

2005 No. 460

PLANT BREEDERS' RIGHTS

**The Plant Breeders' Rights (Discontinuation of Prior Use
Exemption) (Scotland) Order 2005**

Made - - - - - *22nd September 2005*

Laid before the Scottish Parliament *26th September 2005*

Coming into force - - - *4th November 2005*

The Scottish Ministers, in exercise of the powers conferred by section 9(6) of the Plant Varieties Act 1997(a) and of all other powers enabling them in that behalf, after consultation in accordance with section 48(5) of that Act with such organisations as appear to them to be representative of persons likely to be substantially affected, hereby make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Plant Breeders' Rights (Discontinuation of Prior Use Exemption) (Scotland) Order 2005 and shall come into force on 4th November 2005.

(2) This Order extends to Scotland only.

Discontinuation of the Prior Use Exemption

2. Section 9(5) of the Plant Varieties Act 1997 shall cease to have effect on 7th November 2005 in relation to varieties of the species and groups specified for the purposes of section 9(2) of that Act by the Plant Breeders' Rights (Farm Saved Seed) (Specification of Species and Groups) Order 1998(b).

ROSS FINNIE
A member of the Scottish Executive

Pentland House,
Edinburgh
22nd September 2005

(a) 1997 (c.66); see section 49(1) for the definition of "the Ministers". The functions of the Ministers, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
(b) S.I. 1998/1025.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which extends to Scotland only, comes into force on 4th November 2005.

This Order discontinues the prior use exemption in section 9(5) of the Plant Varieties Act 1997 (the “1997 Act”) whereby in relation to varieties farm-saved prior to the 1997 Act coming into force (8th May 1998) a farmer is exempted from the liability under section 9(3) of the 1997 Act to pay to the holder of plant variety rights a “sensibly lower” royalty than would otherwise be payable for the use of a protected variety of farm-saved seed (article 2).

No Regulatory Impact Assessment has been prepared in respect of this Order.

£3.00

© Crown Copyright 2005

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen’s Printer for Scotland
100 09/05 19593

