Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Oil and Fibre Plant Seeds (Amendment) (Scotland) Regulations 2000. 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

2000 No. 249

SEEDS

The Oil and Fibre Plant Seeds (Amendment) (Scotland) Regulations 2000

Made - - - -	*24th July 2000*
Laid before the Scottish Parliament - - - -	*27th July 2000*
Coming into force - -	*1st August 2000*

The Scottish Ministers in exercise of the powers conferred on them by sections 16(1), (1A) (2), (3) and 36 of the Plant Varieties and Seeds Act 1964[F1] 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:

F1 1964 (c.14); section 16 was amended by the European Communities Act 1972 (c.68), **section 4(1)** and Schedule 4, paragraph 5(1), (2) and (3); see section 38(1) for a 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).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Oil and Fibre Plant Seeds (Amendment) (Scotland) Regulations 2000 and shall come into force on 1st August 2000.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations "the principal Regulations" means the Oil and Fibre Plant Seeds Regulations 1993 [F2].

F2 S.I. 1993/2007, as amended by S.I. 1994/1423, 1996/1451, 1997/616 and 1999/1862.

Amendment of the principal Regulations

3.—(1) The principal Regulations shall be amended in accordance with the provisions of this and the following regulations.

(2) For any reference in the principal regulations to "the Minister", other than that mentioned in regulation 4 of these Regulations, there is substituted reference to "the Ministers".

Amendment of regulation 3 of the principal Regulations

4.—(1) In regulation 3(1) (interpretation)–

(a) the following definitions shall be inserted in the appropriate places–

""genetically modified" has the same meaning as for the purposes of Council Directive 90/220/EEC[F3] on the deliberate release into the environment of genetically modified organisms".

"the Ministers" means the Scottish Ministers;

"third country" means a country listed in the Annex to Council Decision 95/514/EC[F4];;

(b) the definitions of "marketing" and "the Minister" shall be omitted; and

(c) for the definition of "official examination" there shall be substituted–

"official examination" means–

"(a) in relation to Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation, Certified Seed of the Third Generation or Commercial Seed produced in the United Kingdom–

(i) an examination or a test carried out by or on behalf of the Ministers, the Minister of Agriculture, Fisheries and Food, the National Assembly for Wales or the Department of Agriculture and Rural Development;

(ii) an examination carried out under official supervision; or

(iii) a test carried out by an establishment licensed as a seed testing station under official supervision;

(b) in relation to Breeder's Seed, Pre basic Seed and Basic Seed, produced in the United Kingdom–

(i) an examination or a test carried out by or on behalf of the Ministers, the Minister of Agriculture, Fisheries and Food, the National Assembly for Wales or the Department of Agriculture and Rural Development; or

(ii) a test carried out by an establishment licensed as a seed testing station under official supervision; and

(c) in relation to any description of seed produced elsewhere than in the United Kingdom, an examination or a test approved by the Ministers;".

(2) After paragraph (3) of regulation 3 (interpretation) there shall be inserted–

"(3A) For the purposes of these Regulations, seeds–

(a) produced and packaged in a Member State other than the United Kingdom or a third country;

(b) accompanied by a document issued by a competent authority concerned with the certification of oil and fibre plant seeds in that Member State or third country containing information specified at paragraph E(b) of Part I of Schedule 6; and

(c) in respect of which an application has been made for a breeder's confirmation under these Regulations,

shall be deemed to be seeds produced from seeds issued with a breeder's confirmation.

(3B) For the purposes of these Regulations, seeds–

(a) produced and packaged in a Member State other than the United Kingdom or a third country;

(b) accompanied by a document issued by a competent authority concerned with the certification of oil and fibre plant seeds in that Member State or third country containing information specified (in respect of packages of seed not finally certified) at paragraph E(b) of Part I of Schedule 6; and

(c) in respect of which an application has been made for an official certificate under these Regulations,

shall be deemed to be seeds produced from seeds issued with such a breeder's confirmation or an official certificate.

(3C) For the purposes of these Regulations, seeds–

(a) produced and packaged in a Member State other than the United Kingdom or a third country;

(b) labelled appropriately in accordance with the requirements of regulation 9; and

(c) in the case of a small package of seeds, sealed in accordance with the requirements of regulation 8(3), or, in the case of seeds other than a small package of seeds, sealed by a competent authority concerned with the certification of oil and fibre plant seeds in that Member State or third country,

shall be deemed to fall within the meaning of the appropriate category of seeds set out in paragraph (3) above.".

(3) After paragraph (5) of regulation 3 (interpretation) there shall be inserted–

"(6) In these Regulations "marketing" means–

(a) selling, holding with a view to sale and offering for sale; and

(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.

(7) Trade in seed not aimed at commercial exploitation of the variety, such as the following operations, shall not be treated as marketing of seed of that variety–

(a) the supply of seed to official testing and inspection bodies; or

(b) the supply of seed to any person for the purposes of processing or packaging the seed provided he does not acquire title to the seed supplied.".

F3 O.J. No. L 117, 8.5.90, p.15; as last amended by Commission Decision 98/294/EC, O.J. No. L 131, 5.5.98, p.33.

F4 O.J. No L 296, 9.12.95, p.34.

Amendment of regulation 4 of the principal Regulations

5. In regulation 4 (seeds to which the regulations apply)–

(a) in paragraph (1) for "Subject to paragraph (2) and (3) below" there shall be substituted "Subject to paragraph (2) below";

(b) paragraph (2)(b), (c) and (d) and paragraph (3) shall be omitted.

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Oil and Fibre Plant Seeds (Amendment) (Scotland) Regulations 2000. 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*

Amendment of regulation 5 of the principal Regulations

6. In regulation 5 (marketing of seeds)–

(a) after paragraph (1) there shall be inserted–

"(1A) Paragraph (1) above shall not prevent the marketing of seed as grown, marketed for processing, provided the identity of the seed is ensured.";

(b) in paragraph (1)(b)(ii) for "Regulation 9(1)" there shall be substituted "regulation 9(1), (1B)";

(c) after paragraph (1)(b) there shall be inserted–

"(c) in respect of genetically modified seeds clearly indicated, in the sales catalogue of the person marketing the seeds and in any other marketing information or marketing representations provided by that person, as having been genetically modified.";

(d) after paragraph (2) there shall be inserted–

"(2A) Where there is an arrangement under which–

(a) seed, other than seed which contains any genetically modified material, under the control of one person ("the first person") is used by another person ("the second person") for the purpose of–

(i) increasing the first person's stock of the seed for sowing; or

(ii) carrying out tests or trials on the seed; and

(b) everything produced from the seed, whether directly or indirectly, and any unused seed, become or remain the property of the first person,

the prohibitions in paragraph (1) above shall not apply to the marketing of the seed by the first person to the second person as part of that arrangement or to the marketing by the second person to the first person of any seed produced (whether directly or indirectly) from that seed.

(2B) The prohibitions in paragraph (1) above shall not apply to the marketing by producers of small quantities of seed, other than seed which contains any genetically modified material, for scientific purposes or selection work.

(2C) If the conditions specified in paragraph (2D) below are satisfied, the prohibitions in paragraph (1) above shall not apply to–

(a) the marketing, as part of any arrangement referred to in paragraph (2A) above by the first person referred to in that paragraph to the second person referred to in that paragraph, of seed which contains any genetically modified material;

(b) the marketing, as part of any arrangement referred to in paragraph (2A) above by the second person referred to in that paragraph to the first person referred to in that paragraph, of seed produced (whether directly or indirectly) from the seed marketed to him as part of any such arrangement which contains any genetically modified material; or

(c) the marketing by producers, for scientific purposes or selection work, of small quantities of seed which contains any genetically modified material.

(2D) The conditions referred to in paragraph (2C) above are–

(a) the deliberate release of the genetically modified material has been authorised under a Part B consent, or the genetically modified material has been accepted for marketing in accordance with a Part C consent, issued for the purposes of Council Directive 90/220/EEC;

(b) the seeds are accompanied during marketing by a copy of the consent;