

**2016 No. 613**

**SEEDS, ENGLAND**

**The Seed Marketing (Amendment) Regulations 2016**

*Made* - - - - 26th May 2016

*Laid before Parliament* 1st June 2016

*Coming into force* - - 30th June 2016

The Secretary of State makes these Regulations in exercise of the powers conferred by section 16(1), (1A), (2), (3) and (4) of the Plant Varieties and Seeds Act 1964(a) and now vested in the Secretary of State(b).

In accordance with section 16(1) of that Act, the Secretary of State has consulted with representatives of such interests as appear to the Secretary of State to be concerned.

**Citation, commencement etc.**

1.—(1) These Regulations may be cited as the Seed Marketing (Amendment) Regulations 2016 and come into force on 30th June 2016.

(2) The Seed Marketing Regulations 2011(c) are amended as follows.

**Regulation 16 (packaging and sealing)**

2. In regulation 16, for paragraph (3) substitute—

“(3) A package must be sealed by or under the supervision of a licenced seed sampler using an official seal”.

**Regulation 24 (sampling for enforcement purposes)**

3. In regulation 24, after paragraph (2) insert—

“(3) That part of the sample sent for testing must be retained for at least two years”.

**Arrangements for official measures**

4. After regulation 28 insert—

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(a) 1964 c. 14; section 16(1) was amended, and section 16(1A) was inserted, by the European Communities Act 1972 (c. 68), Schedule 4, paragraph 5. See section 38(1) for the definition of “the Minister”.

(b) The functions of the Ministry of Agriculture, Fisheries and Food were transferred to the Secretary of State by virtue of article 2(2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

(c) S.I. 2011/463, amended by S.I. 2011/2992; there is another amending instrument but it is not relevant.

## **“Arrangements for official measures**

**28A.**—(1) The Secretary of State may make such arrangements with any person (“A”) as the Secretary of State considers necessary or desirable for the purpose of enabling A to carry out official measures on the Secretary of State’s behalf.

(2) But the Secretary of State must not make any arrangement under this regulation unless satisfied that the arrangement makes provision for the purpose of preventing any person from—

- (a) deriving any private gain from any official measures carried out under the arrangement; and
- (b) carrying out any official measures under the arrangement except under official supervision.

(3) The Secretary of State may include in any arrangement such conditions as the Secretary of State considers necessary or desirable for the purposes referred to in paragraphs (1) and (2), including conditions—

- (a) specifying—
  - (i) the official measures that A must carry out;
  - (ii) the species and generation of seed in respect of which A may carry out the official measures;
  - (iii) the methods to be used in connection with the official measures that A carries out;
  - (iv) the fees that A may charge in relation to the official measures that A carries out;
  - (v) the records that A must keep in connection with the official measures that A carries out;
- (b) prohibiting A from—
  - (i) charging fees in relation to the official measures that A carries out under the arrangement except to the extent that these do not exceed the costs that A incurs in carrying them out;
  - (ii) carrying out the official measures except under official supervision;
- (c) prohibiting A from making any further arrangement with any other person (“B”) for any purpose in connection with the carrying out of the official measures that A has arranged with the Secretary of State to carry out, unless—
  - (i) the Secretary of State has approved all the conditions of the further arrangement and A has received the prior written approval of the Secretary of State to make the further arrangement;
  - (ii) the further arrangement includes a condition prohibiting B from making any subsequent arrangements for any purpose connected with the carrying out of the official measures in respect of which the Secretary of State made the arrangement with A;
  - (iii) the further arrangement includes an acknowledgment by A that the Secretary of State may vary, revoke or suspend the further arrangement if it appears to the Secretary of State that B is not complying, or has failed to comply, with any condition of the further arrangement; and
  - (iv) the further arrangement includes the conditions specified in sub-paragraphs (a) and (b) of this paragraph and for these purposes references in those sub-paragraphs to A are to be construed as references to B and references to “the arrangement” are to be construed as references to the further arrangement.

(4) The Secretary of State must not approve the making of any further arrangement under this regulation unless satisfied that B will not—

- (a) derive any private gain from any official measures that B is to be authorised to carry out under the further arrangement;
  - (b) carry out any official measures under the further arrangement except under official supervision.
- (5) The Secretary of State may, by written notice to A or B (as the case may be), vary, suspend or revoke an arrangement or further arrangement, or any conditions of an arrangement or further arrangement made under this regulation.
- (6) A notice given under paragraph (5) must specify—
- (a) in respect of a variation or revocation, the date from which the variation or revocation takes effect;
  - (b) in respect of a suspension, the period during which the suspension has effect.
- (7) When a variation, revocation or suspension has effect, the Secretary of State may, for any purposes in relation to these Regulations, continue to have regard to such of the official measures carried out under an arrangement (or further arrangement) which was varied, revoked or suspended as appear to the Secretary of State to be official measures carried out in accordance with the provisions of these Regulations.
- (8) In this regulation, “official measures” include official examinations, growing trials, tests and assessments”.

**Schedule 2 (certification requirements)**

5. In Schedule 2, for paragraph 29 (higher voluntary standards for fodder seed) substitute—

“29. The following may be marketed as seed of a higher voluntary standard—

- (a) cocksfoot, festulolium, hybrid ryegrass, Italian ryegrass, meadow fescue, perennial ryegrass, red clover, red fescue, sainfoin, small timothy, timothy, smooth stalked meadow grass, tall fescue and white clover, where any of these are classified as certified seed (CS);
- (b) lucerne, classified either as certified seed of the first generation (C1) or certified seed of the second generation (C2)”.

**Schedule 3 (labelling and loose sales)**

6.—(1) Schedule 3 is amended as follows.

(2) In paragraph 22 (fodder seed other than a mixture: labelling requirements), for sub-paragraph (2)(b) substitute—

“(b) the name, and the address or identification number, of the person affixing the label;  
”.

(3) In paragraph 25 (vegetable seed: supplier’s labels), for sub-paragraph (5)(b) substitute—

“(b) the name, and the address or identification number, of the person affixing the label;  
”.

26th May 2016

*George Eustice*  
Minister of State  
Department for Environment, Food and Rural Affairs

## EXPLANATORY NOTE

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

These Regulations amend the Seed Marketing Regulations 2011 (S.I. 2011/463).

Regulation 2 amends one of the requirements as regards the sealing of packages of seed. Regulation 3 amends one of the requirements relating to samples taken for enforcement purposes.

Regulation 4 allows the Secretary of State to make arrangements for any person to act under the Secretary of State's responsibility in carrying out official measures. Regulations 5 and 6 make minor amendments.

An impact assessment has not been produced for this instrument as no impact, or no significant impact, on the private, voluntary or public sector is foreseen.

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