

EXECUTIVE NOTE

THE SEED (SCOTLAND) (MISCELLANEOUS AMENDMENT) REGULATIONS 2010

S.S.I 2010/219

1. The above instrument was made in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4), and (5), 17(1), (2), (3) and (4) and 36 of the Plant Varieties and Seeds Act 1964¹ and in accordance with section 16(1) of that Act, the main industry representatives have been consulted. The instrument is subject to negative resolution procedure.

Background and Policy Objectives

2. The principle purpose of these Regulations is to amend 4 sets of seed marketing regulations which govern the marketing of seeds of various agricultural crops in Scotland. The 4 statutory instruments which will be amended by this SSI (“the 2010 Regulations”) are-

- the Cereal Seed (Scotland) Regulations 2005 (S.S.I 2005/328);
- the Fodder Plant Seed (Scotland) Regulations 2005 (S.S.I 2005/329);
- the Oil & Fibre Plant Seed (Scotland) Regulations 2004 (S.S.I 2004/317); and
- the Vegetable Seed Regulations 1993 (S.I. 1993/2008).

The changes are required in order to implement, in Scotland, Commission Directive 2009/74/EC (O.J. N^o. L 166, 27.6.2009, p.40). The Directive makes changes to the botanical names of some plants, the scientific names of some pests and it has made changes to certain schedules to take account of recent developments in scientific and technical knowledge.

Timing

The 2010 Regulations will come into force on 30 June 2010.

The 2010 Regulations

3. The specific changes that will be made to the 4 seed marketing regulations are:

- **Changes to scientific and botanical names**

Botanical reclassification of a number of plant species has meant that the Latin names of certain plant species need to be amended in the Cereal Seed, Fodder Plant Seed and Oil & Fibre Plant Seed regulations.

¹ Section 16 was amended by the European Communities Act 1972 (c.68), section 4(1) and Schedule 4, paragraph 5(1) and (2). See section 38(1) for the definition of “the Ministers”. 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)

- **Increase in seed lot size for some pulse seed e.g. peas and beans**

The International Seed Testing Association has revised its standards in respect of the maximum weights of seed lots and it is now possible to increase the maximum weight of seed that can be certified as a single consignment for the pulses in the vegetable regulations -

- (a) for seeds of 'Broad bean', 'French bean' and 'Pea' the seed lot weight is increased from 25 to 30 tonnes;
- (b) for 'Runner beans' the seed lot weight is increased from 20 to 30 tonnes.

It is noted that a consolidation of the Vegetable Seeds Regulations 1993 is currently underway.

- **Germination standard for naked barley and super-sweet corn has been reduced.**

As naked barley is susceptible to physical damage which can reduce germination, the minimum germination requirements have been reduced for this species through an amendment to this standard in the Cereal Seed (Scotland) Regulations 2006.

Varieties of super sweet corn have a number of problems associated with breeding. The seed is low in vigour and is more susceptible to disease, these combined make it difficult for the germination standard of 85% to be achieved and therefore a reduced germination rate of 80% has been set.

Consultation

4. The following bodies have been consulted during the preparation of the 2010 Regulations-

- NFU Scotland (NFUS)
- Agricultural Industries Confederation (AIC)
- Scottish Seed Trade Association (SSTA)
- Scottish Timothy Seed Growers Association (STSGA)

No responses to the consultation exercise were received.

Financial Effects

5. As these changes to the seed marketing regulations have no financial impact on the seed industry, no Regulatory Impact Assessment has been prepared.

Rural & Environment Directorate
Agriculture and Rural Development
1 June 2010

**COMMISSION DIRECTIVE 2009/74/EC
of 26 June 2009**

amending Council Directives 66/401/EEC, 66/402/EEC, 2002/55/EC and 2002/57/EC as regards the botanical names of plants, the scientific names of other organisms and certain Annexes to Directives 66/401/EEC, 66/402/EEC and 2002/57/EC in the light of developments of scientific and technical knowledge

Article number	Description	Regulation N°	Comments
<p>Article 1</p> <p>Amendments to Directive 66/401/EEC</p> <p>Directive 66/401/EEC is amended as follows:</p> <p>1. Article 2(1)(A) is amended as follows:</p> <p>(a) Point (a) is amended as follows:</p> <p>(i) in the title, the word ‘Gramineae’, is replaced by the words ‘Poaceae (Gramineae)’;</p> <p>(ii) in the entry starting with ‘<i>Agrostis gigantea</i>’, the words ‘<i>Agrostis gigantea</i>’ are replaced by the words ‘<i>Agrostis gigantea</i> Roth’;</p> <p>(iii) in the entry starting with ‘<i>Arrhenatherum elatius</i>’, the words ‘<i>Arrhenatherum elatius</i> (L.) P. Beauv. ex J. S et K.B Presl.’ are replaced by the words ‘<i>Arrhenatherum elatius</i> (L.) P. Beauv. ex J. Presl & C. Presl’;</p> <p>(iv) after the entry starting with ‘<i>Festuca arundinacea</i>’, the following entry is inserted:</p> <p>‘<i>Festuca filiformis</i> Pourr. - Fine leaved sheep’s fescue’;</p>	<p>These are nomenclature changes to the various species that the Fodder Plant Seed (Scotland) Regulations 2005 legislate for.</p> <p>Heading</p> <p>Nomenclature change</p> <p>Nomenclature change</p>	<p>Regulation 7, Column 2, Schedule 3,</p> <p>”</p> <p>”</p>	<p>Previously, only the “common” name appeared in the title.</p> <p>Plant species name change</p> <p>”</p>

<p>(v) in the entry starting with '<i>Festuca pratensis</i>', the words '<i>Festuca pratensis</i> Hudson' are replaced by the words '<i>Festuca pratensis</i> Huds.';</p> <p>(vi) after the entry starting with '<i>Festuca rubra</i>', the following entry is inserted:</p> <p><i>'Festuca trachyphylla</i> (Hack.) Krajina — Hard fescue';</p> <p>(vii) in the entry starting with '<i>Phleum bertolonii</i>', the words '<i>Phleum bertolonii</i> DC — Timothy' are replaced by the words '<i>Phleum nodosum</i> L. — Small timothy';</p> <p>(viii) the entry starting with '<i>Festuca</i> spp. x <i>Lolium</i> spp.' is replaced by the following:</p> <p><i>'xFestulolium</i> Asch. & Graebn. — Hybrids resulting from the crossing of a species of the genus <i>Festuca</i> with a species of the genus <i>Lolium</i>'.</p> <p>(b) Point (b) is amended as follows:</p> <p>(i) in the title, the word '<i>Leguminosae</i>', is replaced by the words '<i>Fabaceae</i> (<i>Leguminosae</i>)';</p> <p>(ii) in the entry starting with '<i>Lupinus angustifolius</i>' the words '<i>Lupinus angustifolius</i> L. — Blue lupin' are replaced by the words '<i>Lupinus angustifolius</i> L. — Narrow leaved lupin';</p> <p>(iii) in the entry starting with '<i>Medicago x varia</i>' the words '<i>Medicago x varia</i> T. Martyn — Lucerne' are replaced by the words '<i>Medicago x varia</i> T. Martyn — Sand lucerne';</p> <p>2. Annexes II and III to Directive 66/401/EEC are amended</p>	<p>Nomenclature change/new entry</p> <p>Nomenclature change</p> <p>Nomenclature change/new entry</p> <p>Nomenclature change</p> <p>Nomenclature change</p> <p>Nomenclature change</p> <p>Nomenclature change</p> <p>Nomenclature change</p>	<p>Regulation 7, Column 2, Schedule 3,</p> <p>”</p> <p>”</p> <p>”</p> <p>”</p> <p>”</p> <p>”</p> <p>”</p> <p>Regulation 7, Column 2, Schedule 3</p>	<p>”</p> <p>”</p> <p>”</p> <p>”</p> <p>”</p> <p>”</p> <p>Plant species name change</p>
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<p>in accordance with part A of the Annex to this Directive.</p> <p>The Annexes have been inserted in full from the Directive, but only small changes occur in certain annexes.</p> <p>Annex:</p> <p>2009/74 - A. Table, 2 , 1. Certified Seed, Annex II, Part A</p>	<p>Nomenclature change</p>	<p>”</p>	<p>”</p>
<p>2009/74 - A. Table, 2 , 1. Certified Seed, Annex II, Part A</p>	<p>Nomenclature change</p>	<p>”</p>	<p>”</p>
<p>Various name changes to plant species & seed standards.</p>		<p>Regulation 8 (a)(ii),</p>	<p>Recognise that the analytical standard for Commercial Seeds of Lupins, is lower than the other categories.</p>
<p>2009/74 – Lot and Sample Weights, Annex III, Part A</p>		<p>The Fodder Plant Seed (Scotland) Regulations 2009 N° 330 already transposes this requirement.</p>	<p>Increase seed lot weights for Broad beans, French beans, Peas and Runner beans.</p>
<p>2009/74 - Table – Column 12, Para 2, Certified Seed, Annex II, Part A</p>		<p>Regulation 8 (b) (i)</p>	
<p>2009/74 - Table – Column 7, Para 2, Certified Seed, Annex II, Part A</p>			

<p>2009/74 - Table – Column 5, Para 2, Basic Seed, Annex II, Part A</p> <p>2009/74 - Table – footnote (o), Para 2, Basic Seed, Annex II, Part A</p> <p>2009/74 - Lot and Sample Weights, Annex III, Part A</p>		<p>Regulation 8 (b) (ii)</p> <p>Regulation 8 (b)(iii)</p> <p>Regulation 8 (b) (iv)</p> <p>Regulation 9</p>	<p>Name change in table heading.</p> <p>Name change in table heading.</p> <p>The sub - species of Sheep's fescue have been recognised in their own right and therefore been given separate listings.</p> <p>The footnote now includes an entry for the % of coloured lupins permitted in other lupins</p> <p>The sub - species of Sheep's fescue have been</p>
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<p>Article 2</p> <p>Amendments to Directive 66/402/EEC</p> <p>Directive 66/402/EEC is amended as follows:</p> <p>1. Article 2(1)(A) is amended as follows:</p> <p>(a) the entry starting with ‘<i>Avena sativa</i>’ is replaced by the following entries:</p> <p>‘<i>Avena nuda</i> L. — Small naked oat, Hulless oat. <i>Avena sativa</i> L. (includes <i>A. byzantina</i> K. Koch) — Oats and Red oat; <i>Avena strigosa</i> Schreb. — Black oat, Bristle oat’;</p>	<p>These are nomenclature changes to the various species that the Cereal Seed Regulations (Scotland) 2005 legislate for.</p> <p>Nomenclature change</p>		<p>recognised in their own right and therefore been given separate listings in Schedules 5 of the Fodder Plant Seed (Scotland) Regulations.</p>
		<p>Regulation 3</p> <p>Regulation 4 & Schedule 1</p>	<p>Expand definition of “oats” to include red oat and naked oats.</p> <p>Name change to oat species.</p> <p>Commission Decision 2009/786/EC</p>

<p>(b) the entry starting with 'x <i>Triticosecale</i>' is replaced by the following: 'x<i>Triticosecale</i> Wittm. ex A. Camus — hybrids resulting from the crossing of a species of the genus <i>Triticum</i> and a species of the genus <i>Secale</i>';</p> <p>(c) in the entry starting with '<i>Triticum aestivum</i>', the words '<i>Triticum aestivum</i> L. emend. Fiori et Paol.' are replaced by the words '<i>Triticum aestivum</i> L.';</p> <p>(d) in the entry starting with '<i>Sorghum sudanense</i>', the words '<i>Sorghum sudanense</i> (Piper) Stapf.' are replaced by the words '<i>Sorghum sudanense</i> (Piper) Stapf';</p> <p>(e) the entry for '<i>Sorghum bicolor</i> (L) Moench x <i>Sorghum sudanense</i> (Piper) Stapf. — Hybrids resulting from the crossing of <i>Sorghum</i> and Sudan grass' is replaced by the following: '<i>Sorghum bicolor</i> (L.) Moench x <i>Sorghum sudanense</i> (Piper) Stapf. — Hybrids resulting from the crossing of <i>Sorghum bicolor</i> and <i>Sorghum sudanense</i>'.</p> <p>2. Annexes I, II and III to Directive 66/402/EEC are amended in accordance with Part B of the Annex to this Directive. The Annexes have been inserted in full from the Directive, but only small changes occur in certain annexes</p> <p>2009/74 - Column 8, Table A, 2, Conditions to be satisfied</p>	<p>Regulation 4 & Schedule 1</p> <p>”</p> <p>”</p>	<p>Derogation in respect of <i>Avena strigosa</i> Schreb</p> <p>Name change</p> <p>”</p> <p>”</p> <p>Derogation for <i>Sorghum</i></p> <p>Paragraph 2, Part II, Schedule 1 of the Seed of (National Lists of Varieties) Regulations 2001</p>
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<p>by the seed, Annex II, Part B</p> <p>(See Article 5 of 66/402/EEC)</p> <p>2009/74 - Table A, 2, Annex II, Part B, Conditions to be satisfied by the seed –sets out the standards for varietal identity & purity as well as germination.</p> <p>2009/74 – (d), Annex II, Part B, introduces a reduced germination standard and labelling requirement for naked barley</p>	<p>The headers need to be changed to take in to account the name changes to some cereal and weed species.</p>	<p>Regulation 5 (a)</p> <p>Regulation 5 (b)</p> <p>Regulation 5 (c) & Schedule 2</p> <p>Regulation 5 (d) & Schedule 2, column 3</p>	<p>Removes one species of oat and gives the full latin name to the remaining one.</p> <p>Name change to a weed. Although not listed in the Annex of the parent directive, it is allowed for under Article 5. This is a weed species of which only a limited number are permitted.</p> <p>New entry for <i>Avena nuda</i>.</p> <p>Add foot note for naked barley. ie. Paragraph 16(1)(c),</p>
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			Part II, Schedule 4.
<p>Article 3</p> <p>Amendments to Directive 2002/55/EC</p> <p>Annexes II and III to Directive 2002/55/EC are amended in accordance with part C of the Annex to this Directive.</p> <p>Annex II of the 2002/55/EC directive sets out the standards for varietal identity & purity as well as germination.</p> <p>The Annexes have been inserted in full from the Directive, but only small changes occur in certain annexes</p> <p>2009/74 - 1(c), Annex III, Part C</p> <p>2009/74 - 2(a), Annex III, Part C</p>	<p>Changes required to the Vegetable Seeds Regulations 1993</p>	<p>Regulation 14</p> <p>Regulation 15</p>	<p>Introduces a reduced germination standard for <i>Zea mays</i> (Sweet corn – super sweet types) to 80% and prescribes what is required on the label.</p> <p>Increases the seed lot weight for peas, runner, dwarf French and Broad beans to 30 tonnes.</p>

<p>Article 4</p> <p>Amendments to Directive 2002/57/EC</p> <p>Directive 2002/57/EC is amended as follows:</p> <p>1. Article 2(1)(b) is amended as follows:</p> <p>(a) In the entry starting with '<i>Brassica juncea</i>', the words '<i>Brassica juncea</i> (L.) and Czernj and Cosson' are replaced by the words '<i>Brassica juncea</i> (L.) Czern.'. .</p> <p>(b) In the entry starting with '<i>Brassica nigra</i>', the words '<i>Brassica nigra</i> (L.) Koch' are replaced by the words '<i>Brassica nigra</i> (L.) W.D.J. Koch'</p> <p>(c) The entry starting with '<i>Papaver somniferum</i>' is replaced by the following:</p> <p>'<i>Papaver somniferum</i> L. — Poppy'.</p> <p>2. Annexes I, II and III to Directive 2002/57/EC are amended in accordance with part D of the Annex to this Directive.</p> <p>The Annexes have been inserted in full from the Directive, but only small changes occur in certain annexes 2009/74 – Annex III, Part D</p>	<p>These are nomenclature changes to the various species that the Oil & Fibre Plant Seed (Scotland) Regulations 2004 legislate for.</p>	<p>Regulation 11 & Schedule 5</p> <p>”</p>	<p>Name change</p> <p>”</p> <p>Derogation for <i>Papaver</i></p> <p>Paragraph 2, Part II, Schedule 1 of the Seed of (National Lists of Varieties) Regulations 2001</p> <p>The only change is an increase in seed lot weight for soya bean. 25 – 30 tonnes.</p>
		<p>Regulation 12</p>	

<p>Article 5</p> <p>Transposition</p> <p>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2010 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.</p> <p>When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</p> <p>Article 6</p> <p>Entry into force</p> <p>This Directive shall enter into force on the seventh day following its publication in the <i>Official Journal of the European Union</i>.</p> <p>Article 7</p> <p>Addressees</p> <p>This Directive is addressed to the Member States. Done at Brussels, 26 June 2009. <i>For the Commission</i></p> <p>Androulla VASSILIOU Member of the Commission</p>			