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WELSH STATUTORY INSTRUMENTS

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**2005 No. 3035**

**The Vegetable Seed (Wales) Regulations 2005**

**PART I**

**GENERAL**

**Title, commencement and application**

- 1.—(1) The title of these Regulations is the Vegetable Seed (Wales) Regulations 2005.  
(2) These Regulations come into force on 18 November 2005 and apply in relation to Wales.

**General interpretation**

- 2.—(1) In these Regulations—

“the Act” means the Plant Varieties and Seeds Act 1964;

“Annex V(C) document” means an official document of the type specified in the second indented sub-paragraph of Article 36(2) of the Vegetable Seed Directive containing the particulars specified in Part C of Annex V to the Directive;

“another member State” means an EEA State other than the United Kingdom;

“authorised officer” means an officer authorised for the purposes of these Regulations by the National Assembly, the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development;

“blended seed lot” means a seed lot obtained by blending seed where the seed that goes into the blend is—

- (a) of the same variety;
- (b) has come from different sources; and
- (c) either—
  - (i) has been officially certified;
  - (ii) has not been officially certified but has been harvested from a seed crop for which a field inspection report has been issued showing that the crop met the Directive crop conditions for the relevant category of seed; or
  - (iii) is made up of seed that has been officially certified and seed that has not but for which a field inspection report of the type specified in sub-paragraph (ii) has been issued;

“breeder”—

- (a) in relation to a variety that has not been entered in a National List or the Common Catalogue, includes any person lawfully multiplying (on the person’s own account) seed bred by another, and
- (b) in relation to a variety that has been so entered, means the maintainer of the variety;

“breeder’s seed” means seed which has been produced by or under the responsibility of the breeder and which is intended for the production of pre-basic or basic seed;

“Common Catalogue” means the Common Catalogue of varieties of vegetables species published in the Official Journal of the European Communities;

“component” means a component of a hybrid variety;

“control plot” means a plot sown with seed from an official sample of seed from a seed lot (whether the official sample of the seed submitted with a regulation 6 application in accordance with regulation 6(2) or another official sample of the seed);

“the Deliberate Release Directive” means Council Directive [2001/18/EC\(1\)](#) on the deliberate release into the environment of genetically modified organisms, as last amended by Council Regulation [\(EC\) No 1830/2003\(2\)](#) concerning the traceability and labelling of food and feed products produced from genetically modified organisms;

“Department of Agriculture and Rural Development” means the Department of Agriculture and Rural Development in Northern Ireland;

“Directive crop conditions” means the conditions laid down in Annex I to the Vegetable Seed Directive;

“Directive seed conditions” means the conditions laid down in Annex II to the Vegetable Seed Directive;

“EC minimum percentage of germination” means the appropriate percentage of germination specified in column 2 of the table in paragraph 4 of Schedule 4;

“EEA State” means—

- (a) a State which is a member of the Communities;
- (b) Iceland, Liechtenstein and Norway;

“entered seed lot” means a seed lot in respect of which an application has been made under regulation 6 in accordance with regulation 6(2)(a), (b)(i) and (c);

“the Food and Feed Regulation” means Council Regulation [\(EC\) No 1829/2003\(3\)](#) on genetically modified food and feed;

“genetically modified” has the same meaning as for the purposes of the Deliberate Release Directive;

“germination condition” means the condition in paragraph 4 of Schedule 4;

“homogeneous seed lot” means a seed lot that has been subject to appropriate mixing and blending techniques so that the seed in the lot is as uniform as practicable;

“late entered seed lot” means a seed lot in respect of which an application has been made under regulation 6 in accordance with regulation 6(2)(a), (b)(ii) and (c);

“licensed crop inspector” means a person who has been granted a licence under regulation 11 of the Seed (Registration, Licensing and Enforcement) (Wales) Regulations 2005(4) or by the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development under provisions equivalent to that regulation;

“licensed EC crop inspector” means a person who is authorised by a competent seed certification authority in another member State, pursuant to Article 2(4)(A)(a)(iii) of the Vegetable Seed Directive, to carry out field inspections of crops in that member State;

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(1) O.J. No. L106, 17.4.2001, p.1.  
(2) O.J. No. L268 18.10.2003, p. 24.  
(3) O.J. No. L268 18.10.2003, p.1.  
(4) S.I.2005/3038 (W.226).

“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(4)B(a) of the Vegetable Seed Directive, to carry out seed testing in that member State;

“licensed seed sampler” means a person who has been granted a licence under regulation 18 of the Seed (Registration, Licensing and Enforcement)(Wales) Regulations 2005<sup>(5)</sup> or by the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development under provisions equivalent to that regulation;

“licensed seed testing station” means a laboratory in respect of which a licence has been granted under regulation 25 of the Seed (Registration, Licensing and Enforcement) (Wales) Regulations 2005 or by the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development under provisions equivalent to that regulation;

“listed variety” means a plant variety that is entered in a National List or the Common Catalogue;

“listing” means the entry of a variety on a National List or the Common Catalogue and “listed” shall be construed accordingly;

“maintainer” means a person who is indicated in a National List or in the Common Catalogue as responsible for maintaining a plant variety in accordance with the characteristics to which regard was had when the plant variety was entered in the List or the Common Catalogue;

“marketing extension” means an extension granted by the National Assembly, the Scottish Ministers, the Secretary of State, the Department for Agriculture and Rural Development or the competent seed certification authority in another member State pursuant to Article 15 of the Vegetable Seed Directive allowing an extended period for the certification and marketing of seed of a variety that has been deleted from its catalogue and the Common Catalogue;

“marketing year” means the year from 1 July to 30 June inclusive;

“member State” means, in addition to a State which is a member of the Communities, any other EEA State and Switzerland;

“the National Assembly” means the National Assembly for Wales;

“a National List” means a list of varieties of vegetable species for the time being published in accordance with the Seeds (National Lists of Varieties) Regulations 2001<sup>(6)</sup>;

“official label” means a label issued or authorised by or on behalf of the National Assembly, the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development;

“official measures” includes—

(a) the disposal and determination, where applicable, of applications made in accordance with regulation 6, 8, 9, 10, 11, 12, 13, 18 and 19, including the growing and assessment of control plots and the carrying out of field inspections and seed testing in connection with the disposal and determination of such applications; and

(b) the receipt and acknowledgement of notifications given under regulation 7, and such other activities as may be necessary for those purposes;

“official sample” means a sample of seed taken from a seed lot in accordance with regulation 22 and “official sampling” shall be construed accordingly;

“official UK field inspection” means a field inspection carried out by or on behalf of the National Assembly, the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development;

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<sup>(5)</sup> S.I. 2005/3038 (W.226).

<sup>(6)</sup> S.I. 2001/3510.

“official UK seed test” means a seed test carried out by or on behalf of the National Assembly, the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development;

“previously listed variety” means a plant variety that was previously entered in—

- (a) a National List or, in the case of another member State, the catalogue maintained by that State pursuant to Article 3(2) of the Vegetable Seed Directive, and
- (b) the Common Catalogue,

but which has been removed from both of them;

“registered person” means a person registered under regulation 5 of the Seed (Registration, Licensing and Enforcement)(Wales) Regulations 2005 as a person who may engage in a relevant seed industry activity;

“regulation 18 authorisation” means an authorisation granted in accordance with regulation 18;

“regulation 19 authorisation” means an authorisation granted in accordance with regulation 19;

“Schedule 4 germination test” means a test to determine whether the seed being tested attains the percentage of germination specified in column 2 of the table in paragraph 4 of Schedule 4;

“the Secretary of State” means the Secretary of State for Environment, Food and Rural Affairs;

“seed industry activity” has the same meaning as in regulation 2 of the Seed (Registration, Licensing and Enforcement)(Wales) Regulations 2005;

“seed lot” means an identifiable consignment of seeds of a weight that does not exceed the weight specified in column 2 of the table in Schedule 7 for the species specified in column 1 of that table by more than 5% and that bears a unique seed lot reference number, and includes a blended seed lot and a seed lot that contains seed from different crops of the same variety grown on the same holding and combined on the grower’s holding prior to processing;

“seed that has been subject to satisfactory official post control” means seed taken from a seed lot for which a control plot has been sown by or on behalf of the National Assembly, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development and which has produced plants which have been examined by or on behalf of the National Assembly, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development, as the case may be, and has been found having regard to—

- (a) the conditions laid down in—
  - (i) paragraphs 1, 4 and 6 of Schedule 3; and
  - (ii) paragraphs 1, 2 and 8 of Schedule 4, and
- (b) the category and, where appropriate, level of the seed to be produced,

to be satisfactory seed from which to produce that category and, where applicable, level of seed;

“small package” in relation to a package of seed means—

- (a) a package of seed containing a net weight of not more than 5 kilograms of legume seed;
- (b) a package of seed containing a net weight of not more than 500 grams of asparagus, beetroot, carrot, chard or spinach beet, gourd, marrow, onion, radish, spinach or turnip seed; or
- (c) a package of seed containing a net weight of not more than 100 grams of seed of any species of seed specified in Schedule 2 other than a species specified in paragraph (a) or (b);

“third country” means a country other than a member State;

“a UK field inspection carried out under official supervision” means an examination of a crop carried out under official supervision by a licensed crop inspector;

“a UK seed test carried out under official supervision” means a seed test carried out under official supervision by a licensed seed testing station;

“unlisted variety” means a variety that is not a listed variety;

“the Vegetable Seed Directive” means Council Directive [2002/55/EC](#)(7) on the marketing of vegetable seed, as last amended by Council Directive [2004/117/EC](#)(8); and

“whenever carried out”—

- (a) in relation to an official UK field inspection of a crop being grown to produce seed of a listed variety or a component of a listed hybrid variety, means an inspection carried out before or after the listing of the variety or hybrid variety;
- (b) in relation to an official UK field inspection of a crop being grown to produce seed of a previously listed variety or a component of a previously listed hybrid variety, means an inspection carried out while the variety or hybrid variety was listed or after it became unlisted;
- (c) in relation to an official UK seed test or a UK seed test carried out under official supervision of seed of a listed variety or a component of a listed hybrid variety, means a test carried out before or after the listing of the variety or hybrid variety; and
- (d) in relation to an official UK seed test or a UK seed test carried out under official supervision of seed of a previously listed variety or a component of a previously listed hybrid variety, means a test carried out while the variety or hybrid variety was listed or after it became unlisted.

(2) All applications, approvals, authorisations, notices, notifications and statements to which these Regulations apply shall be made in writing.

(3) “Writing” in paragraph (2) shall include an electronic communication within the meaning of the Electronic Communications Act 2000(9) provided that—

- (a) any document of the type referred to in paragraph (2) shall only be sent to the National Assembly by an electronic communication if the National Assembly has represented that electronic communication is a means by which persons can send such a document to it, and
- (b) notifications required to be made by the National Assembly to any person shall only be made by an electronic communication if the intended recipient has used the same form of electronic communication in communicating with the National Assembly for the purpose of these Regulations or has otherwise represented that that form of electronic communication is a means by which the National Assembly can communicate with the intended recipient.

(4) Expressions in these Regulations which are not defined in this regulation or elsewhere in these Regulations or in a Schedule to these Regulations and which appear in the Vegetable Seed Directive have the same meaning in these Regulations as they have in that Directive.

(5) Schedule 1, which contains definitions of pre-basic seed and similar expressions, basic seed and similar expressions, CS seed and similar expressions, standard seed and similar expressions and expressions relating to imported not finally certified seed, shall apply to the interpretation of these Regulations.

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(7) O.J. No. L193, 20.7.2002, p.33.

(8) O.J. No. L14, 18.1.2005, p. 18.

(9) 2000 c. 7.

**Definitions relating to plant species****3. In these Regulations—**

- “asparagus” means plants of the species *Asparagus officinalis* L.;
- “beetroot” means plants of the species *Beta vulgaris* L. var *conditiva* Alef also commonly known as red beet;
- “broad bean” means plants of the species *Vicia faba* L. (partim);
- “Brussels sprouts” means plants of the species *Brassica oleracea* L. convar *oleracea* var *gemmifera* DC.;
- “carrot” means plants of the species *Daucus carota* L.;
- “cauliflower” means plants of the species *Brassica oleracea* L. convar *botrytis* (L.) Alef var *botrytis*;
- “celery” means plants of the species *Apium graveolens* L. including plants commonly known as celeriac;
- “chard and spinach beet” means plants of the species *Beta vulgaris* L. var *vulgaris*;
- “Chinese cabbage” means plants of the species *Brassica pekinensis* (Lour) Rupr.;
- “cucumber and gherkin” means plants of the species *Cucumis sativus* L.;
- “curly kale” means plants of the species *Brassica oleracea* L. convar. *acephala* (DC.) Alef var *sabellica* L.;
- “endive” means plants of the species *Cichorium endivia* L.;
- “French bean” means plants of the species *Phaseolus vulgaris* L.;
- “gourd” means plants of the species *Cucurbita maxima* Duchesne;
- “kohlrabi” means plants of the species *Brassica oleracea* L. convar. *acephala* (DC.) Alef var *gongylodes*;
- “large-leaved chicory and Witloof chicory” means plants of the species *Cichorium intybus* L. (partim);
- “leek” means plants of the species *Allium porrum* L.;
- “legume” means broad beans, French beans, runner beans and peas;
- “lettuce” means plants of the species *Lactuca sativa* L.;
- “marrow” means plants of the species *Cucurbita pepo* L.;
- “melon” means plants of the species *Cucumis melo* L.;
- “onion” means plants of the species *Allium cepa* L. ;
- “parsley” means plants of the species *Petroselinum crispum* (Miller) Nyman ex A W Hill;
- “pea” means plants of the species *Pisum sativum* L. (partim);
- “radish” means plants of the species *Raphanus sativus* L.;
- “red cabbage” means plants of the species *Brassica oleracea* L. convar *capitata* L Alef var *rubra* DC.;
- “runner bean” means plants of the species *Phaseolus coccineus* L.;
- “Savoy cabbage” means plants of the species *Brassica oleracea* L. convar *capitata* L Alef var *sabauda* L.;
- “spinach” means plants of the species *Spinacia oleracea* L.;
- “sprouting broccoli” means plants of the species *Brassica oleracea* L. convar *botrytis* (L.) Alef var *cymosa* Duch including plants commonly known as calabrese;

“tomato” means plants of the species *Lycopersicon lycopersicum* (L.) Karsten ex Farw.;

“turnip” means plants of the species *Brassica rapa* L. var *rapa*; and

“white cabbage” means plants of the species *Brassica oleracea* L. convar *capitata* L. Alef var *alba* DC.

### **Definition of marketing**

- 4.—(1) Subject to paragraph (2), in these Regulations “marketing” means—
- (a) selling, holding with a view to sale or offering for sale, or
  - (b) any disposal, supply or transfer for the purpose of commercial exploitation of seed to third parties,

whether or not for consideration, and “market” and “marketed” shall be construed accordingly.

(2) Trade in seed not aimed at commercial exploitation of the variety, such as the following operations—

- (a) the supply of seed to official testing and inspection bodies, and
- (b) the supply of seed to a person who provides processing or packaging services but who does not thereby acquire title to the seed supplied,

shall not be regarded as marketing of seed of that variety.

### **Seed to which these Regulations apply**

5.—(1) Subject to paragraph (2), these Regulations apply to vegetable seed of the species specified in Schedule 2 that are intended to be used for agricultural or horticultural production other than for ornamental purposes.

- (2) These Regulations shall not apply to seed that is intended for export to a third country.

## **PART II**

### **PROCEDURES RELATING TO THE OFFICIAL CERTIFICATION OF SEED**

#### **Entry of seed lots**

6.—(1) Subject to paragraph (2), an application to enter a seed lot from which it is intended that a crop is to be produced from which pre-basic, basic or CS seed is to be harvested may be made to the National Assembly by a registered person.

- (2) An application made under this regulation—
- (a) shall be made in such form and manner as the National Assembly may require;
  - (b) shall be made—
    - (i) at such time as the National Assembly may require, or
    - (ii) in the case of an application to enter a seed lot made after that time, at such time as the National Assembly may otherwise allow; and
  - (c) shall be accompanied—
    - (i) unless otherwise agreed by the National Assembly, by an official sample of seed from the seed lot that is identified by the reference number of the seed lot from which it was taken, and

(ii) by such information and other documents as the National Assembly may require, including, if required, a copy of a qualifying seed test report relating to the seed lot.

(3) At an appropriate time following the receipt of an application made under this regulation, the National Assembly may sow a control plot with seed taken from an official sample of seed taken from the seed lot (whether the official sample submitted in accordance with paragraph (2)(c)(i) or another official sample of seed taken from the seed lot).

(4) In this regulation—

“appropriate time” means a time during the period when seed of the relevant species is usually sown, and

“qualifying seed test report” means—

- (a) a seed test report issued in accordance with regulation 11(8), (9), (10) or (11), or
- (b) in a case where an official sample taken from the seed lot has been found to meet the conditions for the category of seed for which it was tested under regulation 11(6)(b), a seed test report issued in accordance with regulation 11(12)(b).

### **Entry of crop**

7.—(1) A registered person who has sown seed from an entered or late entered seed lot from which it is intended to produce a crop from which pre-basic, basic or CS seed is to be harvested shall notify the National Assembly that the seed has been sown by the registered person.

(2) A notification under this regulation—

- (a) shall be given in such form and manner as the National Assembly may require;
- (b) shall be given within such time as the National Assembly may require;
- (c) shall specify the reference number of the seed lot from which the sown seed has been taken; and
- (d) shall be accompanied by such information and other documents as the National Assembly may require.

(3) Subject to paragraph (4), the National Assembly shall acknowledge receipt of a notification given under this regulation.

(4) Subject to paragraph (5), unless specifically requested to do so by the applicant, the National Assembly shall not individually acknowledge the receipt of each notification given under this regulation that it receives but shall periodically provide the applicant with a list of those crops for which it has received such a notification from the applicant.

(5) Where the National Assembly has previously provided the applicant with a list of those crops for which it has received a notification under this regulation from the applicant, any subsequent list periodically provided to the applicant under paragraph (4) shall list only those crops in respect of which the National Assembly has received a notification under this regulation from the applicant since last providing the applicant with the last such list.

### **Field inspection of crops**

8.—(1) Subject to paragraph (2), an application may be made to the National Assembly by a registered person for the field inspection of a crop being produced in Wales from—

- (a) an entered or late entered seed lot from which it is intended that pre-basic seed is to be harvested (“a regulation 8(1)(a) crop”);
- (b) an entered or late entered seed lot from which it is intended that basic seed is to be harvested (“a regulation 8(1)(b) crop”);



- (c) an entered or late entered seed lot from which it is intended that CS seed is to be harvested (“a regulation 8(1)(c) crop”);and
  - (d) an entered or late entered seed lot from which it is intended that CS seed is to be harvested of a variety that is not listed but for which an outstanding application for listing has been made (“a regulation 8(1)(d) crop”).
- (2) An application made under paragraph (1) shall not be made in respect of a regulation 8(1) (a), (b) or (c) crop to produce seed of a variety or hybrid variety that is not listed, or a seed of a component of a hybrid variety that is not listed, unless—
- (a) an application for the listing of the variety or the hybrid variety has been made which has not been withdrawn or finally determined, or
  - (b) a marketing extension is in force in respect of the variety or hybrid variety.
- (3) Subject to paragraph (4), an application for the field inspection of a crop being produced in Wales from an entered seed lot which is intended that CS seed is to be harvested may be made to a licensed crop inspector by a registered person.
- (4) An application under paragraph (3) shall not be made—
- (a) in respect of a crop to produce seed of a variety or hybrid variety that is not listed unless a marketing extension is in force in respect of the variety or hybrid variety, and
  - (b) except in respect of a crop that is being produced from—
    - (i) seed that has been subject to satisfactory official post control, or
    - (ii) seed that is subject to official post control and for which a determination as to whether the seed is satisfactory seed from which to produce CS seed is awaited.
- (5) If required by the National Assembly, an application made under paragraph (3) shall be considered by it instead of by a licensed crop inspector.
- (6) If permitted by the National Assembly, an application made under paragraph (3) may be made to it instead of to a licensed crop inspector.
- (7) An application made under paragraph (1) or (3) shall be made in such form and manner and at such time as the National Assembly may require and shall be accompanied by such information, material, records, illustrations and other documents as it may require.
- (8) Following the receipt of an application made under this paragraph (1) or (3), the National Assembly(in the case of an application made under paragraph (1) or an application made under paragraph (3) that is being considered by it under paragraph (5) or has been made to it under paragraph (6)), or the licensed crop inspector to whom an application has been made under paragraph (3) (as the case may be) shall inspect the crop in accordance with the relevant provisions of paragraph 5 of Schedule 3 to determine—
- (a) whether the crop meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the category of seed intended to be harvested, and
  - (b) unless requested not to do so by the applicant, whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any other category of seed to which paragraph (17) applies.
- (9) Subject to paragraph (13), where in the case of an application made to the National Assembly under paragraph (1) or an application made under paragraph (3) that is being considered by it under paragraph (5) or has been made to it under paragraph (6), the inspected crop is found to satisfy the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of—
- (a) the category of seed intended to be harvested, and
  - (b) where applicable, any other category of seed to which paragraph (17) applies,

the National Assembly shall issue a field inspection report (which it shall retain as a lodged report unless instructed not to do so by the applicant) stating (by reference to the relevant category or categories) that the crop has been found to meet those conditions and shall send the report, or (in a case where the original report is to be retained as a lodged report by the National Assembly) a copy of the report, to the applicant.

(10) Where in the case of an application made to a licensed crop inspector under paragraph (3) the inspected crop is found to satisfy the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of CS seed, the licensed crop inspector shall issue a field inspection report to the applicant stating that the crop has been found to meet those conditions.

(11) Subject to paragraph (13), where in the case of an application made under paragraph (1) or an application made under paragraph (3) that is being considered by it under paragraph (5) or has been made to it under paragraph (6), the inspected crop is found not to satisfy the conditions laid down in Schedule 3 or Part I of Schedule 4 for the production of the category of seed intended to be harvested, the National Assembly shall issue a field inspection report (which it shall retain as a lodged report unless instructed not to do so by the applicant)—

- (a) stating that the crop has been found not to meet those conditions, and
- (b) in a case where the crop has been inspected to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any other category of seed to which paragraph (17) applies, stating the conditions (by reference to the relevant category or categories of seed), if any, met by the crop,

and shall send the report, or (in a case where the original report is to be retained as a lodged report by the National Assembly) a copy of the report, to the applicant.

(12) Where in the case of an application made to a licensed crop inspector under paragraph (3) the inspected crop is found not to satisfy the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of CS seed, the licensed crop inspector shall issue a field inspection report to the applicant stating that the crop has not been found to meet those conditions.

(13) Where—

- (a) an application has been made under paragraph (1), or an application has been made under paragraph (3) that is being considered by it under paragraph (5) or has been made to it under paragraph (6), in respect of a crop produced from seed which was taken from a seed lot for which a control plot has been sown, and
- (b) the results of the examination of the control plot show that the plants produced in the plot do not meet the conditions laid down in Schedule 3 or Part I or III of Schedule 4 for the production of the category of seed intended to be harvested,

the National Assembly may take account of the results of that examination when carrying out an inspection of the crop to which the paragraph (1) or (3) application relates and in determining whether it should issue a field inspection report under paragraph (9) or (11).

(14) Where paragraph (15) applies, the National Asssembly may carry out its own examination of—

- (a) a crop to which an application made under paragraph (3) relates;
- (b) any other crops that are being produced from seed that has been taken from the same seed lot and in respect of which an application has been made under paragraph (3); or
- (c) both the crops referred to in paragraphs (a) and (b).

(15) This paragraph applies where—

- (a) an application has been made to a licensed crop inspector under paragraph (3) in respect of seed that is subject to official post-control;

- (b) the plants produced in the control plot being used for the purposes of the official post control have been examined by or on behalf of the National Assembly, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development; and
- (c) it has been determined by or on behalf of the National Assembly, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development, having regard to the conditions laid down in paragraph 1, 4 and 6 of Schedule 3, and paragraphs 1, 2 and 8 of Schedule 4, that the plants produced in the control plot are not satisfactory plants from which to harvest CS seed.

(16) Where the National Assembly has carried out an examination of the crop referred to in paragraph 14(a) or the crops referred to in paragraph 14(b), or has carried out an examination of both the crop referred to in paragraph 14(b), it shall inform the applicant whether it is satisfied that the seed used to produce the crop to which the application relates was satisfactory seed to be used for the production of CS seed, and if the National Assembly is satisfied that this is the case, the seed used to produce the crop, and seed from the same seed lot, shall be treated as being seed that has been subject to satisfactory official post control for the production of CS seed.

(17) This paragraph applies to the following categories of seed—

- (a) in the case of an application made under this regulation relating to a crop that has been produced from breeder's seed and from which it is intended to harvest pre-basic seed, to the category of basic seed;
- (b) in the case of an application made under this regulation relating to a crop that has been produced from officially certified pre-basic seed and from which it is intended to harvest pre-basic seed, to the categories of basic and CS seed;
- (c) in the case of an application made under this regulation relating to a crop that has been produced from breeder's seed and from which it is intended to harvest basic seed, to the category of pre-basic seed; and
- (d) in the case of an application made under this regulation relating to a crop produced from officially certified pre-basic seed and from which it is intended to harvest basic seed, to the categories of pre-basic and CS seed.

(18) In this regulation "seed that is subject to official post control" means seed from a seed lot for which a control plot has been sown by or on behalf of the National Assembly, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development, as the case may be, to determine whether, having regard to the conditions laid down in—

- (a) paragraphs 1, 4 and 6 of Schedule 3, and
- (b) paragraphs 1, 2 and 8 of Schedule 4,

the plants produced in the plot indicate that the corresponding plants in the field are satisfactory plants from which to harvest CS seed.

### **Lodging of field inspection reports and similar documents**

9.—(1) An application to lodge a copy of a document to which paragraph (2) applies may be made to the National Assembly by a registered person.

(2) This paragraph applies—

- (a) in relation to a crop produced in Wales, to a field inspection report issued under regulation 8(9),(10),(11) or (12);
- (b) in relation to a crop produced in the United Kingdom elsewhere than in Wales, to a report relating to the crop equivalent to that specified in sub-paragraph (a) issued—
  - (i) by or on behalf of the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development; or

- (ii) by a licensed crop inspector;
  - (c) in relation to a crop produced in another member State, to an Annex V(C) document relating to the crop issued by or on behalf of the competent seed certification authority in the member State.
- (3) An application made under this regulation—
- (a) shall be made in such form and manner as the National Assembly may require;
  - (b) shall be made within such time as the National Assembly may require but, unless otherwise permitted by the National Assembly, shall be made not later than the time when any seed test report relating to the seed harvested from the crop is lodged with the National Assembly under regulation 12;
  - (c) shall subject to paragraph (4) be accompanied—
    - (i) in relation to a crop produced in Wales, by a copy of the document referred to in paragraph (2)(a);
    - (ii) in relation to a crop produced in the United Kingdom elsewhere than in Wales, by a copy of the document referred to in paragraph (2)(b) except that this need not be provided in a case where confirmation that the crop meets the conditions for the production of the appropriate category of seed has already been provided to the National Assembly by or on behalf of the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development (as the case may be);
    - (iii) in relation to a crop produced in another member State, by a copy of the document referred to in paragraph (2)(c); and
    - (iv) by such other information and documents as the National Assembly may require.
- (4) The National Assembly may permit, subject to any conditions that it may impose, an application made under this regulation relating to a crop for which the applicant previously made an application under regulation 8(3) to be accompanied by the following document instead of the field inspection report issued under regulation 8(10) or 8(12), namely a document relating to the crop (whether relating to that crop alone or relating to other crops in respect of which an application has been made by the applicant under regulation 8(3)—
- (a) that states, by reference to the relevant category, the conditions met by that crop;
  - (b) that identifies the licensed crop inspector or inspectors who inspected the crop;
  - (c) that states that during a period of three years from the date of issue of the field inspection report, the original report will be produced to the National Assembly on demand and that a copy of the report will be made available to it on request during that period; and
  - (d) that contains such other information as the National Assembly may require.
- (5) Where a document of the type specified in paragraph (4) accompanies an application made under this regulation instead of a field inspection report, the applicant shall produce the field inspection report referred to in paragraph (3) to the National Assembly on demand during the period of three years from the date of the issue of the field inspection report and shall make a copy of the report available to it on request during that period.

### **Re-grading of crops**

**10.**—(1) An application to re-grade a crop for the production of a category of seed to which paragraph (6) applies as a crop for the production of another category of seed (“the new category”) to which that paragraph applies may be made to the National Assembly by a registered person.

(2) An application made under this regulation shall be made in such form and manner and at such time as the National Assembly shall require and shall be accompanied by—

- (a) a copy of the field inspection report previously issued in respect of the crop unless this has previously been lodged with it, and
  - (b) such other information as the National Assembly may require for the purpose of determining the application.
- (3) Where an application has been made under this regulation in respect of a crop that has not been harvested—
- (a) the National Assembly shall, in the case of an application to re-grade a crop as crop to produce pre-basic or basic seed, carry out a field inspection of the crop to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed if—
    - (i) the previous field inspection report issued in respect of the crop was not issued by it, and
    - (ii) the condition and stage of development of the crop permit an adequate examination; and
  - (b) the National Assembly may, in the case of an application to re-grade a crop to produce CS seed, carry out a field inspection of the crop to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed if the condition and stage of development of the crop permit an adequate examination.
- (4) If the National Assembly—
- (a) in the case of an application to re-grade a crop as a crop to produce pre-basic or basic seed—
    - (i) has carried out a field inspection of the crop (whether in connection with the original application for a field inspection of the crop or in accordance with paragraph (3)),
    - (ii) is satisfied that the crop has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety, and
    - (iii) that the crop meets or (if the crop has already been harvested) would have met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed, or
  - (b) in the case of an application to re-grade a crop as a crop to produce CS seed—
    - (i) is satisfied that the crop has been produced directly from UK, EC or overseas tested officially certified basic seed of a listed variety, or, with the breeder's authority, from UK, EC or overseas tested officially certified pre-basic seed of a listed variety, and
    - (ii) is satisfied that the crop meets or (if the crop has already been harvested) would have met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of CS seed,
- the National Assembly shall notify the applicant that the crop has been found to meet or (if the crop has already been harvested) it has been found that it would have met the conditions referred to in sub-paragraph (a)(iii) or (b)(ii), as the case may be, and that the application to re-grade the crop has been successful.
- (5) If the National Assembly is satisfied that the conditions specified in paragraph (4) have not been met it shall notify the applicant that the application to re-grade the crop has been unsuccessful.
- (6) This paragraph applies to the following categories of seed—
- (a) pre-basic seed;
  - (b) basic seed; and
  - (c) CS seed.

**Seed testing**

11.—(1) Subject to paragraphs (2),(3) and (4), an application may be made to a licensed seed testing station by a registered person for the testing of an official sample of a qualifying seed lot of—

- (a) seed as pre-basic seed (“a regulation 11(1)(a) seed lot”);
- (b) seed as basic seed (“a regulation 11(1)(b) seed lot”); or
- (c) seed as CS seed (“a regulation 11(1)(c) seed lot”).

(2) An application made under this regulation shall not be made in respect of seed of a variety that is not listed, or seed of a component of a hybrid variety that is not listed, unless—

- (a) an application for listing of the variety or hybrid variety has been made which has not been withdrawn or finally determined; or
- (b) a marketing extension is in force in respect of the variety or hybrid variety.

(3) An application made under this regulation may be considered by the National Assembly instead of a licensed seed testing station.

(4) If permitted by the National Assembly, an application made under this regulation may be made to it instead of a licensed seed testing station.

(5) An application made under this regulation—

- (a) shall be made in such form and manner and at such time as the National Assembly may require, and
- (b) shall be accompanied by an official sample of the seed to be tested and such other information, material, seeds, records, illustrations and other documents as the National Assembly may require.

(6) Following the receipt of an application made under this regulation the licensed seed station (or the National Assembly) in case where paragraph (3) or (4) applies) shall, subject to paragraph (7), test seed taken from the official sample provided under paragraph (5)(b) to determine whether it meets the conditions laid down in Part II of Schedule 4—

- (a) for the category of seed for which the application is being made, and
- (b) unless requested not to do so by the applicant, for any other category of seed to which paragraph (14) applies.

(7) Where a seed test report has previously been issued by a licensed seed station (or the National Assembly) in case where paragraph (3) or (4) applies) in accordance with paragraph (8)(a),(9),(10), (11) or (12) in respect of a seed lot, the licensed seed station (or the National Assembly) in a case where paragraph (3) or (4) applies) may decide not to test any further official sample of that seed lot for the purposes of paragraph (6) if the information contained in the previously issued report contains sufficient information to enable the licensed seed testing station(or the National Assembly) to determine that the official sample would meet the conditions laid down in Part II of Schedule 4—

- (a) for the appropriate category of seed, and
- (b) where applicable, for any other category of seed to which paragraph (14) applies.

(8) Subject to paragraph (13), where—

- (a) the official sample is found to satisfy the conditions laid down in Part II of Schedule 4 for—
  - (i) the appropriate category of seed, and
  - (ii) where applicable, for any category of seed to which paragraph (14) applies, or
- (b) the provisions of paragraph (7) apply,

the licensed seed station (or the National Assembly) where paragraph (3) or (4) applies) shall issue a seed test report stating (by reference to the relevant category or categories of seed) that the seed lot has been found to meet those conditions.

(9) Subject to paragraph (13), where it has been determined, by way of a Schedule 4 germination test, that the official sample taken from a regulation 11(1)(a) or (b) seed lot will not meet the applicable germination condition but the sample is found to satisfy the other conditions laid down in Part II of Schedule 4 for the appropriate category of seed, the licensed seed station (or the National Assembly) where paragraph (3) or (4) applies shall issue a seed test report to the applicant containing a statement to that effect.

(10) Where (otherwise than in connection with a retest of the seed) the results of a Schedule 4 germination test of an official sample of a seed lot referred to in paragraph (1) are awaited, and, except for the result of that test, the official sample has otherwise been found to meet the other conditions laid down in Part II of Schedule 4—

(a) for the appropriate category of seed, and

(b) where applicable, for any other category of seed to which paragraph (14) applies, the licensed seed station (or the National Assembly) in a case where paragraph (3) or (4) applies shall, subject to paragraph (13), issue an interim seed test report to the applicant stating that the results of the Schedule 4 germination test for the official sample are awaited but that it has otherwise been found to meet the other conditions laid down in Part II of Schedule 4 for the appropriate category of seed, and, where applicable, for any other category of seed to which paragraph (14) applies.

(11) Where, following the issue of an interim seed test report under paragraph (10), the tested seed is found to meet the applicable germination condition, the licensed seed station (or the National Assembly) in a case where paragraph (3) or (4) applies shall, subject to paragraph (13), issue a seed test report to the applicant stating that the official sample has been found to meet the conditions laid down in Part II of Schedule 4 for the appropriate category of seed, and, where applicable, for any other category of seed to which paragraph (14) applies.

(12) Subject to paragraphs (9) and (10), where an official sample of a seed lot referred to in paragraph (1) is found not to satisfy the conditions laid down in Part II of Schedule 4 for the appropriate category of seed, the licensed seed station (or the National Assembly) in a case where paragraph (3) or (4) applies shall issue and send to the applicant a seed test report—

(a) stating that the official sample has been found not to meet those conditions, and

(b) subject to paragraph (13), in a case where the seed has been tested to determine whether it meets the conditions laid down in Part II of Schedule 4 for any other category of seed to which paragraph (14) applies, stating (by reference to the relevant category) whether the seed has been found to meet the conditions for any such category.

(13) If it appears to the National Assembly that an official sample of the seed lot taken for the purpose of a test in order to ascertain whether it met the appropriate conditions laid down in Part II of Schedule 4 was not taken in accordance with the requirements of regulation 22 the National Assembly may—

(a) in a case where paragraph (3) or (4) applies, refuse to issue a seed test report in accordance with paragraph (8), (9), (10), (11) or (12)(b), and, in such a case, shall notify the applicant of the National Assembly's decision and the reason for it, or

(b) in a case where paragraph (3) or (4) does not apply, refuse to issue a seed test report in accordance with those paragraphs and the licensed seed testing station shall comply with that direction and shall notify the applicant of the reason for its refusal to issue the report.

(14) This paragraph applies to the following categories of seed—

(a) in the case of an application made under this regulation relating to a regulation 11(1)(a) seed lot, to the categories of basic and CS seed, and

(b) in the case of an application made under this regulation relating to a regulation 11(1)(b) seed lot, other than a component of a hybrid variety, to the category of pre-basic or CS seed.

(15) In this regulation “qualifying seed lot” means a seed lot—

- (a) containing seed harvested from a crop produced in Wales for which a field inspection report has been issued in accordance with—
  - (i) regulation 8(9), or
  - (ii) regulation 8(10), or
  - (iii) regulation 8(11) in a case where the crop has been found to meet the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any category of seed referred to in regulation 8(11)(b);
- (b) containing seed harvested from a crop produced in the United Kingdom elsewhere than in Wales—
  - (i) in respect of which the National Assembly has received confirmation by or on behalf of the Secretary of State, the Scottish Ministers, the or the Department of Agriculture and Rural Development (as the case may be) that the crop meets conditions equivalent to those laid down in Schedule 3 and Part I of Schedule 4, or
  - (ii) for which a copy of the field inspection report relating to the crop has been lodged with the National Assembly in accordance with regulation 9; or
- (c) imported into the United Kingdom as not finally certified pre-basic, basic or CS seed harvested in another member State and for which the Annex V(C) document relating to the crop from which the seed in the seed lot was harvested has been lodged with the National Assembly in accordance with regulation 9.

### **Lodging of seed test reports**

**12.—**(1) A registered person to whom a final seed test report has been sent shall lodge the report with the National Assembly—

- (a) except in relation to seed to which sub-paragraph (b) applies, within one month of the report being issued or within such time as the National Assembly may otherwise allow, and
- (b) in a case where the seed to which the final seed test report relates—
  - (i) is of a variety that is not listed, or
  - (ii) is a component of a hybrid variety that is not listed,

within one month of the date on which the variety or hybrid variety (as the case may be) is listed or within such time as the National Assembly may otherwise allow.

(2) An application to lodge a final seed test report—

- (a) shall be made in such form and manner as the National Assembly may require, and
- (b) shall be accompanied by the final seed test report and such other information and documents as the National Assembly may require.

(3) Subject to paragraph (4), the National Assembly shall acknowledge receipt of each final seed test report lodged with it.

(4) Subject to paragraph (5), unless specifically requested to do so by the applicant, the National Assembly shall not individually acknowledge the receipt of each final seed test report lodged with it by the applicant but shall periodically provide the applicant with a list of those seed lots for which the applicant has lodged a final seed test report with it.

(5) Where the National Assembly has previously provided the applicant with a seed test report list, the list periodically provided to the applicant under paragraph (4) shall list only those seed lots for which the applicant has lodged a final seed test report with it during the period since it last provided the applicant with a seed test report list.

(6) In this regulation “final seed test report” means a seed test report issued in accordance with regulation 11(8), (9), (11) or (12).



### **Re-grading of seed**

13.—(1) An application to re-grade seed of any category specified in entry 1 or 2 in column 1 of the table in Schedule 5 as seed of any category (“the new category”) specified in entry 1 or 2 respectively in column 2 of the table may be made to the National Assembly by a registered person.

(2) An application made under this regulation shall be made in such form and manner and at such time as the National Assembly shall require and, if required by the National Assembly, shall be accompanied by—

- (a) an official sample of the seed to which the application relates;
- (b) an application made under regulation 11 for the testing of an official sample of the seed lot; and
- (c) such other information and other documents as the National Assembly may require for the purpose of determining the application.

(3) The National Assembly—

- (a) may test or arrange for a licensed seed testing station to test an official sample of a seed lot in respect of which an application has been made under this regulation to re-grade—
  - (i) UK, EC or overseas tested officially certified pre-basic seed of a listed variety as UK officially certified basic seed of a listed variety, or
  - (ii) UK, EC or overseas tested officially certified basic seed of a listed variety as UK officially certified pre-basic seed of a listed variety, and
- (b) subject to paragraph (4), shall test or arrange for a licensed seed testing station to test an official sample of the seed lot in the case of any other application made under this regulation,

to determine whether it meets the conditions laid down in Part II of Schedule 4 for the new category of seed.

(4) Where a seed test report has previously been issued in accordance with regulation 11(8) (a), (9), (10), (11) or (12) in respect of a seed lot for which an application has been made under this regulation, the National Assembly may decide not to test the official sample referred to in paragraph (2) for the purposes of paragraph 3(b) if the information contained in the previously issued report contains sufficient information to enable it to determine that the official sample would meet the conditions laid down in Part II of Schedule 4 for the appropriate category of seed.

(5) Where—

- (a) in the case of an application to re-grade seed as pre-basic or basic seed, the National Assembly is satisfied that the seed has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety;
- (b) in the case of an application to re-grade seed as pre-basic or basic seed—
  - (i) in a case where the seed was harvested from a crop produced in Wales, the National Assembly carried out the field inspection of the crop;
  - (ii) in a case where the seed was harvested from a crop produced in another member State, a field inspection of the crop was carried out by or on behalf of the Secretary of State, the Scottish Ministers or the Department for Agriculture and Rural Development; and
  - (iii) in a case where the seed was harvested from a crop produced in another member State, a field inspection of the crop was carried out by or on behalf of the seed certification authority in another member State.

- (c) in the case of an application to re-grade pre-basic seed as CS seed, the National Assembly is satisfied that the seed has been produced from UK, EC or overseas tested officially certified pre-basic seed of a listed variety;
- (d) in the case of an application to re-grade basic seed as CS seed, the National Assembly is satisfied that the seed has been harvested from a crop produced, with the breeder's written authority, directly from UK, EC or overseas tested officially certified pre-basic seed of a listed variety;
- (e) the National Assembly is satisfied that the seed was harvested from a crop that met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed;
- (f) in a case where the official sample referred to in paragraph (2) has been tested, it has been found to satisfy the conditions laid down in Part II of Schedule 4 for the new category of seed; and
- (g) in a case where the official sample referred to in paragraph (2) has not been tested, the National Assembly is satisfied on the basis of the information contained in a seed test report previously issued in respect of the lot—
  - (i) by on behalf of the National Assembly, the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development or by a licensed seed testing station, or
  - (ii) by on behalf of the competent seed certification authority in another member State or by a licensed EC seed testing station in another member State,
 that the seed in the lot satisfies the conditions laid down in Part II of Schedule 4 for the new category of seed,

the National Assembly shall notify the applicant that the application to re-grade the seed lot has been successful.

(6) Where the National Assembly is satisfied that the conditions specified in paragraph (5) for the relevant category of seed have not been met, it shall notify the applicant that the application to re-grade the seed lot has been unsuccessful.

### **Withdrawals**

**14.—(1)** The National Assembly may withdraw the official certification in respect of a seed lot, or any part of a seed lot, if—

- (a) the findings or results obtained from a sample of seed submitted or taken in connection with an application made under regulation 6, 11 or 13 relating to the seed lot, or from plants grown in a control plot that has been sown with seed from that sample, are to be disregarded in accordance with regulation 22(6);
- (b) on the basis of information received by the National Assembly it is satisfied that the crop from which the seed in the seed lot was harvested did not meet the conditions laid down in Schedule 3 or Part I of Schedule 4; or
- (c) on the basis of information received by the National Assembly it is satisfied that the seed in the lot, or part of the lot—
  - (i) did not meet the conditions laid down in Part II or III of Schedule 4 at the time the seed was tested for seed certification purposes, or
  - (ii) although it met the requirements of Part II of Schedule 4 at the time of such testing it no longer meets them.

(2) The National Assembly may withdraw the official certification in respect of a seed lot, or any part of a seed lot, by giving notice to—

- (a) the person who made an application under regulation 11 in respect of the seed lot, or
- (b) any person marketing, or who has marketed, any of the seed.

(3) Where the official certification of a seed lot, or part of a seed lot, is withdrawn under this regulation, the National Assembly may notify—

- (a) the person who made an application under regulation 11 in respect of the seed lot;
- (b) any person marketing, or who has marketed, any of the seed; and
- (c) any person who has purchased, or been supplied with, any of the seed,

that the official certification in respect of the lot, or part of the lot (as the case may be) has been withdrawn.

(4) Where the official certification of a seed lot, or part of a seed lot, is withdrawn under this regulation, the person to whom notice is given under paragraph (2) shall, as soon as practicable, and in any case not later than seven days after receiving the notice, notify any person to whom any of the seed has been sold or supplied of such withdrawal.

(5) Any person who has purchased seed from a seed lot, or part of a seed lot, for which official certification has been withdrawn under this regulation (not being a person notified under paragraph (2)) shall notify any person to whom any of the seed has been sold or supplied of the withdrawal as soon as practicable after receiving notice of it—

- (a) pursuant to paragraph (3), by the National Assembly, or
- (b) pursuant to paragraph (4), by the person who sold or supplied the seed to him or her,

and, in any case, not later than seven days after receiving such notice.

## **PART III**

### **CONTROL OF VEGETABLE SEED**

#### **Marketing of seed**

**15.**—(1) Subject to paragraph (2) and regulations 18 to 21, 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 National Assembly, 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 officially certified lower germination seed**

16. 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, the name and address of that person and the reference number of the seed lot.

**Marketing of officially certified early movement seed**

17.—(1) A person may market officially certified early movement pre-basic seed, officially certified early movement basic seed or officially certified early movement commercial seed before the completion of the official germination test, if the person marketing the seed—

- (a) obtains a provisional analytical report indicating what the percentage of germination of the seed is likely to be;
- (b) provided the first buyer, upon or before delivery of the seed, with a written statement that the seed is marketed before the completion of the official germination test together with the result in the provisional analytical report;
- (c) notifies the National Assembly in writing of the name and address of the first buyer by way of trade as soon as practicable after delivery and in any event not later than seven days after delivery;
- (d) guarantees a specific minimum percentage of germination, which shall be the percentage of germination of the seed as ascertained in the provisional analytical report;
- (e) ensures that a label accompanies the package containing the seed and that the label contains—
  - (i) a statement that the seed is being sold before completion of the official germination test;
  - (ii) a statement of the specific minimum percentage of germination in accordance with paragraph (d) together with the name and address of the person marketing the seed and the reference number of the seed lot.

(2) In the event of the official germination test showing the failure of the seed to comply with the minimum germination standard specified in column 2 of paragraph 4 of Schedule 4 for seed of the relevant category, the person marketing the seed shall provide the first buyer with the result of the completed germination test, in writing, as soon as practicable and in any event not later than 7 days after being informed of the test.

(3) Paragraphs (1) and (2) shall not apply to seed which has been imported from a country which is not an EEA State.

(4) For purposes of this regulation—

- (a) “officially certified early movement pre-basic seed” means any of the following—
  - (i) UK officially certified early movement pre-basic seed of a listed variety;
  - (ii) EC officially certified early movement pre-basic seed of a listed variety;

- (iii) UK officially certified early movement pre-basic seed of a component used in the production of a listed hybrid variety;
  - (iv) EC officially certified early movement pre-basic seed of a component used in the production of a listed hybrid variety.
- (b) “officially certified basic seed” means any of the following—
  - (i) UK officially certified early movement basic seed of a listed variety;
  - (ii) EC officially certified early movement basic seed of a listed variety;
  - (iii) UK officially certified early movement basic seed of a component used in the production of a listed hybrid variety;
  - (iv) EC officially certified early movement basic seed of a component used in the production of a listed hybrid variety.
- (c) “officially certified early movement commercial seed” means any of the following—
  - (i) UK officially certified early movement commercial seed;
  - (ii) EC officially certified early movement commercial seed.

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

**18.—(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 National Assembly 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 Secretary of State;
  - (iii) the Department of Agriculture and Rural Development; or
  - (iv) a competent seed certification authority in another member State, pursuant to Article 23(1)(a) of the Vegetable Seed Directive.

(2) A producer in Wales may apply to the National Assembly for a regulation 18 authorisation.

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

(4) The National Assembly shall not grant a regulation 18 authorisation in respect of seed of a genetically modified variety unless an authorisation is in force in respect of the variety concerned under either—

- (a) Part C of the Deliberate Release Directive; or
- (b) the Food and Feed Regulation.

(5) A regulation 18 authorisation may—

- (a) specify the amount of seed that may be marketed under it, and
- (b) impose such conditions as the National Assembly 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.

### Exception for market testing

**19.**—(1) The prohibition in regulation 15(1) shall not apply to the marketing of seed by or on behalf of a breeder of the seed in a case where—

- (a) an authorisation has been granted to the breeder by the National Assembly in accordance with this regulation, or
- (b) an authorisation has been granted to the breeder by or on behalf of—
  - (i) the Scottish Ministers;
  - (ii) the Secretary of State;
  - (iii) the Department of Agriculture and Rural Development; or
  - (iv) a competent seed certification authority in another member State, pursuant to Article 23(1)(b) of the Vegetable Seed Directive.

(2) A breeder established in Wales may apply to the National Assembly for a regulation 19 authorisation.

(3) An application made under this regulation shall be made in such form and manner and at such time as the National Assembly shall require and shall be accompanied by such information as the National Assembly may require for the purpose of determining whether to grant an authorisation including, if required, data on distinctness, uniformity and stability of the variety of seed concerned.

(4) The National Assembly shall not grant a regulation 19 authorisation unless—

- (a) an application has been submitted to the relevant authority—
  - (i) under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001<sup>(10)</sup> for acceptance of the variety concerned on a National List, or
  - (ii) in another member State for inclusion of the variety in a national catalogue equivalent to a National List, that has not been withdrawn or finally determined and for which any technical information that may be required in support of such an application has been submitted, and
- (b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety concerned under either—
  - (i) Part C of the Deliberate Release Directive; or
  - (ii) the Food and Feed Regulation.

(5) A regulation 19 authorisation—

- (a) shall remain in force during the period specified in the authorisation, and
- (b) may impose such conditions as the National Assembly may think necessary or desirable having regard to 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

**20.**—(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 National Assembly 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 National Assembly 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 National Assembly 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 33 of the Vegetable Seed Directive;
- (b) to give effect to the provisions of a Council Decision made under Article 37(c) or (d) of the Vegetable 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 38(1) of the Vegetable Seed Directive.

(4) A general licence issued under paragraph (2)—

- (a) shall have effect during the period specified in it unless the National Assembly revokes it earlier, and
- (b) may impose such conditions as the National Assembly 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**

**21.**—(1) The prohibition in regulation 15(1) shall not apply to the marketing by a producer in the United Kingdom of—

- (a) a mixture of different varieties of standard seed of lettuce, or
- (b) a mixture of different varieties of standard seed of radish,

marketed in a package containing not more than 50 grams of seed.

(2) The prohibition in regulation 15(1) shall not apply to the marketing of a mixture of seeds permitted by the Fodder Plant Seed (Wales) Regulations 2005<sup>(11)</sup> that includes seed of a species to which these Regulations apply and that complied with the provisions of these Regulations before mixing with the fodder plant seed.

### **Sampling**

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

- (a) by—
  - (i) an authorised officer; or
  - (ii) a licensed seed sampler acting under the supervision of the authority who appointed the licensed seed sampler.
- (b) in accordance with the method laid down in Schedule 5 of the Seed (Registration, Licensing and Enforcement)(Wales) Regulations 2005<sup>(12)</sup>; and
- (c) from a homogeneous seed lot.

(2) Subject to paragraph (4), the maximum weight of a seed lot shall be that set out in column (2) of the table in Schedule 7.

(3) A seed lot may exceed the maximum weight for a seed lot set out in column (2) of the table in Schedule 7 by not more than 5%.

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<sup>(11)</sup> S.I. 2005/1207 (W.79).

<sup>(12)</sup> S.I. 2005/3038 (W.226).

(4) Subject to paragraph (6), the minimum weight of a sample shall be that set out in column (3) of the table in Schedule 7.

(5) In the case of a component of an F1 hybrid variety or an F1 hybrid variety of seed the minimum weight of a sample shall be a quarter of that set out in column (3) of the table in Schedule 7, except that no sample shall weigh less than 5 grams or consist of less than 400 seeds.

(6) If a sample of seeds submitted or taken in connection with an application made under regulation 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 (3); or
- (c) does not comply with paragraph (5) or (6);

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**

**23.**—(1) No person shall market any—

- (a) officially certified pre-basic, basic or CS seed, or
- (b) standard seed,

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 any—

- (a) breeder's seed;
- (b) officially certified pre-basic, basic or CS seed; or
- (c) standard seed,

unless it is in a properly sealed package.

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

- (a) legume seed not exceeding three kilograms in weight, or
- (b) seed of a species specified in Schedule 2, other than legume seed, not exceeding one kilogram in weight,

to the final consumer.

(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 Wales, 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 24(4) 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, and
- (b) in the case of a package of seed sealed in—



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

a sealed package of seed that has been sealed in accordance with the provisions of Article 27(1) of the Vegetable Seed Directive.

(6) This paragraph applies to a package of officially certified pre-basic, basic or CS seed other than—

- (a) a small package of pre-basic or basic seed sealed in the United Kingdom, and
- (b) a small package of CS seed.

(7) In this regulation, in the case of a small package of officially certified pre-basic or basic seed 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.

(8) In this regulation, in the case of a small package of officially certified CS seed that has been sealed only once, “properly sealed package” means—

- (a) in the case of a package of seed sealed in Wales, 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, and
- (b) in the case of a package of seed sealed in—
  - (i) the United Kingdom, elsewhere than in Wales, or
  - (ii) another member State,

a sealed package of seed that has been sealed in accordance with the relevant provisions of Article 27(3) of the Vegetable Seed Directive.

(9) In this regulation, in the case of a package of seed to which paragraph (10) applies and 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 Wales, a sealed package of seed that, on each occasion it has been resealed, has been resealed—
  - (i) by a person to whom regulation 24(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, and
- (b) in the case of a package of seed that has been resealed in—
  - (i) the United Kingdom, elsewhere than in Wales, or
  - (ii) another member State,

a sealed package of seed that, on each occasion it has been resealed, has been resealed in accordance with the provisions of Article 27(2) of the Vegetable Seed Directive.

(10) This paragraph applies to a package of officially certified pre-basic, basic or CS seed including a small package of CS seed but excluding a small package of pre-basic or basic seed sealed in the United Kingdom.

(11) In this regulation, in the case of a package of standard seed, other than a small package of standard 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 and to which a lead or an equivalent sealing device has been attached by the person responsible for attaching the label referred to in regulation 25(8).

(12) In this regulation, in the case of a small package of standard 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.

### Sealing of packages

24.—(1) Subject to paragraph (3), no person shall seal a package of officially certified pre-basic, basic or CS seed 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 or CS seed.

(3) Subject to paragraph (6), no person shall reseal a package (including a small package) of officially certified pre-basic, basic or CS seed except a person to whom paragraph (5) applies.

(4) 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.

(5) Paragraph (4) shall not apply 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.

### Labelling of packages

25.—(1) Subject to paragraphs (2) and (3), no person shall market—

- (a) breeder's seed;
- (b) officially certified pre-basic, basic or CS seed; or
- (c) standard seed,

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) A person may market any seeds otherwise than in a package that complies with the other provisions of this regulation where—

- (a) the seeds are sold in a quantity—
  - (i) not exceeding three kilograms in the case of legume seed, and
  - (ii) not exceeding one kilogram in the case of seed of a species specified in Schedule 2 other than legume seed, and
- (b) the seeds are 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.

(4) A package of breeder's seed shall be labelled in accordance with paragraphs 2 and 3 of Schedule 8.

(5) A package of officially certified pre-basic seed shall be labelled—

- (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 4 to 8 of Schedule 8, and
- (b) in the case of a package of seed sealed—
  - (i) in the United Kingdom, elsewhere than in Wales, or
  - (ii) in another member State,in accordance with the provisions of Article 35(c) of the Vegetable Seed Directive.

(6) A package of officially certified basic or CS seed, other than a small package of CS seed, shall be labelled—

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

- (b) in the case of a package of seed sealed—
  - (i) in the United Kingdom, elsewhere than in Wales, or
  - (ii) in another member State,in accordance with the provisions of Article 28(1) of the Vegetable Seed Directive.
- (7) A small package of officially certified CS seed shall be labelled—
  - (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 13 and 14 of Schedule 8, and
  - (b) in the case of a package of seed sealed—
    - (i) in the United Kingdom, elsewhere than in Wales, or
    - (ii) in another member State,in accordance with the provisions of Article 28(3) of the Vegetable Seed Directive.
- (8) A package of standard seed, other than a small package of such seed, shall be labelled—
  - (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 15 to 19 of Schedule 8, and
  - (b) in the case of a package of seed sealed—
    - (i) in the United Kingdom, elsewhere than in Wales, or
    - (ii) in another member State,in accordance with the provisions of the first and second sub-paragraphs of Article 28(3) of the Vegetable Seed Directive.
- (9) A small package of standard seed, other than a small package of a mixture of standard seeds of the type specified in regulation 21(1), shall be labelled—
  - (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 20 to 23 of Schedule 8, and
  - (b) in the case of a package of seed sealed—
    - (i) in the United Kingdom, elsewhere than in Wales, or
    - (ii) in another member State,in accordance with the provisions of the first sub-paragraph of Article 28(3) of the Vegetable Seed Directive.
- (10) A small package of a mixture of standard seeds of the type specified in regulation 21(1) shall be labelled in accordance with paragraphs 24 to 27 of Schedule 8.
- (11) A package of officially certified basic or CS seed (other than a small package of CS seed) shall contain a document which—
  - (a) in the case of a package of seed sealed in Wales—
    - (i) is of the same colour as the official label fixed to the outside of the package in accordance with the provisions of paragraph (6)(a) in the case of basic and CS seed, and
    - (ii) that contains at least the particulars specified in paragraph 8(c), (d), (e), (f) and (g) of Schedule 8, and
  - (b) in the case of a package of seed sealed—
    - (i) in the United Kingdom, elsewhere than in Wales, or
    - (ii) in another member State,is in accordance with the provisions of Article 28(1)(b) of the Vegetable Seed Directive.

- (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;
  - (b) the official label is inside a transparent package and can be read through the package; or
  - (c) the official label is an adhesive or a tear resistant label.
- (13) 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 (3),

shall clearly indicate that the variety has been genetically modified.

(14) If any breeder's seed or officially certified pre-basic, basic, CS or standard seed 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) applies, with the particulars given in accordance with that paragraph; and
- (b) in a case where paragraph (3) does not apply—
  - (i) on a separate supplier's label on the package; or
  - (ii) on the label required under paragraph (4), (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.

(15) If a package of officially certified pre-basic, basic or CS seed (other than a small package of such seed) shall have 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.

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

(17) 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 that person 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.

### **Special provisions that apply in connection with the marketing of standard seed**

**26.—**(1) A person who in the course of marketing of any standard seed affixes a label or prints or stamps any particulars, or causes any of those things to be done, in accordance with regulation 25(8), (9) or (10), shall maintain and keep available for inspection by an authorised officer a record of the dates on which and of the packages on which such each label was affixed or particulars printed or stamped and shall, if required by the National Assembly, furnish the National Assembly with a copy of such record.

(2) A person to whom paragraph (1) applies shall keep and retain for a period of at least three years a record of the seed lots of standard seed marketed by him or her and, if so required by the National Assembly, shall produce such record to it.

(3) A person to whom paragraph (1) applies shall keep and retain for a period of at least two years a sample of the seed lots of standard seed marketed by him or her of at least the appropriate minimum weight specified in Schedule 7 and, if so required by the National Assembly, shall deliver any such sample to it.

## PART IV

### MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

#### **Civil liability of sellers of seeds**

27.—(1) Particulars given to a purchaser by the seller of seed in pursuance of these Regulations, whether given expressly or by implication arising from the description under which the seed is sold, shall constitute a statutory warranty for the purpose of section 17 of the Act in so far as they relate to the category of seed, the percentage germination of the seed, the percentage analytical purity of the seed, the content of seed of other plant species and the varietal identity and varietal purity of the seed or, in the case of a mixture of seed permitted by regulation 21, of each of its constituents to which these Regulations apply.

(2) Section 17(2) of the Act shall apply to any particulars given to a purchaser by the seller of seed, being particulars given or implied as in paragraph (1), in so far as they relate to the percentage germination, the percentage analytical purity or the content of seed of other plant species and there are hereby prescribed in respect of such matters the limits of variation set out in Schedule 9.

(3) Section 17(3) of the Act shall apply to any particulars given to a purchaser by the seller of the seed, being particulars given or implied as in paragraph (1), in so far as they relate to the percentage germination, the percentage analytical purity or the content of seed of other plant species.

(4) A purchaser who intends to obtain a test of seed for the purposes of section 17(3) of the Act shall, not more than ten days after delivery to the purchaser of the seed, give to the seller notice of the purchaser's intention and thereupon the seller may indicate a day (not being more than twenty-one days after the delivery of the seed to the purchaser) and a reasonable time on that day at which a sample of the seed may be taken in the presence of the seller or the seller's representative and the purchaser shall afford to the seller reasonable facilities for that purpose.

(5) On the day and at the time appointed by the seller in accordance with paragraph (4) or, if the seller shall have failed to appoint such a day and time, on a day not more than twenty-eight days after delivery of the seed to the purchaser, the purchaser or the purchaser's representative may, and if the seller or the seller's representative is present shall, take a sample of seed.

(6) A sample taken in accordance with the requirements of paragraph (5) shall be taken and divided by the purchaser or the purchaser's representative into two parts in accordance with the requirements contained in Schedule 5 of the Seed (Registration, Licensing and Enforcement) (Wales) Regulations 2005, of which one part shall be sent to the chief officer of an official testing station for the purpose of being tested and the other part delivered or tendered to the seller or the seller's representative or, if the seller or the seller's representative was not present when the sample was taken, sent to the seller by post.

(7) Where a sample is taken in accordance with the requirements of paragraph (5) and divided into two parts in accordance with paragraph (6) each part of the divided sample shall be of at least the appropriate minimum weight specified in Schedule 7 (lots and sample weights) of these Regulations.

#### **Arrangements for official measures**

28.—(1) Subject to the following provisions of this regulation, the National Assembly may make arrangements, in such form as it is of the opinion may be necessary or desirable, for the purpose of enabling any person to act under its responsibility in carrying out official measures.

(2) The National Assembly shall not make an arrangement under this regulation unless it is satisfied that the arrangement will make provision for the purpose of preventing the person with whom the arrangement is made, and any other 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 the supervision of the National Assembly.
- (3) An arrangement under this regulation may include such conditions as the National Assembly is of the opinion are necessary or desirable for the purposes referred to in paragraphs (1) and (2) above, including conditions—
- (a) specifying—
    - (i) the official measures that the person with whom the arrangement is made shall carry out under it;
    - (ii) the species and category of seed in respect of which that person may carry out the official measures;
    - (iii) the methods to be used in connection with the official measures that person carries out under the arrangement;
    - (iv) the fees that may be charged by the person with whom the arrangement is made in relation to the official measures that person carries out under it; and
    - (v) the records that must be kept by the person with whom the arrangement is made in connection with the official measures that person carries out;
  - (b) prohibiting the person with whom the arrangement is made from—
    - (i) carrying out the official measures except under official supervision, and
    - (ii) charging fees in relation to the official measures that person carries out under the arrangement except to the extent that these do not exceed the costs that person incurs in carrying them out; and
  - (c) prohibiting the person with whom the arrangement is made from making any further arrangement for any purpose in connection with the carrying out of any of the official measures that person has arranged with the National Assembly to carry out, unless—
    - (i) the National Assembly has first approved all the conditions of the further arrangement and the person with whom the arrangement was made has received the prior approval of the National Assembly to make the further arrangement;
    - (ii) the further arrangement includes a condition prohibiting the making of any subsequent arrangements for any purpose in connection with the carrying out of any of the official measures in respect of which the National Assembly made the arrangement;
    - (iii) the further arrangement includes an acknowledgement by the person with whom it is made that the National Assembly may vary, suspend or revoke the further arrangement, whether or not it also varies, suspends or revokes the arrangement it made with the person seeking its approval for the further arrangement; and
    - (iv) the further arrangement includes the conditions specified in sub-paragraphs (a) and (b).
- (4) The National Assembly shall not approve the making of a further arrangement by any person with whom it makes an arrangement under this regulation unless it is satisfied that the person with whom the further arrangement is to be made—
- (a) will not derive any private gain from any official measures that person is to be authorised to carry out under the further arrangement, and
  - (b) will not carry out any official measures under the further arrangement except under official supervision.

(5) The National Assembly may vary, suspend or revoke an arrangement or the conditions of an arrangement made under this regulation, or a further arrangement or any of the conditions of a further arrangement under this regulation, by giving notice to the person with whom the arrangement or further arrangement is made, and a further arrangement may be varied, suspended or revoked under this paragraph notwithstanding that the arrangement in respect of which it was made is not also varied, suspended or revoked.

(6) A notice of a variation, suspension or revocation of an arrangement or further arrangement, or of a condition of an arrangement or further arrangement, shall specify—

(a) in respect of a variation or a revocation, a date on and after which the variation or revocation shall have effect, and

(b) in respect of a suspension, a period during which suspension shall have effect, and the variation, suspension or revocation shall have effect in accordance with the notice.

(7) When a variation, suspension or revocation has effect the National Assembly may, for any purposes in relation to these Regulations or a determination under these Regulations, continue to have regard to such of the official measures carried out under an arrangement which was varied, suspended or revoked as appear to it to be official measures carried out in accordance with the provisions of these Regulations.

## **Fees**

**29.**—(1) The National Assembly may charge any person reasonable fees in respect of costs reasonably incurred by the National Assembly in carrying out official measures for the purposes of these Regulations.

(2) The National Assembly may charge any person concerned in any matter connected with these Regulations reasonable fees in respect of costs reasonably incurred by the National Assembly in connection with that matter for the purposes of these Regulations, including the costs reasonably incurred by an officer authorised for the purposes of these Regulations by the National Assembly in connection with—

(a) the taking of samples in accordance with regulation 22;

(b) the sealing of packages in accordance with regulations 23 and 24; and

(c) the labelling of packages in accordance with regulation 25.

(3) A person carrying out official measures in accordance with an arrangement or further arrangement under regulation 28 may charge any person, including any other person with whom an arrangement or further arrangement has been made under regulation 28, reasonable fees in respect of costs that person reasonably incurs in carrying out official measures under the responsibility of the National Assembly in accordance with these Regulations.

(4) All fees payable under these Regulations in connection with any application shall be payable—

(a) at the time the application is made, or

(b) with the agreement of the National Assembly or a person carrying out official measures in accordance with an arrangement or further arrangement under regulation 28 (as the case may be), within twenty-eight days following notice from the National Assembly or that person (as the case may be) demanding the fee payable in respect of such application.

(5) All other fees payable under these Regulations shall be payable within twenty-eight days following the issue of a notice under these Regulations demanding the payment of the fee.

(6) A fee charged in accordance with this regulation shall be recoverable as a debt from the person by whom the fee is payable.

**Service of notices**

**30.**—(1) Any notice required by virtue of these Regulations to be given to any person by the National Assembly may be given by it—

- (a) by delivering it to that person or by leaving it at that person’s proper address or by sending it by post to that person’s proper address;
- (b) if the person is a body corporate other than a limited liability partnership, by giving it in accordance with paragraph (a) to the secretary of the body;
- (c) if the person is a limited liability partnership, by giving it in accordance with paragraph (a) to a member of the partnership; or
- (d) if the person is a partnership, by giving it in accordance with paragraph (a) to a partner or a person having control of the management of the partnership business.

(2) For the purposes of this section and section 7 of the Interpretation Act 1978(**13**) (service of documents by post) in its application to this section, the proper address of any person to whom a notice is to be given shall be that person’s last known address, except that—

- (a) in the case of a body corporate (other than a limited liability partnership) or its secretary, it shall be the address of the registered or principal office of the body;
- (b) in the case of a limited liability partnership or a member of the partnership, it shall be the address of the registered or principal office of the partnership; and
- (c) in the case of a partnership or a partner or a person having the control or management of a partnership business, it shall be the address of the principal office of the partnership.

(3) Paragraph (4) applies if a person to be given a notice under these Regulations by the National Assembly has specified to the National Assembly an address within the United Kingdom other than the proper address (as determined under paragraph (2)) as the one at which the person or someone on the person’s behalf will accept notices of that description.

(4) In relation to that notice, that address shall be treated as the proper address for the purposes of this regulation and section 7 of the Interpretation Act 1978 in its application to this regulation, instead of that determined under paragraph (2).

**Index of defined words and expressions**

**31.** Schedule 10 contains an index of defined words and expressions used in these Regulations.

**Revocations and transitional provisions**

**32.**—(1) Subject to paragraph (2)—

- (a) the Vegetable Seeds Regulations 1993(**14**), the Vegetable Seeds (Amendment) Regulations 1996(**15**) and the Vegetable Seeds (Amendment) Regulations 1999(**16**) are revoked in relation to Wales;
- (b) the Vegetable Seeds (Amendment)(Wales) Regulations 2001(**17**) are revoked;
- (c) the Seeds (Fees) Regulations 1985(**18**) are revoked in so far as they apply to Wales in relation to matters arising under the Vegetable Seeds Regulations 1993; and

(13) 1978 c. 30.

(14) S.I. 1993/2008, relevant amending instruments are S.I. 1996/1452, 1997/616, 1999/1863, 2001/3667.

(15) S.I. 1996/1452.

(16) S.I. 1999/1863.

(17) S.I. 2001/3667.

(18) S.I. 1985/981, amended by S.I. 2002/1563.



(d) the Seeds (Fees) (Amendment) (Wales) (No 2) Regulations 2002<sup>(19)</sup> and the Seeds (Fees) (Amendment) (Wales) Regulations 2002<sup>(20)</sup> are revoked in relation to matters arising under the Vegetable Seeds Regulations 1993.

(2) Section 17 of the Interpretation Act 1978 shall not apply in relation to general licences made under the Vegetable Seeds Regulations 1993.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(21)</sup>.

1 November 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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<sup>(19)</sup> S.I. 2002/1870.  
<sup>(20)</sup> S.I. 2002/1554.  
<sup>(21)</sup> 1998 c. 38.