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STATUTORY INSTRUMENTS

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**2002 No. 3173**

**The Cereal Seed (England) Regulations 2002**

**PART III**

*Control of Cereal Seed*

**Marketing of seed**

**15.**—(1) Subject to paragraph (2) and regulations 19 to 22, no person shall market any seed to which these Regulations apply except for seed listed in Schedule 6.

(2) Paragraph (1) shall not apply to the marketing of seed, as grown, for processing, provided that the identity of the seed is ensured.

(3) Any person marketing seed that has been imported from a third country and exceeds two kilograms shall supply the Secretary of State, in writing and within one month of the first marketing of the seed, with the following particulars relating to the seed—

- (a) the species;
- (b) the variety;
- (c) the category;
- (d) the country of production and the official inspection authority;
- (e) the country of despatch;
- (f) the importer; and
- (g) the quantity of seed.

**Marketing of HVS seed**

**16.**—(1) This regulation applies to the marketing of any officially certified basic, C1 or C2 seed of barley, durum wheat, oats, spelt wheat or wheat where any label or notice affixed to, contained in or marked on any package containing the seed, any document accompanying the seed or any particulars displayed in respect of the seed, states or indicates that the seed attains the Higher Voluntary Standards for such seed.

(2) Where any person markets seed to which this regulation applies, the person marketing the seed shall be deemed to state for the purposes of these Regulations, and in relation to the particulars given to a purchaser, that—

- (a) the crop from which the seed has been harvested met the Higher Voluntary Standards for such seed laid down in Schedule 3 and Part I of Schedule 4;
- (b) the seed meets the Higher Voluntary Standards for such seed laid down in Part II of Schedule 4; and
- (c) a successful application has been made to the Secretary of State under paragraph (3) verifying that the crop and seed has attained those standards.

(3) An application for verification that basic, C1 or C2 seed of barley, durum wheat, oats, spelt wheat or wheat has attained the Higher Voluntary Standards for such seed may be made to the Secretary of State in such form and manner and containing such information and accompanied by such documents as the Secretary of State may require and the Secretary of State shall grant the application if the Secretary of State is satisfied that—

- (a) the crop from which the seed has been harvested met the Higher Voluntary Standards for such seed laid down in Schedule 3 and Part I of Schedule 4; and
- (b) the seed meets the Higher Voluntary Standards for such seed laid down in Part II of Schedule 4.

#### **Marketing of officially certified lower germination seed**

17. No person shall market officially certified pre-basic or basic seed that has been found by the competent seed certification authority that certified the seed not to satisfy the germination condition for such seed, or (regardless of the findings of the competent seed certification authority) the person marketing the seed knows does not satisfy that condition, unless—

- (a) the official label contains a statement that the minimum percentage of germination of the seed is less than the EC minimum percentage of germination for the relevant category of seed;
- (b) the person marketing the seed guarantees a specific minimum percentage of germination for the seed; and
- (c) another label is attached to the outside of the package containing the seed specifying the specific minimum percentage of germination guaranteed by the person marketing the seed, his name and address and the reference number of the seed lot.

#### **Marketing of officially certified early movement seed**

18.—(1) No person shall market officially certified early movement pre-basic or basic seed unless—

- (a) he guarantees a minimum percentage of germination for the seed that is—
    - (i) the same as the EC minimum percentage of germination for the relevant species of seed and the same as or less than the percentage of germination for the seed ascertained by the provisional analysis on which the certification of the seed was based, or
    - (ii) less than the EC minimum percentage of germination for the relevant species of seed and the same as the percentage of germination ascertained by the provisional analysis on which the certification of the seed was based; and
  - (b) he provides the purchaser, upon or before delivery of the seed, with a statement—
    - (i) stating that the seeds are being marketed before the completion of the official germination test;
    - (ii) specifying the guaranteed minimum percentage of germination; and
    - (iii) specifying the name and address of the person marketing the seed and the reference number of the seed lot.
- (2) No person shall market officially certified early movement CS, C1 or C2 seed unless—
- (a) he guarantees a minimum percentage of germination for the seed that is—
    - (i) the same as the EC minimum percentage of germination for the relevant species of seed, and

- (ii) the same as, or less than, the percentage of germination for the seed ascertained by the provisional analysis on which the certification of the seed was based, and
- (b) he provides the purchaser, upon or before delivery of the seed, with a statement—
  - (i) stating that the seeds are being marketed before the completion of the official germination test;
  - (ii) specifying the guaranteed minimum percentage of germination; and
  - (iii) specifying the name and address of the person marketing the seed and the reference number of the seed lot.
- (3) Where any person—
  - (a) markets seed in accordance with paragraph (1) or (2), and
  - (b) the official germination test shows that the percentage of germination of the seed is less than the minimum percentage of germination guaranteed in accordance with the requirements of paragraph (1)(a) or (2)(a) as the case may be,he shall provide the purchaser with the result of the completed official germination test as soon as practicable and, in any event, not later than seven days after being informed of it.

#### **Exception for scientific purposes and selection work**

**19.**—(1) The prohibition in regulation 15(1) shall not apply to the marketing by a producer of small quantities of seed for scientific purposes or selection work for which—

- (a) an authorisation has been granted to the producer by the Secretary of State in accordance with this regulation, or
  - (b) an authorisation has been granted to the producer by or on behalf of—
    - (i) the Scottish Ministers;
    - (ii) the National Assembly for Wales;
    - (iii) the Department of Agriculture and Rural Development; or
    - (iv) a competent seed certification authority in another member State, pursuant to Article 4a(1)(a) of the Cereal Seed Directive.
- (2) A producer in England may apply to the Secretary of State for a regulation 19 authorisation.
- (3) An application under this regulation shall be made in such form and manner and at such time as the Secretary of State may require and shall be accompanied by such information as the Secretary of State may require for the purpose of determining whether to grant an authorisation.
- (4) The Secretary of State shall not grant a regulation 19 authorisation in respect of seed of a genetically modified variety unless an authorisation is in force in respect of the variety concerned under Part C of Council Directive [2001/18/EC](#)(**1**) on the deliberate release into the environment of genetically modified organisms and repealing Council Directive [90/220/EEC](#).
- (5) A regulation 19 authorisation may—
  - (a) specify the amount of seed that may be marketed under it, and
  - (b) impose such conditions as the Secretary of State may think necessary or desirable having regard to the nature of the scientific purpose or selection work involved and the nature of the seed to which the authorisation relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

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(1) O.J. L106, 17.4.2001, p.1.

### Exception for test and trials

**20.**—(1) The prohibition in regulation 15(1) shall not apply to the marketing by a producer of seed for test and trial purposes for which—

- (a) an authorisation has been granted to the producer by the Secretary of State in accordance with this regulation, or
- (b) an authorisation has been granted to the producer by or on behalf of—
  - (i) the Scottish Ministers;
  - (ii) the National Assembly for Wales;
  - (iii) the Department of Agriculture and Rural Development; or
  - (iv) a competent seed certification authority in another member State, pursuant to Article 4a(1)(b) of the Cereal Seed Directive.

(2) A producer in England may apply to the Secretary of State for a regulation 20 authorisation.

(3) An application under this regulation shall be made in such form and manner and at such time as the Secretary of State shall require and shall be accompanied by such information as the Secretary of State may require for the purpose of determining whether to grant an authorisation.

(4) The Secretary of State shall not grant a regulation 20 authorisation unless—

- (a) she considers that the amount of seed that may be marketed under it is of an appropriate quantity for the test or trial;
- (b) an application has been submitted to the relevant authority under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001(2) for acceptance of the variety concerned on to a National List that has not been withdrawn or finally determined; and
- (c) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety concerned under Part C of Council Directive [2001/18/EC](#) on the deliberate release into the environment of genetically modified organisms and repealing Council Directive [90/220/EEC](#).

(5) A regulation 20 authorisation—

- (a) shall specify the amount of seed that may be marketed under it, and
- (b) may impose such conditions as the Secretary of State may think necessary or desirable having regard to the nature of the test or trial and the nature of the seed to which the authorisation relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

### General exemptions

**21.**—(1) The prohibition in regulation 15(1) shall not apply to the marketing of seed that is authorised by a general licence made by the Secretary of State under this regulation but in all other respects the provisions of these Regulations shall continue to apply in relation to the marketing of the seed.

(2) Subject to paragraph (3), the Secretary of State may, by a general licence, exempt any person or class of persons, or persons generally, from compliance with any provision of these Regulations.

(3) The Secretary of State shall not exercise the power to issue a general licence under paragraph (2) except—

- (a) to the extent that the provisions of the general licence are permitted in accordance with a temporary experiment organised under Article 13a of the Cereal Seed Directive;

- (b) to give effect to the provisions of a Council Decision made under Article 16 of the Cereal Seed Directive and amendments made to such a Decision; or
  - (c) to the extent that the provisions of the general licence are permitted in accordance with measures taken pursuant to Article 17 of the Cereal Seed Directive.
- (4) A general licence issued under paragraph (2)—
- (a) shall have effect during the period specified in it unless the Secretary of State revokes it earlier, and
  - (b) may impose such conditions as the Secretary of State may think necessary or desirable having regard to the marketing permitted by the general licence and the nature of the seed to which it relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

### **Mixtures**

**22.**—(1) The prohibition in regulation 15(1) shall not apply to the marketing of a mixture of seeds to which paragraph (2) applies.

- (2) This paragraph applies to—
- (a) a specific mixture of various varieties of one species of seed—
    - (i) that, as a mixture, is effective against the propagation of a harmful organism, and
    - (ii) each component of which complied, before mixing, with the relevant provisions of these Regulations;
  - (b) a mixture of different species of seeds, each component of which complied, before mixing, with the relevant provisions of these Regulations; and
  - (c) a mixture of seeds permitted by the Fodder Plant Seed (England) Regulations 2002<sup>(3)</sup> that includes seed of a species to which these Regulations apply and that complied, before mixing with the fodder plant seed, with the relevant provisions of these Regulations.

### **Sampling**

**23.**—(1) A sample of seeds taken in connection with an application made under regulation 6, 11 or 13 shall be drawn—

- (a) by—
    - (i) an authorised officer, or
    - (ii) a licensed seed sampler acting under the supervision of the authority who appointed him;
  - (b) in accordance with the method laid down in Schedule 5 of the Seed (Registration, Licensing and Enforcement) (England) Regulations 2002<sup>(4)</sup>; and
  - (c) from a homogeneous seed lot.
- (2) Subject to paragraph (3), the maximum weight of a seed lot shall be that set out in column (3) of the table in Schedule 7.
- (3) A seed lot may exceed the maximum weight for a seed lot set out in column (3) of the table in Schedule 7 by not more than 5%.
- (4) The minimum weight of a sample shall be that set out in column (4) of the table in Schedule 7.

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<sup>(3)</sup> S.I.2002/3172.

<sup>(4)</sup> S.I. 2002/3176.

(5) The minimum weight of a sample for a moisture test shall be that specified in column (5) of the table in Schedule 7.

(6) If a sample of seeds submitted or taken in connection with an application made under 6, 11 or 13—

- (a) is found not to have been taken in accordance with paragraph (1);
- (b) is taken from a seed lot that does not comply with paragraph (2); or
- (c) does not comply with paragraph (4) or (5);

no further use of that sample shall be made under these Regulations, and any findings or results already obtained from testing seed taken from that sample, or from inspecting plants grown in a control plot that has been sown with seed from that sample, shall be disregarded.

### **Packaging**

**24.**—(1) No person shall market—

- (a) any officially certified pre-basic, basic, CS, C1 or C2 seed, or
- (b) a mixture of seeds to which regulation 22 applies,

unless it is marketed in a sufficiently homogeneous seed lot or in part of such a seed lot.

(2) Subject to paragraph (3), no person shall market—

- (a) breeder's seed;
- (b) officially certified pre-basic, basic, CS, C1 or C2 seed; or
- (c) a mixture of seeds to which regulation 22 applies,

unless it is in a properly sealed package.

(3) Paragraph (2) shall not apply in the case of—

- (a) the marketing of seed not exceeding 5 kilograms in weight to the final consumer; and
- (b) the marketing of officially certified CS seed (other than maize), C1 seed or C2 seed in bulk direct to the final consumer in a container that is closed after filling and in respect of which the person marketing the seed delivers a note to the final consumer containing the information given on the official label on the container from which the seed was taken.

(4) In this regulation, in the case of breeder's seed, "properly sealed package" means a sealed package of seed that has been sealed in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.

(5) In this regulation, in the case of a package of seed to which paragraph (6) applies and that has been sealed only once "properly sealed package" means—

- (a) in the case of a package of seed sealed in England, a sealed package of seed that has been sealed—
  - (i) no later than at the time of official sampling;
  - (ii) by a person to whom regulation 25(5) applies;
  - (iii) using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal; and
  - (iv) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package;

(b) in the case of a package of seed sealed in—

- (i) the United Kingdom, elsewhere than in England, or
- (ii) another member State,

a sealed package of seed that has been sealed in accordance with the provisions of Article 9(1) of the Cereal Seed Directive;

- (c) in the case of a package of seed sealed in an equivalent third country, a sealed package of seed that has been sealed in accordance with the provisions of paragraph B.I of Part II of the Annex to the Third Country Equivalence Decision.

(6) This paragraph applies to a package of officially certified pre-basic, basic, CS, C1 or C2 seed other than a small package of such seed that has been sealed in the United Kingdom.

(7) In this regulation, in relation to a package of a mixture of seeds to which paragraph (8) applies and that has been sealed only once, “properly sealed package” means a sealed package of seed that has been sealed—

- (a) in the case of a package of seed sealed in England, a sealed package of seed that has been sealed—
  - (i) by a person to whom regulation 25(5) applies;
  - (ii) using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal; and
  - (iii) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package;

(8) This paragraph applies to a package of a mixture of seeds to which regulation 22 applies other than a small package of such seed that has been sealed in the United Kingdom.

(9) In this regulation, in the case of—

- (a) a small package of officially certified pre-basic, basic, CS, C1 or C2 seed, and
- (b) a small package of a mixture of seeds to which regulation 22 applies,

that has been sealed in the United Kingdom “properly sealed package” means a sealed package of seed that has been sealed in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.

(10) In this regulation, in the case of a package of seed to which paragraph (11) applies that has been sealed more than once, “properly sealed package” means—

- (a) in the case of a package of seed that has been resealed in England, a sealed package of seed that, on each occasion it has been resealed, has been resealed—
  - (i) by a person to whom regulation 25(5) applies, and
  - (ii) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package;
- (b) in the case of a package of seed that has been resealed in—
  - (i) the United Kingdom, elsewhere than in England, or
  - (ii) another member State,

a sealed package of seed that, on each occasion it has been resealed, has been sealed in accordance with the provisions of Article 9(2) of the Cereal Seed Directive;

- (c) in the case of seed that has been resealed in an equivalent third country, a sealed package of seed that, on each occasion it has been resealed, has been resealed in accordance with the provisions of paragraph B.I of Annex II to the Third Country Equivalence Decision.

(11) This paragraph applies to—

- (a) a package of officially certified pre-basic, basic, CS, C1 or C2 seed, and
- (b) a package of a mixture of seeds to which regulation 22 applies,

other than a small package of such seed that has been sealed in the United Kingdom or another member State.

### **Sealing of packages**

**25.**—(1) Subject to paragraph (2), no person shall seal a package of—

- (a) officially certified pre-basic, basic, CS, C1 or C2 seed, or
- (b) a mixture of seeds to which regulation 22 applies,

except a person to whom paragraph (5) applies.

(2) Paragraph (1) shall not apply to the sealing of a small package of officially certified pre-basic, basic, CS, C1 or C2 seed.

(3) Subject to paragraph (4), no person shall reseal a package of—

- (a) officially certified pre-basic, basic, CS, C1 or C2 seed, or
- (b) a mixture of seeds to which regulation 22 applies,

except a person to whom paragraph (5) applies.

(4) Paragraph (3) shall not apply—

- (a) to a small package of seed, or
- (b) where a package has been resealed which had previously been opened by the final consumer of the seed for the purpose of using some of the seed in the package.

(5) This paragraph applies to—

- (a) an authorised officer and any person being supervised by such a person, and
- (b) a licensed seed sampler and any person being supervised by such a person.

### **Labelling of packages**

**26.**—(1) Subject to paragraphs (2), (3) and (4), no person shall market any—

- (a) breeder's seed;
- (b) officially certified pre-basic, basic, CS, C1 or C2 seed; or
- (c) a mixture of seeds to which regulation 22 applies,

except in a package that is labelled in accordance with the following paragraphs of this regulation.

(2) Paragraph (1) shall not apply to the marketing of seed, as grown, for processing provided the identity of the seed is ensured.

(3) Paragraph (1) shall not apply to the marketing of officially certified CS seed (other than maize), officially certified C1 seed or C2 seed in bulk direct to the final consumer in a container that is closed after filling and in respect of which the person marketing the seed delivers a note to the final consumer, not later than the time of delivery of the seed, containing the information given on the official label on the container from which the seed was taken.

(4) A person may market any seed otherwise than in a package that complies with the other provisions of this regulation direct to the final consumer where the seed is sold or supplied in a quantity not exceeding 5 kilograms and is taken, in the presence of the final consumer, from a container on which there is clearly and visibly marked or near which there is clearly and visibly displayed a statement containing particulars of the matters specified in paragraph 1 of Schedule 8 in the case of seed other than a mixture and paragraph 2 of that Schedule in the case of a mixture of seeds.

(5) A package of breeder's seed shall be labelled in accordance with paragraphs 3 and 4 of Schedule 8.



(6) A package of officially certified pre-basic seed, other than a small package of such seed sealed in the United Kingdom, shall be labelled—

(a) in the case of a package of seed sealed in England, in accordance with paragraphs 5 to 8 of Schedule 8, and

(b) in the case of a package of seed sealed—

(i) in the United Kingdom, elsewhere than in England, or

(ii) in another member State,

in accordance with the provisions of Article 14a(c) of the Cereal Seed Directive.

(7) A package of officially certified basic, CS, C1 or C2 seed, other than a small package of such seed sealed in the United Kingdom, shall be labelled—

(a) in the case of a package of seed sealed in England, in accordance with paragraphs 9 to 13 of Schedule 8;

(b) in the case of a package of seed sealed—

(i) in the United Kingdom, elsewhere than in England, or

(ii) in another member State,

in accordance with the provisions of Article 10(1)(a) of the Cereal Seed Directive as they apply to basic, CS, C1 or C2 seed; and

(c) in the case of a package of seed sealed in an equivalent third country, in accordance with the provisions of paragraph B.I of Part II of the Annex to the Third Country Equivalence Decision as they apply to basic, CS, C1 or C2 seed.

(8) A small package of officially certified pre-basic, basic, CS, C1 or C2 seed sealed in the United Kingdom shall be labelled—

(a) in the case of a package of seed sealed in England, in accordance with paragraphs 14 to 16 of Schedule 8, and

(b) in the case of a package of seed sealed in the United Kingdom, elsewhere than in England, in accordance with provisions equivalent to the ones contained in sub-paragraph (a).

(9) A package of a mixture of seeds to which regulation 22 applies, other than a small package of such seeds sealed in the United Kingdom, shall be labelled—

(a) in the case of a package of seed sealed in England, in accordance with paragraphs 17 to 21 of Schedule 8, and

(b) in the case of a package of seed sealed—

(i) in the United Kingdom, elsewhere than in England, or

(ii) in another member State,

in accordance with the provisions of Article 10(1)(a) of the Cereal Seed Directive as read with Article 13(3) of that Directive.

(10) A small package of a mixture of seeds to which regulation 22 applies sealed in the United Kingdom shall be labelled—

(a) in the case of a package of seed sealed in England, in accordance with paragraphs 22 to 24 of Schedule 8, and

(b) in the case of a package of seed sealed in the United Kingdom, elsewhere than in England, in accordance with provisions equivalent to the ones contained in sub-paragraph (a).

(11) A package of officially certified basic, CS, C1 or C2 (other than a small package of such seed sealed in the United Kingdom) and a package of a mixture of seeds to which regulation 22 applies

(other than a small package of such seed sealed in the United Kingdom) shall contain a document that—

- (a) in the case of a package of seed sealed in England—
  - (i) is the same colour as the official label fixed to the outside of the package in accordance with the provisions of this regulation, and
  - (ii) that contains the particulars specified in paragraph 9(c), (e) and (f) of Schedule 8, in the case of basic, CS, C1 or C2 seed, and paragraph 17(a) and (c) of Schedule 8 in the case of a mixture of seeds to which regulation 22 applies;
- (b) in the case of a package of seed sealed—
  - (i) in the United Kingdom, elsewhere than in England, or
  - (ii) in another member State,
 is in accordance with the provisions of Article 10(1)(b) of the Cereal Seed Directive as they apply to such seed and as read with Article 13(3) of that Directive in the case of a mixture of seeds to which regulation 22 applies; and
- (c) in the case of a package of seed sealed in an equivalent third country, is in accordance with the provisions of paragraph B.I of Part II of the Annex to the Third Country Equivalence Decision as they apply to such seed.

(12) The provisions of paragraph (11) shall not apply if—

- (a) the particulars specified in paragraph (11)(a)(ii) are printed indelibly on the outside of the package, or
- (b) the official label is an adhesive or a tear resistant label.

(13) Notwithstanding paragraph (7) a package (other than a small package) of officially certified basic, CS, C1 or C2 seed may be marketed if—

- (a) the appropriate particulars of the matters specified in paragraphs 9(a) to (l) of Schedule 8, and if so desired the particulars specified in paragraph 10 of that Schedule, are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified, and
- (b) the requirements of Part VI of that Schedule are satisfied.

(14) In the case of seed of a variety that has been genetically modified—

- (a) any label or document, official or otherwise, which is fixed to or accompanies a seed lot or any part of a seed lot under the provisions of these Regulations, and
- (b) any particulars given under paragraph (4),

shall clearly indicate that the variety has been genetically modified.

(15) If any breeder's seed or officially certified pre-basic, basic, CS, C1 or C2 seed or a mixture of seeds to which regulation 22 applies has been subjected to any chemical treatment then this fact and the nature of the treatment or the proprietary name of the chemical used in the treatment shall be stated either—

- (a) in a case where paragraph (3) or (4) applies, with the particulars given in accordance with that paragraph; and
- (b) in a case where paragraph (3) or (4) does not apply—
  - (i) on a separate supplier's label on the package; or
  - (ii) on the label required under paragraph (5), (6), (7), (8), (9) or (10);

and also, except where the information prescribed by this paragraph is given on an adhesive or tear-resistant label, either on the outside of the package or on a document enclosed inside the package.

(16) Subject to paragraph (17), if a package of officially certified pre-basic, basic, CS, C1 or C2 seed, other than a small package of such seed, has been resealed this fact shall be stated on the official label together with the date of resealing and the name of the authority responsible for the resealing.

(17) Where a package of seed of the type specified in paragraph 16, 22, 30, 31(3), 38 or 39(3) of Schedule 1 is resealed, the package shall be labelled with an OECD label containing the particulars otherwise required under this regulation.

(18) The particulars and the information given in accordance with this regulation shall be given in one of the official languages of any member State.

(19) Subject to the provisions of the Act and of these Regulations, no person shall, in the course of the marketing or the preparation for marketing of any seed by himself or another person, wilfully reproduce, remove, alter, deface, conceal or misuse in any way any label fixed to, contained in or marked on any package of seed or which is to be so fixed, contained or marked.