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STATUTORY RULES OF NORTHERN IRELAND

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**2009 No. 387**

**The Vegetable Seeds Regulations (Northern Ireland) 2009**

**PART 4**

Miscellaneous and supplemental provisions

**Civil liability of sellers of seeds**

**28.**—(1) Particulars given to a purchaser by the seller of seed in pursuance of these Regulations, whether given expressly or by implication arising from the description under which the seed is sold, shall constitute a statutory warranty for the purpose of section 4 of the Act in so far as they relate to the category of seed, the percentage germination of the seed, the percentage analytical purity of the seed, the content of seed of other plant species and the varietal identity and varietal purity of the seed or, in the case of a mixture of seed permitted by regulation 21, of each of its constituents to which these Regulations apply.

(2) Section 4 (2) of the Act shall apply to any particulars given to a purchaser by the seller of seed, being particulars given or implied as in paragraph (1), in so far as they relate to the percentage germination, the percentage analytical purity or the content of seed of other plant species and there are hereby prescribed in respect of such matters the limits of variation set out in Schedule 9.

(3) Section 4 (3) of the Act shall apply to any particulars given to a purchaser by the seller of the seed, being particulars given or implied as in paragraph (1), in so far as they relate to the percentage germination, the percentage analytical purity or the content of seed of other plant species.

(4) A purchaser who intends to obtain a test of seed for the purposes of section 4(3) of the Act shall, not more than ten days after delivery to him of the seed, give to the seller notice of that intention and thereupon the seller may indicate a day (not being more than twenty-one days after the delivery of the seed to the purchaser) and a reasonable time on that day at which a sample of the seed may be taken in the presence of the seller or the seller's representative and the purchaser shall afford to the seller reasonable facilities for that purpose.

(5) On the day and at the time appointed by the seller in accordance with paragraph (4) or, if the seller shall have failed to appoint such a day and time, on a day not more than twenty-eight days after delivery of the seed to the purchaser, the purchaser or the purchaser's representative may, and if the seller or the seller's representative is present shall, take a sample of seed.

(6) A sample taken in accordance with the requirements of paragraph (5) shall be taken and divided by the purchaser or his representative into two parts in accordance with the requirements contained in Schedule 5 of the Seed (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009, of which one part shall be sent to the chief officer of an official testing station for the purpose of being tested and the other part delivered or tendered to the seller or the seller's representative or, if the seller or the seller's representative was not present when the sample was taken, sent to him by post.

(7) Where a sample is taken in accordance with the requirements of paragraph (5) and divided into two parts in accordance with paragraph (6) each part of the divided sample shall be of at least the appropriate minimum weight specified in Schedule 7 (lots and sample weights) of these Regulations.

**Arrangements for official measures**

**29.**—(1) Subject to the following provisions of this regulation, the Department may make arrangements, in such form as it is of the opinion may be necessary or desirable, for the purpose of enabling any person to act under the Department's responsibility in carrying out official measures.

(2) The Department shall not make an arrangement under this regulation unless it is satisfied that it will make provision for the purpose of preventing the person with whom the arrangement is made, and any other person, from—

- (a) deriving any private gain from any official measures carried out under the arrangement, and
- (b) carrying out any official measures under the arrangement except under the supervision of the Department.

(3) An arrangement under this regulation may include such conditions as the Department is of the opinion are necessary or desirable for the purposes referred to in paragraphs (1) and (2) above, including conditions—

- (a) specifying—
  - (i) the official measures that the person with whom the arrangement is made shall carry out under it;
  - (ii) the species and category of seed in respect of which that person may carry out the official measures;
  - (iii) the methods to be used in connection with the official measures that person carries out under the arrangement;
  - (iv) the fees that may be charged by the person with whom the arrangement is made in relation to the official measures carried out under it; and
  - (v) the records that must be kept by the person with whom the arrangement is made in connection with the official measures carried out;
- (b) prohibiting the person with whom the arrangement is made from—
  - (i) carrying out the official measures except under official supervision, and
  - (ii) charging fees in relation to the official measures carried out under the arrangement except to the extent that these do not exceed the costs incurred in carrying them out; and
- (c) prohibiting the person with whom the arrangement is made from making any further arrangement for any purpose in connection with the carrying out of any of the official measures arranged with the Department, unless—
  - (i) the Department has first approved all the conditions of the further arrangement and the person with whom the arrangement was made has received the prior approval of the Department to make the further arrangement;
  - (ii) the further arrangement includes a condition prohibiting the making of any subsequent arrangements for any purpose in connection with the carrying out of any of the official measures in respect of which the Department made the arrangement;
  - (iii) the further arrangement includes an acknowledgement by the person with whom it is made that the Department may vary, suspend or revoke the further arrangement, whether or not it also varies, suspends or revokes the arrangement it made with the person seeking approval for the further arrangement; and
  - (iv) the further arrangement includes the conditions specified in sub-paragraphs (a) and (b).

(4) The Department shall not approve the making of a further arrangement by any person with whom it makes an arrangement under this regulation unless it is satisfied that the person with whom the further arrangement is to be made—

- (a) will not derive any private gain from any official measures that person is to be authorised to carry out under the further arrangement, and
- (b) will not carry out any official measures under the further arrangement except under official supervision.

(5) The Department may vary, suspend or revoke an arrangement or the conditions of an arrangement made under this regulation, or a further arrangement or any of the conditions of a further arrangement under this regulation, by giving notice to the person with whom the arrangement or further arrangement is made, and a further arrangement may be varied, suspended or revoked under this paragraph notwithstanding that the arrangement in respect of which it was made is not also varied, suspended or revoked.

(6) A notice of a variation, suspension or revocation of an arrangement or further arrangement, or of a condition of an arrangement or further arrangement, shall specify—

- (a) in respect of a variation or a revocation, a date on and after which the variation or revocation shall have effect, and
- (b) in respect of a suspension, a period during which suspension shall have effect, and the variation, suspension or revocation shall have effect in accordance with the notice.

(7) When a variation, suspension or revocation has effect the Department may, for any purpose in relation to these Regulations or a determination under these Regulations, continue to have regard to such of the official measures carried out under an arrangement which was varied, suspended or revoked as appear to the Department to be official measures carried out in accordance with the provisions of these Regulations.

## **Fees**

**30.**—(1) The Department may charge any person reasonable fees in respect of costs reasonably incurred by the Department in carrying out official measures for the purposes of these Regulations.

(2) The Department may charge any person concerned in any matter connected with these Regulations reasonable fees in respect of costs reasonably incurred by the Department in connection with that matter for the purposes of these Regulations, including the costs reasonably incurred by an officer authorised for the purposes of these Regulations by the Department in connection with—

- (a) the taking of samples in accordance with regulation 22;
- (b) the sealing of packages in accordance with regulations 23 and 24; and
- (c) the labelling of packages in accordance with regulation 25.

(3) A person carrying out official measures in accordance with an arrangement or further arrangement under regulation 29 may charge any person, including any other person with whom an arrangement or further arrangement has been made under regulation 29, reasonable fees in respect of costs reasonably incurred in carrying out official measures under the responsibility of the Department in accordance with these Regulations.

(4) All fees payable under these Regulations in connection with any application shall be payable—

- (a) at the time the application is made, or
- (b) with the agreement of the Department or a person carrying out official measures in accordance with an arrangement or further arrangement under regulation 29 (as the case may be), within twenty-eight days following notice from the Department or that person (as the case may be) demanding the fee payable in respect of such application.

(5) All other fees payable under these Regulations shall be payable within twenty-eight days following the issue of a notice under these Regulations demanding the payment of the fee.

(6) A fee charged in accordance with this regulation shall be recoverable as a debt from the person by whom the fee is payable.

### **Index of defined words and expressions**

**31.** Schedule 10 contains an index of defined words and expressions used in these Regulations.

### **Revocations and transitional provisions**

**32.**—(1) Subject to paragraph (3)—

- (a) the Vegetable Seeds Regulations (Northern Ireland) 1994<sup>(1)</sup>;
  - (b) the Vegetable Seeds (Amendment) Regulations (Northern Ireland) 1996<sup>(2)</sup>;
  - (c) the Vegetable Seeds (Amendment) Regulations (Northern Ireland) 2000<sup>(3)</sup>; and
  - (d) the Vegetable Seeds (Amendment) Regulations (Northern Ireland) 2001<sup>(4)</sup>,
- are revoked.

(2) Subject to paragraph (3)—

- (a) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 1997<sup>(5)</sup>;
  - (b) the Seeds (Fees) (No.2) Regulations (Northern Ireland) 2002<sup>(6)</sup>; and
  - (c) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 2008<sup>(7)</sup>,
- are revoked in relation to matters arising under the Vegetable Seed Regulations 1994.

(3) The provisions of these Regulations shall not apply to seed harvested on or before 31<sup>st</sup> December 2009 until 1<sup>st</sup> July 2010.

(4) Section 29 of the Interpretation Act (Northern Ireland) 1954<sup>(8)</sup> shall not apply in relation to general licences made under the Vegetable Seeds Regulations (Northern Ireland) 1994.

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(1) S.R. 1994 No. 250  
(2) S.R. 1996 No. 313  
(3) S.R. 2000 No. 56  
(4) S.R. 2001 No. 327  
(5) S.R. 1997 No. 240  
(6) S.R. 2002 No. 407  
(7) S.R. 2008 No. 114  
(8) 1954 c. 33