
 STATUTORY INSTRUMENTS

1985 No. 1094

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Poinsettias) Scheme 1985

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

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^(a) as extended to Northern Ireland^(b) and now vested in them^(c), and the said Minister and the Secretary of State, acting jointly, in exercise of the said powers as extended to the Isle of Man^(d), 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 (Poinsettias) Scheme 1985 and shall come into operation on 16th August 1985.

Plant varieties for which plant breeders' rights may be granted

2. There are prescribed for the purposes of the grant of plant breeders' rights all plant varieties of poinsettias which conform with the characteristics of cultivated plant varieties of *Euphorbia pulcherrima* Wild ex Klotzsch.

Period for which rights are exercisable

3. 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 the period of 20 years.

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

4. In relation to *Euphorbia pulcherrima* Wild ex Klotzsch the class of plant varieties prescribed for the purposes of section 5(7) of the Plant Varieties and Seeds Act 1964 (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 *Euphorbia* L.

(a) 1964 c. 14; 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.

(b) By the Plant Varieties and Seeds (Northern Ireland) Order 1964 (S.I. 1964/1574).

(c) In the case of the Secretary of State for Wales, by virtue of S.I. 1978/272.

(d) By the Plant Varieties and Seeds (Isle of Man) Order 1969 (S.I. 1969/1829).

Additional rights

5. Plant breeders' rights exercisable in respect of any of the plant varieties referred to in paragraph 2 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.



Michael Jopling,
Minister of Agriculture,
Fisheries and Food.

George Younger,
Secretary of State for Scotland.

27th June 1985.

Nicholas Edwards,
Secretary of State for Wales.

3rd July 1985.

Douglas Hurd,
Secretary of State for Northern Ireland.

5th July 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.
28th June 1985.

EXPLANATORY NOTE

(This Note is not part of the Scheme.)

This scheme prescribes the varieties of poinsettias being those which belong to the species *Euphorbia pulcherrima* Wild ex Klotzsch in respect of which grants of plant breeders' rights may be made, and also prescribes the period during which the rights may be exercised (paragraphs 2 and 3).

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 poinsettias may be the subject of legal proceedings when committed in connection with any variety of the genus *Euphorbia* L (paragraph 4).

Plant breeders' rights in respect of varieties of poinsettias are extended to the production or propagation of the varieties for the purpose of selling cut blooms thereof (paragraph 5).

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