
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 244

The Seed Marketing Regulations (Northern Ireland) 2016

PART 1

Introduction

Title, application and commencement

1. These Regulations may be cited as the Seed Marketing Regulations (Northern Ireland) 2016; they apply in Northern Ireland and come into operation on 14th July 2016.

Meaning of “marketing”

2.—(1) In these Regulations “marketing” means the sale, holding with a view to sale, offer for sale or any disposal, supply or transfer aimed in each case at commercial exploitation of seed to third parties, whether or not for consideration and “market” and “marketing” shall be construed accordingly.

(2) But marketing does not include trade that is not aimed at commercial exploitation, such as—

- (a) the supply of seed to official testing and inspection bodies; or
- (b) the supply of seed to a person who provides processing or packaging services but who does not acquire title to the seed.

Interpretation of other terms

3.—(1) For the purposes of these Regulations—

- (a) “the Act” means the Seeds Act (Northern Ireland) 1965;
- (b) the “Common Catalogue” is the catalogue provided for in Council Directive [2002/53/EC](#) on the common catalogue of varieties of agricultural plant species ^{M1} and in Council Directive [2002/55/EC](#) on the marketing of vegetable seed;

[^{F1}(b1) “country granted equivalence” means a country that has been granted equivalence under Council Decision [2003/17/EC](#) on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries;

(b2) “Crown Dependency” means any of the Channel islands or the Isle of Man;]

(c) the “Department” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;

(d) the [^{F2}“NI Variety List” means the list of agricultural crop varieties prepared and published in accordance with the Seeds (Variety Lists) Regulations (Northern Ireland) 2020;]

(e) “the Tribunal” means the Plant Varieties and Seeds Tribunal established by the Plant Varieties Act 1997 ^{M2};

- (f) “wild oat” means plants of the species *Avena fatua*, *Avena sterilis* and *Avena ludoviciana*.
- (2) In these Regulations all references to—
- (a) Council Directive [2002/54/EC](#) on the marketing of beet seed ^{M3};
 - (b) Council Directive [66/402/EEC](#) on the marketing of cereal seed ^{M4};
 - (c) Council Directive [66/401/EEC](#) on the marketing of fodder plant seed ^{M5};
 - (d) Council Directive [2002/57/EC](#) on the marketing of seed of oil and fibre plants ^{M6};
 - (e) Council Directive [2002/55/EC](#) on the marketing of vegetable seed ^{M7};
 - (f) Commission Directive [2008/62/EC](#) providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties ^{M8};
 - (g) Commission Directive [2009/145/EC](#) providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties ^{M9};
 - (h) Commission Directive [2010/60/EU](#) providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment ^{M10}; and
 - (i) Council Decision [2003/17/EC](#) on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries ^{M11};

are references to those instruments as amended from time to time.

Textual Amendments

- F1** [Reg. 3\(b1\)\(b2\)](#) substituted for [reg. 3\(b1\)](#) (31.12.2020) by virtue of [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), [regs. 1\(1\), 40](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F2** Words in [reg. 3\(1\)\(d\)](#) substituted (31.12.2020) by [The Seeds \(Variety Lists\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/302\)](#), [regs. 1, 26\(1\)\(a\)](#)

Marginal Citations

- M1** OJ No L 193, 20.7.2002, p. 1, as amended by Regulation (EC) No 1829/2003 (OJ No L 268, 18.10.2003, p. 1).
- M2** 1997, c. 66, section 42.
- M3** OJ No L 193, 20.7.2002, p. 12, as last amended by Council Directive 2004/117/EC (OJ No L 14, 18.1.2005, p. 18).
- M4** OJ No L 125, 11.7.1966, p. 2309, as last amended by Commission Implementing Directive (EU) 2015/1955 (OJ No L 284, 30.10.2015, p.142)
- M5** OJ No L 125, 11.7.1966, p. 2298, as last amended by Commission Implementing Directive 2012/37/EU (OJ No L 325, 23.11.2012, p. 13)
- M6** OJ No L 193, 20.7.2002, p. 74, as last amended by Commission Implementing Directive 2013/45/EU (OJ No L 213, 8.8.2013, p. 20)
- M7** OJ No L 193, 20.7.2002, p. 33, as last amended by Commission Implementing Directive 2013/45/EU (OJ No L 213, 8.8.2013, p. 20)
- M8** OJ No L 162, 21.6.2008, p.13

- M9** OJ No L 312, 27.11.2009, p.44
M10 OJ No L 228, 31.8.2010, p. 10
M11 OJ No L 8, 14.1.2003, p. 10, as last amended by Council Regulation (EU) No 517/2013 (OJ No L 158, 10.6.2013, p. 1)

PART 2

Categories of seed

Seed to which these Regulations apply

4.—(1) These Regulations apply in relation to seed of the plants in the first column of the table in Schedule 1 intended to be used for agricultural or horticultural production, but do not apply in relation to seed intended to be used for ornamental plants.

[^{F3}(2) They do not apply—

- (a) in relation to cereal seed, vegetable seed, beet seed and oil and fibre plant seed intended for export outside the European Union; or
- (b) in relation to fodder seed intended for export outside the United Kingdom.]

Textual Amendments

- F3** Reg. 4(2) substituted (31.12.2020) by [The Seed Marketing and Fertilisers \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/319\)](#), regs. 1, **3(b)**

Categories of seed

5. Seed is divided into the following categories, commonly known by the abbreviations given—
- (a) breeder's seed (“BR”);
 - (b) pre-basic seed (“PB”);
 - (c) basic seed (“BS”);
 - (d) certified seed (“CS”);
 - (e) certified seed, first generation (“C1”);
 - (f) certified seed, second generation (“C2”);
 - (g) certified seed, third generation (“C3”);
 - (h) commercial seed (“CM”);
 - (i) standard seed (vegetables only) (“ST”);
 - (j) seed of a higher voluntary standard (“HVS”).

Breeder's seed

6. Breeder's seed is seed produced by or under the responsibility of the breeder and intended for the production of pre-basic or basic seed.

Maintainers for pre-basic and basic seed

7. Pre-basic seed and basic seed may only be produced with the written authorisation of the person listed as the maintainer of that seed in the [^{F4}NI Variety List] or [^{F5}an equivalent list in a country referred to in the Annex to Council Decision 2005/834/EC on the equivalence of checks on practices for the maintenance of varieties carried out in certain third countries].

Textual Amendments

- F4** Words in reg. 7 substituted (31.12.2020) by The Seeds (Variety Lists) Regulations (Northern Ireland) 2020 (S.R. 2020/302), regs. 1, 26(1)(b)
- F5** Words in reg. 7 substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), 42; 2020 c. 1, Sch. 5 para. 1(1)

PART 3

Marketing seed

Marketing seed

8.—(1) Subject to paragraph (2), seed to which these Regulations apply may only be marketed as seed if it is—

- (a) certified under regulation 10 and 11 as being one of the categories in regulation 5;
- (b) packaged and sealed in accordance with regulation 16; and
- (c) labelled in accordance with regulation 17;

(2) Subject to regulation 27, seed to which this paragraph applies may only be marketed as seed if it is—

- (a) [^{F6}fodder] seed which has been certified in another part of the United Kingdom;
- [^{F7}(b) seed which has been imported from a European Single Market State and—
 - (i) is of a variety listed in the National List or the Common Catalogue except the vegetable seed of the species listed in Council Directive 2002/55/EC produced in Switzerland;
 - (ii) is officially certified, in compliance with the requirements set out in EU law, including those measures referred to in regulation 3(2)(a) to (e) and (i); and
 - (iii) has been imported into Northern Ireland before the end of the period of two years beginning with the day after the day on which exit day falls.]
- (c) [^{F8}cereal seed, vegetable seed, beet seed and oil and fibre plant seed which] has been imported from [^{F9}a country with equivalence], and is—
 - (i) seed of the species specified in Annex I to the decision and has been produced in the third countries listed in that Annex and officially certified by the authorities listed in that Annex; and
 - (ii) satisfies the conditions laid down in point B of Annex II to that Decision.

(3) No person shall market any seed to which these Regulations apply unless they are licensed to do so in accordance with regulation 20.

Textual Amendments

- F6** Word in [reg. 8\(2\)\(a\)](#) inserted (31.12.2020) by [The Seed Marketing and Fertilisers \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/319\)](#), regs. 1, **3(c)(i)**
- F7** [Reg. 8\(2\)\(b\)](#) substituted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), regs. 1(1), **43(a)** (as amended by [S.I. 2019/820](#), regs. 1(1), 5(5)); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in [reg. 8\(2\)\(c\)](#) substituted (31.12.2020) by [The Seed Marketing and Fertilisers \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/319\)](#), regs. 1, **3(c)(ii)(aa)**
- F9** Words in [reg. 8\(2\)\(c\)](#) substituted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), regs. 1(1), **43(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Exceptions

- 9.**—(1) The requirement for certification does not apply in relation to breeder's seed.
- (2) Schedule 4 makes provision for the marketing of seed not fully complying with regulation 8.

Overriding requirements: the building blocks necessary for certification

- 10.** To be certified under these Regulations as one of the categories in regulation 5 seed must—
- (a) be a ^{F10}variety—
- (i) entered in the ^{F11}NI Variety List; or
- (ii) entered in the Common catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls;]
- (b) be grown from a seed eligible to produce that category in accordance with Schedule 2;
- (c) come from a crop inspected under these Regulations and certified as complying with the requirements of Schedule 2; and
- (d) be tested in accordance with these Regulations.

Textual Amendments

- F10** Words in [reg. 10\(a\)](#) substituted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), regs. 1(1), **44**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in [reg. 10\(a\)](#) substituted (31.12.2020) by [The Seeds \(Variety Lists\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/302\)](#), regs. 1, **26(1)(b)**

Detailed requirements for certification

11.—(1) In order to be certified a sample of the seed from which the crop is going to be produced must be entered with the Department in sufficient time for the Department to grow a control plot.

(2) The Department may accept the entry of a sample of the seed after this time, but in this case the crop grown to produce the seed must be inspected by an official crop inspector in accordance with regulation 12.

(3) The crop used to produce the seed must be inspected by a crop inspector in accordance with the provisions relating to that crop in Schedule 2, and the crop inspector must certify that—

- (a) the crop meets the standard for that crop specified in Schedule 2; or

(b) the crop meets a lower standard but still meets one of the standards in Schedule 2, and lodge a report to that effect with the Department.

(4) The crop inspector may indicate that remedial action or further inspection is necessary before the crop is certified as meeting the required standard.

(5) Once the crop has been harvested and processed, a sample of the seed must be drawn by a licensed seed sampler (using current international sampling methods in so far as they exist) in accordance with the provisions relating to that crop in Schedule 2 (for the avoidance of doubt the seed lot sizes and sample weights are specified in each of the Directives in the Schedule dealing with the seed).

(6) The seed must be tested in a seed testing station (either licensed or operated by the Department), which must test the seed (using current international sampling and testing methods in so far as they exist) to ensure that the certification standards in Schedule 2 are complied with, and issue a seed test report stating the results and lodge the report with the Department.

(7) An application for certification of seed for which a seed test report has been lodged under paragraph (6), must be made to the Department—

- (a) within 30 days of the seed test report being lodged or within such time as the Department may otherwise allow; and
- (b) be accompanied by such information and documents as the Department may require.

Crop inspections

12. A crop inspection for certification must be carried out by a licensed crop inspector; except for the inspection of—

- (a) a crop intended for the production of pre-basic or basic seed; or
- (b) a crop producing seed when the entry of seed under regulation 11 was too late to allow the Department to grow a control plot,

when the inspection must be carried out by an official crop inspector appointed by the Department for the purpose of such an inspection.

Standard of seed at the time of marketing

13. At the time of marketing the seed must as a minimum comply with the standards in Schedule 2 relating to that type of seed.

Re-grading of seed at the time of marketing

14. For the avoidance of doubt, if a crop or seed has been certified as belonging to one category, but complies with the minimum requirements of another category for that seed, it may be re-graded as any category for which it satisfies the requirements.

Control plots and tests

15.—(1) The Department must carry out any necessary tests on the entered seed, and in particular must grow the seed in a control plot.

(2) If the tests or the control plot meets the requirements for varietal identity and varietal purity no further action is taken.

(3) Otherwise the Department must obtain more information from crops grown from that seed and, if the Department decides that the crop is not satisfactory, notify the applicant that the crop may not be certified, or must be downgraded to a lower category.

Packaging and sealing

16.—(1) All seed, other than loose sales (for which see Part 5 of Schedule 3), must be supplied in a properly sealed package by a person licensed to do so under regulation 20.

(2) The packaged seed must be in homogenous lots.

(3) A package must be sealed by or under the supervision of a licensed seed sampler.

(4) It must either have a non-re-usable sealing system or be sealed in such a manner that opening the package—

(a) damages the sealing system; or

(b) leaves evidence of tampering on either the label or the package.

(5) If a package is opened other than by the final consumer it must be re-labelled and re-sealed by or under the supervision of a licensed seed sampler, and the fact of resealing, the most recent date of resealing and the authority responsible for it must be stated on the label.

(6) This regulation does not apply in relation to the marketing of small packages of seed as defined in Schedule 3.

Labelling

17.—(1) All seed must be labelled in accordance with Schedule 3 by a person licensed to do so under regulation 20.

(2) Subject to the provisions of the Act and of these Regulations, no person may reproduce, remove, alter, deface, conceal or misuse in any way any label produced for the purpose of these Regulations.

Mixtures of seed

18. A mixture of seed may only be marketed if the mixture is permitted under the following table.

Permitted mixtures

<i>Column header</i>	<i>Beet</i>	<i>Cereals</i>	<i>Fodder</i>	<i>Oil and fibre</i>	<i>Vegetable</i>	<i>Seed outside the scope of these Regulations</i>
Beet	No	No	No	No	No	No
Cereals	No	Yes ¹	Yes	No	No	No
Fodder	No	Yes	Yes	Yes	Yes	Yes
Oil and fibre	No	No	Yes	No	No	No
Vegetable	No	No	Yes	No	Yes ²	No

¹ A mixture of varieties of one species of cereal seed is permitted only if it is effective against the propagation of a harmful organism. All the seed must comply with these Regulations before mixing.

² A mixture of different varieties of standard seed of the same species must be marketed in a package containing not more than 5 kilograms of seed (in the case of legumes), 500 grams of seed (in the case of asparagus, beetroot, carrot, chard or spinach beet, gourd, marrow, onion, radish, spinach or turnip) or 100 grams of seed (in the case of any other species).

Records

19.—(1) any person who—

- (a) markets seed;
- (b) packs, seals, labels, re-packs, re-seals or re-labels seed for marketing;
- (c) prepares mixtures of seed for marketing; or
- (d) cleans, treats or in any other way processes seed intended for marketing,

must make sufficient records (either written or electronic) to create an audit trail so that the identity and provenance of any seed marketed or otherwise dealt with in the course of the operation can be established.

(2) Records must be kept for at least 3 years and produced on demand to an officer of the Department (in the case of electronic records a printout must be provided).

PART 4

Licensing

Operations requiring a licence from the Department

20.—(1) Any person carrying out any of the following operations must be licensed to do so by the Department—

- (a) marketing seed;
- (b) packing, sealing or labelling seed;
- (c) re-packing, re-sealing or re-labelling seed;
- (d) preparing mixtures of seed for marketing; or
- (e) cleaning, treating or in any other way processing seed intended for marketing.

(2) But the requirement for a licence does not apply in relation to the marketing of—

- (a) small packages of seed as defined in Schedule 3;
- (b) unpacketed seed; or
- (c) seed as grown, for processing, provided the identity of the seed is ensured under paragraph 2 of Schedule 4.

(3) The Department may license any person to carry out any of the operations in paragraph (1), if it is satisfied the person—

- (a) is competent to carry out such operations;
- (b) has adequate premises or equipment for the purposes of carrying out those operations; and
- (c) has sufficient knowledge and qualifications for the purposes of carrying out those operations.

Licensing crop inspectors, seed samplers and seed testing stations

21.—(1) The Department may license crop inspectors, seed samplers and seed testing stations to act under these Regulations.

(2) Before licensing a crop inspector or seed sampler the Department must be satisfied that the person is competent to act as such, and has passed an examination specified by the Department.

(3) Before licensing a seed testing station the Department must be satisfied that the station has adequate premises, qualified personnel and equipment to test for the purposes of these Regulations.

(4) A licensed crop inspector, seed inspector or seed testing station may charge reasonable fees for carrying out functions under these Regulations but may not derive any private gain in connection with the carrying out of such functions.

Licences for temporary experiments

[^{F12}22.—(1) The Department may by licence exempt any person or class of person from compliance with any provision of these Regulations for the purpose of a temporary experiment—

(a) organised under—

(i) Article 19 of Council [Directive 2002/54/EC](#) on the marketing of beet seed;

(ii) Article 13a of Council [Directive 66/402/EEC](#) on the marketing of cereal seed;

(iii) Article 16 of Council [Directive 2002/57/EC](#) on the marketing of seed of oil and fibre plants;

(iv) Article 33 of Council [Directive 2002/55/EC](#) on the marketing of vegetable seed; or

(b) in the case of fodder seed, seeking improved alternatives to provisions of these Regulations organised in accordance with regulations made under section 2(4) of the Seeds Act (Northern Ireland) 1965.

(2) The duration of an experiment shall not exceed 7 years.]

Textual Amendments

F12 Reg. 22 substituted (31.12.2020) by [The Seed Marketing and Fertilisers \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/319\)](#), regs. 1, **3(d)**

General provisions relating to licences

23.—(1) A licence, under regulations 20, 21 or 22 must be in writing, and may be subject to such conditions as the Department considers appropriate.

(2) Subject to paragraph (3), the Department may vary, suspend or revoke a licence by notice in writing at any time.

(3) Where the Department proposes to vary, suspend or revoke a licence it shall—

(a) give the person concerned notice in writing stating what the Department is proposing to do and the reasons for it;

(b) inform the person concerned of his right to make representations to the Department and of the manner in which, and the time (not being less than 21 days from the giving of the notice) within such representations may be made; and

(c) not proceed with its proposed course of action until the period allowed for making representations has passed.

(4) The Department shall consider any representations made before giving the person concerned notification of its decision together with the reasons for that decision and, where appropriate the date from which the decision has effect.

(5) A notification under paragraph (4) shall inform the person concerned of—

(a) his right to appeal to the Tribunal against the Department's decision; and

(b) the time within such an appeal may be brought.

PART 5

Administration and revocations

Withdrawing certification

24.—(1) The Department may withdraw certification from any seed if satisfied that—

- (a) the seed, or the seed from which the crop producing the seed was grown, was incorrectly sampled;
- (b) the crop from which the seed was harvested did not meet the conditions in Schedule 2; or
- (c) the seed—
 - (i) did not meet the conditions in Schedule 2 when it was tested; or
 - (ii) no longer meets those conditions.

(2) The Department may draw a sample (using current international sampling methods insofar as they exist), for the purpose of paragraph (1)(c)(ii).

(3) If certification is withdrawn the Department must notify the certification applicant.

(4) Within 7 days of being notified the certification applicant must notify any person to whom they have sold or supplied the seed.

(5) Any person, other than the certification applicant who has purchased seed, for which official certification has been withdrawn must notify any person to whom any of the seed has been sold or supplied as soon as practicable after receiving notice of the withdrawal.

Sampling for enforcement purposes

25.—(1) A sample of seed taken for the purposes of enforcing these Regulations must be taken by an authorised officer of the Department, who must divide it into three parts.

(2) One part must be given to the owner of the seed (or a representative of the owner) and the other two parts must be sent to an official testing station, one for testing and the other for retention pending production to a court in accordance with section 9(7) of the Act.

Forms of certificates used for enforcement

26.—(1) For the purposes of section 9(3) of the Act, a certificate of how a sample was taken for the purpose of enforcing these Regulations must—

- (a) make reference to these Regulations and must certify that the sample was taken and treated in accordance with regulation 25;
- (b) specify—
 - (i) the name and address of the person taking the sample;
 - (ii) the premises at which the sample was taken;
 - (iii) the species, variety and category of seed sampled;
 - (iv) the date the sample was taken;
 - (v) the reference number of the seed lot; and
 - (vi) the quantity sampled.

(2) For the purposes of section 7(3) of the Act, a certificate of the result of a test at an official seed testing station of a sample taken by an authorised officer for the purposes of that Act must—

- (a) make reference to these Regulations;

- (b) identify the seed tested; and
- (c) contain all test results relating to the standard required for that seed.

[^{F13}Certification for export

26A. The Department may certify the quality of seed intended for export.]

Textual Amendments

F13 Reg. 26A inserted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), 46; 2020 c. 1, Sch. 5 para. 1(1)

Imported seed

27.—[^{F14}(1) In the case of—

- (a) cereal seed, vegetable seed, beet seed and oil and fibre plant seed, which has been imported into Northern Ireland from outside the European Union; and
- (b) fodder seed, which has been imported into Northern Ireland from outside the United Kingdom,

the seed must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.]

[^{F15}(1A) But seed imported from a European Single Market State before the end of 2 years beginning with the day after the day on which exit day falls, may be labelled with an official label issued in accordance with the relevant requirements in the Directive relating to that seed.]

(2) If the seed is to be further multiplied the person intending to multiply it must first submit a sample to the Department for verification.

(3) Any person marketing seed that has been imported and exceeds 2 kilograms must supply the Department, in writing and within one month of the first marketing of the seed, with the following particulars relating to the seed—

- (a) the species;
- (b) the variety;
- (c) the category;
- (d) the country of production and the official inspection authority;
- (e) the country of dispatch;
- (f) the importer; and
- (g) the quantity of seed.

(4) Cereal seed to which these regulations apply, which have been imported may only be marketed in Northern Ireland if accompanied by a document stating—

- (a) that the seed has been produced from a crop which has been found to be free of plants of wild oat at the time of an official examination and that in addition a 1 kilogram sample of seed (drawn using current international sampling methods in so far as they exist), has been found to be free from seed of wild oat at the time of an official examination; or
- (b) that a 3 kilogram sample of the seed (drawn using current international sampling methods in so far as they exist) has been found to be free from seed of wild oat at an official examination.

- (5) In relation to seed to which paragraph (4) applies—
- (a) the Department may draw a sample (using current international sampling methods in so far as they exist), for the purpose of revealing the presence of wild oat;
 - (b) where a sample drawn pursuant to sub-paragraph (a) is found to contain wild oat the seed lot or part thereof represented by that sample must not be marketed in Northern Ireland.

Textual Amendments

- F14** Reg. 27(1) substituted (31.12.2020) by The Seed Marketing and Fertilisers (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/319), regs. 1, 3(e)
- F15** Reg. 27(1A) inserted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), 47(b); 2020 c. 1, Sch. 5 para. 1(1)

Appeals

28.—(1) Subject to paragraphs (2) and (3), a person aggrieved by a decision of the Department to—

- (a) vary, suspend, revoke or refuse to grant a licence of a crop inspector, seed sampler, seed testing station or a person requiring a licence under regulation 20;
- (b) refuse to certify seed; or
- (c) withdraw certification of seed,

may, within 30 days of being notified of that decision, appeal against it to the Tribunal.

(2) There shall be no right of appeal to the Tribunal where the Department has—

- (a) refused to grant or vary a licence; or
- (b) varied, suspended or revoked a licence,

for the sole reason that the applicant or licence holder has failed to pass an examination which was required to be undertaken and passed as a condition of the licence.

(3) The Department may extend the time for bringing an appeal, but no appeal shall in any event be brought more than one year after a person is notified of that decision.

Civil liability of sellers of seeds

29.—(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 warranty for the purpose of section 4 of the Act.

(2) Section 4(2) 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 limits of variation for percentage germination, percentage analytical purity or content of seed of other species prescribed, in respect of such matters.

(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, percentage analytical purity or content of seed of other species.

(4) A purchaser who intends to obtain a test of seed for the purposes of section 4(3) of the Act must, not more than 10 days after delivery of the seed, give the seller notice of that intention and thereupon the seller may indicate a day, not being more than 21 days after delivery of the seed to the

purchaser, and a reasonable time on that day, for a sample to be taken in the presence of the seller or the seller's representative.

(5) On the day and time appointed by the seller in accordance with paragraph (4) or, if the seller fails to appoint a day and time, the purchaser or the purchaser's representative may, on a day not more than 28 days after delivery of the seed, take a sample.

(6) A sample, drawn using current international sampling methods in so far as they exist, must be taken and divided, by the purchaser or his representative into two parts of which one shall be sent to an official testing station for the purposes of being tested and the other part delivered to the seller or the seller's representative.

(7) Where a sample is divided into two parts, in accordance with paragraph (6) each part of the divided sample shall be of at least the minimum weight required for certification under Schedule 2.

Arrangements for official measures

30.—(1) The Department may make arrangements for the purpose of enabling any person to act under the Department's responsibility in carrying out official measures.

(2) 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 paragraph (1).

(3) The Department must not make an arrangement under this regulation unless it is satisfied that provision is made 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.

(4) Subject to paragraph (5) the Department may approve for the person with whom an arrangement is made under this regulation, to make a further arrangement for any purpose in connection with the carrying out of the official measures arranged with the Department.

(5) The Department must not approve the making of a further arrangement by any person with whom it makes an arrangement under this regulation unless the further arrangement—

- (a) includes a condition prohibiting the making of any subsequent arrangement for any purpose in connection with the carrying out of any official measures in respect of which the Department made the arrangement;
- (b) includes a provision that the Department may vary, suspend or revoke the further arrangement; and
- (c) includes the conditions specified in sub-paragraphs (3)(a) and (b).

(6) The Department may vary, suspend or revoke an arrangement, or the conditions of an arrangement made under this regulation by giving notice in writing to the person with whom the arrangement is made.

Fees

31. The Department may charge a reasonable fee for anything done under these Regulations.

[^{F16}Marketing seed under a specific derogation

31A. In order to remove any temporary difficulties in the general supply of seed, the Department may permit, temporarily the marketing of seed not satisfying the requirements of minimum germination specified in Schedule 2 for the relevant species of seed.]

Textual Amendments

- F16** Reg. 31A inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), regs. 1(1), **48**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F17}Marketing seed under a specific derogation

31A. The Department acts as the Member State for the purposes of Commission Regulation (EC) No 217/2006 laying down rules for the application of Council Directives [66/401/EEC](#), [66/402/EEC](#), [2002/54/EC](#), [2002/55/EC](#) and [2002/57/EC](#) as regards the authorisation of Member States to permit temporarily the marketing of seed not satisfying the requirements in respect of the minimum germination]

Textual Amendments

- F17** Reg. 31A inserted (28.12.2020) by [The Seed Marketing \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/301\)](#), regs. 1, **2(2)** (as amended by [S.R. 2020/322](#), regs. 1, **2**)

Confidentiality

32. If the breeder so requests, the description of genealogical components of seed must not be disclosed by the Department.

Licensing in another part of the United Kingdom

33. A crop inspector, seed sampler or seed testing station licensed to act as such in another part of the United Kingdom may act as such under these Regulations.

[^{F18}Certification in a Crown Dependency

33A. Any seed certified and labelled in a Crown Dependency under legislation recognised by the Department to have equivalent effect to these Regulations may be marketed in Northern Ireland.

Textual Amendments

- F18** Regs. 33A, 33B inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), regs. 1(1), **49**; 2020 c. 1, Sch. 5 para. 1(1)

Transitional provision for official labels on exit day

33B. For the purposes of regulation 17 and paragraphs 7(1)(a) and 8(1)(a) of Schedule 3, an official label, pre-printed before exit day, containing the statement “EU rules and standards” may be used as an official label before the end of the period of two years beginning with the day after the day on which exit day falls.]

Textual Amendments

- F18** Regs. 33A, 33B inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), regs. 1(1), 49; 2020 c. 1, Sch. 5 para. 1(1)

Transitional provisions

34.—(1) A crop inspector, seed sampler or seed testing station licensed at the time these Regulations come into force under the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009^{M12} continues to be licensed as such under these Regulations.

(2) A person requiring to be licensed under regulation 20 of these Regulations who was registered at the time these Regulations come into force to carry out such operations under the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009 is now licensed to act as such under these Regulations subject to such conditions as may be notified by the Department, and continues to be licensed unless the licence is subsequently suspended or revoked by the Department under these Regulations.

Marginal Citations

- M12** S.R. 2009 No. 388, as amended by S.R. 2014 No. 295

Amendments and revocations

35.—(1) The Seeds (Fees) (No. 2) Regulations (Northern Ireland) 2002^{M13} are amended as follows—

- (a) in regulation 2(1) (fees) for “Regulations referred” to “Schedules opposite” substitute “ Seed Marketing Regulations (Northern Ireland) 2016 the fees set out in Column (3) of Schedules 1 to 6 opposite ”;
- (b) for the heading of Schedule 1, substitute “ MATTERS ARISING IN RESPECT OF CEREAL SEEDS ”;
- (c) paragraph F of Schedule 1 is omitted;
- (d) for the heading of Schedule 2, substitute “ MATTERS ARISING IN RESPECT OF FODDER PLANT SEEDS ”;
- (e) paragraph E of Schedule 2 is omitted;
- (f) for the heading of Schedule 3, substitute “ MATTERS ARISING IN RESPECT OF OIL AND FIBRE PLANT SEEDS ”;
- (g) for the heading of Schedule 4, substitute “ MATTERS ARISING IN RESPECT OF BEET SEEDS ”;
- (h) for the heading of Schedule 5, substitute “ MATTERS ARISING IN RESPECT OF VEGETABLE SEEDS ”;
- (i) for the heading of Schedule 6, substitute “ MATTERS ARISING IN RESPECT OF LICENSING ”; and
- (j) sub-paragraph A(ii) of Schedule 6 is omitted.

(2) The following are revoked—

- (a) the Cereal Seeds Regulations (Northern Ireland) 2009^{M14};

- (b) the Beet Seeds Regulations (Northern Ireland) 2009 ^{M15};
- (c) the Fodder Plant Seeds Regulations (Northern Ireland) 2009 ^{M16};
- (d) the Oil and Fibre Plant Seeds Regulations (Northern Ireland) 2009 ^{M17};
- (e) the Vegetable Seeds Regulations (Northern Ireland) 2009 ^{M18};
- (f) the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009 ^{M19};
- (g) the Vegetable Seeds (Amendment) Regulations (Northern Ireland) 2011 ^{M20};
- (h) the Fodder Plant Seeds (Amendment) Regulations (Northern Ireland) 2011 ^{M21};
- (i) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 2013 ^{M22}; and
- (j) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 2014 ^{M23}.

Marginal Citations

- M13** S.R. 2002 No. 407, as amended by S.R. 2005 No. 40
- M14** S.R. 2009 No. 383
- M15** S.R. 2009 No. 384
- M16** S.R. 2009 No. 385
- M17** S.R. 2009 No. 386
- M18** S.R. 2009 No. 387
- M19** S.R. 2009 No. 388
- M20** S.R. 2011 No. 38
- M21** S.R. 2011 No. 397
- M22** S.R. 2013 No. 304
- M23** S.R. 2014 No. 295

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 23rd June 2016

L.S.
Department of Agriculture, Environment and
Rural Affairs

Dave Foster
A senior officer of the

Changes to legislation:

There are currently no known outstanding effects for the The Seed Marketing Regulations (Northern Ireland) 2016.