

SCHEDULE 3

Regulation 22

AMENDMENTS TO THE SEED MARKETING REGULATIONS
AND THE SEED POTATOES (SCOTLAND) REGULATIONS 2015

PART I

AMENDMENTS TO THE OIL AND FIBRE
PLANT SEED (SCOTLAND) REGULATIONS 2004

1.—(1) The Oil and Fibre Plant Seed (Scotland) Regulations 2004⁽¹⁾ are amended in accordance with this paragraph.

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “licensed crop inspector” substitute—

““licensed crop inspector” means a person who holds a current licence to be a crop inspector—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(b) for the definition of “licensed seed sampler” substitute—

““licensed seed sampler” means a person who holds a current licence to be a seed sampler—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(c) for the definition of “licensed seed testing station” substitute—

““licensed seed testing station” means an establishment which holds a current seed testing station licence—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(d) before the definition of “Secretary of State” insert—

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

“registered or licensed number” means the number issued to a person who holds a licence granted under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or to a person licensed or registered by a National

(1) 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.

Status: This is the original version (as it was originally made).

Authority other than the Scottish Ministers under provisions equivalent to that regulation;”.

- (3) In regulation 16 (sealing of packages of fully certified seed)—
- (a) in paragraph (4), for “or a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or a person licensed or registered in any part of the United Kingdom as a professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”; and
 - (b) in paragraph (5), for “or a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or a person licensed or registered in any part of the United Kingdom as a professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”.
- (4) For regulation 24(2)(a) (service of notices) substitute—
- “(a) in the case of a professional seed operator, a crop inspector or a seed sampler licensed under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016, it is the address which could be made available by the Scottish Ministers under regulation 10 of those Regulations; and”.
- (5) For “registered number” substitute “registered or licensed number” where it appears in the following provisions—
- (a) in Schedule 3 (particulars to be specified in an official certificate or a breeder’s confirmation)—
 - (i) paragraph 1(b) (particulars to be specified in an official certificate); and
 - (ii) paragraph 2(b) (particulars to be specified in a breeder’s confirmation);
 - (b) in Schedule 4A (standards for certification of conservation varieties)(2), in Part II (particulars to be specified in an official certificate), sub-paragraph (b); and
 - (c) in Schedule 6, in Part II (labels), paragraph 3(a)(i) (label for a package of Breeder’s Seed).
- (6) In Schedule 6, in Part II (labels), in paragraph 6B(1)(a)(ii) (official label for a package of seed of a Conservation Variety), for “registration number” substitute “registered or licensed number”.

PART II

AMENDMENTS TO THE CEREAL SEED (SCOTLAND) REGULATIONS 2005

2.—(1) The Cereal Seed (Scotland) Regulations 2005(3) are amended in accordance with this paragraph.

- (2) In regulation 2(1) (interpretation)—
- (a) for the definition of “licensed crop inspector” substitute—

(2) Schedule 4A was inserted by [S.S.I. 2009/223](#) Schedule 2, paragraph 1.

(3) [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](#).

- ““licensed crop inspector” means a person who holds a current licence to be a crop inspector—
- (a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or
 - (b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;
- (b) for the definition of “licensed seed sampler” substitute—
- ““licensed seed sampler” means a person who holds a current licence to be a seed sampler—
- (a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or
 - (b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;
- (c) for the definition of “licensed seed testing station” substitute—
- ““licensed seed testing station” means an establishment which holds a current seed testing station licence—
- (a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or
 - (b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;” and
- (d) for the definition of “registered number” substitute—
- ““professional seed operator” means a seed merchant, a seed packer or a seed processor;
- “registered or licensed number” means the number issued to a person who holds a licence granted under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or to a person licensed or registered by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”.
- (3) In regulation 16 (sealing of packages of fully certified seed)—
- (a) in paragraph (4), for “or a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or a person licensed or registered in any part of the United Kingdom as a professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”; and
 - (b) in paragraph (5), for “or a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or a person licensed or registered in any part of the United Kingdom as a professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”.
- (4) For regulation 25(2)(a) (service of notices) substitute—

Status: This is the original version (as it was originally made).

- “(a) in the case of a professional seed operator, a crop inspector or a seed sampler licensed under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016, it is the address which could be made available by the Scottish Ministers under regulation 10 of those Regulations; and”.
- (5) For “registered number” substitute “registered or licensed number” where it appears in the following provisions—
- (a) in Schedule 3 (particulars to be specified in an official certificate or a breeder’s confirmation)—
 - (i) paragraph 1(b) (particulars to be specified in an official certificate); and
 - (ii) paragraph 2(b) (particulars to be specified in a breeder’s confirmation);
 - (b) in Schedule 4A (standards for certification of conservation varieties)(4), in Part II, sub-paragraph (b) (particulars to be specified in an official certificate); and
 - (c) in Schedule 6, in Part II (labels), paragraph 3(a)(i) (labels for a package of Breeder’s Seed).
- (6) In Schedule 4 (requirements for pre basic seed, basic seed, certified seed, certified seed of the first generation and certified seed of the second generation)—
- (a) in Part I (conditions relating to crops from which seed is obtained)—
 - (i) for paragraph 7 (isolation distances – minimum distances) substitute—

“Isolation distances — minimum distances

7.—(1) Subject to sub-paragraph (2), for maize, self-pollinating varieties of triticale, rye and hybrids of barley produced by means of cytoplasmic male sterility, the minimum distance from neighbouring crops or plants of other species, or of other varieties of the same species, liable to cross-pollinate with the crop shall be the distance specified in column 2 of the following table for the corresponding crop specified in column 1 of the table (which can include any distance of at least 2 metres of fallow ground required under paragraph 6)—

<i>Column 1</i>	<i>Column 2</i>
<i>Crop</i>	<i>Minimum Distance</i>
(a) Maize—	
(i) for the production of Basic Seed	200 metres
(ii) for the production of Certified Seed	200 metres
(b) Self-pollinating variety of triticale—	
(i) for the production of Basic Seed	50 metres
(ii) for the production of Certified Seed	20 metres
(c) Rye (other than hybrids)—	
(i) for the production of Basic Seed	300 metres

(4) Schedule 4A was inserted by [S.S.I. 2009/223](#) Schedule 3, paragraph 1.

<i>Column 1</i>	<i>Column 2</i>
<i>Crop</i>	<i>Minimum Distance</i>
(ii) for the production of Certified Seed	250 metres
(d) Hybrids of rye—	
(i) for the production of Basic Seed where male sterility is used	1,000 metres
(ii) for the production of Basic Seed where male sterility is not used	600 metres
(iii) for the production of Certified Seed	500 metres
(e) Hybrids of barley produced by means of cytoplasmic male sterility—	
(i) for the production of Basic Seed	100 metres
(ii) for the production of Certified Seed	50 metres

(2) The minimum distance specified in paragraph (1) may, subject to the approval of the Scottish Ministers, be modified or disregarded if the Scottish Ministers are satisfied that there is adequate protection against undesirable foreign pollen.”;

(ii) for paragraph 8(5) (standards for varietal purity) substitute—

“(5) In crops of hybrids of durum wheat, oats, self-pollinating triticale, spelt wheat or wheat or hybrids of barley other than hybrids of barley produced by means of cytoplasmic male sterility—

(a) subject to sub-paragraph (b), varieties of the female component of the crop shall be at least 25 metres from a crop of any other variety of the same species except from a crop of the male component;

(b) sub-paragraph (a) shall not apply if there is sufficient protection from any undesirable foreign pollination;

(c) where seed is produced using a chemical hybridisation agent, the crop shall conform to the following standards or other conditions—

(i) the minimum varietal purity of each component shall be—

(aa) in the case of barley, durum wheat, oats, spelt wheat or wheat, 99.7%; and

(bb) in the case of self-pollinating varieties of triticale, 99.0%; and

(ii) the minimum hybridity must be 95%; and

(d) in cases where the hybridity is determined during seed testing prior to certification, the determination of the hybridity during a field inspection need not be done.

Status: This is the original version (as it was originally made).

- (6) In crops of hybrids of barley produced by means of cytoplasmic male sterility—
 - (a) the percentage by number of plants which are recognisable as obviously not being true to the variety shall not exceed—
 - (i) where the crop is used for the production of Basic Seed, 0.1% for the maintainer and the restorer line and 0.2% for the cytoplasmic male sterility female component; and
 - (ii) where the crop is used for the production of Certified Seed—
 - (aa) 0.3% for the restorer and the cytoplasmic male sterility female component; or
 - (bb) 0.5% for the restorer, where the cytoplasmic male sterility female component is a simple hybrid;
 - (b) the level of sterility of the female component shall be at least—
 - (i) where the crop is used for the production of Basic Seed, 99.7%; and
 - (ii) where the crop is used for the production of Certified Seed, 99.5%; and
 - (c) in the case of Certified Seed, the crop may be produced in mixed cultivation of a female male-sterile component with a male component which restores fertility.”; and
- (b) in Part II (conditions relating to basic seed, certified seed, certified seed of the first generation and certified seed of the second generation)—
 - (i) in paragraph 13 (standards for varietal purity)—
 - (aa) in the table in sub-paragraph (3), for sub-paragraph (b) substitute—

“(b) Hybrids of durum wheat, oats, self-pollinating varieties of triticale, spelt wheat or wheat and hybrids of barley other than hybrids of barley produced by means of cytoplasmic male sterility—		
(i) Certified Seed		90.00%
(ba) Hybrids of barley produced by means of cytoplasmic male sterility—		
(i) Certified Seed		85.00% ”

; and

- (bb) after sub-paragraph (4) insert—

- “(4A) For the purposes of sub-paragraph (3)(ba), impurities other than the restorer shall not exceed 2%.”; and
- (cc) in sub-paragraph (5), for “sub-paragraph (3)(c)” substitute “sub-paragraphs (3) (b), (ba) and (c)”;
- (ii) in paragraph 15 (standards for varietal purity for hybrid varieties of rye)—
 - (aa) for the heading substitute—

“Standards for varietal purity for hybrid varieties of rye and cytoplasmic male sterility hybrid varieties of barley”; and

- (bb) after “rye” insert “or a cytoplasmic male sterility hybrid variety of barley”.

(7) In Schedule 9 (definition of Cereal Seed Directive), in the table, insert after the entry for Council [Directive 2006/55/EC](#)(5) the following entries—

“Commission Directive 2009/74/EC	OJ L 166, 27.6.2009, p.40
Commission Implementing Directive 2012/1/EU	OJ L 4, 7.1.2012, p.8
Commission Implementing Directive 2012/37/EU	OJ L 325, 23.11.2012, p.13
Commission Implementing Directive (EU) 2015/1955	OJ L 284, 30.10.2015, p.142”

PART III

AMENDMENTS TO THE FODDER PLANT SEED (SCOTLAND) REGULATIONS 2005

3.—(1) The Fodder Plant Seed (Scotland) Regulations 2005(6) are amended in accordance with this paragraph.

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “licensed crop inspector” substitute—

““licensed crop inspector” means a person who holds a current licence to be a crop inspector—

- (a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or
- (b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(b) for the definition of “licensed seed sampler” substitute—

““licensed seed sampler” means a person who holds a current licence to be a seed sampler—

- (a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(5) That entry was inserted by [S.S.I. 2007/224](#), regulation 11.

(6) [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](#).

Status: This is the original version (as it was originally made).

- (b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;
- (c) for the definition of “licensed seed testing station” substitute—
 - ““licensed seed testing station” means an establishment which holds a current seed testing station licence—
 - (a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or
 - (b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;” and
- (d) for the definition of “registered number” substitute—
 - ““professional seed operator” means a seed merchant, a seed packer or a seed processor;
 - “registered or licensed number” means the number issued to a person who holds a licence granted under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or to a person licensed or registered by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”.
- (3) In regulation 16 (sealing of packages of fully certified seed)—
 - (a) in paragraph (4), for “or by a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or by a person licensed or registered in any part of the United Kingdom as a professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”; and
 - (b) in paragraph (5), for “or by a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or by a person licensed or registered in any part of the United Kingdom as professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”.
- (4) For regulation 25(2)(a) (service of notices) substitute—
 - “(a) in the case of a professional seed operator, a crop inspector or a seed sampler licensed under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016, it is the address which could be made available by the Scottish Ministers under regulation 10 of those Regulations; and”.
- (5) For “registered number” substitute “registered or licensed number” where it appears in the following provisions—
 - (a) in Schedule 3 (particulars to be specified in an official certificate, a breeder’s confirmation or an authorisation to market a preservation mixture)—
 - (i) paragraph 1(b) (particulars to be specified in an official certificate); and
 - (ii) paragraph 2(b) (particulars to be specified in a breeder’s confirmation);

- (b) in Schedule 4A (standards for certification of conservation varieties), in Part II, sub-paragraph (b) (particulars to be specified in an official certificate)⁽⁷⁾; and
 - (c) in Schedule 6, in Part II (labels), paragraph 3(a)(i) (label for a package of Breeder’s Seed).
- (6) In Schedule 5, in Part II (maximum weight of a seed lot and minimum weight of a submitted sample), for paragraph 23A(1)⁽⁸⁾ (increase to maximum weight of a seed lot of grasses) substitute—
- “(1) Any person licensed by the Scottish Ministers as a professional seed operator under regulation 4(1)(a) (determination of licences) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or licensed or registered by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation, may apply to the Scottish Ministers for approval to increase to 25 tonnes the maximum weight of a seed lot of any of the grasses set out in column 1 of the table in paragraph 26.”.

PART IV

AMENDMENTS TO THE BEET SEED (SCOTLAND) (NO. 2) (SCOTLAND) REGULATIONS 2010

4.—(1) The Beet Seed (Scotland) (No. 2) Regulations 2010⁽⁹⁾ are amended in accordance with this paragraph.

(2) In regulation 2(1) (interpretation)—

(a) before the definition of “the Act” insert—

““the 2016 Regulations” means the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016;”;

(b) for the definition of “licensed crop inspector” substitute—

““licensed crop inspector” means a person who holds a current licence to be a crop inspector—

- (a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the 2016 Regulations; or
- (b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(c) for the definition of “licensed seed sampler” substitute—

““licensed seed sampler” means a person who holds a current licence to be a seed sampler—

- (a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the 2016 Regulations; or
- (b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(d) for the definition of “licensed seed testing station” substitute—

““licensed seed testing station” means an establishment which holds a current seed testing station licence—

- (a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the 2016 Regulations; or

⁽⁷⁾ Schedule 4A was inserted by [S.S.I. 2009/223](#), Schedule 3, paragraph 1.

⁽⁸⁾ Paragraph 23A was inserted by [S.S.I. 2013/326](#).

⁽⁹⁾ [S.S.I. 2010/148](#), amended by [S.S.I. 2011/413](#).

Status: This is the original version (as it was originally made).

- (b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;
- (e) for the definition of “registered number” substitute—
 - ““professional seed operator” means a seed merchant, a seed packer or a seed processor;
 - “registered or licensed number” means the number issued to a person who holds a licence granted under regulation 4(1)(a) of the 2016 Regulations or to a person licensed or registered by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;
- (f) omit the definition of “RLE Regulations”.
- (3) For regulation 18(5)(b) (sealing of packages of seed) substitute—
 - “(b) by a licensed seed sampler or a person licensed by the Scottish Ministers as a professional seed operator under regulation 4(1)(a) (determination of licences) of the 2016 Regulations or by a person licensed or registered by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation, using a sealing device and sealed in the manner outlined in paragraph (2)(a)(i) and (ii).”.
- (4) For regulation 22(2)(a) (service of notices) substitute—
 - “(a) in the case of a professional seed operator, a crop inspector or a seed sampler licensed under regulation 4(1)(a) of the 2016 Regulations, it is the address which could be made available by the Scottish Ministers under regulation 10 of those Regulations; and”.
- (5) For “registered number”, substitute “registered or licensed number” where it appears in the following provisions—
 - (a) in Schedule 3 (particulars to be specified in an official certificate or a breeder’s confirmation)—
 - (i) paragraph 1(b) (particulars to be specified in an official certificate); and
 - (ii) paragraph 2(b) (particulars to be specified in a breeder’s confirmation); and
 - (b) in Schedule 6 (labelling), in Part II (labels), paragraph 3(a)(i) (label for a package of Breeder’s Seed).

PART V

AMENDMENT TO THE SEED POTATOES (SCOTLAND) REGULATIONS 2015

5. In regulation 18(1) (information regarding seed potatoes) of the Seed Potatoes (Scotland) Regulations 2015(**10**), for “and of the marketing” substitute “the marketing”.

(10) S.S.I. 2015/395.