

2003 No. 304

SEEDS

The Oil and Fibre Plant Seeds Amendment (Scotland) Regulations 2003

Made 6th June 2003

Laid before the Scottish Parliament 6th June 2003

Coming into force 1st July 2003

The Scottish Ministers in exercise of the powers conferred by sections 16(1), (1A), (2), (3) and 36 of the Plant Varieties and Seeds Act 1964(a) 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 Oil and Fibre Plant Seeds Amendment (Scotland) Regulations 2003 and shall come into force on 1st July 2003.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations “the principal Regulations” means the Oil and Fibre Plant Seeds Regulations 1993(b).

Amendment of the principal Regulations

3.—(1) The principal Regulations are amended in accordance with paragraphs (2) to (7) below.

(2) In regulation 3 (interpretation)(c), in paragraph (3)–

(a) for the definition of “Pre-basic Seed” substitute–

““Pre-basic Seed” means seed of a generation prior to Basic Seed which–

(a) other than in relation to a component used in the production of a hybrid variety of sunflower, swede rape or turnip rape–

(i) has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety; and

(ii) is intended to be used for the production of more Pre-basic Seed, Basic Seed, or with the breeder’s written authority–

(aa) in the case of black mustard, brown mustard, sunflower, swede rape, turnip rape or white mustard, Certified Seed;

(bb) in the case of flax, linseed or soya bean, Certified Seed of the First Generation;

(a) 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 the 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.46).

(b) S.I. 1993/2007, as amended by S.I. 1994/1423, 1996/1451, 1997/616, 1999/1862, S.S.I. 2000/249, and S.I. 2001/3510.

(c) Regulation 3 was amended by S.I. 1999/1862, S.S.I. 2000/249, and S.I. 2001/3510.

- (cc) in the case of flax, linseed or soya bean, Certified Seed of the Second Generation; or
- (dd) in the case of flax, Certified Seed of the Third Generation; or
- (b) in relation to a component of a hybrid variety of sunflower, swede rape or turnip rape, seed that is intended to be used for the production of–
 - (i) more Pre-basic Seed of the component;
 - (ii) Basic Seed; or
 - (iii) with the breeder’s written authority, Certified Seed of a hybrid variety,
 and which satisfies the requirements for Basic Seed set out in Schedule 4 and in respect of which–
 - (aaA) an official certificate has been issued in accordance with Schedule 2; or
 - (aaB) a breeder’s confirmation has been issued in accordance with Schedule 2A;”.
- (b) for the definition of “Basic Seed” substitute–
 - ““Basic Seed” means seed which–
 - (a) in relation to black mustard, brown mustard, flax, linseed, soya bean, sunflower, swede rape, turnip rape and white mustard, other than a hybrid of sunflower, swede rape or turnip rape, seed which–
 - (i) has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety; and
 - (ii) is intended to be used for the production of–
 - (aa) in the case of black mustard, brown mustard, sunflower, swede rape, turnip rape or white mustard, Certified Seed;
 - (bb) in the case of flax, linseed or soya bean, Certified Seed of the First Generation;
 - (cc) in the case of flax, linseed and soya bean, Certified Seed of the Second Generation; or
 - (dd) in the case of flax, Certified Seed of the Third Generation; or
 - (b) in relation to a component of a hybrid variety of swede rape or turnip rape, or an inbred line of sunflower which is a component of a hybrid variety, seed which is intended to be used for the production of Certified Seed of a hybrid variety; or
 - (c) in relation to a simple hybrid which is a component of a hybrid variety of sunflower, seed which is intended to be used for the production of Certified Seed of a double or three way cross hybrid variety,
 and which satisfies the requirements for Basic Seed set out in Schedule 4 and in respect of which–
 - (aaA) an official certificate has been issued in accordance with Schedule 2; or
 - (aaB) a breeder’s confirmation has been issued in accordance with Schedule 2A;”.
- (c) for the definition of “Certified Seed” substitute–
 - ““Certified Seed” means seed which, in relation to black mustard, brown mustard, sunflower, swede rape, turnip rape and white mustard, including hybrids of sunflower, swede rape and turnip rape–
 - (a) has been produced directly from officially certified Basic Seed or, with the breeder’s written authority, from officially certified Pre-basic Seed;
 - (b) is intended for purposes other than the production of oil and fibre plant seed; and
 - (c) satisfies the requirements for Basic Seed set out in Schedule 4 and in respect of which–
 - (i) an official certificate has been issued in accordance with Schedule 2; or
 - (ii) a breeder’s confirmation has been issued in accordance with Schedule 2A;”.

- (3) In regulation 5(a) (marketing of seeds) after paragraph (2E) insert–
- “(2F) The prohibitions in paragraph (1) above shall not apply to the marketing of a varietal association of seeds–
- (a) to which these Regulations apply; and
 - (b) the female and male components of which have–
 - (i) been dressed using a different coloured dressing; and
 - (ii) been mechanically combined in proportions notified to the Scottish Ministers jointly determined by the persons responsible for the maintenance of these components.
- (2G) Subject to paragraph (2H) below, the person responsible for the maintenance of the pollinator-dependent hybrid and pollinator within a varietal association may notify the Scottish Ministers of the proportions of the pollinator-dependent hybrid and pollinator within the varietal association.
- (2H) In a case where different persons are responsible for the maintenance of the pollinator-dependent hybrid and pollinator within a varietal association, those persons may notify the Scottish Ministers of the proportions of the pollinator-dependent hybrid and pollinator agreed by them within the varietal association.
- (2I) A notification given under paragraph (2G) or (2H) above shall be made in such form and manner as the Scottish Ministers may require and be accompanied by such information and other documents as the Scottish Ministers may require.
- (2J) The Scottish Ministers shall acknowledge the receipt of each notification that they receive under paragraph (2G) or (2H) above.
- (2K) In this regulation–
- “pollinator-dependent hybrid” means a male-sterile component within a varietal association;
- “pollinator” means a component shedding pollen within a varietal association; and
- “varietal association” means an association of Certified Seed of a specified pollinator-dependent hybrid entered in the National List or the Common Catalogue with Certified Seed of one or more specified pollinators similarly entered.”.
- (4) In regulation 8 (sealing of packages), in paragraph (1), after “Third Generation” insert “, a varietal association of seeds to which regulation 5 applies”.
- (5) In regulation 9(b) (labelling of packages)–
- (a) in paragraph (2) and (4) after “Third Generation” insert “, a varietal association of seeds to which regulation 5 applies”; and
 - (b) in paragraph (4A) after “Third Generation” insert “, or a varietal association of seeds to which regulation 5 applies”.
- (6) In Schedule 4(c) (requirements for Basic Seed, Certified Seed, Certified Seed of the First, Second and Third Generations and Commercial Seed)–
- (a) in Part I (conditions relating to crops from which seeds other than Commercial Seed are obtained)–
 - (i) after paragraph 3 insert–

“(3A) At least three field inspections shall be carried out in the case of a hybrid of swede rape or turnip rape and shall be carried out as follows:–

 - (i) the first inspection shall be carried out before the flowering stage;
 - (ii) the second inspection shall be carried out at the early flowering stage; and
 - (iii) the third inspection shall be carried out at the end of the flowering stage.”;
 - (ii) after paragraph 5 (previous cropping) insert–

(a) Regulation 5 was amended by S.I. 1997/616, S.I. 1999/1862, S.S.I. 2000/249, and S.I. 2001/3510.

(b) Regulation 9 was amended by S.I. 1999/1862 and by S.S.I. 2000/249.

(c) Schedule 4 was amended by S.I. 1994/1423 and by S.S.I. 1999/1862.

“(5A) In the case of a hybrid of swede rape or turnip rape the crop shall be raised in a production ground where not less than five years have elapsed since plants of *cruciferae* were last grown.”;

(iii) in paragraph 7 after sub-paragraph (c) insert–

“(d) crops to produce–

- (i) Basic Seed of hybrids of swede rape and turnip rape, 500 metres;
- (ii) Certified Seed of hybrids of swede rape and turnip rape, 300 metres.”;

(iv) in paragraph 8 (standards for varietal purity)–

(aa) for sub-paragraph (a) substitute–

“(a) in the case of seed of–

- (i) a hybrid variety of swede rape or turnip rape, the requirement for sufficient identity and purity shall also apply to the varietal characteristics of its components including restoration of male sterility or fertility (as the case may be);
- (ii) the species and type specified in column 1 of the table below, the minimum varietal purity shall conform to the standards specified in the corresponding entry in column 2 of the table–

<i>Species and category</i> <i>Column (1)</i>	<i>Minimum varietal purity</i> <i>(percentage)</i> <i>Column (2)</i>
(a) Flax–	
(i) Basic Seed	99.7
(ii) Certified Seed or Certified Seed of the first generation	98.0
(iii) Certified Seed of the second generation	97.5
(iv) Certified Seed of the third generation	97.5
(b) Linseed–	
(i) Basic Seed	99.7
(ii) Certified Seed or Certified Seed of the first generation	98.0
(iii) Certified Seed of the second generation	97.5
(c) Soya bean–	
(i) Basic Seed	99.5
(ii) Certified Seed or Certified Seed of the first generation	99.0
(iii) Certified Seed of the second generation	99.0

<i>Species and category Column (1)</i>	<i>Minimum varietal purity (percentage) Column (2)</i>
(d) Sunflower except hybrid varieties and components of hybrid varieties–	
(i) Basic Seed	99.7
(ii) Certified Seed	99.0
(e) Swede rape and turnip rape except hybrid varieties, components of hybrid varieties and varieties to be used solely for fodder purposes–	
(i) Basic Seed	99.9
(ii) Certified Seed	99.7
(f) Swede rape and turnip rape varieties to be used solely for fodder purposes except hybrid varieties and components of hybrid varieties–	
(i) Basic Seed	99.7
(ii) Certified Seed	99.0
(g) Components of hybrid varieties of swede rape and turnip rape and hybrid varieties produced using self-incompatibility–	
(i) Basic Seed, inbred line	98.0
(ii) Basic Seed, simple hybrid	95.0
(iii) Certified Seed	90.0
(h) Components of hybrid varieties of swede rape and turnip rape and hybrid varieties produced using male sterility–	
(i) Basic Seed, female component	99.0
(ii) Basic Seed, male component	99.9
(iii) Certified Seed	90.0
(i) White mustard–	
(i) Basic Seed	99.7
(ii) Certified Seed	99.0

and for the purposes of this sub-paragraph, the minimum varietal purity of seed shall be examined mainly in field inspections carried out in accordance with the conditions laid down in paragraph 3 above.”;

(bb) after sub-paragraph (d) insert –

- “(e) In a case where a male-sterile component is used for the production of seed of a hybrid variety of swede rape or turnip rape the level of male sterility shall be assessed by examining flowers for the absence of female anthers and shall be at least 98%. ”;
- (b) in Part II (conditions relating to Basic Seed, Certified Seed and Certified Seed of the First, Second and Third Generations) after paragraph 3 insert–
- “4.—(1) Subject to sub-paragraph (2), seed of a hybrid variety of swede rape or turnip rape shall not be certified as Certified Seed unless due account has been taken of the results of official post-control tests on samples of Basic Seed, such tests to have been carried out during the growing season of the seed entered for certification as Certified Seed, to ascertain whether the Basic Seed has met the requirements for Basic Seed laid down in these Regulations in respect of identity and purity as regards the characteristics of the components, including male sterility.
- (2) In the case of Basic Seed and Certified Seed of a component of a hybrid variety of swede rape or turnip rape, the varietal purity of that seed may be assessed by a biochemical method where the official posts-control tests on samples of the Basic Seed have not been carried out in accordance with sub-paragraph (1).”.
- (7) In Part I of Schedule 6 (official labels)–
- (a) in paragraph C (official label for a package of Basic Seed, Certified Seed and Certified Seed of the First, Second and Third Generations) after sub-paragraph (c) insert–
- “(d) In the case of officially certified seed that is intended to be used as a component of a varietal association of swede rape or turnip rape, a reference to its function (male or female), accompanied by the word “component” and the name of the final varietal association.”;
- (b) after paragraph E insert–
- “F. Official Label for a package of a varietal association of seeds**
- (a) The package shall be labelled, not later than the time of sealing, on the outside with an official label which has not previously been used containing the following particulars:–
- (i) the words “EC rules and standards” followed by the number 95/232/EC;
- (ii) the name of the certifying authority and Member State or their commonly used initials;
- (iii) the reference number of the seed lot;
- (iv) the month and year of sealing expressed by the word “Sealed” followed by the month and year of sealing;
- (v) the species, indicated at least under its botanical name, which may be given in abridged form and without the author’s name, in Roman characters;
- (vi) the words “varietal association” followed by its name;
- (vii) the category;
- (viii) the country of production;
- (ix) the declared net or gross weight or declared number of pure seed;
- (x) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seeds and the total weight;
- (xi) the percentages by number of the various components in the varietal association shown by variety unless this has been notified to the purchaser on request and notified to the Scottish Ministers.
- (b) Where at least the germination of the components of the varietal association has been retested, the words “retested” followed by the month and year of retesting and the service responsible for such retesting may be indicated on the official label referred to in paragraph (a) or on an official sticker attached to the official label.
- (c) The minimum size of the label referred to in paragraph (a) shall be 110mm x 67mm.

- (d) The label referred to in paragraph (a) shall be coloured blue with a diagonal green line.
- (e) The label referred to in paragraph (a) shall be—
 - (i) an adhesive label; or
 - (ii) a label secured to the package by a sealing device approved by the Scottish Ministers.”.

St Andrew's House,
Edinburgh
6th June 2003

ROSS FINNIE
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Oil and Fibre Plants Seeds Regulations 1993 (S.I. 1993/2007) as amended (“the principal Regulations”).

The principal Regulations implement Council Directive 69/208/EEC (replaced by 2002/57/EC) on the marketing of seed of oil and fibre plants.

Council Directive 2002/68/EC amended Directive 2002/57/EC to provide that the seed of hybrid varieties, and the seed of varietal associations, of swede rape and turnip rape shall be included within the scope of that Directive.

These Regulations implement Directive 2002/68/EC.

These Regulations—

- (a) amend the definitions in the principal Regulations of Pre-Basic Seed, Basic Seed and Certified Seed (regulation 3(2));
- (b) include provisions as to marketing, packaging and labelling of varietal associations of seeds (regulation 3(3), (4), (5) and (7));
- (c) include provisions as to the varietal purity of, crop inspections of, and growing conditions for, hybrids of swede rape and turnip rape (regulation 3(6));
- (d) include provisions as to the certification of hybrid varieties of swede rape and turnip rape (regulation 3(6)(b)).

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