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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 313**

**SEEDS**

**The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006**

<i>Made</i>	- - - -	<i>7th June 2006</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th June 2006</i>
<i>Coming into force</i>	- -	<i>1st July 2006</i>

The Scottish Ministers, in exercise of the powers conferred by sections 16(1) to (5 A), 24(5), 26(2) and (3) and 36 of the Plant Varieties and Seeds Act 1964 <sup>M1</sup> and of all other powers enabling them in that behalf, after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to them to be concerned and with the Council on Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992 <sup>M2</sup>, hereby make the following Regulations:

**Marginal Citations**

- M1** 1964 c. 14; section 16 was amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 5(1) and (2). See section 38(1) for the definition of “the Minister”. The functions of the Secretary of State as regards Scotland were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
- M2** 1992 c. 53; section 8 was amended by the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), Part 8, article 335.

**PART I**

**GENERAL**

**Citation , commencement and extent**

1.—(1) These Regulations may be cited as the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 and shall come into force on 1st July 2006.

(2) These Regulations extend to Scotland only.

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*Status: Point in time view as at 01/07/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (revoked). (See end of Document for details)*

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## Interpretation

### 2.—(1) In these Regulations—

“the Act” means the Plant Varieties and Seeds Act 1964;

“Analyst in Charge” means a seed analyst who has—

- (a) passed an examination relating to laboratory management organised by, or on behalf of, the Scottish Ministers, the Secretary of State, the National Assembly for Wales or the Department of Agriculture and Rural Development; and
- (b) been appointed as the Analyst in Charge of a licensed seed testing station;

“applicant for certification” means a person who has applied for an official certificate under the Seed Marketing Regulations;

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

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

“early movement” means the marketing of seed under the Seed Marketing Regulations prior to completion of the official germination test;

“licensed crop inspector” means a person who has been granted a licence under regulation 11(1) and “crop inspector's licence” shall be construed accordingly;

“licensed seed sampler” means a person who has been granted a licence under regulation 18(1) and “seed sampler's licence” shall be construed accordingly;

“licensed seed testing station” means a laboratory in respect of which a licence has been granted under regulation 25(1) and “seed testing station licence” shall be construed accordingly;

“official sample” means a sample obtained—

- (a) by an authorised officer or a licensed seed sampler in connection with the purposes of the Seed Marketing Regulations; or
- (b) by an authorised officer under section 25(5) of the Act;

“Official Seed Testing Station” means the Official Seed Testing Station for Scotland maintained under section 24(1) of the Act;

“Person in Charge” means a person designated as the point of contact within a licensed seed testing station for all communications relating to compliance with seeds regulations and nominated under regulation 24(2)(a);

“prescribed minimum weight” means the minimum acceptable weight of a sample of seed submitted to the Official Seed Testing Station as prescribed in the Seed Marketing Regulations;

“registered person” means a person registered under regulation 5 and “registration” shall be construed accordingly;

“responsible person” means, in relation to a body corporate or partnership which is a registered person, a person designated as the point of contact for all communications relating to compliance with seeds regulations and nominated under regulation 4(2)(b);

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

“seed” means seed of any species to which the Seed Marketing Regulations apply;

“seed analyst” means a person who has completed a training course and passed an examination relating to seed testing in respect of seed of the species being tested, or to be tested, by that person organised by or on behalf of the Scottish Ministers, the Secretary of State, the National Assembly for Wales or the Department of Agriculture and Rural Development;

“the Seed Marketing Directives” means–

- (a) Council Directive [2002/54/EC](#) as amended on the marketing of beet seed <sup>M3</sup>;
- (b) Council Directive [66/402/EEC](#) as amended on the marketing of cereal seed <sup>M4</sup>;
- (c) Council Directive [66/401/EEC](#) as amended on the marketing of fodder plant seed <sup>M5</sup>;
- (d) Council Directive [2002/57/EC](#) as amended on the marketing of oil and fibre plant seed <sup>M6</sup>; and
- (e) Council Directive [2002/55/EC](#) as amended on the marketing of vegetable seed <sup>M7</sup>;

“the Seed Marketing Regulations” means–

- (a) in relation to beet seed, the Beet Seeds Regulations 1993 <sup>M8</sup>;
- (b) in relation to cereal seed, the Cereal Seed (Scotland) Regulations 2005 <sup>M9</sup>;
- (c) in relation to fodder plant seed, the Fodder Plant Seed (Scotland) Regulations 2005 <sup>M10</sup>;
- (d) in relation to oil and fibre plant seed, the Oil and Fibre Plant Seed (Scotland) Regulations 2004 <sup>M11</sup>; and
- (e) in relation to vegetable seed, the Vegetable Seeds Regulations 1993 <sup>M12</sup>;

“seed merchant” means a person who carries on a business which includes marketing seed except where that marketing is only of one or more of the following types–

- (a) marketing of small packages of seed, small EC A packages of seed or small EC B packages of seed;
- (b) marketing of unpacketed seed;
- (c) marketing by a producer of small quantities of seed for scientific purposes or selection work in compliance with an authorisation permitting such marketing granted under the Seed Marketing Regulations;
- (d) marketing by a producer of seed for test and trial purposes in compliance with an authorisation permitting such marketing granted under the Seed Marketing Regulations; or
- (e) marketing of seed harvested from a crop that has been shown to meet the relevant crop standards in the Seed Marketing Regulations which is for processing, provided the identity of the seed is ensured;

“seed packer” means a person who carries on a business which includes re-packing, re -sealing or re-labelling seed;

“seed processor” means a person who carries on a business which includes–

- (a) packing, sealing or labelling seed (including the labelling or marking of Standard Seed of vegetables), small packages of seed, small EC A packages of seed or small EC B packages of seed;
- (b) preparing mixtures of seeds permitted by the Seed Marketing Regulations; or
- (c) cleaning, treating or otherwise processing seed intended for marketing;

“seeds regulations” means regulations made under section 16 of the Act;

“statutory seed testing” means seed testing carried out for the purposes of seeds regulations; and

“the Tribunal” means the Plant Varieties and Seeds Tribunal continued under section 42 of the Plant Varieties Act 1997 <sup>M13</sup>.

(2) Expressions in these Regulations which are not defined in paragraph (1) and which appear in the Seed Marketing Regulations have the same meaning in these Regulations as they have in the Seed Marketing Regulations.

**Status:** Point in time view as at 01/07/2006.

**Changes to legislation:** There are currently no known outstanding effects for the The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (revoked). (See end of Document for details)

(3) In these Regulations—

- (a) any reference to a numbered regulation, to a numbered Part or to a numbered Schedule is a reference to the regulation, Part or Schedule in these Regulations so numbered;
- (b) any reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which that reference occurs; and
- (c) any reference to a Community instrument is a reference to that instrument and any amendment of such an instrument in force on the day these Regulations are made.

**Marginal Citations**

- M3** O.J. No. L 93, 20.7.2002, p.12 as amended by Council Directive 2003/61/EC of 18 June 2003 (O.J. No. L 165, 3.7.2003, p.23).
- M4** O.J. No. L 125, 11.7.1966, p.2309 as last amended by Council Directive 2003/61/EC of 18 June 2003 (O.J. No. L 165, 3.7.2003, p.23).
- M5** O.J. No. L 125, 11.7.1966, p.2298 as last amended by Commission Directive 2004/55/EC of 20 April 2004 (O.J. No. L 114, 21.4.2004, p.18).
- M6** O.J. No. L 193, 20.7.2002, p.74 as last amended by Council Directive 2003/61/EC of 18 June 2003 (O.J. No. L 165, 3.7.2003, p.23).
- M7** O.J. No. L 193, 20.7.2002, p.33 as last amended by Regulation (EC) 1829/2003 of the European Parliament and of the Council of 22 September 2003 (O.J. No. L 268, 18.10.2003, p.1).
- M8** [S.I. 1993/2006](#) as amended by [S.I. 1999/1861](#) and [S.S.I. 2000/246](#).
- M9** [S.S.I. 2005/328](#) as amended by regulation 44 of these Regulations.
- M10** [S.S.I. 2005/329](#) as amended by regulation 44 of these Regulations.
- M11** [S.S.I. 2004/317](#) as amended by regulation 44 of these Regulations.
- M12** [S.I. 1993/2008](#) as amended by [S.I. 1999/1863](#) and [S.S.I. 2000/250](#).
- M13** 1997 c. 66.

## PART II

### REGISTRATION OF SEED MERCHANTS, SEED PACKERS AND SEED PROCESSORS

#### Obligation to be registered

**3.** No person shall carry on the business of seed merchant, seed packer or seed processor unless registered by the Scottish Ministers as a person who may carry on such a business.

#### Applications for registration

**4.—(1)** A person may apply to the Scottish Ministers to be registered as a person who may carry on the business of seed merchant, seed packer or seed processor.

(2) An application made under paragraph (1) shall—

- (a) be made in such form and manner and be accompanied by such information as the Scottish Ministers may require;
- (b) where the applicant is a body corporate or partnership, nominate a responsible person and shall include the name and address of that person;
- (c) nominate a person responsible for the preparation of seed mixtures to which the Fodder Plant Seed (Scotland) Regulations 2005 apply where the business is to include such preparation; and

- (d) be accompanied by such information relating to the applicant's proposed business and such other information as the Scottish Ministers may require for the purpose of determining under regulation 5(1) whether the applicant is a suitable person to be registered as a seed merchant, seed packer or seed processor.

### **Registrations**

5.—(1) Where an application is made under regulation 4(1) the Scottish Ministers shall, after carrying out such investigations as they consider appropriate, register the applicant as a person who may carry on the business of seed merchant, seed packer or seed processor if they are satisfied that the applicant is a suitable person to carry on such a business having considered the matters to be taken into account specified in Part I of Schedule 1.

(2) A registration granted under paragraph (1) may specify that the registered person is entitled to carry on any one or more of the businesses of seed merchant, seed packer or seed processor.

(3) The Scottish Ministers may vary a registration to add a business referred to in paragraph (1) to the registration but only if they are satisfied that the registered person is a suitable person to carry on such a business having considered the matters to be taken into account specified in Part I of Schedule 1.

### **Conditions to be attached to registrations**

6.—(1) A registration granted under regulation 5(1) shall be made subject to the conditions specified in Part II of Schedule 1 and such other conditions as the Scottish Ministers may consider necessary or desirable.

(2) The Scottish Ministers may, whether or not on the application of the registered person, vary the conditions attached to a registration.

### **Termination of registrations**

7.—(1) The Scottish Ministers shall terminate a registration at the registered person's request.

(2) A registration granted under regulation 5(1) in respect of more than one business pursuant to regulation 5(2) may be terminated as regards one or more of the businesses specified therein.

### **Revocation of registrations**

8. The Scottish Ministers may revoke a registration in respect of any or all of the businesses of seed merchant, seed packer or seed processor specified therein if—

- (a) they are satisfied that the registered person has not complied with a condition to which the registration is subject;
- (b) the registered person has been found guilty of committing an offence under section 16(7) of the Act; or
- (c) they are no longer satisfied that the registered person is a suitable person to carry on the business of seed merchant, seed packer or seed processor having regard to the matters specified in Part I of Schedule 1.

### **Register**

9. The Scottish Ministers—

- (a) shall keep a register containing the names and addresses of registered persons and shall specify in that register—
  - (i) the names of any persons nominated under regulation 4(2)(b) or (c); and

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- (ii) whether the registration is in respect of the business of seed merchant, seed packer or seed processor or any combination of those businesses;
- (b) shall make the register available for inspection by any person at any reasonable time; and
- (c) may from time to time publish the register in such manner as they consider appropriate.

## PART III

### LICENSED CROP INSPECTORS

#### Applications for licences

**10.—(1)** A person may apply to the Scottish Ministers to be licensed to carry out functions specified in Part I of Schedule 2.

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

#### Licences

**11.—(1)** Subject to paragraph (2), the Scottish Ministers shall grant an application made under regulation 10(1) if the applicant has, in the 6 month period immediately preceding the date of the application—

- (a) completed such training courses related to crop inspection as the Scottish Ministers may require;
- (b) passed such examinations of competence in crop inspection appropriate to the species and categories of seed to be covered by the licence as the Scottish Ministers may require; and
- (c) signed a statement of commitment to carry out the functions of a licensed crop inspector in accordance with such instructions as may from time to time be issued by or on behalf of the Scottish Ministers,

and otherwise shall refuse the application.

(2) The Scottish Ministers may refuse to grant an application made under regulation 10(1) if they are of the opinion that the applicant is not a suitable person to be the holder of a licence having regard to—

- (a) any previous suspension or revocation of a licence held by the applicant—
  - (i) under the Seeds (Registration, Licensing and Enforcement Regulations) 1985<sup>M14</sup>;
  - (ii) under these Regulations; or
  - (iii) granted by the Secretary of State, the National Assembly for Wales or the Department of Agriculture and Rural Development,
 and the circumstances leading to the suspension or revocation; or
- (b) any circumstances which led to the applicant being convicted of an offence under section 16(7) of the Act.

(3) A licence granted under paragraph (1) may be granted for any duration up to a maximum of three years and—

- (a) shall specify which of the functions listed in Part I of Schedule 2 are covered by the licence and such other functions; and
- (b) shall be subject to the conditions listed in Part II of Schedule 2 and such other conditions,

as the Scottish Ministers consider necessary or desirable having regard to the species and categories of crops that the licence holder is to be licensed to inspect.

(4) Where a licensed crop inspector applies for a licence under regulation 10(1) to take effect on expiry of the existing licence, the existing licence shall continue to have effect, regardless of its expiry date, pending final determination of the application or, where applicable, final determination of an appeal against refusal of the application.

#### **Marginal Citations**

**M14** [S.I. 1985/980](#) as amended by [S.I. 1987/1098](#), 1990/611 and 1993/2530.

### **Variation of licences**

**12.**—(1) A licensed crop inspector may apply to the Scottish Ministers for a variation of licence—

- (a) to authorise the inspection of crops being grown to produce seed of a species to which the Seed Marketing Regulations apply, except pre-basic and basic seed, in addition to, or instead of, the species and categories specified in the licence; or
- (b) in respect of the functions specified in, or the conditions attached to, the licence.

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

(3) Where an application is made under paragraph (1)(a) the Scottish Ministers shall vary the licence to authorise the inspection of crops of the species and category to which the application relates if they are satisfied that the applicant has satisfied the requirements of regulation 11(1)(a) and (b) in respect of that species and category and otherwise shall refuse to vary the licence in that regard.

(4) In varying a licence under paragraph (3) the Scottish Ministers may vary the functions specified in, and the conditions attached to, the licence.

(5) The Scottish Ministers may vary a crop inspector's licence, whether or not they have received an application under this regulation, by—

- (a) removing authorisation to inspect a species and category of crop if they are satisfied that the licensed crop inspector is no longer competent to inspect crops of that species and category; or
- (b) otherwise varying the functions specified in, or the conditions attached to, the licence.

### **Termination of licences**

**13.** The Scottish Ministers shall terminate a crop inspector's licence at the licence holder's request.

### **Suspension and revocation of licences**

**14.**—(1) The Scottish Ministers may suspend or revoke a crop inspector's licence if they are satisfied that the licence holder—

- (a) is no longer competent to perform a function specified in the licence;
- (b) has failed to comply with a condition attached to the licence; or
- (c) has been convicted of an offence under section 16(7) of the Act.

(2) A licence suspended under paragraph (1) may be suspended for any period up to its unexpired duration and shall cease to have effect and be deemed withdrawn during the period of suspension.

*Status: Point in time view as at 01/07/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (revoked). (See end of Document for details)*

(3) The Scottish Ministers may suspend a crop inspector's licence with immediate effect if they are satisfied that the carrying out of the functions specified in the licence is causing, or is likely to cause, prejudice to the administration or enforcement of seeds regulations.

(4) The Scottish Ministers may recall a suspension of licence if they consider it appropriate to do so.

### **Register**

**15.** The Scottish Ministers—

- (a) shall keep a register of the names and addresses of licensed crop inspectors and the species and categories of crops which each licensed crop inspector is entitled to inspect;
- (b) shall make the register available for inspection by any person at any reasonable time; and
- (c) may from time to time publish the register in such manner as they consider appropriate.

### **Fees**

**16.—**(1) A licensed crop inspector shall charge the fees prescribed in seeds regulations for carrying out the functions specified in the crop inspector's licence and, where no fees are so prescribed, may charge reasonable fees for carrying out such functions.

(2) A licensed crop inspector shall not derive private gain in connection with carrying out the functions specified in the crop inspector's licence.

## **PART IV**

### **LICENSED SEED SAMPLERS**

#### **Applications for licences**

**17.—**(1) A person may apply to the Scottish Ministers to be licensed to carry out the functions specified in Part 1 of Schedule 3.

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

#### **Licences**

**18.—**(1) Subject to paragraph (2), the Scottish Ministers shall grant an application made under regulation 17(1) if the applicant has in the 6 month period immediately preceding the date of the application—

- (a) completed such training courses and passed such examinations of competence as the Scottish Ministers may require in relation to such functions from Part I of Schedule 3 as are to be specified in the licence; and
- (b) signed a statement of commitment to carry out the functions of a licensed seed sampler in accordance with such instructions as may from time to time be issued by or on behalf of the Scottish Ministers,

and otherwise shall refuse the application.

(2) The Scottish Ministers may refuse to grant an application made under regulation 17(1) if they are of the opinion that the applicant is not a suitable person to be the holder of a licence having regard to—

- (a) any previous suspension or revocation of a licence held by the applicant—



- (i) under the Seeds (Registration, Licensing and Enforcement Regulations) 1985 <sup>M15</sup>;
  - (ii) under these Regulations; or
  - (iii) granted by the Secretary of State, the National Assembly for Wales or the Department of Agriculture and Rural Development, and the circumstances leading to the suspension or revocation; or
- (b) any circumstances which led to the applicant being convicted of an offence under section 16(7) of the Act.
- (3) A licence granted under paragraph (1) may be granted for any duration up to a maximum of three years and—
- (a) shall specify which of the functions listed in Part I of Schedule 3 are covered by the licence and such other functions; and
  - (b) shall be subject to the conditions listed in Part II of Schedule 3 and such other conditions, as the Scottish Ministers consider necessary or desirable.
- (4) Where a licensed seed sampler applies for a licence under regulation 17(1) to take effect on expiry of the existing licence, the existing licence shall continue to have effect, regardless of its expiry date, pending final determination of the application or, where applicable, final determination of an appeal against refusal of the application.
- (5) A licensed seed sampler who is employed by a registered person shall only sample seed lots produced by or on behalf of that employer unless otherwise agreed between the licensed seed sampler, that employer, the applicant for certification and the Scottish Ministers.

#### **Marginal Citations**

**M15** [S.I. 1985/980](#) as amended by [S.I. 1987/1098](#), 1990/611 and 1993/2530.

#### **Variation of licences**

**19.**—(1) A licensed seed sampler may apply to the Scottish Ministers for a variation of the functions specified in, or the conditions attached to, the licence.

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

(3) The Scottish Ministers may vary a seed sampler's licence, whether or not they have received an application under this regulation, by varying the functions specified in, or the conditions attached to, the licence.

#### **Termination of licences**

**20.** The Scottish Ministers shall terminate a seed sampler's licence at the licence holder's request.

#### **Suspension and revocation of licences**

**21.**—(1) The Scottish Ministers may suspend or revoke a seed sampler's licence if they are satisfied that the licence holder—

- (a) is no longer competent to perform a function specified in the licence;
- (b) has failed to comply with a condition attached to the licence; or
- (c) has been convicted of an offence under section 16(7) of the Act.

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(2) A licence suspended under paragraph (1) may be suspended for any period up to its unexpired duration and shall cease to have effect and be deemed withdrawn during the period of suspension.

(3) The Scottish Ministers may suspend a seed sampler's licence with immediate effect if they are satisfied that the carrying out of the functions specified in the licence is causing, or is likely to cause, prejudice to the administration or enforcement of seeds regulations.

(4) The Scottish Ministers may recall a suspension of licence if they consider it appropriate to do so.

### Register

**22.** The Scottish Ministers—

- (a) shall keep a register of the names and addresses of licensed seed samplers;
- (b) shall make the register available for inspection by any person at any reasonable time; and
- (c) may from time to time publish the register in such manner as they consider appropriate.

### Fees

**23.**—(1) A licensed seed sampler shall charge the fees prescribed in seeds regulations for carrying out the functions specified in the seed sampler's licence and, where no fees are so prescribed, may charge reasonable fees for carrying out such functions.

(2) A licensed seed sampler shall not derive private gain in connection with carrying out the functions specified in the seed sampler's licence.

## PART V

### LICENSED SEED TESTING STATIONS

#### Applications for licences

**24.**—(1) A person may apply to the Scottish Ministers for a laboratory to be licensed for use in the carrying out of statutory seed testing.

(2) An application made under paragraph (1) may relate to any species of seed to which the Seed Marketing Regulations apply and shall—

- (a) nominate an Analyst in Charge and a Person in Charge and include the names and addresses of those persons;
- (b) be accompanied by details of the laboratory and species of seed in respect of which a licence is sought; and
- (c) contain such other information as the Scottish Ministers may reasonably require for the purpose of considering the matters to be taken into account in Part I of Schedule 4.

#### Licences

**25.**—(1) Subject to paragraph (2), the Scottish Ministers shall grant an application made under regulation 24(1) authorising the use of the laboratory as a licensed seed testing station for the carrying out of statutory seed testing of the species specified in that application if they are satisfied that the laboratory is suitable for that purpose having regard to the matters to be taken into account in Part I of Schedule 4.

(2) The Scottish Ministers may refuse to grant an application made under regulation 25(1) if they are of the opinion that the applicant is not a suitable person to be the holder of a licence having regard to—

- (a) any previous suspension or revocation of a licence held by the applicant—
  - (i) under the Seeds (Registration, Licensing and Enforcement Regulations) 1985<sup>M16</sup>;
  - (ii) under these Regulations; or
  - (iii) granted by the Secretary of State, the National Assembly for Wales or the Department of Agriculture and Rural Development,and the circumstances leading to the suspension or revocation; or
- (b) any circumstances which led to the applicant being convicted of an offence under section 16(7) of the Act.

(3) A licence granted under paragraph (1) may be granted for any duration up to a maximum of three years and shall be subject to the conditions set out in Part II of Schedule 4 and such other conditions as the Scottish Ministers consider necessary or desirable having regard to the species of seed to be tested, the nature of the tests to be carried out and the procedures to be followed in connection with such tests.

(4) Where the holder of a seed testing station licence applies for a licence under regulation 25(1) to take effect on expiry of the existing licence, the existing licence shall continue to have effect, regardless of its expiry date, pending final determination of the application or, where applicable, final determination of an appeal against refusal of the application.

(5) A licensed seed testing station belonging to a registered person shall only be used to carry out statutory seed testing on seed lots produced by or on behalf of that person unless otherwise agreed between the registered person, the applicant for certification and the Scottish Ministers.

#### Marginal Citations

M16 S.I. 1985/980 as amended by S.I. 1987/1098, 1990/611 and 1993/2530.

### Variation of licences

26.—(1) The holder of a seed testing station licence may apply to the Scottish Ministers for a variation of licence—

- (a) to authorise statutory seed testing on another species of seed in addition to, or instead of, the species specified in the licence; or
- (b) in respect of the functions specified in, or the conditions attached to, the licence.

(2) Where an application is made under paragraph (1)(a) the Scottish Ministers shall vary the licence to authorise statutory seed testing on the species of seed to which that application relates if they are satisfied that the licensed seed testing station is suitable for that purpose having regard to the matters to be taken into account in Part I of Schedule 4.

(3) In varying a licence under paragraph (2) the Scottish Ministers may vary the functions specified in, or conditions attached to, the licence.

(4) The Scottish Ministers may vary a seed testing station licence whether or not they have received an application under this regulation by—

- (a) removing the authorisation relating to the statutory seed testing of a species of seed if they are satisfied that the licensed seed testing station is no longer suitable for the carrying out of statutory seed tests in respect of that species having regard to the matters to be taken into account in Part I of Schedule 4; or

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- (b) varying the functions specified in, or the conditions attached to, the licence.

### **Training and examinations**

27. The Scottish Ministers may require a seed analyst carrying out statutory seed testing at a licensed seed testing station, or the Analyst in Charge of a licensed seed testing station, to attend such training courses and undergo such examinations as the Scottish Ministers consider necessary to maintain the knowledge and qualifications required in respect of the functions of the seed analyst or Analyst in Charge carried out at that licensed seed testing station.

### **Duties of the Analyst in Charge of a licensed seed testing station**

28. The Analyst in Charge of a licensed seed testing station shall—
- (a) have direct responsibility for the technical operations of the licensed seed testing station;
  - (b) supervise the work of all seed analysts assisting in statutory seed testing carried out at the licensed seed testing station; and
  - (c) be in effective control of all statutory seed testing carried out at the licensed seed testing station and have direct responsibility for the issuing of results of statutory seed tests.

### **Suspension and revocation of licences**

29.—(1) The Scottish Ministers may suspend or revoke a seed testing station licence if it appears to them that—

- (a) there has been a breach of a condition of the licence;
- (b) the Analyst in Charge of the licensed seed testing station—
  - (i) is no longer qualified to act as such;
  - (ii) has failed to comply with a requirement under regulation 27 or with the duties imposed by regulation 28; or
  - (iii) is otherwise unfit to perform the duties of Analyst in Charge;
- (c) there is no longer a person acting as Analyst in Charge of the licensed seed testing station;
- (d) a seed analyst carrying out statutory seed testing at the licensed seed testing station is no longer qualified to do so or has failed to comply with a requirement under regulation 27; or
- (e) the licence holder or any person whilst employed at the seed testing station has been convicted of an offence under section 16(7) of the Act.

(2) A licence suspended under paragraph (1) may be suspended for any period up to its unexpired duration and shall cease to have effect and be deemed withdrawn during the period of suspension.

(3) The Scottish Ministers may suspend a seed testing station licence with immediate effect if they are satisfied that the carrying on of statutory seed testing at the licensed seed testing station is causing, or is likely to cause, prejudice to the administration or enforcement of seeds regulations.

(4) The Scottish Ministers may recall a suspension of licence if they consider it appropriate to do so.

### **Register**

30. The Scottish Ministers—
- (a) shall keep a register of licensed seed testing stations and shall specify in the case of each licensed seed testing station the name and address of the licence holder, the names of the

Analyst in Charge and the Person in Charge and the species of seed which may be tested under the licence;

- (b) shall make the register available for inspection by any person at any reasonable time; and
- (c) may from time to time publish the register in such manner as they consider appropriate.

### **Fees**

**31.**—(1) The holder of a seed testing station licence may charge reasonable fees for carrying out the functions specified in that licence.

(2) No person shall derive private gain in connection with carrying out the functions specified in a seed testing station licence.

## **PART VI**

### **SUPERVISION AND ENFORCEMENT**

#### **Supervision of licensed crop inspectors , licensed seed samplers and licensed seed testing stations**

**32.**—(1) The Scottish Ministers shall require authorised officers to undertake the checks described in paragraphs (2) to (4) in the supervision of licensed crop inspectors, licensed seed samplers and licensed seed testing stations.

(2) At least 5% of all crop inspection results submitted to the Scottish Ministers by licensed crop inspectors each calendar year shall be checked by authorised officers who shall undertake such crop inspections and other investigations as are necessary to verify the accuracy of the results.

(3) At least 5% of all seed samples submitted to the Scottish Ministers by licensed seed samplers between 1st July and 30th June in the succeeding year shall be checked by authorised officers who shall draw such samples and undertake such other investigations as are necessary to verify that the sampling has been undertaken in accordance with the requirements of seeds regulations.

(4) At least 5% of all seed test results submitted to the Scottish Ministers from licensed seed testing stations between 1st July and 30th June in the succeeding year shall be checked by authorised officers who shall carry out such seed testing and other investigations as are necessary to verify the accuracy of the results.

#### **Sampling for enforcement purposes**

**33.**—(1) A sample of seed to be taken under section 25(5) of the Act for the enforcement of the Seed Marketing Regulations shall be taken and—

- (a) where the sample is to be subject to moisture testing two moisture samples shall be drawn from the sample for that purpose; and
- (b) the sample shall be divided to provide three parts of which—
  - (i) one part shall be delivered or sent to the owner of the seed or the owner's representative together with, where applicable, one moisture sample drawn under paragraph (1)(a);
  - (ii) two parts shall be delivered or sent to the Official Seed Testing Station together with, where applicable, one moisture sample drawn under paragraph (1)(a); and
  - (iii) one of the parts delivered or sent under paragraph (1)(b)(ii) together with, where applicable, one moisture sample drawn under paragraph (1)(a) shall be officially

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examined for the purposes of the Seed Marketing Regulations and the other part shall be retained for production to a court in accordance with section 26(7) of the Act.

(2) The procedures described in paragraph (1) shall be carried out by an authorised officer in accordance with the requirements of the Seed Marketing Regulations and where it appears to that officer that the sample that has been taken was purchased for use and not for resale, the first part of the sample shall be delivered or sent to the last seller of the seed or the last seller's representative instead of to the owner of the seed or the owner's representative.

(3) Where a part of a sample taken under this regulation has been officially examined for the purposes of the Seed Marketing Regulations, any residue from the sample may be used for such other tests as the Scottish Ministers may direct including for the purpose of the Community comparative tests referred to in the Seed Marketing Directives.

(4) Subject to paragraph (5)(a), the minimum weight of a sample of seed taken under paragraph (1) shall be such as to ensure that each of the parts into which it is divided is of not less than the prescribed minimum weight for such a sample.

(5) Where a sample of seed to be taken under section 25(5) of the Act is for the enforcement of the Vegetable Seeds Regulations 1993 and is contained in small packages, then –

- (a) instead of being of a prescribed minimum weight the sample shall consist of as many such packages as the person taking the sample may require; and
- (b) the sample shall be delivered or sent to the Official Seed Testing Station where it shall be officially examined for the purposes of the Seed Marketing Regulations and the procedures set out in paragraphs (1) and (2) shall not apply.

### **Certificates of taking and testing a sample**

**34.**—(1) A certificate in the form set out in Schedule 5 relating to the taking of a sample of seed for the enforcement of Seed Marketing Regulations is prescribed for the purposes of section 26(3) of the Act.

(2) Certificates in the forms set out in Schedule 6 relating to the results of a test of a sample of seed carried out for the enforcement of the Seed Marketing Regulations are prescribed for the purposes of section 24(5) of the Act, according to their correspondence with the species of seed tested.

## **PART VII**

### **MISCELLANEOUS AND SUPPLEMENTAL**

#### **Right to make representations**

**35.**—(1) The Scottish Ministers shall not–

- (a) refuse to register a person as a seed merchant, seed packer or seed processor;
- (b) vary, refuse to vary, or revoke the registration of a person as a seed merchant, seed packer or seed processor, except where a variation is at the request of the registered person;
- (c) refuse to grant or refuse to vary a crop inspector's licence;
- (d) vary a crop inspector's licence under regulation 12(5);
- (e) suspend or revoke a crop inspector's licence;
- (f) refuse to grant or refuse to vary a seed sampler's licence;
- (g) vary a seed sampler's licence under regulation 19(3);
- (h) suspend or revoke a seed sampler's licence;

- (i) refuse to grant or refuse to vary a seed testing station licence;
- (j) vary a seed testing station licence under regulation 26(4); or
- (k) suspend or revoke a seed testing station licence,

unless they have complied with the provisions of this regulation.

(2) Subject to paragraph (3), before taking any decision mentioned in paragraph (1) the Scottish Ministers shall—

- (a) give the person concerned notice stating what they are proposing to do and the reasons for it; and
- (b) inform the person concerned of the right to make representations to them and of the manner in which and the time, being not less than 21 days from the giving of the notice, within which such representations may be made.

(3) Paragraphs (2), (7)(a) and (8) shall not apply to a decision of the Scottish Ministers to suspend a licence with immediate effect under regulation 14(3), 21(3) or 29(3).

(4) Where the Scottish Ministers decide to suspend a licence with immediate effect under regulation 14(3), 21(3) or 29(3), they shall—

- (a) as soon as reasonably practicable and not later than 7 days after making the decision give the person concerned notice of their decision and the reasons for it;
- (b) inform the person concerned of the right to make representations to them and the manner in which and the time, being not less than 7 days from the giving of the notice under sub-paragraph (a), within which such representations may be made;
- (c) decide within 21 days of the date of the decision whether the suspension is to remain in force or be withdrawn; and
- (d) give the person concerned notice of their decision under sub-paragraph (c) together with the reasons for it and, where appropriate, notice of the date from which that decision shall have effect.

(5) A person who makes representations to the Scottish Ministers shall, within the time allowed for the making of such representations, provide the Scottish Ministers with a copy of any document upon which that person seeks to rely.

(6) For the purposes of paragraphs (2) and (4), any notice to be given in connection with a registration held by a body corporate or a partnership or with a seed testing station licence shall be—

- (a) in the case of a registration, given to the responsible person; and
- (b) in the case of a seed testing station licence, given to the Person in Charge.

(7) The Scottish Ministers shall not —

- (a) take any decision mentioned in paragraph (1) until any period allowed under paragraph (2) (b) for making representations has passed; or
- (b) take a decision under paragraph (4)(c) until any period allowed under paragraph (4)(b) for making representations has passed.

(8) The Scottish Ministers shall consider any representations made to them in accordance with this regulation before reaching a decision and shall give the person concerned notice of their decision together with the reasons for it and, where appropriate, notice of the date from which the decision shall have effect.

(9) In giving a notice under paragraphs (4)(d) or (8) the Scottish Ministers shall, where a right of appeal exists under regulation 36(1), inform the person concerned of—

- (a) the right to appeal to the Tribunal against the decision; and
- (b) the time within which such an appeal may be brought.

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(10) The Scottish Ministers may charge any person making representations under this regulation reasonable fees in that connection and such fees shall be payable at the time that the representations are made.

### Appeals

**36.**—(1) Subject to paragraph (2), a person notified of a decision under regulation 35(4)(d) or (8) may appeal to the Tribunal.

(2) There shall be no right of appeal to the Tribunal where the Scottish Ministers have—

- (a) refused to grant or refused to vary a crop inspector's licence or a seed sampler's licence; or
- (b) varied, suspended or revoked a crop inspector's licence or a seed sampler's licence,

for the sole reason that the applicant or licence holder has failed to undertake and pass an examination that required to be undertaken and passed in relation to an application for the grant or variation of the licence or required to be undertaken and passed as a condition of the licence.

(3) Subject to paragraph (4), a decision which may be appealed to the Tribunal under paragraph (1) shall not have effect during the time allowed for making an appeal and, in the event that an appeal is timeously made, shall not have effect pending final determination of the appeal.

(4) Paragraph (3) shall not apply to a decision under regulation 35(4)(c) that a suspension of licence is to remain in force.

(5) The Scottish Ministers shall take such steps as are necessary on their part to give effect to any decision of the Tribunal which constitutes the final determination of an appeal under paragraph (1).

### Exemptions

**37.** The Scottish Ministers may exempt any person or class of persons, or persons generally, from compliance with any provision of these Regulations and any such exemption may be granted subject to conditions.

### Extension of time

**38.** Where any document is to be delivered or given or any act is to be done in a time prescribed by these Regulations the Scottish Ministers may, if they consider it reasonable, extend the time for such period and upon such conditions as they consider appropriate.

### Form of records

**39.** Any record required to be kept under these Regulations, or as a condition of a registration or licence granted under these Regulations, may be in written or electronic form and shall be kept for at least six years, except where otherwise provided for in seeds regulations.

### Form of registers

**40.** Any register required to be kept by the Scottish Ministers under these Regulations may be kept in written or electronic form.

### Service of notices

**41.**—(1) Any notice required to be given to any person by the Scottish Ministers by virtue of these Regulations may be given by them—

- (a) by delivering it to or leaving it at that person's proper address or by sending it by post to that person at that address;



- (b) if the person is a body corporate or a partnership by giving it in accordance with paragraph (a) to the responsible person at the address of the registered or principal office of that body corporate or partnership; or
- (c) if the notice is in connection with a licensed seed testing station by giving it in accordance with paragraph (a) to the Person in Charge.

(2) For the purposes of this regulation and section 7 of the Interpretation Act 1978<sup>M17</sup>(service of documents by post) in its application to this regulation, the proper address of any person to whom a notice is to be given shall be that person's last known address, which in the case of a body corporate or a partnership shall be the last known address of the registered or principal office of the body corporate or partnership;

(3) Paragraph (4) applies if a person to be given a notice under these Regulations by the Scottish Ministers has specified to them an address within the United Kingdom other than that person's proper address (as determined under paragraph (2)) as the one at which notices of that description will be accepted.

(4) An address specified in accordance with paragraph (3) shall be treated as the person's proper address for the purposes of this regulation and section 7 of the Interpretation Act 1978 in its application to this regulation, instead of that determined under paragraph (2).

#### Marginal Citations

M17 1978 c. 30.

#### Written and electronic communication

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

(2) “Writing” in paragraph (1) shall include an electronic communication within the meaning of the Electronic Communications Act 2000<sup>M18</sup>which has been recorded and is consequently capable of being reproduced provided that—

- (a) any document of the type referred to in paragraph (1) shall only be sent to the Scottish Ministers by an electronic communication if the Scottish Ministers have represented that electronic communication is a means by which persons can send such a document to them; and
- (b) notifications required to be made by the Scottish Ministers 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 Scottish Ministers for the purposes of these Regulations or has otherwise represented that the form of electronic communication to be used by the Scottish Ministers is a means by which the Scottish Ministers can communicate with them.

#### Marginal Citations

M18 2000 c. 7; the definition of “electronic communication” in section 15(1) was amended by the Communications Act 2003 (c. 21), section 406(1) and Schedule 17, paragraph 158.

*Status: Point in time view as at 01/07/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (revoked). (See end of Document for details)*

### **Amendments to the Oil and Fibre Plant Seed (Scotland) Regulations 2004 , the Cereal Seed (Scotland) Regulations 2005 and the Fodder Plant Seed (Scotland) Regulations 2005**

**43.**—(1) The Oil and Fibre Plant Seed (Scotland) Regulations 2004 <sup>M19</sup>, the Cereal Seed (Scotland) Regulations 2005 <sup>M20</sup> and the Fodder Plant Seed (Scotland) Regulations 2005 <sup>M21</sup> are each amended in accordance with this regulation.

(2) In regulation 2 (interpretation) –

- (a) in the definition of “licensed crop inspector”, for “regulation 10(1) (licensing of seed samplers and crop inspectors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985” substitute “ regulation 11(1) (licences) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 ”;
- (b) in the definition of “licensed seed sampler”–
  - (i) in the Oil and Fibre Plant Seed (Scotland) Regulations 2004, for “regulation 10(1) (licensing of seed samplers and crop inspectors and licensed seed samplers) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985” substitute “ regulation 18(1) (licences) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 ”; and
  - (ii) in the Cereal Seed (Scotland) Regulations 2005 and the Fodder Plant Seed (Scotland) Regulations 2005, for “regulation 10(1) (licensing of seed samplers and crop inspectors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985” substitute “ regulation 18(1) (licences) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 ”;
- (c) in the definition of “licensed seed testing station”, for “regulation 9(1) (licensing of seed testing stations) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985” substitute “ regulation 25(1) (licences) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 ”; and
- (d) in the case of the Cereal Seed (Scotland) Regulations 2005 and the Fodder Plant Seed (Scotland) Regulations 2005 only, in the definition of “registered number ” for “regulation 4 of the Seeds (Registration, Licensing and Enforcement) Regulations 1985” substitute “ regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 ”.

(3) In regulation 16(4) and (5), for “regulation 4(1) (registration of seed merchants, seed packers and seed processors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985” substitute “ regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 ”.

(4) In regulation 24(2)(a) of the Oil and Fibre Plant Seed (Scotland) Regulations 2004 and regulation 25(2)(a) of the Cereal Seed (Scotland) Regulations 2005 and the Fodder Plant Seed (Scotland) Regulations 2005 respectively–

- (a) for “regulation 4(1) (registration of seed merchants, seed packers and seed processors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985” substitute “ regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 ”; and
- (b) for “regulation 13(a) (inspection and publication of lists of registered and licensed persons) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985” substitute “ regulation 9, 15, or 22 of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 ”.

#### Marginal Citations

M19 S.S.I. 2004/317.

M20 S.S.I. 2005/328.

M21 S.S.I. 2005/329.

### Amendments to the Seeds (Fees ) Scotland Regulations 2002

44.—(1) The Seeds (Fees) Scotland Regulations 2002<sup>M22</sup> are amended in accordance with this regulation.

(2) In regulation 2 (interpretation) –

- (a) in the definition of “licensed crop inspector”, for “regulation 10 of the Seeds (Registration, Licensing and Enforcement) Regulations 1985” substitute “ regulation 11(1) (licences) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 ”;
- (b) in the definition of “licensed seed sampler”, for “regulation 10 of the Seeds (Registration, Licensing and Enforcement) Regulations 1985 ” substitute “ regulation 18(1) (licences) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 ”; and
- (c) in the definition of “licensed seed testing station”, for “regulation 9 of the Seeds (Registration, Licensing and Enforcement) Regulations 1985 ” substitute “ regulation 25(1) (licences) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 ”.

(3) In the Schedule 6 heading, for “THE SEEDS (REGISTRATION, LICENSING AND ENFORCEMENT) REGULATIONS 1985” substitute “ THE SEED (REGISTRATION, LICENSING AND ENFORCEMENT) (SCOTLAND) REGULATIONS 2006 ”.

#### Marginal Citations

M22 S.S.I. 2002/526 as amended by S.S.I 2004/317, 2005/328, 2005/329 and 2006/70.

### Revocations , transitional and savings provisions

45.—(1) Subject to the following provisions of this regulation, the following regulations are revoked insofar as they apply to Scotland–

- (a) the Seeds (Registration, Licensing and Enforcement) Regulations 1985 (“the 1985 Regulations”)<sup>M23</sup>;
- (b) the Seeds (Registration, Licensing and Enforcement) (Amendment) Regulations 1987<sup>M24</sup>;
- (c) the Seeds (Registration, Licensing and Enforcement) (Amendment) Regulations 1990<sup>M25</sup>; and
- (d) the Seeds (Registration, Licensing and Enforcement) (Amendment) Regulations 1993<sup>M26</sup>.

(2) Any application made to the Scottish Ministers in accordance with regulation 4(2) of the 1985 Regulations but not determined at the coming into force of these Regulations shall be treated as an application referred to in regulation 4(1) of these Regulations and shall be determined in accordance with these Regulations.

(3) Any application made to the Scottish Ministers for–

- (a) a seed testing station licence under regulation 9(1); or
- (b) a crop inspector's licence or seed sampler's licence under regulation 10(1).

**Status:** Point in time view as at 01/07/2006.

**Changes to legislation:** There are currently no known outstanding effects for the The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (revoked). (See end of Document for details)

of the 1985 Regulations but not determined at the coming into force of these Regulations shall be treated as an application referred to in regulation 10(1), 17(1) or 24(1), as the case may be, of these Regulations and shall be determined in accordance with these Regulations.

(4) Any registration made in accordance with regulation 4(3) of the 1985 Regulations and having effect at the coming into force of these Regulations shall have effect as though it were a registration made in accordance with regulation 5 of these Regulations.

(5) Any licence granted—

(a) in respect of a licensed seed testing station in accordance with regulation 9(1) of the 1985 Regulations and having effect at the coming into force of these Regulations shall have effect as though it were a licence granted in accordance with regulation 25(1) of these Regulations; and

(b) to a licensed crop inspector or licensed seed sampler in accordance with regulation 10(1) of the 1985 Regulations and having effect at the coming into force of these Regulations shall have effect as though it were a licence granted in accordance with regulation 11(1) of these Regulations in the case of a licensed crop inspector and regulation 18(1) of these Regulations in the case of a licensed seed sampler.

(6) The right to make representations in accordance with regulation 35 of these Regulations and to appeal to the Tribunal in accordance with regulation 36 of these Regulations shall not apply in respect of any licence which was granted under the 1985 Regulations and which is varied within three months of the coming into force of these Regulations.

(7) Any fee arising whether wholly or in part under the 1985 Regulations but not paid at the coming into force of these Regulations shall be treated as a fee arising under these Regulations and shall be recoverable accordingly.

#### **Marginal Citations**

**M23** [S.I. 1985/980](#) as amended by [S.I. 1987/1098](#), 1990/611 and 1993/2530.

**M24** [S.I. 1987/1098](#).

**M25** [S.I. 1990/611](#).

**M26** [S.I. 1993/2530](#).

St Andrew's House,  
Edinburgh  
7th June 2006

*ROSS FINNIE*  
A member of the Scottish Executive

**Status:** Point in time view as at 01/07/2006.

**Changes to legislation:** There are currently no known outstanding effects for the *The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (revoked)*. (See end of Document for details)

## SCHEDULE 1

Regulations 5(1) and (3), 6(1) and 8(c)

### REGISTERED PERSONS

## PART I

### REGISTRATION: MATTERS TO BE TAKEN INTO ACCOUNT

1. The premises that are available to the applicant.
2. The machinery, equipment and facilities that are available to the applicant.
3. The personnel that are available to the applicant.
4. Where the applicant is a body corporate or a partnership, the person who is to be the responsible person within the organisation.
5. Where the activities carried out by the applicant include the preparation of seed mixtures to which the Fodder Plant Seed (Scotland) Regulations 2005 apply <sup>M27</sup>, the person who has direct responsibility for the mixing operations.

#### Marginal Citations

**M27** [S.S.I. 2005/329](#) as amended by regulation 44 of these Regulations.

6. Whether the procedures employed by the applicant in carrying out mixing operations in relation to seed mixtures to which the Fodder Plant Seed (Scotland) Regulations 2005 apply are sufficient to ensure that mixed or blended seed lots are as homogeneous as is practicable.
7. Any previous revocation of a registration held by the applicant—
  - (a) under the Seeds (Registration, Licensing and Enforcement Regulations) 1985 <sup>M28</sup>,
  - (b) under these Regulations; or
  - (c) granted by the Secretary of State, the National Assembly for Wales or the Department of Agriculture and Rural Development,and the circumstances leading to the suspension or revocation.

#### Marginal Citations

**M28** [S.I. 1985/980](#) as amended by [S.I. 1987/1098](#), 1990/611 and 1993/2530.

8. Any circumstances which led to the applicant, the person who has direct responsibility for the mixing operations in relation to seed mixtures to which the Fodder Plant Seed (Scotland) Regulations 2005 apply or, in the case of a body corporate or partnership, the responsible person, being convicted of an offence under section 16(7) of the Act.

## PART II

### CONDITIONS WHICH SHALL BE IMPOSED ON A REGISTERED PERSON

9. In the case of a body corporate or a partnership, to notify the Scottish Ministers within 21 days of any change of the body corporate or partnership's name or the address of its registered or

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principal office or any premises being used by it for the purpose of carrying on the business of seed merchant, seed packer or seed processor.

**10.** In the case of a body corporate or a partnership, to notify the Scottish Ministers within 21 days of any change regarding the responsible person.

**11.** In the case of a registered person other than a body corporate or a partnership, to notify the Scottish Ministers within 21 days of any change of name or address of that person or of premises being used by that person for the purpose of the carrying on the business of seed merchant, seed packer or seed processor.

**12.** To notify the Scottish Ministers within 21 days of any change regarding the person with direct responsibility for the mixing operation in relation to the preparation of seed mixtures to which the Fodder Plant Seed (Scotland) Regulations 2005 apply.

**13.** To keep such records as the Scottish Ministers may require of transactions in seed and of the treatment, testing and other operations undertaken by the registered person or on that person's behalf in relation to any seed or its disposal including records relating to—

- (a) seedcrops;
- (b) the date on which official labels are used, the unique label number and the seed lots for which they are used;
- (c) in the case of seed intended for marketing, the number and weight of seed lots processed and the date on which they are processed together with species, category and level;
- (d) the date on which official samples are taken from seed lots and the identity of the authorised officer or licensed seed sampler who obtained the samples;
- (e) the date on which official samples are despatched to the Official Seed Testing Station or a licensed seed testing station for testing;
- (f) in the case of a seed lot that is marketed by way of early movement such records as are required to be kept by virtue of the Seed Marketing Regulations;
- (g) the date on which and from whom the seed was bought by the registered person and the date on which the registered person sold it (by crop identity number or seed lot reference number) together with the weight of the seed bought or sold; and
- (h) in the case of any seed chemically treated by the registered person, the date on which the seed is so treated and details of the treatment applied.

**14.** To keep a register of seed mixtures to which the Fodder Plant Seed (Scotland) Regulations 2005 apply.

**15.** To permit, at any reasonable time, an authorised officer to inspect and take copies of the records specified in paragraph 13 and of the register specified in paragraph 14.

**16.** To permit, at any reasonable time, an authorised officer to inspect the premises, machinery, equipment and facilities used by, or available to, the registered person for the carrying on of the business in respect of which that person is registered.

**17.** To give the Scottish Ministers such other information as they may require in connection with the business in respect of which the registered person is registered.

## SCHEDULE 2

Regulations 10(1) and 11(3)

### PART I

#### FUNCTIONS THAT MAY BE SPECIFIED IN A CROP INSPECTOR'S LICENCE

1. To inspect crops grown to produce seed of a species to which the Seed Marketing Regulations apply, except pre-basic and basic seed, in accordance with instructions issued from time to time by or on behalf of the Scottish Ministers for the purposes of seeds regulations to determine whether the crops meet the relevant standards prescribed in seeds regulations including—
  - (a) confirmation of the identity of the variety insofar as possible;
  - (b) the detection and recording of any species impurities or varietal impurities;
  - (c) the checking of compliance with isolation requirements; and
  - (d) the assessment of the general condition of the crop including—
    - (i) whether the crop is in a suitable condition for inspection;
    - (ii) any pesticide spray damage that may have been caused to the crop; and
    - (iii) the existence of weeds and diseases.
2. To authenticate each seed lot sown to produce a seed crop and to record at least one label serial number used for such authentication.
3. To issue a field inspection report following the inspection of a seed crop in accordance with seeds regulations.
4. To submit to the Scottish Ministers such reports on the inspection of crops carried out by the licensed crop inspector as the Scottish Ministers may require.
5. To keep records of crops inspected by the licensed crop inspector in such form as is required by the Scottish Ministers.

### PART II

#### CONDITIONS THAT SHALL BE ATTACHED TO A CROP INSPECTOR'S LICENCE

6. To carry out the functions of a licensed crop inspector subject to the supervision of authorised officers.
7. To carry out the functions of a licensed crop inspector in accordance with seeds regulations and any instructions issued by or on behalf of the Scottish Ministers.
8. To attend such training courses and undergo such examinations related to the functions specified in the crop inspector's licence as the Scottish Ministers may require.
9. To notify the Scottish Ministers within 21 days of any change of address of the licensed crop inspector.
10. To inspect not more than the maximum areas, if any, specified by the Scottish Ministers.

**Status:** Point in time view as at 01/07/2006.

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## SCHEDULE 3

Regulations 17(1) and 18(1) and (3)

### LICENSED SEED SAMPLERS

#### **PART I**

##### FUNCTIONS THAT MAY BE SPECIFIED IN A SEED SAMPLER'S LICENCE

1. To sample seed for the purposes of seeds regulations and to submit sealed samples of such seed to the Official Seed Testing Station or a licensed seed testing station.
2. To keep records of seed lots sampled and the methods of sampling used.
3. To keep records of the use of all official labels issued on behalf of the Scottish Ministers.
4. To ensure that packages of seed are labelled or re-labelled and sealed or re-sealed in accordance with seeds regulations.
5. To ensure that mixtures of seed are prepared, labelled or re-labelled and sealed or re-sealed in accordance with seeds regulations.
6. To ensure that sampling equipment used in carrying out the functions of a licensed seed sampler operates correctly at all times and is properly maintained.

#### **PART II**

##### CONDITIONS THAT SHALL BE ATTACHED TO A SEED SAMPLER'S LICENCE

7. To carry out the functions of a licensed seed sampler subject to supervision by authorised officers.
8. To carry out the functions of a licensed seed sampler in accordance with seeds regulations and any instructions issued by or on behalf of the Scottish Ministers.
9. To attend such training courses and undergo such examinations related to the functions specified in the seed sampler's licence as the Scottish Ministers may require.
10. To notify the Scottish Ministers within 21 days of any change of address of the licensed seed sampler.
11. Where a seed sampler is employed by a registered person, to only sample seed lots produced by or on behalf of that employer unless otherwise agreed between the licensed seed sampler, the registered person, the applicant for certification and the Scottish Ministers.



SCHEDULE 4

Regulations 24(2)(c), 25(1) and (3) and  
26(2)

LICENSED SEED TESTING STATIONS

**PART I**

LICENSING OF LABORATORIES: MATTERS TO BE TAKEN INTO ACCOUNT

1. The premises in which the laboratory is situated.
2. The equipment that is available at the laboratory for carrying out statutory seed testing.
3. The knowledge and qualifications—
  - (a) in seed testing and laboratory management of the proposed Analyst in Charge; and
  - (b) in seed testing of any seed analysts who staff, or will staff, the laboratory in respect of which the application is made.

**PART II**

CONDITIONS THAT SHALL BE ATTACHED  
TO A SEED TESTING STATION LICENCE

4. The licence holder shall appoint and maintain an Analyst in Charge and a Person in Charge.
5. All statutory seed testing carried out at the license d seed testing station shall be carried out by a seed analyst or the Analyst in Charge of the licensed seed testing station.
6. To notify the Scottish Ministers of any change of Analyst in Charge or Person in Charge within 21 days of such change occurring.
7. To maintain the premises in which the licensed seed testing station is situated and the equipment therein to a standard approved by the Scottish Ministers for the purpose of carrying out statutory seed testing and only to modify such premises or equipment in accordance with instructions issued by the Scottish Ministers.
8. To open the licensed seed testing station to inspection by an authorised officer at all reasonable times.
9. To carry out statutory seed testing in accordance with seeds regulations and such other directions, including relevant international seed testing methods as are notified from time to time by the Scottish Ministers.
10. To keep records of all seed tests carried out at the licensed seed testing station whether or not carried out for the purposes of seeds regulations.
11. To make the records referred to in paragraph 10 available for inspection by an authorised officer at all reasonable times.
12. To take a portion (“the reserve portion”) of every sample of seed submitted for statutory seed testing f rom the submitted sample in accordance with a method specified by the Scottish Ministers which is of at least the prescribed minimum weight.
13. To place the reserve portion in a bag and identify, seal and retain the bag under storage conditions in accordance with instructions issued by the Scottish Ministers and not to open the bag during the period specified in the instructions except by or on the authority of an authorised officer.

**Status:** Point in time view as at 01/07/2006.

**Changes to legislation:** There are currently no known outstanding effects for the *The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (revoked)*. (See end of Document for details)

**14.** To deliver the reserve portion to an authorised officer on request.

**SCHEDULE 5**

Regulation 34(1)

**FORM OF CERTIFICATE OF THE TAKING OF A SAMPLE OF SEEDS**

**Certificate of the taking of a sample of seeds**

SCOTTISH EXECUTIVE ENVIRONMENT AND RURAL AFFAIRS DEPARTMENT  
("SEERAD")  
PLANT VARIETIES AND SEEDS ACT 1964, SECTIONS 25(5) and 26(3)  
THE SEED (REGISTRATION, LICENSING AND ENFORCEMENT) (SCOTLAND)  
REGULATIONS 2006

On \_\_\_\_\_ (Date), \_\_\_\_\_ & \_\_\_\_\_, Seed  
Enforcement Officers from SEERAD/\_\_\_\_\_, Area Office, visited your premises  
at \_\_\_\_\_ and took the following enforcement sample(s) under section 25(5) of  
the Plant Varieties and Seeds Act 1964—

Seed Species	Seed Variety	Seed Lot Reference Number

The sample(s) specified in this certificate was/were\* taken in accordance with regulation 33 of the  
Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 and by a method  
prescribed in Schedule 5 to—

- the Beet Seeds Regulation 1993\*
- the Vegetable Seeds Regulations 1993\*
- the Oil and Fibre Plant Seed (Scotland) Regulations 2004\*
- the Cereal Seed (Scotland) Regulations 2005\*
- the Fodder Plant Seed (Scotland) Regulations 2005\*

Signed:

Authorised Officer

Signed:

Authorised Officer

Date issued:

\*Delete as appropriate

**SCHEDULE 6**

Regulation 34(2)

**FORM OF CERTIFICATES OF THE RESULTS OF TESTS OF SEEDS**

**PART I**

**FORM OF CERTIFICATE OF RESULTS OF TESTS OF BEET SEED**

**Certificate of the Result of a Test of Seeds**

SCOTTISH EXECUTIVE ENVIRONMENT AND RURAL AFFAIRS DEPARTMENT  
PLANT VARIETIES AND SEEDS ACT 1964, SECTION 26(5)  
THE SEED (REGISTRATION, LICENSING AND ENFORCEMENT) (SCOTLAND)  
REGULATIONS 2006  
THE BEET SEEDS REGULATIONS 1993  
REPORT OF THE OFFICIAL SEED TESTING STATION FOR SCOTLAND ON A SAMPLE  
TAKEN UNDER SECTION 25(5) OF THE PLANT VARIETIES AND SEEDS ACT 1964  
ON THE PREMISES OF

	Official Station Sample No.
	Control Sample No.
	Date Received at Station
	Date of Sampling
	Quantity Sampled

Seed Treatment

Species	Description	Variety
Cut & Level		Reference No.
	% Pure Seed	% Inert Matter
		% Other Seeds

**Status:** Point in time view as at 01/07/2006.

**Changes to legislation:** There are currently no known outstanding effects for the The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (revoked). (See end of Document for details)

Inert Matter

Other Seeds

Germination % clusters

Germinated clusters with—

One seedling %

Two seedlings %

Three or more seedlings %

Moisture Content %

Remarks

Signed (authorised officer)

Date

## PART II

### FORM OF CERTIFICATE OF RESULTS OF TESTS OF CEREAL SEED

Certificate of the Result of a Test of Seeds  
 SCOTTISH EXECUTIVE ENVIRONMENT AND RURAL AFFAIRS DEPARTMENT  
 PLANT VARIETIES AND SEEDS ACT 1964 (SECTION 24(5))  
 THE SEED (REGISTRATION, LICENSING AND ENFORCEMENT) (SCOTLAND)  
 REGULATIONS 2006  
 THE CEREAL SEED (SCOTLAND) REGULATIONS 2005  
 REPORT OF THE OFFICIAL SEED TESTING STATION FOR SCOTLAND ON A SAMPLE  
 TAKEN UNDER SECTION 25(5) OF THE PLANT VARIETIES AND SEEDS ACT 1964 ON  
 THE PREMISES OF

	Official Station Sample No.
	Control Sample No.
	Date Received at Station
	Date of Sampling
	Quantity Sampled
	Seed Treatment

Species	Description	Variety	
Cat & Level		Reference No.	

% Pure Seed	% Inert Matter	% Other Seeds

Inert Matter

Other Seeds

Number of seeds	50g	Further 50g	Total in 1000g
Other cultivated cereal species			
Species other than cultivated cereals			
Total			
<i>Avena fatua</i> , <i>A. ludoviciana</i> , <i>A. sterilis</i>			
<i>Lolium temulentum</i>			
<i>Raphtanus raphanistrum</i>			
<i>Agrostemma galega</i>			
<i>Agropyron repens</i>			
<i>Bromus sterilis</i>			
Number of pieces Ergot ( <i>Claviceps purpurea</i> )			

Loose smut infection %

Moisture Content %  Germination %  Fresh Seed %

Varietal Purity      Declared Variety %  Other Varieties %

Remarks

Signed (authorised officer)

Date

**Status:** Point in time view as at 01/07/2006.

**Changes to legislation:** There are currently no known outstanding effects for the *The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006* (revoked). (See end of Document for details)

## PART III

### FORM OF CERTIFICATE OF RESULTS OF TESTS OF FODDER PLANT SEED

**Certificate of the Result of a Test of Seeds**

SCOTTISH EXECUTIVE ENVIRONMENT AND RURAL AFFAIRS DEPARTMENT  
 PLANT VARIETIES AND SEEDS ACT 1964 (SECTION 24(5))  
 THE SEED (REGISTRATION, LICENSING AND ENFORCEMENT) (SCOTLAND)  
 REGULATIONS 2006  
 THE FODDER PLANT SEED (SCOTLAND) REGULATIONS 2005  
 REPORT OF THE OFFICIAL SEED TESTING STATION FOR SCOTLAND ON A SAMPLE  
 TAKEN UNDER SECTION 25(5) OF THE PLANT VARIETIES AND SEEDS ACT 1964 ON  
 THE PREMISES OF

Official Station Sample No. \_\_\_\_\_  
 Control Sample No. \_\_\_\_\_  
 Date Received at Station \_\_\_\_\_  
 Date of Sampling \_\_\_\_\_  
 Quantity Sampled \_\_\_\_\_  
 Seed Treatment \_\_\_\_\_

Species	Description	Variety				
Cat & Level	Reference No.					
	% Pure Seed	% Inert Matter	% Other Seeds	% <i>Agropyron repens</i>	% <i>Alopecurus myosuroides</i>	
Inert Matter				% <i>Raphanus raphanistrum</i>	% <i>Sinapis arvensis</i>	
Other Seeds				% <i>Melilotus</i> spp.		

Number of seeds	g
<i>Agropyron repens</i>	
<i>Alopecurus myosuroides</i>	
<i>Avena fatua</i> , <i>A. ludoviciana</i> , <i>A. sterilis</i>	
<i>Cirsium</i> spp.	
<i>Melilotus</i> spp.	
<i>Rumex</i> spp. other than <i>R. acetosella</i> and <i>R. maritimus</i>	
<i>Lolium</i> spp. <i>Dactylis glomerata</i> , <i>Festuca pratensis</i>	

Germination %  Hard Seed %  Fresh Seed %   
 Varietal Purity Declared Variety %  Other Varieties %

Remarks

Signed (authorised officer)

Date

## PART IV

### FORM OF CERTIFICATE OF RESULTS OF TESTS OF OIL AND FIBRE PLANT SEED

**Certificate of the Result of a Test of Seeds**

SCOTTISH EXECUTIVE ENVIRONMENT AND RURAL AFFAIRS DEPARTMENT  
 PLANT VARIETIES AND SEEDS ACT 1964 (SECTION 24(5))  
 THE SEED (REGISTRATION, LICENSING AND ENFORCEMENT) (SCOTLAND)  
 REGULATIONS 2006  
 THE OIL AND FIBRE PLANT SEED (SCOTLAND) REGULATIONS 2004  
 REPORT OF THE OFFICIAL SEED TESTING STATION FOR SCOTLAND ON A SAMPLE  
 TAKEN UNDER SECTION 25(5) OF THE PLANT VARIETIES AND SEEDS ACT 1964 ON  
 THE PREMISES OF

Official Station Sample No. \_\_\_\_\_  
 Control Sample No. \_\_\_\_\_  
 Date Received at Station \_\_\_\_\_  
 Date of Sampling \_\_\_\_\_  
 Quantity Sampled \_\_\_\_\_  
 Seed Treatment \_\_\_\_\_

Species	Description	Variety			
Cat & Level	Reference No.				
	% Pure Seed	% Inert Matter	% Other Seeds		

Inert Matter

Other Seeds

**Status:** Point in time view as at 01/07/2006.

**Changes to legislation:** There are currently no known outstanding effects for the *The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006* (revoked). (See end of Document for details)

Number of seeds		8	
Other plant species			
Avena fatua, A. holvictiana, A. sterilis			
Cuscuta spp.			
Raphanus raphanistrum			
Rumex spp. other than Rumex acetosella			
Alsopertia myrsinoides			
Lolium temutum			
Number of pieces	Sclerotia of Sclerotinia sclerotiorum		
Germination %		Fresh Seed %	

Remarks

Signed (authorised officer)

Date

## PART V

### FORM OF CERTIFICATE OF RESULTS OF TESTS OF VEGETABLE SEED

**Certificate of the Result of a Test of Seeds**

SCOTTISH EXECUTIVE ENVIRONMENT AND RURAL AFFAIRS DEPARTMENT  
 PLANT VARIETIES AND SEEDS ACT 1964 - SECTION 24(5)  
 THE SEED (REGISTRATION, LICENSING AND ENFORCEMENT) (SCOTLAND)  
 REGULATIONS 2006  
 THE VEGETABLE SEEDS REGULATIONS 1993  
 REPORT OF THE OFFICIAL SEED TESTING STATION FOR SCOTLAND ON A SAMPLE  
 TAKEN UNDER SECTION 24(5) OF THE PLANT VARIETIES AND SEEDS ACT 1964 ON  
 THE PREMISES OF

Official Station Sample No.  
 Control Sample No.  
 Date Received at Station  
 Date of Sampling  
 Quantity Sampled  
 Seed Treatment

Species	Description	Variety	
Cat. & Level		Reference No.	
		% Pure Seed	% Inert Matter
			% Other Seeds

Inert Matter  
 Other Seeds

Germination %

Number of seeds infected with \_\_\_\_\_ in \_\_\_\_\_ seeds examined

Remarks

Signed (authorised officer)

Date

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

**Status:** Point in time view as at 01/07/2006.

**Changes to legislation:** There are currently no known outstanding effects for the The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (revoked). (See end of Document for details)

These Regulations come into force on 1st July 2006 and extend to Scotland only . They revoke and replace, as regards Scotland, the Seeds (Registration, Licensing and Enforcement) Regulations 1985 (S.I. 1985/980) (“the 1985 Regulations”), the Seeds (Registration, Licensing and Enforcement) (Amendment) Regulations 1987 (S.I. 1987/1098), the Seeds (Registration, Licensing and Enforcement) (Amendment) Regulations 1990 (S.I. 1990/611) and the Seeds (Registration, Licensing and Enforcement) (Amendment) Regulations 1993 (S.I. 1993/2530). The Regulations continue to prohibit a person from engaging in business as a seed merchant, seed packer or seed processor unless that person has been registered by the Scottish Ministers (regulation 3). There is a power to attach conditions to registrations (regulation 6) and registrations may now be terminated at the request of the registered person (regulation 7). The power to revoke registrations continues and expanded grounds for revocation are introduced (regulation 8). The Regulations continue to provide for the licensing of crop inspectors (regulation 11). New provision is made for a crop inspector to apply to the Scottish Ministers to have a licence varied (regulation 12(1)) or terminated (regulation 13). The Scottish Ministers continue to be able to vary licences in any event (regulation 12(5)) and also have the power to suspend or revoke licences, suspension of licence being a new power (regulation 14). The Regulations continue to provide for the licensing of seed samplers (regulation 18). New provision is made for a seed sampler to apply to the Scottish Ministers to have a licence varied (regulation 19(1)) or terminated (regulation 20). The Scottish Ministers continue to be able to vary licences in any event (regulation 19(3)) and also have the power to suspend or revoke licences, suspension of licence being a new power (regulation 21). The Regulations continue to provide for the licensing of seed testing stations (regulation 25). The licence holder may now apply to vary the licence (regulation 26(1)) and the Scottish Ministers continue to be able to vary the licence in any event (regulation 26(4)). The Scottish Ministers have the power to require seed analysts and the Analyst in Charge of a seed testing station to attend for training and examinations (regulation 27) and the Analyst in Charge is subject to certain statutory duties (regulation 28). There are expanded grounds for suspension or revocation of licences (regulation 29). The Regulations require the Scottish Ministers to keep a register of persons registered as seed merchants, seed packers or seed processors (regulation 9) and registers of licensed crop inspectors (regulation 15), licensed seed samplers (regulation 22) and licensed seed testing stations (regulation 30) and those registers may be published from time to time. The Regulations continue to provide for fee charging by licensed crop inspectors (regulation 16), licensed seed samplers (regulation 23) and licensed seed testing stations (regulation 31). The Regulations continue to provide for sampling for enforcement of seeds regulations (regulations 33 and 34). There are new requirements relating to supervision of licensed personnel as a result of the introduction of corresponding requirements into the Seed Marketing Directives (as defined in regulation 2) by Council Directive [2004/117/EC](#) (O.J. No. L 14, 18.1.2005, p.14) (regulation 32). These Regulations are in line with Council Directive [2004/117/EC](#) which makes permanent a longstanding experiment on the use of licensed personnel in the regulation of seed marketing. The Regulations continue the right to make representations in relation to proposed decisions of the Scottish Ministers under the Regulations and that right is expanded (regulation 35). The Scottish Ministers will not proceed with a refusal, variation, suspension or revocation of a registration or licence until the person concerned has had an opportunity to make representations, the principal exception being that they may suspend a licence with immediate effect if they are satisfied that the carrying out of functions specified in the licence is causing or is likely to cause prejudice to the administration or enforcement of seeds regulations made under section 16 of the Plant Varieties Act 1964. The right of appeal to the Plant Varieties and Seeds Tribunal is also expanded and exceptions to the right of appeal are introduced (regulation 36). Contravention of these Regulations is an offence (section 16(7) of the Plant Varieties Act 1964). No Regulatory Impact Assessment has been prepared in respect of these Regulations.

**Status:**

Point in time view as at 01/07/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (revoked).