SCOTTISH STATUTORY INSTRUMENTS

2004 No. 317

SEEDS

The Oil and Fibre Plant Seed (Scotland) Regulations 2004

Made - - - -	*1st July 2004*
Laid before the Scottish Parliament - - - -	*2nd July 2004*
Coming into force - -	*26th September 2004*

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 Oil and Fibre Plant Seed (Scotland) Regulations 2004, and shall come into force on 26th September 2004.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

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

"Annex V(C) document" means a document of the type specified in the second indented sub paragraph of the first paragraph of Article 19(2) (packing and labelling of not yet finally certified seed harvested in another EEA State or third country) of the Oil and Fibre 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;

(**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).

"black mustard" means plants of the species specified in column 2 of Schedule 1 in relation to black mustard;

"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 Oil and Fibre 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;

"brown mustard" means plants of the species specified in column 2 of Schedule 1 in relation to brown mustard;

"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 Oil and Fibre 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) in the case of Pre basic Seed, a component used in the production of a hybrid variety; and

(b) in the case of Basic Seed, a component of a hybrid variety;

"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;

"dioecious hemp" means hemp of dioecious hemp varieties;

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

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

"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;

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

(**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.

"flax" means plants of the species specified in column 2 of Schedule 1 in relation to flax, commonly known as flax;

"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 in Annexes I (crop conditions) and II (seed conditions) of the Oil and Fibre Plant Seed Directive;

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

"hemp" means plants of the species specified in column 2 of Schedule 1 in relation to hemp;

"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;

"inbred line" means a sufficiently uniform and stable line obtained either by artificial self-fertilisation with selection over several successive generations or by equivalent operations;

"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(5)(a)(iii) (licensed crop inspectors) of the Oil and Fibre 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 and licensed seed samplers) 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;

"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;

"linseed" means plants of the species specified in column 2 of Schedule 1 in relation to linseed, commonly known as linseed;

(**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.

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

"monoecious hemp" means hemp of monoecious hemp varieties;

"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 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–

(i) by a European Authority; or

(ii) in the case of seed which, if it were fully certified would be Seed of a Certified Generation, or Commercial Seed, 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 field examination of the crop carried out 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, 8 and 9 of Part I of Schedule 4;

(bb) paragraphs 10, 11 and 15(1) of Part II of Schedule 4; and

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

(aa) Annex I (crop conditions) of the Oil and Fibre Plant Seed Directive; and

(bb) Annex II (seed conditions) of the Oil and Fibre Plant Seed Directive; and

(b) the category of the seed to be produced,

that the plants produced in the control plot indicate that the corresponding plants in the field are satisfactory plants from which to harvest the relevant category of seed;

"Oil and Fibre Plant Seed Directive" means Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants(**14**) as amended by Council Directive 2002/68/EC(**15**), Commission Directive 2003/45/EC(**16**) and Council Directive 2003/61/EC(**17**);

(**14**) O.J. No. L 193, 20.7.02, p.74.