

1990 No. 617

SEEDS

**The Seeds (National Lists of Varieties) (Fees)
Regulations 1990**

| | |
|-------------------------------|------------------------|
| <i>Made - - - -</i> | <i>15th March 1990</i> |
| <i>Laid before Parliament</i> | <i>16th March 1990</i> |
| <i>Coming into force</i> | <i>6th April 1990</i> |

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland, the Secretary of State for Wales and the Secretary of State for Northern Ireland, acting jointly, in exercise of the powers conferred on them by sections 16(1), (1A)(e) and (8) and 38(1) of the Plant Varieties and Seeds Act 1964(a) as extended to Northern Ireland(b), and of all other powers enabling them in that behalf, after consultation with representatives of such interests as appear to them to be concerned in accordance with section 16(1) of the said Act, hereby make the following Regulations:-

Title and commencement

1. These Regulations may be cited as the Seeds (National Lists of Varieties) (Fees) Regulations 1990 and shall come into force on 6th April 1990.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires –

“the Act” means the Plant Varieties and Seeds Act 1964;

“maintainer” means a person indicated in a National List as responsible for the maintenance of a plant variety;

“the Minister” means the Minister of Agriculture, Fisheries and Food, and “the Ministers” means the Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland, the Secretary of State for Wales and the Secretary of State for Northern Ireland acting jointly;

“National List” means a list of plant varieties prepared and published in accordance with the principal Regulations;

“plant breeders’ rights” means rights which may be granted in accordance with Part I of the Act, and “plant breeders’ rights scheme” means a scheme made under that Part of the Act to enable a grant of such rights;

“the principal Regulations” means the Seeds (National Lists of Varieties) Regulations 1982(c);

“renewal fee” means a fee payable in respect of the retention of a plant variety in a National List.

(a) 1964 c.14; section 16 was amended by the European Communities Act 1972 (c.68) and section 4(1) and Schedule 4, paragraph 5(1), (2) and (3) and section 38(1) (as amended by S.I. 1978/272) contains a definition of “the Ministers” relevant to the exercise of the statutory powers under which these Regulations are made. (b) By section 39(3) of the Plant Varieties and Seeds Act 1964 and by the Plant Varieties and Seeds (Northern Ireland) Order 1973 (S.I. 1973/609). (c) S.I. 1982/844, amended by S.I. 1985/1529 and 1989/1314.

(2) Any reference in these Regulations to "the Schedule" shall be construed as a reference to the Schedule to these Regulations.

Payment of fees

3.—(1) Subject to paragraphs (2) and (3) below, there shall be paid to the Minister in respect of matters arising under the principal Regulations –

- (a) a fee on making an application for the entry of a plant variety in a National List, being the new fee set out in the second column of Part I of the Schedule opposite the reference in the first column of the said Part I to the plant variety of the kind to which the application relates, such fee being payable on making the application;
- (b) a fee payable in respect of tests for one year for distinctness, uniformity and stability of a plant variety which is the subject of an application for entry in a National List, being the new fee set out in the second column of Part II of the Schedule opposite the reference in the first column of the said Part II to the plant variety of the kind to which the tests relate, such fee being payable within 14 days of a demand made by the Minister;
- (c) a fee payable in respect of trials for value for cultivation and use of a plant variety which is the subject of an application for entry in a National List and is referred to in the first column of Part III of the Schedule, being the new fee set out in the second column of the said Part III opposite that reference, such fee being payable in respect of each year of a trials cycle and so payable within 14 days of a demand made by the Minister;
- (d) a renewal fee, being the new fee set out in the second and third columns of Part IV of the Schedule in relation to the particular year of retention of a plant variety in a National List opposite the reference in the first column of the said Part IV to the plant variety of the kind retained in the National List, such fee being payable, subject to regulation 4(3) below, before the beginning of the particular year of retention in the National List;
- (e) the fees payable in respect of the matters referred to in the first column of Part V of the Schedule, being the new fees set out in the third column of the said Part V opposite the respective references to those matters, such fees being payable at the times specified in respect of each such matter in the second column of the said Part V.

(2) The fees prescribed in Part II of the Schedule shall not be payable by an applicant who has paid the fees prescribed by regulations made under the Act in respect of tests carried out on his behalf for the purposes of a grant of plant breeders' rights in respect of the same variety.

(3) The fees prescribed in Part III of the Schedule shall not be payable in respect of trials for value for cultivation and use for a plant variety where any part of those trials is conducted by a person who is the holder of a valid licence to conduct such trials issued under regulations made under section 16(1A) of the Act.

(4) If the fee payable by a person in connection with tests of a plant variety shall not have been paid within 14 days of a demand made by the Minister, the Minister shall not be obliged to take any further steps in relation to the tests until the fee shall have been paid.

Renewal fees

4.—(1) The renewal fee shall be paid by the maintainer who is indicated in the National List in compliance with regulation 18(1) of the principal Regulations.

(2) Where two or more maintainers are indicated in a National List as responsible for the maintenance of a plant variety there shall when the occasion arises be paid by each of them, in place of the renewal fee prescribed in Part IV of the Schedule, a fee equal to one-half of such fee and if a fee so payable by a maintainer is not paid the

Ministers shall remove from the National List the reference to such person as a maintainer of the plant variety.

(3) The Ministers may extend the time for the payment of a renewal fee if they consider that it is reasonable in all the circumstances to do so.

Revocation

5. The Seeds (National Lists of Varieties) (Fees) Regulations 1987(a), the Seeds (National Lists of Varieties) (Fees) (Amendment) Regulations 1988(b) and the Seeds (National Lists of Varieties) (Fees) (Amendment) Regulations 1989(c) are revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 6th March 1990.



John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

8th March 1990

Sanderson of Bowden
Minister of State, Scottish Office

7th March 1990

Peter Walker
Secretary of State for Wales

15th March 1990

Peter Brooke
Secretary of State for Northern Ireland

SCHEDULE

Regulation 3

FEES

PART I

FEES PAYABLE ON AN APPLICATION FOR ENTRY OF A PLANT VARIETY IN A NATIONAL LIST

| <i>Plant Variety</i> | <i>Amount</i> | |
|--|---------------------|------------------------|
| | <i>New fee</i> £ | <i>Old fee</i> £(*) |
| 1. A wheat (excluding durum wheat and spelt wheat) or barley variety. | 440 | (420) |
| 2. A durum wheat, spelt wheat, rye, oat, oilseed rape, ryegrass, timothy, white clover, fescue or potato variety | 355 | (340) |
| 3. A maize, sugar beet or fodder beet variety | 390 | (370) |
| 4. A field pea or field bean variety | 235 | (225) |
| 5. Any other herbage, fodder, oil and fibre or cereal variety | 170 | (160) |
| 6. A vegetable variety | 170 | (120 or 160) |

(*) The figures in italics are the fees which were charged under the Seeds (National Lists of Varieties) (Fees) (Amendment) Regulations 1989 (S.I. 1989/275) before the coming into force of these Regulations.

(a) S.I. 1987/188. (b) S.I. 1988/357. (c) S.I. 1989/275.

PART II

FEES PAYABLE IN RESPECT OF TESTS FOR DISTINCTNESS, UNIFORMITY AND STABILITY OF A PLANT VARIETY WHICH IS THE SUBJECT OF AN APPLICATION FOR ENTRY IN A NATIONAL LIST

| <i>Plant Variety</i> | <i>New fee £</i> | <i>Amount</i> | <i>Old fee £(*)</i> |
|--|----------------------|---------------|-------------------------|
| 1. A wheat (excluding durum wheat and spelt wheat) or barley variety. | 900 | | (745) |
| 2. Any other cereal variety | 850 | | (285 to 745) |
| 3. A field pea or field bean variety | 800 | | (505) |
| 4. A potato or oilseed rape variety | 750 | | (505) |
| 5. A herbage or fodder variety or any other vegetable or oil and fibre variety | 700 | | (285 or 505) |

(*) The figures in italics are the fees which were charged under the Seeds (National Lists of Varieties) (Fees) (Amendment) Regulations 1989 before the coming into force of these Regulations.

PART III

FEES PAYABLE IN RESPECT OF TRIALS FOR VALUE FOR CULTIVATION AND USE OF A PLANT VARIETY WHICH IS THE SUBJECT OF AN APPLICATION FOR ENTRY IN A NATIONAL LIST

| <i>Plant Variety</i> | <i>New fee £</i> | <i>Amount</i> | <i>Old fee £(*)</i> |
|---|----------------------|---------------|-------------------------|
| 1. A wheat (excluding durum wheat and spelt wheat) or barley variety. | 2400 | | (2285) |
| 2. A durum wheat, spelt wheat, rye, oat, oilseed rape, ryegrass, timothy, white clover, fescue, potato, maize, sugar beet, field bean, field pea, swede or fodder kale variety. | 825 | | (785) |

(*) The figures in italics are the fees which were charged under the Seeds (National Lists of Varieties) (Fees) (Amendment) Regulations 1989 before the coming into force of these Regulations.

PART IV

RENEWAL FEES

| <i>Plant Variety</i> | <i>Renewal fees during the years of retention in a National List</i> | | | |
|---|--|----------------|---|----------------|
| | <i>Second to fifth year – each year</i> | | <i>Sixth and each subsequent year</i> | |
| | <i>New fee</i> | <i>Old fee</i> | <i>New fee</i> | <i>Old fee</i> |
| | <i>£</i> | <i>£(*)</i> | <i>£</i> | <i>£(*)</i> |
| 1. A wheat (excluding durum wheat and spelt wheat) or barley variety | 275 | (260) | 460 | (440) |
| 2. A durum wheat, spelt wheat, rye, oat, oilseed rape, ryegrass, timothy, white clover, fescue, potato, maize, sugar beet, fodder beet, field bean or field pea variety | 255 | (245) | 395 | (375) |
| 3. Any other herbage, fodder, oil and fibre or cereal variety | 160 | (150) | 255 | (245) |
| 4. A vegetable variety subject to a plant breeders' rights scheme | 160 | (150) | 255 | (245) |
| 5. Any other vegetable variety | 135 | (130) | 210 | (200) |

(*) The figures in italics are the fees which were charged under the Seeds (National Lists of Varieties) (Fees) (Amendment) Regulations 1989 before the coming into force of these Regulations.

PART V

FEES PAYABLE IN RESPECT OF OTHER MATTERS

| <i>Matter</i> | <i>When payable</i> | <i>Amount</i> | |
|---|--|----------------|----------------|
| | | <i>New fee</i> | <i>Old fee</i> |
| | | <i>£</i> | <i>£(*)</i> |
| 1. Application for the substitution of a name in a National List | On making the application | 25 | (21) |
| 2. Making written representations to the Ministers | On delivering the representations | 25 | (3) |
| 3. Attending to be heard by a person appointed by the Ministers | Before the hearing | 50 | (21) |
| 4. Purchase of a report from a testing authority in another country | Within 14 days of demand by the Minister | 135 | (140) |
| 5. Observation plot – trials for value for cultivation and use | Within 14 days of demand by the Minister | 110 | (105) |
| 6. Entry in a National List | Before entry in a National List | 100 | (70 or 120) |

(*) The figures in italics are the fees which were charged under the Seeds (National Lists of Varieties) (Fees) (Amendment) Regulations 1989 before the coming into force of these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and re-enact, with amendments, the Seeds (National Lists of Varieties) (Fees) Regulations 1987, as amended. They prescribe fees in respect of various matters arising under the Seeds (National Lists of Varieties) Regulations 1982, as amended (regulation 3 and Schedule).

The fees payable in respect of such matters are increased by these Regulations, except that the fee payable for entry in a National List (item 6 of Part V of the Schedule) is reduced in respect of certain varieties and fees are no longer payable in respect of certain minor matters (such as an inspection of the National List record).

The Regulations continue to make provision for the non-payment of fees by an applicant who has paid the fees prescribed by regulations made under the Plant Varieties and Seeds Act 1964 in respect of tests carried out on his behalf for the purposes of a grant of plant breeders' rights in respect of the same variety (regulation 3(2)). They also provide for the non-payment of a fee in respect of trials for value for cultivation and use for a plant variety where any part of those trials is conducted by a person who is licensed to conduct such trials under regulations made under that Act (regulation 3(3)).

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