

## SCHEDULE 4

### Exceptions

## PART 2

### Marketing seed that does not comply with Schedule 2

#### Seed with a declared lower germination

4.—(1) Pre-basic and basic seed with a minimum percentage germination standard lower than required in the Directive relating to that seed specified in Schedule 2 may be marketed provided that the supplier guarantees a specific minimum percentage germination.

(2) The germination must be stated on the official label together with the supplier's name and address and the reference number of the seed lot.

#### Early movement of seed

5.—(1) To ensure the early availability of seed, pre-basic, basic and certified seed may be marketed before the official germination result has been received if—

- (a) a seed test report has been issued under these Regulations, indicating that the seed has achieved the required minimum analytical purity standard set out in the Directive relating to that seed specified in Schedule 2, and
- (b) the supplier guarantees the minimum germination for that seed.

(2) This paragraph does not apply in the case of seed imported from a third country.

#### Tetrazolium testing for cereal seed

6. Cereal seed may be marketed if it has been subjected to a tetrazolium test approved by the Welsh Ministers to establish the viability of the seed instead of the tests specified in Council Directive [66/402/EEC](#) on the marketing of cereal seed<sup>(1)</sup>.

#### Marketing seed of conservation varieties

7.—(1) The Welsh Ministers may authorise the marketing of seed of a conservation variety in accordance with this paragraph.

(2) The seed must be of a variety listed as a conservation variety in the United Kingdom National List.

(3) The seed must be produced from a crop grown in the region of origin specified for the variety in the United Kingdom National List or as authorised by the Welsh Ministers.

(4) The seed may only be marketed and used in the stated region of origin.

(5) The total amount of seed marketed in any year must be limited in accordance with Article 14 of Commission Directive [2008/62/EC](#)<sup>(2)</sup> (which relates to agricultural conservation varieties) and Article 15 of and Annex I to Commission Directive [2009/145/EC](#)<sup>(3)</sup> (which relates to vegetable conservation varieties).

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(1) OJ No L 125, 11.7.1966, p. 2309, as last amended by Commission Directive [2009/74/EC](#) (OJ No L 166, 27.6.2009, p. 40).

(2) OJ No L 162, 21.6.2008, p. 13.

(3) OJ No L 312, 27.11.2009, p. 44.

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(6) Except in the case of seed of a vegetable conservation variety which is verified as standard seed, the seed must descend from seed produced according to well-defined practices for maintenance of the variety.

(7) In the case of beet seed, cereal seed, fodder plant seed and oil and fibre seed, the seed must comply with the requirements for certification of certified seed set out in Council Directive [2002/54/EC](#)(4) (beet seed), Council Directive [66/402/EEC](#) (cereal seed), Council Directive [66/401/EEC](#)(5) (fodder plant seed) or Council Directive [2002/57/EC](#)(6) (oil and fibre plant seed) (as the case may be), except the requirements in respect of minimal varietal purity and examination.

(8) Vegetable seed must comply with—

- (a) the requirements for certification of certified seed set out in Council Directive [2002/55/EC](#)(7) on the marketing of vegetable seed, except the requirements in respect of minimal varietal purity and examination; or
- (b) the requirements for marketing of standard seed set out in that Directive, except the requirements in respect of minimal varietal purity.

(9) Seed of a conservation variety must have sufficient varietal purity.

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

(11) The seed must be labelled with a supplier's label or a printed or stamped notice which, in addition to complying with the applicable provisions of the paragraph of Part 4 of Schedule 3 which applies to the type of seed in question (except provisions specifying a colour of label)—

- (a) contains—
  - (i) in the case of an agricultural conservation variety, the words “conservation variety”, or
  - (ii) in the case of a vegetable conservation variety, the words “certified seed of a conservation variety” or “standard seed of a conservation variety”;
- (b) states the region of origin; and
- (c) is coloured brown.

(12) In this paragraph “conservation variety” (“*amrywogaeth gadwraeth*”) has the meaning given by regulation 2(1) of the Seeds (National Lists of Varieties) Regulations 2001(8).

### **Marketing preservation mixtures which include uncertified fodder seed**

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

(2) An application for an authorisation must be made by the producer and must contain—

- (a) the information listed in Article 4(2) of Commission Directive 2010/60/EU, as read with Article 4(3) of that Directive, and
- (b) such other information as the Welsh Ministers may require to verify compliance with Article 5 of that Directive (in the case of directly harvested preservation mixtures) and Article 6 of that Directive (in the case of crop-grown preservation mixtures).

(3) An authorisation—

(4) OJ No L 193, 20.7.2002, p.12, as last amended by Council Directive [2004/117/EC](#) (OJ No L 14, 18.1.2005, p. 18).

(5) OJ No L 125, 11.7.1966, p. 2298, as last amended by Commission Directive [2009/74/EC](#).

(6) OJ No L 193, 20.7.2002, p. 74, as last amended by Commission Directive [2009/74/EC](#).

(7) OJ No L 193, 20.7.2002, p. 33, as last amended by Commission Directive [2009/74/EC](#).

(8) S.I.2001/3510; the definition of “conservation variety” was inserted by S.I. [2009/1273](#) and substituted by S.I. [2011/464](#).

- (a) may only be granted if the preservation mixture complies with Article 5 of Commission Directive 2010/60/EU (in the case of a directly harvested preservation mixture) or Article 6 of that Directive (in the case of a crop-grown preservation mixture),
  - (b) may only be granted for the marketing of a preservation mixture in its region of origin as determined by the Welsh Ministers in accordance with Article 3 of Commission Directive 2010/60/EU,
  - (c) may only be granted for a preservation mixture that contains a conservation variety if that variety complies with the requirements of paragraph 7, sub-paragraphs (1) to (7), (9) and (10); and
  - (d) must specify the matters listed in Article 4(2) of Commission Directive 2010/60/EU, as read with Article 4(3) of that Directive.
- (4) The seed must be labelled with a pink supplier's label or a printed or stamped notice which, instead of containing the labelling information for mixtures of seed set out in Schedule 3, contains the following information—
- (a) the words “EU rules and standards”;
  - (b) the name and address, or the identification mark, of the person affixing the labels;
  - (c) the harvesting method;
  - (d) the year of sealing expressed as “sealed...” (year);
  - (e) the region of origin;
  - (f) the source area;
  - (g) the collection site;
  - (h) the habitat type of the collection site;
  - (i) the words “preservation seed mixture”;
  - (j) the reference number of the lot given by the person affixing the labels;
  - (k) in the case of crop-grown preservation mixtures—
    - (i) the percentage by weight of the components as species and, where relevant, sub-species;
    - (ii) the specific germination rate for the fodder seed components of the mixture that do not comply with the germination requirements set out in paragraph 28(2) of Schedule 2 (unless the mixture contains more than five such fodder seed components, in which case the average germination rate for those components may be used);
  - (l) in the case of directly-harvested preservation mixtures, the percentage by weight of those components as species and, where relevant, sub-species that are typical for the habitat type of the collection site and that are, as components of the mixture, of importance for the preservation of the natural environment in the context of the conservation of genetic resources;
  - (m) declared net or gross weight; and
  - (n) where granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of the clusters or pure seeds and the total weight.
- (5) The total quantity of the seed authorised to be marketed each year must not exceed 5% of the total weight of fodder seed mixtures marketed in the United Kingdom in the same year.
- (6) In this paragraph “conservation variety” (“*amrywogaeth gadwraeth*”) has the meaning given by regulation 2(1) of the Seeds (National Lists of Varieties) Regulations 2001.

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

#### **Marketing unlisted varieties (other than vegetable seed) for tests and trials**

**9.**—(1) The Welsh Ministers may authorise the marketing of seed for which an application for entry in the United Kingdom National List has been submitted but not yet granted.

(2) This paragraph does not apply in relation to vegetable seed (for which see the following paragraph).

(3) An applicant must be a producer established in Wales.

(4) An authorisation is valid for one year and is renewable.

(5) An authorisation becomes invalid once the variety is added to the United Kingdom National List or the application to be listed is withdrawn or rejected.

(6) The authorisation may only be requested by the person who has submitted an application for entry of the varieties concerned in the United Kingdom National List.

(7) An authorisation may only be granted for tests or trials carried out at agricultural enterprises to gather information on the cultivation or use of the variety.

(8) The quantities authorised for each variety must not exceed the following percentages of seed of the same species used annually in the United Kingdom—

(a) in the case of durum wheat: 0.05 %,

(b) in the case of field pea, field bean, oats, barley and wheat: 0.3 %,

(c) in all other cases: 0.1 %,

except that, if such quantities are not sufficient to sow 10 hectares, the quantity needed for such an area may be authorised.

(9) Fodder seed must comply with the conditions for—

(a) certified seed (all species other than field peas and field beans); or

(b) certified seed, second generation (field peas and field beans).

(10) Cereal seed must comply with the conditions for—

(a) certified seed (rye, maize and hybrids of oats and red oats, barley, wheat, durum wheat, spelt wheat and triticale other than self-pollinating varieties); or

(b) certified seed, second generation oats and red oats, barley, wheat, durum wheat, spelt wheat and self-pollinating varieties of triticale, other than hybrids in each case.

(11) Beet seed must comply with the conditions for certified seed.

(12) Seed of oil and fibre plants must comply with the conditions for—

(a) certified seed (all species other than flax and linseed);

(b) certified seed, second and third generation (flax and linseed).

(13) The package must be labelled with an orange label which must include the words “variety not yet officially listed; for tests and trials only” and, where applicable “genetically modified variety” in addition to the other labelling requirements in these Regulations.

#### **Marketing unlisted varieties of vegetable seed**

**10.**—(1) For the purpose of gaining knowledge and practical experience of a variety during cultivation, the Welsh Ministers may authorise the marketing of vegetable seed not listed on the United Kingdom National List provided an application has been made for entry into the National List of at least one member State.

(2) An authorisation is valid for one year and is renewable twice for a period not exceeding one year at each renewal.

(3) There are no quantitative restrictions on the amount that may be authorised.

(4) The authorisation may only be requested by the person who has submitted an application for entry of the varieties concerned on to the relevant National List.

(5) The package must have an orange label and include the words “Variety not yet officially listed” in addition to the other labelling requirements of these Regulations (except that the name of the certifying authority and the country of origin need not appear).

(6) The person marketing the seed must—

(a) retain a sample of each seed lot marketed and keep it for at least two years;

(b) record for each sale the name and address of the buyer and keep the record for at least three years.

### **Marketing for scientific or selection purposes**

**11.**—(1) The Welsh Ministers may authorise a producer to place on the market small quantities of seed (other than vegetable seed) for scientific or selection purposes.

(2) The Welsh Ministers may grant an authorisation whether or not the variety is listed on the United Kingdom National List or the Common Catalogue.

(3) An applicant for authorisation must be a producer established in Wales.

(4) The package must have an orange label and include the words “Variety not yet officially listed” (if this is the case) in addition to the other labelling requirements of these Regulations.

(5) The person marketing the seed must—

(a) retain a sample of each seed lot marketed and keep it for at least two years;

(b) record for each sale the name and address of the buyer and keep the record for at least three years.

### **Restrictions relating to genetically modified seed**

**12.** The Welsh Ministers may only grant an authorisation in respect of seed of a genetically modified variety under paragraphs 8 to 11 if the marketing and release of the genetically modified material by the applicant have been authorised for cultivation under either—

(a) Directive [2001/18/EC](#) of the European Parliament and of the Council (on the deliberate release into the environment of genetically modified organisms<sup>(9)</sup>), or

(b) Regulation [\(EC\) No 1829/2003](#) (on genetically modified food and feed<sup>(10)</sup>).

### **Marketing imported seed to be labelled as HVS**

**13.**—(1) Seed certified in another member State or third country may be marketed as meeting a higher voluntary standard in accordance with this paragraph.

(2) A sample must be submitted to the Welsh Ministers for testing, and the Welsh Ministers, if satisfied that the sample meets the higher voluntary standard, must issue a certificate confirming this.

(3) The seed must be re-labelled using—

(a) an official label issued by the Welsh Ministers if the seed is from another member State, or

(b) an OECD label if the seed is from a third country,

<sup>(9)</sup> OJ No L 106, 17.4.2001, p. 1, as last amended by Directive [2008/27/EC](#) (OJ No L 81, 20.3.2008, p. 45).

<sup>(10)</sup> OJ No L 268, 18.10.2003, p. 1, as last amended by Regulation [\(EC\) No 298/2008](#) (OJ No L 97, 9.4.2008, p. 64).

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and in both cases the country of production must be stated on the label.

(4) Seed imported pending inclusion in the United Kingdom National List or not finally certified in the country of production may be verified as being of a higher voluntary standard and re-graded after listing or final certification.

#### **Marketing seed certified in another member State**

14. Seed fully certified and labelled in another member State may be marketed without further certification under these Regulations.

#### **Marketing seed of amateur vegetable varieties**

15.—(1) The Welsh Ministers may authorise the marketing of seed of an amateur vegetable variety in accordance with this paragraph.

(2) The seed must be of a variety listed as an amateur vegetable variety in the United Kingdom National List.

(3) The seed must comply with the requirements for marketing of standard seed set out in Council Directive [2002/55/EC\(11\)](#) on the marketing of vegetable seed, except the requirements in respect of minimal varietal purity.

(4) The seed must have sufficient varietal purity.

(5) The seed must be marketed in small packages not exceeding the net weight specified in Annex II to Commission Directive [2009/145/EC\(12\)](#) (which relates to amateur vegetable varieties).

(6) The seed must be labelled with a supplier's label or a printed or stamped notice which, in addition to complying with the applicable provisions of paragraph 25 of Schedule 3, contains the words "amateur variety".

(7) In this regulation "amateur vegetable variety" ("*amrywogaeth llyisiau amatur*") has the meaning given by regulation 5A(5) of the Seeds (National Lists of Varieties) Regulations 2001([13](#)).

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(11) OJ No L 193, 20.7.2002, p. 33, as last amended by Commission Directive [2009/74/EC](#) (OJ No L 166, 27.6.2009, p. 40).

(12) OJ No L 312, 27.11.2009, p. 44.

(13) S.I. [2001/3510](#); regulation 5A was inserted by S.I. [2011/464](#).