

*Status: Point in time view as at 22/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Plant Varieties Act 1997, SCHEDULE 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

Section 42.

#### THE PLANT VARIETIES AND SEEDS TRIBUNAL

##### Modifications etc. (not altering text)

**C1** Sch. 3 applied (1.12.2001) by [S.I. 2001/3510](#), [reg. 17\(2\)](#)

##### *Constitution of the Tribunal*

- 1 In any case, the jurisdiction of the Tribunal shall be exercised by—
- (a) the relevant chairman,
  - (b) a member of the panel constituted under paragraph 7(1)(a) below, and
  - (c) a member of the panel constituted under paragraph 7(1)(b) below;
- and references to the Tribunal in this Act or the <sup>M1</sup>Plant Varieties and Seeds Act 1964 shall be construed accordingly.

##### Marginal Citations

**M1** 1964 c. 14.

##### *Chairman*

- 2 (1) The Lord Chancellor shall appoint a person to be chairman of the Tribunal for the purpose of proceedings brought before them in England and Wales.
- (2) A person may only be appointed under this paragraph if he has a seven year general qualification, within the meaning of section 71 of the <sup>M2</sup>Courts and Legal Services Act 1990.

##### Marginal Citations

**M2** 1990 c. 41.

- 3 (1) The Lord President of the Court of Session shall appoint a person to be chairman of the Tribunal for the purpose of proceedings brought before them in Scotland.
- (2) A person may only be appointed under this paragraph if he is an advocate or solicitor in Scotland of at least 7 years' standing.
- 4 (1) The [<sup>F1</sup>Northern Ireland Judicial Appointments Commission] shall appoint a person to be chairman of the Tribunal for the purpose of proceedings brought before them in Northern Ireland.

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- (2) A person may only be appointed under this paragraph if he is a member of the Bar of Northern Ireland or [<sup>F2</sup>solicitor of the Court of Judicature of Northern Ireland] of at least 7 years' standing.

#### Textual Amendments

- F1** Words in Sch. 3 para. 4(1) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 4 para. 27(2)** (with Sch. 5 para. 16); S.I. 2010/812, art. 2
- F2** Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 5**; S.I. 2009/1604, art. 2(d)

- 5 (1) Subject to sub-paragraph (2) below, a person's appointment under paragraph 2, 3 or 4 above shall be for such term as the appointing authority may determine before the person's appointment.
- [<sup>F3</sup>(1A) For an appointment under paragraph 4 above, the term mentioned in sub-paragraph (1) above is to be determined with the agreement of the [<sup>F4</sup>justice department (within the meaning of the Justice (Northern Ireland) Act 2002)][<sup>F4</sup>Department of Justice]].]
- (2) No appointment of a person under paragraph 2, 3 or 4 above shall be such as to extend beyond the day on which he attains the age of 70.
- (3) A person who ceases to hold office under paragraph 2, 3 or 4 above shall be eligible for re-appointment.
- (4) A person may resign his appointment under paragraph 2, 3 or 4 above by notice in writing to the appointing authority.
- (5) The appointing authority may revoke a person's appointment under [<sup>F5</sup>paragraph 2 or 3] above if satisfied that the person is unfit to continue in office or incapable of discharging his duties.
- [<sup>F6</sup>(5A) Where the appointing authority is the Lord Chancellor, the power conferred by sub-paragraph (5) may be exercised only with the concurrence of the Lord Chief Justice of England and Wales.]
- (6) Sub-paragraph (2) above is subject to section 26(4) to (6) of the <sup>M3</sup>Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).

#### Textual Amendments

- F3** Sch. 3 para. 5(1A) inserted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 4 para. 27(3)**(with Sch. 5 para. 16); S.I. 2010/812, art. 2
- F4** Words in Sch. 3 para. 5(1A) substituted (N.I.) (12.4.2010) by Department of Justice Act (Northern Ireland) 2010 (c. 3), s. 3(2), **Sch. para. 11**; S.R. 2010/147, art. 2(2)
- F5** Words in Sch. 3 para. 5(5) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 269(3)(a)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(v)
- F6** Sch. 3 para. 5(5A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 269(3)(b)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(v)

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#### Marginal Citations

M3 1993 c. 8.

- 6
- (1) In the case of the temporary absence or inability to act of a person appointed under paragraph 2, 3 or 4 above, the appointing authority may appoint another person to act as deputy for that person.
  - (2) A person may only be appointed to act as deputy for a person appointed under paragraph 2, 3 or 4 above if he has the qualification required for appointment under that paragraph.
  - (3) A person appointed under sub-paragraph (1) above shall, when acting as deputy for a person appointed under paragraph 2, 3 or 4 above, have all the functions of that person.

#### *The two panels*

- 7
- (1) The Ministers shall draw up and from time to time revise—
    - (a) a panel of persons who have wide general knowledge in the field of agriculture, of horticulture or of forestry, and
    - (b) a panel of persons who have specialised knowledge of particular species or groups of plants or of the seeds industry.
  - (2) The power to revise the panels drawn up under this paragraph shall include power to terminate a person's membership of either of them, and shall accordingly to that extent be subject to section 7 of the <sup>M4</sup>Tribunals and Inquiries Act 1992<sup>F7</sup>(which makes it necessary to obtain the concurrence of the Lord Chancellor and certain judicial office holders to dismissals in certain cases)].

#### Textual Amendments

F7 Words in Sch. 3 para. 7(2) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 4 para. 269\(4\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(v)

#### Marginal Citations

M4 1992 c. 53.

#### *Selection from the panels*

- 8
- (1) The members of the panels who are to deal with any case shall be selected as follows—
    - (a) the Ministers may select a member or members to deal with that particular case or class or group of cases, or
    - (b) the Ministers may select for a class or group of cases members from amongst whom members to deal with any particular case shall be selected, and the selection from amongst those members of a member or members to deal with the particular case shall then be made either by the Ministers, or, if they so direct, by the relevant chairman.
  - (2) The member from the panel constituted under paragraph 7(1)(b) above shall be selected for his knowledge of the subject matter of a particular case or class or group of cases.

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### *Sittings of the Tribunal*

- 9 The Tribunal may, for the purpose of hearing proceedings brought before them in any part of the United Kingdom, sit anywhere in the United Kingdom.

### *Decisions of the Tribunal*

- 10 (1) Any decision of the Tribunal in exercise of their jurisdiction shall be taken, in the event of a difference between members dealing with the case, by the votes of the majority.
- (2) If, after the commencement of the hearing of any proceedings before the Tribunal, one of the three members of the Tribunal becomes incapable of continuing to hear the proceedings on account of sickness or for any other reason, the proceedings may, with the consent of all parties to the proceedings, be continued before the remaining two members of the Tribunal and heard and determined accordingly.
- (3) If, in the case of proceedings continued under sub-paragraph (2) above, the two members differ in opinion, the case shall, on the application of any party to the proceedings, be re-argued and determined by the Tribunal as ordinarily constituted.
- (4) A decision of the Tribunal shall not be questioned on the ground that a member was not validly appointed or selected.

### *Costs*

- 11 (1) In any proceedings brought before the Tribunal in England and Wales or Northern Ireland under their statutory jurisdiction, the Tribunal may order any party to the proceedings to pay to any other party to the proceedings—
- (a) a specified sum in respect of the costs incurred in the proceedings by the second-mentioned party, or
  - (b) the taxed amount of those costs.
- (2) In the case of an order under sub-paragraph (1) above relating to proceedings brought in England and Wales, any costs required by the order to be taxed may be taxed in the county court according to such of the scales prescribed by [<sup>F8</sup>rules of court] for proceedings in the county court as may be directed by the order or, if the order gives no direction, by the county court.
- (3) In the case of any order under sub-paragraph (1) above relating to proceedings brought in Northern Ireland, any costs required by the order to be taxed may be taxed by the taxing master of the Supreme Court of Judicature of Northern Ireland according to such of the scales provided for equity suits or proceedings in the county courts under the <sup>M5</sup>County Courts (Northern Ireland) Order 1980 as may be directed by the order or, if the order gives no direction, by the taxing master.

#### **Textual Amendments**

- F8** Words in [Sch. 3 para. 11\(2\)](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 9 para. 120](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

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**M5** S.I. 1980/397 (N.I.3).

- 12 In any proceedings brought before the Tribunal in Scotland under their statutory jurisdiction, the Tribunal may order any party to the proceedings to pay to any other party to the proceedings any expenses incurred in the proceedings by the second-mentioned party and may tax or settle the amount of any expenses to be paid under any such order or direct in what manner they are to be taxed.

#### *Rules*

- 13 (1) The Lord Chancellor may make rules as to the procedure in connection with proceedings brought before the Tribunal in exercise of their statutory jurisdiction and as to the fees chargeable in respect of those proceedings, and the rules may in particular make provision—
- (a) as to the circumstances in which the Tribunal need not sit, or are not to sit, in public,
  - (b) as to the form of any decision of the Tribunal,
  - (c) as to the time within which any proceedings are to be instituted,
  - (d) as to the evidence which may be required or admitted in any proceedings,
  - (e) as to the examination of the parties, and of witnesses, on oath or affirmation in any proceedings,
  - (f) as to the procedure for securing the attendance of witnesses and the production of documents in any proceedings.
- (2) Rules under sub-paragraph (1) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Remuneration of Tribunal members*

- 14 The Ministers may pay to members of the Tribunal such remuneration and allowances as the Ministers may determine.

#### *Officers and servants*

- 15 (1) The Ministers may appoint such officers and servants of the Tribunal as the Ministers may determine.
- (2) There shall be paid to the officers and servants appointed under this paragraph such remuneration and allowances as the Ministers may determine.

#### *Interpretation*

- 16 In this Schedule—
- “appointing authority” means—
- (a) in relation to an appointment under paragraph 2 above, the Lord Chancellor,
  - (b) in relation to an appointment under paragraph 3 above, the Lord President of the Court of Session, and

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- (c) in relation to an appointment under paragraph 4 above, the [<sup>F9</sup> Northern Ireland Judicial Appointments Commission]; and  
“relevant chairman” means—
- (a) in relation to proceedings brought before the Tribunal in England and Wales, the person appointed under paragraph 2 above,
  - (b) in relation to proceedings brought before the Tribunal in Scotland, the person appointed under paragraph 3 above, and
  - (c) in relation to proceedings brought before the Tribunal in Northern Ireland, the person appointed under paragraph 4 above.

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**Textual Amendments**

- F9** Words in Sch. 3 para. 16 substituted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), s. 5(7), [Sch. 4 para. 27\(4\)](#) (with [Sch. 5 para. 16](#)); [S.I. 2010/812](#), art. 2

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