

SCHEDULE 4

Exceptions

PART 2

Marketing seed that does not comply with Schedule 2

Seed with a declared lower germination

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

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

Early movement of seed

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

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

(i) the same as the EU minimum percentage of germination for the relevant species of seed and the same as, or less than, the percentage of germination for the seed ascertained by the provisional analysis on which the certification of the seed was based; or

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

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

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

(i) the same as the EU minimum percentage of germination for the relevant species of seed; or

(ii) the same as, or less than, the percentage of germination ascertained by the provisional analysis on which the certification of the seed was based.

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

(a) stating that the seeds are being marketed before the completion of the official germination test;

(b) specifying the guaranteed minimum percentage of germination; and

(c) specifying the name and address of the person marketing the seed and the reference number of the seed lot.

(4) Where any person—

(a) markets officially certified early movement seed in accordance with sub-paragraphs (1) and (2), and

(b) the official germination test shows that the percentage of germination of the seed is less than the minimum percentage of germination guaranteed in accordance with the requirements of paragraph (1)(a) or (2)(a), as the case may be,

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

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

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

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

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

(2) This sub-paragraph applies to—

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

(3) This sub-paragraph applies to—

- (a) seed of a listed variety—
 - (i) that has been harvested from a crop produced in the United Kingdom for which a field inspection report has been issued stating that the crop has been found by an official field inspection (whenever carried out) to satisfy the conditions set out in the Directive relating to the crop from which seed is to be produced specified in Schedule 2;
 - (ii) that, subject to sub-paragraph (iii), satisfies the conditions laid down in Schedule 2 for seed certification;
 - (iii) for which the results of a germination test are awaited but for which a provisional analytical report has been obtained indicating what the percentage of germination of the seed is likely to be; and
 - (iv) for which a seed test report has been issued under these Regulations indicating that the seed has achieved the required minimum analytical purity standard set out in the Directive relating to that seed specified in Schedule 2;
- (b) seed of a listed variety—
 - (i) that has been imported into the United Kingdom as not finally certified seed harvested in another member State; and
 - (ii) that complies with the requirements of sub-paragraph (3)(a)(ii) to (iv);

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

Tetrazolium testing for cereal seed

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

Marketing seed of conservation varieties

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

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

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

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

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

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

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

(8) Vegetable seed must comply with—

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

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

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

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

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

(a) contains—

(i) in the case of an agricultural conservation variety, the words “conservation variety”;
or

(ii) in the case of a vegetable conservation variety, the words “certified seed of a conservation variety” or “standard seed of a conservation variety”;

(b) states the region of origin; and

(c) is coloured brown.

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

Marketing preservation mixtures that include uncertified fodder seed

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

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

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- (a) complete the authorisation in accordance with Article 4(2) of Commission [Directive 2010/60/EU](#), as read with Article 4(3) of that Directive; and
 - (b) verify compliance with Article 5 of that Directive (in the case of directly harvested preservation mixtures) or Article 6 of that Directive (in the case of crop-grown preservation mixtures).
- (3) An authorisation—
- (a) may only be granted if the preservation mixture complies with Article 5 of Commission [Directive 2010/60/EU](#) (in the case of directly harvested preservation mixtures) or Article 6 of that Directive (in the case of crop-grown preservation mixtures);
 - (b) may only be granted for the marketing of a preservation mixture in its region of origin as determined by the Department in accordance with Article 3 of Commission [Directive 2010/60/EU](#);
 - (c) may only be granted for a preservation mixture that contains a conservation variety within the meaning of regulation 2(1) of the Seeds (National Lists of Varieties) Regulations 2001 if that variety complies with the requirements of paragraph 8(1) to (7) and (9); and
 - (d) must specify the matters listed in Article 4(2) of Commission [Directive 2010/60/EU](#), as read with Article 4(3) of that Directive.
- (4) The seed must not be sold as loose seed under paragraph 25 of Schedule 3.
- (5) The seed must be labelled with a pink supplier’s label or a printed or stamped notice which, instead of containing the labelling information for mixtures of seed set out in Schedule 3, contains the following information—
- (a) the words “EU rules and standards”;
 - (b) the name and address or the identification number of the person affixing the label;
 - (c) the harvesting method (whether directly harvested or crop grown);
 - (d) the year of sealing expressed as “sealed ...[year]”;
 - (e) the region of origin;
 - (f) the source area;
 - (g) the collection site;
 - (h) the habitat type of the collection site;
 - (i) the words “preservation seed mixture”;
 - (j) the reference number of the lot given by the person affixing the label;
 - (k) in the case of crop-grown preservation mixtures—
 - (i) the percentage by weight of the components as species and, where relevant, sub-species; and
 - (ii) the specific germination rate for the fodder seed components of the mixture that do not comply with the germination requirements of paragraph 25(2) of Schedule 2 (unless the mixture contains more than five such fodder seed components, in which case the average germination rate for those components may be used);
 - (l) in the case of directly harvested preservation mixtures, the percentage by weight of those components as species and, where relevant, sub-species that are typical for the habitat type of the collection site and that are, as components of the mixture, of importance for the preservation of the natural environment in the context of the conservation of genetic resources;
 - (m) declared net or gross weight; and

- (n) where granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of clusters or pure seeds and the total weight.
- (6) The total quantity of the seed authorised to be marketed each year must not exceed 5% of the total weight of fodder plant seed mixtures marketed in the United Kingdom in the same year.
- (7) Expressions used both in this paragraph and Commission [Directive 2010/60/EU](#) have the same meaning in this paragraph as they have in that Directive.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) be coloured orange;

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

Marketing unlisted varieties of vegetable seed

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

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

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

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

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

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

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

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

(8) The person marketing the seed must—

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

Marketing for scientific or selection purposes

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

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

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

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

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

(5) The person marketing the seed must—

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

Restrictions relating to genetically modified seed

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

- (a) [Directive 2001/18/EC](#)(1) of the European Parliament and of the Council (on the deliberate release into the environment of genetically modified organisms); or
- (b) Regulation (EC) No 1829/2003(2) (on genetically modified food and feed).

Marketing imported seed to be labelled as HVS

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

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

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

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

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

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

Marketing seed of amateur vegetable varieties

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

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

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

(4) The seed must have sufficient varietal purity.

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

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

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

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

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