

2006 No. 2314

SEEDS, ENGLAND

**The Seed (England) (Amendments for Tests and Trials etc.)
Regulations 2006**

<i>Made</i>	- - - -	<i>24th August 2006</i>
<i>Laid before Parliament</i>		<i>30th August 2006</i>
<i>Coming into force</i>	- -	<i>23rd September 2006</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16(1), (1A), (2), (3) and (5) and 36 of the Plant Varieties and Seeds Act 1964(a) and now vested in him(b).

In accordance with section 16(1) of that Act he has consulted with representatives of such interests as appear to him to be concerned.

Title and commencement

1. These Regulations may be cited as the Seed (England) (Amendments for Tests and Trials etc.) Regulations 2006 and come into force on 23rd September 2006.

Amendment of the Beet Seed (England) Regulations 2002

2.—(1) The Beet Seed (England) Regulations 2002(c) are amended as follows.

(2) In regulation 2(1)—

(a) after “In these Regulations—”, insert the following definition—

““the 2004 Commission Decision” means Commission Decision 2004/842/EC concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted(d);” and

(b) after the definition of “sugar beet” insert the following definition—

““test and trial seed” means seed which is the subject of a regulation 18 authorisation;”.

(3) For regulation 18 substitute the following regulation—

(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 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 Act 1964 which remained vested in that Minister at the date of the Order were transferred to the Secretary of State.

(c) S.I. 2002/3171, as amended by S.I. 2004/2385 and S.I. 2005/2671.

(d) OJ L 362, 9.12.2004, p21.

“18 Exception for test and trial seed

(1) The prohibition in regulation 14(1) shall not apply to the marketing by a producer of seed for test and trial purposes in accordance with—

- (a) an authorisation which has been granted to the producer by the Secretary of State in accordance with this regulation; or
- (b) an authorisation which has been granted to the producer by or on behalf of—
 - (i) the Scottish Ministers;
 - (ii) the National Assembly for Wales;
 - (iii) the Department of Agriculture and Rural Development; or
 - (iv) a competent seed certification authority in another member State, in accordance with Article 2(1) of the 2004 Commission Decision.

(2) No producer shall market test and trial seed—

- (a) except for the purposes of tests or trials carried out at agricultural enterprises to gather information on the cultivation or use of a variety of a beet species specified in Schedule 2;
- (b) unless a field inspection report has been issued by the Secretary of State or by a licensed crop inspector stating that the seed satisfies the conditions for CS seed laid down in Schedule 3;
- (c) unless a seed test report has been issued by the Secretary of State or by a licensed seed testing station stating that the seed satisfies the conditions for CS seed laid down in Schedule 4; or
- (d) if such marketing would contravene a prohibition on the use of the variety published by the Secretary of State in the gazette that complies with Article 14 of the 2004 Commission Decision.

(3) A producer of seed established in England may apply to the Secretary of State for the grant or renewal of a regulation 18 authorisation.

(4) A regulation 18 authorisation granted by the Secretary of State shall last for a period of one year or such shorter period as the Secretary of State may specify.

(5) An application for authorisation or renewal of a regulation 18 authorisation shall be made in writing to the Secretary of State and shall be accompanied by such information as the Secretary of State may require.

(6) The Secretary of State shall not grant a regulation 18 authorisation unless he is satisfied that—

- (a) the seed is of a variety for which an application has been made by the producer under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001^(a) for acceptance on to a National List and which application has not been withdrawn or finally determined; and
- (b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety under either—
 - (i) Part C of the Deliberate Release Directive; or
 - (ii) the Food and Feed Regulation.

(7) The Secretary of State shall not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.

(8) A regulation 18 authorisation may impose such conditions as the Secretary of State may think necessary or desirable having regard to the nature of the test or trial and the nature of the seed to which the authorisation relates.

^(a) S.I. 2001/3501 as amended by S.I. 2004/2949

(9) The Secretary of State may withdraw a regulation 18 authorisation where there is a breach of any condition referred to in paragraph (8).

(10) A regulation 18 authorisation shall cease to have effect where the application referred to in paragraph (6)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.

(11) The Secretary of State may require a producer to whom he has granted a regulation 18 authorisation to provide him with information about—

- (a) the results of the tests and trials to which the authorisation relates; or
- (b) the quantities of seed marketed during the authorised period and the name of the member State for which the seed was destined.

(12) A producer to whom a regulation 18 authorisation has been granted shall, within such period as is specified by the Secretary of State, lodge copies of the reports referred to in paragraphs (2)(b) and (c) with him.”.

(4) In regulation 20(1) and (6), for “regulation 5, 10 or 12”, substitute “regulation 5, 10, 12 or 18”.

(5) In regulation 21—

- (a) in paragraph (2), for “or CS seed” substitute “, CS or test and trial seed”;
- (b) in paragraph (3), for “Paragraph (2)” substitute “Except in relation to test and trial seed, paragraph (2)”;
- (c) after paragraph (8), insert—

“(9) In this regulation, in the case of test and trial seed, a “properly sealed package” means—

- (a) in the case of a package of seed sealed in England, a package of seed that has been sealed—
 - (i) by a person to whom regulation 22(5) applies;
 - (ii) using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal; and
 - (iii) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package; and
- (b) in the case of a package of seed sealed in—
 - (i) the United Kingdom, elsewhere than in England, or
 - (ii) another member State,a package of seed that has been sealed in accordance with the provisions of Article 8 of the 2004 Commission Decision.”.

(6) In regulation 22, after paragraph (4), insert—

“(4A) No person shall seal or reseal a package of test and trial seed except a person to whom paragraph (5) applies.”.

(7) In regulation 23—

- (a) in paragraph (1), for “or CS seed” insert “, CS seed or test and trial seed”;
- (b) in paragraph (3), after “A person may market any seeds” insert “, other than test and trial seed”;
- (c) after paragraph (9), insert—

“(9A) A package of test and trial seed shall be labelled—

- (a) in the case of a package of seed sealed in England, in accordance with paragraphs 16, 17 and 18 of Schedule 8; and
- (b) in the case of a package of seed sealed—
 - (i) in the United Kingdom, elsewhere than in England, or

- (ii) in another member State,
in accordance with the provisions of Article 9 of the 2004 Commission Decision.”;
 - (d) in paragraph (11), for “or CS seed”, substitute “, CS seed or test and trial seed”; and
 - (e) in paragraph (11)(b)(ii), for “or (7)” substitute “, (7) or (9A)”.
- (8) In Schedule 8, after Part IV insert—

“PART V

Labelling of Packages of Test and Trial Seed

Official label for a package of test and trial seed

16. The package shall be labelled, not later than the time of sealing, on the outside with an official label which has not previously been used containing the following particulars—

- (a) the name of the certifying authority and member State or their distinguishing abbreviations;
- (b) the reference number of the lot;
- (c) the month and year of sealing;
- (d) the species;
- (e) the denomination of the variety under which the seed is to be marketed (which may be the breeder’s reference, the proposed denomination or the approved denomination) and the official application number for listing the variety, if any;
- (f) the statements “variety not yet officially listed” and “for tests and trials only”;
- (g) the declared net or gross weight or declared number of pure seeds or, where applicable, clusters; and
- (h) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of pure seeds or, where applicable, clusters and the total weight.

17. The label referred to in paragraph 16 shall be coloured orange.

18. The label referred to in paragraph 16 shall be—

- (a) adhesive; and
- (b) affixed to the package by—
 - (i) an authorised officer or any person being supervised by such a person; or
 - (ii) a licensed seed sampler or any person being supervised by such a person.”.

(9) In Schedule 10—

- (a) before the entry for “the Act” insert the following entry—
“the 2004 Commission Decision Regulation 2(1)”; and
- (b) after the entry for “sugar beet” insert the following entry—
“test and trial seed Regulation 2(1)”.

Amendment of the Cereal Seed (England) Regulations 2002

3.—(1) The Cereal Seed (England) Regulations 2002(a) are amended as follows.

(2) In regulation 2(1)—

- (a) after “In these Regulations—”, insert the following definition—

(a) S.I. 2002/3173, as amended by S.I. 2004/2386, S.I. 2005/2672 and S.I. 2006/1678.

““the 2004 Commission Decision” means Commission Decision 2004/842/EC concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted;” and

(b) after the definition of “small package” insert the following definition—

““test and trial seed” means seed which is the subject of a regulation 20 authorisation;”.

(3) For regulation 20 substitute the following regulation—

“20 Exception for test and trial seed

(1) The prohibition in regulation 15(1) shall not apply to the marketing by a producer of seed for test and trial purposes in accordance with—

- (a) an authorisation which has been granted to the producer by the Secretary of State in accordance with this regulation; or
- (b) an authorisation which has been granted to the producer by or on behalf of—
 - (i) the Scottish Ministers;
 - (ii) the National Assembly for Wales;
 - (iii) the Department of Agriculture and Rural Development; or
 - (iv) a competent seed certification authority in another member State, in accordance with Article 2(1) of the 2004 Commission Decision.

(2) No producer shall market test and trial seed—

- (a) except for the purposes of tests or trials carried out at agricultural enterprises to gather information on the cultivation or use of a variety of a cereal species specified in Schedule 2;
- (b) unless a field inspection report has been issued by the Secretary of State or by a licensed crop inspector stating that—
 - (i) for the following varieties, the seed satisfies the conditions for CS seed laid down in Schedule 3—
 - (aa) rye and maize (including hybrids of rye and maize); and
 - (bb) hybrids of barley, durum wheat, oats, spelt wheat, triticale other than self-pollinating varieties and wheat; and
 - (ii) for non-hybrid varieties of barley, durum wheat, oats, self-pollinating triticale, spelt wheat and wheat, the seed satisfies the conditions for C2 seed laid down in Schedule 3;
- (c) unless a seed test report has been issued by the Secretary of State or by a licensed seed testing station stating that—
 - (i) for the following varieties, the seed to which the application relates has been found to meet the conditions for CS seed laid down in Schedule 4—
 - (aa) rye and maize (including hybrids of rye and maize); and
 - (bb) hybrids of barley, durum wheat, oats, spelt wheat, triticale other than self-pollinating varieties and wheat; and
 - (ii) for non-hybrid varieties of barley, durum wheat, oats, self-pollinating triticale, spelt wheat and wheat, the seed satisfies the conditions for C2 seed laid down in Schedule 4; or
- (d) if such marketing would contravene a prohibition on the use of the variety published by the Secretary of State in the gazette that complies with Article 14 of the 2004 Commission Decision.

(3) A producer of seed established in England may apply to the Secretary of State for the grant or renewal of a regulation 20 authorisation.

(4) A regulation 20 authorisation granted by the Secretary of State shall last for a period of one year or such shorter period as the Secretary of State may specify.

(5) An application for authorisation or renewal of a regulation 20 authorisation shall be made in writing to the Secretary of State and shall be accompanied by such information as the Secretary of State may require.

(6) The Secretary of State shall not grant a regulation 20 authorisation unless he is satisfied that—

- (a) the seed is of a variety for which an application has been made by the producer under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001 for acceptance on to a National List and which application has not been withdrawn or finally determined; and
- (b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety under either—
 - (i) Part C of the Deliberate Release Directive; or
 - (ii) the Food and Feed Regulation.

(7) The Secretary of State shall not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.

(8) A regulation 20 authorisation may impose such conditions as the Secretary of State may think necessary or desirable having regard to the nature of the test or trial and the nature of the seed to which the authorisation relates.

(9) The Secretary of State may withdraw a regulation 20 authorisation where there is a breach of any condition referred to in paragraph (8).

(10) A regulation 20 authorisation shall cease to have effect where the application referred to in paragraph (6)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.

(11) The Secretary of State may require a person to whom he has granted a regulation 20 authorisation to provide him with information about—

- (a) the results of the tests and trials to which the authorisation relates; or
- (b) the quantities of seed marketed during the authorised period and the name of the member State for which the seed was destined.

(12) A producer to whom a regulation 20 authorisation has been granted shall, within such period as is specified by the Secretary of State, lodge copies of the reports referred to in paragraphs (2)(b) and (c) with him.”.

(4) In regulation 23(1) and (6) for “regulation 6, 11 or 13”, substitute “regulation 6, 11, 13 or 20”.

(5) In regulation 24—

(a) after paragraph (2)(c), insert—

“; or

(d) test and trial seed;”;

(b) in paragraph (3), for “Paragraph (2)” substitute “Paragraph (2)(a), (b) and (c)”; and

(c) after paragraph (11), insert—

“(12) In this regulation, in the case of test and trial seed, a “properly sealed package” means—

- (a) in the case of a package of seed sealed in England, a package of seed that has been sealed—
 - (i) by a person to whom regulation 25(5) applies;
 - (ii) using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal; and

- (iii) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package; and
 - (b) in the case of a package of seed sealed in—
 - (i) the United Kingdom, elsewhere than in England, or
 - (ii) another member State,
 a package of seed that has been sealed in accordance with the provisions of Article 8 of the 2004 Commission Decision.”.
- (6) In regulation 25, after paragraph (4), insert—

“(4A) No person shall seal or reseal a package of test and trial seed except a person to whom paragraph (5) applies.”.
- (7) In regulation 26—
 - (a) after paragraph (1)(c), insert—

“; or

(d) test and trial seed.”;
 - (b) in paragraph (4), after “A person may market any seed” insert “, other than test and trial seed.”;
 - (c) after paragraph (13), insert—

“(13A) A package of test and trial seed shall be labelled—

 - (a) in the case of a package of seed sealed in England, in accordance with paragraphs 32, 33 and 34 of Schedule 8; and
 - (b) in the case of a package of seed sealed—
 - (i) in the United Kingdom, elsewhere than in England, or
 - (ii) in another member State,
 in accordance with the provisions of Article 9 of the 2004 Commission Decision.”;
 - (d) in paragraph (15), for “or C2 seed”, substitute “C2 seed or test and trial seed”; and
 - (e) in paragraph (15)(b)(ii), for “or (10)” substitute “, (10) or (13A)”.
- (8) In Schedule 8, after Part VI insert—

“PART VII

Labelling of Packages of Test and Trial Seed

Official label for a package of test and trial seed

32. The package shall be labelled, not later than the time of sealing, on the outside with an official label which has not previously been used containing the following particulars—

- (a) the name of the certifying authority and member State or their distinguishing abbreviations;
- (b) the reference number of the lot;
- (c) the month and year of sealing;
- (d) the species;
- (e) the denomination of the variety under which the seed is to be marketed (which may be the breeder’s reference, the proposed denomination or the approved denomination) and the official application number for listing the variety, if any;
- (f) the statements “variety not yet officially listed” and “for tests and trials only”;
- (g) the declared net or gross weight or declared number of pure seeds or, where applicable, clusters; and

- (b) unless a field inspection report has been issued by the Secretary of State or by a licensed crop inspector stating that—
 - (i) for the following plant species, the seed satisfies the conditions for C2 seed laid down in Schedule 3—
 - (aa) field bean; and
 - (bb) field pea;
 - (ii) for plant species other than field bean and field pea, the seed satisfies the conditions for CS seed laid down in Schedule 3;
 - (c) unless a seed test report has been issued by the Secretary of State or by a licensed seed testing station stating that—
 - (i) for the following plant species, the seed meets the conditions for C2 seed laid down in Schedule 4—
 - (aa) field bean; and
 - (bb) field pea;
 - (ii) for plant species other than field bean and field pea, the seed satisfies the conditions for CS seed laid down in Schedule 4; or
 - (d) if such marketing would contravene a prohibition on the use of the variety published by the Secretary of State in the gazette that complies with Article 14 of the 2004 Commission Decision.
- (3) A producer of seed established in England may apply to the Secretary of State for the grant or renewal of a regulation 20 authorisation.
- (4) A regulation 20 authorisation granted by the Secretary of State shall last for a period of one year or such shorter period as the Secretary of State may specify.
- (5) An application for authorisation or renewal of a regulation 20 authorisation shall be made in writing to the Secretary of State and shall be accompanied by such information as the Secretary of State may require.
- (6) The Secretary of State shall not grant a regulation 20 authorisation unless he is satisfied that—
- (a) the seed is of a variety for which an application has been made by the producer under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001 for acceptance on to a National List and which application has not been withdrawn or finally determined; and
 - (d) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety under either—
 - (i) Part C of the Deliberate Release Directive; or
 - (ii) the Food and Feed Regulation.
- (7) The Secretary of State shall not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.
- (8) A regulation 20 authorisation may impose such conditions as the Secretary of State may think necessary or desirable having regard to the nature of the test or trial and the nature of the seed to which the authorisation relates.
- (9) The Secretary of State may withdraw a regulation 20 authorisation where there is a breach of any condition referred to in paragraph (8).
- (10) A regulation 20 authorisation shall cease to have effect where the application referred to in paragraph (6)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.
- (11) The Secretary of State may require a person to whom he has granted a regulation 20 authorisation to provide him with information about—
- (a) the results of the tests and trials to which the authorisation relates; or

- (b) the quantities of seed marketed during the authorised period and the name of the member State for which the seed was destined.
- (12) A producer to whom a regulation 20 authorisation has been granted shall, within such period as is specified by the Secretary of State, lodge copies of the reports referred to in paragraphs (2)(b) and (c) with him.”.
- (4) In regulation 23(1) and (6) for “regulation 6, 11 or 13”, substitute “regulation 6, 11, 13 or 20”.
- (5) In regulation 24—
- (a) after paragraph (2)(c), insert—
 - “; or
 - (d) test and trial seed,”;
 - (b) in paragraph (3), for “Paragraph (2)” substitute “Paragraph (2)(a), (b) and (c)”;
 - (c) after paragraph (14), insert—

“(15) In this regulation, in the case of test and trial seed, a “properly sealed package” means—

 - (a) in the case of a package of seed sealed in England, a package of seed that has been sealed—
 - (i) by a person to whom regulation 25(5) applies;
 - (ii) using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal; and
 - (iii) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package; and
 - (b) in the case of a package of seed sealed in—
 - (i) the United Kingdom, elsewhere than in England, or
 - (ii) another member State,
 a package of seed that has been sealed in accordance with the provisions of Article 8 of the 2004 Commission Decision.”.
- (6) In regulation 25, after paragraph (4), insert—
- “(4A) No person shall seal or reseal a package of test and trial seed except a person to whom paragraph (5) applies.”.
- (7) In regulation 26—
- (a) after paragraph (1)(c), insert—
 - “; or
 - (d) test and trial seed,”;
 - (b) in paragraph (4), after “A person may market any seeds” insert “, other than test and trial seed,”;
 - (c) after paragraph (16), insert—

“(16A) A package of test and trial seed shall be labelled—

 - (a) in the case of a package of seed sealed in England, in accordance with paragraphs 42, 43 and 44 of Schedule 8; and
 - (b) in the case of a package of seed sealed—
 - (i) in the United Kingdom, elsewhere than in England, or
 - (ii) in another member State,
 in accordance with the provisions of Article 9 of the 2004 Commission Decision.”;

- (d) in paragraph (18), for “or a mixture of seeds to which regulation 22(1) or (2) applies”, substitute “, a mixture of seeds to which regulation 22(1) or (2) applies or test and trial seed”; and
 - (e) in paragraph (18)(b)(ii), for “or (13)” substitute “, (13) or (16A)”.
- (8) In Schedule 8, after Part VI insert—

“PART VII

Labelling of Packages of Test and Trial Seed

Official label for a package of test and trial seed

42. The package shall be labelled, not later than the time of sealing, on the outside with an official label which has not previously been used containing the following particulars—

- (a) the name of the certifying authority and member State or their distinguishing abbreviations;
- (b) the reference number of the lot;
- (c) the month and year of sealing;
- (d) the species;
- (e) the denomination of the variety under which the seed is to be marketed (which may be the breeder’s reference, the proposed denomination or the approved denomination) and the official application number for listing the variety, if any;
- (f) the statements “variety not yet officially listed” and “for tests and trials only”;
- (g) the declared net or gross weight or declared number of pure seeds or, where applicable, clusters; and
- (h) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of pure seeds or, where applicable, clusters and the total weight.

43. The label referred to in paragraph 42 shall be coloured orange.

44. The label referred to in paragraph 42 shall be—

- (a) adhesive; and
- (b) affixed to the package by—
 - (i) an authorised officer or any person being supervised by such a person; or
 - (ii) a licensed seed sampler or any person being supervised by such a person.”.

(9) In Schedule 10—

- (a) before the entry for “the Act” insert the following entry—

“the 2004 Commission Decision	Regulation 2(1)”;
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- (b) after the entry for “tall oatgrass” insert the following entry—

“test and trial seed	Regulation 2(1)”.
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Amendment of the Oil and Fibre Plant Seed (England) Regulations 2002

5.—(1) The Oil and Fibre Plant Seed (England) Regulations 2002(a) are amended as follows.

(2) In regulation 2(1)—

- (a) after “In these Regulations—”, insert the following definition—

(a) S.I. 2002/3174, as amended by S.I. 2003/3101, S.I. 2004/2388 and S.I. 2005/2674.

““the 2004 Commission Decision” means Commission Decision 2004/842/EC concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted;” and

(b) after the definition of “small package” insert the following definition—

““test and trial seed” means seed which is the subject of a regulation 19 authorisation;”.

(3) For regulation 19 substitute the following regulation—

“19 Exception for test and trial seed

(1) The prohibition in regulation 15(1) shall not apply to the marketing by a producer of seed for test and trial purposes in accordance with—

- (a) an authorisation which has been granted to the producer by the Secretary of State in accordance with this regulation; or
- (b) an authorisation which has been granted to the producer by or on behalf of—
 - (i) the Scottish Ministers;
 - (ii) the National Assembly for Wales;
 - (iii) the Department of Agriculture and Rural Development; or
 - (iv) a competent seed certification authority in another member State, in accordance with Article 2(1) of the 2004 Commission Decision.

(2) No producer shall market test and trial seed—

- (a) except for the purposes of tests or trials carried out at agricultural enterprises to gather information on the cultivation or use of a variety of an oil and fibre plant species specified in Schedule 2;
- (b) unless a field inspection report has been issued by the Secretary of State or by a licensed crop inspector stating that—
 - (i) for linseed, the seed satisfies the conditions for C2 or C3 seed laid down in Schedule 3; and
 - (ii) for species other than linseed, the seed satisfies the conditions for CS seed laid down in Schedule 3;
- (c) unless a seed test report has been issued by the Secretary of State or by a licensed seed testing station stating that—
 - (i) for linseed, the seed satisfies the conditions for C2 or C3 seed laid down in Schedule 4; and
 - (ii) for species other than linseed, the seed satisfies the conditions for CS seed laid down in Schedule 4; or
- (d) if such marketing would contravene a prohibition on the use of the variety published by the Secretary of State in the gazette that complies with Article 14 of the 2004 Commission Decision.

(3) A producer of seed established in England may apply to the Secretary of State for the grant or renewal of a regulation 19 authorisation.

(4) A regulation 19 authorisation granted by the Secretary of State shall last for a period of one year or such shorter period as the Secretary of State may specify.

(5) An application for authorisation or renewal of a regulation 19 authorisation shall be made in writing to the Secretary of State and shall be accompanied by such information as the Secretary of State may require.

(6) The Secretary of State shall not grant a regulation 19 authorisation unless he is satisfied that—

- (a) the seed is of a variety for which an application has been made by the producer under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations

2001 for acceptance on to a National List and which application has not been withdrawn or finally determined; and

- (b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety under either—
 - (i) Part C of the Deliberate Release Directive; or
 - (ii) the Food and Feed Regulation.

(7) The Secretary of State shall not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.

(8) A regulation 19 authorisation may impose such conditions as the Secretary of State may think necessary or desirable having regard to the nature of the test or trial and the nature of the seed to which the authorisation relates.

(9) The Secretary of State may withdraw a regulation 19 authorisation where there is a breach of any condition referred to in paragraph (8).

(10) A regulation 19 authorisation shall cease to have effect where the application referred to in paragraph (6)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.

(11) The Secretary of State may require a person to whom he has granted a regulation 19 authorisation to provide him with information about—

- (a) the results of the tests and trials to which the authorisation relates; or
- (b) the quantities of seed marketed during the authorised period and the name of the member State for which the seed was destined.

(12) A producer to whom a regulation 19 authorisation has been granted shall, within such period as is specified by the Secretary of State, lodge copies of the reports referred to in paragraphs (2)(b) and (c) with him.”.

(4) In regulation 23(1) and (5) for “regulation 6, 11 or 13”, substitute “regulation 6, 11, 13 or 19”.

(5) In regulation 24—

- (a) after paragraph (3)(c), insert—

“; or

- (d) test and trial seed;”;

- (b) in paragraph (4), for “Paragraph (3)” substitute “Paragraph (3)(a), (b) and (c)”; and

- (c) after paragraph (10), insert—

“(11) In this regulation, in the case of test and trial seed, a “properly sealed package” means—

- (a) in the case of a package of seed sealed in England, a package of seed that has been sealed—
 - (i) by a person to whom regulation 25(5) applies;
 - (ii) using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal; and
 - (iii) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package; and
- (b) in the case of a package of seed sealed in—
 - (i) the United Kingdom, elsewhere than in England, or
 - (ii) another member State,

a package of seed that has been sealed in accordance with the provisions of Article 8 of the 2004 Commission Decision.”.

(6) In regulation 25, after paragraph (4), insert—

“(4A) No person shall seal or reseal a package of test and trial seed except a person to whom paragraph (5) applies.”.

(7) In regulation 26—

- (a) in paragraph (1), for “or a varietal association of seeds to which regulation 22 applies” substitute “a varietal association of seeds to which regulation 22 applies or test and trial seed”;
- (b) in paragraph (3), after “A person may market any seeds” insert “, other than test and trial seed,”;
- (c) after paragraph (12), insert—

“(12A) A package of test and trial seed shall be labelled—

 - (a) in the case of a package of seed sealed in England, in accordance with paragraphs 36, 37 and 38 of Schedule 8; and
 - (b) in the case of a package of seed sealed—
 - (i) in the United Kingdom, elsewhere than in England, or
 - (ii) in another member State,in accordance with the provisions of Article 9 of the 2004 Commission Decision.”;and
- (d) in paragraph (14), for “or a varietal association of seed”, substitute “, a varietal association of seed or test and trial seed”; and
- (e) in paragraph (14)(b)(ii), for “or (12)” substitute “, (12) or (12A)”.

(8) In Schedule 8, after Part VII insert—

“PART VIII

Labelling of Packages of Test and Trial Seed

Official label for a package of test and trial seed

36. The package shall be labelled, not later than the time of sealing, on the outside with an official label which has not previously been used containing the following particulars—

- (a) the name of the certifying authority and member State or their distinguishing abbreviations;
- (b) the reference number of the lot;
- (c) the month and year of sealing;
- (d) the species;
- (e) the denomination of the variety under which the seed is to be marketed (which may be the breeder’s reference, the proposed denomination or the approved denomination) and the official application number for listing the variety, if any;
- (f) the statements “variety not yet officially listed” and “for tests and trials only”;
- (g) the declared net or gross weight or declared number of pure seeds or, where applicable, clusters; and
- (h) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of pure seeds or, where applicable, clusters and the total weight.

37. The label referred to in paragraph 36 shall be coloured orange.

38. The label referred to in paragraph 36 shall be—

- (a) adhesive; and
- (b) affixed to the package by—

- (i) an authorised officer or any person being supervised by such a person; or
- (ii) a licensed seed sampler or any person being supervised by such a person.”

(9) In Schedule 10—

- (a) before the entry for “the Act” insert the following entry—
“the 2004 Commission Decision Regulation 2(1)”; and
- (b) after the entry for “swede rape” insert the following entry—
“test and trial seed Regulation 2(1)”.

Amendment of the Vegetable Seed (England) Regulations 2002

6.—(1) The Vegetable Seed (England) Regulations 2002(a) are amended as follows.

(2) In regulation 2(1)—

- (a) after “In these Regulations—”, insert the following definition—
““the 2004 Commission Decision” means Commission Decision 2004/842/EC concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted;”; and
- (b) after the definition of “marketing year” insert the following definition—
““market test seed” means seed which is the subject of a regulation 19 authorisation;”.

(3) For regulation 19 substitute the following regulation—

“19 Exception for market test seed

(1) The prohibition in regulation 15(1) shall not apply to the marketing by a breeder of seed in accordance with—

- (a) an authorisation which has been granted to the breeder by the Secretary of State in accordance with this regulation; or
- (b) an authorisation which has been granted to the breeder by or on behalf of—
 - (i) the Scottish Ministers;
 - (ii) the National Assembly for Wales;
 - (iii) the Department of Agriculture and Rural Development; or
 - (iv) a competent seed certification authority in another member State, in accordance with Article 20(1) of the 2004 Commission Decision.

(2) No breeder shall market market test seed—

- (a) except for the purposes of gaining knowledge from practical experience during cultivation;
- (b) unless the seed satisfies the conditions laid down in Schedule 4; or
- (c) if such marketing would contravene a prohibition on the use of the variety published by the Secretary of State in the gazette that complies with Article 33 of the 2004 Commission Decision.

(3) A breeder of seed established in England may apply to the Secretary of State for the grant or renewal of a regulation 19 authorisation.

(4) A regulation 19 authorisation granted by the Secretary of State—

- (a) shall last for a period of one year or such shorter period as the Secretary of State may specify; and
- (b) may be renewed no more than twice.

(a) S.I. 2002/3175, as amended by S.I. 2004/2389 and S.I. 2005/2675.

(5) An application for authorisation or renewal of a regulation 19 authorisation shall be made in writing to the Secretary of State and shall be accompanied by such information as the Secretary of State may require.

(6) The Secretary of State shall not grant a regulation 19 authorisation unless he is satisfied that—

- (a) an application has been submitted by the breeder to the relevant authority—
 - (i) under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001 for acceptance of the variety on to a National List; or
 - (ii) in another member State for inclusion of the variety in a national catalogue equivalent to a National List,
that has not been withdrawn or finally determined and for which any technical information that may be required in support of such an application has been submitted; and
- (b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety under either—
 - (i) Part C of the Deliberate Release Directive; or
 - (ii) the Food and Feed Regulation.

(7) A regulation 19 authorisation may impose such conditions as the Secretary of State may think necessary or desirable having regard to the nature of the cultivation and the nature of the seed to which the authorisation relates.

(8) The Secretary of State may withdraw a regulation 19 authorisation where there is a breach of any condition referred to in paragraph (7).

(9) A regulation 19 authorisation shall cease to have effect where the application referred to in paragraph (6)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.

(10) The Secretary of State may require a person to whom he has granted a regulation 19 authorisation to provide him with information about—

- (a) the knowledge gained from practical experience during cultivation of the variety;
or
- (b) the quantities of seed marketed during the authorised period and the name of the member State for which the seed was destined.”.

(4) In regulation 22—

- (a) after paragraph (1), insert—

“(1A) A sample of seeds taken in connection with a regulation 19 application shall be drawn from a homogeneous lot.”; and
- (b) in paragraph (7)—
 - (i) for “regulation 6, 11 or 13”, substitute “regulation 6, 11, 13 or 19”; and
 - (ii) in sub-paragraph (a), for “paragraph (1)”, substitute “paragraph (1) or (1A)”.

(5) In regulation 23—

- (a) after paragraph (2)(c), insert—

“; or

 - (d) market test seed,”;
- (b) in paragraph (3), for “Paragraph (2)” substitute “Paragraph (2)(a), (b) and (c)”;
- (c) after paragraph (12), add—

“(13) In this regulation, in the case of market test seed, a “properly sealed package” means a package of seed that has been sealed in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.”.

- (6) In regulation 25—
- (a) after paragraph (1)(c), insert—
 - “; or
 - (d) market test seed,”;
 - (b) in paragraph (3), after “A person may market any seeds” insert “, other than market test seed,”;
 - (c) after paragraph (12), insert—
 - “(12A) A package of market test seed shall be labelled—
 - (a) in the case of a package of seed sealed in England, in accordance with paragraphs 33, 34 and 35 of Schedule 8; and
 - (b) in the case of a package of seed sealed—
 - (i) in the United Kingdom, elsewhere than in England, or
 - (ii) in another member State,
 - in accordance with the provisions of Article 28 of the 2004 Commission Decision.”;
 - (d) in paragraph (14), for “or standard seed”, substitute “standard seed or market test seed”; and
 - (e) in paragraph (14)(b)(ii), for “or (10)” substitute “, (10) or (12A)”.
- (7) After regulation 26, insert—

“Special provisions that apply in connection with the marketing of market test seed

26A. A person who, in the course of marketing any market test seed, affixes a label or prints or stamps any particulars, or causes any of those things to be done, in accordance with regulation 25(12A) shall—

- (a) keep for a period of three years a record of the seed lots of the market test seed and, if so required by the Secretary of State, shall produce such record to him; and
- (b) keep for a period of two years a sample of seed from each seed lot and, if so required by the Secretary of State, shall deliver such sample to him.”.

- (8) In Schedule 8—

- (a) in paragraph 31 (Part VI), for “23 or 27” substitute “23, 27 or 33”; and
- (b) after Part VI insert—

“PART VII

Labelling of Packages of Market Test Seed

Official label for a package of market test seed

33. The package shall be labelled, not later than the time of sealing, on the outside with a supplier’s label or a printed or stamped notice which has not previously been used containing the following particulars—

- (a) the reference number of the lot;
- (b) the month and year of sealing;
- (c) the species;
- (d) the denomination of the variety under which the seed is to be marketed (which may be the breeder’s reference, the proposed denomination or the approved denomination) and the official application number for listing the variety, if any;
- (e) the statement “variety not yet officially listed”;

- (f) the declared net or gross weight or declared number of pure seeds or, where applicable, clusters; and
- (g) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of pure seeds or, where applicable, clusters and the total weight.

34. The label or notice referred to in paragraph 33 shall be coloured orange.

35. The label or notice referred to in paragraph 33 shall be an adhesive label.”.

(9) In Schedule 10—

(a) before the entry for “the Act” insert the following entry—

“the 2004 Commission Decision Regulation 2(1)”; and

(b) after the entry for “marketing year” insert the following entry—

“market test seed Regulation 2(1)”.

Ben Bradshaw

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

24th August 2006

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the following regulations:

- (a) The Beet Seed (England) Regulations 2002 (S.I. 2002/3171, as amended by S.I. 2004/2385 and S.I. 2005/2671);
- (b) The Cereal Seed (England) Regulations 2002 (S.I. 2002/3173, as amended by S.I. 2004/2386, S.I. 2005/2672 and S.I. 2006/1678);
- (c) The Fodder Plant Seed (England) Regulations 2002 (S.I. 2002/3172, as amended by S.I. 2004/2387, S.I. 2005/2673 and S.I. 2006/1678);
- (d) The Oil and Fibre Seed (England) Regulations 2002 (S.I. 2002/3174, as amended by S.I. 2003/3101, S.I. 2004/2388 and S.I. 2005/2674); and
- (e) The Vegetable Seed (England) Regulations 2002 (S.I. 2002/3175, as amended by S.I. 2004/2389 and S.I. 2005/2675).

They give effect to Commission Decision 2004/842/EC of 1 December 2004 concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted (OJ L 362, 9.12.2004, p 21), which sets out the conditions under which beet, cereal, fodder plant, oil and fibre plant and vegetable seed which have not yet been added to a National List may be marketed for test and trial purposes or, in the case of vegetable seed, for purposes of gaining knowledge from practical experience during cultivation.

A Regulatory Impact Assessment and a Transposition Note have been prepared for these Regulations and copies have been placed in the library of each House of Parliament. Copies 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.

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