
STATUTORY INSTRUMENTS

1985 No. 1093

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Compositae) Scheme 1985

<i>Made</i>	- - - -	<i>10th July 1985</i>
<i>Laid before Parliament</i>		<i>25th July 1985</i>
<i>Coming into Operation</i>		<i>16th August 1985</i>

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) and 5(7) of, and paragraph 1(1) of Schedule 3 to, the Plant Varieties and Seeds Act 1964⁽¹⁾ as extended to Northern Ireland⁽²⁾ and now vested in them⁽³⁾, and the said Minister and the Secretary of State, acting jointly, in exercise of the said powers as extended to the Isle of Man⁽⁴⁾, 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, and in exercise of all other powers enabling them in that behalf, hereby make the following scheme:—

Title and commencement

1. This scheme may be cited as the Plant Breeders' Rights (Compositae) Scheme 1985 and shall come into operation on 16th August 1985.

Revocation and transitional provisions

2.—(1) Subject to sub-paragraph (2) below, the Plant Breeders' Rights (Dahlias) Scheme 1966⁽⁵⁾ and the Plant Breeders' Rights (Perennial Chrysanthemums) Scheme 1968⁽⁶⁾ are hereby revoked.

(2) Notwithstanding the revocation of the schemes referred to in sub-paragraph (1) above, the date when each of those schemes came into force, being 15th June 1966 and 26th April 1968 respectively, shall continue to be the effective date for the purposes of the previous commercialisation rules contained in paragraph 2 of Part II of Schedule 2 to the Act in relation to any plant variety mentioned in those schemes.

(1) section 3 was amended by the Plant Varieties Act 1983 (c.17), section 1 and paragraph 1(1) of Schedule 3 was amended by section 2 of that Act.
(2) By the Plant Varieties and Seeds (Northern Ireland) Order 1964 (S.I. 1964/1574).
(3) In the case of the Secretary of State for Wales, by virtue of S.I. 1978/272.
(4) By the Plant Varieties and Seeds (Isle of Man) Order 1969 (S.I. 1969/1829).
(5) amended by the Plant Varieties Act 1983, section 1(4).
(6) amended by the Plant Varieties Act 1983, section 1(4).

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Plant varieties for which plant breeders' rights may be granted

3. There are prescribed for the purposes of the grant of plant breeders' rights all plant varieties of Compositae which conform with the characteristics of cultivated plant varieties of any of the genera or species specified in Column 1 of the Schedule to this scheme.

Period for which rights are exercisable

4. The period for which plant breeders' rights shall be exercisable in respect of any of the plant varieties referred to in the last preceding paragraph shall be 20 years.

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

5. In relation to any of the plant varieties referred to in paragraph 3 of this scheme, the class of plant varieties 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) consists of all plant varieties of the genus specified in Column 2 of the said Schedule opposite the genus or species to which that plant variety belongs.

Additional rights

6. Plant breeders' rights exercisable in respect of any of the plant varieties referred to in paragraph 3 of this scheme shall include the exclusive right to produce or propagate and to authorise others to produce or propagate that plant variety for the purpose of selling cut blooms of that variety.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 10th July 1985.

L.S.

Michael Jopling
Minister of Agriculture, Fisheries and Food

27th June 1985

George Younger
Secretary of State for Scotland

3rd July 1985

Nicholas Edwards
Secretary of State for Wales

5th July 1985

Douglas Hurd
Secretary of State for Northern Ireland

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28th June 1985

Leon Brittan
Secretary of State for the Home Department
(being the Secretary of State concerned with
matters relating to the Isle of Man)
Home Office

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SCHEDULE

Paragraphs 3 and 5

<i>Column 1</i>	<i>Column 2</i>
<i>Genus or Species</i>	<i>Classes of plant varieties prescribed for the purposes of Section 5(7)</i>
<i>Dahlia</i> Car.	<i>Dahlia</i>
<i>Chrysanthemum morifolium</i> Ramatuelle	
<i>C. indicum</i> Auct. non L.	
<i>C. sinense</i> Sabine	
<i>C. chinense</i> Hort.	
<i>C. hortorum</i> W. Miller	
<i>C. japonense</i> (Makino) Nakai	
<i>C. vestitum</i> (Hemsley) Stapf	
<i>C. makinoi</i> Matsumura and Nakai	
<i>C. sibiricum</i> (DC.) Fischer ex Turcz.	
<i>C. zawadskii</i> Herbach and varieties	
<i>C. rubellum</i> Sealy (<i>C. erubescens</i> Hort. non Stapf)	
<i>C. cuneifolium</i> Kitamura	<i>Chrysanthemum</i>
<i>C. okiense</i> Kitamura	
<i>C. boreale</i> (Makino) Makino	
<i>C. aphrodite</i> (Kitamura)	
<i>C. articum</i> Auct. non L.	
<i>C. yezoense</i> Maekawa	
Korean Chrysanthemums	
Konji Chrysanthemums	
Cascade Chrysanthemums	
<i>C. ornatum</i> Hemsley	
<i>C. Koreanum</i> (coreanum) Hort.	
<i>Gerbera</i> Cass	<i>Gerbera</i>

EXPLANATORY NOTE

This scheme revokes and supersedes the Plant Breeders' Rights (Dahlias) Scheme 1966 and the Plant Breeders' Rights (Perennial Chrysanthemums) Scheme 1968 but so that the effective dates of the coming into force of these schemes continue to apply for the purposes of the previous commercialisation rules contained in paragraph 2 of Part II of Schedule 2 to the Plant Varieties and Seeds Act 1964.

The scheme prescribes the varieties of Compositae, being those which belong to the genera or species specified in Column 1 of the Schedule in respect of which grants of plants breeders' rights may be made, and also prescribes 20 years as the period during which the rights may be exercised. The scheme also adds *Gerbera* to the genera of Compositae for which plant breeders' rights may now be granted (paragraphs 3 and 4 and the Schedule).

The 1964 Act, as read with this scheme, provides that infringements of the rights in the registered name of a variety of Compositae may be the subject of legal proceedings when committed in connection with the plant or variety which is specified for that purpose in paragraph 5 of this scheme.

Plant breeders' rights in respect of the varieties of Compositae to which this scheme applies are extended to the production and propagation of the varieties for the purpose of selling cut blooms of these varieties (paragraph 6).