
WELSH STATUTORY INSTRUMENTS

2004 No. 2881

The Oil and Fibre Plant Seed (Wales) Regulations 2004

PART II

PROCEDURES RELATING TO THE OFFICIAL CERTIFICATION OF SEED

Entry of seed lots

6.—(1) Subject to paragraph (2), an application to enter a seed lot from which it is intended that a crop is to be produced from which pre-basic, basic, CS, C1, C2 or C3 seed is to be harvested may be made to the National Assembly for Wales by a registered person.

(2) An application made under this regulation —

(a) shall be made in such form and manner as the National Assembly for Wales may require;

(b) shall be made —

(i) at such time as the National Assembly for Wales may require, or

(ii) in the case of an application to enter a seed lot made after that time, at such time as the National Assembly for Wales may otherwise allow; and

(c) shall be accompanied —

(i) unless otherwise agreed by the National Assembly for Wales, by an official sample of seed taken from the seed lot that is identified by the reference number of the seed lot from which it was taken, and

(ii) by such information and other documents as the National Assembly for Wales may require, including, if required, a copy of a qualifying seed test report relating to the seed lot.

(3) At an appropriate time following the receipt of an application made under this regulation, the National Assembly for Wales —

(a) may sow a control plot with seed taken from an official sample of seed taken from the seed lot (whether the official sample submitted in accordance with paragraph (2)(c)(i) or another official sample of seed taken from the seed lot), and

(b) in the case of an application to enter a seed lot from which it is intended to produce a crop from which CS seed of a hybrid variety of swede rape is to be harvested, shall sow a control plot with seed taken from an official sample of seed taken from the seed lot unless a control plot has already been sown with seed from an official sample of the seed lot.

(4) In this regulation —

“appropriate time” means a time during the period when seed of the relevant species is usually sown, and

“qualifying seed test report” means —

(a) a seed test report issued in accordance with regulation 11(8), (9), (10) or (11), or

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- (b) in a case where an official sample taken from the seed lot has been found to meet the conditions for the category of seed for which it was tested under regulation 11(6)(b), a seed test report issued in accordance with regulation 11(12)(b).

Entry of crop

7.—(1) A registered person who has sown seed from an entered or late entered seed lot from which it is intended to produce a crop from which pre-basic, basic, CS, C1, C2 or C3 seed is to be harvested shall notify the National Assembly for Wales that he or she has sown the seed.

(2) A notification given under this regulation —

- (a) shall be given in such form and manner as the National Assembly for Wales may require;
- (b) shall be given within such time as the National Assembly for Wales may require;
- (c) shall specify the reference number of the seed lot from which the sown seed has been taken; and
- (d) shall be accompanied by such information and other documents as the National Assembly for Wales may require.

(3) Subject to paragraph (4), the National Assembly for Wales shall acknowledge receipt of a notification made under this regulation.

(4) Subject to paragraph (5), unless specifically requested to do so by the applicant, the National Assembly for Wales shall not individually acknowledge the receipt of each notification given under this regulation that it receives but shall periodically provide the applicant with a list of those crops for which it has received such a notification from him or her.

(5) Where the National Assembly for Wales has previously provided the applicant with a list of those crops for which it has received a notification under this regulation from him or her, any subsequent list periodically provided to the applicant under paragraph (4) shall list only those crops in respect of which the National Assembly for Wales has received a notification under this regulation from him or her since last providing the applicant with the last such list.

Field inspection of crops

8.—(1) Subject to paragraph (2), an application may be made to the National Assembly for Wales by a registered person for the field inspection of a crop being produced in Wales —

- (a) from an entered, or late entered, seed lot from which it is intended that pre-basic seed is to be harvested (“a regulation 8(1)(a) crop”);
- (b) from an entered, or late entered, seed lot from which it is intended that basic seed is to be harvested (“a regulation 8(1)(b) crop”);
- (c) from a late entered seed lot from which it is intended that CS seed of black mustard, brown mustard, dioecious hemp, sunflower, swede rape, turnip rape or white mustard, or of a hybrid, other than a hybrid of swede rape, is to be harvested (“a regulation 8(1)(c) crop”);
- (d) from a late entered seed lot from which it is intended that C1 seed of flax, linseed, monoecious hemp or soya bean is to be harvested (“a regulation 8(1)(d) crop”);
- (e) from a late entered seed lot from which it is intended that C2 seed of flax, linseed, monoecious hemp or soya bean is to be harvested (“a regulation 8(1)(e) crop”);
- (f) from a late entered seed lot from which it is intended that C3 seed of flax is to be harvested (“a regulation 8(1)(f) crop”);
- (g) from an entered seed lot from which it is intended that CS seed of black mustard, brown mustard, dioecious hemp, sunflower, swede rape, turnip rape or white mustard, or a hybrid,

- is to be harvested of a variety that is not listed but for which an outstanding application for listing has been made (“a regulation 8(1)(g) crop”);
- (h) from an entered seed lot from which it is intended that C1 seed of flax, linseed, monoecious hemp or soya bean is to be harvested of a variety that is not listed but for which an outstanding application for listing has been made (“a regulation 8(1)(h) crop”);
 - (i) from an entered seed lot from which it is intended that C2 seed of flax, linseed, monoecious hemp or soya bean is to be harvested of a variety that is not listed but for which an outstanding application for listing has been made (“a regulation 8(1)(i) crop”); or
 - (j) from an entered seed lot from which it is intended that C3 seed of flax is to be harvested of a variety that is not listed but for which an outstanding application for listing has been made (“a regulation 8(1)(j) crop”).
- (2) An application made under paragraph (1) shall not be made in respect of a regulation 8(1) (a), (b), (c), (d), (e) or (f) crop to produce seed of a variety that is not listed, or seed of a component of a hybrid variety that is not listed, unless —
- (a) an application for the listing of the variety, or the hybrid variety, has been made which has not been withdrawn or finally determined; or
 - (b) a marketing extension is in force in respect of the variety or hybrid variety.
- (3) Subject to paragraph (4), an application may be made to a licensed crop inspector by a registered person for the field inspection of a crop being produced in Wales —
- (a) from an entered seed lot from which it is intended that CS seed of —
 - (i) black mustard, brown mustard, dioecious hemp, sunflower, swede rape or turnip rape or white mustard, or
 - (ii) a hybrid,is to be harvested (“a regulation 8(3)(a) crop”);
 - (b) from an entered seed lot from which it is intended that C1 seed of flax, linseed, monoecious hemp or soya bean is to be harvested (“a regulation 8(3)(b) crop”);
 - (c) from an entered seed lot from which it is intended that C2 seed of flax, linseed, monoecious hemp or soya bean is to be harvested (“a regulation 8(3)(c) crop”); or
 - (d) from an entered seed lot from which it is intended that C3 seed of flax is to be harvested (“a regulation 8(3)(d) crop”).
- (4) An application under paragraph (3) shall not be made —
- (a) in respect of a crop to produce seed of a variety or hybrid variety that is not listed unless a marketing extension is in force in respect of the variety or hybrid variety; and
 - (b) except in respect of a crop that is being produced from —
 - (i) seed that has been subject to satisfactory official post control, or
 - (ii) seed that is subject to official post control and for which a determination as to whether the seed is satisfactory seed from which to produce seed of the category to which the application relates is awaited.
- (5) If required by the National Assembly for Wales, an application made under paragraph (3) shall be considered by it instead of a licensed crop inspector.
- (6) If permitted by the National Assembly for Wales, an application made under paragraph (3) may be made to it instead of a licensed crop inspector.
- (7) An application under this regulation shall be made in such form and manner and at such time as the National Assembly for Wales may require and shall be accompanied by such information, material, records, illustrations and other documents as it may require.

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(8) Following receipt of an application made under paragraph (1) or (3), the National Assembly for Wales (in the case of an application made under paragraph (1) or an application made under paragraph (3) that is being considered by it under paragraph (5) or has been made to it under paragraph (6)), or the licensed crop inspector to whom an application has been made under paragraph (3) (as the case may be) shall inspect the crop in accordance with the relevant provisions of paragraph 12 of Schedule 3 to determine —

- (a) whether the crop meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the category of seed intended to be harvested, and
- (b) unless requested not to do so by the applicant, whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any other category of seed to which paragraph (17) applies.

(9) Subject to paragraph (13), where in the case of an application made under paragraph (1), or an application made to the National Assembly for Wales under paragraph (3) in accordance with paragraph (5) or (6), the inspected crop is found to satisfy the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of —

- (a) the category of seed intended to be harvested, and
- (b) where applicable, any other category of seed to which paragraph (17) applies,

the National Assembly for Wales shall issue a field inspection report (which it shall retain as a lodged report unless instructed not to do so by the applicant) stating (by reference to the relevant category or categories) that the crop has been found to meet those conditions and shall send the report, or (in a case where the original report is to be retained as a lodged report by the National Assembly for Wales) a copy of the report, to the applicant.

(10) Where in the case of an application made to a licensed crop inspector under paragraph (3) the inspected crop is found to satisfy the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production —

- (a) of the category of seed intended to be harvested, and
- (b) where applicable, any other category of seed to which paragraph (17) applies,

the licensed crop inspector shall issue a field inspection report to the applicant stating (by reference to the relevant category or categories of seed) that the crop has been found to meet those conditions.

(11) Subject to paragraph (13), where in the case of an application made to the National Assembly for Wales under paragraph (1) or an application made under paragraph (3) that is being considered by it under paragraph (5) or has been made to it under paragraph (6), the inspected crop is found not to satisfy the conditions laid down in Schedule 3 or Part I of Schedule 4 for the production of the category of seed intended to be harvested, the National Assembly for Wales shall issue a field inspection report (which it shall retain as a lodged report unless instructed not to do so by the applicant) —

- (a) stating that the crop has been found not to meet those conditions, and
- (b) in a case where the crop has been inspected to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any other category of seed to which paragraph (17) applies, stating the conditions (by reference to the relevant category or categories of seed), if any, met by the crop,

and shall send the report, or (in a case where the original report is to be retained as a lodged report by the National Assembly for Wales) a copy of the report, to the applicant.

(12) Where in the case of an application made to a licensed crop inspector under paragraph (3) the inspected crop is found not to satisfy the conditions laid down in Schedule 3 or Part I of Schedule 4 for the production of the category of seed intended to be harvested, the licensed crop inspector shall issue a field inspection report to the applicant —

- (a) stating that the crop has been found not to meet those conditions, and
- (b) in a case where the crop has been inspected to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any other category of seed to which paragraph (17) applies, stating the conditions (by reference to the relevant category or categories of seed), if any, met by the crop.

(13) Where —

- (a) an application has been made to the National Assembly for Wales under paragraph (1), or an application has been made under paragraph (3) that is being considered by it under paragraph (5) or has been made to it under paragraph (6), in respect of a crop produced from seed which was taken from a seed lot for which a control plot has been sown, and
- (b) the results of the examination of the control plot show that the plants produced in the plot do not meet the conditions laid down in Schedule 3 or Part I, III or IV of Schedule 4 for the production of the category of seed intended to be harvested,

the National Assembly for Wales may take account of the results of that examination when carrying out an inspection of the crop to which the application relates and in determining whether it should issue a field inspection report under paragraph (9) or (11).

(14) Where paragraph (15) applies, the National Assembly for Wales may carry out its own examination of —

- (i) a crop to which an application made under paragraph (3) relates;
- (ii) any other crops that are being produced from seed that has been taken from the same seed lot and in respect of which an application has been made under paragraph (3); or
- (iii) both the crops referred to in paragraphs (i) and (ii).

(15) This paragraph applies where —

- (a) an application has been made to a licensed crop inspector under paragraph (3) in respect of seed that is subject to official postcontrol;
- (b) the plants produced in the control plot being used for the purpose of the official post control have been examined by or on behalf of the National Assembly for Wales, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development; and
- (c) it has been determined by or on behalf of the National Assembly for Wales, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development, having regard to —

(i) the conditions laid down in paragraphs 4 to 11 and 13 of Schedule 3, and paragraphs 1 to 3 and 10 to 12 of Schedule 4, and

(ii) the category of seed to which the application relates,

that the plants produced in the control plot are not satisfactory plants from which to produce seed of the category to which the application relates.

(16) Where the National Assembly for Wales has carried out an examination of the crop referred to in paragraph (14)(i) or the crops referred to in paragraph (14)(ii), or has carried out an examination of both the crop referred to in paragraph (14)(i) and the crops referred to in paragraph (14)(ii), it shall inform the applicant whether it is satisfied that the seed used to produce the crop to which his or her application relates was satisfactory seed to be used for the production of the category of seed to which his or her application relates, and, if the National Assembly for Wales is satisfied that this is the case, the seed used to produce the crop, and seed from the same seed lot, shall be treated as being seed that has been subject to official post-control for the production of that category of seed.

(17) This paragraph applies to the following categories of seed —

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- (a) in the case of an application made under paragraph (1) relating to a regulation 8(1)(a) crop that has been produced from breeder's seed, to the category of basic seed;
- (b) in the case of an application made under paragraph (1) relating to a regulation 8(1)(a) crop of flax that has been produced from officially certified pre-basic seed, to the categories of basic, C1, C2 and C3 seed;
- (c) in the case of an application made under paragraph (1) relating to a regulation 8(1)(a) crop of linseed, monoecious hemp or soya bean that has been produced from officially certified pre-basic seed, to the categories of basic, C1 and C2 seed;
- (d) in the case of an application made under paragraph (1) relating to a regulation 8(1)(a) crop of black mustard, dioecious hemp, brown mustard, sunflower, swede rape, turnip rape or white mustard, other than a component of a hybrid variety, that has been produced from officially certified pre-basic seed, to the categories of basic and CS seed;
- (e) in the case of an application made under paragraph (1) relating to a regulation 8(1)(a) crop of a component used in the production of a hybrid variety that has been produced from breeder's seed or officially certified pre-basic seed, to the category of basic seed;
- (f) in the case of an application made under paragraph (1) relating to a regulation 8(1)(b) crop produced from breeder's seed, to the category of pre-basic seed;
- (g) in the case of an application made under paragraph (1) relating to a regulation 8(1)(b) crop of flax produced from officially certified pre-basic seed, to the categories of pre-basic, C1, C2 and C3 seed;
- (h) in the case of an application made under paragraph (1) relating to a regulation 8(1)(b) crop of linseed, monoecious hemp or soya bean produced from officially certified pre-basic seed, to the categories of pre-basic, C1 and C2 seed;
- (i) in the case of an application made under paragraph (1) relating to a regulation 8(1)(b) crop of black mustard, brown mustard, dioecious hemp, sunflower, swede rape, turnip rape or white mustard produced from officially certified pre-basic seed, other than a component of a hybrid variety, to the categories of pre-basic and CS seed;
- (j) in the case of an application made under paragraph (1) relating to a regulation 8(1)(b) crop of a component of a hybrid variety, that has been produced from breeder's seed or officially certified pre-basic seed, to the category of pre-basic seed;
- (k) in the case of an application made under paragraph (1) relating to a regulation 8(1)(d) or 8(1)(h) crop or an application made under paragraph (3) relating to a regulation 8(3)(b) crop of flax, to the categories of C2 and C3 seed;
- (l) in the case of an application made under paragraph (1) relating to a regulation 8(1)(d) or 8(1)(h) crop or an application made under paragraph (3) relating to a regulation 8(3)(b) crop of linseed, monoecious hemp or soya bean, to the category of C2 seed; and
- (m) in the case of an application made under paragraph (1) relating to a regulation 8(1)(e) or 8(1)(i) crop or an application made under paragraph (3) relating to a regulation 8(3)(c) crop of flax, to the category of C3 seed.

(18) In this regulation “seed that is subject to official post control” means seed from a seed lot for which a control plot has been sown by or on behalf of the National Assembly for Wales, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development to produce plants which are to be, or have been, examined by or on behalf of the National Assembly for Wales, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development, as the case may be, to determine whether, having regard to the conditions laid down in —

- (a) paragraphs 4 to 11 and 13 of Schedule 3, and
- (b) paragraphs 1 to 3 and 10 to 12 of Schedule 4,

the plants produced in the plot indicate that the corresponding plants in the field are satisfactory plants from which to harvest the category of seed in respect of which the paragraph (3) application has been made.

Lodging of field inspection reports and similar documents

9.—(1) Subject to paragraphs (2) and (3), an application to lodge a copy of a document to which paragraph (2) applies may be made to the National Assembly for Wales by a registered person.

(2) This paragraph applies —

- (a) in relation to a crop produced in Wales, to a field inspection report issued under regulation 8(9), (10), (11) or (12);
- (b) in relation to a crop produced in the United Kingdom elsewhere than in Wales, to a report relating to the crop equivalent to that specified in sub-paragraph (a) issued —
 - (i) by or on behalf of the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development, or
 - (ii) by a licensed crop inspector;
- (c) in relation to a crop produced in another member State, to an Annex V(C) document relating to the crop issued by or on behalf of the competent seed certification authority in the member State; and
- (d) in relation to a crop produced in an equivalent third country, to a Part II.A(3) official certificate relating to the crop issued by the approved seed certification authority in that country.

(3) An application made under this regulation —

- (a) shall be made in such form and manner as the National Assembly for Wales may require;
- (b) shall be made within such time as the National Assembly for Wales may require but, unless otherwise permitted by the National Assembly for Wales, shall be made not later than the time when any seed test report relating to the seed harvested from the crop is lodged with the National Assembly for Wales under regulation 12;
- (c) shall, subject to paragraph (4), be accompanied —
 - (i) in relation to a crop produced in Wales, by a copy of the document referred to in paragraph (2)(a);
 - (ii) in relation to a crop produced in the United Kingdom elsewhere than in Wales, by a copy of the document referred to in paragraph (2)(b) except that this need not be provided in a case where confirmation that the crop meets the conditions for the production of the appropriate category of seed has already been provided to the National Assembly for Wales by or on behalf of the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development (as the case may be);
 - (iii) in relation to a crop produced in another member State, by a copy of the document referred to in paragraph (2)(c);
 - (iv) in relation to a crop produced in an equivalent third country, by a copy of the document referred to in paragraph (2)(d); and
 - (v) by such other information and documents as the National Assembly for Wales may require.

(4) The National Assembly for Wales may permit, subject to any conditions that it may impose, an application made under this regulation relating to a crop for which the applicant previously made an application under regulation 8(3) to be accompanied by the following document instead of the

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field inspection report issued under regulation 8(10) or (12), namely a document relating to the crop (whether relating to that crop alone or relating to other crops in respect of which an application has been made by the applicant under regulation 8(3)) —

- (a) that states, by reference to the relevant category, the conditions met by that crop;
- (b) that identifies the licensed crop inspector or inspectors who inspected the crop;
- (c) that states that during a period of three years from the date of issue of the field inspection report, the original report will be produced to the National Assembly for Wales on demand and that a copy of the report will be made available to it on request during that period; and
- (d) that contains such other information as the National Assembly for Wales may require.

(5) Where a document of the type specified in paragraph (4) accompanies an application made under this regulation instead of a field inspection report, the applicant shall produce the field inspection report referred to in paragraph (3) to the National Assembly for Wales on demand during the period of three years from the date of the issue of the field inspection report and shall make a copy of the report available to it on request during that period.

Re-grading of crops

10.—(1) An application to re-grade a crop for the production of a category of seed to which paragraph (6) applies as a crop for the production of another category of seed (“the new category”) to which that paragraph applies may be made to the National Assembly for Wales by a registered person.

(2) An application made under this regulation shall be made in such form and manner and at such time as the National Assembly for Wales shall require and shall be accompanied by —

- (a) a copy of the field inspection report previously issued in respect of the crop unless this has previously been lodged with it, and
- (b) such other information as the National Assembly for Wales may require for the purpose of determining the application.

(3) Where an application made under this regulation has been made in respect of a crop that has not been harvested —

- (a) the National Assembly for Wales shall, in the case of an application to re-grade a crop as a crop to produce pre-basic or basic seed, carry out a field inspection of the crop to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed if —
 - (i) the previous field inspection report issued in respect of the crop was not issued by the National Assembly for Wales, and
 - (ii) the condition and stage of development of the crop permit an adequate examination; and
- (b) the National Assembly for Wales may, in the case of an application to re-grade a crop as a crop to produce CS, C1, C2 or C3 seed, carry out a field inspection of the crop to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed if the condition and stage of development of the crop permit an adequate examination.

(4) If the National Assembly for Wales —

- (a) in the case of an application to re-grade a crop as a crop to produce pre-basic or basic seed —
 - (i) has carried out a field inspection of the crop (whether in connection with the original application for a field inspection of the crop or in accordance with paragraph (3));

- (ii) is satisfied that the crop has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety; and
 - (iii) is satisfied that the crop meets or (if the crop has already been harvested) would have met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed;
- (b) in the case of an application to re-grade a crop as a crop to produce CS or C1 seed, —
- (i) is satisfied that the crop has been produced directly from [^{F1}UK, EC, third country or overseas tested] officially certified basic seed of a listed variety, or, with the breeder's written authority, from UK, EC or overseas tested officially certified pre-basic seed of a listed variety; and
 - (ii) is satisfied that the crop meets or (if the crop has already been harvested) would have met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed;
- (c) in the case of an application to re-grade a crop as a crop to produce C2 seed —
- (i) is satisfied that the crop has been produced directly from [^{F2}UK, EC, third country or overseas tested] officially certified basic or C1 seed of a listed variety, or, with the breeder's written authority, from UK, EC or overseas tested officially certified pre-basic seed of a listed variety; and
 - (ii) is satisfied that the crop meets or (if the crop has already been harvested) would have met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of C2 seed;
- (d) in the case of an application to re-grade a crop as a crop to produce C3 seed —
- (i) is satisfied that the crop has been produced directly from [^{F3}UK, EC, third country or overseas tested] officially certified basic or C1 seed of a listed variety, UK, EC or overseas tested officially certified C2 seed of a listed variety, or, with the breeder's written authority, from UK, EC or overseas tested officially certified pre-basic seed of a listed variety; and
 - (ii) is satisfied that the crop meets or (if the crop has already been harvested) would have met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of C3 seed,
- it shall notify the applicant that the crop has been found to meet or (if the crop has already been harvested) it has been found that it would have met the conditions referred to in subparagraph (a)(iii), (b)(ii), (c)(ii) or (d)(ii), as the case may be, and that his or her application to re-grade the crop has been successful.
- (5) If the National Assembly for Wales is satisfied that the conditions specified in paragraph (4) for the relevant category of seed have not been met it shall notify the applicant that his or her application to re-grade the crop has been unsuccessful.
- (6) This paragraph applies to the following categories of seed —
- (a) pre-basic seed;
 - (b) basic seed;
 - (c) in the case of black mustard, brown mustard, dioecious hemp, sunflower, swede rape, turnip rape, and white mustard, CS seed;
 - (d) in the case of flax, linseed, monoecious hemp and soya bean, C1 seed;
 - (e) in the case of flax, linseed, monoecious hemp and soya bean, C2 seed; and
 - (f) in the case of flax, C3 seed.

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Textual Amendments

- F1** Words in reg. 10(4)(b)(i) substituted (11.10.2007) by [The Seed \(Miscellaneous Amendments\) \(Wales\) Regulations 2007 \(S.I. 2007/2747\)](#), regs. 1, **5(3)**
- F2** Words in reg. 10(4)(c)(i) substituted (11.10.2007) by [The Seed \(Miscellaneous Amendments\) \(Wales\) Regulations 2007 \(S.I. 2007/2747\)](#), regs. 1, **5(3)**
- F3** Words in reg. 10(4)(d)(i) substituted (11.10.2007) by [The Seed \(Miscellaneous Amendments\) \(Wales\) Regulations 2007 \(S.I. 2007/2747\)](#), regs. 1, **5(3)**

Seed testing

11.—(1) Subject to paragraphs (2), (3) and (4), an application may be made to a licensed seed testing station by a registered person for the testing of an official sample of a qualifying seed lot of—

- (a) seed as pre-basic seed (“a regulation 11(1)(a) seed lot”);
- (b) seed as basic seed (“a regulation 11(1)(b) seed lot”);
- (c) black mustard, brown mustard, dioecious hemp, sunflower, swede rape, turnip rape or white mustard seed as CS seed (“a regulation 11(1)(c) seed lot”);
- (d) flax, linseed, monoecious hemp or soya bean seed as C1 seed (“a regulation 11(1)(d) seed lot”);
- (e) flax, linseed, monoecious hemp or soya bean seed as C2 seed (“a regulation 11(1)(e) seed lot”); or
- (f) flax seed as C3 seed (“a regulation 11(1)(f) seed lot”).

(2) An application made under this regulation shall not be made in respect of seed of a variety that is not listed, or seed of a component of a hybrid variety that is not listed, unless—

- (a) an application for listing of the variety or hybrid variety has been made which has not been withdrawn or finally determined; or
- (b) a marketing extension is in force in respect of the variety or hybrid variety.

(3) An application made under this regulation may be considered by the National Assembly for Wales instead of a licensed seed testing station.

(4) If permitted by the National Assembly for Wales, an application made under this regulation may be made to it instead of a licensed seed testing station.

(5) An application made under this regulation—

- (a) shall be made in such form and manner and at such time as the National Assembly for Wales may require, and
- (b) shall be accompanied by an official sample of the seed to be tested and such other information, material, seeds, records, illustrations and other documents as the National Assembly for Wales may require.

(6) Following the receipt of an application made under this regulation the licensed seed testing station (or the National Assembly for Wales in a case where paragraph (3) or (4) applies) shall, subject to paragraph (7), test seed taken from the official sample provided under paragraph (5)(b) to determine whether it meets the conditions laid down in Part II of Schedule 4—

- (a) for the category of seed for which the application is being made, and
- (b) unless requested not to do so by the applicant, for any other category of seed to which paragraph (14) applies.

(7) Where a seed test report has previously been issued by a licensed seed testing station (or the National Assembly for Wales in a case where paragraph (3) or (4) applies) in accordance with

paragraph (8)(a), (9), (10), (11) or (12) in respect of a seed lot, the licensed seed testing station (or the National Assembly for Wales in a case where paragraph (3) or (4) applies) may decide not to test any further official sample of that seed lot for the purposes of paragraph (6) if the information contained in the previously issued report contains sufficient information to enable it (or the National Assembly for Wales) to determine that the official sample would meet the conditions laid down in Part II of Schedule 4 —

- (a) for the appropriate category of seed, and
 - (b) where applicable, for any other category of seed to which paragraph (14) applies.
- (8) Subject to paragraph (13), where —
- (a) the official sample is found to satisfy the conditions laid down in Part II of Schedule 4 for
 - (i) the appropriate category of seed, and
 - (ii) where applicable, for any other category of seed to which paragraph (14) applies, or
 - (b) the provisions of paragraph (7) apply,

the licensed seed testing station (or the National Assembly for Wales where paragraph (3) or (4) applies) shall issue a seed test report to the applicant stating (by reference to the relevant category or categories of seed) that the seed lot has been found to meet those conditions.

(9) Subject to paragraph (13), where it has been determined, by way of a Schedule 4 germination test, that the official sample taken from a regulation 11(1)(a) or (b) seed lot will not meet the applicable germination condition but the sample is found to satisfy all the other conditions laid down in Part II of Schedule 4 for the appropriate category of seed, the licensed seed testing station (or the National Assembly for Wales where paragraph (3) or (4) applies), shall issue a seed test report to the applicant containing a statement to that effect.

(10) Where (otherwise than in connection with a retest of the seed) the results of a Schedule 4 germination test of an official sample of a seed lot referred to in paragraph (1) are awaited, and, except for the result of that test, the official sample has otherwise been found to meet the other conditions laid down in Part II of Schedule 4 —

- (a) for the appropriate category of seed, and
- (b) where applicable, for any other category of seed to which paragraph (14) applies,

the licensed seed testing station (or the National Assembly for Wales in a case where paragraph (3) or (4) applies), shall, subject to paragraph (13), issue an interim seed test report to the applicant stating that the results of the Schedule 4 germination test for the official sample are awaited but that it has otherwise been found to meet the other conditions laid down in Part II of Schedule 4 for the appropriate category of seed, and, where applicable, for any other category of seed to which paragraph (14) applies.

(11) Where, following the issue of an interim seed test report under paragraph (10), the tested seed is found to meet the applicable germination condition for the appropriate category of seed, the licensed seed testing station (or the National Assembly for Wales in a case where paragraph (3) or (4) applies), shall, subject to paragraph (13), issue a seed test report to the applicant stating that the official sample has been found to meet the conditions laid down in Part II of Schedule 4 for the appropriate category of seed, and, where applicable, for any other category of seed to which paragraph (14) applies.

(12) Subject to paragraphs (9) and (10), where an official sample of a seed lot referred to in paragraph (1) is found not to satisfy the applicable germination condition for the appropriate category of seed, the licensed seed testing station (or the National Assembly for Wales in a case where paragraph (3) or (4) applies) shall issue and send to the applicant a seed test report —

- (a) stating that the official sample has been found not to meet those conditions, and

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- (b) subject to paragraph (13), in a case where the seed has been tested to determine whether it meets the conditions laid down in Part II of Schedule 4 for any category of seed to which paragraph (14) applies, stating (by reference to the relevant category) whether the seed has been found to meet the conditions for any such category.
- (13) If it appears to the National Assembly for Wales that an official sample of the seed lot taken for the purpose of a test in order to ascertain whether it met the appropriate conditions laid down in Part II of Schedule 4 was not taken in accordance with the requirements of regulation 23 the National Assembly for Wales may —
- (a) in a case where paragraph (3) or (4) applies, refuse to issue a seed test report in accordance with paragraph (8), (9), (10), (11) or (12)(b), and, in such a case, shall notify the applicant of its decision and the reason for it, or
- (b) in a case where paragraph (3) or (4) does not apply, direct the licensed seed testing station to refuse to issue a seed test report in accordance with those paragraphs and the licensed seed testing station shall comply with that direction and shall notify the applicant of the reason for its refusal to issue the report.
- (14) This paragraph applies to the following categories of seed —
- (a) in the case of an application made under this regulation relating to a regulation 11(1)(a) seed lot of flax to the categories of basic, C1, C2 and C3 seed;
- (b) in the case of an application made under this regulation relating to a regulation 11(1)(a) seed lot of linseed, monoecious hemp or soya bean, to the categories of basic, C1 and C2 seed;
- (c) in the case of an application made under this regulation relating to a regulation 11(1)(a) seed lot of black mustard, brown mustard, dioecious hemp, sunflower, swede rape, turnip rape or white mustard, other than a component used in the production of a hybrid variety, to the categories of basic and CS seed;
- (d) in the case of an application made under this regulation relating to a regulation 11(1)(a) seed lot of a component used in the production of a hybrid variety, to the category of basic seed;
- (e) in the case of an application made under this regulation relating to a regulation 11(1)(b) seed lot of flax to the categories of pre-basic, C1, C2 and C3 seed;
- (f) in the case of an application made under this regulation relating to a regulation 11(1)(b) seed lot of linseed, monoecious hemp or soya bean, to the categories of pre-basic, C1 and C2 seed;
- (g) in the case of an application made under this regulation relating to a regulation 11(1)(b) seed lot of black mustard, brown mustard, dioecious hemp, sunflower, swede rape, turnip rape or white mustard, other than a component of a hybrid variety to the categories of pre-basic and CS seed;
- (h) in the case of an application made under this regulation relating to a regulation 11(1)(b) seed lot of a component of a hybrid variety, to the category of pre-basic seed;
- (i) in the case of an application made under this regulation relating to a regulation 11(1)(d) seed lot of flax, to the categories of C2 and C3 seed;
- (j) in the case of an application made under this regulation relating to a regulation 11(1)(d) seed lot of linseed, monoecious hemp or soya bean, to the category of C2 seed; and
- (k) in the case of an application made under this regulation relating to a regulation 11(1)(e) seed lot of flax, to the category of C3 seed.
- (15) In this regulation “qualifying seed lot” means a seed lot —

- (a) containing seed harvested from a crop produced in Wales for which a field inspection report has been issued in accordance with —
 - (i) regulation 8(9);
 - (ii) regulation 8(10);
 - (iii) regulation 8(11) in a case where the crop has been found to meet the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any category of seed referred to in regulation 8(11)(b); or
 - (iv) regulation 8(12) in a case where the crop has been found to meet the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any category of seed referred to in regulation 8(12)(b);
- (b) containing seed harvested from a crop produced in the United Kingdom elsewhere than in Wales —
 - (i) in respect of which the National Assembly for Wales has received confirmation of crop approval by or on behalf of the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development (as the case may be) that the crop meets conditions equivalent to those laid down in Schedule 3 and Part I of Schedule 4, or
 - (ii) for which a copy of the field inspection report relating to the crop has been lodged with the National Assembly for Wales in accordance with regulation 9; or
- (c) imported into the United Kingdom as —
 - (i) not finally certified pre-basic, basic, CS, C1, C2 or C3 seed harvested in another member State and for which the Annex V(C) document relating to the crop from which the seed in the seed lot was harvested has been lodged with the National Assembly for Wales in accordance with regulation 9, or
 - (ii) not finally certified CS or C1 seed harvested in an equivalent third country and for which the Part II.A(3) official certificate relating to the crop from which the seed in the seed lot was harvested has been lodged with the National Assembly for Wales in accordance with regulation 9.

Lodging of seed test reports

12.—(1) A registered person to whom a final seed test report has been sent shall lodge the report with the National Assembly for Wales —

- (a) except in relation to seed to which sub-paragraph (b) applies, within one month of the report being issued; and
 - (b) in a case where the seed to which the final seed test report relates —
 - (i) is of a variety that is not listed, or
 - (ii) is an unlisted component of a hybrid variety that is not listed,within one month of the date on which the variety or hybrid variety (as the case may be) is listed.
- (2) An application to lodge a final seed test report —
- (a) shall be made in such form and manner as the National Assembly for Wales may require, and
 - (b) shall be accompanied by the final seed test report and such other information and documents as the National Assembly for Wales may require.
- (3) Subject to paragraph (4), the National Assembly for Wales shall acknowledge receipt of each final seed test report lodged with it.

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(4) Subject to paragraph (5), unless specifically requested to do so by the applicant, the National Assembly for Wales shall not individually acknowledge the receipt of each final seed test report lodged with it by the applicant but shall periodically provide the applicant with a list of those seed lots for which the applicant has lodged a final seed test report with it.

(5) Where the National Assembly for Wales has previously provided the applicant with a seed test report list, the list periodically provided to the applicant under paragraph (4) shall list only those seed lots for which the applicant has lodged a final seed test report with it during the period since it last provided the applicant with a seed test report list.

(6) In this regulation “final seed test report” means a seed test report issued in accordance with regulation 11(8), (9), (11) or (12)(1)(b).

Re-grading of seed

13.—(1) An application to re-grade seed of any category specified in entry 1, 2, 3 or 4 in column 1 of the table in Schedule 5 as seed of any category (“the new category”) specified in entry 1, 2, 3 or 4 respectively in column 2 of the table may be made to the National Assembly for Wales by a registered person.

(2) An application made under this regulation shall be made in such form and manner and at such time as the National Assembly for Wales shall require and, if required by National Assembly for Wales, shall be accompanied by —

- (a) an official sample of the seed to which the application relates;
- (b) an application made under regulation 11 for the testing of an official sample of the seed lot; and
- (c) such other information and other documents as the National Assembly for Wales may require for the purpose of determining the application.

(3) The National Assembly for Wales —

- (a) may test, or arrange for a licensed seed testing station to test, an official sample of a seed lot in respect of which an application has been made under this regulation to re-grade —
 - (i) UK, EC [^{F4}, third country] or overseas tested officially certified pre-basic seed of a listed variety as UK officially certified basic seed of a listed variety; or
 - (ii) UK, EC, third country or overseas tested officially certified basic seed of a listed variety as UK officially certified pre-basic seed of a listed variety;
 - (iii) seed of a category specified in entry 3 in column 1 of the table in Schedule 5 as seed of the other category specified in entry 3 in column 2 of the table; or
 - (iv) seed of a category specified in entry 4 in column 1 of the table in Schedule 5 as seed of the other category specified in entry 4 in column 2 of the table; and
- (b) subject to paragraph (4), shall test, or arrange for a licensed seed test station to test, an official sample of the seed lot in the case of any other application made under this regulation,

to determine whether it meets the conditions laid down in Part II of Schedule 4 for the new category of seed.

(4) Where a seed test report has previously been issued in accordance with regulation 11(8)(a), (9), (10), (11) or (12) in respect of a seed lot for which an application has been made under this regulation, the National Assembly for Wales may decide not to test the official sample referred to in paragraph (2) for the purposes of paragraph 3(b) if the information contained in the previously issued report contains sufficient information to enable it to determine that the official sample would meet the conditions laid down in Part II of Schedule 4 for the appropriate category of seed.

(5) Where —

- (a) in the case of an application to re-grade seed as pre-basic or basic seed, the National Assembly for Wales is satisfied that the seed has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety;
- (b) in the case of an application to re-grade seed as pre-basic or basic seed —
 - (i) in a case where the seed was harvested from a crop produced in Wales, the National Assembly for Wales carried out a field inspection of the crop;
 - (ii) in a case where the seed was harvested from a crop produced in the United Kingdom elsewhere than in Wales, a field inspection of the crop was carried out by or on behalf of the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development;
 - (iii) in a case where the seed was harvested from a crop produced in another member State, a field inspection of the crop was carried out by or on behalf of the seed certification authority in the member State; and
 - (iv) in a case where the seed was harvested from a crop produced in an equivalent third country, a field inspection of the crop was carried out by the approved seed certification authority in the third country;
- (c) in the case of an application to re-grade pre-basic seed as CS, C1, C2 or C3 seed, the National Assembly for Wales is satisfied that the seed has been produced from UK, EC [F⁵, third country] or overseas tested officially certified pre-basic seed of a listed variety;
- (d) in the case of an application to re-grade basic seed as CS, C1, C2 or C3 seed, the National Assembly for Wales is satisfied that the seed has been harvested from a crop produced directly from UK, EC [F⁵, third country] or overseas tested officially certified pre-basic seed of a listed variety;
- (e) the National Assembly for Wales is satisfied that the seed was harvested from a crop that met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed;
- (f) in a case where the official sample referred to in paragraph (2) has been tested, it has been found to satisfy the conditions laid down in Part II of Schedule 4 for the new category of seed; and
- (g) in a case where the official sample referred to in paragraph (2) has not been tested, the National Assembly for Wales is satisfied on the basis of the information contained in a seed test report previously issued in respect of the lot —
 - (i) by on behalf of the National Assembly for Wales, the Secretary of State, the Scottish Ministers or the Department of Agriculture and Rural Development or by a licensed seed testing station;
 - (ii) by on behalf of the competent seed certification authority in another member State or by a licensed EC seed testing station in another member State; or
 - (iii) by the approved seed certification authority or by a licensed third country seed testing station in an equivalent third country,that the seed in the lot satisfies the conditions laid down in Part II of Schedule 4 for the new category of seed,

the National Assembly for Wales shall notify the applicant that his or her application to re-grade the seed lot has been successful.

(6) Where the National Assembly for Wales is satisfied that the conditions in paragraph (5) have not been met it shall notify the applicant that his or her application to re-grade the seed lot has been unsuccessful.

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Textual Amendments

- F4** Words in reg. 13(3)(a)(i) inserted (11.10.2007) by [The Seed \(Miscellaneous Amendments\) \(Wales\) Regulations 2007 \(S.I. 2007/2747\)](#), regs. 1, **5(4)**
- F5** Words in reg. 13(5)(c)(d) inserted (11.10.2007) by [The Seed \(Miscellaneous Amendments\) \(Wales\) Regulations 2007 \(S.I. 2007/2747\)](#), regs. 1, **5(4)**

Withdrawals

14.—(1) The National Assembly for Wales may withdraw the official certification in respect of a seed lot, or any part of a seed lot, if —

- (a) the findings or results obtained from a sample of seed submitted or taken in connection with an application made under regulation 6, 11 or 13 relating to the seed lot, or from plants grown in a control plot that has been sown with seed from that sample, are to be disregarded in accordance with regulation 23(5);
- (b) on the basis of information received by the National Assembly for Wales it is satisfied that the crop from which the seed in the seed lot was harvested did not meet the conditions laid down in Schedule 3 or Part I of Schedule 4; or
- (c) on the basis of information received by the National Assembly for Wales it is satisfied that the seed in the lot, or part of the lot —
 - (i) did not meet the conditions laid down in Part II or IV of Schedule 4 at the time the seed was tested for seed certification purposes, or
 - (ii) although it met the conditions of Part II of Schedule 4 at the time of such testing it no longer meets them.

(2) The National Assembly for Wales may withdraw the official certification in respect of a seed lot, or any part of a seed lot, by giving notice to —

- (a) the person who made an application in respect of the seed lot under regulation 11, or
- (b) any person marketing, or who has marketed, any of the seed.

(3) Where the official certification of a seed lot, or part of a seed lot, is withdrawn under this regulation, the National Assembly for Wales may notify —

- (a) the person who made an application under regulation 11 in respect of the seed lot,
- (b) any person marketing, or who has marketed, any of the seed; and
- (c) any person who has purchased, or been supplied with, any of the seed,

that the official certification in respect of the lot, or part of the lot (as the case may be) has been withdrawn.

(4) Where the official certification of a seed lot, or part of a seed lot, is withdrawn under this regulation, the person to whom notice is given under paragraph (2) shall, as soon as practicable, and in any case not later than 7 days after receiving the notice, notify any person to whom he or she has sold or supplied any of the seed of such withdrawal.

(5) Any person who has purchased seed from a seed lot, or part of a seed lot, for which official certification has been withdrawn under this regulation (not being a person notified under paragraph (2)) shall notify any person to whom he or she has sold or supplied any of the seed of the withdrawal as soon as practicable after receiving notice of it —

- (a) pursuant to paragraph (3), by the National Assembly for Wales, or
- (b) pursuant to paragraph (4), by the person who sold or supplied the seed to him or her,

and, in any case, not later than 7 days after receiving such notice.

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