STATUTORY INSTRUMENTS

# 1969 No. 1025

# PLANT BREEDERS' RIGHTS

## The Plant Breeders' Rights (Conifers and Taxads) Scheme 1969

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| *Made* - - - - | *23rd July* 1969 |
| *Laid before Parliament* | *6th August* 1969 |
| *Coming into Operation* | *7th August* 1969 |

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for the Home Department (being the Secretary of State concerned with agriculture in Northern Ireland), acting jointly, in exercise of the powers conferred on them by sections 1, 3, 5 and 7 of, and paragraph 1 of Schedule 3 to, the Plant Varieties and Seeds Act 1964(a), as extended to Northern Ireland by the Plant Varieties and Seeds (Northern Ireland) Order 1964(b), 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 (Conifers and Taxads) Scheme 1969 and shall come into operation on 7th August 1969.

*Interpretation*

**2.**—(1) In this Scheme, unless the context otherwise requires—

"the Act" means the Plant Varieties and Seeds Act 1964 as extended to Northern Ireland;

"the Controller" means the Controller of Plant Variety Rights;

"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(c) 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 cultivated plant varieties of conifers of the Orders *Coniferales* or *Coniferae* and of taxads of the Order *Taxales.*

*Period for which Rights are Exercisable*

**4.** The period for which plant breeders' rights shall be exercisable in respect of the plant varieties referred to in the last preceding paragraph shall be 25 years.

*Classes of Plant Varieties for the Purposes of Section 5(7) of the Act*

**5.** 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 deceive or cause confusion) consist

(a) 1964 c. 14. (b) S.I. 1964/1574 (1964 III, p. 3543). (c) 1889 c. 63.

(*a*) subject to sub-paragraph (*b*) of this paragraph, in relation to plant varieties of each genus of the Orders *Coniferales* or *Coniferae*, of all plant varieties of that genus and in relation to plant varieties of each genus of the Order *Taxales*, of all plant varieties of that genus and (b) in relation to plant varieties of any of the genera *Cupressus* L., *Chamaecyparis* Spach. or x *Cupressocyparis* Dallimore of all plant varieties of all those genera.

*Period prescribed for the Purposes of Section 7(2) of the Act*

**6.** In relation to the plant varieties of the genera *Abies* Mill., *Cedrus* Trew, *Picea* A. Dietr., *Pinus* L., *Pseudotsuga* Carr., *Taxus* L., and *Tsuga* Carr., 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 and in relation to all other plant varieties of the Orders referred to in paragraph 3 of this scheme the aforesaid period shall be 5 years.

*Additional Rights*

**7.** Plant breeders' rights exercisable in respect of plant varieties of the genera *Thuja* L., *Cupressus* L., *Chamaecyparis* Spach., x *Cupressocyparis* Dallimore, *Taxus* and *Tsuga* Carr. shall include the exclusive right to produce or propagate and to authorise others to produce or propagate any such plant variety for the purpose of selling cut foliage thereof.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 18th July 1969.

(L.S.) *Cledwyn Hughes,*
Minister of Agriculture, Fisheries and Food.

Given under the Seal of the Secretary of State for Scotland on 21st July 1969.

(L.S.) *William Ross,*
Secretary of State for Scotland.

Given under the hand of the Secretary of State for the Home Department 23rd July 1969.

*James Callaghan,*
Secretary of State for the Home Department.

## EXPLANATORY NOTE

(*This Note is not part of the Scheme.*)

This Scheme, made under the Plant Varieties and Seeds Act 1964, prescribes all varieties of conifers of the Orders *Coniferales* or *Coniferae* and all varieties of taxads of the Order *Taxales* as plant varieties 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.

The aforesaid Act, as read with this Scheme, provides that infringements of the rights in the registered name of a variety of conifer of the Orders *Coniferales* or *Coniferae* or of a variety of taxad of the Order *Taxales* may be the subject of legal proceedings when committed in connection with any other variety of conifer or taxad of the same genus except that in relation to varieties of the genera *Cupressus, Chamaecyparis* or x *Cupressocyparis,* infringements may be the subject of legal proceedings when committed in connection with any other variety of any of those genera.

This Scheme also provides that a compulsory licence granted by the Controller of Plant Variety Rights in respect of a variety of conifer or taxad shall not have effect during a period of 5 years from the date of the grant of rights in that variety, except in the case of seven genera specified in paragraph 6 in respect of which the period shall be 3 years.

Plant breeders' rights in respect of varieties of six genera of conifer and taxad mentioned in paragraph 7 are extended to the production and propagation of the variety for the purpose of selling cut foliage.