



Plant Varieties Act 1997

1997 CHAPTER 66

PART I

PLANT VARIETIES

Scope of plant breeders' rights

7 Dependent varieties.

- (1) The holder of plant breeders' rights shall have, in relation to any variety which is dependent on the protected variety, the same rights as he has under section 6 above in relation to the protected variety.
- (2) For the purposes of this section, one variety is dependent on another if—
 - (a) its nature is such that repeated production of the variety is not possible without repeated use of the other variety, or
 - (b) it is essentially derived from the other variety and the other variety is not itself essentially derived from a third variety.
- (3) For the purposes of subsection (2) above, a variety shall be deemed to be essentially derived from another variety ("the initial variety") if—
 - (a) it is predominantly derived from—
 - (i) the initial variety, or
 - (ii) a variety that is itself predominantly derived from the initial variety, while retaining the expression of the essential characteristics resulting from the genotype or combination of genotypes of the initial variety,
 - (b) it is clearly distinguishable from the initial variety by one or more characteristics which are capable of a precise description, and
 - (c) except for the differences which result from the act of derivation, it conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.
- (4) For the purposes of subsection (3) above, derivation may, for example, be by—

Changes to legislation: *There are currently no known outstanding effects for the Plant Varieties Act 1997, Section 7. (See end of Document for details)*

- (a) the selection of—
 - (i) a natural or induced mutant,
 - (ii) a somaclonal variant, or
 - (iii) a variant individual from plants of the initial variety,
 - (b) backcrossing, or
 - (c) transformation by genetic engineering.
- (5) Subsection (1) above shall not apply where the existence of the dependent variety was common knowledge immediately before the coming into force of this Act.

Changes to legislation:

There are currently no known outstanding effects for the Plant Varieties Act 1997, Section 7.