# 1968 No. 619

# PLANT BREEDERS' RIGHTS

## The Plant Breeders' Rights (Fees) Regulations 1968

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|---|---|
| *Made* - - - - | 10*th April* 1968 |
| *Laid before Parliament* | 25*th April* 1968 |
| *Coming into Operation* | 26*th April* 1968 |

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for the Home Department (being the Secretary of State concerned with agriculture in Northern Ireland), acting jointly, in exercise of the powers vested in them by sections 9 and 36 of the Plant Varieties and Seeds Act 1964(a), as extended to Northern Ireland by the Plant Varieties and Seeds (Northern Ireland) Order 1964(b) and of all other powers enabling them in that behalf, with the approval of the Treasury, hereby make the following Regulations:—

*Citation and Commencement*

**1.** These Regulations may be cited as the Plant Breeders' Rights (Fees) Regulations 1968 and shall come into operation on 26th April 1968.

*Revocation of Previous Regulations*

**2.** The Regulations specified in Schedule 1 to these Regulations are hereby revoked.

*Interpretation*

**3.**—(1) In these Regulations, unless the context otherwise requires,—

"the Act" means the Plant Varieties and Seeds Act 1964 as extended to Northern Ireland, except Parts II and III thereof;

"the Controller" means the Controller of Plant Variety Rights;

"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 1965(c) as amended (d);

and other expressions have the same meaning as they have in the Act.

(2) The Interpretation Act 1889(e) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament and as if these Regulations and the Regulations hereby revoked were Acts of Parliament.

(a) 1964 c. 14. (b) S.I. 1964/1574 (1964 III, p. 3543).
(c) S.I. 1965/65 (1965 I, p. 96).
(d) S.I. 1967/1530, 1968/255, 622 (1967 III, p. 4295; 1968 I, p. 769, 1456).
(e) 1889 c. 63.

*Payment of Fees*

**4.** There shall be paid to the Controller in respect of the matters relating to plant breeders' rights arising under the Act or the principal Regulations the fees of the amounts set out in the fourth column of Schedule 2 to these Regulations opposite the respective references to those matters set out in the second column of the said Schedule, which fees shall be paid at the time or times specified in respect of each such matter as set out in the third column of the said Schedule.

*Renewal Fees*

**5.**—(1) The fee payable in respect of the continued exercise of plant breeders' rights in a plant variety (hereinafter referred to as the "renewal fee") shall be paid only by the holder of those rights or by a person acting on his behalf, being either an agent duly authorised in accordance with Regulation 15 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.

(2) If any such fee is tendered or paid otherwise than in accordance with the last preceding paragraph, the liability to pay the same shall not be regarded as having been thereby discharged.

(3) 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 the said fee as the period during which the said rights have continued to be enjoyed since the date when the said fee became payable bears to the period of 12 months.

(4) Notwithstanding Regulation 4 of these Regulations and the last preceding paragraph of this Regulation, 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 and

(*a*) the person entitled to exercise those rights shall, not later than 14 days before the date when the said fee became payable, have informed the Controller that he did not propose to exercise any of such rights at any time after such date, and

(*b*) such person shall not have exercised any of the said rights during the period beginning with the date when the said fee became payable and ending with the date when the said period was terminated,

the Controller shall not be entitled to recover from such person, by any legal proceedings or otherwise, the said fee or any part thereof.

In Witness whereof the official seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 4th April 1968.

(L.S.)

*Frederick Peart,*
Minister of Agriculture, Fisheries and Food.

Given under the seal of the Secretary of State for Scotland on 8th April 1968.

(L.S.)

*William Ross,*
Secretary of State for Scotland.

Given under the hand of the Secretary of State for the Home Department on 9th April 1968.

*James Callaghan,*
Secretary of State for the Home Department.

Approved on 10th April 1968.

*B. K. O'Malley,*
*E. Alan Fitch,*
Two of the Lords Commissioners of Her Majesty's Treasury.

SCHEDULE 1

| Regulations revoked | References |
|---|---|
| The Plant Breeders' Rights (Fees) Regulations 1965 | S.I. 1965/66 (1965 I, p. 112). |
| The Plant Breeders' Rights (Fees) (Amendment) Regulations 1966 | S.I. 1966/641 (1966 II, p. 1443). |
| The Plant Breeders' Rights (Fees) (Amendment No. 2) Regulations 1966 | S.I. 1966/1224 (1966 III, p. 3284). |
| The Plant Breeders' Rights (Fees) (Amendment) Regulations 1967 | S.I. 1967/1455 (1967 III, p. 4139). |
| The Plant Breeders' Rights (Fees) (Amendment) Regulations 1968 | S.I. 1968/256 (1968 I, p. 772). |

## SCHEDULE 2

Regulation 4

### FEES

| No. | Matter | When Payable | Amount |
|---|---|---|---|
| | | | £ s. d. |
| 1 | Application for a grant of plant breeders' rights. | On making the application. | 10 0 0 |
| 2 | Application for an extension of the period for which plant breeders' rights are exercisable. | On making the application. | 10 0 0 |
| 3 | Application for a compulsory licence. | On making the application. | 5 0 0 |
| 4 | Application to extend, limit, vary or revoke a compulsory licence. | On making the application. | 5 0 0 |
| 5 | Application to amend a document in any application or proceeding. | On making the application. | 1 0 0 |
| 6 | Application to rectify an error or omission in the register of plant varieties. | On making the application. | 1 0 0 |
| 7 | 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. | 1 0 0 |
| 8 | Making representations in writing to the Controller, by any person other than the applicant, in connection with any application. | On delivering the representations. | 10 0 |
| 9 | 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. | 10 0 |
| 10 | On attending to be heard by the Controller or by a person appointed by him for the purpose. | Before the hearing. | 5 0 0 |
| 11 | The grant of plant breeders' rights | Before the issue of the document constituting evidence of the grant. | 20 0 0 |
| 12 | The grant of an extension of the period for which plant breeders' rights are exercisable. | Before the issue of the document constituting evidence of the extension. | 10 0 0 |

SCHEDULE 2—Continued

| No. | Matter | When Payable | Amount |
|---|---|---|---|
| | | | £ s. d. |
| 13 | The giving of a protective direction. | Before the issue of the document constituting evidence of the giving of the protective direction. | 3 0 0 |
| 14 | Continuance of the exercise of plant breeders' rights. | Annually on, but not more than three months before, the anniversary of the grant of plant breeders' rights or within such later period as may have been allowed. | 25 0 0 |
| 15 | Application for an extension of the period for payment of a renewal fee. | On making the application. | 5 0 0 |
| 16 | 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. | 2 10 0 |
| 17 | Application for the approval of a substituted name for a plant variety. | On making the application. | 5 0 0 |
| 18 | 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. | 1 0 0 |
| 19 | 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. | 5 0 0 |
| 20 | Trials of a plant variety which is the subject of an application for a grant of plant breeders' rights, being | Within 14 days of demand made by the Controller, but on not more than one occasion in any year. | |
| | (*a*) a cereal variety | | 30 0 0 |
| | (*b*) a potato variety | | 20 0 0 |
| | (*c*) a rose variety | | 15 0 0 |
| | (*d*) a dahlia variety | | 15 0 0 |
| | (*e*) a perennial delphinium variety | | 15 0 0 |
| | (*f*) a rhubarb variety | | 15 0 0 |
| | (*g*) a strawberry variety | | 15 0 0 |

SCHEDULE 2—Continued

| No. | Matter | When Payable | Amount |
|---|---|---|---|
| | | | £ s. d. |
| (*h*) (i) | an apple variety other than a variety of a rootstock of *Malus* spp.:— | | |
| | (*a*) for each year before that in which one or more of the trees undergoing trials first comes into fruit | | 5 0 0 |
| | (*b*) for each succeeding year | | 15 0 0 |
| (ii) | an apple variety being a variety of a rootstock of *Malus* spp. | | 15 0 0 |
| (*i*) (i) | a pear variety other than a variety of a rootstock of *Pyrus* spp.:— | | |
| | (*a*) for each year before that in which one or more of the trees undergoing trials first comes into fruit | | 5 0 0 |
| | (*b*) for each succeeding year | | 15 0 0 |
| (ii) | a pear variety being a variety of a rootstock of *Pyrus* spp. | | 15 0 0 |
| (*j*) | a pea variety | | 30 0 0 |
| (*k*) | a French bean variety | | 30 0 0 |
| (*l*) | a ryegrass variety | | 35 0 0 |
| (*m*) | a lucerne variety | | 35 0 0 |
| (*n*) | a rhododendron variety | | 15 0 0 |
| (*o*) | a carnation variety | | 15 0 0 |
| (*p*) | a perennial chrysanthemum variety | | 15 0 0 |
| (*q*) | a black currant variety | | 15 0 0 |
| (*r*) | a raspberry variety | | 15 0 0 |
| (*s*) | a plum or damson variety other than a variety of a rootstock of the species *Prunus domestica, Prunus cerasifera* or *Prunus insititia* or of a hybrid derived from two or all of those species— | | |
| | (*a*) for each year before that in which one or more of the trees undergoing trials first comes into fruit | | *5 0 0* |
| | (*b*) for each succeeding year | | 15 0 0 |

SCHEDULE 2—Continued

| No. | Matter | When Payable | Amount |
|---|---|---|---|
| | | | £ s. d. |
| | (*f*) a plum or damson variety, being a variety of a rootstock of the species *Prunus domestica*, *Prunus cerasifera* or *Prunus insititia* or of a hybrid derived from two or all of those species | | 15 0 0 |
| 21 | Inspection of the register of plant varieties or of a document in the possession of the Controller. | Before the inspection. | 5 0 |
| 22 | Supplying copies of documents,<br>(*a*) foolscap or smaller, per page<br>(*b*) larger than foolscap, per page. | Before the delivery of the copies | 1 0<br>1 6 |
| 23 | Supplying a duplicate of a document constituting evidence of a grant of plant breeders' rights or protective direction or of an extension of the period for which plant breeders' rights are exercisable. | On ordering the duplicate. | 2 0 0 |

## EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations, made under the Plant Varieties and Seeds Act 1964, prescribe the fees payable to the Controller of Plant Variety Rights in regard to matters arising out of the application for and granting of plant breeders' rights.

These Regulations consolidate, with amendments, the Plant Breeders' Rights (Fees) Regulations 1965, as already amended. The new amendments prescribe the fees payable for the trials of further plant varieties for which plant breeders' rights may be granted.