
 STATUTORY INSTRUMENTS

1985 No. 1096

PLANT BREEDERS' RIGHTS**The Plant Breeders' Rights (Soft Fruits) (Variation)
Scheme 1985**

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| <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), 5(7) and 7(2) 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 (Soft Fruits) (Variation) Scheme 1985 and shall come into operation on 16th August 1985.

Variation of principal scheme

2. The Plant Breeders' Rights (Soft Fruits) Scheme 1980^(e) shall be varied as follows:—

- (a) for sub-paragraphs (iv) and (v) of paragraph 6 (which specify the classes of plant varieties in relation to raspberries and raspberry × blackberry hybrids respectively for the purposes of section 5(7) of the Plant Varieties and Seeds Act 1964) there shall be substituted the following sub-paragraph—

“(iv) in relation to plant varieties of *Rubus* of all plant varieties of *Rubus* 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).

(e) S.I. 1980/331, amended by S.I. 1982/1114, and by the Plant Varieties Act 1983, section 1(4).

(b) at the end of paragraph 6 there shall be added the following subparagraph—

“(v) in relation to plant varieties of redcurrants of all plant varieties of redcurrants.”;

(c) in Column 1 of Schedule 2 (which specifies the genera or species of soft fruits of which varieties may be the subject of plant breeders' rights) for the words “Raspberries” and “Raspberry × blackberry hybrids” under the heading “Common Name” there shall be substituted the words “*Rubus*” and “*Rubus* hybrids” respectively; and

(d) at the end of Schedule 2 there shall be added the following entry—

| Column 1 <i>Name</i> <i>Common Name</i> | Column 2 | Column 3 | Column 4 |
|--|----------|----------|----------|
| “ <i>Ribes</i> Redcurrants | 25 | 2 | Included |

”

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 varies the Plant Breeders' Rights (Soft Fruits) Scheme 1980 by extending the list of genera and species of which plant varieties may be the subject of plant breeders' rights under Part I of the Plant Varieties and Seeds Act 1964 to the whole of the genus *Rubus* and to redcurrants (paragraphs 2(a) and (b)).

Under the 1980 Scheme as varied by the Plant Breeders' Rights (Soft Fruits) (Variation) Scheme 1982, of the genus *Rubus* only raspberries and raspberry × blackberry hybrids could be the subject of plant breeders' rights. Twenty-five years is prescribed by the 1980 Scheme as amended by the Plant Varieties Act 1983 as the period during which the rights may be exercised in varieties of the genus *Rubus*, and twenty-five years is prescribed by this scheme (paragraph 2(d)), as the period during which rights may be exercised in varieties of redcurrants. The 1980 Scheme, as read with the 1964 Act and as varied by paragraph 2(a) of this scheme, provides that infringements of the rights in the registered name of any variety of the genus *Rubus* may be the subject of legal proceedings when committed in connection with any variety of *Rubus* and this scheme, as read with the 1964 Act, makes a similar provision in respect of varieties of redcurrants (paragraph 2(b)).

It is also provided by the 1980 Scheme as varied by paragraph 2(c) of this scheme in the case of varieties of the genus *Rubus*, and by paragraph 2(d) of this scheme in the case of varieties of redcurrants, that a compulsory licence granted by the Controller of Plant Variety Rights in respect of a variety of the above genus shall not have effect during the period of two years from the date of the grant of rights in that variety and that plant breeders' rights in respect of varieties of the genus *Rubus* and of redcurrants extend to the production or propagation of the varieties for the purpose of selling fruit thereof.

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