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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 244**

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

**PART 5**

Administration and revocations

**Withdrawing certification**

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

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

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

(3) If certification is withdrawn the Department must notify the certification applicant.

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

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Any person, other than the certification applicant who has purchased seed, for which official certification has been withdrawn must notify any person to whom any of the seed has been sold or supplied as soon as practicable after receiving notice of the withdrawal.

**Sampling for enforcement purposes**

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

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

**Forms of certificates used for enforcement**

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

- (a) make reference to these Regulations and must certify that the sample was taken and treated in accordance with regulation 25;
- (b) specify—
  - (i) the name and address of the person taking the sample;

- (ii) the premises at which the sample was taken;
- (iii) the species, variety and category of seed sampled;
- (iv) the date the sample was taken;
- (v) the reference number of the seed lot; and
- (vi) the quantity sampled.

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

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

### [<sup>F1</sup>Certification for export

**26A.** The Department may certify the quality of seed intended for export.]

**F1** Reg. 26A inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), regs. 1(1), 46; 2020 c. 1, Sch. 5 para. 1(1)

### Imported seed

**27.**—[<sup>F2</sup>(1) In the case of—

- (a) cereal seed, vegetable seed, beet seed and oil and fibre plant seed, which has been imported into Northern Ireland from outside the European Union; and
- (b) fodder seed, which has been imported into Northern Ireland from outside the United Kingdom,

the seed 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.]

[<sup>F3</sup>(1A) But seed imported from a European Single Market State before the end of 2 years beginning with the day after the day on which exit day falls, may be labelled with an official label issued in accordance with the relevant requirements in the Directive relating to that seed.]

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

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

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

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

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

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

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

- F2** Reg. 27(1) substituted (31.12.2020) by [The Seed Marketing and Fertilisers \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/319\)](#), regs. 1, **3(e)**
- F3** Reg. 27(1A) inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), regs. 1(1), **47(b)**; 2020 c. 1, Sch. 5 para. 1(1)

## Appeals

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

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

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

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

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

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

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

## Civil liability of sellers of seeds

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

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

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

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

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

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

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

#### **Arrangements for official measures**

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

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

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

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

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

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

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

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

## Fees

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

### [<sup>F4</sup>Marketing seed under a specific derogation

31A. In order to remove any temporary difficulties in the general supply of seed, the Department may permit, temporarily the marketing of seed not satisfying the requirements of minimum germination specified in Schedule 2 for the relevant species of seed.]

F4 Reg. 31A inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), regs. 1(1), 48; 2020 c. 1, Sch. 5 para. 1(1)

### [<sup>F5</sup>Marketing seed under a specific derogation

31A. The Department acts as the Member State for the purposes of Commission Regulation (EC) No 217/2006 laying down rules for the application of Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards the authorisation of Member States to permit temporarily the marketing of seed not satisfying the requirements in respect of the minimum germination ]

F5 Reg. 31A inserted (28.12.2020) by [The Seed Marketing \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/301\)](#), regs. 1, 2(2) (as amended by S.R. 2020/322, regs. 1, 2)

## Confidentiality

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

## Licensing in another part of the United Kingdom

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

### [<sup>F6</sup>Certification in a Crown Dependency

33A. Any seed certified and labelled in a Crown Dependency under legislation recognised by the Department to have equivalent effect to these Regulations may be marketed in Northern Ireland.

F6 Regs. 33A, 33B inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), regs. 1(1), 49; 2020 c. 1, Sch. 5 para. 1(1)

## Transitional provision for official labels on exit day

33B. For the purposes of regulation 17 and paragraphs 7(1)(a) and 8(1)(a) of Schedule 3, an official label, pre-printed before exit day, containing the statement “EU rules and standards” may be used as an official label before the end of the period of two years beginning with the day after the day on which exit day falls.]

**F6** Regs. 33A, 33B inserted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), 49; 2020 c. 1, Sch. 5 para. 1(1)

### Transitional provisions

**34.—**(1) A crop inspector, seed sampler or seed testing station licensed at the time these Regulations come into force under the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009<sup>M1</sup> continues to be licensed as such under these Regulations.

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

### Marginal Citations

**M1** S.R. 2009 No. 388, as amended by S.R. 2014 No. 295

### Amendments and revocations

**35.—**(1) The Seeds (Fees) (No. 2) Regulations (Northern Ireland) 2002<sup>M2</sup> are amended as follows—

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

(2) The following are revoked—

- (a) the Cereal Seeds Regulations (Northern Ireland) 2009<sup>M3</sup>;
- (b) the Beet Seeds Regulations (Northern Ireland) 2009<sup>M4</sup>;

- (c) the Fodder Plant Seeds Regulations (Northern Ireland) 2009 <sup>M5</sup>;
- (d) the Oil and Fibre Plant Seeds Regulations (Northern Ireland) 2009 <sup>M6</sup>;
- (e) the Vegetable Seeds Regulations (Northern Ireland) 2009 <sup>M7</sup>;
- (f) the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009 <sup>M8</sup>;
- (g) the Vegetable Seeds (Amendment) Regulations (Northern Ireland) 2011 <sup>M9</sup>;
- (h) the Fodder Plant Seeds (Amendment) Regulations (Northern Ireland) 2011 <sup>M10</sup>;
- (i) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 2013 <sup>M11</sup>; and
- (j) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 2014 <sup>M12</sup>.

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**Marginal Citations**

- M2** S.R. 2002 No. 407, as amended by S.R. 2005 No. 40
- M3** S.R. 2009 No. 383
- M4** S.R. 2009 No. 384
- M5** S.R. 2009 No. 385
- M6** S.R. 2009 No. 386
- M7** S.R. 2009 No. 387
- M8** S.R. 2009 No. 388
- M9** S.R. 2011 No. 38
- M10** S.R. 2011 No. 397
- M11** S.R. 2013 No. 304
- M12** S.R. 2014 No. 295

**Changes to legislation:**

There are currently no known outstanding effects for the The Seed Marketing Regulations (Northern Ireland) 2016, PART 5.