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STATUTORY INSTRUMENTS

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**1995 No. 530**

**PLANT BREEDERS' RIGHTS**

**The Plant Breeders' Rights (Vegetables) (including Field Beans and Field Peas) (Variation) 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), 5(7), 7(2) and 38(1) of the Plant Varieties and Seeds Act 1964<sup>(1)</sup> as extended to Northern Ireland<sup>(2)</sup>, 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<sup>(3)</sup>, 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 (Vegetables) (including Field Beans and Field Peas) (Variation) 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).

**Variation of the principal Scheme**

2. The Plant Breeders' Rights (Vegetables) (including Field Beans and Field Peas) Scheme 1980<sup>(4)</sup> shall be varied in accordance with the following provisions of this Scheme.

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- (1) 1964 c. 14; section 3 was amended by section 1 of the Plant Varieties Act 1983 (c. 17); 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. 1980/319 as amended by section 1(4) of the Plant Varieties Act 1983 (c. 17).

### Variation of paragraph 6

3. In paragraph 6 the classes 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) shall be varied as follows:

- (a) after sub-paragraph (i) there shall be added the following sub-paragraph—
- “(ia) in relation to plant varieties of leeks of all plant varieties of the species specified in Part IA of Schedule 3 to this Scheme;”;
- (b) after sub-paragraph (ii) there shall be added the following sub-paragraph—
- “(iia) in relation to plant varieties of *Brassica carinata* of all plant varieties of the species specified in Part IIA of Schedule 3 to this Scheme;”.

### Variation of Schedule 2

4. Schedule 2 (which prescribes the species of vegetables of which varieties may be the subject of plant breeders' rights) shall be varied as follows:

- (a) immediately after the item relating to *Apium graveolens* L. there shall be inserted the following item—

<i>Column 1</i> <i>Species</i>	<i>Column 2</i> <i>Period of years for which Rights are exercisable</i>	<i>Column 3</i> <i>Period of years prescribed for purposes of Section 7(2)</i>
<i>Name</i> <i>Allium porrum</i> L.	<i>Common Name</i> Leek	20
		—”.

- (b) immediately after the item relating to *Beta vulgaris* L. var. *esculenta* L. there shall be inserted the following item—

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Brassica carinata</i>	Abyssinian cabbage	20
A. Braun.	Ethiopian cabbage	
	TexSel Greens	
		—”.

### Variation of Schedule 3

5. Schedule 3 (which specifies the species of which plant varieties are prescribed in connection with the use of names likely to deceive or cause confusion) shall be varied as follows:

- (a) after Part I there shall be added the following Part—

“PART IA  
LEEKS

Name	Common Name
<i>Allium porrum</i> L.	Leeks, garlic, onions, shallots”;

and

(b) after Part II there shall be added the following Part—

“PART IIA  
BRASSICA CARINATA

Name	Common Name
<i>Brassica carinata</i> A. Braun	Abyssinian cabbage, Ethiopian cabbage, TexSel greens
<i>Brassica rapa</i> L.	Turnip rape, turnip
<i>Brassica napus</i> L.	Swede, Swede rape, oilseed rape”

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 for  
Northern Ireland

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

14th February 1995

## EXPLANATORY NOTE

*(This note is not part of the Scheme)*

This Scheme varies the Plant Breeders' Rights (Vegetables) (including Field Beans and Field Peas) Scheme 1980 by adding leeks and *Brassica carinata* to the species of which plant varieties may be the subject of plant breeders' rights under Part I of the Plant Varieties and Seeds Act 1964. The period prescribed as that during which such rights may be exercised is 20 years. The 1980 Scheme, as read with the 1964 Act, and as varied by this Scheme, provides that during that period infringements of the rights in the registered name of a variety of leek or *Brassica carinata* may be the subject of legal proceedings when committed in connection with any such variety.