
STATUTORY INSTRUMENTS

2019 No. 204

**The Plant Breeders' Rights (Amendment
etc.) (EU Exit) Regulations 2019**

PART 3

Existing EU rights

Existing EU rights

3.—(1) For the purposes of these Regulations, an “existing EU right” is a Community plant variety right which, immediately before exit day, is contained in the register maintained under Article 87(2) of the Council Regulation.

(2) On and after exit day, an existing EU right is to be treated as if it were a plant breeders' right granted in accordance with the 1997 Act and as if the variety were registered in accordance with regulations under section 18(1)(c) of the 1997 Act.

(3) Accordingly, on and after exit day, the provisions of the 1997 Act (except sections 1(1), 3 to 5, 11 and 18(3) of, and Schedule 2 to, that Act), any regulations or orders made under that Act and any guidance given under that Act apply in relation to those existing EU rights.

Duration of existing EU rights

4.—(1) An existing EU right has effect for a period—

- (a) beginning with exit day, and
- (b) ending at the end of the last day of the remaining period.

(2) In paragraph (1)(b), the “remaining period” is the period, on and after exit day, which ends with the day on which the term of that right would otherwise have expired under Article 19(1) of the Council Regulation (leaving aside any possibility of cancellation).

Relationship between existing rights under the 1997 Act and existing EU right

5.—(1) This regulation applies where—

- (a) immediately before exit day a person had a plant breeders' right granted in accordance with the 1997 Act but was unable to enforce that right because of the operation of paragraph 2 of Article 92 of the Council Regulation (a “suspended UK right”); and
- (b) on and after exit day, that person has an existing EU right in relation to the same plant variety.

(2) While the existing EU right remains in force, the person remains unable to enforce the suspended UK right.

(3) If the existing EU right is cancelled in the United Kingdom in accordance with section 22(1)(d) of the 1997 Act (cancellation on application to surrender rights), the person becomes able to enforce the UK suspended right.

(4) Paragraph (3) does not apply if the suspended UK right has itself been cancelled in accordance with section 22(1)(d) of the 1997 Act.

Information to be provided by the holder of an existing EU right

6. At the request of the Controller, a person holding an existing EU right under regulation 5(2) must provide the Controller within such period as may be specified in the request with the following information—

- (a) a certified copy of the entry in the register maintained under Article 87(2) of the Council Regulation;
- (b) an address for service in the United Kingdom or the name and address of an agent within the United Kingdom with authority to act for the person in matters which are the subject of the 1997 Act, the Plant Breeders' Rights Regulations 1998(1) or regulation 18 of the Plant Breeders' Rights Regulations 1978(2); and
- (c) such other information as the Controller reasonably requests.

Information to be provided by non-UK resident holder of right granted in accordance with the 1997 Act

7.—(1) This regulation applies if the holder of a right granted in accordance with the 1997 Act is neither resident nor established in the United Kingdom on exit day.

(2) At the request of the Controller, the person must supply the Controller within such period as may be specified in the request with—

- (a) an address for service in the United Kingdom; or
- (b) the name and address of an agent within the United Kingdom with authority to act for the person in matters which are the subject of the 1997 Act, the Plant Breeders' Rights Regulations 1998 or regulation 18 of the Plant Breeders' Rights Regulations 1978.

Modification of the 1997 Act

8. In the application of the 1997 Act to existing EU rights, section 22(1)(c) of the 1997 Act (cancellation) has effect as if after “above” there were inserted “or under regulation 6 or 7 of the Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2019”.

(1) S.I. 1998/1027, amended by S.I. 2001/3510, 2002/247, 2008/2683.

(2) S.I. 1978/294, amended by S.I. 1998/1027.