



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH
AND FOOD SAFETY



Brussels, Angers, 23 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF UNION PLANT VARIETY RIGHTS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement¹ establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').² The United Kingdom will then become a 'third country'³.

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all breeders within the meaning of Article 11(1) of Regulation (EC) No 2100/94 on Community plant variety rights (hereinafter: the Basic Regulation) are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of Plant Variety Rights no longer apply to the United Kingdom. This has, in particular, the following consequences:

- All Community Plant Variety Rights granted pursuant to the Basic Regulation will remain valid in the Union territory, regardless of the origin of the breeder or the location of the Examination Offices.
- The Examination Offices in the United Kingdom will no longer have the possibility to participate in the technical verification of the maintenance of the protected varieties pursuant to Articles 64 and 65 of the Basic Regulation. Technical

¹ Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

² Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

³ A third country is a country not member of the EU.

verifications following 30 March 2019 will be organised by the CPVO in an EU-27 based Examination Office.

- According to Article 82 of the Basic Regulation, persons who are not domiciled or do not have a seat or an establishment within the EU territory may participate as party to proceedings before the Office only if they have designated a procedural representative who is domiciled or has his seat or an establishment within the EU territory. All interested breeders who are currently domiciled or have a seat in the United Kingdom only should consider the need to designate in a timely manner a procedural representative to comply with the provisions of that Article.

Actions to be taken by the Community Plant Variety Office (CPVO)

The Examination Offices in the United Kingdom are entrusted for 864 botanical taxa. Out of those, there are 678 botanical taxa for which no other Examination Office is entrusted in the Union. The CPVO has received applications regarding 324 of the aforesaid 678 botanical taxa. In order to ensure the continuity of the technical examination of varieties belonging to those botanical taxa, the CPVO has organised a procedure (the "new species procedure") to ensure as from 30 March 2019 at the latest the entrustment of Examination Offices in the Union to cover at least all 324 botanical taxa for which an actual application for a Community Plant Variety Right has been received by the CPVO. The procedure has progressed satisfactorily and six Examination Offices have been entrusted in the Union for 322 of the above species. However, taking into account the need for some Examination Offices to adapt to the new technical expectations, DUS tests for some species can only start in October 2018 or January 2019.

All information on entrusted Examination Offices and species are available on the CPVO web site⁴.

In order to avoid as much as possible transitional difficulties, CPVO will stop assigning the technical examination of varieties (Article 55(1) of the Basic Regulation) to the Examination Offices in the United Kingdom, where that examination is expected to last beyond 29 March 2019.

The website of the Commission, Directorate General 'Health and Food Safety', on Plants provides general information concerning Plant Variety Property Rights⁵. These pages will be updated with further information, where necessary.

DG for Health and Food Safety

Community Plant Variety Office

⁴ <http://cpvo.europa.eu/en>

⁵ https://ec.europa.eu/food/plant/plant_property_rights_en