1994 No. 253

SEEDS

Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 1994

Made	*30th June 1994*
Coming into operation . .	*22nd August 1994*

The Department of Agriculture, in exercise of the powers conferred on it by sections 1(1) and (2A)(**a**), 2(2)(**b**) and (3), 7(3) and 9(1), (2) and (3) of the Seeds Act (Northern Ireland) 1965(**c**) and of every other power enabling it in that behalf and after consultation with representatives of such interests as appear to it to be concerned, hereby makes the following regulations:

Citation and commencement

1. These Regulations may be cited as the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 1994 and shall come into operation on 22nd August 1994.

Revocation

2. The Seeds (Registration and Licensing) Regulations (Northern Ireland) 1974(**d**) and the Seeds (Registration and Licensing) (Amendment) Regulations (Northern Ireland) 1975(**e**) are hereby revoked.

Interpretation

3. In these Regulations—

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

"the Department" means the Department of Agriculture for Northern Ireland;

"marketing" includes the offer for sale, exposure for sale, sale and possession with a view to sale of seeds and any transaction in the course of business—

(*a*) under which the property in seeds is transferred from one person to another; or

(*b*) under which the seeds are made over by one person to another in pursuance of a contract under which the seeds will be used for producing further seeds or for producing plants or parts of plants for human or animal consumption;

(**a**) As inserted by S.R. & O. (N.I. 1972 No. 351 (p. 1740) Art. 3 and Sch. 3
(**b**) As amended by 1970 c. 20 (N.I.) section 10(2).
(**c**) 1965 c. 22 (N.I.)
(**d**) S.R. 1974 No. 146
(**e**) S.R. 1975 No. 152

"official examination" in relation to any crop or seeds has the meaning given to it in appropriate seeds regulations, and "officially examined" shall be construed accordingly;

"seed merchant" means a person engaged in the business of trading in seeds other than a person engaged in a business trading only in small packages of seeds, small EEC packages of seeds, small EEC A packages of seeds or small EEC B packages of seeds (as defined in each case in appropriate seeds regulations) or in unpacketed seeds which may be marketed in accordance with such seeds regulations;

"seed packer" means a person engaged in the business of re-packing seeds or a person who, in accordance with the requirements of the Vegetable Seeds Regulations (Northern Ireland) 1994(**a**) labels or marks packages of Standard Seed of vegetables to which those Regulations apply.

"seed processor" means a person engaged in the business of cleaning, treating or otherwise processing seeds intended for sale;

"seeds" means seeds of any kind to which seeds regulations apply but does not include seed potatoes or silvicultural propagating or planting material;

Registration of seed merchants, seed packers and seed processors

4.—(1) A person shall not carry on the business of a seed merchant, or a seed packer or a seed processor unless he is for the time being registered as a seed merchant, or a seed packer or a seed processor, as the case may be, for the purposes of these Regulations.

(2) A person who wishes to be registered as a seed merchant, or a seed packer or a seed processor shall make an application to the Department in writing and shall give to the Department such information relating to his business or proposed business as the Department may reasonably require.

(3) The Department shall register a person as a seed merchant, or a seed packer or a seed processor if it is satisfied that there are available to that person such premises, machinery, equipment, facilities and personnel as appear to the Department to be necessary to enable that person to carry on the business to which his application relates.

(4) A person registered as a seed merchant, or a seed packer or a seed processor shall keep and maintain proper records of his transactions in seeds and of the treatment, testing and other operations undertaken by him or on his behalf in relation to any seeds; and his continued registration shall be conditional upon his giving to the Department such information as the Department may reasonably require and to his permitting, at any reasonable time, an officer of the Department to inspect and take copies of any such records and to inspect the premises, machinery, equipment and facilities available for the carrying on of the business in respect of which he is registered.

(a) S.I. 1994/250

(5) The registration of a person as a seed merchant, or a seed packer or a seed processor shall be effective for an unlimited period, except that the Department may at any time revoke any such registration if it appears to the Department that there are no longer available to a person so registered such premises, machinery, equipment, facilities and personnel as are necessary to enable him to carry on the business in respect of which he is registered or that such a person has failed to comply with the obligations imposed by paragraph (4).

Prohibition of marketing of seeds

5.—(1) If it appears to the Department that seeds of a particular kind, variety or category marketed by a person registered as a seed merchant, or a seed packer or a seed processor in accordance with regulation 4 have been shown to fail to satisfy the requirements of seeds regulations the Department may, by notice in writing served on the seed merchant, or seed packer or seed processor (as the case may be), prohibit, for either an unlimited or for a specified period, the further marketing of seeds of that kind, variety or category by such person either absolutely or from such premises as may be specified in the notice.

(2) If, whilst the marketing by a person of any seeds of a particular kind, variety or category is prohibited under paragraph (1), the Department is satisfied that it is no longer likely that such seeds, if marketed by that person, will fail to satisfy the requirements of seeds regulations, it shall terminate the prohibition imposed under paragraph (1) in respect of such seeds.

Representations and hearings

6.—(1) The Department shall, before making a decision to—

(*a*) refuse to register a person as a seed merchant, or a seed packer or a seed processor on the grounds that it is not satisfied as to one or more of the matters referred to in regulation 4(3); or

(*b*) revoke the registration of a person as a seed merchant, or a seed packer or a seed processor in accordance with regulation 4(5); or

(*c*) prohibit in accordance with regulation 5(1) the marketing by a person of seeds of a particular kind, variety or category,

give to that person notice in writing of its proposed decision together with the reasons for it and, subject to the payment of any fee imposed by seeds regulations, afford to that person an opportunity of making representations to it in writing, or of being heard by a person appointed by it for the purpose or of both making such representations and being so heard.

(2) A notice given by the Department under paragraph (1) shall inform the person to whom it is given of his rights to make representations in writing, of the manner in which and the time (not being less than 21 days from the giving of the notice) within which such representations may be made and of his right to be heard and of the manner in which and the time (not being less than 21 days from the giving of the notice) within which he may apply for an opportunity to be heard.

(3) If within the time allowed for the purpose, the person affected by a notice given under paragraph (1) has not made any representations in writing to the Department, or applied to be heard, the Department shall proceed to make its decision.

(4) A person making representations in writing to the Department shall, with the representations, and a person applying to be heard shall, not later than 7 days before the day appointed for the hearing, deliver to the Department two copies of any documents upon which that person proposes to rely.

(5) If a person so entitled shall apply to be heard the Department shall, subject to the payment of any fees payable under seeds regulations, appoint a time and place for the hearing.

(6) In appointing such time and place the Department shall have regard to the convenience of the person who is to be heard and of his witnesses, the situation of any premises to be viewed in connection with the matter and to the other circumstances of the case, including the wishes of, and expense to, the parties.

(7) The Department shall give to the person who is to be heard not less than 21 days notice in writing of the time and place of the hearing.

(8) The hearing may be adjourned from time to time.

(9) The person who is to be heard may be represented at the hearing by a person chosen by him.

(10) The person who is to be heard may give evidence and he or his representative may call witnesses and produce documents provided that, except with the leave of the person conducting the hearing, a document shall not be produced unless copies thereof are delivered to the Department in accordance with paragraph (4).

(11) The person conducting the hearing may require a witness to give his evidence on oath or affirmation and may for that purpose administer an oath or affirmation in due form.

(12) The hearing shall be in public unless the person conducting the hearing after consultation with the person who is to be heard or with his representative otherwise directs.

(13) The Department shall not make its decision until it has considered, in addition to the submissions made and evidence adduced at the hearing, any representations made to it in writing.

(14) The Department shall give to the person affected notice in writing of its decision together with the reasons therefor.

Extension of time

7. Where any document is to be delivered or notice given or any act is to be done within a time prescribed by these Regulations the Department may, if in all the circumstances of the case it considers it reasonable, extend that time for such period and upon such terms, if any, as it thinks fit.

Licensing of seed testing stations

8.—(1) The Department may license an establishment for the testing of seeds for the purposes of seeds regulations for such period as may be specified in the licence.

(2) An establishment licensed under paragraph (1) may charge reasonable fees for carrying out tests on seeds for the purposes of seeds regulations in respect of which no fees are prescribed as well as prescribed fees for carrying out such tests in respect of which fees are so prescribed.

(3) Subject to paragraph (2), an establishment licensed under paragraph (1) shall not derive any private gain in connection with the carrying out of any test on seeds for the purposes of seeds regulations.

(4) A licence granted under paragraph (1) may impose such conditions as the Department shall think necessary or desirable having regard to the kinds of seeds to be tested, the kinds of tests to be made and the procedure to be followed in connection with such tests and such conditions may include a requirement relating to the keeping and production of records.

(5) A breach of any of the conditions imposed by a licence granted under paragraph (1) shall be an offence against these Regulations.

(6) In respect of the licensing and operation of a seed testing station there shall be payable to the Department by the owner or person in charge of that station the prescribed fees.

(7) The Department may vary a licence granted under paragraph (1) by a notice in writing given to the owner or person in charge of the licensed establishment.

(8) Subject to paragraphs (9), (10) and (11), the Department may with immediate effect or otherwise revoke or suspend a licence granted under paragraph (1) if it appears to it that there has been a breach of any conditions imposed by the licence.

(9) Where the Department revokes or suspends a licence under paragraph (8) it shall, as soon as practicable, give to the owner or person in charge of the licensed establishment notice in writing of the reasons for the revocation or suspension and shall afford him an opportunity of making representations in writing to the Department with regard to the revocation or suspension or of being heard by a person appointed for the purpose by the Department or of both making such representations and being so heard.

(10) A notice given under paragraph (9) shall inform the person to whom it is given of his right to make representations in writing, of the manner in which and the time (not being less than 21 days from the giving of the notice) within which such representations may be made and of his right to be heard and of the manner in which and the time (not being less than 21 days from the giving of the notice) within which he may apply for an opportunity to be heard; and in the event of the owner or person in charge of the licensed establishment making any representations (whether orally or in writing) to the Department under this paragraph the Department shall reconsider, as soon as practicable, its decision to revoke or suspend the licence under paragraph (8) in the light of those representations.