

2004 No. 2385

SEEDS, ENGLAND

The Beet Seed (England) (Amendment) Regulations 2004

Made - - - - *10th September 2004*

Laid before Parliament *15th September 2004*

Coming into force - - *8th October 2004*

The Secretary of State in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4), (5), (5A) and 36 of the Plant Varieties and Seeds Act 1964(a), and now vested in her(b), after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to her to be concerned, hereby makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Beet Seed (England) (Amendment) Regulations 2004 and shall come into force on 8th October 2004.

Amendment of the Beet Seed (England) Regulations 2002

2.—(1) The Beet Seed (England) Regulations 2002(c) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1)—

(a) After the definition of “the Act”, there shall be inserted the following definition—

““Annex II.A(3) official certificate” means an official certificate of the type specified in paragraph 3 of Part A of Annex II to the Third Country Equivalence Decision;”;

(b) for the definition of “approved seed certification authority”, there shall be substituted the following definition—

““approved seed certification authority” means an authority specified in column 2 of the table set out in Annex I to the Third Country Equivalence Decision;”;

(c) for the definition of “the Beet Seed Directive”, there shall be inserted the following definition—

(a) 1964 c. 14; section 16 was amended by section 4(1) of, and paragraph 5(1), (2) and (3) of Schedule 4 to, the European Communities Act 1972 (c. 68), S.I. 1977/1112 and section 2 of the Agriculture Act 1986 (c. 49); see section 38(1) for a definition of “the Minister”.

(b) Under the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State and under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2(1) and Schedule 1, the functions transferred to the Secretary of State by the 1978 transfer Order were transferred to the National Assembly for Wales; under the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794) the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as they are exercisable in relation to England, transferred to the Secretary of State.

(c) S.I. 2002/3171.

- “the Beet Seed Directive” means Council Directive 2002/54/EC(**a**) on the marketing of beet seed as last amended by Council Directive 2003/61/EC(**b**);”;
- (d) for the definition of “the Common Catalogue Directive”, there shall be substituted the following definition—
- “the Common Catalogue Directive” means Council Directive 2002/53/EC(**c**) on the common catalogue of varieties of agricultural plant species, as last amended by the Food and Feed Regulation;”;
- (e) after the definition of “control plot”, there shall be inserted the following definition—
- “the Deliberate Release Directive” means Council Directive 2001/18/EC(**d**) on the deliberate release into the environment of genetically modified organisms, as last amended by Council Regulation (EC) No 1830/2003(**e**) concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms;”;
- (f) for the definition of “EEA State”, there shall be substituted the following definition—
- “EEA State” means –
- (a) a State which is a member of the Communities; and
- (b) Iceland, Liechtenstein and Norway;”;
- (g) for the definition of “equivalent third country”, there shall be substituted the following definition—
- “equivalent third country” means Argentina, Australia, Bulgaria, Canada, Chile, Croatia, Israel, Morocco, New Zealand, Romania, Serbia and Montenegro, South Africa, Turkey, the United States of America, and Uruguay;”;
- (h) after the definition of “fodder beet”, there shall be inserted the following definition—
- “the Food and Feed Regulation” means Council Regulation (EC) No 1829/2003(**f**) on genetically modified food and feed;”;
- (i) for the definition of “genetically modified”, there shall be substituted the following definition—
- “genetically modified” has the same meaning as for the purposes of the Deliberate Release Directive;”;
- (j) for the definition of “member State”, there shall be substituted the following definition—
- “member State” means, in addition to a State which is a member of the Communities, any other EEA State and Switzerland;”;
- (k) the definition of “a Part II.A(3) official certificate” shall be deleted; and
- (l) for the definition of “the Third Country Equivalence Decision”, there shall be substituted the following definition—
- “the Third Country Equivalence Decision” means Council Decision 2003/17/EC(**g**) on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries, as last amended by Council Regulation (EC) No 885/2004(**h**);”.
- (3) In regulation 8(2)(d), for the words “a Part II.A(3) official certificate” there shall be substituted the words “an Annex II.A(3) official certificate”.

(**a**) O.J. No. L193, 20.7.2002, p. 12.
 (**b**) O.J. No. L165, 3.7.2003, p. 23.
 (**c**) O.J. No. L193, 20.7.2002, p. 1.
 (**d**) O.J. No. L106, 17.4.2001, p. 1.
 (**e**) O.J. No. L268, 18.10.2003, p. 24.
 (**f**) O.J. No. L268, 18.10.2003, p. 1.
 (**g**) O.J. No. L8, 14.1.2003, p. 10.
 (**h**) O.J. No. L168, 1.5.2004, p. 1.

- (4) In regulation 10(15)(c)(ii), for the words “the Part II.A(3) official certificate” there shall be substituted the words “the Annex II.A(3) official certificate”.
- (5) In regulation 11—
- (a) in paragraph (1)(a), after the words “being issued” there shall be inserted the words “or within such other time as the Secretary of State may otherwise allow”; and
 - (b) in paragraph (1)(b), after the words “is listed” there shall be added the words “or within such other time as the Secretary of State may otherwise allow”.
- (6) In regulation 17, for paragraph (4) there shall be substituted the following paragraph—
- “(4) The Secretary of State shall not grant a regulation 17 authorisation in respect of seed of a genetically modified variety unless an authorisation is in force in respect of the variety concerned under either—
- (a) Part C of the Deliberate Release Directive; or
 - (b) the Food and Feed Regulation.”.

(7) In regulation 18, for paragraph (4)(c) there shall be substituted the following paragraph—

“(c) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety concerned under either—

 - (i) Part C of the Deliberate Release Directive; or
 - (ii) the Food and Feed Regulation.”.

(8) In regulation 21—

 - (a) in paragraph 5(c), for the words “paragraph B.I of Part II of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraph 1 of Part B of Annex II to the Third Country Equivalence Decision”; and
 - (b) in paragraph 7(c), for the words “paragraph B.I of Annex II to the Third Country Equivalence Decision” there shall be substituted the words “paragraph 1 of Part B of Annex II to the Third Country Equivalence Decision”.

(9) In regulation 23—

 - (a) in paragraph 6(c), for the words “paragraph B.I of Part II of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraphs 1 and 3 of Part B of Annex II to the Third Country Equivalence Decision”; and
 - (b) in paragraph 8(c), for the words “paragraph B.I of Part II of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraph 3.3 of Part B of Annex II to the Third Country Equivalence Decision”.

(10) In Schedule 1—

 - (a) in sub-paragraph 11(2) of Part II—
 - (i) in paragraph (a)(ii), for the words “paragraph 6 of Part II(B) of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraph 5 of Part B of Annex II to the Third Country Equivalence Decision”;
 - (ii) in paragraph (b), for the words “paragraphs 1 and 3 of Part II(B) of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraphs 1 and 2 of Part B of Annex II to the Third Country Equivalence Decision”; and
 - (iii) in paragraph (c), for the words “paragraph 4 of Part II(B) of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraph 3 of Part B of Annex II to the Third Country Equivalence Decision”;
 - (b) in paragraph 17 of part II—
 - (i) in sub-paragraph (1), after the word “means” the word “basic” shall be deleted;
 - (ii) in sub-paragraph (2)(a)(ii), for the words “paragraph 6 of Part II(B) of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraph 5 of Part B of Annex II to the Third Country Equivalence Decision”;

- (iii) in sub-paragraph (2)(b), for the words “paragraphs 1 and 3 of Part II(B) of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraphs 1 and 2 of Part B of Annex II to the Third Country Equivalence Decision”; and
- (iv) in sub-paragraph (2)(c), for the words “paragraph 4 of Part II(B) of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraph 3 of Part B of Annex II to the Third Country Equivalence Decision”;
- (c) in paragraph 23 of part III, sub-paragraph (4) shall be deleted;
- (d) in paragraph 25 of part III—
 - (i) in sub-paragraph (2)(a)(ii), for the words “paragraph 7 of Part II(B) of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraph 6 of Part B of the Annex to the Third Country Equivalence Decision”;
 - (ii) in sub-paragraph (2)(b), for the words “paragraphs 1 and 3 of Part II(B) of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraphs 1 and 2 of Part B of Annex II to the Third Country Equivalence Decision”; and
 - (iii) in sub-paragraph (2)(c), for the words “paragraph 4 of Part II(B) of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “paragraph 3 of Part B of Annex II to the Third Country Equivalence Decision”;
- (e) in paragraph 26(3)(d)(i) of part III, for the words “a Part II.A(3) official certificate” there shall be substituted the words “an Annex II.A(3) official certificate”;
- (f) in paragraph 27 of part III, sub-paragraph (4) shall be deleted;
- (g) in paragraph 34(1) of part IV—
 - (i) in paragraph (b)(ii), for the words “Part II.A of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “Part A of Annex II to the Third Country Equivalence Decision”;
 - (ii) in paragraph (c), for the words “Part II.A of the Annex to the Third Country Equivalence Decision” there shall be substituted the words “Part A of Annex II to the Third Country Equivalence Decision”; and
 - (iii) in paragraph (e), for the words “a Part II.A(3) official certificate” there shall be substituted the words “an Annex II.A(3) official certificate”;
- (11) In Schedule 3—
 - (a) in paragraph 3(a), the words “or by a licensed seed testing station” shall be deleted;
 - (b) in paragraph 3(b), the words “or by a licensed EC seed testing station” shall be deleted; and
 - (c) in paragraph 3(c), the words “or by a licensed third country seed testing station” shall be deleted.
- (12) In Schedule 10—
 - (a) after the entry for “the Act” there shall be inserted the following entry—

“Annex II.A(3) official certificate	Regulation 2(1)”;
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 - (b) after the entry for “CS seed” there shall be inserted the following entry—

“Deliberate Release Directive	Regulation 2(1)”;
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 - (c) after the entry for “fodder beet” there shall be inserted the following entry—

“Food and Feed Regulation	Regulation 2(1)”;
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 - (d) the entry for “Part II.A(3) official certificate shall be deleted;

10th September 2004

Ben Bradshaw
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Beet Seed (England) Regulations 2002 (SI 2002/3171) (the “2002 Regulations”).

The amendments to the 2002 Regulations—

- (a) update references to “the Third Country Equivalence Decision” to take account of Council Decision 2003/17/EC (O.J. No. L8, 14.1.2003, p. 10) on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries, as last amended by Council Regulation (EC) No 885/2004 (O.J. No. L168, 1.5.2004, p. 1) (*Regulations 2(2)(a); 2(2)(b); 2(2)(k); 2(2)(l); 2(3); 2(4); 2(8); 2(9); 2(10); 2(12)(a); and 2(12)(d)*);
- (b) provide for Switzerland to be treated as a member state for the purpose of the 2002 regulations, in accordance with Annex 6 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (O.J. No. L114, 30.4.2002, p. 132) (*Regulation 2(2)(j)*);
- (c) amend references to “equivalent third countries” to take account of the accession of Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia to the EC (*Regulations 2(2)(f); and 2(2)(g)*);
- (d) provide that, where there is a requirement for a consent to have been obtained in relation to seed of genetically modified varieties, a consent can be obtained either in accordance with Council Directive 2001/18/EC (O.J. No. L106, 17.4.2001, p. 1) on the deliberate release into the environment of genetically modified organisms or in accordance with Council Regulation (EC) No 1829/2003 (O.J. No. L268, 18.10.2003, p. 1) on genetically modified food and feed (*Regulations 2(2)(h); 2(6); 2(7); and 2(12)(c)*);
- (e) correct errors (*Regulations 2(5); 2(10)(b)(i); 2(10)(c); 2(10)(f) and 2(11)*); and
- (f) update references to amended EC legislation (*Regulations 2(2)(c); 2(2)(d); 2(2)(e); 2(2)(i); and 2(12)(b)*).

A Transposition Note has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Transposition Note can be obtained from the Plant Variety Rights Office and Seeds Division of the Department for Environment, Food and Rural Affairs, White House Lane, Huntingdon Road, Cambridge CB3 0LF.

A regulatory impact assessment has not been prepared for this instrument, as it has no impact on the costs of businesses, charities or voluntary bodies.

STATUTORY INSTRUMENTS

2004 No. 2385

SEEDS, ENGLAND

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