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STATUTORY INSTRUMENTS

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**2002 No. 247**

**The Patents and Plant Variety Rights  
(Compulsory Licensing) Regulations 2002**

**PART III**

**COMPULSORY PLANT VARIETY LICENCES**

**Community plant variety rights: cross licences of patents**

**15.**—(1) Where the Community Plant Variety Office has granted—

- (a) on the grounds specified in Article 12(3) of Directive [98/44/EC](#) of the European Parliament and of the Council on the legal protection of biotechnological inventions<sup>M1</sup>, and
- (b) under Article 29 of Council Regulation,

a compulsory exploitation right in respect of a Community plant variety right to a proprietor of a biotechnological invention protected by a patent, who could not otherwise exploit in the UK the biotechnological invention protected by the patent without infringing a Community plant variety right, the holder of the Community plant variety right concerned may, in accordance with rules, apply to the Comptroller General of Patents for a cross licence of the biotechnological invention protected by the patent and on such application shall pay the prescribed fee.

(2) On receipt of an application under paragraph (1) and payment of the prescribed fee, the Comptroller General shall consider and process the application in accordance with rules.

(3) Where the holder of the Community plant variety right concerned has paid the prescribed fee and demonstrates in his application to the satisfaction of the Comptroller General of Patents that—

- (a) he has a Community plant variety right, and
- (b) the Community Plant Variety Office has granted, under Article 29 of Council Regulation, a compulsory exploitation right in respect of it which allows a proprietor of a patent for a biotechnological invention to exploit in the UK the biotechnological invention protected by the patent,

the Comptroller General of Patents shall order the grant of a cross licence on reasonable terms to the holder of the Community plant variety right concerned (or, where the holder is a government department, to any person specified in the application) to use in the UK the biotechnological invention protected by the patent.

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**Marginal Citations**

**M1** OJ No. L 213, 30.7.98, p. 13.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Patents and Plant Variety Rights (Compulsory Licensing) Regulations 2002. Any changes that have already been made by the team appear in the content and are referenced with annotations. [View outstanding changes](#)

**Changes and effects yet to be applied to :**

- reg. 15 omitted by [S.I. 2019/801 reg. 10](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3-68-10](#)