
WELSH STATUTORY INSTRUMENTS

2005 No. 3037

The Beet Seed (Wales) Regulations 2005

PART III

CONTROL OF BEET SEED

Marketing of seed

14.—(1) Subject to paragraph (2) and regulations 17 to 19, 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

15. 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 person's name and address and the reference number of the seed lot.

Marketing of officially certified early movement seed

16.—(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 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) provides 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 paragraph 13 of Part II 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 official 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;

EC officially certified early movement commercial seed.

Exception for scientific purposes and selection work

17.—(1) The prohibition in regulation 14(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 6(1)(a) of the Beet Seed Directive.

(2) A producer in Wales may apply to the National Assembly for a regulation 17 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 17 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 17 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 test and trials

18.—(1) The prohibition in regulation 14(1) shall not apply to the marketing by a producer of appropriate quantities of seed for test and trial purposes 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 National Assembly for Wales;
 - (iii) the Department of Agriculture and Rural Development; or
 - (iv) a competent seed certification authority in another member State, pursuant to Article 6(1)(b) of the Beet 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 unless—

- (a) it considers that the amount of seed that may be marketed under it is of an appropriate quantity for the test or trial;
- (b) an application has been submitted to the relevant authority under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001(1) for acceptance of the variety concerned on to a National List that has not been withdrawn or finally determined; and
- (c) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety concerned under either—
 - (i) Part C of the Deliberate Release Directive; or
 - (ii) The Food and Feed Regulation.

(5) A regulation 18 authorisation—

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

General exemptions

19.—(1) The prohibition in regulation 14(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 19 of the Beet Seed Directive;
 - (b) to give effect to the provisions of a Council Decision made under Article 23 of the Beet 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 24 of the Beet 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.

Sampling

20.—(1) A sample of seeds taken in connection with a regulation 5, 10 or 12 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(2); and
- (c) from a homogeneous seed lot.

(2) Subject to paragraph (3), the maximum weight of a seed lot shall be that specified in Part I of Schedule 7.

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

(4) The minimum weight of a sample shall be that specified in Part II of Schedule 7.

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

(6) If a sample of seeds submitted or taken in connection with a regulation 5, 10 or 12 application—

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

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

Packaging

21.—(1) No person shall market any officially certified pre-basic, basic or CS 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 breeder's seed or officially certified pre-basic, basic or CS seed unless it is in a properly sealed package.

(3) Paragraph (2) shall not apply in the case of the marketing of seed not exceeding 2.5 kilograms 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 officially certified pre-basic, basic or CS seed, other than a small EC package of basic or 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—
 - (i) no later than at the time of official sampling;
 - (ii) by a person to whom regulation 22(5) applies;

- (iii) using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal; and
 - (iv) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package;
- (b) in the case of a package of seed sealed in—
- (i) 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 11(1) of the Beet Seed Directive;
- (c) in the case of a package of seed sealed in an equivalent third country, a sealed package of seed that has been sealed in accordance with the provisions of paragraph 1 of Part B of Annex II to the Third Country Equivalence Decision.
- (6) In this regulation, in the case of a small EC package of officially certified basic or 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 11(3) of the Beet Seed Directive;
- (7) In this regulation, in the case of a package of officially certified pre-basic, basic or CS seed, other than a small EC package of basic or CS seed, 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 22(5) applies, and
 - (ii) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package;
 - (b) in the case of a package of seed that has been resealed in—
 - (i) the United Kingdom, elsewhere than in Wales, or
 - (ii) another member State,
 a sealed package of seed that, on each occasion it has been resealed, has been sealed in accordance with the provisions of Article 11(2) of the Beet Seed Directive; and
 - (c) in the case of seed that has been resealed in an equivalent third country, a sealed package of seed that, on each occasion it has been resealed, has been resealed in accordance with the provisions of paragraph 1 of Part B of Annex II to the Third Country Equivalence Decision.
- (8) In this regulation, in the case of a small EC package of officially certified basic or CS seed 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 22(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 11(3) of the Beet Seed Directive.

Sealing of packages

22.—(1) Subject to paragraph (2), 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 EC package of officially certified basic or CS seed.

(3) Subject to paragraph (4), no person shall reseal a package (including a small EC package) of officially certified pre-basic, basic or CS seed except a person to whom paragraph (5) applies.

(4) Paragraph (3) 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.

(5) This paragraph applies to—

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

Labelling of packages

23.—(1) Subject to paragraphs (2) and (3), no person shall market any breeder's seed or officially certified pre-basic, basic or CS 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 not exceeding 2.5 kilograms, 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 7 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 21(c) of the Beet Seed Directive.

- (6) A package (other than a small EC package) of officially certified basic or CS seed shall be labelled—
- (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 8 to 12 of Schedule 8;
 - (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 12(a) of the Beet Seed Directive; and
 - (c) in the case of a package of seed sealed in an equivalent third country, in accordance with the provisions of paragraphs 1 and 3 of Part B of Annex II to the Third Country Equivalence Decision as they apply to basic or CS seed.
- (7) A small EC package of officially certified basic or CS seed shall be labelled—
- (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 13 to 15 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 13 of the Beet Seed Directive.
- (8) A package (other than a small EC package) of officially certified basic or 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), and
 - (ii) contains the particulars specified in paragraph 8(c), (e), (f), (g) and (l) or (m) of Schedule 8;
 - (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 12(b) of the Beet Seed Directive; and
 - (c) in the case of a package of seed sealed in an equivalent third country, is in accordance with the provisions of paragraph 3.3 of Part B of Annex II to the Third Country Equivalence Decision as they apply to basic or CS seed.
- (9) The provisions of paragraph (8) shall not apply if—
- (a) the particulars specified in paragraph (8)(a)(ii) are printed indelibly on the outside of the package, or
 - (b) the official label is an adhesive or a tear resistant label.
- (10) 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.

(11) If any breeder's seed or officially certified pre-basic, basic or CS 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) or (7);

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.

(12) Subject to paragraph (13), if a package of officially certified pre-basic, basic or CS seed, other than a small EC package of basic or CS seed, has been resealed this fact shall be stated on the official label together with the date of resealing and the name of the authority responsible for the resealing.

(13) Where a package of seed of the type specified in paragraph 11, 12(3), 17, 18(3), 25 and 26(4) of Schedule 1 is resealed, the package shall be labelled with an OECD label containing the particulars otherwise required under this regulation.

(14) The particulars and the information given in accordance with this regulation shall be given in one of the official languages of the European Community.

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