Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Seed Marketing Regulations (Northern Ireland) 2016. 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*

STATUTORY RULES OF NORTHERN IRELAND

2016 No. 244

SEEDS

The Seed Marketing Regulations (Northern Ireland) 2016

Made - - - -	*23rd June 2016*
Coming into operation	*14th July 2016*

The Department of Agriculture, Environment and Rural Affairs is designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to the common agricultural policy of the European Union.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Department that it is expedient for references to the instruments specified in regulation 3(2) to be construed as references to those instruments as amended from time to time.

The Department of Agriculture, Environment and Rural Affairs makes the following regulations in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2 [F3] to the European Communities Act 1972 and sections 1(1) and (2A) and 2 of the Seeds Act (Northern Ireland) 1965 [F4].

In accordance with section 1(1) of the Seeds Act (Northern Ireland) 1965, the Department of Agriculture, Environment and Rural Affairs has consulted with representatives of such interests as appear to it to be concerned.

F1 S.I. 2000/2812

F2 1972 c.68, as amended by 2008, c.7 and S.I. 2009/3143

F3 Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

F4 1965 c.22 (N.I.). Section 1 was amended by 1970 c.20 (N.I.), **section 10(1)** and S.R. & O.(N.I.) 1972 No. 351, **Article 3** and Schedule 3. Section 2 was amended by 1970 c.20 (N.I.), **section 10(2)** and S.R. 1977 No. 295, **regulation 2**. The Ministry of Agriculture became known as the Department of Agriculture by virtue of section 7(5) of the Northern Ireland Constitution Act 1973 (c.36). The Department of Agriculture for Northern Ireland was renamed the Department of Agriculture and Rural Development by Article 3(4) of the Departments (Northern Ireland) Order 1999, S.I. 1999/283 (N.I. 1).

PART 1

Introduction

Title, application and commencement

1. These Regulations may be cited as the Seed Marketing Regulations (Northern Ireland) 2016; they apply in Northern Ireland and come into operation on 14th July 2016.

Meaning of "marketing"

2.—(1) In these Regulations "marketing" means the sale, holding with a view to sale, offer for sale or any disposal, supply or transfer aimed in each case at commercial exploitation of seed to third parties, whether or not for consideration and "market" and "marketing" shall be construed accordingly.

(2) But marketing does not include trade that is not aimed at commercial exploitation, such as—

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

(b) the supply of seed to a person who provides processing or packaging services but who does not acquire title to the seed.

Interpretation of other terms

3.—(1) For the purposes of these Regulations—

(a) "the Act" means the Seeds Act (Northern Ireland) 1965;

(b) the "Common Catalogue" is the catalogue provided for in Council Directive 2002/53/EC on the common catalogue of varieties of agricultural plant species [F5] and in Council Directive 2002/55/EC on the marketing of vegetable seed;

[[F6](b1) "European Single Market State" means an EEA state or Switzerland;**]**

(c) the "Department" means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;

(d) the "National List" means the list of agricultural crop varieties prepared and published in accordance with the provisions of the Seeds (National Lists of Varieties) Regulations 2001 [F7];

(e) "the Tribunal" means the Plant Varieties and Seeds Tribunal established by the Plant Varieties Act 1997 [F8];

(f) "wild oat" means plants of the species *Avena fatua*, *Avena sterilis* and *Avena ludoviciana*.

(2) In these Regulations all references to—

(a) Council Directive 2002/54/EC on the marketing of beet seed [F9];

(b) Council Directive 66/402/EEC on the marketing of cereal seed [F10];

(c) Council Directive 66/401/EEC on the marketing of fodder plant seed [F11];

(d) Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants [F12];

(e) Council Directive 2002/55/EC on the marketing of vegetable seed [F13];

(f) Commission Directive 2008/62/EC providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties [F14];

(g) Commission Directive 2009/145/EC providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties [F15];

(h) Commission Directive 2010/60/EU providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment [F16]; and

(i) Council Decision 2003/17/EC 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 [F17];

are references to those instruments as amended from time to time.

F5 OJ No L 193, 20.7.2002, p. 1, as amended by Regulation (EC) No 1829/2003 (OJ No L 268, 18.10.2003, p. 1).
F6 Reg. 3(1)(b1) inserted (7.1.2019) by The Pesticides, Genetically Modified Organisms and Fertilisers (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/188), regs. 1(1), **12(2)**
F7 S.I. 2001/3510, as amended by S.I. 2004/2949, 2007/1871, 2008/2683, 2009/1273, 2010/1195, 2011/464, 2012/2897 and 2013/2042.
F8 1997, c. 66, section 42.
F9 OJ No L 193, 20.7.2002, p. 12, as last amended by Council Directive 2004/117/EC (OJ No L 14, 18.1.2005, p. 18).
F10 OJ No L 125, 11.7.1966, p. 2309, as last amended by Commission Implementing Directive (EU) 2015/1955 (OJ No L 284, 30.10.2015, p.142)
F11 OJ No L 125, 11.7.1966, p. 2298, as last amended by Commission Implementing Directive 2012/37/EU (OJ No L 325, 23.11.2012, p. 13
F12 OJ No L 193, 20.7.2002, p. 74, as last amended by Commission Implementing Directive 2013/45/EU (OJ No L 213, 8.8.2013, p. 20)
F13 OJ No L 193, 20.7.2002, p. 33, as last amended by Commission Implementing Directive 2013/45/EU (OJ No L 213, 8.8.2013, p. 20)
F14 OJ No L 162, 21.6.2008, p.13
F15 OJ No L 312, 27.11.2009, p.44
F16 OJ No L 228, 31.8.2010, p. 10
F17 OJ No L 8, 14.1.2003, p. 10, as last amended by Council Regulation (EU) No 517/2013 (OJ No L 158, 10.6.2013, p. 1)

PART 2

Categories of seed

Seed to which these Regulations apply

4.—(1) These Regulations apply in relation to seed of the plants in the first column of the table in Schedule 1 intended to be used for agricultural or horticultural production, but do not apply in relation to seed intended to be used for ornamental plants.

(2) They do not apply in relation to seed intended for export outside the European Union.

Categories of seed

5. Seed is divided into the following categories, commonly known by the abbreviations given—

(a) breeder's seed ("BR");

(b) pre-basic seed ("PB");

(c) basic seed ("BS");

(d) certified seed ("CS");

(e) certified seed, first generation ("C1");

(f) certified seed, second generation ("C2");

(g) certified seed, third generation ("C3");

(h) commercial seed ("CM");

(i) standard seed (vegetables only) ("ST");

(j) seed of a higher voluntary standard ("HVS").

Breeder's seed

6. Breeder's seed is seed produced by or under the responsibility of the breeder and intended for the production of pre-basic or basic seed.

Maintainers for pre-basic and basic seed

7. Pre-basic seed and basic seed may only be produced with the written authorisation of the person listed as the maintainer of that seed in the National List or the Common Catalogue.

PART 3

Marketing seed

Marketing seed

8.—(1) Subject to paragraph (2), seed to which these Regulations apply may only be marketed as seed if it is—

(a) certified under regulation 10 and 11 as being one of the categories in regulation 5;

(b) packaged and sealed in accordance with regulation 16; and

(c) labelled in accordance with regulation 17;

(2) Subject to regulation 27, seed to which this paragraph applies may only be marketed as seed if it is—

(a) seed which has been certified in another part of the United Kingdom;

(b) seed which has been imported from another **[**F18European Single Market State**]** and is—

(i) officially certified by or on behalf of the competent seed certification authority in another **[**F18European Single Market State**]** ; and

(ii) packaged, sealed and labelled in accordance with the relevant requirements in the Directive relating to that seed;

(c) seed which has been imported from a third country that has been granted equivalence under Council Decision 2003/17/EC (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), and is—

(i) seed of the species specified in Annex I to the decision and has been produced in the third countries listed in that Annex and officially certified by the authorities listed in that Annex; and

(ii) satisfies the conditions laid down in point B of Annex II to that Decision.

(3) No person shall market any seed to which these Regulations apply unless they are licensed to do so in accordance with regulation 20.

F18 Words in reg. 8(6) substituted (7.1.2019) by The Pesticides, Genetically Modified Organisms and Fertilisers (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/188), regs. 1(1), **12(3)**

Exceptions

9.—(1) The requirement for certification does not apply in relation to breeder's seed.

(2) Schedule 4 makes provision for the marketing of seed not fully complying with regulation 8.

Overriding requirements: the building blocks necessary for certification

10. To be certified under these Regulations as one of the categories in regulation 5 seed must—

(a) be a variety entered in the National List or the Common Catalogue;

(b) be grown from a seed eligible to produce that category in accordance with Schedule 2;

(c) come from a crop inspected under these Regulations and certified as complying with the requirements of Schedule 2; and

(d) be tested in accordance with these Regulations.

Detailed requirements for certification

11.—(1) In order to be certified a sample of the seed from which the crop is going to be produced must be entered with the Department in sufficient time for the Department to grow a control plot.

(2) The Department may accept the entry of a sample of the seed after this time, but in this case the crop grown to produce the seed must be inspected by an official crop inspector in accordance with regulation 12.

(3) The crop used to produce the seed must be inspected by a crop inspector in accordance with the provisions relating to that crop in Schedule 2, and the crop inspector must certify that—

(a) the crop meets the standard for that crop specified in Schedule 2; or

(b) the crop meets a lower standard but still meets one of the standards in Schedule 2,

and lodge a report to that effect with the Department.

(4) The crop inspector may indicate that remedial action or further inspection is necessary before the crop is certified as meeting the required standard.

(5) Once the crop has been harvested and processed, a sample of the seed must be drawn by a licensed seed sampler (using current international sampling methods in so far as they exist) in accordance with the provisions relating to that crop in Schedule 2 (for the avoidance of doubt the seed lot sizes and sample weights are specified in each of the Directives in the Schedule dealing with the seed).