
STATUTORY INSTRUMENTS

2002 No. 3175

The Vegetable Seed (England) Regulations 2002

PART II

PROCEDURES RELATING TO THE OFFICIAL CERTIFICATION OF SEED

Entry of seed lots

6.—(1) Subject to paragraph (2), an application to enter a seed lot from which it is intended that a crop is to be produced from which pre-basic, basic or CS seed is to be harvested may be made to the Secretary of State by a registered person.

(2) An application made under this regulation —

(a) shall be made in such form and manner as the Secretary of State may require;

(b) shall be made —

(i) at such time as the Secretary of State may require, or

(ii) in the case of an application to enter a seed lot made after that time, at such time as the Secretary of State may otherwise allow; and

(c) shall be accompanied —

(i) unless otherwise agreed by the Secretary of State, by an official sample of seed from the seed lot that is identified by the reference number of the seed lot from which it was taken, and

(ii) by such information and other documents as the Secretary of State may require, including, if required, a copy of a qualifying seed test report relating to the seed lot.

(3) At an appropriate time following the receipt of an application made under this regulation, the Secretary of State may sow a control plot with seed taken from an official sample of seed taken from the seed lot (whether the official sample submitted in accordance with paragraph (2)(c)(i) or another official sample of seed taken from the seed lot).

(4) In this regulation —

“appropriate time” means a time during the period when seed of the relevant species is usually sown, and

“qualifying seed test report” means —

(a) a seed test report issued in accordance with regulation 11(6), (7), (8) or (9), or

(b) in a case where an official sample taken from the seed lot has been found to meet the conditions for the category of seed for which it was tested under regulation 11(4)(b), a seed test report issued in accordance with regulation 11(10)(b).

Entry of crop

7.—(1) A registered person who has sown seed from an entered or late entered seed lot from which it is intended to produce a crop from which pre-basic, basic or CS seed is to be harvested shall notify the Secretary of State that he has sown the seed.

(2) A notification under this regulation —

- (a) shall be given in such form and manner as the Secretary of State may require;
- (b) shall be given within such time as the Secretary of State may require;
- (c) shall specify the reference number of the seed lot from which the sown seed has been taken; and
- (d) shall be accompanied by such information and other documents as the Secretary of State may require.

(3) Subject to paragraph (4), the Secretary of State shall acknowledge receipt of a notification given under this regulation.

(4) Subject to paragraph (5), unless specifically requested to do so by the applicant, the Secretary of State shall not individually acknowledge the receipt of each notification given under this regulation that she receives but shall periodically provide the applicant with a list of those crops for which she has received such a notification from him.

(5) Where the Secretary of State has previously provided the applicant with a list of those crops for which she has received a notification under this regulation from him, any subsequent list periodically provided to the applicant under paragraph (4) shall list only those crops in respect of which the Secretary of State has received a notification under this regulation from him since last providing the applicant with the last such list.

Field inspection of crops

8.—(1) Subject to paragraph (2), an application may be made to the Secretary of State by a registered person for the field inspection of a crop being produced in England from an entered or late entered seed lot from which it is intended that pre-basic, basic or CS seed is to be harvested.

(2) An application made under this regulation shall not be made in respect of a crop to produce seed of a variety that is not listed, or seed of a component of a hybrid variety that is not listed, unless —

- (a) an application for the listing of the variety or the hybrid variety has been made which has not been withdrawn or finally determined, or
- (b) a marketing extension is in force in respect of the variety or hybrid variety.

(3) An application made under this regulation shall be made in such form and manner and at such time as the Secretary of State may require and shall be accompanied by such information, material, records, illustrations and other documents as she may require.

(4) Following the receipt of an application made under this regulation, the Secretary of State shall inspect the crop in accordance with the relevant provisions of paragraph 5 of Schedule 3 to determine whether the crop meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of —

- (a) the category of seed intended to be harvested, and
- (b) unless requested not to do so by the applicant, any other category of seed to which paragraph (8) applies.

(5) Subject to paragraph (7), where in the case of an application made under this regulation the inspected crop is found to satisfy the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of —

- (a) the category of seed intended to be harvested, and
- (b) where applicable, any other category of seed to which paragraph (8) applies,

the Secretary of State shall issue a field inspection report (which she shall retain as a lodged report unless instructed not to do so by the applicant) stating (by reference to the relevant category or categories) that the crop has been found to meet those conditions and shall send the report, or (in a case where the original report is to be retained as a lodged report by the Secretary of State) a copy of the report, to the applicant.

(6) Subject to paragraph (7), where in the case of an application made under this regulation the inspected crop is found not to satisfy the conditions laid down in Schedule 3 or Part I of Schedule 4 for the production of the category of seed intended to be harvested, the Secretary of State shall issue a field inspection report (which she shall retain as a lodged report unless instructed not to do so by the applicant) —

- (a) stating that the crop has been found not to meet those conditions, and
- (b) in a case where the crop has been inspected to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any other category of seed to which paragraph (8) applies, stating the conditions (by reference to the relevant category or categories of seed), if any, met by the crop,

and shall send the report, or (in a case where the original report is to be retained as a lodged report by the Secretary of State) a copy of the report, to the applicant.

(7) Where —

- (a) an application made under this regulation has been made in respect of a crop produced from seed which was taken from a seed lot for which a control plot has been sown, and
- (b) the results of the examination of the control plot show that the plants produced in the plot do not meet the conditions laid down in Schedule 3 or Part I or III of Schedule 4 for the production of the category of seed intended to be harvested,

the Secretary of State may take account of the results of that examination when carrying out an inspection of the crop to which the application relates and in determining whether she should issue a field inspection report under paragraph (5) or (6).

(8) This paragraph applies to the following categories of seed —

- (a) in the case of an application made under this regulation relating to a crop that has been produced from breeder's seed and from which it is intended to harvest pre-basic seed, to the category of basic seed;
- (b) in the case of an application made under this regulation relating to a crop that has been produced from officially certified pre-basic seed and from which it is intended to harvest pre-basic seed, to the categories of basic and CS seed;
- (c) in the case of an application made under this regulation relating to a crop that has been produced from breeder's seed and from which it is intended to harvest basic seed, to the category of pre-basic seed; and
- (d) in the case of an application made under this regulation relating to a crop produced from officially certified pre-basic seed and from which it is intended to harvest basic seed, to the categories of pre-basic and CS seed.

Lodging of field inspection reports and similar documents

9.—(1) An application to lodge a copy of a document to which paragraph (2) applies may be made to the Secretary of State by a registered person.

(2) This paragraph applies —

- (a) in relation to a crop produced in England, to a field inspection report issued under regulation 8(5) or (6);
 - (b) in relation to a crop produced in the United Kingdom elsewhere than in England, to a report relating to the crop equivalent to that specified in sub-paragraph (a) issued by or on behalf of the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development; and
 - (c) in relation to a crop produced in another member State, to an Annex V(C) document relating to the crop issued by or on behalf of the competent seed certification authority in the member State.
- (3) An application made under this regulation —
- (a) shall be made in such form and manner as the Secretary of State may require;
 - (b) shall be made within such time as the Secretary of State may require but, unless otherwise permitted by the Secretary of State, shall be made not later than the time when any seed test report relating to the seed harvested from the crop is lodged with the Secretary of State under regulation 12;
 - (c) shall be accompanied —
 - (i) in relation to a crop produced in England, by a copy of the document referred to in paragraph (2)(a);
 - (ii) in relation to a crop produced in the United Kingdom elsewhere than in England, by a copy of the document referred to in paragraph (2)(b) except that this need not be provided in a case where confirmation that the crop meets the conditions for the production of the appropriate category of seed has already been provided to the Secretary of State by or on behalf of the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development (as the case may be);
 - (iii) in relation to a crop produced in another member State, by a copy of the document referred to in paragraph (2)(c); and
 - (iv) by such other information and documents as the Secretary of State may require.

Re-grading of crops

10.—(1) An application to re-grade a crop for the production of a category of seed to which paragraph (6) applies as a crop for the production of another category of seed (“the new category”) to which that paragraph applies may be made to the Secretary of State by a registered person.

(2) An application made under this regulation shall be made in such form and manner and at such time as the Secretary of State shall require and shall be accompanied by —

- (a) a copy of the field inspection report previously issued in respect of the crop unless this has previously been lodged with her, and
- (b) such other information as the Secretary of State may require for the purpose of determining the application.

(3) Where an application has been made under this regulation in respect of a crop that has not been harvested the Secretary of State may carry out a field inspection of the crop to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed if the condition and stage of development of the crop permit an adequate examination.

(4) If the Secretary of State is satisfied —

- (a) in the case of an application to re-grade a crop as a crop to produce pre-basic or basic seed —
 - (i) that the crop has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety, and
 - (ii) that the crop meets or (if the crop has already been harvested) would have met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed, or
- (b) in the case of an application to re-grade a crop as a crop to produce CS seed, that —
 - (i) the crop has been produced directly from UK, EC or overseas tested officially certified basic seed of a listed variety, or, with the breeder’s authority, from UK, EC or overseas tested officially certified pre-basic seed of a listed variety, and
 - (ii) that the crop meets or (if the crop has already been harvested) would have met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of CS seed,

she shall notify the applicant that the crop has been found to meet or (if the crop has already been harvested) it has been found that it would have met the conditions referred to in subparagraph (a)(ii) or (b)(ii), as the case may be, and that his application to re-grade the crop has been successful.

(5) If the Secretary of State is satisfied that the conditions specified in paragraph (4) have not been met she shall notify the applicant that his application to re-grade the crop has been unsuccessful.

- (6) This paragraph applies to the following categories of seed —
 - (a) pre-basic seed;
 - (b) basic seed; and
 - (c) CS seed.

Seed testing

11.—(1) Subject to paragraph (2), an application may be made to the Secretary of State by a registered person for the testing of an official sample of a qualifying seed lot of —

- (a) seed as pre-basic seed (“a regulation 11(1)(a) seed lot”);
- (b) seed as basic seed (“a regulation 11(1)(b) seed lot”); or
- (c) seed as CS seed (“a regulation 11(1)(c) seed lot”).

(2) An application made under this regulation shall not be made in respect of seed of a variety that is not listed, or seed of a component of a hybrid variety that is not listed, unless —

- (a) an application for listing of the variety or hybrid variety has been made which has not been withdrawn or finally determined; or
- (b) a marketing extension is in force in respect of the variety or hybrid variety.

(3) An application made under this regulation —

- (a) shall be made in such form and manner and at such time as the Secretary of State may require, and
- (b) shall be accompanied by an official sample of the seed to be tested and such other information, material, seeds, records, illustrations and other documents as the Secretary of State may require.

(4) Following the receipt of an application made under this regulation the Secretary of State shall, subject to paragraph (5), test seed taken from the official sample provided under paragraph (3)(b) to determine whether it meets the conditions laid down in Part II of Schedule 4 —

- (a) for the category of seed for which the application is being made, and
- (b) unless requested not to do so by the applicant, for any other category of seed to which paragraph (12) applies.

(5) Where a seed test report has previously been issued by the Secretary of State in accordance with paragraph (6)(a) in respect of a seed lot, the Secretary of State may decide not to test any further official sample of that seed lot for the purposes of paragraph (4) if the information contained in the previously issued report contains sufficient information to enable her to determine that the official sample would meet the conditions laid down in Part II of Schedule 4 —

- (a) for the appropriate category of seed, and
- (b) where applicable, for any other category of seed to which paragraph (12) applies.

(6) Subject to paragraph (11), where —

- (a) the official sample is found to satisfy the conditions laid down in Part II of Schedule 4 for —
 - (i) the appropriate category of seed, and
 - (ii) where applicable, for any category of seed to which paragraph (12) applies, or
- (b) the provisions of paragraph (5) apply,

the Secretary of State shall issue a seed test report stating (by reference to the relevant category or categories of seed) that the seed lot has been found to meet those conditions and shall send the report to the applicant.

(7) Subject to paragraph (11), where it has been determined, by way of a Schedule 4 germination test, that the official sample taken from a regulation 11(1)(a) or (b) seed lot will not meet the applicable germination condition but the sample is found to satisfy the other conditions laid down in Part II of Schedule 4 for the appropriate category of seed, the Secretary of State shall issue a seed test report and shall send the report to the applicant containing a statement to that effect.

(8) Where (otherwise than in connection with a retest of the seed) the results of a Schedule 4 germination test of an official sample of a seed lot referred to in paragraph (1) are awaited, and, except for the result of that test, the official sample has otherwise been found to meet the other conditions laid down in Part II of Schedule 4 —

- (a) for the appropriate category of seed, and
- (b) where applicable, for any other category of seed to which paragraph (12) applies,

the Secretary of State shall, subject to paragraph (11), issue an interim seed test report to the applicant stating that the results of the Schedule 4 germination test for the official sample are awaited but that it has otherwise been found to meet the other conditions laid down in Part II of Schedule 4 for the appropriate category of seed, and, where applicable, for any other category of seed to which paragraph (12) applies, and shall send the report to the applicant.

(9) Where, following the issue of an interim seed test report under paragraph (8), the tested seed is found to meet the applicable germination condition, the Secretary of State shall, subject to paragraph (11), issue a seed test report to the applicant stating that the official sample has been found to meet the conditions laid down in Part II of Schedule 4 for the appropriate category of seed, and, where applicable, for any other category of seed to which paragraph (12) applies.

(10) Subject to paragraphs (7) and (8), where an official sample of a seed lot referred to in paragraph (1) is found not to satisfy the conditions laid down in Part II of Schedule 4 for the appropriate category of seed, the Secretary of State shall issue a seed test report —

- (a) stating that the official sample has been found not to meet those conditions, and
- (b) subject to paragraph (11), in a case where the seed has been tested to determine whether it meets the conditions laid down in Part II of Schedule 4 for any other category of seed to

which paragraph (12) applies, stating (by reference to the relevant category) whether the seed has been found to meet the conditions for any such category, and shall send the report to the applicant.

(11) If it appears to the Secretary of State that an official sample of the seed lot taken for the purpose of a test in order to ascertain whether it met the appropriate conditions laid down in Part II of Schedule 4 was not taken in accordance with the requirements of regulation 22 the Secretary of State may refuse to issue a seed test report in accordance with paragraph (6), (7), (8), (9) or (10)(b), and, in such a case, shall notify the applicant of her decision and the reason for it.

(12) This paragraph applies to the following categories of seed —

- (a) in the case of an application made under this regulation relating to a regulation 11(1)(a) seed lot, to the categories of basic and CS seed, and
- (b) in the case of an application made under this regulation relating to a regulation 11(1)(b) seed lot, other than a component of a hybrid, to the category of CS seed.

(13) In this regulation “qualifying seed lot” means a seed lot —

- (a) containing seed harvested from a crop produced in England for which a field inspection report has been issued in accordance with —
 - (i) regulation 8(5), or
 - (ii) regulation 8(6) in a case where the crop has been found to meet the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any category of seed referred to in regulation 8(6)(b);
- (b) containing seed harvested from a crop produced in the United Kingdom elsewhere than in England
 - (i) in respect of which the Secretary of State has received confirmation by or on behalf of the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development (as the case may be) that the crop meets conditions equivalent to those laid down in Schedule 3 and Part I of Schedule 4, or
 - (ii) for which a copy of the field inspection report relating to the crop has been lodged with the Secretary of State in accordance with regulation 9; or
- (c) imported into the United Kingdom as not finally certified pre-basic, basic or CS seed harvested in another member State and for which the Annex V(C) document relating to the crop from which the seed in the seed lot was harvested has been lodged with the Secretary of State in accordance with regulation 9.

Lodging of seed test reports

12.—(1) A registered person to whom a final seed test report has been sent shall lodge the report with the Secretary of State —

- (a) except in relation to seed to which sub-paragraph (b) applies, within one month of the report being issued, and
- (b) in a case where the seed to which the final seed test report relates —
 - (i) is of a variety that is not listed, or
 - (ii) is a component of a hybrid variety that is not listed,within one month of the date on which the variety or hybrid variety (as the case may be) is listed.

(2) An application to lodge a final seed test report —

- (a) shall be made in such form and manner as the Secretary of State may require, and

(b) shall be accompanied by the final seed test report and such other information and documents as the Secretary of State may require.

(3) Subject to paragraph (4), the Secretary of State shall acknowledge receipt of each final seed test report lodged with her.

(4) Subject to paragraph (5), unless specifically requested to do so by the applicant, the Secretary of State shall not individually acknowledge the receipt of each final seed test report lodged with her by the applicant but shall periodically provide the applicant with a list of those seed lots for which the applicant has lodged a final seed test report with her.

(5) Where the Secretary of State has previously provided the applicant with a seed test report list, the list periodically provided to the applicant under paragraph (4) shall list only those seed lots for which the applicant has lodged a final seed test report with her during the period since she last provided the applicant with a seed test report list.

(6) In this regulation “final seed test report” means a seed test report issued in accordance with regulation 11(6), (7), (9) or (10).

Re-grading of seed

13.—(1) An application to re-grade seed of any category specified in entry 1 or 2 in column 1 of the table in Schedule 5 as seed of any category (“the new category”) specified in entry 1 or 2 respectively in column 2 of the table may be made to the Secretary of State by a registered person.

(2) An application made under this regulation shall be made in such form and manner and at such time as the Secretary of State shall require and, if required by the Secretary of State, shall be accompanied by —

- (a) an official sample of the seed to which the application relates;
- (b) an application made under regulation 11 for the testing of an official sample of the seed lot; and
- (c) such other information and other documents as the Secretary of State may require for the purpose of determining the application.

(3) The Secretary of State —

- (a) may test an official sample of a seed lot in respect of which an application has been made under this regulation to re-grade —
 - (i) UK, EC or overseas tested officially certified pre-basic seed of a listed variety as UK officially certified basic seed of a listed variety, or
 - (ii) UK, EC or overseas tested officially certified basic seed of a listed variety as UK officially certified pre-basic seed of a listed variety, and
- (b) subject to paragraph (4), shall test an official sample of the seed lot in the case of any other application made under this regulation,

to determine whether it meets the conditions laid down in Part II of Schedule 4 for the new category of seed.

(4) Where a seed test report has previously been issued in accordance with regulation 11(6)(a) in respect of a seed lot for which an application has been made under this regulation, the Secretary of State may decide not to test the official sample referred to in paragraph (2) for the purposes of paragraph 3(b) if the information contained in the previously issued report contains sufficient information to enable her to determine that the official sample would meet the conditions laid down in Part II of Schedule 4 for the appropriate category of seed.

(5) Where —

- (a) in the case of an application to re-grade seed as pre-basic or basic seed, the Secretary of State is satisfied that the seed has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety;
- (b) in the case of an application to re-grade pre-basic seed as CS seed, the Secretary of State is satisfied that the seed has been produced from UK, EC or overseas tested officially certified pre-basic seed of a listed variety;
- (c) in the case of an application to re-grade basic seed as CS seed, the Secretary of State is satisfied that the seed has been harvested from a crop produced, with the breeder's written authority, directly from UK, EC or overseas tested officially certified pre-basic seed of a listed variety;
- (d) the Secretary of State is satisfied that the seed was harvested from a crop that met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed;
- (e) in a case where the official sample referred to in paragraph (2) has been tested, it has been found to satisfy the conditions laid down in Part II of Schedule 4 for the new category of seed; and
- (f) in a case where the official sample referred to in paragraph (2) has not been tested, the Secretary of State is satisfied on the basis of the information contained in a seed test report previously issued in respect of the lot —
 - (i) 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 or by a licensed seed testing station, or
 - (ii) by or on behalf of the competent seed certification authority in another member State, that the seed in the lot satisfies the conditions laid down in Part II of Schedule 4 for the new category of seed,

the Secretary of State shall notify the applicant that his application to re-grade the seed lot has been successful.

(6) Where the Secretary of State is satisfied that the conditions specified in paragraph (5) for the relevant category of seed have not been met, she shall notify the applicant that his application to re-grade the seed lot has been unsuccessful.

Withdrawals

14.—(1) The Secretary of State may withdraw the official certification in respect of a seed lot, or any part of a seed lot, if —

- (a) the findings or results obtained from a sample of seed submitted or taken in connection with an application made under regulation 6, 11 or 13 relating to the seed lot, or from plants grown in a control plot that has been sown with seed from that sample, are to be disregarded in accordance with regulation 22(7);
- (b) on the basis of information received by the Secretary of State she is satisfied that the crop from which the seed in the seed lot was harvested did not meet the conditions laid down in Schedule 3 or Part I of Schedule 4; or
- (c) on the basis of information received by the Secretary of State she is satisfied that the seed in the lot, or part of the lot —
 - (i) did not meet the conditions laid down in Part II or III of Schedule 4 at the time the seed was tested for seed certification purposes, or
 - (ii) although it met the requirements of Part II of Schedule 4 at the time of such testing it no longer meets them.

(2) The Secretary of State may withdraw the official certification in respect of a seed lot, or any part of a seed lot, by giving notice to —

- (a) the person who made an application under regulation 11 in respect of the seed lot, or
- (b) any person marketing, or who has marketed, any of the seed.

(3) Where the official certification of a seed lot, or part of a seed lot, is withdrawn under this regulation, the Secretary of State may notify —

- (a) the person who made an application under regulation 11 in respect of the seed lot;
- (b) any person marketing, or who has marketed, any of the seed; and
- (c) any person who has purchased, or been supplied with, any of the seed,

that the official certification in respect of the lot, or part of the lot (as the case may be) has been withdrawn.

(4) Where the official certification of a seed lot, or part of a seed lot, is withdrawn under this regulation, the person to whom notice is given under paragraph (2) shall, as soon as practicable, and in any case not later than seven days after receiving the notice, notify any person to whom he has sold or supplied any of the seed of such withdrawal.

(5) Any person who has purchased seed from a seed lot, or part of a seed lot, for which official certification has been withdrawn under this regulation (not being a person notified under paragraph (2)) shall notify any person to whom he has sold or supplied any of the seed of the withdrawal as soon as practicable after receiving notice of it —

- (a) pursuant to paragraph (3), by the Secretary of State, or
- (b) pursuant to paragraph (4), by the person who sold or supplied the seed to him,

and, in any case, not later than seven days after receiving such notice.