
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 224

SEEDS

The Seed (Scotland) (Amendments for Tests and Trials etc.) Regulations 2007

<i>Made</i>	- - - -	<i>7th March 2007</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>9th March 2007</i>
<i>Coming into force</i>	- -	<i>1st April 2007</i>

The Scottish Ministers, in exercise of the powers conferred by sections 16(1), (1A), (2), (3) and (5) 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 and commencement

1. These Regulations may be cited as the Seed (Scotland) (Amendments for Tests and Trials etc.) Regulations 2007 and shall come into force on 1st April 2007.

Amendment of the Cereal Seed (Scotland) Regulations 2005

2. The Cereal Seed (Scotland) Regulations 2005(2) are amended in accordance with regulations 3 to 11.

3. In regulation 2(1) (interpretation)–

(a) after the definition of “the Cereal Seed Directive” insert–

““the 2004 Commission Decision” means Commission Decision [2004/842/EC](#) concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted(3);

(1) [1964 c. 14](#); section 16 was amended by the European Communities Act [1972 \(c. 68\)](#), section 4(1) and paragraphs 5(1) and (2) of Schedule 4; see section 38(1) for the definition of “the Minister”. The functions of the Secretary of State, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c. 46\)](#).
(2) [S.S.I. 2005/328](#) as amended by [S.S.I. 2006/313](#) and [448](#).
(3) O.J. No. L 362, 9.12.2004, p.21.

“Commission Regulation 217/2006” means 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⁽⁴⁾

(b) omit the definition of “the 1990 Deliberate Release Directive”; and

(c) after the definition of “submitted sample”, insert—

““test and trial seed” means seed which is the subject of an authorisation of a type described in regulation 9A(1);

“tests and trials authorisation” means an authorisation granted by the Scottish Ministers under regulation 9A(4);”.

4. For regulation 9 (exception for scientific selection work and for tests and trials), substitute—

“Exception for scientific purposes or selection work

9.—(1) Regulation 6(1)(b) shall not apply to the marketing by a producer of small quantities of seed for scientific purposes or selection work for which—

(a) an authorisation has been granted to the producer by the Scottish Ministers in accordance with this regulation; or

(b) an authorisation has been granted to the producer by a European Authority other than the Scottish Ministers in respect of small quantities of seed for scientific purposes or selection work pursuant to Article 4a(1)(a) (exemption for small quantities of seed for scientific purposes or selection work) of the Cereal Seed Directive.

(2) A producer established in Scotland may apply to the Scottish Ministers for authorisation under this regulation.

(3) An application under paragraph (2) shall be made in writing to the Scottish Ministers and shall be accompanied by such information as the Scottish Ministers may require.

(4) The Scottish Ministers shall not grant an authorisation under this regulation for scientific purposes or selection work in respect of seed of a genetically modified variety unless an authorisation is in force in respect of the variety concerned under—

(a) the Food and Feed Regulation; or

(b) Part C (placing on the market of GMOs as or in products) of the 2001 Deliberate Release Directive,

and then only if all appropriate measures, in accordance with the environmental risk assessment in respect of the genetically modified material carried out in accordance with Article 7(4) (environmental risk assessment for seed varieties) of the Common Catalogue Directive, have been taken by the producer of the seed to avoid adverse effects on human health and the environment⁽⁵⁾.

(5) An authorisation under this regulation may—

(a) specify the amount of seed which may be marketed under it; and

(b) impose such conditions as the Scottish Ministers think necessary or desirable having regard to the nature of the scientific purposes or selection work involved

⁽⁴⁾ O.J. No. L 38, 9.2.2006, p.17.

⁽⁵⁾ “The Food and Feed Regulation”, “the 2001 Deliberate Release Directive” and “the Common Catalogue Directive” are each defined in regulation 2 of the Cereal Seed (Scotland) Regulations 2005.

and the nature of the seed to which the authorisation relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

Exception for test and trial seed

9A.—(1) Regulation 6(1)(b) shall not apply to the marketing by a producer of seed for test and trial purposes in accordance with—

- (a) a tests and trials authorisation; or
- (b) an authorisation which has been granted to the producer by a European Authority other than the Scottish Ministers pursuant to Article 4a(1)(b) (exemption for test and trial purposes) of the Cereal Seed Directive,

which has been granted in accordance with Article 2(1) (authorisation) of the 2004 Commission Decision.

(2) A producer established in Scotland may apply to the Scottish Ministers for authority to market seed for the purposes of tests or trials to be carried out at an agricultural enterprise to gather information on the cultivation or use of a variety of a species specified in Schedule 1.

(3) An application under paragraph (2) shall be made in writing to the Scottish Ministers and shall be accompanied by such information as the Scottish Ministers may require.

(4) The Scottish Ministers shall not grant a tests and trials authorisation unless they are satisfied that—

- (a) the seed is of a variety for which an application has been made by the applicant under regulation 4(1)(a) (applications in relation to National Lists) of the Seeds (National Lists of Varieties) Regulations 2001⁽⁶⁾ for acceptance on to a National List and the application has not been withdrawn or finally determined;
- (b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety under either—
 - (i) the Food and Feed Regulation; or
 - (ii) Part C (placing on the market of GMOs as or in products) of the 2001 Deliberate Release Directive;
- (c) the marketing is for the purposes of tests or trials to be carried out at an agricultural enterprise to gather information on the cultivation or use of a variety of a species specified in Schedule 1;
- (d) an official field inspection has been carried out by the Scottish Ministers or by a licensed crop inspector and a report issued stating that—
 - (i) for rye and maize (including hybrids of rye and maize), hybrids of barley, durum wheat, oats, spelt wheat, triticale (other than self-pollinating varieties) and wheat, the crop satisfies the conditions for Certified Seed set out in Schedule 4; or
 - (ii) for non-hybrid varieties of barley, durum wheat, oats, self-pollinating triticale, spelt wheat and wheat, the crop satisfies the conditions for Certified Seed of the Second Generation set out in Schedule 4;
- (e) an official examination of the seed has been undertaken and a report issued by the Scottish Ministers or by a licensed seed testing station stating that—
 - (i) for rye and maize (including hybrids of rye and maize), hybrids of barley, durum wheat, oats, spelt wheat, triticale (other than self-pollinating

⁽⁶⁾ S.I.2001/3510.

varieties) and wheat, the seed satisfies the conditions for Certified Seed set out in Schedule 4; or

(ii) for non-hybrid varieties of barley, durum wheat, oats, self-pollinating triticale, spelt wheat and wheat, the seed satisfies the conditions for Certified Seed of the Second Generation set out in Schedule 4; and

(f) such marketing would not contravene a prohibition on the use of the variety that complies with Article 14 of the 2004 Commission Decision and has been published by the Secretary of State in the gazette published under section 34(1) of the Act.

(5) A tests and trials authorisation shall last for a period of one year or such shorter period as the Scottish Ministers may specify.

(6) The Scottish Ministers shall not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.

(7) A tests and trials authorisation may be made subject to such conditions as the Scottish Ministers think necessary or desirable having regard to the nature of the tests or trials and the nature of the seed to which the authorisation relates.

(8) The Scottish Ministers may withdraw a tests and trials authorisation where they are satisfied that there has been a breach of a condition imposed under paragraph (7).

(9) A tests and trials authorisation shall cease to have effect where the application referred to in paragraph (4)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.

(10) The Scottish Ministers may require, as a condition of a tests and trials authorisation, that the producer to whom authorisation was granted provide them, on request, with information about—

- (a) the results of the tests and trials to which the authorisation relates; and
- (b) the quantities of seed marketed during the authorised period and the names of the Member States for which the seed was destined.”.

5. In regulation 10(2)(d) (general exemptions) after “Directive” insert “or by Commission Regulation 217/2006 or an authorisation granted thereunder”.

6. In regulation 16 (sealing of packages of fully certified seed)—

- (a) in paragraphs (1), (3), (4) and (5), for “regulations 6(1), 8, 9, 11 or 12”, substitute “regulations 6(1), 8, 9A, 11 or 12”;
- (b) in paragraph (1) after “applies,” insert “test and trial seed,”; and
- (c) in paragraphs (1)(a), (3)(a), (4) and (5) omit “, or under the supervision of,”.

7. In regulation 17 (labelling of packages of fully certified seed)—

- (a) in paragraph (1) for “regulations 6(1), 8, 9, 11 or 12”, substitute “regulations 6(1), 8, 9A, 11 or 12”;
- (b) in paragraphs (1), (5), (8) and (10), after “applies,” insert “test and trial seed,”; and
- (c) in paragraph (5)(a)(iii) omit “, or under the supervision of,”.

8. In regulation 21(1), (4) and (5) (sealing of packages of seed in relation to breeder’s confirmation) omit “, or under the supervision of,”.

9. In regulation 22(4)(b)(ii) (labelling of packages of seed in relation to breeder’s confirmation) omit “, or under the supervision of,”.

10. In Schedule 6—

- (a) in Part II (labels), after paragraph 6 (official label for a package of a mixture of seeds to which regulation 8 applies) insert–

“Official label for a package of test and trial seed

- 6A.** The official label for a package of test and trial seed shall–
- (a) subject to sub-paragraph (b), contain the following information–
- (i) the words “test and trial seed”;
 - (ii) certification authority and EEA State or their distinguishing abbreviation;
 - (iii) reference number of the seed lot;
 - (iv) month and year of sealing expressed by the word “Sealed” followed by the month and year of sealing;
 - (v) species;
 - (vi) variety under which the seed is to be marketed;
 - (vii) the official application number in relation to the application for listing under regulation 4(1)(a) (applications in relation to National Lists) of the Seeds (National List of Varieties) Regulations 2001(7);
 - (viii) the words “variety not yet officially listed”;
 - (ix) the words “for tests and trials only”;
 - (x) the words “genetically modified variety”, where applicable;
 - (xi) declared net or gross weight or declared number of pure seeds; and
 - (xii) 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 or, where applicable, clusters and the total weight;
- (b) not contain the information referred to in sub-paragraph (a)(ix) if that information is given on an official sticker attached to the official label;
- (c) be a minimum size of 110 millimetres by 67 millimetres; and
- (d) be coloured orange.”; and
- (b) in Part VI (printing of specified matters on packages)–
- (i) in paragraph 12 (packages sealed in Scotland – printers' returns) for “21(5)” substitute “22(6)”;
 - (ii) for paragraph 16 (seed packages sealed in the United Kingdom but not in Scotland, or in an EEA State other than the United Kingdom), substitute–

“**16.** Such requirements of the EEA State (if the seed was sealed in that EEA State) or the Department of Agriculture and Rural Development (if the seed was sealed in Northern Ireland), the National Assembly for Wales (if the seed was sealed in Wales) or the Secretary of State (if the seed was sealed in England) as correspond to the requirements specified in paragraphs 12 to 15 of this Part of this Schedule for seed which has been sealed in Scotland shall be satisfied.”.

- 11.** In Schedule 9 (definition of Cereal Seed Directive), at the end of the table insert the entries shown in columns 1 and 2 of the following table–

<i>Column 1</i>	<i>Column 2</i>
Reference	Community Instrument
Council Directive 2004/117/EC	O.J. No. L 14, 18.1.2005, p.18
Council Directive 2006/55/EC	O.J. No. L 159, 13.6.2006, p.13

Amendment of the Fodder Plant Seed (Scotland) Regulations 2005

12.—(1) The Fodder Plant Seed (Scotland) Regulations 2005⁽⁸⁾ are amended in accordance with regulations 13 to 23.

13. In regulation 2(1) (interpretation)—

(a) after the definition of “bulked seed lot” insert—

““the 2004 Commission Decision” means Commission Decision [2004/842/EC](#) concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted⁽⁹⁾;

“Commission Regulation 217/2006” means 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⁽¹⁰⁾

(b) omit the definition of “the 1990 Deliberate Release Directive”; and

(c) after the definition of “submitted sample” insert—

““test and trial seed” means seed which is the subject of an authorisation of a type described in regulation 9A(1);

“tests and trials authorisation” means an authorisation granted by the Scottish Ministers under regulation 9A(4);”.

14. In regulation 3 (definitions of seed categories), in the definition of “Basic Seed” in relation to a component of a hybrid variety of fodder kale, in paragraph (c)(i) and (ii), for “paragraph (a) or (b) and paragraph (c)” substitute “paragraphs (a) and (b)”;

15. For regulation 9 (exception for scientific selection work and for tests and trials) substitute—

“Exception for scientific purposes or selection work

9.—(1) Regulation 6(1)(b) shall not apply to the marketing by a producer of small quantities of seed for scientific purposes or selection work for which—

(a) an authorisation has been granted to the producer by the Scottish Ministers in accordance with this regulation; or

(b) an authorisation has been granted to the producer by a European Authority other than the Scottish Ministers in respect of small quantities of seed for scientific purposes or selection work pursuant to Article 4a(1)(a) (exemption for small quantities of seed for scientific purposes or selection work) of the Fodder Plant Seed Directive.

⁽⁸⁾ S.S.I. 2005/329 as amended by S.S.I. 2006/313 and 448.

⁽⁹⁾ O.J. No. L 362, 9.12.2004, p.21.

⁽¹⁰⁾ O.J. No. L 38, 9.2.2006, p.17.

(2) A producer established in Scotland may apply to the Scottish Ministers for authorisation under this regulation.

(3) An application under paragraph (2) shall be made in writing to the Scottish Ministers and shall be accompanied by such information as the Scottish Ministers may require.

(4) The Scottish Ministers shall not grant an authorisation under this regulation for scientific purposes or selection work in respect of seed of a genetically modified variety unless an authorisation is in force in respect of the variety concerned under—

- (a) the Food and Feed Regulation; or
- (b) Part C (placing on the market of GMOs as or in products) of the 2001 Deliberate Release Directive,

and then only if all appropriate measures, in accordance with the environmental risk assessment in respect of the genetically modified material carried out in accordance with Article 7(4) (environmental risk assessment for seed varieties) of the Common Catalogue Directive, have been taken by the producer of the seed to avoid adverse effects on human health and the environment⁽¹¹⁾.

(5) An authorisation under this regulation may—

- (a) specify the amount of seed which may be marketed under it; and
- (b) impose such conditions as the Scottish Ministers think necessary or desirable having regard to the nature of the scientific purposes or selection work involved and the nature of the seed to which the authorisation relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

Exception for test and trial seed

9A.—(1) Regulation 6(1)(b) shall not apply to the marketing by a producer of seed for test and trial purposes in accordance with—

- (a) a tests and trials authorisation; or
- (b) an authorisation which has been granted to the producer by a European Authority other than the Scottish Ministers pursuant to Article 4a(1)(b) (exemption for test and trial purposes) of the Fodder Plant Seed Directive,

which has been granted in accordance with Article 2(1) (authorisation) of the 2004 Commission Decision.

(2) A producer established in Scotland may apply to the Scottish Ministers for authority to market seed for the purposes of tests or trials to be carried out at an agricultural enterprise to gather information on the cultivation or use of a variety of a species specified in Schedule 1.

(3) An application under paragraph (2) shall be made in writing to the Scottish Ministers and shall be accompanied by such information as the Scottish Ministers may require.

(4) The Scottish Ministers shall not grant a tests and trials authorisation unless they are satisfied that—

- (a) the seed is of a variety for which an application has been made by the applicant under regulation 4(1)(a) (applications in relation to National Lists) of the Seeds (National Lists of Varieties) Regulations 2001⁽¹²⁾ for acceptance on to a National List and the application has not been withdrawn or finally determined;

⁽¹¹⁾ “The Food and Feed Regulation”, “the 2001 Deliberate Release Directive” and “the Common Catalogue Directive” are each defined in regulation 2 of the Fodder Plant Seed (Scotland) Regulations 2005.

⁽¹²⁾ S.I. 2001/3510.

- (b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety under either—
 - (i) the Food and Feed Regulation; or
 - (ii) Part C (placing on the market of GMOs as or in products) of the 2001 Deliberate Release Directive;
 - (c) the marketing is for the purposes of tests or trials to be carried out at an agricultural enterprise to gather information on the cultivation or use of a variety of a species specified in Schedule 1;
 - (d) an official field inspection has been carried out by the Scottish Ministers or by a licensed crop inspector and a report issued stating that—
 - (i) in the case of species other than field pea and field bean, the crop satisfies the conditions for Certified Seed set out in Schedule 4; or
 - (ii) in the case of the species field pea and field bean, the crop satisfies the conditions for Certified Seed of the Second Generation set out in Schedule 4;
 - (e) an official examination of the seed has been undertaken and a report issued by the Scottish Ministers or by a licensed seed testing station stating that—
 - (i) in the case of species other than field pea and field bean, the seed satisfies the conditions for Certified Seed set out in Schedule 4; or
 - (ii) in the case of the species field pea and field bean, the seed satisfies the conditions for Certified Seed of the Second Generation set out in Schedule 4; and
 - (f) such marketing would not contravene a prohibition on the use of the variety that complies with Article 14 of the 2004 Commission Decision and has been published by the Secretary of State in the gazette published under section 34(1) of the Act.
- (5) A tests and trials authorisation shall last for a period of one year or such shorter period as the Scottish Ministers may specify.
- (6) The Scottish Ministers shall not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.
- (7) A tests and trials authorisation may be made subject to such conditions as the Scottish Ministers think necessary or desirable having regard to the nature of the tests or trials and the nature of the seed to which the authorisation relates.
- (8) The Scottish Ministers may withdraw a tests and trials authorisation where they are satisfied that there has been a breach of a condition imposed under paragraph (7).
- (9) A tests and trials authorisation shall cease to have effect where the application referred to in paragraph (4)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.
- (10) The Scottish Ministers may require, as a condition of a tests and trials authorisation, that the producer to whom authorisation was granted provide them, on request, with information about—
 - (a) the results of the tests and trials to which the authorisation relates; and
 - (b) the quantities of seed marketed during the authorised period and the name of the Member State for which the seed was destined.”.

16. In regulation 10(2)(d) (general exemptions) after “Directive” insert “or by Commission Regulation 217/2006 or an authorisation granted thereunder”.

17. In regulation 16 (sealing of packages of fully certified seed)–
- (a) in paragraphs (1), (3), (4) and (5) for “regulations 6(1), 8, 9, 11 or 12”, substitute “regulations 6(1), 8, 9A, 11 or 12”;
 - (b) in paragraph (1) after “applies,” insert “test and trial seed,”; and
 - (c) in paragraphs (1)(a), (3)(a), (4) and (5) omit “, or under the supervision of,”.
18. In regulation 17 (labelling of packages of fully certified seed)–
- (a) in paragraph (1) for “regulations 6(1), 8, 9, 11 or 12”, substitute “regulations 6(1), 8, 9A, 11 or 12”;
 - (b) in paragraphs (1), (5), (8) and (10), after “applies,” insert “test and trial seed,”; and
 - (c) in paragraph (5)(a)(iii) omit “, or under the supervision of,”.
19. In regulation 18 (marketing of unpacketed seed) omit “Subject to regulation 17(3) and (13)”.
20. In regulation 21(1), (4) and (5) (sealing of packages of seed in relation to breeder’s confirmation) omit “, or under the supervision of,”.
21. In regulation 22(4)(b)(ii) (labelling of packages of seed in relation to breeder’s confirmation) omit “, or under the supervision of,”.
22. In Schedule 6–
- (a) in Part II (labels), after paragraph 6 (official label for a package of Commercial Seed) insert–

“Official label for a package of test and trial seed

- 6A. The official label for a package of test and trial seed shall–
- (a) subject to sub-paragraph (b), contain the following information–
 - (i) the words “test and trial seed”;
 - (ii) certification authority and EEA State or their distinguishing abbreviation;
 - (iii) reference number of the seed lot;
 - (iv) month and year of sealing expressed by the word “Sealed” followed by the month and year of sealing;
 - (v) species;
 - (vi) variety under which the seed is to be marketed;
 - (vii) the official application number in relation to the application for listing under regulation 4(1)(a) (applications in relation to National Lists) of the Seeds (National List of Varieties) Regulations 2001(13);
 - (viii) the words “variety not yet officially listed”;
 - (ix) the words “for tests and trials only”;
 - (x) the words “genetically modified variety”, where applicable;
 - (xi) declared net or gross weight or declared number of pure seeds; and
 - (xii) 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 or, where applicable, clusters and the total weight;

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- (b) not contain the information referred to in sub-paragraph (a)(ix) if that information is given on an official sticker attached to the official label;
 - (c) be a minimum size of 110 millimetres by 67 millimetres; and
 - (d) be coloured orange.”; and
- (b) in Part VI (printing of specified matters on packages)–
- (i) in paragraph 13 (packages sealed in Scotland – printers' returns) for “21(5)” substitute “22(6)”;
 - (ii) for paragraph 17 (seed packages sealed in the United Kingdom but not in Scotland, or in an EEA State other than the United Kingdom) substitute–

“17. Such requirements of the EEA State (if the seed was sealed in that EEA State) or the Department of Agriculture and Rural Development (if the seed was sealed in Northern Ireland), the National Assembly for Wales (if the seed was sealed in Wales) or the Secretary of State (if the seed was sealed in England) as correspond to the requirements specified in paragraphs 12 to 15 of this Part of this Schedule for seed which has been sealed in Scotland shall be satisfied.”.

23. In Schedule 9 (definition of the Fodder Plant Seed Directive), at the end of the table insert the entries shown in columns 1 and 2 of the following table–

<i>Column 1</i>	<i>Column 2</i>
Community Instrument	Reference
Council Directive 2004/117/EC	O.J. No. L 14, 18.1.2005, p.18

Amendment of the Oil and Fibre Plant Seed (Scotland) Regulations 2004

24.—(1) The Oil and Fibre Plant Seed (Scotland) Regulations 2004(**14**) are amended in accordance with regulations 25 to 32.

25. In regulation 2(1) (interpretation)–

- (a) after the definition of “bulked seed lot” insert–
 - ““the 2004 Commission Decision” means Commission Decision [2004/842/EC](#) concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted(**15**);
 - “Commission Regulation 217/2006” means 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(**16**);”;
- (b) omit the definition of “the 1990 Deliberate Release Directive”;
- (c) in the definition of “official post-control”, in paragraph (a)(i)(bb), for “15(1)” substitute “15(a)”;
- (d) for the definition of “Oil and Fibre Plant Seed Directive” substitute–

(14) [S.S.I. 2004/317](#) as amended by [S.S.I. 2006/313](#).

(15) O.J. No. L 362, 9.12.2004, p.21.

(16) O.J. No. L 38, 9.2.2006, p.17.

““Oil and Fibre Plant Seed Directive” means Council Directive [2002/57/EC\(17\)](#) on the marketing of seed of oil and fibre plants as amended by Council Directive [2002/68/EC\(18\)](#), Commission Directive [2003/45/EC\(19\)](#), Council Directive [2003/61/EC\(20\)](#) and Council Directive [2004/117/EC\(21\)](#)”; and

(e) after the definition of “swede rape” insert–

““test and trial seed” means seed which is the subject of an authorisation of a type described in regulation 8A(1);

“tests and trials authorisation” means an authorisation granted by the Scottish Ministers under regulation 8A(4);”.

26. For regulation 8 (exception for scientific selection work and for tests and trials) substitute–

“Exception for scientific purposes or selection work

8.—(1) Regulation 6(1)(b) shall not apply to the marketing by a producer of small quantities of seed for scientific purposes or selection work for which–

- (a) an authorisation has been granted to the producer by the Scottish Ministers in accordance with this regulation; or
- (b) an authorisation has been granted to the producer by a European Authority other than the Scottish Ministers in respect of small quantities of seed for scientific purposes or selection work pursuant to Article 6(1)(a) (exemption for small quantities of seed for scientific purposes or selection work) of the Oil and Fibre Plant Seed Directive.

(2) A producer established in Scotland may apply to the Scottish Ministers for authorisation under this regulation.

(3) An application under paragraph (2) shall be made in writing to the Scottish Ministers and shall be accompanied by such information as the Scottish Ministers may require.

(4) The Scottish Ministers shall not grant an authorisation under this regulation for scientific purposes or selection work in respect of seed of a genetically modified variety unless an authorisation is in force in respect of the variety concerned under–

- (a) the Food and Feed Regulation; or
- (b) Part C (placing on the market of GMOs as or in products) of the 2001 Deliberate Release Directive,

and then only if all appropriate measures, in accordance with the environmental risk assessment in respect of the genetically modified material carried out in accordance with Article 7(4) (environmental risk assessment for seed varieties) of the Common Catalogue Directive, have been taken by the producer of the seed to avoid adverse effects on human health and the environment(22).

(5) An authorisation under this regulation may–

- (a) specify the amount of seed which may be marketed under it; and
- (b) impose such conditions as the Scottish Ministers think necessary or desirable having regard to the nature of the scientific purposes or selection work involved

(17) O.J. No. L 193, 20.7.2002, p.74.

(18) O.J. No. L 195, 24.7.2002, p.32.

(19) O.J. No. L 138, 5.6.2003, p.40.

(20) O.J. No. L 165, 3.7.2003, p.23.

(21) O.J. No. L 14, 18.1.2005, p.18.

(22) “The Food and Feed Regulation”, “the 2001 Deliberate Release Directive” and “the Common Catalogue Directive” are each defined in regulation 2 of the Oil and Fibre Plant Seed (Scotland) Regulations 2004.

and the nature of the seed to which the authorisation relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

Exception for test and trial seed

8A.—(1) Regulation 6(1)(b) shall not apply to the marketing by a producer of seed for test and trial purposes in accordance with—

- (a) a tests and trials authorisation; or
- (b) an authorisation which has been granted to the producer by a European Authority other than the Scottish Ministers pursuant to Article 6(1)(b) (exemption for test and trial purposes) of the Oil and Fibre Plant Seed Directive,

which has been granted in accordance with Article 2(1) (authorisation) of the 2004 Commission Decision.

(2) A producer established in Scotland may apply to the Scottish Ministers for authority to market seed for the purposes of tests or trials to be carried out at an agricultural enterprise to gather information on the cultivation or use of a variety of a species specified in Schedule 1.

(3) An application under paragraph (2) shall be made in writing to the Scottish Ministers and shall be accompanied by such information as the Scottish Ministers may require.

(4) The Scottish Ministers shall not grant a tests and trials authorisation unless they are satisfied that—

- (a) the seed is of a variety for which an application has been made by the applicant under regulation 4(1)(a) (applications in relation to National Lists) of the Seeds (National Lists of Varieties) Regulations 2001(**23**) for acceptance on to a National List and the application has not been withdrawn or finally determined;
- (b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety under either—
 - (i) the Food and Feed Regulation; or
 - (ii) Part C (placing on the market of GMOs as or in products) of the 2001 Deliberate Release Directive;
- (c) the marketing is for the purposes of tests or trials to be carried out at an agricultural enterprise to gather information on the cultivation or use of a variety of a species specified in Schedule 1;
- (d) an official field inspection has been carried out by the Scottish Ministers or by a licensed crop inspector and a report issued stating that—
 - (i) in the case of species other than flax and linseed, the crop satisfies the conditions for Certified Seed set out in Schedule 4; or
 - (ii) in the case of flax and linseed, the crop satisfies the conditions for Certified Seed of the Second Generation or Certified Seed of the Third Generation set out in Schedule 4;
- (e) an official examination of the seed has been undertaken and a report issued by the Scottish Ministers or by a licensed seed testing station stating that—
 - (i) in the case of species other than flax and linseed, the seed satisfies the conditions for Certified Seed set out in Schedule 4; or

- (ii) in the case of flax and linseed, the seed satisfies the conditions for Certified Seed of the Second Generation or Certified Seed of the Third Generation set out in Schedule 4; and
 - (f) such marketing would not contravene a prohibition on the use of the variety that complies with Article 14 of the 2004 Commission Decision and has been published by the Secretary of State in the gazette published under section 34(1) of the Act.
- (5) A tests and trials authorisation shall last for a period of one year or such shorter period as the Scottish Ministers may specify.
- (6) The Scottish Ministers shall not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.
- (7) A tests and trials authorisation may be made subject to such conditions as the Scottish Ministers think necessary or desirable having regard to the nature of the tests or trials and the nature of the seed to which the authorisation relates.
- (8) The Scottish Ministers may withdraw a tests and trials authorisation where they are satisfied that there has been a breach of a condition imposed under paragraph (7).
- (9) A tests and trials authorisation shall cease to have effect where the application referred to in paragraph (4)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.
- (10) The Scottish Ministers may require, as a condition of a tests and trials authorisation that the producer to whom authorisation was granted provide them, on request, with information about—
- (a) the results of the tests and trials to which the authorisation relates; and
 - (b) the quantities of seed marketed during the authorised period and the name of the Member State for which the seed was destined.”.
- 27.** In regulation 10(2)(d) (general exemptions) after “Directive” insert “or by Commission Regulation 217/2006 or an authorisation granted thereunder”.
- 28.** In regulation 16 (sealing of packages of fully certified seed)—
- (a) in paragraphs (1), (3), (4) and (5), for “regulations 6(1), 9, 11 or 12”, substitute “regulations 6(1), 8A, 9, 11 or 12”; and
 - (b) in paragraph (1) after “Generation,” insert “test and trial seed,”.
- 29.** In regulation 17 (labelling of packages of fully certified seed)—
- (a) in paragraph (1) for “regulations 6(1), 9, 11 or 12”, substitute “regulations 6(1), 8A, 9, 11 or 12”; and
 - (b) in paragraphs (1), (5), (8) and (10), after “Generation,” insert “test and trial seed,”.
- 30.** In regulation 18 (marketing of unpacked seed), omit “Subject to regulation 17(3) and (13)”.
- 31.** In regulation 24(2) (service of notices) for “this section” substitute “this regulation”.
- 32.** In Schedule 6—
- (a) in Part II (labels), after paragraph 6 (official label for a package of Commercial Seed) insert—

“Official label for a package of test and trial seed

- 6A.** The official label for a package of test and trial seed shall—
- (a) subject to sub-paragraph (b), contain the following information—

- (i) the words “test and trial seed”;
 - (ii) certification authority and EEA State or their distinguishing abbreviation;
 - (iii) reference number of the seed lot;
 - (iv) month and year of sealing expressed by the word “Sealed” followed by the month and year of sealing;
 - (v) species;
 - (vi) variety under which the seed is to be marketed;
 - (vii) the official application number in relation to the application for listing under regulation 4(1)(a) (applications in relation to National Lists) of the Seeds (National List of Varieties) Regulations 2001(24);
 - (viii) the words “variety not yet officially listed”;
 - (ix) the words “for tests and trials only”;
 - (x) the words “genetically modified variety”, where applicable;
 - (xi) declared net or gross weight; and
 - (xii) 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 or, where applicable, clusters and the total weight;
- (b) not contain the information referred to in sub-paragraph (a)(x) if that information is given on an official sticker attached to the official label;
 - (c) be a minimum size of 110 millimetres by 67 millimetres; and
 - (d) be coloured orange.”; and
- (b) In Part VI (printing of specified matters on packages), for paragraph 17 (seed packages sealed in the United Kingdom but not in Scotland, or in an EEA State other than the United Kingdom) substitute–

“17. Such requirements of the EEA State (if the seed was sealed in that EEA State) or the Department of Agriculture and Rural Development (if the seed was sealed in Northern Ireland), the National Assembly for Wales (if the seed was sealed in Wales) or the Secretary of State (if the seed was sealed in England) as correspond to the requirements specified in paragraphs 11 to 16 of this Part of this Schedule for seed which has been sealed in Scotland shall be satisfied.”.

St Andrew’s House,
Edinburgh
7th March 2007

ROSS FINNIE
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st April 2007, amend the Cereal Seed (Scotland) Regulations 2005, the Fodder Plant Seed (Scotland) Regulations 2005 and the Oil and Fibre Plant Seed (Scotland) Regulations 2004 (referred to collectively as “the principal Regulations”) in order to provide for a more detailed procedure, in implementation of Commission Decision [2004/842/EC](#), in relation to authorisations to market certain species of seed for test and trial purposes (regulations 4, 15 and 26).

An authorisation—

- (a) may only be granted in relation to a variety for which an application has been submitted for inclusion in the UK National List of plant varieties of agricultural plant species;
- (b) may not be granted in relation to a genetically modified variety unless certain other authorisations are in place;
- (c) may only be granted for tests and trials at an agricultural enterprise to gather information on the cultivation or use of a variety;
- (d) may only be granted where the crop and seed has satisfied certain standards on field inspection and official examination;
- (e) shall last for one year or such shorter period as the Scottish Ministers may specify;
- (f) may be made subject to conditions; and
- (g) may be withdrawn on breach of an attached condition.

Authorisations of other European Authorities (as defined in the principal Regulations) continue to be recognised for the purposes of the principal Regulations.

These Regulations also make certain consequential amendments including—

- (a) the restatement, with minor amendments, of the authorisation provisions in relation to marketing seed for scientific purposes and selection work (regulations 4, 15 and 26);
- (b) the insertion of new definitions in the principal Regulations (regulations 3, 13 and 25); and
- (c) various amendments to sealing and labelling provisions in the principal Regulations.

These Regulations amend the principal Regulations to provide for licences to be granted for the marketing of lower germination seed under Commission Regulation [\(EC\) No. 217/2006](#) (regulations 5, 16 and 27). They also update the definitions of the seed marketing directives in the principal Regulations (regulations 11, 23 and 25(d)). They also make minor corrections to provisions and cross-references in the principal Regulations.

A Regulatory Impact Assessment has been prepared in respect of these Regulations and copies have been placed in the Scottish Parliament Information Centre. Copies may also be obtained from the Scottish Executive Environment and Rural Affairs Department, Area 1-B, Pentland House, 47 Robb’s Loan, Edinburgh, EH14 1TY.