STATUTORY INSTRUMENTS

1976 No. 123

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Fees) Regulations 1976

Made - - - -	*28th January* 1976
Laid before Parliament	*6th February* 1976
Coming into Operation	*27th February* 1976

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Northern Ireland (being the Secretary of State concerned with agriculture in Northern Ireland), acting jointly, in exercise of the powers vested in 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 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 1976 and shall come into operation on 27th February 1976.

Revocation of previous regulations

2. The Plant Breeders' Rights (Fees) Regulations 1972(**d**) are hereby revoked.

Interpretation

3.—(1) In these regulations unless the context otherwise requires–

"the Act" means the Plant Varieties and Seeds Act 1964;

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

"plant breeders' rights" means rights which may be granted in accordance with Part 1 of the Act;

(**a**) 1964 c. 14.
(**b**) S.I. 1964/1574 (1964 III, p. 3543).
(**c**) S.I.. 1969/1829 (1969 III, p. 5701).
(**d**) S.I. 1972/506 (1972 I, p. 1749).

"the principal Regulations" means the Plant Breeders' Rights Regulations 1969(**a**) as amended (**b**) or any subsequent amendment or re-enactment thereof;

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

(2) The Interpretation Act 1889(**c**) 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.

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—

(i) a fee on making an application for a grant of plant breeders' rights, being a fee of the amount set out in the third column of Part I of the Schedule to these regulations opposite the reference in the second column of the said Part I to the plant variety of the kind to which the application relates, such fee being payable on making the said application;

(ii) a fee payable in respect of tests or examination of a plant variety which is the subject of an application for a grant of plant breeders' rights, being a fee of the amount set out in the fourth column of Part II of the Schedule to these regulations opposite the reference in the second column of the said Part II to the plant variety of the kind to which the tests or examination relate, such fee being payable for the tests or examination referred to in the third column of the said Part II and so payable within fourteen days of demand made by the Controller;

(iii) a fee payable in respect of the continued exercise of plant breeders' rights in a plant variety, being a fee of the amount set out in relation to the particular year of the exercise of such rights in the third to the tenth columns of Part III of the Schedule to these regulations opposite the reference in the second column of the said Part III to the plant variety of the kind for which the rights were granted, such fee being payable on, but not more than three months before, the anniversary of the date of the grant of the rights with which the particular year begins or within such later period as may have been allowed;

(iv) the fees payable in respect of the matters referred to in the second column of Part IV of the Schedule to these regulations being the fees of the amounts set out in the fourth column of the said Part IV opposite the respective references to those matters, such fees being payable at the times specified in respect of each such matter in the third column of the said Part IV.

(**a**) S.I. 1969/1021 (1969 II, p. 2976).

(**b**) S.I. 1971/1094, 1972/84 (1971 II, p. 3253; 1972 I, p. 244).

(**c**) 1889 c. 63

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 16 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 and if any such fee is tendered or paid otherwise than in accordance with this paragraph, the liability to pay the same shall not be regarded as having been thereby discharged.

(2) 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.

(3) 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 21st January 1976.

L.S.

Frederick Peart,

Minister of Agriculture, Fisheries and Food.

26th January 1976.

William Ross,

Secretary of State for Scotland.

27th January 1976.

Merlyn Rees,

Secretary of State for Northern Ireland.

Approved on 28th January 1976.

M. Cocks,

J. Dormand,

Two of the Lords Commissioners of Her Majesty's Treasury.

Regulation 4

SCHEDULE

PART I

FEES PAYABLE ON AN APPLICATION FOR A GRANT OF PLANT BREEDERS' RIGHTS

No.	Plant Variety	Amount
		£
1.	A wheat, oats or barley variety	60.00
2.	A potato variety	30.00
3.	A ryegrass or lucerne variety	50.00
4.	A pea, French bean, runner bean or lettuce variety	30.00
5.	A rose, perennial chrysanthemum, perpetual flowering carnation, raspberry, black currant, strawberry, rhubarb, apple, apple rootstock, pear, pear rootstock, plum, plum rootstock, damson or damson rootstock variety	25.00
6.	A border carnation, pink, narcissus, freesia, gladiolus, dahlia, rhododendron, perennial delphinium, pelargonium, streptocarpus, cymbidium, herbaceous perennial, tree, shrub, woody climber, conifer or taxad variety	20.00

PART II

FEES PAYABLE IN RESPECT OF TESTS OR EXAMINATION OF A PLANT VARIETY WHICH IS THE SUBJECT OF AN APPLICATION FOR A GRANT OF PLANT BREEDERS' RIGHTS

No.	Plant Variety	Tests or examination for which payable	Amount
			£
1.	A wheat, oats or barley variety	(a) Tests in the first year of a testing cycle	150.00
		(b) Tests in any one subsequent year of a testing cycle ...	100.00
2.	A potato variety	Tests in any one year	55.00
3.	A ryegrass or lucerne variety	Tests in any one year	70.00
4.	A pea, French bean, runner bean or lettuce variety	Tests in any one year	60.00
5.	A rose variety	Tests in any one year	60.00
6.	A year-round perennial chrysanthemum variety	Tests in each flowering season	60.00
7.	A perpetual flowering carnation variety	Tests in any one year	60.00
8.	A cymbidium variety	Each examination	25.00
9.	A rhododendron, perennial delphinium, conifer, taxad, tree, shrub or woody climber variety	(a) Tests in any one year in which plants of the variety are being established	15.00
		(b) Tests in any one year other than one in which plants of the variety are being established	25.00
10.	A narcissus, freesia, gladiolus, border carnation, pink, dahlia, pelargonium, streptocarpus, herbaceous perennial, or perennial chrysanthemum (other than a year-round perennial chrysanthemum) variety	Tests in any one year	25.00
11.	A strawberry, raspberry, black currant or rhubarb variety	Tests in any one year	40.00
12.	An apple, pear, plum or damson variety	(a) Tests in any one year before one or more of the trees undergoing tests comes into fruit	20.00
		(b) Tests in any one subsequent year	40.00
13.	An apple rootstock, pear rootstock, plum rootstock or damson rootstock variety	Tests in any one year	40.00

PART III

Fees Payable for the continued Exercise of Plant Breeders' Rights in a Plant Variety

No.	Plant Variety	Fees payable for the continued exercise of plant breeders' rights during the years indicated below							
		Second year of the exercise of plant breeders' rights	Third year of the exercise of plant breeders' rights	Fourth year of the exercise of plant breeders' rights	Fifth year of the exercise of plant breeders' rights	Sixth year of the exercise of plant breeders' rights	Seventh year of the exercise of plant breeders' rights	Eighth year of the exercise of plant breeders' rights	Ninth and each subsequent year of the exercise of plant breeders' rights
		£	£	£	£	£	£	£	£
1.	A wheat, oats or barley variety	45.00	65.00	85.00	105.00	135.00	135.00	135.00	135.00
2.	A potato, pea, French bean, runner bean or lettuce variety	30.00	40.00	50.00	60.00	70.00	70.00	70.00	70.00
3.	A ryegrass or lucerne variety	30.00	40.00	45.00	55.00	65.00	65.00	65.00	65.00
4.	A strawberry, raspberry, black currant or rhubarb variety	35.00	45.00	50.00	55.00	65.00	65.00	65.00	65.00
5.	A year-round perennial chrysanthemum or perpetual flowering carnation variety	40.00	50.00	60.00	70.00	75.00	75.00	75.00	75.00

PART III (*Cont'd.*)

FEES PAYABLE FOR THE CONTINUED EXERCISE OF PLANT BREEDERS' RIGHTS IN A PLANT VARIETY

No.	Plant Variety	Fees payable for the continued exercise of plant breeders' rights during the years indicated below							
		Second year of the exercise of plant breeders' rights	Third year of the exercise of plant breeders' rights	Fourth year of the exercise of plant breeders' rights	Fifth year of the exercise of plant breeders' rights	Sixth year of the exercise of plant breeders' rights	Seventh year of the exercise of plant breeders' rights	Eighth year of the exercise of plant breeders' rights	Ninth and each subsequent year of the exercise of plant breeders' rights
		£	£	£	£	£	£	£	£
6.	A narcissus, freesia, gladiolus, border carnation, pink, cymbidium, dahlia, rhododendron, pelargonium, perennial delphinium, streptocarpus, herbaceous perennial, perennial chrysanthemum (other than a year-round perennial chrysanthemum,) conifer, taxad, tree, shrub, woody climber, apple rootstock, pear rootstock, plum	25.00	30.00	35.00	35.00	45.00	45.00	45.00	45.00

PART III (*Cont'd.*)

FEES PAYABLE FOR THE CONTINUED EXERCISE OF PLANT BREEDERS' RIGHTS IN A PLANT VARIETY

No.	Plant Variety	Fees payable for the continued exercise of plant breeders' rights during the years indicated below							
		Second year of the exercise of plant breeders' rights	Third year of the exercise of plant breeders' rights	Fourth year of the exercise of plant breeders' rights	Fifth year of the exercise of plant breeders' rights	Sixth year of the exercise of plant breeders' rights	Seventh year of the exercise of plant breeders' rights	Eighth year of the exercise of plant breeders' rights	Ninth and each subsequent year of the exercise of plant breeders' rights
		£	£	£	£	£	£	£	£
6.	*Cont'd.* rootstock or damson rootstock variety								
7.	An apple, pear, plum or damson variety	25.00	25.00	35.00	35.00	45.00	55.00	60.00	65.00
8.	A rose variety, other than a glass-house variety	30.00	40.00	50.00	60.00	70.00	70.00	70.00	70.00
9.	A rose variety, being a glass-house variety	40.00	50.00	60.00	65.00	75.00	75.00	75.00	75.00

PART IV

FEES PAYABLE IN RESPECT OF OTHER MATTERS

No.	Matter	When payable	Amount
			£
1.	Application for an extension of the period for which plant breeders' rights are exercisable.	On making the application	15.00
2.	Application for a compulsory licence.	On making the application	7.50
3.	Application to extend, limit, vary or revoke a compulsory licence	On making the application	7.50
4.	Application to amend a document in any application or proceeding.	On making the application	1.50
5.	Application to rectify an error or omission in the register of plant varieties.	On making the application	1.50
6.	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	1.50
7.	Making representations in writing to the Controller, by any person other than the applicant, in connection with any application.	On delivering the representations	1.00
8.	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 extensions of such rights.	On delivering the representations	1.00
9.	On attending to be heard by the Controller or by a person appointed by him for the purpose.	Before the hearing	7.50
10.	The grant of plant breeders' rights in respect of	Before the issue of the document constituting evidence of the grant	
	(a) a wheat, oats or barley variety.		40.00
	(b) a ryegrass, lucerne, potato, pea, French bean, runner bean or lettuce variety.		30.00
	(c) any other plant variety.		35.00

PART IV (*Cont'd*)

FEES PAYABLE IN RESPECT OF OTHER MATTERS

No.	Matter	When payable	Amount
			£
11.	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.	15.00
12.	The giving of a protective direction.	Before the issue of the document constituting evidence of the giving of the protective direction.	7.50
13.	Application for an extension of the period for payment of a renewal fee.	On making the application	7.50
14.	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.	4.00
15.	Application for the approval of a substituted name for a plant variety.	On making the application.	7.50
16.	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.	1.50
17.	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.	7.50
18.	Inspection of the register of plant varieties or of a document in the possession of the Controller.	Before the inspection.	.50
19.	Supplying copies of documents,	Before the delivery of the copies.	
	(a) foolscap or smaller, per page.		.15
	(b) larger than foolscap, per page.		.20
20.	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.	3.00

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, made under the Plant Varieties and Seeds Act 1964, supersede the Plant Breeders' Rights (Fees) Regulations 1972, which are revoked. They prescribe the fees payable to the Controller of Plant Variety Rights in regard to matters arising out of the application for granting and continuance of plant breeders' rights.

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