STATUTORY INSTRUMENTS

1980 No. 351

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Fees) Regulations 1980

Made - - -	*10th 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 Northern Ireland and the Secretary of State for Wales, 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(**b**) and to the Isle of Man(**c**) and now vested in them(**d**) 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 1980 and shall come into operation on 4th April 1980.

Revocation of previous regulations

2. The Plant Breeders' Rights (Fees) Regulations 1978(**e**) are hereby revoked.

Interpretation

3. 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;

"National List" means a list of plant varieties prepared and published in accordance with the Seeds (National Lists of Varieties) Regulations 1979(**f**);

"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 1978(**g**).

(**a**) 1964 c. 14.
(**b**) By the Plant Varieties and Seeds (Northern Ireland) Order 1964 (S.I. 1964/1574).
(**c**) By the Plant Varieties and Seeds (Isle of Man) Order 1969 (S.I. 1969/1829).
(**d**) By the Transfer of Functions (Wales No. 1) Order 1978 (1978/272).
(**e**) S.I. 1978/295.
(**f**) S.I. 1979/133.
(**g**) S.I. 1978/294

Payment of fees

4.—(1) 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—

(a) 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;

(b) subject to paragraphs (2) and (3) below, 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 a written demand made by the Controller;

(c) 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 seventh 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 due on, but not payable 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 by the Controller;

(d) 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.

(2) If, at the time of the application for a grant of plant breeders' rights the plant variety in respect of which the application is made is or has been the subject of an application for its addition to a National List but no fee is payable under the Seeds (National Lists of Varieties) (Fees) Regulations 1980(**a**) in respect of tests undertaken in connection with such application, then there shall be paid to the Controller in addition to the fee payable under sub-paragraph (1)(b) of this regulation a fee in respect of such tests calculated in accordance with Part II of the Schedule to these regulations as if references to tests in relation to an application for a grant of plant breeders' rights were references to tests in relation to an application for the addition of a plant variety to a National List.

(3) The fees payable in accordance with paragraph (2) of this regulation shall be payable within fourteen days of a written demand made by the Controller.

(**a**) 1980/330.

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 fourteen 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 20th February 1980.

(L.S.)

Peter Walker,
Minister of Agriculture, Fisheries and Food

26th February 1980.

George Younger,
Secretary of State for Scotland

6th March 1980.

Humphrey Atkins,
Secretary of State for Northern Ireland

29th February 1980.

Nicholas Edwards,
Secretary of State for Wales

We approve,
10th March 1980.

Peter Morrison,
John MacGregor,
Two of the Lords Commissioners of
Her Majesty's Treasury

SCHEDULE

PART I

Regulation 4

Fees payable on an application for a grant of plant breeders' rights

No.	Plant Variety	Amount
		£
1	A cereal or potato variety	200.00
2	A fodder, oil and fibre or vegetable (including a field bean or field pea) plant variety	150.00
3	Any other plant variety	60.00

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 cereal or potato variety	(a) Tests in the first year of a testing cycle	350.00
		(b) Tests in any one subsequent year of a testing cycle	300.00
2	A fodder or an oil and fibre plant variety	Tests in any one year	250.00
3	A vegetable (including a field bean or field pea) plant variety	Tests in any one year	140.00
4	A year-round perennial chrysanthemum variety	Tests in each flowering season	140.00
5	A perennial chrysanthemum variety flowered in its natural season under glass	Tests in any one year	140.00
6	A perennial chrysanthemum variety other than a variety specified at items 4 and 5 above	Tests in any one year	40.00
7	A soft fruit variety	Tests in any one year	140.00
8	A rhubarb, hop, apple rootstock, pear rootstock, plum rootstock, damson rootstock or cherry rootstock variety	Tests in any one year	140.00
9	A perpetual flowering carnation variety	Tests in any one year	140.00
10	A rose variety	Tests in any one year	100.00
11	An apple, pear, plum, damson or cherry variety	(a) Tests in any one year before one or more of the trees under going tests comes into fruit	40.00
		(b) Tests in any one subsequent year	140.00
12	A cymbidium variety	Each examination	40.00
13	A rhododendron, perennial delphinium, conifer, taxad, tree, shrub, woody climber, narcissus, freesia, gladiolus, border carnation, pink, dahlia, pelargonium, streptocarpus, herbaceous perennial or lily 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 and each subsequent year of the exercise of plant breeders' rights
		£	£	£	£	£
1	A cereal or potato variety	150.00	170.00	190.00	210.00	220.00
2	A fodder or an oil and fibre plant variety	80.00	110.00	140.00	170.00	200.00
3	A vegetable (including a field bean or field pea) plant variety	70.00	80.00	90.00	100.00	110.00
4	A soft fruit variety	60.00	70.00	80.00	90.00	100.00
5	A year round perennial chrysanthemum, a perennial chrysanthemum flowered in its natural season under glass, rhubarb, hop, apple rootstock, pear rootstock, plum rootstock, damson rootstock, cherry rootstock, perpetual flowering carnation, rose, apple, pear, plum, damson or cherry variety	60.00	70.00	80.00	90.00	100.00
6	A perennial chrysanthemum variety other than a variety specified at item 5	30.00	40.00	50.00	50.00	70.00
7	A cymbidium, rhododendron, perennial delphinium, conifer, taxad, tree, shrub, woody climber, narcissus, freesia, gladiolus, border carnation, pink, dahlia, pelargonium, streptocarpus, herbaceous perennial or lily variety	30.00	40.00	50.00	50.00	70.00

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	25.00
2	Application for a compulsory licence	On making the application	15.00
3	Application to extend, limit, vary or revoke a compulsory licence	On making the application	15.00
4	Application to amend a document in any application or proceeding	On making the application	3.00
5	Application to rectify an error or omission in the register of plant varieties	On making the application	3.00
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	3.00
7	Making representations in writing to the Controller, by any person other that the applicant, in connection with any application	On delivering the representations	2.00
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	2.00
9	On attending to be heard by the Controller or by a person appointed by him for the purpose	Before the hearing	15.00
10	The grant of plant breeders' rights in respect of (a) a cereal or potato variety; (b) any other plant variety	Before the issue of the document constituting evidence of the grant	 75.00 50.00
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	25.00
12	The giving of a protective direction	Before the issue of the document constituting evidence of the giving of the protective direction	15.00
13	Application for an extension of the period for payment of a renewal fee	On making the application	15.00
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	10.00
15	Application for the approval of a substituted name for a plant variety	On making the application	15.00
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	3.00

PART IV – *(continued)*

Fees Payable in Respect of Other Matters

No.	Matter	When payable	Amount
			£
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	15.00
18	Inspection of the register of plant varieties or of a document in the possession of the Controller	Before the inspection	1.00
19	Supplying copies of documents, per page	Before the delivery of the copies	0.30
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	5.00

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 1978. They prescribe the fees payable to the Controller of Plant Variety Rights in regard to matters arising out of the application for granting plant breeders' rights, including the payment of fees for tests already conducted in respect of an application for the addition of a variety to a National List where no fees have been payable under the Seeds (National Lists of Varieties) (Fees) Regulations 1980. They also prescribe the fees payable for the continuance of the exercise of plant breeders' rights.