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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 148**

**The Beet Seed (Scotland) (No. 2) Regulations 2010**

**PART I**  
**GENERAL**

**Interpretation**

**2.—(1)** In these Regulations—

“the Act” means the Plant Varieties and Seeds Act 1964;

“additional region” means the region for seed production approved by the Scottish Ministers for the purposes of the second paragraph of Article 11(1) (additional regions) of Commission Directive 2008/62;

“Basic Seed” has the meaning given in paragraph 3 of Part II of Schedule 1;

“Beet” means plants of the species specified in Part I of Schedule 1;

“the Beet Seed Directive” means Council Directive [2002/54/EC](#) on the marketing of beet seed<sup>(1)</sup>;

“breeder”—

(a) in relation to a variety which has not been accepted on to a UK National List or the Common Catalogue, includes any person lawfully multiplying (on that person’s own account) seed bred by another; and

(b) in relation to a variety which has been so accepted, means the person who is indicated in the relevant UK National List or in the Common Catalogue as responsible for maintaining the plant variety in accordance with the characteristics to which regard was had when the plant variety was accepted on to the relevant UK National List or Common Catalogue;

“breeder’s confirmation” means a document issued by the Scottish Ministers in accordance with Part II of Schedule 2 containing in respect of the seed to which it relates the particulars specified in paragraph 2 of Schedule 3;

“breeder’s designation” means the title, name or other designation proposed by a breeder for a new plant variety which is the subject of an application for acceptance on to a UK National List;

“Breeder’s Seed” has the meaning given in paragraph 1 of Part II of Schedule 1;

“Certified Seed” has the meaning given in paragraph 4 of Part II of Schedule 1;

“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<sup>(2)</sup>;

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(1) O.J. L 193, 20.7.2002, p.12, as amended by Council Directive [2003/61/EC](#), O.J. L 165, 3.7.2003, p.23 and Council Directive [2004/117/EC](#), O.J. L 14, 18.1.2005, p.18.

(2) O.J. L 362, 9.12.2004, p.21.

“Commission Directive 2008/62” means Commission Directive [2008/62/EC](#) providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties(3);

“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);

“Common Catalogue” means the Common Catalogue of varieties of species of agricultural plants published in the Official Journal of the European Communities;

“the Common Catalogue Directive” means Council Directive [2002/53/EC](#) on the common catalogue of varieties of agricultural plant species(5);

“component” means—

- (a) in the case of Pre-Basic Seed, a component used in the production of a hybrid variety; and
- (b) in the case of Basic Seed, a component of a hybrid variety;

“Conservation Variety” means the landraces or varieties of agricultural plant species which are naturally adapted to local and regional conditions and threatened by genetic erosion and are contained within a UK National List and for these purposes—

- (a) “landrace” means a set of populations or clones of a plant species which are naturally adapted to the environmental conditions of their region; and
- (b) “genetic erosion” means loss of genetic diversity between and within populations of varieties of the same species over time or reduction of the genetic basis of a species due to human intervention or environmental change;

“control plot” means a plot sown by a European Authority with seed from a submitted sample taken—

- (a) by a European Authority;
- (b) by a licensed seed sampler; or
- (c) by an applicant of seed of a Conservation Variety;

“the 2001 Deliberate Release Directive” means Directive [2001/18/EC](#) of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms and repealing Council Directive [90/220/EEC](#)(6);

“Department of Agriculture and Rural Development” means the Department of Agriculture and Rural Development in Northern Ireland;

“early movement seed” means seed marketed under regulation 12;

“Equivalence Decision” means Council Decision [2003/17/EC](#) on the equivalence of field inspections carried out in third countries on seed producing crops and on the equivalence of seed produced in third countries(7);

(3) O.J. L 162, 21.6.2008, p.13.

(4) O.J. L 38, 9.2.2006, p.17.

(5) O.J. L 193, 20.7.2002, p.1, as amended by Regulation [\(EC\) No. 1829/2003](#), O.J. L 268, 18.10.2003, p.1.

(6) O.J. L 106, 17.4.2001, p.1, as amended by Commission Decision [2002/623/EC](#), O.J. L 200, 30.7.2002, p.22; Regulation [\(EC\) No. 1829/2003](#), O.J. L 268, 18.10.2008, p.1; Regulation [\(EC\) No. 1830/2003](#), O.J. L 268, 18.10.2003, p.24 and Directive [2008/27/EC](#), O.J. L 81, 20.3.2008, p.45.

(7) O.J. L 8, 14.1.2003, p.10, as amended by Council Decision [2003/403/EC](#), O.J. L 141, 7.6.2003, p.23; Council Regulation [\(EC\) No. 885/2004](#), O.J. L 168, 1.5.2004, p.1; Council Decision [2005/834/EC](#), O.J. L 312, 29.11.2005, p.51; Council Regulation [\(EC\) No. 1791/2006](#), O.J. L 363, 20.12.2006, p.1 and Council Decision [2007/780/EC](#), O.J. L 314, 1.12.2007, p.20.

“European Authority” means a National Authority or a competent seed certification authority of an EEA state other than the United Kingdom and “by a European Authority” means—

- (a) by or on behalf of the Department of Agriculture and Rural Development;
- (b) by or on behalf of the Welsh Ministers;
- (c) by or on behalf of the Scottish Ministers;
- (d) by or on behalf of the Secretary of State; or
- (e) by a competent seed certification authority of an EEA state other than the United Kingdom;

“first buyer by way of trade” has the same meaning as for the purposes of the Beet Seed Directive;

“the Food and Feed Regulation” means Regulation (EC) No. 1829/2003/EC of the European Parliament and of the Council on genetically modified food and feed<sup>(8)</sup>;

“fully certified” means—

- (a) officially certified; or
- (b) certified by a European Authority other than the Scottish Ministers,

as satisfying the conditions specified for the relevant category of seed in Part II of Schedule 1 and either in Schedule 4 or in Annex I (conditions for certification) of the Beet Seed Directive;

“genetically modified” has the same meaning as for the purposes of the 2001 Deliberate Release Directive;

“homogeneous seed lot” means a seed lot in which the seed has been so mixed or blended that it is as uniform as practicable and, as far as is practicable, the seed lot shows no evidence of heterogeneity;

“licensed crop inspector” means a person who holds a current licence to be a crop inspector granted by—

- (a) the Scottish Ministers under regulation 11(1) (licences) of the RLE Regulations; or
- (b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

“licensed EU crop inspector” means a person authorised by a competent seed certification authority in an EEA state other than the United Kingdom, pursuant to Article 2(3)(A)(a) (field inspectors) of the Beet Seed Directive, to carry out field inspections of crops in that EEA state;

“licensed seed sampler” means a person who holds a current licence to be a seed sampler granted by—

- (a) the Scottish Ministers under regulation 18(1) (licences) of the RLE Regulations; or
- (b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

“licensed seed testing station” means an establishment which holds a current licence for testing of seed granted by—

- (a) the Scottish Ministers under regulation 25(1) (licences) of the RLE Regulations; or
- (b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

“lower germination seed” means seed marketed under regulation 11;

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(8) O.J. L 268, 18.10.2003, p.1, as amended by Commission Regulation (EC) No. 1981/2006, O.J. L 368, 23.12.2006, p.99 and Regulation (EC) No. 298/2008, O.J. L 97, 9.4.2008, p.64.

“monogerm seed” means seed produced on genetically monogerm plants, the percentage of germinated clusters producing single seedlings being not less than the minimum specified in Part II of Schedule 4;

“National Authority” means the Department of Agriculture and Rural Development, the Welsh Ministers, the Scottish Ministers or the Secretary of State;

“natural seed” means seed of non-monogerm varieties, which has not been processed as precision seed;

“official certificate” means a certificate issued by the Scottish Ministers in accordance with these Regulations containing in respect of the seed to which it relates the particulars specified in paragraph 1 of Schedule 3 and “officially certified” shall be construed accordingly;

“official control” means under the supervision of, and in accordance with any conditions set by, a European Authority;

“official examination” means—

- (a) in relation to Certified Seed—
  - (i) an examination or a test carried out by the Scottish Ministers or a European Authority; or
  - (ii) if the seed has undergone official post control the results of which have been satisfactory, a field examination carried out by a licensed crop inspector; or
  - (iii) a test carried out by a licensed seed testing station; and
- (b) in relation to Pre-Basic Seed and Basic Seed—
  - (i) an examination or a test carried out by the Scottish Ministers or a European Authority; or
  - (ii) a test carried out by a licensed seed testing station;

“official field inspection” means a field examination of a crop carried out—

- (a) by a European Authority; or
- (b) in the case of seed which, if it were fully certified would be Certified Seed, and which has been harvested from a crop which has been produced from seed that has undergone official post control the results of which have been satisfactory, by a licensed crop inspector or a licensed EU crop inspector;

“official label” means a label issued by a European Authority and “official inner label” shall be construed accordingly;

“official post control” means a control plot has been sown with seed from the relevant seed lot and has produced plants which have been examined by the relevant European Authority; and “official post control the results of which have been satisfactory” means official post control has been carried out for the relevant seed lot and the relevant European Authority has found, having regard to—

- (a) the conditions specified in—
  - (i) in the case of the Scottish Ministers, Part II of Schedule 4; and
  - (ii) in the case of a European Authority other than the Scottish Ministers, Annex I (conditions for certification) of the Beet Seed Directive; and
- (b) the category of the seed to be produced,

that the plants produced in the control plot indicate that the corresponding plants in the field are satisfactory plants from which to harvest the relevant category of seed;

“official seal” means a seal issued by a European Authority;

“official sticker” means a sticker issued by a European Authority and attached to an official label;

“Pre-Basic Seed” has the meaning given in paragraph 2 of Part II of Schedule 1;

“precision seed” means seed processed for use in precision drills with the percentage of seeds producing single seedlings being not less than the minimum specified in Part II of Schedule 4;

“registered number” means the number issued to a person registered by the Scottish Ministers under regulation 5(1) (registrations) of the RLE Regulations or by another National Authority under any equivalent provision extending to any other part of the United Kingdom;

“region of origin” means the region forming a part or the whole of the United Kingdom identified by the Scottish Ministers for the purposes of Article 8.1 (region of origin) of Commission Directive 2008/62;

“rhizomania free zone” means a zone which has been designated as free of rhizomania by virtue of [Commission Regulation \(EC\) No 690/2008](#) of 4 July 2008 recognising protected zones exposed to particular plant health risks in the Community<sup>(9)</sup>;

“RLE Regulations” means the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006<sup>(10)</sup>;

“Sampling Guidance” means the guidance booklet titled ‘Instructions for Seed Samplers Licensed in Scotland, 2010’, produced by the Scottish Ministers;

“seed lot” means an identifiable consignment of seed of a weight not exceeding that specified in Schedule 5, including a blended seed lot and a bulked seed lot, which bears a unique seed lot reference number;

“seed of a Conservation Variety” means seed that has been produced in accordance with regulation 10 and meets the standards of Certified Seed set out in paragraph 4 of Part II of Schedule 1;

“seeds regulations” means regulations made under section 16 (seeds regulations) of the Act and for the time being in force;

“small EC package” means a package of Pre-Basic Seed, Basic Seed or Certified Seed containing—

- (a) in the case of monogerm or precision seeds—
  - (i) not more than 100,000 clusters or grains; or
  - (ii) a net weight of not more than 2.5 kilograms of seeds; and
- (b) in the case of seeds other than monogerm or precision seeds, a net weight of not more than 10 kilograms of seeds,

excluding (in each case) the weight of any granulated pesticides, pelleting substances or other solid additives;

“submitted sample” means a sample of at least the minimum weight of a sample specified in Schedule 5, or in the case of a sample to be submitted to a licensed seed testing station, double the minimum weight of a sample specified in Schedule 5, taken from a seed lot in accordance with the provisions set out in the Sampling Guidance;

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

“tests and trials authorisation” means an authorisation granted by the Scottish Ministers under regulation 9;

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<sup>(9)</sup> O.J. L 193, 22.7.2008, p.1, as amended by [Commission Regulation \(EC\) No. 823/2009](#), O.J. L 239, 10.9.2009, p.46 and [Commission Regulation \(EC\) No. 17/2010](#), O.J. L 7, 12.1.2010, p.1.

<sup>(10)</sup> S.S.I. 2006/313.

“third country” means a country listed in Annex I (countries, authorities and species) to the Equivalence Decision or Switzerland;

“UK National List” means a list of varieties of species of beet plants for the time being published in accordance with the Seeds (National Lists of Varieties) Regulations 2001(11).

(2) In these Regulations—

- (a) any reference to a numbered regulation, to a numbered Part or to a numbered Schedule is a reference to the regulation, Part or Schedule in these Regulations so numbered; and
- (b) any reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which that reference occurs.

(3) For the purposes of these Regulations, seeds-

- (a) produced and packaged in either an EEA 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 beet seeds in that EEA state or third country containing information specified in 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 such a breeder’s confirmation.

(4) For the purposes of these Regulations, seeds—

- (a) produced and packaged in either an EEA 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 beet seeds in that EEA state or third country containing information specified (in respect of packages of seed not finally certified) in Schedule 6; and
- (c) 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 a breeder’s confirmation or an official certificate.

(5) For the purposes of these Regulations, seeds-

- (a) produced and packaged in either an EEA state other than the United Kingdom or a third country;
- (b) labelled in accordance with the requirements of regulation 19; and
- (c) in the case of a small EC package of seeds, sealed in accordance with the requirements of regulation 18(5), or, in the case of seeds other than a small EC package of seeds, sealed by a competent authority concerned with the certification of beet seeds in that EEA state or third country,

shall be deemed to fall within the meaning of the appropriate category of seeds set out in Part II of Schedule 1.