

Plant Varieties Act 1983

CHAPTER 17

ARRANGEMENT OF SECTIONS

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1983 CHAPTER 17

An Act to amend the Plant Varieties and Seeds Act 1964.

[9th May 1983]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Period for which plant breeders' rights are exercisable. 1964 c. 14.

1.—

(1) In section 3 (period for which rights are exercisable) of the Plant Varieties and Seeds Act 1964 (in this Act referred to as "the 1964 Act") there shall be substituted—

- (a) in subsection (1) for the words "25 years" the words "30 years";
- (b) in subsection (2) for the words "18 years" the words "25 years"; and
- (c) in subsection (3) for the words "15 years" the words "20 years".

(2) In subsection (2) of that section for the words "fruit trees and their root-stocks, forest and ornamental trees and grapevines" there shall be substituted the words "fruit, forest and ornamental trees and their root-stocks and grapevines and their root-stocks".

(3) Subsections (5) and (8) of that section and, in subsection (9) of that section, the words "or subsection (8)" shall cease to have effect.

(4) Every scheme made under Part I of the 1964 Act before the commencement of this Act shall be amended as follows—

- (a) for any period of 25 years prescribed by the scheme there shall be substituted a period of 30 years;
- (b) for any period of 20 years so prescribed there shall be substituted a period of 25 years; and
- (c) for any period of 15 or 18 years so prescribed there shall be substituted a period of 20 years;

and the period for which any plant breeders' rights subsisting at the commencement of this Act are exercisable shall be extended by so much (if any) as may be necessary to bring it into conformity with the relevant scheme as so amended.

(5) Nothing in this Act shall affect the operation of subsections (5), (8) and (9) of section 3 of the 1964 Act in relation to applications made, or extensions granted on applications made, before the commencement of this Act.

Plant breeders' rights in special cases.

2. For subparagraphs (1) and (2) of paragraph 1 of Schedule 3 to the 1964 Act (sale of cut blooms, fruit etc.) there shall be substituted the following sub-paragraph—

“1.—

(1) If it appears to the Ministers that, in the case of any species or group of plant varieties, plant breeders will not receive adequate remuneration unless there is made such provision as is authorised by this paragraph, and that such provision will be of substantial benefit to plant breeders, they may by a scheme under Part I of this Act provide that, as respects any plant variety of the species or group prescribed by the scheme, plant breeders' rights shall include the exclusive right to do, and to authorise others to do, as follows—

- (a) to produce or propagate the variety in Great Britain for the purpose of selling such parts or products of the variety as may be prescribed by the scheme; and
- (b) to sell or offer or expose for sale in Great Britain, so far as they are obtained from plants produced or propagated outside Great Britain, such parts or products of the variety as may be so prescribed.”

Compulsory licences.

3.—

(1) In subsection (3) of section 7 of the 1964 Act (compulsory licences) for the words from “endeavour to secure” onwards there shall be substituted the words “have regard to the desirability of securing—

- (a) that the plant variety is available to the public at reasonable prices, is widely distributed and is maintained in quality;
- (b) that there is reasonable remuneration for the holder of the plant breeders' rights; and
- (c) where there is a market for the export of the plant variety, that the market is supplied from the production of the variety in Great Britain.”

(2) In subsection (5) of that section for paragraph (a) there shall be substituted the following paragraph—

- “(a) the holder of the plant breeders' rights to which an application under subsection (1) of this section relates—
 - (i) is or includes, or is represented by, a society or other organisation which has as its main object, or one of its main objects, the negotiation or granting of licences to exercise plant breeders' rights, either as the holder of the rights or as agent for holders, or
 - (ii) is or includes a company any shares of which are held by or on behalf of the Ministers, and”.

Other amendments of the 1964 Act.

4. The 1964 Act shall have effect subject to the further amendments set out in Schedule 1 to this Act, being miscellaneous minor amendments.

Application of Act outside Great Britain.

5.—

(1) Section 39 of the 1964 Act (extension of that Act to Northern Ireland) shall have effect as if the provisions of this Act were provisions of the relevant Part of that Act and, with the exception of subsection (2) below, had been extended to Northern Ireland by Order in Council under subsection (2) of that section.

(2) Section 40 of the 1964 Act (extension of that Act to the Isle of Man and Channel Islands) shall have effect as if the provisions of this Act were provisions of that Act.

Short title, repeals and commencement.

6.—

(1) This Act may be cited as the Plant Varieties Act 1983.

(2) The enactments mentioned in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) This Act shall come into force at the expiry of the period of two months beginning with the day on which it is passed.

SCHEDULES

SCHEDULE 1

AMENDMENTS OF THE 1964 ACT

1.—

(1) In subsection (1) of section 4 of the 1964 Act (the nature of plant breeders' rights) after the word "sell" there shall be words "or offer or expose for sale".

(2) In subsection (2) of that section after the word "sale" there shall be inserted the words "or offer or exposure for sale" and after the word "sold", in the first place where it occurs, there shall be inserted the words "or offered or exposed for sale".

(3) In subsection (5) of that section after the word "sell" there shall be inserted the words "or offered or expose for sale".

2.—

(1) In subsection (1) of section 5A of the 1964 Act (requirement to use registered names on sale of reproductive material) after the word "offering" there shall be inserted the words "or exposing".

(2) In subsection (4) of that section the words "in connection with the registered name of a plant variety" shall be omitted and for the words from "other than" onwards there shall be substituted the words "if—

- (a) that mark or name and the registered name are juxtaposed; and
- (b) the registered name is easily recognisable."

(3) In subsection (5) of that section the words "or to imprisonment for a term not exceeding three months, or to both" shall cease to have effect.

3. In subsections (1) and (2) of section 13 of the 1964 Act (false representations as to rights and false information) the words "or to imprisonment for a term not exceeding three months, or to both" shall cease to have effect.

4.—

(1) In subsection (1) of section 15 of the 1964 Act (interpretation of Part I), in paragraph (*d*) for the words “ornamental plants and parts of ornamental plants when” there shall be substituted the words “plants or parts of plants of any ornamental variety when plant or parts of plants of that variety are”.

(2) After that subsection there shall be inserted the following subsection—

“(1A) References in this Part of this Act to offering or for sale plants or material of any description include to publishing, or causing to be published, any advertisement likely to be understood as conveying that the has plants or material of that description in his possession for the purpose of sale.”

5. In subsection (1) of section 38 of the 1964 Act (interpretation) in the definition of “plant variety” for the word “means” there shall be substituted the word “includes”.

6. In subsection (3)(*b*) of section 39 of the 1964 Act (extension of Act to Northern Ireland) the word “and” immediately following head (iv) shall cease to have effect and after head (v) there shall be inserted the words “and

(vi) in paragraph 9(3) of Schedule 4, after the words ‘this Act’ there were inserted the words ‘or the Seeds Act (Northern Ireland) 1965’”.

7. In paragraph 1(3) of Schedule 1 to the 1964 Act (protection of applicant for rights while application is pending) after the word “offer” there shall be inserted the words “or exposure” and the words from “or the exposure” onwards shall cease to have effect.

8.—

(1) In paragraph 1(1) of Part I of Schedule 2 to the 1964 Act (priorities between applicants for rights) after the words “those persons” there shall be inserted the words “(and any successors in title of theirs)” and for the words from “in the form” to “section 9 of” there shall be substituted the word “under”.

(2) In sub-paragraph (3) of paragraph (2) of that Part of that Schedule for the words from “in the form” to “being a form” there shall be substituted the words “being an application”.

9.—

(1) In paragraph 1(1) of Part II of Schedule 2 to the 1964 Act (rules for grant of rights) for the words “morphological, physiological or other characteristics” there shall be substituted the words “characteristics which are capable of precise description”.

(2) In sub-paragraphs (1) and (2) of paragraph 2 of that Part of that Schedule after the word “offered” there shall be inserted the words “or exposed”.

(3) For the proviso to sub-paragraph (2) of that paragraph there shall be substituted the following proviso—

“Provided that the restriction imposed by this sub-paragraph shall not apply to sales or offers or exposures for sale made outside the United Kingdom—

(*a*) in the case of fruit, forest and ornamental trees and their root-stocks and grapevines and their root-stocks, during the period of six years ending with the date of the application;

(*b*) in any other case, during the period of four years ending with that date.”

(4) In sub-paragraphs (4)(*a*) and (5) of that paragraph after the word “offer” there shall be inserted the words “or exposure”.



Section 6.

SCHEDULE 2
REPEALS

Chapter	Short title	Extent of repeal
1964 c. 14.	The Plant Varieties and Seeds Act 1964.	<p>In section 3, subsections (5) and (8) and, in subsection (9), the words "or subsection (8)".</p> <p>In section 5A, in subsection (4) the words "in connection with the registered name of a plant variety" and in sub-section (5) the words "or to imprisonment for a term not exceeding three months, or to both".</p> <p>In section 13, in subsections (1) and (2) the words "or to imprisonment for a term not exceeding three months, or to both".</p> <p>In section 39, in subsection (3)(b) the word "and" immediately following head (iv).</p> <p>In Schedule 1, in paragraph 1(3) the words from "or the exposure" onwards.</p>

The above repeals have effect subject to section 1(5)above.