

**2011 No. 2992**

**SEEDS, ENGLAND**

**The Seed Marketing (Amendment) Regulations 2011**

*Made* - - - - *12th December 2011*

*Laid before Parliament* *16th December 2011*

*Coming into force* - - *6th January 2012*

The Secretary of State makes these Regulations in exercise of the powers in sections 16(1), (1A), (2), (3) and 36 of the Plant Varieties and Seeds Act 1964(a), after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to be concerned, and in exercise of the powers in paragraph 1A of Schedule 2 to the European Communities Act 1972(b).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for the references in these Regulations to Commission Directive 2010/60/EU providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment(c) to be construed as references to that Directive as amended from time to time.

**Title and commencement**

1. These Regulations may be cited as the Seed Marketing (Amendment) Regulations 2011 and come into force on 6th January 2012.

**Amendments to the Seed Marketing Regulations 2011**

2. The Seed Marketing Regulations 2011(d) are amended as follows.

**Regulation 3 (interpretation of other terms)**

3. In regulation 3—

- (a) at the end of paragraph (2)(f), omit “and”;
- (b) at the end of paragraph (2)(g), insert—  
“and

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(a) 1964 c. 14. Section 16 has been amended by the European Communities Act 1972 (c. 68), section 4 and Schedule 4, paragraph 5; S.I. 1977/1112; and the Agriculture Act 1986 (c. 49), section 2. See section 38(1) for the definition of “the Minister”. 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 which remained vested in that Minister were transferred to the Secretary of State.

(b) 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

(c) OJ No L 228, 31.8.2010, p. 10.

(d) S.I. 2011/463.

- (h) Commission Directive 2010/60/EU providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment.”.

#### **Regulation 18 (mixtures of seed)**

4. In regulation 18, for footnote (ii) to the table headed “permitted mixtures”, substitute the following footnote—

- “(ii) A mixture of different varieties of standard seed of the same species must be marketed in a package containing not more than 5kg of seed (in the case of legumes), 500g of seed (in the case of asparagus, beetroot, carrot, chard or spinach beet, gourd, marrow, onion, radish, spinach or turnip) or 100g of seed (in the case of any other species)”.

#### **Review**

5. After regulation 33, insert—

##### **“Review**

**33A.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Directives referred to in regulation 3(2) are implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning on 6th January 2012.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.

#### **Schedule 2 (certification requirements)**

6. In Schedule 2, for paragraph 45(2), substitute—

“(2) The seed may be a mixture of different varieties of the same vegetable species provided that each variety in the mixture is standard seed.”.

#### **Schedule 3 (labelling and loose sales)**

7.—(1) Schedule 3 is amended as follows.

(2) For “EC rules and standards” and “EC Rules and standards”, wherever they appear, substitute “EU rules and standards”.

(3) In paragraph 1(2), for “Part 3” substitute “Part 4”.

(4) In paragraph 25—

- (a) omit sub-paragraph (2)(d);

- (b) in sub-paragraph (4)—
  - (i) after “must appear on the label”, insert “on a package of standard seed (other than a mixture of different varieties of standard seed of the same species) and certified seed”;
  - (ii) in paragraph (j), for “of pure” substitute “or pure”;
- (c) at the end of sub-paragraph (4), insert—
  - “(5) The following must appear on the label on a package of a mixture of different varieties of standard seed of the same species—
    - (a) the words “EU rules and standards”;
    - (b) the name, address and identification number of the person affixing the label;
    - (c) the year of sealing expressed as “sealed...[year]” or the year of the last sampling for the purposes of the last testing of germination expressed as “sampled...[year]” (the words “use before...[date]” may be added);
    - (d) the words “mixture of varieties of...[name of the species]”;
    - (e) the varieties;
    - (f) the proportion of the varieties, expressed as net weight or as the number of seeds;
    - (g) the reference number given by the person responsible for affixing the labels;
    - (h) the net or gross weight or the number of seeds;
    - (i) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of clusters or pure seeds and the total weight.”.

#### **Schedule 4 (exceptions)**

##### **8. In Schedule 4—**

- (a) for paragraph 5(2), substitute—
  - “(2) This does not apply in the case of seed imported from a third country.”;
- (b) for paragraph 8, substitute—

##### **“Marketing preservation mixtures that include uncertified fodder seed**

**8.—(1)** The Secretary of State may authorise the marketing of preservation mixtures in accordance with this paragraph.

(2) An application for an authorisation must be made by the producer and must contain such information as the Secretary of State may require to—

- (a) complete the authorisation in accordance with Article 4(2) of Commission Directive 2010/60/EU, as read with Article 4(3) of that Directive; and
- (b) verify compliance with Article 5 of that Directive (in the case of directly harvested preservation mixtures) or Article 6 of that Directive (in the case of crop-grown preservation mixtures).

(3) An authorisation—

- (a) may only be granted if the preservation mixture complies with Article 5 of Commission Directive 2010/60/EU (in the case of directly harvested preservation mixtures) or Article 6 of that Directive (in the case of crop-grown preservation mixtures);
- (b) may only be granted for the marketing of a preservation mixture in its region of origin as determined by the Secretary of State in accordance with Article 3 of Commission Directive 2010/60/EU;
- (c) may only be granted for a preservation mixture that contains a conservation variety within the meaning of regulation 2(1) of the Seeds (National Lists of Varieties)

Regulations 2001 if that variety complies with the requirements of paragraph 7(1) to (7) and (9); and

(d) must specify the matters listed in Article 4(2) of Commission Directive 2010/60/EU, as read with Article 4(3) of that Directive.

(4) The seed must not be sold as loose seed under paragraph 26 of Schedule 3.

(5) The seed must be labelled with a pink supplier's label or a printed or stamped notice which, instead of containing the labelling information for mixtures of seed set out in Schedule 3, contains the following information—

- (a) the words “EU rules and standards”;
- (b) the name, address and identification number of the person affixing the label;
- (c) the harvesting method (whether directly harvested or crop-grown);
- (d) the year of sealing expressed as “sealed...[year]”;
- (e) the region of origin;
- (f) the source area;
- (g) the collection site;
- (h) the habitat type of the collection site;
- (i) the words “preservation seed mixture”;
- (j) the reference number of the lot given by the person affixing the label;
- (k) in the case of crop-grown preservation mixtures—
  - (i) the percentage by weight of the components as species and, where relevant, sub-species; and
  - (ii) the specific germination rate for the fodder seed components of the mixture that do not comply with the germination requirements of paragraph 28(2) of Schedule 2 (unless the mixture contains more than five such fodder seed components, in which case the average germination rate for those components may be used);
- (l) in the case of directly harvested preservation mixtures, the percentage by weight of those components as species and, where relevant, sub-species that are typical for the habitat type of the collection site and that are, as components of the mixture, of importance for the preservation of the natural environment in the context of the conservation of genetic resources;
- (m) declared net or gross weight; and
- (n) where granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of clusters or pure seeds and the total weight.

(6) The total quantity of the seed authorised to be marketed each year must not exceed 5% of the total weight of fodder plant seed mixtures marketed in the United Kingdom in the same year.

(7) Expressions used both in this paragraph and Commission Directive 2010/60/EU have the same meaning in this paragraph as they have in that Directive.”.

12th December 2011

*Taylor of Holbeach*  
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 Seed Marketing Regulations 2011 (S.I. 2011/463) (“the principal Regulations”) to implement Commission Directive 2010/60/EU providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment (OJ No L 228, 31.8.2010, p.10) and Commission Decision 2011/180/EU implementing Council Directive 2002/55/EC as regards conditions under which the placing on the market of small packages of mixtures of standard seed of different vegetable varieties belonging to the same species may be authorised (OJ No L 78, 24.3.2011, p. 55).

Regulations 4 and 6 provide for the marketing of mixtures of different varieties of standard vegetable seed of the same species and regulation 7 amends Schedule 3 to the principal Regulations to make provision for the labelling of such seed.

Regulation 5 requires the Secretary of State to review the operation and effect of the principal Regulations and publish a report within five years from 6th January 2012 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the principal Regulations should remain as they are, or be revoked or amended. A further instrument would be needed to revoke or amend them.

Regulation 8 implements the provisions of Commission Directive 2010/60/EU on the granting of authorisation for the marketing of preservation mixtures of seed and the requirements for the labelling of such seed.

A transposition note for the implementation of Commission Directive 2010/60/EU is available from the Food and Environment Research Agency, Whitehouse Lane, Huntingdon Road, Cambridge CB3 0LF.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector, in relation to the transposition of Commission Directive 2010/60/EU and Commission Decision 2011/180/EU, is available from that same address, and is published with the Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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STATUTORY INSTRUMENTS

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