
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 247

SEEDS

**The Fodder Plant Seeds (Amendment)
(Scotland) Regulations 2000**

<i>Made</i>	- - - -	<i>24th July 2000</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>27th July 2000</i>
<i>Coming into force</i>	- -	<i>1st August 2000</i>

The Scottish Ministers, in exercise of the powers conferred on them by sections 16(1), (1A), (2), (3) and 36 of the Plant Varieties and Seeds Act 1964(1) and of all other powers enabling them in that behalf, after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to them to be concerned, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Fodder Plant Seeds (Amendment) (Scotland) Regulations 2000 and shall come into force on 1st August 2000.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations “the principal Regulations” means the Fodder Plant Seeds Regulations 1993(2).

Amendment of the principal Regulations

3.—(1) The principal Regulations shall be amended in accordance with the provisions of this and the following regulations.

(2) For any reference in the principal regulations to “the Minister”, other than that mentioned in regulation 4 of these Regulations, there is substituted reference to “the Ministers”.

(1) 1964 c. 14; section 16 was amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 5(1), (2) and (3); see section 38(1) for a definition of “the Minister”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998, (c. 47).

(2) S.I. 1993/2009, as amended by S.I. 1993/2529, 1996/1453, 1997/616 and 1999/1000.

Amendment of regulation 3 of the principal Regulations**4.—(1) In regulation 3(1) (interpretation)—****(a) the following definitions shall be inserted in the appropriate places:—**

““genetically modified” has the same meaning as for the purposes of Council Directive 90/220/EEC(3) on the deliberate release into the environment of genetically modified organisms;”;

““the Ministers” means the Scottish Ministers;”;

““third country” means a country listed in the Annex to Council Decision 95/514/EC(4);”;

(b) the definition of “marketing” and “the Minister” shall be omitted; and**(c) for the definition of “official examination” there shall be substituted—**

“official examination” means—

“(a) in relation to Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation or Commercial Seed produced in the United Kingdom—

(i) an examination or test carried out by or on behalf of the Ministers, the Minister of Agriculture, Fisheries and Food, the National Assembly for Wales or the Department of Agriculture and Rural Development;

(ii) an examination carried out under official supervision; or

(iii) a test carried out by an establishment licensed as a seed testing station under official supervision;

(b) in relation to Breeder’s Seed, Pre-basic Seed and Basic Seed, produced in the United Kingdom—

(i) an examination or test carried out by or on behalf of the Ministers, the Minister of Agriculture, Fisheries and Food, the National Assembly for Wales or the Department of Agriculture and Rural Development;

(ii) a test carried out by an establishment licensed as a seed testing station under official supervision; and

(c) in relation to any description of seed produced elsewhere than in the United Kingdom, an examination or a test approved by the Ministers;”.

(d) the definition of “small package” shall be omitted; and**(e) in the definition of “small EC B package” for the words “Certified Seed or Commercial Seed” there shall be substituted “Basic Seed, Certified Seed or Commercial Seed”.****(2) In paragraph (3) of regulation 3—**

(i) in the definition of “Certified Seed”, for the words “field peas or field beans” there shall be substituted “field peas, field beans, white lupin, narrow-leaved lupin (blue lupin), yellow lupin, Hungarian vetch, common vetch, hairy vetch or lucerne”; and

(ii) in the definition of “Certified Seed of the First Generation”, for the words “field peas or field beans” there shall be substituted “field peas, field beans, white lupin, narrow-leaved lupin (blue lupin), yellow lupin, Hungarian vetch, common vetch, hairy vetch or lucerne”.

(3) After paragraph (3) of regulation 3 there shall be inserted—

“(3A) For the purposes of these Regulations, seeds—

(3) O.J. No L 117, 8.5.90; as last amended by Commission Decision 98/294/EC, O.J. No L 131, 5.5.98,

(4) O.J. No L 296, 9.12.95, p.34.

- (a) produced and packaged in a Member State other than the United Kingdom or a third country;
- (b) accompanied by a document issued by a competent authority concerned with the certification of fodder plant seed, in that Member State or third country containing information specified at paragraph G(b) of Part I of Schedule 6; and
- (c) in respect of which an application has been made for a breeder's confirmation under these Regulations,

shall be deemed to be seeds produced from seeds issued with a breeder's confirmation.

(3B) For the purposes of these Regulations, seeds—

- (a) produced and packaged in a Member State other than the United Kingdom or a third country;
- (b) accompanied by a document issued by a competent authority concerned with the certification of fodder plant seed, in that Member State or third country containing information specified (in respect of packages of seed not finally certified) at paragraph G(b) of Part I of Schedule 6; and
in respect of which an application has been made for an official certificate under these Regulations,

shall be deemed to be seeds produced from seeds issued with such a breeder's confirmation or an official certificate.

(3C) For the purposes of these Regulations, seeds—

- (a) produced and packaged in a Member State other than the United Kingdom or a third country;
- (b) labelled appropriately in accordance with the requirements of regulation 9; and
- (c) in the case of small EC A packages and small EC B packages sealed in accordance with the requirements of regulation 8(3), or, in the case of seeds other than small EC A packages and small EC B packages, sealed by a competent authority concerned with the certification of fodder plant seeds, in that Member State or third country,

shall be deemed to fall within the meaning of the appropriate category of seeds set out in paragraph (3) above.”

(4) After paragraph (4) of regulation 3 there shall be inserted—

“(5) In these Regulations “marketing” means—

- (a) selling, holding with a view to sale and offering for sale; and
- (b) any disposal, supply or transfer, for the purpose of commercial exploitation of seed to third parties,

whether or not for consideration; and “market” and “marketed” shall be construed accordingly.

(6) Trade in seed, not aimed at commercial exploitation of the variety, such as the following operations, shall not be treated as marketing of seed of that variety—

- (a) the supply of seed to official testing and inspection bodies; or
- (b) the supply of seed to any person for the purpose of processing or packaging the seed provided he does not acquire title to the seed supplied”.

Amendment of Regulation 4 of the principal Regulations

5. In regulation 4 (seeds to which the Regulations apply)

- (a) in paragraph (1) for–
 - ““Subject to paragraphs (2) and (3) below” there shall be substituted “Subject to paragraph (2) below”.”
- (b) paragraph (2)(b), (c) and (d) and paragraph (3) shall be omitted.

Amendment of regulation 5 of the principal Regulations

6. In regulation 5 (marketing of seeds)

- (a) after paragraph 1 there shall be inserted–
 - “(1A) Paragraph (1) above shall not prevent the marketing of seed as grown, marketed for processing, provided the identity of the seed is ensured.”;
- (b) in paragraph (1)(b) for “regulation 9(1)” there shall be inserted “regulation 9(1), (1B).”;
- (c) after paragraph (1)(b) there shall be inserted–
 - “(c) in respect of genetically modified seeds, clearly indicated in the sales catalogue of the person marketing the seeds, and in any other marketing information or marketing representations provided by that person, as having been genetically modified.”;
- (d) for regulation 5(2) there shall be substituted–
 - “(2) Paragraph (1) above shall not prevent the marketing of a mixture of kinds or varieties of seeds if–
 - (a) the seeds in the mixture are not intended for use as fodder plants and–
 - (i) if any seeds in the mixture are fodder plant seeds, these seeds meet the requirements of paragraph (1) above; and
 - (ii) if any other seeds in the mixture are cereal seeds, oil and fibre plant seeds or vegetable seeds, these seeds meet the requirements for cereal seeds, oil and fibre plant seeds or vegetable seeds respectively corresponding to paragraph (1) above in the Cereal Seeds Regulations 1993(5) the Oil and Fibre Plant Seeds Regulations 1993(6) and the Vegetable Seeds Regulations 1993(7); or
 - (b) the seeds in the mixture are intended for use as fodder plants and are–
 - (i) fodder plant seeds meeting the requirements of paragraph (1) above; or
 - (ii) cereal seeds, oil and fibre plant seeds or vegetable seeds, other than any seeds of varieties of grasses in respect of which the breeder has declared that the seed of the variety is not intended for the production of fodder plants, meeting the requirements respectively corresponding to paragraph (1) above in the Cereal Seeds Regulations, the Oil and Fibre Plant Seeds Regulations and the Vegetable Seeds Regulations.”.
- (c) After paragraph (2) there shall be inserted–
 - “(2A) Where there is an arrangement under which–
 - (a) seed, other than seed which contains any genetically modified material, under the control of one person (“the first person”) is used by another person (“the second person”) for the purpose of–
 - (i) increasing the first person’s stock of the seed for sowing; or

(5) S.I. 1993/2005, as amended by S.I. 1995/1482, 1997/616 and 1999/1860.

(6) S.I. 1993/2007, as amended by S.I. 1994/1423, 1996/1451, 1997/616 and 1999/1862.

(7) S.I. 1993/2008, as amended by S.I. 1996/1452, 1997/616 and 1999/

- (ii) carrying out tests or trials on the seed; and
 - (b) everything produced from the seed, whether directly or indirectly, and any unused seed, become or remain the property of the first person, the prohibitions in paragraph (1) above shall not apply to the marketing of the seed by the first person to the second person as part of that arrangement or to the marketing by the second person to the first person of any seed produced (whether directly or indirectly) from that seed.
- (2B) The prohibitions in paragraph (1) above shall not apply to the marketing by producers of small quantities of seed, other than seed which contains any genetically modified material, for scientific purposes or selection work.
- (2C) If the conditions specified in paragraph (2D) below are satisfied, the prohibitions in paragraph (1) above shall not apply to—
- (a) the marketing, as part of any arrangement referred to in paragraph (2A) above by the first person referred to in that paragraph to the second person referred to in that paragraph, of seed which contains any genetically modified material;
 - (b) the marketing, as part of any arrangement referred to in paragraph (2A) above by the second person referred to in that paragraph to the first person referred to in that paragraph, of seed produced (whether directly or indirectly) from the seed marketed to him as part of any such arrangement which contains any genetically modified material; or
 - (c) the marketing by producers, for scientific purposes or selection work, of small quantities of seed which contains any genetically modified material.
- (2D) The conditions referred to in paragraph (2C) above are—
- (a) the deliberate release of the genetically modified material has been authorised under a Part B consent, or the genetically modified material has been accepted for marketing in accordance with a Part C consent, issued for the purposes of Council Directive [90/220/EEC](#);
 - (b) the seeds are accompanied during marketing by a copy of the consent;
 - (c) all appropriate measures, in accordance with an environmental risk assessment in respect of the material carried out in accordance with article 7(4) of Council Directive [70/457/EEC](#)(8), have been taken by the producer of the seed to avoid adverse effects on human health and the environment; and
 - (d) in the case of genetically modified material issued with a Part C consent, an authorisation has been granted by the Ministers in accordance with paragraph (2E) below to the person marketing the seed.
- (2E) An authorisation may be granted by the Ministers for the purpose of paragraph (2D)(d) above if—
- (a) the person intending to market the seed has applied to the Ministers before the seed is marketed—
 - (i) giving the Ministers notice of his intention to market the seed and a description of the proposed marketing in respect of which the authorisation is sought; and
 - (ii) giving the Ministers such information relating to the acceptance for marketing of the variety of the seed concerned under Council Directive [90/220/EEC](#), and the proposed marketing in respect of which the

(8) O.J. No. L 225, 12.10.70, p.1; as last amended by Council Directive [98/96/EC](#) (O.J. No. L 25, 1.2.99, p.27).

authorisation is sought as the Ministers may require for the purposes of determining whether or not to grant the authorisation; and

(b) the Ministers are satisfied that an authorisation should be granted.”;

(e) after paragraph (8) there shall be inserted–

“(8A) Fodder plant seeds produced and packaged in a Member State other than the United Kingdom which have not yet been officially certified shall not be marketed unless they are–

(a) sealed and labelled as required by regulations 8 and 9; and

(b) accompanied by an official document; containing all the information in respect of seeds specified at paragraph G (b) of Part I of Schedule 6.

(8B) A person who imports a package containing a net weight of more than 2 kilograms of fodder plant seeds produced other than in a Member State shall make available to the Ministers, in such manner and at such time as the Ministers may require, the information in respect of the seeds specified in Part IV of Schedule 6.”; and

(f) in paragraph (15) the words “may be imported but” shall be omitted.

Amendment of regulation 8 of the principal Regulations

7. In regulation 8 (sealing packages) in paragraphs (1) and (3) the words “a small package” shall be omitted.

Amendment of regulation 9 of the principal Regulations

8. In regulation 9 (labelling of packages)

(a) after paragraph (1A) there shall be inserted–

“(1B) If a variety has been genetically modified, any label or document, whether official or otherwise, affixed to or accompanying a seed lot in accordance with the provisions of this regulation, shall clearly indicate that the variety has been genetically modified.”;

(b) in paragraphs (2), (4) and (5), the words “a small package” shall be omitted;

(c) in paragraph (6) the words “(other than a small package)” shall be omitted;

(d) in paragraph (6)(b) for the words “Part IV” there shall be substituted “Part V”; and

(e) paragraphs (7) and (8) shall be omitted.

Amendment of Schedule 6 to the principal Regulations

9. In Schedule 6 (labelling requirements)–

(a) in Part II–

(i) paragraphs A and B shall be omitted; and

(ii) for the words in the heading of paragraph D “Certified or Commercial Seed” there shall be substituted “Basic Seed, Certified Seed or Commercial Seed”;

(b) “Part IV” (Printing of specified matters on packages (whole-bag labelling)) shall be renumbered “Part V”; and

(c) after Part III there shall be inserted–

“PART IV
INFORMATION IN RESPECT OF SEEDS IMPORTED
FROM THIRD COUNTRIES IN PACKAGES OF
MORE THAN 2 KILOGRAMS IN NET WEIGHT

1. Kind.
2. Variety.
3. Category.
4. Country of production and official inspection authority.
5. Country of despatch.
6. Importer.
7. Quantity of seed.”.

St Andrew’s House,
Edinburgh
24th July 2000

SAM GALBRAITH
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Fodder Plant Seeds Regulations 1993, S.I.1993/2009 (“the principal Regulations”), as amended by S.I. 1993/2529, 1996/1453, 1997/616 and 1999/1864.

The amendments to the principal Regulations give effect to Council Directive 98/95/EC (O.J. No. L 25, 1.2.99, p.1) in respect of the consolidation of the internal market, genetically modified plant resources and plant genetic resources and Council Directive 98/96/EC (O.J. No. L 25, 1.2.99, p.27) amending, as regards unofficial field inspections, directives in respect of the marketing of seeds and the common catalogue of varieties of fodder plant species. The directives in respect of the marketing of seeds amended by Council Directive 98/95/EC and Council Directive 98/96/EC include Council Directive 66/401/EEC (O.J. No. L 125, 11.7.66, p.2298) on the marketing of fodder plant seed (last amended by Council Directive 98/96/EC).

These Regulations—

- (a) amend definitions in the principal Regulations, including the definitions of “marketing” and “official examination”, and remove the definition of “small packages” (regulation 4);
- (b) include provisions in relation to marketing and marketing authorisations, tests and trials, seed as grown, selection work and other scientific purposes; and make consequential amendments to regulation 4 (regulation 5 and 6);
- (c) include provision in relation to the marketing of genetically modified fodder plant seeds (regulation 6);
- (d) amend regulations 8 and 9 to remove provisions in respect of small packages and amend regulation 9 to make provision in relation to clear indications for genetically modified varieties (regulations 7 and 8);
- (e) amend Schedule 6 to make provision for the supply of information about imported seeds and remove provisions in respect of small packages (regulation 9).