
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 317

The Oil and Fibre Plant Seed (Scotland) Regulations 2004

PART VII

MISCELLANEOUS

Civil liabilities of sellers of seed

23.—(1) The particulars given to a purchaser by the seller of seed to which these Regulations apply, whether given in pursuance of these Regulations expressly or by implication arising from the description under which the seed is sold, shall constitute a statutory warranty for the purpose of section 17 of the Act in so far as they relate to the category of the seed, the percentage germination of the seed, the percentage analytical purity of the seed, the content of seed of other plant species, the varietal identity and the varietal purity of the seed or, in the case of a mixture of seed permitted by regulation 7, of each of its constituents to which these Regulations apply.

(2) Section 17(2) of the Act shall apply to any particulars given to a purchaser by the seller of seed, being particulars given or implied as in paragraph (1), in so far as they relate to the percentage germination, the percentage analytical purity, or the content of seed of other plant species and there are hereby prescribed in respect of such matters the limits of variation set out in Schedule 7.

(3) Section 17(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, the percentage analytical purity or the content of seed of other plant species.

(4) A purchaser who intends to obtain a test of seed for the purposes of section 17(3) of the Act shall, not more than 10 days after delivery to that purchaser of the seed, give to the seller written notice of the purchaser's 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 at which a sample of the seed may be taken in the presence of the seller or the seller's representative and the purchaser shall afford to the seller reasonable facilities for that purpose.

(5) On the day and at the time appointed by the seller in accordance with paragraph (4) or, if the seller fails to appoint such a day and time, on a day not more than 28 days after delivery of the seed to the purchaser, the purchaser or the purchaser's representative may, and if the seller or the seller's representative is present shall, take a sample from the relevant seed lot or part of a seed lot sold to the purchaser, which sample shall be at least twice the minimum weight prescribed in paragraph 24 of Part II of Schedule 5.

(6) A sample taken in accordance with the requirements of paragraph (5) shall be taken, and divided by the purchaser or the purchaser's representative into two parts in accordance with the methods specified in Part I of Schedule 5, each part being of at least the minimum weight prescribed in paragraph 24 of Part II of Schedule 5, of which one part shall be sent to the Chief Officer of the Official Seed Testing Station for Scotland for the purpose of being tested and the other part delivered or tendered to the seller or the seller's representative or, if the seller or the seller's representative was not present when the sample was taken, sent to the seller by post.