STATUTORY INSTRUMENTS

1980 No. 331

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Soft Fruits) 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), 5(7) and 7(2) of, and paragraph 1(1) of Schedule 3 to, 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 (Soft Fruits) 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;

"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.

(**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 soft fruits 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 deceive or cause confusion) consist:

(i) in relation to plant varieties of strawberries of all plant varieties of strawberries;

(ii) in relation to plant varieties of gooseberries of all plant varieties of gooseberries;

(iii) in relation to plant varieties of black currants of all plant varieties of black currants;

(iv) in relation to plant varieties of raspberries of all plant varieties of raspberries.

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

7. In relation to any of the plant varieties referred to in paragraph 4 of this scheme the period, if any, 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 the period of years specified in column 3 of Schedule 2 to this scheme opposite the genus or species to which that plant variety belongs.

Additional rights

8. Plant breeders' rights exercisable in respect of any of the plant varieties referred to in paragraph 4 of this scheme shall, where the word "included" appears in column 4 of Schedule 2 to this scheme opposite the genus or species to which that plant variety belongs, include the exclusive rights to produce or propagate and to authorise others to produce or propagate that plant variety for the purpose of selling fruit.

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.

26th February 1980. *George Younger,*
Secretary of State for Scotland.

29th February 1980. *Nicholas Edwards,*
Secretary of State for Wales.

6th March 1980. *Humphrey Atkins,*
Secretary of State for Northern Ireland.

Paragraph 2 SCHEDULE 1

Column 1 Schemes revoked subject to paragraph 2(2)	Column 2 Date of coming into force
SOFT FRUITS	
The Plant Breeders' Rights (Strawberries) Scheme 1966 (S.I. 1966/1225)	3 October 1966
The Plant Breeders' Rights (Raspberries) Scheme 1968 (S.I. 1968/618)	26 April 1968
The Plant Breeders' Rights (Black Currants) Scheme 1968 (S.I. 1968/621)	26 April 1968

Paragraphs 4, 5, 7 and 8 SCHEDULE 2

Column 1 Genus or Species		Column 2 Period of years for which Rights are exercisable	Column 3 Period of years prescribed for purposes of Section 7(2)	Column 4 Additional Rights
Name	Common Name			
Fragaria	Strawberries	15	–	Included
Ribes grossularia *Ribes uva-crispa*	Gooseberries	15	–	Included
Ribes nigrum *Ribes ussuriense* *Ribes dikuscha*	Black Currants	20	2	Included
Rubus idaeus *Rubus strigosus* *Rubus occidentalis*	Raspberries	20	2	Included

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 soft fruit 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 periods of years which are specified in column 2 of Schedule 2 as those during which the rights may be exercised. This scheme adds gooseberries to those soft fruits 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 soft fruit 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.

This scheme also provides that a compulsory licence granted by the Controller of Plant Variety Rights in respect of a variety of black currant or raspberry shall not have effect during a period of two years from the date of the grant of rights in that variety.

Plant breeders' rights in respect of certain varieties of soft fruit to which the scheme applies are extended where so indicated in column 4 of Schedule 2 to the production or propagation of the varieties for the purpose of selling soft fruit.