

LEGAL NOTICE NO. 76

THE SEEDS AND PLANT VARIETIES ACT

(*Cap. 326*)

IN EXERCISE of the powers conferred by sections 17 and 21 of the Seeds and Plant Varieties Act, the Minister for Agriculture, after

consultation with representatives of organizations deemed to have substantial interest in the matter to be regulated and such other interests as appear to the Minister to be concerned, make the following Regulations—

THE SEEDS AND PLANT VARIETIES (PLANT BREEDER'S RIGHTS) (OIL AND FIBRE CROPS SCHEME) REGULATIONS, 2001

- Citation. 1. These Regulations may be cited as the Seeds and Plant Varieties (Plant Breeder's Rights) (Oil and Fibre Crops Scheme) Regulations, 2001.
- Interpretation. 2. In these Regulations, unless the context otherwise requires—
“authorized officer” means the Managing Director of the Kenya Plant Health Inspectorate Service;
“plant variety” includes any clone, line, hybrid or genetic variant.
- Plant varieties for which plant breeder's rights may be granted. 3. There is hereby made a scheme to be called the Oil and Fibre Crops Scheme, which shall apply to all plant varieties of oil and fibre crops which conform with the characteristics of cultivated plant varieties of any of the species specified in the first column of the First Schedule hereto.
- Period for which rights are exercisable. 4. The period for which plant breeder's rights shall be exercisable in respect of the plant varieties referred to in regulation 3 shall be the period of the years specified in the second column of the First Schedule.
- Class of plant varieties. 5. The classes of plant varieties prescribed for the purposes of section 21 of the Act shall consist of—
(a) in relation to plant varieties of sunflower; all plant varieties of the species specified in Part I of the second column;
(b) in relation to plant varieties of the rapeseed and mustard; all plant varieties of the species specified in Part II of the Second Schedule;
(c) in relation to plant varieties of sesame; all plant varieties of the species specified in Part III of the Second Schedule;
(d) in relation to plant varieties of safflower; of all plant varieties of the species specified in Part IV of the Second Schedule;
(e) in relation to plant varieties of castor; all plant varieties of the species specified in Part V of the Second Schedule;
(f) in relation to plant varieties of groundnuts; all plant varieties species specified in Part VI of the First Schedule;
(g) in relation to plant varieties of jojoba; all plant varieties of the species specified in Part VII of the Second Schedule;
(h) in relation to plant varieties of soyabean; all plant varieties of the species specified in Part VIII of the Second Schedule;
(i) in relation to plant varieties of linseed and flax; of all plant varieties of the species specified in Part IX of the Second Schedule;
(j) in relation to plant varieties of sisal; all plant varieties of the species specified in Part X of the Second Schedule;

(k) in relation to plant varieties of cotton; all plant varieties of the species specified in Part XI of the Second Schedule;

(l) in relation to plant varieties of kenaf; all plant varieties of the species specified in Part XII of the Second Schedule;

(m) in relation to plant varieties of coconut; all plant varieties of the species specified in Part XIII of the Second Schedule.

6. For the purposes of section 23 (4) of the Act, a compulsory licence granted by the authorized officer in respect of a plant variety or group specified in regulation 3 shall not have effect from the date of grant of rights in that variety, for the period of years specified in the third column of the First Schedule.

Periods prescribed before compulsory licensing.

7. A person who infringes the plant breeder's rights in the registered name of a variety of oil or fibre crop covered by the Oil Fibre Crops Scheme commits an offence and is liable to a fine of three thousand shillings or to imprisonment for a term of three months or to both.

Offences.

FIRST SCHEDULE

| <i>Name</i> | <i>Species</i> <i>Common name</i> | <i>Period of years for which rights are exercisable</i> | <i>Period of years prescribed before compulsory licensing</i> |
|--------------------------------|--------------------------------------|---|---|
| <i>Helianthus annuus L.</i> | Sunflower | 15 | 1 |
| <i>Brassica napus L.</i> | Rapeseed | 15 | 2 |
| <i>Sesame indicum L.</i> | Sesame | 15 | 2 |
| <i>Carthamus tinctorius L.</i> | Safflower | 15 | 2 |
| <i>Ricinus communis L.</i> | Castor bean | 15 | 2 |
| <i>Arachis hypogea L.</i> | Groundnut | 15 | 2 |
| <i>Simmondsia chinensis</i> | Jojoba | 20 | 3 |
| <i>Glycine max (L.) merril</i> | Soyabean | 15 | 1 |
| <i>Linum usitatissimum L.</i> | Linseed and flax | 15 | 2 |
| <i>Agave sisalina</i> | Sisal | 20 | 2 |
| <i>Gossypium hirsutum</i> | Cotton | 20 | 2 |
| <i>Hibiscus cannabinus</i> | Kenaf | 20 | 2 |
| <i>Cocos nucifera L.</i> | Coconut | 25 | 3 |

SECOND SCHEDULE

SPECIES OF PLANT VARIETIES PRESCRIBED FOR THE PURPOSES OF SECTION 21 OF THE ACT

PART I

SUNFLOWER

| <i>Name</i> | <i>Common Name</i> |
|--------------------------|--------------------|
| <i>Helianthus annuus</i> | Sunflower |

PART II

RAPE/MUSTARD

| <i>Name</i> | <i>Common Name</i> |
|---|--------------------|
| <i>Brassica napus L. spp. oleifera</i> | Oil seed rape |
| <i>Brassica rapa L. (partim)</i> | Turnip rape |
| <i>Brassica rapa L. varr rapa (L) Thell</i> | Turnip |

SECOND SCHEDULE—(Contd.)

| <i>Name</i> | <i>Common Name</i> |
|--|--------------------|
| Brassica juncea (L) czern et coss.in czern | Brown mustard |
| Brassica nigra (L) W Koch | Black mustard |
| Sinapis alba L. | White mustard |

PART III

SESAME

| <i>Name</i> | <i>Common Name</i> |
|--------------------------|--------------------|
| <i>Sesame indicum</i> L. | Sesame |

PART IV

SAFFLOWER

| <i>Name</i> | <i>Common Name</i> |
|--------------------------------|--------------------|
| <i>Carthamus tinctorius</i> L. | Safflower |

PART V

CASTOR

| <i>Name</i> | <i>Common Name</i> |
|----------------------------|--------------------|
| <i>Ricinus communis</i> L. | Castor |

PART VI

GROUNDNUT

| <i>Name</i> | <i>Common Name</i> |
|---------------------------|--------------------|
| <i>Arachis hypogea</i> L. | Groundnut |

PART VII

JOJOBA

| <i>Name</i> | <i>Common Name</i> |
|-----------------------------|--------------------|
| <i>Simmondsia chinensis</i> | Jojoba |

PART VIII

SOYABEAN

| <i>Name</i> | <i>Common Name</i> |
|-------------------------------|--------------------|
| <i>Glycine max</i> (L) Merril | Soyabean |

PART IX

LINSEED AND FLAX

| <i>Name</i> | <i>Common Name</i> |
|----------------------------|--------------------|
| <i>Linum usitatissimum</i> | Linseed and flax |

PART X

SISAL

| <i>Name</i> | <i>Common Name</i> |
|-----------------------|--------------------|
| <i>Agave sisalina</i> | Sisal |

PART XI

COTTON

| <i>Name</i> | <i>Common Name</i> |
|---------------------------|--------------------|
| <i>Gossypium hirsutum</i> | Cotton |

SECOND SCHEDULE—(Contd.)

PART XII

KENAF

| <i>Name</i> | <i>Common Name</i> |
|----------------------------|--------------------|
| <i>Hibiscus cannabinus</i> | Kenaf |

PART XIII

COCONUT

| <i>Name</i> | <i>Common Name</i> |
|--------------------------|--------------------|
| <i>Cocos nucifera L.</i> | Coconut |

Made on the 2nd May, 2001.

C. M. OBURE,
Minister for Agriculture.