STATUTORY RULES OF NORTHERN IRELAND

2009 No. 388

SEEDS

The Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009

Made - - - -	*25th November 2009*
Coming into operation	*31st December 2009*

The Department of Agriculture and Rural Development(**1**) makes the following Regulations in exercise of the powers conferred by sections 1(1) and (2A), 2(1), 2(2) and (3), 7(2) and (3) and 9(2) and (3) of the Seeds Act (Northern Ireland) 1965 (the 1965 Act)(**2**) and with the approval of the Department of Finance and Personnel with regard to the licensing fee for licensed testing establishments and authorising the charging of fees for the services given at the official testing station.

The Department has consulted, in accordance with section 1(1) of the 1965 Act, with representatives of such interests as appear to it to be concerned:

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009 and shall come into operation on 31st December 2009.

General interpretation

2.—(1) In these Regulations—

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

"analyst in charge" and "seed analyst" have the meaning given in regulation 27(1);

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

(**1**) Formerly the Department of Agriculture for Northern Ireland: *see*S.I. 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.) 1972 No. 351Art. 3 and Schedule 3; section 2 was amended by 1970 c.20 (N.I.), section 10(2) and S.R. 1977 No.295 Art.2

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

"Licensed Seed Testing Station" means a laboratory in respect of which a licence has been granted pursuant to regulation 25;

"official measures" includes—

(a) matters connected with the registration of a person who may engage in a seed industry activity under Part 2 of these Regulations;

(b) matters connected with the training, examination and licensing of crop inspectors under Part 3 of these Regulations;

(c) matters connected with the training, examination and licensing of seed samplers under Part 4 of these Regulations; and

(d) matters connected with the licensing of seed testing stations and the training and examination of seed analysts and Analysts in Charge under Part 5 of these Regulations;

"prescribed minimum weight", in relation to a submitted sample, means the minimum weight of such a sample as prescribed in Schedule 7 of the appropriate Seed Marketing Regulations;

"registered person" means a person registered pursuant to regulation 5 as a person who may engage in a seed industry activity;

"seed" means seed of any species to which Seed Marketing Regulations apply;

"seed industry activity" means any of the following—

(a) the marketing of seed other than the marketing—

  (i) of small packages of seed, small EC packages of seed, small EC A packages of seed, or small EC B packages of seed (as defined in each case in the Seed Marketing Regulations);

  (ii) of unpacketed seed;

  (iii) by a producer of small quantities of seed for scientific purposes or selection work in compliance with an authorisation referred to in that connection in the Seed Marketing Regulations which would permit the marketing of such seed under those Regulations;

  (iv) by a producer of seed for test and trial purposes in compliance with an authorisation referred to in that connection in the Seed Marketing Regulations (where applicable) which would permit the marketing of such seed under those Regulations;

  (v) by or on behalf of a breeder of seed for market testing in compliance with an authorisation referred to in that connection in the Vegetable Seed Regulations (Northern Ireland) 2009(**3**) which would permit the marketing of such seed under those Regulations; or

  (vi) of seed, as grown, for processing provided the identity of the seed is ensured;

(b) the packing, sealing or labelling of seed (including the labelling or marking of standard seed of vegetables) except small packages of seed, small EC packages of seed, small EC A packages of seed, or small EC B packages of seed (as defined in each case in the Seed Marketing Regulations);

(c) the re-packing, re-sealing or re-labelling of seed;

(d) the preparation of mixtures of seeds permitted by the Seed Marketing Regulations; and

(e) the cleaning, treating or other processing of seed intended for marketing;

"the Seed Marketing Directives" means—

(**3**) S.R. 2009 No.387

(a) Council Directive 2002/54/EC(**4**)on the marketing of beet seed, as last amended by Council Directive 2004/117/EC(**5**);

(b) Council Directive 66/402/EEC(**6**) on the marketing of cereal seed, as last amended by Council Directive 2006/55/EC(**7**);

(c) Council Directive 66/401/EEC(**8**)on the marketing of fodder plant seed, as last amended by Commission Decision 2007/72/EC(**9**);

(d) Council Directive 2002/57/EC(**10**) on the marketing of oil and fibre plant seed, as last amended by Council Directive 2004/117/EC; and

(e) Council Directive 2002/55/EC(**11**) on the marketing of vegetable seed, as last amended by Commission Decision 2006/124/EC(**12**);

"the Seed Marketing Regulations" means—

(a) in relation to beet seed, the Beet Seed Regulations (Northern Ireland) 2009(**13**);

(b) in relation to cereal seed, the Cereal Seed Regulations (Northern Ireland) 2009(**14**);

(c) in relation to fodder plant seed, the Fodder Plant Seed Regulations (Northern Ireland) 2009(**15**);

(d) in relation to oil and fibre plant seed, the Oil and Fibre Plant Seed Regulations (Northern Ireland) 2009(**16**); and

(e) in relation to vegetable seed, the Vegetable Seed Regulations (Northern Ireland) 2009(**17**);

"statutory seed testing" means seed testing carried out for the purposes of the Seed Marketing Regulations;

"the Tribunal" means the Plant Varieties and Seeds Tribunal established by the Plant Varieties Act 1997(**18**);

(2) Subject to paragraph (3), 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.

(3) Trade in seed not aimed at commercial exploitation of the variety, such as the following operations—

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

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

(**4**) OJ L 193, 20.7.2002, p. 12
(**5**) OJ L 14, 18.1.2005, p. 18.
(**6**) OJ 125, 11.7.1966, p. 2309/66
(**7**) OJ L 159, 13.6.2006, p. 13
(**8**) OJ 125, 11.7.1966, p. 2298/66
(**9**) OJ L 329, 14.12.2007, p. 37
(**10**) OJ L 193, 20.7.2002, p.74
(**11**) OJ L 193, 20.7.2002, p. 33
(**12**) OJ L 339, 6.12.2006, p. 12
(**13**) S.R. 2009 No. 384
(**14**) S.R. 2009 No.383
(**15**) S.R. 2009 No.385
(**16**) S.R. 2009 No.386
(**17**) S.R.2009 No.387
(**18**) 1997 c. 66, section 42

shall not be regarded as marketing of seed of that variety.

(4) All applications, statements of commitment, representations, notices and requests to which these Regulations apply shall be made in writing.

(5) "Writing" in paragraph (4) shall include an electronic communication within the meaning of the Electronic Communications Act 2000(**19**) provided that—

(a) any document of the type referred to in paragraph (4) shall only be sent to the Department by an electronic communication if the Department has represented that electronic communication is a means by which persons can send such a document to it, and

(b) notifications required to be made by the Department to any person shall only be made by an electronic communication if the intended recipient has used the same form of electronic communication in communicating with the Department pursuant to any provision of these Regulations or has otherwise represented that that form of electronic communication is a means by which the Department can communicate with the recipient.

(6) Expressions in these Regulations which are not defined in the preceding paragraphs of this regulation and which appear in the Seed Marketing Regulations have the same meaning in these Regulations as they have in those Regulations.

PART 2

Registration of persons engaged in seed industry activities

Obligation to be registered

3. A person shall not engage in a seed industry activity unless he is registered by the Department as a person who may engage in that activity.

Applications for registration

4.—(1) A person may apply to the Department to be registered as a person who may engage in a seed industry activity.

(2) An application made under paragraph (1) may relate to all seed industry activities or to any one or more of them and shall—

(a) be made in such form and manner as the Department may require; and

(b) be accompanied by such information relating to the applicant's proposed business and such other information as the Department may reasonably require for the purpose of determining whether the applicant is a suitable person to be registered as a person who may engage in the seed industry activity to which his application relates.

Registrations

5.—(1) Where an application is made under regulation 4 the Department shall, after carrying out such investigations and inspections as the Department may think fit, register the applicant as a person who may engage in the seed industry activity to which his application relates if the Department is satisfied that the applicant is a suitable person to engage in such activity.

(2) In deciding whether an applicant is a suitable person to engage in the seed industry activity to which his application relates the Department may take into account the matters specified in Part 1 of Schedule 1.

(**19**) 2000 c. 7

Conditions to be complied with by registered persons

6. A registration granted under regulation 5 may be subject to any of the conditions specified in Part 2 of Schedule 1 and such other conditions as the Department may think necessary or desirable.

Termination of registrations

7. If a registered person requests the Department to terminate his registration in respect of any or all of the seed industry activities that he is registered as being entitled to engage in the Department shall comply with the request.

Revocation of registrations

8. Subject to regulation 36, the Department may revoke a person's registration relating to his entitlement to engage in a seed industry activity if—

(a) the Department is satisfied that the person is not complying with any of the conditions to which his registration is subject;

(b) she is satisfied that there is no longer available to the person such premises, machinery, equipment, facilities or personnel and services as are necessary to enable him to engage in the seed industry activity;

(c) the person has been found guilty of committing any offence under section 3 of the Act; or

(d) the Department is otherwise no longer satisfied that the person is a suitable person to engage in the seed industry activity.

List

9. The Department—

(a) shall keep a list containing the names and addresses of registered persons who may engage in a seed industry activity specifying, in the case of each registered person, the seed industry activity in respect of which they are registered;

(b) shall make the list available for inspection by any person at any reasonable time; and

(c) may from time to time publish the list in such manner as the Department thinks appropriate.

PART 3

Licensed crop inspectors

Applications for licences

10.—(1) An individual may apply to the Department for a licence authorising him to inspect crops grown to produce seed of any one or more of the species and categories listed in Part 1 of Schedule 2.

(2) An application made under paragraph (1) shall be in such form and manner as the Department may require and be accompanied by such information as the Department may reasonably require.

Licences

11.—(1) Where an application is made under regulation 10(1) the Department shall grant the applicant a licence authorising him to inspect crops of the species and category to which his application relates if the Department is satisfied that the applicant has—