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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 224**

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

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

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<sup>(1)</sup>.

(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.

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(1) “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.

### 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<sup>(2)</sup> 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.”.