

S.I. No. 490/2000 — Plant Varieties (Proprietary Rights) (Amendment) Regulations, 2000.

STATUTORY INSTRUMENTS.

S.I. No. 490 of 2000.

PLANT VARIETIES (PROPRIETARY RIGHTS) (AMENDMENT) REGULATIONS, 2000.

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PLANT VARIETIES (PROPRIETARY RIGHTS) (AMENDMENT) REGULATIONS, 2000.

I, JOE WALSH, Minister for Agriculture, Food and Rural Development, in exercise of the powers conferred on me by sections 12 (as amended by section 11 of the Plant Varieties (Proprietary Rights) (Amendment) Act, 1998 (No. 41 of 1998) (“the Act of 1998”), 25 (as amended by section 13 of the Act of 1998) and 26 of the Plant Varieties (Proprietary Rights) Act, 1980 (No. 24 of 1980) (“the Act of 1980”) and section 15 of the Act of 1998 (as adapted by the Agriculture and Food (Alteration of Name of Department and Title of Minister) Order, 1999 (S.I. No. 307 of 1999)), with the consent of the Minister for Finance and, after consultation with the Controller of Plant Breeders' Rights and representatives of such interest as appear to me to be concerned, hereby make the following regulations:

1. These Regulations may be cited as the Plant Varieties (Proprietary Rights) (Amendment) Regulations, 2000.

2. The maximum period to be specified in a grant of plant breeders' rights as being that in which the plant breeders' rights are to be exercisable, within the meaning of section 15(5) of the Plant Varieties (Proprietary Rights) (Amendment) Act, 1998 (No. 41 of 1998) , in respect of a plant variety which is of a species specified in column (1) of the Schedule to these Regulations shall be the period of years specified in column (2) of that Schedule opposite the mention of that species.

SCHEDULE

Species	Period of years for which rights are exercisable
(1)	(2)
Trees, Vines and Potatoes	30
All other species	25

3. The Plant Varieties (Proprietary Rights) Regulations 1981 (S.I. No. 23 of 1981), are amended by the substitution:

(a) for the Fourth Schedule of the Following Schedule:

“FOURTH SCHEDULE

UPOV Class Number	Genera or Species
(1)	(2)
1	Avena, Hordeum, Secale, Triticale, Triticum.
2	Panicum, Setaria.
3	Sorghum, Zea.
4	Agrostis, Alopecurus, Arrhenatherum, Bromus, Cynosurus, Dactylis, Festuca, Lolium, Phalaris, Phleum, Poa, Trisetum.
5	Brassica oleracea, Brassica chinensis, Brassica pekinensis.
6	Brassica napus, B. compestris, B. rapa, B. juncea, B. nigra, Sinapis.
7	Lotus, Medicago, Ornithopus, Onobrychis, Trifolium.
8	Lupinus albus L., L. angustifolius L., L. luteus L.
9	Vicia faba L.
10	Beta vulgaris L. var. alba D.C., Beta vulgaris L. var. altissima

- 11 *Beta vulgaris* ssp. *vulgaris* var. *conditiva* Alef. (syn.: *Beta vulgaris* L. var. *rubra* L.), *Beta vulgaris* L. var. *cicla* L., *Beta vulgaris* L. ssp. *vulgaris* var. *vulgaris*.
- 12 *Lactuca*, *Valerianella*, *Cichorium*.
- 13 *Cucumis sativus*.
- 14 *Citrullus*, *Cucumis melo*, *Cucurbita*.
- 15 *Anthriscus*, *Petroselinum*.
- 16 *Daucus*, *Pastinaca*.
- 17 *Anethum*, *Carum*, *Foeniculum*.
- 18 *Bromeliaceae*.
- 19 *Picea*, *Abies*, *Pseudotsuga*, *Pinus*, *Larix*.
- 20 *Calluna*, *Erica*.
- 21 *Solanum tuberosum* L.
- 22 *Nicotiana rustica* L., *N. tabacum* L.
- 23 *Helianthus tuberosus*.
- 24 *Helianthus annuus*.
- 25 *Orchidaceae*.
- 26 *Epiphyllum*, *Rhipsalidopsis*, *Schlumbergera*, *Zygocactus*.
- 27 *Proteaceae*.

and

(b) For the Fifth Schedule of the Following Schedule:

“FIFTH SCHEDULE

Part I

Fee payable on an application for a grant of plant breeder rights.	£200
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Part II

Fees payable in respect of tests and examinations carried out by the Minister of a plant variety which is the subject of an application for a grant of plant breeders' rights.

Tests and examinations for which payable	Amount
	£
(a) Test and examinations in first year of a testing cycle	400
(b) Tests and examinations in any one subsequent year of a testing cycle.	400
(c) Tests and examinations concerning genetically modified varieties.	600
(d) Fees in respect of the supervision of any test or examination where such test or examination is carried out on the premises of the breeder concerned or on other premises in agreement with the Minister.	200

Part III

Periodical fees payable as regards rights granted under the Act

A fee of £250 will apply from year one and all subsequent years of the period during which the rights are exercisable.

Part IV

Fees payable in respect of matters other than the foregoing

Matter	Amount
	£
• The grant of Plant Breeders' rights in respect of any plant variety.	100
• Application for an extension of the period for which plant breeders' rights are exercisable.	50
• The grant of an extension of the period for which plant breeders' rights are exercisable.	50
• Application for the approval of a substituted name for a plant variety.	40
• Application for a compulsory licence.	100
• Application under section 21 of the Plant Varieties (Proprietary Rights) Act 1980 for the amendment of the register of plant varieties, except in a case where the plant breeders' centers are transferred to another person.	30
• Application under section 22 of the Plant Varieties (Proprietary Rights) Act, 1980 , to correct register of plant varieties.	30
• Application for registration of title under section 17 of the Plant Varieties (Proprietary Rights) Act, 1980 .	40
• Supplying a copy of a grant plant breeders' rights or of an extension of the period for which plant breeders' rights are exercisable.	20
• Supplying a copy of an entry in the register.	20
• Application under Council Regulation (EC) No. 2100/94 of 27 July 1994 ¹ on Community plant variety rights.	30
• Application annually under Council Regulation (EC) No. 2100/94 of 27 July, 1994 for maintenance of dormant plant breeders' rights.	50

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4. The following Regulations are hereby revoked:

- (a) the Plant Varieties (Proprietary Rights) (Amendment) Regulations 1984 (S.I. No. 137 of 1984),
- (b) the Plant Varieties (Proprietary Rights) (Amendment) Regulations 1986 (S.I. No. 46 of 1986),
- (c) the Plant Varieties (Proprietary Rights) (Amendment) Regulations 1988 (S.I. No. 46 of 1988),
- (d) the Plant Varieties (Proprietary Rights) (Amendment) Regulations 1990 (S.I. No. 199 of 1990),
- (e) the Plant Varieties (Proprietary Rights) (Amendment) Regulations 1991 (S.I. No. 31 of 1991),
- (f) the Plant Varieties (Proprietary Rights) (Amendment) Regulations 1992 (S.I. No. 35 of 1992),
- (g) the Plant Varieties (Proprietary Rights) (Amendment) (No. 2) Regulations 1992 (S.I. No. 369 of 1992),
- (h) the Plant Varieties (Proprietary Rights) (Amendment) Regulations 1993 (S.I. No. 78 of 1993),
- (i) the Plant Varieties (Proprietary Rights) (Amendment) (No. 2) Regulations 1993 (S.I. No. 332 of 1993),
- (j) and the Plant Varieties (Proprietary Rights) (Amendment) Regulations 1994 (S.I. No. 393 of 1994).

The Minister for Finance consents to the making of the foregoing Regulations.

GIVEN under my Official Seal, this 21st day of December, 2000.

CHARLIE McCREEVY,

Minister for Finance

GIVEN under my Official Seal, this 26th day of December, 2000.

JOE WALSH,

Minister for Agriculture, Food and Rural Development.

EXPLANATORY NOTE.

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations which implement certain amendments and extensions to the Plant Varieties (Proprietary Rights) Act, 1980 prescribe:

- (1) The crop species to which the grant of rights applies.
- (2) Duration of rights.
- (3) Fees to be charged.
- (4) Allow the holder of an Irish grant of plant breeders' rights to keep in place his national plant breeders' rights (but without exercising such rights) and thereby retain the option of reverting to the exercise of national plant breeders' rights if the Community plant breeders' rights are surrendered, by payment of a special reduced renewal fee.
- (5) Repeal of previous regulations.

¹ OJ No. L227/1 of 1.9.94