STATUTORY INSTRUMENTS

1968 No. 620

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Plums and Damsons) Scheme 1968

Made - - - -	*9th April* 1968
Laid before Parliament	*25th April* 1968
Coming into Operation	*26th April* 1968

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 (Plums and Damsons) Scheme 1968 and shall come into operation on 26th April 1968.

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 plant varieties of plums which conform with the characteristics of cultivated plant varieties of the species *Prunus domestica* or *Prunus cerasifera*, all plant varieties of damsons, bullaces and mirabelles which conform with the characteristics of cultivated plant varieties of the species *Prunus insititia* and all plant varieties of plum and damson rootstocks of the species *Prunus domestica*, *Prunus cerasifera* or *Prunus insititia* including hybrids derived from any two or all of those species.

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

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.

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

5. In relation to the plant varieties referred to in paragraph 3 of this Scheme, 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 plums, damsons, bullaces and mirabelles and of plum and damson rootstocks.

Period Prescribed for the Purposes of Section 7(2) of the Act

6. In relation to the plant varieties referred to in paragraph 3 of this Scheme, 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

7. Plant breeders' rights exercisable in respect of the plant varieties, other than plum and damson rootstocks, referred to in paragraph 3 of this Scheme 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 fruit of that plant variety.

In Witness whereof the official seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 4th April 1968.

(L.S.)

Frederick Peart,
Minister of Agriculture, Fisheries and Food.

Given under the seal of the Secretary of State for Scotland on 8th April 1968.

(L.S.)

William Ross,
Secretary of State for Scotland.

Given under the hand of the Secretary of State for the Home Department on 9th April 1968.

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 the varieties of plums, damsons, bullaces and mirabelles and of plum and damson rootstocks 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 plum, damson, bullace or mirabelle or plum and damson rootstock may be the subject of legal proceedings when committed in connection with any other variety of plum, damson, bullace or mirabelle or plum and damson rootstock.

This Scheme also provides that a compulsory licence granted by the Controller of Plant Variety Rights in respect of a variety of plum, damson, bullace or mirabelle or plum and damson rootstock shall not have effect during a period of 3 years from the date of the grant of rights in that variety.

Plant breeders' rights in respect of any variety of plum, damson, bullace or mirabelle to which the Scheme applies are extended to the production or propagation of the variety for the purpose of selling fruit.