Changes to legislation: *Patents Act 1977, SCHEDULE A1 is up to date with all changes known to be in force on or before 01 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

[F1SCHEDULE A1

Section 60(5)(g)

DEROGATION FROM PATENT PROTECTION IN RESPECT OF BIOTECHNOLOGICAL INVENTIONS

Textual Amendments

F1 Sch. A1 inserted (28.7.2000) by S.I. 2000/2037, reg. 8(1), **Sch. 1**

Interpretation

1 In this Schedule—

F2 …

"farmer's own holding" means any land which a farmer actually exploits for plant growing, whether as his property or otherwise managed under his own responsibility and on his own account;

"the gazette" means the gazette published under section 34 of the Plant Variety and Seeds Act 1964 F3;

"protected material" means plant propagating material which incorporates material subject to a patent;

"relevant activity" means the use by a farmer of the product of his harvest for propagation or multiplication by him on his own holding, where the product of the harvest constitutes or contains protected material;

"relevant rights holder" means the proprietor of a patent to which protected material is subject;

"seed" includes seed potatoes;

"seed year" means the period from 1st July in one year to 30th June in the following year, both dates inclusive.

Textual Amendments

F2 Words in Sch. A1 para. 1 omitted (31.12.2020) by virtue of The Intellectual Property (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1050), regs. 1(2), **39(a)**

F3 1964 c. 14.

Specified species

2 Section 60(5)(g) applies only to varieties of the following plant species and groups:

Name	***Common Name***
Fodder plants	

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Cicer arietinum L.	Chickpea milkvetch
Lupinus luteus L.	Yellow lupin
Medicago sativa L.	Lucerne
Pisum sativum L. (partim)	Field pea
Trifolium alexandrinum L.	Berseem/Egyptian clover
Trifolium resupinatum L.	Persian clover
Vicia faba	Field bean
Vicia sativa L.	Common vetch
Cereals	
Avena sativa	Oats
Hordeum vulgare L.	Barley
Oryza sativa L.	Rice
Phalaris canariensis L.	Canary grass
Secale cereale L.	Rye
X Triticosecale Wittm.	Triticale
Triticum aestivum L. emend. Fiori et Paol.	Wheat
Triticum durum Desf.	Durum wheat
Triticum spelta L.	Spelt wheat
Potatoes	
Solanum tuberosum	Potatoes
Oil and fibre plants	
Brassica napus L. (partim)	Swede rape
Brassica rapa L. (partim)	Turnip rape
Linum usitatissimum	Linseed with the exclusion of flax

Liability to pay equitable remuneration

3 (1) If a farmer's use of protected material is authorised by section 60(5)(g), he shall, at the time of the use, become liable to pay the relevant rights holder equitable remuneration.

(2) That remuneration must be sensibly lower than the amount charged for the production of protected material of the same variety in the same area with the holder's authority.

(3) Remuneration is to be taken to be sensibly lower if it would be taken to be sensibly lower within the meaning of **[**[F4]regulation 20A of the Plant Breeders' Rights Regulations 1998**]**.

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Textual Amendments

F4 Words in Sch. A1 para. 3(3) substituted (31.12.2020) by The Intellectual Property (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1050), regs. 1(2), **39(b)**

Exemption for small farmers

4 (1) Paragraph 3 does not apply to a farmer who is considered to be a small farmer for the purposes of **[**[F5]section 9(10) of the Plant Varieties Act 1997**]**.

(2) It is for a farmer who claims to be a small farmer to prove that he is such a farmer.

Textual Amendments

F5 Words in Sch. A1 para. 4 substituted (31.12.2020) by The Intellectual Property (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1050), regs. 1(2), **39(c)**

Information to be supplied by farmer

5 (1) At the request of a relevant rights holder ("H"), a farmer must tell H—

(a) his name and address;

(b) whether he has performed a relevant activity; and

(c) if he has performed such an activity, the address of the holding on which he performed it.

(2) If the farmer has performed such an activity, he must tell H whether he is—

(a) liable to pay remuneration as a result of paragraph 3; or

(b) not liable because he is a small farmer.

(3) If the farmer has told H that he is liable to pay remuneration as a result of paragraph 3, he must tell H—

(a) the amount of the protected material used;

(b) whether the protected material has been processed for planting; and

(c) if it has, the name and address of the person who processed it.

(4) The farmer must comply with sub-paragraphs (2) and (3) when complying with sub-paragraph (1).

(5) If the farmer has told H that he is liable to pay remuneration as a result of paragraph 3, he must (if H asks him to do so) tell H—

(a) whether he used any protected material with the authority of H within the same seed year; and

(b) if he did, the amount used and the name and address of the person who supplied it.

Information to be supplied by seed processor

6 (1) On the request of a relevant rights holder, a seed processor shall supply the following information—

(a) the name and address of the seed processor;

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(b) the address of the seed processor's principal place of business; and

(c) whether the seed processor has processed seed of a species specified in paragraph 2 above.

(2) If the seed processor has processed seed of a species specified in paragraph 2 above he shall also supply the following information with the information referred to in sub-paragraph (1)—

(a) the name and address of the person for whom the processing was carried out;

(b) the amount of seed resulting from the processing;

(c) the date processing commenced;

(d) the date processing was completed;

(e) the place where processing was carried out.

Information to be supplied by relevant rights holder

7 On the request of a farmer or a seed processor a relevant rights holder shall supply the following information—

(a) his name and address; and

(b) the amount of royalty charged for certified seed of the lowest certification category for seed containing that protected material.

Period in respect of which inquiry may be made

8 A request may be made under paragraphs 5, 6 and 7 in respect of the current seed year and the three preceding seed years.

Restriction on movement for processing from the holding

9 No person shall remove or cause to be removed from a holding protected material in order to process it unless—

(a) he has the permission of the relevant rights holder in respect of that protected material;

(b) he has taken measures to ensure that the same protected material is returned from processing as is sent for processing and the processor has undertaken to him that the processor has taken measures to ensure that the same protected material is returned from processing as is sent for processing; or

(c) he has the protected material processed by a seed processor on the list of processors referred to in the gazette as being permitted to process seed away from a holding.

Confidentiality

10 (1) A person who obtains information pursuant to this Schedule shall owe an obligation of confidence in respect of the information to the person who supplied it.

(2) Sub-paragraph (1) shall not have effect to restrict disclosure of information—

(a) for the purposes of, or in connection with, establishing the amount to be paid to the holder of rights pursuant to paragraph 3 and obtaining payment of that amount,

(b) for the purposes of, or in connection with, establishing whether a patent has been infringed, or

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(c) for the purposes of, or in connection with, any proceedings for the infringement of a patent.

Formalities

11 (1) A request for information under this Schedule, and any information given in response to such a request, must be in writing.

(2) Information requested under this Schedule must be given—

(a) within 28 days; or

(b) if the request specifies a longer period, within the specified period.

Remedies

12 (1) If, in response to a request under this Schedule, a person—

(a) knowingly fails to provide information which he is required by this Schedule to give, or

(b) refuses to provide any such information,

the court may order him to provide it.

(2) Sub-paragraph (1) does not affect any of the court's other powers to make orders.

(3) A person who knowingly provides false information in response to a request under this Schedule is liable in damages to the person who made the request.

(4) In any action for damages under sub-paragraph (3) the court must have regard, in particular to—

(a) how flagrant the defendant was in providing the false information, and

(b) any benefit which accrued to him as a result of his providing false information,

and shall award such additional damages as the justice of the case may require.**]**

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Changes and effects yet to be applied to :

- Sch. A1 para. 1 words inserted by S.I. 2019/801 reg. 4 (This amendment not applied to legislation.gov.uk. Reg. 4 omitted immediately before IP completion day by virtue S.I. 2020/1050, regs. 1(2), 28)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 56(4)(a)(iiia) and word added by S.I. 2006/1056 Sch. para. 2(b) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))
- s. 63(3)(a) words in s. 63(3) renumbered as s. 63(3)(a) by 2004 c. 16 s. 2(4) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)
- s. 63(3)(b) and word inserted by 2004 c. 16 s. 2(4) (Amendment not applied to legislation.gov.uk. S. 2(4) was repealed (29.4.2006) by S.I. 2006/1028, art. 2(4), Sch. 4)