
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

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.
- (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 —

- (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.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Oil and Fibre Plant Seed (Wales) Regulations 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations revoked by [S.I. 2012/245 reg. 34\(a\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3-68-10](#)