

2000 No. 54

SEEDS

**Fodder Plant Seeds (Amendment) Regulations
(Northern Ireland) 2000**

Made 3rd March 2000

Coming into operation 10th April 2000

The Department of Agriculture and Rural Development in exercise of the powers conferred on it by sections 1(1), (2A)(a), 2(b) of the Seeds Act (Northern Ireland) 1965(c) and of every other power enabling it in that behalf, 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 Fodder Plant Seeds (Amendment) Regulations (Northern Ireland) 2000 and shall come into operation on 10th April 2000.

Interpretation

2. In these Regulations “the principal Regulations” means the Fodder Plant Seeds Regulations (Northern Ireland) 1994(d).

Amendment of the Fodder Plant Seeds Regulations (Northern Ireland) 1994

3.—(1) The principal Regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulation 3(1), after the definition of “the Act” there shall be inserted—

“ “breeder” —

(a) in relation to a variety which has not been entered in the National List or the Common Catalogue, includes any person lawfully multiplying (on his own account) seed bred by another; and

(b) in relation to a variety which has been so entered, means the maintainer of the variety;

“breeder’s confirmation” means a document issued by the Department in accordance with Schedule 2A containing in respect of the seed to which it relates the particulars specified in Schedule 3A;”.

(a) As inserted by S.R. & O. (N.I.) 1972 No. 351 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. 1994 No. 252 as amended by S.R. 1996 No. 311 and S.R. 1997 No. 240

- (3) In regulation 3(2)—
- (a) in the definition of “Breeder’s Seed”—
- (i) in paragraph (a) for the words—
- “by or under the responsibility of the maintainer carrying out in the United Kingdom the duties of a maintainer for the time being set out in regulation 19 of the Seeds (National Lists of Varieties) Regulations 1982”
- there shall be substituted the words—
- “by or under the responsibility of the breeder”; and
- (ii) for paragraph (c) there shall be substituted—
- “(c) satisfy the requirements for Basic Seed set out in Schedule 4 and in respect of which—
- (i) an official certificate has been issued in accordance with Schedule 2; or
- (ii) a breeder’s confirmation has been issued in accordance with Schedule 2A;”;
- (b) for the definition of “Pre-basic Seed” there shall be substituted—
- “ “Pre-basic Seed” means seeds of a generation earlier than that of Basic Seed which—
- (a) have been produced directly from Breeder’s Seed or Pre-basic Seed by or under the responsibility of the breeder,
- (b) are intended for the production of Pre-basic Seed, Basic Seed or with the written authority of the breeder and the Department, of Certified Seed or Certified Seed of the First or Second Generations, and
- (c) satisfy the requirements for Basic Seed set out in Schedule 4 and in respect of which—
- (i) an official certificate has been issued in accordance with Schedule 2; or
- (ii) a breeder’s confirmation has been issued in accordance with Schedule 2A;”;
- (c) in the definition of “Basic Seed”—
- (i) in paragraph (a)(i) for the words—
- “by or under the responsibility of the maintainer”
- there shall be substituted—
- “by or under the responsibility of the breeder”; and
- (ii) for sub-paragraph (c) there shall be substituted—
- “(c) satisfy the requirements for Basic Seed set out in Schedule 4 and in respect of which—
- (i) an official certificate has been issued in accordance with Schedule 2; or
- (ii) a breeder’s confirmation has been issued in accordance with Schedule 2A;”;

- (d) in the definition of “Certified Seed” for the word “maintainer” there shall be substituted the word “breeder”;
 - (e) in the definition of “Certified Seed of the First Generation” for the word “maintainer” there shall be substituted the word “breeder”; and
 - (f) in the definition of “Certified Seed of the Second Generation” for the word “maintainer” there shall be substituted the word “breeder”.
- (4) In regulation 5 (marketing of seeds)—
- (a) in paragraph (1)(b) after the words “or Certified Seed of the Second Generation” there shall be inserted the words “in respect of which an official certificate has been issued”; and
 - (b) in paragraph 14(a) for the word “maintainer” there shall be substituted the word “breeder”.
- (5) In regulation 6 (official certificates)—
- (a) for paragraph (1)(a) there shall be substituted—
 - “(a) shall be made in writing to the Department in such form and manner, and shall include such information, records, illustrations, material and seeds, as the Department may require; and”;
 - (b) after paragraph (4) there shall be added—
 - “(5) A breeder may apply to the Department for the issue of an official certificate in place of a breeder’s confirmation once the seed of that variety may be marketed in accordance with regulation 31 of the Seeds (National Lists of Varieties) Regulations 1982(a).
- (6) An application under paragraph (5)—
- (a) shall be made in writing to the Department in such form and manner, and shall be accompanied by such documents, as the Department may require; and
 - (b) shall be made—
 - (i) in respect of field peas and field beans not later than the fifteenth day of March of the second year following the year of harvest of the crop from which the seed lot is obtained, and
 - (ii) in respect of all other seeds not later than the thirty-first day of December of the year following the year of harvest of the crop from which the seed lot is obtained,
- or, in either case, within such other time as the Department may allow.
- (7) The Department shall issue an official certificate in the circumstances described in paragraph (5) provided it is satisfied that—
- (a) the seed is the seed in respect of which the breeder’s confirmation was issued;

(a) S.I. 1982/844, as amended by S.I. 1985/1529, 1989/1314, 1990/1353, 1992/1615 and 1998/2726

(b) the breeder's confirmation has not been withdrawn pursuant to regulation 6A(3); and

(c) there is no reason why the breeder's confirmation should be withdrawn pursuant to regulation 6A(3).

(8) Schedule 2 shall not apply to an application for an official certificate made under paragraph (5).

(9) Where an official certificate is issued under paragraph (7) in respect of any seed, a person shall not market the seed unless it has been re-labelled with a label which complies with regulation 9.”.

(6) After regulation 6 (official certificates) there shall be inserted—

“*Breeder's confirmations*

6A.—(1) An application for the issue of a breeder's confirmation in respect of a seed lot—

(a) shall be made in writing by the breeder to the Department in such form and manner, and shall include such information, records, illustrations, material and seeds, as the Department may require;

(b) shall be made—

(i) in respect of field peas and field beans not later than the fifteenth day of March of the second year following the year of harvest of the crop from which the seed lot is obtained, and

(ii) in respect of all other seeds not later than the thirty-first day of December of the year following the year of harvest of the crop from which the seed lot is obtained,

or, in either case, within such other time as the Department may allow; and

(c) shall be made only for seed of a variety when an application has been made to add the variety to the National List (or to an equivalent list in another member State).

(2) Where an application for the issue of a breeder's confirmation is made to the Department in accordance with paragraph (1) the Department shall deal with the application in accordance with the provisions of Schedule 2A.

(3) A breeder's confirmation which has been issued by the Department may be withdrawn by it in respect of either the whole of a seed lot or any part of a seed lot and any seeds from which a breeder's confirmation has been so withdrawn shall be deemed not to have had a breeder's confirmation if—

(a) the results of an official examination of the seeds in respect of which the breeder's confirmation has been issued are deemed null and void in accordance with paragraph (2) of regulation 7, or

(b) information has been received by it which, if known to it before the breeder's confirmation was issued, would have resulted in the application for its issue being refused on the grounds that the seeds did not meet the requirements of the seeds regulations.”.

(7) After regulation 8 (sealing of packages) there shall be inserted—

“Sealing of packages — breeder’s confirmation

8A.—(1) A person shall not have in his possession any package of seed in respect of which a breeder’s confirmation for Breeder’s Seed, Pre-basic Seed or Basic Seed has been applied for unless it has been sealed in accordance with this regulation by or under the supervision of a person authorised by the Department in that behalf in such manner that when the package is opened the sealing device will be broken and cannot be re-used.

(2) Sealing under paragraph (1) shall take place not later than at the time of sampling or, in the case of seed that is wholly or partly re-packaged, the sealing of the original package shall take place no later than that time.

(3) A person shall not open a package of seed which has been sealed in accordance with paragraph (1) except—

(a) for the purpose of sowing all the seed;

(b) where—

(i) any action carried out in relation to the package is done immediately after opening;

(ii) some seed remains in the package after that action has been done; and

(iii) the package is re-sealed under paragraph (4) immediately after the completion of that action; or

(c) for the purpose of re-packaging and re-sealing all of the seed.

(4) If a package of seeds which has been sealed in accordance with paragraph (1) shall (in accordance with paragraph (3) or otherwise) have been opened neither it nor any other package containing any of those seeds may be sealed, re-sealed or further re-sealed (as the case may be) except by or under the supervision of a person authorised by the Department in that behalf.

(5) If the details on any label required by regulation 9A cease to be correct as a consequence of any action of the kind described in paragraph (3) the label shall be replaced, by or under the supervision of a person authorised by the Department in that behalf at the time the package is re-sealed under paragraph (4).”.

(8) After regulation 9(1) (labelling of packages) there shall be inserted—

“(1A) In the case of a package of seeds in respect of which the Department has issued an official certificate under regulation 6(7), paragraph (1) shall apply as if the words “not later than at the time of sealing” were omitted.”.

(9) After regulation 9 (labelling of packages) there shall be inserted—

“Labelling of packages — breeder’s confirmation

9A.—(1) A person shall not have in his possession any package of seed in respect of which a breeder’s confirmation for Breeder’s Seed,

Pre-basic Seed or Basic Seed has been applied for unless it has been, not later than the time of sealing under regulation 8A, labelled, inscribed or otherwise dealt with in accordance with paragraphs (2) to (9).

(2) Packages of seeds shall have affixed on the outside an official label containing, as appropriate to the seeds, particulars of the matters specified, and being at least the size and of the colour also specified in Part I of Schedule 6 and over-stamped “not certified”, which shall be either an adhesive label or a label secured to the package by a sealing device approved by the Department and shall be affixed (in either case) by or under the supervision of a person authorised by the Department in that behalf.

(3) If in accordance with paragraph 2 of Schedule 2A (applications for breeder’s confirmation) a breeder’s confirmation shall have been issued in respect of seed of a lower percentage of germination than that specified in Schedule 4 the fact shall be stated on the official label, or included in the particulars printed or stamped on the package in accordance with paragraph (4), and where possession of the package is transferred to another person, the transferor shall affix a label to the outside of the package containing a statement of the germination of the seeds together with his name and address and the reference number of the lot.

(4) Notwithstanding paragraphs (2) and (3), a package of seeds need not be labelled if—

- (a) the appropriate particulars of the matters specified in Part I of Schedule 6 are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified and over-stamped “not certified”, and
- (b) the requirements of Section A of Part IV of that Schedule are satisfied.

(5) A package shall contain an official inner label which shall be of the same colour as, and in addition to the official label affixed to the outside of the package in accordance with paragraph (2); and the official inner label shall contain particulars of the reference number of the lot and of the kind of seed and of the variety, except that if such particulars are printed indelibly on the outside of the package or if the official label is an adhesive or tear-resistant label an official inner label shall not be required.

(6) If a package of seeds shall have been re-sealed in accordance with regulation 8A(4) this fact shall be stated on the official label, together with the month and year of re-sealing and the name of the authority responsible for the re-sealing.

(7) If any seeds have been subjected to any chemical treatment this fact and the nature of the treatment or the proprietary name of the chemical used in the treatment shall be stated either—

- (a) on a separate label, or
- (b) on the label referred to in paragraph (2) or (3) or the printing or stamp referred to in paragraph (4),

purposes of official examination of a plot in accordance with paragraph 1 of Part I of Schedule 4, and where the seeds met the requirements set out in paragraph 3 of Part II of Schedule 4.

(2) Paragraph 2(c), in so far as it relates to standards of germination set out in Part II of Schedule 4, shall not apply in relation to the issue of a breeder's certificate for Breeder's Seed, Pre-basic Seed or Basic Seed in respect of seeds which attain a lower percentage of germination than that specified in Schedule 4.

4. An application under paragraph 2(a) shall be in writing in such form and manner as the Department may require and shall be accompanied by such information and records as it may require in order to satisfy itself as to the identity of the seed lot or lots or crop or crops to be registered.

5. The Department may refuse to issue a breeder's confirmation in respect of a seed lot if it appears to it—

- (a) a sample of the seed lot taken for the purpose of an official examination in order to ascertain whether the seed lot meets the appropriate standards set out in Part II of Schedule 4 has not been taken in accordance with the requirements contained in Schedule 5;
- (b) an official examination of a plot sown with a sample of the seed lot sown in the field shows that the crop does not meet the appropriate standards set out in Part I of Schedule 4; or
- (c) there has been a breach of seeds regulations in relation to the seed lot in respect of which application for a breeder's confirmation has been made.”.

(11) After Schedule 3 (particulars to be specified in an official certificate) there shall be inserted—

“SCHEDULE 3A Regulation 3(1)

Particulars to be specified in a Breeder's Confirmation

- (i) Name and address of issuing authority
- (ii) Applicant's name, address and registered number
- (iii) Seed lot reference number
- (iv) Kind/variety/category/standard*
- (v) Net weight of seed lot and number of containers
- (vi) Seed treatment (if applicable)
- (vii) Statement that the breeder's confirmation does not constitute an official certificate and does not permit marketing of the seed

* as appropriate”.

(12) For Schedule 4, Part I, paragraph 2 (varietal identity and varietal purity) there shall be substituted—

“2. The characteristics for the determination of varietal identity and varietal purity shall be—

- (a) in respect of an official certificate, those recognised as those of the variety for the purposes of the National List or the Common Catalogue; and
- (b) in respect of a breeder’s confirmation, those recognised as those of the variety used in testing for the purposes of the National List or an equivalent list in another member State.”.

Transitional provisions

4.—(1) Where the Department is satisfied in relation to a seed lot that —

- (a) it would issue an official certificate under regulation 6 of the principal Regulations were it not for the absence of an official certificate or a breeder’s confirmation in respect of an earlier generation of seed sown before the coming into operation of these Regulations from which the seed lot is derived; and
- (b) if these Regulations had been in operation at the time the earlier generation of seed was sown it would (on application having duly been made) have issued a breeder’s confirmation in respect of it,

it shall disregard the absence of such certificate or confirmation in deciding whether to issue an official certificate in respect of that seed lot.

(2) Where the Department is satisfied in relation to a seed lot that—

- (a) it would issue a breeder’s confirmation under regulation 6A of the principal Regulations were it not for the absence of a breeder’s confirmation in respect of an earlier generation of seed sown before the coming into operation of these Regulations from which the seed lot is derived; and
- (b) if these Regulations had been in operation at the time the earlier generation of seed was sown it would (on application having duly been made) have issued a breeder’s confirmation in respect of it,

it shall disregard the absence of such confirmation in deciding whether to issue a breeder’s confirmation in respect of that seed lot.

(3) Paragraph 2(a) of Schedule 2A to the principal Regulations (registration of seed lots) shall not apply in the case of an application for the issue of a breeder’s confirmation in respect of a seed lot produced from a crop or crops sown before the coming into operation of these Regulations, but without prejudice to regulation 6A(1)(a) of the principal Regulations (form of application etc.), the Department shall refuse to issue a breeder’s confirmation in respect of that seed lot unless it is satisfied—

- (a) as to the identity of—
 - (i) the seed lot or seed lots used for the production of the crop or crops from which the seed lot was obtained, and
 - (ii) the crop or crops from which the seed lot was obtained; and
- (b) that the crop or crops from which the seed lot was obtained was or were examined by it or on its behalf with a view to establishing

whether standards equivalent to those specified in Part I of Schedule 4 to the principal Regulations were met.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 3rd March 2000.

(L.S.)

Liam McKibben
Senior Officer of the
Department of Agriculture
and Rural Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Fodder Plant Seeds Regulations (Northern Ireland) 1994 (as amended) to provide for the issue to a breeder of a document called a breeder's confirmation in respect of seed in the categories Breeder's Seed, Pre-basic Seed and Basic Seed prior to the entry of that variety of seed on a United Kingdom National List (regulation 3(2) and (3)).

The Regulations provide that a breeder's confirmation is issued in similar circumstances to an official certificate (regulation 3(6), (10), (11) and (12)). However, seed in respect of which a breeder's confirmation is issued can not be marketed (regulation 3(4)).

The Regulations provide for similar sealing and labelling requirements for seed in respect of which a breeder's confirmation has been issued to those which apply to seed in respect of which an official certificate has been issued (regulation 3(7) and (9)).

The Regulations provide that once a variety has been entered on a National List a breeder's confirmation which is issued in respect of seed of that variety may be exchanged for an official certificate for that seed provided certain conditions are fulfilled. When the official certificate has been issued, the seed may be marketed provided it has been relabelled (regulation 3(5)(b) and (8)).

The Regulations include transitional provisions to provide that seed which would have satisfied the provisions of these Regulations if they had been in operation may be issued with an official certificate or breeder's confirmation, as appropriate (regulation 4).

The Regulations also—

- (a) revise the items which may be required to accompany an application for an official certificate (regulation 3(5)(a)); and
- (b) remove the requirement that seed in the category Breeder's Seed shall be produced in the United Kingdom (regulation 3(3)(a)(i)).

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