
STATUTORY INSTRUMENTS

2002 No. 247

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

PART II

COMPULSORY PATENT LICENCES

Conditions

7.—(1) A compulsory patent licence shall—

- (a) not be exclusive,
- (b) entitle the proprietor of the patent concerned to an appropriate royalty, and
- (c) entitle the proprietor of the patent concerned to a cross licence on reasonable terms to use the new plant variety.

(2) Where the controllers order the grant of a compulsory patent licence to a person who has been granted plant breeders' rights in the new plant variety, the proprietor of the patent concerned may request, a cross licence on reasonable terms of the plant breeders' rights to use the new plant variety in respect of which the compulsory patent licence has been granted and, on such request, the controllers shall order the grant of such a cross licence to that proprietor (or, where the proprietor of the patent is a government department, to any person specified in the request).

(3) Where the controllers order the grant of a compulsory patent licence to a person who has yet to acquire plant breeders' rights in the new plant variety, the proprietor of the patent concerned may request a cross licence on reasonable terms of the plant breeders' rights to use the new plant variety in respect of which the compulsory patent licence has been granted and, on such request, the controllers shall order the grant of such a cross licence to that proprietor (or, where the proprietor of the patent is a government department, to any person specified in the request), and the cross licence shall come into effect on the grant to the holder of the compulsory patent licence of plant breeders' rights in the new plant variety.

(4) Where the controllers order the grant of a compulsory patent licence to a person who has been granted a Community plant variety right in the new plant variety, if the proprietor of the patent wishes, the compulsory patent licence shall be subject to the grant to the proprietor of the patent concerned (or, where the proprietor of the patent is a government department, to any person the proprietor specifies) of a cross licence of the Community plant variety right on reasonable terms to use in the UK the new plant variety in respect of which the compulsory patent licence has been granted.

(5) Where the controllers order the grant of a compulsory patent licence to a person who has yet to acquire a Community plant variety right in the new plant variety, the order for grant shall, if the proprietor of the patent wishes, include a condition that, on the grant of the Community plant variety right to such person in the new plant variety in respect of which the compulsory patent licence has been granted, the proprietor of the patent concerned (or, where the proprietor of the patent is a government department, such person as the proprietor specifies) shall be granted a cross licence on

reasonable terms to use in the UK the new plant variety in respect of which the compulsory patent licence has been granted.