STATUTORY INSTRUMENTS

1967 No. 1406

PLANT BREEDERS' RIGHTS

The Plant Varieties (Performance Trials) (Amendment) Regulations 1967

Made - - - -	18*th September* 1967
Laid before Parliament	2*nd October* 1967
Coming into Operation	3*rd October* 1967

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 10(5) and 22(10) 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, after consultation with the Council on Tribunals, in accordance with section 8 of the Tribunals and Inquiries Act 1958(**c**) as applied to the Plant Variety Rights Tribunal by section 12 of the Plant Varieties and Seeds Act 1964, hereby make the following regulations:—

Citation and Commencement

1.—(1) These regulations may be cited as the Plant Varieties (Performance Trials) (Amendment) Regulations 1967 and shall come into operation on 3rd October 1967.

(2) These regulations shall be construed as one with the Plant Varieties (Performance Trials) Regulations 1966(**d**) (hereinafter referred to as " the principal regulations ") and these regulations and the principal regulations may be cited together as the Plant Varieties (Performance Trials) Regulations 1966 and 1967.

Amendment of Principal Regulations

2. The principal regulations are hereby amended as follows—

(*a*) by substituting in Regulation 3(4) for the words " and not earlier than six months before that date " the following words—" or where the application relates to a plant variety, belonging to the class of plant varieties winter wheat, winter barley or winter oats by such later date as the Ministers may permit where it appears to them to be desirable to do so having regard to weather conditions or any other circumstances appearing to them to be relevant and as regards any plant variety not earlier than six months before the date indicated in column 2 of Schedule 4 to these Regulations as aforesaid " ;

(*b*) by adding at the end of Regulation 8(1) the following proviso—

" Provided that as regards reproductive and other material, being seed of winter wheat, winter barley or winter oats, the time within which it is to be delivered as aforesaid may be extended by the Ministers generally in any year where it appears to them to be desirable to do so, having regard to weather conditions or any other circumstances appearing to them to be relevant " ;

(**a**) 1964 c. 14. (**b**) S.I. 1964/1574 (1964 III, p. 3543).
(**c**) 1958 c. 66. (**d**) S.I. 1966/1014 (1966 II, p. 2424).

(*c*) by substituting for Regulation 10 the following regulation—

"*Appeal to the Tribunal*

10. An appeal to the Tribunal consequent upon the refusal by the Ministers of an application to exempt a plant variety from the provisions of section 22 of the Act shall be heard 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 convenience of the applicant for such exemption and of his witnesses and to the other circumstances of the case, including the wishes of and expense to the applicant as well as the convenience of the members of the Tribunal";

(*d*) by amending Regulation 12

(i) by inserting at the beginning thereof the words

"(1) Subject to paragraphs (2) and (3) of this Regulation" and

(ii) by adding at the end thereof the following paragraphs—

"(2) If at any time after the commencement of the performance trials of a plant variety it shall appear to the Ministers that the plant variety is not clearly distinguishable by one or more important morphological, physiological or other characteristics from any other variety of the class to which the plant variety belongs the plant variety shall be withdrawn from performance trials and the application for such performance trials shall be deemed to have been withdrawn.

(3) If it shall appear to the Ministers that the facilities available to them are such that it will not be practicable to undertake in any year the performance trials of a plant variety submitted to them for that purpose they may defer or further defer the commencement of the performance trials of that variety for one year and in such a case paragraph (1) of this Regulation shall apply to the year in which the performance trials of the plant variety are actually commenced";

(*e*) by substituting for item 9 of the particulars set out in Section 1 of Schedule 1 the following item—

"9. Date and place of any independently conducted tests or performance trials and by whom carried out and date and place of the tests or trials carried out by the applicant or the breeder or discoverer, together in every case with copies of the relevant reports";

(*f*) by substituting for item 10 of the particulars set out in Section 2 of Schedule 1 the following item—

"10. Date and place of any independently conducted tests or performance trials and by whom carried out and date and place of the tests or trials carried out by the applicant or the breeder or discoverer, together in every case with copies of the relevant reports".

In Witness whereof the official seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 11th September 1967.

(L.S.) *Frederick Peart,*

Minister of Agriculture, Fisheries and Food.

Given under the seal of the Secretary of State for Scotland on 14th September 1967.

(L.S.) *William Ross,*
Secretary of State for Scotland.

Given under the hand of the Secretary of State for the Home Department on 18th September 1967.

Roy Jenkins,
Secretary of State for the Home Department.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Plant Varieties (Performance Trials) Regulations 1966:—

(i) by enabling the times for making application for performance trials of winter cereals and for delivering reproductive and other material of winter cereals to be extended beyond the dates specified in those regulations,

(ii) by substituting a new regulation concerned with the place of the hearing of an appeal to the Plant Variety Rights Tribunal,

(iii) by providing for the discontinuance of performance trials where a plant variety lacks distinctness,

(iv) by enabling performance trials to be deferred owing to lack of facilities, and

(v) by amending certain particulars to be given when making an application for performance trials.