

1966 No. 1226

PLANT BREEDERS' RIGHTS**The Plant Breeders' Rights (Apples and Pears) Scheme 1966**

<i>Made</i> - - - -	16th September 1966
<i>Laid before Parliament</i>	30th September 1966
<i>Coming into Operation</i>	3rd October 1966

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for the Home Department (being the Secretary of State concerned with agriculture in Northern Ireland), acting jointly, in exercise of the powers conferred on them by sections 1, 3, 5 and 7 of, and paragraph 1 of Schedule 3 to, the Plant Varieties and Seeds Act 1964(a), as extended to Northern Ireland by the Plant Varieties and Seeds (Northern Ireland) Order 1964(b), and of all other powers enabling them in that behalf, after consultation 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:—

Citation and Commencement

1. This Scheme may be cited as the Plant Breeders' Rights (Apples and Pears) Scheme 1966 and shall come into operation on 3rd October 1966.

Interpretation

2.—(1) In this Scheme, unless the context otherwise requires—
 “the Act” means the Plant Varieties and Seeds Act 1964 as extended to Northern Ireland;
 “the Controller” means the Controller of Plant Variety Rights;
 “plant breeders' rights” means rights which may be granted in accordance with Part I of the Act;
 “plant variety” means any clone, line, hybrid or genetic variant.

(2) The Interpretation Act 1889(c) shall apply to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament.

Plant Varieties to which the Scheme Applies

3. There are prescribed for the purposes of this Scheme all varieties of apples which conform with the characteristics of cultivated varieties of the species *Malus domestica* BORKH and all varieties of apple rootstocks of *Malus spp.* and all varieties of pears which conform with the characteristics of cultivated varieties of the species *Pyrus communis* and all varieties of pear rootstocks of *Pyrus spp.*

Period for which Rights are Exercisable

4. The prescribed period for which plant breeders' rights shall be exercisable in respect of the plant varieties referred to in the last preceding paragraph shall be 25 years.

Class of Plant Varieties for the Purposes of Section 5(7) of the Act

5. In relation to 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 varieties of apples and pears.

(a) 1964 c.14.

(b) S.I. 1964/1574 (1964 III, p.3543).

(c) 1889 c.63.

Period Prescribed for the Purposes of Section 7(2) of the Act

6. In relation to the plant varieties referred to in paragraph 3 of this Scheme the period prescribed for the purposes of section 7(2) of the Act (which provides that 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 variety) shall be 3 years.

Additional Rights

7. Plant breeders' rights exercisable in respect of the plant varieties, other than apple rootstock varieties of *Malus spp.* and pear rootstock varieties of *Pyrus spp.* referred to in paragraph 3 of this Scheme shall include the exclusive right to propagate and to authorise others to propagate any such variety for the purpose of selling fruit of that variety.

In Witness whereof the official seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 8th September 1966.

(L.S.)

Frederick Peart,
Minister of Agriculture,
Fisheries and Food.

Given under the seal of the Secretary of State for Scotland on 12th September 1966.

(L.S.)

William Ross,
Secretary of State for Scotland.

Given under the hand of the Secretary of State for the Home Department on 16th September 1966.

Roy Jenkins,
Secretary of State for the
Home Department.

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

This Scheme, made under the Plant Varieties and Seeds Act 1964 prescribes the varieties of apples and pears in respect of which grants of plant breeders' rights may be made and also prescribes the period of 25 years as that during which the rights may be exercised.

The aforesaid Act, as read with this Scheme, provides that infringements of the rights in the registered name of a variety of apple or pear may be the subject of legal proceedings when committed in connection with any other variety of apple or pear.

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

Plant breeders' rights in respect of any variety of apple or pear, other than rootstocks, to which the Scheme applies are extended to the propagation of the variety for the purpose of selling fruit.