

EXECUTIVE NOTE

THE SEED (REGISTRATION, LICENSING AND ENFORCEMENT) (SCOTLAND) REGULATIONS 2006 SSI/2006/313

Introduction

1. The above instrument was made in exercise of the powers conferred by section 16(1), (1A), (2), (3), (4), (5) and (5A), 24(5), 26(2) and (3) and 36 of the **Plant Varieties and Seeds Act 1964** (“the 1964 Act”). The instrument is subject to negative resolution procedure.

Policy objectives

2. The purpose of this instrument is to consolidate the Seeds (Registration, Licensing and Enforcement) Regulations 1985 (S.I 1985/980 as amended by S.I 1987/1098, S.I 1990/611 and S.I 1993/2530) (“the 1985 Regulations”) and to implement, in Scotland, Council Directive 2004/117/EC (O.J. No. L 14, 18.1.2005, p.18). The 1985 Regulations regulated the use of licensed personnel under official supervision in the certification of true seeds for marketing. The Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006, (“the 2006 Regulations”) update the legislation in this area.

3. The marketing of certain species of true seed for agricultural or amenity purposes is regulated by 5 seed marketing regulations which are-

- The Cereal Seed (Scotland) Regulations 2005 (S.S.I. 2005/328)
- The Fodder Plant Seed (Scotland) Regulations 2005 (S.S.I. 2005/329)
- The Oil and Fibre Plant Seed (Scotland) Regulations 2004 (S.S.I. 2004/317)
- The Beet Seeds Regulations 1993 (S.I. 1993 No 2006)
- The Vegetable Seeds Regulations 1993 (S.I. 1993 No 2008)

The seed marketing regulations require that seed be certified as meeting certain statutory standards before it may be marketed. That certification process includes the inspection of crops, the sampling of seed and the testing of seed lots. Whilst the system could operate using only official personnel and indeed does operate that way in some countries, for many years now licensed crop inspectors, licensed seed samplers and licensed seed testing stations have operated in most parts of the UK, including throughout Scotland. The seed marketing regulations recognise the involvement of licensed personnel in the certification process. The 2006 Regulations support the marketing regulations by making provision for licensed personnel and regulating the manner in which they operate. It is a requirement of European law that licensed activity of this type takes place under official supervision hence the continuing need for regulation of such activity.

4. Main changes introduced by the 2006 Regulations

- Implementation of Council Directive 2004/117/EC, which formalises the European scheme for an experiment permitting seed to be sampled and tested by licensed personnel. Most of the provisions of Directive 2004/117 are already incorporated into the Cereal Seed (Scotland) Regulations 2005 (S.S.I. 2005/328), the Fodder Plant Seed (Scotland) Regulations 2005 (S.S.I. 2005/329) and the Oil and Fibre Plant Seed (Scotland) Regulations 2004, (S.S.I. 2004/317). Directive 2004/117/EC recognises

that the use of licensed personnel in certain seed certification processes can be effective, without any significant decline in the quality of seed.

- Registration of Seed Merchants, Seed Packers and Seed Processors. The 2006 Regulations set out the requirements for registration of Seed Merchants, Seed Packers and Seed Processors and expand and clarify the conditions which may be imposed on them. The Department will publish a public register of Seed Merchants, Seed Packers and Seed Processors.
- Licensed Crop Inspectors and Licensed Seed Samplers. The 2006 Regulations expand the functions undertaken by crop inspectors and seed samplers. The Regulations also continue to provide for the variation, suspension and revocation of licences, the grounds on which these steps may be taken and the procedures that must be followed, which are clarified in the interests of fairness and transparency. The Department will publish a register of all Licensed Crop Inspectors and Seed Samplers.
- Licensed Seed Testing Stations. The 2006 Regulations also expand and clarify the statutory requirements in the licensing of seed testing stations and of personnel working there. The Regulations also remove the provision which made breach of a Licensed Seed Testing Station licence condition an offence. Such breaches will now be regulated by the powers to vary, suspend or revoke licences. The Department will publish a register of Licensed Seed Testing Stations.
- Representations. The Regulations update the procedures for making representations in respect of decisions on applications for registrations and licences and in respect of decisions on variation, suspension and revocation of registrations and licences. The Regulations provide for a quicker and more transparent process in respect of reviewing decisions to immediately suspend a licence.
- Appeals. The Regulations provide for seed merchants, seed processors, seed packers, licensed crop inspectors, licensed seed samplers and licensed seed testing stations to have rights to appeal to the Plant Variety and Seeds Tribunal against certain decisions of the Scottish Ministers. There is no right of appeal in respect of decisions based solely on the failure of an applicant or licence holder to undertake and pass an examination required to be undertaken and passed in relation to an application or a licence.
- Record Keeping. The Regulations now make it a statutory requirement to keep records for a period of six years.

5. **Consultation.**

A stakeholder consultation was carried out. It commenced on 24 February 2006 and informed the industry of the intention to consolidate the 1985 Regulations. Over 400 letters were sent out to seed merchants, packers and processors, licensed crop inspectors, licensed seed samplers, licensed seed testing stations and other interested bodies. A supplementary consultation was issued on 23 March 2006 which provided copies of the proposed new licences. The consultation period ended on the 19 May 2006 and no responses were received.

6. We have also consulted with the Scottish Committee of the Council on Tribunals on 15 March 2006. They had no comment to make on the Regulations.

Financial effects

7. There are no additional costs resulting from the introduction of the 2006 Regulations therefore a Regulatory Impact Assessment has not been prepared.

Scottish Executive Environment and Rural Affairs Department
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