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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**

**Applications**

**11.**—(1) Where a proprietor of a patent for a biotechnological invention cannot exploit a biotechnological invention protected by the patent without infringing prior plant breeders' rights, he may apply in accordance with Breeders' regulations to the Controller of Plant Variety Rights for a licence and on such application shall pay the plant breeders' fee.

(2) An application under paragraph (1) shall be accompanied by particulars which seek to demonstrate that—

- (a) the proprietor of the patent for a biotechnological invention cannot exploit the biotechnological invention protected by the patent without infringing prior plant breeders' rights,
- (b) the proprietor of the patent has unsuccessfully applied to the holder of the prior plant breeders' rights for a licence, and
- (c) the biotechnological invention protected by the patent constitutes significant technical progress of considerable economic interest in relation to the plant variety protected by the prior plant breeders' rights.

(3) If and so far as any agreement purports to bind any person not to apply for a licence under paragraph (1), it shall be void.