

**2016 No. 244**

**SEEDS**

**The Seed Marketing Regulations (Northern Ireland) 2016**

*Made* - - - -

*23rd June 2016*

*Coming into operation* -

*14th July 2016*

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The Department of Agriculture, Environment and Rural Affairs is designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to the common agricultural policy of the European Union.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Department that it is expedient for references to the instruments specified in regulation 3(2) to be construed as references to those instruments as amended from time to time.

The Department of Agriculture, Environment and Rural Affairs makes the following regulations in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2<sup>(c)</sup> to the European Communities Act 1972 and sections 1(1) and (2A) and 2 of the Seeds Act (Northern Ireland) 1965<sup>(d)</sup>.

In accordance with section 1(1) of the Seeds Act (Northern Ireland) 1965, the Department of Agriculture, Environment and Rural Affairs has consulted with representatives of such interests as appear to it to be concerned.

## PART 1

### Introduction

#### **Title, application and commencement**

1. These Regulations may be cited as the Seed Marketing Regulations (Northern Ireland) 2016; they apply in Northern Ireland and come into operation on 14th July 2016.

#### **Meaning of “marketing”**

2.—(1) In these Regulations “marketing” means the sale, holding with a view to sale, offer for sale or any disposal, supply or transfer aimed in each case at commercial exploitation of seed to third parties, whether or not for consideration and “market” and “marketing” shall be construed accordingly.

(2) But marketing does not include trade that is not aimed at commercial exploitation, such as—

- (a) the supply of seed to official testing and inspection bodies; or
- (b) the supply of seed to a person who provides processing or packaging services but who does not acquire title to the seed.

#### **Interpretation of other terms**

3.—(1) For the purposes of these Regulations—

- (a) “the Act” means the Seeds Act (Northern Ireland) 1965;
- (b) the “Common Catalogue” is the catalogue provided for in Council Directive 2002/53/EC on the common catalogue of varieties of agricultural plant species<sup>(e)</sup> and in Council Directive 2002/55/EC on the marketing of vegetable seed;

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(a) S.I. 2000/2812

(b) 1972 c.68, as amended by 2008, c.7 and S.I. 2009/3143

(c) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

(d) 1965 c.22 (N.I.). Section 1 was amended by 1970 c.20 (N.I.), section 10(1) and S.R. & O.(N.I.) 1972 No. 351, Article 3 and Schedule 3. Section 2 was amended by 1970 c.20 (N.I.), section 10(2) and S.R. 1977 No. 295, regulation 2. The Ministry of Agriculture became known as the Department of Agriculture by virtue of section 7(5) of the Northern Ireland Constitution Act 1973 (c.36). The Department of Agriculture for Northern Ireland was renamed the Department of Agriculture and Rural Development by Article 3(4) of the Departments (Northern Ireland) Order 1999, S.I. 1999/283 (N.I. 1).

(e) OJ No L 193, 20.7.2002, p. 1, as amended by Regulation (EC) No 1829/2003 (OJ No L 268, 18.10.2003, p. 1).

- (c) the “Department” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;
- (d) the “National List” means the list of agricultural crop varieties prepared and published in accordance with the provisions of the Seeds (National Lists of Varieties) Regulations 2001(a);
- (e) “the Tribunal” means the Plant Varieties and Seeds Tribunal established by the Plant Varieties Act 1997(b);
- (f) “wild oat” means plants of the species *Avena fatua*, *Avena sterilis* and *Avena ludoviciana*.

(2) In these Regulations all references to—

- (a) Council Directive 2002/54/EC on the marketing of beet seed(c);
- (b) Council Directive 66/402/EEC on the marketing of cereal seed(d);
- (c) Council Directive 66/401/EEC on the marketing of fodder plant seed(e);
- (d) Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants(f);
- (e) Council Directive 2002/55/EC on the marketing of vegetable seed(g);
- (f) Commission Directive 2008/62/EC providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties(h);
- (g) Commission Directive 2009/145/EC providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties(i);
- (h) Commission Directive 2010/60/EU providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment(j); and
- (i) Council Decision 2003/17/EC on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries(k);

are references to those instruments as amended from time to time.

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(a) S.I. 2001/3510, as amended by S.I. 2004/2949, 2007/1871, 2008/2683, 2009/1273, 2010/1195, 2011/464, 2012/2897 and 2013/2042.

(b) 1997, c. 66, section 42.

(c) OJ No L 193, 20.7.2002, p. 12, as last amended by Council Directive 2004/117/EC (OJ No L 14, 18.1.2005, p. 18).

(d) OJ No L 125, 11.7.1966, p. 2309, as last amended by Commission Implementing Directive (EU) 2015/1955 (OJ No L 284, 30.10.2015, p.142)

(e) OJ No L 125, 11.7.1966, p. 2298, as last amended by Commission Implementing Directive 2012/37/EU (OJ No L 325, 23.11.2012, p. 13)

(f) OJ No L 193, 20.7.2002, p. 74, as last amended by Commission Implementing Directive 2013/45/EU (OJ No L 213, 8.8.2013, p. 20)

(g) OJ No L 193, 20.7.2002, p. 33, as last amended by Commission Implementing Directive 2013/45/EU (OJ No L 213, 8.8.2013, p. 20)

(h) OJ No L 162, 21.6.2008, p.13

(i) OJ No L 312, 27.11.2009, p.44

(j) OJ No L 228, 31.8.2010, p. 10

(k) OJ No L 8, 14.1.2003, p. 10, as last amended by Council Regulation (EU) No 517/2013 (OJ No L 158, 10.6.2013, p. 1)

## PART 2

### Categories of seed

#### Seed to which these Regulations apply

4.—(1) These Regulations apply in relation to seed of the plants in the first column of the table in Schedule 1 intended to be used for agricultural or horticultural production, but do not apply in relation to seed intended to be used for ornamental plants.

(2) They do not apply in relation to seed intended for export outside the European Union.

#### Categories of seed

5. Seed is divided into the following categories, commonly known by the abbreviations given—

- (a) breeder's seed ("BR");
- (b) pre-basic seed ("PB");
- (c) basic seed ("BS");
- (d) certified seed ("CS");
- (e) certified seed, first generation ("C1");
- (f) certified seed, second generation ("C2");
- (g) certified seed, third generation ("C3");
- (h) commercial seed ("CM");
- (i) standard seed (vegetables only) ("ST");
- (j) seed of a higher voluntary standard ("HVS").

#### Breeder's seed

6. Breeder's seed is seed produced by or under the responsibility of the breeder and intended for the production of pre-basic or basic seed.

#### Maintainers for pre-basic and basic seed

7. Pre-basic seed and basic seed may only be produced with the written authorisation of the person listed as the maintainer of that seed in the National List or the Common Catalogue.

## PART 3

### Marketing seed

#### Marketing seed

8.—(1) Subject to paragraph (2), seed to which these Regulations apply may only be marketed as seed if it is—

- (a) certified under regulation 10 and 11 as being one of the categories in regulation 5;
- (b) packaged and sealed in accordance with regulation 16; and
- (c) labelled in accordance with regulation 17;

(2) Subject to regulation 27, seed to which this paragraph applies may only be marketed as seed if it is—

- (a) seed which has been certified in another part of the United Kingdom;
- (b) seed which has been imported from another member State and is—

- (i) officially certified by or on behalf of the competent seed certification authority in another member State; and
  - (ii) packaged, sealed and labelled in accordance with the relevant requirements in the Directive relating to that seed;
- (c) seed which has been imported from a third country that has been granted equivalence under Council Decision 2003/17/EC (on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries), and is—
- (i) seed of the species specified in Annex I to the decision and has been produced in the third countries listed in that Annex and officially certified by the authorities listed in that Annex; and
  - (ii) satisfies the conditions laid down in point B of Annex II to that Decision.
- (3) No person shall market any seed to which these Regulations apply unless they are licensed to do so in accordance with regulation 20.

### **Exceptions**

- 9.**—(1) The requirement for certification does not apply in relation to breeder’s seed.
- (2) Schedule 4 makes provision for the marketing of seed not fully complying with regulation 8.

### **Overriding requirements: the building blocks necessary for certification**

- 10.** To be certified under these Regulations as one of the categories in regulation 5 seed must—
- (a) be a variety entered in the National List or the Common Catalogue;
  - (b) be grown from a seed eligible to produce that category in accordance with Schedule 2;
  - (c) come from a crop inspected under these Regulations and certified as complying with the requirements of Schedule 2; and
  - (d) be tested in accordance with these Regulations.

### **Detailed requirements for certification**

**11.**—(1) In order to be certified a sample of the seed from which the crop is going to be produced must be entered with the Department in sufficient time for the Department to grow a control plot.

(2) The Department may accept the entry of a sample of the seed after this time, but in this case the crop grown to produce the seed must be inspected by an official crop inspector in accordance with regulation 12.

(3) The crop used to produce the seed must be inspected by a crop inspector in accordance with the provisions relating to that crop in Schedule 2, and the crop inspector must certify that—

- (a) the crop meets the standard for that crop specified in Schedule 2; or
- (b) the crop meets a lower standard but still meets one of the standards in Schedule 2,

and lodge a report to that effect with the Department.

(4) The crop inspector may indicate that remedial action or further inspection is necessary before the crop is certified as meeting the required standard.

(5) Once the crop has been harvested and processed, a sample of the seed must be drawn by a licensed seed sampler (using current international sampling methods in so far as they exist) in accordance with the provisions relating to that crop in Schedule 2 (for the avoidance of doubt the seed lot sizes and sample weights are specified in each of the Directives in the Schedule dealing with the seed).

(6) The seed must be tested in a seed testing station (either licensed or operated by the Department), which must test the seed (using current international sampling and testing methods

in so far as they exist) to ensure that the certification standards in Schedule 2 are complied with, and issue a seed test report stating the results and lodge the report with the Department.

(7) An application for certification of seed for which a seed test report has been lodged under paragraph (6), must be made to the Department—

- (a) within 30 days of the seed test report being lodged or within such time as the Department may otherwise allow; and
- (b) be accompanied by such information and documents as the Department may require.

### **Crop inspections**

**12.** A crop inspection for certification must be carried out by a licensed crop inspector; except for the inspection of—

- (a) a crop intended for the production of pre-basic or basic seed; or
- (b) a crop producing seed when the entry of seed under regulation 11 was too late to allow the Department to grow a control plot,

when the inspection must be carried out by an official crop inspector appointed by the Department for the purpose of such an inspection.

### **Standard of seed at the time of marketing**

**13.** At the time of marketing the seed must as a minimum comply with the standards in Schedule 2 relating to that type of seed.

### **Re-grading of seed at the time of marketing**

**14.** For the avoidance of doubt, if a crop or seed has been certified as belonging to one category, but complies with the minimum requirements of another category for that seed, it may be re-graded as any category for which it satisfies the requirements.

### **Control plots and tests**

**15.—(1)** The Department must carry out any necessary tests on the entered seed, and in particular must grow the seed in a control plot.

(2) If the tests or the control plot meets the requirements for varietal identity and varietal purity no further action is taken.

(3) Otherwise the Department must obtain more information from crops grown from that seed and, if the Department decides that the crop is not satisfactory, notify the applicant that the crop may not be certified, or must be downgraded to a lower category.

### **Packaging and sealing**

**16.—(1)** All seed, other than loose sales (for which see Part 5 of Schedule 3), must be supplied in a properly sealed package by a person licensed to do so under regulation 20.

(2) The packaged seed must be in homogenous lots.

(3) A package must be sealed by or under the supervision of a licensed seed sampler.

(4) It must either have a non-re-usable sealing system or be sealed in such a manner that opening the package—

- (a) damages the sealing system; or
- (b) leaves evidence of tampering on either the label or the package.

(5) If a package is opened other than by the final consumer it must be re-labelled and re-sealed by or under the supervision of a licensed seed sampler, and the fact of resealing, the most recent date of resealing and the authority responsible for it must be stated on the label.

(6) This regulation does not apply in relation to the marketing of small packages of seed as defined in Schedule 3.

### Labelling

17.—(1) All seed must be labelled in accordance with Schedule 3 by a person licensed to do so under regulation 20.

(2) Subject to the provisions of the Act and of these Regulations, no person may reproduce, remove, alter, deface, conceal or misuse in any way any label produced for the purpose of these Regulations.

### Mixtures of seed

18. A mixture of seed may only be marketed if the mixture is permitted under the following table.

#### Permitted mixtures

<i>Column header</i>	<i>Beet</i>	<i>Cereals</i>	<i>Fodder</i>	<i>Oil and fibre</i>	<i>Vegetable</i>	<i>Seed outside the scope of these Regulations</i>
Beet	No	No	No	No	No	No
Cereals	No	Yes <sup>(i)</sup>	Yes	No	No	No
Fodder	No	Yes	Yes	Yes	Yes	Yes
Oil and fibre	No	No	Yes	No	No	No
Vegetable	No	No	Yes	No	Yes <sup>(ii)</sup>	No

<sup>(i)</sup> A mixture of varieties of one species of cereal seed is permitted only if it is effective against the propagation of a harmful organism. All the seed must comply with these Regulations before mixing.

<sup>(ii)</sup> A mixture of different varieties of standard seed of the same species must be marketed in a package containing not more than 5 kilograms of seed (in the case of legumes), 500 grams of seed (in the case of asparagus, beetroot, carrot, chard or spinach beet, gourd, marrow, onion, radish, spinach or turnip) or 100 grams of seed (in the case of any other species).

### Records

19.—(1) any person who—

- (a) markets seed;
- (b) packs, seals, labels, re-packs, re-seals or re-labels seed for marketing;
- (c) prepares mixtures of seed for marketing; or
- (d) cleans, treats or in any other way processes seed intended for marketing,

must make sufficient records (either written or electronic) to create an audit trail so that the identity and provenance of any seed marketed or otherwise dealt with in the course of the operation can be established.

(2) Records must be kept for at least 3 years and produced on demand to an officer of the Department (in the case of electronic records a printout must be provided).



## PART 4

### Licensing

#### **Operations requiring a licence from the Department**

**20.**—(1) Any person carrying out any of the following operations must be licensed to do so by the Department—

- (a) marketing seed;
- (b) packing, sealing or labelling seed;
- (c) re-packing, re-sealing or re-labelling seed;
- (d) preparing mixtures of seed for marketing; or
- (e) cleaning, treating or in any other way processing seed intended for marketing.

(2) But the requirement for a licence does not apply in relation to the marketing of—

- (a) small packages of seed as defined in Schedule 3;
- (b) unpacketed seed; or
- (c) seed as grown, for processing, provided the identity of the seed is ensured under paragraph 2 of Schedule 4.

(3) The Department may license any person to carry out any of the operations in paragraph (1), if it is satisfied the person—

- (a) is competent to carry out such operations;
- (b) has adequate premises or equipment for the purposes of carrying out those operations; and
- (c) has sufficient knowledge and qualifications for the purposes of carrying out those operations.

#### **Licensing crop inspectors, seed samplers and seed testing stations**

**21.**—(1) The Department may license crop inspectors, seed samplers and seed testing stations to act under these Regulations.

(2) Before licensing a crop inspector or seed sampler the Department must be satisfied that the person is competent to act as such, and has passed an examination specified by the Department.

(3) Before licensing a seed testing station the Department must be satisfied that the station has adequate premises, qualified personnel and equipment to test for the purposes of these Regulations.

(4) A licensed crop inspector, seed inspector or seed testing station may charge reasonable fees for carrying out functions under these Regulations but may not derive any private gain in connection with the carrying out of such functions.

#### **Licences for temporary experiments**

**22.** The Department may by licence exempt any person or class of person from compliance with any provision of these Regulations for the purposes of a temporary experiment organised under—

- (a) Article 19 of Council Directive 2002/54/EC on the marketing of beet seed;
- (b) Article 13a of Council Directive 66/402/EEC on the marketing of cereal seed;
- (c) Article 13a of Council Directive 66/401/EEC on the marketing of fodder plant seed;
- (d) Article 16 of Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants; or
- (e) Article 33 of Council Directive 2002/55/EC on the marketing of vegetable seed.

### **General provisions relating to licences**

**23.**—(1) A licence, under regulations 20, 21 or 22 must be in writing, and may be subject to such conditions as the Department considers appropriate.

(2) Subject to paragraph (3), the Department may vary, suspend or revoke a licence by notice in writing at any time.

(3) Where the Department proposes to vary, suspend or revoke a licence it shall—

- (a) give the person concerned notice in writing stating what the Department is proposing to do and the reasons for it;
- (b) inform the person concerned of his right to make representations to the Department and of the manner in which, and the time (not being less than 21 days from the giving of the notice) within such representations may be made; and
- (c) not proceed with its proposed course of action until the period allowed for making representations has passed.

(4) The Department shall consider any representations made before giving the person concerned notification of its decision together with the reasons for that decision and, where appropriate the date from which the decision has effect.

(5) A notification under paragraph (4) shall inform the person concerned of—

- (a) his right to appeal to the Tribunal against the Department's decision; and
- (b) the time within such an appeal may be brought.

## **PART 5**

### **Administration and revocations**

#### **Withdrawing certification**

**24.**—(1) The Department may withdraw certification from any seed if satisfied that—

- (a) the seed, or the seed from which the crop producing the seed was grown, was incorrectly sampled;
- (b) the crop from which the seed was harvested did not meet the conditions in Schedule 2; or
- (c) the seed—
  - (i) did not meet the conditions in Schedule 2 when it was tested; or
  - (ii) no longer meets those conditions.

(2) The Department may draw a sample (using current international sampling methods insofar as they exist), for the purpose of paragraph (1)(c)(ii).

(3) If certification is withdrawn the Department must notify the certification applicant.

(4) Within 7 days of being notified the certification applicant must notify any person to whom they have sold or supplied the seed.

(5) Any person, other than the certification applicant who has purchased seed, for which official certification has been withdrawn must notify any person to whom any of the seed has been sold or supplied as soon as practicable after receiving notice of the withdrawal.

#### **Sampling for enforcement purposes**

**25.**—(1) A sample of seed taken for the purposes of enforcing these Regulations must be taken by an authorised officer of the Department, who must divide it into three parts.

(2) One part must be given to the owner of the seed (or a representative of the owner) and the other two parts must be sent to an official testing station, one for testing and the other for retention pending production to a court in accordance with section 9(7) of the Act.

### Forms of certificates used for enforcement

**26.**—(1) For the purposes of section 9(3) of the Act, a certificate of how a sample was taken for the purpose of enforcing these Regulations must—

- (a) make reference to these Regulations and must certify that the sample was taken and treated in accordance with regulation 25;
- (b) specify—
  - (i) the name and address of the person taking the sample;
  - (ii) the premises at which the sample was taken;
  - (iii) the species, variety and category of seed sampled;
  - (iv) the date the sample was taken;
  - (v) the reference number of the seed lot; and
  - (vi) the quantity sampled.

(2) For the purposes of section 7(3) of the Act, a certificate of the result of a test at an official seed testing station of a sample taken by an authorised officer for the purposes of that Act must—

- (a) make reference to these Regulations;
- (b) identify the seed tested; and
- (c) contain all test results relating to the standard required for that seed.

### Imported seed

**27.**—(1) Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development<sup>(a)</sup> for the varietal certification on the control of seed moving in international trade.

(2) If the seed is to be further multiplied the person intending to multiply it must first submit a sample to the Department for verification.

(3) Any person marketing seed that has been imported and exceeds 2 kilograms must supply the Department, in writing and within one month of the first marketing of the seed, with the following particulars relating to the seed—

- (a) the species;
- (b) the variety;
- (c) the category;
- (d) the country of production and the official inspection authority;
- (e) the country of dispatch;
- (f) the importer; and
- (g) the quantity of seed.

(4) Cereal seed to which these regulations apply, which have been imported may only be marketed in Northern Ireland if accompanied by a document stating—

- (a) that the seed has been produced from a crop which has been found to be free of plants of wild oat at the time of an official examination and that in addition a 1 kilogram sample of seed (drawn using current international sampling methods in so far as they exist), has been found to be free from seed of wild oat at the time of an official examination; or
- (b) that a 3 kilogram sample of the seed (drawn using current international sampling methods in so far as they exist) has been found to be free from seed of wild oat at an official examination.

(5) In relation to seed to which paragraph (4) applies—

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(a) Details of these labels are available on the OECD's website.

- (a) the Department may draw a sample (using current international sampling methods in so far as they exist), for the purpose of revealing the presence of wild oat;
- (b) where a sample drawn pursuant to sub-paragraph (a) is found to contain wild oat the seed lot or part thereof represented by that sample must not be marketed in Northern Ireland.

### **Appeals**

**28.**—(1) Subject to paragraphs (2) and (3), a person aggrieved by a decision of the Department to—

- (a) vary, suspend, revoke or refuse to grant a licence of a crop inspector, seed sampler, seed testing station or a person requiring a licence under regulation 20;
- (b) refuse to certify seed; or
- (c) withdraw certification of seed,

may, within 30 days of being notified of that decision, appeal against it to the Tribunal.

(2) There shall be no right of appeal to the Tribunal where the Department has—

- (a) refused to grant or vary a licence; or
- (b) varied, suspended or revoked a licence,

for the sole reason that the applicant or licence holder has failed to pass an examination which was required to be undertaken and passed as a condition of the licence.

(3) The Department may extend the time for bringing an appeal, but no appeal shall in any event be brought more than one year after a person is notified of that decision.

### **Civil liability of sellers of seeds**

**29.**—(1) Particulars given to a purchaser by the seller of seed in pursuance of these Regulations, whether given expressly or by implication, arising from the description under which the seed is sold, shall constitute a warranty for the purpose of section 4 of the Act.

(2) Section 4(2) of the Act shall apply to any particulars given to a purchaser by the seller of the seed, being particulars given or implied as in paragraph (1), in so far as they relate to the limits of variation for percentage germination, percentage analytical purity or content of seed of other species prescribed, in respect of such matters.

(3) Section 4(3) of the Act shall apply to any particulars given to a purchaser by the seller of the seed, being particulars given or implied as in paragraph (1), in so far as they relate to the percentage germination, percentage analytical purity or content of seed of other species.

(4) A purchaser who intends to obtain a test of seed for the purposes of section 4(3) of the Act must, not more than 10 days after delivery of the seed, give the seller notice of that intention and thereupon the seller may indicate a day, not being more than 21 days after delivery of the seed to the purchaser, and a reasonable time on that day, for a sample to be taken in the presence of the seller or the seller's representative.

(5) On the day and time appointed by the seller in accordance with paragraph (4) or, if the seller fails to appoint a day and time, the purchaser or the purchaser's representative may, on a day not more than 28 days after delivery of the seed, take a sample.

(6) A sample, drawn using current international sampling methods in so far as they exist, must be taken and divided, by the purchaser or his representative into two parts of which one shall be sent to an official testing station for the purposes of being tested and the other part delivered to the seller or the seller's representative.

(7) Where a sample is divided into two parts, in accordance with paragraph (6) each part of the divided sample shall be of at least the minimum weight required for certification under Schedule 2.

### **Arrangements for official measures**

**30.**—(1) The Department may make arrangements for the purpose of enabling any person to act under the Department's responsibility in carrying out official measures.

(2) An arrangement under this regulation may include such conditions as the Department is of the opinion are necessary or desirable for the purposes referred to in paragraph (1).

(3) The Department must not make an arrangement under this regulation unless it is satisfied that provision is made for the purpose of preventing the person with whom the arrangement is made, and any other person, from—

- (a) deriving any private gain from any official measures carried out under the arrangement; and
- (b) carrying out any official measures under the arrangement except under the supervision of the Department.

(4) Subject to paragraph (5) the Department may approve for the person with whom an arrangement is made under this regulation, to make a further arrangement for any purpose in connection with the carrying out of the official measures arranged with the Department.

(5) The Department must not approve the making of a further arrangement by any person with whom it makes an arrangement under this regulation unless the further arrangement—

- (a) includes a condition prohibiting the making of any subsequent arrangement for any purpose in connection with the carrying out of any official measures in respect of which the Department made the arrangement;
- (b) includes a provision that the Department may vary, suspend or revoke the further arrangement; and
- (c) includes the conditions specified in sub-paragraphs (3)(a) and (b).

(6) The Department may vary, suspend or revoke an arrangement, or the conditions of an arrangement made under this regulation by giving notice in writing to the person with whom the arrangement is made.

### **Fees**

**31.** The Department may charge a reasonable fee for anything done under these Regulations.

### **Confidentiality**

**32.** If the breeder so requests, the description of genealogical components of seed must not be disclosed by the Department.

### **Licensing in another part of the United Kingdom**

**33.** A crop inspector, seed sampler or seed testing station licensed to act as such in another part of the United Kingdom may act as such under these Regulations.

### **Transitional provisions**

**34.**—(1) A crop inspector, seed sampler or seed testing station licensed at the time these Regulations come into force under the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009<sup>(a)</sup> continues to be licensed as such under these Regulations.

(2) A person requiring to be licensed under regulation 20 of these Regulations who was registered at the time these Regulations come into force to carry out such operations under the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009 is now licensed to act as such under these Regulations subject to such conditions as may be notified by

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(a) S.R. 2009 No. 388, as amended by S.R. 2014 No. 295

the Department, and continues to be licensed unless the licence is subsequently suspended or revoked by the Department under these Regulations.

### **Amendments and revocations**

**35.**—(1) The Seeds (Fees) (No. 2) Regulations (Northern Ireland) 2002(**a**) are amended as follows—

- (a) in regulation 2(1) (fees) for “Regulations referred” to “Schedules opposite” substitute “Seed Marketing Regulations (Northern Ireland) 2016 the fees set out in Column (3) of Schedules 1 to 6 opposite”;
- (b) for the heading of Schedule 1, substitute “MATTERS ARISING IN RESPECT OF CEREAL SEEDS”;
- (c) paragraph F of Schedule 1 is omitted;
- (d) for the heading of Schedule 2, substitute “MATTERS ARISING IN RESPECT OF FODDER PLANT SEEDS”;
- (e) paragraph E of Schedule 2 is omitted;
- (f) for the heading of Schedule 3, substitute “MATTERS ARISING IN RESPECT OF OIL AND FIBRE PLANT SEEDS”;
- (g) for the heading of Schedule 4, substitute “MATTERS ARISING IN RESPECT OF BEET SEEDS”;
- (h) for the heading of Schedule 5, substitute “MATTERS ARISING IN RESPECT OF VEGETABLE SEEDS”;
- (i) for the heading of Schedule 6, substitute “MATTERS ARISING IN RESPECT OF LICENSING”; and
- (j) sub-paragraph A(ii) of Schedule 6 is omitted.

(2) The following are revoked—

- (a) the Cereal Seeds Regulations (Northern Ireland) 2009(**b**);
- (b) the Beet Seeds Regulations (Northern Ireland) 2009(**c**);
- (c) the Fodder Plant Seeds Regulations (Northern Ireland) 2009(**d**);
- (d) the Oil and Fibre Plant Seeds Regulations (Northern Ireland) 2009(**e**);
- (e) the Vegetable Seeds Regulations (Northern Ireland) 2009(**f**);
- (f) the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009(**g**);
- (g) the Vegetable Seeds (Amendment) Regulations (Northern Ireland) 2011(**h**);
- (h) the Fodder Plant Seeds (Amendment) Regulations (Northern Ireland) 2011(**i**);
- (i) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 2013(**j**); and
- (j) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 2014(**k**).

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on  
23rd June 2016

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(a) S.R. 2002 No. 407, as amended by S.R. 2005 No. 40

(b) S.R. 2009 No. 383

(c) S.R. 2009 No. 384

(d) S.R. 2009 No. 385

(e) S.R. 2009 No. 386

(f) S.R. 2009 No. 387

(g) S.R. 2009 No. 388

(h) S.R. 2011 No. 38

(i) S.R. 2011 No. 397

(j) S.R. 2013 No. 304

(k) S.R. 2014 No. 295



*Dave Foster*  
A senior officer of the  
Department of Agriculture, Environment and Rural Affairs

# SCHEDULE 1

Regulation 4

## Seed to which these Regulations apply

<i>Plants to which the Regulations apply</i>	<i>Common name (for guidance only)</i>
<b>Beet</b>	
<i>Beta vulgaris</i> L.	sugar beet, fodder beet (including mangel)
<b>Cereals</b>	
<i>Avena nuda</i> L.	small naked oat, hulless oat
<i>Avena sativa</i> L. (includes <i>A. byzantina</i> K. Koch)	oats and red oat
<i>Hordeum vulgare</i> L.	barley
<i>Secale cereale</i> L.	rye
<i>Triticum aestivum</i> L.	wheat
<i>Triticum durum</i> Desf.	durum wheat
<i>Triticum spelta</i> L.	spelt wheat
x <i>Triticosecale</i> Wittm. ex A. Camus – hybrids resulting from the crossing of a species of the genus <i>Triticum</i> and a species of the genus <i>Secale</i>	triticale
<i>Zea mays</i> L. (partim)	maize (except popcorn and sweetcorn)
<b>Fodder Plants</b>	
<b>Fine grasses:</b>	
<i>Agrostis canina</i> L.	velvet bent
<i>Agrostis capillaris</i> L.	brown top
<i>Agrostis gigantea</i> Roth	red top
<i>Agrostis stolonifera</i> L.	creeping bent grass
<i>Festuca filiformis</i> Pourr.	fine leaved sheep's fescue
<i>Festuca ovina</i> L.	sheep's fescue
<i>Festuca rubra</i> L.	red fescue, Chewings fescue
<i>Festuca trachyphylla</i> (Hack.) Krajina	hard fescue
<i>Poa annua</i> L.	annual meadowgrass
<i>Poa nemoralis</i> L.	wood meadowgrass
<i>Poa pratensis</i> L.	smooth-stalked meadowgrass
<i>Poa trivialis</i> L.	rough-stalked meadowgrass
x <i>Festulolium</i> Asch. & Graebn. – hybrids resulting from the crossing of a species of the genus <i>Festuca</i> with a species of the genus <i>Lolium</i>	festulolium
<b>Fodder grasses:</b>	
<i>Arrhenatherum elatius</i> (L.) P. Beauv. ex J. Presl & C. Presl	tall oatgrass
<i>Bromus catharticus</i> Vahl.	rescue grass
<i>Bromus sitchensis</i> Trin.	Alaska brome-grass
<i>Dactylis glomerata</i> L.	cocksfoot
<i>Festuca arundinacea</i> Schreber	tall fescue
<i>Festuca pratensis</i> Huds.	meadow fescue
<i>Lolium multiflorum</i> Lam.	Italian ryegrass including Westerwold ryegrass



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<i>Lolium perenne</i> L.	perennial ryegrass
<i>Lolium x boucheanum</i> Kunth	hybrid ryegrass
<i>Phleum nodosum</i> L.	small timothy
<i>Phleum pratense</i> L.	timothy
<b>Small seeded legumes:</b>	
<i>Lotus corniculatus</i> L.	birdsfoot trefoil
<i>Medicago lupulina</i> L.	trefoil, black medick
<i>Medicago sativa</i> L.	lucerne
<i>Medicago x varia</i> T. Martyn	sand lucerne
<i>Onobrychis viciifolia</i> Scop.	sainfoin
<i>Trifolium hybridum</i> L.	alsike clover
<i>Trifolium pratense</i> L.	red clover
<i>Trifolium repens</i> L.	white clover
<b>Large seeded legumes</b>	
<i>Lupinus albus</i> L.	white lupin
<i>Lupinus angustifolius</i> L.	narrow leaved lupin (previously known as blue lupin)
<i>Lupinus luteus</i> L.	yellow lupin
<i>Pisum sativum</i> L. (partim)	field pea
<i>Vicia faba</i> L. (partim)	field bean
<i>Vicia pannonica</i> Crantz	Hungarian vetch
<i>Vicia sativa</i> L.	common vetch
<i>Vicia villosa</i> Roth	hairy vetch
<b>Crucifers</b>	
<i>Brassica napus</i> L. var. <i>napobrassica</i> (L.) Rchb.	swede
<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC).	fodder kale
Alef. var. <i>medullosa</i> Thell. + var. <i>viridis</i> L.	
<i>Raphanus sativus</i> L. var. <i>oleiformis</i> Pers.	fodder radish
<b>Oil and Fibre plants</b>	
<i>Brassica juncea</i> (L.) Czern.	brown mustard
<i>Brassica napus</i> (L.) (partim)	swede rape (including plants commonly known as fodder rape and oilseed rape)
<i>Brassica nigra</i> (L.) W.D.J. Koch	black mustard
<i>Brassica rapa</i> L. var. <i>silvestris</i> (Lam.) Briggs	turnip rape
<i>Cannabis sativa</i> L.	hemp
<i>Glycine max</i> (L.) Merr.	soya bean
<i>Helianthus annuus</i> L.	sunflower
<i>Linum usitatissimum</i> L.	flax, linseed
<i>Sinapis alba</i> L.	white mustard
<b>Vegetables</b>	
<i>Allium cepa</i> L. (Cepa Group)	onion, Echalion
<i>Allium porrum</i> L.	leek
<i>Apium graveolens</i> L.	celery, celeriac
<i>Asparagus officinalis</i> L.	asparagus
<i>Beta vulgaris</i> L.	beetroot including Cheltenham beet, spinach beet and chard
<i>Brassica oleracea</i> L.	Brussels sprouts, cauliflower, curly kale, kohlrabi, red cabbage, Savoy cabbage, sprouting broccoli or calabrese, white cabbage
<i>Brassica rapa</i> L.	Chinese cabbage, turnip
<i>Cichorium endivia</i> L.	endive (curled-leaved, plain-leaved)

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<i>Cichorium intybus</i> L.	large-leaved (Italian) chicory
<i>Cucumis melo</i> L.	melon
<i>Cucumis sativus</i> L.	cucumber, gherkin
<i>Cucurbita maxima</i> Duchesne	gourd
<i>Cucurbita pepo</i> L.	marrow or courgette
<i>Daucus carota</i> L.	carrot, fodder carrot
<i>Lactuca sativa</i> L.	lettuce
<i>Petroselinum crispum</i> (Mill) Nyman ex A.W. Hill	parsley
<i>Phaseolus coccineus</i> L.	runner bean
<i>Phaseolus vulgaris</i> L.	French bean (dwarf, climbing)
<i>Pisum sativum</i> L. (partim)	wrinkled pea, round pea, sugar pea
<i>Raphanus sativus</i> L.	radish, black radish
<i>Solanum lycopersicum</i> L.	tomato
<i>Spinacia oleracea</i> L.	spinach
<i>Vicia faba</i> L. (partim)	broad bean
<i>Zea mays</i> L. (partim)	sweet corn, popcorn

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## SCHEDULE 2

Regulations 10, 11, 13 and 24

### Certification requirements

#### PART 1

##### Beet

#### **Interpretation of Part 1**

**1. In this Part—**

- (a) “monogerm seed” means seed that is genetically monogerm; and
- (b) “precision seed” means seed designed for use in precision drills to produce single seedlings.

#### **Permitted types of beet seed**

**2. Beet seed must be—**

- (a) pre-basic seed;
- (b) basic seed; or
- (c) certified seed.

#### **Meaning of “pre-basic” seed**

**3. Pre-basic seed is seed—**

- (a) produced from a generation prior to pre-basic seed by or under the responsibility of the breeder according to well-defined practices for the maintenance of the variety; and
- (b) intended for the production of—
  - (i) more pre-basic seed;
  - (ii) basic seed; or
  - (iii) with the breeder’s written authority, certified seed.

#### **Meaning of “basic seed”**

**4. Basic seed is seed—**

- (a) produced under the responsibility of the breeder according to well-defined practices for the maintenance of the variety; and
- (b) intended for the production of certified seed.

#### **Meaning of “certified seed”**

**5. Certified seed is seed that is of direct descent from basic seed and is intended for the production of beet.**

#### **Crop and seed requirements**

**6.—(1) Crop inspections by official or licensed crop inspectors must be carried out in accordance with Article 2(3)(A) of, and Annex I(A) to, Council Directive 2002/54/EC on the marketing of beet seed, and the crop must satisfy the conditions in that Annex.**

(2) The seed produced by the crop must be sampled in accordance with Article 9(2) of, and Annex II to, that Directive, and must satisfy the conditions in Annex I(B) to that Directive.

(3) It must be labelled in accordance with Annex III to that Directive.

(4) The maximum moisture content must not exceed 15% by weight.

(5) Diseases and harmful organisms that reduce the usefulness of the seed must be at the lowest possible level.

## PART 2

### Cereals

#### Permitted types of cereal seed

7.—(1) Cereal seed must be—

- (a) pre-basic seed;
- (b) basic seed;
- (c) certified seed;
- (d) certified seed, first generation;
- (e) certified seed, second generation; or
- (f) seed of a higher voluntary standard.

(2) The seed may be a mixture of cereal species of different varieties provided that each variety in the mixture is certified and is effective against the propagation of harmful organisms.

#### Meaning of “pre-basic seed” (including hybrids)

8. Pre-basic seed (including hybrids) is seed—

- (a) produced from a generation prior to pre-basic seed or from pre-basic seed by or under the responsibility of the breeder according to well-defined practices for the maintenance of the variety; and
- (b) intended for the production of—
  - (i) more pre-basic seed;
  - (ii) basic seed; or
  - (iii) with the breeder’s written authority, certified seed of categories CS, C1 or C2 (hybrid varieties may not be produced to C1 or C2).

#### Meaning of “basic seed”

9. Basic seed is seed complying with the following conditions.

<i>Type of cereal</i>	<i>Condition</i>
Self-pollinating varieties of oats, naked oats, barley, rye, triticale, wheat, durum wheat and spelt wheat	The seed must be— <ul style="list-style-type: none"><li>(a) produced under the responsibility of the breeder according to well-defined practices for the maintenance of the variety; and</li><li>(b) intended for the production of certified seed of categories CS, C1 or C2</li></ul>
Hybrid varieties of oats, barley, rye, wheat, durum wheat, spelt wheat, triticale and maize	The seed must be intended for the production of hybrids

Maize spp. open-pollinated varieties	The seed must be— <ul style="list-style-type: none"> <li>(a) produced under the responsibility of the breeder according to well-defined practices for the maintenance of the variety; and</li> <li>(b) intended for the production of seed of this variety of the category “certified seed” triple cross or of top cross hybrid variety or of intervarietal hybrids</li> </ul>
Maize, inbred lines	Any seed

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### Meaning of “certified seed”

#### 10. Certified seed is seed—

- (a) of rye and maize and hybrids of barley, oats, wheat, durum wheat, spelt wheat and self-pollinating triticale;
- (b) that has been produced directly from basic seed or, if the breeder so requests, from seed of a generation prior to basic seed that satisfies the conditions for basic seed;
- (c) that is intended for purposes other than the production of cereal seed.

### Meaning of “certified seed, first generation”

#### 11. Certified seed, first generation is seed—

- (a) of oats, barley, triticale, wheat, durum wheat or spelt wheat other than hybrids in each case;
- (b) produced directly from basic seed or, if the breeder so requests, from pre-basic seed that satisfies the conditions for basic seed;
- (c) intended either for the production of seed of the category “certified seed, second generation” or for purposes other than the production of cereal seed.

### Meaning of “certified seed, second generation”

#### 12. Certified seed, second generation is seed—

- (a) of oats, barley, triticale, wheat, durum wheat or spelt wheat other than hybrids in each case;
- (b) produced directly from basic seed, from certified seed, first generation or, if the breeder so requests, from pre-basic seed that satisfies the conditions for basic seed;
- (c) intended for purposes other than the production of cereal seed.

### Crop and seed requirements

13.—(1) Crop inspections by official or licensed crop inspectors must be carried out in accordance with Article 2(3)(A) of, and Annex I to, Council Directive 66/402/EEC on the marketing of cereal seed, and the crop from which the seed has been produced must—

- (a) satisfy the conditions in that Annex; and
- (b) be found to be free from plants of wild oat.

(2) The seed produced by the crop must be sampled in accordance with Article 7 of, and Annex III to, that Directive and must—

- (a) satisfy the conditions in Annex II to that Directive; and
- (b) be free of seeds of wild oat in a 3 kilogram sample.

(3) The moisture content must not exceed 17% by weight.

(4) Diseases and harmful organisms that reduce the usefulness of the seed must be at the lowest possible level.

### Higher voluntary standards for cereals

**14.**—(1) Barley, oats, wheat (including durum wheat and spelt wheat) or naked oats classified as basic seed, or certified seed of categories C1 or C2, may be marketed as being of a higher voluntary standard, which is a standard higher than that required under paragraph 13, if it meets the higher standards specified in this paragraph and paragraphs 15, 16 and 17.

(2) The seed must meet the minimum standards laid down in paragraph 13.

(3) The seed must have at least 99.99% (by number) species purity.

(4) Other than a hybrid, the minimum varietal purity of seed is—

(a) 99.95% for basic seed;

(b) 99.9% for C1 seed;

(c) 99.7% for C2 seed.

(5) In the case of C1 and C2 the seed must have 99% by weight analytical purity.

### Additional requirements for barley, wheat, durum wheat and spelt wheat

**15.** In the case of barley, wheat, durum wheat and spelt wheat the maximum percentage by number of loose smut infection in seed is—

(a) 0.1% for basic seed;

(b) 0.2% for C1 and C2 seed.

**16.** The number of seeds from other plant species in a sample of 1 kilogram must not exceed the following.

### Seed of other species

<i>Category of seed sampled</i>	<i>All other plant species (including species specified in columns 3 to 6)</i>	<i>Other cereal species</i>	<i>All plant species other than cereals</i>	<i>Darnel</i>	<i>Wild radish, corn cockle, sterile brome or couch</i>
Basic seed	1	0	1	0	0 <sup>(a)</sup>
C1	2	1	1	0	1
C2	4	3	2	0	1

<sup>(a)</sup> Only in respect of wild radish and corn cockle.

### Ergot and sclerotia

**17.** In a sample of 1 kilogram—

(a) in the case of basic seed there must be no ergot or sclerotia;

(b) in the case of certified seed (C1 and C2) there must be no more than one piece of ergot or sclerotia.

## PART 3

### Fodder plants

#### Permitted types of fodder seed

**18.**—(1) Fodder seed must be—

- (a) pre-basic seed;
- (b) basic seed;
- (c) certified seed;
- (d) certified seed, first generation;
- (e) certified seed, second generation;
- (f) commercial seed; or
- (g) seed of a higher voluntary standard.

(2) The seed may be a mixture of fodder species of different varieties provided that each variety in the mixture is certified.

#### Meaning of “pre-basic seed”

**19.** Pre-basic seed is seed—

- (a) produced from a generation prior to pre-basic seed by or under the responsibility of the breeder according to well-defined practices for the maintenance of the variety; and
- (b) intended for the production of—
  - (i) more pre-basic seed;
  - (ii) basic seed; or
  - (iii) with the breeder’s written authority, certified seed CS, C1 or C2.

#### Meaning of “basic seed”

**20.**—(1) Basic seed is seed of—

- (a) bred varieties; or
- (b) local varieties.

(2) Seed of bred varieties is seed—

- (a) produced under the responsibility of the breeder according to well-defined practices for the maintenance of the variety;
- (b) intended for the production of certified seed.

(3) Seed of local varieties is seed—

- (a) produced under official control from material officially accepted as being of the local variety on one or more holdings situated within a clearly demarcated region of origin;
- (b) intended for the production of certified seed.

#### Meaning of “certified seed”

**21.** Certified seed is seed (other than of field beans, field peas, lucerne (*Medicago sativa*), lupins and vetches)—

- (a) produced directly from basic seed or, if the breeder so requests, from pre-basic seed that satisfies the conditions for basic seed;
- (b) intended for purposes other than the production of seed.

### **Meaning of “certified seed, first generation”**

**22.** Certified seed, first generation in relation to field beans, field peas, lucerne (*Medicago sativa*), lupins and vetches is seed—

- (a) produced directly from basic seed or, if the breeder so requests, from pre-basic seed that satisfies the conditions for basic seed;
- (b) intended for—
  - (i) the production of certified seed, second generation (in the case of field beans and field peas only); or
  - (ii) purposes other than the production of seed (in all cases).

### **Meaning of “certified seed, second generation”**

**23.** Certified seed, second generation in relation to field beans, field peas, lucerne (*Medicago sativa*), lupins and vetches is seed—

- (a) produced directly from basic seed, from certified seed, first generation (C1) or, if the breeder so requests, from pre-basic seed that satisfies the conditions for basic seed;
- (b) intended for purposes other than the production of seed of fodder plants.

### **Meaning of “commercial seed”**

**24.** Commercial seed is seed of annual meadowgrass, Hungarian vetch or sainfoin that is identifiable as belonging to a species.

### **Crop and seed requirements**

**25.**—(1) Crop inspections by official or licensed crop inspectors must be carried out in accordance with Article 2(3)(A) of, and Annex I to, Council Directive 66/401/EEC on the marketing of fodder plant seed, and the crop must satisfy the conditions in that Annex.

(2) The seed produced by the crop must be sampled in accordance with Article 7 of, and Annex III to, that Directive, and must satisfy the conditions in Annex II to that Directive.

(3) Diseases and harmful organisms that reduce the usefulness of the seed must be at the lowest possible level.

### **Higher voluntary standards for fodder seed**

**26.** In the case of cocksfoot, festulolium, hybrid ryegrass, Italian ryegrass, lucerne, meadow fescue, perennial ryegrass, red clover, red fescue, sainfoin, small timothy, timothy, smooth stalked meadow grass, tall fescue and white clover, certified seed (CS) may be marketed as certified seed of a higher voluntary standard, where the sample of seed taken under paragraph 25(2) satisfies the standards specified in the following Table.



<i>Column header</i>	<i>Minimum analytical purity (% by weight)</i>	<i>Total weight of all other species (% by weight)</i>	<i>Total weight of a single other species (% by weight)</i>	<i>Seed of Rumex spp excluding R acetosella and R maritimus</i>	<i>Seed of couch</i>	<i>Seed of blackgrass</i>	<i>Limits of other specific species</i>
<b>Fine grasses</b>							
festulolium	98	1.5	0	0	10	0	The sample must have no more than four seeds of ryegrass, cocksfoot, meadow fescue and 0.3% rough stalked meadowgrass
red fescue	95	1.5	0.5	5	10	10	
smooth-stalked meadowgrass	90	1.5	0.5	2	3	3	Maximum of 0.4% by weight of seed of other meadowgrass
<b>Fodder grasses</b>							
cocksfoot	90	1.5	0.5	5	10	10	0.3% rough stalked meadowgrass, 0.3% ryegrass
meadow fescue, tall fescue	98	1.5	0.5	5	10	10	
hybrid ryegrass, Italian ryegrass, perennial ryegrass	98	1.5	0.5	5	10	10	0.4% annual meadowgrass, 0.3% rough stalked meadowgrass
small timothy, timothy	98	1.5	0.5	4	10	10	0.3% <i>Argostis spp</i>
<b>Small seeded legumes</b>							
lucerne, red clover, white clover	98	1.5	0.5	10	10	10	0.3% <i>Melilotus spp</i>
sainfoin	98	1.5	0.5	5	10	10	0.3% <i>Melilotus spp</i>

## PART 4

### Oil and fibre

#### **Permitted types of oil and fibre seed**

**27.** Oil and fibre seed must be—

- (a) pre-basic seed;
- (b) basic seed;
- (c) certified seed;
- (d) certified seed, first generation;
- (e) certified seed, second generation;
- (f) certified seed, third generation; or
- (g) commercial seed.

#### **Meaning of “pre-basic seed”**

**28.**—(1) Pre-basic seed is seed of a generation prior to basic seed—

- (a) that has been produced by or under the responsibility of the breeder according to well-defined practices for the maintenance of the variety; and
- (b) is intended to be used for the production of more pre-basic seed, basic seed or, with the breeder’s written authority—
  - (i) in the case of black mustard, brown mustard, dioecious hemp, sunflower, swede rape, turnip rape or white mustard, CS seed;
  - (ii) in the case of monoecious hemp or soya bean, C1 or C2 seed;
  - (iii) in the case of flax or linseed, C1 C2 or C3 seed.

(2) But in relation to a component of a hybrid variety, “pre-basic seed” means seed of a generation prior to basic seed that is intended to be used for the production of—

- (a) more pre-basic seed;
- (b) basic seed; or
- (c) with the breeder’s written authority, CS seed.

#### **Meaning of “basic seed” for non-hybrid varieties**

**29.** In the case of a non-hybrid variety, basic seed is seed—

- (a) produced under the responsibility of the breeder according to well-defined practices for the maintenance of the variety;
- (b) intended for the production of—
  - (i) certified seed;
  - (ii) certified seed, first generation;
  - (iii) certified seed, second generation; or
  - (iv) certified seed, third generation.

#### **Meaning of “basic seed” for inbred lines**

**30.** In the case of an inbred line, basic seed is seed of an inbred line of a hybrid that satisfies the conditions for basic seed.

### **Meaning of “basic seed” for simple hybrids**

**31.** In the case of a simple hybrid, basic seed is seed intended for the production of hybrids.

### **Meaning of “certified seed”**

**32.** Certified seed is seed of black, brown and white mustard, dioecious hemp, sunflower, swede rape or turnip rape—

- (a) produced directly from basic seed or, if the breeder so requests, from seed of a generation prior to basic seed that satisfies the conditions for basic seed;
- (b) intended for purposes other than the production of seed of oil or fibre plants.

### **Meaning of “certified seed, first generation”**

**33.** Certified seed, first generation is seed of monoecious hemp, flax, linseed or soya—

- (a) produced directly from basic seed or, if the breeder so requests, from pre-basic seed that satisfies the conditions for basic seed;
- (b) intended for the production of—
  - (i) certified seed, second generation;
  - (ii) where appropriate, certified seed, third generation; or
  - (iii) for purposes other than the production of seed of oil or fibre plants.

### **Meaning of “certified seed, second generation”**

**34.—(1)** Certified seed, second generation is seed of flax, linseed, soya or monoecious hemp.

**(2)** In the case of flax, linseed and soya it is seed—

- (a) produced directly from basic seed, from certified seed, first generation or, if the breeder so requests, from pre-basic seed that satisfies the conditions for basic seed; and
- (b) intended for—
  - (i) purposes other than the production of seed; or
  - (ii) where appropriate, the production of certified seed, third generation.

**(3)** In the case of monoecious hemp it is seed—

- (a) produced directly from certified seed, first generation established and officially controlled with a view to the production of certified seed, second generation; and
- (b) intended for the production of hemp to be harvested in flower.

### **Meaning of “certified seed, third generation”**

**35.** Certified seed, third generation is seed from flax or linseed—

- (a) of direct descent from basic seed, from certified seed, first or second generation or, if the breeder so requests, from seed of a generation prior to basic seed; and
- (b) intended for purposes other than the production of seed.

### **Meaning of “commercial seed”**

**36.** Commercial seed (black mustard seed only) is seed that is identifiable as belonging to a species.

### **Crop and seed requirements**

**37.**—(1) Crop inspections by official or licensed crop inspectors must be carried out in accordance with Article 2(5)(A) of, and Annex I to, Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants, and the crop must satisfy the conditions in that Annex.

(2) The seed produced by the crop must be sampled in accordance with Annex III to that Directive and must satisfy the conditions in Annex II to that Directive.

(3) Diseases and harmful organisms that reduce the usefulness of the seed must be at the lowest possible level.

### **Requirements for a varietal association**

**38.**—(1) Seed marketed as a varietal association must comply with this paragraph.

(2) The varietal association must be an association of certified CS seed of a specified pollinator-dependent hybrid variety with certified CS seed of one or more specified pollinator varieties both of which have been accepted on to the National List or the Common Catalogue.

(3) The seed of the female and male components of a varietal association must have been dressed using seed dressings of different colours.

(4) The seed must be mechanically combined in the proportions jointly determined by the persons responsible for the maintenance of these components.

(5) The proportions must be notified to the Department by the person responsible for the maintenance of the pollinator-dependent hybrid and pollinators with the varietal association.

(6) In this paragraph—

- (a) “pollinator-dependent hybrid” means the male-sterile component within the varietal association (female component); and
- (b) “pollinator” means a component shedding pollen within a varietal association.

## **PART 5**

### **Vegetables**

#### **Permitted types of vegetable seed**

**39.**—(1) Vegetable seed must be—

- (a) pre-basic seed;
- (b) basic seed;
- (c) certified seed; or
- (d) standard seed.

(2) The seed may be a mixture of different varieties of the same vegetable species provided that each variety in the mixture is standard seed.

#### **Meaning of “pre-basic seed”**

**40.** Pre-basic seed is seed—

- (a) produced from a generation prior to pre-basic seed by or under the responsibility of the breeder according to well-defined practices for the maintenance of the variety; and
- (b) intended for the production of—
  - (i) more pre-basic seed;
  - (ii) basic seed; or
  - (iii) with the breeder’s written authority, certified seed.

### **Meaning of “basic seed”**

**41.**—(1) Basic seed is seed—

- (a) produced under the responsibility of the breeder according to well-defined practices for the maintenance of the variety;
- (b) intended for the production of certified seed.

(2) For the avoidance of doubt this includes seed intended as a component of a hybrid variety of vegetable.

### **Meaning of “certified seed”**

**42.** Certified seed is seed—

- (a) produced directly from basic seed or, if the breeder so requests, from seed of a generation prior to basic seed that satisfies the conditions for basic seed;
- (b) intended mainly for the production of vegetables.

### **Meaning of “standard seed”**

**43.** Standard seed is seed that is intended mainly for the production of vegetables and has been approved by the Department as having sufficient varietal purity and varietal identity.

### **Crop and seed requirements**

**44.**—(1) Crop inspections by official or licensed crop inspectors must be carried out in accordance with Article 2(4)(A) of, and Annex I to, Council Directive 2002/55/EC on the marketing of vegetable seed, and the crop must satisfy the conditions in that Annex.

(2) The seed produced by the crop must be sampled in accordance with Article 25 of, and Annex III to, that Directive and must satisfy the conditions in Annex II to that Directive.

(3) Sub-paragraph (1) does not apply in the case of standard seed.

(4) Diseases and harmful organisms that reduce the usefulness of the seed must be at the lowest possible level.

(5) After marketing, vegetable seed is subject to control by the Department for varietal identity and varietal purity.

## SCHEDULE 3

Regulations 16 and 17

### Labelling and loose sales

#### PART 1

##### Introduction

##### **Types of label**

1.—(1) There are two types of label for seed, official labels and supplier's labels.

(2) A supplier's label must be used on a package of breeder's seed, and may be used on a small package of seed specified in Part 4 of this Schedule and on a package of standard vegetable seed of any size.

(3) An official label must be used on any other package of seed.

##### **Time of labelling**

2. A package must be labelled at the time of sealing.

##### **Genetically modified varieties**

3. If a variety has been genetically modified, this must be stated on the label.

##### **Chemical treatment of seed**

4. If seed has been subjected to any chemical treatment, this fact and the nature of the treatment or the proprietary name of the chemical used must be stated either—

- (a) on the label; or
- (b) on a separate supplier's label affixed to the package.

#### PART 2

##### Official labels

##### **Official labels: general requirements**

5.—(1) An official label is a label supplied by, or on behalf of, the Department.

(2) It must be on the outside of the package.

(3) It must not have been previously used.

(4) It must be adhesive, or secured by a sealing device approved by the Department.

(5) It must be in one of the official languages of the European Union.

(6) It must be at least 110mm x 67mm.

(7) It must have an officially assigned serial number.

(8) It must be fixed to the package by an authorised officer of the Department, a licensed seed sampler or any person being supervised by such a person.

(9) By way of derogation from the above, in the case of cereal seed, fodder seed and oil and fibre seed, classified in each case as CS, C1, C2 or C3, the whole bag may be used as the label,

provided that this is done with the approval of the Department and the bag is the same colour as is required for the label.

#### **Official labels for pre-basic seed**

- 6.—(1) The following must appear on an official label on pre-basic seed—
- (a) the name of the certification authority;
  - (b) the name or initials of the member State;
  - (c) the reference number of the seed lot;
  - (d) the country of production;
  - (e) the month and year of sealing expressed as “sealed ...[month and year]”;
  - (f) the species (this must be the botanical name, which may be given in abridged form and without the authors’ names, except that, in the case of beet or vegetable seed, the common name may be used);
  - (g) the variety;
  - (h) the description “pre-basic” or “PB”;
  - (i) the declared net or gross weight or number of seeds (or, in the case of beet, the declared number of clusters or pure seeds);
  - (j) where granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of the seed and the total weight (or, in the case of beet, the ratio between the weight of pure seed and the total weight);
  - (k) the number of generations preceding the category “certified seed (CS)” or “certified first generation (C1) seed”.
- (2) The label must be white with a diagonal violet stripe.

#### **Official labels for basic seed and certified seed**

- 7.—(1) The following must appear on an official label on certified seed—
- (a) the words “EU rules and standards”;
  - (b) the name of the certification authority;
  - (c) the name or initials of the member State;
  - (d) the reference number of the seed lot;
  - (e) either—
    - (i) the month and year of sealing expressed as “sealed ...[month and year]”; or
    - (ii) the month and year of the last official sampling for the purposes of certification expressed as “sampled ...[month and year]”;
  - (f) the species (this must be the botanical name, either in full or in abridged form except that, in the case of beet or vegetable seed, the common name may be used);
  - (g) the variety;
  - (h) the category;
  - (i) the country of production;
  - (j) the declared net or gross weight or number of seeds (or, in the case of beet, the declared number of clusters or pure seeds);
  - (k) where granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of the seed and the total weight (or, in the case of beet, the ratio between the weight of pure seed and the total weight);

- (1) where the germination has been retested the word “retested” followed by the month and year of re-testing.
- (2) the label must be coloured—
  - (a) white for basic seed;
  - (b) blue for certified seed and certified seed, first generation;
  - (c) red for certified seed of the second and third generation.

**Official labels for commercial seed not certified as to variety**

**8.**—(1) The following must appear on an official label on commercial seed not certified as to variety—

- (a) the words “EU rules and standards”;
- (b) the name of the certification authority;
- (c) the name or initials of the member State;
- (d) the reference number of the seed lot;
- (e) either—
  - (i) the month and year of sealing expressed as “sealed ...[month and year]”; or
  - (ii) the month and year of the last official sampling for the purposes of certification expressed as “sampled ...[month and year]”;
- (f) the species (this must be the botanical name, either in full or in abridged form except that, in the case of beet or vegetable seed, the common name may be used);
- (g) the words “commercial seed not certified as to variety”;
- (h) the country of production;
- (i) the declared net or gross weight or number of seeds;
- (j) where granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of the seed and the total weight;
- (k) where the germination has been retested the word “retested” followed by the month and year of re-testing.
- (2) The label must be coloured brown.

**Labelling mixtures**

**9.**—(1) The following must appear on an official label on a mixture of seed—

- (a) the authority responsible for sealing the package;
- (b) the name or initials of the member State;
- (c) the reference number of the seed lot;
- (d) the month and year of sealing expressed as “sealed ...[month and year]”;
- (e) the species, category, variety, country of production and proportion by weight of each of the components;
- (f) the declared net or gross weight or declared number of seeds;
- (g) where the weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of the pure seed and the total weight;
- (h) where the germination of all of the components of the mixture has been retested, the word “retested” followed by the month and year of re-testing;



- (i) in the case of cereals the words “mixture of” followed by the species and varieties and a qualifying statement that the mixture is effective against the propagation of a harmful organism;
  - (j) in the case of fodder plants the word “mixture of seeds for” followed by an indication of the intended use.
- (2) But for fodder mixtures registered with the Department, provided the label shows the registered name of the mixture, the percentage by weight of each of the components may be omitted provided that—
- (a) this information is supplied to the customer on request; and
  - (b) customers are informed that they can request these details.
- (3) The label must be coloured green.

## PART 3

### Additional requirements for official labels for specific species

#### **Additional requirements for beet seed**

- 10.** An official label for beet seed must specify—
- (a) “monogerm” or “precision” as appropriate;
  - (b) “fodder beet” or “sugar beet” as appropriate.

#### **Additional requirements for cereal seed**

**11.**—(1) An official label for C1 and C2 naked barley must include the words “minimum germination capacity 75%”.

(2) An official label for basic cereal seed of varieties that are hybrids or inbred lines must include—

- (a) for basic seed where the hybrid or inbred line to which the seed belongs has been accepted on to the National List or the Common Catalogue, the name under which it has been officially accepted, with or without reference to the final variety, and if the seed is intended solely as a component for final varieties the word “component”;
- (b) for basic seed in other cases the name of the component to which the basic seed belongs, which may be given in code form, accompanied by a reference to the final variety, with or without reference to its function (male or female) by the word “component”.

(3) An official label for certified cereal seed (CS, C1 or C2) of varieties that are hybrids or inbred lines must include the word “hybrid” after the variety.

(4) Where seed is marketed as being of the higher voluntary standard the label must contain the letters HVS.

#### **Additional requirements for fodder seed**

**12.** An official label for fodder seed must include—

- (a) for certified seed, second and subsequent generations, the number of generations after basic seed;
- (b) in the case of seed of grass varieties in respect of which no official examination of their value for cultivation and use has been carried out the words “Not intended for fodder production”;
- (c) where seed is marketed as being of the higher voluntary standard the letters HVS.

### **Additional requirements for oil and fibre seed**

**13.**—(1) An official label for basic oil and fibre seed of varieties that are hybrids or inbred lines must include—

- (a) for basic seed where the hybrid or inbred line to which the seed belongs has been officially accepted on to the National List or the Common Catalogue, the name under which it has been officially accepted, with or without reference to the final variety, and if the seed is intended solely as a component for final varieties the word “component”;
- (b) for basic seed in other cases the name of the component to which the basic seed belongs, which may be given in code form, accompanied by a reference to the final variety, with or without reference to its function (male or female) by the word “component”.

(2) An official label for certified oil and fibre seed (CS, C1 or C2) of varieties that are hybrids or inbred lines must include the word “hybrid” after the variety.

(3) An official label for certified seed of a varietal association must be blue with a diagonal green line.

## **PART 4**

### **Supplier’s labels**

#### **Meaning of “supplier’s label”**

**14.** A supplier’s label is a label that has not been provided by, or on behalf of, the Department.

#### **Labelling a package**

**15.** A supplier’s label must either be affixed to the package in the same way as an official label or printed indelibly on the package.

#### **References to weights in this Part**

**16.** In this Part references to the weight excludes any granulated pesticides, pelleting substances or other solid additives.

#### **Breeder’s seed: supplier’s labels**

**17.**—(1) The following must appear on a supplier’s label on a package of breeder’s seed—

- (a) the name and address or identification number of the supplier responsible for affixing the label;
- (b) the reference number of the seed lot;
- (c) the species;
- (d) the variety;
- (e) the words “breeder’s seed”;
- (f) the declared net or gross weight or number of seeds.

(2) The label must be buff coloured.

#### **Beet seed: supplier’s labels**

**18.**—(1) A supplier’s label may be used on a small package of beet seed.

(2) A small package of beet seed (known as a “small EU package”) is a package that—

- (a) in the case of basic and certified beet seed of precision or monogerm varieties, either weighs not more than 2.5 kilograms or consists of not more than 100,000 clusters;

- (b) for all other beet seed, weighs not more than 10 kilograms.
- (3) The label must be the same colour as the official label for that category of seed.
- (4) The following must appear on the label—
  - (a) the words “small EU package”;
  - (b) the name and address or identification number of the person affixing the label;
  - (c) the officially assigned serial number;
  - (d) the service that assigned the serial number and name or initials of the member State;
  - (e) the reference number if the official serial number does not enable the lot to be identified;
  - (f) the species;
  - (g) either sugar beet or fodder beet as appropriate;
  - (h) the variety;
  - (i) the category;
  - (j) the declared net or gross weight or number of clusters or pure seeds;
  - (k) where the weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of the clusters or pure seeds and the total weight;
  - (l) either “monogerm” or “precision” as appropriate.

**Cereal seed: supplier’s label**

- 19.**—(1) A supplier’s label may be used on a small package of cereal seed.
- (2) A small package of cereal seed is a package of any certified seed, or any mixture of certified seed not exceeding 15 kilograms.
- (3) The label must be the same colour as the official label for that category of seed.
- (4) The following must appear on the label—
- (a) the words “EU rules and standards”;
  - (b) the name and address or identification number of the supplier responsible for affixing the label;
  - (c) the reference number of the seed lot;
  - (d) the species;
  - (e) the variety;
  - (f) the category;
  - (g) the declared net weight or declared number of seeds;
  - (h) for hybrid varieties of maize, the word “hybrid”;
  - (i) in the case of C1 and C2 seed of naked barley, the words “minimum germination capacity 75%”.

**Fodder seed (agricultural or amenity): packages that may be labelled with a supplier’s label**

- 20.**—(1) A supplier’s label may be used on a small package of fodder seed, either agricultural or amenity (including a mixture of fodder seed).
- (2) A small package of fodder seed is either a small EU “A” package or a small EU “B” package.
- (3) A small EU “A” package is a package containing a mixture of seed not intended for the production of fodder plants, with a net weight not exceeding 2 kilograms.
- (4) A small EU “B” package is a package containing—
- (a) basic seed;

- (b) certified seed (CS, C1 or C2);
- (c) commercial seed; or
- (d) (unless the package is a small EU “A” package) a mixture of seed,

with a net weight not exceeding 10 kilograms.

**Fodder seed other than a mixture: labelling requirements**

**21.**—(1) A supplier’s label on a small package of fodder seed (other than a mixture, for which see paragraph 22) must be the same colour as the official label for that category of seed.

(2) The following must appear on the label—

- (a) the words “small EU “B” package”;
- (b) the name and address or identification number of the person affixing the label;
- (c) the officially assigned serial number;
- (d) the service which assigned the serial number and name of the member State or their initials;
- (e) the reference number if the serial number does not enable the seed lot to be identified;
- (f) the species;
- (g) the net or gross weight of pure seed or the number of pure seeds;
- (h) where the weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of the seed and the total weight;
- (i) in the case of certified seed—
  - (i) the variety;
  - (ii) the category;
  - (iii) for grass seed of a variety for which an examination of its value for cultivation and use is not required the words “not intended for the production of fodder plants”;
- (j) in the case of commercial seed the words “commercial seed”.

**Fodder seed mixture: labelling requirements**

**22.**—(1) A supplier’s label on a small package of a mixture of fodder seed must be the same colour as the official label for that category of seed.

(2) The following must appear on the label—

- (a) the words small “EU “A” package or “small EU “B” package” as appropriate;
- (b) the name and address or identification number of the person affixing the label;
- (c) for a small EU “A” package—
  - (i) the reference number enabling the seed lots used in the mixture to be identified; and
  - (ii) the name or initials of the member State;
- (d) for a small EU “B” package—
  - (i) the officially assigned serial number;
  - (ii) the service that assigned the serial number and name of member State or their initials;
  - (iii) the reference number if the official serial number does not enable the used seed lots to be identified;
- (e) the words “seed mixture for ...[intended use]”;
- (f) the net or gross weight or number of pure seeds;

- (g) where the weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of the seed and the total weight;
- (h) the percentage by weight of the various components shown by species and, where appropriate, by variety.

(3) But for mixtures registered with the Department, provided the label shows the registered name of the mixture, the percentage by weight of each of the components may be omitted provided that—

- (a) this information is supplied to the customer on request; and
- (b) customers are informed that they can request these details.

### **Oil and fibre seed: supplier's labels**

**23.**—(1) A supplier's label may be used on a small package of oil and fibre seed.

(2) A small package of oil and fibre seed is a package of any certified or commercial oil and fibre seed that does not weigh more than 15 kilograms.

(3) The label must be the same colour as the official label for that category of seed.

(4) The following must appear on the label—

- (a) the words "EU rules and standards";
- (b) the name and address or identification number of the supplier responsible for affixing the label;
- (c) the reference number of the seed lot;
- (d) the species (this must be the botanical name, either in full or in abridged form);
- (e) the variety;
- (f) for certified seed, the category;
- (g) for commercial seed the words "commercial seed (not certified as to variety)";
- (h) the declared net or gross weight of clusters or pure seed (except for packages not exceeding 500 grams);
- (i) where the weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of the seed and the total weight.

### **Vegetable seed: supplier's labels**

**24.**—(1) A supplier's label may be used on—

- (a) a package of standard vegetable seed, no matter what the weight; and
- (b) a small package of certified (CS) seed.

(2) A small package of certified (CS) vegetable seed is a package of certified (CS) seed that weighs no more than—

- (a) for broad beans, French beans, runner beans and peas, 5 kilograms;
- (b) for asparagus, beetroot, carrot, chard or spinach beet, gourd, marrow, onion, radish, spinach or turnip, 500 grams;
- (c) for any other vegetable species, 100 grams.

(3) The label must be coloured dark yellow for standard seed or blue for certified seed.

(4) The following must appear on the label on a package of standard seed (other than a mixture of different varieties of standard seed of the same species) and certified seed—

- (a) the words "EU rules and standards";
- (b) the name and address or identification number of the person affixing the label;

- (c) the marketing year of the sealing or of the last examination of germination (the end of the marketing year may be indicated);
  - (d) the species;
  - (e) the variety;
  - (f) the category: in the case of small packages, certified seed may be marked with the letter “C” or “Z” and standard seed with the letters “ST”;
  - (g) in the case of standard seed, the reference number given by the person responsible for affixing the labels;
  - (h) in the case of certified seed, the reference number enabling the certified lot to be identified;
  - (i) the declared net or gross weight or declared number of seeds, except for small packages up to 500 grams;
  - (j) where the weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of clusters or pure seeds and the total weight.
- (5) The following must appear on the label on a package of a mixture of different varieties of standard seed of the same species—
- (a) the words “EU rules and standards”;
  - (b) the name and address or identification number of the person affixing the label;
  - (c) the year of sealing expressed as “sealed ...[year]” or the year of last sampling for the purpose of the last testing for germination expressed as “sampled ...[year]”, (the words “use before ...[date]” may be added);
  - (d) the words “mixture of varieties of ...[name of the species]”;
  - (e) the varieties;
  - (f) the proportion of the varieties, expressed as net weight or as the number of seeds;
  - (g) the reference number given by the person responsible for affixing the labels;
  - (h) the net or gross weight or the number of seeds;
  - (i) where the weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of clusters or pure seeds and the total weight.

## PART 5

### Sales of loose seed

#### **Sales of loose seed**

**25.—**(1) Loose (unpackaged) seed may be sold in accordance with this paragraph.

(2) The maximum quantity that may be sold is—

- (a) for fodder seed—
  - (i) 3 kilograms in the case of field beans and peas;
  - (ii) 2 kilograms in the case of all other fodder seed;
  - (iii) 7 kilograms in the case of a mixture of seed;
- (b) for cereal seed, 5 kilograms;
- (c) for beet seed, 2.5 kilograms;
- (d) for oil and fibre seed, 5 kilograms;
- (e) for vegetable seed—

- (i) 3 kilograms in the case of broad beans, French beans, runner beans and peas;
- (ii) 1 kilogram in the case of all other vegetable seed.

(3) The sale must be to the final consumer, and the information that would have been required on a package of that seed must be displayed near the point of sale.

## SCHEDULE 4

Regulation 9(2)

### Exceptions

#### PART 1

##### Supply of seed other than by way of marketing

###### **Early multiplication of seed**

1.—(1) Seed of an unlisted variety may be supplied by a person licensed to market seed for multiplication for progression through the different generation categories of seed.

(2) Each generation of seed supplied must have reached the standard required for certification.

(3) The seed produced must remain the property of the licensed person, and may not be marketed.

###### **Seed as grown**

2. Seed as grown may be sent by the grower for cleaning prior to certification, and to a testing or inspection body for the purposes of certification.

###### **Farm saved seed**

3. Farm-saved seed may only be used by the person who grew it, and may not be marketed or supplied to any other person, but it may be sent for cleaning provided that the person who cleans it returns all the seed to the holding where it was grown.

#### PART 2

##### Marketing seed that does not comply with Schedule 2

###### **Seed with a declared lower germination**

4.—(1) Pre-basic and basic seed with a minimum percentage germination standard lower than required in the Directive relating to that seed specified in Schedule 2 may be marketed provided that the supplier guarantees a specific minimum percentage germination.

(2) The germination must be stated on the official label together with the supplier's name and address and the reference number of the seed lot.

###### **Early movement of seed**

5.—(1) A person may market officially certified early movement pre-basic or basic seed if—

(a) that person guarantees a minimum percentage of germination for the seed that is—

- (i) the same as the EU minimum percentage of germination for the relevant species of seed and the same as, or less than, the percentage of germination for the seed

ascertained by the provisional analysis on which the certification of the seed was based; or

- (ii) less than the EU minimum percentage of germination for the relevant species of seed and the same as the percentage of germination ascertained by the provisional analysis on which the certification of the seed was based.

(2) A person may market officially certified early movement CS, C1, C2, C3 or commercial seed if—

- (a) that person guarantees a minimum percentage of germination for the seed that is—
  - (i) the same as the EU minimum percentage of germination for the relevant species of seed; or
  - (ii) the same as, or less than, the percentage of germination ascertained by the provisional analysis on which the certification of the seed was based.

(3) Where any person markets seed, in accordance with sub-paragraph (1) or (2), that person shall provide the purchaser, upon or before delivery of the seed, with a statement—

- (a) stating that the seeds are being marketed before the completion of the official germination test;
- (b) specifying the guaranteed minimum percentage of germination; and
- (c) specifying the name and address of the person marketing the seed and the reference number of the seed lot.

(4) Where any person—

- (a) markets officially certified early movement seed in accordance with sub-paragraphs (1) and (2), and
- (b) the official germination test shows that the percentage of germination of the seed is less than the minimum percentage of germination guaranteed in accordance with the requirements of paragraph (1)(a) or (2)(a), as the case may be,

that person shall provide the purchaser with the result of the completed official germination test as soon as practicable and, in any event, not later than seven days after being informed of it.

(5) A person marketing seed, which has been officially certified as early movement seed under paragraph 6(3), must make an application for final certification of that seed within 21 days of the completion of the official germination test.

(6) This paragraph does not apply in the case of—

- (a) vegetable seed; or
- (b) seed imported from a third country.

**6.—(1)** In this Schedule officially certified early movement seed of any category, listed in regulation 5, means seed to which sub-paragraph (2) or (3) applies.

(2) This sub-paragraph applies to—

- (a) seed of a listed variety officially certified as early movement seed in the United Kingdom; or
- (b) seed of a listed variety officially certified as early movement seed by or on behalf of the competent seed certification authority in another member State.

(3) This sub-paragraph applies to—

- (a) seed of a listed variety—
  - (i) that has been harvested from a crop produced in the United Kingdom for which a field inspection report has been issued stating that the crop has been found by an official field inspection (whenever carried out) to satisfy the conditions set out in the Directive relating to the crop from which seed is to be produced specified in Schedule 2;
  - (ii) that, subject to sub-paragraph (iii), satisfies the conditions laid down in Schedule 2 for seed certification;



- (iii) for which the results of a germination test are awaited but for which a provisional analytical report has been obtained indicating what the percentage of germination of the seed is likely to be; and
  - (iv) for which a seed test report has been issued under these Regulations indicating that the seed has achieved the required minimum analytical purity standard set out in the Directive relating to that seed specified in Schedule 2;
- (b) seed of a listed variety—
- (i) that has been imported into the United Kingdom as not finally certified seed harvested in another member State; and
  - (ii) that complies with the requirements of sub-paragraph (3)(a)(ii) to (iv);

other than seed to which sub-paragraph (2) applies and seed for which an application for official certification has been made, in the United Kingdom, that has not been finally determined.

### **Tetrazolium testing for cereal seed**

7. Cereal seed may be marketed if it has been subjected to a tetrazolium test approved by the Department to establish the viability of the seed instead of the tests specified in Council Directive 66/402/EEC on the marketing of cereal seed.

### **Marketing seed of conservation varieties**

8.—(1) The Department may authorise the marketing of seed of a conservation variety in accordance with this paragraph.

(2) The seed must be of a variety listed as a conservation variety in the National List.

(3) The seed must be produced from a crop grown in the region of origin specified for the variety in the National List or as authorised by the Department.

(4) The seed may only be marketed and used in the stated region of origin.

(5) The total amount of seed marketed in any year must be limited in accordance with Article 14 of Commission Directive 2008/62/EC (which relates to agricultural conservation varieties) and Article 15 of and Annex I to Commission Directive 2009/145/EC (which relates to vegetable conservation varieties).

(6) Except in the case of seed of a vegetable conservation variety which is verified as standard seed, the seed must descend from seed produced according to well-defined practices for maintenance of the variety.

(7) In the case of beet seed, cereal seed, fodder plant seed and oil and fibre seed, the seed must comply with the requirements for certification of certified seed set out in Council Directive 2002/54/EC (beet seed), Council Directive 66/402/EEC (cereal seed), Council Directive 66/401/EEC (fodder plant seed) or Council Directive 2002/57/EC (oil and fibre plant seed) (as the case may be), except the requirements in respect of minimal varietal purity and examination.

(8) Vegetable seed must comply with—

(a) the requirements for certification of certified seed set out in Council Directive 2002/55/EC on the marketing of vegetable seed, except the requirements in respect of minimal varietal purity and examination; or

(b) the requirements for marketing of standard seed set out in that Directive, except the requirements in respect of minimal varietal purity.

(9) Seed of a conservation variety must have sufficient varietal purity.

(10) The seed must not be sold as loose seed under paragraph 25 of Schedule 3.

(11) The seed must be labelled with a supplier's label or a printed or stamped notice which, in addition to complying with the applicable provisions of the paragraph of Part 4 of Schedule 3 which applies to the type of seed in question (except provisions specifying a colour of label)—

(a) contains—

- (i) in the case of an agricultural conservation variety, the words “conservation variety”;  
or
- (ii) in the case of a vegetable conservation variety, the words “certified seed of a conservation variety” or “standard seed of a conservation variety”;
- (b) states the region of origin; and
- (c) is coloured brown.

(12) In this paragraph “conservation variety” has the meaning given by regulation 2(1) of the Seeds (National Lists of Varieties) Regulations 2001.

### **Marketing preservation mixtures that include uncertified fodder seed**

**9.—**(1) The Department may authorise the marketing of preservation mixtures in accordance with this paragraph.

(2) An application for an authorisation must be made by the producer and must contain such information as the Department may require to—

- (a) complete the authorisation in accordance with Article 4(2) of Commission Directive 2010/60/EU, as read with Article 4(3) of that Directive; and
- (b) verify compliance with Article 5 of that Directive (in the case of directly harvested preservation mixtures) or Article 6 of that Directive (in the case of crop-grown preservation mixtures).

(3) An authorisation—

- (a) may only be granted if the preservation mixture complies with Article 5 of Commission Directive 2010/60/EU (in the case of directly harvested preservation mixtures) or Article 6 of that Directive (in the case of crop-grown preservation mixtures);
- (b) may only be granted for the marketing of a preservation mixture in its region of origin as determined by the Department in accordance with Article 3 of Commission Directive 2010/60/EU;
- (c) may only be granted for a preservation mixture that contains a conservation variety within the meaning of regulation 2(1) of the Seeds (National Lists of Varieties) Regulations 2001 if that variety complies with the requirements of paragraph 8(1) to (7) and (9); and
- (d) must specify the matters listed in Article 4(2) of Commission Directive 2010/60/EU, as read with Article 4(3) of that Directive.

(4) The seed must not be sold as loose seed under paragraph 25 of Schedule 3.

(5) The seed must be labelled with a pink supplier’s label or a printed or stamped notice which, instead of containing the labelling information for mixtures of seed set out in Schedule 3, contains the following information—

- (a) the words “EU rules and standards”;
- (b) the name and address or the identification number of the person affixing the label;
- (c) the harvesting method (whether directly harvested or crop grown);
- (d) the year of sealing expressed as “sealed ...[year]”;
- (e) the region of origin;
- (f) the source area;
- (g) the collection site;
- (h) the habitat type of the collection site;
- (i) the words “preservation seed mixture”;
- (j) the reference number of the lot given by the person affixing the label;
- (k) in the case of crop-grown preservation mixtures—
  - (i) the percentage by weight of the components as species and, where relevant, sub-species; and

- (ii) the specific germination rate for the fodder seed components of the mixture that do not comply with the germination requirements of paragraph 25(2) of Schedule 2 (unless the mixture contains more than five such fodder seed components, in which case the average germination rate for those components may be used);
  - (l) in the case of directly harvested preservation mixtures, the percentage by weight of those components as species and, where relevant, sub-species that are typical for the habitat type of the collection site and that are, as components of the mixture, of importance for the preservation of the natural environment in the context of the conservation of genetic resources;
  - (m) declared net or gross weight; and
  - (n) where granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of clusters or pure seeds and the total weight.
- (6) The total quantity of the seed authorised to be marketed each year must not exceed 5% of the total weight of fodder plant seed mixtures marketed in the United Kingdom in the same year.
- (7) Expressions used both in this paragraph and Commission Directive 2010/60/EU have the same meaning in this paragraph as they have in that Directive.

### **Marketing unlisted varieties (other than vegetable seed) for tests and trials**

**10.**—(1) The Department may authorise the marketing of seed for which an application for entry in the National List has been submitted but not yet granted.

(2) This paragraph does not apply in relation to vegetable seed (for which see the following paragraph).

(3) An applicant must be a producer established in Northern Ireland.

(4) An authorisation is valid for one year and is renewable.

(5) An authorisation becomes invalid once the variety is added to the National List or the application to be listed is withdrawn or rejected.

(6) The authorisation may only be requested by the person who has submitted an application for entry of the varieties concerned in the National List.

(7) An authorisation may only be granted for tests or trials carried out at agricultural enterprises to gather information on the cultivation or use of the variety.

(8) The quantities authorised for each variety must not exceed the following percentages of seed of the same species used annually in the United Kingdom—

- (a) in the case of durum wheat, 0.05%;
- (b) in the case of field pea, field bean, oats, barley and wheat, 0.3%;
- (c) in all other cases, 0.1%.

except that, if such quantities are not sufficient to sow 10 hectares, the quantity needed for such an area may be authorised.

(9) Fodder plant seed must comply with the conditions for—

- (a) certified seed (all species other than field peas and field beans); or
- (b) certified seed, second generation (field peas and field beans).

(10) Cereal seed must comply with the conditions for—

- (a) certified seed (rye, maize and hybrids of oats and red oats, barley, wheat, durum wheat, spelt wheat and triticale other than self-pollinating varieties); or
- (b) certified seed, second generation oats and red oats, barley, wheat, durum wheat, spelt wheat and self-pollinating varieties of triticale, other than hybrids in each case.

(11) Beet seed comply with the conditions for certified seed.

(12) Seed of oil and fibre comply with the conditions for—

- (a) certified seed (all species other than flax and linseed);
- (b) certified seed, second and third generation (flax and linseed).

(13) In addition to the other labelling requirements in these Regulations, the package must be labelled with an official label which must—

- (a) be coloured orange;
- (b) include the words “variety not yet officially listed; for tests and trials only”; and
- (c) where applicable, “genetically modified variety”.

### **Marketing unlisted varieties of vegetable seed**

**11.**—(1) For the purpose of gaining knowledge and practical experience of a variety during cultivation, the Department may authorise the marketing of vegetable seed not listed on the National List provided an application has been made for entry into the National List of at least one member State.

(2) An authorisation is valid for one year and is renewable twice for a period not exceeding one year at each renewal.

(3) An authorisation becomes invalid once the variety is added to the National List or the application to be listed is withdrawn or rejected.

(4) There are no quantitative restrictions on the amount that may be authorised.

(5) The seed must comply with the conditions laid down in Annex II to Council Directive 2002/55/EC, on the marketing of vegetable seed.

(6) The authorisation may only be requested by the person who has submitted an application for entry of the varieties concerned on to the relevant National List.

(7) In addition to the other labelling requirements in these Regulations (except that the name of the certifying authority and the country of origin need not appear), the package must have an official label which must—

- (a) be coloured orange; and
- (b) include the words “variety not yet officially listed”.

(8) The person marketing the seed must—

- (a) retain a sample of each seed lot marketed and keep it for at least two years; and
- (b) record for each sale the name and address of the buyer and keep the record for at least three years.

### **Marketing for scientific or selection purposes**

**12.**—(1) The Department may authorise a producer to place on the market small quantities of seed (other than vegetable seed) for scientific or selection purposes.

(2) The Department may grant an authorisation whether or not the variety is listed on the National List or the Common Catalogue.

(3) An applicant must be a producer established in Northern Ireland.

(4) In addition to the other labelling requirements in these Regulations, the package must have an official label which must—

- (a) be coloured orange; and
- (b) where applicable, include the words “variety not yet officially listed”.

(5) The person marketing the seed must—

- (a) retain a sample of each seed lot marketed and keep it for at least two years; and
- (b) record for each sale the name and address of the buyer and keep the record for at least three years.

### **Restrictions relating to genetically modified seed**

13. The Department may only grant an authorisation in respect of seed of a genetically modified variety under paragraphs 9 to 12 if the marketing and release of the genetically modified material by the applicant have been authorised for cultivation under either—

- (a) Directive 2001/18/EC<sup>(a)</sup> of the European Parliament and of the Council (on the deliberate release into the environment of genetically modified organisms); or
- (b) Regulation (EC) No 1829/2003<sup>(b)</sup> (on genetically modified food and feed).

### **Marketing imported seed to be labelled as HVS**

14.—(1) Seed certified in another member State or third country that has been granted equivalence under Council Decision 2003/17/EC (on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries) may be marketed as meeting a higher voluntary standard in accordance with this paragraph.

(2) A sample must be submitted to the Department for testing, and the Department, if satisfied that the sample meets the higher voluntary standard, must issue a certificate confirming this.

(3) The seed must be re-labelled using—

- (a) an official label issued by the Department if the seed is from another member State; or
- (b) an OECD label if the seed is from a third country,

and in both cases the country of production must be stated on the label.

(4) Seed imported pending inclusion in the National List or not finally certified in the country of production may be verified as being of a higher voluntary standard and re-graded after listing or final certification.

### **Marketing seed of amateur vegetable varieties**

15.—(1) The Department may authorise the marketing of seed of an amateur vegetable variety in accordance with this paragraph.

(2) The seed must be of a variety listed as an amateur vegetable variety in the National List.

(3) The seed must comply with the requirements for marketing of standard seed set out in Council Directive 2002/55/EC on the marketing of vegetable seed, except the requirements in respect of minimal varietal purity.

(4) The seed must have sufficient varietal purity.

(5) The seed must be marketed in small packages not exceeding the net weight specified in Annex II to Commission Directive 2009/145/EC (which relates to amateur vegetable varieties).

(6) The seed must be labelled with a supplier's label or a printed or stamped notice which, in addition to complying with the applicable provisions of paragraph 24 of Schedule 3, contains the words "amateur variety".

(7) In this regulation "amateur vegetable variety" has the meaning given by regulation 5A(5) of the Seeds (National Lists of Varieties) Regulations 2001.

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(a) OJ No L 106, 17.4.2001, p. 1, as last amended by Directive 2014/412, OJ No L 68, 13.03.2015, p.1

(b) OJ No L 268, 18.10.2003, p. 1, as last amended by Regulation (EC) No 298/2008, OJ No L 97, 09.04.2008, p.64

## PART 3

### Certifying seed that does not fully comply with these Regulations

#### **Seed not finally certified, harvested in the United Kingdom, elsewhere than in Northern Ireland**

##### **16.—(1) Seed—**

- (a) that has been produced directly from officially certified basic seed or certified seed of the first generation under the Directive specified in Schedule 2; and
- (b) that has been harvested in the United Kingdom, elsewhere than in Northern Ireland;

may be certified if the seed has undergone field inspection and has been found to satisfy the crop conditions specified in Schedule 2 for that category of seed and if official examination has shown that the conditions for seed of that category are satisfied.

#### **Seed not finally certified, harvested in another member State**

##### **17.—(1) Seed—**

- (a) that has been produced—
  - (i) directly from basic seed or certified seed of the first generation officially certified either in another member State or in a third country that has been granted equivalence under the Directive relating to that seed specified in Schedule 2; or
  - (ii) from the crossing of basic seed certified in a member State with basic seed certified in such a third country; and
- (b) that has been harvested in another member State;

may be certified if that seed has undergone field inspection for that category of seed and if official examination has shown that the conditions for seed of that category are satisfied.

(2) Where the seed has been produced directly from officially certified seed of generations prior to basic seed, it may be certified as basic seed if the conditions laid down for that category are satisfied.

##### **(3) It must be labelled with a grey label bearing the following information—**

- (a) the authority responsible for field inspection and the name or initials of the member State;
- (b) the officially assigned serial number;
- (c) the species, indicated at least under its botanical name, which may be given in abridged form and without the author's names;
- (d) the variety (in the case of inbred lines and hybrids intended solely as components for hybrid varieties, the word 'component' must be added);
- (e) the category;
- (f) in the case of hybrid varieties, the word "hybrid";
- (g) the declared net or gross weight;
- (h) the words "seed not finally certified".

##### **(4) It must be accompanied by an official document stating—**

- (a) the authority issuing the document;
- (b) the officially assigned serial number;
- (c) the species, indicated at least under its botanical name, which may be given in abridged form and without the authorities' names;
- (d) the variety;
- (e) the category;

- (f) the reference number of the seed used to sow the field and name of the country that certified that seed;
- (g) the reference number of the seed lot or field;
- (h) the area cultivated for the production of the seed lot covered by the document;
- (i) the quantity of seed harvested and number of packages;
- (j) the number of generations after basic seed, in the case of certified seed;
- (k) an attestation that the conditions to be satisfied by the crop from which the seed comes have been fulfilled; and
- (l) where appropriate, the results of a preliminary seed analysis.

**Seed not finally certified, harvested in a third country**

**18.**—(1) Seed harvested in a third country may be certified if—

- (a) it has been produced directly from—
  - (i) basic seed or certified seed of the first generation certified either in a member State or in a third country that has been granted equivalence under Council Decision 2003/17/EC (on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries); or
  - (ii) the crossing of basic seed officially certified in a member State with basic seed certified in such a third country;
- (b) it has undergone field inspection in accordance with Council Decision 2003/17/EC (on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries);
- (c) examination has shown that the conditions for seed of that category are satisfied; and
- (d) it is accompanied by a certificate from the competent authority of the country of origin certifying its status.

(2) The label must be grey.

**Marketing extensions**

**19.** The Department may grant a marketing extension allowing an extended period for the certification and marketing of seed of a variety that has been deleted from the National List or the Common Catalogue.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

These Regulations, which apply in Northern Ireland, implement—

Council Directive 66/401/EEC on the marketing of fodder plant seed;

Council Directive 66/402/EEC on the marketing of cereal seed;

Council Directive 2002/54/EC on the marketing of beet seed;

Council Directive 2002/55/EC on the marketing of vegetable seed;

Council Directive 2002/56/EC on the marketing of seed of oil and fibre plants;

(partially) Commission Directive 2008/62/EC providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties;

Commission Directive 2009/74/EC amending Council Directives 66/401/EEC, 66/402/EEC, 2002/55/EC and 2002/57/EC as regards the botanical names of plants, the scientific names of other organisms and certain Annexes to Directives 66/401/EEC, 66/402/EEC and 2002/57/EC in the light of developments of scientific and technical knowledge; and

(partially) Commission Directive 2009/145/EC providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties.

They revoke the ten sets of Regulations listed in regulation 35(2) and replace them with a single set of Regulations for the marketing of seed.

Parts 1 and 2 of the Regulations are introductory and set out the various categories of seed.

The types of seed to which the Regulations apply are set out in Schedule 1.

Part 3 contains requirements for marketing seed. In order to be marketed, the seed must comply with the requirements set out for certification, packaging, sealing and labelling (regulation 8). Schedule 2 sets out certification requirements and Schedule 3 sets out labelling requirements and provision for sale of loose seed. Schedule 4 sets out the exceptions to the general requirements.

Part 3 also imposes record keeping requirements (regulation 19).

Under Part 4 a licence is required to carry out certain operations such as marketing seed (regulation 20). The Department licenses crop inspectors, seed samplers and seed testing stations to act under these Regulations (regulation 21).

Part 5 sets out administrative provisions (including provisions for fees), transitional provisions and revocations.

Part 5 also sets out the requirements for imported seed to be marketed in Northern Ireland (regulation 27).

Contravention of any provision in the Regulations is an offence under section 3(1)(b) of the Seeds Act (Northern Ireland) 1964 (c.22) incurring liability on summary conviction to a fine not exceeding level 5 on the standard scale.

An impact assessment has not been produced for this statutory rule as no impact on business or the private or voluntary sector is foreseen. The Explanatory Memorandum for this statutory rule is available alongside the rule at [www.legislation.gov.uk](http://www.legislation.gov.uk).



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