
STATUTORY INSTRUMENTS

2002 No. 3175

The Vegetable Seed (England) Regulations 2002

PART I
GENERAL

Title, extent and commencement

1. These Regulations may be cited as the Vegetable Seed (England) Regulations 2002, shall extend to England and shall come into force on 31st January 2003.

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 Secretary of State, the Scottish Ministers, the National Assembly for Wales 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 his 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);

“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 State that is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(1) as adjusted by the Protocol signed at Brussels on 17th March 1993(2);

“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);

“genetically modified” has the same meaning as for the purposes of Council Directive 2001/18/EC(3) on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC;

“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(1) in accordance with regulation 6(2)(a), (b)(ii) and (c);

“licensed seed sampler” means a person who has been granted a licence under regulation 18 of the Seed (Registration, Licensing and Enforcement)(England) Regulations 2002(4) or by the Scottish Ministers, the National Assembly for Wales 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 Secretary of State, the Scottish Ministers, the National Assembly for Wales, the Department of Agriculture and Rural Development or the competent seed certification authority in another member State pursuant

(1) Cmnd 2073.

(2) Cmnd 2847.

(3) O.J. No.L106, 17.4.2001, p.1.

(4) S.I.2002/3176.

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 1st July to 30th June inclusive;

“member State” means an EEA State;

“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(5);

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

“official UK seed test” means a seed test carried out by or on behalf of the Secretary of State, the Scottish Ministers, the National Assembly for Wales 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)(England) Regulations 2002 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) (England) Regulations 2002;

“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;

“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;

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

“the Vegetable Seed Directive” means Council Directive [2002/55/EC](#)(6) on the marketing of vegetable seed; 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 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 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(7) provided that —

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

(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.

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

(7) 2000 c. 7.

(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.

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.