STATUTORY INSTRUMENTS

1980 No. 316

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Amendment) Regulations 1980

Made - - - -	*6th March* 1980
Laid before Parliament	*14th March* 1980
Coming into Operation	*4th April* 1980

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 on them by sections 9(1) and 36 of the Plant Varieties and Seeds Act 1964**(a)** (extended to Northern Ireland by the Plant Varieties and Seeds (Northern Ireland) Order 1964**(b)** and to the Isle of Man by the Plant Varieties and Seeds (Isle of Man) Order 1969**(c)**) and now vested in them **(d)** and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation and commencement

1.—(1) These regulations may be cited as the Plant Breeders' Rights (Amendment) Regulations 1980 and shall come into operation on 4th April 1980.

(2) These regulations shall be read as one with the Plant Breeders' Rights Regulations 1978**(e)** (hereinafter referred to as "the principal regulations").

Amendment of principal regulations

2. For schedule 3 of the principal regulations there shall be substituted the following:—

"

SCHEDULE 3

REPRODUCTIVE AND OTHER PLANT MATERIAL TO BE DELIVERED TO THE CONTROLLER

PART I

CEREALS

Quantity

1.—(1) During the year beginning with the making of the application the following amounts of ears and seed shall be delivered:—

(a) 1964 c. 14.
(b) S.I. 1964/1574.
(c) S.I. 1969/1829.
(d) In the case of the Secretary of State for Wales by virtue of S.I. 1978/272.
(e) S.I. 1978/294.

For a wheat, barley or oat variety	500 ears and 5 kilograms of seed
For a rye variety	5 kilograms of seed
For a maize variety	500 grams of seed of the commercial hybrid and 200 grams of seed of each of the parents and parental lines of the commercial hybrid

(2) Attached to each ear there shall be approximately 30 centimetres of straw.

(3) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Controller to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The ears shall be packed in bundles of 100, lightly wrapped, in a stiff-sided container. The seeds shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

Quality

3.—(1) The seed shall comply with the following standards:

(*a*) Wheat, Barley, Oats and Rye

Kind	Min. germination (% by number of pure seeds)	Min. analytical purity (% by weight)	Max. moisture content (% by weight)	Max. loose smut infection (% by number)	Max. no. of other seeds or structures in a sample of 500g.					
					All other species	Other cultivated cereal species	All species other than cultivated cereals	Wild oats (*Avena fatua*, *Avena sterilis* or *Avena ludoviciana*) and darnel (*Lolium temulentum*)	Wild radish (*Raphanus raphanistrum*) and Corn Cockle (*Agrostemma*) *githago*	Ergot (pieces)
Wheat, Barley and Oats	85	98	16	0·5	10	7	7	0	3	3
Rye	85	98	16	—	10	7	7	0	3	3

(*b*) Maize

Min. germination (% by number of pure seeds)	Min. analytical purity (% by weight)	Max. no. of seeds of other plant species in a sample of 250g.
90	98	0

(2) The seed shall be free from insects.

Dressings and Treatments

4. The seed shall not have been subjected to any fungicidal or insecticidal treatment.

PART II

POTATOES

Quantity

1.—(1) During the year beginning with the making of the application 200 seed tubers shall be delivered; these seed tubers shall be taken from stocks grown in Scotland or Northern Ireland or the English counties of Northumberland (excluding the districts of Blyth Valley and Wansbeck) and Cumbria (excluding the districts of Barrow-in-Furness and South Lakeland).

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered seed tubers taken from stocks grown in any of the places specified in 1(1) above, in such quantity and of such description and quality as shall appear to the Controller to be necessary or desirable for the proper completion of the tests and trials.

(3) The applicant shall arrange for the growing in the United Kingdom of a plot of at least 2,000 plants of the potato variety to be observed under normal conditions during each of the seasons following the delivery of the seed tubers.

Packing

2. The seed tubers shall be securely packed in new sacks or other new containers which are capable of withstanding the hazards that may be encountered by perishable produce during transit. The packing material shall be adequate in quantity and quality to protect the tubers from low temperature which may cause chilling or frosting and from mechanical damage.

Grading and condition

3. The seed tubers shall be graded so as to be capable of being retained by meshes of a riddle each measuring 35mm square and passed by meshes of a riddle each measuring 50mm square. The seed tubers shall be in sound condition and not be visibly unfit for planting through mechanical damage or attack by any insect, pest or disease or any other condition which would impair their subsequent growth. The seed tubers shall be reasonably free from soil.

Dressings and Treatments

4. The seed tubers shall not have been treated with a fungicide, pesticide or sprout inhibitor.

Health

5.—(1) The land on which the seed tubers have been produced shall be land which—

(*a*) is not deemed for the purpose of the Wart Disease of Potatoes (Great Britain) Order 1973**(a)** or the Wart Disease of Potatoes (Northern Ireland) Order 1973**(b)** to be land on which wart disease of potatoes (*Synchytrium endobioticum* (Schilb.) (Perc.)) is present;

(*b*) is not declared for the purposes of the Potato Cyst Eelworm (Great Britain) Order 1973**(c)** to be land on which potato cyst eelworm (*Globdera rostochiensis* (Woll) Mulvey & Stone and *Globdera pallida* (Stone) Mulvey & Stone) is present;

(a) S.I. 1973/1060 amended by S.I. 1974/1159.
(b) S.R. & O. (N.I.) 1973/266.
(c) S.I. 1973/1059.

(*c*) is not land on which the occupier has been served with a notice under the Potato Root Eelworm Order (Northern Ireland) 1968**(a)** requiring him to adopt measures for the prevention of the spread of potato cyst eelworm as specified by the notice; and

(*d*) is land which has not at any time been used for growing potatoes during the period of five years immediately preceding the planting of the crop from which the seed tubers are produced.

(2) The seed tubers shall be accompanied by a certificate issued by as the case may be the Ministry of Agriculture, Fisheries and Food, the Department of Agriculture and Fisheries for Scotland or the Department of Agriculture for Northern Ireland stating:—

(*a*) the seed tubers are the produce of a crop grown on land not known to be infected by wart disease of potatoes or infested by potato cyst eelworm;

(*b*) the seed tubers are the produce of a crop which was inspected during the growing season and deemed on visual examination to be free from infection with tobacco veinal necrosis virus and to contain not more than the following tolerances for other diseases and impurities:—

(i) 0·05% of rogues, undesirable variations, wildings and bolters;

(ii) 0·02% of plants with leaf roll or severe mosaic;

(iii) 0·25% of plants with mild mosaic;

(iv) 1% of plants with blackleg;

(v) 0·25% of plants with witches' broom.

(*c*) the seed tubers were found on visual examination to be free from signs of wart disease of potatoes; and

(*d*) the seed crop from which the seed tubers were produced was not so affected by any other disease or pest as to render it unsuitable for seed purposes.

PART III

FODDER PLANTS

Quantity

1.—(1) During the year beginning with the making of the application the following amounts of seed shall be delivered:—

For a ryegrass variety	1 kilogram
For a timothy variety	500 grams
For a cocksfoot variety	1 kilogram
For a tall fescue variety	1 kilogram
For a meadow fescue variety	1 kilogram
For a red fescue variety	500 grams
For a velvet bent variety	1 kilogram
For a red top variety	1 kilogram
For a creeping bent variety	1 kilogram
For a brown top variety	1 kilogram

(a) S.R. & O. (N.I.) 1968/258 amended by S.R. & O. (N.I.) 1973/420.

For a wood meadowgrass variety	1 kilogram
For a swamp meadowgrass variety	1 kilogram
For a smooth-stalked meadowgrass variety	1 kilogram
For a rough-stalked meadowgrass variety	1 kilogram
For a lucerne variety	1 kilogram
For a red clover variety	1 kilogram
For a white clover variety	500 grams
For a lupin variety	4 kilograms
For a fenugreek variety	45 grams

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Controller to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

Quality

3. The seed shall comply with the following standards:

Kind	Minimum germination (% by number of pure seeds or pure pellets) (*a*) (*b*)	Maximum hard seed content (% by number of pure seeds or pure pellets) (*a*)	Minimum analytical purity (% by weight)	Maximum content of seeds of other plant species (% by weight)
Perennial ryegrass	86	—	96	1·5
Other ryegrasses	82	—	96	1·5
Timothy	86	—	96	1·5
Cocksfoot	86	—	90	1·5
Tall fescue	86	—	95	1·5
Meadow fescue	86	—	95	1·5
Red fescue (including chewings fescue) ...	82	—	90	1·5
Red top	80	—	90	2·0
Velvet bent, creeping bent and brown top ...	75	—	90	2·0
Meadowgrasses	75	—	85	2·0
Red clover	80	20	97	1·5
White clover	80	40	97	1·5
Lucerne	80	40	97	1·5
Blue lupin	75	20	98	0·5
Other lupins	80	20	98	0·5
Fenugreek	80	—	95	1·0

(*a*) Up to the maximum content indicated, hard seeds present shall be considered as seeds capable of germination.
(*b*) All fresh and healthy seeds which do not germinate after pre-treatment shall be considered as seeds which have germinated.

4. The seeds shall also comply with the following standards where appropriate:

Kind	Weight of sample for determination of foreign seeds by number (gms)	Maximum permitted content of seed impurities (by number or as a percentage by weight)					
		Wild oat or dodder No.	Docks (Rumex spp. excluding R. acetosella) No.	Blackgrass %	Couchgrass %	*Melilotus* spp %	Maximum content of any one other plant species %
1	2	3	4	5	6	7	8
Ryegrasses (*a*)	60	0 (*b*)	20	0·3	0·5	—	1·0
Timothy	10	0 (*b*)	5	0·3	0·3	—	1·0
Cocksfoot	30	0 (*b*)	10	0·3	0·3	—	1·0
Tall fescue	50	0 (*b*)	20	0·3	0·5	—	1·0
Meadow fescue (*c*) ...	50	0 (*b*)	20	0·3	0·5	—	1·0
Red fescue (including chewings fescue) ...	30	0 (*b*)	10	0·3	0·5	—	1·0
Red top	5	0 (*b*)	2	0·3	0·3	—	1·0
Velvet bent, creeping bent and brown top...	5	0 (*b*)	2	0·3	0·3	—	1·0
Meadowgrasses... ...	5	0 (*b*)	2	0·3	0·3	—	1·0 (*d*)
Red clover	50	0	20	—	—	0·3	1·0
White clover	20	0	10	—	—	0·3	1·0
Lucerne	50	0	20	—	—	0·3	1·0
Blue lupin (*e*)	1000	0	20	—	—	0·3	0·3 (*f*)
Other lupins (*e*) ...	1000	0	20	—	—	0·3	0·3 (*f*)

(*a*) In perennial ryegrass awned ryegrass seeds shall not exceed 1% by weight in seeds of a variety known not to produce seed with awns.
(*b*) 1 seed of dodder in a sample of the size specified in column 2 shall not be regarded as an impurity if a second sample of the same weight is free from dodder.
(*c*) In meadow fescue there shall be no more than a total of 20 seeds of ryegrass in a sample of the size specified in column 2.
(*d*) In meadowgrasses a maximum of 0·8% by weight of seeds of other meadowgrasses shall not be regarded as an impurity.
(*e*) In lupins the percentage by number of bitter lupin seeds in sweet varieties shall not exceed 3·0 and the percentage by number of seeds of another colour shall not exceed 2·0 in bitter lupins and 1·0 in other lupins.
(*f*) In lupins the presence of a maximum of 0·5% by weight in total of seeds of other lupins, Hungarian, common and hairy vetch, field pea and field bean shall not be regarded as an impurity.

Dressings and treatments

5. The seed shall not have been subjected to any fungicidal or insecticidal treatment.

PART IV

OIL AND FIBRE PLANTS

Quantity

1.—(1) During the year beginning with the making of the application the following amounts of seed shall be delivered:—

For a flax or linseed variety	300 grams
For an oenothera variety	5 grams
For a swede rape including oilseed rape variety	200 grams

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Controller to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

Quality

3.—(1) The seed shall comply with the following standards:—

	Analytical Purity			Maximum content by number of seeds of other plant species in a sample of the following weight: Swede rape including oilseed rape — 100 grams Flax and Linseed — 150 grams						
Kind	Minimum germination (% of pure seed)	Minimum analytical purity (% by weight)	Maximum content seed of other plant species (% by weight)	Other plant species	Wild Oat (*Avena fatua*, A. *ludoviciana*, A. *sterilis*)	Dodder (*Cuscuta* spp.)	Wild Radish (*Raphanus raphanistrum*)	Dock (*Rumex* spp. excl. R. *acetosella*)	Black Grass (*Alopecurus myosuroides*)	*Lolium remotum*
Swede rape including Oilseed rape	85	98	0·3	—	0	0	10	20	—	—
Flax ...	92	99	—	15	0	0	—	—	4	2
Linseed ...	85	99	—	15	0	0	—	—	4	2
Oenothera	85	—	—	—	—	—	—	—	—	—

(2) The seeds shall be of a satisfactory state of health as far as seed-borne organisms and diseases affecting the seeds are concerned. In particular the seeds shall not exceed the following standards:—

Kind	Harmful Organisms		
	Maximum percentage by number of seeds contaminated by harmful organisms (total per column)		*Sclerotinia sclerotiorum* (maximum number of *sclerotia* or fragments of *sclerotia* in a sample of the weight specified in column 4 of Schedule 3)
	Botrytis spp.	*Alternaria* spp., *Phoma exigua var. linicola*, *Colletotrichum lini*, *Fusarium* spp.	
Swede rape including oilseed rape	—	—	5
Flax and linseed ...	5	5 (*a*)	—

(*a*) In flax the maximum percentage by number of seeds contaminated by *Phoma exigua var. linicola* shall not exceed 1%.

Dressings and treatments

4. The seed shall not have been subjected to any fungicidal or insecticidal treatment.

PART V

VEGETABLES (INCLUDING FIELD BEANS AND FIELD PEAS)

Quantity

1.—(1) During the year beginning with the making of the application the following amounts of seed shall be delivered:—

For a pea variety (including a field pea variety)	3 kilograms
For a French bean variety	4 kilograms
For a runner bean variety	4 kilograms
For a broad bean variety (including a field bean variety)	4 kilograms
For a lettuce variety	50 grams
For a celery or celeriac variety	4 grams
For a marrow variety	50 grams
For a Brussels sprout variety	50 grams
For a cabbage variety	50 grams
For a cauliflower variety	50 grams
For a turnip variety	50 grams
For a beetroot variety	100 grams

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Controller to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

Quality

3. The seed shall comply with the following standards:—

Kind	Minimum germination (% by number of pure seeds)	Minimum analytical purity (% by weight)	Max. content of seeds of other plant species (% by weight)
Peas (including field peas)	80	98	0·1
French Beans	75	98	0·1
Runner Beans	80	98	0·1
Broad Beans	80	98	0·1
Field Beans	85	98	0·1
Lettuce	75	95	0·5
Celery and Celeriac ...	70	97	1·0
Marrows	75	98	0·1
Brussels Sprouts	75	97	1·0
Cabbages	75	97	1·0
Cauliflowers	70	97	1·0
Turnips	80	97	1·0
Beetroot	70	97	0·5

Health

4. The seeds shall be of a satisfactory state of health in so far as seed-borne diseases and organisms affecting the seeds are concerned.

Dressings and Treatments

5. The seed shall not have been subjected to any fungicidal or insecticidal treatment and shall not be pelleted.

PART VI

TOP FRUIT AND ROOTSTOCKS

Quantity

1.—(1) The following shall be delivered:

(2) *Apples*

Two trees on M.9 or M.26 and two trees on MM.106 rootstocks. The trees shall be not less than two and not more than three years old. Alternatively, if the Controller shall so allow, scion or bud wood sufficient to produce four trees may be delivered instead of the two trees as mentioned above.

(3) *Pears*

Three trees on Quince A rootstock, double-worked where necessary. The trees shall be not less than two and not more than three years old. Alternatively, if the Controller shall so allow, scion or bud wood sufficient to produce four trees may be delivered instead of the three trees as mentioned above.

(4) *Plums and Damsons*

Three trees on St. Julien A rootstocks. The trees shall not be less than two and not more than three years old. Alternatively, if the Controller shall so allow, scion or bud wood sufficient to produce four trees may be delivered instead of the three trees as mentioned above.

(5) *Cherries*

Three trees on F12/1 or Colt rootstocks. The trees shall be not less than two and not more than three years old.

(6) *Apple rootstocks, Pear rootstocks, Plum and Damson rootstocks and Cherry rootstocks*

Twenty-five well-rooted rootstocks of not less than 7 mm. in diameter selected from the stool or layer bed.

Health

2.—(1) *Complete trees and rootstocks*

(*a*) The trees and rootstocks shall not show symptoms of any virus disease;

(*b*) The trees and rootstocks shall be healthy. They shall not be lacking in vigour, or affected by any pests or diseases.

(2) *Scion or bud wood*

Scion or bud wood shall be the produce either of a tree of the variety growing on its own roots or of a tree of the variety which satisfies the requirements set out in paragraph 2(1)(*a*) and (*b*) above.

PART VII

SOFT FRUIT

Quantity

1.—(1) The following shall be delivered:

(2) *Black Currants*

Twelve visually healthy two-year-old bushes.

(3) *Gooseberries*

Five visually healthy two-year-old bushes.

(4) *Raspberries*

Twenty-five visually healthy canes.

(5) *Strawberries*

Five visually healthy runners or five micro plants in vitro.

PART VIII

RHUBARB

Quantity

1. Four plants of the parent stock sufficient to provide twelve single bud roots.

Health

2. The plant material shall be visibly healthy and shall not be lacking in vigour or affected by pests or diseases.

PART IX

HOPS

Quantity

1. Six one year bedded sets shall be delivered.

Health

2.—(*a*) The sets shall not show symptoms of any virus disease.

(*b*) The sets shall be healthy. They shall not be lacking in vigour or affected by pests or disease.

PART X

CONIFERS AND TAXADS

Quantity

Four visually healthy vegetatively reproduced trees or shrubs typical of the variety, each at least two but not more than five years old, shall be delivered.

PART XI

TREES, SHRUBS AND WOODY CLIMBERS

Quantity

There shall be delivered in the numbers indicated in respect of varieties of the genera or species specified below, visually healthy, vegetatively reproduced trees, shrubs, or woody climbers, as the case may be, typical of the variety and each at least two but not more than four years old.

Genera or species	Number of trees shrubs or woody climbers to be delivered
Calluna Salisb.	12
Daboecia D. Don	12
Erica carnea L., *Erica cilaris* L., *Erica cinerea* L., *Erica x darleyensis* Bean, *Erica mackaiana* Bab., *Erica mediterranea* Hort., *Erica x praegeri* Ostenf., *Erica tetralix* L., *Erica vagans* L., *Erica x watsonii* Benth., *Erica williamsii* Druce	12
Erica arborea L., *Erica australis* L., *Erica lusitanica* Rudolfi, *Erica scoparia* L., *Erica terminalis* Salisb., *Erica x veitchii* Bean	4
Menziesia Sm	4
Andromeda L.	3
Arctostaphylos Adans.	3
Buxus L.	3
Caryopteris Bunge	3
Cassiope D. Don	3
Ceratostigma Bunge excluding C. *plumbaginoides* Bunge ...	3
x Gaulnettya W. J. Marchant	3
Gaultheria Kalm ex L.	3
Helianthemum Mill.	3
Lavandula L.	3
Pernettya Gaudich	3
Ruta L.	3
Salvia officinalis L.	3
Sarcococca Lindl excluding S. *saligna* Muell.	3
Teucrium frutcans L.	3
Vaccinium L. excluding V. *corymbosum* L.	3
Vinca major L....	3
Vinca minor L....	3
All others not specified above	2

PART XII

DECORATIVES

Quantity

1.—(1) The following shall be delivered:

(2) *Carnations*

(*a*) *Border carnations and pinks*

Ten visually healthy young plants, typical of the variety.

(*b*) *Perpetual flowering carnations*

Seventy-five unrooted, visually healthy cuttings, each furnished with at least four but not more than five clearly visible internodes.

(3) *Perennial Chrysanthemums*

(*a*) *Year round varieties*

Fifty visually healthy cuttings of normal commercial standard.

(*b*) *Other varieties*

Twenty-five visually healthy cuttings of normal commercial standard.

(4) *Dahlias*

Four plants of each disbudded variety and ten plants of each dwarf bedding variety. The plants shall be typical of the variety and young, visually healthy, green plants.

(5) *Perennial Delphiniums*

Four visually healthy, well-rooted cuttings, typical of the variety.

(6) *Freesias*

Twenty-five visually healthy corms of flowering size, typical of the variety.

(7) *Gladioli*

Twelve visually healthy corms of flowering size, typical of the variety shall be delivered each year.

(8) *Narcissi*

Ten visually healthy single nosed bulbs, typical of the variety.

(9) *Rhododendrons*

(*a*) *Varieties to be flowered outdoors*

Three plants each with at least three flower buds.

(*b*) *Pot plant varieties*

Thirty plants, twice pinched.

(10) *Roses*

In the case of a bush or shrub variety six trees, and in the case of a climbing variety two trees. The trees shall be first quality visually healthy maiden trees typical of the variety. If the Controller is satisfied that maiden trees cannot be supplied, two-year-old trees may be delivered.

(11) *Herbaceous perennials*

Four visually healthy vegetatively reproduced plants typical of the variety, each one year old.

(12) *Cymbidiums*

One mature plant in full flower.

(13) *Pelargoniums*

Ten rooted or unrooted cuttings.

(14) *Streptocarpus*

Five full grown plants.

(15) *Lilies*

Ten visually healthy bulbs of flowering size. "

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 20th February 1980.

(L.S.)

Peter Walker,
Minister of Agriculture, Fisheries and Food.

26th February 1980.

George Younger,
Secretary of State for Scotland.

29th February 1980.

Nicholas Edwards,
Secretary of State for Wales.

6th March 1980.

Humphrey Atkins,
Secretary of State for Northern Ireland.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Plant Breeders' Rights Regulations 1978. Composite schemes having been made to enable Plant Breeders' Rights to be granted in respect of Cereals, Oil and Fibre Plants, Vegetables and Soft Fruit, the regulations specify the reproductive and other plant material to be delivered when an application is made for a grant of Plant Breeders' Rights in respect of plant varieties of those kinds and also in respect of other plant varieties for which there are existing schemes not replaced by the aforesaid composite schemes.