

---

STATUTORY INSTRUMENTS

---

**2002 No. 247**

**The Patents and Plant Variety Rights  
(Compulsory Licensing) Regulations 2002**

**PART I**

**INTRODUCTORY**

**Citation, commencement and extent**

**1.—(1)** These Regulations may be cited as the Patents and Plant Variety Rights (Compulsory Licensing) Regulations 2002 and shall come into force on 1st March 2002.

**(2)** These Regulations extend to England, Wales, Scotland and Northern Ireland.

**Interpretation**

**2.—(1)** In these Regulations—

“the 1977 Act” means the Patents Act 1977<sup>(1)</sup>;

“the 1997 Act” means the Plant Varieties Act 1997<sup>(2)</sup>;

“biotechnological invention” has the meaning given by section 130 of the 1977 Act;

“Breeders' regulations” means the Plant Breeders' Regulations as extended and applied by regulation 23, unless and until the Ministers exercise their powers under sections 24, 26(2)(a), 28, 29, 44 and 48(1) of the 1997 Act as extended by regulation 21, at which time “Breeders' regulations” shall refer to the regulations so made and in force;

“Community plant variety right” means a right granted by the Community Plant Variety Office under the Council Regulation;

“Comptroller General of Patents” means the Comptroller-General of Patents, Designs and Trade Marks appointed under section 63(1) of the Patents and Designs Act 1907<sup>(3)</sup>;

“compulsory patent licence” means a licence ordered to be granted by the controllers under regulation 6;

“compulsory plant variety licence” means a licence granted by the controllers under regulation 13;

“Controller of Plant Variety Rights” means the officer appointed under section 2(1) of the 1997 Act;

“controllers” means the Controller of Plant Variety Rights and the Comptroller General of Patents acting jointly in accordance with the provisions of these Regulations;

---

<sup>(1)</sup> 1977 c. 37.

<sup>(2)</sup> 1997 c. 66.

<sup>(3)</sup> 1907 c. 29 and see section 130 of the Patents Act 1977.

“Council Regulation” means Council Regulation (EC) No. 2100/94 of 27th July 1994 on Community plant variety rights<sup>(4)</sup> as amended by Council Regulation (EC) No. 2506/95 of 25th October 1995<sup>(5)</sup>;

“court” means—

- (a) in England, Wales and Northern Ireland, the Patents Court of the High Court,
- (b) in Scotland, the Court of Session;

“Ministers” has the meaning given by section 49 of the 1997 Act;

“new plant variety” means the plant variety produced, or to be produced as the case may be, by using an invention protected by a patent;

“patent” has the meaning given by section 130 of the 1977 Act;

“Patents (Fees) Rules” means the fee payable under the Patents (Fees) Rules 1998<sup>(6)</sup> in force immediately before the coming into force of these Regulations;

“Patents Rules” means the Patents Rules 1995<sup>(7)</sup> in force immediately before the coming into force of these Regulations;

“plant breeders' fee” means the fee payable under the Plant Breeders' (Fees) Regulations as extended and applied by regulation 25, unless and until the Ministers exercise their powers to make regulations under sections 29 and 48(1) of the 1997 Act as extended by regulation 21 and prescribe a fee, at which time “plant breeders' fee” shall mean that fee in respect of applications under these Regulations;

“Plant Breeders' (Fees) Regulations” mean the Plant Breeders' Rights (Fees) Regulations 1998<sup>(8)</sup> in force immediately before the coming into force of these Regulations;

“Plant Breeders' Regulations” means the Plant Breeders' Rights Regulations 1998<sup>(9)</sup> in force immediately before the coming into force of these Regulations;

“plant breeders' rights” means rights granted by the Controller of Plant Variety Rights under section 3 of the 1997 Act and existing rights as defined by section 40(4) of the 1997 Act;

“plant variety” has the meaning given by paragraph 11 of Schedule A2 to the 1977 Act<sup>(10)</sup>;

“prescribed fee” means the fee payable under the Patents (Fees) Rules as extended and applied by regulation 24, unless and until the Secretary of State exercises her powers to make rules under section 123 of the 1977 Act as extended by regulation 20 and prescribes a fee, at which time “prescribed fee” shall mean that fee in respect of applications under these Regulations;

“rules” means the Patents Rules as extended and applied by regulation 22, unless and until the Secretary of State exercises her powers under section 123 of the 1977 Act as extended by regulation 20, at which time “rules” shall refer to the rules so made and in force;

“Tribunal” means the Plant Varieties and Seeds Tribunal referred to in section 42 of the 1997 Act; and

“UK” means England, Wales, Scotland and Northern Ireland.

(2) Any reference to a numbered regulation is a reference to the regulation so numbered in these Regulations and any reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation in which the reference occurs.

(4) OJ No. L 227, 1.9.1994, p. 1.

(5) OJ No. L 258, 28.10.95, p. 3.

(6) S.I.1998/1778 as amended by S.I. 1999/1093.

(7) S.I. 1995/2093 as amended by S.I. 1999/1092, S.I. 1999/1899, S.I. 1999/3197 and S.I. 2001/1412.

(8) S.I. 1998/1021 as amended by S.I. 1998/1089 and S.I. 2001/3630.

(9) S.I. 1998/1027.

(10) Schedule A2 was inserted by the Patents Regulations 2000, S.I. 2000/2037.

