
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 328

The Cereal Seed (Scotland) Regulations 2005

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⁽¹⁾ 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⁽²⁾ 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).

(1) 1978 c. 30.

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

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⁽³⁾, 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⁽⁴⁾ for “Cereal Seeds Regulations 1993” substitute “Cereal Seed (Scotland) Regulations 2005⁽⁵⁾”.

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.

⁽³⁾ 2000 c. 7.

⁽⁴⁾ S.S.I. 2002/526.

⁽⁵⁾ S.S.I. 2005/328.