

1987 No. 189

**PLANT BREEDERS' RIGHTS**

**The Plant Breeders' Rights (Fees) Regulations 1987**

*Made* - - - - *11th February 1987*

*Laid before Parliament* *20th February 1987*

*Coming into Force* *1st April 1987*

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 by sections 9(1) and 36 of the Plant Varieties and Seeds Act 1964(a) as extended to Northern Ireland(b) and now vested in them(c), and the said Minister and the Secretary of State, acting jointly, in exercise of the said powers as extended to the Isle of Man(d), 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(e), hereby make the following Regulations:

**Title and commencement**

1. These Regulations may be cited as the Plant Breeders' Rights (Fees) Regulations 1987 and shall come into force on 1st April 1987.

**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;

“National List” means a list of plant varieties prepared and published in accordance with the Seeds (National Lists of Varieties) Regulations 1982(f);

“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(g);

“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.

**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—

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(a) 1964 c.14.

(b) By the Plant Varieties and Seeds (Northern Ireland) Order 1964 (S.I. 1964/1574).

(c) In the case of the Secretary of State for Wales, by virtue of S.I. 1978/272.

(d) By the Plant Varieties and Seeds (Isle of Man) Order 1969 (S.I. 1969/1829).

(e) 1971 c.62.

(f) S.I. 1982/844, amended by S.I. 1985/1529.

(g) S.I. 1978/294, to which there are amendments not relevant to these 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 breeders' 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 relation to the particular year of the exercise of such rights in the second and third columns 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) subject to paragraph (4) below, 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.

(2) If at the time of the application for a grant of plant breeders' rights the plant variety in respect of which the application is made is or has been the subject of an application for its entry in a National List but no fee is or has been payable under the Seeds (National Lists of Varieties) (Fees) Regulations 1987(a) in respect of tests which have been or are being undertaken in connection with such application, then there shall be paid to the Controller in addition to the fee payable under paragraph (1)(b) above a fee in respect of such tests calculated in accordance with Part II of the Schedule as if references to tests in relation to an application for a grant of plant breeders' rights were references to tests in relation to an application for the entry of a plant variety in a National List.

(3) The fee payable in accordance with paragraph (2) above shall be payable within fourteen days of a written demand made by the Controller.

(4) No fee shall be payable in accordance with paragraph (1)(d) above in respect of any application to amend a document in any application or proceeding or in respect of any application for the amendment of the register of plant varieties where that application relates solely to the change of the end of the name of a body corporate to "public limited company" or its Welsh equivalent pursuant to the Companies Act 1985(b).

#### **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 when 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

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(a) S.I. 1987/188.  
(b) 1985 c.6.

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 those rights during the period beginning with the date 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 1985(a) and the Plant Breeders' Rights (Fees) (Amendment) Regulations 1986(b) are revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 5th February 1987.



*Michael Jopling*  
Minister of Agriculture, Fisheries and Food

*John J. Mackay*  
Parliamentary Under-Secretary of State,  
Scottish Office

5th February 1987

*Nicholas Edwards*  
Secretary of State for Wales

9th February 1987

*Tom King*  
Secretary of State for Northern Ireland

9th February 1987

*Douglas Hurd*  
Secretary of State for the Home Department  
(being the Secretary of State concerned  
with matters relating to the Isle of Man)

8th February 1987

We approve,

*T. Sainsbury*  
*Michael Neubert*  
Two of the Lords Commissioners of Her Majesty's Treasury

1th February 1987

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(a) S.I. 1985/357.  
(b) S.I. 1986/339.

SCHEDULE

Regulation 3(1)

FEES

PART I

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

<i>Plant variety</i>	<i>Amount</i>	
	<i>New fee</i>	<i>Old fee</i>
	£	£(a)
1. A wheat (excluding durum wheat and spelt wheat) or barley variety	520	(280)
2. A durum wheat, spelt wheat, rye, oat, oilseed rape, ryegrass, timothy, white clover, fescue or potato variety	400	(215-280)
3. A maize variety	480	(280)
4. A field pea or field bean variety	310	(215)
5. Any other herbage, fodder (including fenugreek), oil and fibre, cereal or vegetable variety	185	(110-280)
6. Any other variety not mentioned above (including a decorative or fruit variety)	115	(110)

*Note*

(a) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1986 (S.I. 1986/339) 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>Tests or examination for which payable</i>	<i>Amount</i>	
		<i>New fee</i>	<i>Old fee</i>
		£	£(a)
1. A wheat (excluding durum wheat and spelt wheat), barley or maize variety	Tests in any one year	680	(535)
2. A durum wheat, spelt wheat, rye, oat, oilseed rape, ryegrass, timothy, white clover, fescue, potato, field pea or field bean variety	Tests in any one year	460	(360-535)
3. Any other herbage, fodder (including fenugreek), oil and fibre, cereal or vegetable variety	Tests in any one year	260	(205-535)
4. A year-round perennial chrysanthemum variety	Tests in each flowering season	215	(205)
5. A cymbidium variety	Each examination	215	(205)
6. Any other variety not mentioned above (including a decorative or fruit variety)	Tests in any one year	215	(205)

*Note*

(a) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1986 before the coming into force of these Regulations.

### PART III

#### RENEWAL FEES

<i>Plant variety</i>	<i>Renewal fees during the years of the exercise of plant breeders' rights indicated below</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>£(a)</i>	<i>£</i>	<i>£(a)</i>
1. A wheat (excluding durum wheat and spelt wheat) or barley variety	455	(245)	605	(325)
2. A durum wheat, spelt wheat, rye, oat, oilseed rape, ryegrass, timothy, white clover, fescue, potato, maize, field bean or field pea variety	320	(175–245)	545	(295–325)
3. Any other herbage, fodder (including fenugreek), oil and fibre, cereal or vegetable variety	185	(110–245)	245	(145–325)
4. Any other variety not mentioned above (including a decorative or fruit variety)	120	(110)	155	(145)

*Note*

(a) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1986 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>Amount</i>	
		<i>New fee</i>	<i>Old fee</i>
		<i>£</i>	<i>£(a)</i>
1. Application for a compulsory licence	On making the application	21	(20)
2. Application to extend, limit, vary or revoke a compulsory licence	On making the application	21	(20)
3. Application to amend a document in any application or proceeding	On making the application	3	(3)
4. Application to rectify an error or omission in the register of plant varieties	On making the application	3	(3)
5. Application for extension of time for the service or delivery of a document or thing or for the doing of an act	On making the application	3	(3)
6. Making representations in writing to the Controller, by any person other than the applicant, in connection with any application	On delivering the representations	3	(3)
7. Making representations in writing to the Controller, by any person other than the holder of plant breeders' rights, in connection with a proposal to terminate those rights or to revoke or terminate any extension of such rights	On delivering the representations	3	(3)

## PART IV – continued

<i>Matter</i>	<i>When payable</i>	<i>Amount</i>	
		<i>New fee</i>	<i>Old fee</i>
		£	£(a)
8. Attending to be heard by the Controller, or by a person appointed by him for the purpose	Before the hearing	21	(20)
9. Grant of plant breeders' rights in—			
(a) a variety referred to in items 1 to 4 in Part I of this Schedule	Before the issue of the document constituting evidence of the grant	145	(80)
(b) a variety referred to in item 5 in Part I of this Schedule		135	(80)
(c) a variety referred to in item 6 in Part I of this Schedule		85	(80)
10. Giving a protective direction	Before the issue of the document constituting evidence of the giving of the protective direction	21	(20)
11. Application for an extension of the period for payment of a renewal fee	On making the application	21	(20)
12. 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	21	(20)
13. Application for the approval of a substituted name for a plant variety	On making the application	21	(20)
14. Application for the amendment of the register of plant varieties, except in a case where the plant breeders' rights are transferred to another person	On making the application	3	(3)
15. 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	21	(20)
16. Inspection of the register of plant varieties or of a document in the possession of the Controller	Before the inspection	1	(1)
17. Supplying copies of documents, per page	Before the delivery of the copies	0.30	(0.30)
18. Supplying a duplicate of a document constituting evidence of a grant of plant breeders' rights or protective direction	On ordering the duplicate	6	(6)
19. Purchase of a report from a testing authority in another country	Within 14 days of demand by the Controller	112	(106)

*Note*

(a) The figures in italics are the fees which were charged under the Plant Breeders' Rights (Fees) (Amendment) Regulations 1986 before the coming into force of these Regulations.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These regulations consolidate with amendments the Plant Breeders' Rights (Fees) Regulations 1985, 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.

There is a general increase in fees payable on making an application for a grant of plant breeders' rights (regulation 3(1)(a) and Part I of Schedule) or 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). Some fees remain the same and a few are reduced. Old fees are shown in the Schedule in italics.