STATUTORY INSTRUMENTS

1980 No. 321

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Cereals) Scheme 1980

Made - - - -	*6th March* 1980
Laid before Parliament	*14th March* 1980
Coming into Operation	*4th April* 1980

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 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 now vested in them (**d**) 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 (Cereals) Scheme 1980 and shall come into operation on 4th April 1980.

Revocation, and transitional provisions

2.—(1) Subject to sub-paragraph (2) below, the schemes specified in column 1 of Schedule 1 to this scheme are hereby revoked.

(2) Notwithstanding the revocation of the schemes referred to in sub-paragraph (1) above, the date when each of those schemes came into force, being the date specified in column 2 of Schedule 1 to this scheme opposite the reference to that scheme, shall continue to be the effective date for the purposes of the previous commercialisation rules contained in paragraph 2 of Part II of Schedule 2 to the Act in relation to any plant variety to which that scheme applies.

Interpretation

3. 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.

(**a**) 1964 c. 14.
(**b**) S.I. 1964/1574.
(**c**) S.I. 1969/1829.
(**d**) In the case of the Secretary of State for Wales by virtue of S.I. 1978/272.

Plant varieties for which plant breeders' rights may be granted

4. There are prescribed for the purposes of the grant of plant breeders' rights all plant varieties of cereals which conform with the characteristics of cultivated plant varieties of any of the genera or species specified in column 1 of Schedule 2 to this scheme.

Periods for which rights are exercisable

5. 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 years specified in column 2 of Schedule 2 to this Scheme opposite the genus or species to which that plant variety belongs.

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

6. The classes 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 decieve or cause confusion) consist:

(i) in relation to plant varieties of wheat, oats, barley and rye, of all plant varieties of wheat, oats, barley and rye;

(ii) in relation to plant varieties of maize, of all plant varieties of maize, popcorn and sweetcorn.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 20th February 1980.

(L.S.)

Peter Walker,
Minister of Agriculture,
Fisheries and Food.

George Younger,
Secretary of State for Scotland.

26th February 1980.

Nicholas Edwards,
Secretary of State for Wales.

29th February 1980.

Humphrey Atkins,
Secretary of State for Northern
Ireland.

6th March 1980.

SCHEDULE 1

Paragraph 2

Column 1 Schemes revoked subject to paragraph 2(2)	Column 2 Date of coming into force
The Plant Breeders' Rights (Barley) Scheme 1965 (S.I. 1965/364)	22 March 1965
The Plant Breeders' Rights (Oats) Scheme 1965 (S.I. 1965/365)	22 March 1965
The Plant Breeders' Rights (Wheat) Scheme 1965 (S.I. 1965/366)	22 March 1965
The Plant Breeders' Rights (Maize) Scheme 1978 (S.I. 1978/303)	1 April 1978

SCHEDULE 2

Paragraphs 4 and 5

Column 1 Genus or Species		Column 2 Period of years for which Rights are exercisable
Name	Common Name	
Triticum	Wheat	15
Avena	Oats	15
Hordeum vulgare L. sensu lato	Barley	15
Secale cereale L.	Rye	15
Zea mays L.	Maize (excluding sweet-corn and popcorn) ...	15

EXPLANATORY NOTE

(This Note is not part of the scheme.)

This scheme, made under the Plant Varieties and Seeds Act 1964, revokes and supersedes the schemes specified in column 1 of Schedule 1 but so that the effective dates of the coming into force of those schemes continue to apply for the purposes of the previous commercialisation rules contained in paragraph 2 of Part II of Schedule 2 to the Act.

This scheme prescribes the varieties of cereals being those which belong to the genera or species specified in column 1 of Schedule 2 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. This scheme adds rye as plant varieties of cereals for which plant breeders' rights may now be granted.

The aforesaid Act, as read with this scheme, provides that infringements of the rights in the registered name of a variety of cereal may be the subject of legal proceedings when committed in connection with the class of variety which is specified for that purpose in paragraph 6 of this scheme.