STATUTORY INSTRUMENTS

1980 No. 318

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Oil and Fibre Plants) 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 (Oil and Fibre Plants) Scheme 1980 and shall come into operation on 4th April 1980.

Interpretation

2. 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.

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 oil and fibre plants which conform with the characteristics of cultivated plant varieties of any of the species specified in Column 1 of Schedule 1 to this scheme.

Periods for which rights are exercisable

4. 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 1 to this scheme opposite the species to which that plant variety belongs.

(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.

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:

(i) in relation to plant varieties of linseed and flax of all plant varieties of the species specified in Part I of Schedule 2 to this scheme;

(ii) in relation to plant varieties of oenothera of all plant varieties of the species specified in Part II of Schedule 2 to this scheme;

(iii) in relation to plant varieties of swede rape including oilseed rape of all plant varieties of the species specified in Part III of Schedule 2 to this scheme.

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.

Paragraphs 3 and 4

SCHEDULE 1

Column 1 Species		Column 2 Period of years for which Rights are exercisable
Name	Common Name	
Brassica napus L. ssp. *oleifera* (Metzg) Sinsk	Swede rape including oilseed rape	15
Linum usitatissimum L.	Linseed and Flax	15
Oenothera L. (excluding ornamental varieties)	Oenothera	15

Paragraph 5

SCHEDULE 2

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

PART I
LINSEED AND FLAX

NAME	COMMON NAME
Linum usitatissimum L.	Linseed and flax

PART II
OENOTHERA

NAME	COMMON NAME
Oenothera L.	Oenothera

PART III
SWEDE RAPE INCLUDING OILSEED RAPE

NAME	COMMON NAME
Brassica napus L. *var napobrassica* 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

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 oil and fibre plants 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.

The aforesaid Act, as read with this scheme, provides that infringements of the rights in the registered name of a variety of oil and fibre plant 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 2 of this scheme.