STATUTORY RULES OF NORTHERN IRELAND

2011 No. 38

SEEDS

The Vegetable Seeds (Amendment) Regulations (Northern Ireland) 2011

Made - - - - 16th February 2011

Coming into operation 11th April 2011

The Department of Agriculture and Rural Development (**1**) makes the following Regulations in exercise of the powers conferred by sections 1(1) and (2A) and 2 of the Seeds Act (Northern Ireland) 1965(**2**) after consultation, in accordance with section 1(1) of that Act, with representatives of such interests as appear to it to be concerned and in exercise of the powers in paragraph 1A of Schedule 2 to the European Communities Act 1972(**3**).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department that it is expedient for any reference in these Regulations to Council Directive 2002/55/EC(**4**) on the marketing of vegetable seed and to Commission Directive 2009/145 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 but for growing under particular conditions and for marketing of seed of those landraces and varieties(**5**) to be construed as references to those Directives as amended from time to time.

PART 1

General

Citation and Commencement

1. These Regulations may be cited as the Vegetable Seeds (Amendment) Regulations (Northern Ireland) 2011, and shall come into operation on 11 April 2011.

(**1**) Formerly the Department of Agriculture for Northern Ireland: *see*S.R. 1999/283 (N.I.) Article 3(4)
(**2**) 1965 c.22(N.I.); section 1 was amended by 1970 c.20(N.I.) section 10(1) and S.R. & O.(N.I.) section 10(2) and S.R. 1977 No.295 Art.2
(**3**) 1972 c.68 as amended by the Legislative and Regulatory Reform Act 2006(c.51)
(**4**) OJ No L193, 20.7.2002, p.33 as last amended by Commission Directive 2009/145/EC
(**5**) OJ No L312,27.11.2009,p.44

PART 2

Control of Vegetable Seed

Amendment of the Vegetable Seeds Regulations (Northern Ireland) 2009

2. The Vegetable Seeds Regulations (Northern Ireland) 2009 (**6**)are amended as follows:

Amendment to Regulation 2

3. In regulation 2(1) (general interpretation)—

(a) after the definition of "the Act" insert—

"additional region" means the region for seed production approved by the Department r the purposes of the second paragraph of Article 13.1 (additional regions) of Commission Directive 2009/145;

"amateur variety" means a variety of vegetable species with no intrinsic value for commercial crop production which is developed for growing under particular conditions and is contained within a National List;

(b) after the definition of "breeder's seed" insert—

"certified seed of a conservation variety" means seed of a conservation variety which—

(a) is produced in the region of origin or an additional region;

(b) decends from seed produced accordingly to well defined practices for the maintenance of the variety;

(c) satisfies the requirements for certification of certified seed set out in the Vegetable Seed Directive, except the requirements in respect of minimal varietal purity and examination and satisfies the requirements of Part 5 of Schedule 4; and

(d) has sufficient varietal puriety;

"Commission Directive 2009/145" means 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 as amended from time to time;";

(e) after the definition of "component" insert—

""conservation variety" means a landrace or variety of vegetable species which is naturally adapted to local and regional conditions and threatened by genetic erosion and is contained within a National List and for these purposes—

(a) "landrace" means a set of populations or clones of a plant species which are naturally adapted to the environmental conditions of their region; and

(b) "genetic erosion" means loss of genetic diversity between and within populations or varieties of the same species over time or reduction of the genetic basis of a species due to human intervention or environmental change;";

(f) after the definition of "official measures" insert—

(**6**) S.R.2009/387

""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 or on behalf of the relevant European Authority and for these purposes—

(a) "control plot" means a plot sown by or on behalf of a European Authority with seed from a sample which is of at least the minimum weight specified in column 3 of the table in Schedule 7 taken by or on behalf of a European Authority or the person marketing the seed; and

(b) "European Authority" means:

(i) the Department of Agriculture and Rural Development in Northern Ireland;

(ii) the Welsh Ministers;

(iii) the Ministers;

(iv) the Secretary of State; or

(v) a competent seed certification authority of an EEA state other than the United Kingdom;";

(g) after the definition of "previously listed variety" insert—

"region of origin" means the region forming a part or the whole of the United Kingdom identified by the Department for the purposes of Article 8(1) (region of origin) of Commission Directive 2009/145;" and

(h) for the definition of "the Vegetable Seed Directive" substitute—

"the Vegetable Seed Directive" means Council Directive 2002/55/EC on the marketing of vegetable seed, as amended from time to time;"

New regulations 19A, 19B and 19C

4. After regulation 19 (Exception for market test seed) insert—

"**19A.**—(1) The prohibition in regulation 15(1) shall not apply to the marketing of seed of a conservation variety, certified seed of a conservation variety and standard seed of a conservation variety, which is in accordance with this regulation.

(2) The Department shall ascertain, so far as is practicable, whether seed of a conservation variety has sufficient varietal purity by the use of official post control and the consideration of any other relevant information.

(3) Where the results of official post control show that the seed does not have sufficient varietal purity, the Department shall notify in writing the person marketing the relevant seed lot of that fact.

(4) Where, in the case of standard seed of a conservation variety, notice is given under paragraph (3), no further marketing of the relevant seed lot shall occur.

(5) A person shall not market seed of a conservation variety other than in its region of origin or additional region.

(6) A person proposing to produce seed of a conservation variety must supply the Department, in such manner and form as the Department shall require, with the following details in writing—

(a) the size (in hectares); and

(b) the location,

of the area to be used to produce the seed.

(7) For the purposes of Article 15 (quantitative restrictions) of Commission Directive 2009/145, the Department may specify the maximum amount of seed of a conservation variety which may be marketed in any given growing season and specify different maxima for different persons or classes of person.

(8) Where a person proposing to produce seed of a conservation variety has supplied the Department with details under paragraph (6), the Department may in writing authorise the person to market seed of a conservation variety not exceeding the amount specified in the authorisation and shall give notice of that authorisation to the person.

(9) A person shall not market more than the maximum amount of seed of a conservation variety specified in an authorisation given to that person under paragraph (8).

(10) A person shall not market a package of seed of a conservation variety unless it has been sealed by the supplier using a non-reusable sealing system or some other sealing system—

(a) including the use of a label or the affixing of a seal; and

(b) in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or the package."

"**Marketing seed of amateur varieties**

19B.—(1) The prohibition in regulation 15(1) shall not apply to the marketing of standard seed of an amateur variety which is in accordance with this regulation.

(2) The Department shall ascertain, so far as is practicable, whether standard seed of an amateur variety has sufficient varietal purity by the use of official post control and the consideration of any other relevant information.

(3) Where the results of official post control show that the seed does not have sufficient varietal purity, the Department shall notify in writing the person marketing the relevant seed lot of that fact.

(4) Where, in the case of standard seed of an amateur variety, notice is given under paragraph (3), no further marketing of the relevant seed lot shall occur.

(5) The seed must be in a package not exceeding the maximum net weight specified for each species in Annex II to Commission Directive 2009/145/EC.

(6) A person shall not market a package of standard seed of an amateur variety unless it has been sealed by the supplier using a non-reuseable sealing system or some other sealing system—

(a) including the use of a label or the affixing of a seal; and

(b) in such a manner that the package cannot be opened with damaging the sealing system or without leaving evidence of tampering on the label or the package.

19C. The prohibition in regulation 15(1) shall not apply to the marketing of standard seed of an amateur variety which has been produced and packaged in a Member state other than the United Kingdom and which has been sealed in accordance with Article 29 and labelled in accordance with Article 30 of Commission Directive 2009/145."

Amendment to regulation 22

5. In regulation 22—

(1) After paragraph (7) insert—

"(8) A sample of seed of a conservation variety or standard seed of an amateur variety taken for the purposes of checking compliance with these Regulations shall be taken in