
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 328

SEEDS

The Cereal Seed (Scotland) Regulations 2005

<i>Made</i>	- - - - -	<i>8th June 2005</i>
<i>Laid before the Scottish Parliament</i>	- - - - -	<i>9th June 2005</i>
<i>Coming into force</i>	- -	<i>1st July 2005</i>

The Scottish Ministers, in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4) and (5) and 36 of the Plant Varieties and Seeds Act 1964⁽¹⁾ 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, hereby make the following Regulations:

PART I
GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Cereal Seed (Scotland) Regulations 2005, and shall come into force on 1st July 2005.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

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

“AFP number” means the official application for protection number issued by the Plant Variety Rights Office;

“Annex V(C) document” means a document of the type specified in the second indented sub paragraph of the first paragraph of Article 15(2) (packing and labelling of not yet finally certified seed harvested in another EEA State or third country) of the Cereal Seed Directive containing the particulars specified in Part C (document to be provided in the case of not yet

⁽¹⁾ 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 were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

finally certified seed harvested in another EEA State or third country) of Annex V of that Directive issued by the relevant competent seed certification authority;

“barley” means plants of the species specified in column 2 of Schedule 1 in relation to barley;

“blended seed lot” means a seed lot obtained by mixing seed where–

- (a) the seed that goes into the seed lot–
 - (i) is of the same variety;
 - (ii) has come from different sources; and
 - (iii) either–
 - (aa) is fully certified seed;
 - (bb) is not fully certified seed, but is seed which has been harvested from seed crops for which official field inspection reports have been issued showing that the relevant crops met the conditions for the relevant category of seed specified in Part I of Schedule 4 or Annex I (crop conditions) of the Cereal Seed Directive; or
 - (cc) is made up of seed which falls within sub paragraph (aa) and seed which falls within sub paragraph (bb); and
- (b) a National Authority has been notified that the seed which goes into the seed lot is intended to be included in a blended seed lot;

“breeder”–

- (a) in relation to a variety which has not been accepted on to a UK National List or the Common Catalogue, includes any person lawfully multiplying (on their own account) seed bred by another; and
- (b) in relation to a variety which has been so accepted, means the person who is indicated in the relevant UK National List or in the Common Catalogue as responsible for maintaining the plant variety in accordance with the characteristics to which regard was had when the plant variety was accepted on to the relevant UK National List or Common Catalogue;

“breeder’s confirmation” means a document issued by the Scottish Ministers in accordance with Part II of Schedule 2 containing in respect of the seed to which it relates the particulars specified in paragraph 2 of Schedule 3;

“breeder’s designation” means the title, name or other designation proposed by a breeder for a new plant variety which is the subject of an application for acceptance on to a UK National List;

“bulked seed lot” means a seed lot obtained by mixing seed where–

- (a) the seed that goes into the seed lot is–
 - (i) of the same variety;
 - (ii) has come from different sources; and
 - (iii) has been harvested from seed crops for which official field inspection reports have been issued showing that the relevant crops met the conditions for the relevant category of seed specified in Part I of Schedule 4 or Annex I (crop conditions) of the Cereal Seed Directive; and
- (b) a National Authority has been notified that the seed which goes into the seed lot is intended to be included in a bulked seed lot;

“the Cereal Seed Directive” has the same meaning as it has in Schedule 9;

“Common Catalogue” means the Common Catalogue of varieties of species of agricultural plants published in the Official Journal of the European Communities;

“the Common Catalogue Directive” means Council Directive [2002/53/EC](#)(2) on the common catalogue of varieties of agricultural plant species, as amended by the Food and Feed Regulation;

“component” means–

- (a) in the case of Pre basic Seed, a component used in the production of a hybrid variety; and
- (b) in the case of Basic Seed, a component of a hybrid variety;

“constituent” means seed of a single species and, where appropriate, variety, which forms part of a mixture of seeds;

“control plot” means a plot sown by a European Authority with seed from a submitted sample taken–

- (a) by a European Authority; or
- (b) by a licensed seed sampler;

“the 1990 Deliberate Release Directive” means Council Directive [90/220/EEC](#)(3) on the deliberate release into the environment of genetically modified organisms, as amended by Commission Directive [94/15/EC](#)(4) and Commission Directive [97/35/EC](#)(5);

“the 2001 Deliberate Release Directive” means Directive [2001/18/EC](#) of the European Parliament and of the Council(6) on the deliberate release into the environment of genetically modified organisms and repealing Council Directive [90/220/EEC](#), as amended by Commission Decision [2002/623](#)(7), the Food and Feed Regulation and Regulation (EC) No. [1830/2003](#) of the European Parliament and of the Council(8);

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

“durum wheat” means plants of the species specified in column 2 of Schedule 1 in relation to durum wheat;

“early movement seed” means seed marketed under regulation 12;

“EEA State” means a Member State, Norway, Iceland or Lichtenstein;

“Equivalence Decision” means Council Decision [2003/17/EC](#)(9) 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, as amended by Council Decision [2003/403/EC](#)(10) and Council Regulation (EC) No. [885/2004](#)(11);

“European Authority” means a National Authority or a competent seed certification authority of an EEA State other than the United Kingdom and “by a European Authority” means–

- (a) by or on behalf of the Department of Agriculture and Rural Development;
- (b) by or on behalf of the National Assembly for Wales;
- (c) by the Scottish Ministers;
- (d) by or on behalf of the Secretary of State; or

(2) O.J. No. L 193, 20.7.02, p.1.

(3) O.J. No. L 117, 8.5.90, p.15.

(4) O.J. No. L 103, 22.4.94, p.20.

(5) O.J. No. L 169, 27.6.97, p.72.

(6) O.J. No. L 106, 17.4.01, p.1.

(7) O.J. No. L 200, 30.7.02, p.22.

(8) O.J. No. L 268, 18.10.03, p.24.

(9) O.J. No. L 8, 14.1.03, p.10.

(10) O.J. No. L 141, 7.6.03, p.23.

(11) O.J. No. L 168, 1.5.04, p.1.

(e) by a competent seed certification authority of an EEA State other than the United Kingdom;

“Excepted Seed Marketed in Bulk” means Certified Seed (other than seed of maize), Certified Seed of the First Generation or Certified Seed of the Second Generation—

- (a) which is marketed in bulk direct to the final consumer in a container that is closed after filling; and
- (b) in respect of which a random sample has been taken in accordance with paragraph 12 of Schedule 5, by a person authorised in that behalf;

“first buyer by way of trade” has the same meaning as for the purposes of the Cereal Seed Directive;

“the Food and Feed Regulation” means Regulation (EC) No. 1829/2003 of the European Parliament and of the Council(12) on genetically modified food and feed;

“fully certified” means—

- (a) officially certified; or
- (b) certified by a European Authority other than the Scottish Ministers,

as satisfying the conditions specified for the relevant category of seed in regulation 3 and either in Schedule 4 or in Annexes I (crop conditions) and II (seed conditions) of the Cereal Seed Directive;

“genetically modified” has the same meaning as for the purposes of the 2001 Deliberate Release Directive;

“Higher Voluntary Standards” means the standards specified in Schedule 4 as being HVS Standards and the abbreviation “HVS” shall be construed accordingly;

“HVS level Basic Seed” means Basic Seed which is currently certified by the Scottish Ministers as—

- (a) having been harvested from a crop that met the Higher Voluntary Standards for a crop to produce Basic Seed specified in Part I of Schedule 4; and
- (b) having met the Higher Voluntary Standards for Basic Seed laid down in Part II of Schedule 4;

“HVS level Certified Seed of the First Generation” means Certified Seed of the First Generation which is currently certified by the Scottish Ministers as—

- (a) having been harvested from a crop that met the Higher Voluntary Standards for a crop to produce Certified Seed of the First Generation specified in Part I of Schedule 4; and
- (b) having met the Higher Voluntary Standards for Certified Seed of the First Generation laid down in Part II of Schedule 4;

“HVS level Certified Seed of the Second Generation” means Certified Seed of the Second Generation which is currently certified by the Scottish Ministers as—

- (a) having been harvested from a crop that met the Higher Voluntary Standards for Certified Seed of the Second Generation specified in Part I of Schedule 4; and
- (b) having met the Higher Voluntary Standards for Certified Seed of the Second Generation laid down in Part II of Schedule 4;

“homogeneous seed lot” means a seed lot in which the seed has been so mixed or blended that it is as uniform as practicable and, as far as is practicable, the seed lot shows no evidence of heterogeneity;

(12) O.J. No. L 268, 18.10.03, p.1.

“licensed crop inspector” means a person who holds a current licence to be a crop inspector granted by–

- (a) the Scottish Ministers under regulation 10(1) (licensing of seed samplers and crop inspectors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985(13); or
- (b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

“licensed EC crop inspector” means a person authorised by a competent seed certification authority in an EEA State other than the United Kingdom, pursuant to Article 2(3)(i)(c) (licensed crop inspectors) of the Cereal Seed Directive, to carry out field inspections of crops in that EEA State;

“licensed seed sampler” means a person who holds a current licence to be a seed sampler granted by–

- (a) the Scottish Ministers under regulation 10(1) (licensing of seed samplers and crop inspectors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985; or
- (b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

“licensed seed testing station” means an establishment which holds a current licence for testing of seed granted by–

- (a) the Scottish Ministers under regulation 9(1) (licensing of seed testing stations) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985; or
- (b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

“lower germination seed” means seed marketed under regulation 11;

“maize” means plants of the species specified in column 2 of Schedule 1 in relation to maize;

“minimum level Basic Seed” means Basic Seed which is not currently certified by the Scottish Ministers as–

- (a) having been harvested from a crop that met the Higher Voluntary Standards for a crop to produce Basic Seed specified in Part I of Schedule 4; and
- (b) having met the Higher Voluntary Standards for Basic Seed laid down in Part II of Schedule 4;

“minimum level Certified Seed of the First Generation” means Certified Seed of the First Generation which is not currently certified by the Scottish Ministers as–

- (a) having been harvested from a crop that met the Higher Voluntary Standards for a crop to produce Certified Seed of the First Generation specified in Part I of Schedule 4; and
- (b) having met the Higher Voluntary Standards for Certified Seed of the First Generation laid down in Part II of Schedule 4;

“minimum level Certified Seed of the Second Generation” means Certified Seed of the Second Generation which is not currently certified by the Scottish Ministers as–

- (a) having been harvested from a crop that met the Higher Voluntary Standards for Certified Seed of the Second Generation specified in Part I of Schedule 4; and
- (b) having met the higher voluntary standards for Certified Seed of the Second Generation laid down in Part II of Schedule 4;

“National Authority” means the Department of Agriculture and Rural Development, the National Assembly for Wales, the Scottish Ministers or the Secretary of State;

“oats” means plants of the species specified in column 2 of Schedule 1 in relation to oats;

“official certificate” means a certificate issued by the Scottish Ministers in accordance with Part I of Schedule 2 containing in respect of the seed to which it relates the particulars specified in paragraph 1 of Schedule 3 and “officially certified” shall be construed accordingly;

“official control” means under the supervision of, and in accordance with any conditions set by, a European Authority;

“official examination” means—

- (a) in relation to Seed of a Certified Generation—
 - (i) an examination or a test carried out by the Scottish Ministers;
 - (ii) if the seed has undergone official post control the results of which have been satisfactory, a field examination carried out by a licensed crop inspector; or
 - (iii) a test carried out by a licensed seed testing station; and
- (b) in relation to Pre basic Seed and Basic Seed—
 - (i) an examination or a test carried out by the Scottish Ministers; or
 - (ii) a test carried out by a licensed seed testing station;

“official field inspection” means a field examination of a crop carried out—

- (a) by a European Authority; or
- (b) in the case of seed which, if it were fully certified would be Seed of a Certified Generation, and which has been harvested from a crop which has been produced from seed that has undergone official post-control the results of which have been satisfactory, by a licensed crop inspector or a licensed EC crop inspector;

“official label” means a label issued by a European Authority;

“official post control” means a control plot has been sown with seed from the relevant seed lot and has produced plants which have been examined by the relevant European Authority; and
 “official post control the results of which have been satisfactory” means official post control has been carried out for the relevant seed lot and the relevant European Authority has found, having regard to—

- (a) the conditions specified in—
 - (i) in the case of the Scottish Ministers—
 - (aa) paragraphs 4, 8, 9, 10, 11 and 12 of Part I of Schedule 4; and
 - (bb) paragraphs 13, 14, 15 and 17 of Part II of Schedule 4; and
 - (ii) in the case of a European Authority other than the Scottish Ministers—
 - (aa) Annex I (crop conditions) of the Cereal Seed Directive; and
 - (bb) Annex II (seed conditions) of the Cereal Seed Directive; and
- (b) the category of the seed to be produced,

that the plants produced in the control plot indicate that the corresponding plants in the field are satisfactory plants from which to harvest the relevant category of seed;

“official sticker” means a sticker issued by a European Authority and attached to an official label;

“registered number” means the number issued to a person registered by the Scottish Ministers under regulation 4 of the Seeds (Registration, Licensing and Enforcement) Regulations 1985

or by another National Authority under any equivalent provision extending to any other part of the United Kingdom;

“rye” means plants of the species specified in column 2 of Schedule 1 in relation to rye;

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

“seed lot” means an identifiable consignment of seed of a weight not exceeding that specified in column 3 of the table in paragraph 26 of Part II of Schedule 5 for the species specified in column 1 of that table by more than 5%, including a blended seed lot, a bulked seed lot, and a mixture of seed which bears a unique seed lot reference number;

“small package” means a package containing a net weight of not more than 15 kilograms of fully certified Pre basic Seed, fully certified Basic Seed or Seed of a Certified Generation;

“spelt wheat” means plants of the species specified in column 2 of Schedule 1 in relation to spelt wheat;

“submitted sample” means a sample of at least the minimum weight of a sample specified in paragraph 26 of Part II of Schedule 5, or in the case of a sample to be submitted to a licensed seed testing station, double the minimum weight of a sample specified in paragraph 26 of Part II of Schedule 5, taken from a seed lot in accordance with the provisions of Part I of Schedule 5;

“third country” means a country listed in Annex I (countries, authorities and species) to the Equivalence Decision or Switzerland;

“triticale” means plants of the species specified in column 2 of Schedule 1 in relation to triticale;

“UK National List ” means a list of varieties of species of cereal plants for the time being published in accordance with the Seeds (National Lists of Varieties) Regulations 2001(14);

“volunteers” means plants of a species and variety that have grown from seed that was not deliberately sown as part of the crop;

“wheat” means plants of the species specified in column 2 of Schedule 1 in relation to wheat;

“wild oats” means plants of the species *Avena fatua*, *Avena ludoviciana* and *Avena sterilis*.

(2) In these Regulations, in relation to varieties, hybrids and inbred lines of maize—

“open-pollinated variety” means a sufficiently uniform and stable variety;

“inbred line” means a sufficiently uniform and stable line, obtained either by artificial self fertilisation accompanied by selection over several successive generations or by equivalent operations;

“simple hybrid” means the first generation of a cross, defined by the breeder, between two inbred lines;

“double hybrid” means the first generation of a cross, defined by the breeder, between two simple hybrids;

“triple-cross hybrid” means the first generation of a cross, defined by the breeder, between an inbred line and a simple hybrid;

“top cross hybrid” means the first generation of a cross, defined by the breeder, between an inbred line or a simple hybrid and an open-pollinated variety; and

“intervarietal hybrid” means the first generation of a cross, defined by the breeder, between plants grown from basic seed of two open pollinated varieties.

(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; and

- (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.

Definitions of seed categories

3. In these Regulations—

“Breeder’s Seed” means seed of barley, durum wheat, maize, oats, rye, spelt wheat, triticale or wheat of a generation prior to Basic Seed which has been produced by or under the responsibility of the breeder and is intended for the production of Pre-basic Seed or Basic Seed;

“Pre-basic Seed” means seed of a generation prior to Basic Seed which—

- (a) has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety; and
- (b) is intended to be used for the production of more Pre-basic Seed, Basic Seed, or with the written authority of the breeder—
 - (i) in the case of maize or rye, Certified Seed;
 - (ii) except in the case of maize or rye, Certified Seed of the First Generation;
 - (iii) except in the case of maize or rye, Certified Seed of the Second Generation; and
- (c) has been—
 - (i) subject to regulation 12, officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Basic Seed specified in Schedule 4; or
 - (ii) certified by a European Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Basic Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Cereal Seed Directive;

“Basic Seed” means seed which—

- (a) in relation to barley, durum wheat, oats, rye, triticale, spelt wheat and wheat, other than a hybrid variety—
 - (i) has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety; and
 - (ii) is intended to be used for the production of—
 - (aa) in the case of rye, Certified Seed;
 - (bb) except in the case of rye, Certified Seed of the First Generation;
 - (cc) except in the case of rye, Certified Seed of the Second Generation; or
- (b) in relation to a component of a hybrid variety of barley, durum wheat, maize, oats, rye, self pollinating triticale, spelt wheat or wheat, is intended to be used for the production of a hybrid variety of barley, durum wheat, maize, oats, rye, self-pollinating triticale, spelt wheat or wheat and which has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety; or
- (c) in relation to an open-pollinated variety of maize—
 - (i) has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety; and
 - (ii) is intended to be used—
 - (aa) for the production of Certified Seed of the same variety; or

- (bb) as a component in the production of Certified Seed of a top cross or intervarietal hybrid variety; or
- (d) in relation to inbred lines of maize, has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety; or
- (e) in relation to simple hybrids of maize, is intended to be used for the production of double hybrids, triple-cross hybrids or top cross hybrids; and
- (f) has been–
 - (i) subject to regulation 12, officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions specified in paragraphs (a), (b), (c), (d) or (e) and the requirements for Basic Seed specified in Schedule 4; or
 - (ii) certified by a European Authority other than the Scottish Ministers as satisfying the conditions specified in paragraph (a), (b), (c), (d) or (e) and the requirements for Basic Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Cereal Seed Directive;

“Certified Seed” means seed which, in relation to maize and rye (including hybrids of maize and rye) and hybrids of barley, durum wheat, oats, self-pollinating triticale, spelt wheat and wheat–

- (a) has been produced directly from Basic Seed or, with the breeder’s written authority, from Pre basic Seed;
- (b) is intended for purposes other than the production of cereal seed; and
- (c) has been–
 - (i) subject to regulation 12, officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed specified in Schedule 4; or
 - (ii) certified by a European Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Cereal Seed Directive;

“Certified Seed of the First Generation” means seed of barley, durum wheat, oats, spelt wheat, triticale, or wheat, other than a hybrid in each case, which–

- (a) has been produced directly from Basic Seed or, with the written authority of the breeder, from Pre basic Seed;
- (b) is intended–
 - (i) for the production of Certified Seed of the Second Generation; or
 - (ii) for purposes other than the production of cereal seed; and
- (c) has been
 - (i) subject to regulation 12, officially certified as meeting the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the First Generation specified in Schedule 4; or
 - (ii) certified by a European Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the First Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Cereal Seed Directive;

“Certified Seed of the Second Generation” means seed of barley, durum wheat, oats, spelt wheat, triticale or wheat, other than hybrids in each case, which–

- (a) has been produced directly from Basic Seed, Certified Seed of the First Generation or, with the written authority of the breeder, from Pre basic Seed;
- (b) is intended for purposes other than the production of cereal seed; and
- (c) has been–
 - (i) subject to regulation 12, officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the Second Generation specified in Schedule 4; or
 - (ii) certified by a European Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the Second Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Cereal Seed Directive;

“Seed of a Certified Generation” means Certified Seed, Certified Seed of the First Generation and Certified Seed of the Second Generation.

Definition of marketing

4.—(1) In these Regulations “marketing” means–

- (a) selling, holding with a view to sale and offering for sale; and
- (b) any disposal, supply or transfer for the purpose of commercial exploitation of seed to third parties,

whether or not for consideration, and “market” and “marketed” shall be construed accordingly.

(2) Trade in seed not aimed at commercial exploitation of the variety, such as the following operations–

- (a) the supply of seed to official testing and inspection bodies; or
- (b) the supply of seed to any person for the purposes of processing or packaging the seed provided that person does not acquire title to the seed supplied,

shall not be treated as marketing of seed of that variety.

Seed to which the Regulations apply

5.—(1) Subject to paragraph (2), these Regulations apply to cereal seed of the species specified in Schedule 1, being seed intended to be used only for the production of agricultural or horticultural crops other than for ornamental purposes.

(2) These Regulations shall not apply to seed which is shown to be intended for export to a country which is not an EEA State.

PART II

MARKETING

Marketing of seed

6.—(1) Subject to the provisions of this Part, no person shall market any seed unless–

- (a) it is marketed in seed lots or in parts of seed lots; and
- (b) it is–
 - (i) seed of a plant variety of a species specified in Part I of Schedule 1 (varieties of plant species on national lists) to the Seeds (National Lists of Varieties) Regulations

2001(15) accepted on to a UK National List or the Common Catalogue and which is fully certified Pre basic Seed, fully certified Basic Seed or Seed of a Certified Generation; or

(ii) Breeder's Seed.

(2) Paragraph (1) shall not apply to the marketing of seed which has not yet been fully certified if—

- (a) the seed is marketed for processing;
- (b) the identity of the seed is ensured; and
- (c) the seed has been harvested from a crop which has been found by an official field inspection to satisfy the conditions specified in Part I of Schedule 4 or Annex I (crop conditions) of the Cereal Seed Directive for the relevant category of seed.

(3) Where seed is sampled in an untreated state for either the official examination referred to in paragraph 2(c) of Part I of Schedule 2, or for an examination or test carried out by a European Authority other than the Scottish Ministers, and the seed is subsequently subjected to chemical treatment the seller shall, upon or before delivering the seed to the purchaser, provide the purchaser with a statement in writing that the seed has been subsequently subjected to chemical treatment and specifying the chemical nature of such treatment.

(4) Notwithstanding paragraph (1), no person shall market seed of a genetically modified variety unless it is clearly indicated, in the sales catalogue of the person marketing the seed and in any other marketing information or marketing representations provided by that person, as having been genetically modified.

(5) Any person marketing seed which has been imported from a country which is not an EEA State and which exceeds 2 kilograms of seed shall supply the Scottish Ministers, in such manner and at such time as the Scottish Ministers may require, with the particulars relating to the seed specified in paragraph 11 of Part V of Schedule 6.

(6) Notwithstanding paragraphs (1) and (2), no person shall market barley seed produced in Cyprus during the period from 1st July 2005 to 30th April 2009 both dates inclusive.

Marketing of seed of a Higher Voluntary Standard

7.—(1) This regulation applies to the marketing of seed of barley, durum wheat, oats, spelt wheat or wheat (excluding hybrids) which is fully certified Basic Seed, Certified Seed of the First Generation or Certified Seed of the Second Generation, where any label or notice affixed to, contained in or marked on any package containing the seed, any document accompanying the seed or any particulars displayed in respect of the seed, states or indicates that the seed attains the Higher Voluntary Standards for such seed.

(2) Any mixture of seeds to which the provisions of paragraph (1) relate shall be required to meet the appropriate standards prescribed in seeds regulations.

(3) Where any person markets seed to which this regulation applies, the person marketing the seed shall be deemed to state for the purpose of these Regulations, and in relation to the particulars given to a purchaser, that—

- (a) the crop from which the seed has been harvested met the Higher Voluntary Standards for such seed laid down in Part I of Schedule 4;
- (b) the seed meets the Higher Voluntary Standards for such seed laid down in Part II of Schedule 4; and
- (c) a successful application has been made to the Scottish Ministers under paragraph (4) verifying that the crop and seed have attained those standards.

(4) An application for verification that seed of barley, durum wheat, oats, spelt wheat or wheat which is Basic Seed, Certified Seed of the First Generation or Certified Seed of the Second Generation has attained the Higher Voluntary Standards for such seed shall be made to the Scottish Ministers in such form and manner and shall contain such information and be accompanied by such documents as the Scottish Ministers may require and the Scottish Ministers shall grant the application if the Scottish Ministers are satisfied that—

- (a) the crop from which the seed has been harvested met the Higher Voluntary Standards for such seed laid down in Part I of Schedule 4; and
- (b) the seed meets the Higher Voluntary Standards for such seed laid down in Part II of Schedule 4.

Mixtures

8.—(1) Regulation 6(1)(b) shall not prevent the marketing of a mixture of seed to which these Regulations apply if the mixture is—

- (a) a specific mixture of various varieties of one species of seed—
 - (i) that, as a mixture, is effective against the propagation of a harmful organism; and
 - (ii) each constituent of which complied, before mixing, with the relevant provisions of these Regulations; or
- (b) a mixture of different species of seeds, each constituent of which complied, before mixing, with the relevant provisions of these Regulations.

(2) Regulation 6(1)(b)(b) shall not prevent the marketing of a mixture of seed permitted by the Fodder Plant Seeds (Scotland) Regulations 2005(16) which includes seed of a species to which these Regulations apply which—

- (a) fell within regulation 6(1)(b)(i); and
- (b) complied with the relevant provisions of these Regulations,

before mixing with the fodder plant seed.

Exception for scientific selection work and for tests and trials

9.—(1) Regulation 6(1)(b) shall not apply to the marketing by a producer of—

- (a) small quantities of seed for scientific purposes or selection work; or
- (b) seed for test and trial purposes,

for which—

- (i) an authorisation has been granted to the producer by the Scottish Ministers in accordance with this regulation; or
- (ii) an authorisation has been granted to the producer by a European Authority other than the Scottish Ministers in respect of small quantities of seed for scientific purposes or selection work pursuant to Article 4a(1)(a) (exemption for small quantities of seed for scientific purposes or selection work) of the Cereal Seed Directive or in respect of seed for test and trial purposes, pursuant to Article 4a(1)(b) (exemption for test and trial purposes) of the Cereal Seed Directive.

(2) A producer in Scotland may apply to the Scottish Ministers for authorisation under this regulation.

(3) An application under this regulation shall be made in such form and manner and at such time as the Scottish Ministers shall require and shall be accompanied by such information as the Scottish Ministers may require for the purpose of determining whether to grant an authorisation.

(4) The Scottish Ministers shall not grant an authorisation under this regulation for scientific purposes and selection work in respect of seed of a genetically modified variety unless an authorisation is in force in respect of the variety concerned under the Food and Feed Regulation, or under Part B (deliberate release of GMOs for any other purpose than for placing on the market) or Part C (placing on the market of GMOs as or in products) of the 2001 Deliberate Release Directive, or under Part B (deliberate release of GMOs for any other purpose than for placing on the market) or Part C (placing on the market of GMOs as or in products) of the 1990 Deliberate Release Directive and then only if all appropriate measures, in accordance with the environmental risk assessment in respect of the genetically modified material carried out in accordance with Article 7(4) (environmental risk assessment for seed varieties) of the Common Catalogue Directive have been taken by the producer of the seed to avoid adverse effects on human health and the environment.

(5) The Scottish Ministers shall not grant an authorisation under this regulation in respect of seed for test and trial purposes unless—

(a) they consider that the amount of seed that may be marketed under it is of an appropriate quantity for the test or trial; and

(b) (i) either—

(aa) an application has been submitted to the relevant authority under regulation 4(1)(a) (applications in relation to national lists) of the Seeds (National Lists of Varieties) Regulations 2001(17) for acceptance of the variety concerned on to a UK National List and the application has not been withdrawn or finally determined; and

(bb) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety concerned under the Food and Feed Regulation or under Part C (placing on the market of GMOs as or in products) of the 2001 Deliberate Release Directive or under Part C (placing on the market of GMOs as or in products) of the 1990 Deliberate Release Directive; or

(ii) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety concerned under Part B (deliberate release of GMOs for any other purpose than for placing on the market) of the 2001 Deliberate Release Directive or under Part B (deliberate release of GMOs for any other purpose than for placing on the market) of the 1990 Deliberate Release Directive.

(6) An authorisation under this regulation may—

(a) and in the case of an authorisation in respect of seed for test and trial purposes shall, specify the amount of seed which may be marketed under it; and

(b) impose such conditions as the Scottish Ministers may think necessary or desirable having regard, in the case of an authorisation granted for scientific purposes and selection work, to the nature of the scientific purpose or selection work involved and, in all cases, to the nature of the seed to which the authorisation relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

General exemptions

10.—(1) Subject to paragraphs (2) and (3), the Scottish Ministers may, by a general licence, exempt any person or class of persons, or persons generally, from compliance with any provision of these Regulations.

(2) The Scottish Ministers shall not exercise the power to issue a general licence under paragraph (1) except—

(17) S.I. 2001/3510.

- (a) to the extent that the provisions of the general licence are permitted in accordance with a temporary experiment organised under Article 13a (temporary experiments) of the Cereal Seed Directive;
 - (b) to the extent that the provisions of the general licence are permitted in accordance with Article 15(2) (waiving packing and labelling requirements for not yet fully certified seed imported from other EEA States) of the Cereal Seed Directive;
 - (c) to give effect to the provisions of a Council Decision made under Article 16 (checks on third country field inspections and quality control) of the Cereal Seed Directive, including for the avoidance of doubt the Equivalence Decision, and amendments made to such a Decision;
 - (d) to the extent that the provisions of the general licence are permitted in accordance with measures taken pursuant to Article 17 (permission to market lower quality seed) of the Cereal Seed Directive; or
 - (e) to give effect to the provisions of the Agreement between the European Community and the Swiss Confederation on Trade in Agriculture Products⁽¹⁸⁾ as adapted by Decision 2002/309/EC, Euratom of the Council and of the Commission as regards the Agreement on Scientific and Technological Co operation⁽¹⁹⁾ and as amended by Commission Decision 2004/660/EC⁽²⁰⁾ on the Community position on the amendment of the Appendices to Annex 6 to the Agreement between the European Community and the Swiss Confederation on Trade in Agriculture Products.
- (3) A general licence issued under paragraph (1)–
- (a) shall have effect during the period specified in it unless the Scottish Ministers revoke it earlier; and
 - (b) may impose such conditions as the Scottish Ministers may think necessary or desirable having regard to the marketing permitted by the general licence and the nature of the seed to which it relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

Marketing of officially certified lower germination seed

11.—(1) Notwithstanding regulation 6(1)(b) and the requirement in regulation 3 that Pre basic Seed and Basic Seed shall attain the minimum standards of germination specified for Basic Seed in Part II of Schedule 4 or Annex II (seed conditions) of the Cereal Seed Directive, any person may, subject to paragraphs (2) and (3) and regulation 17(6) and the other provisions of these Regulations, market seed–

- (a) in respect of which an official certificate certifying that the seed is of the relevant category of seed has been issued in accordance with Part I of Schedule 2, although it attains a lower percentage of germination than that specified in paragraph 16 of Part II of Schedule 4 in relation to Basic Seed by virtue of exception (ii) of paragraph 2 of Part I of Schedule 2;
- (b) which has been certified as satisfying the conditions for the relevant category of seed by a European Authority other than the Scottish Ministers although the seed attains a lower germination than that specified in Annex II (seed conditions) of the Cereal Seed Directive in relation to Basic Seed, by virtue of Article 4(1)(a) (marketing of lower germination seed) of the Cereal Seed Directive; or
- (c) which the person marketing the seed knows does not satisfy the minimum standards of germination specified for Basic Seed–

⁽¹⁸⁾ O.J. No. L 114, 30.4.02, p.132.

⁽¹⁹⁾ O.J. No. L 114, 30.4.02, p.1.

⁽²⁰⁾ O.J. No. L 301, 28.9.04, p.55.

- (i) in the case of seed which has been officially certified as being Pre basic Seed or Basic Seed, in paragraph 16 of Part II of Schedule 4, irrespective of the findings of the Scottish Ministers; and
- (ii) in the case of seed which has been fully certified as being Pre basic Seed or Basic Seed by a European Authority other than the Scottish Ministers, in Annex II (seed conditions) of the Cereal Seed Directive, irrespective of the findings of the relevant European Authority.

(2) Paragraph (1) shall not apply unless the person marketing the seed guarantees a specific minimum percentage of germination of the seed.

(3) Paragraph (1) shall not apply to seed which has been imported into the United Kingdom from a country which is not an EEA State.

Marketing of early movement seed

12.—(1) In a case where—

- (a) the official examination in respect of the germination of any seed lot of Pre basic Seed, Basic Seed or Seed of a Certified Generation of a plant variety of a species specified in Part I (varieties of plant species on national lists) of Schedule 1 to the Seeds (National Lists of Varieties) Regulations 2001 accepted on to a UK National List or the Common Catalogue is being undertaken and has not been completed, but a provisional germination report has shown that the seed attains the appropriate minimum standard of germination specified in paragraph 16 of Part II of Schedule 4, the seed in all other respects satisfies the appropriate requirements of Schedule 4 and the provisional analytical report and the provisional germination report on the seed have been presented by the producer to the Scottish Ministers; or
- (b) any seed lot has been certified by a European Authority other than the Scottish Ministers by virtue of Article 4(1)(b) (early movement of seed) of the Cereal Seed Directive, and the provisional germination report on the seed has been presented by the producer to the Scottish Ministers,

the seed lot or any part of the seed lot may, notwithstanding regulation 6(1)(b) but subject to paragraphs (2) to (5), regulation 17(7) and the other provisions of these Regulations, be marketed to the first buyer by way of trade.

(2) In the event of any marketing under paragraph (1), the seller of the seed shall—

- (a) upon or before delivery, provide the first buyer by way of trade with a written statement that the seed is marketed before the completion of the official germination test together with the result in the provisional germination report;
- (b) notify the Scottish Ministers in writing of the name and address of the first buyer by way of trade as soon as practicable after delivery and in any event not later than 7 days after delivery;
- (c) guarantee a specific minimum percentage of germination, which shall be the percentage of the germination of the seed as ascertained in the provisional germination report; and
- (d) in the event of the official germination test showing the failure of the seed to comply with the minimum germination standard specified in paragraph 16 of Part II of Schedule 4 for seed of the relevant category, the seller shall provide the first buyer by way of trade with the result of the completed official germination test, in writing, as soon as practicable and in any event not later than 7 days after being informed of it.

(3) The provisions of paragraph (1) shall not apply to the marketing of any seed lot or part of any seed lot in respect of which a previous official examination or an examination by a European Authority other than the Scottish Ministers has shown that the seed fails to meet the standards

specified for the relevant category of seed in Part II of Schedule 4 or Annex II (seed conditions) of the Cereal Seed Directive or which has been subjected to a tetrazolium test carried out by the Scottish Ministers or a licensed seed testing station to establish the viability of the seed.

(4) A person who sells any seed in accordance with paragraph (1) shall make and, until the end of the period of two years after the date of delivery of the seed to the first buyer by way of trade, keep available for inspection by the Scottish Ministers a record of the date of such delivery, of the reference number of the seed lot or part of a seed lot delivered, of the name and address of the first buyer by way of trade, of the date on which the preliminary test of germination was carried out and of the result of that test in the provisional germination report and, if appropriate, of the date on which the first buyer by way of trade was informed of the result of the completed official germination test.

(5) Paragraph (1) shall not apply to seed which has been imported into the United Kingdom from a country which is not an EEA State.

Requirement for homogeneity

13. No person shall market seed in accordance with regulation 6(1)(b)(i), 11 or 12 unless it is marketed in a homogeneous seed lot or in part of a homogeneous seed lot.

PART III

PROCEDURES FOR ISSUING OFFICIAL CERTIFICATES

Applications for official certificates

14.—(1) An application in respect of a seed lot for the issue of an official certificate certifying the seed to be Pre basic Seed, Basic Seed or Seed of a Certified Generation—

- (a) shall be made in writing to the Scottish Ministers in such form and manner, and shall include such information, records, illustrations, material and seed as the Scottish Ministers may require; and
- (b) shall be made not later than 15th March in the second year following the year of harvest of the crop from which the seed lot is obtained or within such other time as the Scottish Ministers may allow.

(2) Where an application for the issue of an official certificate is made to the Scottish Ministers in accordance with paragraph (1) the Scottish Ministers shall, subject to paragraph (3), deal with the application in accordance with the provisions of Part I of Schedule 2.

(3) Where a breeder applies to the Scottish Ministers for the issue of an official certificate in accordance with paragraph (1), in respect of a seed lot which already has a breeder's confirmation after the variety of the seed in that seed lot has been accepted on to a UK National List (or an equivalent list in another EEA State) or, if the seed in the seed lot is a component of a hybrid variety, after the hybrid variety has been accepted on to a UK National List (or an equivalent list in another EEA State), the Scottish Ministers shall issue an official certificate in respect of that seed lot provided they are satisfied that—

- (a) the seed is the seed in respect of which the breeder's confirmation was issued;
- (b) the breeder's confirmation has not been withdrawn pursuant to regulation 20(3);
- (c) the provisions of regulation 21 have been complied with; and
- (d) there is no reason why the breeder's confirmation should be withdrawn pursuant to regulation 20(3).

(4) An official certificate which has been issued by the Scottish Ministers may be withdrawn by them in respect of either the whole of a seed lot or any part of a seed lot if—

- (a) the results of an official examination of the sample taken from the seed lot in respect of which the official certificate has been issued are deemed to be null and void in accordance with regulation 15(2);
- (b) on the basis of information received by them, the Scottish Ministers are satisfied that the crop from which the seed in the seed lot was harvested did not meet the conditions laid down in Part I of Schedule 4;
- (c) on the basis of information received by them, the Scottish Ministers are satisfied that the seed in the seed lot, or part of the seed lot—
 - (i) did not meet the conditions laid down in Part II of Schedule 4 at the time the seed was tested for seed certification purposes, which includes the purpose of issuing a breeder's confirmation; or
 - (ii) although it met the conditions in Part II of Schedule 4 at the time of such testing it no longer meets them; or
- (d) the licensed seed sampler who sampled the seed lot or the licensed crop inspector or licensed EC crop inspector who inspected the crop, did so in breach of any of the terms of the licensed seed sampler's, or licensed crop inspector's, or licensed EC crop inspector's, licence,

and any seed from which an official certificate has been so withdrawn shall be deemed not to have been officially certified.

(5) The Scottish Ministers may withdraw the official certificate in respect of a seed lot, or any part of a seed lot, by giving notice to—

- (a) the person who made an application in respect of the seed lot under paragraph (1); or
- (b) any person marketing, or who has marketed, any of the seed.

(6) Where, in accordance with paragraph (5), the official certificate in respect of a seed lot, or part of a seed lot, is withdrawn under paragraph (4), the Scottish Ministers may notify—

- (a) the person who made an application under paragraph (1) in respect of the seed lot;
- (b) any person marketing, or who has marketed, any of the seed; and
- (c) any person who has purchased, or been supplied with, any of the seed,

that the official certificate in respect of the seed lot, or part of a seed lot, as the case may be, has been withdrawn.

(7) Where the official certificate in respect of a seed lot, or part of a seed lot, is withdrawn under paragraph (4), any seller of the seed shall, as soon as practicable and in any case not later than 7 days after being informed of it, notify the purchaser, in writing, that the official certificate has been withdrawn and that the seed is deemed not to have been officially certified.

Sampling

15.—(1) A sample of seed taken for the purposes of an official examination shall be taken—

- (a) (i) by a European Authority; or
 - (ii) by a licensed seed sampler in accordance with the terms of the licensed seed sampler's licence;
- (b) in accordance with the methods specified in Part I of Schedule 5; and
- (c) from a homogeneous seed lot.

(2) If a sample from a seed lot submitted or taken for the purpose of an official examination—

- (a) is found not to have been taken in accordance with paragraph (1);
 - (b) is taken from a seed lot which does not comply with paragraph 24 of Part II of Schedule 5;
 - (c) is not a sample for moisture testing which complies with paragraph 19 of Part II of Schedule 4 or is a submitted sample and has not been taken in accordance with the provisions of Part I of Schedule 5; or
 - (d) is otherwise found not to have been taken in accordance with the seeds regulations,
- no, or no further, official examination of that sample shall be made under these Regulations, and any findings or results obtained in the course of any official examination of that sample, or from inspecting plants grown in a plot which has been sown with seed from that sample, shall be deemed to be null and void and shall be disregarded.
- (3) For the avoidance of doubt, the provisions of this regulation apply for the purposes of issuing a breeder's confirmation, as they do for the purposes of issuing an official certificate.

PART IV

PACKAGING AND LABELLING REQUIREMENTS FOR FULLY CERTIFIED SEED

Sealing of packages of fully certified seed

16.—(1) Subject to regulations 18 and 19, no person shall market in accordance with regulations 6(1), 8, 9, 11 or 12 a package (other than a small package sealed in accordance with paragraph (4)) of Pre basic Seed, Basic Seed, Seed of a Certified Generation, a mixture of seeds to which regulation 8 applies, lower germination seed or early movement seed unless, subject to paragraph (2), it has been—

- (a) (i) not later than at the time of sampling; or
- (ii) in the case of seed which is wholly or partly re packaged, the original package has been not later than at the time of sampling,

sealed in Scotland by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal, in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package; or

- (b) sealed—
 - (i) in the United Kingdom but not in Scotland; or
 - (ii) in an EEA State other than the United Kingdom,
 in accordance with the provisions of Article 9(1) (sealing of packages) of the Cereal Seed Directive.

(2) In the case of a package of seed in respect of which the Scottish Ministers have issued an official certificate under regulation 14(3)—

- (a) paragraph (1)(a) shall apply as if the words “not later than at the time of sampling” were omitted; and
- (b) subject to sub paragraph (a), the package of seed shall be sealed in accordance with paragraph (1)(a) within 7 days of the issue of the official certificate.

(3) If a package of seed which has been sealed in accordance with paragraph (1) is opened it may not be marketed in accordance with regulations 6(1), 8, 9, 11 or 12 unless it is re sealed or further re sealed–

(a) in Scotland by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal, in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package; or

(b) (i) in the United Kingdom but not in Scotland; or

(ii) in an EEA State other than the United Kingdom,

in accordance with the provisions of Article 9(2) (re sealing of packages) of the Cereal Seed Directive.

(4) No person shall market in accordance with regulations 6(1), 8, 9, 11 or 12 a small package of, Pre basic Seed, Basic Seed, Seed of a Certified Generation, lower germination seed or early movement seed, unless it has been, or in the case of seed which is wholly or partly re packaged, the original package has been, sealed by the Scottish Ministers, or by, or under the supervision of, a licensed seed sampler or a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 4(1) (registration of seed merchants, seed packers and seed processors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985⁽²¹⁾ or provisions equivalent to that regulation, not later than at the time of sampling in the United Kingdom with a sealing device in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.

(5) If a small package of seed which has been sealed in accordance with paragraph (4) is opened, it may not be marketed in accordance with regulations 6(1), 8, 9, 11 or 12 unless it is re-sealed or further re-sealed by the Scottish Ministers, or by, or under the supervision of, a licensed seed sampler or a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 4(1) (registration of seed merchants, seed packers and seed processors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985 or provisions equivalent to that regulation, with a sealing device, in such a manner that the package cannot be opened without damaging the sealing system or leaving evidence of tampering on the label or package.

(6) No person shall market in accordance with regulation 6(1) a package of Breeder’s Seed unless it is marketed in a package which has been sealed with a sealing device in such a manner that the package cannot be opened without damaging the sealing system or leaving evidence of tampering on the label or package.

(7) If a package of Breeder’s Seed which has been sealed in accordance with paragraph (6) is opened it may not be marketed in accordance with regulation 6(1) unless it is re-sealed or further re sealed with a sealing device in such a manner that the package cannot be opened without damaging the sealing system or leaving evidence of tampering on the label or package.

Labelling of packages of fully certified seed

17.—(1) Subject to regulations 18 and 19, no person shall market in accordance with regulations 6(1), 8, 9, 11 or 12 any Pre basic Seed, Basic Seed, Seed of a Certified Generation, a mixture of seeds to which regulation 8 applies, lower germination seed or early movement seed, except in a package which, not later than at the time of sealing, is labelled, inscribed or otherwise dealt with in accordance with this regulation.

(21) S.I. 1985/980, as relevantly amended by S.I. 1987/1098, 1990/611 and 1993/2530.

(2) In the case of a package of seed in respect of which the Scottish Ministers have issued an official certificate under regulation 14(3) or in respect of which the Scottish Ministers have issued an official certificate re-grading the seed to a different category or level—

- (a) paragraph (1) shall apply as if the words “not later than at the time of sealing” were omitted; and
- (b) subject to sub-paragraph (a), the package of seed shall be re labelled in accordance with this regulation within 7 days of the issue of that official certificate.

(3) In the case of seed of a variety which has been genetically modified, any label, document, printing or stamp, whether official or otherwise, affixed to or accompanying a seed lot or any part of a seed lot in accordance with the provisions of this regulation, and any particulars given under regulations 18 or 19, shall clearly indicate that the variety has been genetically modified.

(4) A package of Breeder’s Seed shall have affixed on the outside a label which has not previously been used, containing, as appropriate to the seed, particulars of the matters specified, and being of the colour also specified, in paragraph 3 of Part II of Schedule 6, which shall be either an adhesive label or tear proof label and shall be affixed, in either case, not later than at the time of sealing.

(5) Subject to paragraph (10), a package (other than a small package sealed in the United Kingdom in accordance with regulation 16(4)) of Pre basic Seed, Basic Seed, Seed of a Certified Generation, a mixture of seed to which regulation 8 applies, lower germination seed or early movement seed—

- (a) which is sealed in Scotland shall have affixed on the outside an official label—
 - (i) which has not previously been used;
 - (ii) containing, as appropriate to the category of seed and the seed itself, particulars of the matters specified, and being of at least the size and of the colour also specified, in the relevant paragraph of Part II of Schedule 6; and
 - (iii) which shall be either an adhesive label or a label secured to the package by a sealing system approved by the Scottish Ministers and shall be affixed, in either case, by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler; and

(b) which is sealed—

- (i) in the United Kingdom but not in Scotland; or
- (ii) in an EEA State other than the United Kingdom,

in accordance with the provisions of Articles 9(2) (re sealing), 10(1)(a) (labelling of packages), 13(3) (labelling of packages of mixtures of seeds) and 14a(c) (labelling of packages of Pre basic Seed) of the Cereal Seed Directive appropriate to the relevant category of seed and the seed or mixture of seeds itself.

(6) If in accordance with regulation 11 a person markets any lower germination seed that person shall ensure—

- (a) that the official label, or the particulars printed or stamped on the package in accordance with paragraph (10), contains a statement that the minimum percentage of germination of the seed is less than the minimum percentage of germination for Basic Seed; and
- (b) that there is a label affixed to the outside of the package containing a statement of the specific minimum percentage of germination of the seed guaranteed by the person marketing the seed in accordance with regulation 11(2) together with the name and address of the seller and the reference number of the seed lot.

(7) If in accordance with regulation 12 a person markets any early movement seed, that person shall ensure that there is a label affixed to the outside of the package containing—

- (a) a statement that the seed is being sold before the official examination of the germination of that seed lot has been concluded; and

- (b) a statement of the specific minimum percentage of germination guaranteed by the person marketing the seed in accordance with regulation 12(2)(c), together with the name and address of the seller and the reference number of the seed lot.
- (8) Subject to paragraph (9), a package (other than a small package sealed in the United Kingdom in accordance with regulation 16(4)) of Pre basic Seed, Basic Seed, Seed of a Certified Generation, a mixture of seeds to which regulation 8 applies, lower germination seed or early movement seed—
- (a) which is sealed in Scotland 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 (5) and shall contain particulars of the matters specified in the items numbered—
 - (i) in the case of Pre basic Seed and lower germination seed to which paragraph 4 of Part II of Schedule 6 is relevant, paragraph 4(a)(iii) to (v) of Part II of Schedule 6;
 - (ii) in the case of Basic Seed, Seed of a Certified Generation, or lower germination seed to which paragraph 5 of Part II of Schedule 6 is relevant, paragraph 5(a)(iv) to (vi) of Part II of Schedule 6;
 - (iii) in the case of a mixture of seeds to which regulation 8 applies, paragraph 6(a)(i) and (iv) of Part II of Schedule 6; and
 - (b) which is sealed in—
 - (i) the United Kingdom but not in Scotland; or
 - (ii) an EEA State other than the United Kingdom,shall contain an official document in accordance with Articles 10(1)(b) (official documents) and 13(3) (labelling of packages of mixtures of seeds) of the Cereal Seed Directive.
- (9) The official inner label or document referred to in paragraph (8) shall not be required if the particulars specified in paragraphs (3), (8) and (13) are printed indelibly on the outside of the package or if the official label is an adhesive or a tear resistant label.
- (10) Notwithstanding paragraphs (5) and (6)(a), but subject to paragraphs (6)(b) and (7), a package (other than a small package sealed in the United Kingdom in accordance with regulation 16(4)) of Basic Seed, Seed of a Certified Generation, a mixture of seeds to which regulation 8 applies, lower germination seed or early movement seed may be marketed if—
- (a) the appropriate particulars of the matters specified in Part II of Schedule 6 and paragraphs (3), (6)(a), (12) and (13) for packages sealed in Scotland, and in Articles 4 (lower germination and early movement seed), 9(2) (re-sealing) 10(1)(a) (labelling of packages), 13(3) (labelling of packages of mixtures of seeds) and 11a (identification of genetically modified varieties) and Annex IV (labels) of the Cereal Seed Directive for packages sealed in either—
 - (i) the United Kingdom but not Scotland; or
 - (ii) an EEA State other than the United Kingdom,are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified; and
 - (b) the requirements of paragraphs 12 to 15 of Part VI of Schedule 6 are satisfied, in the case of a package sealed in Scotland; and
 - (c) the requirements of paragraph 16 of Part VI of Schedule 6 are satisfied in the case of a package sealed in either—
 - (i) the United Kingdom but not in Scotland; or
 - (ii) an EEA State other than the United Kingdom.

(11) A small package sealed in the United Kingdom shall have affixed on the outside a label containing, as appropriate to the category of the seed and the seed itself, particulars of the matters specified in paragraphs (3), (12) and (13) and the relevant paragraph of Part III of Schedule 6, and being of the colour specified in the relevant paragraph of Part III of Schedule 6, except that subject to paragraphs (6) and (7)–

- (a) if such particulars are printed indelibly on the outside of the package in a panel of the colour so specified, the label shall not be required; and
- (b) if the packaging material is transparent the label may be placed inside the package provided it can be read through the packaging.

(12) Subject to paragraph (10) or (11), if a package of seed has been re sealed in accordance with regulations 16(3) or regulation 21(4) this fact shall be stated on the official label required under paragraph (5) or the label required under paragraph (11), as the case may be, together with the month and year of re sealing and the name of the authority responsible for the re sealing.

(13) If any seed has 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) where seed is being marketed in accordance with regulation 18, with the particulars given in accordance with that regulation;
- (b) in a case where seed is not being marketed in accordance with regulation 18–
 - (i) on a separate label on the package; or
 - (ii) on the label referred to in paragraph (4), (5) or (11), the official inner label or document referred to in paragraph (8), or the printing or stamp referred to in paragraph (9), (10) or (11),

and also, except where the information prescribed by this paragraph is given on an adhesive or tear resistant label, either on the outside of the package or on a document enclosed inside the package.

(14) The particulars and information given in accordance with this regulation shall be given in one of the official languages of the European Community.

(15) Subject to the provisions of the Act and of these Regulations, no person shall, in the course of the marketing or the preparation for marketing of any seed by that person or by any other person, wilfully reproduce, remove, alter, deface, conceal or misuse in any way any label affixed to, contained in or marked on any package of seed or which is to be so affixed, contained or marked, except as may occur in the course of opening the package for the purposes of regulation 17(2)(b).

Marketing of unpacked seed

18. A person may sell any seed otherwise than in a package which is sealed, labelled, inscribed or otherwise dealt with in accordance with regulation 16 and regulation 17(1), (2), (4) to (12), (14) and (15) where–

- (a) the seed is sold in a quantity not exceeding 5 kilograms to the final consumer; and
- (b) the seed is taken, in the presence of the final consumer, from a container on which there is clearly and visibly marked, or near which there is clearly and visibly displayed, a statement containing particulars of the matters specified in the relevant paragraph of Part IV of Schedule 6.

Marketing of Excepted Seed Marketed in Bulk

19.—(1) Regulations 16 and 17 shall not apply to marketing of Excepted Seed Marketed in Bulk where the person marketing the seed delivers a note to the final consumer, not later than the time

of delivery of the seed, containing the information given on the official label on the container from which the seed was taken.

(2) A supplier of seed shall prior to 10th January 2006 and prior to 10th January in each year thereafter notify the Scottish Ministers in such manner as the Scottish Ministers may from time to time specify of the quantities of Excepted Seed Marketed in Bulk by that supplier in the period from 1st January to 31st December in the immediately preceding year.

PART V

PROCEDURES FOR ISSUING BREEDER'S CONFIRMATIONS

Breeder's confirmations

20.—(1) An application for the issue of a breeder's confirmation for Pre basic Seed or Basic Seed in respect of a seed lot—

- (a) shall be made in writing by the breeder to the Scottish Ministers in such form and manner, and shall include such information, records, illustrations, material and seed, as the Scottish Ministers may require; and
- (b) shall be made not later than 15th March in the second year following the year of harvest of the crop from which the seed lot is obtained or within such other time as the Scottish Ministers may allow; and
- (c) shall be made only—
 - (i) for seed of a variety for which an application has been made to have that variety accepted on to a UK National List (or an equivalent list in another EEA State); or
 - (ii) for seed of a component of a hybrid variety for which an application has been made to have that hybrid variety accepted on to a UK National List (or to an equivalent list in another EEA State).

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

(3) A breeder's confirmation which has been issued by the Scottish Ministers may be withdrawn by them in respect of either the whole of a seed lot or any part of a seed lot if—

- (a) the results of an official examination of the sample taken from the seed lot in respect of which the breeder's confirmation has been issued are declared null and void in accordance with regulation 15(2);
- (b) on the basis of information received by them, the Scottish Ministers are satisfied that the crop from which the seed in the seed lot was harvested did not meet the conditions specified in Part I of Schedule 4; or
- (c) on the basis of information received by them, the Scottish Ministers are satisfied that the seed in the seed lot, or part of the seed lot—
 - (i) did not meet the conditions laid down in Part II of Schedule 4 at the time the seed was tested for breeder's confirmation purposes; or
 - (ii) although it met the conditions in Part II of Schedule 4 at the time of such testing no longer meets them,

and any seed from which a breeder's confirmation has been so withdrawn shall be deemed not to have had a breeder's confirmation.

(4) The Scottish Ministers may withdraw the breeder's confirmation in respect of a seed lot, or any part of a seed lot, by giving notice to the person who made an application in respect of the seed lot under paragraph (1).

(5) The breeder applying for the breeder's confirmation shall notify the Scottish Ministers if the application to have the relevant variety or hybrid variety accepted on to a UK National List (or to an equivalent list in another EEA State) referred to in paragraph (1)(c) is withdrawn or refused.

(6) If the application to have the relevant variety or hybrid variety accepted on to a UK National List (or to an equivalent list in another EEA State) referred to in paragraph (1)(c) is refused, the breeder applying for the breeder's confirmation shall notify the Scottish Ministers if the refusal is subject of appeal proceedings and shall further notify the Scottish Ministers of the final outcome of those proceedings.

PART VI

PACKAGING AND LABELLING REQUIREMENTS RELATING TO BREEDER'S CONFIRMATION

Sealing of packages of seed in relation to breeder's confirmation

21.—(1) No person shall have in their possession any package of seed in respect of which a breeder's confirmation for Pre basic Seed or Basic Seed has been applied for or issued unless it has been sealed in accordance with this regulation by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler using a non reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal, in such manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package.

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

(3) Subject to paragraph (4), no person shall open a package of seed which has been sealed in accordance with paragraph (1) or re sealed in accordance with paragraph (4) except—

- (a) for the purpose of sowing all the seed;
- (b) where—
 - (i) some of the seed is sown immediately after the package is opened;
 - (ii) the rest of the seed remains in the package after the seed is sown in accordance with sub paragraph (i); and
 - (iii) the package is re sealed immediately after the seed is sown in accordance with sub paragraph (i); or
- (c) for the purpose of re packaging and re sealing all of the seed.

(4) If a package of seed which has been sealed in accordance with paragraph (1), or re-sealed in accordance with this paragraph, is opened, whether in accordance with paragraph (3) or otherwise, neither it nor any other package containing any of that seed may be sealed, re sealed or further re sealed, as the case may be, except by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler.

(5) If the details on any label required by regulation 22 cease to be correct as a consequence of any action of the kind described in paragraph (3) the label shall be replaced by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler at the time the package is re sealed under paragraph (4).

Labelling of packages of seed in relation to breeder's confirmation

22.—(1) No person shall have in their possession any package of seed in respect of which a breeder's confirmation has been applied for unless it has been, not later than the time of sealing under regulation 21, labelled, inscribed or otherwise dealt with in accordance with this regulation.

(2) In the case of a package of seed in respect of which the Scottish Ministers have issued a breeder's confirmation re grading the seed to a different category or level—

- (a) paragraph (1) shall apply as if the words “not later than at the time of sealing” were omitted; and
- (b) subject to sub paragraph (a), the package of seed shall be re labelled in accordance with this regulation within 7 days of the issue of that breeder's confirmation.

(3) In the case of seed of a variety which has been genetically modified, any label, document, printing or stamp, whether official or otherwise, affixed to or accompanying a seed lot or any part of a seed lot in accordance with the provisions of this regulation, shall clearly indicate that the variety has been genetically modified.

(4) Packages of seed in respect of which a breeder's confirmation has been applied for shall have affixed on the outside an official label—

- (a) containing, as appropriate to the category of seed and the seed itself, particulars of the matters specified, and being of at least the size and of the colour also specified, in the relevant paragraph of Part II of Schedule 6; and
- (b) which shall be—
 - (i) either an adhesive label or a label secured to the package by a sealing system approved by the Scottish Ministers;
 - (ii) affixed, in either case, by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler; and
 - (iii) over stamped “not certified”.

(5) If in accordance with paragraphs 5 and 6(c) of Part II of Schedule 2 a breeder's confirmation has been issued in respect of seed of a lower percentage of germination than that specified for Basic Seed in Part II of Schedule 4—

- (a) the official label, or the particulars printed or stamped on the package in accordance with paragraph (6), shall contain a statement that the minimum percentage of germination of the seed is less than the minimum percentage of germination for Basic Seed; and
- (b) where possession of the package is transferred to another person, the transferor shall—
 - (i) guarantee a specific minimum percentage of germination of the seed; and
 - (ii) affix a label to the outside of the package containing a statement of the specific minimum percentage of germination of the seed guaranteed by the person transferring possession of the seed together with the name and address of the transferor and the reference number of the seed lot.

(6) Notwithstanding paragraphs (3) to (5)(a) and (10), but subject to paragraph (5)(b), a package of seed need not be labelled if—

- (a) the appropriate particulars of the matters specified in the relevant paragraph of Part II of Schedule 6 and paragraphs (3), (5)(a), (9) and (10) 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 paragraphs 12 to 16 of Part VI of Schedule 6 are satisfied.

(7) Subject to paragraph (8), a package of seed for which a breeder's confirmation has been issued 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 (4) and shall contain particulars of the matters specified in the items numbered—

- (a) in the case of Pre-basic Seed and lower germination seed to which paragraph 4 of Part II of Schedule 6 is relevant, paragraph 4(a)(iii) to (v) of Part II of Schedule 6; and
- (b) in the case of Basic Seed and lower germination seed to which paragraph 5 of Part II of Schedule 6 is relevant, paragraph 5(a)(iv) of Part II of Schedule 6.

(8) The official inner label referred to in paragraph (7) shall not be required if the particulars specified in paragraphs (3), (7) and (10) are printed indelibly on the outside of the package or if the official label is an adhesive or tear resistant label.

(9) If a package of seed has been re sealed in accordance with regulation 21(4) this fact shall be stated on the official label required in terms of paragraph (4), and if an official certificate is issued in respect of the seed, on the official label required in terms of regulation 17(12), together with the month and year of re sealing and the name of the authority responsible for the re sealing.

(10) If any seed has 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 on the package; or
- (b) on the official label referred to in paragraph (4) or the printing or stamp referred to in paragraph (6),

and also, except where the information prescribed by this paragraph is given on an adhesive or tear resistant label, either on the outside of the package or as a document enclosed inside the package.

(11) The particulars and information given in accordance with this regulation shall be given in one of the official languages of the European Community.

(12) For the purposes of this regulation, references in Schedule 6 to the “certifying authority” shall, in the case of a breeder’s confirmation, be taken to be references to that authority as issuer of the breeder’s confirmation.

(13) Subject to the provisions of the Act and of these Regulations, no person shall wilfully reproduce, remove, alter, deface, conceal or misuse in any way any label affixed to, contained in or marked on any package of seed or which is to be so affixed, contained or marked, except as may occur in the course of opening the package for the purposes of paragraph (2)(b), regulation 17(2)(b) or regulation 21(3).

PART VII

MISCELLANEOUS

Comparative tests and trials

23. For the purposes of comparative tests and trials under Article 20 (comparative tests and trials) of the Cereal Seed Directive, the Scottish Ministers shall be entitled, on request, to an additional submitted sample taken from any seed lot of seed to which these Regulations apply whenever that seed lot is sampled for the purposes of an official examination under these Regulations.

Civil liabilities of sellers of seed

24.—(1) The particulars given to a purchaser by the seller of seed to which these Regulations apply, whether given in pursuance of these Regulations expressly or by implication arising from the description under which the seed is sold, shall constitute a statutory warranty for the purpose of section 17 of the Act in so far as they relate to the category of the seed, the percentage germination

of the seed, the percentage analytical purity of the seed, the content of seed of other plant species, the varietal identity and the varietal purity of the seed or, in the case of a mixture of seed permitted by regulation 8, of each of its constituents to which these Regulations apply.

(2) Section 17(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 7.

(3) Section 17(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 17(3) of the Act shall, not more than 10 days after delivery to that purchaser of the seed, give to the seller written notice of the purchaser's 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 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 fails to appoint such a day and time, on a day not more than 28 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 from the relevant seed lot or part of a seed lot sold to the purchaser, which sample shall be at least twice the minimum weight prescribed in paragraph 26 of Part II of Schedule 5.

(6) A sample taken in accordance with the requirements of paragraph (5) shall be taken, and divided by the purchaser or the purchaser's representative into two parts in accordance with the methods specified in Part I of Schedule 5, each part being of at least the minimum weight prescribed in paragraph 26 of Part II of Schedule 5, of which one part shall be sent to the Chief Officer of the Official Seed Testing Station for Scotland 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 the seller by post.

Service of notices

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

- (a) by delivering it to that person or by 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 other than a limited liability partnership, by giving it in accordance with sub paragraph (a) to the secretary of the body;
- (c) if the person is a limited liability partnership, by giving it in accordance with sub paragraph (a) to a member of the partnership; or
- (d) if the person is a partnership, by giving it in accordance with sub-paragraph (a) to a partner or a person having control of the management of the partnership business.

(2) For the purposes of this regulation and section 7 (service of documents by post) of the Interpretation Act 1978(22) 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, except that—

- (a) in the case of a seed merchant, seed packer or seed processor registered under regulation 4(1) (registration of seed merchants, seed packers and seed processors) of the

Seeds (Registration, Licensing and Enforcement) Regulations 1985⁽²³⁾ or a licensed crop inspector who has a current licence granted by the Scottish Ministers or a licensed seed sampler who has a current licence granted by the Scottish Ministers, it shall be the address which could be made available by the Scottish Ministers under regulation 13(a) (inspection and publication of lists of registered and licensed persons) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985; and

- (b) in other cases it shall be—
- (i) in the case of a body corporate (other than a limited liability partnership) or its secretary, the address of the registered or principal office of the body;
 - (ii) in the case of a limited liability partnership or a member of the partnership, the address of the registered or principal office of the partnership; and
 - (iii) in the case of a partnership or a partner or a person having the control or management of a partnership business, the address of the principal office of the 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 that person or someone on that person's behalf will accept notices of that description.

(4) In relation to that notice, that address shall be treated as that person's proper address for the purposes of this regulation and section 7 (service of documents by post) of the Interpretation Act 1978 in its application to this regulation, instead of that determined under paragraph (2).

Written and electronic communication

26.—(1) All applications, approvals, authorisations, notices, notifications and statements to which these Regulations apply shall be made in writing.

(2) “Writing” in paragraph (1) includes an electronic communication as defined in the Electronic Communications Act 2000⁽²⁴⁾, 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 sent 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 purpose of these Regulations or has otherwise represented that that form of electronic communication is a means by which the Scottish Ministers can communicate with them.

Amendment to the Seeds (Fees) (Scotland) Regulations 2002

27. In Schedule 1 (matters arising under the Cereal Seeds Regulations 1993) of the Seeds (Fees) (Scotland) Regulations 2002⁽²⁵⁾ for “Cereal Seeds Regulations 1993” substitute “Cereal Seed (Scotland) Regulations 2005⁽²⁶⁾”.

⁽²³⁾ S.I. 1985/980, as relevantly amended by S.I. 1987/1098, 1990/611 and 1993/2530.

⁽²⁴⁾ 2000 c. 7.

⁽²⁵⁾ S.S.I. 2002/526.

⁽²⁶⁾ S.S.I. 2005/328.

Revocations and supplementary provisions

28.—(1) Subject to paragraph (2), the Regulations set out in column 1 of Schedule 8 are revoked to the extent specified in the corresponding entry in relation to those Regulations in column 3 of Schedule 8.

(2) Section 17 (repeal and re enactment) of the Interpretation Act 1978 shall not apply in relation to general licences granted under the Cereal Seeds Regulations 1993.

St Andrew's House, Edinburgh
8th June 2005

ROSS FINNIE
A member of the Scottish Executive

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SCHEDULE 1

Regulations 2(1) and 5(1)

SPECIES OF SEED TO WHICH THE REGULATIONS APPLY

Column 1 Common Name	Column 2 Latin Name
Barley	<i>Hordeum vulgare</i> L.
Durum Wheat	<i>Triticum durum</i> Desf.
Maize, except for popcorn and sweetcorn	<i>Zea mays</i> L. (partim) except for <i>Zea mays</i> convar. <i>microsperma</i> Koern. and <i>Zea mays</i> convar. <i>saccharata</i> Koern.
Oats	<i>Avena sativa</i> L.
Rye	<i>Secale cereale</i> L.
Spelt Wheat	<i>Triticum spelta</i> L.
Triticale	<i>x.Triticosecale</i> Wittm.
Wheat	<i>Triticum aestivum</i> L. emend. Fiori et Paol.

SCHEDULE 2

Regulations 2(1), 6(3), 11(1), 14(2), 20(2)
and 22(5)

OFFICIAL CERTIFICATES AND BREEDER'S CONFIRMATIONS

PART I

OFFICIAL CERTIFICATES

Applications for seed harvested in the United Kingdom

1. On receipt of an application made in accordance with regulation 14(1) but not made in pursuance of Article 15 (certification of seed from other EEA States or equivalent third countries) of the Cereal Seed Directive for the issue of an official certificate in respect of a seed lot as Pre-basic Seed(27), Basic Seed(28) or Seed of a Certified Generation(29), the Scottish Ministers shall, subject to paragraphs 2 and 3, issue in respect of such a seed lot an official certificate containing the particulars specified in paragraph 1 of Schedule 3.

When applications will be refused

2.—(1) The Scottish Ministers shall refuse to issue an official certificate in respect of a seed lot unless—

- (a) an application has been made to the Scottish Ministers, in writing in such form and manner and at such time as the Scottish Ministers may require, and has been accompanied by such

(27) See regulation 3 for the definition of “Pre basic Seed”.

(28) See regulation 3 for the definition of “Basic Seed”.

(29) See regulation 3 for the definition of “Seed of a Certified Generation”.

information, material, records, illustrations and other documents as they may require, in respect of—

- (i) the seed lot or seed lots to be used for the production of the crop or crops from which is to be or has been obtained the seed lot in respect of which the application for an official certificate has been made; and
- (ii) the crop or crops from which the seed lot is to be or has been obtained;
- (b) an official examination of the crop or crops from which was obtained the seed lot in respect of which the application for an official certificate has been made has shown that the crop or crops met the standards appropriate to the category of seed referred to in the application specified in Part I of Schedule 4; and
- (c) an official examination of a sample of the seed lot has shown that the seed lot meets the standards appropriate to the relevant category of seed referred to in the application specified in paragraph 16(1) of Part II of Schedule 4,

except that paragraph 2(1)(c), in so far as it relates to standards of percentage of germination specified in paragraph 13 of Part II of Schedule 4, shall not apply in relation to an application for the issue of an official certificate in respect of lower germination seed.

(2) Notwithstanding sub paragraph (1), the Scottish Ministers shall refuse to issue an official certificate certifying a seed lot either as—

- (a) Basic seed if the seed lot was certified at the time of the relevant application as Seed of a Certified Generation; or
- (b) Pre basic seed if the seed lot was certified at the time of the relevant application as either Basic Seed or Seed of a Certified Generation,

unless the application is accompanied by the written consent of the Breeder.

When applications may be refused

3. The Scottish Ministers may refuse to issue an official certificate in respect of a seed lot if it appears to them that—

- (a) a sample taken from the seed lot for the purpose of an official examination to ascertain whether the seed lot meets the appropriate standards specified in Part II of Schedule 4 has not been taken in accordance with regulation 15(1);
- (b) an official examination of a control plot sown with a sample of the seed lot shows that the crop does not meet the appropriate standards specified in Part I of Schedule 4; or
- (c) there has been any breach of seeds regulations in relation to the seed lot in respect of which the application for an official certificate has been made.

Applications for seed harvested in an EEA State or third country

4. Notwithstanding paragraphs 2 and 3, on receipt of an application made in accordance with regulation 14(1) and in pursuance of Article 15 (certification of seed from other EEA States or equivalent third countries) of the Cereal Seed Directive for the issue of an official certificate in respect of a seed lot as Pre basic Seed, Basic Seed or Seed of a Certified Generation, the Scottish Ministers shall issue in respect of the seed lot an official certificate containing the particulars specified in paragraph 1 of Schedule 3 if—

- (a) the seed has been—
 - (i) produced directly from fully certified Basic Seed, Certified Seed of the First Generation⁽³⁰⁾ or seed certified in a third country which is permitted to be sold as

(30) See regulation 3 for a definition of Certified Seed of the First Generation.

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Basic Seed or Certified Seed of the First Generation by virtue of a general licence granted by the Scottish Ministers under regulation 10 or the implementation of the Equivalence Decision; and

- (ii) harvested in an EEA State other than the United Kingdom or in a third country; or
 - (b) the seed has been—
 - (i) produced directly from the crossing of fully certified Basic Seed with seed certified in a third country which is permitted to be sold as Basic Seed by virtue of a general licence granted by the Scottish Ministers under regulation 10 or the implementation of the Equivalence Decision; and
 - (ii) harvested in an EEA State other than the United Kingdom or in a third country; or
 - (c) the seed—
 - (i) is to be certified by the Scottish Ministers as Basic Seed;
 - (ii) has been produced directly from fully certified Pre basic Seed or from seed certified in a third country which is permitted to be sold as Pre-basic Seed by virtue of a general licence granted by the Scottish Ministers under regulation 10 or the implementation of the Equivalence Decision; and
 - (iii) has been harvested in an EEA State other than the United Kingdom or in a third country; and
- provided that—
- (d) if the seed has been harvested in an EEA State other than the United Kingdom the seed has been harvested from a crop which has been found by official field inspection to satisfy the crop conditions specified in Annex I (crop standards) of the Cereal Seed Directive for the relevant category of seed;
 - (e) if the seed has been harvested in an EEA State, the seed has been packed in a sealed package in accordance with the requirements of Article 9(1) (sealing) of the Cereal Seed Directive and has been labelled in accordance with the requirements of the first indented sub-paragraph of the first paragraph of Article 15(2) (labelling requirements for certification of seed from other EEA States or equivalent third countries) of the Cereal Seed Directive;
 - (f) if the seed has been harvested in an EEA State, the seed has been imported into the United Kingdom as not finally certified seed;
 - (g) if the seed has been harvested in an EEA State, the seed is accompanied by an Annex V(C) document relating to the seed issued by the competent seed certification authority in the EEA State; and
 - (h) official examination has shown that the conditions specified in Part II of Schedule 4 for the relevant category of seed have been satisfied.

PART II

BREEDER'S CONFIRMATIONS

Applications

5. On receipt of an application made in accordance with regulation 20(1) for the issue of a breeder's confirmation in respect of a seed lot, as Pre-basic Seed or Basic Seed, the Scottish Ministers shall, subject to paragraphs 6 and 7, issue in respect of that seed lot a breeder's confirmation containing the particulars specified in paragraph 2 of Schedule 3.

When applications will be refused

6. The Scottish Ministers shall refuse to issue a breeder's confirmation in respect of a seed lot unless—

- (a) an application has been made to the Scottish Ministers in writing in such form and manner and at such time as the Scottish Ministers may require, and has been accompanied by such information, material, records, illustrations and other documents as they may require, in respect of—
 - (i) the seed lot or seed lots to be used for the production of the crop or crops from which is to be or has been obtained the seed lot in respect of which the application for a breeder's confirmation has been made; and
 - (ii) the crop or crops from which the seed lot is to be or has been obtained;
- (b) an official examination of the crop or crops from which was obtained the seed lot in respect of which the application for a breeder's confirmation has been made has shown that the crop or crops meet the standards specified in Part I of Schedule 4 appropriate to the category referred to in the application; and
- (c) an official examination of a sample taken from the seed lot has shown that the seed lot meets the standards specified in Part II of Schedule 4 appropriate to the relevant category of seed referred to in the application except that a breeder's confirmation can be issued for Pre-basic Seed or Basic Seed in respect of seed which attains a lower percentage of germination than that specified in paragraph 16(1) of Part II of Schedule 4.

When applications may be refused

7. The Scottish Ministers may refuse to issue a breeder's confirmation in respect of a seed lot if—

- (a) it appears to them that a sample taken from the seed lot for the purpose of an official examination to ascertain whether the seed lot meets the appropriate standards specified in Part II of Schedule 4 has not been taken in accordance with regulation 15(1);
- (b) it appears to them that an official examination of a control plot sown with a sample of the seed lot shows that the crop does not meet the appropriate standards specified in Part I of Schedule 4;
- (c) it appears to them that 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; or
- (d) the breeder applying for the breeder's confirmation in respect of the seed lot notifies them that the application to have the relevant variety or hybrid variety accepted on to a UK National List (or to an equivalent list in an EEA State) has been withdrawn or refused.

SCHEDULE 3

Regulation 2(1), paragraphs 1 and 4 of
Part I of Schedule 2 and paragraph 5 of
Part II of Schedule 2

PARTICULARS TO BE SPECIFIED IN AN OFFICIAL CERTIFICATE OR A BREEDER'S CONFIRMATION

Particulars to be specified in an official certificate

1. The following particulars shall be specified in an official certificate:—

- (a) name and address of certifying authority;

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- (b) applicant's name, address and, if appropriate, registered number;
- (c) seed lot reference number;
- (d) species/variety/category/level, as appropriate;
- (e) net weight of seed lot and number of containers;
- (f) seed treatment, if any; and
- (g) if the seed is Pre basic Seed or Basic Seed and the seed attains a lower percentage of germination than that specified in paragraph 16(1) of Part II of Schedule 4, a statement to that effect.

Particulars to be specified in a breeder's confirmation

2. The following particulars shall be specified in a breeder's confirmation:—
- (a) name and address of issuing authority;
 - (b) applicant's name, address and, if appropriate, registered number;
 - (c) seed lot reference number;
 - (d) species/variety, or AFP number and breeder's designation if appropriate, category/level, as appropriate;
 - (e) net weight of seed lot and number of containers;
 - (f) seed treatment, if any;
 - (g) a statement that the breeder's confirmation does not constitute an official certificate and does not permit marketing of the seed; and
 - (h) if the seed is Pre basic Seed or Basic Seed and the seed attains a lower percentage of germination than that specified in paragraph 16(1) of Part II of Schedule 4, a statement to that effect.

SCHEDULE 4

Regulations 2(1), 3, 6(2) and (5), 7(3) and 7(4), 11(1), 12(1), (2) and (3), 14(4), 15(2), 20(3), 22(5) and paragraphs 2, 3 and 4 of Part I of Schedule 2, paragraphs 6 and 7 of Part II of Schedule 2 and paragraphs 1 and 2 of Schedule 3

REQUIREMENTS FOR PRE BASIC SEED, BASIC SEED,
CERTIFIED SEED, CERTIFIED SEED OF THE FIRST GENERATION
AND CERTIFIED SEED OF THE SECOND GENERATION

PART I

CONDITIONS RELATING TO CROPS FROM WHICH SEED IS OBTAINED

Methods of ascertaining whether crop requirements are met

1. The Scottish Ministers may ascertain, so far as practicable, whether the requirements for the crop set out in this Part of this Schedule are met by the use of methods which shall include official field inspection of the crop and which may include examination of a control plot sown with a sample from the seed lot and the consideration of any other relevant information.

Varietal identity and varietal purity

2. The characteristics used for the determination of varietal identity and varietal purity shall be those to which regard was had when the relevant variety was accepted on to the relevant UK National List, an equivalent list in another EEA State or the Common Catalogue.

Crop inspection

3.—(1) An official examination of the crop shall be made by means of an official field inspection.

(2) The official field inspection shall only be carried out when the cultural condition of the field and the stage of development and condition, including state of health, of the crop—

- (a) are such as to permit suitable checks of varietal identity, varietal purity, species purity and wild oats contamination to be made; and
- (b) meet the requirements of the Scottish Ministers.

(3) A crop from which HVS level seed of Basic Seed, Certified Seed of the First Generation or Certified Seed of the Second Generation is to be produced shall not be more than one third lodged at the time of inspection.

(4) Subject to sub paragraphs (5) and (6), at least one field inspection of the crop shall be carried out.

(5) Subject to sub-paragraph (6), at least three field inspections shall be carried out in the case of an inbred line or hybrid of maize.

(6) In the case of maize, where the crop to be examined follows a maize crop in either the preceding or current year, at least one special field inspection shall be carried out to check that the condition contained in paragraph 1 has been complied with.

(7) For the purposes of this paragraph “lodged” means an area of crop which has been displaced from the vertical by more than 45 degrees.

Harmful organisms in the crop

4. Harmful organisms which reduce the usefulness of the seed, in particular Ustilaginaceae, shall be at the lowest possible level.

Previous cropping

5.—(1) The previous cropping of the field shall not have been incompatible with the production of seed of the species and variety of the crop, and the field shall be sufficiently free from plants which are volunteers from previous cropping.

(2) The crop may be grown only on land which complies with the Scottish Ministers' requirements in respect of previous cropping.

Isolation distances – general

6. There shall be either a physical barrier or at least 2 metres of fallow ground between the seed crop and any crop likely to cause contamination in the seed.

Isolation distances – minimum distances

7. For maize, rye and self pollinating varieties of triticale, the minimum distance from neighbouring crops or plants of other species, or of other varieties of the same species, liable to cross pollinate with the crop shall be the distances specified in column 2 of the following table for the

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corresponding crop specified in column 1 of the table (which can include any distance of at least 2 metres of fallow ground required under paragraph 6)–

Column 1 Crop	Column 2 Minimum Distance
(a) (a) Maize–	
(i) for the production of Basic Seed	200 metres
(ii) for the production of Certified Seed	200 metres
(b) (b) Self-pollinating variety of triticale	
(i) for the production of Basic Seed	50 metres
(ii) for the production of Certified Seed	20 metres
(c) (c) Rye (other than hybrids)–	
(i) for the production of Basic Seed	300 metres
(ii) for the production of Certified Seed	250 metres
(d) (d) Hybrids of rye–	
(i) for the production of Basic Seed where male sterility is used	1,000 metres
(ii) for the production of Basic Seed where male sterility is not used	600 metres
(iii) for the production of Certified Seed	500 metres

but with the approval of the Scottish Ministers these distances may be modified or disregarded if there is adequate protection against undesirable foreign pollen.

Standards for varietal purity

- 8.—(1) The crop shall have sufficient varietal identity and varietal purity, including–
- (a) in the case of a crop of an inbred line, sufficient varietal identity and varietal purity as regards its characteristics; and
 - (b) in the case of a crop used for the production of seed of hybrid varieties, sufficient varietal identity and varietal purity as regards the characteristics of the components of the hybrid variety, including male sterility or fertility restoration.
- (2) In crops of rye, including hybrids of rye, the number of plants of the crop species which are recognisable as obviously not being true to the variety shall not exceed–
- (a) one plant in 30 square metres for the production of Basic Seed; and
 - (b) subject to sub-paragraph (4)(a) in relation to hybrids of rye, one plant in 10 square metres for the production of Certified Seed.
- (3) In crops of maize–
- (a) the percentage by number of plants which are recognisable as obviously not being true to the variety, to the inbred line or to the component shall not exceed the percentage specified in column 2 of the following table corresponding to the relevant crop specified in column 1 of the table–

Column 1 Crop of maize	Column 2 Percentage by number of plants
(i) For the production of Basic Seed–	
(aa) inbred lines	0.1%
(bb) simple hybrid, each component	0.1%
(cc) open-pollinated varieties	0.5%
(ii) For the production of Certified Seed–	
(aa) a component of a hybrid variety	
(aaA) in the case of an inbred line	0.2%
(aaB) in the case of a simple hybrid	0.2%
(aaC) in the case of open pollinated variety	1.0%
(bb) in the case of open pollinated varieties	1.0%
(b) used for the production of seed of hybrid varieties–	
(i) sufficient pollen shall be shed by the plants of the male component while the plants of the female component are in flower;	
(ii) where appropriate emasculation shall be carried out; and	
(iii) where 5% or more of the female component plants have receptive stigmas, the percentage of female component plants which have shed pollen or are shedding pollen shall not exceed–	
(aa) 1% at any official field inspection; and	
(bb) 2% at the total of the official field inspections;	
(c) for the purposes of sub paragraphs (b)(i) and (iii) plants shall be considered as having shed pollen or to be shedding pollen where, on 50 millimetres or more of the central axis or laterals of a panicle, the anthers have emerged from their glumes and have shed or are shedding pollen.	
(4) In crops of hybrids of rye–	
(a) in an official field inspection the standard in paragraph (2)(b) shall apply to the female component only;	
(b) in the case of Basic Seed, where male sterility is used, the level of sterility of the male sterile component shall be at least 98%; and	
(c) where appropriate, Certified Seed shall be produced in mixed cultivation of a female male sterile component with a male component which restores male fertility.	
(5) In crops of hybrids of barley, durum wheat, oats, self pollinating triticale, spelt wheat or wheat–	
(a) subject to sub paragraph (b) varieties of the female component of the crop shall be at least 25 metres from a crop of any other variety of the same species except from a crop of the male component;	
(b) sub paragraph (a) shall not apply if there is sufficient protection from any undesirable foreign pollination;	
(c) where seed is produced using a chemical hybridisation agent, the crop shall conform to the following standards or other conditions–	

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- (i) the minimum varietal purity of each component shall be–
 - (aa) in the case of barley, durum wheat, oats, spelt wheat or wheat, 99.7%; and
 - (bb) in the case of self pollinating varieties of triticale, 99.0%; and
- (ii) the minimum hybridity must be 95%; and
- (d) in cases where the hybridity is determined during seed testing prior to certification, the determination of the hybridity during a field inspection need not be done.

Standards for wild oats contamination

9. The maximum number of wild oats per hectare shall be as follows–

Crops to produce	Level where applicable	Barley (other than hybrids)	Hybrid of barley	Durum wheat, spelt wheat and wheat (other than hybrids in each case)	Hybrid of durum wheat, spelt wheat and wheat	Maize and rye (including hybrids)	Oats (other than hybrids)	Hybrid of oats	Hybrid of self-pollinating varieties of triticale	Triticale
Basic Seed	HVS	7	n/a	7	n/a	n/a	0	n/a	n/a	n/a
	Minimum	7	n/a	7	n/a	7	0	n/a	n/a	7
Certified Seed	–	n/a	20	n/a	50	50	n/a	0	50	n/a
Certified Seed of the First Generation	HVS	7	n/a	7	n/a	n/a	0	n/a	n/a	n/a
	Minimum	20	n/a	50	n/a	n/a	0	n/a	n/a	50
Certified Seed of the Second Generation	HVS	7	n/a	7	n/a	n/a	0	n/a	n/a	n/a
	Minimum	20	n/a	50	n/a	n/a	0	n/a	n/a	50

Standards for other cereal species

10. In the case of barley, durum wheat, oats, spelt wheat and wheat, the crop shall conform to the following standards as regards the minimum species purity–

Crops to produce	Minimum standard (percentage by number)	Higher Voluntary Standard (percentage by number)
(a) (a) Basic seed	n/a	99.99%
(b) (b) Certified Seed of the First Generation	n/a	99.99%
(c) (c) Certified Seed of the Second General	n/a	99.99%

Crop standards for loose smut infection

11. The maximum percentage by number of loose smut infection shall be as follows–

Column 1 Category (Barley, durum wheat, spelt wheat and wheat)	Column 2 Level (where appropriate)	Column 3 Maximum percentage by number of loose smut infection
(a) (a) Basic Seed	HVS	0.1%
	Minimum	0.5%
(b) (b) Certified Seed	–	0.5%
(c) (c) Certified Seed of the First Generation	HVS	0.2%
	Minimum	0.5%
(d) (d) Certified Seed of the Second Generation	HVS	0.2%
	Minimum	0.5%

Seeds produced from a crop which has failed on official examination to meet the standards laid down by this paragraph may nevertheless be eligible for official certification–

- (a) if they have been adequately treated by any method approved by the Scottish Ministers for the control of loose smut; or
- (b) if an embryo test carried out by an official seed testing station, on the sample submitted for official examination shows that the seeds meet the seed standards in paragraph 18.

Crop conditions for Pre basic Seed

12. For the purpose of determining whether a crop from which Pre basic Seed is to be produced meets the conditions specified in this Part of this Schedule, the crop from which such seed is to be produced shall be treated in the same way as a crop from which minimum level Basic Seed is to be produced.

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PART II
CONDITIONS RELATING TO BASIC SEED, CERTIFIED SEED, CERTIFIED SEED OF THE FIRST GENERATION AND CERTIFIED SEED OF THE SECOND GENERATION

Standards for varietal purity

13.—(1) The seed shall possess sufficient varietal identity and varietal purity or, in the case of an inbred line, sufficient identity and purity as regards its characteristics.

(2) For the seed of hybrid varieties, the requirement for sufficient identity and purity shall also apply to the characteristics of the components.

(3) In particular, seed of the species, category and level specified in columns 1 and 2 of the following table shall possess at least the percentage of minimum varietal purity specified in the corresponding entry in column 3 of the table—

Column 1 Species and category	Column 2 Level (where appropriate)	Column 3 Percentage of minimum varietal purity
(a) (a) Barley, durum wheat, oats, spelt wheat and wheat except hybrids in each case—		
(i) Basic Seed	HVS	99.95%
	Minimum	99.90%
(ii) Certified Seed of the First Generation	HVS	99.90%
	Minimum	99.70%
(iii) Certified Seed of the Second Generation	HVS	99.70%
	Minimum	99.00%
(b) (b) Hybrids of barley, durum wheat, oats, self pollinating varieties of triticale, spelt wheat and wheat—		
(i) Certified Seed	—	90.00%
(c) (c) Self pollinating varieties of triticale—		
(i) Basic Seed	—	99.70%
(ii) Certified Seed of the First Generation	—	99.00%
(iii) Certified Seed of the Second Generation	—	98.00%

(4) For the purposes of sub paragraph (3)(a) and (b), the minimum varietal purity of seed shall be examined mainly in official field inspections carried out in accordance with the conditions specified in paragraph 3 of Part I of this Schedule.

(5) For the purposes of sub paragraph (3)(c), the minimum varietal purity of the seed shall be examined in official post-control tests on an appropriate proportion of samples.

Production of Certified Seed of hybrids of maize

14.—(1) Where a female male-sterile component and a male component which does not restore male fertility have been used for the production of Certified Seed of hybrids of maize, the seed produced—

- (a) by mixing the seed lots in a proportion appropriate to the variety where, on the one hand a female male sterile component has been used and, on the other, a female male fertile component has been used; or
- (b) by growing the female male sterile component and the female male fertile component in a proportion appropriate to the variety.

(2) In the case of seed produced in the manner specified in sub paragraph (1)(b) the proportion of the female male sterile and female male fertile components shall be examined in field inspections carried out in accordance with the conditions laid down in paragraph 3 of Part I of this Schedule.

Standards for varietal purity for hybrid varieties of rye

15. In the case of seed of a hybrid variety of rye, the seed shall not be certified as Certified Seed unless due account has been taken of the results of official post control tests on samples of Basic Seed taken in accordance with regulation 15(1) and carried out during the growing season of the seed for which an application has been made for certification as Certified Seed to ascertain whether the Basic Seed has met the requirements for Basic Seed specified in these Regulations in respect of varietal identity as regards the characteristics of the components, including male sterility and in respect of the minimum varietal purity.

Standards of germination, analytical purity and content of seed of other plant species

16.—(1) The seed shall conform to the standards or other conditions as regards germination, analytical purity and the content of seeds of other plant species specified in the following table—

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Maximum content by number of seeds of other plant species in a sample of the weight specified in column 6 of paragraph 26(2) of Part II of Schedule 5																
Species and category	Germination (% of pure seed)		Analytical purity (% by weight)		Other plant species (inc. seeds of the species specified in columns 8 to 15)		Other cereal species		All species other than cereals		<i>Avena fatua, A. ludoviciana, or A sterilis, Lolium temulentum</i>		<i>Agropyron repens; Agrostemma githago; or Bromus sterilis; or Raphanus raphanistrum</i>		Ergot (pieces)	
	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>	<i>12</i>	<i>13</i>	<i>14</i>	<i>15</i>	<i>16</i>	<i>17</i>
Avena sativa, Hordeum vulgare																
Triticum aestivum, T. durum, T. spelta:																
– basic seed	85	85	99	99	4	1	1 ^(a)	0	3	1	0 ^(b)	0	1 ^(c)	0 ^(d)	1	0
– certified seed	85 ^(e)	n/a	98	n/a	10	n/a	7	n/a	7	n/a	0 ^(b)	n/a	3 ^(c)	n/a	3	n/a
– certified seed of the First generation	85 ^(e)	85 ^(e)	98	99	10	2	7	1	7	1	0 ^(b)	0	3 ^(c)	1	3	1
– certified seed of the Second generation	85 ^(e)	85 ^(e)	98	99	10	4	7	3	7	2	0 ^(b)	0	3 ^(c)	1	3	1
Secale cereale																

Maximum content by number of seeds of other plant species in a sample of the weight specified in column 6 of paragraph 26(2) of Part II of Schedule 5																
Species and category seed	Germination (% of pure seed)		Analytical purity (% by weight)		Other plant species (inc. seeds of the species specified in columns 8 to 15)		Other cereal species		All species other than cereals		<i>Avena fatua, A. ludoviciana, or A sterilis, Lolium temulentum</i>		<i>Agropyron repens; Agrostemma githago; or Bromus sterilis; or Raphanus raphanistrum</i>		Ergot (pieces)	
	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>	<i>Min Std</i>	<i>HVS</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>	<i>12</i>	<i>13</i>	<i>14</i>	<i>15</i>	<i>16</i>	<i>17</i>
– basic seed	85	n/a	98	n/a	4	n/a	1 ^(a)	n/a	3	n/a	0 ^(b)	n/a	1 ^(c)	n/a	1	n/a
– certified seed	85	n/a	98	n/a	10	n/a	7	n/a	7	n/a	0 ^(b)	n/a	3 ^(c)	n/a	3	n/a
<i>xTriticosecale</i>																
– basic seed	80	n/a	98	n/a	4	n/a	1 ^(a)	n/a	3	n/a	0 ^(b)	n/a	1 ^(c)	n/a	1	n/a
– certified seed	80	n/a	98	n/a	10	n/a	7	n/a	7	n/a	0 ^(b)	n/a	3 ^(c)	n/a	3	n/a
– certified seed of the First generation	80	n/a	98	n/a	10	n/a	7	n/a	7	n/a	0 ^(b)	n/a	3 ^(c)	n/a	3	n/a
– certified seed of the Second generation	80	n/a	98	n/a	10	n/a	7	n/a	7	n/a	0 ^(b)	n/a	3 ^(c)	n/a	3	n/a
<i>Zea mays</i>																

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Species and category	Germination (% of pure seed)		Analytical purity (% by weight)		Other plant species (inc. seeds of the species specified in columns 8 to 15)		Other cereal species		All species other than cereals		Avena fatua, A. ludoviciana, or A sterilis, Lolium temulentum		Agropyron repens; Agrostemma githago; Bromus sterilis; or Raphanus raphanistrum		Ergot (pieces)		
	Min Std	HVS	Min Std	HVS	Min Std	HVS	Min Std	HVS	Min Std	HVS	Min Std	HVS	Min Std	HVS	Min Std	HVS	
All categories	90	n/a	98	n/a	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

- (a) A second seed shall not be regarded as an impurity if a second sample of the same weight is free from any seeds of other cereals species.
- (b) The presence of one seed of *Avena fatua*, *A. ludoviciana*, *A. sterilis* or *Lolium temulentum* in a sample of the prescribed weight shall not be regarded as an impurity where a second sample of the same weight is free from any seeds of these species.
- (c) In the case of varieties of *Avena sativa* which are officially classified as of the “naked oat” type the minimum germination standard is 75% . In such a case the official label shall be endorsed “minimum germination capacity 75%”.
- (d) In HVS Basic Seed the nil standard shall apply in respect of *Agrostemma githago* and *Raphanus raphanistrum*.
- (e) For hybrids of rye. The presence of five ergots or fragments of ergot in a sample of seed of a hybrid of rye of the prescribed weight shall be deemed to be in conformity with required sample purity standards, where a second sample of the same weight contains not more than four ergots or fragments of ergot.
- (f) In minimum standard seed, the standards shall apply in respect of *Agrostemma githago* and *Raphanus raphanistrum* only.

(2) Subject to sub paragraphs (3) and (4) it shall be determined, by way of a germination test, whether the seed attains the percentage of germination for the relevant level specified in columns 2 and 3 of the table set out in sub paragraph (1) for the appropriate category of seed.

(3) Sub paragraph (2) shall not apply to seed that has been subjected to a tetrazolium test carried out by the Scottish Ministers or a licensed seed testing station to establish the viability of the seed unless the result of the test casts doubt on whether it will satisfy the applicable germination standard set out in column 2 of the table set out in sub paragraph (1).

(4) Where a tetrazolium test is carried out on seed which does not comply with the Scottish Ministers' requirements for eligibility for tetrazolium testing or where the results of a tetrazolium test do not meet the standards set out in the Scottish Ministers' requirements in respect of such tests, the test will cast doubt on whether the seed will satisfy the applicable germination standards set out in column 2 or 3 of the table set out in sub-paragraph (1).

Harmful organisms in the seed

17. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.

Standards for loose smut infection

18. In any sample of seed the maximum percentage by number of loose smut infection shall be as follows—

Column 1 Category (Barley, durum wheat, spelt wheat and wheat)	Column 2 Level (where appropriate)	Column 3 Maximum percentage by number of loose smut infection
(a) (a) Basic Seed	HVS	0.1%
	Minimum	0.5%
(b) (b) Certified Seed	–	0.5%
(c) (c) Certified Seed of the First Generation	HVS	0.2%
	Minimum	0.5%
(d) (d) Certified Seed of the Second Generation	HVS	0.2%
	Minimum	0.5%

Seeds produced from a crop which has failed on official examination to meet the standards laid down by this paragraph may nevertheless be eligible for official certification—

- (a) if they have been adequately treated by any method approved by the Scottish Ministers for the control of loose smut; or
- (b) if an embryo test carried out by an official seed testing station, on the sample submitted for official examination, shows that the seeds met these standards.

Moisture content

19.—(1) The maximum moisture content of the seed shall not exceed 17% by weight.

(2) The results of any moisture testing which is not carried out in accordance with the requirements of the Scottish Ministers shall be disregarded.

(3) The minimum weight of the sample to be submitted for moisture content testing shall be the minimum weight of a sample specified in column 5 of the table in paragraph 26 of Part II of Schedule 5 and this sample shall be submitted for testing in addition to the submitted sample and in an airtight moisture proof container.

PART III

OFFICIAL EXAMINATIONS USED TO ASCERTAIN WHETHER A CROP OR SEED LOT MEETS THE CONDITIONS RELATING TO

BASIC SEED, CERTIFIED SEED, CERTIFIED SEED OF THE FIRST GENERATION AND CERTIFIED SEED OF THE SECOND GENERATION

Methods for official examinations

20. All official examinations used to ascertain whether crops or seed lots meet the standards specified in this Schedule shall be carried out in accordance with current international methods insofar as such methods exist.

SCHEDULE 5

Regulations 2(1), 15(1) and (2), 24(5) and (6) and paragraph 19 of Part II of Schedule 4

PART I SAMPLING OF SEED LOTS

Definitions

1. In this Part of this Schedule—

“composite sample” means a single sample comprising all of the primary samples taken from a seed lot during a single sampling exercise to produce a submitted sample⁽³¹⁾ for the seed lot; and

“primary sample” means a sample taken from a seed lot in accordance with paragraphs 13 to 19 of this Part of this Schedule.

Obtaining a submitted sample

2. A submitted sample shall be obtained from the seed lot by taking primary samples systematically or at random from different positions in the seed lot and combining them to form a composite sample. Where the composite sample is a submitted sample, it may be submitted for an official examination intact or it may be reduced in weight by using one of the instruments referred to in paragraph 19 of this Part of this Schedule in accordance, where appropriate, with the relevant procedures specified in paragraphs 20 to 23 of this Part of this Schedule to give a smaller submitted sample.

Primary sample size

3. At each position of sampling of a seed lot, primary samples of approximately equal size shall be taken.

Condition of the seed lot

4. The seed lot to be sampled shall be a homogeneous seed lot⁽³²⁾.

(31) See regulation 2(1) for the definition of “submitted sample”.

(32) See regulation 2(1) for the definition of “homogeneous seed lot”.

Seed lot containers

5. If a seed lot is presented for sampling in more than one container, the containers shall be of the same size and type and contain approximately the same weight of seed.

Sampling from sacks – minimum number of containers to be sampled

6. When the seed lot is in sacks or similar sized containers each containing at least 15 kilograms of seed and not more than 100 kilograms of seed, the minimum number of containers to be sampled shall be in accordance with the following table–

Number of containers in which the seed lot is contained	Minimum number of containers to be sampled
1–4	3 primary samples from each container
5–8	2 primary samples from each container
9–15	1 primary sample from each container
16–30	A total of 15 primary samples with each sample being taken from a different container
31–59	A total of 20 primary samples with each sample being taken from a different container
60 or more	A total of 30 primary samples with each sample being taken from a different container

Sampling from sacks or similar containers

7. The containers to be sampled shall be selected systematically or at random and primary samples shall be drawn from the top, middle and bottom of containers; and if more than one primary sample is taken from any container then the position from which the seed is taken shall be varied from primary sample to primary sample and from container to container.

Sampling from small containers – general

8. For sampling seed lots in containers holding less than 15 kilograms of seed, a 100 kilogram weight of seed shall be taken as the basic unit and the small containers shall be combined to form sampling units not exceeding this weight (for example 9 packages of 10 kilograms, 20 packages of 5 kilograms) and for sampling purposes each unit shall be regarded as one container and the sampling procedures prescribed in paragraphs 6 and 7 of this Part of this Schedule shall be used.

Sampling from small containers – moisture proof containers

9. When seed is in moisture-proof containers the opened or pierced containers shall be adequately closed or the residues from sampling transferred to new containers.

Sampling from small containers – primary samples

10. When seed is in packets of 100 grams or less each packet may be considered as a primary sample and sufficient packets shall be taken at random to obtain a submitted sample.

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Sampling from large containers

11. For the sampling of containers holding at least 100 kilograms of seed, primary samples shall be taken from different horizontal and vertical positions selected at random and the minimum number of primary samples to be taken shall be in accordance with the following table—

Seed lot weight (kilograms)	Number of primary samples to be taken
Up to 500	At least 5
501–3,000	1 for each 300 kilograms but no fewer than 5
3,001–20,000	1 for each 500 kilograms but no fewer than 10
20,001 and above	1 for each 700 kilograms but no fewer than 40

Sampling of seed lots intended to be Excepted Seed Marketed in Bulk

12. Random sampling of seed lots of seed which is intended to be Excepted Seed Marketed in Bulk shall be carried out in accordance with the requirements of this Schedule during the filling of the container used by the final consumer and into which the seed is placed.

Sampling from a seed stream

13. Primary samples may be drawn from a seed stream during processing using an automatic sampling device, which shall uniformly sample the entire cross-section of the seed stream when a sample is taken. Primary samples of seed shall be taken at regular intervals throughout the processing of the seed lot using the same sampling intensity as specified in paragraph 11 of this Part of this Schedule.

Sampling instruments – general

14. Sampling instruments shall be capable of sampling all parts of the seed lot.

Sampling instruments – instruments and methods

15. Subject to paragraph 16 of this Part of this Schedule, one of the instruments described in paragraph 17 of this Part of this Schedule shall be used, as appropriate to the location of the seed, to draw primary samples in accordance with the relevant methods described in paragraphs 18 and 19 of this Part of this Schedule.

Sampling instruments – power to allow other instruments and methods

16. Where it is not practicable to use any of the instruments described in paragraph 17 of this Part of this Schedule in accordance with the relevant methods described in paragraphs 18 and 19 of this Part of this Schedule, another instrument or method may be used with the written approval of the Scottish Ministers.

Sampling instruments – instruments for drawing primary samples

17. The instruments referred to in paragraph 15 of this Part of this Schedule, to be used for drawing primary samples are as follows:—

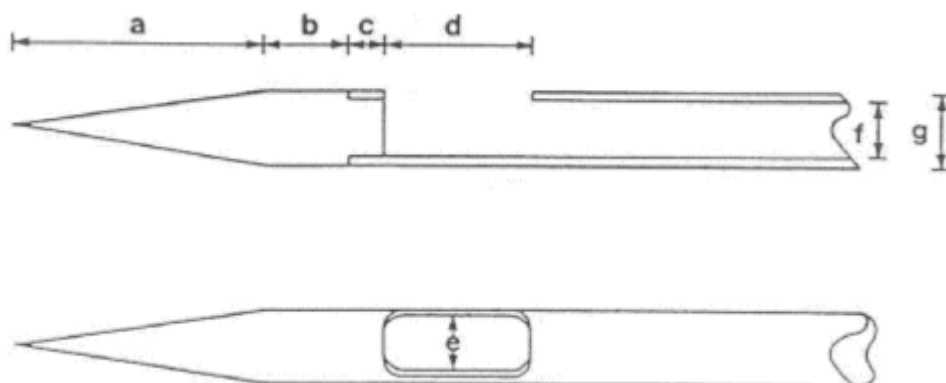
Dynamic spear sampler

- (a) used, in accordance with the methods described in paragraph 19(a) of this Part of this Schedule, for sampling seed lots in sacks or small containers. It shall be a hollow,

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cylindrical, solid-pointed metal spear or trier which shall be long enough to reach beyond the middle of the sack from the side and shall have an aperture so positioned that portions of seed of equal volume are removed from each part of the sack through which it travels. In sampling seed lots of the species specified in column 1 of the following table a dynamic spear sampler shall have a point length (a), shoulder length (b), boss length (c), aperture length (d), aperture width (e), bore width (f) and outside diameter (g) as shown in the diagrams below of dimensions no smaller than those specified in the corresponding entries in the table:—

Species of Seed for which dynamic spear sampler can be used	Minimum dimensions in millimetres						
	Point length	Shoulder length	Boss length	Aperture Length	Aperture Width	Bore width	Outside Diameter
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	2	3	4	5	6	7	8
All species other than maize	85	12	10	33	11	13	15
Maize	82	12	13	40	15	17	19



Stick samplers

(a) A stick sampler of one of the types described in sub paragraphs (i) and (ii) may, subject to sub paragraphs (i) and (ii), be used if it has an aperture or apertures of sufficient size to allow the unrestricted entry of seed and other particles and is capable of being opened and closed during the sampling procedure as appropriate to the method of use described in paragraph 19(b) of this Part of this Schedule.

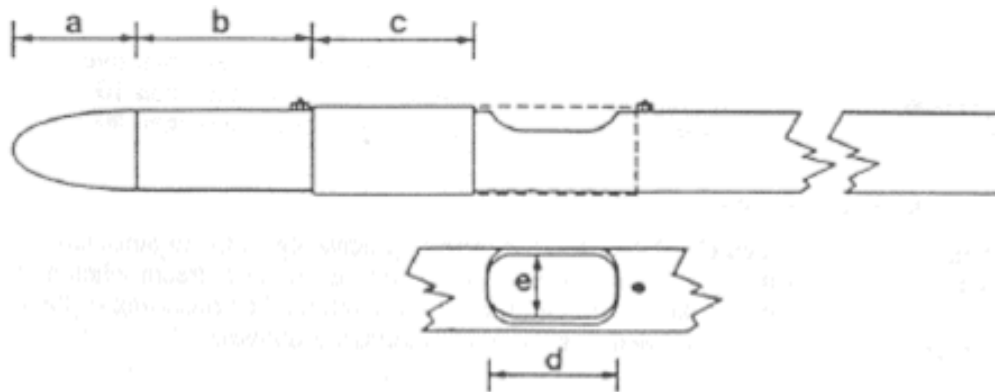
(i) Single chamber type

Subject to paragraph 14 of this Part of this Schedule, a single chamber type stick sampler may be used to sample seed lots in open sacks or in large containers. In

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sampling seed lots in open sacks or in large containers, as specified in column 1 of the following table, a single chamber type stick sampler shall have a point length (a), shoulder length (b), sliding sleeve length (c), aperture length (d), aperture width (e) and bore width (f), as shown in the diagrams below, of the dimensions specified in the corresponding entries in the table, or such other dimensions as the Scottish Ministers may approve in writing—

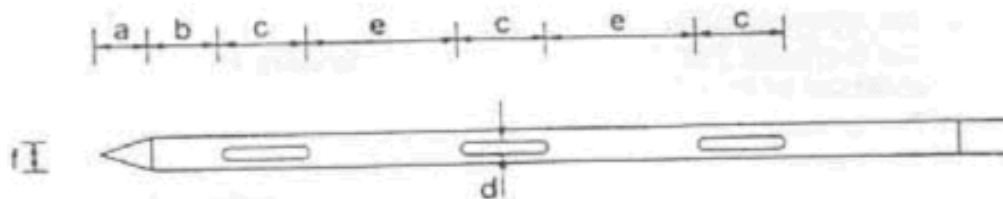
Type of Container	Dimensions in millimetres					
	Point length	Shoulder length	Sliding sleeve length	Aperture length	Aperture width	Bore width
1	(a)	(b)	(c)	(d)	(e)	(f)
	2	3	4	5	6	7
Seed lots in sacks	55	25	75	50	22	25
Seed lots in large containers	100	390	63	50	22	30



(ii) Multi-chamber type

Subject to paragraph 14 of this Part of this Schedule, a multi chamber type stick sampler may be used to sample seed lots in sacks or any other containers. The apertures shall open into chambers which shall be separated from one another by transverse partitions. The multi chamber type stick sampler shall have a point length (a), shoulder length (b), aperture length (c), aperture width (d), aperture separation distance (e) and bore width (f), as shown in the diagram below, of the dimensions specified in the following table or such other dimensions as the Scottish Ministers may approve in writing:—

Dimensions in millimetres					
Point length	Shoulder length	Aperture length	Aperture width	Aperture separation distance	Bore width
(a)	(b)	(c)	(d)	(e)	(f)
60	50	100	15	110	25



Cargo sampler

- (a) Subject to paragraph 14 of this Part of this Schedule, a cargo sampler may be used, in accordance with the method described in paragraph 19(c) of this Part of this Schedule, to sample seed lots in large containers and shall only be used in the vertical position.

Seed stream sampler

- (b) Subject to paragraph 14 of this Part of this Schedule, a seed stream sampler may be used if it has been approved in writing by the Scottish Ministers and if it uniformly samples the cross section of the seed stream without any loss of the seed and any other particles which enter the seed stream sampler, in accordance with the method described in paragraph 19(d) of this Part of this Schedule. Timing devices shall be attached so that the frequency and duration of sampling can be adjusted to meet the requirements of paragraph 13 of this Part of this Schedule.

Methods of use of dynamic spear samplers, stick samplers, cargo samplers and seed stream samplers – general

- 18. All instruments shall be clean before use.

Methods of use of dynamic spear samplers, stick samplers, cargo samplers and seed stream samplers – specific

- 19. The methods of using the instruments described in paragraph 17 shall be as follows:–

Dynamic spear samplers

- (a) Dynamic spear samplers may be used in one of two ways depending on their length–

- (i) **Method 1**

- In the case of a dynamic spear sampler in which the aperture reaches only to the centre of the sack or small container–

- (aa) the instrument shall be inserted into the sack in an upward direction at an angle of approximately 30° to the horizontal with its aperture downwards until the aperture reaches the centre of the sack or container;
 - (bb) the instrument shall be lightly tapped to remove any seed taken in and then rotated to bring the aperture uppermost;
 - (cc) the instrument shall be withdrawn immediately with a vibratory or oscillatory motion and at a decreasing speed so that the quantity of seed and any other particles obtained from successive locations increases progressively from the centre to the side of the sack; and
 - (dd) seed and any other particles passing through the instrument shall be collected in a clean container.

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(ii) Method 2

In the case of a dynamic spear sampler in which the aperture reaches to the far side of a sack or small container—

- (aa) the instrument shall be inserted in the manner described in sub paragraph (i) (aa) until its aperture reaches almost to the far side of the sack or container;
- (bb) the instrument shall be tapped and rotated in the manner described in sub paragraph (i)(bb) and then withdrawn at a uniform speed; and
- (cc) the seed and any other particles passing through the instrument shall be collected in a clean container.

Stick samplers

(b) The method of using a single chamber type stick sampler and the method of using a multi chamber type stick sampler are as follows:—

(i) Single chamber type stick sampler

In the case of a single chamber type stick sampler—

- (aa) the sleeve shall move freely;
- (bb) the instrument shall be inserted vertically downwards until the aperture reaches the appropriate primary sampling position ensuring that the sleeve covers the aperture as it enters the seed lot;
- (cc) the instrument shall be withdrawn sufficiently to uncover the aperture;
- (dd) the instrument shall be left in position until the primary sample has been collected; and
- (ee) the instrument shall be withdrawn and the contents emptied into a clean container.

(ii) Multi-chamber type stick sampler

In the case of a multi chamber type stick sampler—

- (aa) the apertures shall be closed before insertion;
- (bb) the instrument shall be inserted diagonally into sacks or vertically into large containers so that all apertures are fully covered;
- (cc) the apertures shall be opened;
- (dd) the instrument shall be agitated so that seed and any other particles enter the chambers;
- (ee) the apertures shall be closed gently to ensure that trapped seed and any other particles are not broken or damaged;
- (ff) the instrument shall be withdrawn and if the chambers are full the contents shall be emptied onto a clean surface or into a clean container; and
- (gg) if all the chambers are not full, the contents shall be discarded and the procedures specified in sub-paragraphs (ii)(aa) to (ff) shall be repeated.

Cargo samplers

(c) In the case of a cargo sampler—

- (i) the lid shall open and close easily;

- (ii) the instrument shall be inserted with the lid closed to the appropriate primary sampling position which shall be at least 300 millimetres below the surface of the seed lot;
- (iii) the handle shall be raised sufficiently to open the lid;
- (iv) the instrument shall be left in position until the primary sample has been collected;
- (v) the instrument shall be withdrawn and the contents shall be emptied into a clean container; and
- (vi) if all the chambers are not full, the contents shall be discarded and the procedures specified in sub paragraphs (c)(i) to (v) shall be repeated.

Seed stream samplers

- (d) In the case of a seed stream sampler, the instrument shall take the number of primary samples necessary for the weight of seed lot being sampled, the primary samples being taken from the seed lot at regular intervals and the resultant composite sample being of a weight not less than the minimum weight prescribed in paragraph 26 of Part II of this Schedule and not greater than can conveniently be reduced by means of one of the methods of sample reduction specified in paragraphs 22 to 23. They shall be installed in such a way that the composite sample can be readily identified with the seed lot from which it was taken.

Obtaining a sample for moisture tests

20.—(1) Samples of seed for moisture tests shall be drawn in such a way as to minimise exposure to the atmosphere.

(2) Samples so collected for moisture testing shall be submitted intact to the licensed seed testing station or the Scottish Ministers in an airtight container.

(3) Where the sample seed for moisture testing is submitted for testing in a different container from the submitted sample then the sample of seed for moisture testing shall be obtained as follows—

- (a) the composite sample from the relevant seed lot shall be passed through a riffle divider which complies with paragraph 21(a) in accordance with paragraph 22(a) to (e); and
- (b) a clean and dry airtight container shall be passed through the seed in one of the two pans into which the seed was passed until the airtight container is filled with a sample of at least 100 grams.

(4) Where the sample of seed for moisture testing is collected and submitted for testing in the same airtight container as the submitted sample, then the methods of sampling set out in this Part of this Schedule for obtaining the submitted sample shall also be used to obtain the sample submitted for moisture testing.

Obtaining a submitted sample – composite sample division instruments

21. Where the composite sample exceeds the minimum weight prescribed for a sample in paragraph 26 of Part II of this Schedule, any of the following instruments may be used to reduce the weight of the sample—

Riffle divider

- (a) (i) the riffle divider shall consist of a rectangular hopper leading to a series of evenly spaced chutes, arranged so that seed is distributed equally on two sides;
- (ii) there shall be a minimum of 18 chutes, each discharging in the opposite direction to its immediate neighbour; and

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- (iii) three (or more) metal collecting vessels (pans) of sufficient depth to prevent seed bouncing out shall be used;

Centrifugal divider

- (b) (i) the centrifugal divider shall consist of a hopper from which seed flows on to a shallow cup which is then rotated by an electric motor; and
- (ii) the seed shall be distributed by centrifugal force onto a stationary baffle which divides it into two equal parts which are then discharged through separate spouts. Four metal collecting vessels (pans) of sufficient depth to prevent seed bouncing out shall be used; or

Other instruments

- (c) other instruments and methods may be used with the written approval of the Scottish Ministers.

Method of use of riffle divider

22. The method of using a riffle divider shall be as follows—

- (a) the riffle divider shall be placed on a firm level surface;
- (b) the riffle divider and pans shall be clean;

Sample mixing

- (c) an empty pan shall be placed on each side of the riffle divider to receive the discharge from the chutes;
- (d) the entire composite sample shall be poured evenly into the other pan(s);
- (e) the seed shall then be poured from the pan(s) evenly along the entire length of the hopper;
- (f) the two pans into which the seed has passed shall then be replaced with empty pans;
- (g) the procedures specified in sub paragraphs (e) and (f) shall then be repeated twice to mix the sample thoroughly;

Sample reduction

- (h) before reduction, the composite sample shall have been thoroughly mixed using the procedures specified in sub paragraphs (c) to (g). The contents of one of the two receiving pans shall then be set aside. If the seed and any other particles in the second pan is of at least the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, it may be used as a submitted sample. If the weight of seed in the second pan is greater than the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, it may be reduced using the procedures specified in sub paragraphs (i) to (k);
- (i) an empty pan shall be placed on each side of the divider to receive the discharge from the chutes;
- (j) the contents of the second pan shall be poured evenly along the entire length of the hopper;
- (k) the contents of one of the two pans into which the seed and other particles have passed shall then be set aside. If the weight of seed and other particles in the other pan is still greater than the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, it may be used as a submitted sample intact or it may be reduced further using the procedures specified in sub paragraphs (i) to (k);
- (l) if the weight of seed and other particles in either of the two pans set aside in the procedures specified either in sub-paragraph (h) or sub paragraph (k) is less than the minimum weight

prescribed in paragraph 26 of Part II of this Schedule for a sample, the procedures specified in sub paragraphs (m) to (q) shall be used;

- (m) an empty pan shall be placed on each side of the divider to receive the discharge from the chutes;
- (n) the contents of one of the pans shall be set aside. The contents of the other pan shall be poured evenly along the entire length of the hopper;
- (o) one receiving pan and its contents shall then be removed and replaced with an empty pan. The other pan, with its contents, shall be left in place;
- (p) the contents of the pan removed during the procedure specified in sub paragraph (o) shall be poured evenly along the entire length of the hopper so that two sub-samples of different weights shall be produced;
- (q) the procedures specified in sub paragraphs (o) and (p), when repeated, constitute the process of continuous halving, and shall be repeated using whichever sub-sample is appropriate until sufficient seed and any other particles is obtained in one pan, which, when added to the seed and any other particles set aside during the procedure specified in sub paragraph (n), produces a submitted sample;

Obtaining more than one submitted sample

- (r) when two submitted samples are required from one composite sample, one composite sample of at least twice the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample shall be obtained using the procedures specified in sub paragraphs (c) to (g) and (h) to (q), as appropriate. The composite sample shall then be divided into two parts by passing it once through the riffle divider; and
- (s) when three submitted samples are required from one composite sample, one composite sample of at least three times the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample shall be obtained using the procedures specified in sub-paragraphs (c) to (g) and (h) to (q) as appropriate. A submitted sample shall then be extracted using the procedures specified in sub paragraphs (c) to (g) and (h) to (q), as appropriate. All portions of seed which have been set aside shall then be recombined and two submitted samples shall be obtained from this residue of the composite sample by following the procedure specified in sub paragraph (r).

Method of use of a centrifugal divider

23. The method of using a centrifugal divider shall be as follows—

- (a) the centrifugal divider shall be levelled prior to use;
- (b) the centrifugal divider and pans shall be clean;

Sample mixing

- (c) an empty pan shall be placed under each spout of the centrifugal divider;
- (d) the entire composite sample shall be poured into the centre of the hopper;
- (e) the motor shall be operated so that the seed and any other particles in the sample pass into the pans;
- (f) the motor shall be switched off;
- (g) the two pans containing seed and any other particles shall be removed and replaced by empty ones;
- (h) the contents of both pans removed during the procedure specified in sub paragraph (g) shall be poured together into the centre of the hopper, the seed and any other particles

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being allowed to blend as they flow in. The procedures specified in sub paragraphs (e) to (g) shall be repeated;

- (i) the procedure specified in sub paragraph (h) shall be repeated twice to mix the sample thoroughly;

Sample reduction

- (j) before reduction, the composite sample shall have been thoroughly mixed using the procedures specified in sub paragraphs (c) to (i). The contents of one of the two receiving pans shall then be set aside. If the seed and any other particles in the second pan is of at least the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, it may be used as a submitted sample. If the weight of seed in the second pan is greater than the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, it may be reduced using the procedures specified in sub paragraphs (k) to (m);
- (k) empty pans shall be placed under the spouts;
- (l) the contents of the second pan shall be poured into the hopper and the procedures specified in sub paragraphs (e) and (f) shall be repeated;
- (m) the contents of one of the two pans into which the seed and any other particles have passed shall then be set aside. If the weight of seed and any other particles in the other pan is still greater than the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, the sample may be used as a submitted sample intact or it may be reduced further using the procedures specified in sub paragraphs (k) to (m);
- (n) if the weight of seed and any other particles in either of the two pans referred to either in sub paragraph (j) or (m) is less than the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, the procedures specified in sub paragraphs (o) to (s) shall be used;
- (o) empty pans shall be placed under the spouts;
- (p) the contents of one of the pans shall be set aside. The contents of the other pan shall be poured into the centre of the hopper and the procedures specified in sub paragraphs (e) and (f) shall be repeated;
- (q) one receiving pan and its contents shall then be removed and replaced with an empty pan. The other pan, with its contents, shall be left in place;
- (r) the contents of the pan removed during the procedure specified in sub paragraph (q) shall be poured into the centre of the hopper and the procedures specified in sub paragraphs (e) and (f) shall be repeated so that two sub-samples of different weights shall be produced;
- (s) the procedures specified in sub paragraphs (q) and (r), when repeated, constitute the process of continuous halving, and shall be repeated using whichever sub-sample is appropriate until a sufficient sample is obtained in one pan, which, when added to the seed and any other particles set aside during the procedure specified in sub paragraph (p), produces a submitted sample;

Obtaining more than one submitted sample

- (t) when two submitted samples are required from one composite sample, one composite sample of at least twice the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample shall be obtained using the procedures specified in sub paragraphs (c) to (i) and (j) to (s) as appropriate. The composite sample shall then be divided into two parts by passing it once through the centrifugal divider; and
- (u) when three submitted samples are required from one composite sample, one composite sample of at least three times the minimum weight prescribed in paragraph 26 of Part

II of this Schedule for a sample shall be obtained using the procedures specified in sub paragraphs (c) to (i) and (j) to (s), as appropriate. A submitted sample shall then be extracted using the procedures specified in sub paragraphs (c) to (i) and (j) to (s), as appropriate. All portions of seed which have been set aside shall then be recombined and two submitted samples shall be obtained from this residue of the composite sample by following the procedure specified in sub paragraph (t).

PART II

MAXIMUM WEIGHT OF A SEED LOT AND MINIMUM WEIGHT OF A SUBMITTED SAMPLE

Maximum weight of a seed lot

24. Subject to paragraph 25, the maximum weight of a seed lot shall be that set out in column 3 of the table in paragraph 26 in relation to the corresponding entries in columns 1 and 2 of the table.

Margin by which seed lots can exceed maximum weight

25. A seed lot may exceed the maximum weight for a seed lot set out in column 3 of the table in paragraph 26 by not more than 5%.

Maximum weight of a seed lot and minimum weight of a sample

26.—(1) The minimum weight of a sample submitted for official examination shall be that specified in column 4 of the table set out in sub paragraph (2) in relation to the corresponding entries in columns 1 and 2 of the table.

(2) The minimum weight of a sample for moisture testing shall be that specified in column 5 of the following table:—

Column 1 Species	Column 2 Level (where applicable)	Column 3 Maximum weight of a lot (tonnes)	Column 4 Minimum weight of a sample to be drawn from a lot (grams)	Column 5 Minimum weight of a sample for a moisture test (grams)	Column 6 Weight of the sample for determinations by number in accordance with paragraph 16 of Part II of Schedule 4 (grams)
Barley, durum wheat, oats, spelt wheat and wheat	Minimum	25	1,000	100	500
	HVS	25	1,000	100	1,000
Rye and triticale	—	25	1,000	100	500

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Column 1 Species	Column 2 Level (where applicable)	Column 3 Maximum weight of a lot (tonnes)	Column 4 Minimum weight of a sample to be drawn from a lot (grams)	Column 5 Minimum weight of a sample for a moisture test (grams)	Column 6 Weight of the sample for determinations by number in accordance with paragraph 16 of Part II of Schedule 4 (grams)
Maize, Basic Seed of inbred lines	–	40	250	100	250
Maize, Basic Seed other than of inbred lines and Certified Seed	–	40	1,000	100	1,000
A mixture of seeds to which regulation 8 applies and of which Maize is not a constituent	Minimum	25	–	–	–
	HVS	25	–	–	–
A mixture of seeds to which regulation 8 applies one of the constituents of which is Maize	–	40	–	–	–

SCHEDULE 6

Regulation 6(5), 17(4), (5), (8), (10), (11),
18, 22(4), (6), (7) and (12)

PART I GENERAL

Method of referring to species of seed

1. Where the species of seed is one of the particulars to be indicated on a label, in accordance with any of the provisions of this Schedule except paragraph 6(a)(v) of Part II, paragraph 8(a)(iv) of Part III and paragraph 10(b)(i) of Part IV, the species must be indicated at least under its botanical name, which may be given in abridged form and without the authority's name, in Roman characters.

Method of referring to varieties of seed

2. Where the variety of seed is one of the particulars to be indicated on a label, in accordance with the provisions of this Schedule, the variety must be indicated at least in Roman characters.

PART II

LABELS

Label for a package of Breeder's Seed

3. The label for a package of Breeder's Seed shall—
- (a) contain the following information—
 - (i) name and address of the supplier responsible for affixing the labels or the supplier's registered number;
 - (ii) reference number of the seed lot;
 - (iii) species;
 - (iv) variety;
 - (v) the words "Breeder's Seed";
 - (vi) declared net or gross weight; and
 - (vii) the words "NOT CERTIFIED"; and
 - (b) be coloured buff.

Official label for a package of Pre-basic Seed

4. The official label for a package of Pre basic Seed shall—
- (a) contain the following information—
 - (i) certifying authority and EEA State or their commonly used initials;
 - (ii) month and year of sealing or the month and year of the last official sampling for the purposes of certification, expressed respectively as follows:—
 - (aa) by the word "Sealed" followed by the month and year of sealing; or
 - (bb) by the word "Sampled" followed by the month and year of official sampling;
 - (iii) reference number of the seed lot;
 - (iv) species;
 - (v) variety;
 - (vi) the words "Pre basic Seed";
 - (vii) country of production;
 - (viii) declared net or gross weight;
 - (ix) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additives and also the approximate ratio between the weight of seed and the total weight; and
 - (x) number of generations preceding seed of the categories Certified Seed or Certified Seed of the First Generation;
 - (b) be a minimum size of 110 millimetres by 67 millimetres; and
 - (c) be coloured white with a diagonal violet line.

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Official label for a package of Basic Seed or Seed of a Certified Generation

5. The official label for a package of Basic Seed or Seed of a Certified Generation shall—
- (a) subject to sub paragraph (b), contain the following information:—
 - (i) the words “EC rules and standards”;
 - (ii) certifying authority and EEA State or their commonly used initials;
 - (iii) month and year of sealing or the month and year of the last official sampling for the purposes of certification, expressed respectively as follows:—
 - (aa) by the word “Sealed” followed by the month and year of sealing; or
 - (bb) by the word “Sampled” followed by the month and year of official sampling;
 - (iv) reference number of the seed lot;
 - (v) species;
 - (vi) variety;
 - (vii) category;
 - (viii) country of production;
 - (ix) declared net or gross weight;
 - (x) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seed and the total weight;
 - (xi) in the case of a variety which is a hybrid or an inbred line—
 - (aa) for Basic Seed where the hybrid or inbred line to which the seed belongs has been officially accepted on to a UK National List or the Common Catalogue, the name under which it has been officially accepted, with or without reference to the final variety, accompanied, in the case of a hybrid or inbred line which is intended solely as a component for a final hybrid variety, by the word “component”;
 - (bb) for Basic Seed in other cases, the name of the component to which the Basic Seed belongs, which may be given in code form, accompanied by a reference to the final variety, with or without reference to its function (male or female), and accompanied by the word “component”; and
 - (cc) for Certified Seed the name of the variety to which the seed belongs, accompanied by the word “hybrid”;
 - (xii) in the case of Certified Seed of the First Generation and Certified Seed of the Second Generation of oats officially classified as being of a naked oat type, the words “minimum germination capacity of 75%”; and
 - (xiii) where at least germination has been retested, the word “Retested” followed by the month and year of retesting and the service responsible for such retesting;
 - (b) not contain the information referred to in sub-paragraph (a)(xiii) if that information is given on an official sticker attached to the official label;
 - (c) be a minimum size of 110 millimetres by 67 millimetres; and
 - (d) be coloured—
 - (i) white for Basic Seed;
 - (ii) blue for Certified Seed and Certified Seed of the First Generation; and
 - (iii) red for Certified Seed of the Second Generation.

Official label for a package of a mixture of seeds to which regulation 8 applies

6. The official label for a package of a mixture of seeds to which regulation 8 applies shall—
- (a) subject to sub paragraph (b), contain the following information:—
 - (i) the words “Mixture of” followed by the species and varieties;
 - (ii) the name of the authority responsible for sealing the package and EEA State or their commonly used initials;
 - (iii) month and year of sealing expressed by the word “Sealed” followed by the month and year of sealing;
 - (iv) reference number of the seed lot;
 - (v) species, variety, category, country of production and proportion by weight of each of the constituents which in the case of the species and of the variety, shall be indicated at least in Roman characters;
 - (vi) declared net or gross weight;
 - (vii) the words “Marketing permitted exclusively in the United Kingdom”;
 - (viii) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seed and the total weight; and
 - (ix) where at least germination of all the constituents of the mixture has been retested, the word “Retested” followed by the month and year of retesting and the service responsible for such retesting;
 - (b) not contain the information referred to in sub paragraph (a)(ix) if that information is given on an official sticker attached to the official label;
 - (c) be a minimum size of 110 millimetres by 67 millimetres; and
 - (d) be coloured green.

PART III

SMALL PACKAGES

Label for a small package of Pre basic Seed, Basic Seed or Seed of a Certified Generation

7. The label for a small package of Pre basic Seed, Basic Seed or Seed of a Certified Generation shall—
- (a) contain the following information—
 - (i) the words “EC rules and standards”;
 - (ii) name and address of the person responsible for fixing the label;
 - (iii) reference number of the seed lot;
 - (iv) species;
 - (v) variety;
 - (vi) category;
 - (vii) declared net weight, except in the case of packages not exceeding 15 grams net weight; and

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- (viii) in the case of Certified Seed of the First Generation or Certified Seed of the Second Generation of oats officially classified as being of a naked oat type the words “minimum germination capacity 75%”; and
 - (ix) for hybrid varieties of maize, the word “hybrid”; and
- (b) be coloured–
- (i) white with a diagonal violet line for Pre basic Seed;
 - (ii) white for Basic Seed;
 - (iii) blue for Certified Seed and Certified Seed of the First Generation; and
 - (iv) red for Certified Seed of the Second Generation.

Label for a small package of a mixture of seeds to which regulation 8 applies

- 8.** The label for a small package of a mixture of seeds to which regulation 8 applies shall–
- (a) contain the following information:–
 - (i) the words “Mixture of” followed by the species and varieties;
 - (ii) name and address of the person responsible for fixing the label;
 - (iii) reference number of the seed lot;
 - (iv) the species and varieties indicated at least in Roman characters of the constituents of the mixture or the proprietary name of the mixture;
 - (v) declared net weight, except in the case of packages not exceeding 15 grams net weight;
 - (vi) the words “marketing permitted exclusively in the United Kingdom”; and
 - (vii) in the case of Certified Seed of the First and Second Generations of oats officially classified as being of a naked oat variety, the words “Minimum germination capacity 75%”; and
 - (b) be coloured green.

PART IV

**PARTICULARS TO BE MARKED OR DISPLAYED
ON THE SALE OF UNPACKETED SEED**

Particulars to be marked or displayed on the sale of unpacketed seed which is not a mixture of seeds to which regulation 8 applies

- 9.** The following particulars shall be marked on, or displayed near, the container referred to in regulation 18–
- (a) the words “complies with legal standards”;
 - (b) species;
 - (c) variety or inbred line of maize; and
 - (d) for hybrid varieties of maize, the word “hybrid”.

Particulars to be marked or displayed on the sale of unpacked seed which is a mixture to which regulation 8 applies

10. The following particulars shall be marked on, or displayed near, the container referred to in regulation 18–

- (a) the words “complies with legal standards”; and
- (b) either–
 - (i) the species and variety indicated in at least Roman characters, and the proportion by weight, of the constituents of the mixture; or
 - (ii) the proprietary name of the mixture.

PART V

**INFORMATION IN RESPECT OF SEED IMPORTED
FROM COUNTRIES WHICH ARE NOT EEA STATES IN
PACKAGES EXCEEDING 2 KILOGRAMS NET WEIGHT**

Information to be supplied in respect of seed imported from a country which is not an EEA State in a package exceeding 2 kilograms net weight

11. The information to be supplied to the Scottish Ministers in accordance with regulation 6(5) in respect of seed imported from a country which is not an EEA State in a package exceeding 2 kilograms of seed is as follows–

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

PART VI

**PRINTING OF SPECIFIED MATTERS ON
PACKAGES (WHOLE BAG LABELLING)**

Packages sealed in Scotland – printers' returns

12. Arrangements shall be made with the printers for returns to be made to the Scottish Ministers of the number of packages printed or stamped pursuant to regulations 17(10) and 21(5) and of the individual serial numbers of such packages.

Packages sealed in Scotland – individual serial numbers

13. Each package shall have printed or stamped on it, or be perforated with, an individual serial number allocated by the Scottish Ministers, which shall appear in the same panel as the particulars of the matters specified in Part II of this Schedule.

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Packages sealed in Scotland – printing or stamping

14. The printing or stamping of the packages shall be by, and in accordance with the instructions, of the Scottish Ministers or by a licensed seed sampler.

Packages sealed in Scotland – particulars to be included in the printing or stamp

15. The reference number of the seed lot and the month and year in which the package was officially sealed shall be printed or stamped by the Scottish Ministers or a licensed seed sampler at the time of sampling for official examination.

Seed packages sealed in the United Kingdom but not in Scotland, or in an EEA State other than the United Kingdom

- (a) (a) Such requirements of the EEA State (if the seed was sealed in that EEA State) or the Department of Agriculture and Rural Development (if the seed was sealed in Northern Ireland), the National Assembly for Wales (if the seed was sealed in Wales) or the Secretary of State (if the seed was sealed in England) as correspond to the requirements specified in paragraphs 12 to 15 of this Part of this Schedule for seed which has been sealed in Scotland shall be satisfied; and
- (b) the Scottish Ministers shall be satisfied that the requirements specified in sub paragraph (a) have been met.

SCHEDULE 7

Regulation 24

LIMITS OF VARIATION

GERMINATION

Minimum percentage of germination (expressed as an integer)	Limit of variation per cent
99–100	2
97–98	3
94–96	4
91–93	5
87–90	6
82–86	7
76–81	8
69–75	9
65–68	10

ANALYTICAL PURITY

Minimum percentage of analytical purity (expressed to one decimal point)	Limit of variation per cent
99.9–100	0.2

Minimum percentage of analytical purity (expressed to one decimal point)	Limit of variation per cent
99.8	0.3
99.6–99.7	0.4
99.3–99.5	0.5
99.0–99.2	0.6
98.5–98.9	0.7
98.3–98.4	0.8
97.5–98.2	0.9
97.0–97.4	1.0
96.5–96.9	1.1
95.5–96.4	1.2
95.0–95.4	1.3

NUMBER OF SEEDS OF OTHER SPECIES

Maximum number of seeds of other species	Limit of variation number
0	1
1	3
2	4
3 and 4	5
5 and 6	6
7 and 8	7
9 to 11	8
12 to 14	9
15 to 17	10
18 to 20	11

SCHEDULE 8

Regulation 28(1)

REVOCATIONS

Regulations revoked	References	Extent
The Cereal Seeds Regulations 1993	S.I.1993/2005	The whole Regulations insofar as they apply to Scotland

Status: This is the original version (as it was originally made).

Regulations revoked	References	Extent
The Cereal Seeds (Amendment) Regulations 1995	S.I. 1995/1482	The whole Regulations insofar as they apply to Scotland
The Seeds (Miscellaneous Amendments) Regulations 1997	S.I. 1997/616	Regulation 4(2), insofar as it applies to the Cereal Seeds Regulations 1993, but only insofar as regulation 4(2) applies to Scotland
The Cereal Seeds (Amendment) Regulations 1999	S.I. 1999/1860	The whole Regulations insofar as they apply to Scotland
The Cereal Seeds (Amendment) (Scotland) Regulations 2000	S.S.I. 2000/248	The whole Regulations
The Seeds (National Lists of Varieties) Regulations 2001	S.I. 2001/3510	Regulation 25(3)(a) insofar as it applies to Scotland
The Seeds (Miscellaneous Amendments) (No. 2) (Scotland) Regulations 2002	S.S.I. 2002/564	Regulation 3

SCHEDULE 9

Regulation 2(1)

DEFINITION OF CEREAL SEED DIRECTIVE

“The Cereal Seed Directive” means Council Directive [66/402/EEC](#)(**33**) on the marketing of cereal seed as amended by–

Community Instrument	Reference
Council Directive 69/60/EEC (34)	O.J. No. L 48, 26.2.69, p.1
Council Directive 71/162/EEC (35)	O.J. No. L 87, 17.4.71, p.24
Act of Accession of Denmark, Iceland and the United Kingdom of Great Britain and Northern Ireland(36)	O.J. No. L 73, 27.3.72, p.14
Council Directive 72/274/EEC	O.J. No. L 171, 29.7.72, p.37
Council Directive 72/418/EEC (37)	O.J. No. L 287, 26.12.72, p.22
Council Directive 73/438/EEC	O.J. No. L 356, 27.12.73, p.79
Council Directive 75/444/EEC	O.J. No. L 196, 26.7.75, p.6

(33) O.J. P 125, 11.7.66, p.2309 as amended by consolidated text of corrigenda to instruments published in Special Editions 1952-72, p.17 and Corrigendum to Council Directive [66/402/EEC](#), O.J. No. L 199, 26.7.97, p.69.

(34) As amended by consolidated text of corrigenda to instruments published in Special Editions 1952-72, p.29.

(35) As amended by consolidated text of corrigenda to instruments published in Special Editions 1952-72, p.87.

(36) As adapted by Council Decision of 1st January 1973, O.J. No. L 2, 1.1.73, p.1.

(37) As amended by consolidated text of corrigenda to instruments published in Special Editions 1952-72, p.106

Community Instrument	Reference
Council Directive 78/55/EEC	O.J. No. L 16, 20.1.78, p.23
First Commission Directive 78/387/EEC	O.J. No. L 113, 25.4.78, p.13
Council Directive 78/692/EEC	O.J. No. L 236, 26.8.78, p.13
Council Directive 78/1020/EEC	O.J. No. L 350, 14.12.78, p.27
Commission Directive 79/641/EEC	O.J. No. L 183, 19.7.79, p.13
Council Directive 79/692/EEC	O.J. No. L 205, 13.8.79, p.1
Act of Accession of Greece	O.J. No. L 291, 19.11.79, p.17
Commission Directive 81/126/EEC	O.J. No. L 67, 12.3.81, p.36
Council Directive 81/561	O.J. No. L 203, 23.7.81, p.52
Council Regulation (EEC) No.3768/85	O.J. No. L 362, 31.12.85, p.8
Council Directive 86/155/EEC	O.J. No. L 118, 7.5.86, p.23
Commission Directive 86/320/EEC	O.J. No. L 200, 23.7.86, p.38
Commission Directive 87/120/EEC	O.J. No. L 49, 18.2.87, p.39
Council Directive 88/332/EEC	O.J. No.151, 17.6.88, p.82
Council Directive 88/380/EEC	O.J. No. L 187, 16.7.88, p.31
Commission Directive 88/506/EEC	O.J. No. L 274, 6.10.88, p.44
Commission Directive 89/2/EEC	O.J. No. L 5, 7.1.89, p.31
Commission Directive 90/623/EEC	O.J. No. L 333, 30.11.90, p.65
Council Directive 90/654/EEC	O.J. No. L 353, 17.12.90, p.48
Commission Directive 93/2/EEC	O.J. No. L 54, 5.3.93, p.20
Act of Accession of Austria, Sweden and Finland (38)	O.J. No. C 241, 29.8.94, p.21
Commission Directive 95/6/EC	O.J. No. L 67, 25.3.95, p.30
Council Directive 96/72/EC	O.J. No. L 304, 27.11.96, p.10
Council Directive 98/95/EC	O.J. No. L 25,1.2.99, p.1
Council Directive 98/96/EC (39)	O.J. No. L 25, 1.2.99, p.27
Commission Directive 1999/8/EC	O.J. No. L 50, 26.2.99, p.26
Commission Directive 1999/54/EC	O.J. No. L 142, 5.6.99, p.30
Council Directive 2001/64/EC	O.J. No. L 234, 1.9.01, p.60
Council Directive 2003/61/EC	O.J. No. L 165,3.7.03, p.23
Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of	O.J. No. L 236, 23.9.03, p.33

(38) As adapted by Council Decision [95/1/EC](#), Euratom, ECSC, O.J. No. L 1, 1.1.95, p.1.(39) As amended by corrigendum to Council Directive [98/96/EC](#), O.J. No. L 161, 16.6.01, p.48.

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Community Instrument	Reference
Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded	

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, consolidate, with amendments, the provisions of the Cereal Seeds Regulations 1993 (S.I. [1993/2005](#)) as relevantly amended by the Cereal Seeds (Amendment) Regulations 1995 (S.I. [1995/1482](#)), the Seeds (Miscellaneous Amendments) (Scotland) Regulations 1997 (S.I. [1997/616](#)), the Cereal Seeds (Amendment) Regulations 1999 (S.I. [1999/1860](#)), the Cereal Seeds (Amendment) (Scotland) Regulations 2000 (S.S.I. [2000/248](#)), the Seeds (National Lists of Varieties) Regulations 2001 (S.I. [2001/3510](#)) and the Seeds (Miscellaneous Amendments) (No. 2) (Scotland) Regulations 2002 (S.S.I. [2002/564](#)) (“the 1993 Regulations”).

The Regulations implement the provisions of Council Directive [66/402/EEC](#) on the marketing of cereal seed as amended.

The Regulations apply to the certification and marketing of cereal seed of the species specified in Schedule 1 to these Regulations (regulation 5 and Schedule 1). The Regulations include provisions which prohibit the marketing of cereal seed in Scotland unless it is seed of a listed variety which has been officially certified or Breeders Seed (regulation 6(1)). The prohibition does not apply in the case of seed—

- (a) which has not yet been fully certified if it is marketed for processing (regulation 6(2));
- (b) which forms part of a mixture permitted by the Fodder Plant Seeds (Scotland) Regulations 2005 (regulation 8);
- (c) where authorisation has been granted for scientific purposes or selection work or for the purposes of tests and trials (regulation 9); or
- (d) the marketing of which is authorised by general licence under regulation 10.

The Regulations introduce provision for licensed crop inspections of multiplication crops when the results of control plots are satisfactory.

The Regulations include provisions about the standards to be met by cereal seed before it will be officially certified by the Scottish Ministers (regulations 2, 3, 14 and Schedules 2 and 4). There are provisions allowing the marketing of seed which does not attain the relevant germination standards (regulation 11) and for marketing seed before it is shown to meet the relevant germination standards. The Regulations make provision for seed to be subject to a tetrazolium test which removes doubt regarding germination and enables seed to be marketed rapidly (regulation 12).

The Regulations make provision for breeder’s confirmations for seed which is not yet accepted onto a UK National List or the Common Catalogue but which otherwise meets the requirements for Pre basic Seed or Basic Seed (regulations 3, 20 and Schedules 2 and 4) and for upgrading a breeder’s confirmation to an official certificate (regulation 14(3)).

The Regulations introduce new provision for moisture testing which implements Council Directive 98/95 EC (O.J. No. L 25, 1.2.99, p.1) moisture testing now becomes a matter for official certification rather than a marketing standard as was required under the Cereal Seeds Regulations 1993 (Schedule 4, Part II, paragraph 19).

The Regulations lay down requirements relating to seed sampling (regulation 15 and Schedule 5) and the packaging and sealing of packages of seed (regulations 16, 18 and 21) and the labelling of packages of such seed (regulations 17, 18 and 22 and Schedule 6).

The Regulations introduce the power to require an additional sample of seed for the purposes of European tests and trials (regulation 23).

The Regulations provide that particulars given to a purchaser by a seller of seed to which the Regulations apply will constitute a statutory warranty so far as they relate to certain information about the seed being sold (regulation 24).

The Regulations introduce provisions about service of notices (regulation 25) and permit electronic communications to be used in certain circumstances (regulation 26).

The Regulations amend the Seeds (Fees) (Scotland) Regulations 2002 ([S.S.I. 2002/526](#)) to allow fees to be charged for procedures carried out in relation to the Regulations (regulation 27).

The Regulations revoke the Cereal Seeds Regulations 1993 as amended. General licences made under the 1993 Regulations will be replaced by general licences made under these Regulations (regulation 28).

Contravention of these Regulations is a criminal offence (section 16(7) of the Plant Varieties and Seeds Act 1964).

A copy of the Scottish Ministers' requirements in respect of previous cropping, crop conditions for field examinations and moisture testing can be obtained from SEERAD, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.

A regulatory impact assessment has been prepared in relation to these Regulations. A copy of the RIA can be obtained from SEERAD, Pentland House, 47 Robb's Loan, Edinburgh.