

DENMARK

Order No. 137 of March 26, 1982, Concerning the Possibility for Foreign Breeders to Obtain Protection of Plant Breeders' Rights, etc.*

By virtue of Article 3, as compared with Article 1(4), of the Law on the Protection of Plant Breeder's Rights (see Law Compilation [*Lovbekendtgørelse*] No. 172 of May 17, 1968) as amended most recently by Law No. 131 of March 25, 1981, and in order to comply with the International Convention of December 2, 1961, for the Protection of New Varieties of Plants, as amended most recently on October 23, 1978, the following provisions are laid down:

Article 1

Breeders who are nationals of or have their residence or registered office in a member State of the International Union for the Protection of New Varieties of Plants (UPOV) may obtain protection in Denmark for novelties of any botanical genus or species to which the Law applies.

Article 2

Protection may be granted, even if the plant novelty has been offered for sale or marketed abroad within the four years or, in respect of trees, within the six years preceding the date of the application for protection in Denmark.

Article 3

The application may be filed by the breeder or by his agent in accordance with Article 6 of the Law.

Article 4

(1) The application shall be filed with the Board for Plant Novelties and shall have priority from the date of the first application for protection filed in a member State of UPOV, provided that it is filed within twelve months from the said date and that the priority is expressly claimed.

* Danish title: Bekendtgørelse om udenlandske forædleres adgang til at opnå beskyttelse af forædlerrettigheder for planter m.m.

Translation kindly supplied by the Danish Ministry of Agriculture.

(2) The variety may, however, obtain priority at the earliest from the date when the Law has been made applicable to the relevant genus or species.

(3) Within three months from the date of the application, the applicant shall submit to the Board for Plant Novelty copies or transcripts of the first application and of all the accompanying documents. All the documents shall have been certified by the authority which received the first application. Within five years from the date of the first application, the applicant shall submit to the Board for Plant Novelty such further documents and such material as are required by the Law.

(4) In the case where the breeder withdraws the first application, or where the competent authority rejects it, the Board for Plant Novelty may, notwithstanding the provision of the third sentence of paragraph (3), require the further documents and the material to be submitted within a reasonable time.

Article 5

An application filed in accordance with Articles 3 and 4 shall be deemed to have been filed, in relation to the provisions of Article 1(3)(a) and (5) of the Law, on the date of the first application.

Article 6

The Ministry of Agriculture may authorize the Board for Plant Novelty to grant protection to foreign breeders who do not benefit from the provisions of Article 1, in respect of novelty of botanical genera or species created in a State which grants protection to Danish breeders of novelty of the same genus or species on terms equal to those applying to its own breeders.

Article 7

(1) The Board for Plant Novelty may require the applicant to submit such material, documents and evidence as it considers necessary. If it is not submitted to the Board within the five years following the application, the latter shall lapse. The Board for Plant Novelty may, however, extend the period at the request of the applicant.

(2) The Board for Plant Novelty may request certified translations of foreign documents.

Article 8

(1) This Order shall enter into force on the day after its publication in the Official Gazette [*Lovtidende*] and shall have effect as from November 8, 1981.

(2) The Order No. 349 of October 2, 1968, as amended by Orders No. 415 of September 2, 1971, No. 447 of September 29, 1971, and No. 23 of February 2, 1972, are hereby repealed.