
STATUTORY INSTRUMENTS

2011 No. 463

The Seed Marketing Regulations 2011

PART 5

Administration and revocations

Withdrawing certification

- 23.**—(1) The Secretary of State may withdraw certification from any seed if satisfied that—
- (a) the seed, or the seed from which the crop producing the seed was grown, was incorrectly sampled;
 - (b) the crop from which the seed was harvested did not meet the conditions in Schedule 2; or
 - (c) the seed—
 - (i) did not meet the conditions in Schedule 2 when it was tested; or
 - (ii) no longer meets those conditions.
- (2) If certification is withdrawn the Secretary of State must notify the certification applicant.
- (3) Within 7 days of being notified the applicant must notify any person to whom they have sold or supplied the seed.

Sampling for enforcement purposes

- 24.**—(1) A sample of seed taken for the purposes of enforcing these Regulations must be taken by an authorised officer of the Secretary of State, who must divide it into three parts.
- (2) One part must be given to the owner of the seed (or a representative of the owner) and the other two parts must be sent to an official testing station, one for testing and the other for retention pending production to a court in accordance with section 26(7) of the Plant Varieties and Seeds Act 1964⁽¹⁾.
- [^{F1}(3) That part of the sample sent for testing must be retained for at least two years.]

F1 Reg. 24(3) inserted (30.6.2016) by [The Seed Marketing \(Amendment\) Regulations 2016 \(S.I. 2016/613\)](#), regs. 1(1), 3

Forms of certificates used for enforcement

- 25.**—(1) For the purposes of section 26(3) of the Plant Varieties and Seeds Act 1964, a certificate of how a sample was taken for the purpose of enforcing these Regulations must—
- (a) make reference to these Regulations, and must certify that the sample was taken and treated in accordance with regulation 24;
 - (b) specify—

- (i) the name and address of the person taking the sample;
- (ii) the premises at which the sample was taken;
- (iii) the type of seed sampled;
- (iv) the date the sample was taken;
- (v) the reference number of the seed lot;
- (vi) the quantity sampled.

(2) For the purposes of section 24(5) of the Plant Varieties and Seeds Act 1964, a certificate of the result of a test at an official seed testing station of a sample taken by an authorised officer for the purposes of that Act must—

- (a) make reference to these Regulations;
- (b) identify the seed tested;
- (c) contain all test results relating to the standard required for that seed.

Certification for export

26. The Secretary of State may certify the quality of any seed intended for export ^{F2}....

F2 Words in reg. 26 omitted (31.12.2020) by virtue of [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(England and Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/131\)](#), regs. 1(b), 7(8); 2020 c. 1, Sch. 5 para. 1(1)

Importation from [^{F3}a country granted equivalence]

27.—^{F4}(1) Seed imported from a country granted equivalence must—

- (a) be a variety listed in the GB Variety List; and
- (b) be labelled with—
 - (i) for standard vegetable seed, a supplier’s label in accordance with paragraph 25(4) or (5) of Schedule 3;
 - (ii) for all other seed, a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.]

(2) If the seed is to be further multiplied the person intending to multiply it must first submit a sample to the Secretary of State for verification.

(3) Any person marketing seed that has been imported [^{F5}from a country granted equivalence] and exceeds two kilograms must supply the Secretary of State, in writing and within one month of the first marketing of the seed, with the following particulars relating to the seed—

- (a) the species;
- (b) the variety;
- (c) the category;
- (d) the country of production and the official inspection authority;
- (e) the country of despatch;
- (f) the importer; and
- (g) the quantity of seed.

- F3** Words in reg. 27 heading substituted (31.12.2020) by S.I. 2019/131, regs. 1(b), **7(9)(a)** (as substituted by The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1388), regs. 1(2)(a), **29(5)(f)(i)**); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Reg. 27(1) substituted (31.12.2020) by S.I. 2019/131, regs. 1(b), **7(9)(aa)** (as inserted by The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1388), regs. 1(2)(a), **29(5)(f)(ii)**); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 27(3) substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131), regs. 1(b), **7(9)(b)** (as amended by S.I. 2020/1388, regs. 1(2)(a), **29(5)(f)(iii)**); 2020 c. 1, Sch. 5 para. 1(1)

Appeals

28.—(1) Any person who is aggrieved by a decision of the Secretary of State to—

- (a) vary, suspend, revoke or refuse to grant a licence of a crop inspector, seed sampler, seed testing station, or a person requiring a licence under regulation 20,
- (b) refuse to certify seed,
- (c) withdraw certification of seed,

may, within 21 days of being notified of the decision, appeal against it to a person appointed for the purpose by the Secretary of State.

(2) The appointed person must consider the appeal and any representations made by the Secretary of State, and within 21 days report in writing with a recommended course of action to the Secretary of State.

(3) The Secretary of State must then make a final decision and notify the appellant, together with the reasons.

[^{F6}Arrangements for official measures

28A.—(1) The Secretary of State may make such arrangements with any person (“A”) as the Secretary of State considers necessary or desirable for the purpose of enabling A to carry out official measures on the Secretary of State’s behalf.

(2) But the Secretary of State must not make any arrangement under this regulation unless satisfied that the arrangement makes provision for the purpose of preventing any person from—

- (a) deriving any private gain from any official measures carried out under the arrangement; and
- (b) carrying out any official measures under the arrangement except under official supervision.

(3) The Secretary of State may include in any arrangement such conditions as the Secretary of State considers necessary or desirable for the purposes referred to in paragraphs (1) and (2), including conditions—

- (a) specifying—
 - (i) the official measures that A must carry out;
 - (ii) the species and generation of seed in respect of which A may carry out the official measures;
 - (iii) the methods to be used in connection with the official measures that A carries out;
 - (iv) the fees that A may charge in relation to the official measures that A carries out;

- (v) the records that A must keep in connection with the official measures that A carries out;
- (b) prohibiting A from—
 - (i) charging fees in relation to the official measures that A carries out under the arrangement except to the extent that these do not exceed the costs that A incurs in carrying them out;
 - (ii) carrying out the official measures except under official supervision;
- (c) prohibiting A from making any further arrangement with any other person (“B”) for any purpose in connection with the carrying out of the official measures that A has arranged with the Secretary of State to carry out, unless—
 - (i) the Secretary of State has approved all the conditions of the further arrangement and A has received the prior written approval of the Secretary of State to make the further arrangement;
 - (ii) the further arrangement includes a condition prohibiting B from making any subsequent arrangements for any purpose connected with the carrying out of the official measures in respect of which the Secretary of State made the arrangement with A;
 - (iii) the further arrangement includes an acknowledgment by A that the Secretary of State may vary, revoke or suspend the further arrangement if it appears to the Secretary of State that B is not complying, or has failed to comply, with any condition of the further arrangement; and
 - (iv) the further arrangement includes the conditions specified in sub-paragraphs (a) and (b) of this paragraph and for these purposes references in those sub-paragraphs to A are to be construed as references to B and references to “the arrangement” are to be construed as references to the further arrangement.
- (4) The Secretary of State must not approve the making of any further arrangement under this regulation unless satisfied that B will not—
 - (a) derive any private gain from any official measures that B is to be authorised to carry out under the further arrangement;
 - (b) carry out any official measures under the further arrangement except under official supervision.
- (5) The Secretary of State may, by written notice to A or B (as the case may be), vary, suspend or revoke an arrangement or further arrangement, or any conditions of an arrangement or further arrangement made under this regulation.
- (6) A notice given under paragraph (5) must specify—
 - (a) in respect of a variation or revocation, the date from which the variation or revocation takes effect;
 - (b) in respect of a suspension, the period during which the suspension has effect.
- (7) When a variation, revocation or suspension has effect, the Secretary of State may, for any purposes in relation to these Regulations, continue to have regard to such of the official measures carried out under an arrangement (or further arrangement) which was varied, revoked or suspended as appear to the Secretary of State to be official measures carried out in accordance with the provisions of these Regulations.
- (8) In this regulation, “official measures” include official examinations, growing trials, tests and assessments]

F6 Reg. 28A inserted (30.6.2016) by [The Seed Marketing \(Amendment\) Regulations 2016 \(S.I. 2016/613\)](#), regs. 1(1), 4

Fees

29. The Secretary of State may charge a reasonable fee for anything done under these Regulations.

Marketing seed under a specific derogation

30. The Secretary of State [^{F7}may temporarily permit the marketing of seed not satisfying the requirements of minimum germination under conditions determined in accordance with] [Commission Regulation \(EC\) No 217/2006](#) laying down rules for the application of Council Directives [66/401/EEC](#), [66/402/EEC](#), [2002/54/EC](#), [2002/55/EC](#) and [2002/57/EC](#) as regards the authorisation of Member States to permit temporarily the marketing of seed not satisfying the requirements in respect of the minimum germination(2).

F7 Words in reg. 30 substituted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(England and Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/131\)](#), regs. 1(b), **7(10)**; 2020 c. 1, Sch. 5 para. 1(1)

Confidentiality

31. If the breeder so requests, the description of genealogical components of seed must not be disclosed by the Secretary of State.

Licensing and certifying in another part of the United Kingdom

32.—(1) Any seed certified in another part of the United Kingdom may be marketed in England.

(2) A crop inspector, seed sampler or seed testing station licensed to act as such in another part of the United Kingdom may act as such under these Regulations.

[^{F8}Certification in a Crown Dependency or a country granted equivalence

32A. Any seed certified and labelled in a Crown Dependency or a country granted equivalence under legislation recognised by the Secretary of State to have equivalent effect to these Regulations may be marketed in England.

F8 Regs. 32A, 32B inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(England and Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/131\)](#), regs. 1(b), **7(11)** (as amended by [S.I. 2020/1388](#), regs. 1(2)(a), **29(5)(g)**); 2020 c. 1, Sch. 5 para. 1(1)

Transitional provision for official labels on IP completion day

32B. For the purposes of regulation 17 and paragraphs 7(1)(a) and 8(1)(a) of Schedule 3, an official label pre-printed before IP completion day containing the statement “EU Rules and Standards” may be used as an official label before the end of the period of one year beginning with the day after the day on which IP completion day falls.]

Changes to legislation: There are currently no known outstanding effects for the
The Seed Marketing Regulations 2011, PART 5. (See end of Document for details)

F8 Regs. 32A, 32B inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(England and Wales\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/131), regs. 1(b), **7(11)** (as amended by S.I. 2020/1388, regs. 1(2)(a), **29(5)(g)**); 2020 c. 1, Sch. 5 para. 1(1)

Transitional provisions

33.—(1) A crop inspector, seed sampler or seed testing station licensed at the time these Regulations come into force under the Seed Marketing Regulations 2010**(3)** continues to be licensed as such under these Regulations.

(2) A person requiring to be licensed under regulation 20 of these Regulations who was licensed at the time these Regulations come into force to act for such activity under the Seed Marketing Regulations 2010 is now licensed to act as such under these Regulations subject to such conditions as may be notified by the Secretary of State, and continues to be licensed unless the licence is subsequently suspended or revoked by the Secretary of State under these Regulations.

Review

^{F9}**33A.**

F9 Reg. 33A omitted (24.7.2020) by virtue of [The Marketing of Seed, Plant and Propagating Material \(England\) Regulations 2020](#) (S.I. 2020/682), regs. 1(1), **4(2)**

Revocation

34. The Seed Marketing Regulations 2010**(4)** are revoked.

(3) S.I. 2010/2605.
(4) S.I. 2010/2605.

Changes to legislation:

There are currently no known outstanding effects for the The Seed Marketing Regulations 2011, PART 5.