

1990 No. 618

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Fees) Regulations 1990

Made - - - - - 15th March 1990

Laid before Parliament 16th March 1990

Coming into force - 6th April 1990

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 9(1), 36 and 38(1) of the Plant Varieties and Seeds Act 1964(a) as extended to Northern Ireland(b), and the said Minister and the Secretary of State, acting jointly, as respects the Isle of Man, in exercise of the said powers as extended to the Isle of Man(c), and in exercise of all other powers enabling them in that behalf, with the approval of the Treasury in accordance with section 9(1) of the said Act of 1964 and after consultation with the Council on Tribunals in accordance with section 10(1) of the Tribunals and Inquiries Act 1971(d), hereby make the following Regulations:—

Title and commencement

1. These Regulations may be cited as the Plant Breeders' Rights (Fees) Regulations 1990 and shall come into force on 6th April 1990.

Interpretation

2.—(1) In these Regulations—

- “the Act” means the Plant Varieties and Seeds Act 1964;
- “the Controller” means the Controller of Plant Variety Rights;
- “plant breeders' rights” means rights which may be granted in accordance with Part I of the Act;
- “the principal Regulations” means the Plant Breeders' Rights Regulations 1978(e);
- “renewal fee” means a fee payable in respect of the continued exercise of plant breeders' rights in a plant variety.

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

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- (a) 1964 c.14; 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 1964 (S.I. 1964/1574).
 - (c) By the Plant Varieties and Seeds (Isle of Man) Order 1969 (S.I. 1969/1829), to which there are amendments not relevant to these Regulations.
 - (d) 1971 c.62.
 - (e) S.I. 1978/294, to which there are amendments not relevant to these Regulations.

Payment of Fees

3.—(1) There shall be paid to the Controller in respect of matters relating to plant breeders' rights arising under the Act or the principal Regulations—

- (a) a fee on making an application for a grant of plant breeders' rights, 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 or examination of a plant variety which is the subject of an application for a grant of plant breeder's rights, being the new fee set out in the third 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 or examination relate, such fee being payable for the tests or examination referred to in the second column of the said Part II and so payable within fourteen days of a written demand made by the Controller;
- (c) a renewal fee, being the new fee set out in the second column of Part III of the Schedule opposite the reference in the first column of the said Part III to the plant variety of the kind for which the rights were granted, such fee being due on, but not payable more than three months before, the anniversary of the date of the grant of the rights with which the particular year begins or within such later period as may have been allowed by the Controller;
- (d) the fees payable in respect of the matters referred to in the first column of Part IV of the Schedule, being the new fees set out in the third column of the said Part IV 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 IV.

Renewal Fees

4.—(1) The renewal fee shall be paid only by the holder of the plant breeders' rights or by a person acting on his behalf, being either an agent duly authorised in accordance with regulation 16 of the principal Regulations or a person who shall deliver to the Controller with the fee an authority in writing to pay the same, signed by the holder of the rights and if any such fee is tendered or paid otherwise than in accordance with this paragraph, the liability to pay the same shall not be regarded as having been thereby discharged.

(2) In a case where the period for which any plant breeders' rights are exercisable has been terminated in accordance with the principal Regulations on the ground that a renewal fee has not been paid, there shall only be recoverable by the Controller such a proportion of that fee as the period during which those rights have continued to be enjoyed since the date the fee became payable bears to the period of 12 months.

(3) Notwithstanding regulation 3 above and paragraph (2) of this regulation, in a case where the period for which any plant breeders' rights are exercisable has been terminated in accordance with the principal Regulations on the ground that a renewal fee has not been paid and—

- (a) the person entitled to exercise those rights has, not later than fourteen days before the date when that fee became payable, informed the Controller that he did not propose to exercise any of those rights at any time after that date, and
- (b) that person has not exercised any of the rights during the period beginning with the date from when the fee became payable and ending with the date when the period for which the rights are exercisable was terminated,

the Controller shall not be entitled to recover from such person, by any legal proceedings or otherwise, the fee or any part of it.

Revocation

5. The Plant Breeders' Rights (Fees) Regulations 1987(a), the Plant Breeders' Rights

(a) S.I. 1987/189.

(Fees) (Amendment) Regulations 1988(a) and the Plant Breeders' Rights (Fees) (Amendment) Regulations 1989(b) 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

8th March 1990

Peter Walker
Secretary of State for Wales

15th March 1990

Peter Brooke
Secretary of State for Northern Ireland

9th March 1990

David Waddington
Secretary of State for the Home Department
(being the Secretary of State concerned
with matters relating to the Isle of Man)

We approve,

7th March 1990

John Taylor
Kenneth Carlisle
Two of the Lords Commissioners of Her Majesty's Treasury

(a) S.I. 1988/356.
(b) S.I. 1989/276.

SCHEDULE

Regulation 3(1)

FEES

PART I

FEES PAYABLE ON AN APPLICATION FOR A GRANT OF PLANT BREEDER'S RIGHTS

<i>Plant Variety</i>	<i>New fee</i> £	<i>Amount</i> <i>Old fee</i> £(*)
1. A rose variety	45	(125)
2. Any other decorative variety (excluding chrysanthemum)	125	(125)
3. Any other variety not mentioned above (including chrysanthemum)	250	(125 to 565)

Note:

(*) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1989 (S.I. 1989/276) before the coming into force of these Regulations.

PART II

FEES PAYABLE IN RESPECT OF TESTS OR EXAMINATION OF A PLANT VARIETY WHICH IS THE SUBJECT OF AN APPLICATION FOR A GRANT OF PLANT BREEDERS' RIGHTS

<i>Plant Variety</i>	<i>Test or examination</i> <i>for which payable</i>	<i>New fee</i> £	<i>Amount</i> <i>Old fee</i> £(*)
1. A wheat (excluding durum wheat and spelt wheat) or barley variety	Tests in any one year	900	(745)
2. Any other cereal variety	Tests in any one year	850	(285 to 745)
3. A field pea or field bean variety	Tests in any one year	800	(505)
4. A potato or oilseed rape variety	Tests in any one year	750	(505)
5. A herbage or fodder (including fenugreek) or any other vegetable or oil and fibre variety	Tests in any one year	700	(285 or 505)
6. A rose variety	Tests in any one year	90	(235)
7. A year-round perennial chrysanthemum variety	Tests in each flowering season	250	(235)
8. A cymbidium variety	Each examination	250	(235)
9. Any other variety not mentioned above (including a decorative or fruit) variety	Tests in any one year	250	(235)

Note:

(*) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1989 before the coming into force of these Regulations.

PART III
RENEWAL FEES

<i>Plant Variety</i>	<i>Amount each year</i>	
	<i>New fee</i> £	<i>Old fee</i> £(*)
1. A rose variety	45	(100 or 130)
2. A chrysanthemum variety	300	(130 or 170)
3. Any other decorative variety	155	(130 or 170)
4. Any other variety not mentioned above	400	(205 or 660)

Note:

(*) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1989 before the coming into force of these Regulations.

PART IV
FEES PAYABLE IN RESPECT OF OTHER MATTERS

<i>Matter</i>	<i>When payable</i>	<i>New fee</i> £	<i>Amount</i> <i>Old fee</i> £(*)
1. Application for a compulsory licence	On making the application	50	(21)
2. Application to extend, limit, vary or revoke a compulsory licence	On making the application	50	(21)
3. Making representations in writing to the Controller in connection with any application, or in connection with a proposal to terminate any plant breeders' rights or to revoke or terminate any extension of such rights	On delivering the representations	25	(0 or 3)
4. Attending to be heard by the Controller or by a person appointed by him for the purpose	Before the hearing	50	(21)
5. Grant of plant breeders' rights in—	Before the issue of the document constituting evidence of the grant		
(a) a variety referred to in item 1 in Part I of this Schedule		35	(95)
(b) a variety referred to in item 2 in Part I of this Schedule		100	(95)
(c) a variety referred to in item 3 in Part I of this Schedule		125	(145 or 155)
6. Giving a protective direction	Before the issue of the document constituting evidence of the giving of the protective direction	25	(21)

SCHEDULE, PART IV – *continued*

<i>Matter</i>	<i>When payable</i>	<i>New fee £</i>	<i>Amount Old fee £(*)</i>
7. Payment of a renewal fee after the expiration of 7 days from the date when it fell due, except in a case where an application has been made for the period for payment to be extended	On payment of the renewal fee	25	<i>(21)</i>
8. Application for the approval of a substituted name for a plant variety	On making the application	25	<i>(21)</i>
9. Registration of title and amendment of the register of plant varieties on a transfer of plant breeders' rights or a share in such rights	On making the application for registration	25	<i>(21)</i>
10. Purchase of a report from a testing authority in another country	Within 14 days of demand by the Controller	135	<i>(140)</i>

Note:

(*) The figures in italics are the fees which were charged under the Plant Breeders' Rights (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 Plant Breeders' Rights (Fees) Regulations 1987, as amended. They prescribe fees in respect of various matters relating to plant breeders' rights arising under the Plant Varieties and Seeds Act 1964 or the Plant Breeders' Rights Regulations 1978, as amended (regulation 3 and Schedule). The fees are payable to the Controller of Plant Variety Rights.

Subject to exceptions, there is an increase in fees payable in respect of tests or examination of a plant variety (regulation 3(1)(b) and Part II of Schedule), the continued exercise of plant breeders' rights in a plant variety (regulation 3(1)(c) and Part III of Schedule) and various miscellaneous matters (regulation 3(1)(d) and Part IV of Schedule) except that fees are no longer payable in respect of certain minor miscellaneous matters such as an application to amend a document or for an extension of time.

In the case of fees payable on an application for a grant of plant breeders' rights (regulation 3(1)(a) and Part I of Schedule) the fees payable in respect of most plant varieties have been reduced although some have been increased. The old fees are shown in the Schedule in italics.

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