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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 434**

**SEEDS**

**The Seed (Miscellaneous Amendments)  
(Scotland) Regulations 2016**

*Made - - - - 20th December 2016  
Laid before the Scottish Parliament - - - - 22nd December 2016  
Coming into force in accordance with regulation 1(1) and (2)*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 16(1), (1A), (2), (3) and 36 of the Plant Varieties and Seeds Act 1964<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with 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 Seed (Miscellaneous Amendments) (Scotland) Regulations 2016 and, subject to paragraph (2), come into force on 31st March 2017.

(2) Regulations 3(4) and 8 come into force on 6th February 2017.

(3) These Regulations extend to Scotland only.

**Amendment of the Vegetable Seeds Regulations 1993**

2.—(1) The Vegetable Seeds Regulations 1993<sup>(2)</sup> are amended in accordance with paragraph (2).

(2) In schedule 6 (labels and marking)—

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(1) 1964 c.14 (“the 1964 Act”); section 16 was amended by the European Communities Act 1972 (c.68) (“the 1972 Act”), section 4(1) and schedule 4, paragraph 5(2) and (3); by the Criminal Procedure (Scotland) Act 1975 (c.21), sections 289F and 289G; by the Agriculture Act 1986 (c.49), section 2 and by S.I. 1977/1112. Section 16 is applied to seed potatoes by section 29(1) of the 1964 Act. Section 29(1) was amended by the 1972 Act, section 4(1) and schedule 4, paragraph 5(4). The powers conferred by section 16 are exercisable by “the Minister”. See section 38(1) for the definition of “the Minister”. The functions of the Secretary of State, insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) S.I. 1993/2008, as amended by S.I. 1996/1452, S.I. 1997/616, S.I. 1999/1863, S.S.I. 2000/250, S.I. 2001/3510, and S.S.I. 2007/305, S.S.I. 2010/219 and S.S.I. 2010/425.

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- (a) in Part IB (official label for a Package of Basic Seed or for a Package (Other than a Small Package) of Certified Seed), in paragraph (a) (Prescribed contents), after sub-paragraph 2 (Certification Authority and Member State or their mark) insert—
- “**2A.** Officially assigned serial number”; and
- (b) in Part IC (official label for a Package of Seed not Finally Certified)—
- (i) in paragraph (a) (Prescribed contents of the label), after sub-paragraph 1 (Certifying authority), insert—
- “**1A.** Officially assigned serial number”; and
- (ii) in paragraph (b) (Information required for the document), after sub-paragraph 1 (Certifying authority), insert—
- “**1A.** Officially assigned serial number”.

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

**3.—(1)** The Oil and Fibre Plant Seed (Scotland) Regulations 2004<sup>(3)</sup> are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation), for the definition of “Oil and Fibre Plant Seed Directive”<sup>(4)</sup> substitute—

““Oil and Fibre Plant Seed Directive” means Council [Directive 2002/57/EC](#) on the marketing of seed of oil and fibre plants<sup>(5)</sup>”.

(3) In regulation 7 (mixtures), for “the Fodder Plant Seeds Regulations 1993” substitute “the Fodder Plant Seed (Scotland) Regulations 2005<sup>(6)</sup>”.

(4) In schedule 4 (requirements for Basic Seed, Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation, Certified Seed of the Third Generation and Commercial Seed), in Part II (conditions relating to Basic Seed, Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation, Certified Seed of the Third Generation and Commercial Seed), in paragraph 10(a) (standards for varietal purity) for entry (vii) in the table substitute—

“(vii) Hybrid varieties of swede rape produced using male sterility and their components—	
(aa) Basic seed, female component	99.0%
(bb) Basic seed, male component	99.9%
(cc) Certified seed of winter swede rape varieties (“winter swede rape varieties” being those varieties of swede rape recorded as winter varieties on the UK National List or in the Common Catalogue <sup>(7)</sup> )	90.0%

<sup>(3)</sup> [S.S.I. 2004/317](#), as amended by [S.S.I. 2006/313](#), [S.S.I. 2007/224](#), [S.S.I. 2007/536](#), [S.S.I. 2009/223](#), [S.S.I. 2010/219](#) and [S.S.I. 2016/68](#).

<sup>(4)</sup> The definition was substituted by [S.S.I. 2007/224](#).

<sup>(5)</sup> OJ L 193, 20.7.2002, p.74, as last amended by Commission Implementing Directive (EU) 2016/317 (OJ L 60, 5.3.2016, p.72).

<sup>(6)</sup> [S.S.I. 2005/329](#), as amended by [S.S.I. 2016/434](#).

<sup>(7)</sup> The Common Catalogue and the UK National List respectively record a winter swede variety as such by the inclusion of the words “Forma hibernalis” and winter (w) in the description of the particular variety’s attributes.

(dd) Certified seed of spring swede rape varieties (“spring swede rape varieties” being those varieties of swede rape recorded as spring varieties on the UK National List or in the Common Catalogue) <b>(8)</b>	85.0%”
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- (5) In schedule 6, in Part II (labels)—
- (a) in paragraph 5 (official label for a package of Basic Seed or Seed of a Certified Generation), after sub-paragraph (a)(ii) insert—
    - “(ia) officially assigned serial number;”;
  - (b) in paragraph 6 (official label for a package of Commercial Seed), after sub-paragraph (a)(ii) insert—
    - “(ia) officially assigned serial number;”;
  - (c) in paragraph 6A (official label for a package of test and trial seed)**(9)**, after sub-paragraph (a)(ii) insert—
    - “(ia) officially assigned serial number;”.

#### **Amendment of the Cereal Seed (Scotland) Regulations 2005**

4.—(1) The Cereal Seed (Scotland) Regulations 2005**(10)** are amended in accordance with paragraphs (2) to (4).

- (2) In regulation 8(2) (mixtures)—
- (a) for “Regulation 6(1)(b)(b)” substitute “Regulation 6(1)(b)”;
  - (b) for “the Fodder Plant Seeds (Scotland) Regulations 2005” substitute “the Fodder Plant Seed (Scotland) Regulations 2005**(11)**”.
- (3) In schedule 6, Part II (labels)—
- (a) in paragraph 5 (official label for a package of Basic Seed or Seed of a Certified Generation), after sub-paragraph (a)(ii) insert—
    - “(ia) officially assigned serial number;”;
  - (b) in paragraph 6 (official label for a package of a mixture of seeds to which regulation 8 applies), after sub-paragraph (a)(ii) insert—
    - “(ia) officially assigned serial number;”;
  - (c) in paragraph 6A (official label for a package of test and trial seed)**(12)**, after sub-paragraph (a)(ii) insert—
    - “(ia) officially assigned serial number;”.
- (4) In schedule 9 (definition of Cereal Seed Directive), after the entry for “Commission Implementing Directive (EU) 2015/1955”**(13)** insert—

“Commission Implementing Directive (EU) 2016/317	OJ L 60, 5.3.2016, p.72”
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**(8)** The Common Catalogue and the UK National List respectively record a spring swede variety as such by the inclusion of the words “Forma aestiva” and spring(s) in the description of the particular variety’s attributes.

**(9)** Paragraph 6A was inserted by S.S.I. 2007/224.

**(10)** S.S.I. 2005/328, as amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2010/219 and S.S.I. 2016/68.

**(11)** S.S.I. 2005/329, as last amended by S.S.I. 2016/434.

**(12)** Paragraph 6A was inserted by S.S.I. 2007/224.

**(13)** The entry was added by S.S.I. 2016/68.

### **Amendment of the Fodder Plant Seed (Scotland) Regulations 2005**

5.—(1) The Fodder Plant Seed (Scotland) Regulations 2005(14) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation), for the definition of “the Fodder Plant Seed Directive” substitute—

““the Fodder Plant Seed Directive” means Council [Directive 66/401/EEC](#) on the marketing of fodder plant seed(15);”.

(3) In regulation 8(1)(b) and (2)(b)(ii) (mixtures), for each occurrence of—

- (a) “the Cereal Seed (Scotland) Regulations 2005” substitute “the Cereal Seed (Scotland) Regulations 2005(16);”;
- (b) “the Oil and Fibre Plant Seed (Scotland) Regulations 2004” substitute “the Oil and Fibre Plant Seed (Scotland) Regulations 2004(17);” and
- (c) “the Vegetable Seeds Regulations 1993” substitute “the Vegetable Seeds Regulations 1993(18)”.

(4) In schedule 6, in Part II (labels)—

(a) in paragraph 5 (official label for a package of Basic Seed or Seed of a Certified Generation), after sub-paragraph (a)(ii) insert—

“(ia) officially assigned serial number;”;

(b) in paragraph 6 (official label for a package of Commercial Seed), after sub-paragraph (a) (ii) insert—

“(ia) officially assigned serial number;”;

(c) in paragraph 6A (official label for a package of test and trial seed)(19), after sub-paragraph (a)(ii) insert—

“(ia) officially assigned serial number;” and

(d) in paragraph 7 (official label for a package of a mixture of seeds to which regulation 8 applies), after sub-paragraph (a)(ii) insert—

“(ia) officially assigned serial number;”.

### **Amendment of the Beet Seed (Scotland) (No. 2) Regulations 2010**

6.—(1) The Beet Seed (Scotland) (No. 2) Regulations 2010(20) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation), for the definition of “the Beet Seed Directive” substitute—

““the Beet Seed Directive” means Council [Directive 2002/54/EC](#) on the marketing of beet seed(21);”.

(3) In schedule 6 (labelling), in Part II (labels)—

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(14) S.S.I. 2005/329, as amended by S.S.I. 2006/313, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.S.I. 2012/5, S.S.I. 2013/326 and S.S.I. 2016/68.

(15) OJ P 125, 11.7.1966, p.2298, as last amended by Commission Implementing Directive (EU) 2016/317 (OJ L 60, 5.3.2016, p.72).

(16) S.S.I. 2005/328, as last amended by S.S.I. 2016/434.

(17) S.S.I. 2004/317, as last amended by S.S.I. 2016/434.

(18) S.I. 1993/2008, as last amended by S.S.I. 2016/434.

(19) Paragraph 6A was inserted by S.S.I. 2007/224.

(20) S.S.I. 2010/148, as amended by S.S.I. 2011/413 and S.S.I. 2016/68.

(21) OJ L 193, 20.7.2002, p.12, as last amended by Commission Implementing Directive (EU) 2016/317 (OJ L 60, 5.3.2016, p.72).

- (a) in paragraph 5 (official label for a package of Basic Seed or Certified Seed), after sub-paragraph (a)(ii) insert—
  - “(ia) officially assigned serial number;”; and
- (b) in paragraph 6 (official label for a package of test and trial seed), after sub-paragraph (a)(ii) insert—
  - “(ia) officially assigned serial number;”.

### **Amendment of the Seed Potatoes (Scotland) Regulations 2015**

7.—(1) The Seed Potatoes (Scotland) Regulations 2015<sup>(22)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation), for the definition of “Council [Directive 2002/56/EC](#)” substitute—

““Council [Directive 2002/56/EC](#)” means Council [Directive 2002/56/EC](#) on the marketing of seed potatoes<sup>(23)</sup>;”.

(3) In schedule 5 (official labels)—

(a) in paragraph 2(2)(c) (basic seed potatoes), after the entry “Certification authority and member State or their initials” insert—

“Officially assigned serial number;”; and

(b) in paragraph 3(2)(d) (test and trial seed potatoes), after the entry “Certification authority and member State or their initials;” insert—

“Officially assigned serial number;”.

### **Amendment of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016**

8.—(1) The Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016<sup>(24)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “the Seed Marketing Directives” substitute—

““the Seed Marketing Directives” means—

- (a) Council [Directive 66/401/EEC](#) on the marketing of fodder plant seed<sup>(25)</sup>;
- (b) Council [Directive 66/402/EEC](#) on the marketing of cereal seed<sup>(26)</sup>;
- (c) Council [Directive 2002/54/EC](#) on the marketing of beet seed<sup>(27)</sup>;
- (d) Council [Directive 2002/55/EC](#) on the marketing of vegetable seed<sup>(28)</sup>; and
- (e) Council [Directive 2002/57/EC](#) on the marketing of seed of oil and fibre plants<sup>(29)</sup>;”; and

(b) for the definition of “the Seed Marketing Regulations” substitute—

““the Seed Marketing Regulations” means—

<sup>(22)</sup> [S.S.I. 2015/395](#), as amended by [S.S.I. 2016/68](#).

<sup>(23)</sup> [OJ L 193, 20.7.2002, p.60](#), as last amended by Commission Implementing Directive (EU) 2016/317 ([OJ L 60, 5.3.2016, p.72](#)).

<sup>(24)</sup> [S.S.I. 2016/68](#).

<sup>(25)</sup> [OJ L 125, 11.7.1966, p.2298](#), as last amended by Commission Implementing Directive (EU) 2016/317 ([OJ L 60, 5.3.2016, p.72](#)).

<sup>(26)</sup> [OJ L 125, 11.7.1966, p.2309](#), as last amended by Commission Implementing Directive (EU) 2016/317 ([OJ L 60, 5.3.2016, p.72](#)).

<sup>(27)</sup> [OJ L 193, 20.7.2002, p.12](#), as last amended by Commission Implementing Directive (EU) 2016/317 ([OJ L 60, 5.3.2016, p.72](#)).

<sup>(28)</sup> [OJ L 193, 20.7.2002, p.33](#) as last amended by Commission Implementing Directive (EU) 2016/317 ([OJ L 60, 5.3.2016, p.72](#)).

<sup>(29)</sup> [OJ L 193, 20.7.2002, p.74](#), as last amended by Commission Implementing Directive (EU) 2016/317 ([OJ L 60, 5.3.2016, p.72](#)).

- (a) in relation to vegetable seed, the Vegetable Seeds Regulations 1993<sup>(30)</sup>;
  - (b) in relation to oil and fibre plant seed, the Oil and Fibre Plant Seed (Scotland) Regulations 2004<sup>(31)</sup>;
  - (c) in relation to cereal seed, the Cereal Seed (Scotland) Regulations 2005<sup>(32)</sup>;
  - (d) in relation to fodder plant seed, the Fodder Plant Seed (Scotland) Regulations 2005<sup>(33)</sup>; and
  - (e) in relation to beet seed, the Beet Seed (Scotland) (No. 2) Regulations 2010<sup>(34)</sup>”.
- (3) In regulation 15 (right to make representations)—
- (a) in paragraph (2) after “licence holder” insert “or, as the case may be, the person refused a licence”;
  - (b) in paragraph (6) after “licence holder” insert “or, as the case may be, the person refused a licence,”; and
  - (c) in paragraph (7) after “licence holder” insert “or, as the case may be, the person refused a licence”.

St Andrew’s House,  
Edinburgh  
20th December 2016

*FERGUS EWING*  
A member of the Scottish Government

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<sup>(30)</sup> S.I. 1993/2008, as amended by S.S.I. 2016/434.  
<sup>(31)</sup> S.S.I. 2004/317, as amended by S.S.I. 2016/434.  
<sup>(32)</sup> S.S.I. 2005/328, as amended by S.S.I. 2016/434.  
<sup>(33)</sup> S.S.I. 2005/329, as amended by S.S.I. 2016/434.  
<sup>(34)</sup> S.S.I. 2010/148, as amended by S.S.I. 2016/434.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the following regulations—

- the Vegetable Seeds Regulations 1993 (the “Vegetable Seed Regulations”);
- the Oil and Fibre Plant Seed (Scotland) Regulations 2004 (the “Oil and Fibre Plant Seed Regulations”);
- the Cereal Seed (Scotland) Regulations 2005 (the “Cereal Seed Regulations”);
- the Fodder Plant Seed (Scotland) Regulations 2005 (the “Fodder Plant Seed Regulations”);
- the Beet Seed (Scotland) (No. 2) Regulations 2010 (the “Beet Seed Regulations”);
- the Seed Potatoes (Scotland) Regulations 2015 (the “Seed Potatoes Regulations”); and
- the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 ([S.S.I. 2016/68](#)).

They transpose the following Commission Implementing Directives and Decision.

### **Commission Implementing Directive (EU) 2016/11**

Commission Implementing Directive (EU) 2016/11 amending Annex II to Council [Directive 2002/57/EC](#) on the marketing of seed of oil and fibre plants (OJ L 3, 6.1.2016, p.48 amends Council [Directive 2002/57/EC](#) (OJ L 193, 20.7.2002, p.74) to reduce the minimum varietal purity of seed of hybrids of swede rape. This amendment is transposed by regulation 3(4), which amends schedule 4 (requirements for basic seed, certified seed, certified seed of the first generation, certified seed of the second generation, certified seed of the third generation and commercial seed) of the Oil and Fibre Plant Seed Regulations.

### **Commission Implementing Directive (EU) 2016/317 (“the Implementing Directive”) and Commission Implementing Decision (EU) 2016/320 (“the Implementing Decision”)**

Commission Implementing Directive 2016/317 amending Council Directives [66/401/EEC](#), [66/402/EEC](#), [2002/54/EC](#), [2002/55/EC](#), [2002/56/EC](#) and [2002/57/EC](#) as regards the official label of seed packages (OJ L 60, 5.3.2016, p.72) requires the addition of an officially assigned serial number on the official label of certain categories of seed potatoes and certain categories of vegetable, oil and fibre plant, cereal, fodder and beet seeds. Commission Implementing Decision (EU) 2016/320 amending [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 catalogues of varieties of agricultural plant species or vegetable species has been submitted (OJ L 60, 5. 3.2016, p.88) introduces the requirement for an officially assigned serial number on the official label of seed potatoes and of oil and fibre plant, cereal, fodder and beet seeds, where those seed potatoes or seeds are authorised to be marketed for the purposes of tests and trials.

Regulation 2 amends the Vegetable Seed Regulations to transpose Article 4 of the Implementing Directive. Regulation 3 amends the Oil and Fibre Plant Seed Regulations to implement the Implementing Decision in relation to oil and fibre seeds and to transpose Article 6 of the Implementing Directive. Regulation 4 amends the Cereal Seed Regulations to implement the Implementing Decision in relation to cereal seeds and to transpose Article 2 of the Implementing Directive. Regulation 5 amends the Fodder Plant Seed Regulations to implement the Implementing Decision in relation to fodder plant seeds and to transpose Article 1 of the Implementing Directive.

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Regulation 6 amends the Beet Seed Regulations to implement the Implementing Decision in relation to beet seeds and to transpose Article 3 of the Implementing Directive. Regulation 7 amends the Seed Potatoes Regulations to implement the Implementing Decision in relation to seed potatoes and to transpose Article 5 of the Implementing Directive.

Regulation 8 amends regulations 2 (to substitute certain definitions) and 15 (to correct drafting errors and fulfil a commitment to the Scottish Parliament to do so) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016.

Regulation 3(3) amends the Oil and Fibre Plant Seed Regulations to update the cross-reference to the Fodder Plant Seed Regulations.

Regulation 4(2)(a) also makes a drafting correction to the Cereal Seed Regulations.

Transposition tables in relation to the above Commission Implementing Directives and Decision have been published with the Policy Note accompanying these Regulations.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.