STATUTORY INSTRUMENTS

1978 No. 299

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Cabbages) Scheme 1978

Made - - - -	*28th February* 1978
Laid before Parliament	*10th March* 1978
Coming into Operation	*1st April* 1978

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Northern Ireland (being the Secretary of State concerned with agriculture in Northern Ireland), acting jointly, in exercise of the powers conferred on them by sections 1(1) and (5), 3(1) and 5(7) of the Plant Varieties and Seeds Act 1964(**a**), (extended to Northern Ireland by the Plant Varieties and Seeds (Northern Ireland) Order 1964(**b**) and to the Isle of Man by the Plant Varieties and Seeds (Isle of Man) Order 1969(**c**)) 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 (Cabbages) Scheme 1978 and shall come into operation on 1st April 1978.

Interpretation

2.—(1) In this scheme, unless the context otherwise requires—
"the Act" means the Plant Varieties and Seeds Act 1964;
"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(**d**) shall apply to the interpretation of this scheme as it applies to the interpretation of an Act of Parliament.

Plant varieties for which plant breeders' rights may be granted

3. There are prescribed for the purposes of the grant of plant breeders' rights all plant varieties of cabbage which conform with the characteristics of cultivated plant varieties of the species *Brassica oleracea* L. var. *bullata* DC. et var. *sabauda* L., *Brassica oleracea* L. var. *capitata* L. f. *alba* DC., and *Brassica oleracea* L. var. *capitata* L. f. *rubra* (L.) Thell.

Period for which rights are exercisable

4. 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 15 years.

(**a**) 1964 c. 14. (**b**) S.I. 1964/1574. (**c**) S.I. 1969/1829. (**d**) 1889 c. 63.

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

5. In relation to any of the varieties referred to in paragraph 3 of this scheme, the class of plant varieties prescribed for the puroses of section 5(7) of the Act (which enables a class 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 species specified in the Schedule to the scheme.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 22nd February 1978.

(L.S.).

John Silkin,
Minister of Agriculture, Fisheries and Food.

Bruce Millan,
Secretary of State for Scotland.

23rd February 1978.

Roy Mason,
Secretary of State for Northern Ireland.

28th February 1978.

SCHEDULE

SPECIES OF WHICH PLANT VARIETIES ARE PRESCRIBED FOR THE PURPOSES OF SECTION 5(7) OF THE ACT

Name	*Common Name*
Brassica campestris L. ssp. *oleifera* (Metzg.) Sinsk.	Turnip rape
Brassica napus L. var. *napobrassica* Peterm.	Swedes
Brassica napus L. ssp. *oleifera* (Metzg.) Sinsk.	Fodder rape and Oilseed rape
Brassica oleracea L. convar. *acephala* DC.	Fodder kale
Brassica oleracea L. var. *acephala* DC. subvar. *laciniata* L.	Curly kale or borecole
Brassica oleracea L. convar. *botrytis* (L.) Alef var. *botrytis*	Cauliflowers
Brassica oleracea L. var. *cymosa* Duch.	Sprouting broccoli, Calabrese
Brassica oleracea L. var. *bullata* subvar. *gemmifera* DC.	Brussels sprouts
Brassica oleracea L. var. *bullata* DC. et. var. *subauda* L.	Savoy Cabbage
Brassica oleracea L. var. *capitata* L. f. *alba* DC.	White Cabbage
Brassica oleracea L. var. *capitata* L. f. *rubra* (L.) Thell	Red Cabbage
Brassica oleracea L. var. *gongylodes* L.	Kohlrabi
Brassica rapa L. var. *rapa* (L.) Thell	Turnips

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 cabbage, in respect of which grants of plant breeders' rights may be made and also prescribes the period of 15 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 cabbage may be the subject of legal proceedings when committed in connection with a variety of a species which is specified for that purpose in the Schedule to the Scheme.

SI 1978/299
ISBN 0-11-083299-X

