
 STATUTORY INSTRUMENTS

1982 No. 1097

PLANT BREEDERS' RIGHTS

**The Plant Breeders' Rights (Fodder Kale and Swedes) Scheme
1982**

<i>Made - - - -</i>	29th July 1982
<i>Laid before Parliament</i>	10th August 1982
<i>Coming into Operation</i>	31st August 1982

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland, the Secretary of State for Wales and the Secretary of State for Northern Ireland, acting jointly, in exercise of the powers conferred on them by sections 1(1) and (5), 3(1), 5(7) and 7(2) of the Plant Varieties and Seeds Act 1964(a) (extended to Northern Ireland by the Plant Varieties and Seeds (Northern Ireland) Order 1964(b) and to the Isle of Man by the Plant Varieties and Seeds (Isle of Man) Order 1969(c)) and now vested in them (d) and of all other powers enabling them in that behalf, after consultation in accordance with section 1(5) of the said Act with the Controller of Plant Variety Rights and with representatives of such interests as appear to them to be concerned, hereby make the following scheme:—

Title and commencement

1. This scheme may be cited as the Plant Breeders' Rights (Fodder Kale and Swedes) Scheme 1982 and shall come into operation on 31st August 1982.

Interpretation

2. In this scheme—

“the Act” means the Plant Varieties and Seeds Act 1964;

“plant breeders' rights” means rights which may be granted in accordance with Part I of the Act.

Plant varieties for which plant breeders' rights may be granted

3. There are prescribed for the purposes of the grant of plant breeders' rights—

(a) all plant varieties of fodder kale which conform to the characteristics of cultivated plant varieties of the species *Brassica oleracea* L. convar. *acephala* (DC.),

(b) all plant varieties of swedes which conform to the characteristics of cultivated plant varieties of the species *Brassica napus* L. var. *napobrassica* Peterm.

(a) 1964 c.14.

(b) S.I. 1964/1574.

(c) S.I. 1969/1829.

(d) In the case of the Secretary of State for Wales by virtue of the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272).

Period for which rights are exercisable

4. The period for which plant breeders' rights shall be exercisable in respect of the plant varieties of fodder kale and swedes referred to in the last preceding paragraph shall be 20 years and 15 years respectively.

Classes of plant varieties for the purposes of section 5(7) of the Act

5. The classes of plant varieties hereby prescribed for the purposes of section 5(7) of the Act (which enables classes of plant varieties to be prescribed in connection with the use of names likely to deceive or cause confusion) consist:

- (i) in relation to plant varieties of fodder kale, of all plant varieties of the species specified in Part I of the Schedule to this scheme,
- (ii) in relation to plant varieties of swedes, of all plant varieties of the species specified in Part II of the said Schedule.

Period prescribed for the purposes of section 7(2) of the Act

6. In relation to the plant varieties of fodder kale referred to in paragraph 3 of this scheme the period prescribed for the purposes of section 7(2) of the Act (which enables a provision to be made whereby a compulsory licence granted by the Controller as respects a plant variety of a species specified in a scheme shall not have effect for a prescribed period after the grant of rights in that plant variety) shall be 3 years.

In Witness whereof the official seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 23rd July 1982.



Peter Walker,
Minister of Agriculture, Fisheries
and Food.

26th July 1982.

George Younger,
Secretary of State for Scotland.

27th July 1982.

Nicholas Edwards,
Secretary of State for Wales.

James Prior,
Secretary of State for Northern
Ireland.

29th July 1982.

Paragraph 5

SCHEDULE

Species of which plant varieties are prescribed for the purposes of Section 5(7) of the Act.

PART I

FODDER KALE

NAME	COMMON NAME
<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.)	Fodder kale
<i>Brassica oleracea</i> L. var. <i>acephala</i> DC. subvar. <i>laciniata</i> L.	Curly kale or Borecole
<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef. var. <i>botrytis</i>	Cauliflowers
<i>Brassica oleracea</i> L. var. <i>cymosa</i> Duch.	Sprouting broccoli, Calabrese
<i>Brassica oleracea</i> L. var. <i>bullata</i> subvar. <i>gemmifera</i> DC.	Brussels sprouts
<i>Brassica oleracea</i> L. var. <i>bullata</i> DC. et var. <i>subauda</i> L.	Savoy cabbage
<i>Brassica oleracea</i> L. var. <i>capitata</i> L.f. <i>alba</i> DC.	White cabbage
<i>Brassica oleracea</i> L. var. <i>capitata</i> L.f. <i>rubra</i> (L.) Thell.	Red cabbage
<i>Brassica oleracea</i> L. var. <i>gongylodes</i> L.	Kohlrabi

PART II

SWEDE

NAME	COMMON NAME
<i>Brassica napus</i> L. var. <i>napobrassica</i> Peterm.	Swede
<i>Brassica napus</i> L. ssp. <i>oleifera</i> (Metzg.) Sinsk.	Swede rape including oilseed rape
<i>Brassica rapa</i> L. (partim)	Turnip rape
<i>Brassica rapa</i> L. var. <i>rapa</i> (L.) Thell.	Turnip
<i>Brassica juncea</i> (L.) Czern. et Coss. in Czern.	Brown mustard
<i>Brassica nigra</i> (L.) W. Koch	Black mustard
<i>Sinapis alba</i> L.	White mustard

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

This Scheme prescribes the varieties of fodder kale and swedes in respect of which grants of plant breeders' rights may be made and prescribes the period during which those rights may be exercised.

The Plant Varieties and Seeds Act 1964, as read with this Scheme, provides that infringements of the rights in the registered name of a variety of fodder kale and swedes may be the subject of legal proceedings when committed in connection with the class of variety which is specified for that purpose in paragraph 5 of the Scheme.

This Scheme also provides that a compulsory licence granted by the Controller of Plant Variety Rights in respect of a variety of fodder kale shall not have effect during a period of 3 years from the date of the grant of rights in that variety.

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