

1985 No. 1092

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Amendment) Regulations 1985

<i>Made</i>	<i>10th July 1985</i>
<i>Laid before Parliament</i>	<i>25th July 1985</i>
<i>Coming into Operation</i>	<i>16th August 1985</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland, the Secretary of State for Wales and the Secretary of State for Northern Ireland, acting jointly, in exercise of the powers conferred on them by sections 9(1) and (5) and 36 of the Plant Varieties and Seeds Act 1964¹ as extended to Northern Ireland² and now vested in them³, and the said Minister and the Secretary of State, acting jointly, in exercise of the said powers as extended to the Isle of Man⁴, after consultation with the Council on Tribunals in accordance with section 10(1) of the Tribunals and Inquiries Act 1971⁵ as applied to the Controller of Plant Variety Rights and any other officer authorised to exercise the functions of the said Controller under section 11(5) of the Plant Varieties and Seeds Act 1964 and to the Plant Varieties and Seeds Tribunal, and in exercise of all other powers enabling them in that behalf, hereby make the following regulations:—

Title and commencement

1. These regulations may be cited as the Plant Breeders' Rights (Amendment) Regulations 1985 and shall come into operation on 16th August 1985.

Amendment of principal regulations

2. The Plant Breeders' Rights Regulations 1978⁶ shall be amended as follows—

- (a) in paragraph (1) of regulation 4 (application for grant of plant breeders' rights or protective direction) for the words from "in the form" to "the like effect" there shall be substituted the words "in writing";
- (b) regulation 5 (extension of period of plant breeders' rights) shall be deleted;
- (c) in paragraph (1) of regulation 15 (repeated applications) the number "5" shall be deleted;
- (d) Schedule 2 (form of application for plant breeders' rights or protective direction) shall be deleted; and
- (e) in Schedule 3 (reproductive and other plant material to be delivered to the Controller)—
 - (i) in subparagraph (1) of paragraph 1 of Part I, for the words "5 kilograms of seed" in the second place in which they occur there shall be substituted the following words "4 kilograms of seed";
 - (ii) at the end of that subparagraph there shall be added the following words—

"For an F1 hybrid variety of wheat 275 ears from the final cross, 8.5 kilograms of seed drawn from the final cross, and 100 ears of each parent";

¹1964 c. 14.

²By the Plant Varieties and Seeds (Northern Ireland) Order 1964 (S.I. 1964/1574).

³In the case of the Secretary of State for Wales, by virtue of S.I. 1978/272.

⁴By the Plant Varieties and Seeds (Isle of Man) Order 1969 (S.I. 1969/1829).

⁵1971 c. 62.

⁶S.I. 1978/294, amended by S.I. 1982/1101.

- (iii) in subparagraph (2) of paragraph 1 of Part I for the words “approximately 30” there shall be substituted the words “a minimum of 25”;
- (iv) in paragraph 1 of Part VII for item (6) (raspberry × blackberry hybrids) there shall be substituted the following item—
- “(6) *Rubus other than raspberries*
Six visually healthy young plants.”;
- (v) at the end of that paragraph there shall be added the following item—
- “(7) Redcurrants
Four vigorous healthy plants with at least three strong shoots. The plants shall not be more than two years old.”;
- (vi) in item (10) in Part XII (roses) for the words “In the case of a bush variety six trees, in the case of a shrub variety four trees and in the case of a climbing or a ground cover variety two trees” there shall be substituted the following words—
- “In the case of a miniature variety six trees, in the case of a bush variety four trees, in the case of a shrub variety three trees and in the case of a climbing or ground cover variety two trees.”;
and
- (vii) after item (17) in Part XII there shall be added the following items—
- “(18) *Nerine*
Fifteen dormant bulbs.
- (19) *Poinsettia*
Ten rooted cuttings.
- (20) *Cacti*
Twenty unrooted cuttings
- (21) *Gerbera*
Twelve young plants of normal commercial standard.”

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 10th July 1985.



Michael Jopling,
Minister of Agriculture, Fisheries
and Food.

George Younger,
Secretary of State for Scotland.

27th June 1985.

Nicholas Edwards,
Secretary of State for Wales.

3rd July 1985.



Douglas Hurd,
Secretary of State for Northern Ireland.

5th July 1985.

Leon Brittan,
Secretary of State for the Home
Department (being the Secretary of
State concerned with matters
relating to the Isle of Man).

Home Office.
28th June 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Plant Breeders' Rights Regulations 1978 as follows:—

1. The requirement in regulation 4(1) that an application for a grant of plant breeders' rights or a protective direction be made in the form set out in Schedule 2 or in a form to the like effect has been replaced by a requirement only that an application be made in writing. Schedule 2, which sets out the form of application, has consequently been deleted, (regulation 2(a) and (d)).
2. Regulation 5, which laid down procedural rules governing an application for an extension of the period for which any plant breeder's rights are exercisable has been deleted (regulation 2(b)): by virtue of section 1(3) of the Plant Varieties Act 1983 (c.17) the Controller no longer has any power to entertain new applications for such extension.
3. Part 1 of Schedule 3 to the 1978 Regulations has been amended by varying the reproductive and other material which must be delivered to the Controller in respect of varieties of cereals, and by specifying the material which must be so delivered in respect of F1 hybrid varieties of wheat (regulations 2(e)(i), (ii) and (iii), and Part XII of that Schedule has been amended by varying the material which must be so delivered in respect of roses (regulation 2(e)(vi)).
4. Schemes have been made to enable plant breeders' rights to be granted in respect of all varieties of *Rubus* not already covered by schemes and of redcurrants, *Nerine*, poinsettia, certain varieties of cactus and *Gerbera*. Parts VII and XII of Schedule 3 to the 1978 Regulations, which Schedule was inserted in the 1978 Regulations by the Plant Breeders' Rights (Amendment) Regulations 1982, have been amended so as to specify the reproductive and other material which must be delivered to the Controller when an application is made for a grant of plant breeders' rights in respect of varieties of those kinds, (regulations 2(e)(iv), (v) and (vii)).