
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 329

The Fodder Plant Seed (Scotland) Regulations 2005

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) Commercial Seed; or
 - (ii) 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⁽¹⁾ accepted on to a UK National List or the Common Catalogue and which is fully certified [^{F1}Pre-basic Seed, fully certified Basic Seed, Seed of a Certified Generation or seed of a Conservation Variety]; or
 - (iii) Breeder's Seed.

[^{F2}(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 Fodder Plant Seed Directive for the relevant category of seed; or
- (d) the seed of a Conservation Variety has been harvested from a crop which has been found to satisfy the conditions specified in Part III of Schedule 4A.]

(3) Where seed is sampled in an untreated state for ^{F3}... the official examination referred to in paragraph 2(1)(c) of Part I of Schedule 2, [^{F4}the examination referred to in paragraph 2(b) of Part I of Schedule 4A] 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.

Status: Point in time view as at 28/03/2019.

Changes to legislation: There are currently no known outstanding effects for the The Fodder Plant Seed (Scotland) Regulations 2005, PART II. (See end of Document for details)

(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 12 of Part V of Schedule 6.

Textual Amendments

- F1** Words in [reg. 6\(1\)\(b\)\(ii\)](#) substituted (30.6.2009) by [The Seed \(Scotland\) \(Amendments for Conservation Varieties\) Regulations 2009 \(S.S.I. 2009/223\)](#), regs. 1, **24(a)**
- F2** [Reg. 6\(2\)](#) substituted (30.6.2009) by [The Seed \(Scotland\) \(Amendments for Conservation Varieties\) Regulations 2009 \(S.S.I. 2009/223\)](#), regs. 1, **24(b)**
- F3** Word in [reg. 6\(3\)](#) revoked (30.6.2009) by [The Seed \(Scotland\) \(Amendments for Conservation Varieties\) Regulations 2009 \(S.S.I. 2009/223\)](#), regs. 1, **24(c)(i)**
- F4** Words in [reg. 6\(3\)](#) inserted (30.6.2009) by [The Seed \(Scotland\) \(Amendments for Conservation Varieties\) Regulations 2009 \(S.S.I. 2009/223\)](#), regs. 1, **24(c)(ii)**

Commencement Information

- I1** Reg. 6 in force at 1.7.2005, see [reg. 1\(1\)](#)

[^{F5}Importation from outside the European Union

6A. Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.]

Textual Amendments

- F5** [Reg. 6A](#) inserted (28.3.2019) by [The Seed and Propagating Material \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/59\)](#), regs. 1(1)(a), **5(4)**

Marketing of seed of a Higher Voluntary Standard

7.—(1) This regulation applies to the marketing of Seed of a Certified Generation of an HVS species of seed, 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 seed meets the Higher Voluntary Standards for such seed laid down in Part II of Schedule 4; and
- (b) a successful application has been made to the Scottish Ministers under paragraph (4) verifying that the seed has attained those standards.

(4) An application for verification that seed which is Certified Seed of an HVS species of seed 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 they

are satisfied that the seed meets the Higher Voluntary Standards for such seed laid down in Part II of Schedule 4.

Commencement Information

I2 Reg. 7 in force at 1.7.2005, see [reg. 1\(1\)](#)

Mixtures

8.—(1) The prohibition in regulation 6(1)(b) shall not apply to the marketing of a mixture of various genera, species or varieties of seeds that includes seed to which these Regulations apply and any other seed and that is not intended to be used to produce fodder plants if—

- (a) the seed in the mixture to which these Regulations apply complied, before mixing, with the relevant provisions of these Regulations; and
- (b) if any seeds in the mixture are cereal seeds, oil and fibre plant seeds or vegetable seeds, they complied, before mixing, with the relevant provisions of [^{F6}the Cereal Seed (Scotland) Regulations 2005]^{M1}, [^{F7}the Oil and Fibre Plant Seed (Scotland) Regulations 2004]^{M2} or [^{F8}the Vegetable Seeds Regulations 1993]^{M3} respectively.

(2) The prohibition in regulation 6(1)(b) shall not apply to the marketing of a mixture of various genera, species or varieties of seeds that is intended to be used to produce a mixture of plants, including plants of a species specified in Schedule 1, which are intended for use as fodder plants, if—

- (a) the seed in the mixture is a mixture of seed to which these Regulations apply and the seed in the mixture complied, before mixing, with the relevant provisions of these Regulations; or
- (b) the seed in the mixture is a mixture of—
 - (i) seed to which these Regulations apply that complied, before mixing, with the relevant provisions of these Regulations; and
 - (ii) cereal seeds, oil and fibre plant seeds or vegetable seeds to which [^{F9}the Cereal Seed (Scotland) Regulations 2005]^{M1}, [^{F10}the Oil and Fibre Plant Seed (Scotland) Regulations 2004]^{M2} or [^{F11}the Vegetable Seeds Regulations 1993]^{M3} respectively apply and that complied, before mixing, with the relevant provisions of those Regulations; and

the mixture does not include any grass seed of a variety which has not been examined for its value for cultivation and use for the purposes of Article 4(1) of the Common Catalogue Directive because the breeder has declared that seed of that variety is not intended for the production of fodder plants.

(3) A person who wishes to market a mixture of seeds to which paragraph (1), or (2) applies without including the percentage by weight of each of the constituents by species and, where appropriate, by variety on the label referred to in regulation 17(1), (5), (8) or (11) may apply to the Scottish Ministers to register the mixture.

(4) An application referred to in paragraph (3) shall include the name under which the mixture is to be marketed and the percentage, by weight, of each of the constituents by species and, where appropriate, by variety.

(5) The Scottish Ministers shall register a mixture in respect of which an application has been made under paragraph (3) and in accordance with paragraph (4) if the name under which the mixture is to be marketed has not already been registered with them.

(6) Any person who sells or supplies a package (other than a small EC A or EC B package) containing a registered mixture of seeds and does so under its registered name and without including—

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- (a) the species and, where appropriate, the variety of each of the constituents in the mixture; and
- (b) the percentage by weight of each of those constituents,

on the label referred to in regulation 17(8), shall, on or before the sale or supply of such package, provide the person to whom the package of seeds is sold or supplied with a notice containing the information referred to in sub-paragraphs (a) and (b).

(7) Any person (“the seller”) who sells or supplies a small EC A or EC B package containing a registered mixture of seeds produced in the United Kingdom and does so—

- (a) under its registered name, and
- (b) in a package that includes the species and, where appropriate, the variety of each of the constituents in the mixture on the label referred to in regulation 17(8) in the case of a small EC A or a small EC B package of seeds, but does not include the percentage by weight of each of those constituents in the mixture,

shall, on or before the sale or supply of such seed, notify the person (“the purchaser”) to whom the package of seeds is sold or supplied that the seller shall provide the information relating to the percentage by weight of each of the constituents in the mixture to the purchaser on request.

(8) A person who has registered a mixture of seeds with the Scottish Ministers in accordance with this regulation may apply to the Scottish Ministers to cancel the registration and the Scottish Ministers, having received such an application, shall cancel the registration and notify the applicant that this has been done.

Textual Amendments

- F6** Words in [reg. 8\(1\)\(b\)](#) substituted (31.3.2017) by [The Seed \(Miscellaneous Amendments\) \(Scotland\) Regulations 2016 \(S.S.I. 2016/434\)](#), [regs. 1\(1\)](#), [5\(3\)\(a\)](#)
- F7** Words in [reg. 8\(1\)\(b\)](#) substituted (31.3.2017) by [The Seed \(Miscellaneous Amendments\) \(Scotland\) Regulations 2016 \(S.S.I. 2016/434\)](#), [regs. 1\(1\)](#), [5\(3\)\(b\)](#)
- F8** Words in [reg. 8\(1\)\(b\)](#) substituted (31.3.2017) by [The Seed \(Miscellaneous Amendments\) \(Scotland\) Regulations 2016 \(S.S.I. 2016/434\)](#), [regs. 1\(1\)](#), [5\(3\)\(c\)](#)
- F9** Words in [reg. 8\(2\)\(b\)\(ii\)](#) substituted (31.3.2017) by [The Seed \(Miscellaneous Amendments\) \(Scotland\) Regulations 2016 \(S.S.I. 2016/434\)](#), [regs. 1\(1\)](#), [5\(3\)\(a\)](#)
- F10** Words in [reg. 8\(2\)\(b\)\(ii\)](#) substituted (31.3.2017) by [The Seed \(Miscellaneous Amendments\) \(Scotland\) Regulations 2016 \(S.S.I. 2016/434\)](#), [regs. 1\(1\)](#), [5\(3\)\(b\)](#)
- F11** Words in [reg. 8\(2\)\(b\)\(ii\)](#) substituted (31.3.2017) by [The Seed \(Miscellaneous Amendments\) \(Scotland\) Regulations 2016 \(S.S.I. 2016/434\)](#), [regs. 1\(1\)](#), [5\(3\)\(c\)](#)

Commencement Information

- I3** Reg. 8 in force at 1.7.2005, see [reg. 1\(1\)](#)

Marginal Citations

- M1** [S.S.I. 2005/328](#), as last amended by [S.S.I. 2016/434](#).
- M2** [S.S.I. 2004/317](#), as last amended by [S.S.I. 2016/434](#).
- M3** [S.I. 1993/2008](#), as last amended by [S.S.I. 2016/434](#).

[^{F12} Preservation mixtures

8A.—(1) Regulation 6(1)(b) does not apply to the marketing of a preservation mixture if the producer of that mixture has obtained an authorisation in accordance with this regulation.

- (2) A producer established in Scotland may apply to the Scottish Ministers for an authorisation to market a directly harvested or a crop-grown preservation mixture.
- (3) An application under paragraph (2) shall be made to the Scottish Ministers in writing and shall contain such information as the Scottish Ministers may require.
- (4) The Scottish Ministers may grant an authorisation to market a preservation mixture if—
- (a) the seed has been collected in its source area at a collection site which has not been sown in the 40 years prior to the date of application by the producer under paragraph (2);
 - (b) the source area is located in the region of origin;
 - (c) in the case of a directly harvested preservation mixture, a visual inspection has been carried out by the Scottish Ministers at the collection site during the period of growth of the seed, together with an examination, and the inspection and the examination have shown that the directly harvested preservation mixture complies with the requirements in Schedule 4B;
 - (d) in the case of a crop-grown preservation mixture, an official examination has shown that—
 - (i) the crop-grown preservation mixture complies with the requirements in Schedule 4B; and
 - (ii) the constituents of the mixture which comprise fodder plant seed comply with the requirements for Commercial Seed in Part II of Schedule 4 or comply with those requirements except in so far as those requirements relate to standards of percentage of germination; and
 - (e) in a case where the preservation mixture contains a Conservation variety, the conservation variety complies with the provisions in Commission Directive 2008/62.
- (5) An authorisation may be made subject to such conditions as the Scottish Ministers think are necessary.
- (6) An authorisation must include the information specified in paragraph 3 of Schedule 3.
- (7) An authorisation shall last for a period of one year or such shorter period as the Scottish Ministers may specify.
- (8) A producer proposing to apply for authorisation to market a preservation mixture must notify the Scottish Ministers of the quantity of seed for which that person intends to apply for authorisation under paragraph (2) before the beginning of each production season together with—
- (a) the location of the collection site;
 - (b) the size (in hectares) of the collection site; and
 - (c) in the case of a crop-grown preservation mixture, also the location and size of the multiplication site.
- (9) For the purposes of Article 8 (quantitative restriction) of Commission Directive 2010/60, the Scottish Ministers may specify the maximum amount of seed of a preservation mixture which may be marketed in any given growing season and specify different maxima for different persons or classes of person.
- (10) A preservation mixture may only be marketed in its region of origin.
- (11) In this regulation, in paragraph 3 of Schedule 3 and in paragraph 8A of Schedule 6, “region of origin” means the region forming a part or the whole of the United Kingdom identified by the Scottish Ministers for the purposes of Article 3 of Commission Directive 2010/60.]

Textual Amendments

F12 Reg. 8A inserted (10.2.2012) by [The Fodder Plant Seed \(Scotland\) Amendment Regulations 2012](#) (S.S.I. 2012/5), regs. 1, 4

[F13] Exception for scientific purposes or selection work

9.—(1) Regulation 6(1)(b) shall not apply to the marketing by a producer of small quantities of seed for scientific purposes or selection work for which—

- (a) an authorisation has been granted to the producer by the Scottish Ministers in accordance with this regulation; or
- (b) 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 Fodder Plant Seed Directive.

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

(3) An application under paragraph (2) shall be made in writing to the Scottish Ministers and shall be accompanied by such information as the Scottish Ministers may require.

(4) The Scottish Ministers shall not grant an authorisation under this regulation for scientific purposes or selection work in respect of seed of a genetically modified variety unless an authorisation is in force in respect of the variety concerned under—

- (a) the Food and Feed Regulation; or
- (b) Part C (placing on the market of GMOs as or in products) of the 2001 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) An authorisation under this regulation may—

- (a) specify the amount of seed which may be marketed under it; and
- (b) impose such conditions as the Scottish Ministers think necessary or desirable having regard to the nature of the scientific purposes or selection work involved and 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.

Textual Amendments

F13 Regs. 9, 9A substituted for reg. 9 (1.4.2007) by [The Seed \(Scotland\) \(Amendments for Tests and Trials etc.\) Regulations 2007 \(S.S.I. 2007/224\)](#), regs. 1, 15

Exception for test and trial seed

9A.—(1) Regulation 6(1)(b) shall not apply to the marketing by a producer of seed for test and trial purposes in accordance with—

- (a) a tests and trials authorisation; or
- (b) an authorisation which has been granted to the producer by a European Authority other than the Scottish Ministers pursuant to Article 4a(1)(b) (exemption for test and trial purposes) of the Fodder Plant Seed Directive,

which has been granted in accordance with Article 2(1) (authorisation) of the 2004 Commission Decision.

(2) A producer established in Scotland may apply to the Scottish Ministers for authority to market seed for the purposes of tests or trials to be carried out at an agricultural enterprise to gather information on the cultivation or use of a variety of a species specified in Schedule 1.

(3) An application under paragraph (2) shall be made in writing to the Scottish Ministers and shall be accompanied by such information as the Scottish Ministers may require.

(4) The Scottish Ministers shall not grant a tests and trials authorisation unless they are satisfied that—

- (a) the seed is of a variety for which an application has been made by the applicant under regulation 4(1)(a) (applications in relation to National Lists) of the Seeds (National Lists of Varieties) Regulations 2001 for acceptance on to a National List and the application has not been withdrawn or finally determined;
- (b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety under either—
 - (i) the Food and Feed Regulation; or
 - (ii) Part C (placing on the market of GMOs as or in products) of the 2001 Deliberate Release Directive;
- (c) the marketing is for the purposes of tests or trials to be carried out at an agricultural enterprise to gather information on the cultivation or use of a variety of a species specified in Schedule 1;
- (d) an official field inspection has been carried out by the Scottish Ministers or by a licensed crop inspector and a report issued stating that—
 - (i) in the case of species other than field pea and field bean, the crop satisfies the conditions for Certified Seed set out in Schedule 4; or
 - (ii) in the case of the species field pea and field bean, the crop satisfies the conditions for Certified Seed of the Second Generation set out in Schedule 4;
- (e) an official examination of the seed has been undertaken and a report issued by the Scottish Ministers or by a licensed seed testing station stating that—
 - (i) in the case of species other than field pea and field bean, the seed satisfies the conditions for Certified Seed set out in Schedule 4; or
 - (ii) in the case of the species field pea and field bean, the seed satisfies the conditions for Certified Seed of the Second Generation set out in Schedule 4; and
- (f) such marketing would not contravene a prohibition on the use of the variety that complies with Article 14 of the 2004 Commission Decision and has been published by the Secretary of State in the gazette published under section 34(1) of the Act.

(5) A tests and trials authorisation shall last for a period of one year or such shorter period as the Scottish Ministers may specify.

(6) The Scottish Ministers shall not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.

(7) A tests and trials authorisation may be made subject to such conditions as the Scottish Ministers think necessary or desirable having regard to the nature of the tests or trials and the nature of the seed to which the authorisation relates.

(8) The Scottish Ministers may withdraw a tests and trials authorisation where they are satisfied that there has been a breach of a condition imposed under paragraph (7).

(9) A tests and trials authorisation shall cease to have effect where the application referred to in paragraph (4)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.

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Changes to legislation: There are currently no known outstanding effects for the The Fodder Plant Seed (Scotland) Regulations 2005, PART II. (See end of Document for details)

(10) The Scottish Ministers may require, as a condition of a tests and trials authorisation, that the producer to whom authorisation was granted provide them, on request, with information about—

- (a) the results of the tests and trials to which the authorisation relates; and
- (b) the quantities of seed marketed during the authorised period and the name of the Member State [^{F14}or, as the case may be, Switzerland] for which the seed was destined.]

Textual Amendments

F13 Regs. 9, 9A substituted for reg. 9 (1.4.2007) by [The Seed \(Scotland\) \(Amendments for Tests and Trials etc.\) Regulations 2007 \(S.S.I. 2007/224\)](#), regs. 1, **15**

F14 Words in [reg. 9A\(10\)](#) inserted (28.3.2019) by [The Seed and Propagating Material \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/59\)](#), regs. 1(1)(a), **5(5)**

[^{F15}Exception for conservation varieties

9B.—(1) No person may market seed of a Conservation Variety unless the requirements of paragraphs (2), (3) and (5) are met.

(2) The seed must descend from seed produced according to well defined practices for maintenance of the variety.

(3) The seed must have been harvested from a crop that—

- (a) has been produced in the region of origin for the variety or additional region; and
- (b) satisfies the conditions laid down in Part III of Schedule 4A.

(4)

- (a) Scottish Ministers may ascertain, so far as practicable, whether the requirements for the crop set out in Part III of Schedule 4A are met by the use of methods which may include examination of a post control plot sown with a sample from the seed and the consideration of any other relevant information; and
- (b) for the avoidance of doubt an examination by means of an official field inspection of the crop will not be required.

(5) The seed must satisfy the conditions laid down in Part IV of Schedule 4A.

(6) No person may market seed of a Conservation Variety other than its region of origin.

(7) A person proposing to produce seed of a Conservation Variety must supply the Scottish Ministers, in such manner and form as the Scottish Ministers may require, with the following details in writing—

- (a) the size (in hectares); and
- (b) the location,

of the area to be used to produce that seed.

(8) For the purposes of Article 14 of Commission Directive 2008/62, the Scottish Ministers may specify the maximum amount of seed of a Conservation Variety which may be marketed in any given growing season. Different maxima for different persons or classes of person may be specified.

(9) No person shall market more than the maximum amount of seed of a Conservation Variety applicable to that person as specified under (7).

(10) Any person marketing seed of a Conservation Variety must supply Scottish Ministers, on request, with details in writing of the amount and variety of the seed placed on the market during each growing season.

(11) In this regulation—

“additional region” means the region for seed production approved by the Scottish Ministers for the purposes of the second paragraph of Article 11(1) of the Commission Directive 2008/62; and

“region of origin” means the region forming a part or the whole of the United Kingdom identified by the Scottish Ministers for the purposes of Article 8.1 of Commission Directive 2008/62.]

Textual Amendments

F15 Reg. 9B inserted (30.6.2009) by The Seed (Scotland) (Amendments for Conservation Varieties) Regulations 2009 (S.S.I. 2009/223), regs. 1, 25

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—

- (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 Fodder Plant 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 Fodder Plant 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 Fodder Plant 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 Fodder Plant Seed Directive [^{F16}or by Commission Regulation 217/2006 or an authorisation granted thereunder]; or
- (e) to give effect to the provisions of the Agreement between the [^{F17}European Union] and the Swiss Confederation on Trade in Agriculture Products(2) 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(3) and as amended by Commission Decision 2004/660/EC(4) on the Community position on the amendment of the Appendices to Annex 6 to the Agreement between the [^{F17}European Union] 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

(2) O.J. No. L 114, 30.4.02, p.132.

(3) O.J. No. L 114, 30.4.02, p.1.

(4) O.J. No. L 301, 28.9.04, p.55.

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to which it relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

Textual Amendments

- F16** Words in [reg. 10\(2\)\(d\)](#) inserted (1.4.2007) by [The Seed \(Scotland\) \(Amendments for Tests and Trials etc.\) Regulations 2007 \(S.S.I. 2007/224\)](#), regs. 1, **16**
- F17** Words in Regulations substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 4, 6 (with art. 3(3))

Commencement Information

- I4** Reg. 10 in force at 1.7.2005, see [reg. 1\(1\)](#)

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 Fodder Plant 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 13 of Part II of Schedule 4 in relation to Basic Seed by virtue of exception (ii) of paragraph 2(1)(c) 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 Fodder Plant Seed Directive in relation to Basic Seed, by virtue of Article 4(a) (marketing of lower germination seed) of the Fodder Plant Seed Directive; or
- (c) which the person marketing the seed knows does not satisfy the minimum standards of germination specified for Basic Seed—
 - (i) in the case of seed which has been officially certified as being Pre-basic Seed or Basic Seed, in paragraph 13 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 Fodder Plant 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.

Commencement Information

- I5** Reg. 11 in force at 1.7.2005, see [reg. 1\(1\)](#)

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 13 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(b) (early movement of seed) of the Fodder Plant 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 13 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 Fodder Plant Seed Directive.

(4) A person who sells any seed in accordance with paragraph (1) shall make and, until the end of the period of 2 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.

Status: Point in time view as at 28/03/2019.

Changes to legislation: There are currently no known outstanding effects for the The Fodder Plant Seed (Scotland) Regulations 2005, PART II. (See end of Document for details)

Commencement Information

I6 Reg. 12 in force at 1.7.2005, see [reg. 1\(1\)](#)

Requirement for homogeneity

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

Commencement Information

I7 Reg. 13 in force at 1.7.2005, see [reg. 1\(1\)](#)

[^{F18}Certification and labelling for export

13A.—(1) The Scottish Ministers may certify the quality of any seed intended for export.

(2) Following certification in accordance with paragraph (1), any seed exported must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.]

Textual Amendments

F18 Reg. 13A inserted (28.3.2019) by [The Seed and Propagating Material \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/59\)](#), regs. 1(1)(a), [5\(6\)](#)

Status:

Point in time view as at 28/03/2019.

Changes to legislation:

There are currently no known outstanding effects for the The Fodder Plant Seed (Scotland) Regulations 2005, PART II.