

EXPLANATORY MEMORANDUM TO
THE OIL AND FIBRE PLANT SEED (ENGLAND) (AMENDMENT) REGULATIONS
2005

2005 No. 2674

1. This explanatory memorandum has been prepared by Defra and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations reflect changes made by Article 4 of Council Directive 2004/117/EC on examinations carried out under official supervision and equivalence of seed produced in third countries and by OECD Council Decision (2005) 38 which amends the OECD Schemes for the varietal certification or the control of seed moving in international trade. They also reintroduce the C3 certification category for linseed. The Regulations apply in England and amend the Oil and Fibre Plant Seed (England) Regulations 2002 (the 2002 Regulations).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The 2002 Regulations included provisions relating to the licensing of industry personnel to undertake tasks under official supervision, which implemented long standing temporary experiments in the European and OECD regimes. The temporary experiments have now been incorporated into EC Seeds Marketing Directive and OECD Schemes on a permanent basis by Directive 2004/117/EC. As a result, changes are required to references to Directive 2002/57/EC on the marketing of oil and fibre plant seed (the Oil and Fibre Plant Seed Directive) and the OECD Schemes. These are technical only; they do not change the substance of the Regulations.

4.2 The Regulations also reintroduce provision for the certification of linseed at the C3 category. Flax and linseed are the same botanical species. The Oil and Fibre Plant Seed Directive has always included provision for certification of flax at the C3 category. Provision for certification of linseed lapsed temporarily, but was reintroduced when the Oil and Fibre Plant Seed Directive was consolidated in 2002.

4.3 Directive 2004/117/EC was considered and cleared by Scrutiny Committee in the House of Commons on 18 May 2004 and by Scrutiny Committee in the House of Lords on 21 May 2004.

4.4 A Transposition Table for Article 4 of Directive 2004/117/EC is attached as an Annex to this memorandum. Other Regulations in the series implementing Directive 2004/117/EC are:

- The Fodder Plant Seed (England)(Amendment) Regulations 2005
- The Cereal Seed (England)(Amendment) Regulations 2005
- The Beet Seed (England)(Amendment) Regulations 2005
- The Vegetable Seed (England)(Amendment) Regulations 2005
- The Seed (Registration, Licensing and Enforcement) (England) (Amendment) Regulations 2005.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 EC Seeds Marketing Directives require official certification of seed of the main commercial crop species before marketing, to ensure that seed sold to farmers and growers meets specified standards. They also include requirements relating to trade with third countries under OECD Schemes. The Directives are implemented in England by 5 Regulations concerned with different species groups (fodder plant, cereals, beet, oil and fibre plant and vegetables) and by a regulation controlling the registration and licensing of seed companies and personnel. The 2002 Regulations now require amendment, as outlined in paragraph 4, to implement subsequent changes to EU legislation.

7.2 A wide range of interests were consulted, including plant breeders and the seed industry, farmers and growers, environmental and consumer groups, totalling 117 organisations and individuals. Defra did not receive any comment in response to consultation on the proposed changes to implement Directive 2004/117/EC. Defra initially consulted on proposals to reintroduce C3 linseed in 2004. Representations were received asking for a delay to allow for changes to seed production patterns. This was agreed. Defra has not received any comment in response to consultation on these latest proposals.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

9. Contact

Dick Staward at Defra, Plant Variety Rights Office and Seeds Division, Tel:01223 342358 or e-mail Dick.Staward@defra.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX

**THE OIL AND FIBRE PLANT SEED (ENGLAND)(AMENDMENT) REGULATIONS
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Council Directive 2004/117/EC amending Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards examinations carried out under official supervision and equivalence of seed produced in third countries

Article 4: Amendments to Directive 2002/57/EC on the marketing of oil and fibre plant seed

DIRECTIVE 2004/117/EC	REGULATIONS	COMMENTS
Article 4.1 amends the seed category definitions in the principal directive to provide for seed testing under official supervision, as well as official seed testing.	No change.	The 2002 Regulations incorporate the provisions of the EC temporary experiment on seed sampling and seed testing (Commission Decision 98/320/EC). They provide for all seed categories to be tested officially or under official supervision, so no change is needed to implement Article 4.1.
Article 4.2 inserts amended provisions relating to the licensing of crop inspectors into the principal directive and incorporates new provisions relating to licensed seed testing stations. Article 4.3 deletes a redundant provision from the directive.	Regulation 2 (2)(a)&(b) make consequential changes to the definitions of “licensed EC crop inspector” and “licensed EC testing station”. They have no practical effect.	Article 4.2 does not make any changes which require amendment to the 2002 Regulations. The significant change introduced by Article 4.2 is reduction in the minimum level of checks required on the work of licensed crop inspectors and seed testing stations. The level of checks is set administratively and does not require change to regulations to implement.

<p>Article 4.4 introduces provisions allowing seed trade personnel to be licensed to draw samples under official supervision.</p>	<p>No change.</p>	<p>The 2002 Regulations incorporate the provisions of the EC temporary experiment on seed sampling and seed testing (Commission Decision 98/320/EC). They permit licensed seed samplers to sample seed lots, under official supervision, for certification purposes.</p>
<p>Article 4.5 requires all Member States to accept requests for certification of “not finally certified” seed harvested in an equivalent third country, provided the seed is of a generation eligible for import as “not finally certified” and it satisfies the relevant directive seed conditions.</p>	<p>No change.</p>	<p>Before amendment, Directive 2002/57/EC permitted, but did not require, Member States to accept requests for certification in these circumstances. The 2002 Regulations included this permissive provision, so amendment is not needed to implement Article 4.5.</p>
<p>Article 4.6 enables the Council of Ministers to extend seed equivalence to all generations of seed.</p>	<p>No change.</p>	<p>The 2002 regulations do not require change unless the Council of Ministers uses this enabling provision to extend equivalence to all seed categories.</p>
<p>Article 8 provides that Member States shall implement the Directive by 1 October 2005</p>	<p>Regulation 1</p>	<p>The Regulations come into force on 26 October 2005.</p>