection (1)(c) above shall only apply to the grant if the Controller decides that the application for which priority is established should be granted.
- (3) Where the grant of plant breeders' rights is declared null and void under this section, it shall be deemed never to have had effect.

#### **22 Cancellation**

- (1) The Controller may terminate the period for which a grant of plant breeders' rights has effect if—

- (a) he is satisfied that the protected variety no longer meets the criterion specified in paragraph (b) or (c) of section 4(2) above,
  - (b) it appears to him that the holder of the rights is no longer in a position to provide him with the propagating material mentioned in section 16(1) above,
  - (c) he is satisfied that the holder of the rights has failed to comply with a request under section 16(2) above, or
  - (d) on application by the holder of the rights, he is satisfied that the rights may properly be surrendered.
- (2) Before determining an application under subsection (1)(d) above, the Controller shall—
- (a) give notice of the application in the manner prescribed by regulations made by the Ministers, and
  - (b) follow the procedure so prescribed for hearing any person on whom the right to object is conferred by such regulations.
- (3) If the Controller is satisfied, not only that the protected variety no longer meets the criterion specified in paragraph (b) or (c) of section 4(2) above, but also that it ceased to do so at some earlier date, he may make the termination retrospective to that date.

## **23 Suspension**

- (1) The Controller may suspend the exercise of any plant breeders' rights if, on application by the holder of a licence under section 17 above, he is satisfied that the holder of the rights is in breach of any obligation imposed on him by the licence.
- (2) The Controller shall terminate a suspension under subsection (1) above if, on application by the holder of the plant breeders' rights concerned, he is satisfied that the holder is no longer in breach of the obligation whose breach led to the suspension.
- (3) Subsection (1) above is without prejudice to the remedies available to the holder of a licence under section 17 above by the taking of proceedings in any court.