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STATUTORY INSTRUMENTS

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**2023 No. 676**

**The Seed Marketing (Heterogeneous Material)  
(Temporary Experiment) (England) Regulations 2023**

**PART 2**

**Licence to participate in the experiment**

**Temporary experiment**

**3.—**(1) The Secretary of State may grant a licence for the purpose of participating in an experiment organised in accordance with these Regulations.

(2) An experiment is established in accordance with regulation 21A of the 2011 Regulations, the purpose of which is to seek alternatives that may be more suitable for use under particular conditions to seed complying with all the requirements specified in the 2011 Regulations.

(3) For the purposes of paragraph (2), improved alternatives to requirements under the 2011 Regulations may include those better adapted to—

- (a) climate change, including extreme weather conditions;
- (b) specific environments;
- (c) pests and diseases;
- (d) low input agriculture.

(4) The activities to be carried out in relation to the experiment may include, but are not limited to—

- (a) the development of a population;
- (b) the generation and collection of data relating to the population, including—
  - (i) identification and traceability;
  - (ii) identification of the region of production;
- (c) the marketing of a population.

(5) The experiment begins on the day on which these Regulations come into force and ends at the end of the day on 13th July 2030.

**Species included in the experiment**

**4.—**(1) Schedule 1, which lists the species which are included in the experiment, has effect.

(2) No species other than those specified in Schedule 1 may be included in the experiment.

**Application for a licence to participate in the experiment**

**5.—**(1) An application for a licence under regulation 21A of the 2011 Regulations to participate in the experiment must be made in writing to the Secretary of State and include the information specified in paragraph (2).

- (2) The information to be included in the application is—
- (a) the name, address and email address of the applicant and, where the applicant is not an individual, the name of the individual who is to be responsible for participation in the experiment;
  - (b) the objectives of the breeding programme which is to form part of the experiment;
  - (c) the species and the varieties of plants which have been or are to be used in the breeding programme to create a population;
  - (d) a description of the type of technique which has been or is to be used to generate a population, including the breeding scheme;
  - (e) the region or proposed region of production;
  - (f) where a population has been developed, a description of its characteristics, including—
    - (i) the degree of heterogeneity;
    - (ii) whether it is self-pollinating;
    - (iii) yield, yield stability and quality;
    - (iv) performance;
    - (v) usability in low-input agriculture;
    - (vi) disease resistance;
    - (vii) taste or colour; and
    - (viii) any other characteristic which the applicant regards as relevant;
  - (g) the results of any experimental trials concerning the characteristics specified in subparagraph (f); and
  - (h) where a population has been developed and the Secretary of State has approved a name for the population in accordance with regulation 14, that name, or, if the Secretary of State has not yet approved a name for the population, the name which the applicant proposes to use for provisional identification of the population.
- (3) The Secretary of State may include conditions in a licence such as—
- (a) controls on the production and marketing of seed from populations, including, but not limited to—
    - (i) specifying a maximum quantity of seed from a population which may be marketed by or on behalf of the participant during the period of participation in the experiment;
    - (ii) requirements in relation to the skill or qualifications of the persons who are to maintain a population;
  - (b) requirements in relation to the characteristics or quality of a population;
  - (c) any other conditions that the Secretary of State considers to be appropriate.
- (4) A participant must comply with any conditions specified in the licence.

### **Period of validity of a licence**

6.—(1) Subject to paragraphs (2) and (4) and to regulation 9, the period of validity of a licence granted under regulation 21A of the 2011 Regulations begins on the date of issue specified in the licence and ends at the end of the day of 13th July 2030.

(2) If the participant's licence specifies a shorter period of validity, the licence ceases to be valid at the end of the day specified in the licence.

(3) If the participant intends to cease participation in the experiment, they must give notice in writing to the Secretary of State, specifying the date on which participation will cease.

(4) Where the participant informs the Secretary of State that they intend to cease participation in the experiment, the participant's licence ceases to be valid at the end of the day specified in the notice referred to in paragraph (3).

### **Effect of the grant of a licence to participate in the experiment**

7. Schedule 2, which makes transitory modifications to the application of the 2011 Regulations during the period of validity of a licence granted under regulation 21A of those Regulations, has effect in relation to a participant granted such a licence insofar as the provision relates to heterogeneous material developed in accordance with these Regulations.

### **Variation of conditions included in a licence**

8.—(1) The Secretary of State may at any time vary any of the conditions included in a licence granted under regulation 21A of the 2011 Regulations by giving notice in writing to the participant.

(2) The written notice referred to in paragraph (1) must state the reasons for the variation and the date from which it is to take effect.

### **Revocation or suspension of a licence**

9.—(1) If satisfied that a participant has—

- (a) included incorrect information in an application for a licence under regulation 5, or
- (b) failed to comply with any requirement or condition imposed by or under—
  - (i) regulation 10 or 11;
  - (ii) the Plant Varieties and Seeds Act 1964;
  - (iii) the 2011 Regulations, as they have effect under Schedule 2;
  - (iv) any other legislation covering plant health and applying in relation to England; or
  - (v) the licence,

the Secretary of State may revoke or suspend the licence by giving written notice to the participant.

(2) The written notice referred to in paragraph (1) must state the reasons for the revocation or suspension and the date from which it is to take effect.

(3) Where the Secretary of State is satisfied that it is appropriate to do so, the Secretary of State may lift the suspension of a licence (referred to in paragraph (1)) by giving written notice of this to the participant, specifying the date on which the suspension will cease to have effect.

### **Recording and reporting obligations relating to the experiment**

10. A participant and any person acting on behalf of a participant must keep accurate records concerning the experiment in relation to—

- (a) the species and varieties of plants which have been used to create a new population;
- (b) the techniques by which the population has been created;
- (c) the traceability of the population;
- (d) the features which make the population identifiable;
- (e) any changes to the information specified in regulation 5(2) since the licence application was made; and
- (f) information allowing the participant to identify—
  - (i) all suppliers of the seeds used to create a population;

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- (ii) any person to whom seeds of the population have been supplied; and
- (iii) the person responsible for the development and maintenance of a population.

**Access to and inspection of premises etc.**

**11.**—(1) A participant must ensure that the Secretary of State, having given notice in accordance with paragraph (2), is permitted to access and inspect—

- (a) fields or premises being used for the production or marketing of a population; and
- (b) records relating to the production or marketing of a population.

(2) Before an inspection takes place, the Secretary of State must give reasonable notice in writing to the participant and to any person who has control of the premises, fields or records which are to be inspected.

(3) Inspections under this regulation may be carried out at any reasonable time and with such frequency as the Secretary of State considers to be appropriate.