Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Vegetable Seed (Wales) 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*

WELSH STATUTORY INSTRUMENTS

2005 No. 3035 (W.223)

SEEDS, WALES

The Vegetable Seed (Wales) Regulations 2005

Made - - - -	*1 November 2005*
Coming into force - -	*18 November 2005*

The National Assembly in exercise of the powers conferred on it by sections 16(1), (1A), (2), (3), (4), (5) and (5A) and 36 of the Plant Varieties and Seeds Act 1964 [F1] after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to it to be concerned, hereby makes the following Regulations:

F1 1964 c. 14; section 16 was amended by section 4(1) of, and paragraph 5(1), (2) and (3) of Schedule 4 to, the European Communities Act 1972, S.I. 1977/1112 and section 2 of the Agriculture Act 1986 (c. 49); *see* section 38(1) for a definition of "the Secretary of State". Under the Transfer of Functions (Wales)(No.1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State and under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), **article 2(1)** and Schedule 1, the functions transferred to the Secretary of State by the 1978 transfer Order were transferred to the National Assembly for Wales.

PART I

GENERAL

Title, commencement and application

1.—(1) The title of these Regulations is the Vegetable Seed (Wales) Regulations 2005.

(2) These Regulations come into force on 18 November 2005 and apply in relation to Wales.

General interpretation

2.—(1) In these Regulations—

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

"Annex V(C) document" means an official document of the type specified in the second indented sub-paragraph of Article 36(2) of the Vegetable Seed Directive containing the particulars specified in Part C of Annex V to the Directive;

"another member State" means an EEA State other than the United Kingdom;

"authorised officer" means an officer authorised for the purposes of these Regulations by the National Assembly, the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development;

"blended seed lot" means a seed lot obtained by blending seed where the seed that goes into the blend is—

(a) of the same variety;

(b) has come from different sources; and

(c) either—

(i) has been officially certified;

(ii) has not been officially certified but has been harvested from a seed crop for which a field inspection report has been issued showing that the crop met the Directive crop conditions for the relevant category of seed; or

(iii) is made up of seed that has been officially certified and seed that has not but for which a field inspection report of the type specified in sub-paragraph (ii) has been issued;

"breeder"—

(a) in relation to a variety that has not been entered in a National List or the Common Catalogue, includes any person lawfully multiplying (on the person's own account) seed bred by another, and

(b) in relation to a variety that has been so entered, means the maintainer of the variety;

"breeder's seed" means seed which has been produced by or under the responsibility of the breeder and which is intended for the production of pre-basic or basic seed;

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

"component" means a component of a hybrid variety;

"control plot" means a plot sown with seed from an official sample of seed from a seed lot (whether the official sample of the seed submitted with a regulation 6 application in accordance with regulation 6(2) or another official sample of the seed);

"the Deliberate Release Directive" means Council Directive 2001/18/EC[F2] on the deliberate release into the environment of genetically modified organisms, as last amended by Council Regulation (EC) No 1830/2003[F3] concerning the traceability and labelling of food and feed products produced from genetically modified organisms;

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

"Directive crop conditions" means the conditions laid down in Annex I to the Vegetable Seed Directive;

"Directive seed conditions" means the conditions laid down in Annex II to the Vegetable Seed Directive;

"EC minimum percentage of germination" means the appropriate percentage of germination specified in column 2 of the table in paragraph 4 of Schedule 4;

"EEA State" means—

(a) a State which is a member of the Communities;

(b) Iceland, Liechtenstein and Norway;

"entered seed lot" means a seed lot in respect of which an application has been made under regulation 6 in accordance with regulation 6(2)(a), (b)(i) and (c);

"the Food and Feed Regulation" means Council Regulation (EC) No 1829/2003[F4] on genetically modified food and feed;

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

"germination condition" means the condition in paragraph 4 of Schedule 4;

"homogeneous seed lot" means a seed lot that has been subject to appropriate mixing and blending techniques so that the seed in the lot is as uniform as practicable;

"late entered seed lot" means a seed lot in respect of which an application has been made under regulation 6 in accordance with regulation 6(2)(a), (b)(ii) and (c);

"licensed crop inspector" means a person who has been granted a licence under regulation 11 of the Seed (Registration, Licensing and Enforcement) (Wales) Regulations 2005 [F5] or by the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development under provisions equivalent to that regulation;

"licensed EC crop inspector" means a person who is authorised by a competent seed certification authority in another member State, pursuant to Article 2(4)(A)(a)(iii) of the Vegetable Seed Directive, to carry out field inspections of crops in that member State;

"licensed EC seed testing station" means a seed testing laboratory authorised by the competent seed certification authority in another member State, pursuant to Article 2(4)B(a) of the Vegetable Seed Directive, to carry out seed testing in that member State;

"licensed seed sampler" means a person who has been granted a licence under regulation 18 of the Seed (Registration, Licensing and Enforcement)(Wales) Regulations 2005 [F6] or by the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development under provisions equivalent to that regulation;

"licensed seed testing station" means a laboratory in respect of which a licence has been granted under regulation 25 of the Seed (Registration. Licensing and Enforcement) (Wales) Regulations 2005 or by the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development under provisions equivalent to that regulation;

"listed variety" means a plant variety that is entered in a National List or the Common Catalogue;

"listing" means the entry of a variety on a National List or the Common Catalogue and "listed" shall be construed accordingly;

"maintainer" means a person who is indicated in a National List or in the Common Catalogue as responsible for maintaining a plant variety in accordance with the characteristics to which regard was had when the plant variety was entered in the List or the Common Catalogue;

"marketing extension" means an extension granted by the National Assembly, the Scottish Ministers, the Secretary of State, the Department for Agriculture and Rural Development or the competent seed certification authority in another member State pursuant to Article 15 of the Vegetable Seed Directive allowing an extended period for the certification and marketing of seed of a variety that has been deleted from its catalogue and the Common Catalogue;

"marketing year" means the year from 1 July to 30 June inclusive;

"member State" means, in addition to a State which is a member of the Communities, any other EEA State and Switzeralnd;

"the National Assembly" means the National Assembly for Wales;

"a National List" means a list of varieties of vegetable species for the time being published in accordance with the Seeds (National Lists of Varieties) Regulations 2001 [F7];

"official label" means a label issued or authorised by or on behalf of the National Assembly, the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development;

"official measures" includes—

(a) the disposal and determination, where applicable, of applications made in accordance with regulation 6, 8, 9, 10, 11, 12, 13, 18 and 19, including the growing and assessment of control plots and the carrying out of field inspections and seed testing in connection with the disposal and determination of such applications; and

(b) the receipt and acknowledgement of notifications given under regulation 7,

and such other activities as may be necessary for those purposes;

"official sample" means a sample of seed taken from a seed lot in accordance with regulation 22 and "official sampling" shall be construed accordingly;

"official UK field inspection" means a field inspection carried out by or on behalf of the National Assembly, the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development;

"official UK seed test" means a seed test carried out by or on behalf of the National Assembly, the Scottish Ministers, the Secretary of State or the Department of Agriculture and Rural Development;

"previously listed variety" means a plant variety that was previously entered in—

(a) a National List or, in the case of another member State, the catalogue maintained by that State pursuant to Article 3(2) of the Vegetable Seed Directive, and

(b) the Common Catalogue,

but which has been removed from both of them;

"registered person" means a person registered under regulation 5 of the Seed (Registration, Licensing and Enforcement)(Wales) Regulations 2005 as a person who may engage in a relevant seed industry activity;

"regulation 18 authorisation" means an authorisation granted in accordance with regulation 18;

"regulation 19 authorisation" means an authorisation granted in accordance with regulation 19;

"Schedule 4 germination test" means a test to determine whether the seed being tested attains the percentage of germination specified in column 2 of the table in paragraph 4 of Schedule 4;

"the Secretary of State" means the Secretary of State for Environment, Food and Rural Affairs;

"seed industry activity" has the same meaning as in regulation 2 of the Seed (Registration, Licensing and Enforcement)(Wales) Regulations 2005;

"seed lot" means an identifiable consignment of seeds of a weight that does not exceed the weight specified in column 2 of the table in Schedule 7 for the species specified in column 1 of that table by more than 5% and that bears a unique seed lot reference number, and includes a blended seed lot and a seed lot that contains seed from different crops of the same variety grown on the same holding and combined on the grower's holding prior to processing;

"seed that has been subject to satisfactory official post control" means seed taken from a seed lot for which a control plot has been sown by or on behalf of the National Assembly, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development and which has produced plants which have been examined by or on behalf of

the National Assembly, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development, as the case may be, and has been found having regard to—

(a) the conditions laid down in—

(i) paragraphs 1, 4 and 6 of Schedule 3; and

(ii) paragraphs 1, 2 and 8 of Schedule 4, and

(b) the category and, where appropriate, level of the seed to be produced,

to be satisfactory seed from which to produce that category and, where applicable, level of seed;

"small package" in relation to a package of seed means—

(a) a package of seed containing a net weight of not more than 5 kilograms of legume seed;

(b) a package of seed containing a net weight of not more than 500 grams of asparagus, beetroot, carrot, chard or spinach beet, gourd, marrow, onion, radish, spinach or turnip seed; or

(c) a package of seed containing a net weight of not more than 100 grams of seed of any species of seed specified in Schedule 2 other than a species specified in paragraph (a) or (b);

"third country" means a country other than a member State;

"a UK field inspection carried out under official supervision" means an examination of a crop carried out under official supervision by a licensed crop inspector;

"a UK seed test carried out under official supervision" means a seed test carried out under official supervision by a licensed seed testing station;

"unlisted variety" means a variety that is not a listed variety;

"the Vegetable Seed Directive" means Council Directive 2002/55/EC[F8] on the marketing of vegetable seed, as last amended by Council Directive 2004/117/EC[F9]; and

"whenever carried out"—

(a) in relation to an official UK field inspection of a crop being grown to produce seed of a listed variety or a component of a listed hybrid variety, means an inspection carried out before or after the listing of the variety or hybrid variety;

(b) in relation to an official UK field inspection of a crop being grown to produce seed of a previously listed variety or a component of a previously listed hybrid variety, means an inspection carried out while the variety or hybrid variety was listed or after it became unlisted;

(c) in relation to an official UK seed test or a UK seed test carried out under official supervision of seed of a listed variety or a component of a listed hybrid variety, means a test carried out before or after the listing of the variety or hybrid variety; and

(d) in relation to an official UK seed test or a UK seed test carried out under official supervision of seed of a previously listed variety or a component of a previously listed hybrid variety, means a test carried out while the variety or hybrid variety was listed or after it became unlisted.

(2) All applications, approvals, authorisations, notices, notifications and statements to which these Regulations apply shall be made in writing.

(3) "Writing" in paragraph (2) shall include an electronic communication within the meaning of the Electronic Communications Act 2000 [F10] provided that—