

1990 No. 2634

PLANT BREEDERS' RIGHTS

The Plant Breeders' Rights (Miscellaneous Ornamental Plants) (Variation) Scheme 1990

Made - - - - 21st December 1990

Laid before Parliament 27th December 1990

Coming into force 17th January 1991

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, as respects the United Kingdom, in exercise of the powers conferred on them by sections 1(1) and (5), 3(1), 5(7), 7(2) and 38(1) of the Plant Varieties and Seeds Act 1964 (a) as extended to Northern Ireland (b) and the said Minister and the Secretary of State, acting jointly, as respects the Isle of Man, in exercise of the said powers as extended to the Isle of Man (c), after consultation in accordance with section 1(5) of the said Act with the Controller of Plant Variety Rights and with representatives of such interests as appear to them to be concerned, and in exercise of all other powers enabling them in that behalf, hereby make the following Scheme:

Title and commencement

1. This Scheme may be cited as the Plant Breeders' Rights (Miscellaneous Ornamental Plants) (Variation) Scheme 1990 and shall come into force on 17th January 1991.

Variation of principal Scheme

2. The Schedule to the Plant Breeders' Rights (Miscellaneous Ornamental Plants) Scheme 1990 (d) (which prescribes the genera or species of miscellaneous ornamental plants of which varieties may be the subject of plant breeders' rights) shall be varied as follows—

- (i) in column 1, after "*Kalanchoe* Adans." insert "*Osteospermum* L.", and
- (ii) in column 2, after "*Kalanchoe*" insert "*Osteospermum*".

(a) 1964 c.14; section 3 was amended by section 1 of the Plant Varieties Act 1983 (c.17), and paragraph 1(1) of Schedule 3 was amended by section 2 of that Act; section 38(1) (as amended by S.I. 1978/272) contains a definition of "the Ministers" relevant to the exercise of the statutory powers under which this Scheme is made.

(b) By section 39(3) of the Plant Varieties and Seeds Act 1964 and by the Plant Varieties and Seeds (Northern Ireland) Order 1964 (S.I. 1964/1574).

(c) By the Plant Varieties and Seeds (Isle of Man) Order 1969 (S.I. 1969/1829) amended by S.I. 1987/2210.

(d) S.I. 1990/1594.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 13th December 1990.



John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

12th December 1990 *Strathclyde*
Parliamentary Under Secretary of State, Scottish Office

14th December 1990 *David Hunt*
Secretary of State for Wales

21st December 1990 *Peter Brooke*
Secretary of State for Northern Ireland

Home Office *Kenneth Baker*
19th December 1990 Secretary of State for the Home Department
(being the Secretary of State concerned
with matters relating to the Isle of Man)

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme varies the Plant Breeders' Rights (Miscellaneous Ornamental Plants) Scheme 1990 ("the principal Scheme") by extending the schedule of genera and species of which plant varieties may be the subject of plant breeders' rights under Part I of the Plant Varieties and Seeds Act 1964 to cover all species of the genus *Osteospermum* L. (paragraph 2). By virtue of paragraph 3 of the principal Scheme, the period during which the rights may be exercised is 20 years. During that period infringements of the rights in the registered name of a variety of *Osteospermum* L. may be the subject of legal proceedings when committed in connection with any variety of *Osteospermum*.

By virtue of paragraph 5 of the principal Scheme a compulsory licence granted by the Controller of Plant Variety Rights in respect of a variety of *Osteospermum* shall not have effect during the period of three years from the date of the grant of rights in that variety.

Plant breeders' rights in respect of varieties of *Osteospermum* are not extended to the production or propagation of the varieties for the purpose of selling cut blooms, foliage or stems thereof.

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