
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 59

**EXITING THE EUROPEAN UNION
SEEDS**

**The Seed and Propagating Material (EU Exit)
(Scotland) (Amendment) Regulations 2019**

Made - - - - 19th February 2019
Laid before the Scottish
Parliament - - - - 21st February 2019
Coming into force in accordance with regulation 1(1)

The Scottish Ministers make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(1), paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018(2), and all other powers enabling them to do so.

PART 1

INTRODUCTION

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019 and come into force as follows—

- (a) as regards this Part and Part 2, on 28 March 2019,
- (b) as regards Part 3, on exit day.

(2) These Regulations extend to Scotland only.

(1) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(3) and Part 1 of the schedule of the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2), insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. The powers in section 2(2) are exercised in relation to Part 2 of these Regulations.

(2) 2018 c.16.

PART 2

AMENDMENTS MADE UNDER SECTION 2(2)
OF THE EUROPEAN COMMUNITIES ACT 1972**The Vegetable Seeds Regulations 1993**

- 2.—(1) The Vegetable Seeds Regulations 1993(3) are amended as follows.
- (2) In regulation 3 (interpretation)—
- (a) in paragraph (1)—
- (i) in the definition of “Commission Directive 2009/145”, at the end insert “, as amended by Commission Implementing Directive 2013/45/EU(4)”,
- (ii) after the definition of “Conservation Variety” insert—
- ““Directive 2001/18/EC” means Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC(5), as last amended by Directive (EU) 2015/412(6);”,
- (iii) for the definition of “genetically modified” substitute—
- ““genetically modified” has the same meaning as it has for the purposes of Directive 2001/18/EC;”,
- (iv) omit the definition of “Member State”,
- (b) in each of paragraphs (3A), (3B) and (3C)(7)—
- (i) for “a Member State” in each place where it occurs, substitute “an EEA state”,
- (ii) for “that Member State” in each place where it occurs, substitute “that EEA state”.
- (3) For regulation 4(2) (seeds to which the regulations apply) substitute—
- “(2) These Regulations do not apply to seed intended for export to a country which is not an EEA state (other than regulation 6C (certification and labelling for export)).”.
- (4) In regulation 5 (marketing of seeds)—
- (a) for “a Member State” in each place where it occurs, substitute “an EEA state”,
- (b) in paragraph (3), for “the Fodder Plant Seeds Regulations 1993” substitute “the Fodder Plant Seed (Scotland) Regulations 2005(8)”,
- (c) in paragraph (13), for “that Member State” substitute “that EEA state”,
- (d) in paragraph (14), for “Member States” substitute “EEA states”.
- (5) In regulation 6A(1)(c) (breeder’s confirmations)(9), for “Member State” substitute “EEA state”.
- (6) After regulation 6A, insert—

(3) S.I. 1993/2008, amended by S.I. 1996/1452, S.I. 1997/616, S.I. 1999/1863, S.S.I. 2000/250, S.I. 2001/3510, S.S.I. 2007/305, S.S.I. 2010/219, S.S.I. 2010/425, S.I. 2011/1043, S.S.I. 2013/326 and S.S.I. 2016/434.

(4) OJ L 213, 8.8.2013, p.20. The definition was inserted by S.S.I. 2010/425.

(5) OJ L 106, 17.04.2001, p.1. The definition was inserted by S.S.I. 2010/425.

(6) OJ L 68, 13.3.2015, p.1.

(7) Paragraphs (3A) to (3C) were inserted by S.S.I. 2000/250.

(8) S.S.I. 2005/329, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.I. 2011/1043, S.S.I. 2012/5, S.S.I. 2013/326, S.S.I. 2016/68, S.S.I. 2016/434 and S.S.I. 2017/384.

(9) Regulation 6A was inserted by S.I. 1999/1863.

“Importation from outside the European Union

6B. Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.

Certification and labelling for export

6C.—(1) The Scottish Ministers may certify the quality of any seed intended for export.

(2) Following certification in accordance with paragraph (1), any seed exported must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

(7) In schedule 4 (requirements for Basic Seed, Certified Seed, Certified Seed of a Conservation Variety, Standard Seed, Standard Seed of a Conservation Variety and Standard Seed of an Amateur Variety), in Part I (Basic Seed and Certified Seed), in paragraph 2(b) (varietal identity and varietal purity), for “Member State” substitute “EEA state”.

(8) In schedule 6 (labels and marking)—

- (a) in Part I(A)(a) (official label for a Package of Pre-basic Seed: prescribed contents), in point 1, for “Member State” substitute “EEA state”,
- (b) in Part I(B)(a) (official label for a Package of Basic Seed or for a Package (Other than a Small Package) of Certified Seed: prescribed contents), in point 2, for “Member State” substitute “EEA state”.

The Oil and Fibre Plant Seed (Scotland) Regulations 2004

3.—(1) The Oil and Fibre Plant Seed (Scotland) Regulations 2004(**10**) are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) at the end of the definition of “the 2004 Commission Decision” insert “, as amended by Commission Implementing Decision (EU) 2016/320(**11**)”,
- (b) in the definition of “the 2001 Deliberate Release Directive”, for the words from “amended by” to the end substitute “last amended by Directive (EU) 2015/412(**12**)”,
- (c) in the definition of “EEA State”, at the end insert “, and for the purposes of these Regulations includes Switzerland”,
- (d) in the definition of “Equivalence Decision”, for the words from “amended by” to the end substitute “last amended by Decision (EU) 2018/1674(**13**)”,
- (e) in the definition of “the Food and Feed Regulation”, at the end insert “, as last amended by Regulation (EC) No 298/2008 of the European Parliament and of the Council(**14**)”,
- (f) in the definition of “third country”, omit “or Switzerland”.

(3) In regulation 5(2) (seed to which the Regulations apply), after “EEA State” insert “(other than regulation 13A (certification and labelling for export))”.

(4) After regulation 6 (marketing of seed) insert—

(10) S.S.I. 2004/317, amended by S.S.I. 2006/313, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2010/219, S.I. 2011/1043, S.S.I. 2016/68 and S.S.I. 2016/434.

(11) OJ L 60, 5.3.2016, p.88. The definition was inserted by S.S.I. 2007/224.

(12) OJ L 68, 13.3.2015, p.1.

(13) OJ L 284, 12.11.2018, p.31.

(14) OJ L 97, 9.4.2008, p.64.

“Importation from outside the European Union

6A. Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

(5) In regulation 8A(10) (exception for test and trial seed)(**15**), after “Member State” insert “or, as the case may be, Switzerland”.

(6) After regulation 13 (requirement for homogeneity) insert—

“Certification and labelling for export

13A.—(1) The Scottish Ministers may certify the quality of any seed intended for export.

(2) Following certification in accordance with paragraph (1), any seed exported must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

The Cereal Seed (Scotland) Regulations 2005

4.—(1) The Cereal Seed (Scotland) Regulations 2005(**16**) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) at the end of the definition of “the 2004 Commission Decision”, insert “, as amended by Commission Implementing Decision (EU) 2016/320(**17**)”,

(b) in the definition of “the 2001 Deliberate Release Directive”, for the words from “amended by” to the end substitute “last amended by Directive (EU) 2015/412(**18**)”,

(c) in the definition of “EEA State”, at the end insert “, and for the purposes of these Regulations includes Switzerland”,

(d) in the definition of “Equivalence Decision”, for the words from “amended by” to the end substitute “last amended by Decision (EU) 2018/1674(**19**)”,

(e) in the definition of “the Food and Feed Regulation”, at the end insert “, as last amended by Regulation (EC) No 298/2008 of the European Parliament and of the Council(**20**)”,

(f) in the definition of “third country”, omit “or Switzerland”.

(3) In regulation 5(2) (seed to which the Regulations apply), after “EEA State” insert “(other than regulation 13A (certification and labelling for export))”.

(4) After regulation 6 (marketing of seed) insert—

“Importation from outside the European Union

6A. Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

(5) In regulation 9A(10) (exception for test and trial seed)(**21**), after “Member States” insert “or, as the case may be, Switzerland”.

(15) Regulation 8A was inserted by [S.S.I. 2007/224](#).

(16) [S.S.I. 2005/328](#), amended by [S.S.I. 2006/313](#), [S.S.I. 2006/448](#), [S.S.I. 2007/224](#), [S.S.I. 2007/536](#), [S.S.I. 2009/223](#), [S.S.I. 2010/219](#), [S.I. 2011/1043](#), [S.S.I. 2016/68](#) and [S.S.I. 2016/434](#).

(17) OJ L 60, 5.3.2016, p.88. The definition was inserted by [S.S.I. 2007/224](#).

(18) OJ L 68, 13.3.2015, p.1.

(19) OJ L 284, 12.11.2018, p.31.

(20) OJ L 97, 9.4.2008, p.64.

(21) Regulation 9A was inserted by [S.S.I. 2007/224](#).

- (6) After regulation 13 (requirement for homogeneity) insert—

“Certification and labelling for export

13A.—(1) The Scottish Ministers may certify the quality of any seed intended for export.

(2) Following certification in accordance with paragraph (1), any seed exported must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

The Fodder Plant Seed (Scotland) Regulations 2005

- 5.**—(1) The Fodder Plant Seed (Scotland) Regulations 2005(**22**) are amended as follows.

- (2) In regulation 2(1) (interpretation)—

- (a) at the end of the definition of “the 2004 Commission Decision”, insert “, as amended by Commission Implementing Decision (EU) 2016/320(**23**)”,
- (b) in the definition of “the 2001 Deliberate Release Directive”, for the words from “amended by” to the end, substitute “last amended by Directive (EU) 2015/412(**24**)”,
- (c) in the definition of “EEA State”, at the end insert “, and for the purposes of these Regulations includes Switzerland”,
- (d) in the definition of “Equivalence Decision”, for the words from “amended by” to the end substitute “last amended by Decision (EU) 2018/1674(**25**)”,
- (e) in the definition of “the Food and Feed Regulation”, at the end insert “, as last amended by Regulation (EC) No 298/2008 of the European Parliament and of the Council(**26**)”,
- (f) in the definition of “third country”, omit “or Switzerland”.

- (3) In regulation 5(2) (seed to which the Regulations apply), after “EEA State” insert “(other than regulation 13A (certification and labelling for export))”.

- (4) After regulation 6 (marketing of seed) insert—

“Importation from outside the European Union

6A. Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

- (5) In regulation 9A(10) (exception for test and trial seed)(**27**), after “Member State” insert “or, as the case may be, Switzerland”.

- (6) After regulation 13 (requirement for homogeneity) insert—

“Certification and labelling for export

13A.—(1) The Scottish Ministers may certify the quality of any seed intended for export.

(2) Following certification in accordance with paragraph (1), any seed exported must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

(22) S.S.I. 2005/329, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.I. 2011/1043, S.S.I. 2012/5, S.S.I. 2013/326, S.S.I. 2016/68, S.S.I. 2016/434 and S.S.I. 2017/384.

(23) OJ L 60, 5.3.2016, p.88. The definition was inserted by S.S.I. 2007/224.

(24) OJ L 68, 13.3.2015, p.1.

(25) OJ L 284, 12.11.2018, p.31.

(26) OJ L 97, 9.4.2008, p.64.

(27) Regulation 9A was inserted by S.S.I. 2007/224.

(7) In schedule 6, in paragraph 10 (label for a small EC A or small EC B package of Mixtures), after “Member State” in each place where it occurs insert “or Switzerland”.

The Beet Seed (Scotland) (No. 2) Regulations 2010

6.—(1) The Beet Seed (Scotland) (No. 2) Regulations 2010(28) are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) at the end of the definition of “the 2004 Commission Decision”, insert “, as amended by Commission Implementing Decision (EU) 2016/320(29)”,
- (b) at the end of the definition of “the 2001 Deliberate Release Directive” insert “, as last amended by Directive (EU) 2015/412(30)”,
- (c) after the definition of “early movement seed” insert—
“EEA state” for the purposes of these Regulations includes Switzerland,”
- (d) in the definition of “Equivalence Decision”, insert at the end “, as last amended by Decision (EU) 2018/1674(31)”,
- (e) in the definition of “third country”, omit “or Switzerland”.

(3) In regulation 4(2) (seed to which the Regulations apply), after “European Union” insert “(other than regulation 14A (certification and labelling for export))”.

(4) After regulation 6 (marketing of seed) insert—

“Importation from outside the European Union

6A. Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

(5) After regulation 14 (marketing of unpacked seed) insert—

“Certification and labelling for export

14A.—(1) The Scottish Ministers may certify the quality of any seed intended for export.

(2) Following certification in accordance with paragraph (1), any seed exported must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

The Seed Potatoes (Scotland) Regulations 2015

7.—(1) The Seed Potatoes (Scotland) Regulations 2015(32) are amended as follows.

(2) In regulation 10 (labelling of seed potatoes)—

- (a) in paragraph (1), after “package or container of seed potatoes” insert “produced in Scotland”,
- (b) after paragraph (1) insert—

“(1A) Subject to regulation 13, no person may market a package or container of seed potatoes produced outside Scotland unless—

(28) S.S.I. 2010/148, amended by S.S.I. 2011/413, S.I. 2011/1043, S.S.I. 2016/68 and S.S.I. 2016/434.

(29) OJ L 60, 5.3.2016, p.88.

(30) OJ L 68, 13.3.2015, p.1.

(31) OJ L 284, 12.11.2018, p.31.

(32) S.S.I. 2015/395, amended by S.S.I. 2016/68, S.S.I. 2016/434 and S.S.I. 2018/391.

- (a) there is attached to the outside of the package or container an official label; and
- (b) in the case where the label particulars are not indelibly printed on the package or container or on a wear and tear resistant or adhesive label attached to it, it contains an official document.”.

The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017

8.—(1) The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017⁽³³⁾ are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) at the end of the definition of “plant variety rights”, insert “or domestic legislation in countries or territories, other than those forming part of the United Kingdom, that affords plant variety protection in accordance with UPOV”,

(b) after the definition of “supplier’s document” insert—

““UPOV” means the International Union for the Protection of New Varieties of Plants, being an intergovernmental organisation established by the International Convention for the Protection of New Varieties of Plants⁽³⁴⁾”.

(3) In schedule 4 (registration of varieties), in paragraph 1 (interpretation), omit the definition of “UPOV”.

PART 3

AMENDMENT OF SECONDARY LEGISLATION RELATING TO WITHDRAWAL FROM THE EUROPEAN UNION

The Vegetable Seeds Regulations 1993

9.—(1) The Vegetable Seeds Regulations 1993⁽³⁵⁾ are amended as follows.

(2) In regulation 3 (interpretation)—

(a) in paragraph (1)—

(i) at the end of the definition of “additional region”⁽³⁶⁾, insert “, with Article 13.1 of that Directive being read as if for the reference to “Member States” in each place where it occurs there were substituted “the Scottish Ministers”,

(ii) in the definition of “breeder”, in paragraph (a), after “National List or” insert “, at any time before the end of the period of two years beginning with the day after the day on which exit day falls”,

(iii) after the definition of “Conservation Variety”⁽³⁷⁾ insert—

““country granted equivalence” means a 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

⁽³³⁾ S.S.I. 2017/177.

⁽³⁴⁾ UPOV is located at 34, chemin des Colombettes, CH-1211 Genève 20, Switzerland.

⁽³⁵⁾ S.I. 1993/2008, amended by S.I. 1996/1452, S.I. 1997/616, S.I. 1999/1863, S.S.I. 2000/250, S.I. 2001/3510, S.S.I. 2007/305, S.S.I. 2010/219, S.S.I. 2010/425, S.I. 2011/1043, S.S.I. 2013/326 and S.S.I. 2016/434, and Part 2 of this instrument.

⁽³⁶⁾ That definition was inserted by S.S.I. 2010/425.

⁽³⁷⁾ That definition was inserted by S.S.I. 2010/425.

the equivalence of seed produced in third countries⁽³⁸⁾, as last amended by Decision (EU) 2018/1674⁽³⁹⁾;

“Crown Dependency” means any of the Channel Islands or the Isle of Man;

“the Food and Feed Regulation” means Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed;”,

(iv) after the definition of “genetically modified” insert—

““the GMO Regulations” means—

- (a) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002⁽⁴⁰⁾;
- (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002⁽⁴¹⁾;
- (c) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002⁽⁴²⁾;
- (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003⁽⁴³⁾,”

(v) in the definition of “maintainer”, for “the Common Catalogue” in the second place where it occurs, substitute “entered in the Common Catalogue before the end of the period of two years beginning with the day after the day on which exit day falls”,

(vi) in the definition of “maintenance”, for “of the Common Catalogue” substitute “or entered in the Common Catalogue before the end of the period of two years beginning with the day after the day on which exit day falls”,

(vii) in the definition of “official post control”⁽⁴⁴⁾—

(aa) for “relevant European Authority” substitute “relevant authority”,

(bb) in paragraph (a) (“control plot”), for “European Authority” in both places where it occurs substitute “relevant authority”,

(cc) for paragraph (b) (“European Authority”), substitute—

“(b) “relevant authority” means the competent seed certification authority in the relevant part of the United Kingdom or in an EEA state;”,

(viii) at the end of the definition of “region of origin”, insert—

“, with Article 8.1 of that Directive being read as if—

(a) in the first sub-paragraph—

(i) for “a Member State accepts”, there were substituted “the Scottish Ministers accept”,

(ii) for “it shall”, there were substituted “they must”,

(iii) for “It shall”, there were substituted “The Scottish Ministers must”,

(iv) for “Member States”, there were substituted “Scottish Ministers”,

(b) the second sub-paragraph was omitted,”

⁽³⁸⁾ OJ L 8, 14.1.2003, p.10.

⁽³⁹⁾ OJ L 284, 12.11.2018, p.31.

⁽⁴⁰⁾ S.S.I. 2002/541, amended by S.S.I. 2004/439, S.I. 2005/2759, S.I. 2011/1043; S.S.I. 2015/100 and S.S.I. 2019/XXX.

⁽⁴¹⁾ S.I. 2002/2443, as amended by S.I. 2004/2411, S.I. 2005/2759, S.I. 2009/1892 and S.I. 2018/575.

⁽⁴²⁾ S.I. 2002/3188 (W. 304), amended by S.I. 2005/2759 and S.I. 2013/755 (W. 90).

⁽⁴³⁾ S.R. 2003 No. 167.

⁽⁴⁴⁾ That definition was inserted by S.S.I. 2010/425.

- (ix) after the definition of “region of origin” insert—
- ““Regulation (EC) No 1829/2003” means Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed, as last amended by Regulation (EC) No 298/2008 of the European Parliament and of the Council,”
- (b) in each of sub-paragraphs (a) of paragraphs (3A), (3B) and (3C)(45), for “EEA state other than the United Kingdom” substitute “EEA state before the end of the period of two years beginning with the day after the day on which exit day falls”.
- (3) For regulation 4(2) (seeds to which the regulations apply)(46) substitute—
- “(2) These Regulations do not apply to seed intended for export outside the United Kingdom (other than regulation 6C (certification and labelling for export)).”
- (4) In regulation 5 (marketing of seeds)(47)—
- (a) in paragraph (1)—
- (i) in the opening words—
- (aa) for “the Common Catalogue” in the first place where it occurs, substitute “accepted on to the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls,”
- (bb) for “the Common Catalogue” in the second place where it occurs, substitute “the National List or accepted on to the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls,”
- (ii) in sub-paragraph (b)—
- (aa) omit “other than the United Kingdom” in both places where it occurs,
- (bb) after “EEA state” in the second place where it occurs, insert “at any time before the end of the period of two years beginning with the day after the day on which exit day falls”,
- (iii) in sub-paragraph (bb)(48), for “EEA state other than the United Kingdom” substitute “EEA state at any time before the end of the period of two years beginning with the day after the day on which exit day falls”,
- (iv) in sub-paragraph (c), for “produced elsewhere than in an EEA state” substitute “produced outside the United Kingdom”,
- (v) after sub-paragraph (d) insert—
- “and;
- (e) in the case of seeds which have been produced in an EEA state, seeds which—
- (i) have otherwise been produced in compliance with the applicable requirements set out in EU law, including Council Directive 2002/55/EC on the marketing of vegetable seed(49) and Commission Directive 2009/145; and

(45) Paragraphs (3A) to (3C) were inserted by [S.S.I. 2000/250](#). Those paragraphs are amended by Part 2 of this instrument.

(46) Regulation 4(2) is substituted by Part 2 of this instrument.

(47) Regulation 5 is amended by Part 2 of this instrument.

(48) Sub-paragraph (bb) was inserted by [S.S.I. 2010/425](#).

(49) OJ L 193, 20.7.2002, p.33, as last amended by Commission Implementing Directive (EU) 2016/317 (OJ L 60, 5.3.2016, p.72).

- (ii) have been imported into Scotland before the end of the period of two years beginning with the day after the day on which exit day falls.”
- (b) for paragraphs (2D) and (2E)(50) substitute—
- “(2D) The conditions referred to in paragraph (2C) are that the marketing and release of the genetically modified material by the applicant has been authorised—
- (a) before the day on which exit day falls, under Part C of [Directive 2001/18/EC](#),
- (b) under the Food and Feed Regulation, or
- (c) under the GMO Regulations.”
- (c) for paragraph (4) substitute—
- “(4) The Scottish Ministers may, by a general licence, authorise a temporary experiment (the duration of which must not exceed 7 years) seeking improved alternatives to provisions of these Regulations and organised in accordance with regulations made under section 16(5) of the Act.”
- (d) in paragraph (4A)(51), omit “, by reason only of article 3(1)(a) of Council [Directive 70/457/EEC](#),”
- (e) in paragraph (5), for “from a country other than an EEA state” substitute “from outside the United Kingdom”,
- (f) in paragraph (9A)(52), for “an EEA state other than the United Kingdom” substitute “an EEA state, at any time before the end of the period of two years beginning with the day after the day on which exit day falls,”
- (g) in paragraph (9B)(53), for “other than in an EEA state” substitute “outside the United Kingdom”,
- (h) in paragraph (10)—
- (i) for “other than an EEA state”, substitute “outside the United Kingdom”,
- (ii) for “produced in an EEA state”, substitute “produced in the United Kingdom”,
- (i) in paragraph (11), for “the Common Catalogue” substitute “entered in the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls”,
- (j) in paragraph (13), for “other than the United Kingdom” substitute “at any time before the end of the period of two years beginning with the day after the day on which exit day falls”,
- (k) paragraph (14) is omitted.
- (5) In regulation 5A (Conservation Varieties)(54), after paragraph (6) insert—
- “(6A) For the purposes of paragraph (6), Article 15 of Commission Directive 2009/145 is to be read as if—
- (a) “Each Member State shall ensure that,” were omitted,
- (b) for “does not exceed”, there were substituted “may not exceed”.”
- (6) For regulation 6A(1)(c) (breeder’s confirmations)(55) substitute—

(50) Paragraphs (2D) and (2E) were inserted by [S.S.I. 2000/250](#).

(51) Paragraph (4A) was inserted by [S.I. 2001/3510](#).

(52) Paragraph (9A) was inserted by [S.S.I. 2000/250](#).

(53) Paragraph (9B) was inserted by [S.S.I. 2000/250](#).

(54) Regulation 5A was inserted by [S.S.I. 2010/425](#).

(55) Regulation 6A was inserted by [S.I. 1999/1863](#) and is amended by Part 2 of this instrument.

- “(c) shall be made only for seed of a variety for which an application has been made to have that variety accepted on to—
- (i) the National List, or
 - (ii) an equivalent list in an EEA state, before the end of the period of two years beginning with the day after the day on which exit day falls.”.
- (7) For regulation 6B (importation from outside the European Union)(56) substitute—

“Importation into the United Kingdom

6B.—(1) Subject to paragraph (2), seed imported into the United Kingdom must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.

(2) Paragraph (1) does not apply to seed imported from an EEA state before the end of the period of two years beginning with the day after the day on which exit day falls.”.

- (8) In regulation 9 (labelling of packages)—
- (a) paragraph (10) is omitted,
 - (b) in paragraph (12), for “one of the official languages of the Communities” substitute “English but may also be given in other languages”.
- (9) In regulation 9A(8) (labelling of packages – breeder’s confirmation)(57), for “one of the official languages of the Community” substitute “English but may also be given in other languages”.
- (10) After regulation 11 (civil liabilities of sellers of seeds) insert—

“Certification in a Crown Dependency

11A. Any seed certified and labelled in a Crown Dependency under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations may be marketed in Scotland.

Transitional provision for official labels and supplier’s labels on exit day

11B. A label pre-printed before exit day which at the date on which it was printed was an official label or a supplier’s label for the purposes of these Regulations, is to be treated as an official label or, as the case may be, a supplier’s label for packages of Basic Seed, Certified Seed, Standard Seed, Seed of a Conservation Variety or Standard Seed of an Amateur Variety or, as the case may be, small packages of Certified Seed or Standard Seed, for the purposes of any use of that label before the end of the period of two years beginning with the day after the day on which exit day falls.”.

- (11) In schedule 4 (requirements for Basic Seed, Certified Seed, Certified Seed of a Conservation Variety, Standard Seed, Standard Seed of a Conservation Variety and Standard Seed of an Amateur Variety), in Part I (Basic Seed and Certified Seed), in paragraph 2 (varietal identity and varietal purity)(58)—
- (a) in sub-paragraph (a), after “National List or” insert “, before the end of the period of two years beginning with the day after the day on which exit day falls,”,
 - (b) in sub-paragraph (b), for “an equivalent list in another EEA state” substitute “or before the end of the period of two years beginning with the day after the day on which exit day falls, an equivalent list in an EEA state”.

(56) Regulation 6B is inserted by Part 2 of this instrument.

(57) Regulation 9A was inserted by S.I. 1999/1863.

(58) Paragraph 2 is amended by Part 2 of this instrument.

- (12) In schedule 6 (labels and marking)(**59**)—
- (a) in Part I(A)(a) (official label for a Package of Pre-basic Seed: prescribed contents), in point 1, for “EEA state or their mark” substitute “country or country initials”,
 - (b) in Part I(B)(a) (official label for a Package of Basic Seed or for a Package (Other than a Small Package) of Certified Seed: prescribed contents)—
 - (i) in point 1, for “EC” substitute “UK”,
 - (ii) in point 2, for “EEA state or their mark” substitute “country or country initials”,
 - (iii) in point 11(a), for “the Common Catalogue” substitute “accepted on to the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls”,
 - (c) in Part II(A)(a) (supplier’s label for a Package of Standard Seed, other than a Small Package: prescribed contents), in point 1, for “EC” substitute “UK”,
 - (d) in Part III(A)(a) (supplier’s label for a Small Package of Certified Seed: prescribed contents), in point 1, for “EC” substitute “UK”,
 - (e) in Part III(B)(a) (supplier’s label for a Small Package of Standard Seed: prescribed contents), in point 1, for “EC” substitute “UK”,
 - (f) in Part VI (supplier’s label for a package of seed of a Conservation Variety)(**60**), in sub-paragraph (a), for “EU” substitute “UK”,
 - (g) in Part VII (supplier’s label for a package of Standard Seed of an Amateur Variety)(**61**), in sub-paragraph (a), for “EU” substitute “UK”.

The Marketing of Vegetable Plant Material Regulations 1995

- 10.**—(1) The Marketing of Vegetable Plant Material Regulations 1995(**62**) is amended as follows.
- (2) In regulation 3(2)(a) (plant material to which these Regulations apply), for “European Union” substitute “United Kingdom”.
- (3) In regulation 5(d)(ii) (quality requirements for plant material), after “it” insert “is marketed before the end of the period of two years beginning with the day after the day on which exit day falls and”.
- (4) In regulation 8 (information to accompany plant material)(**63**)—
- (a) in paragraph (2), for “Council [Directive 2000/29/EC](#)” substitute “the Plant Health (Scotland) Order 2005(**64**)”,
 - (b) omit paragraph (5).
- (5) In regulation 11(2) (powers of inspectors), omit “representatives of the European Commission and”.
- (6) In schedule 2 (content of supplier’s document)—
- (a) in Part A (information to appear on a supplier’s document)—
 - (i) in paragraph 1, for “EC” substitute “UK”,
 - (ii) omit paragraph 2,
 - (iii) in paragraph 3, insert at the end “and its abbreviated country code”,

(59) Schedule 6 is amended by Part 2 of this instrument.

(60) Part VI was inserted by [S.S.I. 2010/425](#).

(61) Part VII was inserted by [S.S.I. 2010/425](#).

(62) [S.I. 1995/2652](#), as relevantly amended by [S.S.I. 2007/133](#), [S.I. 2011/1043](#), [S.S.I. 2014/111](#) and [S.S.I. 2018/391](#).

(63) As last amended by [S.S.I. 2018/391](#).

(64) [S.S.I. 2005/613](#), as last amended by [S.S.I. 2019/XXX](#).

- (b) in Part B (information to accompany a plant passport which constitutes a supplier's document)—
 - (i) in paragraph 1, for “EC” substitute “UK”,
 - (ii) in paragraph 2, insert at the end “and its abbreviated country code”.

The Marketing of Ornamental Plant Propagating Material Regulations 1999

11.—(1) The Marketing of Ornamental Plant Propagating Material Regulations 1999⁽⁶⁵⁾ are amended as follows.

- (2) In regulation 2(1) (interpretation)—
 - (a) omit the definitions of “[Directive 98/56/EC](#)”, “[Directive 2000/29/EC](#)”⁽⁶⁶⁾, “Regulation 2100/94” and “third country”,
 - (b) after the definition of “propagation” insert—
 - ““responsible official body” means—
 - (a) in relation to propagating material produced in Scotland, the Scottish Ministers,
 - (b) in relation to propagating material produced in a country or territory outside Scotland, the body responsible for the quality of that material in that country or territory;”,
 - (c) in the definition of “supplier”—
 - (i) for “from third countries”, substitute “into the United Kingdom”,
 - (ii) after that definition omit “and”.
- (3) In regulation 3(2)(a) (marketing requirements and exceptions), for “to third countries” substitute “from the United Kingdom”.
- (4) In regulation 6A (further provisions relating to propagating material of *Palmae*)⁽⁶⁷⁾—
 - (a) in paragraph (3), omit “within the EU”,
 - (b) in paragraph (4)—
 - (i) omit “and” before the definition of “responsible official body”,
 - (ii) omit the definition of “responsible official body”.
- (5) In regulation 9(2) (information on propagating material), for “[Directive 2000/29/EC](#)” substitute “the Plant Health (Scotland) Order 2005⁽⁶⁸⁾”.
- (6) In regulation 11(1) (description of propagating material)—
 - (a) in sub-paragraph (a), omit “Community plant variety rights pursuant to Regulation 2100/94 or”,
 - (b) in sub-paragraph (c)(iii), for the words from “Community plant variety rights” to the end substitute “plant breeders’ right in respect of the variety under the Plant Varieties Act 1997⁽⁶⁹⁾”.
- (7) In regulation 12 (propagating material produced in third countries)—
 - (a) in the heading, for “in third countries” substitute “outside the United Kingdom”,
 - (b) in paragraph (1)—

⁽⁶⁵⁾ [S.I. 1999/1801](#), as relevantly amended by [S.I. 2011/1043](#) and [S.S.I. 2018/284](#).

⁽⁶⁶⁾ The definition was inserted by [S.S.I. 2018/284](#).

⁽⁶⁷⁾ Regulation 6A was inserted by [S.S.I. 2018/284](#).

⁽⁶⁸⁾ [S.S.I. 2005/613](#), as last amended by [S.S.I. 2019/XXX](#).

⁽⁶⁹⁾ [1997 c.66](#).

- (i) for “from a third country” substitute “into the United Kingdom”,
- (ii) for “[Directive 98/56/EC](#)” substitute “these Regulations”,
- (c) in each of paragraphs (2) and (4)—
 - (i) insert at the beginning, “Subject to paragraph (5),”,
 - (ii) omit “from a third country”,
- (d) after paragraph (4) insert—
 - “(5) Paragraphs (2) and (4) do not apply to suppliers importing propagating material produced—
 - (a) in the European Union, before the end of the period of two years beginning with the day after the day on which exit day falls, or
 - (b) in the Channel Islands or the Isle of Man.”.
- (8) In schedule 1 (information to appear on a supplier’s label or other document)—
 - (a) in paragraph 1, for “EC” substitute “UK”,
 - (b) omit paragraph 2,
 - (c) in paragraph 3, at the end insert “and its abbreviated country code”,
 - (d) in paragraph 10, for “from a third country” substitute “into the United Kingdom”.

The Oil and Fibre Plant Seed (Scotland) Regulations 2004

- 12.**—(1) The Oil and Fibre Plant Seed (Scotland) Regulations 2004⁽⁷⁰⁾ are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) omit the definition of “Annex V(C) document”,
 - (b) in the definition of “blended seed lot”, omit “or Annex I (crop conditions) of the Oil and Fibre Plant Seed Directive”,
 - (c) in the definition of “breeder”, after “UK National List or” insert “at any time before the end of the period of two years beginning with the day after the day on which exit day falls,”,
 - (d) in the definition of “bulked seed lot”, omit “or Annex I (crop conditions) of the Oil and Fibre Plant Seed Directive”,
 - (e) omit the definition of “the Common Catalogue Directive”,
 - (f) in the definition of “control plot”, for “European” in both places where it occurs substitute “National”,
 - (g) after the definition of “control plot” insert—
 - ““country granted equivalence” means a country that has been granted equivalence under the Equivalence Decision;
 - “Crown Dependency” means any of the Channel Islands or the Isle of Man;”,
 - (h) in the definition of “EEA State”, omit “and, for the purposes of these Regulations, includes Switzerland”⁽⁷¹⁾,
 - (i) in the definition of “European Authority”, for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,
 - (j) in the definition of “by a European Authority”, for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,

⁽⁷⁰⁾ S.S.I. 2004/317, amended by S.S.I. 2006/313, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2010/219, S.I. 2011/1043, S.S.I. 2016/68, S.S.I. 2016/434 and Part 2 of this instrument.

⁽⁷¹⁾ See the amendment to the definition of “EEA State” in Part 2 of this instrument.

- (k) after the definition of “European Authority” insert—
““European Single Market State” means an EEA State or Switzerland;”,
- (l) after the definition of “genetically modified” insert—
““the GMO Regulations” means—
- (a) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(72);
 - (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002(73);
 - (c) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(74);
 - (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003(75);”,
- (m) in the definition of “licensed EC crop inspector”—
- (i) for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,
 - (ii) for “EEA” substitute “European Single Market”.
- (3) In regulation 3 (definitions of seed categories)—
- (a) in the definition of “Pre-basic Seed”, for paragraph (c) substitute—
- “(c) has been—
- (i) officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions specified in paragraphs (a) or (b) and the requirements for Basic Seed specified in Schedule 4;
 - (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) or (b) and the applicable requirements for Basic Seed in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) or (b) and the requirements for Basic Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Oil and Fibre Plant Seed Directive;”,
- (b) in the definition of “Basic Seed”, for paragraph (d) substitute—
- “(d) has been—
- (i) officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions specified in paragraphs (a), (b) or (c) and the requirements for Basic Seed specified in Schedule 4;
 - (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a), (b) or (c) and the applicable requirements for Basic Seed in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification

(72) S.S.I. 2002/541, amended by S.S.I. 2004/439, S.I. 2005/2759, S.I. 2011/1043; S.S.I. 2015/100 and S.S.I. 2019/XXX.

(73) S.I. 2002/2443, amended by S.I. 2004/2411, S.I. 2005/2759, S.I. 2009/1892 and S.I. 2018/575.

(74) S.I. 2002/3188 (W. 304), amended by S.I. 2005/2759 and S.I. 2013/755 (W. 90).

(75) S.R. 2003 No. 167.

authority of a European Single Market State as satisfying the conditions specified in paragraphs (a), (b) or (c) and the requirements for Basic Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Oil and Fibre Plant Seed Directive;”,

(c) in the definition of “Certified Seed”, for paragraph (c) substitute—

“(c) has been—

- (i) officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed specified in Schedule 4;
- (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the applicable requirements for Certified Seed in the relevant part of the United Kingdom; or
- (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Oil and Fibre Plant Seed Directive;”,

(d) in the definition of “Certified Seed of the First Generation”, for paragraph (c) substitute—

“(c) has been—

- (i) officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the First Generation specified in Schedule 4;
- (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the applicable requirements for Certified Seed of the First Generation in the relevant part of the United Kingdom; or
- (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the First Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Oil and Fibre Plant Seed Directive;”,

(e) in the definition of “Certified Seed of the Second Generation”—

(i) for paragraph (a)(iii) substitute—

“(iii) has been—

- (aa) officially certified as satisfying the conditions specified in sub-paragraphs (i) and (ii) and the requirements for Certified Seed of the Second Generation specified in Schedule 4;
- (bb) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in sub-paragraphs (i) and (ii) and the applicable requirements for Certified Seed of the Second Generation in the relevant part of the United Kingdom; or
- (cc) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in sub-paragraphs (i) and (ii)

and the requirements for Certified Seed of the Second Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Oil and Fibre Plant Seed Directive;”

(ii) for paragraph (b)(iii) substitute—

“(iii) has been—

- (aa) officially certified as satisfying the conditions specified in sub-paragraphs (i) and (ii) and the requirements for Certified Seed of the Second Generation specified in Schedule 4;
- (bb) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in sub-paragraphs (i) and (ii) and the applicable requirements for Certified Seed of the Second Generation in the relevant part of the United Kingdom; or
- (cc) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in sub-paragraphs (i) and (ii) and the requirements for Certified Seed of the Second Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Oil and Fibre Plant Seed Directive;”

(f) in the definition of “Certified Seed of the Third Generation”, for paragraph (c) substitute—

“(c) has been—

- (i) officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the Third Generation specified in Schedule 4;
- (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the applicable requirements for Certified Seed of the Third Generation in the relevant part of the United Kingdom; or
- (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the Third Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Oil and Fibre Plant Seed Directive;”

(g) in the definition of “Commercial Seed”, for paragraph (b) substitute—

“(b) has been—

- (i) officially certified as satisfying the conditions specified in paragraph (a) and the requirements for Commercial Seed specified in Schedule 4;
- (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraph (a) and the applicable requirements for Commercial Seed in the relevant part of the United Kingdom; or
- (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraph (a) and the requirements for Commercial Seed specified in Annex II (seed conditions) of the Oil and Fibre Plant Seed Directive;”

- (4) For regulation 5(2) (seed to which the Regulations apply)(**76**), substitute—
- “(2) These Regulations do not apply to seed intended for export outside the United Kingdom (other than regulation 13A (certification and labelling for export)).”
- (5) In regulation 6 (marketing of seed)—
- (a) in paragraph (1)—
- (i) after sub-paragraph (a), omit “and”,
- (ii) in sub-paragraph (b)(ii), for “the Common Catalogue” substitute “accepted on to the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls.”,
- (iii) after sub-paragraph (b)(iii), insert—
- “; and
- (c) in the case of seed which has been produced in a European Single Market State, it—
- (i) has otherwise been produced in compliance with the applicable requirements set out in EU law, including the Oil and Fibre Plant Seed Directive and Commission Directive 2008/62, and
- (ii) has been imported into Scotland before the end of the period of two years beginning with the day after the day on which exit day falls.”
- (b) in paragraph (5), for “a country which is not an EEA State” substitute “outside the United Kingdom”,
- (c) after paragraph (5), insert—
- “(6) Paragraph (5) does not apply to seed imported into Scotland from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”
- (6) For regulation 6A (importation from outside the European Union)(**77**) substitute—

“Importation into the United Kingdom

6A.—(1) Subject to paragraph (2), seed imported into the United Kingdom must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.

(2) Paragraph (1) does not apply to seed imported from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”

- (7) In regulation 8 (exception for scientific purposes or selection work)—
- (a) for paragraph (1)(b), substitute—
- “(b) an authorisation has been granted to the producer in respect of small quantities of seed for scientific purposes or selection work—
- (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom; or
- (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of

(76) Regulation 5(2) is amended, and regulation 13A is inserted, by Part 2 of this instrument.

(77) Regulation 6A is inserted by Part 2 of this instrument.

- a European Single Market State, in accordance with Article 6(1)(a) of the Oil and Fibre Plant Seed Directive.”
- (b) for paragraph (4), substitute—
- “(4) The Scottish Ministers may only grant an authorisation under this regulation in respect of a genetically modified variety if the marketing and release of the genetically modified material by the applicant has been authorised—
- (a) before the day on which exit day falls, under Part C of the 2001 Deliberate Release Directive,
- (b) under the Food and Feed Regulation, or
- (c) under the GMO Regulations.”
- (8) In regulation 8A (exception for test and trial seed)(**78**)—
- (a) for paragraph (1) substitute—
- “(1) Regulation 6(1)(b) does not apply to the marketing by a producer of seed for test and trial purposes in accordance with—
- (a) a tests and trials authorisation; or
- (b) an authorisation which has been granted to the producer—
- (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom;
- (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Article 6(1)(b) of the Oil and Fibre Plant Seed Directive.”
- (b) in paragraph (4), for sub-paragraph (b) substitute—
- “(b) in the case of seed of a genetically modified variety, the marketing and release of the genetically modified material by the applicant has been authorised—
- (i) before the day on which exit day falls, under Part C of the 2001 Deliberate Release Directive,
- (ii) under the Food and Feed Regulation, or
- (iii) under the GMO Regulations.”
- (c) in paragraph (6), for “that permitted by Article 7 of the 2004 Commission Decision” substitute “the greater of 0.1% of the annual number of seeds used in the United Kingdom and such quantity as the Scottish Ministers consider is sufficient to sow 10 hectares”
- (d) in paragraph (9), omit “or the Common Catalogue”
- (e) in paragraph (10), omit “or, as the case may be, Switzerland”(79).
- (9) In regulation 8B (exception for conservation varieties)(**80**)—
- (a) after paragraph (8), insert—
- “(8A) For the purposes of paragraph (8), Article 14 of Commission Directive 2008/62 is to be read as if—
- (a) in the first paragraph—
- (i) “Each Member State shall ensure that,” was omitted,

(78) Regulation 8A was inserted by [S.S.I. 2007/224](#).

(79) Regulation 8A(10) is amended by Part 2 of this instrument.

(80) Regulation 8B was inserted by [S.S.I. 2009/223](#).

- (ii) for “does not exceed”, there were substituted “may not exceed”,
 - (iii) for “that Member State”, there were substituted “the United Kingdom”,
 - (b) in the second paragraph—
 - (i) for “each Member State”, there were substituted “the United Kingdom”,
 - (ii) for “the Member State” in both places where it occurs, there were substituted “the United Kingdom.”,
 - (b) in paragraph (11)—
 - (i) in the definition of “additional region”, insert at the end “, with Article 11(1) of Commission Directive 2008/62 being read as if for the reference to “Member States” in each place where it occurs and “the Member States” there were substituted “the Scottish Ministers”,
 - (ii) in the definition of “region of origin”, insert at the end—
 - “, with Article 8.1 of Commission Directive 2008/62 being read as if—
 - (a) in the first sub-paragraph—
 - (i) for “a Member State accepts”, there were substituted “the Scottish Ministers accept”,
 - (ii) for “it shall”, there were substituted “they must”,
 - (iii) for “It shall”, there were substituted “The Scottish Ministers must”,
 - (iv) for “Member States”, there were substituted “Scottish Ministers”,
 - (b) the second sub-paragraph was omitted.”.
- (10) In regulation 9 (varietal associations)—
- (a) for paragraph (1)(b)(ii) substitute—
 - “(ii) have been mechanically combined in proportions notified by the person responsible for the maintenance of the pollinator-dependent hybrid and pollinator within the varietal association, to
 - (aa) a National Authority other than the Scottish Ministers, or
 - (bb) before the end of the period of two years beginning with the day after the day on which exit day falls, the competent seed certification authority of a European Single Market State.”,
 - (b) in paragraph (6), in the definition of “varietal association”, omit “or the Common Catalogue”.
- (11) For regulation 10(2) (general exemptions) substitute—
- “(2) The Scottish Ministers may exercise the power under paragraph (1) for the purposes of a temporary experiment seeking improved alternatives to provisions of these Regulations and organised in accordance with regulations made under section 16(5) of the Act.
- (2A) The duration of a temporary experiment must not exceed 7 years.”.
- (12) In regulation 11 (marketing of officially certified lower germination seed)—
- (a) in paragraph (1)—
 - (i) in the words before sub-paragraph (a), omit “or Annex II (seed conditions) of the Oil and Fibre Plant Seed Directive”,
 - (ii) for sub-paragraph (b) substitute—
 - “(b) which has been certified as satisfying the conditions for the relevant category of seed although it attains a lower percentage of germination

than that specified in paragraph 13 of Part II of Schedule 4 in relation to Basic Seed—

- (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom; or
- (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Article 5(a) (marketing of lower germination seed) of the Oil and Fibre Plant Seed Directive; or”,

(iii) for sub-paragraph (c)(ii) substitute—

“(ii) in the case of seed which has been fully certified as being Pre-basic Seed or Basic Seed—

- (aa) by a National Authority other than the Scottish Ministers, in the applicable requirements in the relevant part of the United Kingdom, irrespective of the findings of the National Authority; or
- (bb) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in Annex II (seed conditions) of the Oil and Fibre Plant Seed Directive, irrespective of the findings of that authority.”,

(b) for paragraph (3) substitute—

“(3) Paragraph (1) shall not apply to seed which has been imported into the United Kingdom from—

- (a) a European Single Market State, after the end of the period of two years beginning with the day after the day on which exit day falls, or
- (b) a country other than a European Single Market State.”.

(13) In regulation 12 (marketing of early movement seed)—

(a) in paragraph (1)—

(i) in sub-paragraph (a), for “the Common Catalogue” substitute “accepted on to the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls”,

(ii) for sub-paragraph (b) substitute—

“(b) any seed lot has been certified by a National Authority other than the Scottish Ministers in order to make seed rapidly available and the provisional germination report on the seed has been presented by the producer to the Scottish Ministers,”,

(b) in paragraph (3)—

- (i) for “European” substitute “National”,
- (ii) omit “or Annex II (seed conditions) of the Oil and Fibre Plant Seed Directive”,

(c) for paragraph (5) substitute—

“(5) Paragraph (1) does not apply to seed which has been imported into the United Kingdom from—

- (a) a European Single Market State, after the end of the period of two years beginning with the day after the day on which exit day falls, or

- (b) a country other than a European Single Market State.”.
- (14) In regulation 14 (applications for official certificates)—
- (a) in paragraph (3), for “(or an equivalent list in another EEA State)” in both places where it occurs, substitute “(or entered into an equivalent list in a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls)”.
 - (b) in paragraph (4)(d), after “licensed crop inspector or” insert “, where paragraph (4A) applies, the”.
 - (c) after paragraph (4) insert—

“(4A) This paragraph applies where a licensed EC crop inspector as mentioned in paragraph (4)(d) inspected the crop before the end of the period of two years beginning with the day after the day on which exit day falls.”.
- (15) In regulation 15(1) (sampling), for “European Authority” substitute “National Authority”.
- (16) In regulation 16 (sealing of packages of fully certified seed)—
- (a) for paragraph (1)(b) substitute—
 - “(b) sealed—
 - (i) in any other part of the United Kingdom, in accordance with the applicable requirements for sealing in the relevant part of the United Kingdom,
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, in a European Single Market State, in accordance with Article 11(1) (sealing of packages) of the Oil and Fibre Plant Seed Directive.”.
 - (b) for paragraph (3)(b) substitute—
 - “(b) (i) in any other part of the United Kingdom, in accordance with the applicable requirements for re sealing in the relevant part of the United Kingdom,
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, in a European Single Market State, in accordance with Article 11(2) (re sealing of packages) of the Oil and Fibre Plant Seed Directive.”.
 - (17) In regulation 17 (labelling of packages of fully certified seed)—
 - (a) for paragraph (4A)(b)(81) substitute—
 - “(b) where seed is sealed—
 - (i) in any other part of the United Kingdom, be labelled in accordance with the requirements for labelling applicable to a Conservation Variety in the relevant part of the United Kingdom,
 - (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, be labelled in accordance with Article 18 of Commission Directive 2008/62.”.
 - (b) for paragraph (5)(b) substitute—
 - “(b) which is sealed—
 - (i) in any other part of the United Kingdom, in accordance with the applicable requirements for re sealing and labelling in the relevant part of the United Kingdom in relation to the relevant category of seed and the seed itself,

- (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, in accordance with Article 11(2) (re sealing), 12(1)(a) (labelling of packages) and 18(c) (labelling of packages of Pre-basic Seed) of the Oil and Fibre Plant Seed Directive appropriate to the relevant category of seed and the seed itself.”,
- (c) for paragraph (8)(b) substitute—
 - “(b) which is sealed—
 - (i) in any other part of the United Kingdom, shall contain an official document in accordance with the applicable requirements for official documents and, as the case may be, for labelling of packages of mixtures of seeds, in the relevant part of the United Kingdom,
 - (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, shall contain an official document in accordance with Article 12(1)(b) (official documents) of the Oil and Fibre Plant Seed Directive.”,
- (d) in paragraph (10)—
 - (i) for sub-paragraph (a) substitute—
 - “(a) (i) for packages sealed in Scotland, the appropriate particulars of the matters specified in Part II of Schedule 6 and paragraphs (3), (12) and (13), are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified;
 - (ii) for packages sealed in any other part of the United Kingdom, the appropriate particulars of the matters specified in accordance with the applicable requirements in the relevant part of the United Kingdom, are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified;
 - (iii) for packages sealed in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, the appropriate particulars of the matters specified in Articles 5 (lower germination and early movement seed), 11(2) (re sealing), 12(1)(a) (labelling) and 14 (identification of genetically modified varieties) and Annex IV (labels) of the Oil and Fibre Plant Seed Directive, are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified.”,
 - (ii) for sub-paragraph (c) substitute—
 - “(c) the requirements of paragraph 17 of Part VI of Schedule 6 are satisfied in the case of a package sealed—
 - (i) in another part of the United Kingdom; or
 - (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls.”,
 - (iii) in paragraph (14), for “one of the official languages of the European Union” substitute “English but may also be given in other languages”.
- (18) For regulation 19(1)(c) (breeder’s confirmations) substitute—
 - “(c) shall only be made—

- (i) for seed of a variety for which an application has been made to have that variety accepted on to—
 - (aa) a UK National List, or
 - (bb) an equivalent list in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls; or
 - (ii) for seed of a component of a hybrid variety of oilseed rape for which an application has been made to have that hybrid variety accepted on to—
 - (aa) a UK National List, or
 - (bb) an equivalent list in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls.”.
- (19) In regulation 21(10) (labelling of packages of seed in relation to breeder’s confirmation), for “one of the official languages of the European Union” substitute “English but may also be given in other languages”.
- (20) Regulation 22 (comparative tests and trials) is omitted.
- (21) After regulation 25 (written and electronic communication) insert—

“Certification in a Crown Dependency

25A. Any seed certified and labelled in a Crown Dependency under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations may be marketed in Scotland.

Transitional provision for official labels on exit day

25B. A label pre-printed before exit day which at the date on which it was printed was an official label for the purposes of these Regulations is to be treated as an official label for a package of Basic Seed, Seed of a Certified Generation, Commercial Seed, seed of a Conservation Variety or a varietal association of seed, for the purposes of any use of that label before the end of the period of two years beginning with the day after the day on which exit day falls.”.

(22) In schedule 2 (official certificates and breeder’s confirmations), in Part I (official certificates)

- (a) in paragraph (1) (applications for seed harvested in the United Kingdom), omit “but not made in pursuance of Article 19 (certification of seed from other EEA States or equivalent third countries) of the Oil and Fibre Plant Seed Directive”,
- (b) for paragraph 4 (applications for seed harvested in an EEA State or third country) substitute—

“Applications for seed harvested outside the United Kingdom

4.—(1) Notwithstanding paragraphs 2 and 3, and subject to sub-paragraphs (2) and (3), on receipt of an application made in accordance with regulation 14(1) for the issue of an official certificate in respect of a seed lot as Pre basic Seed, Basic Seed, Seed of a Certified Generation or Commercial Seed, the Scottish Ministers may issue an official certificate in respect of the seed lot containing the particulars specified in paragraph 1 of Schedule 3.

- (2) An official certificate may only be issued under sub-paragraph (1) if—
 - (a) the seed has been—

- (i) produced directly from—
 - (aa) fully certified Basic Seed or Certified Seed of the First Generation, or
 - (bb) seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Basic Seed or Certified Seed of the First Generation in accordance with these Regulations,
 - (ii) harvested outside the United Kingdom, and
 - (iii) shown on official examination or, in the case of seed which has been harvested in a country granted equivalence, a field examination, to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed;
- (b) the seed has been—
- (i) produced directly from the crossing of fully certified Basic Seed with seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Basic Seed in accordance with these Regulations,
 - (ii) harvested outside the United Kingdom, and
 - (iii) shown on official examination or, in the case of seed which has been harvested in a country granted equivalence, a field examination, to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed; or
- (c) the seed—
- (i) is to be certified by the Scottish Ministers as Basic Seed;
 - (ii) has been produced directly from—
 - (aa) fully certified Pre-basic Seed, or
 - (bb) seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Pre-basic Seed in accordance with these Regulations,
 - (iii) has been harvested outside the United Kingdom, and
 - (iv) has been shown on official examination or, in the case of seed which has been harvested in a country granted equivalence, a field examination, to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed.
- (3) In the case of seed which has been harvested in a European Single Market State, an official certificate may only be issued under sub-paragraph (1)—
- (a) before the end of the period of two years beginning with the day after the day on which exit day falls, and

- (b) provided that the seed—
- (i) has been harvested from a crop which has been found by official field inspection to satisfy the crop conditions specified in Annex I (crop standards) of the Oil and Fibre Plant Seed Directive for the relevant category of seed,
 - (ii) has been packed in a sealed package in accordance with the requirements of Article 11(1) (sealing) of the Oil and Fibre Plant Seed Directive and has been labelled in accordance with the requirements of the second indented sub-paragraph of the first paragraph of Article 19(2) (labelling requirements for certification of seed from other EEA States or equivalent third countries) of the Oil and Fibre Plant Seed Directive, and
 - (iii) is accompanied by an Annex V(C) document relating to the seed issued by the relevant competent seed certification authority.

(4) In this paragraph, “Annex V(C) document” means a document issued by the relevant competent seed certification authority of the type specified in the following provisions of the Oil and Fibre Plant Seed Directive—

- (a) the second indented sub-paragraph of the first paragraph of Article 19(2), and
- (b) Part C of Annex V.”.

(23) In schedule 4 (requirements for Basic Seed, Certified Seed, Certified seed of the First Generation, Certified Seed of the Second Generation, Certified Seed of the Third Generation and Commercial Seed), in paragraph 2 (varietal identity and varietal purity), for “, an equivalent list in another EEA State or the Common Catalogue” substitute “or before the end of the period of two years beginning with the day after the day on which exit day falls accepted on to an equivalent list in a European Single Market State or the Common Catalogue”.

(24) In schedule 4A(82) (standards for certification of conservation varieties)—

- (a) in Part III (conditions relating to crops from which seed is obtained), in paragraph 1 (varietal identity and varietal purity), for “, an equivalent list in another EEA State or the Common Catalogue” substitute “or before the end of the period of two years beginning with the day after the day on which exit day falls accepted on to an equivalent list in a European Single Market State or the Common Catalogue”,
- (b) in Part IV (conditions relating to seed of a Conservation Variety), in paragraph 1 (standards of germination, analytical purity and content of seed of other plant species), omit “EC”.

(25) In schedule 6—

- (a) in paragraph 4(a)(i) (official label for a package of Pre-basic Seed), for “EEA State or their commonly used initials”, substitute “country or country initials”,
- (b) in paragraph 5(a) (official label for a package of Basic Seed or Seed of a Certified Generation)—
 - (i) in sub-paragraph (i), for “EC” substitute “UK”,
 - (ii) in sub-paragraph (ii), for “EEA State or their commonly used initials”, substitute “country or country initials”,
 - (iii) in sub-paragraphs (xi) and (xii), after “UK National List or” insert “, at any time before the end of the period of two years beginning with the day after the day on which exit day falls,”,
- (c) in paragraph 6(a) (official label for a package of Commercial Seed)—
 - (i) in sub-paragraph (i), for “EC” substitute “UK”,

- (ii) in sub-paragraph (ii), for “EEA State or their commonly used initials”, substitute “country or country initials”,
- (d) in paragraph 6A(a)(ii) (official label for a package of test and trial seed)(**83**), for “EEA State or their distinguishing abbreviation”, substitute “country or country initials”,
- (e) in paragraph 6B(a)(i) (official label for a package of seed of a Conservation Variety)(**84**), for “EC” substitute “UK”,
- (f) in paragraph 7(a) (official label for a package of a varietal association of seed)—
 - (i) in sub-paragraph (i), for “EC” substitute “UK”,
 - (ii) in sub-paragraph (ii), for “EEA State or their commonly used initials”, substitute “country or country initials”,
- (g) in paragraph 8(a)(i) (label for a small package of Pre-basic Seed, Basic Seed, Seed of a Certified Generation or Commercial Seed), for “EC” substitute “UK”,
- (h) in paragraph 10 (information to be supplied in respect of seed imported from a country which is not an EEA State in a package exceeding 2 kilograms net weight)—
 - (i) in the heading, for “a country which is not an EEA State” substitute “outside the United Kingdom”,
 - (ii) the existing text becomes sub-paragraph (1),
 - (iii) in sub-paragraph (1), for “a country which is not an EEA State” substitute “outside the United Kingdom”,
 - (iv) after sub-paragraph (1) insert—

“(2) Sub-paragraph (1) does not apply to seed imported from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”,
- (i) in paragraph 17 (seed packages sealed in the United Kingdom but not in Scotland, or in an EEA State other than the United Kingdom)(**85**)—
 - (i) in the heading, for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,
 - (ii) for “EEA State” in the first place where it occurs, substitute “European Single Market State as applied before the end of the period of two years beginning with the day after the day on which exit day falls”,
 - (iii) for “EEA State” in the second place where it occurs substitute “European Single Market State”.

The Cereal Seed (Scotland) Regulations 2005

- 13.**—(1) The Cereal Seed (Scotland) Regulations 2005(**86**) are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) omit the definition of “Annex V(C) document”,
 - (b) in the definition of “blended seed lot”, omit “or Annex I (crop conditions) of the Cereal Seed Directive”,

(83) Paragraph 6A was inserted by [S.S.I. 2007/224](#).

(84) Paragraph 6B was inserted by [S.S.I. 2009/223](#).

(85) Paragraph 17 was substituted by [S.S.I. 2007/224](#).

(86) [S.S.I. 2005/328](#), amended by [S.S.I. 2006/313](#), [S.S.I. 2006/448](#), [S.S.I. 2007/224](#), [S.S.I. 2007/536](#), [S.S.I. 2009/223](#), [S.S.I. 2010/219](#), [S.I. 2011/1043](#), [S.S.I. 2016/68](#), [S.S.I. 2016/434](#) and Part 2 of this instrument.

- (c) in the definition of “breeder”, in paragraph (a), after “UK National List or” insert “, at any time before the end of the period of two years beginning with the day after the day on which exit day falls,”,
- (d) in the definition of “bulked seed lot”, omit “or Annex I (crop conditions) of the Cereal Seed Directive”,
- (e) omit the definition of “the Common Catalogue Directive”,
- (f) in the definition of “control plot”, for “European” in both places where it occurs substitute “National”,
- (g) after the definition of “control plot”(87) insert—
 ““country granted equivalence” means a country that has been granted equivalence under the Equivalence Decision;
 “Crown Dependency” means any of the Channel Islands or the Isle of Man;”,
- (h) in the definition of “EEA state”(88), omit “, and for the purposes of these Regulations, includes Switzerland”,
- (i) in the definition of “European Authority”, for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,
- (j) in the definition of “by a European Authority”, for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,
- (k) after the definition of “European Authority” insert—
 ““European Single Market State” means an EEA State or Switzerland;”,
- (l) after the definition of “genetically modified” insert—
 ““the GMO Regulations” means—
 (a) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(89);
 (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002(90);
 (c) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(91);
 (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003(92);”,
- (m) in the definition of “licensed EC crop inspector”—
 (i) for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,
 (ii) for “EEA” substitute “European Single Market”.
- (3) In regulation 3 (definitions of seed categories)—
 (a) in the definition of “Pre-basic Seed”, for paragraph (c) substitute—
 “(c) has been—
 (i) subject to regulation 12, officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions

(87) The definition was substituted by S.S.I. 2009/223.

(88) The definition of “EEA State” is amended by Part 2 of this instrument.

(89) S.S.I. 2002/541, amended by S.S.I. 2004/439, S.I. 2005/2759, S.I. 2011/1043; S.S.I. 2015/100 and S.S.I. 2019/XXX.

(90) S.I. 2002/2443, as amended by S.I. 2004/2411, S.I. 2005/2759, S.I. 2009/1892 and S.I. 2018/575.

(91) S.I. 2002/3188 (W. 304), amended by S.I. 2005/2759 and S.I. 2013/755 (W. 90).

(92) S.R. 2003 No. 167.

- specified in paragraphs (a) and (b) and the requirements for Basic Seed specified in Schedule 4;
- (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the applicable requirements for Basic Seed in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Basic Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Cereal Seed Directive;”
- (b) in the definition of “Basic Seed”, for paragraph (f) substitute—
- “(f) has been—
 - (i) subject to regulation 12, officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions specified in paragraphs (a), (b), (c), (d) or (e) and the requirements for Basic Seed specified in Schedule 4;
 - (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a), (b), (c), (d) or (e) and the applicable requirements for Basic Seed in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a), (b), (c), (d) or (e) and the requirements for Basic Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Cereal Seed Directive;”
- (c) in the definition of “Certified Seed”, for paragraph (c) substitute—
- “(c) has been—
 - (i) subject to regulation 12, officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed specified in Schedule 4;
 - (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the applicable requirements for Certified Seed in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Cereal Seed Directive;”
- (d) in the definition of “Certified Seed of the First Generation”, for paragraph (c) substitute—
- “(c) has been—
 - (i) subject to regulation 12, officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the First Generation specified in Schedule 4;

- (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the applicable requirements for Certified Seed of the First Generation in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the First Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Cereal Seed Directive;”,
- (e) in the definition of “Certified Seed of the Second Generation”, for paragraph (c) substitute—
- “(c) has been—
 - (i) subject to regulation 12, officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the Second Generation specified in Schedule 4;
 - (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the applicable requirements for Certified Seed of the Second Generation in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the Second Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Cereal Seed Directive;”,
- (4) For regulation 5(2) (seed to which the Regulations apply)(93), substitute—
- “(2) These Regulations do not apply to seed intended for export outside the United Kingdom (other than regulation 13A (certification and labelling for export)).”.
- (5) In regulation 6 (marketing of seed)—
- (a) in paragraph (1)—
 - (i) after sub-paragraph (a), omit “and”,
 - (ii) in sub-paragraph (b)(i), for “the Common Catalogue” substitute “accepted on to the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls,”,
 - (iii) after sub-paragraph (b)(ii) insert—
 - “; and
 - (c) in the case of seed which has been produced in a European Single Market State, it—
 - (i) has otherwise been produced in compliance with the applicable requirements set out in EU law, including the Cereal Seed Directive and Commission Directive 2008/62, and
 - (ii) has been imported into Scotland before the end of the period of two years beginning with the day after the day on which exit day falls.”,

(93) Regulation 5(2) is amended, and regulation 13A is inserted, by Part 2 of this instrument.

- (b) in paragraph (5), for “a country which is not an EEA State” substitute “outside the United Kingdom”,
 - (c) after paragraph (5), insert—
 - “(6) Paragraph (5) does not apply to seed imported into Scotland from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”,
 - (d) omit paragraph (6).
- (6) For regulation 6A (importation from outside the European Union)(94) substitute—

“Importation into the United Kingdom

6A.—(1) Subject to paragraph (2), seed imported into the United Kingdom must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.

(2) Paragraph (1) does not apply to seed imported from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”.

- (7) In regulation 9 (exception for scientific purposes or selection work)—
- (a) for paragraph (1)(b) substitute—
 - “(b) an authorisation has been granted to the producer in respect of small quantities of seed for scientific purposes or selection work—
 - (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom; or
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Article 4a(1)(a) of the Cereal Seed Directive.”,
 - (b) for paragraph (4) substitute—
 - “(4) The Scottish Ministers may only grant an authorisation under this regulation in respect of a genetically modified variety if the marketing and release of the genetically modified material by the applicant has been authorised—
 - (a) before the day on which exit day falls, under Part C of the 2001 Deliberate Release Directive,
 - (b) under the Food and Feed Regulation, or
 - (c) under the GMO Regulations.”.
- (8) In regulation 9A (exception for test and trial seed)(95)—
- (a) for paragraph (1) substitute—
 - “(1) Regulation 6(1)(b) does not apply to the marketing by a producer of seed for test and trial purposes in accordance with—
 - (a) a tests and trials authorisation; or
 - (b) an authorisation which has been granted to the producer—

(94) Regulation 6A is inserted by Part 2 of this instrument.

(95) Regulation 9A was inserted by [S.S.I. 2007/224](#).

- (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom;
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Article 4a(1)(b) of the Cereal Seed Directive.”
- (b) in paragraph (4), for sub-paragraph (b) substitute—
- “(b) in the case of seed of a genetically modified variety, the marketing and release of the genetically modified material by the applicant has been authorised—
- (i) before the day on which exit day falls, under Part C of the 2001 Deliberate Release Directive,
 - (ii) under the Food and Feed Regulation, or
 - (iii) under the GMO Regulations.”
- (c) in paragraph (6), for “that permitted by Article 7 of the 2004 Commission Decision” substitute—
- “the greater of—
- (a) (i) in the case of durum wheat, 0.05%,
 - (ii) in the case of oats, barley and wheat, 0.3%,
 - (iii) in all other cases, 0.1%,
- of the annual number of seeds used in the United Kingdom, and
- (b) such quantity as the Scottish Ministers consider is sufficient to sow 10 hectares”
- (d) in paragraph (9), omit “or the Common Catalogue”.
- (e) in paragraph (10), omit “or, as the case may be, Switzerland”(96).
- (9) In regulation 9B (exception for Conservation Varieties)(97)—
- (a) after paragraph (8), insert—
- “(8A) For the purposes of paragraph (8), Article 14 of Commission Directive 2008/62 is to be read as if—
- (a) in the first paragraph—
 - (i) “Each Member State shall ensure that,” was omitted,
 - (ii) for “does not exceed”, there were substituted “may not exceed”,
 - (iii) for “that Member State”, there were substituted “the United Kingdom”,
 - (b) in the second paragraph—
 - (i) for “each Member State”, there were substituted “the United Kingdom”,
 - (ii) for “the Member State” in both places where it occurs, there were substituted “the United Kingdom”.”
- (b) in paragraph (11)—
- (i) in the definition of “additional region”, insert at the end—

(96) Regulation 9A(10) is amended by Part 2 of this instrument.

(97) Regulation 9B was inserted by S.S.I. 2009/223.

- “, with Article 11(1) of Commission Directive 2008/62 being read as if for the reference to “Member States” in each place where it occurs and “the Member States” there were substituted “the Scottish Ministers”,
- (ii) in the definition of “region of origin”, insert at the end—
- “, with Article 8.1 of Commission Directive 2008/62 being read as if—
- (a) in the first sub-paragraph—
- (i) for “a Member State accepts”, there were substituted “the Scottish Ministers accept”,
- (ii) for “it shall”, there were substituted “they must”,
- (iii) for “It shall”, there were substituted “The Scottish Ministers must”,
- (iv) for “Member States”, there were substituted “Scottish Ministers”,
- (b) the second sub-paragraph was omitted.”.
- (10) For regulation 10(2) (general exemptions) substitute—
- “(2) The Scottish Ministers may exercise the power under paragraph (1) for the purposes of a temporary experiment seeking improved alternatives to provisions of these Regulations and organised in accordance with regulations made under section 16(5) of the Act.
- (2A) The duration of a temporary experiment must not exceed 7 years.”.
- (11) In regulation 11 (marketing of officially certified lower germination seed)—
- (a) in paragraph (1)—
- (i) in the words before sub-paragraph (a), omit “or Annex II (seed conditions) of the Cereal Seed Directive”,
- (ii) for sub-paragraph (b) substitute—
- “(b) which has been certified as satisfying the conditions for the relevant category of seed although it attains a lower percentage of germination than that specified in paragraph 16 of Part II of Schedule 4 in relation to Basic Seed—
- (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom;
- (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Article 4(1)(a) (marketing of lower germination seed) of the Cereal Seed Directive.”,
- (iii) for sub-paragraph (c)(ii) substitute—
- “(ii) in the case of seed which has been fully certified as being Pre-basic Seed or Basic Seed—
- (aa) by a National Authority other than the Scottish Ministers, in the applicable requirements in the relevant part of the United Kingdom, irrespective of the findings of the National Authority;
- (bb) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in Annex II (seed conditions) of the Cereal Seed Directive, irrespective of the finding of the relevant competent seed certification authority.”,

- (b) for paragraph (3) substitute—
- “(3) Paragraph (1) does not apply to seed which has been imported into the United Kingdom from—
- (a) a European Single Market State, after the end of the period of two years beginning with the day after the day on which exit day falls, or
- (b) a country other than a European Single Market State.”.
- (12) In regulation 12 (marketing of early movement seed)—
- (a) in paragraph (1)—
- (i) in sub-paragraph (a), for “the Common Catalogue” substitute “accepted on to the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls”,
- (ii) for sub-paragraph (b) substitute—
- “(b) any seed lot has been certified by a National Authority other than the Scottish Ministers in order to make seed rapidly available, and the provisional germination report on the seed has been presented by the producer to the Scottish Ministers,”,
- (b) in paragraph (3)—
- (i) for “European” substitute “National”,
- (ii) omit “or Annex II (seed conditions) of the Cereal Seed Directive,”,
- (c) for paragraph (5) substitute—
- “(5) Paragraph (1) does not apply to seed which has been imported into the United Kingdom from—
- (a) a European Single Market State, after the end of the period of two years beginning with the day after the day on which exit day falls, or
- (b) a country other than a European Single Market State.”.
- (13) In regulation 14 (applications for official certificates)—
- (a) in paragraph (3), for “(or an equivalent list in another EEA State)” in both places where it occurs, substitute “(or entered into an equivalent list in a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls)”,
- (b) in paragraph (4)(d), after “licensed crop inspector or” insert “, where paragraph (4A) applies, the”,
- (c) after paragraph (4) insert—
- “(4A) This paragraph applies where a licensed EC crop inspector as mentioned in paragraph (4)(d) inspected the crop before the end of the period of two years beginning with the day after the day on which exit day falls.”.
- (14) In regulation 15(1)(a)(i) (sampling), for “European” substitute “National”.
- (15) In regulation 16 (sealing of packages of fully certified seed)—
- (a) for paragraph (1)(b) substitute—
- “(b) sealed—
- (i) in any other part of the United Kingdom, in accordance with the applicable requirements for sealing in the relevant part of the United Kingdom,

- (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, in a European Single Market State, in accordance with Article 9(1) (sealing of packages) of the Cereal Seed Directive.”,
 - (b) for paragraph (3)(b) substitute—
 - “(b) (i) in any other part of the United Kingdom, in accordance with the applicable requirements for re sealing in the relevant part of the United Kingdom,
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, in a European Single Market State, in accordance with Article 9(2) (re sealing of packages) of the Cereal Seed Directive.”.
- (16) In regulation 17 (labelling of packages of fully certified seed)—
 - (a) for paragraph (4A)(b)(98) substitute—
 - “(b) where seed is sealed—
 - (i) in any other part of the United Kingdom, be labelled in accordance with the requirements for labelling applicable to a Conservation Variety in the relevant part of the United Kingdom,
 - (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, be labelled in accordance with Article 18 of Commission Directive 2008/62.”,
 - (b) for paragraph (5)(b) substitute—
 - “(b) which is sealed—
 - (i) in any other part of the United Kingdom, in accordance with the applicable requirements for re sealing and labelling in the relevant part of the United Kingdom in relation to the relevant category of seed and the seed or mixture of seeds itself,
 - (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, in accordance with Article 9(2) (re sealing), 10(1)(a) (labelling of packages), 13(3) (labelling of packages of mixtures of seeds) and 14a(c) (labelling of packages of Pre-basic Seed) of the Cereal Seed Directive appropriate to the relevant category of seed and the seed or mixture of seeds itself.”,
 - (c) for paragraph (8)(b) substitute—
 - “(b) which is sealed—
 - (i) in any other part of the United Kingdom, shall contain an official document in accordance with the applicable requirements for official documents and, as the case may be, for labelling of packages of mixtures of seeds, in the relevant part of the United Kingdom,
 - (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, shall contain an official document in accordance with Articles 10(1)(b) (official documents) and 13(3) (labelling of packages of mixtures of seeds) of the Cereal Seed Directive.”,
 - (d) in paragraph (10)—
 - (i) for sub-paragraph (a) substitute—

- “(a) (i) for packages sealed in Scotland, the appropriate particulars of the matters specified in Part II of Schedule 6 and paragraphs (3), (6) (a), (12) and (13), are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified;
- (ii) for packages sealed in any other part of the United Kingdom, the appropriate particulars of the matters specified in accordance with the applicable requirements in the relevant part of the United Kingdom, are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified;
- (iii) for packages sealed in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, the appropriate particulars of the matters specified in Articles 4 (lower germination and early movement seed), 9(2) (re sealing), 10(1)(a) (labelling of packages), 11a (identification of genetically modified varieties) and 13(3) (labelling of packages of mixtures of seeds) and Annex IV (labels) of the Cereal Seed Directive, are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified; and”;
- (ii) for sub-paragraph (c) substitute—
 - “(c) the requirements of paragraph 16 of Part VI of Schedule 6 are satisfied in the case of a package sealed—
 - (i) in another part of the United Kingdom; or
 - (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls.”;
- (e) in paragraph (14), for “one of the official languages of the European Union” substitute “English but may also be given in other languages”.
- (17) In regulation 20 (breeder’s confirmations)—
 - (a) for paragraph (1)(c) substitute—
 - “(c) shall be made only—
 - (i) for seed of a variety for which an application has been made to have that variety accepted on to—
 - (aa) a UK National List, or
 - (bb) an equivalent list in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls; or
 - (ii) for seed of a component of a hybrid variety for which an application has been made to have that hybrid variety accepted on to—
 - (aa) a UK National List, or
 - (bb) an equivalent list in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls.”;
 - (b) in paragraphs (5) and (6), for “another EEA State” substitute “a European Single Market State”.

(18) In regulation 22(11) (labelling of packages of seed in relation to breeder's confirmation), for "one of the official languages of the European Union" substitute "English but may also be given in other languages".

(19) Regulation 23 (comparative tests and trials) is omitted.

(20) After regulation 26 (written and electronic communication) insert—

"Certification in a Crown Dependency

26A. Any seed certified and labelled in a Crown Dependency under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations may be marketed in Scotland.

Transitional provision for official labels on exit day

26B. A label pre-printed before exit day which at the date on which it was printed was an official label for the purposes of these Regulations is to be treated as an official label for a package of Basic Seed, Seed of a Certified Generation or seed of a Conservation Variety or, as the case may be, a small package of Pre basic Seed, Basic Seed or Seed of a Certified Generation for the purposes of any use of that label before the end of the period of two years beginning with the day after the day on which exit day falls."

(21) In schedule 2 (official certificates and breeder's confirmations), in Part I (official certificates)

(a) in paragraph 1 (applications for seed harvested in the United Kingdom), omit "but not made in pursuance of Article 15 (certification of seed from other EEA States or equivalent third countries) of the Cereal seed Directive",

(b) for paragraph 4 (applications for seed harvested in an EEA State or third country) substitute—

"Applications for seed harvested outside the United Kingdom

4.—(1) Notwithstanding paragraphs 2 and 3, and subject to sub-paragraphs (2) and (3), on receipt of an application made in accordance with regulation 14(1) for the issue of an official certificate in respect of a seed lot as Pre basic Seed, Basic Seed or Seed of a Certified Generation, the Scottish Ministers may issue an official certificate in respect of the seed lot containing the particulars specified in paragraph 1 of Schedule 3.

(2) An official certificate may only be issued under sub-paragraph (1) if—

(a) the seed has been—

(i) produced directly from—

(aa) fully certified Basic Seed or Certified Seed of the First Generation, or

(bb) seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Basic Seed or Certified Seed of the First Generation in accordance with these Regulations,

(ii) harvested outside the United Kingdom, and

- (iii) shown on official examination to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed;
- (b) the seed has been—
 - (i) produced directly from the crossing of fully certified Basic Seed with seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Basic Seed in accordance with these Regulations,
 - (ii) harvested outside the United Kingdom, and
 - (iii) shown on official examination to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed; or
- (c) the seed—
 - (i) is to be certified by the Scottish Ministers as Basic Seed;
 - (ii) has been produced directly from—
 - (aa) fully certified Pre-basic Seed, or
 - (bb) seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Pre-basic Seed in accordance with these Regulations,
 - (ii) has been harvested outside the United Kingdom, and
 - (iii) has been shown on official examination to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed.
- (3) In the case of seed which has been harvested in a European Single Market State, an official certificate may only be issued under sub-paragraph (1)—
 - (a) before the end of the period of two years beginning with the day after the day on which exit day falls, and
 - (b) provided that—
 - (i) the seed has been harvested from a crop which has been found by official field inspection to satisfy the crop conditions specified in Annex I (crop standards) of the Cereal Seed Directive for the relevant category of seed,
 - (ii) the seed has been packed in a sealed package in accordance with the requirements of Article 9(1) (sealing) of the Cereal Seed Directive and has been labelled in accordance with the requirements of the first indented sub-paragraph of the first paragraph of Article 15(2) (labelling requirements for certification of seed from other EEA States or equivalent third countries) of the Cereal Seed Directive, and
 - (iii) the seed is accompanied by an Annex V(C) document relating to the seed issued by the relevant competent seed certification authority.
- (4) In this paragraph, “Annex V(C) document” means a document issued by the relevant competent seed certification authority of the type specified in the following provisions of the Cereal Seed Directive—
 - (a) the second indented sub-paragraph of the first paragraph of Article 15(2), and
 - (b) Part C of Annex V.”

- (c) in paragraph 7(d) (when applications may be refused), for “(or to an equivalent list in an EEA State)” substitute “(or to an equivalent list in a European Single Market State where the application was made before the end of the period of two years beginning with the day after the day on which exit day falls)”.

(22) In schedule 4 (requirements for Pre-basic Seed, Basic Seed, Certified Seed of the First Generation and Certified Seed of the Second Generation), in paragraph 2 (varietal identity and varietal purity), for “, an equivalent list in another EEA State or the Common Catalogue” substitute “or before the end of the period of two years beginning with the day after the day on which exit day falls accepted on to an equivalent list in a European Single Market State or the Common Catalogue”.

(23) In schedule 4A(99) (standards for certification of Conservation Varieties)—

- (a) in Part III (conditions relating to crops from which seed is obtained), in paragraph 1 (varietal identity and varietal purity), for “, an equivalent list in another EEA State or the Common Catalogue” substitute “or before the end of the period of two years beginning with the day after the day on which exit day falls accepted on to an equivalent list in a European Single Market State or the Common Catalogue”,
- (b) in Part IV (conditions relating to seed of a Conservation Variety), in paragraph 1 (standards of germination, analytical purity and content of seed of other plant species), omit “EC”.

(24) In schedule 6—

- (a) in paragraph 4(a)(i) (official label for a package of Pre-basic Seed), for “EEA State or their commonly used initials”, substitute “country or country initials”,
- (b) in paragraph 5(a) (official label for a package of Basic Seed or Seed of a Certified Generation)—
 - (i) in sub-paragraph (i), for “EC” substitute “UK”,
 - (ii) in sub-paragraph (ii), for “EEA State or their commonly used initials”, substitute “country or country initials”,
 - (iii) in sub-paragraph (xi)(aa), after “UK National List or” insert “, at any time before the end of the period of two years beginning with the day after the day on which exit day falls,”,
- (c) in paragraph 6(a)(ii) (official label for a package of a mixture of seeds to which regulation 8 applies), for “EEA State or their commonly used initials”, substitute “country or country initials”,
- (d) in paragraph 6A(a)(ii) (official label for a package of test and trial seed)(100), for “EEA State or their distinguishing abbreviation”, substitute “country or country initials”,
- (e) in paragraph 6B(a)(i) (official label for a package of seed of a Conservation Variety)(101), for “EC” substitute “UK”,
- (f) in paragraph 7(a)(i) (label for a small package of Pre-basic Seed, Basic Seed or Seed of a Certified Generation), for “EC” substitute “UK”,
- (g) in paragraph 11 (information to be supplied in respect of seed imported from a country which is not an EEA State in a package exceeding 2 kilograms net weight)—
 - (i) in the heading, for “a country which is not an EEA State” substitute “outside the United Kingdom”,
 - (ii) the existing text becomes sub-paragraph (1),

(99) Schedule 4A was inserted by [S.S.I. 2009/223](#).

(100) Paragraph 6A was inserted by [S.S.I. 2007/224](#).

(101) Paragraph 6B was inserted by [S.S.I. 2009/223](#).

- (iii) in sub-paragraph (1), for “a country which is not an EEA State” substitute “outside the United Kingdom”,
- (iv) after sub-paragraph (1) insert—
 - “(2) Sub-paragraph (1) does not apply to seed imported from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”,
- (h) in paragraph 16 (seed packages sealed in the United Kingdom but not in Scotland, or in an EEA State other than the United Kingdom)—
 - (i) in the heading, for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,
 - (ii) for “EEA State” in the first place where it occurs substitute “European Single Market State as applied before the end of the period of two years beginning with the day after the day on which exit day falls”,
 - (iii) for “EEA State” in the second place where it occurs substitute “European Single Market State”.

The Fodder Plant Seed (Scotland) Regulations 2005

14.—(1) The Fodder Plant Seed (Scotland) Regulations 2005(**102**) are amended as follows.

- (2) In regulation 2(1) (interpretation)—
 - (a) omit the definition of “Annex V(C) document”,
 - (b) in the definition of “blended seed lot”, omit “or Annex I (crop conditions) of the Fodder Plant Seed Directive”,
 - (c) in the definition of “breeder”, in paragraph (a), after “UK National List or” insert “, at any time before the end of the period of two years beginning with the day after the day on which exit day falls,”,
 - (d) in the definition of “bulked seed lot”, omit “or Annex I (crop conditions) of the Fodder Plant Seed Directive”,
 - (e) omit the definition of “the Common Catalogue Directive”,
 - (f) in the definition of “control plot”(**103**), for “European” in both places where it occurs substitute “National”,
 - (g) after the definition of “control plot” insert—
 - ““country granted equivalence” means a country that has been granted equivalence under the Equivalence Decision;”
 - (h) after the definition of “crop-grown preservation mixture”(**104**) insert—
 - ““Crown Dependency” means any of the Channel Islands or the Isle of Man;”,
 - (i) in the definition of “EEA State”, omit “, and for the purposes of these Regulations includes Switzerland”(**105**),
 - (j) in the definition of “European Authority”, for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,

(**102**) S.S.I. 2005/329, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.I. 2011/1043, S.S.I. 2012/5, S.S.I. 2013/326, S.S.I. 2016/68, S.S.I. 2016/434, S.S.I. 2017/384 and Part 2 of this instrument.

(**103**) That definition was substituted by S.S.I. 2009/223.

(**104**) That definition was inserted by S.S.I. 2012/5.

(**105**) The definition of “EEA State” is amended by Part 2 of this instrument.

- (k) in the definition of “by a European Authority”, for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,
 - (l) after the definition of “European Authority” insert—
 - ““European Single Market State” means an EEA State or Switzerland;”,
 - (m) after the definition of “genetically modified” insert—
 - ““the GMO Regulations” means—
 - (a) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(**106**);
 - (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002(**107**);
 - (c) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(**108**);
 - (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003(**109**);”,
 - (n) in the definition of “licensed EC crop inspector”—
 - (i) for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,
 - (ii) for “EEA” substitute “European Single Market”,
 - (o) in the definition of “small EC A package”, omit “EC”,
 - (p) in the definition of “small EC B package”, in both places where it occurs omit “EC”,
 - (q) in the definition of “source area”(**110**), for “Commission Directive 2010/60” substitute “Article 1(a) of Commission Directive 2010/60, which is to be read as if the definition of “source area” contained in that Article defined it to mean an area designated as a special area of conservation or an area contributing to the conservation of plant genetic resources in accordance with retained EU law”.
- (3) In regulation 3 (definitions of seed categories)—
- (a) in the definition of “Pre-basic Seed”, for paragraph (c) substitute—
 - “(c) has been—
 - (i) subject to regulation 12, officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Basic Seed specified in Schedule 4;
 - (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the applicable requirements for Basic Seed in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Basic Seed

(106) S.S.I. 2002/541, amended by S.S.I. 2004/439, S.I. 2005/2759, S.I. 2011/1043; S.S.I. 2015/100 and S.S.I. 2019/XXX.

(107) S.I. 2002/2443, as amended by S.I. 2004/2411, S.I. 2005/2759, S.I. 2009/1892 and S.I. 2018/575.

(108) S.I. 2002/3188 (W. 304), amended by S.I. 2005/2759 and S.I. 2013/755 (W. 90).

(109) S.R. 2003 No. 167.

(110) That definition was inserted by S.S.I. 2012/5.

- specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;”
- (b) in the definition of “Basic Seed” (other than in relation to a component of a hybrid variety of fodder kale), for paragraph (d) substitute—
- “(d) has been—
- (i) subject to regulation 12, officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions specified in paragraph (a) or (b) and paragraph (c) and the requirements for Basic Seed specified in Schedule 4;
 - (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraph (a) or (b) and paragraph (c) and the applicable requirements for Basic Seed in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraph (a) or (b) and paragraph (c) and the requirements for Basic Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;”
- (c) in the definition of “Basic Seed” (in relation to a component of a hybrid variety of fodder kale), for paragraph (c) substitute—
- “(c) has been—
- (i) subject to regulation 12, officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Basic Seed specified in Schedule 4; or
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Basic Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;”
- (d) in the definition of “Certified Seed”, for paragraph (c) substitute—
- “(c) has been—
- (i) subject to regulation 12, officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed specified in Schedule 4;
 - (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the applicable requirements for Certified Seed in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;”
- (e) in the definition of “Certified Seed of the First Generation”, for paragraph (c) substitute—

- “(c) has been—
- (i) subject to regulation 12, officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the First Generation specified in Schedule 4;
 - (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the applicable requirements for Certified Seed of the First Generation in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the First Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;”
- (f) in the definition of “Certified Seed of the Second Generation”, for paragraph (c) substitute—
- “(c) has been—
- (i) subject to regulation 12, officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the Second Generation specified in Schedule 4;
 - (ii) certified by a National Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the applicable requirements for Certified Seed of the Second Generation in the relevant part of the United Kingdom; or
 - (iii) before the end of the period of two years beginning with the day after the day on which exit day falls, certified by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the Second Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;”
- (g) in the definition of “Commercial Seed”, for paragraph (b) substitute—
- “(b) certified by—
- (i) a National Authority other than the Scottish Ministers as satisfying the applicable requirements for Commercial Seed in the relevant part of the United Kingdom; or
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, the competent seed certification authority of a European Single Market State as satisfying the requirements for Commercial Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;”
- (4) For regulation 5(2) (seed to which the Regulations apply)(**111**), substitute—
- “(2) These Regulations do not apply to seed intended for export outside the United Kingdom (other than regulation 13A (certification and labelling for export)).”
- (5) In regulation 6 (marketing of seed)—
- (a) in paragraph (1)—

(111) Regulation 5(2) is amended, and regulation 13A is inserted, by Part 2 of this instrument.

- (i) after sub-paragraph (a), omit “and”,
- (ii) in sub-paragraph (b)(ii), for “the Common Catalogue” substitute “accepted on to the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls.”,
- (iii) after sub-paragraph (b)(iii) insert—
 - “; and
 - (c) in the case of seed which has been produced in a European Single Market State, it—
 - (i) has otherwise been produced in compliance with the applicable requirements set out in EU law, including the Fodder Plant Seed Directive, Commission Directive 2008/62 and Commission Directive 2010/60, and
 - (ii) has been imported into Scotland before the end of the period of two years beginning with the day after the day on which exit day falls.”,
- (b) in paragraph (5), for “a country which is not an EEA State” substitute “outside the United Kingdom”,
- (c) after paragraph (5) insert—
 - “(6) Paragraph (5) does not apply to seed imported into Scotland from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”.
- (6) For regulation 6A (importation from outside the European Union)(112) substitute—

“**Importation into the United Kingdom**”

- 6A.**—(1) Subject to paragraph (2), seed imported into the United Kingdom must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.
- (2) Paragraph (1) does not apply to seed imported from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”.
- (7) In regulation 8 (mixtures)—
 - (a) in paragraph (2), omit “for the purposes of Article 4(1) of the Common Catalogue Directive”,
 - (b) in paragraphs (6) and (7), omit “EC” in each place where it occurs.
- (8) In regulation 8A (preservation mixtures)(113)—
 - (a) in paragraph (4)(e), for “the provisions in Commission Directive 2008/62” substitute “regulation 9B”,
 - (b) in paragraph (9), for “For the purposes of Article 8 (quantitative restriction) of Commission Directive 2010/60, the” substitute “The”,
 - (c) in paragraph (11), for “for the purposes of Article 3 of Commission Directive 2010/60” substitute “having taken account of any available information from plant genetic resource organisations”.
- (9) In regulation 9 (exception for scientific purposes or selection work)—

(112) Regulation 6A is inserted by Part 2 of this instrument.

(113) Regulation 8A was inserted by [S.S.I. 2012/5](#).

- (a) for paragraph (1)(b) substitute—
 - “(b) an authorisation has been granted to the producer in respect of small quantities of seed for scientific purposes or selection work—
 - (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom;
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Article 4a(1)(a) of the Fodder Plant Seed Directive.”
- (b) for paragraph (4) substitute—
 - “(4) The Scottish Ministers may only grant an authorisation under this regulation in respect of a genetically modified variety if the marketing and release of the genetically modified material by the applicant has—
 - (a) before the day on which exit day falls, been authorised under Part C of the 2001 Deliberate Release Directive,
 - (b) been authorised under the Food and Feed Regulation, or
 - (c) been authorised under the GMO Regulations.”
- (10) In regulation 9A (exception for test and trial seed)(**114**)—
 - (a) for paragraph (1) substitute—
 - “(1) Regulation 6(1)(b) does not apply to the marketing by a producer of seed for test and trial purposes in accordance with—
 - (a) a tests and trials authorisation; or
 - (b) an authorisation which has been granted to the producer—
 - (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom;
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Article 4a(1)(b) of the Fodder Plant Seed Directive.”
 - (b) in paragraph (4), for sub-paragraph (b) substitute—
 - “(b) in the case of seed of a genetically modified variety, the marketing and release of the genetically modified material by the applicant has been authorised—
 - (i) before the day on which exit day falls, under Part C of the 2001 Deliberate Release Directive,
 - (ii) under the Food and Feed Regulation, or
 - (iii) under the GMO Regulations;”
 - (c) in paragraph (6), for “that permitted by Article 7 of the 2004 Commission Decision” substitute—
 - “the greater of—
 - (a) (i) in the case of field pea and field bean, 0.3%,
(ii) in all other cases, 0.1%,
of the annual number of seeds used in the United Kingdom, and

(114) Regulation 9A was inserted by [S.S.I. 2007/224](#).

- (b) such quantity as the Scottish Ministers consider is sufficient to sow 10 hectares”,
- (d) in paragraph (9), omit “or the Common Catalogue”,
- (e) in paragraph (10), omit “or, as the case may be, Switzerland”(115).
- (11) In regulation 9B (exception for conservation varieties)(116)—
 - (a) after paragraph (8), insert—
 - “(8A) For the purposes of paragraph (8), Article 14 of Commission Directive 2008/62 is to be read as if—
 - (a) in the first paragraph—
 - (i) “Each Member State shall ensure that,” was omitted,
 - (ii) for “does not exceed”, there were substituted “may not exceed”,
 - (iii) for “that Member State”, there were substituted “the United Kingdom”,
 - (b) in the second paragraph—
 - (i) for “each Member State”, there were substituted “the United Kingdom”,
 - (ii) for “the Member State” in both places where it occurs, there were substituted “the United Kingdom”.”,
 - (b) in paragraph (11)—
 - (i) in the definition of “additional region”, insert at the end “, with Article 11(1) of Commission Directive 2008/62 being read as if for the reference to “Member States” in each place where it occurs and “the Member States” there were substituted “the Scottish Ministers””,
 - (ii) in the definition of “region of origin”, insert at the end—
 - “, with Article 8.1 of Commission Directive 2008/62 being read as if—
 - (a) in the first sub-paragraph—
 - (i) for “a Member State accepts”, there were substituted “the Scottish Ministers accept”,
 - (ii) for “it shall”, there were substituted “they must”,
 - (iii) for “It shall”, there were substituted “The Scottish Ministers must”,
 - (iv) for “Member States”, there were substituted “Scottish Ministers”,
 - (b) the second sub-paragraph was omitted.”.
- (12) For regulation 10(2) (general exemptions) substitute—
 - “(2) The Scottish Ministers may exercise the power under paragraph (1) for the purposes of a temporary experiment seeking improved alternatives to provisions of these Regulations and organised in accordance with regulations made under section 16(5) of the Act.
 - (2A) The duration of a temporary experiment must not exceed 7 years.”.
- (13) In regulation 11 (marketing of officially certified lower germination seed)—
 - (a) in paragraph (1)—
 - (i) in the words before sub-paragraph (a), omit “or Annex II (seed conditions) of the Fodder Plant Seed Directive”,
 - (ii) for sub-paragraph (b) substitute—

(115) Regulation 9A(10) is amended by Part 2 of this instrument.

(116) Regulation 9B was inserted by S.S.I. 2009/223.

- “(b) which has been certified as satisfying the conditions for the relevant category of seed although it attains a lower percentage of germination than that specified in paragraph 13 of Part II of Schedule 4 in relation to Basic Seed—
 - (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom;
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Article 4(a) (marketing of lower germination seed) of the Fodder Plant Seed Directive.”
- (iii) for sub-paragraph (c)(ii) substitute—
 - “(ii) in the case of seed which has been fully certified as being Pre-basic Seed or Basic Seed—
 - (aa) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom, irrespective of the findings of the National Authority;
 - (bb) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in Annex II (seed conditions) of the Fodder Plant Seed Directive, irrespective of the finding of the relevant competent seed certification authority.”
- (b) for paragraph (3) substitute—
 - “(3) Paragraph (1) does not apply to seed which has been imported into the United Kingdom from—
 - (a) a European Single Market State, after the end of the period of two years beginning with the day after the day on which exit day falls, or
 - (b) a country other than a European Single Market State.”
- (14) In regulation 12 (marketing of early movement seed)—
 - (a) in paragraph (1)—
 - (i) in sub-paragraph (a), for “the Common Catalogue” substitute “accepted on to the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls,”
 - (ii) for sub-paragraph (b) substitute—
 - “(b) any seed lot has been certified by a National Authority other than the Scottish Ministers in order to make seed rapidly available, and the provisional germination report on the seed has been presented by the producer to the Scottish Ministers,”
 - (b) in paragraph (3)—
 - (i) for “European” substitute “National”,
 - (ii) omit “or Annex II (seed conditions) of the Fodder Plant Seed Directive”,
 - (c) for paragraph (5) substitute—

“(5) Paragraph (1) does not apply to seed which has been imported into the United Kingdom from—

- (a) a European Single Market State, after the end of the period of two years beginning with the day after the day on which exit day falls, or
- (b) a country other than a European Single Market State.”.

(15) In regulation 14 (applications for official certificates)—

- (a) in paragraph (3), for “(or an equivalent list in another EEA State)” in both places where it occurs, substitute “(or entered into an equivalent list in a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls)”,
- (b) in paragraph (4)(d), after “licensed crop inspector or” insert “, where paragraph (4A) applies, the”,
- (c) after paragraph (4) insert—

“(4A) This paragraph applies where a licensed EC crop inspector as mentioned in paragraph (4)(d) inspected the crop before the end of the period of two years beginning with the day after the day on which exit day falls.”.

(16) In regulation 15(1)(a)(i) (sampling), for “European Authority” substitute “National Authority”.

(17) In regulation 16 (sealing of packages of fully certified seed)—

- (a) in paragraph (1)—
 - (i) omit “EC” in both places where it occurs,
 - (ii) for sub-paragraph (b) substitute—
 - “(b) sealed—
 - (i) in any other part of the United Kingdom, in accordance with the applicable requirements for sealing in the relevant part of the United Kingdom,
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, in a European Single Market State, in accordance with Article 9(1) (sealing of packages) of the Fodder Plant Seed Directive or, where appropriate, Article 10 (sealing of packages and containers of preservation mixtures) of Commission Directive 2010/60.”,
- (b) for paragraph (3)(b) substitute—
 - “(b) (i) in any other part of the United Kingdom, in accordance with the applicable requirements for re sealing in the relevant part of the United Kingdom,
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, in a European Single Market State, in accordance with Article 9(2) (re sealing of packages) of the Fodder Plant Seed Directive.”,
- (c) in paragraphs (4) and (5), omit “EC” in each place where it occurs.

(18) In regulation 17 (labelling of packages of fully certified seed)—

- (a) for paragraph (4A)(b)(**117**) substitute—
 - “(b) where seed is sealed—

- (i) in any other part of the United Kingdom, be labelled in accordance with the requirements for labelling applicable to a Conservation Variety in the relevant part of the United Kingdom,
 - (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, be labelled in accordance with Article 18 of Commission Directive 2008/62.”,
- (b) for paragraph (5)(b) substitute—
 - “(b) which is sealed—
 - (i) in any other part of the United Kingdom, in accordance with the applicable requirements for re sealing and labelling in the relevant part of the United Kingdom in relation to the relevant category of seed and the seed or mixture of seeds itself,
 - (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, in accordance with Article 9(2) (resealing), 10(1)(a) (labelling of packages), 13(2) (labelling of packages of mixtures of seeds) and 14a(c) (labelling of packages of Pre-basic Seed) of the Fodder Plant Seed Directive and of Article 11 (labelling of preservation mixtures) of Commission Directive 2010/60 appropriate to the relevant category of seed and the seed or mixture of seeds itself.”,
- (c) for paragraph (8)(b) substitute—
 - “(b) which is sealed—
 - (i) in any other part of the United Kingdom, shall contain an official document in accordance with the applicable requirements for official documents and, as the case may be, for labelling of packages of mixtures of seeds, in the relevant part of the United Kingdom,
 - (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, shall contain an official document in accordance with Articles 10(1)(b) (official documents) and 13(2) (labelling of packages of mixtures of seeds) of the Fodder Plant Seed Directive.”,
- (d) in paragraph (10)—
 - (i) for sub-paragraph (a) substitute—
 - “(a) (i) for packages sealed in Scotland, the appropriate particulars of the matters specified in Part II of Schedule 6 and paragraphs (3), (6) (a), (12) and (13), are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified;
 - (ii) for packages sealed in any other part of the United Kingdom, the appropriate particulars of the matters specified in accordance with the applicable requirements in the relevant part of the United Kingdom, are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified;
 - (iii) for packages sealed in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, the appropriate particulars of the matters specified in Articles 4 (lower germination and early movement seed), 9(2) (resealing), 10(1)(a) (labelling), 11a (identification of genetically modified varieties) and Annex IV

- (labels) of the Fodder Plant Seed Directive and Article 11 (labelling of preservation mixtures) of Commission Directive 2010/60, are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified; and”,
- (ii) for sub-paragraph (c) substitute—
- “(c) the requirements of paragraph 17 of Part VI of Schedule 6 are satisfied in the case of a package sealed—
- (i) in another part of the United Kingdom; or
- (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls.”,
- (e) in paragraph (11), omit “EC” in both places where it occurs,
- (f) in paragraph (14), for “one of the official languages of the European Union” substitute “English but may also be given in other languages”.
- (19) In regulation 20 (breeder’s confirmations)—
- (a) for paragraph (1)(c) substitute—
- “(c) shall only be made—
- (i) for seed of a variety for which an application has been made to have that variety accepted on to—
- (aa) a UK National List, or
- (bb) an equivalent list in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls,
- (ii) for seed of a component of a hybrid variety for which an application has been made to have that hybrid variety accepted on to—
- (aa) a UK National List, or
- (bb) an equivalent list in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls.”,
- (b) in paragraphs (5) and (6), for “another EEA State” substitute “a European Single Market State”.
- (20) In regulation 22(11) (labelling of packages of seed in relation to breeder’s confirmation), for “one of the official languages of the European Union” substitute “English but may also be given in other languages”.
- (21) Regulation 23 (comparative tests and trials) is omitted.
- (22) After regulation 26 (written and electronic communication) insert—

“Certification in a Crown Dependency

26A. Any seed certified and labelled in a Crown Dependency under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations may be marketed in Scotland.

Transitional provision for official or producer’s labels on exit day

26B. A label pre-printed before exit day which at the date on which it was printed was an official label or a producer’s label for the purposes of these Regulations is to be treated as an

official label or, as the case may be, a producer’s label for a package of Basic Seed, Seed of a Certified Generation, Commercial Seed, seed of a Conservation Variety, seed of a preservation mixture or, as the case may be, a small A package or a small B package of Pre-basic Seed, Basic Seed, Seed of a Certified Generation or Commercial Seed, for the purposes of any use of that label before the end of the period of two years beginning with the day after the day on which exit day falls.”.

(23) In schedule 2 (official certificates and breeder’s confirmations), in Part I (official certificates)

- (a) in paragraph 1 (applications for seed harvested in the United Kingdom), omit “but not made in pursuance of Article 15 (certification of seed from other EEA States or equivalent third countries) of the Fodder Plant Seed Directive”,
- (b) for paragraph 4 (applications for seed harvested in an EEA State or third country) substitute—

“Applications for seed harvested outside the United Kingdom

4.—(1) Notwithstanding paragraphs 2 and 3, and subject to sub-paragraphs (2) and (3), on receipt of an application made in accordance with regulation 14(1) for the issue of an official certificate in respect of a seed lot as Pre basic Seed, Basic Seed, Seed of a Certified Generation or Commercial Seed, the Scottish Ministers may issue an official certificate in respect of the seed lot containing the particulars specified in paragraph 1 of Schedule 3.

(2) An official certificate may only be issued under sub-paragraph (1) if—

- (a) the seed has been—
 - (i) produced directly from—
 - (aa) fully certified Basic Seed or Certified Seed of the First Generation, or
 - (bb) seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Basic Seed or Certified Seed of the First Generation in accordance with these Regulations,
 - (ii) harvested outside the United Kingdom, and
 - (iii) shown on official examination to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed;
- (b) the seed has been—
 - (i) produced directly from the crossing of fully certified Basic Seed with seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Basic Seed in accordance with these Regulations,
 - (ii) harvested outside the United Kingdom, and
 - (iii) shown on official examination to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed; or
- (c) the seed—
 - (i) is to be certified by the Scottish Ministers as Basic Seed,

- (ii) has been produced directly from—
 - (aa) fully certified Pre-basic Seed, or
 - (bb) seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Pre-basic Seed in accordance with these Regulations,
 - (iii) has been harvested outside the United Kingdom, and
 - (iv) has been shown on official examination to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed.
- (3) In the case of seed which has been harvested in a European Single Market State, an official certificate may only be issued under sub-paragraph (1)—
- (a) before the end of the period of two years beginning with the day after the day on which exit day falls, and
 - (b) provided the seed—
 - (i) has been harvested from a crop which has been found by official field inspection to satisfy the crop conditions specified in Annex I (crop standards) of the Fodder Plant Seed Directive for the relevant category of seed,
 - (ii) has been packed in a sealed package in accordance with the requirements of Article 9(1) (sealing) of the Fodder Plant Seed Directive and has been labelled in accordance with the requirements of the second indented sub-paragraph of the first paragraph of Article 15(2) (labelling requirements for certification of seed from other EEA States or equivalent third countries) of the Fodder Plant Seed Directive, and
 - (iii) is accompanied by an Annex V(C) document relating to the seed issued by the relevant competent seed certification authority.
- (4) In this paragraph, “Annex V(C) document” means a document issued by the relevant competent seed certification authority of the type specified in the following provisions of the Fodder Plant Seed Directive—
- (a) the second indented sub-paragraph of the first paragraph of Article 15(2), and
 - (b) Part C of Annex V.”,
- (c) in paragraph 7(d) (when applications may be refused), for “(or to an equivalent list in an EEA State)” substitute “(or to an equivalent list in a European Single Market State where the application was made before the end of the period of two years beginning with the day after the day on which exit day falls)”.
- (24) In schedule 4 (requirements for Pre-basic Seed, Basic Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation and Commercial Seed), in paragraph 2 (varietal identity and varietal purity), for “, an equivalent list in another EEA State or the Common Catalogue” substitute “or before the end of the period of two years beginning with the day after the day on which exit day falls accepted on to an equivalent list in a European Single Market State or the Common Catalogue”.
- (25) In schedule 4A(118) (standards for certification of Conservation Varieties)—

- (a) in Part III (conditions relating to crops from which seed is obtained), in paragraph 1 (varietal identity and varietal purity), for “, an equivalent list in another EEA State or the Common Catalogue” substitute “or before the end of the period of two years beginning with the day after the day on which exit day falls accepted on to an equivalent list in a European Single Market State or the Common Catalogue”,
 - (b) in Part IV (conditions relating to seed of a Conservation Variety), in paragraph 1 (standards of germination, analytical purity and content of seed of other plant species), omit “EC”.
- (26) In schedule 6—
- (a) in paragraph 4(a)(i) (official label for a package of Pre-basic Seed), for “EEA State or their commonly used initials”, substitute “country or country initials”,
 - (b) in paragraph 5(a) (official label for a package of Basic Seed or Seed of a Certified Generation)—
 - (i) in sub-paragraph (i), for “EC” substitute “UK”,
 - (ii) in sub-paragraph (ii), for “EEA State or their commonly used initials”, substitute “country or country initials”,
 - (c) in paragraph 6(a)(official label for a package of Commercial Seed)—
 - (i) in sub-paragraph (i), for “EC” substitute “UK”,
 - (ii) in sub-paragraph (ii), for “EEA State or their commonly used initials”, substitute “country or country initials”,
 - (d) in paragraph 6A(a)(official label for a package of test and trial seed)(**119**), for “EEA State or their distinguishing abbreviation”, substitute “country or country initials”,
 - (e) in paragraph 6B(a)(i) (official label for a package of seed of a Conservation Variety)(**120**), for “EC” substitute “UK”,
 - (f) in paragraph 7(a)(ii) (official label for a package of mixtures to which regulation 8 applies), for “EEA State or their commonly used initials” substitute “country or country initials”,
 - (g) in paragraph 8A(1)(a) (producer’s label for a package of seed of a preservation mixture)(**121**), for “EU” substitute “UK”,
 - (h) in part III (labels for small EC A or small EC B packages)—
 - (i) in the heading for that part, omit “EC” in both places where it occurs,
 - (ii) in paragraph 9 (label for a small EC B package of Basic Seed, Seed of a Certified Generation or Commercial Seed)—
 - (aa) in the heading, omit “EC”,
 - (bb) in the words before sub-paragraph (a), omit “EC”,
 - (cc) in sub-paragraph (a)(i), omit “EC”,
 - (iii) in paragraph 10 (label for a small EC A or small EC B package of Mixtures)(**122**)—
 - (aa) in the heading, omit “EC” in both places where it occurs,
 - (bb) in the words before sub-paragraph (a), omit “EC” in both places where it occurs,
 - (cc) in sub-paragraph (a), omit “EC” in both places where it occurs,
 - (dd) in sub-paragraph (e), for “Member State or Switzerland” substitute “country”,

(119) Paragraph 6A was inserted by [S.S.I. 2007/224](#).

(120) Paragraph 6B was inserted by [S.S.I. 2009/223](#).

(121) Paragraph 8A was inserted by [S.S.I. 2012/5](#).

(122) Paragraph 10 is amended by Part 2 of this instrument.

- (ee) in sub-paragraphs (h) and (i), omit “EC”,
- (ff) in sub-paragraph (h)(ii), for “Member State or Switzerland or its initials” substitute “country or country initials”,
- (gg) in sub-paragraph (i)(ii), for “Member State or Switzerland or their initials” substitute “country or country initials”,
- (i) in paragraph 12 (information to be supplied in respect of seed imported from a country which is not an EEA State in a package exceeding 2 kilograms net weight)—
 - (i) in the heading, for “a country which is not an EEA State” substitute “outside the United Kingdom”,
 - (ii) the existing text becomes sub-paragraph (1),
 - (iii) in sub-paragraph (1), for “a country which is not an EEA State” substitute “outside the United Kingdom”,
 - (iv) after sub-paragraph (1) insert—
 - “(2) Sub-paragraph (1) does not apply to seed imported from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”,
- (j) in paragraph 17 (seed packages sealed in the United Kingdom but not in Scotland, or in an EEA State other than the United Kingdom)(123)—
 - (i) in the heading, for “an EEA State other than the United Kingdom” substitute “a European Single Market State”,
 - (ii) for “EEA State” in the first place where it occurs, substitute “European Single Market State as applied before the end of the period of two years beginning with the day after the day on which exit day falls”,
 - (iii) for “EEA State” in the second place where it occurs substitute “European Single Market State”.

The Beet Seed (Scotland) (No. 2) Regulations 2010

15.—(1) The Beet Seed (Scotland) (No. 2) Regulations 2010(124) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

- (i) at the end of the definition of “additional region”, insert “, with Article 11(1) of that Directive being read as if for the reference to “Member States” in each place where it occurs and for “the Member States” there were substituted “the Scottish Ministers”,
- (ii) in the definition of “breeder”, in paragraph (a), after “UK National List or” insert “, at any time before the end of the period of two years beginning with the day after the day on which exit day falls”,
- (iii) omit the definition of “the Common Catalogue Directive”,
- (iv) in the definition of “control plot”, for “European” in both places where it occurs substitute “National”,
- (v) after the definition of “control plot” insert—
 - ““country granted equivalence” means a country that has been granted equivalence under the Equivalence Decision;

(123) Paragraph 17 was substituted by S.S.I. 2007/224.

(124) S.S.I. 2010/148, amended by S.S.I. 2011/413, S.I. 2011/1043, S.S.I. 2016/68, S.S.I. 2016/434 and Part 2 of this instrument.

- “Crown Dependency” means any of the Channel Islands or the Isle of Man;”,
- (vi) in the definition of “European Authority”, for “an EEA state other than the United Kingdom” substitute “a European Single Market State”,
- (vii) in the definition of “by a European Authority”, for “an EEA state other than the United Kingdom” substitute “a European Single Market State”,
- (viii) after the definition of “European Authority” insert—
- “European Single Market State” means an EEA state or Switzerland;”,
- (ix) after the definition of “genetically modified” insert—
- “the GMO Regulations” means—
- (a) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(**125**);
- (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002(**126**);
- (c) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(**127**);
- (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003(**128**);”,
- (x) in the definition of “licensed EU crop inspector”—
- (aa) for “an EEA state other than the United Kingdom” substitute “a European Single Market State”,
- (bb) for “EEA state” substitute “European Single Market State”,
- (xi) in the definition of “region of origin”, insert at the end “, with Article 8.1 of Commission Directive 2008/62 being read as if—
- “(a) in the first sub-paragraph—
- (i) for “a Member State accepts”, there were substituted “the Scottish Ministers accept”,
- (ii) for “it shall”, there were substituted “they must”,
- (iii) for “It shall”, there were substituted “The Scottish Ministers must”,
- (iv) for “Member States”, there were substituted “Scottish Ministers”,
- (b) the second sub-paragraph was omitted”,
- (xii) in the definition of “small EC package”, omit “EC”,
- (b) in paragraphs (3) and (4)—
- (i) in sub-paragraph (a), for “an EEA state other than the United Kingdom” substitute “a European Single Market State”,
- (ii) in sub-paragraph (b), for “EEA state” substitute “European Single Market State”,
- (c) in paragraph (5)—
- (i) in sub-paragraph (a), for “an EEA state other than the United Kingdom” substitute “a European Single Market State”,
- (ii) in sub-paragraph (c)—

(125) S.S.I. 2002/541, amended by S.S.I. 2004/439, S.I. 2005/2759, S.I. 2011/1043; S.S.I. 2015/100 and S.S.I. 2019/XXX.

(126) S.I. 2002/2443, as amended by S.I. 2004/2411, S.I. 2005/2759, S.I. 2009/1892 and S.I. 2018/575.

(127) S.I. 2002/3188 (W. 304), amended by S.I. 2005/2759 and S.I. 2013/755 (W. 90).

(128) S.R. 2003 No. 167.

- (aa) omit “EC” in both places where it occurs,
 - (bb) for “EEA state” substitute “European Single Market State”.
- (3) For regulation 4(2) (seed to which the Regulations apply) substitute(129)—
- “(2) These Regulations do not apply to seed intended for export outside the United Kingdom (other than regulation 14A (certification and labelling for export)).”.
- (4) In regulation 6 (marketing of seed)—
- (a) in paragraph (1)—
 - (i) after sub-paragraph (a), omit “and”,
 - (ii) in sub-paragraph (b)(i), for “the Common Catalogue” substitute “accepted on to the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls.”,
 - (iii) after sub-paragraph (b)(ii), insert—
 - “; and
 - (c) in the case of seed which has been produced in a European Single Market State, it—
 - (i) has otherwise been produced in compliance with the applicable requirements set out in EU law, including the Beet Seed Directive and Commission Directive 2008/62, and
 - (ii) has been imported into Scotland before the end of the period of two years beginning with the day after the day on which exit day falls.”,
 - (b) in paragraph (2)(c), omit “or Annex I(A) (crop conditions) of the Beet Seed Directive”,
 - (c) in paragraph (5), for “a country which is not an EEA state” substitute “outside the United Kingdom”,
 - (d) after paragraph (5) insert—
 - “(5A) Paragraph (5) does not apply to seed imported into Scotland from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”,
 - (e) in paragraph (6), omit “, by reason only of Article 3(2) (component varieties) of the Common Catalogue Directive.”.
- (5) For regulation 6A (importation from outside the European Union)(130) substitute—

“Importation into the United Kingdom

6A.—(1) Subject to paragraph (2), seed imported into the United Kingdom must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.

(2) Paragraph (1) does not apply to seed imported from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”.

- (6) For regulation 7(1) (general exemptions), substitute—

“(1) The Scottish Ministers may, by a general licence, authorise a temporary experiment seeking improved alternatives to provisions of these Regulations and organised in accordance with regulations made under section 16(5) of the Act.

(129) Regulation 4(2) is amended, and regulation 14A is inserted, by Part 2 of this instrument.

(130) Regulation 6A is inserted by Part 2 of this instrument.

- (1A) The duration of a temporary experiment must not exceed 7 years.”.
- (7) In regulation 8 (exception for scientific purposes or selection work)—
- (a) for paragraph (1)(b) substitute—
- “(b) an authorisation has been granted to the producer in respect of small quantities of seed for scientific purposes or selection work—
- (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom;
- (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Article 6(1)(a) of the Beet Seed Directive.”,
- (b) for paragraph (4) substitute—
- “(4) The Scottish Ministers may only grant an authorisation under this regulation in respect of a genetically modified variety if the marketing and release of the genetically modified material by the applicant has been authorised—
- (a) before the day on which exit day falls, under Part C of the 2001 Deliberate Release Directive,
- (b) under the Food and Feed Regulation, or
- (c) under the GMO Regulations.”.
- (8) In regulation 9 (exception for test and trial seed)—
- (a) for paragraph (1) substitute—
- “(1) Regulation 6(1) does not apply to the marketing by a producer of seed for test and trial purposes in accordance with—
- (a) a tests and trials authorisation; or
- (b) an authorisation which has been granted to the producer—
- (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom;
- (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Article 6(1)(b) of the Beet Seed Directive.”,
- (b) in paragraph (4), for sub-paragraph (b) substitute—
- “(b) in the case of seed of a genetically modified variety, the marketing and release of the genetically modified material by the applicant has been authorised—
- (i) before the day on which exit day falls, under Part C of the 2001 Deliberate Release Directive,
- (ii) under the Food and Feed Regulation, or
- (iii) under the GMO Regulations;”,
- (c) in paragraph (6), for “that permitted by Article 7 (quantities) of the 2004 Commission Decision” substitute “the greater of 0.1% of the annual number of seeds used in the United Kingdom and such quantity as the Scottish Ministers consider is sufficient to sow 10 hectares”,
- (d) in paragraph (9), omit “or the Common Catalogue”,

- (e) in paragraph (10), for “names of the EEA states” substitute “country”.
- (9) In regulation 10 (exception for Conservation Varieties), after paragraph (7) insert—
- “(7A) For the purposes of paragraph (7), Article 14 of Commission Directive 2008/62 is to be read as if—
- (a) in the first paragraph—
- (i) “Each Member State shall ensure that,” was omitted,
- (ii) for “does not exceed”, there were substituted “may not exceed”,
- (iii) for “that Member State”, there were substituted “the United Kingdom”,
- (b) in the second paragraph—
- (i) for “each Member State”, there were substituted “the United Kingdom”,
- (ii) for “the Member State” in both places where it occurs, there were substituted “the United Kingdom”.”.
- (10) In regulation 11 (marketing of officially certified lower germination seed)—
- (a) in paragraph (1)—
- (i) in the words before sub-paragraph (a), omit “or Annex I (conditions for certification) of the Beet Seed Directive”,
- (ii) for sub-paragraph (b) substitute—
- “(b) which has been certified as satisfying the conditions for the relevant category of seed although it attains a lower percentage of germination than that specified in Part II of Schedule 4 in relation to Basic Seed—
- (i) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom;
- (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Article 5(a) (marketing of lower germination seed) of the Beet Seed Directive; or”
- (iii) for sub-paragraph (c)(ii) substitute—
- “(ii) in the case of seed which has been fully certified as being Pre-Basic Seed or Basic Seed—
- (aa) by a National Authority other than the Scottish Ministers, in accordance with the applicable requirements in the relevant part of the United Kingdom, irrespective of the findings of the National Authority;
- (bb) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State, in accordance with Annex I(B) of the Beet Seed Directive, irrespective of the finding of the relevant competent seed certification authority.”,
- (b) for paragraph (3) substitute—
- “(3) Paragraph (1) does not apply to seed which has been imported into the United Kingdom from—

- (a) a European Single Market State, after the end of the period of two years beginning with the day after the day on which exit day falls, or
 - (b) a country other than a European Single Market State.”.
- (11) In regulation 12 (marketing of early movement seed)—
 - (a) in paragraph (1)—
 - (i) in sub-paragraph (a), for “the Common Catalogue” substitute “accepted on to the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls”,
 - (ii) for sub-paragraph (b) substitute—
 - “(b) any seed lot has been certified by a National Authority other than the Scottish Ministers in order to make seed rapidly available, and the provisional germination report on the seed has been presented by the producer to the Scottish Ministers,”,
 - (b) in paragraph (3)—
 - (i) for “European” substitute “National”,
 - (ii) omit “or Annex I(B) of the Beet Seed Directive”,
 - (c) for paragraph (4) substitute—
 - “(4) Paragraph (1) does not apply to seed which has been imported into the United Kingdom from—
 - (a) a European Single Market State, after the end of the period of two years beginning with the day after the day on which exit day falls, or
 - (b) a country other than a European Single Market State.”.
- (12) In regulation 15 (official certificates)—
 - (a) in paragraph (3), for “(or an equivalent in another EEA state)” and “(or an equivalent list in another EEA state)” where those each occur, substitute “(or entered into an equivalent list in a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls)”,
 - (b) in paragraph (4)(d), after “licensed crop inspector or” insert “, where paragraph (4A) applies, the”,
 - (c) after paragraph (4) insert—
 - “(4A) This paragraph applies where a licensed EU crop inspector as mentioned in paragraph (4)(d) inspected the crop before the end of the period of two years beginning with the day after the day on which exit day falls.”.
- (13) In regulation 16 (breeder’s confirmation)—
 - (a) for paragraph (1)(c) substitute—
 - “(c) shall only be made—
 - (i) for seed of a variety for which an application has been made to have that variety accepted on to—
 - (aa) a UK National List, or
 - (bb) an equivalent list in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls; or
 - (ii) for seed of a component of a hybrid variety for which an application has been made to have that hybrid variety accepted on to—

- (aa) a UK National List, or
- (bb) an equivalent list in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls.”
- (b) in paragraphs (5) and (6), for “another EEA state” substitute “a European Single Market State”.
- (14) In regulation 17(1)(a) (sampling), for “European Authority” substitute “National Authority”.
- (15) In regulation 18 (sealing of packages of seed)—
 - (a) for paragraph (2)(b) substitute—
 - “(b) sealed—
 - (i) in any other part of the United Kingdom, in accordance with the applicable requirements for sealing in the relevant part of the United Kingdom,
 - (ii) before the end of the period of two years beginning with the day after the day on which exit day falls, in a European Single Market State, in accordance with Article 11 (sealing of packages) of the Beet Seed Directive.”
 - (b) in paragraphs (5) and (6), omit “EC”.
 - (16) In regulation 19 (labelling of packages of seed)—
 - (a) in paragraph (2)—
 - (i) omit “EC”,
 - (ii) for sub-paragraph (b) substitute—
 - “(b) where it is sealed—
 - (i) in any other part of the United Kingdom, shall—
 - (aa) be labelled in accordance with the applicable requirements for labelling in the relevant part of the United Kingdom in relation to the relevant category of seed, and
 - (bb) contain an official document in accordance with the applicable requirements for official documents in the relevant part of the United Kingdom,
 - (ii) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, shall—
 - (aa) be labelled in accordance with Articles 11 (sealing of packages) and 12 (labelling of packages) of the Beet Seed Directive appropriate to the relevant category of seed, and
 - (bb) contain an official document in accordance with Articles 12(b) (official documents) and 22(2) (packing and labelling requirements for seed harvested in the European Union and intended for certification) of the Beet Seed Directive.”
 - (b) in paragraph (10), omit “EC”,
 - (c) in paragraph (15), for “one of the official languages of the European Union” substitute “English but may also be given in other languages”.
 - (17) Regulation 20 (comparative tests and trials) is omitted.
 - (18) After regulation 23 (written and electronic communication) insert—

“Certification in a Crown Dependency

23A. Any seed certified and labelled in a Crown Dependency under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations may be marketed in Scotland.

Transitional provision for official labels on exit day

23B. A label pre-printed before exit day which at the date on which it was printed was an official label for the purposes of these Regulations is to be treated as an official label for a package of Basic Seed, Certified Seed or Seed of a Conservation Variety, for the purposes of any use of that label before the end of the period of two years beginning with the day after the day on which exit day falls.”.

(19) In schedule 1 (species and categories of beet seed), in Part II (categories of seed that may be marketed)—

(a) in the definition of “Pre-Basic Seed”, for paragraph 2(c)(ii) substitute—

“(ii) has been certified—

(aa) by a National Authority other than the Scottish Ministers as satisfying the conditions specified in sub-paragraphs (a) and (b) and the applicable requirements for Basic Seed in the relevant part of the United Kingdom; or

(bb) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in sub-paragraphs (a) and (b) and the requirements for Basic Seed specified in Annex I (conditions for certification) of the Beet Seed Directive.”,

(b) in the definition of “Basic Seed”, for paragraph 2(c)(ii) substitute—

“(ii) has been certified—

(aa) by a National Authority other than the Scottish Ministers as satisfying the conditions specified in sub-paragraphs (a) and (b) and the applicable requirements for Basic Seed in the relevant part of the United Kingdom; or

(bb) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in sub-paragraphs (a) and (b) and the requirements for Basic Seed specified in Annex I (conditions for certification) of the Beet Seed Directive.”,

(c) in the definition of “Certified Seed”, for paragraph 4(b)(ii) substitute—

“(ii) has been certified—

(aa) by a National Authority other than the Scottish Ministers as satisfying the conditions specified in sub-paragraph (a) and the applicable requirements for Certified Seed in the relevant part of the United Kingdom; or

(bb) before the end of the period of two years beginning with the day after the day on which exit day falls, by the competent seed certification authority of a European Single Market State as satisfying the conditions specified in sub-paragraph (a) and the requirements for Certified Seed specified in Annex I (conditions for certification) of the Beet Seed Directive.”.

(20) In schedule 2 (official certificates and breeder’s confirmations)—

(a) in Part I (official certificates)—

- (i) in paragraph 1 (applications for seed harvested in the United Kingdom), omit “but not made in pursuance of Article 22 (certification of seed from other EEA states or equivalent third countries) of the Beet Seed Directive”,
- (ii) for paragraph 4 (applications for seed harvested in an EEA state or third country) substitute—

“Applications for seed harvested outside the United Kingdom

4.—(1) Notwithstanding paragraphs 2 and 3, and subject to sub-paragraphs (2) and (3), on receipt of an application made in accordance with regulation 15(1) for the issue of an official certificate in respect of a seed lot as Pre-Basic Seed, Basic Seed or Certified Seed, the Scottish Ministers may issue an official certificate in respect of the seed lot containing the particulars specified in paragraph 1 of Schedule 3.

(2) An official certificate may only be issued under sub-paragraph (1) if—

(a) the seed has been—

(i) produced directly from—

(aa) fully certified Basic Seed or Certified Seed, or

(bb) seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Basic Seed or Certified Seed in accordance with these Regulations,

(ii) harvested outside the United Kingdom, and

(iii) shown on official examination to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed;

(b) the seed has been—

(i) produced directly from the crossing of fully certified Basic Seed with seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Basic Seed in accordance with these Regulations,

(ii) harvested outside the United Kingdom, and

(iii) shown on official examination to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed; or

(c) the seed—

(i) is to be certified by the Scottish Ministers as Basic Seed;

- (ii) has been produced directly from—
 - (aa) fully certified Pre-Basic Seed, or
 - (bb) seed certified in the United Kingdom, a Crown Dependency (provided the seed has been produced under legislation recognised by the Scottish Ministers to have equivalent effect to these Regulations), a European Single Market State or a country granted equivalence, which is permitted to be sold as Pre-Basic Seed in accordance with these Regulations,
- (iii) has been harvested outside the United Kingdom, and
- (iv) has been shown on official examination to have satisfied the conditions specified in Part II of Schedule 4 for the relevant category of seed.

(3) In the case of seed which has been harvested in a European Single Market State, an official certificate may only be issued under sub-paragraph (1)

- (a) before the end of the period of two years beginning with the day after the day on which exit day falls, and
- (b) provided that the seed—
 - (i) has been harvested from a crop which has been found by official field inspection to satisfy the crop conditions specified in Annex I(A) (crop conditions) of the Beet Seed Directive for the relevant category of seed,
 - (ii) has been packed in a sealed package in accordance with the requirements of Article 11 (sealing of packages) of the Beet Seed Directive and has been labelled in accordance with the requirements of Article 12 (labelling of packages) of the Beet Seed Directive, and
 - (iii) is accompanied by a document of the type specified in Article 22(2) (packing and labelling requirements for seed harvested in the European Union and intended for certification) of the Beet Seed Directive, containing the particulars specified in Part C (information required for the document provided for seed not finally certified, harvested in another member state) of Annex IV of the Beet Seed Directive, which has been issued by the competent seed certification authority in the European Single Market State.”,

(b) in Part II (breeder’s confirmations), in paragraph 7(d) (when applications may be refused), for “(or to an equivalent list in an EEA state)” substitute “(or to an equivalent list in a European Single Market State where the application was made before the end of the period of two years beginning with the day after the day on which exit day falls)”.

(21) In schedule 4 (requirements for Pre-Basic Seed, Basic Seed, Certified Seed and seed of a Conservation Variety), in Part I (conditions relating to crops from which seed is obtained), in paragraph 2 (varietal identify and varietal purity), for “, an equivalent list in another EEA state or the Common Catalogue” substitute “or before the end of the period of two years beginning with the day after the day on which exit day falls accepted on to an equivalent list in a European Single Market State or the Common Catalogue”.

(22) In schedule 6 (labelling)—

- (a) in paragraph 4 (official label for a package of Pre-Basic Seed), for “EEA state or their commonly used initials”, substitute “country or country initials”,
- (b) in paragraph 5(a) (official label for a package of Basic Seed or Certified Seed)—
 - (i) in sub-paragraph (i), for “EC” substitute “UK”,
 - (ii) in sub-paragraph (ii), for “EEA state or their commonly used initials”, substitute “country or country initials”,
- (c) in paragraph 6(a)(ii) (official label for a package of test and trial seed), for “EEA State or their distinguishing abbreviation”, substitute “country or country initials”,
- (d) in paragraph 7 (official label for a package of seed of a Conservation Variety)—
 - (i) in sub-paragraph (1)(a)(i), for “EC” substitute “UK”,
 - (ii) for sub-paragraph (2) substitute—
 - “(2) Where a package of seed of a Conservation Variety is sealed—
 - (a) in any other part of the United Kingdom, it must be labelled in accordance with the requirements for labelling applicable in the relevant part of the United Kingdom,
 - (b) in a European Single Market State, before the end of the period of two years beginning with the day after the day on which exit day falls, it must be labelled in accordance with the provisions of Article 18 (labelling) of Commission Directive 2008/62.”,
- (e) in Part III (small EC packages)—
 - (i) in the heading, omit “EC”,
 - (ii) in paragraph 11 (label for a small EC package of Pre-Basic Seed, Basic Seed or Certified Seed)—
 - (aa) in the heading, omit “EC”,
 - (bb) omit “EC” in both places where it occurs,
 - (cc) for “EEA state or their initials” substitute “country or country initials”,
- (f) in paragraph 13 (information to be supplied in respect of seed imported from a country which is not an EEA state in a package exceeding 2 kilograms net weight)—
 - (i) in the heading, for “a country which is not an EEA State” substitute “outside the United Kingdom”,
 - (ii) the existing text becomes sub-paragraph (1),
 - (iii) in sub-paragraph (1), for “a country which is not an EEA State” substitute “outside the United Kingdom”,
 - (iv) after sub-paragraph (1) insert—
 - “(2) Sub-paragraph (1) does not apply to seed imported from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”,
- (g) in paragraph 17 (seed packages sealed in the United Kingdom but not in Scotland, or in an EEA state other than the United Kingdom)—
 - (i) in the heading, for “an EEA state other than the United Kingdom” substitute “a European Single Market State”,
 - (ii) for “EEA state other than the United Kingdom” substitute “European Single Market State”,

- (iii) for “in that EEA state” substitute “in that European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls”.

The Seed Potatoes (Scotland) Regulations 2015

16.—(1) The Seed Potatoes (Scotland) Regulations 2015(**131**) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “applicable Union grade”—

(i) omit sub-paragraph (a),

(ii) in sub-paragraph (b), for “outside Scotland” substitute “in a member State or Switzerland”,

(iii) omit “in relation to both cases as mentioned in paragraph (a) and (b)”,

(b) after the definition of “applicable Union grade” insert—

““applicable United Kingdom grade” means—

(a) in relation to seed potatoes produced in Scotland, the United Kingdom grade determined in respect of those seed potatoes under regulation 8(2)(a) or, as the case may be, under regulation 15(2), and—

(i) in the case of pre-basic seed potatoes, means UK grade PBTC or UK grade PB;

(ii) in the case of basic seed potatoes, means UK grade S, UK grade SE, or UK grade E;

(b) in relation to seed potatoes produced in the United Kingdom other than Scotland, the United Kingdom grade determined in accordance with the relevant seed potatoes regulations,

and references in these Regulations to “UK grade PBTC”, “UK grade PB”, “UK grade S”, “UK grade SE” and “UK grade E” are to be construed accordingly;”,

(c) in the definition of “basic seed potatoes”, in sub-paragraph (b), for the words from “in accordance” to the end substitute—

“, stating that on examination of the potatoes they were certified as basic seed potatoes and that they have fulfilled the applicable requirements for the grade, in accordance with—

(i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;

(ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to regulation 10(1)(b) and paragraphs 2 and 4 of Schedule 5;

(iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1) of Council [Directive 2002/56/EC](#);”,

(d) after the definition of “crop inspection report” insert—

““Crown Dependency” means the Isle of Man and any of the Channel Islands;”,

(e) after the definition of “[Directive 2001/18/EC](#)” insert—

““equivalent Union grade” means—

- (a) for “UK grade PBTC”, “Union grade PBTC”;
- (b) for “UK grade PB”, “Union grade PB”;
- (c) for “UK grade S”, “Union grade S”;
- (d) for “UK grade SE”, “Union grade SE”;
- (e) for “UK grade E”, “Union grade E”;
- (f) after the definition of “genetically modified” insert—
 - “the GMO Regulations” means—
 - (a) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(**132**),
 - (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002(**133**),
 - (c) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(**134**),
 - (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003(**135**);”
- (g) for the definition of “grade” substitute—
 - ““grade” includes the United Kingdom grade;”
- (h) for the definition of “official document” substitute—
 - ““official document” means—
 - (a) in the case of seed potatoes produced in Scotland, a document issued or approved by the Scottish Ministers, which meet the requirements of schedule 5A;
 - (b) in the case of seed potatoes produced outside Scotland, a document issued or approved by the relevant authority in the country or territory where the seed potatoes were produced, which meets the requirements of—
 - (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to the requirements of schedule 5A;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(b) of Council [Directive 2002/56/EC](#);”
- (i) in the definition of “official label”, for sub-paragraph (b) substitute—
 - “(b) in the case of seed potatoes produced outside Scotland, a label approved by the relevant authority in the country or territory where the seed potatoes were produced and which meets, as appropriate to the seed potatoes to which the label relates, the requirements of—
 - (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;

(132) S.S.I. 2002/541, amended by S.I. 2005/2759 and S.I. 2011/1043; and by S.S.I. 2004/439 and S.S.I. 2015/100.

(133) S.I. 2002/2443, as amended by S.I. 2004/2411, S.I. 2005/2759, S.I. 2009/1892 and S.I. 2018/575.

(134) S.I. 2002/3188 (W. 304), amended by S.I. 2005/2759 and S.I. 2013/755 (W. 90).

(135) S.R. 2003 No. 167.

- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to the requirements of regulation 10 and schedule 5;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(a) or Article 18(f) of Council [Directive 2002/56/EC](#) or of Article 9 of Commission [Decision 2004/842/EC](#);
- (j) for the definition of “outside Scotland” substitute—
 - ““outside Scotland”, in relation to the place of production of seed potatoes means—
 - (a) any part of the British Islands other than Scotland; and
 - (b) a member State or Switzerland;”
- (k) in the definition of “pre-basic seed potatoes”, in sub-paragraph (b), for the words “Article 18(f)” to the end substitute—
 - “the requirements of—
 - (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to the requirements of regulation 10(1)(a) and paragraphs 1 and 4 of Schedule 5;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 18(f) of Council [Directive 2002/56/EC](#);
- (l) in the definition of “relevant authority”, omit “for the purposes of Council [Directive 2002/56/EC](#)”,
- (m) after the definition of “relevant authority”, insert—
 - ““the seed potatoes regulations” means—
 - (a) in relation to England, the Seed Potatoes (England) Regulations 2015(**136**);
 - (b) in relation to Wales, the Seed Potatoes (Wales) Regulations 2016(**137**);
 - (c) in relation to Northern Ireland, the Seed Potatoes Regulations (Northern Ireland) 2016(**138**),and “the relevant seed potatoes regulations”, in relation to any constituent part of the United Kingdom, means the seed potatoes regulations applicable in relation to that part.”
- (n) in the definition of “scientific and selection seed potatoes”, in sub-paragraph (b), for the words “Article 6(1)(a)” to the end substitute—
 - “the requirements of—
 - (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to the requirements of regulation 6;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 6(1)(a) of Council [Directive 2002/56/EC](#);

(136) S.I. 2015/1953, amended by S.I. 2017/288.

(137) S.I. 2016/106 (W.52), amended by S.I. 2017/596 (W.139) and S.I. 2017/1095 (W.276).

(138) S.R. 2016 No. 190, amended by S.R. 2017 No. 155.

- (o) in the definition of “test and trial seed potatoes”, in sub-paragraph (b), for the words “the requirements” to the end substitute—
- “the requirements of—
- (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to the requirements of regulations 5 and 10(1)(c) and paragraphs 3 and 4 of Schedule 5;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 9 of Commission [Decision 2004/842/EC](#).”.
- (3) In regulation 2(3), omit from “, in accordance with” to the end.
- (4) In regulation 4 (general provisions on the marketing of seed potatoes)—
- (a) in paragraph (5), before “the applicable Union grade” insert “the applicable United Kingdom grade,”,
 - (b) for paragraph (6)(b) substitute—

“(b) in the case of basic seed potatoes in respect of which the applicable United Kingdom grade or, as the case may be, the applicable Union grade is—

 - (i) UK grade S or Union grade S, the fifth field generation,
 - (ii) UK grade SE or Union grade SE, the sixth field generation,
 - (iii) UK grade E or Union grade E, the seventh field generation.”.
- (5) In regulation 5 (marketing requirements – test and trial seed potatoes)—
- (a) for paragraph (4) substitute—

“(4) The Scottish Ministers may not grant or renew an authorisation under paragraph (1) unless they are satisfied that—

 - (a) the seed potatoes which are the subject of the authorisation or renewal are of a variety of seed potato for which an application for acceptance onto the National List has been made;
 - (b) in relation to seed potatoes containing genetically modified material, the marketing and release of the material by the applicant has been authorised under—
 - (i) before the day on which exit day falls, Part C of [Directive 2001/18/EC](#);
 - (ii) Regulation 1829/2003; or
 - (iii) the GMO Regulations;
 - (c) the marketing of the seed potatoes would not contravene any prohibition on the use of that variety which has been imposed in accordance with Article 14 of Commission [Decision 2004/842/EC](#) and which has been published in the Plant Varieties and Seeds Gazette in accordance with section 34(1) of the Act; and
 - (d) the quantity of the variety of seed potato to be marketed does not exceed the greater of 0.1% of the annual number of seed potatoes used in the United Kingdom and such quantity as the Scottish Ministers consider is sufficient to sow 10 hectares.”,
 - (b) in paragraph (8)(b), omit “or the Common Catalogue”.
- (6) For regulation 6(3) (marketing requirements – scientific and selection seed potatoes) substitute—

- “(3) In relation to seed potatoes containing genetically modified material, the Scottish Ministers may not grant or renew an authorisation under paragraph (1) unless they are satisfied that the marketing and release of the material by the applicant has been authorised under—
- (a) before the day on which exit day falls, Part C of [Directive 2001/18/EC](#);
 - (b) Regulation 1829/2003; or
 - (c) the GMO Regulations.”.
- (7) In regulation 7 (marketing requirements – conservation varieties)—
- (a) in paragraph (2), for the words from the beginning to “Commission [Directive 2008/62/EC](#)” substitute “Where the quantities laid down in Article 14 of [Directive 2008/62/EC](#) would otherwise be likely to be exceeded”,
 - (b) after paragraph (2) insert—
 - “(2A) For the purposes of paragraph (2), Article 14 of Commission [Directive 2008/62/EC](#) is to be read as if—
 - (a) in the first paragraph—
 - (i) “Each Member State shall ensure that” was omitted;
 - (ii) for “does not exceed”, there were substituted “may not exceed”;
 - (ii) for “that Member State”, there were substituted “the United Kingdom”;
 - (b) in the second paragraph—
 - (i) for “each Member State”, there were substituted “the United Kingdom”;
 - (ii) for “the Member State” in both places where it occurs, there were substituted “the United Kingdom”.”.
- (8) In regulation 8 (certification and grading)—
- (a) in paragraph (2)(a)—
 - (i) for “applicable Union grade” substitute “applicable United Kingdom grade”,
 - (ii) for “Union grade PBTC” substitute “UK grade PBTC”; and
 - (iii) for “Union grade S” substitute “UK grade S”,
 - (b) in paragraph (4), for “Union” substitute “United Kingdom”.
- (9) In regulation 10(3)(b) (labelling of seed potatoes), for “Union” substitute “United Kingdom”.
- (10) For regulation 11(1)(b) (sealing of packages) substitute—
- “(b) in the case of seed potatoes produced outside Scotland, it is sealed in accordance with—
 - (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to paragraph (a);
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 12(1) of Council [Directive 2002/56/EC](#).”.
- (11) In regulation 15 (enforcement – crop inspection report, applicable Union grade and official label)—
- (a) in the heading, for “Union” substitute “United Kingdom”,
 - (b) in paragraph (2), for “Union” substitute “United Kingdom”.
- (12) In regulation 20 (imports from outside EU)—

- (a) in the heading, for “EU” substitute “British Islands”,
 - (b) for “European Union” substitute “British Islands”.
- (13) After regulation 23 (extension and modification of provisions of the Act) insert—

“Transitional provision for official labels on exit day

23A. A label pre-printed before exit day which at the date on which it was printed was an official label for the purposes of these Regulations is to be treated as an official label for basic seed potatoes or, as the case may be, test and trial seed potatoes produced in Scotland, for the purposes of any use of that label before the end of the period of one year beginning with the day after the day on which exit day falls.”.

- (14) In schedule 1 (conditions for certification and grading of Scottish seed potatoes)—
- (a) in paragraph 1(c)(ii), for “Union” substitute “United Kingdom”,
 - (b) in paragraph 2(f), for “Union” substitute “United Kingdom”,
 - (c) in paragraph 3(a), omit “or in the Common Catalogue”,
 - (d) in paragraphs 6, 8, 9, 12 and 13, in each place it occurs, for “Union” substitute “UK”.
- (15) In schedule 2 (certification and grading: source material requirements, other requirements and tolerances)—
- (a) in Table I (pre-basic seed potatoes)—
 - (i) in the heading of column 1 (Union grade), for “Union” substitute “UK”,
 - (ii) in the entry for grade “PBTC”, in column 3 (other requirements), for “Union” substitute “UK”,
 - (iii) in the entry for grade “PB”—
 - (aa) in column 2 (source material), for “Union grade PBTC” substitute “UK grade PBTC or the equivalent Union grade”,
 - (bb) in column 3 (other requirements), for “Union grade S” substitute “UK grade S or the equivalent Union grade”,
 - (b) in Table II (basic seed potatoes and test and trial seed potatoes)—
 - (i) in the heading of column 1 (Union grade), for “Union” substitute “UK”,
 - (ii) in the entry for grade “S”, in column 2 (source material), for “Union grade PBTC or PB” substitute “UK grade PBTC or PB or the equivalent Union grade”,
 - (iii) in the entry for grade “SE”, in column 2, for “Union grade PBTC, PB, or S” substitute “UK grade PBTC, PB or S or the equivalent Union grade”,
 - (iv) in the entry for grade “E”, in column 2, for “Union grade PBTC, PB, S or SE” substitute “UK grade PBTC, PB, S or SE or the equivalent Union grade”.
- (16) In schedule 3 (requirements as to varietal purity and size)—
- (a) in paragraph 2 (Union grade PBTC)—
 - (i) in the heading, for “Union” substitute “UK”,
 - (ii) in sub-paragraph (1)—
 - (aa) for “applicable Union grade”, substitute “applicable United Kingdom grade”, and
 - (bb) for “Union grade PBTC” substitute “UK grade PBTC”,
 - (b) in paragraph 3 (Union grade PB)—
 - (i) in the heading, for “Union”, substitute “UK”,

- (ii) in sub-paragraph (1)—
 - (aa) for “applicable Union grade”, substitute “applicable United Kingdom grade”, and
 - (bb) for “Union grade PB”, substitute “UK grade PB”,
- (c) in paragraph 4 (Union grade S, SE, E and test and trial seed potatoes)—
 - (i) in the heading, for “Union” substitute “UK”,
 - (ii) in sub-paragraph (1)(a)—
 - (aa) for “applicable Union grade”, substitute “applicable United Kingdom grade”, and
 - (bb) for “Union grade S, SE, or E”, substitute “UK grade S, SE or E”,
- (d) for paragraph 5(2)(a) (seed potatoes produced outside Scotland), substitute—
 - “(a) comply with the following requirements relating to size—
 - (i) the minimum size must be such that the seed potatoes do not pass through a square mesh of 25 millimetres by 25 millimetres;
 - (ii) the maximum variation in size between tubers in a lot must not exceed 25 millimetres;
 - (iii) in the case of tubers which are too large to pass through a square mesh of 35 millimetres by 35 millimetres, the upper and lower size limits shall be expressed in multiples of 5 millimetres; and”.
- (17) In the heading to schedule 4 (particulars to be provided in respect of seed potatoes produced outside the European Union), for “European Union” substitute “British Islands”.
- (18) In schedule 5 (official labels)—
 - (a) in paragraph 1(2)(c) (pre-basic seed potatoes), for “member State” substitute “country”,
 - (b) in paragraph 2 (basic seed potatoes)—
 - (i) in sub-paragraph (2)(b)—
 - (aa) for “European Union”, substitute “British Islands”,
 - (bb) for “EU”, substitute “UK”,
 - (ii) in sub-paragraph (c), for “member State” substitute “country”,
 - (c) in paragraph 3 (test and trial seed potatoes)—
 - (i) in sub-paragraph (2)(b)—
 - (aa) for “European Union”, substitute “British Islands”,
 - (bb) for “EU”, substitute “UK”,
 - (ii) in sub-paragraph (2)(d), for “member State” substitute “country”.
- (19) After schedule 5 (official labels) insert—

“SCHEDULE 5A

Regulation 2(1)

OFFICIAL DOCUMENTS

1. An official document used in relation to pre-basic seed potatoes must be white with a diagonal violet line.
2. An official document used in relation to basic seed potatoes must be predominantly white.
3. An official document used in relation to test and trial seed potatoes must be orange.

4. An official document must, in relation to the seed potatoes to which it relates, state—
- (a) the crop identification number, including the producer’s identification number (or equivalent);
 - (b) the month and year when officially sealed;
 - (c) the country of production.”.
- (20) In schedule 6 (tolerances for diseases, pests, damages and defects)—
- (a) in paragraph 1 (tolerances)—
 - (i) for “applicable Union grade” in each place where it occurs, substitute “applicable United Kingdom grade”,
 - (ii) in sub-paragraph (1)(a), for “Union grade PBTC, substitute “UK grade PBTC”,
 - (iii) in sub-paragraph (1)(b), for “Union grade PB”, substitute “UK grade PB”,
 - (iv) in sub-paragraph (1)(c), for “Union grade S”, substitute “UK grade S”,
 - (v) in sub-paragraph (1)(d), for “Union grade SE”, substitute “UK grade SE”,
 - (vi) in sub-paragraph (1)(e)(i), for “Union grade E”, substitute “UK grade E”,
 - (vii) in sub-paragraph (1)(f), for “European Union” substitute “British Islands”,
 - (b) in the headings for Tables I (Union grade PBTC produced in Scotland) and II (Union grade PB produced in Scotland), for “Union” substitute “UK”,
 - (c) in Table III (Union grade S, SE and E and test and trial seed potatoes)—
 - (i) in the heading, for “Union” substitute “UK”,
 - (ii) in sub-headings (a) (Union grade S produced in Scotland), (b) (Union grade SE produced in Scotland) and (c) (Union grade E and test and trial seed potatoes produced in Scotland), for “Union” in each place where it occurs substitute “UK”,
 - (d) in the heading for Table IV (basic seed potatoes intended for markets outside the EU), for “EU” substitute “British Islands”.

The Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016

17.—(1) The Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016(139) are amended as follows.

- (2) In regulation 2(1) (interpretation)—
 - (a) in the definition of “seed merchant”, in paragraph (a), omit “EC” in both places where it occurs,
 - (b) in the definition of “seed processor”, in paragraph (a), omit “EC” in both places where it occurs.
- (3) In regulation 13(4) (sampling for enforcement purposes), omit “including for the purpose of the Community comparative tests and trials referred to in the Seed Marketing Directives”.

The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017

18.—(1) The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017(140) are amended as follows.

- (2) In regulation 2(1) (interpretation)—
 - (a) in the definition of “CAC material”, for paragraph (b) substitute—

(139) S.S.I. 2016/68, amended by S.S.I. 2016/434 and S.S.I. 2017/179.

(140) S.S.I. 2017/177, amended by Part 2 of this instrument.

- “(b) in relation to propagating material and fruit plants produced—
 - (i) in any other part of the United Kingdom, is material and plants that meet the requirements of the relevant fruit marketing regulations;
 - (ii) in a Crown Dependency, is material and plants that meet the requirements in legislation recognised by the Scottish Ministers as having equivalent effect to schedule 3;
 - (iii) in a member State, is material and plants that meet the requirements in Articles 23 to 27 of Commission Implementing [Directive 2014/98/EU](#),”
- (b) after the definition of “Commission Implementing [Directive 2014/98/EU](#)” insert—
 - ““Crown Dependency” means the Isle of Man or any of the Channel Islands;”
- (c) after the definition of “fruit plants” insert—
 - ““the fruit marketing regulations” means—
 - (a) as regards England, the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017(**141**);
 - (b) as regards Wales, the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017(**142**);
 - (c) as regards Northern Ireland, the Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017(**143**);
 - and “the relevant fruit marketing regulations”, in relation to any constituent part of the United Kingdom, means the fruit marketing regulations applicable in relation to that part;”
- (d) after the definition of “genetically modified organism” insert—
 - ““the GMO regulations” means—
 - (a) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(**144**),
 - (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002(**145**),
 - (c) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(**146**),
 - (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003(**147**);”
- (e) in the definition of “official label”, for paragraph (b) substitute—
 - “(b) in the case of pre-basic material, basic material or certified material originating—
 - (i) in any other part of the United Kingdom, means a label issued or approved by the responsible official body and which meets the applicable requirements in relation to that material contained in the relevant fruit marketing regulations;

(141) S.I. 2017/595.

(142) S.I. 2017/691 (W.163).

(143) S.R. 2017 No. 119.

(144) S.S.I. 2002/541, amended by S.S.I. 2004/439, S.I. 2005/2759, S.I. 2011/1043; S.S.I. 2015/100 and S.S.I. 2019/XXX.

(145) S.I. 2002/2443, as amended by S.I. 2004/2411, S.I. 2005/2759, S.I. 2009/1892 and S.I. 2018/575.

(146) S.I. 2002/3188 (W. 304), amended by S.I. 2005/2759 and S.I. 2013/755 (W. 90).

(147) S.R. 2003 No. 167.

- (ii) in a Crown Dependency, means a label issued or approved by the responsible official body and which meets the applicable requirements in relation to that material contained in legislation recognised by the Scottish Ministers as having equivalent effect to the relevant paragraphs of Part 1 of schedule 5;
 - (iii) in a member State, means a label issued or approved by the responsible official body and which meets the applicable requirements in relation to that material contained in Article 2 of Commission Implementing [Directive 2014/96/EU](#);
- (f) in the definition of “officially certified”, for paragraph (b) substitute—
- “(b) in the case of plant material originating—
 - (i) in any other part of the United Kingdom, means certified in accordance with the relevant fruit marketing regulations;
 - (ii) in a Crown Dependency, means certified in accordance with legislation recognised by the Scottish Ministers as having equivalent effect to the relevant provisions of schedule 2;
 - (iii) in a member State, means certified for the purposes of Article 3 of Council [Directive 2008/90/EC](#) by the responsible official body;”
- (g) in the definition of “officially recognised description” omit “which was marketed in the European Union prior to 30th September 2012”;
- (h) in the definition of “plant variety rights”(148), omit “or under Council Regulation (EC) No 2100/94 on Community plant variety rights”;
- (i) in the definition of “registered variety”, for paragraph (b) substitute—
- “(b) in the case of varieties registered in any other part of the United Kingdom, means registered in accordance with the relevant fruit marketing regulations;”;
- (j) for the definition of “responsible official body” substitute—
- ““responsible official body” means—
 - (a) in relation to plant material produced in Scotland, the Scottish Ministers;
 - (b) in relation to plant material produced in a country or territory outside Scotland, the body responsible for the quality of plant material in that country or territory;”;
- (k) in the definition of “third country”, for “which is not a member State of the European Union” substitute “outside the United Kingdom”.
- (3) In regulation 5 (general requirements for marketing of plant material)—
- (a) for paragraph (1)(c) substitute—
 - “(c) in the case of plant material which consists of a genetically modified organism, the organism has been authorised for cultivation pursuant to—
 - (i) the GMO regulations,
 - (ii) Regulation (EC) No 1829/2003, or
 - (iii) before the day on which exit day falls, [Directive 2001/18/EC](#);”;
 - (b) after paragraph (2) insert—
 - “(3) No person may market plant material in Scotland produced in a member State.

(148) The definition of “plant variety rights” is amended by Part 2 of this instrument.

(4) Paragraph (3) does not apply to plant material which meets the conditions set out in paragraph (5).

(5) The conditions are that the plant material—

(a) is of a variety that may be marketed under regulation 7 or has been registered as a variety by the responsible official body in a member State, in accordance with Article 4 of Commission Implementing [Directive 2014/97/EU](#);

(b) has been produced in compliance with the requirements set out in—

(i) Council [Directive 2008/90/EC](#),

(ii) Commission Implementing [Directive 2014/96/EU](#);

(iii) Commission Implementing [Directive 2014/98/EU](#); and

(c) has been imported into Scotland before the end of the period of two years beginning with the day after the day on which exit day falls.”.

(4) In regulation 8(5) (labelling, sealing and packing), for “Council [Directive 2000/29/EC](#) on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community” substitute “the Plant Health (Scotland) Order 2005(149)”.

(5) After regulation 23 (transitional provision) insert—

“Transitional provision for official labels on exit day

23A. A label pre-printed before exit day which at the date on which it was printed was an official label for the purposes of these Regulations, is to be treated as an official label for plant material, for the purposes of any use of that label before the end of the period of two years beginning with the day after the day on which exit day falls.”.

(6) In schedule 2 (certification requirements)—

(a) in paragraphs 3(f) (pre-basic material (other than mother plants and rootstocks not belonging to a variety)) and 4(g) (rootstocks not belonging to a variety), omit “in accordance with a derogation granted by the European Commission under Article 8(4) of Commission Implementing [Directive 2014/98/EU](#),”,

(b) for paragraph 5(4)(a) (acceptance of plants as pre-basic mother plants), substitute—

“(a) following production of a report from the responsible official body which proves that the variety in question is distinct, uniform and stable; and”,

(c) in paragraph 8(6) (maintenance of pre-basic mother plants and pre-basic material), omit from “Where a derogation” to “species concerned,”,

(7) In schedule 4 (registration of varieties)—

(a) in paragraph 1 (interpretation)(150)—

(i) omit the definitions of “CPVO” and “CPVO protocols”,

(ii) in the definition of “technical questionnaire”, for “CPVO” in both places where it occurs substitute “UPOV”,

(b) in paragraph 3 (registration)—

(i) for sub-paragraph (1)(c) substitute—

(149) S.S.I. 2005/613, as last amended by S.S.I. 2019/XXX.

(150) Paragraph 1 is amended by Part 2 of this instrument.

- “(c) in relation to genetically modified varieties, the genetically modified organism of which the variety consists is authorised for cultivation pursuant to—
- (i) the GMO regulations,
 - (ii) Regulation (EC) No 1829/2003, or
 - (iii) before the day on which exit day falls, Directive 2001/18/EC.”,
- (ii) for sub-paragraph (2)(b) substitute—
- “(b) a responsible official body outside Scotland.”,
- (c) in paragraph 4 (application for registration with an official description)—
- (i) in sub-paragraph (2)(b), for “member State” substitute “country”
 - (ii) for sub-paragraph (2)(d) substitute—
- “(d) in the case of a genetically modified variety, evidence that the genetically modified organism contained in that variety has been authorised for cultivation pursuant to—
- (i) the GMO regulations,
 - (ii) Regulation (EC) No 1829/2003, or
 - (iii) before the day on which exit day falls, Directive 2001/18/EC.”,
- (iii) in sub-paragraph (3), for “authority in another member State” substitute “official body outside Scotland”,
- (d) in paragraph 5(1)(b) (growing trials), for “CPVO” in each place where it occurs substitute “UPOV”,
- (e) for paragraph 6(1)(b)(ii) (duration and renewal of acceptance) substitute—
- “(ii) the period during which the genetically modified organism of which the variety consists is authorised for cultivation pursuant to—
- (aa) the GMO regulations,
 - (bb) Regulation (EC) No 1829/2003, or
 - (cc) before the day on which exit day falls, Directive 2001/18/EC.”,
- (f) for paragraph 7(1)(d) (removal from register), substitute—
- “(d) in the case of any genetically modified variety, the genetically modified organism contained in that variety—
- (i) ceases to be authorised for cultivation pursuant to—
- (aa) the GMO regulations,
 - (bb) Regulation (EC) No 1829/2003, or
- (ii) has, before the day on which exit day falls been authorised for cultivation pursuant to Directive 2001/18/EC and ceases to be authorised.”.
- (8) In schedule 5 (official labels, supplier’s documents and accompanying documents)—
- (a) in paragraph 4—
- (i) in sub-paragraph (a), for “EU” substitute “UK”,
 - (ii) in sub-paragraph (b)(i), for “member State” substitute “country”,
 - (iii) in sub-paragraph (b)(xii), for “member State” substitute “country”,
- (b) in paragraph 5, for “one of the official languages of the European Union”, substitute “English, but may also be printed in other languages”,

- (c) in paragraph 6—
 - (i) in sub-paragraph (a), for “EU” substitute “UK”,
 - (ii) in sub-paragraph (b)(i), for “member State” substitute “country”,
 - (iii) in sub-paragraph (b)(viii), for “member State” substitute “country”,
 - (d) in paragraph 7, for “one of the official languages of the European Union” substitute “English, but may also be printed in other languages,”,
 - (e) in paragraph 8(b), for “one of the official languages of the European Union” substitute “English, but may also be written in other languages,”.
- (9) In schedule 8 (powers of inspectors), for paragraph 1(2)(a) substitute—
- “(a) be accompanied by such other persons as the inspector considers appropriate;”.

St Andrew’s House,
Edinburgh
19th February 2019

MAIRI GOUGEON
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are principally made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular, those mentioned in section 8(2)(a), (c), (d) and (g) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

Part 2 (regulations 2 to 8), made in exercise of powers under the European Communities Act 1972 (c.68), make amendments to secondary legislation concerning the marketing of agricultural seed and fruit and vegetative plant propagating material:

- To update references to a number of EU instruments referred to therein.
- To include references to EEA states and Switzerland.
- To make provision for the certification of seed intended for export and the labelling requirements in relation to imports and exports of seed.
- To make provision for the labelling of seed potatoes produced outside Scotland (regulation 7).
- To update a number of definitions.

Part 3 (regulations 9 to 18) makes amendments to secondary legislation concerning the marketing of agricultural seed and fruit and vegetative plant propagating material, consequential on the United Kingdom's withdrawal from the European Union.

A business and regulatory impact assessment has not been produced for this instrument as no, or no significant, impact upon business, charities or voluntary bodies is foreseen.