

## **POLICY NOTE**

### **THE SEED (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2016**

**S.S.I. 2016/434**

#### **Introduction**

1. The above instrument was made in exercise of the powers conferred by sections 16(1), (1A), (2) (3) and 36 of the Plant Varieties and Seeds Act 1964 (“the Act”) and all other enabling powers. The instrument is subject to negative resolution procedure.

#### **Policy objectives**

2. The purpose of this instrument is to Implement

- Commission Implementing Directive (EU) 2016/11 amending Annex II to Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants (OJ L 3, 6.1.2016, p. 48 amends Council Directive 2002/57/EC (OJ L 193, 20.7.2002, p. 74) to reduce the minimum varietal purity of seed of hybrids of swede rape.
- Commission Implementing Directive 2016/317 amending Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC, 2002/56/EC and 2002/57/EC (“the Principal Seed Directives”) as regards the official label of seed packages (OJ L 60, 5.3.2016, p. 72) requires the addition of an officially assigned serial number on the official label of certain categories of seed potatoes and certain categories of vegetable, oil and fibre plant, cereal, fodder and beet seeds.
- Commission Implementing Decision (EU) 2016/320 amending Decision 2004/842/EC concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogues of varieties of agricultural plant species or vegetable species has been submitted (OJ L 60, 5. 3.2016, p. 88) introduces the requirement for an officially assigned serial number on the official label of seed potatoes and of oil and fibre plant, cereal, fodder and beet seeds, where those seed potatoes or seeds are authorised to be marketed for the purposes of tests and trials.

#### **Principal purpose of the instrument**

3. The principal purpose of this instrument is to amend applicable provisions on labelling and marking in the relevant seed regulations (as listed below), to make provision for officially assigned serial numbers. These provisions apply to packages of Basic Seed, Certified Seed, Commercial Seed, Mixtures, ‘Seed as Grown’ and Test & Trial Seed under: -

- the Cereal Seed (Scotland) Regulations 2005 (S.S.I. 2005/328);
- the Fodder Plant Seed (Scotland) Regulations 2005 (S.S.I. 2005/329);
- the Oil and Fibre Plant Seed (Scotland) Regulations 2004 (S.S.I. 2004/317);
- the Oil and Fibre Plant Seed (Scotland) Regulations 2004 (S.S.I. 2004/317);
- the Beet Seed (Scotland) (N<sup>o</sup> 2) Regulations 2010 (S.S.I. 2010/148);
- the Vegetable Seeds Regulations 1993 (S.I. 1993/2008) and;

- the Seed Potatoes (Scotland) Regulations 2015 (S.S.I. 2015/395)

4. The instrument also makes provision for a reduced standard for varietal purity in hybrid spring swede rape.

5. Whilst administrative arrangements were already in place in Scotland and elsewhere in the UK to accommodate officially assigned serial numbers even before the UK joined the EU, amendments are required to the relevant seed regulations to ensure compliance with these new EU legislative requirements. Therefore no additional burdens to the Scottish seed, seed potatoes or the farming industry arise.

### **Main changes introduced by the instrument**

6. Whilst this instrument amends the relevant seed regulations to implement most of the requirements of Council Implementing Directive (EU) 2016/317 and Council Decision 2016/320 to make provision for officially assigned serial numbers to be included on official certification labels, during transposition we discovered that in relation to the relevant seed regulations other than the Vegetable Seeds Regulations 1993, there was a gap in transposition of the applicable labelling requirements under the Principal Seed Directives for a category of seed known as ‘as grown’. Although the requirements of those Directives are already implemented administratively, we recognise the need to ensure these are also reflected in the relevant seed regulations themselves. Therefore, due to time constraints and resources, we have opted to bring forward a separate amendment as soon as possible in 2017 to address this, including implementation of the provisions in Directive 2016/317 for official serial numbers to appear on grey labels or on the document that would accompany this category of seed.

7. Council Implementing Decision (EU) 2016/11 reduced the standard for varietal purity for hybrid spring swede rape from 90% to 85% as the standard no longer reflects the special technical features of modern breeding methodology or the limitations in seed production of hybrid spring swede rape and therefore after a recommendation from the OECD, the European Commission and EU Member States agreed to reduce the standard. As this is a reduction in the standard there is no additional burden to the industry. However, we are required to implement this provision to allow the standard to be applied to next year’s applications, which are required to be lodged before 15 March 2017.

### **Minor Amendments**

8. Whilst drafting the instrument, we have also taken the opportunity to update definitions in the relevant seed regulations to reflect amendments by the EU to the principal Seed Directives. The instrument also amends the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 (S.S.I. 2016/68) to correct drafting errors identified by the Scottish Parliament’s Delegated Powers and Law Reform Committee.

### **Consultation**

9. To comply with the requirements of section 16(1) of the Plant Varieties and Seeds Act 1964, Key Stakeholders (the NFU Scotland, AIC Scotland and the Scottish Seed Trade Association) were contacted and informed that as officially assigned serial numbers are already used on official labels and the varietal purity standard for hybrid swede rape was

being relaxed, Scottish Government were proposing to place an information article on the Scottish Government and SASA (responsible for seed & potato certification) websites. The transposition exercise is more for policy officials to update the legislation, than the industry taking action and therefore, Stakeholders agreed that this level of action was appropriate. <http://www.gov.scot/Topics/farmingrural/Agriculture/plant/17939/Whats-New>

### **Transposition Note**

10. A transposition note has been prepared in relation to this instrument.

### **Financial Effects**

11. There will be no additional costs to citizens, the environment or Government.

12. A Business and Regulatory Impact Assessment has not been prepared as officially assigned numbers already appear on all certification labels used on seed and seed potatoes. The varietal purity standard is a reduction of what already exists and therefore bring no additional financial burdens.

### **Timing**

13. This instrument will come into force on the 6 February and 31 March 2017.

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