1965 No. 65

PLANT VARIETIES

The Plant Breeders' Rights Regulations 1965

Made - - - -	*20th January* 1965
Laid before Parliament	*28th January* 1965
Coming into operation	*22nd February* 1965

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SCHEDULE

Form of Application for Plant Breeders' Rights

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State concerned with agriculture in Northern Ireland, acting jointly, in exercise of the powers vested in them by sections 3, 5, 9, 10 and 36 of, and paragraph 3 of Part I of Schedule 2 to, the Plant Varieties and Seeds Act 1964(a) and of all other powers enabling them in that behalf, after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1958(b), as applied to the Controller of Plant Variety Rights and any officer authorised to exercise the functions of the said Controller under section 11(5) of the said Plant Varieties and Seeds Act 1964 by section 12 of the last mentioned Act, hereby make the following Regulations:—

Citation and Commencement

1. These Regulations may be cited as the Plant Breeders' Rights Regulations 1965 and shall come into operation on 22nd February 1965.

Interpretation

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

" the Act " means the Plant Varieties and Seeds Act 1964 except Parts II and III thereof;

" the breeder " in relation to a plant variety means the person who bred or discovered that variety;

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

" the gazette " means the gazette published by the Ministers in accordance with section 34 of the Act;

" the Ministers " means the Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State concerned with agriculture in Northern Ireland;

" the Office " means the Plant Variety Rights Office;

" persons concerned " means, in relation to any proceedings, and as the case may be, the person who has made the application which has given rise to such proceedings, the holder of the plant breeders' rights which are, or of the licence which is, the subject of the proceedings, the person entitled to the benefit of the protective direction which is the subject of the proceedings, any organisation or person entitled to make representations and be heard by virtue of section 7(5) of the Act and any person or organisation entitled to participate in the proceedings;

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

" prescribed fee " means the fee prescribed by the Plant Breeders' Rights (Fees) Regulations 1965(c);

" reproductive material " means reproductive material of a plant variety and includes seeds for sowing, seed potatoes and other vegetative propagating material, whole plants as well as parts of plants, where whole plants may be used as reproductive material, and ornamental plants and parts of ornamental plants when used commercially as propagating material in the production of ornamental plants and cut flowers;

" the Tribunal " means the Plant Variety Rights Tribunal established by section 10 of the Act;

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

(a) 1964 c. 14. (b) 6 & 7 Eliz. 2. c. 66.
(c) S.I. 1965/66 (1965 I, p. 112).

(2) The Interpretation Act 1889(a) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Application for Grant of Plant Breeders' Rights or Protective Direction

3.—(1) Any application for a grant of plant breeders' rights or for a protective direction shall be made in the form set out in the Schedule to these Regulations, or in a form to the like effect, and delivered to the Controller.

(2) Any such application made by a person claiming to be the successor in title of the breeder shall be accompanied by the assignment, the original or an official copy of the grant of probate, letters of administration or confirmation or such other documentary evidence as is in the opinion of the Controller sufficient to establish the title of the applicant.

(3) Any person who satisfies the Controller that he has a substantial interest in any such application or that he is in a position to adduce evidence which is likely to be material to the consideration thereof may participate in the proceedings upon such application.

(4) Any priority obtained by an applicant for a grant of plant breeders' rights by virtue of paragraph 1 of Part I of Schedule 2 to the Act may be forfeited by the Controller if the applicant does not after service on him by the Controller of a notice satisfy within such time, not being less than 14 days, as may be specified in the notice such requirements as are mentioned therein, being requirements which are to be satisfied by an applicant before a grant of plant breeders' rights can be made.

(5) The Controller shall serve upon the applicant notice of his proposal to forfeit any priority in accordance with the last preceding paragraph.

(6) An appeal shall lie to the Tribunal against any decision of the Controller under paragraph (4) of this Regulation.

Extension of Period of Plant Breeders' Rights

4.—(1) Any application for an extension of the period for which any plant breeders' rights are exercisable shall be made in writing and delivered to the Controller.

(2) Any such application shall be made and delivered not more than 18 months and not less than 9 months before the date when the said period would expire by effluxion of time: provided that, if the Controller is satisfied that the applicant has been prevented by circumstances beyond his control from making his application earlier, he may entertain such an application made within 9 months before such date of expiry of the said period.

(3) Any person who satisfies the Controller that he is the holder of a licence to exercise any plant breeders' rights in, or otherwise has a substantial interest in, the plant variety in question or that he is in a position to adduce evidence which is likely to be material to the consideration of any such application and any organisation appearing to the Controller to be representative of holders of such licences or persons so interested may participate in the proceedings upon such application.

Compulsory Licences

5.—(1) Any application for a compulsory licence shall be made in writing and delivered to the Controller.

(a) 52 & 53 Vict. c. 63.

(2) In addition to any organisation or person entitled to make representations by virtue of section 7(5) of the Act any person who satisfies the Controller that he is the holder of a licence to exercise any plant breeders' rights in the plant variety in question may participate in the proceedings upon the application referred to in the last preceding paragraph.

(3) Any application for the revocation of or for an extension, limitation or other variation of the terms of a compulsory licence shall be made in writing and delivered to the Controller.

(4) Any person who satisfies the Controller that he is the holder of a licence to exercise any plant breeders' rights in the plant variety in question may participate in the proceedings upon the application referred to in the last preceding paragraph.

Withdrawal of a Protective Direction

6.—(1) The Controller shall serve upon the person to whom a protective direction has been given notice of any proposal to withdraw such protective direction.

(2) The notice shall include a statement setting out the grounds upon which the proposal is founded.

Surrender of Plant Breeders' Rights

7.—(1) Any application offering to surrender plant breeders' rights in a plant variety shall be made in writing and delivered to the Controller.

(2) Any person who satisfies the Controller that he is the holder of a licence to exercise any plant breeders' rights in the plant variety in question and any person who satisfies the Controller that his financial interests are likely to be affected substantially by the granting of any such application and termination of the period for which the rights are exercisable may participate in the proceedings upon, and object to, such application.

Termination of Plant Breeders' Rights

8.—(1) The Controller shall serve upon the holder of plant breeders' rights in a plant variety notice of any proposal to terminate the period for which those rights are exercisable or to revoke or, if it has begun, terminate any extension of such period and in such notice shall state the grounds upon which the proposal is founded.

(2) Any person who satisfies the Controller that he is the holder of a licence to exercise any plant breeders' rights in the plant variety in question and any person who satisfies the Controller that his financial interests are likely to be affected substantially by giving effect to any such proposal may participate in the proceedings upon the proposal.

Persons Entitled to Make Representations

9.—(1) A person or organisation claiming to be entitled to participate in any proceedings by virtue of these Regulations or an organisation or person claiming to be entitled to make representations and be heard by virtue of section 7(5) of the Act may within 28 days from the publication of a notice in accordance with Regulation 10 of these Regulations apply to the Controller with a view to satisfying him as to the matters relevant in the particular case, as specified in these Regulations or in the Act.

(2) The Controller, after considering an application made under the last

preceding paragraph, shall inform the applicant either that he is or that he is not satisfied as to the matters referred to in the said paragraph.

(3) An appeal shall lie to the Tribunal against any decision of the Controller that he is not satisfied as to the matters referred to in paragraph (1) of this Regulation.

(4) The right of any such person or organisation as aforesaid to participate in any proceedings and of any organisation or person as aforesaid to make representations and be heard shall be conditional upon application to the Controller in accordance with paragraph (1) of this Regulation.

Advertisement of Applications and Proposals

10.—(1) The Controller shall publish in the gazette notice of an application, from the decision upon which an appeal lies to the Tribunal, and of a proposal to terminate the period for which plant breeders' rights are exercisable or to revoke or, if it has begun, terminate any extension of such period.

(2) Together with the notice published in accordance with the last preceding paragraph the Controller shall also publish in the gazette a statement of the descriptions of persons entitled by virtue of these Regulations to participate in any proceedings subject to their satisfying the Controller upon such matters relevant to the particular case as are referred to in these Regulations and of the steps to be taken by them in order to satisfy him accordingly.

Information, Plant Material and Facilities

11.—(1) Any person making an application under any of the provisions of Part I of the Act shall—

(i) give to the Controller such information and evidence and produce or deliver to him such documents, records and illustrations,

(ii) deliver to the Controller such reproductive and other plant material of such kind and quality and in such quantity, and

(iii) afford to the Controller at all reasonable times such facilities for the inspection or examination of plants, plant material, trial grounds or other land or premises,

to or at such place, within such period or at such time or times and in such manner as the Controller may from time to time require, being information, evidence, documents, records, illustrations, material and facilities as are relevant to the application and in the possession, control or power of the applicant.

(2) The Controller may from time to time require a person making an application under any of the provisions of Part I of the Act to undertake before the application is granted such tests and trials in connection with the plant variety which is the subject of the application at such place, within such time and in such manner as the Controller may also require.

(3) If an applicant fails to comply with any requirement of the Controller made under paragraphs (1) or (2) of this Regulation, the Controller shall not be obliged to take any further steps in relation to such application until the said requirement (except as regards the period or time allowed for compliance) has been complied with and if after the service by the Controller on the applicant of a notice informing him of the consequences of a continuance of such failure the applicant has not complied with the said requirement, within a time, not being less than 14 days, specified in the said notice, the application shall be deemed to have been abandoned.

Representations to the Controller

12.—(1) In any case in which an appeal lies to the Tribunal under the provisions of the Act or of these Regulations and in a case where he proposes to terminate, in accordance with paragraph 4(1) of Schedule 1 to the Act, or in accordance with Regulation 25(6) of these Regulations, the period for which any plant breeders' rights are exercisable the Controller shall afford to the persons concerned an opportunity of making representations to him in writing and of being heard by him or by a person appointed by him for the purpose.

(2) The Controller may afford to any or to all of the persons concerned more than one opportunity of making representations to him if in the circumstances it shall appear to him to be necessary or desirable to do so.

(3) In any case referred to in paragraph (1) of this Regulation the Controller shall give to each of the persons concerned a notice informing him of his right to make representations, of the manner in which and the time within which such representations may be made and of his right to be heard by the Controller or by a person appointed by him for the purpose and of the manner in which and the time within which he may apply for an opportunity to be heard.

(4) The Controller shall make any representations made in accordance with paragraph (1) of this Regulation in connection with any proceedings available for inspection at the Office by any of the persons concerned in those proceedings and if required shall supply a copy thereof to any such person.

(5) Any of the persons concerned may within the time notified by the Controller for the purpose require that an opportunity be afforded to him of being heard by the Controller or a person appointed by him for the purpose.

(6) If any person shall so require to be heard, the Controller shall appoint a time and place in the United Kingdom at which that person and all of the other persons concerned may be heard by him or by a person appointed by him for the purpose.

(7) In appointing the time and place referred to in the last preceding paragraph the Controller shall have regard to the convenience of the persons concerned and of their witnesses, the situation of any land or premises to be viewed in connection with the application and to the other circumstances of the case, including the wishes of and expense to the aforesaid persons.

(8) The Controller shall give to each of the persons concerned at least 14 days' notice of the aforesaid time and place of the hearing at which he may be heard by the Controller or by a person appointed by him for the purpose.

(9) The hearing may be adjourned from time to time and, if an adjournment is announced in the course of the hearing, no further notice thereof to the persons attending the hearing shall be required.

(10) Any of the persons concerned may be represented at the hearing by a person chosen by him whether or not such person has been authorised to act as his agent in accordance with Regulation 15(2)(*a*) of these Regulations.

(11) Any of the persons concerned who attends the hearing may give evidence and he or his representative may call witnesses and produce documents and shall be given an opportunity of putting questions directly to any witness called at the hearing.

(12) The Controller may require any witnesses to give evidence at the hearing on oath or affirmation and, for that purpose, may administer an oath or affirmation in due form.

(13) The hearing shall be in public unless the Controller, after consultation with the persons concerned attending the hearing or their representatives, otherwise directs.

(14) The Controller shall not take his decision until he has considered, in addition to the submissions made and evidence adduced at the hearing, any representations previously made to him in writing.

(15) Subject to Regulation 13(2) of these Regulations the decision of the Controller shall take effect at such time as he shall direct but in no case before the expiration of the time limited for the bringing of an appeal.

(16) The Controller shall give to the persons referred to in Regulation 13(2) of these Regulations notice of his decision, together with his reasons for it, and also a sufficient indication of the time within which and manner in which an appeal may be brought.

(17) The Controller shall publish in the gazette notice of his decision in respect of any of the matters referred to in Regulation 10(1) of these Regulations.

Appeal to the Tribunal

13.—(1) The hearing of an appeal by the Tribunal shall take place in such part of the United Kingdom as shall be determined by the Chairman for the Tribunal, appointed by the Lord Chancellor, who shall have regard to the matters referred to in Regulation 12(7) of these Regulations as well as to the convenience of the members of the Tribunal and, if he proposes to appear at the hearing of the appeal, of the Controller.

(2) The person who made the application which was the subject of the decision of the Controller, the holder of the plant breeders' rights which were, or of the licence which was, the subject of the said decision, the person entitled to the benefit of the protective direction which was the subject of the said decision and any person or organisation who availed himself or itself of the opportunity to make representations in writing or to be heard by the Controller or a person appointed by him for the purpose in the proceedings in respect of which the said decision was given, as the case may be, shall be entitled to appear and be heard as a party to any appeal against the said decision of the Controller.

(3) Where an appeal is brought against a decision given in accordance with the Act or these Regulations the operation of such decision shall be suspended pending the final determination of the appeal: provided that, in a case where the appeal is from a decision to extend the period for which plant breeders' rights in a plant variety are exercisable and the circumstances are such that the period for which those rights were originally granted will (apart from this proviso) expire before the appeal is finally determined, the decision shall not be suspended during the period between the date when it would have become effective in the absence of an appeal and the date when the appeal is finally determined.

(4) If the Controller shall have published in the gazette a notice of his decision which is the subject of the appeal, he shall also publish in the gazette a notice of the proposed appeal, of any suspension of the operation of his decision in accordance with the last preceding paragraph and of any withdrawal of the appeal, as the case may be.

(5) The Controller shall take such steps as may be necessary to give effect to any decision given on the final determination of an appeal and such other steps as he would be required by these Regulations to take if such decision were his own.

Repeated Applications

14.—(1) If an application to which Regulations 4, 5 or 7 of these Regulations applies is a repeated application on the same subject, that is to say it is one which is made within 12 months of the making in similar circumstances of a previous application on that subject, upon which the Controller has taken a decision, and is an application appearing to the Controller to be one which is made without reasonable cause, the Controller may, if it shall appear to him to be reasonable to do so in all the circumstances, refuse to entertain such application.

(2) Before refusing to entertain an application in pursuance of the last preceding paragraph the Controller shall afford to the applicant an opportunity of making representations in writing to him and of being heard by him or by a person appointed by him for the purpose and the provisions of Regulation 12 of these Regulations shall, so far as practicable, apply accordingly.

Forms of Application: Agency

15.—(1) Subject to paragraph 2(a) of this Regulation every application made under the Act or these Regulations shall, if so required, be made on a form supplied by the Controller and shall be signed by or on behalf of the applicant.

(2) (*a*) Any application, notice or other document given, delivered to or served upon the Controller under or in accordance with these Regulations may be signed by, and all attendances upon the Controller may be made by or through, an agent authorised in that behalf by an authority in writing by the person on whose behalf the agent is authorised to act, which authority shall have been delivered to the Controller.

(*b*) Not more than one such agent shall be so authorised at any one time.

Preparation of Documents

16. Where any document submitted to the Controller in connection with any proceedings is in a language other than the English language it shall, unless the Controller otherwise directs, be accompanied by a complete and adequate translation thereof into the English language.

Selection of Names for Plant Varieties

17.—(1) An applicant for a grant of plant breeders' rights shall, when so required by the Controller and within such time as he may direct, propose a name for the plant variety in respect of which his application is made.

(2) The Controller may reject a name proposed in pursuance of the last preceding paragraph if it shall appear to him that such name—

(*a*) is the same as that of any other plant variety of the class to which the plant variety in respect of which the application is made belongs, being either a class consisting of the plant varieties of the species or groups prescribed by a scheme under Part I of the Act or a class prescribed for the purposes of section 5(7) of the Act, or so nearly resembles the name of any such other plant variety that it would be likely to deceive or to cause confusion as to the identity of the variety,

(*b*) is liable to deceive or cause confusion as to the characteristics or value of the plant variety or as to the identity of the breeder,

(*c*) does not in other respects conform with international usage as regards the nomenclature of cultivated plants,

(*d*) is the same as, or is likely to be confused with, a trade mark registered or applied for or a trade name used in respect of reproductive material of any kind or with produce or products of the plant variety in respect of which the application is made or of another plant variety of the class to which such plant variety belongs, being a class as described in sub-paragraph (*a*) of this paragraph, or

(*e*) is liable to give offence or is otherwise objectionable.

(3) Upon the rejection of a name proposed for a plant variety in accordance with the last preceding paragraph the Controller shall inform the applicant of the ground upon which it was rejected and require him to propose within such time as he may direct another name for the plant variety and upon a name being proposed accordingly the last preceding paragraph and this paragraph shall apply in relation to that name.

(4) The Controller shall publish in the gazette and in such other manner as shall appear to him to be necessary or desirable a notice of the name proposed for a plant variety and not rejected by him in accordance with the preceding paragraphs of this Regulation.

(5) Any person may object to the approval of the name proposed for a plant variety as being unsuitable on one or more of the grounds set out in sub-paragraphs (*a*) to (*e*) of paragraph (2) of this Regulation and may make representations to the Controller accordingly within such time as shall be specified in the notice referred to in the last preceding paragraph.

(6) Before approving a name for a plant variety the Controller shall consider any representations which may have been made to him.

(7) The name approved by the Controller for a plant variety shall be published by him in the gazette and in such other manner as he shall think appropriate to inform persons concerned.

(8) If an applicant for a grant of plant breeders' rights fails to propose a name in accordance with the requirements of this Regulation the Controller shall not be obliged to take any further steps in relation to the application until the said requirements (except as regards the time allowed for compliance) have been complied with and if after the service by the Controller on the applicant of a notice informing him of the consequences of a continuance of such failure the applicant has not complied with the said requirements, within a time, not being less than 14 days, specified in the said notice, the application shall be deemed to have been abandoned.

(9) An applicant for a grant of plant breeders' rights or a holder of plant breeders' rights may at any time propose to the Controller a name for the plant variety in respect of which the application is made or plant breeders' rights have been granted in substitution for the name already proposed or approved for that plant variety and, if the Controller considers it desirable that the proposal should be entertained, but not otherwise, paragraphs (4), (5) and (6) of this Regulation shall apply as regards the name so proposed.

(10) In this and the next succeeding Regulation "name" includes any designation.

Register of Plant Varieties

18.—(1) The Controller shall keep a register of plant varieties which shall include the names which have been selected for plant varieties in respect of which grants of plant breeders' rights have been made and for plant varieties in respect of which applications for such grants are under consideration, being the names which have been approved by him in accordance with the last preceding Regulation.

(2) As regards plant varieties in respect of which grants of plant breeders' rights have been made the register shall also include—

(*a*) a description of the characteristics of the plant variety;

(*b*) the reference number under which the plant variety is recorded in any reference collection of plant material maintained by the Controller;

(*c*) the name and address of the holder for the time being of the plant breeders' rights in the plant variety;

(*d*) the date upon which and the period (including any extended period) for which plant breeders' rights in the plant variety were granted, and the date upon which such rights expired or were otherwise terminated, as the case may be; and

(*e*) such other particulars as shall appear to the Controller to be desirable.

(3) As regards plant varieties in respect of which applications for grants of plant breeders' rights are under consideration, the register shall also include—

(*a*) a description, or a summary, of the characteristics of the plant variety as described by the applicant;

(*b*) the name and address of the applicant;

(*c*) the date upon which any protective direction was granted; and

(*d*) such other particulars as shall appear to the Controller to be desirable.

(4) Any person claiming to have become entitled to plant breeders' rights or to a share in plant breeders' rights shall apply to the Controller for registration of his title and upon being satisfied that such person is so entitled the Controller shall amend the register accordingly.

(5) The holder of any plant breeders' rights who has changed his name or address shall apply to the Controller for amendment of the register accordingly.

(6) The register shall be available for inspection by any member of the public at the Office and the Controller shall, if required, supply a copy of any entries in the register to any person.

Botanical Descriptions and Reports

19.—(1) The Controller shall cause to be prepared a botanical description of a plant variety which is the subject of an application for a grant of plant breeders' rights which shall be available for inspection by any person at the Office and, if required, he shall supply a copy thereof to any person.

(2) Any report received by the Controller of the result of any tests and trials which he has caused to be carried out in respect of a plant variety which is the subject of an application for a grant of plant breeders' rights and which may be relevant to the issues which are material to his decision shall be available for inspection by any of the persons concerned at the Office and, if required, he shall supply a copy thereof to any such person.

Loss or Destruction of Grants

20. Where the Controller is satisfied that any document issued by him as evidence of a grant of plant breeders' rights, of a grant of a protective direction or of an extension of the period for which plant breeders' rights are exercisable has been lost or destroyed or cannot for some other good reason be produced he may cause a duplicate thereof to be delivered to the person entitled to the grant or extension as the case may be.

Service of Documents

21.—(1) Every applicant for and holder of plant breeders' rights and each of the other persons concerned in any proceedings under the Act or these Re-

gulations shall give to the Controller an address within the United Kingdom (hereinafter referred to as his " address for service ") which shall be the address at which any notices or other documents under or in accordance with these Regulations may be delivered to, served upon, or given to him for the purposes of these Regulations.

(2) Any person shall be at liberty at any time to give to the Controller in substitution for his address for service another address within the United Kingdom which shall thereafter be his address for service.

(3) Any document or thing required or authorised by or in pursuance of these Regulations to be delivered to, served on or given to the Controller may be delivered, served or given by being left at the Office or at such other place as the Controller may have required in writing or sent to the Controller at the Office or at such place by post in a properly addressed prepaid letter or parcel: provided that reproductive or other plant material delivered to the Controller in accordance with Regulation 11 (1) of these Regulations may, instead of being sent by post, be sent by any other convenient means.

(4) Any document or thing required or authorised by these Regulations to be delivered to, served on or given to any person other than the Controller may be delivered, served or given by being delivered to him personally, left for him at his address for service or at his last known address or sent to him there by post in a properly addressed prepaid letter.

Times for Compliance and Extensions thereof

22.—(1) If the time limited for the delivery to or service on the Controller of any document or thing expires on a day when the Office is not open to the public for the transaction of business, such time shall be deemed to be extended to expire with the next succeeding day on which the Office is so open.

(2) Where any document or thing is to be delivered, served or given or any act is to be done within a time prescribed or required by or under these Regulations such time may, upon application made to the Controller by the person required to deliver, serve or give the document or thing or do the act, be extended by the Controller for such period and upon such terms, if any, as he thinks fit if in all the circumstances of the case he considers it reasonable to do so.

(3) The Controller shall give to a person making an application in accordance with the last preceding paragraph of this Regulation notice of his decision to extend or to refuse to extend the time in question.

Rectification of Errors and Irregularities

23.—(1) Any document delivered to, served on or given to the Controller in connection with any application or proceeding may, with the consent of the Controller after application made to him by the person by or on whose behalf the said document has been delivered, served or given, be amended and any irregularity in procedure may be excused or rectified, in either case upon such terms, if any, as the Controller shall direct and thereupon no proceeding shall be invalidated in consequence of any error, omission or irregularity so excused or rectified.

(2) The Controller may, without prejudice to any other powers vested in him either upon the application of any person or without such an application, rectify any error or omission in the register of plant varieties.

(3) Before rectifying the aforesaid register the Controller shall (unless he considers that the correction is so trifling that it is not necessary for him to do so) give notice of his proposal to do so to the person entitled to plant breeders' rights in the plant variety in respect of which the register is proposed to be corrected and shall advertise his proposal in the gazette, and in either case shall invite observations to be made within a specified period in regard to the proposal, and he shall not make the correction until he has considered any observations so made to him.

Business after Office Hours

24. Any business done, and any document delivered, at the Office under the Act or these Regulations on any day after the end of the period fixed for the opening of the Office to the public for the transaction of business on that day or on any day which the Office is not open to the public for the transaction of business shall be deemed to have been done or delivered on the next succeeding day when the Office is open to the public for the transaction of business.

Fees

25.—(1) If a prescribed fee payable by a person in connection with an application made by him under Part I of the Act shall not have been paid on the due date, the Controller shall not be obliged to take any further steps in relation to such application until the fee shall have been paid and, if such fee remains unpaid after the expiration of 28 days from the service by the Controller on the applicant of a notice informing him of the consequences of a continuance of the failure to pay the fee, the Controller may refuse the application.

(2) No appeal shall lie to the Tribunal against any decision of the Controller to refuse an application under the last preceding paragraph.

(3) The Controller shall at least 28 days before the date when a prescribed fee payable in respect of the continued exercise of plant breeders' rights in a plant variety becomes due, if such fee shall not already have been paid, give to the holder of such rights a notice informing him of the fact that the said fee is payable, of the date when it is due and of the consequences of a failure to pay it.

(4) If such a fee shall not have been paid by the expiration of seven days from the date when it was due, the Controller shall forthwith give to the holder of the plant breeders' rights a notice informing him that the period for which such rights are exercisable will be terminated unless the fee is paid within 28 days, or within such longer period as may be allowed in accordance with the next succeeding paragraph, from the date when the fee became due.

(5) The Controller may on application made to him by any person, within 28 days from the date when the aforesaid fee became due, allow a period, expiring not later than three months from the date when the fee became due, within which such fee may be paid: provided that the Controller shall only allow such a period if he is satisfied that it is reasonable in all the circumstances that he should do so.

(6) If the aforesaid fee shall not have been paid within 28 days, or such longer period as the Controller shall have allowed in accordance with the last preceding paragraph, of the date when it became due, the Controller may terminate the period for which plant breeders' rights in the plant variety in question are exercisable.

(7) No appeal shall lie to the Tribunal against any decision of the Controller to terminate in accordance with the last preceding paragraph of this Regulation the period for which any plant breeders' rights are exercisable.

(8) The Controller shall publish in the gazette notice of termination by virtue of the last preceding paragraph of the period for which plant breeders' rights are exercisable and shall inform the holder of the plant breeders' rights of such termination.

In Witness whereof the official seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 18th January 1965.

(L.S.)

Frederick Peart,
Minister of Agriculture, Fisheries and Food.

Given under the seal of the Secretary of State for Scotland on 19th January 1965.

(L.S.)

William Ross,
Secretary of State for Scotland.

Given under the hand of the Secretary of State for the Home Department on 20th January 1965.

Frank Soskice,
Secretary of State for the Home Department.

SCHEDULE

Regulation 3

Plant Varieties and Seeds Act 1964

APPLICATION FOR PLANT BREEDERS' RIGHTS

Particulars of Applicant

1. Name and address of applicant.	
2. Address for Service if different from that above. This address must be in the United Kingdom.	
3. Name and address of breeder or discoverer if different from 1 above. (*See Note* 1.)	

Details of Plant Variety

4. Species or group of plant varieties to which the plant variety belongs.	
5. Proposed name or other designation.	
6. Country in which the variety was bred or discovered.	
7. Have plants of the variety, or material forming part of or derived from them, been sold or offered for sale, either in the United Kingdom or abroad, prior to the date of this application? (*See Note* 2.)	(i) State YES or NO ..... If YES give the following particulars:— (ii) Country ..... (iii) Date of first sale or offer for sale..... ..... (iv) On what terms or conditions .... (v) Has the breeder or discoverer given his consent? State YES or NO .....

Applications outside the United Kingdom

8. Give details of countries in which applications for rights have been made.	Country	Date	Name or designation applied for

I/WE declare that to the best of my/our knowledge and belief the statements made in this application are correct.

I/WE apply for the grant of plant breeders' rights.

Signature of applicant.....(*See Note* 3)

Date.....

To be completed by applicants requiring a Protective Direction

I/WE request that a protective direction be given in respect of the plant variety covered by this application. I/WE undertake that no plants of the plant variety, and no material forming part of, or derived from, plants of that variety, will be offered or exposed for sale or sold in the United Kingdom by me/us, or with my/our consent, in the period between the making of this application and the time when it is finally determined whether the application for plant breeders' rights is to be allowed or refused (or until this undertaking ceases to be binding under Schedule 1 of the Act whichever is the earlier).

I/WE understand that breach of this undertaking will render me/us liable to prosecution under the Act and may lead to the refusal of this application for the grant of plant breeders' rights or to termination of the period for which plant breeders' rights are exercisable, as the case may be.

Signature of applicant.....(*See Note* 3)

Date.....

NOTES

1. (i) Where the application is made by a person claiming to be the successor in title of the breeder, it must be accompanied by any assignment, the original or an official copy of any grant of probate, letters of administration or confirmation or such other documentary evidence as is sufficient to establish the title of the applicant.

   (ii) Where the application is made by or through an agent it must be accompanied by an authority completed by the person on whose behalf the agent is authorised to act.

2. If the sale or offer for sale of the variety took place between 12th November 1963 and 11th May 1965, particulars must be supplied of the steps taken to ensure that any person to whom material of the plant variety was sold or offered for sale during that period was informed in writing that an application for a grant of plant breeders' rights would be made in respect of the plant variety.

3. Where this application is completed by:—

(i) *an individual person* it must be signed by him;

(ii) *a partnership firm* it must be signed either by all the partners or by one of them on behalf of the firm;

(iii) *a body corporate* it must be signed by a director or by the secretary or other principal officer of the body corporate or by any other person satisfying the Controller that he is authorised to sign on behalf of the body corporate;

(iv) *a society or other similar organisation* it must be signed by someone satisfying the Controller that he is qualified to do so.

4. This application *must* be accompanied by the fee of £10.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations, made under the Plant Varieties and Seeds Act 1964, prescribe the form and manner in which applications are to be made for grants of plant breeders' rights. Provision is made for the granting of compulsory licences in cases where reasonable terms for licences cannot otherwise be obtained from the holder of the rights, for the extension of the period during which such rights are exercisable, for their surrender and for their termination in certain cases, including those where it appears that the grant was made in reliance upon incorrect information or where the holder fails properly to maintain the protected variety or to pay renewal fees.

All parties concerned are given a right to make representations to the Controller of the Plant Variety Rights Office which is established by the above-mentioned Act and provision is made for appeals from his decisions to a Plant Variety Rights Tribunal.

Particulars of applications and decisions and information about other matters will be advertised in an official gazette. Other provisions include the selection of names for plant varieties in respect of which rights are granted and the keeping of a register of such varieties, open to inspection by members of the public.