

1972 No. 507

SEEDS

The Plant Varieties (Index) Regulations 1972*Made* - - - 24th March 1972*Coming into Operation* 26th April 1972

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for the Home Department (being the Secretary of State concerned with agriculture in Northern Ireland), acting jointly, in exercise of the powers vested in them by section 23A of, and paragraph 5 of Schedule 5 to, the Plant Varieties and Seeds Act 1964(a), as amended by Section 43 of, and Schedule 7 to, the Agriculture (Miscellaneous Provisions) Act 1968(b) (extended to Northern Ireland by the Plant Varieties and Seeds (Northern Ireland) Order 1964(c)) and of all other powers enabling them in that behalf, after consultation with the representatives of such interests as appear to them to be concerned, with the approval of the Treasury, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Plant Varieties (Index) Regulations 1972 and shall come into operation on 26th April 1972.

Revocation of Previous Regulations

2. The Regulations specified in Schedule 1 to these Regulations are hereby revoked.

Interpretation

3.—(1) In these Regulations unless the context otherwise requires—

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

“the gazette” means the gazette published by the Ministers in accordance with section 34 of the Act;

“the Index” means the index of names of plant varieties prepared by the Ministers in accordance with section 20 of the Act;

“injurious weeds” means the weeds specified in Schedule 4 to these Regulations;

(a) 1964 c. 14.

(c) S.I. 1964/1574 (1964 III, p. 3543).

(b) 1968 c. 34.

“the Ministers” means the Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for the Home Department (being the Secretary of State concerned with agriculture in Northern Ireland);

“plant breeders’ rights” means rights which may be granted in accordance with Part I of the Act;

“reproductive material” means reproductive material of a plant variety and includes seeds for sowing and seed potatoes;

and other expressions have the same meaning as in the Act.

(2) The Interpretation Act 1889^(a) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament and as if these Regulations and the Regulations hereby revoked were Acts of Parliament.

Amendment of provisional list or Index

4. Following the publication by the Ministers in the gazette in accordance with paragraph 1 of Schedule 5 to the Act of a provisional list of plant varieties which are within the class of plant varieties to which a section of the Index will relate or of a notice of the coming into force of a section of the Index an application may be made to the Ministers by any person seeking—

- (a) the addition of the name of a plant variety to,
 - (b) the correction of the name of a plant variety in, or
 - (c) the erasure of the name of a plant variety from
- the said provisional list or the said section of the Index as the case may be.

Application for amendment of provisional list or Index

5. An application made in accordance with the last preceding paragraph (hereinafter referred to as “the application”) shall be in writing and shall include references to—

- (a) the particular provisional list or section of the Index to which the application relates;
- (b) the nature of the application, that is to say whether it seeks an addition to, correction of or erasure from the particular provisional list or section of the Index;
- (c) in a case where the application seeks a correction or erasure, the name of the plant variety to which the application relates;
- (d) in a case where the application seeks a correction, the correction which is proposed;
- (e) the documents, if any, submitted in support of the application; and
- (f) the grounds relied on in support of the application.

(a) 1889 c. 63.

Translations

6. Where any document submitted in support of the application is in a language other than the English language it shall unless the Ministers otherwise direct be accompanied by a complete and adequate translation thereof into the English language.

Lodging of application

7. The application and any documents submitted in support thereof shall be delivered or sent by post in a properly addressed pre-paid letter to the Minister of Agriculture, Fisheries and Food, Murray House, Vandon Street, London, SW1H 0AG.

Address for service

8. The person making the application (hereinafter referred to as "the applicant") shall, on or before making the application, give to the Ministers in writing an address within the United Kingdom (hereinafter referred to as his "address for service") which shall be the address at which any notices or other documents may be delivered to or served upon him and he shall be at liberty at any time to give to the Ministers in writing another address which shall thereafter be his address for service in substitution for that previously given.

Information and plant material

9.—(1) Where the application involves the question whether two or more plant varieties are distinct from one another the applicant shall—

- (a) give to the Ministers such information and produce and deliver to them such documents, records and illustrations as they may from time to time require, and
- (b) deliver to the Ministers reproductive material of such one or more of the said plant varieties as they shall require for carrying out examinations, tests and trials in the quantity and of the description and quality specified, and packed and in the condition also specified, in Schedule 2 to these Regulations and also such further reproductive and other plant material in such quantity and of such description and quality as shall appear to the Ministers to be required to replace any such material already delivered as may have been damaged in transit or damaged or lost in the course of tests and trials or which is, or has in the course of tests and trials been shown to be, unhealthy or otherwise unsuitable,

being information, documents, records, illustrations and material relevant to the application and in the possession, control or power of the applicant.

(2) Anything required to be given, produced or delivered in accordance with paragraph (1) of this Regulation shall be given, produced or delivered to the Ministers at such place as they shall require within 28 days of demand made by them in writing or within such longer time as they may allow.

Notification of decision

10. The Ministers shall give to the applicant a notice of their decision together with, if the application has been refused, their reasons for such refusal and a sufficient indication of the time within which and manner in which any appeal may be brought.

Fees

11.—(1) Subject to paragraph (2) of this Regulation there shall be paid to the Ministers in respect of the matters set out in the second column of Schedule 3 to these Regulations the fees set out in the fourth column of the said Schedule opposite the respective references to those matters and such fees shall be paid at the times specified in the third column of the said Schedule opposite such references.

(2) The fees prescribed in item No. 1 of the said Schedule 3 for the examination, tests and trials of a plant variety in relation to an application involving the question whether two or more varieties are distinct shall, if at the time of that application an application for a grant of plant breeders' rights in respect of such variety is made or has previously been made, be payable by the applicant only to the extent by which they exceed the amount of any fees which have been paid or which are or will become payable for trials of that variety in connection with a grant of plant breeders' rights.

Failure to supply information etc. or to pay fees

12. If any information, documents, records, illustrations or material shall not have been given, produced or delivered in accordance with Regulation 9 of these Regulations or if any fee payable in accordance with the last preceding Regulation in connection with an application shall not have been paid on the due date, the Ministers shall not be obliged to take any further steps in relation to the application until the requirements of the said Regulation 9 have been complied with or until the fee shall have been paid.

Performance trials

13. Except in a case where section 22 of the Act (which makes provision for the carrying out of performance trials of new plant varieties) has not been brought into force for the class which includes the plant variety which is the subject of an application under these Regulations for the addition of the name of a plant variety to the Index, such application shall be of no effect unless an application for the carrying out of performance trials, made in accordance with Regulations under section 22(10) of the Act, is made in respect of the said variety at the same time as the application under these Regulations.

In Witness whereof the official seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 17th March 1972.

(L.S.)

J. M. L. Prior,
Minister of Agriculture, Fisheries and Food.

21st March 1972.

Gordon Campbell,
Secretary of State for Scotland.

22nd March 1972.

R. Maudling,
Secretary of State for the Home Department.

Approved on 24th March 1972.

Tim Fortescue,
Keith Speed,
Two of the Lords Commissioners of
Her Majesty's Treasury.

Regulation 2

SCHEDULE 1

Regulations revoked	References
The Plant Varieties (Index) Regulations 1969	S.I. 1969/1027 (1969 II, p. 3030)
The Plant Varieties (Index) (Amendment) Regulations 1970	S.I. 1970/124 (1970 I, p. 558)
The Plant Varieties (Index) (Amendment No. 2) Regulations 1970	S.I. 1970/453 (1970 I, p. 1528)
The Plant Varieties (Index) (Amendment No. 3) Regulations 1970	S.I. 1970/1089 (1970 II, p. 3434)

Regulation 9

SCHEDULE 2

REPRODUCTIVE AND OTHER PLANT MATERIAL TO BE DELIVERED
TO THE MINISTERS

PART I

Wheat, Barley and Oats

Quantity

1.—(1) During the year beginning with the making of the application 500 ears and 14 lb. of seed shall be delivered. Attached to each ear there shall be approximately 1 foot of straw in the case of wheat and 6 inches of straw in the case of barley and oats.

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Ministers to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The ears shall be packed in a stiff-sided container, in bundles of 100 each. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

Quality

3.—(1) *Health*

No ears or seed shall be taken from a crop having more than 1 ear in 5,000 affected with loose smut.

(2) *Purity and germination*

The seed shall be accompanied by a report of a test made at an official seed testing station established under the Seeds Act 1920(a) or a seed testing station licensed under that Act, and made within the 3 months immediately preceding the delivery of the seed stating that in a sample of 8 oz.—

- (a) there were no seeds of injurious weeds and not more than 1% by weight of other impurities, and
- (b) that the percentage of germination was not less than 85.

Dressings and Treatments

4. The seed shall not have been subjected to any fungicidal or insecticidal treatment.

PART II

Potatoes

Quantity

1.—(1) During the year beginning with the making of the application 250 seed tubers shall be delivered.

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Ministers to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The seed tubers shall be securely packed in new sacks or other new containers which are capable of withstanding the hazards that may be encountered by perishable produce during transit. The packing material shall be adequate in quantity and quality to protect the tubers from low temperatures which may cause chilling or frosting and from mechanical damage. Where the seed tubers are consigned by rail they shall be sent by passenger train.

Health

3. (a) The seed tubers shall be the produce of a seed crop which did not contain more than—

- (i) 0.05% of rogues, undesirable variations, wildings and bolters;
- (ii) 0.02% with leaf roll or severe mosaic
- (iii) 0.25% with mild mosaic; or
- (iv) 2% with blackleg.

(b) The seed crop from which the seed tubers were produced shall not have been so affected with any other disease or pest as to render it unsuitable for seed purposes.

(c) The seed tubers shall be accompanied by a Health Certificate issued by the Ministry of Agriculture, Fisheries and Food, the Department of Agriculture and Fisheries for Scotland, the Ministry of Agriculture for Northern Ireland or the Isle of Man Board of Agriculture and Fisheries stating:—

- (i) that on visual examination they were found to be free from signs of wart disease of potatoes (*Synchytrium endobioticum* (Schilb.) (Perc.));
- (ii) that wart disease of potatoes has not been known to have occurred on the land on which the potatoes were grown; and
- (iii) that representative samples of soil from the land on which the potatoes were grown have been found, on laboratory examination, to be free from potato cyst eelworm (*Heterodera rostochiensis* Woll).

(d) The seed tubers shall include sufficient virus-free tubers to provide a virus-free nucleus for a reference collection.

Grading and Condition

4. The seed tubers shall be graded so as to be capable of being retained by meshes of a riddle each measuring $1\frac{1}{2}$ inches square and passed by meshes of a riddle each measuring 2 inches square. The seed tubers shall be in sound condition and not be visibly unfit for planting through mechanical damage or attack by any insect, pest or disease or any other condition which would impair subsequent growth. The seed tubers shall be reasonably free from soil.

Dressings and Treatments

5. The seed tubers shall not have been treated with fungicide, pesticide or sprout depressant.

PART III

Peas

Quantity

1.—(1) During the year beginning with the making of the application 6 lb. of seed shall be delivered.

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Ministers to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

Quality

3.—(1) *Health*
The seed shall be free from serious seed-borne diseases.

(2) *Purity and germination*
The seed shall be accompanied by a report of a test made at an official seed testing station established under the Seeds Act 1920 or a seed testing station licensed under that Act and made within the 3 months immediately preceding the delivery of the seed stating that in a sample of 8 oz.:—

- (a) the percentage of purity was not less than 99, and
- (b) the percentage of germination was not less than 70.

Dressings and Treatments

4. The seed shall not have been subjected to any fungicidal or insecticidal treatment.

PART IV

*French Beans**Quantity*

1.—(1) During the year beginning with the making of the application 8 lb. of seed shall be delivered.

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Ministers to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

*Quality*3.—(1) *Health*

The seed shall be free from serious seed-borne diseases.

(2) *Purity and germination*

The seed shall be accompanied by a report of a test made at an official seed testing station established under the Seeds Act 1920 or a seed testing station licensed under that Act and made within the 3 months immediately preceding the delivery of the seed stating that in a sample of 1lb.:—

- (a) the percentage of purity was not less than 99, and
- (b) the percentage of germination was not less than 60.

Dressings and Treatments

4. The seed shall not have been subjected to any fungicidal treatment. If the seed has been treated with streptomycin this shall be declared when it is delivered.

PART V

*Ryegrass**Quantity*

1.—(1) During the year beginning with the making of the application 200 grams of seed shall be delivered.

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Ministers to be necessary or desirable for the proper completion of the tests and trials.

Each sample delivered shall be accompanied by a written declaration by or on behalf of the applicant, stating the generation to which it belongs.

Packing

2. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

Quality

3. The seed supplied in the first year shall be accompanied by a report of a test made at an official seed testing station established under the Seeds Act 1920 and made

within the 3 months immediately preceding the delivery of the seed stating that in a sample of 2 oz.:—

- (a) the percentage of purity was not less than 97,
- (b) the percentage of germination was not less than 80, and
- (c) in a purity test there were no seeds of injurious weeds and not more than 0.5% by weight of any other weed seeds.

The seed supplied in subsequent years shall be accompanied in each case by a report of a test made at an official seed testing station as aforesaid or a seed testing station licensed under the Seeds Act 1920, made within the 3 months immediately preceding the delivery of the seed and stating the facts referred to in sub-paragraphs (a), (b) and (c) of this paragraph.

Dressings and Treatments

- 4. The seed shall not have been subjected to any fungicidal or insecticidal treatment.

PART VI

Lucerne

Quantity

1.—(1) During the year beginning with the making of the application 200 grams of seed shall be delivered.

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Ministers to be necessary or desirable for the proper completion of the tests and trials.

Each sample delivered shall be accompanied by a written declaration by or on behalf of the applicant, stating the generation to which it belongs.

Packing

2. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

Quality

3. The seed supplied in the first year shall be accompanied by a report of a test made at an official seed testing station established under the Seeds Act 1920 and made within the 3 months immediately preceding the delivery of the seed stating that in a sample of 2 oz.:—

- (a) the percentage of purity was not less than 98,
- (b) the percentage of germination together with the percentage of hard seed was not less than 70, and
- (c) in a purity test there were no seeds of injurious weeds and not more than 0.5% by weight of any other weed seeds.

The seed supplied in subsequent years shall be accompanied in each case by a report of a test made at an official seed testing station as aforesaid or a seed testing station licensed under the Seeds Act 1920, made within the 3 months immediately preceding the delivery of the seed and stating the facts referred to in sub-paragraphs (a), (b) and (c) of this paragraph.

Dressings and Treatments

4. The seed shall not have been subjected to any fungicidal or insecticidal treatment other than any treatment which has been carried out in order to comply with the requirements of an order made or having effect as if made under the Plant Health Act 1967(a) or the Plant Health Act (Northern Ireland) 1967(b).

(a) 1967 c. 8.

(b) 1967 c. 28 (N.I.).

PART VII

Lettuces

1.—(1) During the year beginning with the making of the application 1½ oz. of seed shall be delivered.

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Ministers to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

*Quality*3.—(1) *Health*

The seed shall be free from serious seed-borne diseases.

(2) *Purity and germination*

The seed shall be accompanied by a report of a test made at an official seed testing station established under the Seeds Act 1920 or a seed testing station licensed under that Act and made within the 3 months immediately preceding the delivery of the seed stating that in a sample of 1 oz.:—

- (a) the percentage of purity was not less than 98, and
- (b) the percentage of germination was not less than 75.

Dressings and Treatments

4. The seed shall not have been subjected to any fungicidal or insecticidal treatment.

PART VIII

*Broad and Field Beans**Quantity*

1.—(1) During the year beginning with the making of the application 9 lb. of seed shall be delivered.

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Ministers to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

*Quality*3.—(1) *Health*

The seed shall be free from serious seed-borne diseases.

(2) *Purity and germination*

The seed shall be accompanied by a report of a test made at an official seed testing station established under the Seeds Act 1920(a) or a seed testing station licensed under that Act and made within the 3 months immediately preceding the delivery of the seed stating that in a sample of 1 lb.:—

- (a) the percentage of purity was not less than 98, and
- (b) the percentage of germination was not less than 70.

Dressings and Treatments

- 4. The seed shall not have been subjected to any fungicidal or insecticidal treatment.

PART IX

Runner Beans

Quantity

1.—(1) During the year beginning with the making of the application 9 lb. of seed shall be delivered.

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Ministers to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

Quality

3.—(1) *Health*

The seed shall be free from serious-borne diseases.

(2) *Purity and germination*

The seed shall be accompanied by a report of a test made at an official seed testing station established under the Seeds Act 1920 or a seed testing station licensed under that Act and made within the 3 months immediately preceding the delivery of the seed stating that in a sample of 1 lb.:—

- (a) the percentage of purity was not less than 99, and
- (b) the percentage of germination was not less than 60.

Dressings and treatments

- 4. The seed shall not have been subjected to any fungicidal or insecticidal treatment.

PART X

Timothy, Cocksfoot, Tall Fescue and Meadow Fescue

Quantity

1.—(1) During the year beginning with the making of the application 100 grams of seed in the case of timothy and 200 grams of seed in the case of cocksfoot, tall fescue or meadow fescue shall be delivered.

(2) During each of the immediately succeeding years until the completion of the tests and trials there shall be delivered such reproductive and other plant material in such quantity and of such description and quality as shall appear to the Ministers to be necessary or desirable for the proper completion of the tests and trials.

Packing

2. The seed shall be packed in a suitable container of sufficient strength to withstand mechanical damage during transit.

Quality

3. The seed supplied in the first year shall be accompanied by a report of a test made at an official seed testing station established under the Seeds Act 1920 and

made within the 3 months immediately preceding the delivery of the seed stating that in a sample of 2 oz. (57 grams):—

- (a) the percentage of purity, in the case of seed of timothy, tall fescue or meadow fescue, was not less than 97 and, in the case of seed of cocksfoot, was not less than 90;
- (b) the percentage of germination was not less than 80; and
- (c) in a purity test there were no seeds of injurious weeds and not more than 0.5% by weight of any other weed seeds.

The seed supplied in subsequent years shall be accompanied in each case by a report of a test made at an official seed testing station as aforesaid or a seed testing station licensed under the Seeds Act 1920, made within the 3 months immediately preceding the delivery of the seed and stating the facts referred to in sub-paragraphs (a), (b) and (c) of this paragraph.

Dressings and treatments

- 4. The seed must not have been subjected to any fungicidal or insecticidal treatment.

SCHEDULE 3

Regulation 11

FEES

No.	Matter	When payable	Amount
1	Examination, tests and trials for one year of a plant variety which is the subject of, or otherwise concerned in, an application involving the question whether two or more varieties are distinct, being	Within 14 days of demand made by the Ministers at the commencement of each year's examination, tests and trials	£
	(a) a wheat variety		75
	(b) an oat variety		75
	(c) a barley variety		75
	(d) a potato variety		35
	(e) a ryegrass variety		45
	(f) a lucerne variety		45
	(g) a pea variety		40
	(h) a French bean variety		40
	(i) a runner bean variety		40
	(j) a broad bean or a field bean variety		40
	(k) a lettuce variety		40
	(l) a timothy variety		45
	(m) a cocksfoot variety		45
	(n) a tall fescue variety		45
	(o) a meadow fescue variety		45
2	Search of the Index of Names of Plant Varieties	Before the search	0.25

Regulation 3

SCHEDULE 4

Injurious Weeds

Wild Oat (*Avena fatua* L. and *Avena ludoviciana* Durieu)

Dodder (*Cuscuta* spp.)

Docks and Sorrels (*Rumex* spp.)

Black grass (*Alopecurus myosuroides* Huds.)

Couch grass (*Agropyron repens* (L.) Beauv.)

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

The Plant Varieties and Seeds Act 1964 makes provision for the preparation and maintenance, by the Ministers concerned with agriculture in the United Kingdom, of an Index of Plant Varieties. Only the indexed name of a plant variety may be used to distinguish it from other varieties when it is sold or offered or exposed for sale.

These Regulations re-enact with modifications the Plant Varieties (Index) Regulations 1969 (S.I. 1969/1027) as amended, and the fees payable for the examination, of tests and trials of plant varieties in connection with applications for entries in the Index are, with two exceptions, increased.

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