
WELSH STATUTORY INSTRUMENTS

2005 No. 3035

The Vegetable Seed (Wales) Regulations 2005

PART III

CONTROL OF VEGETABLE SEED

Marketing of seed

15.—(1) Subject to paragraph (2) and regulations 18 to 21, no person shall market any seed to which these Regulations apply except for seed listed in Schedule 6.

(2) Paragraph (1) shall not apply to the marketing of seed, as grown, for processing, provided that the identity of the seed is ensured.

(3) Any person marketing seed that has been imported from a third country and exceeds two kilograms shall supply the National Assembly, in writing and within one month of the first marketing of the seed, with the following particulars relating to the seed—

- (a) the species;
- (b) the variety;
- (c) the category;
- (d) the country of production and the official inspection authority;
- (e) the country of despatch;
- (f) the importer; and
- (g) the quantity of seed.

Marketing of officially certified lower germination seed

16. No person shall market officially certified pre-basic or basic seed that has been found by the competent seed certification authority that certified the seed not to satisfy the germination condition for such seed, or (regardless of the findings of the competent seed certification authority) the person marketing the seed knows does not satisfy that condition, unless—

- (a) the official label contains a statement that the minimum percentage of germination of the seed is less than the EC minimum percentage of germination for the relevant category of seed;
- (b) the person marketing the seed guarantees a specific minimum percentage of germination for the seed; and
- (c) another label is attached to the outside of the package containing the seed specifying the specific minimum percentage of germination guaranteed by the person marketing the seed, the name and address of that person and the reference number of the seed lot.

Marketing of officially certified early movement seed

17.—(1) A person may market officially certified early movement pre-basic seed, officially certified early movement basic seed or officially certified early movement commercial seed before the completion of the official germination test, if the person marketing the seed—

- (a) obtains a provisional analytical report indicating what the percentage of germination of the seed is likely to be;
- (b) provided the first buyer, upon or before delivery of the seed, with a written statement that the seed is marketed before the completion of the official germination test together with the result in the provisional analytical report;
- (c) notifies the National Assembly in writing of the name and address of the first buyer by way of trade as soon as practicable after delivery and in any event not later than seven days after delivery;
- (d) guarantees a specific minimum percentage of germination, which shall be the percentage of germination of the seed as ascertained in the provisional analytical report;
- (e) ensures that a label accompanies the package containing the seed and that the label contains—
 - (i) a statement that the seed is being sold before completion of the official germination test;
 - (ii) a statement of the specific minimum percentage of germination in accordance with paragraph (d) together with the name and address of the person marketing the seed and the reference number of the seed lot.

(2) In the event of the official germination test showing the failure of the seed to comply with the minimum germination standard specified in column 2 of paragraph 4 of Schedule 4 for seed of the relevant category, the person marketing the seed shall provide the first buyer with the result of the completed germination test, in writing, as soon as practicable and in any event not later than 7 days after being informed of the test.

(3) Paragraphs (1) and (2) shall not apply to seed which has been imported from a country which is not an EEA State.

(4) For purposes of this regulation—

- (a) “officially certified early movement pre-basic seed” means any of the following—
 - (i) UK officially certified early movement pre-basic seed of a listed variety;
 - (ii) EC officially certified early movement pre-basic seed of a listed variety;
 - (iii) UK officially certified early movement pre-basic seed of a component used in the production of a listed hybrid variety;
 - (iv) EC officially certified early movement pre-basic seed of a component used in the production of a listed hybrid variety.
- (b) “officially certified basic seed” means any of the following—
 - (i) UK officially certified early movement basic seed of a listed variety;
 - (ii) EC officially certified early movement basic seed of a listed variety;
 - (iii) UK officially certified early movement basic seed of a component used in the production of a listed hybrid variety;
 - (iv) EC officially certified early movement basic seed of a component used in the production of a listed hybrid variety.
- (c) “officially certified early movement commercial seed” means any of the following—
 - (i) UK officially certified early movement commercial seed;

- (ii) EC officially certified early movement commercial seed.

Exception for scientific purposes and selection work

18.—(1) The prohibition in regulation 15(1) shall not apply to the marketing by a producer of small quantities of seed for scientific purposes or selection work for which—

- (a) an authorisation has been granted to the producer by the National Assembly in accordance with this regulation, or
- (b) an authorisation has been granted to the producer by or on behalf of—
 - (i) the Scottish Ministers;
 - (ii) the Secretary of State;
 - (iii) the Department of Agriculture and Rural Development; or
 - (iv) a competent seed certification authority in another member State, pursuant to Article 23(1)(a) of the Vegetable Seed Directive.

(2) A producer in Wales may apply to the National Assembly for a regulation 18 authorisation.

(3) An application made under this regulation shall be made in such form and manner and at such time as the National Assembly shall require and shall be accompanied by such information as the National Assembly may require for the purpose of determining whether to grant an authorisation.

(4) The National Assembly shall not grant a regulation 18 authorisation in respect of seed of a genetically modified variety unless an authorisation is in force in respect of the variety concerned under either—

- (a) Part C of the Deliberate Release Directive; or
 - (b) the Food and Feed Regulation.
- (5) A regulation 18 authorisation may—
- (a) specify the amount of seed that may be marketed under it, and
 - (b) impose such conditions as the National Assembly may think necessary or desirable having regard to the nature of the scientific purpose or selection work involved and the nature of the seed to which the authorisation relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

Exception for market testing

19.—(1) The prohibition in regulation 15(1) shall not apply to the marketing of seed by or on behalf of a breeder of the seed in a case where—

- (a) an authorisation has been granted to the breeder by the National Assembly in accordance with this regulation, or
- (b) an authorisation has been granted to the breeder by or on behalf of—
 - (i) the Scottish Ministers;
 - (ii) the Secretary of State;
 - (iii) the Department of Agriculture and Rural Development; or
 - (iv) a competent seed certification authority in another member State, pursuant to Article 23(1)(b) of the Vegetable Seed Directive.

(2) A breeder established in Wales may apply to the National Assembly for a regulation 19 authorisation.

(3) An application made under this regulation shall be made in such form and manner and at such time as the National Assembly shall require and shall be accompanied by such information as the National Assembly may require for the purpose of determining whether to grant an authorisation including, if required, data on distinctness, uniformity and stability of the variety of seed concerned.

(4) The National Assembly shall not grant a regulation 19 authorisation unless—

(a) an application has been submitted to the relevant authority—

(i) under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001(1) for acceptance of the variety concerned on a National List, or

(ii) in another member State for inclusion of the variety in a national catalogue equivalent to a National List,

that has not been withdrawn or finally determined and for which any technical information that may be required in support of such an application has been submitted, and

(b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety concerned under either—

(i) Part C of the Deliberate Release Directive; or

(ii) the Food and Feed Regulation.

(5) A regulation 19 authorisation—

(a) shall remain in force during the period specified in the authorisation, and

(b) may impose such conditions as the National Assembly may think necessary or desirable having regard to the nature of the seed to which the authorisation relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

General exemptions

20.—(1) The prohibition in regulation 15(1) shall not apply to the marketing of seed that is authorised by a general licence made by the National Assembly under this regulation but in all other respects the provisions of these Regulations shall continue to apply in relation to the marketing of the seed.

(2) Subject to paragraph (3), the National Assembly may, by a general licence, exempt any person or class of persons, or persons generally, from compliance with any provision of these Regulations.

(3) The National Assembly shall not exercise the power to issue a general licence under paragraph (2) except—

(a) to the extent that the provisions of the general licence are permitted in accordance with a temporary experiment organised under Article 33 of the Vegetable Seed Directive;

(b) to give effect to the provisions of a Council Decision made under Article 37(c) or (d) of the Vegetable Seed Directive and amendments made to such a Decision; or

(c) to the extent that the provisions of the general licence are permitted in accordance with measures taken pursuant to Article 38(1) of the Vegetable Seed Directive.

(4) A general licence issued under paragraph (2)—

(a) shall have effect during the period specified in it unless the National Assembly revokes it earlier, and

(b) may impose such conditions as the National Assembly may think necessary or desirable having regard to the marketing permitted by the general licence and the nature of the seed to which it relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

Mixtures

21.—(1) The prohibition in regulation 15(1) shall not apply to the marketing by a producer in the United Kingdom of—

- (a) a mixture of different varieties of standard seed of lettuce, or
- (b) a mixture of different varieties of standard seed of radish,

marketed in a package containing not more than 50 grams of seed.

(2) The prohibition in regulation 15(1) shall not apply to the marketing of a mixture of seeds permitted by the Fodder Plant Seed (Wales) Regulations 2005(2) that includes seed of a species to which these Regulations apply and that complied with the provisions of these Regulations before mixing with the fodder plant seed.

Sampling

22.—(1) A sample of seeds taken in connection with a regulation 6, 11 or 13 application shall be drawn—

- (a) by—
 - (i) an authorised officer; or
 - (ii) a licensed seed sampler acting under the supervision of the authority who appointed the licensed seed sampler.
- (b) in accordance with the method laid down in Schedule 5 of the Seed (Registration, Licensing and Enforcement)(Wales) Regulations 2005(3); and
- (c) from a homogeneous seed lot.

(2) Subject to paragraph (4), the maximum weight of a seed lot shall be that set out in column (2) of the table in Schedule 7.

(3) A seed lot may exceed the maximum weight for a seed lot set out in column (2) of the table in Schedule 7 by not more than 5%.

(4) Subject to paragraph (6), the minimum weight of a sample shall be that set out in column (3) of the table in Schedule 7.

(5) In the case of a component of an F1 hybrid variety or an F1 hybrid variety of seed the minimum weight of a sample shall be a quarter of that set out in column (3) of the table in Schedule 7, except that no sample shall weigh less than 5 grams or consist of less than 400 seeds.

(6) If a sample of seeds submitted or taken in connection with an application made under regulation 6, 11 or 13—

- (a) is found not to have been taken in accordance with paragraph (1);
- (b) is taken from a seed lot that does not comply with paragraph (3); or
- (c) does not comply with paragraph (5) or (6);

no further use of that sample shall be made under these Regulations, and any findings or results already obtained from testing seed taken from that sample, or from inspecting plants grown in a control plot that has been sown with seed from that sample, shall be disregarded.

Packaging

23.—(1) No person shall market any—

- (a) officially certified pre-basic, basic or CS seed, or

(2) S.I.2005/1207 (W.79).

(3) S.I. 2005/3038 (W.226).

(b) standard seed,

unless it is marketed in a sufficiently homogeneous seed lot or in part of such a seed lot.

(2) Subject to paragraph (3), no person shall market any—

- (a) breeder's seed;
- (b) officially certified pre-basic, basic or CS seed; or
- (c) standard seed,

unless it is in a properly sealed package.

(3) Paragraph (2) shall not apply in the case of the marketing of—

- (a) legume seed not exceeding three kilograms in weight, or
- (b) seed of a species specified in Schedule 2, other than legume seed, not exceeding one kilogram in weight,

to the final consumer.

(4) In this regulation, in the case of breeder's seed, "properly sealed package" means a sealed package of seed that has been sealed in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.

(5) In this regulation, in the case of a package of seed to which paragraph (6) applies and that has been sealed only once, "properly sealed package" means—

- (a) in the case of a package of seed sealed in Wales, a sealed package of seed that has been sealed—
 - (i) no later than at the time of official sampling;
 - (ii) by a person to whom regulation 24(4) applies;
 - (iii) using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal; and
 - (iv) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package, and
- (b) in the case of a package of seed sealed in—
 - (i) in the United Kingdom, elsewhere than in Wales, or
 - (ii) in another member State,

a sealed package of seed that has been sealed in accordance with the provisions of Article 27(1) of the Vegetable Seed Directive.

(6) This paragraph applies to a package of officially certified pre-basic, basic or CS seed other than—

- (a) a small package of pre-basic or basic seed sealed in the United Kingdom, and
- (b) a small package of CS seed.

(7) In this regulation, in the case of a small package of officially certified pre-basic or basic seed that has been sealed in the United Kingdom "properly sealed package" means a sealed package of seed that has been sealed in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.

(8) In this regulation, in the case of a small package of officially certified CS seed that has been sealed only once, "properly sealed package" means—

- (a) in the case of a package of seed sealed in Wales, a sealed package of seed that has been sealed in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package, and

(b) in the case of a package of seed sealed in—

- (i) the United Kingdom, elsewhere than in Wales, or
- (ii) another member State,

a sealed package of seed that has been sealed in accordance with the relevant provisions of Article 27(3) of the Vegetable Seed Directive.

(9) In this regulation, in the case of a package of seed to which paragraph (10) applies and that has been sealed more than once, “properly sealed package” means—

(a) in the case of a package of seed that has been resealed in Wales, a sealed package of seed that, on each occasion it has been resealed, has been resealed—

- (i) by a person to whom regulation 24(5) applies, and
- (ii) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package, and

(b) in the case of a package of seed that has been resealed in—

- (i) the United Kingdom, elsewhere than in Wales, or
- (ii) another member State,

a sealed package of seed that, on each occasion it has been resealed, has been resealed in accordance with the provisions of Article 27(2) of the Vegetable Seed Directive.

(10) This paragraph applies to a package of officially certified pre-basic, basic or CS seed including a small package of CS seed but excluding a small package of pre-basic or basic seed sealed in the United Kingdom.

(11) In this regulation, in the case of a package of standard seed, other than a small package of standard seed, “properly sealed package” means a sealed package of seed that has been sealed in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package and to which a lead or an equivalent sealing device has been attached by the person responsible for attaching the label referred to in regulation 25(8).

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

Sealing of packages

24.—(1) Subject to paragraph (3), no person shall seal a package of officially certified pre-basic, basic or CS seed except a person to whom paragraph (5) applies.

(2) Paragraph (1) shall not apply to the sealing of a small package of officially certified pre-basic, basic or CS seed.

(3) Subject to paragraph (6), no person shall reseal a package (including a small package) of officially certified pre-basic, basic or CS seed except a person to whom paragraph (5) applies.

(4) This paragraph applies to—

- (a) an authorised officer and any person being supervised by such a person, and
- (b) a licensed seed sampler and any person being supervised by such a person.

(5) Paragraph (4) shall not apply where a package has been resealed which had previously been opened by the final consumer of the seed for the purpose of using some of the seed in the package.

Labelling of packages

25.—(1) Subject to paragraphs (2) and (3), no person shall market—

- (a) breeder's seed;
- (b) officially certified pre-basic, basic or CS seed; or
- (c) standard seed,

except in a package that is labelled in accordance with the following paragraphs of this regulation.

(2) Paragraph (1) shall not apply to the marketing of seed, as grown, for processing provided the identity of the seed is ensured.

(3) A person may market any seeds otherwise than in a package that complies with the other provisions of this regulation where—

- (a) the seeds are sold in a quantity—
 - (i) not exceeding three kilograms in the case of legume seed, and
 - (ii) not exceeding one kilogram in the case of seed of a species specified in Schedule 2 other than legume seed, and
- (b) the seeds are taken, in the presence of the final consumer, from a container on which there is clearly and visibly marked or near which there is clearly and visibly displayed a statement containing particulars of the matters specified in paragraph 1 of Schedule 8.

(4) A package of breeder's seed shall be labelled in accordance with paragraphs 2 and 3 of Schedule 8.

(5) A package of officially certified pre-basic seed shall be labelled—

- (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 4 to 8 of Schedule 8, and
- (b) in the case of a package of seed sealed—
 - (i) in the United Kingdom, elsewhere than in Wales, or
 - (ii) in another member State,in accordance with the provisions of Article 35(c) of the Vegetable Seed Directive.

(6) A package of officially certified basic or CS seed, other than a small package of CS seed, shall be labelled—

- (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 8 to 14 of Schedule 8, and
- (b) in the case of a package of seed sealed—
 - (i) in the United Kingdom, elsewhere than in Wales, or
 - (ii) in another member State,in accordance with the provisions of Article 28(1) of the Vegetable Seed Directive.

(7) A small package of officially certified CS seed shall be labelled—

- (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 13 and 14 of Schedule 8, and
- (b) in the case of a package of seed sealed—
 - (i) in the United Kingdom, elsewhere than in Wales, or
 - (ii) in another member State,in accordance with the provisions of Article 28(3) of the Vegetable Seed Directive.

(8) A package of standard seed, other than a small package of such seed, shall be labelled—

- (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 15 to 19 of Schedule 8, and

- (b) in the case of a package of seed sealed—
 - (i) in the United Kingdom, elsewhere than in Wales, or
 - (ii) in another member State,in accordance with the provisions of the first and second sub-paragraphs of Article 28(3) of the Vegetable Seed Directive.
- (9) A small package of standard seed, other than a small package of a mixture of standard seeds of the type specified in regulation 21(1), shall be labelled—
 - (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 20 to 23 of Schedule 8, and
 - (b) in the case of a package of seed sealed—
 - (i) in the United Kingdom, elsewhere than in Wales, or
 - (ii) in another member State,in accordance with the provisions of the first sub-paragraph of Article 28(3) of the Vegetable Seed Directive.
- (10) A small package of a mixture of standard seeds of the type specified in regulation 21(1) shall be labelled in accordance with paragraphs 24 to 27 of Schedule 8.
- (11) A package of officially certified basic or CS seed (other than a small package of CS seed) shall contain a document which—
 - (a) in the case of a package of seed sealed in Wales—
 - (i) is of the same colour as the official label fixed to the outside of the package in accordance with the provisions of paragraph (6)(a) in the case of basic and CS seed, and
 - (ii) that contains at least the particulars specified in paragraph 8(c), (d), (e), (f) and (g) of Schedule 8, and
 - (b) in the case of a package of seed sealed—
 - (i) in the United Kingdom, elsewhere than in Wales, or
 - (ii) in another member State,is in accordance with the provisions of Article 28(1)(b) of the Vegetable Seed Directive.
- (12) The provisions of paragraph (11) shall not apply if—
 - (a) the particulars specified in paragraph (11)(a)(ii) are printed indelibly on the outside of the package;
 - (b) the official label is inside a transparent package and can be read through the package; or
 - (c) the official label is an adhesive or a tear resistant label.
- (13) In the case of seed of a variety that has been genetically modified—
 - (a) any label or document, official or otherwise, which is fixed to or accompanies a seed lot or any part of a seed lot under the provisions of these Regulations, and
 - (b) any particulars given under paragraph (3),shall clearly indicate that the variety has been genetically modified.
- (14) If any breeder's seed or officially certified pre-basic, basic, CS or standard seed has been subjected to any chemical treatment then this fact and the nature of the treatment or the proprietary name of the chemical used in the treatment shall be stated either—
 - (a) in a case where paragraph (3) applies, with the particulars given in accordance with that paragraph; and

(b) in a case where paragraph (3) does not apply—

(i) on a separate supplier's label on the package; or

(ii) on the label required under paragraph (4), (5), (6), (7), (8), (9) or (10);

and also, except where the information prescribed by this paragraph is given on an adhesive or tear-resistant label, either on the outside of the package or on a document enclosed inside the package.

(15) If a package of officially certified pre-basic, basic or CS seed (other than a small package of such seed) shall have been resealed this fact shall be stated on the official label together with the date of resealing and the name of the authority responsible for the resealing.

(16) The particulars and the information given in accordance with this regulation shall be given in one of the official languages of any member State.

(17) Subject to the provisions of the Act and of these Regulations, no person shall, in the course of the marketing or the preparation for marketing of any seed by that person or another person, wilfully reproduce, remove, alter, deface, conceal or misuse in any way any label fixed to, contained in or marked on any package of seed or which is to be so fixed, contained or marked.

Special provisions that apply in connection with the marketing of standard seed

26.—(1) A person who in the course of marketing of any standard seed affixes a label or prints or stamps any particulars, or causes any of those things to be done, in accordance with regulation 25(8), (9) or (10), shall maintain and keep available for inspection by an authorised officer a record of the dates on which and of the packages on which such each label was affixed or particulars printed or stamped and shall, if required by the National Assembly, furnish the National Assembly with a copy of such record.

(2) A person to whom paragraph (1) applies shall keep and retain for a period of at least three years a record of the seed lots of standard seed marketed by him or her and, if so required by the National Assembly, shall produce such record to it.

(3) A person to whom paragraph (1) applies shall keep and retain for a period of at least two years a sample of the seed lots of standard seed marketed by him or her of at least the appropriate minimum weight specified in Schedule 7 and, if so required by the National Assembly, shall deliver any such sample to it.