Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Fodder Plant Seed (Scotland) Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2005 No. 329

SEEDS

The Fodder Plant Seed (Scotland) Regulations 2005

Made - - - -	*8th June 2005*
Laid before the Scottish Parliament - - - -	*9th June 2005*
Coming into force - -	*1st July 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4) and (5) and 36 of the Plant Varieties and Seeds Act 1964(**1**) and of all other powers enabling them in that behalf, after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to them to be concerned, hereby make the following Regulations:

PART I

GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Fodder Plant Seed (Scotland) Regulations 2005 and shall come into force on 1st July 2005.

(2) These Regulations extend to Scotland only.

Commencement Information

I1 Reg. 1 in force at 1.7.2005, see **reg. 1(1)**

Interpretation

2.—(1) In these Regulations–

"the Act" means the Plant Varieties and Seeds Act 1964;

(**1**) 1964 (c. 14); section 16 was amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 5(1) and (2). See section 38(1) for the definition of "the Minister". The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

"AFP number" means official application for protection number issued by the Plant Variety Rights Office;

"Annex V(C) document" means a document of the type specified in the second indented sub-paragraph of the first paragraph of Article 15(2) (packing and labelling of not yet finally certified seed harvested in another EEA State or third country) of the Fodder Plant Seed Directive containing the particulars specified in Part C (document to be provided in the case of not yet finally certified seed harvested in another EEA State or third country) of Annex V of that Directive issued by the relevant competent seed certification authority;

"blended seed lot" means a seed lot obtained by mixing seed where–

(a) the seed that goes into the seed lot–

(i) is of the same variety;

(ii) has come from different sources; and

(iii) either–

(aa) is fully certified seed;

(bb) is not fully certified seed, but is seed which has been harvested from seed crops for which official field inspection reports have been issued showing that the relevant crops met the conditions for the relevant category of seed specified in Part I of Schedule 4 or Annex I (crop conditions) of the Fodder Plant Seed Directive; or

(cc) is made up of seed which falls within sub-paragraph (aa) and seed which falls within sub-paragraph (bb); and

(b) a National Authority has been notified that the seed which goes into the seed lot is intended to be included in a blended seed lot;

"breeder"–

(a) in relation to a variety which has not been accepted on to a UK National List or the Common Catalogue, includes any person lawfully multiplying (on their own account) seed bred by another; and

(b) in relation to a variety which has been so accepted, means the person who is indicated in the relevant UK National List or in the Common Catalogue as responsible for maintaining the plant variety in accordance with the characteristics to which regard was had when the plant variety was accepted on to the relevant UK National List or Common Catalogue;

"breeder's confirmation" means a document issued by the Scottish Ministers in accordance with Part II of Schedule 2 containing in respect of the seed to which it relates the particulars specified in paragraph 2 of Schedule 3;

"breeder's designation" means the title, name or other designation proposed by a breeder for a new plant variety which is the subject of an application for acceptance on to a UK National List;

"bulked seed lot" means a seed lot obtained by mixing seed where–

(a) the seed that goes into the seed lot is–

(i) of the same variety;

(ii) has come from different sources; and

(iii) has been harvested from seed crops for which official field inspection reports have been issued showing that the relevant crops met the conditions for the relevant category of seed specified in Part I of Schedule 4 or Annex I (crop conditions) of the Fodder Plant Seed Directive; and

(b) a National Authority has been notified that the seed which goes into the seed lot is intended to be included in a bulked seed lot;

"Common Catalogue" means the Common Catalogue of varieties of species of agricultural plants published in the Official Journal of the European Communities;

"the Common Catalogue Directive" means Council Directive 2002/53/EC(**2**) on the common catalogue of varieties of agricultural plant species as amended by the Food and Feed Regulation;

"component" means a component of a hybrid variety;

"constituent" means seed of a single species and, where appropriate, variety, which forms part of a mixture of seeds;

"control plot" means a plot sown by a European Authority with seed from a submitted sample taken–

(a) by a European Authority; or

(b) by a licensed seed sampler;

"the 1990 Deliberate Release Directive" means Council Directive 90/220/EEC(**3**) on the deliberate release into the environment of genetically modified organisms, as amended by Commission Directive 94/15/EC(**4**) and Commission Directive 97/35/EC(**5**);

"the 2001 Deliberate Release Directive" means Directive 2001/18/EC of the European Parliament and of the Council(**6**) on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC, as amended by Commission Decision 2002/623(**7**), the Food and Feed Regulation and Regulation (EC) No. 1830/2003 of the European Parliament and of the Council(**8**);

"Department of Agriculture and Rural Development" means the Department of Agriculture and Rural Development in Northern Ireland;

"early movement seed" means seed marketed under regulation 12;

"EEA State" means a Member State, Norway, Iceland or Liechtenstein;

"Equivalence Decision" means Council Decision 2003/17/EC(**9**) on the equivalence of field inspections carried out in third countries on seed producing crops and on the equivalence of seed produced in third countries, as amended by Council Decision 2003/403/EC(**10**) and Council Regulation (EC) No 885/2004(**11**);

"European Authority" means a National Authority or a competent seed certification authority of an EEA State other than the United Kingdom and "by a European Authority" means–

(a) by or on behalf of the Department of Agriculture and Rural Development;

(b) by or on behalf of the National Assembly for Wales;

(c) by the Scottish Ministers;

(d) by or on behalf of the Secretary of State; or

(e) by a competent seed certification authority of an EEA State other than the United Kingdom;

"Excepted Seed Marketed in Bulk" means seed of field peas or field beans which are Certified Seed of the First Generation or Certified Seed of the Second Generation–

(**2**) O.J. No. L 193, 20.7.02, p.1.
(**3**) O.J. No. L 117, 8.5.90, p.15.
(**4**) O.J. No. L 103, 22.4.94, p.20.
(**5**) O.J. No. L 169, 27.6.97, p.72.
(**6**) O.J. No. L 106, 17.4.01, p.1.
(**7**) O.J. No. L 200, 30.7.02, p.22.
(**8**) O.J. No. L 268, 18.10.03, p.24.
(**9**) O.J. No. L 8, 14.1.03, p.10.
(**10**) O.J. No. L 141, 7.6.03, p.23.
(**11**) O.J. No. L 168, 1.5.04, p.1.

(a) which is marketed in bulk direct to the final consumer in a container that is closed after filling; and

(b) in respect of which a random sample has been taken in accordance with paragraph 12 of Schedule 5, by a person authorised in that behalf;

"first buyer by way of trade" has the same meaning as for the purposes of the Fodder Plant Seed Directive;

"the Fodder Plant Seed Directive" has the same meaning as it has in Schedule 9;

"the Food and Feed Regulation" means Regulation (EC) No 1829/2003 of the European Parliament and of the Council(**12**) on genetically modified food and feed;

"fully certified" means–

(a) officially certified; or

(b) certified by a European Authority other than the Scottish Ministers,

as satisfying the conditions specified for the relevant category of seed in regulation 3 and either in Schedule 4 or in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;

"genetically modified" has the same meaning as for the purposes of the 2001 Deliberate Release Directive;

"Higher Voluntary Standard" means the standards which–

(a) are higher than the minimum standards prescribed for Certified Seed; and

(b) are specified in Part II of Schedule 4, being the standards and the level in respect of which an official certificate has been issued in accordance with Schedule 2,

and the abbreviation "HVS" shall be construed accordingly;

"HVS species of seed" means a species of fodder plant seed designated in Schedule 1 to which Higher Voluntary Standards may be applied;

"homogeneous seed lot" means a seed lot in which the seed has been so mixed or blended that it is as uniform as practicable and, as far as is practicable, the seed lot shows no evidence of heterogeneity;

"licensed crop inspector" means a person who holds a current licence to be a crop inspector granted by–

(a) the Scottish Ministers under regulation 10(1) (licensing of seed samplers and crop inspectors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985(**13**); or

(b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

"licensed EC crop inspector" means a person authorised by a competent seed certification authority in an EEA State other than the United Kingdom, pursuant to Article 2(3)(i)(c) (licensed crop inspectors) of the Fodder Plant Seed Directive, to carry out field inspections of crops in that EEA State;

"licensed seed sampler" means a person who holds a current licence to be a seed sampler granted by–

(a) the Scottish Ministers under regulation 10(1) (licensing of seed samplers and crop inspectors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985; or

(**12**) O.J. No. L 268, 18.10.03, p.1.
(**13**) S.I. 1985/980, as relevantly amended by S.I. 1987/1098, 1990/611 and 1993/2530.

(b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

"licensed seed testing station" means an establishment which holds a current licence for testing of seed granted by–

(a) the Scottish Ministers under regulation 9(1) (licensing of seed testing stations) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985; or

(b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

"lower germination seed" means seed marketed under regulation 11;

"mixture of seeds" means a mixture of seeds to which regulation 8 applies;

"National Authority" means the Department of Agriculture and Rural Development, the National Assembly for Wales, the Scottish Ministers or the Secretary of State;

"official certificate" means a certificate issued by the Scottish Ministers in accordance with Part I of Schedule 2 containing in respect of the seed to which it relates the particulars specified in paragraph 1 of Schedule 3 and "officially certified" shall be construed accordingly;

"official control" means under the supervision of, and in accordance with any conditions set by, a European Authority;

"official examination" means–

(a) in relation to Seed of a Certified Generation or Commercial Seed–

(i) an examination or a test carried out by the Scottish Ministers;

(ii) if the seed has undergone official post-control the results of which have been satisfactory, a field examination carried out by a licensed crop inspector; or

(iii) a test carried out by a licensed seed testing station; and

(b) in relation to Pre-basic Seed and Basic Seed–

(i) an examination or a test carried out by the Scottish Ministers; or

(ii) a test carried out by a licensed seed testing station;

"official field inspection" means a field examination of a crop carried out–

(a) by a European Authority; or

(b) in the case of seed which, if it were fully certified would be Seed of a Certified Generation, and which has been harvested from a crop which has been produced from seed that has undergone official post control the results of which have been satisfactory, by a licensed crop inspector or a licensed EC crop inspector;

"official label" means a label issued by a European Authority;

"official post-control" means a control plot has been sown with seed from the relevant seed lot and has produced plants which have been examined by the relevant European Authority; and "official post-control the results of which have been satisfactory" means official post-control has been carried out for the relevant seed lot and the relevant European Authority has found, having regard to–

(a) the conditions specified in–

(i) in the case of the Scottish Ministers–

(aa) paragraphs 4, 9 and 10 of Part I of Schedule 4; and

(bb) paragraphs 11 and 12 of Part II of Schedule 4; and

(ii) in the case of a European Authority other than the Scottish Ministers–