



Jersey

INTELLECTUAL PROPERTY (PLANT VARIETIES) (JERSEY) LAW 2016

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INTELLECTUAL PROPERTY (PLANT VARIETIES) (JERSEY) LAW 2016

A **LAW** to enable the registration, in Jersey, of new varieties of plants; to provide for creation of the office of Registrar and the creation and maintenance of a register of plant varieties, and for the manner and effect of registration; to confer powers on the Registrar and on the court to revoke or cancel registration and otherwise to correct the register; to make provision in relation to the nature, duration and enjoyment of the proprietor's rights arising from registration, and to create remedies for infringement of those rights; to create offences of failure to use registered denominations of plant varieties, and of giving false information in respect of applications for registration, and to provide for the penalties for those offences; and for connected purposes.

Commencement [[see endnotes](#)]

1 Interpretation

(1) In this Law –

“common knowledge” is to be construed in accordance with Article 18(6);

“court” means the Royal Court;

“Minister” means the Minister for the Environment;

“original grant of rights” has the meaning given by Article 5(3);

“prescribed” means prescribed by Order of the Minister;

“protected variety” means a variety registered in Jersey in which the rights conferred by this Law subsist;

“qualifying variety” means a variety which meets the criteria set out in Article 13;

“recognized entity” has the meaning given by Article 5(7);

“register” means the register of plant varieties to be kept by the Registrar in accordance with Article 4;

“registered proprietor” means the person registered as the proprietor of rights under this Law under Article 4(2)(b), and reference to the rights of a registered proprietor is to the rights conferred by Articles 17 or, as the case may be, 18;

“Registrar” means the person holding that office under Article 3(1);

“UPOV Convention” means the Acts of the International Union for the Protection of New Varieties of Plants, as revised up to and including 19 March 1991;

“UPOV country” means a country, territory or intergovernmental organization which has acceded to, or is otherwise bound by, the UPOV Convention;

“variety” means a plant grouping within a single botanical taxon of the lowest known rank, which grouping can be –

- (a) defined by the expression of the characteristics resulting from a given genotype or combination of genotypes;
 - (b) distinguished from any other plant grouping by the expression of at least one of those characteristics; and
 - (c) considered as a unit with regard to its suitability for being propagated unchanged.
- (2) A reference in this Law to provisions of an instrument of the European Union, the European Community or the European Economic Community shall be to those provisions, or to provisions of any European Union instrument implementing or replacing them, as amended from time to time.

2 Rights conferred by registration

- (1) Plant varieties may be registered in Jersey in accordance with this Law.
- (2) Such registration shall be effective to confer rights in Jersey, in accordance with Articles 17 and 18, upon the registered proprietor.
- (3) Such rights may subsist –
 - (a) in varieties of all plant genera and species; but
 - (b) only in such varieties as are qualifying varieties.

3 Office and functions of Registrar

- (1) The Chief Executive Officer of the Department of the Environment, or such other person as the Minister may designate by Order, shall be the Registrar of Plant Varieties in Jersey.
- (2) The Registrar shall exercise the functions conferred by this Law or any other enactment and shall in particular keep a register in accordance with Article 4.
- (3) The Registrar shall have power to do anything that appears to the Registrar to be necessary or expedient for the purpose of exercising the Registrar’s functions, including (in particular and without derogation from this general power or from any other power conferred by this Law) the power –
 - (a) to request any person, in writing, to produce such documents and information (including test, examination or trial results) within such periods and at such times and intervals as the Registrar thinks fit;
 - (b) to grow, or cause to be grown, any plant variety and to carry out, or cause to be carried out, any tests, examinations or trials of or relating to a plant variety;
 - (c) to specify the form of any application to be made to the Registrar under this Law;
 - (d) subject to any provision to the contrary in this Law or any other enactment, to publish documents and information in such manner as the Registrar thinks fit; and

- (e) where the Registrar is of the opinion that to do so would assist in the proper exercise of the Registrar's functions, to apply to the court for directions or for a determination of any question of fact, law or procedure.
- (4) The Minister may direct a seal to be prepared and to be used by the Registrar for the authentication of documents in connection with the registration of plant varieties.
- (5) Any functions of the Registrar under this Law may be exercised, to the extent authorized by the Registrar, by any other officer on the Registrar's behalf.
- (6) Without derogation from paragraph (5), the Registrar may use the services of persons who are not officers –
 - (a) in carrying out any tests or trials which the Registrar considers expedient or necessary for the purposes of this Law; and
 - (b) in assessing the results of any such tests or trials (whether carried out by the Registrar or not).
- (7) In paragraphs (5) and (6), "officer" means a States' employee within the meaning of Article 2 of the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#).

4 Register of plant varieties

- (1) A register of plant varieties shall be kept at the Department of the Environment, and need not be kept in documentary form.
- (2) The register shall comprise –
 - (a) a record of plant varieties in respect of which applications for registration in Jersey have been made;
 - (b) a record of plant varieties in respect of which applications have been granted, and of the persons registered as proprietors of rights in those varieties;
 - (c) a record of assignment or transmission of rights by any person registered as proprietor under sub-paragraph (b), and of the person to whom the rights are so assigned or transmitted;
 - (d) a record of minor interests registered under Article 14, and of the persons entitled to such interests; and
 - (e) a record of compulsory licences under Article 34, and of the persons to whom such licences are granted.
- (3) For the purpose of the record mentioned in paragraph (2)(a), the register shall contain –
 - (a) the date on which an application is received;
 - (b) the applicant's name and address (including in particular any address notified under Article 15);
 - (c) the description provided by the applicant of the characteristics of the plant variety to which the application relates;
 - (d) the date on which details of the application are published;
 - (e) the denomination used in such publication to refer to the plant variety;
 - (f) the reference number allocated by the Registrar to the application;
 - (g) the name of the recognized entity making any original grant of rights upon which the application is founded;

- (h) the dates of the application to, and of the original grant of rights by, that entity;
 - (i) the denomination and any other relevant characteristics of the variety as registered by that entity;
 - (j) details of any limitations subject to which the original grant of rights was made by that entity.
- (4) For the purpose of the record mentioned in paragraph (2)(b), the register shall contain –
 - (a) the name and address (including in particular any address notified under Article 15) of the registered proprietor;
 - (b) the denomination and any other relevant characteristics of the plant variety;
 - (c) the date on which the application is granted;
 - (d) the reference number allocated by the Registrar to the registration;
 - (e) details of any limitations to which the rights in the registered plant variety are subject.
- (5) For the purpose of the record mentioned in paragraph (2)(c), the register shall contain, in addition to the details required under paragraph (4) –
 - (a) the name and address (including in particular any address notified under Article 15) of each person to whom rights are assigned or otherwise transmitted; and
 - (b) the date on which the application is granted.
- (6) There may also be entered in the register such other matters as the Registrar may think fit or as may be prescribed.
- (7) The register shall be open to inspection by the public at such reasonable times and places as the Registrar may specify.
- (8) The register shall be prima facie evidence of any matters entered in it as authorized or required by this Law, and a certified copy of an entry in the register –
 - (a) shall be provided to any person upon request and upon payment of such fee (if any) as the Minister may specify; and
 - (b) is admissible in evidence without further proof and without any requirement for production of the original entry.
- (9) Notwithstanding paragraph (2)(c), no notice of any trust, whether express, implied or constructive, shall be entered in the register nor shall the Registrar be affected by any such notice.

5 Persons who may apply for registration

- (1) Subject to Articles 6 and 7, a person may apply for initial registration in Jersey –
 - (a) of a plant variety; and
 - (b) to be registered as the proprietor of rights in that variety,if the person fulfils the requirements of paragraph (2).
- (2) A person fulfils the requirements of this paragraph if, at the time the application mentioned in paragraph (1) is made, the person is registered –
 - (a) as the proprietor of rights in the plant variety;
 - (b) in the country which made an original grant of rights in the variety.

- (3) An original grant of rights is a grant –
- (a) which was made elsewhere than in Jersey prior to any application for registration under this Law;
 - (b) which was made by a recognized entity –
 - (i) in accordance with the laws of, or applicable to, that entity relating to the grant of rights in plant varieties (the “relevant laws”),
 - (ii) where the relevant laws require an examination to be conducted to confirm that the plant variety is a qualifying variety; and
 - (c) where rights in respect of the same variety have been granted by more than one recognized entity, which was –
 - (i) the first such grant to be made by a recognized entity, or
 - (ii) the grant made pursuant to the first application received by a recognized entity in respect of that variety.
- (4) Notwithstanding paragraph (3)(c), the Registrar may accept an application which does not fulfil the requirements of either clause (i) or (ii) of that provision, where the person seeking to make the application can show reasonable cause and the Registrar considers that it is in the public interest to do so.
- (5) A person who is a successor (by assignment, transmission or other operation of law) to a person who is registered in Jersey pursuant to an application made under paragraph (1) may apply to be registered in Jersey as the proprietor of rights in the plant variety protected by the initial registration.
- (6) Where –
- (a) a person seeking to make an application is aggrieved by a decision of the Registrar not to accept the application; or
 - (b) the Registrar entertains any doubt as to whether or not to accept an application,
- the question of whether acceptance of the application would be in the public interest may be referred to the court for its determination.
- (7) In paragraph (3), “recognized entity” means –
- (a) subject to paragraph (8), a UPOV country;
 - (b) a country, territory, organization or other body, designated by the Minister by Order as recognized for the purposes of this Article (whether or not, at the date of such designation, the country, territory, organization or body has acceded to the UPOV Convention).
- (8) If the Minister considers that a particular UPOV country does not have in place, or has ceased to have, adequate procedures for ensuring that grants are made only in respect of qualifying varieties, the Minister may by Order provide that the UPOV country in question shall not be a recognized entity for the purposes of this Article.

6 Priority between applicants for registration

- (1) This Article applies where –
- (a) a plant variety is bred, discovered and developed by more than one person independently; and
 - (b) an application for registration of the variety is made under Article 5(1) by more than one person.

- (2) Where this Article applies, the person who is entitled to be registered as proprietor in Jersey of rights in the plant variety is the person who is the first in time to make an application for registration in relation to that variety.
- (3) In paragraph (1)(a), “discovered” refers to discovery of a plant variety whether growing in the wild or occurring (whether artificially induced to do so or not) as a genetic variant (whether artificially induced or not).

7 Time limits on applications

- (1) Subject to paragraph (2), an application for registration under Article 5(1) shall be made within the period of one year beginning with the date of the original grant of rights.
- (2) An application may be made later than the time limit expressed in paragraph (1), in a case where the person making the late application can show reasonable cause for failing to comply with that time limit; but the Registrar shall not accept such an application unless the Registrar considers that it is in the public interest to do so.
- (3) Where –
 - (a) a person seeking to make an application is aggrieved by a decision of the Registrar under paragraph (2) not to accept the application; or
 - (b) the Registrar entertains any doubt as to whether or not to accept an application under that paragraph,the question of whether acceptance of the application would be in the public interest may be referred to the court for its determination.

8 Procedure on application for registration

- (1) If the Registrar specifies a form of application for registration under Article 5, such an application shall be made in that form or in writing to the same effect, but in any event the application shall be accompanied –
 - (a) in the case of an application under Article 5(1), by –
 - (i) a copy, certified as true by the recognized entity or by such other person as the Minister may specify, of the registration of the original grant of rights by virtue of which the person seeking to make the application (the “applicant”) claims to be entitled to do so, and
 - (ii) all such other certificates or documents as are necessary to supply or to evidence the matters mentioned in Article 4(3)(b), (c), and (g) to (j);
 - (b) in the case of an application under Article 5(5), by all such certificates or documents as are necessary to evidence the transfer of the rights in a registered variety to the applicant; and
 - (c) if a fee is specified by the Minister, by the fee.
- (2) Upon receipt of an application –
 - (a) under paragraph 5(1); and
 - (b) accompanied by the matters specified in paragraph (1)(a) and (c),the Registrar shall enter on the Register the matters mentioned in Article 4(3)(a) to (c), and (f) to (j), and shall notify the applicant in writing that this has been done.

- (3) Within 8 days of receiving notification under paragraph (2), the applicant shall publish by means of advertisement in the Jersey Gazette and by any other means as the Registrar may specify –
 - (a) the fact that an application has been made under this Law for registration of a plant variety;
 - (b) a description of the variety which it is proposed should be registered, including the denomination; and
 - (c) a statement that the details of the application, including any documents accompanying the application under paragraph (1)(a), are available for inspection upon a request made to the Registrar for that purpose.
- (4) Within 8 days of the date of publication of the advertisement under paragraph (3), the applicant shall notify the Registrar in writing of that date and of the denomination used in that publication to refer to the plant variety.
- (5) Upon receipt of notification under paragraph (4), the Registrar shall enter on the register the matters so notified and mentioned in Article 4(3)(d) and (e).
- (6) An application under Article 5(1) or (5) may be withdrawn by notice in writing to the Registrar at any time before it is determined, but any fee paid by the applicant shall not be repayable upon such withdrawal.

9 Opposition to an application for initial registration

- (1) A notice of opposition to an application under Article 5(1) may be given to the Registrar in writing within 2 months of the date of the advertisement under Article 8(3), by a person mentioned in paragraph (2).
- (2) The Attorney General or any person interested may oppose the registration on any one or more of the following grounds, namely that –
 - (a) the applicant is not entitled under this Law to make an application;
 - (b) the variety to which the application relates is not a qualifying variety;
 - (c) the proposed denomination is not suitable to be registered;
 - (d) since the plant variety in question was first exploited, with the consent of the applicant, anywhere in the world –
 - (i) more than 4 years (or, in the case of a variety which is a tree or vine, more than 6 years) have elapsed, and
 - (ii) the variety has been exploited in Jersey on a commercial scale.

10 Grant or refusal of application for registration

- (1) Subject to paragraphs (3), (4) and (6), the Registrar shall grant an application duly made in accordance with Article 8, and shall record the grant in the Register.
- (2) No grant of an application or record of a grant shall be made until after the expiration of the time period for opposition to a proposed registration mentioned in Article 9(1).
- (3) If the Registrar considers that an application does not comply with the requirements of Article 8, the Registrar shall not grant the application, but shall give the applicant a statement in writing of the reasons why the application has not been granted.

- (4) If, in a case where no notice of opposition has been received, it nevertheless appears doubtful to the Registrar that the application should be granted, the Registrar may –
- (a) grow, or cause to be grown, the plant variety in question;
 - (b) carry out, or cause to be carried out, any further or additional tests or investigations; and
 - (c) require the applicant to provide any further or additional information, documents, plant or other material, or test or trial results as the Registrar may reasonably require.
- (5) If, as a result of any action taken under paragraph (4), the Registrar is no longer doubtful that the application should be granted, the Registrar shall grant the application and shall record the grant in the Register.
- (6) If –
- (a) a notice of opposition is received; or
 - (b) in a case where no notice of opposition has been received and (regardless of any action which may have been taken under paragraph (4)) –
 - (i) it appears doubtful to the Registrar that the application should be granted, or
 - (ii) any question arises in relation to the application,
- the Registrar shall refer the matter in question to the court for its determination.
- (7) Subject to Rules of Court, in relation to any matter referred under paragraph (6), the court –
- (a) may order such persons to be convened, such evidence to be taken and such enquiries to be made as it considers necessary; and
 - (b) shall determine whether or not any application referred to it under paragraph (6) should be granted.
- (8) If the court determines that the application should be granted, the court shall order the Registrar to record the grant in the register.
- (9) If the court determines that the application should not be granted, it shall inform the applicant of the reasons for that decision.

11 Certificate and date of registration

- (1) In any case where the Registrar records a grant under Article 10, the Registrar shall issue to the applicant a certificate of registration.
- (2) If the Minister specifies a form for the purpose of paragraph (1), the Registrar shall issue the certificate in that form.
- (3) Registration (whether of a plant variety or of a person as proprietor) has effect on and from the date recorded in the register as required by Article 4(4) or (5).

12 Reference collections of plant material

- (1) The Registrar may maintain, whether separately from or together with the register or in any other manner, reference collections of plant material.

- (2) The Registrar may defray or contribute to the expenses of any other person in maintaining a reference collection of plant material, by means of grants of such amounts as the Registrar may determine.

13 Qualifying varieties

- (1) This Article applies in any case under this Law in which the question arises as to whether or not a particular variety is a qualifying variety.
- (2) A qualifying variety is one which is –
 - (a) distinct;
 - (b) uniform;
 - (c) stable; and
 - (d) new.
- (3) A variety is “distinct” if it is clearly distinguishable, by one or more characteristics which are capable of precise description, from any other variety whose existence is a matter of common knowledge at the date of filing the application which resulted in the original grant of rights.
- (4) A variety is “uniform” if, subject to such variation as may be expected from the particular features of its propagation, it is sufficiently uniform in those of its characteristics which are included in the examination for distinctness.
- (5) A variety is “stable” if those characteristics which are included in the examination for distinctness, as well as any others used in the variety description, remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle.
- (6) A variety is “new” if, at the date of filing the application for the original grant of rights, no sale or other disposal of propagating or harvested material of the variety in question has taken place, with the consent of the applicant, for the purposes of exploitation of the variety –
 - (a) in the territory in relation to which the original grant was made, earlier than one year before that date; and
 - (b) in any other place, earlier than 4 years (or, in the case of a variety which is a tree or vine, earlier than 6 years) before that date.
- (7) In applying paragraph (6), a sale or other disposal of propagating or harvested material of a variety for the purposes of exploiting the variety shall, if the variety is related to another variety, be treated as being also a sale or other disposal of propagating or harvested material of the other variety for the purposes of exploiting that variety.
- (8) In paragraph (7), a variety shall be taken to be related to another variety if the nature of the first variety is such that repeated production of the first variety is not possible without repeated use of the other variety.

14 Registration of minor interests of licensees, etc.

- (1) Where a person becomes entitled to any interest in plant variety rights other than a proprietary interest, as mortgagee, licensee (other than under a compulsory licence granted under Article 34) or otherwise (a “minor interest”), the person may make an application in writing to the Registrar for registration of notice of the minor interest.

- (2) Where the Registrar receives an application for registration under this Article, the Registrar –
 - (a) shall serve notice in writing of that application on the registered proprietor of the rights in which the minor interest is claimed; and
 - (b) shall not register the minor interest until the registered proprietor has consented to the registration or has had sufficient opportunity to do so.
- (3) If the Registrar specifies a form of application for registration under paragraph (1), such an application shall be made in that form or in writing to the same effect, but in any event the application shall be accompanied –
 - (a) by all such certificates or other documents as are necessary to supply or to evidence –
 - (i) the name and address (including in particular any address notified under Article 15) of the applicant,
 - (ii) the nature of the interest in question and the instrument or event by which it is created;
 - and
 - (b) if a fee is specified by the Minister, by the fee.
- (4) Subject to paragraphs (2)(b) and (5), the Registrar shall grant an application duly made in accordance with paragraph (3), and shall record the grant in the Register.
- (5) If –
 - (a) it appears doubtful to the Registrar that the application should be granted; or
 - (b) the registered proprietor opposes the application or any other question arises in relation to the application,the Registrar shall present a statement of the matter in question to the Bailiff for the directions of the court.
- (6) Subject to Rules of Court, in relation to any matter referred to it under paragraph (5), the court –
 - (a) may order such persons to be convened, such evidence to be taken and such enquiries to be made as it considers necessary; and
 - (b) shall determine whether any application referred to it under paragraph (5) should be granted.
- (7) If the court determines that the application should be granted, the court shall order the Registrar to record the grant in the register.
- (8) If the court determines that the application should not be granted, it shall inform the applicant of the reasons for its decision.
- (9) In any case where the Registrar records a grant under this Article, the Registrar shall issue to the applicant a certificate of registration.
- (10) If the Minister specifies a form for the purpose of paragraph (9), the Registrar shall issue the certificate in that form.

15 Legal presence in Jersey unnecessary for purpose of making applications

- (1) A person may make an application for registration under Article 5 or 14 notwithstanding the fact that neither the applicant nor any representative of the applicant is present in Jersey, but only if the applicant notifies the Registrar in writing of an address in Jersey to which any notice, summons or other

communication in connection with any matter relating to the application or to the registration may be sent.

- (2) Any notice, summons or other communication sent to the address notified in accordance with paragraph (1) shall be deemed to have been sufficiently served.

16 Rights during application period

- (1) Where an application for initial registration of a plant variety is granted, the registered proprietor shall be entitled to reasonable compensation for anything done during the application period which, if it were done after the date on which the application is granted, would constitute an infringement of the registered proprietor's rights.
- (2) In paragraph (1), the "application period" is the period beginning with the date of publication of an advertisement in accordance with Article 8(3) and ending with the date on which the application is granted.

17 Effect of registration: protected variety

- (1) Registration of a plant variety in Jersey entitles the registered proprietor to prevent any person from doing any of the acts listed in paragraph (2), in respect of the propagating material of the protected variety, without the registered proprietor's authority.
- (2) The acts mentioned in paragraph (1) are as follows –
- (a) production or reproduction (multiplication);
 - (b) conditioning for the purpose of propagation;
 - (c) offering for sale;
 - (d) selling or other marketing;
 - (e) exporting;
 - (f) importing;
 - (g) stocking for any of the purposes listed in sub-paragraphs (a) to (f); and
 - (h) any other act which may be prescribed for the purposes of this provision.
- (3) The registered proprietor may give authority for the purposes of paragraph (1) with or without conditions or limitations.
- (4) The rights conferred on the registered proprietor by paragraph (1) shall apply in respect of harvested material only if –
- (a) that material was obtained through the unauthorized use of propagating material of the protected variety; and
 - (b) the registered proprietor has had no reasonable opportunity, before the harvested material is obtained, to exercise his rights in relation to the unauthorized use of the propagating material.
- (5) In the case of a variety of a prescribed description, the rights conferred on the registered proprietor by paragraph (1) shall also apply, unless paragraph (6) applies, in respect of any product which is of a prescribed description and is obtained directly from harvested material in relation to which paragraph (4) applies.

- (6) This paragraph applies if, before the product mentioned in paragraph (5) was made, an act listed in paragraph (2) was done in respect of the harvested material from which the product was made and either –
 - (a) the act was done with the authority of the registered proprietor; or
 - (b) the registered proprietor had a reasonable opportunity to exercise his or her rights in relation to the doing of the act.
- (7) In this Article, a reference to “harvested material” includes entire plants and parts of plants.

18 Effect of registration: dependent variety

- (1) In relation to any variety which is dependent on the protected variety, the registered proprietor shall have the same rights as conferred by Article 17(1).
- (2) For the purposes of this Article, a variety is dependent on another (the “initial variety”) if –
 - (a) repeated production of it is not possible without repeated use of the initial variety; or
 - (b) it is essentially derived from the initial variety (and the initial variety is not itself essentially derived from a third variety).
- (3) In paragraph (2), a variety shall be deemed to be “essentially derived” from an initial variety where –
 - (a) it is predominantly derived from –
 - (i) the initial variety, or
 - (ii) a variety which is itself predominantly derived from the initial variety, while retaining the expression of the essential characteristics resulting from the genotype or combination of genotypes of the initial variety;
 - (b) it is clearly distinguishable from the initial variety by one or more characteristics which are capable of precise description; and
 - (c) except for the differences which result from the act of derivation, it conforms to the initial variety in the expression of the essential characteristics which result from the genotype or combination of genotypes of the initial variety.
- (4) For the purposes of paragraph (3), derivation may occur (by way of example and without imposing any limitation) by means of –
 - (a) the selection of –
 - (i) a natural or induced mutant,
 - (ii) a somaclonal variant, or
 - (iii) a variant individual from plants of the initial variety;
 - (b) backcrossing; or
 - (c) transformation by genetic engineering.
- (5) Paragraph (1) shall not apply where the existence of the dependent variety was common knowledge immediately before the coming into force of this Law.
- (6) The existence of a variety –
 - (a) shall be taken to be a matter of common knowledge where the variety –

- (i) is, or has been, the subject of a plant variety right under any jurisdiction or entered in an official register of plant varieties under any jurisdiction, or
 - (ii) is the subject of an application which results in its falling within clause (i);
- (b) may be established as being a matter of common knowledge by reference to plant varieties –
 - (i) already in cultivation or exploited for commercial purposes,
 - (ii) included in a recognized commercial or botanical reference collection, or
 - (iii) of which there are precise descriptions in any publication.

19 Exceptions to plant variety rights: general

The rights of a registered proprietor shall not be enforceable in relation to any act done –

- (a) for private and non-commercial purposes;
- (b) for experimental purposes; or
- (c) for the purpose of breeding another variety.

20 Exceptions to plant variety rights: farm saved seed

- (1) Subject to paragraph (3), the rights of a registered proprietor shall not be enforceable in relation to any use further described in paragraph (2), of propagating material of the protected variety or of a variety which is essentially derived from the protected variety.
- (2) The use which is excepted by paragraph (1) is use –
 - (a) by a farmer;
 - (b) for propagating purposes in the field; and
 - (c) on the farmer's own holding,of the product of a harvest obtained by planting the propagating material on that holding.
- (3) Paragraph (1) applies only where the propagating material is of a variety of a species or group –
 - (a) specified in Article 14(2) of the Council Regulation; or
 - (b) otherwise prescribed for the purposes of this Article.
- (4) Subject to paragraphs (5) and (6), where a farmer's use of propagating material is excepted by virtue of paragraph (1) the farmer shall, at the time of the use, become liable to pay the registered proprietor equitable remuneration which shall be sensibly lower than the amount charged for production of propagating material of the same variety in the same area with the proprietor's authority.
- (5) Paragraph (4) shall not apply to a farmer who is –
 - (a) considered to be a small farmer for the purposes of Article 14(3), third indent, of the Council Regulation; or
 - (b) of such other description as may be prescribed.

- (6) Paragraph (4) shall not apply where, before the day on which this Law comes into force –
- (a) a farmer has, in relation to the variety concerned, engaged in use such as described in paragraph (2); and
 - (b) no remuneration was payable in respect of that use.
- (7) There may be prescribed for the purposes of this Article a date, no earlier than 5 years from the commencement of this Law, on which paragraph (6) shall cease to have effect in relation to specified varieties or to varieties of a specified species or group.
- (8) The Minister may by Order make provision –
- (a) enabling –
 - (i) registered proprietors of plant variety rights to require farmers or seed processors, and
 - (ii) farmers or seed processors to require registered proprietors, to supply such information as may be specified and as may be considered necessary for the purposes of this Article;
 - (b) restricting the circumstances in which the product of a harvest of a protected variety may be moved, for the purpose of being processed for planting, from the holding on which it was obtained; and
 - (c) enabling the Minister to monitor the operation of any provision of, or under, this Article,
- and provision under sub-paragraph (a) may include, without derogation to that general power, provision imposing obligations of confidence in relation to information required to be supplied.
- (9) In this Article –
- “Council Regulation” means Council Regulation (EC) No. 2100/94 of 27 July 1994 on community plant variety rights;
- “essentially derived” has the same meaning as is given to that expression by Article 18(3);
- “in the field” includes in a glasshouse or under any other protective covering;
- reference to a “farmer’s own holding” includes reference to any land actually exploited by the farmer for plant growing, whether as the farmer’s property or as otherwise managed under the farmer’s responsibility and on the farmer’s account; and
- remuneration shall be taken to be “sensibly lower” if it would be taken as such as that expression is applied by Article 14(3), fourth indent, of the Council Regulation.

21 Exhaustion of rights

- (1) Subject to paragraph (2), the rights of a registered proprietor shall not extend to any act concerning material of a variety if the material –
- (a) has been sold or otherwise marketed in Jersey by, or with the consent of, the proprietor of the rights; or
 - (b) is derived from material which has been so sold or otherwise marketed.
- (2) Paragraph (1) shall not apply where the act involves –

- (a) further propagation of the variety; or
 - (b) the export of material which enables propagation of the variety in a non-qualifying country, otherwise than for the purposes of final consumption.
- (3) For the purposes of paragraph (2)(b), a “non-qualifying country” is one which does not provide for the protection of varieties of the genus or species to which the variety in question belongs.
- (4) In this Article, “material” means –
 - (a) any kind of propagating material of a variety;
 - (b) harvested material of the variety, including entire plants and parts of plants; and
 - (c) any product made directly from material falling within sub-paragraph (b).

22 Duration of rights

- (1) The rights of a registered proprietor shall subsist –
 - (a) for as long as the original registration subsists; or
 - (b) for 25 years, or (in the case of potatoes, trees and vines) for 30 years, from the date of original registration,whichever period is shorter.
- (2) In paragraph (1), “original registration” means the registration made pursuant to an original grant of rights.
- (3) The period for which rights subsist shall not be affected by suspension either of the original registration or under Article 35.

23 Nature and transferability of rights

- (1) The rights of a registered proprietor are personal or movable property.
- (2) Such rights are transferable by assignment, testamentary disposition or operation of law.
- (3) Rights under Article 18 may not be transferred or otherwise dealt with separately to the rights under Article 17 on which they depend.

24 Changes to the register: correction of minor errors

- (1) The Registrar may correct a minor error in the register, either –
 - (a) subject to paragraphs (2) and (3), where a person having a sufficient interest makes a request in writing for such a correction; or
 - (b) of the Registrar’s own motion,in accordance with paragraph (4).
- (2) A request for a correction under paragraph (1)(a) shall be accompanied by –
 - (a) all such certificates or other documents as are necessary to support or to evidence the correction requested; and
 - (b) if a fee is specified by the Minister, the fee.
- (3) Where the Registrar –
 - (a) receives a request for a correction under paragraph (1)(a); and

- (b) considers that the correction sought would materially affect rights conferred by the registration,
- the Registrar shall require the person making the request to apply to the court for rectification of the register under Article 27.
- (4) Where the Registrar proposes to make a correction under paragraph (1), the Registrar shall give notice of the proposal to the registered proprietor and (as the case may require) any licensee registered under Article 14, and to any other person appearing to the Registrar to have a sufficient interest.
- (5) Before making a correction the Registrar shall give such persons as may have been notified under paragraph (4) a reasonable opportunity to make representations with regard to the proposal.

25 Other changes to the register to be made by Registrar

- (1) The Registrar may –
 - (a) delete the registration of any variety; or
 - (b) amend the register to make a change to the name or address of the registered proprietor,upon a request to such effect being made in writing by the registered proprietor.
- (2) The Registrar may amend the register to make a change to the name or address of a holder of a minor interest registered under Article 14, upon a request to such effect being made in writing by the holder of the interest.
- (3) If a fee is specified by the Minister, a request under paragraph (1) or (2) shall be accompanied by the fee.
- (4) Where, following registration of a plant variety in Jersey, the original grant of rights in that variety has been revoked, cancelled or reinstated, the Registrar may amend the register as necessary in order to replicate any such modification of the original grant, upon application being made in writing by the registered proprietor.
- (5) If the Registrar specifies a form of application for the purposes of paragraph (4), an application under that paragraph shall be made in that form or in writing to the same effect, but in any event such an application shall be accompanied –
 - (a) by a certified copy, from the recognized entity which made the original grant of rights, of the registration by that entity showing the modification of which replication is sought; and
 - (b) if a fee is specified by the Minister, by the fee.
- (6) If it appears doubtful to the Registrar that an application under paragraph (4) should be granted, the Registrar shall apply to the court for determination of the question whether the application should be granted or not.
- (7) For the purposes of paragraph (6) the court may order such persons to be convened, such evidence to be taken and such enquiries to be made as it considers necessary.
- (8) If the court determines that an application under paragraph (4) should be granted, the court shall order the Registrar to amend the register accordingly.

26 Revocation of registration by order of the court

- (1) Upon an application being made by the Attorney General or by any person aggrieved, on any of the grounds listed in paragraph (5), the court may order the

Registrar to revoke a registration of a plant variety and to amend the register accordingly.

- (2) In addition to and not in derogation from the power conferred by paragraph (1), where an application to the court is made on the ground stated in paragraph (5)(c) the court may order the Registrar to substitute, as registered proprietor, a person properly entitled to be so registered, and to amend the register accordingly.
- (3) In proceedings under this Article, the court may determine any question which it considers to be necessary or expedient to determine and, subject to Rules of Court, may order such persons to be convened, such evidence to be taken and such enquiries to be made as it considers necessary.
- (4) The court may in particular, and without derogation from the general power conferred by paragraph (3), order –
 - (a) that the Registrar or any other person –
 - (i) should grow, or cause to be grown, the plant variety in question,
 - (ii) should carry out, or cause to be carried out, any further or additional tests or investigations,whether or not all or any of these particular actions have been carried out, prior to the court's order under this paragraph; and
 - (b) that the registered proprietor or the applicant should –
 - (i) provide such further or additional information, documents, plant or other material, facilities or test or trial results, and
 - (ii) pay to the Registrar any such fee,as the court may reasonably require.
- (5) The grounds on which an application to the court may be made under paragraph (1) are the following, namely –
 - (a) that the variety in question was not, at the date of registration, a variety which was new or distinct;
 - (b) where the registration was essentially based on information or documents provided by the applicant, that the variety in question was not, at the date of registration, a variety which was uniform or stable;
 - (c) that the variety in question was registered on the application of a person not entitled to make such application under this Law; or
 - (d) that the original grant of rights in the variety in question has been revoked by the recognized entity which made the original grant.
- (6) A registration revoked by the court under paragraph (1) shall be deemed never to have had effect.
- (7) In this Article and in Article 27, a “person aggrieved” means a person whose interests have been prejudicially affected by a particular registration of a particular plant variety.

27 Other rectification of the register by order of the court

- (1) Upon an application being made by the Attorney General or by any person aggrieved, the court may order the Registrar to rectify the register by making or amending an entry in it.

- (2) In proceedings under this Article, the court may determine any question which it considers to be necessary or expedient to determine and, subject to Rules of Court, may order such persons to be convened, such evidence to be taken and such enquiries to be made as it considers necessary.
- (3) A rectification of the register pursuant to an order under this Article shall have effect from such date as the court may order.

28 Maintenance of protected variety

- (1) A registered proprietor shall ensure that, throughout the period during which the protected variety remains registered in Jersey, propagating material which is capable of producing the protected variety can be provided by the registered proprietor to the Registrar.
- (2) The registered proprietor shall provide to the Registrar, within such reasonable time as may be specified, all such information and facilities as the Registrar may require for the purpose of determining whether or not the registered proprietor is fulfilling the duty imposed by paragraph (1).
- (3) For the purposes of paragraph (2) –
 - “information” includes, but is not limited to, such certified or other copies of any documentation relevant to the original grant of rights and the maintenance of such rights, as the Registrar may consider necessary; and
 - “facilities” includes, but is not limited to, facilities for the inspection by or on behalf of the Registrar of the measures being taken for preservation of the protected variety.
- (4) Without prejudice to any other powers to amend the register which are conferred on the Registrar by this Law, the Registrar may cancel any registration of a plant variety on the grounds that the registered proprietor has failed to comply with a request by the Registrar under paragraph (2).

29 Cancellation of rights on specific grounds by court

- (1) Without prejudice to any other powers of the court to order amendment of the register (whether general or conferred on the court by this Law), the court may, on an application by any person on any of the grounds stated in paragraph (2), order the Registrar to cancel the registration of a protected variety.
- (2) The grounds mentioned in paragraph (1) are that –
 - (a) the protected variety has ceased to be uniform or stable;
 - (b) the registered proprietor is no longer in a position to fulfil the duty to provide propagating material of the protected variety as required by Article 28(1); or
 - (c) that the original grant of rights in the protected variety has been cancelled.
- (3) In proceedings under this Article, the court may determine any question which it considers to be necessary or expedient to determine and, subject to Rules of Court, may order such persons to be convened, such evidence to be taken and such enquiries to be made as it considers necessary, and may in particular –
 - (a) order the registered proprietor to provide all such additional information, documents and specimens as may reasonably be required;
 - (b) order that the Registrar, the registered proprietor or any other person –

- (i) should grow, or cause to be grown, the plant variety in question, and
 - (ii) should pay any such fee (including a fee relating to the cost of growing the plant variety pursuant to the court's order) as the court may require.
- (4) Where the court is satisfied not only that the protected variety is no longer uniform or stable, but also that it ceased to be so at some date earlier than that of the application under this Article, the court may order that the cancellation should have effect from that earlier date.

30 Remedies for infringement of rights

- (1) An infringement of rights in a protected variety is actionable by the registered proprietor of those rights.
- (2) Subject to paragraph (3), in an action for infringement of rights all such relief by way of damages, injunctions, accounts or otherwise is available to a person claiming such infringement as is available in respect of the infringement of any other property right.
- (3) Damages shall not be awarded in proceedings for the infringement of rights against a person who proves that at the date of the infringement, the person was not aware and had no reasonable grounds for supposing that the right infringed was a right in a protected variety.

31 Presumptions in infringement proceedings: harvested material

- (1) Where, in proceedings for infringement of rights in respect of harvested material, the registered proprietor proves, in relation to any of the material (the "subject material") –
 - (a) that the subject material has been the subject of an information notice given to the defendant by or on behalf of the registered proprietor; and
 - (b) that the defendant has not, within such time as may be specified (or, where a time is prescribed for this purpose, within that time) after service of the notice, provided the registered proprietor with the information requested in the notice,the presumptions as to the subject material set out in paragraph (2) shall apply unless the defendant can show proof to the contrary or other reasonable excuse for not providing the information.
- (2) The presumptions mentioned in paragraph (1) are –
 - (a) that the subject material was obtained through unauthorized use of propagating material; and
 - (b) that the registered proprietor did not have a reasonable opportunity, before the subject material was obtained, to exercise his or her rights in relation to the unauthorized use.
- (3) In paragraph (1)(a), an "information notice" is a notice in writing and in such form, if any, as may be specified by the Registrar, which –
 - (a) specifies the subject material and the details of the registration relating to that material as recorded under Article 4;
 - (b) contains, in relation to that material, a request for –

- (i) the name and address of the person from whom the recipient acquired possession of the material specified in the notice,
 - (ii) the date on which the recipient acquired possession of that material, and
 - (iii) the size of the consignment of which that material formed part; and
- (c) contains such other particulars as may be prescribed.

32 Presumptions in infringement proceedings: products made from harvested material

- (1) Where, in proceedings for infringement of rights in respect of any product made directly from harvested material, the registered proprietor proves, in relation to the product –
- (a) that it has been the subject of an information notice given to the defendant by or on behalf of the registered proprietor; and
 - (b) that the defendant has not, within the prescribed time after service of the notice, provided the registered proprietor with the information requested in the notice,
- the presumptions as to the product set out in paragraph (2) shall apply unless the defendant can show proof to the contrary or other reasonable excuse for not providing the information.
- (2) The presumptions mentioned in paragraph (1) are –
- (a) that the harvested material from which the product was made was obtained through unauthorized use of propagating material;
 - (b) that the registered proprietor did not have a reasonable opportunity, before the harvested material was obtained, to exercise his or her rights in relation to the unauthorized use; and
 - (c) that no relevant act was done, before the product was made, in respect of the harvested material from which it was made.
- (3) An act is relevant for the purposes of paragraph (2)(c) if it is an act listed in Article 17(2) and –
- (a) is authorized by the registered proprietor; or
 - (b) is an act in relation to which the registered proprietor has a reasonable opportunity to exercise his or her rights.
- (4) In paragraph (1)(a), an “information notice” is a notice in writing and in such form, if any, as may be specified by the Registrar, which –
- (a) specifies the product;
 - (b) contains, in relation to that product, a request for the prescribed, but no other, information; and
 - (c) contains such other particulars as may be prescribed.

33 Confidentiality of information obtained under Articles 31 and 32

- (1) Where the registered proprietor obtains information pursuant to an information notice given for the purposes of Article 31 or 32, the registered proprietor owes an

obligation of confidence in respect of that information to the person who supplied it.

- (2) But paragraph (1) does not restrict the disclosure of information –
 - (a) for the purposes of, or in connection with, establishing whether there has been an infringement of rights; or
 - (b) for the purposes of, or in connection with, proceedings for such infringement.

34 Compulsory licences – applications and grant

- (1) At any time after the expiration of the period of 3 years (or such other period as may be prescribed) from the date of registration of a plant variety as certified in accordance with Article 11, a person may apply to the court for a licence under the rights in the plant variety on one of the grounds stated in paragraph (2).
- (2) The grounds on which an application may be made under paragraph (1) are that the registered proprietor of the rights in question –
 - (a) has unreasonably refused to grant a licence to the applicant; or
 - (b) in granting, offering or purporting to grant a licence to the applicant, has imposed or proposed unreasonable terms.
- (3) The court may not grant the application unless it is satisfied as to the ground on which the application is made, and is also satisfied –
 - (a) that it is necessary to grant the application for the purposes of securing that the variety to which the application relates is –
 - (i) available to the public at reasonable prices,
 - (ii) widely distributed, or
 - (iii) maintained in quality;
 - (b) that the applicant is financially and otherwise in a position to exploit, in a competent and business-like manner, the right granted by any licence; and
 - (c) that the applicant intends so to exploit that right,and if it is so satisfied the court may grant the application and shall order the Registrar to record the grant in the register.
- (4) If the court is not satisfied as described in paragraph (3), it may dismiss the application.
- (5) A licence under this Article shall not be an exclusive licence and may be granted whether or not the registered proprietor has granted licences to the applicant or to any other person.
- (6) A licence under this Article shall be on such terms as the court may think fit, having regard in particular to the desirability of securing –
 - (a) that the variety to which the application relates is –
 - (i) available to the public at reasonable prices,
 - (ii) widely distributed, and
 - (iii) maintained in quality; and
 - (b) that there is reasonable remuneration for the registered proprietor of the rights under which the licence is granted.

- (7) Without derogation from the generality of paragraph (6), a licence may also include in particular terms obliging the registered proprietor to make propagating material available to the licensee.
- (8) The court may at any time and on the application of any person revoke, extend, limit or in any other respect vary a licence under this Article.
- (9) If and to the extent that any agreement purports to bind any person not to apply for a licence under this Article, the agreement shall be void.

35 Compulsory licences – suspension

- (1) If, on an application by a licensee under Article 34, the court is satisfied that the registered proprietor of the rights under which the licence is granted is in breach of any obligation imposed by the licence, the court may order that the exercise of those rights be suspended.
- (2) If the registered proprietor proves to the satisfaction of the court that the breach no longer subsists, the court may order that any suspension under paragraph (1) shall cease.

36 Duty to use registered denomination

- (1) A person (including the registered proprietor) may not use any denomination other than the denomination registered in relation to a protected variety (in this Article and Articles 37 and 38, the “registered denomination”), in offering for sale, selling, or otherwise marketing propagating material of that variety.
- (2) Paragraph (1) has effect in relation to a variety from the date of registration of the variety, and shall continue to apply after the period for which the registration has effect.
- (3) Paragraph (1) shall not preclude the use of any trade mark or trade name (whether registered under the [Trade Marks \(Jersey\) Law 2000](#) or not) if –
 - (a) that mark or name and the registered denomination are juxtaposed; and
 - (b) the registered denomination is clearly recognizable.
- (4) A person who contravenes the prohibition in paragraph (1) is guilty of an offence and liable on conviction to a fine of level 3 on the standard scale.
- (5) In any proceedings for an offence under this Article, it is a defence to prove that the defendant –
 - (a) took all reasonable precautions against committing the offence; and
 - (b) when using the denomination, had no reason to suspect that it was an offence to do so.

37 Request to use new denomination

- (1) This Article applies where –
 - (a) a person, being either an applicant for registration under Article 8 or a registered proprietor, requests in writing the registration of a plant variety under a denomination (a “new denomination”) other than the denomination registered in relation to that variety upon the original grant of rights (the “original denomination”); and

- (b) the proposed new denomination is registered outside Jersey as part of a grant of rights by an entity other than that which made the original grant of rights.
- (2) Where this Article applies the Registrar shall grant the request and record the new denomination in the register, but the Registrar shall not do so if –
 - (a) there is opposition to the suitability of the new denomination; or
 - (b) it appears doubtful to the Registrar that the request should be granted, for any reason but in particular including because the new denomination is unsuitable to be registered, having regard to the criteria in Article 63 of the Council Regulation.
- (3) Where this Article applies, the requirements of Articles 8, 9 and 10 shall apply in relation to the request for registration under paragraph (1) –
 - (a) with all necessary modifications, as though that request were an application for first registration; and
 - (b) in particular, the matters required to be published by means of advertisement under Article 8(3) shall include both the proposed new denomination and the original denomination.
- (4) In this Article, “Council Regulation” has the same meaning as in Article 20(9).
- (5) If the Registrar specifies a form of request for a new denomination under this Article, such a request shall be made in that form or in writing to the same effect.

38 Improper use of registered denomination

- (1) Where any person uses the registered denomination of a protected variety in offering for sale, selling, or otherwise marketing propagating material of a different variety, such wrongful use of the registered denomination is actionable in proceedings brought by the registered proprietor.
- (2) It is also wrongful, and actionable as provided by paragraph (1), for any person to use a denomination so nearly resembling a registered denomination as to be likely to deceive or to cause confusion, in offering for sale, selling or otherwise marketing propagating material of a variety other than the variety properly denominated by the registered denomination in question.
- (3) In any proceedings under this Article, it is a defence to prove that the defendant –
 - (a) took all reasonable precautions against committing the wrong; and
 - (b) when using the denomination, had no reason to suspect that it was wrongful to do so.

39 False information

- (1) A person who, knowingly or recklessly, gives information –
 - (a) to which this Article applies; and
 - (b) which is false in a material particular,is guilty of an offence and liable on conviction to a fine of level 3 on the standard scale.
- (2) This Article applies –
 - (a) to any information given in, or in connection with, any application to the Registrar under this Law; and

- (b) to any information given in response to a request for such information made by the Registrar under this Law.

40 False representations as to rights

- (1) A person who, knowingly or recklessly, falsely represents that he, she or it is entitled to exercise rights of a registered proprietor, or any rights deriving from such rights, is guilty of an offence and liable on conviction to a fine of level 3 on the standard scale.
- (2) For the purposes of paragraph (1), it is immaterial whether or not the variety to which the false representation relates is in fact a protected variety in which enforceable rights subsist.

41 Offences: liability of body corporate etc.

- (1) Where an offence under this Law committed by a limited liability partnership, a separate liability partnership or a body corporate is proved to have been committed with the consent or connivance of –
 - (a) a person who is a partner of the partnership, or a director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the body corporate or the partnership to the penalty provided for that offence.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

42 Minister's power to make Orders, and to specify matters

- (1) The Minister may by Order make provision for the purposes of carrying this Law into effect and in particular for prescribing any matter which may be or is required to be prescribed by the Minister under this Law.
- (2) Provision under paragraph (1) may, in particular and without derogation from the general power conferred by that paragraph, be made –
 - (a) requiring and regulating the translation of documents and the filing and authentication of any translation;
 - (b) authorizing the rectification of irregularities of procedure;
 - (c) for restricting the making of repeated applications on the same subject;
 - (d) as to any fee or charge, including provision as to the level or amount; and
 - (e) time limits (including time limits as to the payment of fees, and the extension of any time limits),in respect of anything required to be done, or in connection with any proceeding, under this Law.
- (3) An Order under this Law may contain such incidental, supplementary or transitional provisions as the Minister may consider necessary or expedient.

- (4) The Minister shall have power to specify any matter which may be specified by the Minister under this Law, and shall do so in writing addressed to such persons as the Minister may reasonably consider to be concerned in the matter.

43 Registrar's power to charge

- (1) Subject to anything which may be prescribed under Article 42(2)(d), the Registrar may require a charge to be paid by any person in respect of costs reasonably incurred by the Registrar, including (but not limited to) costs incurred in –
- (a) carrying out tests on, or investigations or trials of, a plant variety which is the subject of an application for registration, whether by the Registrar or by any person on the Registrar's behalf; and
 - (b) purchasing a report of such a test, investigation or trial from an authority or recognized entity outside Jersey whose functions include the testing of plant varieties.
- (2) In requiring payment of a charge under paragraph (1), the Registrar shall specify –
- (a) any reasonable time limit by which the charge must be paid;
 - (b) whether or not the charge may be refunded, and if so, any reasonable time limit by which such a refund may be paid; and
 - (c) any consequence of non-payment of the charge, including in particular the refusal of any application in relation to which the charge is required to be paid.

44 Rules of Court

- (1) The power to make rules of court under the [Royal Court \(Jersey\) Law 1948](#) includes power to make rules regulating practice and procedure in or in connection with proceedings before the court under this Law, and in particular (but without derogation from the generality of this power) to make provision –
- (a) for the appointment of advisers to assist the court in any proceedings including (but not limited to) proceedings for infringement of rights and for the regulation of the functions of such advisers;
 - (b) for enabling persons to take proceedings under this Law *in forma pauperis*;
 - (c) for the hearing by the court in vacation of all such matters under this Law as may require to be immediately or promptly heard.
- (2) The remuneration of any adviser appointed under Rules made in pursuance of this Article shall be defrayed out of the annual income of the States.

45 Regulations

- (1) The States by Regulations may make such further provision with respect to the registration of plant varieties as they think fit, including amendment of this Law or any other enactment, and in particular (but without derogation from the generality of this power) may make provision for the purposes of –
- (a) the registration of plant varieties in Jersey (whether by way of first registration or re-registration), and the exercise and enforcement of any right or interest in a plant variety, including giving effect to any right or interest in a plant variety granted in a country or territory other than Jersey, in so far as

such provision is, in the opinion of the States, consistent with any international treaty or agreement relating to plant varieties which applies to Jersey;

- (b) giving effect in Jersey to any international convention ratified by or on behalf of Jersey or which extends to Jersey;
 - (c) enabling the ratification or extension of any international convention;
 - (d) implementing, in Jersey, any obligation of the United Kingdom under the EU Treaties (as defined in the [European Union \(Jersey\) Law 1973](#)), whether or not that obligation applies to Jersey;
 - (e) giving effect in Jersey to any provision that applies in the United Kingdom.
- (2) Furthermore such regulations may in particular (and without derogation from the generality of paragraph (1)) –
- (a) confer powers on any person or body with regard to the administration of, and decisions relating to, any right or interest in a variety, including allowing the Minister to make provision for such matters by Order;
 - (b) make provision for appeals;
 - (c) make further provision for enforcement including civil remedies or criminal penalties for infringement of any right or interest in a variety;
 - (d) make further provision for fees, including allowing the Minister to prescribe or specify the amount of any fee;
 - (e) make provision for such supplementary, transitional and incidental matters as the States may consider to be necessary or expedient.

46 Citation

This Law may be cited as the Intellectual Property (Plant Varieties) (Jersey) Law 2016.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Intellectual Property (Plant Varieties) (Jersey) Law 2016	L.15/2016	29 July 2016

Table of Renumbered Provisions

Original	Current
None	

Table of Endnote References

There are currently no endnote references