
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 68

The Seed (Licensing and Enforcement
etc.) (Scotland) Regulations 2016

PART I
GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 and come into force on 1st July 2016.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the 2006 Regulations” means the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006⁽¹⁾;

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

“Analyst in Charge” means a seed analyst who the Scottish Ministers are satisfied has—

- (a) passed an appropriate examination relating to laboratory management; and
- (b) been appointed as the Analyst in Charge of a licensed seed testing station and who is responsible for carrying out the functions specified in regulation 9;

“authorised officer” means an officer authorised by the Scottish Ministers for the purposes of Part II of the Act and these Regulations;

“conservation variety” has the meaning given to it by regulation 2(1) of the Seeds (National Lists of Varieties) Regulations 2001⁽²⁾;

“licence holder” means a licensed crop inspector, a licensed professional seed operator, a licensed seed sampler or a licensed seed testing station;

“licensed crop inspector” means, except in relation to regulation 23(7), a person who has been granted a licence under regulation 4(1)(a) to carry out crop inspections and “crop inspector’s licence” is to be construed accordingly;

“licensed professional seed operator” means a person who has been granted a licence under regulation 4(1)(a) to carry out the functions of a seed merchant, a seed processor or, as the case may be, a seed packer or any combination of those functions and “professional seed operator’s licence” is to be construed accordingly;

(1) [S.S.I. 2006/313](#), amended by [S.S.I. 2007/536](#) and [S.I. 2011/1043](#) and revoked subject to savings by regulation 23.

(2) [S.I. 2001/3510](#), as relevantly amended by [S.I. 2011/464](#).

“licensed seed sampler” means, except in relation to regulation 23(7), a person who has been granted a licence under regulation 4(1)(a) to carry out functions in relation to seed sampling and “seed sampler’s licence” is to be construed accordingly;

“licensed seed testing station” means, except in relation to regulation 23(7), a laboratory in respect of which a licence has been granted under regulation 4(1)(a) to carry out statutory seed testing and “seed testing station licence” is to be construed accordingly;

“official sample” means a sample obtained—

- (a) by an authorised officer or a licensed seed sampler for the purposes of the Seed Marketing Regulations; or
- (b) by an authorised officer under section 25(5) of the Act;

“Official Seed Testing Station” means the Official Seed Testing Station for Scotland maintained under section 24(1) of the Act;

“prescribed minimum weight” means the minimum acceptable weight of a sample of seed submitted to the Official Seed Testing Station as prescribed in the Seed Marketing Regulations;

“preservation mixture” has the same meaning as it has for the purposes of the Fodder Plant Seed (Scotland) Regulations 2005(3);

“professional seed operator” means a seed merchant, a seed packer or a seed processor;

“responsible person” means a person nominated under regulation 3(3) by an applicant for a professional seed operator’s licence or a seed testing station licence as the point of contact for all communications relating to the licence;

“seed” means seed of any species to which the Seed Marketing Regulations apply;

“seed analyst” means a person who the Scottish Ministers are satisfied has completed an appropriate training course and passed an appropriate examination relating to seed testing in respect of seed of the species being tested, or to be tested, by that person;

“the Seed Marketing Directives” means—

- (a) Council [Directive 66/401/EEC](#) on the marketing of fodder plant seed(4);
- (b) Council [Directive 66/402/EEC](#) on the marketing of cereal seed(5);
- (c) Council [Directive 2002/54/EC](#) on the marketing of beet seed(6);
- (d) Council [Directive 2002/55/EC](#) on the marketing of vegetable seed(7); and
- (e) Council [Directive 2002/57/EC](#) on the marketing of seed of oil and fibre plants(8);

“the Seed Marketing Regulations” means—

- (a) in relation to vegetable seed, the Vegetable Seeds Regulations 1993(9);
- (b) in relation to oil and fibre plant seed, the Oil and Fibre Plant Seed (Scotland) Regulations 2004(10);

(3) S.S.I. 2005/329, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.S.I. 2012/5 and S.S.I. 2013/326.

(4) OJ L 125, 11.7.1966, p.2298 as last amended by Commission Implementing [Directive 2012/37/EU](#) (OJ L 325, 23.11.2012, p.13).

(5) OJ L 125, 11.7.1966, p.2309 as last amended by Commission Implementing Directive (EU) 2015/1955 (OJ L 284, 30.10.2015, p.142).

(6) OJ L 193, 20.7.2002, p.12 as last amended by Council [Directive 2004/117/EC](#) (OJ L 14, 18.1.2005, p.18).

(7) OJ L 193, 20.7.2002, p.33 as last amended by Commission Implementing [Directive 2013/45/EU](#) (OJ L 213, 8.8.2013, p.20).

(8) OJ L 193, 20.7.2002, p.74 as last amended by Commission Implementing Directive 2016/11 (OJ L 3, 6.1.2016, p.48).

(9) S.I. 1993/2008, amended by S.I. 1996/1452, S.I. 1997/616, S.I. 1999/1863, S.S.I. 2000/250, S.I. 2001/3510, S.S.I. 2007/305, S.S.I. 2010/219, S.S.I. 2010/425, S.I. 2011/1043 and S.S.I. 2013/326.

(10) S.S.I. 2004/317, amended by S.S.I. 2006/313, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223 and S.S.I. 2010/219.

- (c) in relation to cereal seed, the Cereal Seed (Scotland) Regulations 2005(11);
- (d) in relation to fodder plant seed, the Fodder Plant Seed (Scotland) Regulations 2005(12);
and
- (e) in relation to beet seed, the Beet Seed (Scotland) (No. 2) Regulations 2010(13);

“seed merchant” means a person who carries on a business which includes marketing seed (including seed of a conservation variety or a preservation mixture) except where that marketing is only of one or more of the following types—

- (a) marketing of small packages of seed, small EC A packages of seed or small EC B packages of seed;
- (b) marketing of unpacketed seed;
- (c) marketing by a producer of small quantities of seed for scientific purposes or selection work in compliance with an authorisation permitting such marketing granted under the Seed Marketing Regulations;
- (d) marketing by a producer of seed for test and trial purposes in compliance with an authorisation permitting such marketing granted under the Seed Marketing Regulations;
or
- (e) marketing of seed harvested from a crop that has been shown to meet the relevant crop standards in the Seed Marketing Regulations which is for processing, provided the identity of the seed is ensured;

“seed packer” means a person who carries on a business which includes re-packing, re-sealing or re-labelling seed, including seed of a conservation variety or a preservation mixture;

“seed processor” means a person who carries on a business which includes—

- (a) packing, sealing or labelling seed (including the labelling or marking of Standard Seed of vegetables and seed of a conservation variety), small packages of seed, small EC A packages of seed or small EC B packages of seed;
- (b) preparing mixtures of seeds permitted by the Seed Marketing Regulations; or
- (c) cleaning, treating or otherwise processing seed intended for marketing;

“seeds regulations” means regulations made under section 16 of the Act;

“statutory seed testing” means seed testing carried out for the purposes of seeds regulations;
and

“the Tribunal” means the Plant Varieties and Seeds Tribunal continued under section 42 of the Plant Varieties Act 1997(14).

(2) Expressions in these Regulations which are not defined in paragraph (1) and which appear in the Seed Marketing Regulations have the same meaning in these Regulations as they have in the Seed Marketing Regulations.

(11) S.S.I. 2005/328, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223 and S.S.I. 2010/219.

(12) S.S.I. 2005/329, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.S.I. 2012/5 and S.S.I. 2013/326.

(13) S.S.I. 2010/148, amended by S.S.I. 2011/413.

(14) 1997 c.66.

PART II

LICENSING

Applications for licences

- 3.—(1) A person may apply to the Scottish Ministers—
- (a) to be licensed as a professional seed operator, a crop inspector or a seed sampler;
 - (b) for a laboratory to be licensed as a seed testing station for the purpose of carrying out statutory seed testing.
- (2) An application under paragraph (1) is to be made in such form and manner and be accompanied by such information as the Scottish Ministers may require.
- (3) In the case of an application for a professional seed operator's licence or a seed testing station licence, the applicant must nominate a responsible person and include the name and contact address of that person.
- (4) In the case of an application for a seed testing station licence, the applicant must nominate an Analyst in Charge and include the name and contact address of that person.

Determination of licences

- 4.—(1) Where an application is made under regulation 3(1), the Scottish Ministers may—
- (a) grant a licence—
 - (i) specifying the functions covered by the licence; and
 - (ii) subject to such conditions as the Scottish Ministers may determine; or
 - (b) refuse it.
- (2) For the purpose of paragraph (1)(a)(i), the Scottish Ministers must specify—
- (a) in the case of a professional seed operator's licence, whether the licence holder is authorised to carry out the functions of a seed merchant, a seed processor or a seed packer (or any combination of those functions) and the species and categories of seed in respect of which those functions can be carried out;
 - (b) in the case of a crop inspector's licence, the species and categories of crops which the licence holder is entitled to inspect;
 - (c) in the case of a seed sampler's licence, the species of seed which may be sampled and the functions which the licence holder is authorised to carry out;
 - (d) in the case of a seed testing station licence, the species and categories of seed which may be tested by the seed testing station and the methods of testing which may be carried out.
- (3) Without prejudice to the generality of paragraph (1)(a)(ii)—
- (a) a licence may include general conditions or conditions which are specific to the type of licence granted; and
 - (b) the Scottish Ministers may from time to time publish a list of standard conditions which, subject to a determination under that paragraph, may be included in any licence granted.
- (4) Before granting a licence under paragraph (1)(a), or varying a licence under regulation 5(1), the Scottish Ministers must be satisfied that—
- (a) in the case of a professional seed operator, the person—
 - (i) is suitable to carry out the functions of a seed merchant, a seed processor or, as the case may be, a seed packer;

- (ii) has adequate premises or equipment for the purposes of carrying out those functions;
and
 - (iii) has appropriate knowledge and qualifications for the purposes of carrying out those functions;
 - (b) in the case of a crop inspector or a seed sampler, the person is competent to act as such, and has completed such training courses and passed such examinations as may be required by the Scottish Ministers;
 - (c) in the case of a seed testing station, the station has adequate premises or equipment and the Analyst in Charge and any seed analyst have appropriate knowledge and qualifications, for the purposes of carrying out statutory seed testing.
- (5) The Scottish Ministers may refuse to grant a licence under paragraph (1)(b), or vary a licence under regulation 5(1), if they are not or are no longer satisfied that the person is a suitable person to be a licence holder having regard to—
- (a) any previous suspension or revocation of a licence held by the person—
 - (i) under the 2006 Regulations or these Regulations; or
 - (ii) in any other part of the United Kingdom for the purposes of the Seed Marketing Directives; or
 - (b) any circumstances which led to the person being convicted of an offence under section 16(7) of the Act(15).
- (6) A licence may be granted under paragraph (1)(a) for a maximum period of five years.
- (7) Subject to regulation 23, where a person applies for a licence under regulation 3(1) to take effect on expiry of an existing licence granted under regulation 4(1)(a), the existing licence continues to have effect, regardless of its expiry date, pending final determination of the application or, where applicable, final determination of an appeal against refusal of the application.

Variation of licences

5.—(1) The Scottish Ministers may at any time vary a licence granted under regulation 4(1)(a) including any functions specified in, and conditions attached to, the licence, whether or not at the request of the licence holder.

(2) An application for a variation of a licence is to be made in such form and manner and be accompanied by such information as the Scottish Ministers may require.

Termination of licences

6. The Scottish Ministers may terminate a licence at the licence holder's request subject to such conditions as the Scottish Ministers may determine.

Suspension and revocation of licences

7.—(1) The Scottish Ministers may suspend or revoke a licence in whole or in part if they are satisfied that the licence holder—

- (a) is no longer competent to perform a function specified in the licence;
- (b) has failed to comply with a requirement under regulation 8;
- (c) in the case of a professional seed operator, no longer has adequate premises or equipment for the purposes of carrying out any functions specified in the licence;

(15) Under section 16(7), it is an offence to include anything in a statutory statement which is false in a material particular or to contravene any provision in seeds regulations.

- (d) has failed to comply with a condition attached to the licence;
 - (e) has been convicted of an offence under section 16(7) of the Act; or
 - (f) is unsuitable to perform a function specified in the licence.
- (2) Without prejudice to paragraph (1), the Scottish Ministers may suspend or revoke a seed testing station licence in whole or in part if they are satisfied that—
- (a) the Analyst in Charge or any seed analyst carrying out statutory seed testing at the seed testing station is no longer qualified to act as an Analyst in Charge or, as the case may be, to carry out such testing;
 - (b) the Analyst in Charge has failed to comply with the duties imposed by regulation 9 or is otherwise unfit to perform the duties of an Analyst in Charge;
 - (c) the seed testing station no longer has adequate premises or equipment for the purposes of carrying out statutory seed testing;
 - (d) there is no longer a person acting as Analyst in Charge at the seed testing station; or
 - (e) any employee of the seed testing station has been convicted of an offence under section 16(7) of the Act.
- (3) A licence suspended under paragraph (1) or (2) may be suspended for any period up to its unexpired duration and ceases to have effect and is deemed to be withdrawn during the period of suspension to the extent specified by the Scottish Ministers.
- (4) The Scottish Ministers may suspend a licence under paragraph (1) or (2) in whole or in part with immediate effect if they are satisfied that the carrying out of the functions specified in the licence is causing, or is likely to cause, prejudice to the administration or enforcement of seeds regulations.
- (5) The Scottish Ministers may recall a suspension of a licence if they consider it appropriate to do so.

Training and examinations

8. The Scottish Ministers may require—
- (a) a licensed crop inspector or a licensed seed sampler to attend such training courses and undergo such examinations as the Scottish Ministers consider necessary to maintain the knowledge and qualifications required in respect of any functions specified in a licence granted under regulation 4(1)(a);
 - (b) a seed analyst carrying out statutory seed testing at a licensed seed testing station, or the Analyst in Charge of such a station, to attend such training courses and undergo such examinations as the Scottish Ministers consider necessary to maintain the knowledge and qualifications required in respect of the functions of the seed analyst or, as the case may be Analyst in Charge, carried out at that station.

Duties of the Analyst in Charge

9. The Analyst in Charge of a licensed seed testing station must—
- (a) have direct responsibility for the technical operations of the station;
 - (b) supervise the work of all seed analysts assisting in statutory seed testing carried out at the station; and
 - (c) be in effective control of all statutory seed testing carried out at the station and have direct responsibility for the issuing of the results of statutory seed testing.

Register

10. The Scottish Ministers must—

- (a) keep a register in written or electronic form specifying—
 - (i) the names and contact addresses of licence holders;
 - (ii) in the case of a professional seed operator’s licence, the name of the responsible person, the functions authorised by the licence and the species and categories of seed in respect of which those functions can be carried out;
 - (iii) in the case of a crop inspector’s licence, the species and categories of crops which each licensed crop inspector is entitled to inspect;
 - (iv) in the case of a seed sampler’s licence, the species of seed which may be sampled and the functions which the licence holder is authorised to carry out;
 - (v) in the case of a seed testing station licence, the names of the Analyst in Charge and the responsible person and the species and categories of seed which may be tested and the methods of testing authorised under the licence;
- (b) make the register available for inspection by any person at any reasonable time; and
- (c) from time to time publish the register in such manner as they consider appropriate.

Fees

11.—(1) A licensed crop inspector, a licensed seed sampler or a licensed seed testing station must charge the fees prescribed in seeds regulations for carrying out the functions specified in the licence.

(2) Where no fees are prescribed in seeds regulations, a licensed crop inspector, a licensed seed sampler or a licensed seed testing station may charge reasonable fees for carrying out the functions specified in the licence, but may not derive any private gain in connection with the carrying out of those functions.

PART III

SUPERVISION AND ENFORCEMENT

Supervision and checking of licence holders

12.—(1) The Scottish Ministers must require an authorised officer to undertake the checks described in paragraphs (2) to (4) in the supervision of licensed crop inspectors, licensed seed samplers and licensed seed testing stations.

(2) At least 5% of all crop inspection results submitted to the Scottish Ministers by licensed crop inspectors each calendar year must be checked by an authorised officer who must undertake such crop inspections and such other investigations as are necessary to verify the accuracy of the results.

(3) At least 5% of all seed samples submitted to the Scottish Ministers by licensed seed samplers between 1st July and 30th June in the succeeding year must be checked by an authorised officer who must draw such samples and undertake such other investigations as are necessary to verify that the sampling has been undertaken in accordance with the requirements of seeds regulations.

(4) At least 5% of all seed test results submitted to the Scottish Ministers from licensed seed testing stations between 1st July and 30th June in the succeeding year must be checked by an authorised officer who must carry out such seed testing and such other investigations as are necessary to verify the accuracy of the results.

(5) The Scottish Ministers may require an authorised officer to undertake such other checks in relation to licence holders as the Scottish Ministers consider appropriate, for the purposes of ensuring compliance with these Regulations and the Seed Marketing Regulations.

Sampling for enforcement purposes

13.—(1) Paragraph (2) applies where a sample of seed is to be taken under section 25(5) of the Act for the enforcement of the Seed Marketing Regulations.

(2) Where a sample of seed is taken as mentioned in paragraph (1)—

- (a) where the sample is to be subject to moisture testing, two moisture samples must be drawn from the sample for that purpose; and
- (b) the sample must be divided to provide three parts of which—
 - (i) one part is to be delivered or sent to the owner of the seed or the owner's representative together with, where applicable, one moisture sample drawn under sub-paragraph (a);
 - (ii) two parts are to be delivered or sent to the Official Seed Testing Station together with, where applicable, one moisture sample drawn under sub-paragraph (a); and
 - (iii) one of the parts delivered or sent under sub-paragraph (b)(ii) together with, where applicable, one moisture sample drawn under sub-paragraph (a) is to be officially examined for the purposes of the Seed Marketing Regulations and the other part must be retained for production to a court in accordance with section 26(7) of the Act.

(3) The procedures described in paragraph (2) are to be carried out by an authorised officer in accordance with the requirements of the Seed Marketing Regulations and where it appears to that officer that the sample that has been taken was purchased for use and not for resale, the first part of the sample is to be delivered or sent to the last seller of the seed or the last seller's representative instead of to the owner of the seed or the owner's representative.

(4) Where a part of a sample taken under this regulation has been officially examined for the purposes of the Seed Marketing Regulations, any residue from the sample may be used for such other tests as the Scottish Ministers may direct including for the purpose of the Community comparative tests and trials referred to in the Seed Marketing Directives.

(5) Subject to paragraph (6)(a), the minimum weight of a sample of seed taken as mentioned in paragraph (1) must be such as to ensure that each of the parts into which it is divided is of not less than the prescribed minimum weight for such a sample.

(6) Where a sample of seed to be taken under section 25(5) of the Act is for the enforcement of the Vegetable Seeds Regulations 1993(16) and is contained in small packages, then—

- (a) instead of being of a prescribed minimum weight the sample must consist of as many such packages as the person taking the sample may require; and
- (b) the sample is to be delivered or sent to the Official Seed Testing Station where it must be officially examined for the purposes of the Seed Marketing Regulations and the procedures set out in paragraphs (2) and (3) do not apply.

Certificates of taking and testing a sample

14.—(1) A certificate in the form set out in Schedule 1 relating to the taking of a sample of seed for the enforcement of Seed Marketing Regulations is prescribed for the purposes of section 26(3) of the Act.

(16) S.I. 1993/2008, amended by S.I. 1996/1452, S.I. 1997/616, S.I. 1999/1863, S.S.I. 2000/250, S.I. 2001/3510, S.S.I. 2007/305, S.S.I. 2010/219, S.S.I. 2010/425, S.I. 2011/1043 and S.S.I. 2013/326.

(2) For the purposes of section 24(5) of the Act, the form of certificate of the result of a test of a sample of seed carried out at the Official Seed Testing Station for the enforcement of the Seed Marketing Regulations is prescribed—

- (a) in relation to beet seed, in Part I of Schedule 2;
- (b) in relation to cereal seed, in Part II of Schedule 2;
- (c) in relation to fodder plant seed, in Part III of Schedule 2;
- (d) in relation to oil and fibre plant seed, in Part IV of Schedule 2; and
- (e) in relation to vegetable seed, in Part V of Schedule 2.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Right to make representations

15.—(1) The Scottish Ministers must not decide to—

- (a) refuse to grant a licence under regulation 4(1)(b);
- (b) vary a licence or refuse to vary a licence under regulation 5(1); or
- (c) suspend or revoke a licence under regulation 7;

unless they have complied with the provisions of this regulation.

(2) Subject to paragraph (3), before taking any decision mentioned in paragraph (1) the Scottish Ministers must give the licence holder—

- (a) a notice stating what they are proposing to do and the reasons for it; and
- (b) the opportunity of making representations within such period as the Scottish Ministers consider reasonable.

(3) Paragraph (2) does not apply to a decision of the Scottish Ministers to suspend a licence in whole or in part with immediate effect under regulation 7(4).

(4) Where the Scottish Ministers decide to suspend a licence in whole or in part with immediate effect under regulation 7(4), they must give the licence holder—

- (a) as soon as reasonably practicable notice of their decision and the reasons for it; and
- (b) the opportunity of making representations within such period as the Scottish Ministers consider reasonable.

(5) If the Scottish Ministers have received written representations within the period referred to in paragraph (2)(b) or, as the case may be, paragraph (4)(b), they must as soon as reasonably practicable consider any such representations before taking any decision mentioned in paragraph (1) or, as the case may be, deciding that the suspension of the licence is to remain in force or is to be recalled.

(6) The Scottish Ministers must give the licence holder notice of—

- (a) any decision mentioned in paragraph (1) together with the reasons for it and the date from which the decision is to have effect;
- (b) any decision that the suspension of a licence in whole or in part is to remain in force together with the reasons for it.

(7) In giving a notice under paragraph (6), the Scottish Ministers must, where a right of appeal exists under regulation 16(1), inform the licence holder of—

- (a) the right to appeal to the Tribunal against the decision; and

- (b) the period of time within which such an appeal may be brought.

Appeals

16.—(1) Subject to paragraph (2), a person given notice of a decision in accordance with regulation 15(6) and (7) may appeal to the Tribunal.

(2) A right of appeal to the Tribunal does not apply where the Scottish Ministers have—

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

for the sole reason that the applicant or licence holder has failed to undertake and pass an examination that required to be undertaken and passed in relation to an application for the grant or variation of the licence or required to be undertaken and passed as a condition of the licence.

(3) Subject to paragraph (4), a decision which may be appealed to the Tribunal under paragraph (1) does not have effect during the time allowed for making an appeal and, in the event that an appeal is timeously made, does not have effect pending final determination of the appeal.

(4) Paragraph (3) does not apply to a decision under regulation 15(5) that a suspension of the licence is to remain in force.

(5) The Scottish Ministers must give effect to any decision of the Tribunal which constitutes the final determination of an appeal under paragraph (1).

Exemptions

17. The Scottish Ministers may exempt any person or class of persons, or persons generally, from compliance with any provision of these Regulations, subject to any conditions the Scottish Ministers think appropriate.

Extension of time

18. Where any document is to be delivered or given or any act is to be done in a time prescribed by or under these Regulations the Scottish Ministers may, if they consider it reasonable, extend the time for such period and subject to such conditions as the Scottish Ministers may determine.

Form of records

19. Any record required to be kept under these Regulations, or as a condition of a licence granted under these Regulations, may be in written or electronic form and must be kept for at least six years, except where otherwise provided for in seeds regulations.

Service of notices

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

- (a) delivering it to that person;
- (b) leaving it at that person's proper address;
- (c) sending it by post or fax to that person's proper address; or
- (d) sending it by email to that person's last known email address.

(2) For the purposes of paragraph (1), in the case of a licensed professional seed operator or a licensed seed testing station, "person" includes a responsible person.

(3) For the purposes of paragraph (1)(a), a notice is delivered to—

- (a) a body corporate where it is given to a relevant individual within that body;
 - (b) a partnership where it is given to a partner or a person having control or management of the partnership;
 - (c) an unincorporated association where it is given to an officer or a member of the governing body of the association or any other person having management responsibilities in respect of the association.
- (4) For the purposes of paragraph (1)(b) and (c) and section 7 of the Interpretation Act 1978⁽¹⁷⁾ (service of documents by post) in its application to this regulation, “proper address” means—
- (a) in the case of a body corporate, the registered office (if it is in the United Kingdom) or the principal office of the body in the United Kingdom;
 - (b) in the case of a partnership, the principal office of the partnership;
 - (c) in the case of an unincorporated association, the principal office of the association;
 - (d) in any other case, a person’s last known address.
- (5) For the purposes of paragraph (1)(d), a notice is sent to an email address of—
- (a) a body corporate, where it is sent to an email address of—
 - (i) the body corporate; or
 - (ii) a relevant individual within that body,where that address is supplied by that body for the conduct of the affairs of that body;
 - (b) a partnership, where it is sent to an email address of—
 - (i) the partnership; or
 - (ii) a partner or person having control or management of that partnership,where that address is supplied by that partnership for the conduct of the affairs of the partnership;
 - (c) an unincorporated association, where it is sent to an email address of—
 - (i) an officer or member of the governing body of the association; or
 - (ii) any other person having management responsibilities in respect of the association,where that address is supplied by that association for the conduct of the affairs of that association;
 - (d) a person other than a person mentioned in sub-paragraph (a), (b) or (c), where it is sent to an email address supplied by that person for the conduct of the affairs of that person.
- (6) In this regulation—
- “partnership” includes a Scottish partnership; and
 - “relevant individual” means—
 - (a) a director, manager, secretary or other similar officer of the body corporate; or
 - (b) where the affairs of the body corporate are managed by its members, a member.

Written and electronic communication

21. All applications, representations, notices and requests to which these Regulations apply must be made in writing which includes an electronic communication within the meaning of section 15(1) (general interpretation) of the Electronic Communications Act 2000⁽¹⁸⁾.

⁽¹⁷⁾ 1978 c.30.

⁽¹⁸⁾ 2000 c.7, as amended by the Communications Act 2003 (c.21), section 406 and Schedule 17, paragraph 158.

Amendments to the Seed Marketing Regulations

22. The Seed Marketing Regulations mentioned in Schedule 3 and the Seed Potatoes (Scotland) Regulations 2015(19) are amended in accordance with Schedule 3.

Revocations, transitional and savings provisions

23.—(1) Subject to the following provisions of this regulation, the 2006 Regulations are revoked.

(2) Any application made to the Scottish Ministers in accordance with regulation 4(1) (applications for registration) of the 2006 Regulations but not determined before 1st July 2016 is to be treated as an application to be licensed as a professional seed operator under regulation 3(1)(a) of these Regulations and is to be determined in accordance with these Regulations.

(3) Any application made to the Scottish Ministers for—

- (a) a crop inspector's licence under regulation 10(1) of the 2006 Regulations;
- (b) a seed sampler's licence under regulation 17(1) of the 2006 Regulations; or
- (c) a seed testing station licence under regulation 24(1) of the 2006 Regulations,

but not determined before 1st July 2016, is to be treated as an application for a licence under regulation 3(1)(a) or, as the case may be, regulation 3(1)(b) of these Regulations and is to be determined in accordance with these Regulations.

(4) Subject to paragraph (6), any registration granted under regulation 5(1) of the 2006 Regulations and having effect immediately before 1st July 2016 is to continue to have effect until 31st December 2016 and the 2006 Regulations continue to apply to any such registration.

(5) A registered person (as defined in regulation 2(1) of the 2006 Regulations) may, in accordance with regulation 3(1)(a) of these Regulations, apply to be licensed as a professional seed operator.

(6) Where, following the receipt of an application as mentioned in paragraph (5), the Scottish Ministers grant a licence under regulation 4(1)(a) of these Regulations, any registration granted under regulation 5(1) of the 2006 Regulations ceases to have effect as from the date of the grant of the licence.

(7) Any licence—

- (a) granted—
 - (i) to a licensed crop inspector under regulation 11(1) of the 2006 Regulations;
 - (ii) to a licensed seed sampler under regulation 18(1) of the 2006 Regulations; or
 - (iii) in respect of a licensed seed testing station under regulation 25(1) of the 2006 Regulations; and
- (b) having effect immediately before 1st July 2016,

is to have effect on and after 1st July 2016 as if it were a licence granted under regulation 4(1)(a) of these Regulations.

(8) The Scottish Ministers may, in accordance with regulation 5(1) of these Regulations, vary any licence mentioned in paragraph (7) apart from its expiry date.

(9) The right to make representations in accordance with regulation 15 of these Regulations and the right to appeal to the Tribunal in accordance with regulation 16 of these Regulations is not to apply in respect of any licence which was granted under the 2006 Regulations and which is, in accordance with regulation 5(1) of these Regulations, varied no later than 31st December 2016.

(10) Any fee arising whether wholly or in part under the 2006 Regulations but not paid before 1st July 2016 is to be treated as a fee arising under these Regulations and is recoverable accordingly.

St Andrew's House,
Edinburgh
2nd February 2016

RICHARD LOCHHEAD
A member of the Scottish Government