



GUERNSEY STATUTORY INSTRUMENT

2015 No. 83

**The Registered Plant Breeders' Rights (Farm Saved Seed)  
(Prescribed Information) (Bailiwick of Guernsey)  
Regulations, 2015**

*Made*

*22nd October, 2015*

*Coming into operation*

*23rd October, 2015*

*Laid before the States*

*, 2015*

**THE COMMERCE AND EMPLOYMENT DEPARTMENT**, in exercise of the powers conferred on it by sections 18(7) and 43 of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007<sup>a</sup> and all other powers enabling it in that behalf, hereby makes the following Regulations:-

**Information to be supplied by farmer.**

**1.** (1) On the request of a relevant proprietor, a farmer shall supply the following information –

- (a) the name and address of the farmer,
- (b) whether the farmer has performed a relevant activity in respect of seed of the variety in which the relevant proprietor has plant breeders' rights, and
- (c) the address of the holding on which the farmer has performed such a relevant activity.

<sup>a</sup> Ordinance No. IV of 2005; as amended by Order in Council No. XIV of 2012.

(2) If the farmer has performed such a relevant activity, the farmer shall also supply the following information with the information referred to in paragraph (1) –

- (a) whether section 18(3) of the Ordinance (liability to pay equitable remuneration) does not apply to the farmer by virtue of section 18(4) (small farmer exemption), or
- (b) whether section 18(3) does not so apply by virtue of section 18(5) (prior use exemption), or
- (c) whether section 18(3) does so apply.

(3) If section 18(3) does not apply to the farmer by virtue of section 18(5) the farmer shall also supply the following information with the information referred to in paragraph (1) –

- (a) the date on which the farmer first performed the relevant activity, and
- (b) the information referred to in paragraph (5).

(4) If section 18(3) does apply to the farmer the farmer shall also supply the information referred to in paragraph (5) with the information referred to in paragraph (1).

(5) The information for the purposes of paragraph (3)(b) and (4) is –

- (a) the amount of farm saved seed used,
- (b) whether the farm saved seed has been processed for planting, and
- (c) if the farm saved seed has been processed for planting, the name and address of the person who carried out

the processing.

(6) If the farmer has informed the relevant proprietor that section 18(3) does not apply by virtue of section 18(5) or that section 18(3) does apply, the farmer shall supply the following information on the request of the relevant proprietor –

- (a) whether the farmer used any seed of the same variety with the authority of the relevant proprietor within the same seed year, and
- (b) if the farmer used seed of the same variety with the authority of the relevant proprietor within the same seed year –
  - (i) the amount used, and
  - (ii) the name and address of the person who supplied it.

**Information to be supplied by seed processor.**

2. (1) On the request of a relevant proprietor, a seed processor shall supply the following information –

- (a) the name and address of the seed processor,
- (b) the address of the seed processor's principal place of business,
- (c) whether the seed processor has processed seed of a prescribed species or group.

(2) If the seed processor has processed seed of a prescribed species or group the seed processor shall also supply the following information with the information referred to in paragraph (1) –

- (a) the name and address of the person for whom the processing was carried out,
- (b) the amount of seed resulting from the processing,
- (c) the date processing commenced,
- (d) the date processing was completed,
- (e) the place where processing was carried out, and
- (f) whether the seed was seed of the variety in which the relevant proprietor has plant breeders' rights, if the person for whom the processing was carried out informed the seed processor of the variety of the seed.

**Information to be supplied by the relevant proprietor.**

3. On the request of a farmer or a seed processor a relevant proprietor shall supply the following information –

- (a) the name and address of the relevant proprietor, and
- (b) the amount of royalty charged for certified seed of the lowest certification category for that variety.

**Period in respect of which inquiry may be made.**

4. A request may be made under regulations 1, 2 and 3 in respect of the current seed year and the three preceding seed years.

**Restriction on movement for processing from the holding.**

5. No person shall remove or cause to be removed farm saved seed from the holding on which it was obtained to process it unless that person –

- (a) has the permission of the relevant proprietor in respect of that variety, or

- (b) has taken measures to ensure that the same seed is returned from processing as is sent for processing and the processor has undertaken that measures have been taken to ensure that the same seed is returned from processing as is sent for processing, or
- (c) has the seed processed by a seed processor on the list of seed processors referred to in the gazette as being permitted to process seed away from a holding.

**Confidentiality.**

6. (1) A person who obtains information pursuant to these Regulations shall owe an obligation of confidence in respect of the information to the person who supplied it.

(2) Paragraph (1) shall not have effect to restrict disclosure of information –

- (a) for the purposes of, or in connection with, establishing the amount to be paid to the proprietor of rights pursuant to section 18(3) of the Ordinance and obtaining payment of that amount, or
- (b) for the purposes of, or in connection with, establishing whether plant breeders' rights have been infringed, or
- (c) for the purposes of, or in connection with, any proceedings for the infringement of plant breeders' rights.

**Formalities.**

7. (1) All requests for information pursuant to these Regulations shall be in writing.

(2) All information supplied pursuant to these Regulations shall be in writing.



(3) The time period within which information must be supplied in response to a request made pursuant to these Regulations shall be whichever is the longer of –

- (a) 28 days, or
- (b) the time period set out in the request.

**Interpretation.**

8. (1) In these Regulations, unless the context requires otherwise –

"**enactment**" means any Law, Ordinance or subordinate legislation and includes (without limitation) an enactment of the Parliament of the United Kingdom,

"**farm saved seed**" means the product of the harvest obtained in the circumstances described in section 18(1) of the Ordinance,

"**the gazette**" means the gazette published under section 34 of the Plant Variety and Seeds Act 1964<sup>b</sup>,

"**the Ordinance**" means the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007,

"**prescribed species or group**" means a species or group prescribed for the purposes of section 18(2) of the Ordinance,

"**relevant activity**" means the use of farm saved seed in the circumstances described in section 18(1) of the Ordinance,

"**relevant proprietor**" means a person who is registered as the proprietor of plant breeders' rights in a relevant variety,

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<sup>b</sup> An Act of Parliament (1964 c. 14)

"**relevant variety**" means a variety of a prescribed species or group,

"**seed**" includes seed potatoes,

"**seed year**" means the period from 1st July in one year to 30th June in the following year, both dates inclusive,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect,

and other expressions have the same meanings as in the Intellectual Property (Enabling Provisions) (Bailiwick of Guernsey) Law, 2004<sup>c</sup> and in the Ordinance.

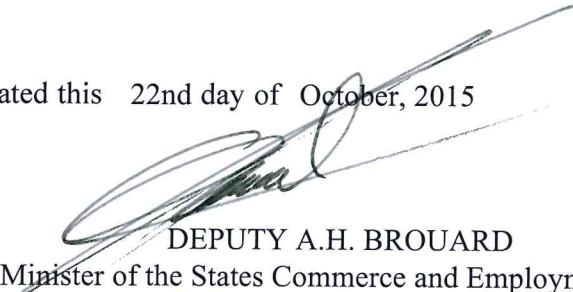
(2) The Interpretation (Guernsey) Law, 1948<sup>d</sup> applies to the interpretation of these Regulations.

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Citation and commencement.**

9. These Regulations may be cited as the Registered Plant Breeders' Rights (Farm Saved Seed) (Prescribed Information) (Bailiwick of Guernsey) Regulations, 2015 and shall come into force on the 23rd October, 2015.

Dated this 22nd day of October, 2015

  
DEPUTY A.H. BROUARD  
Deputy Minister of the States Commerce and Employment Department  
For and on behalf of the Department

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<sup>c</sup> Order in Council No. XIV of 2004; as amended by Ordinance No. XXXIII of 2003 and No. XX of 2015.

<sup>d</sup> Ordres en Conseil Vol. XIII, p. 355.

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, made in pursuance of section 18(7) of the Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, make provision as to the information to be supplied by farmers, seed processors and proprietors of plant breeders' rights and prohibit the movement of farm saved seed from the holding on which it was obtained without the proprietor's permission.

These Regulations come into force on the 23rd day of October, 2015.