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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 223**

**The Seed (Scotland) (Amendments for  
Conservation Varieties) Regulations 2009**

**PART 4**

**AMENDMENTS TO THE FODDER PLANT  
SEED (SCOTLAND) REGULATIONS 2005**

**Amendment of the Fodder Plant Seed (Scotland) Regulations 2005**

**22.** The Fodder Plant Seed (Scotland) Regulations 2005(1) are amended in accordance with regulations 23 to 31.

**Interpretation**

**23.** In regulation 2(1) (interpretation)–

(a) at the appropriate place insert–

““Commission Directive 2008/62” means Commission Directive [2008/62/EC](#) providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local land regional conditions and threatened by genetic erosion and for marketing of seed of those landraces and varieties(2);” and

““Conservation variety” means the landraces or varieties of agricultural plant species which are naturally adapted to local and regional conditions and threatened by genetic erosion and are contained within a UK National List and for these purposes–

(a) “landrace” means a set of populations or clones of a plant species which are naturally adapted to the environment conditions of their regions; and

(b) “genetic erosion” means loss of genetic diversity between and within populations of varieties of the same species over time or reduction of the genetic basis of a species due to human intervention or environmental change;”;

(b) for the definition of “control plot”, substitute–

““control plot” means a plot sown by a European Authority with a seed from a submitted sample taken–

(a) by a European Authority;

(b) by a licensed seed sampler; or

(c) by an applicant of a seed of a Conservation Variety;” and

(c) for the definition of “official certificate”, substitute–

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(1) [S.S.I. 2005/329](#) as amended by [S.S.I. 2006/313](#), [2007/224](#) and [536](#).

(2) [O.J. No. L 162](#), 21.6.2008, p.13.

““official certificate” means a certificate issued by the Scottish Ministers in accordance with these Regulations and “officially certified” shall be construed accordingly;”.

### Marketing of seed

24. In regulation 6 (marketing of seed)–

- (a) in paragraph (1)(b)(ii) for “Pre-basic Seed, fully certified Basic Seed or Seed of a Certified Generation” substitute “Pre-basic Seed, fully certified Basic Seed, Seed of a Certified Generation or seed of a Conservation Variety”;
- (b) for paragraph (2) substitute–
  - “(2) Paragraph (1) shall not apply to the marketing of seed which has not yet been fully certified if–
    - (a) the seed is marketed for processing;
    - (b) the identity of the seed is ensured; and
    - (c) the seed has been harvested from a crop which has been found by an official field inspection to satisfy the conditions specified in Part I of Schedule 4 or Annex I (crop conditions) of the Fodder Plant Seed Directive for the relevant category of seed; or
    - (d) the seed of a Conservation Variety has been harvested from a crop which has been found to satisfy the conditions specified in Part III of Schedule 4A.”;
- (c) in paragraph 3–
  - (i) delete “either”;
  - (ii) after “Schedule 2,” insert “the examination referred to in paragraph 2(b) of Part I of Schedule 4A”(3).

### Insertion of new regulation 9B

25. After regulation 9A (exception for test and trial)(4), insert–

#### “Exception for conservation varieties

##### 9B

- (1) No person may market seed of a Conservation Variety unless the requirements of paragraphs (2), (3) and (5) are met.
- (2) The seed must descend from seed produced according to well defined practices for maintenance of the variety.
- (3) The seed must have been harvested from a crop that–
  - (a) has been produced in the region of origin for the variety or additional region; and
  - (b) satisfies the conditions laid down in Part III of Schedule 4A.
- (4)
  - (a) Scottish Ministers may ascertain, so far as practicable, whether the requirements for the crop set out in Part III of Schedule 4A are met by the use of methods which may include examination of a post control plot sown with a sample from the seed and the consideration of any other relevant information; and

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(3) Schedule 4A is inserted by regulation 30 of, and Schedule 3 to, these Regulations.

(4) Regulation 9A was inserted by [S.S.I. 2007/224](#).

- (b) for the avoidance of doubt an examination by means of an official field inspection of the crop will not be required.
- (5) The seed must satisfy the conditions laid down in Part IV of Schedule 4A.
- (6) No person may market seed of a Conservation Variety other than its region of origin.
- (7) A person proposing to produce seed of a Conservation Variety must supply the Scottish Ministers, in such manner and form as the Scottish Ministers may require, with the following details in writing—
  - (a) the size (in hectares); and
  - (b) the location,of the area to be used to produce that seed.
- (8) For the purposes of Article 14 of Commission Directive 2008/62, the Scottish Ministers may specify the maximum amount of seed of a Conservation Variety which may be marketed in any given growing season. Different maxima for different persons or classes of person may be specified.
- (9) No person shall market more than the maximum amount of seed of a Conservation Variety applicable to that person as specified under (7).
- (10) Any person marketing seed of a Conservation Variety must supply Scottish Ministers, on request, with details in writing of the amount and variety of the seed placed on the market during each growing season.
- (11) In this regulation—
  - “additional region” means the region for seed production approved by the Scottish Ministers for the purposes of the second paragraph of Article 11(1) of the Commission Directive 2008/ 62; and
  - “region of origin” means the region forming a part or the whole of the United Kingdom identified by the Scottish Ministers for the purposes of Article 8.1 of Commission Directive 2008/62.”

### **Applications for official certificates**

- 26. In regulation 14 (applications for official certificates)—
  - (a) in paragraph (1) for “Pre basic Seed, Basic Seed, Seed of a Certified Generation or Commercial Seed” substitute “Pre basic Seed, Basic Seed, Seed of a Certified Generation, Commercial Seed or seed of a Conservation Variety”;
  - (b) in paragraph (2) after “Schedule 2” insert “or, in the case of a Conservation Variety, Part I of Schedule 4A”;
  - (c) in paragraph (4)—
    - (i) in sub-paragraph (b), after “Schedule 4” insert “or, in the case of seed of a Conservation Variety, Part III of Schedule 4A”; and
    - (ii) in sub-paragraph (c) after “Schedule 4”, in each place those words occur, insert “or, in the case of a Conservation Variety, Part IV of Schedule 4A”.

### **Sampling**

- 27. In regulation 15 (sampling)—
  - (a) after paragraph (1) insert—

“(1A) A sample of seed of a Conservation Variety taken for the purposes of checking compliance with these Regulations shall comply with paragraph (1)(b) and (c) and Part II of Schedule 5.”.

#### **Sealing of packages of fully certified seed**

- 28.** In regulation 16 (sealing of packages of fully certified seed)–
- (a) in paragraphs (1), (3), (4) and (5) for “regulations 6(1), 8, 9A, 11 or 12” substitute “regulation 6(1), 8, 9A, 9B, 11 or 12”;
  - (b) in paragraph (1) for “Seed of a Certified Generation, Commercial Seed” substitute “Seed of a Certified Generation, seed of an Conservation Variety, Commercial Seed”; and
  - (c) in paragraph (4) for “Seed of a Certified Generation, Commercial Seed” substitute “Seed of a Certified Generation, seed of a Conservation Variety, Commercial Seed”.

#### **Labelling of packages of fully certified seed**

- 29.** In regulation 17 (labelling of packages of fully certified seed)–
- (a) in paragraph (1)–
    - (i) for “regulations 6(1), 8, 9A, 11 or 12” substitute “regulation 6(1), 8, 9A, 9B, 11 or 12”; and
    - (ii) for “test and trial seed, lower germination seed” substitute “test and trial seed, seed of a Conservation Variety, lower germination seed”;
  - (b) after paragraph (4) insert–
    - “(4A) A package of a seed of a Conservation Variety shall–
      - (a) have affixed on the outside a label, which has not previously been used, containing, as appropriate to the seed, particulars of the matters specified, and being of the colour also specified, in paragraph 6B of Part II of Schedule 6, which shall be either an adhesive label or tear proof label and shall be affixed, in either case, not later than at the time of sealing; and
      - (b) where seed is sealed in–
        - (i) the United Kingdom but not in Scotland; or
        - (ii) an EEA state other than the United Kingdom,
 be labelled in accordance with the provisions of Article 18 of Commission Directive 2008/62.”.

#### **Insertion of new Schedule 4A**

**30.** After Schedule 4 (requirements for pre-basic seed, basic seed, certified seed, certified seed of the first generation, certified seed of the second generation and commercial seed) insert Schedule 4A, contained in Schedule 3 to these Regulations.

#### **Insertion of new paragraph 6A in Schedule 6**

**31.** In Schedule 6, in Part II (Labels), after paragraph 6A (official label for a package of test and trial seed)(5) insert–

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(5) Regulation 6A was inserted by [S.S.I. 2007/224](#).

**“Official label for a package of seed of a Conservation Variety**

- 6B.—**(1) The official label for a package of seed of a Conservation Variety shall—
- (a) contain the following information—
    - (i) the words “EC rules and standards”;
    - (ii) the name and address, or the registration number, of the person responsible for affixing the label or notice;
    - (iii) the year of sealing, or the year of last sampling for the purposes of the last testing of germination, expressed by the word “sealed” or “sampled” (as the case may be), followed by the year in question;
    - (iv) the species;
    - (v) the denomination of the Conservation Variety;
    - (vi) the words “Conservation Variety”;
    - (vii) the region of origin;
    - (viii) where the region of seed production is different from the region of origin, the indication of the region of seed production;
    - (ix) the reference number of lot given by the person responsible for affixing the labels;
    - (x) the declared net or gross weight or declared number of seeds; and
    - (xi) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters of pure seeds and the total weight; and
  - (b) be a minimum size of 110 millimetres by 67 millimetres; and
  - (c) be coloured brown.”.