
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 68

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

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(1).
- (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.

(1) 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.

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;
- (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.