

Statutory Instrument 1998 No. 1024

The Plant Breeders' Rights (Information Notices) Regulations 1998

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STATUTORY INSTRUMENTS

1998 No. 1024

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Information Notices) Regulations 1998

<i>Made</i>	<i>8th April 1998</i>
<i>Laid before Parliament</i>	<i>9th April 1998</i>
<i>Coming into force</i>	<i>8th May 1998</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 14 and 48(1) of the Plant Varieties Act 1997[1], after consultation with such organisations as appear to them to be representative of persons likely to be substantially affected, hereby make the following Regulations:

Title and commencement

1. These Regulations may be cited as the Plant Breeders' Rights (Information Notices) Regulations 1998 and shall come into force on 8th May 1998.

Interpretation

2. - (1) In these Regulations -

"the Act" means the Plant Varieties Act 1997; and

"the holder of rights" in relation to a variety means the holder of plant breeders' rights in that variety.

(2) Unless the context otherwise requires, any reference in these Regulations in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number.

Information notice as to harvested material

3. - (1) An information notice for the purposes of section 14(4) of the Act (harvested material) -

- (a) shall be in the form set out in the Schedule to these Regulations;**
- (b) shall contain the particulars set out in paragraph (2); and**
- (c) shall contain a request for the information set out in paragraph (3).**

(2) The particulars referred to in paragraph (1)(b) are -

- (a) the registered name of the variety;**
- (b) the species of the variety;**
- (c) the date on which plant breeders' rights were granted in the variety;**
- (d) confirmation that the rights were granted under the Act;**
- (e) the name and address of the holder of rights;**
- (f) the name and address of the agent of the holder of rights, if one has been appointed; and**
- (g) the date on which the information notice was served.**

(3) The information referred to in paragraph (1)(c) is -

- (a) the name and address of the recipient of the information notice;**
- (b) the name and address of the person from whom the recipient of the information notice acquired possession of the material specified in the information notice;**
- (c) the date on which the recipient of the information notice acquired possession of the material specified in the information notice; and**
- (d) the size of the consignment of which the material specified in the information notice formed part.**

Prescribed time

4. The prescribed time for the purposes of section 14(2)(b) of the Act (presumptions in proceedings relating to harvested material) is 21 days.

Donoghue

Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food

7th April 1998

Sewel

Parliamentary Under Secretary of State, Scottish Office

8th April 1998

Signed by authority of the Secretary of State for Wales

Win Griffiths

Parliamentary Under Secretary of State, Welsh Office

7th April 1998

Dubs

Parliamentary Under Secretary of State, Northern Ireland Office

8th April 1998

SCHEDULE

Regulation 3

INFORMATION NOTICE - HARVESTED MATERIAL

When Parts 1 and 2 of this notice are completed, it constitutes an information notice for the purposes of section 14(2) of the Plant Varieties Act 1997.

Failure to supply the information specified in Part 3 within 21 days of service of this notice will have the consequences set out in section 14 of the Plant Varieties Act 1997.

PART 1

PRESCRIBED PARTICULARS

1. Registered name of the variety.	
2. Species of the variety.	
3. Date on which plant breeders' rights were granted in the variety.	
4. Confirmation that the plant breeders'	

rights were granted under the Plant Varieties Act 1997.	
5. Name and address of holder of rights in the variety.	
6. Name and address of agent of holder of rights in the variety, if one has been appointed.	
7. Date on which this notice was served.	

PART 2

SPECIFIED MATERIAL

Specify in this Part of the notice the material to which the information notice relates:

PART 3

PRESCRIBED INFORMATION

1. Your name and address.	
2. Name and address of person from whom you acquired ownership of the material specified in Part 2 of this Notice.	
3. Date on which you acquired possession of the material specified in Part 2 of this Notice.	
4. Size of the consignment of which the material specified in Part 2 of this Notice formed part.	

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 14(2) of the Plant Varieties Act 1997 provides that, in infringement proceedings, certain presumptions apply in respect of harvested material which is the subject of an information notice if the information requested in the notice is not provided within a prescribed period. The presumptions are that the material was obtained through unauthorised use of propagating material and that the holder of plant breeders' rights in the material did not have a reasonable opportunity before the material was obtained to exercise his rights in relation to the unauthorised use of the propagating material.

These Regulations prescribe the form of an information notice, the information which is to be requested in an information notice and certain other particulars which must be included in an information notice (regulation 3 and the Schedule).

These Regulations also prescribe that 21 days is the period within which the information must be provided (regulation 4).

A Regulatory Appraisal has been prepared and a copy has been placed in the library of both Houses of Parliament. Copies can be obtained from the Plant Variety Rights Office and Seeds Division of the Ministry of Agriculture, Fisheries and Food, White House Lane, Huntingdon Road, Cambridge CB3 0LF.

Notes:

[1] 1997 c.66; *see* section 49(1) for the definition of "the Ministers".[back](#)

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