

2010 No. 425

SEEDS

The Vegetable Seeds Amendment (Scotland) Regulations 2010

Made - - - - 30th November 2010

Laid before the Scottish Parliament 2nd December 2010

Coming into force - - 31st December 2010

The Scottish Ministers make the following Regulations 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 1964(a) and all other powers enabling them to do so.

In accordance with the section 16(1) of that Act they have consulted with representatives of such interests as appear to them to be concerned.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Vegetable Seeds Amendment (Scotland) Regulations 2010 and come into force on 31st December 2010.

(2) These Regulations extend to Scotland only.

Amendment to the Vegetable Seeds Regulations 1993

2. The Vegetable Seeds Regulations 1993(b) are amended in accordance with regulations 3 to 13.

Amendment to regulation 3

3.—(1) In regulation 3(1) (interpretation)—

(a) after the definition of “the Act” insert—

““additional region” means the region for seed production approved by the Ministers for the purposes of the second paragraph of Article 13.1 (additional regions) of Commission Directive 2009/145;

“Amateur Variety” means a variety of vegetable species with no intrinsic value for commercial crop production which is developed for growing under particular conditions and is contained within the National List;”;

(a) 1964 c.14. 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 Minister”. 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).

(b) S.I. 1993/2008; as amended in relation to Scotland by S.I. 1996/1452, 1997/616, 1999/1863, S.S.I. 2000/250, S.I. 2001/3510, S.S.I. 2007/305 and S.S.I. 2010/219.

- (b) after the definition of “breeder’s confirmation” insert—
 ““Commission Directive 2009/145” means Commission Directive 2009/145/EC providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties(a);”;
- (c) after the definition of “Common Catalogue” insert—
 ““Conservation Variety” means a landrace or variety of vegetable species which is naturally adapted to local and regional conditions and threatened by genetic erosion and is contained within the 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;”;
- (d) after the definition of “official label” insert—
 ““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 or on behalf of the relevant European Authority and for these purposes—
 (a) “control plot” means a plot sown by or on behalf of a European Authority with seed from a sample which is of at least the minimum weight specified in column 3 of the table in Part II of Schedule 5 taken by or on behalf of a European Authority or the person marketing the seed; and
 (b) “European Authority” means—
 (i) the Department of Agriculture and Rural Development in Northern Ireland;
 (ii) the Welsh Ministers;
 (iii) the Ministers;
 (iv) the Secretary of State; or
 (v) a competent seed certification authority of an EEA state other than the United Kingdom;
 “region of origin” means the region forming a part or the whole of the United Kingdom identified by the Ministers for the purposes of Article 8.1 (region of origin) of Commission Directive 2009/145;”.
- (2) In regulation 3(3)—
 (a) after the definition of “Certified Seed” insert—
 ““Certified Seed of a Conservation Variety” means seed of a Conservation Variety which—
 (a) is produced in the region of origin or an additional region;
 (b) descends from seed produced according to well defined practices for the maintenance of the variety;
 (c) satisfies the requirements of paragraphs 2, 4, 5, 6 and 7 of Part I of Schedule 4, paragraphs 2 and 3 of Part II of Schedule 4 and Part III of Schedule 4; and
 (d) has sufficient varietal purity;”;

(a) O.J. L 312, 27.11.2009, p.44.

- (b) for the definition of “Standard Seed” substitute—
- ““Standard Seed” means seed, other than Standard Seed of a Conservation Variety and Standard Seed of an Amateur Variety, which is intended to be used mainly for the production of plants or parts of plants for human or animal consumption and which satisfies the requirements for Standard Seed set out in Part II of Schedule 4;” and
- (c) after the definition of “Standard Seed” insert—
- ““Standard Seed of a Conservation Variety” means seed of a Conservation Variety which—
- (a) is produced in the region of origin or additional region;
 - (b) descends from seed produced according to well defined practices for the maintenance of the variety;
 - (c) satisfies the requirements in paragraphs 2 and 3 of Part II of Schedule 4 and Part III of Schedule 4; and
 - (d) has sufficient varietal purity;
- “Standard Seed of an Amateur Variety” means seed of an Amateur Variety which—
- (a) satisfies the requirements in paragraphs 2 and 3 of Part II of Schedule 4 and Part III of Schedule 4; and
 - (b) has sufficient varietal purity.”.

Amendment to regulation 5

- 4.—(1) For regulation 5(1)(a) (marketing of seeds) substitute—
- “(a) Uncertified Pre-basic Seed, Pre-basic Seed, Basic Seed, Certified Seed in respect of which an official certificate has been issued, Standard Seed, Certified Seed of a Conservation Variety in respect of which an official certificate has been issued, Standard Seed of a Conservation Variety or Standard Seed of an Amateur Variety; or”.
- (2) After regulation 5(1)(b) insert—
- “(bb) Standard Seed of an Amateur Variety which has been produced and packaged in a Member State other than the United Kingdom and which has been sealed in accordance with Article 29 and labelled in accordance with Article 30 of Commission Directive 2009/145; or”.

New regulations 5A and 5B

5. After regulation 5 (marketing of seeds) insert—

“Conservation Varieties

5A.—(1) The Ministers shall ascertain, so far as practicable, whether seed of a Conservation Variety has sufficient varietal purity by the use of official post control and the consideration of any other relevant information.

(2) Where the results of official post control show that the seed does not have sufficient varietal purity, the Ministers shall notify in writing the person marketing the relevant seed lot of that fact.

(3) Where, in the case of Standard Seed of a Conservation Variety, notice is given under paragraph (2), no further marketing of the relevant seed lot shall occur.

(4) No person shall market seed of a Conservation Variety other than in its region of origin or an additional region.

(5) A person proposing to produce seed of a Conservation Variety must supply the Ministers, in such manner and form as the Ministers shall require, with the following details in writing—

- (a) the size (in hectares); and
- (b) the location,

of the area to be used to produce the seed.

(6) For the purposes of Article 15 (quantitative restrictions) of Commission Directive 2009/145, the Ministers may specify the maximum amount of seed of a Conservation Variety which may be marketed in any given growing season and specify different maxima for different persons or classes of person.

(7) Where a person proposing to produce seed of a Conservation Variety has supplied the Ministers with details under paragraph (5), the Ministers may in writing authorise the person to market seed of a Conservation Variety not exceeding the amount specified in the authorisation and shall give notice of that authorisation to the person.

(8) No person shall market more than the maximum amount of seed of a Conservation Variety specified in an authorisation given to that person under paragraph (7).

Amateur varieties

5B.—(1) The Ministers shall ascertain, so far as practicable, whether Standard Seed of an Amateur Variety has sufficient varietal purity by the use of official post control and the consideration of any other relevant information.

(2) Where the results of official post control show that the seed does not have sufficient varietal purity, the Ministers shall notify in writing the person marketing the relevant seed lot of that fact.

(3) Where, in the case of Standard Seed of an Amateur Variety, notice is given under paragraph (2), no further marketing of the relevant seed lot shall occur.

(4) The seed must be in a package not exceeding the maximum net weight specified for each species in Annex II to Commission Directive 2009/145/EC.”.

Amendment to regulation 6

6.—(1) In regulation 6(1) (official certificates) for “or Certified Seed” substitute “, Certified Seed or Certified Seed of a Conservation Variety”.

(2) After regulation 6(3)(a) insert—

“(aa) in the case of Certified Seed of a Conservation Variety—

- (i) the results of an examination are declared null and void in accordance with regulation 7(3); or
- (ii) the results of official post control show that the seed does not have sufficient varietal purity; or”.

Amendment to regulation 7

7.—(1) After regulation 7(1) (sampling) insert—

“(1A) A sample of seed of a Conservation Variety or Standard Seed of an Amateur Variety taken for the purposes of checking compliance with these Regulations shall be taken in accordance with the requirements contained in Schedule 5.”.

(2) After regulation 7(2) insert—

“(3) If a sample of seed of a Conservation Variety or Standard Seed of an Amateur Variety taken for the purposes of an examination is found not to have been taken in accordance with the requirements of seeds regulations, no examination or no further examination shall be made of that sample and any finding shall be null and void.”.

Amendment to regulation 8

8. After regulation 8(3) (sealing of packages) insert—

“(4) No person shall market a package of seed of a Conservation Variety or a package of Standard Seed of an Amateur Variety unless it has been sealed by the supplier using a non-reusable sealing system or some other sealing system—

- (a) including the use of a label or the affixing of a seal; and
- (b) in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or the package.”.

Amendment to regulation 9

9.—(1) In regulation 9(9) (labelling of packages), at the start, insert “Subject to the exception in paragraphs (12B) and (12C) in respect of seed of a Conservation Variety and Standard Seed of an Amateur Variety,”.

(2) In regulation 9(11), at the start, insert “Except in relation to seed of a Conservation Variety or Standard Seed of an Amateur Variety,”.

(3) After regulation 9(12A)(a) insert—

“(12B) A package of seed of a Conservation Variety shall bear a supplier’s label or a printed or stamped notice containing the information specified in Part VI of Schedule 6 (and for the avoidance of doubt neither an official label nor an official inner label is required).

(12C) A package of Standard Seed of an Amateur Variety shall bear a supplier’s label or a printed or stamped notice containing the information specified in Part VII of Schedule 6 (and for the avoidance of doubt neither an official label nor an official inner label is required).”.

Amendment to Schedule 2

10. In Schedule 2 (official certificates)—

- (a) in paragraph 1 for “or Certified Seed” substitute “, Certified Seed or Certified Seed of a Conservation Variety”;
- (b) in paragraph 2, at the start, insert “Except in the case of Certified Seed of a Conservation Variety,”;
- (c) after paragraph 2 insert—

“**2A.** In the case of Certified Seed of a Conservation Variety, the Ministers shall refuse to issue an official certificate in respect of a seed lot unless—

- (a) an application has been made to the Ministers, in such form and manner and at such time as they may require, for registration by them of—
 - (i) the seed lot or seed lots to be used for the production of the crop or crops from which the seed lot is to be obtained; and
 - (ii) the crop or crops from which the seed lot is to be obtained;
- (b) an examination of the crop or crops from which the seed lot was obtained shall have shown that the crop or crops meets paragraphs 2, 3, 4, 5, 6 and 7 of Part I of Schedule 4; and
- (c) an examination of a sample of the seed lot shows that the seed meets paragraphs 2 and 3 of Part II of Schedule 4.”;

(a) Regulation 9(12A) was inserted by the Vegetable Seeds Amendment (Scotland) Regulations 2007 (S.S.I. 2007/305), regulation 4.

- (d) in paragraph 3, at the start, insert “Except in the case of Certified Seed of a Conservation Variety,”; and
- (e) after paragraph 3 insert—

“**3A.** In the case of Certified Seed of a Conservation Variety the Ministers may refuse to issue an official certificate in respect of a seed lot if it appears to them that—

- (a) a sample of the seed lot taken for the purpose of an examination in order to ascertain whether the seed lot meets the appropriate standards set out in paragraphs 2 and 3 of Part II of Schedule 4 has not been taken in accordance with the requirements contained in Schedule 5;
- (b) official post control shows that the seed does not have sufficient varietal purity; or
- (c) there has been any breach of seeds regulations in relation to the seed lot in respect of which an application for an official certificate has been made.”.

Amendment to Schedule 3

11. In Schedule 3 (particulars to be specified in an official certificate), at the end, insert—

- “(vii) the region of origin or, where the region of origin is different from the region of seed production, the region of seed production of the Conservation Variety (if applicable).”.

Amendment to Schedule 4

12. In Schedule 4 (requirements for Basic Seed, Certified Seed and Standard Seed)—

- (a) for the title substitute “**REQUIREMENTS FOR BASIC SEED, CERTIFIED SEED, CERTIFIED SEED OF A CONSERVATION VARIETY, STANDARD SEED, STANDARD SEED OF A CONSERVATION VARIETY AND STANDARD SEED OF AN AMATEUR VARIETY**”;
- (b) after Part II insert—

“PART III

EXAMINATIONS USED TO ASCERTAIN WHETHER A CROP OR SEED LOT MEETS THE CONDITIONS RELATING TO CERTIFIED SEED OF A CONSERVATION VARIETY, STANDARD SEED OF A CONSERVATION VARIETY AND STANDARD SEED OF AN AMATEUR VARIETY

All examinations of Certified Seed of a Conservation Variety, Standard Seed of a Conservation Variety and Standard Seed of an Amateur Variety used to ascertain whether the crops or seed lots meet the standards in this Schedule applicable to the category shall be carried out in accordance with current international methods insofar as such methods exist.”.

Amendment to Schedule 6

13. In Schedule 6 (labels and marking) after Part V insert—

“PART VI
SUPPLIER’S LABEL FOR A PACKAGE OF SEED OF A
CONSERVATION VARIETY

The supplier’s label for a package of seed of a Conservation Variety shall be a minimum size of 110 millimetres by 67 millimetres, be coloured brown and contain the following information:—

- (a) the words “EU rules and standards”;
- (b) the name and address of the person responsible for affixing the label or notice or that person’s identification mark;
- (c) the year of sealing, or the year of last sampling for the purposes of the last testing of germination, expressed by the word “sealed” or “sampled” (as the case may be), followed by the year in question;
- (d) the species;
- (e) the denomination of the conservation variety;
- (f) the words “Certified Seed of a Conservation Variety” or “Standard Seed of a Conservation Variety”;
- (g) the region of origin;
- (h) where the region of seed production is different from the region of origin, the indication of the region of seed production;
- (i) the reference number of the lot given by the person responsible for affixing the labels;
- (j) the declared net or gross weight or declared number of seeds;
- (k) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters of pure seeds and the total weight.

PART VII
SUPPLIER’S LABEL FOR A PACKAGE OF STANDARD SEED OF AN
AMATEUR VARIETY

The supplier’s label for a package of Standard Seed of an Amateur Variety shall contain the following information:—

- (a) the words “EU rules and standards”;
- (b) the name and address of the person responsible for affixing the label or notice or that person’s identification mark;
- (c) the year of sealing, or the year of last sampling for the purposes of the last testing of germination, expressed by the word “sealed” or “sampled” (as the case may be), followed by the year in question;
- (d) the species;
- (e) the denomination of the Amateur Variety;
- (f) the words “Amateur Variety”;
- (g) the reference number of the lot given by the person responsible for affixing the labels;
- (h) the declared net or gross weight or declared number of seeds;

- (i) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters of pure seeds and the total weight.”.

St Andrew's House,
Edinburgh
30th November 2010

RICHARD LOCHHEAD
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Vegetable Seeds Regulations 1993 (“the principal Regulations”) in order to permit the marketing of Conservation and Amateur Varieties in implementation of Commission Directive 2009/145 (O.J. L 312, 27.11.2009, p.44) (“the Directive”).

Regulation 3 amends regulation 3 of the principal Regulations to introduce definitions of Certified Seed of a Conservation Variety and Standard Seed of a Conservation Variety. These are defined as types of seed where—

- (a) the seed has been harvested from a crop that has been produced in the region of origin or an additional region (should such a region be approved by the Scottish Ministers);
- (b) the seed descends from seed produced according to well defined practices for the maintenance of the variety;
- (c) the seed has sufficient varietal purity;
- (d) certain requirements as to the crop and the seed specified in Schedule 4 to the principal Regulations as amended by these Regulations are met. The requirements in Schedule 4 which must be satisfied are different for Certified Seed of a Conservation Variety and Standard Seed of a Conservation Variety.

Regulation 4 amends regulation 5(1) of the principal Regulations to provide that Certified Seed of a Conservation Variety and Standard Seed of a Conservation Variety must be on the National List and marketed in seed lots or parts of seed lots.

The new regulation 5A of the principal Regulations, inserted by regulation 5 of these Regulations, provides that seed of a Conservation Variety shall only be marketed in its region of origin, or an additional region, and is subject to quantitative restrictions. No official examination is required although seed of a Conservation Variety is subject to official post control.

The Regulations also provide for the marketing of Amateur Varieties. Regulation 3 amends regulation 3 of the principal Regulations to introduce a definition of Standard Seed of an Amateur Variety. Standard Seed of an Amateur Variety must meet certain requirements as to the seed specified in Schedule 4 of the principal Regulations and have sufficient varietal purity.

Regulation 4 amends regulation 5(1) of the principal Regulations to provide that Standard Seed of an Amateur Variety must be on the National List and marketed in seed lots or parts of seed lots.

The new regulation 5B of the principal Regulations, inserted by regulation 5 of these Regulations, provides that Standard Seed of an Amateur Variety is subject to the quantitative restrictions in Article 28 and Annex II of the Directive. No official examination is required although Standard Seed of an Amateur Variety is subject to official post control.

These Regulations also make consequential amendments to the principal Regulations including—

- (a) the insertion of other new definitions in the principal Regulations (regulation 3);
- (b) various amendments to the application of the provisions on official certificates, sampling, sealing, and labelling (regulations 6, 7, 8, 9, 10, 11, 12 and 13).

No Business Regulatory Impact Assessment has been prepared for this instrument as it has no impact on the cost of business.

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The Vegetable Seeds Amendment (Scotland) Regulations 2010