

## **EXECUTIVE NOTE**

### **THE FODDER PLANT SEEDS (SCOTLAND) AMENDMENT REGULATIONS 2012**

#### **SSI. 2012/5**

1. The above instrument was made in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4), and (5)(a), and 36 of the Plant Varieties and Seeds Act 1964 (“the Act”). The instrument is subject to negative resolution procedure.

#### **Consultation**

2. Section 16(1) of the Act requires the Scottish Ministers to consult with representatives of such interests as appear to them to be appropriate.

3. Although, Scottish Government is only aware of one company in Scotland producing and processing preservation mixtures, a full consultation exercise was carried out in line with SG guidelines. As well as consulting with key stakeholders (Including, NFU Scotland, AIC Scotland, and Scottish Seed Trade Association), a copy of the consultation was placed on the Scottish Government website.

4. Of the 150+ letters sent out, two responses were received – Plant Life, who “welcomed the legislation for preservation mixtures” and Scottish Natural Heritage (SNH) who have provided guidance and assistance on the understanding of natural habitats and Sites of Special Scientific Interest.

#### **Policy Objectives**

5. The purpose of this instrument is to amend the Fodder Plant Seed (Scotland) Regulations 2005 (“the 2005 Regulations”) in order to transpose Commission Directive 2010/60/EU providing for certain derogations for the marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment.

#### **Background**

6. Scottish Government currently has 5 statutory instruments which regulate the marketing of agricultural and vegetable seed to ensure that only good quality seed is marketed. Each regulation covers the marketing of seeds of a different group of crops (“Cereals”, “Fodder”, “Oil & Fibre” “Vegetables” and “Beet”).

7. The 2005 Regulations cover the marketing of fodder seeds for agricultural and conservation use, including their use in mixtures. Directive 2010/60/EU requires that regulatory control is extended to cover the marketing of fodder seeds in what is described as “preservation mixtures”.

8. Prior to this Directive, preservation mixtures required seeds of all fodder plants species to meet the standards as provided for in the 2005 Regulations. Once implemented, this legislation which has minimal quality requirements, will allow grasses and vetches to be harvested from the wild and marketed as mixtures to allow for the re-creation of natural and semi-natural habitats. Other species from the habitat can be included in these mixtures.

9. The new requirements will apply only to mixtures which contain seed harvested from a natural habitat and are of fodder plant species which are specified in the 2005 Regulations. The new requirements do not cover the marketing of mixtures of seed of plant species that are not on the list of fodder species in the 2005 Regulations. Such mixtures may still be marketed freely.

10. There is currently, only one company in Scotland that we are aware of which produces preservation mixtures. However, the provisions of this Directive are not expected to impact on the seed industry. Therefore, no Regulatory Impact Assessment has been prepared.

### **Financial Effects**

11. There will be no additional costs to citizens, the environment or Government.

12. A Business Regulatory Impact Assessment has not been prepared as there are no large scale retail sales of preservation mixtures here in Scotland.

### **Consolidation**

14. These Regulations make a further amendment to the 2005 Regulations. The Scottish Government is aware that these Regulations have been amended more than five times and issues around consolidation are currently being considered. Due to the transposition deadline for Directive 2010/60/EU, however, it was decided to proceed by way of amendment in the meantime.

Scottish Executive: Rural & Environment Directorate

10 January 2012

**Transposition Note**  
**The Fodder Plant Seed (Scotland) Amendment Regulations 2012**  
**Transposition of Directive 2010/60/EU – Preservation Mixtures**

Reference in **BLACK BOLD** = regulation number for Fodder Plant Seed (Scotland ) Regulations 2005.

<b>Article of Directive 2010/60/EU</b>	<b>Purpose</b>	<b>Regulation</b>
Article 1(a)	Defines 'source area'	Regulation 3(f) <b>(2(1))</b>
Article 1(b)	Defines 'collection site'	Regulation 3(a) <b>(2(1))</b>
Article 1(c)	Defines 'directly harvested mixture'	Regulation 3(d) <b>(2(1))</b>
Article 1(d)	Defines 'crop-grown mixture'	Regulation 3(c) <b>(2(1))</b>
Article 2(1)	Defines preservation mixtures and allows by way of derogation their marketing	Regulations 3(e) and 4 <b>(8A(1))</b>
Article 2(2)	Directive 2008/62/EU applies to a conservation variety in the mixture	Regulation 4 <b>(8A (4) (e))</b>
Article 2(3)	Unless otherwise provided, Directive 66/401/EEC applies	Regulations 5, 6, and 7. (various, for example <b>15(1), 16(1), (3) and 17(1), (5), (8), (10) and (12)</b> apply and other provisions related, e.g. in <b>Schedules 5 and 6</b> )
Article 3	Requires member states ("MS") to define region of origin	Regulation 4 <b>(8A (11))</b>
Article 4(1)	Allows for marketing of directly harvested or crop sown mixtures preservation mixtures in the region of origin	Regulation 4 <b>(8A (2) and (10))</b>

Article 4(2)	Lists the information required within the authorisation.	Regulation 9 <b>(paragraph 3(1) of Schedule 3)</b>
Article 4(3)	Allows for directly harvested preservation mixtures to give only certain constituents	Regulation 9(b) <b>(Schedule 3, paragraph 3 (2))</b>
Article 5(1)	Authorisation requirements. Directly harvested mixtures shall be collected at source site that has not been sown for 40 years and is in region of origin	Regulation 4 <b>(8A (4) (a) and (b))</b>
Article 5(2)	Authorisation requirements. Listing of percentage of components that are present and required to recreate the habitat type of the collection site.	Regulations 4 and 10 and the Schedule <b>(8A (4) (c) and paragraph 1 in Part I of Schedule 4B)</b>
Article 5(3)	Authorisation requirements. Germination rate shall be sufficient to recreate habitat type	Regulations 4 and 10 and the Schedule <b>(8A (4) (c) and paragraph 2 in Part I of Schedule 4B)</b>
Article 5(4)	Authorisation requirements Maximum weight/number of species which does not comply with paragraph 2 shall not exceed 1% by weight or allow certain species to be present.	Regulations 4 and 10 and the Schedule <b>(8A (4) (c) and paragraphs 3, 4 &amp; 5 in Part I of Schedule 4B)</b>
Article 6(1)	Authorisation requirements Seed for crop grown mixtures collected from site that has not been sown for at least 40 years and source area is in region of origin	Regulation 4 <b>(8A (4) (a) and (b))</b>
Article 6(2)	Authorisation requirements Seed shall be of species which are typical of the original collection site	Regulations 4 and 10 and the Schedule <b>(8A (4) (d) (i) and paragraph 1 in Part II of Schedule 4B)</b>
Article 6(3)	Seeds that are fodder seeds will comply with Directive 66/401/EC	Regulation 4 <b>(8A (4) (d) (ii))</b>
Article 6(4)	Multiplication may take place for up to 5 generations	Regulations 4 and 10 and the Schedule <b>(8A (4)(d)(i) and paragraph 2 in Part II of Schedule 4B)</b>
Article 7(1)	Authorisation shall be granted on application by the producer	Regulation 4 <b>(8A (2), (3) and (4))</b>
Article 7(2)	With regards directly harvested preservation mixtures MS shall carry out	Regulations 4 and 10 and the Schedule

	visual inspections	<b>(8A (4) (c) and paragraph 1 in Part III of Schedule 4B)</b>
Article 7(3)	With regard to crop grown mixtures MS shall carry out tests to determine that mixture complies with Article 6(2) and (3) and tests will be carried out in accordance with International methods and samples shall be taken from homogenous lots	Regulations 4, 10 and the Schedule <b>(8A (4) (d), 15(1), Part II and III of Schedule 4B and Schedule 5 )</b>
Article 8	MS shall ensure that total quantity of preservation mixtures does not exceed 5% of total weight of all fodder plant seed to be marketed in that year.	Regulation 4 <b>(8A (9))</b>
Article 9(1)	Producers of mixtures shall notify MS of the quantity of seed of preservation mixture that they intend to apply for authorisation.	Regulation 4 <b>(8A (8))</b>
Article 9(2)	If quantities in Article 8 will be exceeded, MS shall allocate allowed quantity to producers accordingly.	Regulation 4 <b>(8A (9))</b>
Article 10(1)	Sealing of Packages. Marketing only in closed packages and containers bearing a sealing device	Regulation 6 <b>(16(1))</b>
Article 10(2)	Sealing system shall comprise at least the label or the affixing of a seal.	Regulation 6 <b>(16(1))</b>

Article 10(3)	Packages cannot be opened, without leaving evidence of damage or tampering.	Regulation 6 <b>(16(1))</b>
Article 11(1)	Labelling information	Regulations 7 and 11 <b>(17(1),(5) and (8) and paragraph 8A(1) in Part II of Schedule 6)</b>
Article 11(2)	Suffice to indicate components of directly harvested mixtures.	Regulation 11 <b>(paragraph 8A(2) in Part II of Schedule 6)</b>
Article 11(3)	Labelling in relation to germination rates of crop-grown preservation mixtures	Regulation 11 <b>(paragraph 8A(1)(n) in Part II of Schedule 6)</b>
Article 12	Monitoring. MS shall ensure by official monitoring that this Directive is complied with	Administratively and by virtue of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006
Article 13	Reporting. MS shall ensure producers report on amount of preservation mixtures marketed and MS report this to Commission	Administratively and by virtue of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006
Article 14	Notification MS shall notify Commission on request genetic resource authorities	Administratively
Article 15	Evaluation by Commission	N/A (no obligation on MS)
Article 16	Transposition by 30 November 2011	
Article 17	Entering into force of Directive.	N/A (no obligation on MS)
Article 18	Addressed to MS	N/A (no obligation on MS)