

STATUTORY INSTRUMENTS

1985 No. 1097

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Nerine) Scheme 1985

Made - - - 10th July 1985

Laid before Parliament 25th July 1985

Coming into Operation 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, commencement and interpretation

1.—(1) This scheme may be cited as the Plant Breeders' Rights (Nerine) Scheme 1985 and shall come into operation on 16th August 1985.

(2) In this scheme “the Act” means the Plant Varieties and Seeds Act 1964;

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 *Nerine* which conform with the characteristics of cultivated plant varieties of the genus *Nerine* Herb.

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 25 years.

(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).

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

4. In relation to *Nerine* Herb. 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 *Nerine*.

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

5. In relation to plant varieties of *Nerine* Herb. the period, 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 3 years.

Additional rights

6. 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.

L.S.

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 *Nerine*, being those which belong to the genus *Nerine* Herb., 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 (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 the genus *Nerine* Herb. may be the subject of legal proceedings when committed in connection with any variety of that genus (paragraph 4).

This scheme also provides that a compulsory licence granted by the Controller of Plant Variety Rights in respect of a variety of *Nerine* shall not have effect during a period of three years from the date of the grant of rights in that variety (paragraph 5).

Plant breeders' rights in respect of varieties of *Nerine* are extended to the production or propagation of the varieties for the purpose of selling cut blooms thereof (paragraph 6).

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