



PLANT BREEDERS' RIGHTS (FARM SAVED SEED) (SPECIFIED INFORMATION) REGULATIONS 2022

Index

Regulation	Page
1 Title	3
2 Commencement	3
3 Interpretation.....	3
4 Information to be supplied by farmer	4
5 Information to be supplied by seed processor	5
6 Information to be supplied by the relevant rights holder.....	5
7 Evidence etc.	5
8 Period in respect of which inquiry may be made	6
9 Restriction on movement for processing from the holding.....	6
10 Confidentiality	6
11 Formalities	6
12 Offences and penalties	7
ENDNOTES	8
TABLE OF ENDNOTE REFERENCES	8

Statutory Document No. 2022/0058



Plant Varieties Act 1997 (of Parliament)

PLANT BREEDERS' RIGHTS (FARM SAVED SEED) (SPECIFIED INFORMATION) REGULATIONS 2022¹

Approved by Tynwald: 17 May 2022
Coming into Operation: in accordance with regulation 2

The Department of Environment, Food and Agriculture makes the following Regulations under sections 9(7) and (8) and 48(1) of the Plant Varieties Act 1997 (of Parliament) as extended to the Island¹.

1 Title

These Regulations are the Plant Breeders' Rights (Farm Saved Seed) (Specified Information) Regulations 2022.

2 Commencement

If approved by Tynwald², these Regulations come into operation on the day after they are approved.

3 Interpretation

- (1) In these Regulations —
- “the Act” means the Plant Varieties Act 1997 (of Parliament) as extended to the Island³;
 - “farm saved seed” means the product of the harvest obtained in the circumstances described in section 9(1) of the Act;
 - “relevant activity” means the use of farm saved seed in the circumstances described in section 9(1) of the Act;
 - “relevant rights holder” means a person who holds plant breeders' rights in a relevant variety;
 - “relevant variety” means a variety of a specified species or group;

¹ The Plant Varieties Act 1997 (c. 66 of 1997) was extended to the Island by the Plant Varieties and Seeds (Isle of Man) Order 2016 (SI 2016/758), with modifications.

² Tynwald approval is required by section 48(2) of the Plant Varieties Act 1997 (of Parliament) (as extended to the Island by S.I. 2016/758 – see note 1 above).

³ See note 1 above.

“seed” includes seed potatoes;

“seed year” means the period from 1 July in one year to 30 June in the following year, both dates inclusive; and

“specified species or group” means a species or group specified for the purposes of section 9(2) of the Act by order made by the Department of Environment, Food and Agriculture.

- (2) Unless the context otherwise requires, any reference in these Regulations to a numbered section shall be construed as a reference to the section bearing that number in the Act.

4 Information to be supplied by farmer

- (1) On the request of a relevant rights holder, a farmer must supply the following information —
- (a) the name and address of the farmer (“F”);
 - (b) whether F has performed a relevant activity in respect of seed of the variety in which the relevant rights holder has plant breeders’ rights; and
 - (c) the address of the holding on which F has performed such a relevant activity.
- (2) If F has performed such a relevant activity, F must also supply the following information with the information referred to in paragraph (1) —
- (a) whether section 9(3) (liability to pay equitable remuneration) does not apply to F by virtue of section 9(4) (small farmer exemption); or
 - (b) whether section 9(3) does apply to F.
- (3) If section 9(3) does apply to F, F must also supply the information referred to in paragraph (4) with the information referred to in paragraph (1).
- (4) The information for the purposes of paragraph (3) is —
- (a) the amount of farm saved seed used;
 - (b) whether the farm saved seed has been processed for planting; and
 - (c) if the farm saved seed has been processed for planting, the name and address of the person who carried out the processing.
- (5) If F has informed the relevant rights holder that section 9(3) does apply to F, F must supply the following information on the request of the relevant rights holder —
- (a) whether F used any seed of the same variety with the authority of the relevant rights holder within the same seed year; and
 - (b) if F used seed of the same variety with the authority of the relevant rights holder within the same seed year —
 - (i) the amount used; and
 - (ii) the name and address of the person who supplied it.

- (6) In this regulation, a person who is the owner of a holding may be treated by the relevant rights holder as F.
- (7) If the owner of the holding is not F, the owner must supply the relevant rights holder with the name and address of the person who is F.

5 Information to be supplied by seed processor

- (1) On the request of a relevant rights holder, a seed processor must supply the following information —
 - (a) the name and address of the seed processor (“S”);
 - (b) the address of S’s principal place of business; and
 - (c) whether S has processed seed of a specified species or group.
- (2) If S has processed seed of a specified species or group S must also supply the following information with the information referred to in paragraph (1) —
 - (a) the name and address of the person for whom the processing was carried out;
 - (b) the amount of seed resulting from the processing;
 - (c) the date processing commenced;
 - (d) the date processing was completed;
 - (e) the place where processing was carried out; and
 - (f) whether the seed was seed of the variety in which the relevant rights holder has plant breeders’ rights, if the person for whom the processing was carried out informed S of the variety of the seed.

6 Information to be supplied by the relevant rights holder

On the request of a farmer or a seed processor a relevant rights holder must supply the following information —

- (a) the name and address of the relevant rights holder; and
- (b) the amount of royalty charged for certified seed of the lowest certification category for that variety.

7 Evidence etc.

- (1) A relevant rights holder (“the holder”) may request —
 - (a) a farmer who has provided information under regulation 4, or
 - (b) a seed processor who has provided information under regulation 4(1),to provide the holder with evidence which supports that information.
- (2) That evidence may take any of the following forms —

- (a) the provision of documentary evidence (such as receipts, invoices or official labels);
- (b) the specification of devices used for ensuring the identity of products processed;
- (c) allowing land, or processing or storage facilities, to be visited;
- (d) the provision of samples.

8 Period in respect of which inquiry may be made

A request may be made under regulations 4, 4(1), 6 and 7 in respect of the current seed year and the 3 preceding seed years.

9 Restriction on movement for processing from the holding

A person (“P”) must not remove or cause to be removed farm saved seed from the holding on which it was obtained to process it unless —

- (a) P has the permission of the relevant rights holder in respect of that variety; or
- (b) P has taken measures to ensure that the same seed is returned from processing as is sent for processing and the processor has undertaken to P that the processor has taken measures to ensure that the same seed is returned from processing as is sent for processing; or
- (c) P has the seed processed by a seed processor on the list of processors referred to in the gazette as being permitted to process seed away from a holding.

10 Confidentiality

- (1) A person who obtains information pursuant to these Regulations owes an obligation of confidence in respect of the information to the person who supplied it.
- (2) Paragraph (1) does not have effect to restrict disclosure of information —
 - (a) for the purposes of, or in connection with, establishing the amount to be paid to the holder of rights pursuant to section 9(3) of the Act and obtaining payment of that amount; or
 - (b) for the purposes of, or in connection with, establishing whether plant breeders’ rights have been infringed; or
 - (c) for the purposes of, or in connection with, any proceedings for the infringement of plant breeders’ rights.

11 Formalities

- (1) All requests for information pursuant to these Regulations must be in writing.

- (2) All information supplied pursuant to these Regulations must be in writing.
- (3) The time period within which information must be supplied in response to a request made pursuant to these Regulations must be whichever is the longer of –
 - (a) 28 days; or
 - (b) the time period set out in the request.

12 Offences and penalties

- (1) A person must not, in response to a request made pursuant to these Regulations –
 - (a) intentionally fail to provide information;
 - (b) refuse to provide information; or
 - (c) knowingly or recklessly provide false information.
- (2) A person is guilty of an offence who, without reasonable excuse, contravenes or fails to comply with regulation 9 or regulation 12(1).
- (3) A person guilty of an offence under paragraph (2) is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

MADE 29 MARCH 2022

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.