
STATUTORY INSTRUMENTS

1995 No. 526

PLANT BREEDERS' RIGHTS

**The Plant Breeders' Rights
(Herbaceous Perennials) Scheme 1995**

Made - - - - 28th February 1995
Laid before Parliament 3rd March 1995
Coming into force - - 24th March 1995

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, as respects the United Kingdom, in exercise of the powers conferred on them by sections 1(1) and (5), 3(1), 4(1), 5(7), 7(2) and 38(1) of, and paragraph 1(1) of Schedule 3 to, the Plant Varieties and Seeds Act 1964⁽¹⁾ as extended to Northern Ireland⁽²⁾, and the said Minister and the Secretary of State, acting jointly, as respects the Isle of Man, in exercise of the said powers as extended to the Isle of Man⁽³⁾, 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, commencement and interpretation

1.—(1) This Scheme may be cited as the Plant Breeders' Rights (Herbaceous Perennials) Scheme 1995 and shall come into force on 24th March 1995.

(2) In this Scheme “the Act” means the Plant Varieties and Seeds Act 1964 (including that Act as extended to Northern Ireland and as extended to the Isle of Man).

Revocations

2. The Plant Breeders' Rights (Herbaceous Perennials) Scheme 1969⁽⁴⁾, the Plant Breeders' Rights (Herbaceous Perennials) (Variation) Scheme 1985⁽⁵⁾ and the Plant Breeders' Rights (Herbaceous Perennials) (Variation) Scheme 1993⁽⁶⁾ are hereby revoked.

(1) 1964 c. 14; section 3 was amended by section 1 of the Plant Varieties Act 1983 (c. 17); section 4 was amended by section 4 of that Act; paragraph 1(1) of Schedule 3 was amended by section 2 of that Act; section 38(1) (as amended by S.I. 1978/272) contains a definition of “the Ministers” relevant to the exercise of the statutory powers under which this Scheme is made.
(2) By section 39(3) of the Plant Varieties and Seeds Act 1964 and by S.I. 1964/1574.
(3) By S.I. 1969/1829, amended by S.I. 1987/2210.
(4) S.I. 1969/1023.
(5) S.I. 1985/1090.
(6) S.I. 1993/2780.

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 herbaceous perennials 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.

Periods 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 paragraph 3 of this Scheme shall be the period of years specified in column 2 of the said Schedule opposite the genus or species to which that plant variety belongs.

Classes of plant varieties for the purposes 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 genera or species specified in column 3 of the said Schedule opposite the genus or species to which that plant variety belongs.

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

6. In relation to any of the plant varieties referred to in paragraph 3 of this Scheme the period, if any, 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 or group specified in a Scheme shall not have effect for a prescribed period after the grant of rights in that plant variety) shall be the period of years specified in column 4 of the said Schedule opposite the genus or species to which that plant variety belongs.

Additional rights

7. Plant breeders' rights exercisable in respect of any of the plant varieties referred to in paragraph 3 of this Scheme shall, where the word "included" appears in column 5 of the said Schedule opposite the genus or species to which that plant variety belongs, 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.

13th February 1995

Howe
Parliamentary Secretary, Ministry of Agriculture,
Fisheries and Food

14th February 1995

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

Signed by authority of the Secretary of State for Wales

14th February 1995

Gwilym Jones
Parliamentary Under Secretary of State, Welsh
Office

28th February 1995

Denton of Wakefield
Parliamentary Under Secretary of State,
Northern Ireland Office

14th February 1995

Michael Howard
Secretary of State for the Home
Department (being the Secretary of State
concerned with matters relating to the Isle of
Man)

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SCHEDULE					Paragraphs 3, 4, 5, 6 and 7
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	
<i>Genus or Species</i>	<i>Period of years for which rights are exercisable</i>	<i>Class of plant varieties prescribed for purposes of section 5(7)</i>	<i>Period of years prescribed for purposes of section 7(2)</i>	<i>Additional rights</i>	
<i>Achillea</i> L.	20	<i>Achillea</i>	—	—	
<i>Aconitum</i> L.	20	<i>Aconitum</i>	3	—	
<i>Alstroemeria</i> L.	20	<i>Alstroemeria</i>	2	Included	
<i>Anchusa italica</i> Retz.	20	<i>Anchusa</i>	—	—	
<i>Anchusa angustissima</i> K. Koch	20	<i>Anchusa</i>	1	—	
<i>Anemone hupehensis</i> Lemoine	20	<i>Anemone hupehensis</i>	—	—	
<i>Anthemis</i> L.	20	<i>Anthemis</i>	—	—	
<i>Armeria</i> (DC.) Willd.	20	<i>Armeria</i>	2	—	
<i>Artemisia</i> L.	20	<i>Artemisia</i>	—	—	
<i>Astelia banksii</i>	25	<i>Astelia</i>	3	—	
<i>Astelia chathamica</i>	25	<i>Astelia</i>	3	—	
<i>Astelia fragrans</i>	25	<i>Astelia</i>	3	—	
<i>Astelia graminea</i>	25	<i>Aselia</i>	3	—	
<i>Astelia grandis</i>	25	<i>Astelia</i>	3	—	
<i>Astelia linearis</i>	25	<i>Astelia</i>	3	—	
<i>Astelia nervosa</i>	25	<i>Astelia</i>	3	—	
<i>Astelia nivicola</i>	25	<i>Astelia</i>	3	—	
<i>Astelia petriei</i>	25	<i>Astelia</i>	3	—	
<i>Astelia skottsbergii</i>	25	<i>Astelia</i>	3	—	
<i>Astelia solandri</i>	25	<i>Astelia</i>	3	—	
<i>Astelia subulata</i>	25	<i>Astelia</i>	3	—	
<i>Astelia trinervia</i>	25	<i>Astelia</i>	3	—	
<i>Aster</i> L.	20	<i>Aster</i>	—	Included	
<i>Astilbe</i> Buch.-Ham.	20	<i>Astilbe</i>	2	Included	

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<i>Column 1</i> <i>Genus or</i> <i>Species</i>	<i>Column 2</i> <i>Period of years</i> <i>for which rights</i> <i>are exercisable</i>	<i>Column 3</i> <i>Class of plant</i> <i>varieties</i> <i>prescribed for</i> <i>purposes of</i> <i>section 5(7)</i>	<i>Column 4</i> <i>Period of years</i> <i>prescribed for</i> <i>purposes of</i> <i>section 7(2)</i>	<i>Column 5</i> <i>Additional</i> <i>rights</i>
<i>Astrantia</i> L.	25	<i>Astrantia</i>	3	—
<i>Bergenia</i> Moench.	20	<i>Bergenia</i>	2	—
<i>Caltha</i> L.	20	<i>Caltha</i>	—	—
<i>Campanula</i> L.	20	<i>Campanula</i>	1	Included
<i>Catananche</i> L.	20	<i>Catananche</i>	1	—
<i>Centaurea</i> L.	20	<i>Centaurea</i>	—	—
<i>Ceratostigma</i> <i>plumbaginoides</i> Bunge	20	<i>Ceratostigma</i>	—	—
<i>Chrysanthemum</i> <i>coccineum</i> Willd. (Phrethrum)	20	<i>Chrysanthemum</i> <i>coccineum</i>	—	Included
<i>Chrysanthemum</i> <i>maximum</i> Ramond	20	<i>Chrysanthemum</i> <i>maximum</i>	—	Included
<i>Cimicifuga</i> Wernischek	20	<i>Cimicifuga</i>	1	—
<i>Clematis</i> <i>heracleifolia</i> DC.	20	<i>Clematis</i>	1	—
<i>Convallaria</i> L.	20	<i>Convallaria</i>	1	Included
<i>Coreopsis</i> L.	20	<i>Coreopsis</i>	—	—
<i>Cortaderia</i> Stapf	20	<i>Cortaderia</i>	3	Included
<i>Crocoshmia</i> Planch.	25	<i>Crocoshmia</i> and <i>Curtonus</i>	3	Included
<i>Curtonus</i> N.E. Brown	25	<i>Curtonus</i> and <i>Crocoshmia</i>	3	Included
<i>Diascia</i> Link & Otto	25	<i>Diascia</i>	—	—
<i>Dicentra</i> Borckh. Corr. Bernh.	20	<i>Dicentra</i>	1	—
<i>Doronicum</i> L.	20	<i>Doronicum</i>	—	—
<i>Echinops</i> L.	20	<i>Echinops</i>	1	—
<i>Erigeron</i> L.	20	<i>Erigeron</i>	—	—
<i>Eryngium</i> L.	20	<i>Eryngium</i>	1	—

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<i>Euphorbia</i> L.	20	<i>Euphorbia</i>	1	—
<i>Fragaria</i> L.	20	<i>Fragaria</i>	—	—
<i>Gaillardia</i> Fougeroux	20	<i>Gaillardia</i>	1	—
<i>Galega</i> L.	20	<i>Galega</i>	1	—
<i>Geranium</i> L.	20	<i>Geranium</i>	—	—
<i>Geum</i> L.	20	<i>Geum</i>	1	—
<i>Gypsophila</i> L.	20	<i>Gypsophila</i>	2	Included
<i>Helenium</i> L.	20	<i>Helenium</i>	—	—
<i>Helianthus</i> L.	20	<i>Helianthus</i> and <i>Heliopsis</i>	—	—
<i>Heliopsis</i> Pers.	20	<i>Heliopsis</i> and <i>Helianthus</i>	1	—
<i>Helipterum</i> <i>antheroides</i> (Sieb. Ex Spreng.) DC.	25	<i>Helipterum</i>	—	—
<i>Helleborus</i> L.	20	<i>Helleborus</i>	3	Included
<i>Hemerocallis</i> L.	20	<i>Hemerocallis</i>	1	—
<i>Heuchera</i> L.	20	<i>Heuchera</i>	—	—
<i>Holcus</i> L.	20	<i>Holcus</i>	—	—
<i>Hosta</i> Tratt.	20	<i>Hosta</i>	2	—
<i>Iris</i> L. (excluding bulbous varieties)	20	<i>Iris</i>	2	—
<i>Kniphofia</i> Moench.	20	<i>Kniphofia</i>	3	—
<i>Liatris</i> Gaertn. Ex Schreb.	20	<i>Liatris</i>	1	Included
<i>Ligularia</i> Cass.	20	<i>Ligularia</i>	1	—
<i>Limonium</i> Mill. (Statice)	20	<i>Limonium</i>	1	Included
<i>Lobelia</i> L.	20	<i>Lobelia</i>	1	—
<i>Lupinus</i> L.	20	<i>Lupinus</i>	1	—
<i>Lychnis</i> L.	20	<i>Lychnis</i>	—	—

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<i>Lysimachia</i> L. (ornamental varieties only)	25	<i>Lysimachia</i>	—	—
<i>Lythrum</i> L.	20	<i>Lythrum</i>	1	—
<i>Malva</i> L.	20	<i>Malva</i>	1	—
<i>Monarda</i> L.	20	<i>Monarda</i>	—	—
<i>Nepeta</i> L.	20	<i>Nepeta</i>	—	—
<i>Oenothera</i> L.	20	<i>Oenothera</i>	1	—
<i>Origanum</i> L.	20	<i>Origanum</i>	—	—
<i>Paeonia</i> L.	25	<i>Paeonia</i>	5	Included
<i>Papaver</i> L.	20	<i>Papaver</i>	—	—
<i>Penstemon</i> Schmid.	20	<i>Penstemon</i>	1	—
<i>Phlox</i> L.	20	<i>Phlox</i>	1	—
<i>Phygelius</i> E. Mey.	20	<i>Phygelius</i>	—	—
<i>Physostegia</i> Benth.	20	<i>Physostegia</i>	1	—
<i>Polemonium</i> L.	20	<i>Polemonium</i>	—	—
<i>Polygonatum</i> Mill.	20	<i>Polygonatum</i>	1	—
<i>Polygonum</i> L.	20	<i>Polygonum</i>	1	—
<i>Potentilla</i> L.	20	<i>Potentilla</i>	1	—
<i>Primula</i> L.	20	<i>Primula</i>	1	Included
<i>Pulmonaria</i> L.	20	<i>Pulmonaria</i>	—	—
<i>Pulsatilla</i> Mill. (<i>Anemone</i> <i>pulsatilla</i> L. and allies)	20	<i>Pulsatilla</i>	1	—
<i>Rudbeckia</i> L.	20	<i>Rudbeckia</i>	1	—
<i>Salvia</i> L.	20	<i>Salvia</i>	1	—
<i>Saponaria</i> L.	20	<i>Saponaria</i>	—	—
<i>Scabiosa</i> L.	20	<i>Scabiosa</i>	1	Included
<i>Schizostylis</i> Backh. & Harv.	20	<i>Schizostylis</i>	1	Included

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<i>Sedum</i> L.	20	<i>Sedum</i>	—	—
<i>Sidalcea</i> A. Gray	20	<i>Sidalcea</i>	—	—
<i>Silene</i> L.	20	<i>Silene</i>	—	—
<i>Sisyrichium</i> L.	20	<i>Sisyrichium</i>	—	—
<i>Solidago</i> L.	20	<i>Solidago</i>	—	—
<i>Stachys</i> L.	20	<i>Stachys</i>	—	—
<i>Stokesia</i> L'Herit.	20	<i>Sokesia</i>	1	—
<i>Symphytum</i> L. (ornamental varieties only)	25	<i>Symphytum</i>	—	—
<i>Teucrium</i> <i>chamaedrys</i> L.	20	<i>Teucrium</i>	—	—
<i>Thalictrum</i> L.	20	<i>Thalictrum</i>	3	—
<i>Tiarella</i> L.	20	<i>Tiarella</i>	—	—
<i>Tradescantia</i> L.	20	<i>Tradescantia</i>	—	—
<i>Trollius</i> L.	20	<i>Trollius</i>	1	—
<i>Veratrum</i> L.	20	<i>Veratrum</i>	3	—
<i>Verbascum</i> L.	20	<i>Verbascum</i>	1	—
<i>Veronica</i> L.	20	<i>Veronica</i>	1	—
<i>Viola</i> L.	20	<i>Viola</i>	—	Included

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme, made under the Plant Varieties and Seeds Act 1964, supersedes the Plant Breeders' Rights (Herbaceous Perennials) Scheme 1969 as amended.

The Scheme, which comes into force on 24th March 1995, prescribes the varieties of herbaceous perennials in respect of which grants of plant breeders' rights may be made and adds *Diascia* Link & Otto and *Helipterum anthemoides* (Sieb. ex Spreng.) DC., and ornamental varieties only of *Lysimachia* L. and *Symphytum* L. to the genera and species of plant varieties which may be made the subject of such rights (paragraph 3 and column 1 of the Schedule).

The Scheme also prescribes the period of years during which such plant breeders' rights may be exercised (paragraph 4 and column 2 of the Schedule).

The 1964 Act, as read with this Scheme, provides that infringements of the rights in the registered name of a variety of herbaceous perennial to which this Scheme applies may be the subject of legal proceedings when committed in connection with a variety of the genera or species which are specified for that purpose in column 3 of the Schedule (paragraph 5).

The Scheme also provides that a compulsory licence granted by the Controller of Plant Variety Rights in respect of a variety of herbaceous perennial to which the Scheme applies shall not have effect during the period of years, if any, from the date of the grant of rights in that variety specified for that purpose in column 4 of the Schedule (paragraph 6).

Plant breeders' rights in respect of the varieties of herbaceous perennials to which the Scheme applies are extended, where so indicated in column 5 of the Schedule, to the production and propagation of such varieties for the purpose of selling cut blooms of those varieties (paragraph 7).