STATUTORY INSTRUMENTS

1980 No. 319

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Vegetables) (including Field Beans and Field Peas) 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 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 (Vegetables) (including Field Beans and Field Peas) 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;

(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 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.

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 vegetables (including Field beans and Field peas) which conform with the characteristics of cultivated plant varieties of any of the species specified in column 1 of Schedule 2 to this scheme.

Period 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 species to which the 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 celery (including celeriac) of all plant varieties of the species specified in Part I of Schedule 3 to this scheme;

(ii) in relation to plant varieties of beetroot of all plant varieties of the species specified in Part II of Schedule 3 to this scheme;

(iii) in relation to plant varieties of cauliflowers, brussels sprouts, savoy cabbage, white cabbage and red cabbage of all plant varieties of the species specified in Part III of Schedule 3 to this scheme;

(iv) in relation to plant varieties of turnips of all plant varieties of the species specified in Part IV of Schedule 3 to this scheme;

(v) in relation to plant varieties of marrows of all plant varieties of the species specified in Part V of Schedule 3 to this scheme;

(vi) in relation to plant varieties of lettuce of all plant varieties of the species specified in Part VI of Schedule 3 to this scheme;

(vii) in relation to plant varieties of runner beans and French beans of all plant varieties of the species specified in Part VII of Schedule 3 to this scheme;

(viii) in relation to plant varieties of broad beans and field beans of all plant varieties of the species specified in Part VIII of Schedule 3 to this scheme;

(ix) in relation to plant varieties of peas and field peas of all plant varieties of the species specified in Part IX of Schedule 3 to this scheme.

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 species to which that plant variety belongs.

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
The Plant Breeders' Rights (French Beans) Scheme 1967 (SI 1967/1456)	11 October 1967
The Plant Breeders' Rights (Peas) Scheme 1967 (SI 1967/1457)	11 October 1967
The Plant Breeders' Rights (Lettuces) Scheme 1971 (SI 1971/1090)	15 July 1971
The Plant Breeders' Rights (Runner Beans) Scheme 1971 (SI 1971/1091)	15 July 1971
The Plant Breeders' Rights (Broad Beans and Field Beans) Scheme 1978 (SI 1978/297)	1 April 1978
The Plant Breeders' Rights (Brussels Sprouts) Scheme 1978 (SI 1978/298)	1 April 1978
The Plant Breeders' Rights (Cabbages) Scheme 1978 (SI 1978/299)	1 April 1978
The Plant Breeders' Rights (Celery (including Celeriac)) Scheme 1978 (SI 1978/300)	1 April 1978
The Plant Breeders' Rights (Marrows) Scheme 1978 (SI 1978/304)	1 April 1978
The Plant Breeders' Rights (Turnips) Scheme 1978 (SI 1978/306)	1 April 1978

Paragraphs 4, 5 and 7

SCHEDULE 2

Column 1 Species		Column 2 Period of years for which Rights are exercisable	Column 3 Period of years prescribed for purposes of Section 7(2)
Name	Common Name		
Apium graveolens L.	Celery, Celeriac	15	—
Beta vulgaris L. var. *esculenta* L.	Beetroot	15	—
Brassica oleracea L. convar. *botrytis* (L) Alef var. *botrytis*	Cauliflowers	15	—
Brassica oleracea L. var. *bullata* subvar. *gemmifera* DC	Brussels sprouts	15	—
Brassica oleracea L. var. *bullata* DC. et var. *subauda*	Savoy cabbage	15	—
Brassica oleracea L. var. *capitata* L.f. *alba* DC	White cabbage	15	—
Brassica oleracea L. var. *capitata* L.f. *rubra* (L.) Thell.	Red cabbage	15	—
Brassica rapa L. var. *rapa* (L.) Thell.	Turnips	15	—
Cucurbita pepo L.	Marrows	15	—
Lactuca sativa L.	Lettuce	15	—
Phaseolus coccineus L.	Runner beans	15	3
Phaseolus vulgaris L.	French beans	15	3
Pisum sativum L. *sensu lato*	Peas, Field peas	15	3
Vicia faba L. *sensu lato*	Broad beans, Field beans	15	—

Paragraph 6

SCHEDULE 3

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

PART I

CELERY (including CELERIAC)

Name	Common Name
Apium graveolens L.	Celery (including Celeriac)

PART II

BEETROOT

Name	Common Name
Beta vulgaris L. var. *cycla* (L.) Ulrich	Spinach beet, Chard
Beta vulgaris L. var. *esculenta* L.	Beetroot

PART III

CAULIFLOWERS, BRUSSELS SPROUTS, SAVOY CABBAGE, WHITE CABBAGE AND RED CABBAGE

Name	Common Name
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

PART IV

TURNIPS

Name	Common Name
Brassica napus L. var. *naprobrassica* Peterm	Swede
Brassica napus L. ssp. *oleifera* (Metzg) Sinsk	Swede rape including oilseed rape
Brassica rapa L. (Partim)	Turnip rape
Brassica rapa L. var. *rapa* (L.) Thell	Turnip
Brassica juncea (L.) Czern et Coss in Czern	Brown mustard
Brassica nigra (L.) W Koch	Black mustard
Sinapis alba L.	White mustard

PART V

MARROWS

Name	Common Name
Cucurbita pepo L.	Marrows, Squashes, Pumpkins, Gourds
Cucurbita mixta PANG	
Cucurbita maxima DUCH	
Cucurbita moschata (DUCH) DUCH ex POIR	
Cucumis melo	Melons

PART VI

LETTUCE

Name	Common Name
Chichorium endiva L.	Endive
Lactuca sativa L.	Lettuce
Valerianella locusta L.	Corn salad, Lamb's lettuce

PART VII

RUNNER BEANS AND FRENCH BEANS

Name	Common Name
Phaseolus coccineus L.	Runner beans
Phaseolus vulgaris L.	French beans

PART VIII

BROAD BEANS AND FIELD BEANS

Name	Common Name
Vicia faba L. *sensu lato*	Broad beans, Field beans

PART IX

PEAS AND FIELD PEAS

Name	Common Name
Pisum sativum L. *sensu lato*	Peas, Field peas

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 vegetables being those which belong to the 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 beetroot and cauliflower to those vegetables 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 vegetable may be the subject of legal proceedings when committed in connection with a variety of a species which is specified for that purpose in Schedule 3.

This scheme also provides that a compulsory licence granted by the Controller of Plant Variety Rights in respect of a variety of vegetable shall not have effect during a period of years, if any, from the date of the grant of rights in that variety, specified for that purpose in column 3 of Schedule 2.