
STATUTORY INSTRUMENTS

2005 No. 2673

SEEDS, ENGLAND

**The Fodder Plant Seed (England)
(Amendment) Regulations 2005**

Made - - - - 25th September 2005
Laid before Parliament 28th September 2005
Coming into force - - 26th October 2005

The Secretary of State in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4), (5), (5A) and 36 of the Plant Varieties and Seeds Act 1964⁽¹⁾, and now vested in her⁽²⁾, after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to her to be concerned, makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Fodder Plant Seed (England) (Amendment) Regulations 2005 and shall come into force on 26th October 2005.

Amendment of the Fodder Seed (England) Regulations 2002

2.—(1) The Fodder Plant Seed (England) Regulations 2002⁽³⁾ shall be amended in accordance with the provisions of this regulation.

(2) In regulation 2(1)—

(a) for the definition of “the Fodder Plant Seed Directive” there shall be substituted the following definition—

““the Fodder Plant Seed Directive” means Council Directive [66/401/EEC](#)⁽⁴⁾ on the marketing of fodder plant seed as last amended by Council Directive [2004/117/EC](#)⁽⁵⁾”;

(1) [1964 c. 14](#); section 16 was amended by section 4(1) of, and paragraph 5(1), (2) and (3) of Schedule 4 to, the European Communities Act [1972 \(c. 68\)](#), S.I. [1977/1112](#) and section 2 of the Agriculture Act [1986 \(c. 49\)](#); see section 38(1) for a definition of “the Minister”.

(2) Under the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. [2002/794](#)), the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as they are exercisable in relation to England, transferred to the Secretary of State.

(3) S.I. [2002/3172](#) as amended by S.I. [2004/2387](#).

(4) O.J. No. L125, 11.7.66, p. 2298/66 (OJ/SE 1965-66 p. 132).

(5) O.J. No. L14, 18.1.2005, p18.

- (b) in the definition of “licensed EC crop inspector”, for the words “Article 2(3)(i)(c)” there shall be substituted the words “Article 2(3)A(a)(iii)”;
- (c) for the definition of “licensed EC seed testing station” there shall be substituted the following definition—
- ““licensed EC seed testing station” means a seed testing laboratory authorised by the competent seed certification authority in another member State, pursuant to Article 2(3)B(a) of the Fodder Plant Seed Directive, to carry out seed testing in that member State;”;
- (d) for the definition of “licensed third country seed testing station” there shall be substituted the following definition—
- ““licensed third country seed testing station” means a seed testing laboratory authorised by the approved seed certification authority in an equivalent third country, pursuant to—
- (a) in the case of fine grasses, fodder grasses, small seeded legumes and large seeded legumes, Rule 6(4)(2)(3) of, and Appendix 8B to, the OECD Grass and Legume Seed Scheme, and
- (b) in the case of crucifers, Rule 6(4)(2)(3) of, and Appendix 8B to, the OECD Crucifer and Oil and Fibre Seed Scheme,
- to carry out seed testing in that country;”;
- (e) for the definition of “OECD Decision” there shall be substituted the following definition—
- ““OECD Decision” means the Decision of the OECD Council revising the OECD Schemes for Varietal Certification or the Control of Seed Moving in International Trade(6) as last amended by OECD Council Decision C(2005)38;”;
- (f) after the definition of “official UK seed test” there shall be inserted the following definition—
- ““preservation mixture” means a mixture of two or more species of seed, which includes seed to which these Regulations apply, and which is suitable for use in the preservation of the natural environment;”;
- (g) after the definition of “registered person” there shall be inserted the following definition—
- ““regulation 18A authorisation” means an authorisation granted in accordance with regulation 18A;”.
- (3) After regulation 18 there shall be inserted the following regulation—

“Exception for preservation mixtures

18A.—(1) The prohibition in regulation 15(1) shall not apply to the marketing by a person of a preservation mixture for which an authorisation has been granted to that person by the Secretary of State in accordance with this regulation.

(2) A person may apply to the Secretary of State for the grant or renewal of a regulation 18A authorisation.

(3) A regulation 18A authorisation shall last for a period of one year.

(4) An application for grant or renewal of a regulation 18A authorisation 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 or renew the authorisation.

- (5) The Secretary of State shall not grant or renew a regulation 18A authorisation unless—
 - (a) she has sufficient information relating to the origin of the seed in the preservation mixture and the intended use of the preservation mixture as to be satisfied that the proposed marketing of the preservation mixture is suitable for the purpose of the authorisation; and
 - (b) she is satisfied that the preservation mixture comprises seed only of species that are native to Great Britain.
- (6) A regulation 18A authorisation—
 - (a) may specify the amount of seed that may be marketed under it;
 - (b) may impose conditions relating to the retention and production of samples of the preservation mixture;
 - (c) shall specify the natural environments and the regions in England for which the preservation mixture is suitable for use;
 - (d) shall impose conditions relating to—
 - (i) the keeping and production of records in respect of the collection, preparation and marketing of the preservation mixture; and
 - (ii) the labelling of the preservation mixture for the purposes of ensuring proper identification and traceability of the seed.”
- (4) In Schedule 1—
 - (a) in paragraph 25(2)(a)(ii) of part III, for the words “the Annex” there shall be substituted the words “Annex II”; and
 - (b) in paragraph 52(3)(b) of part V, the word “or” shall be deleted.

25th September 2005

Bach
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Fodder Plant Seed (England) Regulations 2002 ([SI 2002/3172](#)) as amended by the Fodder Plant Seed (England) (Amendment) Regulations ([SI 2004/2387](#)) (the “2002 Regulations”) and come into force on 26th October 2005.

The amendments to the 2002 Regulations—

- (a) update definitions to take account of Council Directive [2004/117/EC](#) (O.J. No. L14, 18.1.2005, p. 18) on examinations carried out under official supervision and equivalence of seed produced in third countries (*Regulations 2(2)(a), 2(2)(b) and 2(2)(c)*);
- (b) enable uncertified British native-origin seed mixtures to be marketed for natural environment preservation purposes on the basis of an authorisation granted by the Secretary of State, subject to conditions set by the Secretary of State (*Regulations 2(2)(f), 2(2)(g) and 2(3)*);
- (c) update references to reflect amendments to the Decision of the OECD Council revising the OECD Schemes for Varietal Certification or the Control of Seed Moving in International Trade (C(2000)146/Final) (*Regulations 2(2)(d) and 2(2)(e)*);
- (d) correct errors (*Regulations 2(4)(a) and 2(4)(b)*).

A Transposition Note and a Regulatory Impact Assessment have been prepared for these Regulations and copies have been placed in the library of each House of Parliament. Copies of these documents can be obtained from the Plant Variety Rights Office and Seeds Division of the Department for Environment, Food and Rural Affairs, White House Lane, Huntingdon Road, Cambridge, CB3 0LF.