STATUTORY INSTRUMENTS

2016 No. 758

PLANT BREEDERS' RIGHTS

The Plant Varieties and Seeds (Isle of Man) Order 2016

Made - - - -	*13th July 2016*
Coming into force - -	*1st August 2016*

At the Court at Buckingham Palace, the 13th day of July 2016

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 40 of the Plant Varieties and Seeds Act 1964(**1**) and sections 53(2) and (3) of the Plant Varieties Act 1997(**2**), by and with the advice of Her Privy Council, orders as follows—

Citation and commencement

1. This Order may be cited as the Plant Varieties and Seeds (Isle of Man) Order 2016 and shall come into force on 1st August 2016.

Extension of the Plant Varieties and Seeds Act 1964 to the Isle of Man

2.—(1) The provisions of the Plant Varieties and Seeds Act 1964 specified in paragraph (2) extend to the Isle of Man subject to the exceptions, adaptations and modifications specified in Schedule 1 to this Order.

(2) The provisions referred to in paragraph (1) are—

(a) in Part 2, sections 16 to 19 and 24 to 30(**3**);

(b) in Part 3, section 33 and Schedule 7; and

(c) in Part 4, sections 34 to 36, 38 and 41(1)(**4**).

(**1**) 1964 c. 14.
(**2**) 1997 c. 66.
(**3**) Sections 18 and 30, which are extended to the Isle of Man without modification, were amended by paragraph 5 of Schedule 4 to the European Communities Act 1972 (c. 68).
(**4**) Section 34, which is extended to the Isle of Man by this Order without modification, was amended by Part 3 of Schedule 3 to the European Communities Act 1972 and section 51(1) of the Plant Varieties Act 1997.

Extension of the Plant Varieties Act 1997 to the Isle of Man

3. The Plant Varieties Act 1997(**5**) extends to the Isle of Man subject to the modifications specified in Schedule 2 to this Order.

Revocations

4. The following are revoked—

(a) the Plant Varieties and Seeds (Isle of Man) Order 1969(**6**);

(b) the Plant Varieties and Seeds (Isle of Man) Order 1987(**7**).

Ceri King
Deputy Clerk of the Privy Council

(**5**) Section 33 was repealed by S.I. 2000/311. Section 38, which is extended to the Isle of Man by this Order without modification, was amended by S.I. 2011/1043.
(**6**) S.I. 1969/1829, as amended by S.I. 1987/2210 and 2001/3500.
(**7**) S.I. 1987/2210.

SCHEDULE 1 Article 2

Exceptions, adaptations and modifications in the extension of Parts 2 to 4 of the Plant Varieties and Seeds Act 1964 to the Isle of Man

PART 1

Exceptions, adaptations and modifications to Part 2

1.—(1) Section 16 (seeds regulations)(**8**) is modified as follows.

(2) Throughout the section—

(a) for "the Minister" substitute "the Department";

(b) for "him" substitute "it".

(3) In subsection (1) omit "by statutory instrument".

(4) In subsection (7)(b) for "level 5 on the standard scale" substitute "£5,000".

(5) Omit subsections (3)(i), (5)(b), (6) and (8).

2. Omit section 17(6) (Scottish contracts for the sale of seeds).

3.—(1) Section 24 (official testing stations and certificates of test) is modified as follows.

(2) For subsection (1) substitute—

"(1) Testing of seeds must take place at a testing station maintained in the United Kingdom by—

(a) the Secretary of State;

(b) the Scottish Ministers; or

(c) the Department of Agriculture and Rural Development in Northern Ireland.".

(3) Omit subsections (2) and (3).

(4) For subsection (4) substitute—

"(4) The fees payable for the services given at an official seed testing station shall be those authorised under this subsection as it has effect in the part of the United Kingdom in which the official seed testing station is situated.".

(5) In subsection (6)—

(a) omit "or complaint";

(b) omit the words following "be called as a witness".

(6) In subsection (7)—

(a) omit "or complaint";

(b) for "at least three clear days" substitute "at least 14 days";

(c) omit "or, in Scotland, the case proceeds to trial".

4.—(1) Section 25 (powers of entry)(**9**) is modified as follows.

(2) In subsections (3), (4) and (6) after "the Minister" insert "or the Department".

(**8**) Section 16 was amended by paragraph 5 of Schedule 4 to the European Communities Act 1972, sections 38, 39 and 46 of the Criminal Justice Act 1982 (c. 48), section 2 of the Agriculture Act 1986 (c. 49) and S.I. 1977/1112.

(**9**) Section 25 amended by Part 3 of Schedule 3, and paragraph 5 of Schedule 4, to the European Communities Act 1972 and sections 38, 39 and 46 of, and Schedule 3 to, the Criminal Justice Act 1982.

(3) In subsections (7) and (9) for "level 3 on the standard scale" substitute "£1,000".

5. In section 26(6) (the summons and evidence regarding samples in criminal proceedings)(**10**) omit —

(a) "or complaint" (in both places);

(b) "and, in Scotland, the case shall not proceed to trial,".

6. In section 27(1) (the offence of tampering with samples)(**11**) for "level 5 on the standard scale" substitute "£5,000".

7.—(1) Section 28 (institution of criminal proceedings)(**12**) is modified as follows.

(2) In subsection(1) for the words preceding "where a part of a sample" substitute —"Notwithstanding anything in section 75(1) of the Summary Jurisdiction Act 1989 (an Act of Tynwald) (limitation of time)(**13**),".

(3) In subsection (2) for "the said section 127(1) or 23" substitute "the said section 75(1)".

(4) In subsection (2A) for the words preceding "proceedings for contravening" substitute "Notwithstanding anything in the said section 75(1),".

8.—(1) Section 29 (application of Part 2 to seed potatoes)(**14**) is modified as follows.

(2) In subsection (2)—

(a) omit the words preceding "seeds regulations";

(b) after "on a Minister" insert "or the Department";

(c) for "at any such station" substitute "at any station maintained by the appropriate authority".

(3) Omit subsection (3).

(4) For subsection (4) substitute—

"(4) In this section "the appropriate authority" means the Forestry Commissioners.".

9. In section 30(1) (definitions in Part 2), in the definition of "authorised officer", after "the Minister" (in both places that expression occurs) insert "or the Department".

PART 2

Exceptions, adaptations and modifications to Part 3

10.—(1) Section 33 (measures to prevent injurious cross-pollination affecting crops of seeds)(**15**) is modified as follows.

(2) In subsection (2)—

(a) for "The Minister" substitute "The Department";

(b) for "any part of Great Britain" substitute "the Isle of Man";

(**10**) Section 26(10) was repealed by the relevant entry in Group 2 of Part 2 of Schedule 1to the Statute Law (Repeals) Act 2004 (c. 14).

(**11**) Section 27(1) was amended by sections 38, 39 and 46 of, and Schedule 3 to, the Criminal Justice Act 1982. It is prospectively amended by paragraph 18 of Schedule 26 to the Criminal Justice Act 2003 (c. 44) from a date to be appointed.

(**12**) Section 28(1) was amended by paragraph 44 of Schedule 7 to the Magistrates' Courts Act 1980 (c. 43). Section 28(2A) was inserted by section 47 of the Plant Varieties Act 1997.

(**13**) AT 15 of 1989.

(**14**) Section 29 was amended by paragraph 5(4) of Schedule 4 to the European Communities Act 1972 and S.I. 2000/746 and 2013/755.

(**15**) Section 33 was amended by sections 35, 38, 39 and 46 of the Criminal Justice Act 1982.