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STATUTORY RULES OF NORTHERN IRELAND

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**2009 No. 383**

**The Cereal Seeds Regulations (Northern Ireland) 2009**

**PART I**

**General**

**Citation and commencement**

1. These Regulations may be cited as the Cereal Seeds Regulations (Northern Ireland) 2009 and shall come into operation on 31st December 2009.

**General interpretation**

2.—(1) In these Regulations—

“the 2004 Commission Decision” means Commission Decision [2004/842/EC\(1\)](#) concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted;

“the Act” means the Seeds Act (Northern Ireland) 1965;

“Annex II.A(3) official certificate” means an official certificate of the type specified in paragraph 3 of Part A of Annex II to the Third Country Equivalence Decision;

“Annex V(C) document” means an official document of the type specified in the second indented sub-paragraph of Article 15(2) of the Cereal Seed Directive containing the particulars specified in paragraph C of Annex V to the Directive;

“another member State” means an EEA State other than the United Kingdom;

“approved seed certification authority” means an authority specified in column 2 of the table set out in Annex I to the Third Country Equivalence Decision;

“approved species” means—

- (a) subject to paragraph (b), any of the species referred to in Schedule 2;
- (b) maize in the case of seed officially certified by the approved seed certification authority in South Africa;

“authorised officer” means an officer authorised for the purposes of these Regulations by the Department, the Secretary of State, the Scottish Ministers, or the National Assembly for Wales;

“blended seed lot” means a seed lot obtained by blending seed where the seed that goes into the blend is—

- (a) of the same variety;
- (b) has come from different sources; and
- (c) either—

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(1) OJ L362, 9.12.2004, p21

- (i) has been officially certified;
- (ii) has not been officially certified but has been harvested from a seed crop for which a field inspection report has been issued showing that the crop met the Directive crop conditions for the relevant category of seed; or
- (iii) is made up of seed that has been officially certified and seed that has not but for which a field inspection report of the type specified in sub-paragraph (ii) has been issued;

“breeder”—

(d) in relation to a variety that has not been entered in a National List or the Common Catalogue, includes any person lawfully multiplying (on his own account) seed bred by another, and

(e) in relation to a variety that has been so entered, means the maintainer of the variety;

“breeder’s seed” means seed which has been produced by or under the responsibility of the breeder and that is intended for the production of pre-basic or basic seed;

“the Cereal Seed Directive” means Council Directive [66/402/EEC\(2\)](#) on the marketing of cereal seed as last amended by Commission Directive [2009/74/EC\(3\)](#);

“Commission Directive 2008/62” means Commission Directive [2008/62/EC\(4\)](#) providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties;

“Common Catalogue” means the Common Catalogue of varieties of species of agricultural plants published in the Official Journal of the European Communities;

“the Common Catalogue Directive” means Council Directive [2002/53/EC\(5\)](#) on the common catalogue of varieties of agricultural plant species, as last amended by the Food and Feed regulation;

“component” means—

(f) in the case of pre-basic seed, a component that is used in the production of a listed hybrid variety, and

(g) in the case of basic seed, a component of a hybrid variety;

“conservation variety” means a variety which is listed as a conservation variety in accordance with the Seeds (National Lists of Varieties) Regulations 2001(6);

“control plot” means a plot sown with seed from an official sample of seed from a seed lot (whether the official sample of the seed submitted in accordance with regulation 6(2) or another official sample of the seed);

“the Deliberate Release Directive” means Council Directive [2001/18/EC\(7\)](#) on the deliberate release into the environment of genetically modified organisms, as last amended by Council Regulation (EC) No [1830/2003\(8\)](#) concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms;

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(2) O.J L 125, 11.7.1966, p2309

(3) O.J L 166, 27.6.2009, p. 40

(4) O.J L 162, 21.6.2008, p 13

(5) O.J L 193, 20.7.2002, p 1

(6) [S.I. 2001/3510](#)

(7) O.J L 106, 17.4.2001, p. 1

(8) O.J L 268, 18.10.2003, p24

“the Department” means the Department of Agriculture and Rural Development in Northern Ireland;

“Directive crop conditions” means the conditions laid down in Annex I to the Cereal Seed Directive;

“Directive seed conditions” means the conditions laid down in Annex II to the Cereal Seed Directive;

“the EC minimum percentage of germination” means the appropriate percentage of germination specified in column 2 of the table in paragraph 13 of Schedule 4;

“EEA State” means—

(a) a State which is a member of the Communities; and

(b) Iceland, Liechtenstein and Norway;

“entered seed lot” means a seed lot in respect of which an application has been made under regulation 6 in accordance with regulation 6(2)(a), (b)(i) and (c);

“ergot” means *Claviceps purpurea*;

“equivalent third country” means Argentina, Australia, Canada, Chile, Croatia, Israel, Morocco, New Zealand, Serbia and Montenegro, South Africa, Turkey, the United States of America, and Uruguay;

“the Food and Feed Regulation” means Council Regulation (EC) No 1829/2003(9) on genetically modified food and feed;

“genetically modified” has the same meaning as for the purposes of the Deliberate Release Directive;

“germination condition” means the condition in paragraph 13 of Schedule 4;

“Higher Voluntary Standards” means the standards specified in Schedules 3 and 4 as being HVS standards and the abbreviation “HVS” shall be construed accordingly;

“homogeneous seed lot” means a seed lot that has been subject to appropriate mixing and blending techniques so that the seed in the lot is as uniform as practicable;

“HVS level basic seed” means officially certified basic seed that has been verified by the Department as—

(a) having been harvested from a crop that met the higher voluntary standards for a crop to produce basic seed specified in Schedule 3, and

(b) having met the higher voluntary standards for basic seed laid down in Schedule 4;

“HVS level C1 seed” means officially certified C1 seed that has been verified by the Department as—

(a) having been harvested from a crop that met the higher voluntary standards for a crop to produce C1 seed specified in Schedule 3, and

(b) having met the higher voluntary standards for C1 seed laid down in Schedule 4;

“HVS level C2 seed” means officially certified C2 seed that has been verified by the Department as—

(a) having been harvested from a crop that met the higher voluntary standards for C2 seed specified in Schedule 3, and

(b) having met the higher voluntary standards for C2 seed laid down in Schedule 4;

“ISTA” means the International Seed Testing Association;

“late entered seed lot” means a seed lot in respect of which an application has been made under regulation 6(1) in accordance with regulation 6(2)(a), (b)(ii) and (c);

“licensed crop inspector” means a person who has been granted a licence under regulation 11 of the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009<sup>(10)</sup> or by the Secretary of State, the Scottish Ministers or the National Assembly for Wales under provisions equivalent to that regulation;

“licensed EC crop inspector” means a person authorised by a competent seed certification authority in another member State, pursuant to Article 2(3)A(a)(iii) of the Cereal Seed Directive, to carry out field inspections of crops in that member State;

“licensed EC seed testing station” means a seed testing laboratory authorised by the competent seed certification authority in another member State, pursuant to Article 2(3)B(a) of the Cereal Seed Directive, to carry out seed testing in that member State;

“licensed seed sampler” means a person who has been granted a licence under regulation 18 of the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009 or by the Secretary of State, the Scottish Ministers or the National Assembly for Wales under provisions equivalent to that regulation;

“licensed seed testing station” means a laboratory in respect of which a licence has been granted under regulation 25 of the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009 or by the Secretary of State, the Scottish Ministers or the National Assembly for Wales under provisions equivalent to that regulation;

“licensed third country crop inspector” means a person authorised by an approved seed certification authority in an equivalent third country pursuant to—

- (a) in the case of seed other than maize, Rule 6(2)(3) of, and Appendix 8 to, the OECD Cereal Seed Scheme, and
- (b) in the case of maize, Rule 6(2)(3) of, and Appendix 8 to, the OECD Maize and Sorghum Seed Scheme, to carry out field inspections of crops in that country;

“licensed third country seed testing station” means a seed testing laboratory authorised by the approved seed certification authority in an equivalent country, pursuant to—

- (a) in the case of seed other than maize, Rule 6(4)(2)(3) of, and Appendix 8B to, the OECD Cereal Seed Scheme, and
- (b) in the case of maize, Rule 6(4)(2)(3) of, and Appendix 8B to, the OECD Maize and Sorghum Seed Scheme,

to carry out seed testing in that country;

“listed variety” means a plant variety that is entered in a National List or the Common Catalogue;

“listing” means the entry of a variety on a National List or the Common Catalogue and

“listed” shall be construed accordingly;

“loose smut infection” means infection with harmful organisms of the family *Ustilagineae*;

“maintainer” means a person who is indicated in a National List or in the Common Catalogue as responsible for maintaining a plant variety in accordance with the characteristics to which regard was had when the plant variety was entered in the List or the Common Catalogue;

“marketing extension” means an extension granted by the Department, the Secretary of State, the Scottish Ministers, the National Assembly for Wales or the competent seed certification authority in another member State pursuant to Article 15 of the Common Catalogue Directive

allowing an extended period for the certification and marketing of seed of a variety that has been deleted from its catalogue and the Common Catalogue;

“member State” means, in addition to a State which is a member of the Communities, any other EEA State and Switzerland;

“minimum level basic seed” means officially certified basic seed that has not been verified by the Department as—

(c) having been harvested from a crop that met the higher voluntary standards for a crop to produce basic seed specified in Schedule 3, and

(d) having met the higher voluntary standards for basic seed laid down in Schedule 4;

“minimum level C1 seed” means officially certified C1 seed that has not been verified by the Department as—

(a) having been harvested from a crop that met the higher voluntary standards for a crop to produce C1 seed specified in Schedule 3, and

(b) having met the higher voluntary standards for C1 seed laid down in Schedule 4;

“minimum level C2 seed” means officially certified C2 seed that has not been verified by the Department as—

(a) having been harvested from a crop that met the higher voluntary standards for C2 seed specified in Schedule 3, and

(b) having met the higher voluntary standards for C2 seed laid down in Schedule 4;

“the National Assembly for Wales” means the National Assembly for Wales established by Section 45 of the Government of Wales Act 2006<sup>(11)</sup>;

“a National List” means a list of varieties of cereal species for the time being published in accordance with the Seeds (National Lists of Varieties) Regulations 2001;

“OECD” means the Organisation for Economic Co-operation and Development;

“OECD Cereal Seed Scheme” means the OECD Scheme for the varietal certification of cereal seed moving in international trade in Annex VIII to the OECD Decision;

“OECD Certificate” means a certificate issued by an approved seed certification authority in an equivalent third country under, in the case of seed other than maize, the OECD Cereal Seed Scheme, and, in the case of maize, the OECD Maize and Sorghum Seed Scheme;

“OECD Decision” means the Decision of the OECD Council revising the OECD Schemes for Varietal Certification or the Control of Seed Moving in International Trade as last amended by OECD Council Decision C(2005)38<sup>(12)</sup>;

“OECD List” means the OECD List of Varieties Eligible for Certification;

“OECD Maize and Sorghum Seed Scheme” means the OECD Scheme for the varietal certification of maize and sorghum seed moving in international trade in Annex XI to the OECD Decision;

“official label” means a label issued or authorised by or on behalf of the Department, the Secretary of State, the Scottish Ministers or the National Assembly for Wales;

“official measures” includes—

(a) the disposal and determination, where applicable, of applications made in accordance with regulation 6, 8, 9, 10, 11, 12, 13, 16, 19, and 20, including the growing and assessment of control plots and the carrying out of field inspections and seed testing in connection with the disposal and determination of such applications; and

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<sup>(11)</sup> 2006 C. 32

<sup>(12)</sup> C(2000) 146/final

(b) the receipt and acknowledgement of notifications given under regulation 7, and such other activities as may be necessary for those purposes;

“official sample” means a sample of seed taken from a seed lot in accordance with regulation 23 and “official sampling” shall be construed accordingly;

“official UK field inspection” means a field inspection carried out by or on behalf of the Department, the Secretary of State, the Scottish Ministers or the National Assembly for Wales;

“official UK seed test” means a seed test carried out by or on behalf of the Department, the Secretary of State, the Scottish Ministers or the National Assembly for Wales;

“previously listed variety” means a plant variety that was previously entered in—

(a) a National List or, in the case of another member State, the catalogue maintained by that State pursuant to Article 3 of the Common Catalogue Directive, and

(b) the Common Catalogue,

but which has been removed from both of them;

“registered person” means a person registered under regulation 5 of the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009 as a person who may carry on seed industry activity;

“regulation 19 authorisation” means an authorisation granted in accordance with regulation 19;

“regulation 20 authorisation” means an authorisation granted in accordance with regulation 20;

“Schedule 4 germination test” means a test to determine whether the seed being tested attains the percentage of germination specified in column 2 of the table in paragraph 13 of Schedule 4 for the appropriate category of seed;

“the Scottish Ministers” means the Scottish Executive as constituted by Section 44 of the Scotland Act 1998(13);

“the Secretary of State” means the Secretary of State for Environment, Food and Rural Affairs;

“seed industry activity” has the same meaning as in regulation 2 of the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009;

“seed lot” means an identifiable consignment of seeds of a weight that does not exceed the weight specified in column 3 of the table in Schedule 7 for the species specified in column 1 of that table by more than 5 per cent and that bears a unique seed lot reference number, and includes a blended seed lot and a seed lot that contains seed from different crops of the same variety grown on the same holding and combined on the grower’s holding prior to processing;

“seed that has been subject to satisfactory official post control” means seed taken from a seed lot for which a control plot has been sown by or on behalf of the Department, the Secretary of State, the Scottish Ministers or the National Assembly for Wales and which has produced plants which have been examined by or on behalf of the Department, the Secretary of State, the Scottish Ministers or the National Assembly for Wales, as the case may be, and has been found, having regard to—

(a) the conditions laid down in—

(i) paragraphs 4 to 10, 11(4) to (7), 12(4) to (6), 14 and 16 of Schedule 3, and

(ii) paragraphs 1 to 5, 7, 10, 17, 18 and 20 of Schedule 4, and

(b) the category and, where appropriate, level of the seed to be produced, to be satisfactory seed from which to produce that category and, where applicable, level of seed;

“small package” means—

- (a) a package of officially certified seed of any category and, where applicable, level, or
- (b) a package of a mixture of seeds to which regulation 23 applies,

not exceeding 15 kilograms in weight;

“test and trial seed” means seed which is the subject of a regulation 20 authorisation;

“third country” means a country other than a member State;

“the Third Country Equivalence Decision” means Council Decision [2003/17/EC](#)(14) on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries, as last amended by Council Regulation [\(EC\) No 885/2004](#)(15);

“a UK field inspection carried out under official supervision” means an examination of a crop carried out under official supervision by a licensed crop inspector;

“a UK seed test carried out under official supervision” means a seed test carried out under official supervision by a licensed seed testing laboratory;

“unlisted variety” means a variety that is not a listed variety; and

“whenever carried out”—

- (a) in relation to an official UK field inspection of a crop being grown to produce seed of a listed variety or a component of a listed hybrid variety, means an inspection carried out before or after the listing of the variety or hybrid variety;
- (b) in relation to an official UK field inspection of a crop being grown to produce seed of a previously listed variety or a component of a previously listed hybrid variety, means an inspection carried out while the variety or hybrid variety was listed or after it became unlisted;
- (c) in relation to an official UK seed test or a UK seed test carried out under official supervision of seed of a listed variety or a component of a listed hybrid variety, means a test carried out before or after the listing of the variety or hybrid variety; and
- (d) in relation to an official UK seed test or a UK seed test carried out under official supervision of seed of a previously listed variety or a component of a previously listed hybrid variety, means a test carried out while the variety or hybrid variety was listed or after it became unlisted.

(2) In these Regulations, in relation to varieties, hybrids and inbred lines of maize—

“open pollinated variety” means a sufficiently uniform and stable variety;

“inbred line” means a sufficiently uniform and stable line, obtained either by artificial self fertilisation accompanied by selection over several successive generations or by equivalent operations;

“simple hybrid” means the first generation of a cross, defined by the breeder, between two inbred lines;

“double hybrid” means the first generation of a cross, defined by the breeder, between two simple hybrids;

“triple-cross hybrid” means the first generation of a cross, defined by the breeder, between an inbred line and a simple hybrid;

“top cross hybrid” means the first generation of a cross, defined by the breeder, between an inbred line or a simple hybrid and an open-pollinated variety; and

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(14) O.J.L 8, 14.1.2003, p. 10

(15) O.J.L 168, 1.5.2004, p. 1



“intervarietal hybrid” means the first generation of a cross, defined by the breeder, between plants grown from basic seed of two open-pollinated varieties.

(3) All applications, approvals, authorisations, notices, notifications and statements to which these Regulations apply shall be made in writing.

(4) “Writing” in paragraph (3) shall include an electronic communication within the meaning of the Electronic Communications Act 2000(16) provided that—

- (a) any document of the type referred to in paragraph (3) shall only be sent to the Department by an electronic communication if the Department has represented that electronic communication is a means by which persons can send such a document to it, and
- (b) notifications required to be made by the Department to any person shall only be made by an electronic communication if the intended recipient has himself used the same form of electronic communication in communicating with the Department for the purpose of these Regulations or has otherwise represented that that form of electronic communication is a means by which the Department can communicate with that person.

(5) Expressions in these Regulations which are not defined in this regulation or elsewhere in these Regulations or in a Schedule to these Regulations and which appear in the Cereal Seed Directive have the same meaning in these Regulations as they have in that Directive.

(6) Schedule 1, which contains definitions of pre-basic seed and similar expressions, basic seed and similar expressions, CS, C1 and C2 seed and similar expressions and expressions relating to imported not finally certified seed, shall apply to the interpretation of these Regulations.

### Definitions relating to plant species

3. In these Regulations—

- “barley” means plants of the species *Hordeum vulgare* L.;
- “durum wheat” means plants of the species *Triticum durum* Desf.;
- “maize” means plants of the species *Zea mays* L. (partim) except for *Zea mays* convar.
- “microsperma Koern” (commonly known as popcorn) and *Zea mays* convar. *Saccharata* Koern (commonly known as sweetcorn);
- “oats” means plants of the species *Avena sativa* L. (includes *A. byzantina* K. Koch);
- “rye” means plants of the species *Secale cereale* L.;
- “spelt wheat” means plants of the species *Triticum spelta* L.;
- “triticale” means plants of the species x *Triticosecale* Wittm.;
- “wheat” means plants of the species *Triticum aestivum* L.; and
- “wild oats” means plants of the species *Avena fatua*, *Avena sterilis* and *Avena ludoviciana*.

### Definition of marketing

4.—(1) Subject to paragraph (2), in these Regulations “marketing” means—

- (a) selling, holding with a view to sale or offering for sale, or
- (b) any disposal, supply or transfer for the purpose of commercial exploitation of seed to third parties,

whether or not for consideration, and “market” and “marketed” shall be construed accordingly.



(2) Trade in seed not aimed at commercial exploitation of the variety, such as the following operations—

- (a) the supply of seed to official testing and inspection bodies, and
- (b) the supply of seed to a person who provides processing or packaging services but who does not thereby acquire title to the seed supplied,  
shall not be regarded as marketing of seed of that variety.

### **Seed to which these Regulations apply**

5.—(1) Subject to paragraph (2), these Regulations apply to cereal seed of the species specified in Schedule 2 that are intended to be used for agricultural or horticultural production other than production for ornamental purposes.

(2) These Regulations shall not apply to seed that is intended for export to a third country.

## **PART 2**

### **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 or C2 seed is to be harvested may be made to the Department by a registered person.

(2) An application made under this regulation—

- (a) shall be made in such form and manner as the Department may require;
- (b) shall be made—
  - (i) at such time as the Department may require, or
  - (ii) in the case of an application to enter a seed lot made after that time, at such time as the Department may otherwise allow; and
- (c) shall be accompanied—
  - (i) unless otherwise agreed by the Department, 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 Department 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 Department—

- (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 rye 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—

- (a) “appropriate time” means a time during the period when seed of the relevant species is usually sown, and
- (b) “qualifying seed test report” means—
  - (i) a seed test report issued in accordance with regulation 11(8), (9), (10) or (11), or
  - (ii) 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 or C2 seed is to be harvested shall notify the Department that he has sown the seed.

(2) A notification given under this regulation—

- (a) shall be given in such form and manner as the Department may require;
- (b) shall be given within such time as the Department 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 Department may require.

(3) Subject to paragraph (4), the Department shall acknowledge receipt of a notification given under this regulation.

(4) Subject to paragraph (5), unless specifically requested to do so by the applicant, the Department 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.

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

### **Field inspection of crops**

8.—(1) Subject to paragraph (2), an application may be made to the Department by a registered person for the field inspection of—

- (a) a crop being produced in Northern Ireland from an entered or late entered seed lot from which it is intended that pre-basic seed of maize or rye (including a component used in the production of a listed hybrid variety in each case), triticale or a component used in the production of a listed hybrid variety of barley, durum wheat, oats, self-pollinating triticale, spelt wheat or wheat is to be harvested (“a regulation 8(1)(a) crop”);
- (b) a crop being produced in Northern Ireland from an entered or late entered seed lot from which it is intended that pre-basic seed of barley, durum wheat, oats, spelt wheat or wheat, other than a component used in the production of a listed hybrid variety, is to be harvested (“a regulation 8(1)(b) crop”);
- (c) a crop being produced in Northern Ireland from an entered or late entered seed lot from which it is intended that basic seed of maize or rye (including a component of a hybrid variety in each case), triticale or a component of a hybrid variety of barley, durum wheat,

- oats, self-pollinating triticale, spelt wheat or wheat is to be harvested (“a regulation 8(1)(c) crop”);
- (d) a crop being produced in Northern Ireland from an entered or late entered seed lot from which it is intended that HVS level basic seed of barley, durum wheat, oats, spelt wheat or wheat, other than a component of a hybrid variety, is to be harvested (“a regulation 8(1)(d) crop”);
  - (e) a crop being produced in Northern Ireland from an entered or late entered seed lot from which it is intended that minimum level basic seed of barley, durum wheat, oats, spelt wheat or wheat, other than a component of a hybrid variety, is to be harvested (“a regulation 8(1)(e) crop”);
  - (f) a crop being produced in Northern Ireland from a late entered seed lot from which it is intended that CS seed of—
    - (i) maize (including a hybrid of maize);
    - (ii) rye, except for a hybrid of rye; or
    - (iii) a hybrid of barley, durum wheat, oats, a self-pollinating variety of triticale, spelt wheat or wheat;is to be harvested (“a regulation 8(1)(f) crop”);
  - (g) a crop being produced in Northern Ireland from a late entered seed lot from which it is intended that HVS level C1 seed of barley, durum wheat, oats, spelt wheat or wheat is to be harvested (“a regulation 8(1)(g) crop”);
  - (h) a crop being produced in Northern Ireland from a late entered seed lot from which it is intended that minimum level C1 seed of barley, durum wheat, oats, spelt wheat or wheat is to be harvested (“a regulation 8(1)(h) crop”);
  - (i) a crop being produced in Northern Ireland from a late entered seed lot from which it is intended that C1 seed of triticale is to be harvested (“a regulation 8(1)(i) crop”);
  - (j) a crop being produced in Northern Ireland from a late entered seed lot from which it is intended that HVS level C2 seed of barley, durum wheat, oats, spelt wheat or wheat is to be harvested (“a regulation 8(1)(j) crop”);
  - (k) a crop being produced in Northern Ireland from a late entered seed lot from which it is intended that minimum level C2 seed of barley, durum wheat, oats, spelt wheat or wheat is to be harvested (“a regulation 8(1)(k) crop”);
  - (l) a crop being produced in Northern Ireland from a late entered seed lot from which it is intended that C2 seed of triticale is to be produced (“a regulation 8(1)(l) crop”);
  - (m) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that CS seed of—
    - (i) maize or rye (including a hybrid of maize or rye), or
    - (ii) a hybrid of barley, durum wheat, oats, a self-pollinating variety of triticale, spelt wheat or wheat,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)(m) crop”);
  - (n) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that HVS level C1 seed of barley, durum wheat, oats, spelt wheat or wheat 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)(n) crop”);
  - (o) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that minimum level C1 seed of barley, durum wheat, oats, spelt wheat or wheat

- 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)(o) crop”);
- (p) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that C1 seed of triticale 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)(p) crop”);
  - (q) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that HVS level C2 seed of barley, durum wheat, oats, spelt wheat or wheat 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)(q) crop”);
  - (r) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that minimum level C2 seed of barley, durum wheat, oats, spelt wheat or wheat 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)(r) crop”); or
  - (s) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that C2 seed of triticale 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)(s) crop”).
- (2) An application made under paragraph (1) shall not be made in respect of a regulation 8(1)(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) or (l) crop to produce seed of a variety or hybrid 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) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that CS seed of—
    - (i) maize or rye (including a hybrid of maize or rye), or
    - (ii) a hybrid of barley, durum wheat, oats, self-pollinating triticale, spelt wheat or wheat is to be harvested (“a regulation 8(3)(a) crop”);
  - (b) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that HVS level C1 seed of barley, durum wheat, oats, spelt wheat or wheat is to be harvested (“a regulation 8(3)(b) crop”);
  - (c) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that minimum level C1 seed of barley, durum wheat, oats, spelt wheat or wheat is to be harvested (“a regulation 8(3)(c) crop”);
  - (d) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that C1 seed of triticale is to be harvested (“a regulation 8(3)(d) crop”);
  - (e) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that HVS level C2 seed of barley, durum wheat, oats, spelt wheat or wheat is to be harvested (“a regulation 8(3)(e) crop”);
  - (f) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that minimum level C2 seed of barley, durum wheat, oats, spelt wheat or wheat is to be harvested (“a regulation 8(3)(f) crop”); or
  - (g) a crop being produced in Northern Ireland from an entered seed lot from which it is intended that C2 seed of triticale is to be harvested (“a regulation 8(3)(g) crop”).
- (4) An application made under paragraph (3) shall not be made—

- (a) in respect of a crop to produce seed of a variety or a 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 and, where applicable, level to which the application relates is awaited.
- (5) If required by the Department, an application made under paragraph (3) shall be considered by it instead of by a licensed crop inspector.
- (6) If permitted by the Department, an application made under paragraph (3) may be made to it instead of to a licensed crop inspector.
- (7) An application made under this regulation shall be made in such form and manner and at such time as the Department may require and shall be accompanied by such information, material, records, illustrations and other documents as she may require.
- (8) Following the receipt of an application made under paragraph (1) or (3), the Department (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 15 of Schedule 3 to determine—
- (a) whether the crop meets the conditions laid down in Schedule 3 and Part 1 of Schedule 4 for the production of the category and, where applicable, level 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 1 of Schedule 4 for the production of any other category and level of seed to which paragraph (17) applies.
- (9) Subject to paragraph (13), where in the case of an application made to the Department 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 to satisfy the conditions laid down in Schedule 3 and Part 1 of Schedule 4 for the production of—
- (a) the category and, where applicable, level of seed intended to be harvested, and
  - (b) where applicable, any other category and level of seed to which paragraph (17) applies,
- the Department 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 and, where applicable, level of seed) 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 Department) 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 1 of Schedule 4 for the production—
- (a) of the category and, where applicable, level of seed intended to be harvested, and
  - (b) where applicable, any other category and level 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 and, where applicable, level 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 Department 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 1 of Schedule 4 for the production of the category and, where applicable, level of seed intended to be harvested, the Department 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 1 of Schedule 4 for the production of any other category and, where applicable, level of seed to which paragraph (17) applies, stating the conditions (by reference to the relevant category or categories and, where applicable, level 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 Department) 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 1 of Schedule 4 for the production of the category and, where applicable, level 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 1 of Schedule 4 for the production of any other category and, where applicable, level of seed to which paragraph (17) applies, stating the conditions (by reference to the relevant category or categories and, where applicable, level of seed), if any, met by the crop.

(13) Where—

- (a) an application has been made to the Department 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 1 and 3 of Schedule 4 for the production of the category and, where appropriate, level of seed intended to be harvested,

the Department may take account of the results of that examination when carrying out an inspection of the crop to which the paragraph (1) or (3) application relates and in determining whether it should issue a field inspection report under paragraph (9) or (11).

(14) Where paragraph (15) applies, the Department may carry out its own examination of—

- (a) a crop to which an application made under paragraph (3) relates;
- (b) 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
- (c) both the crops referred to in paragraphs (a) and (b).

(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 post-control;
- (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 Department, the Secretary of State, the Scottish Ministers or the National Assembly for Wales; and
- (c) it has been determined by or on behalf of the Department, the Secretary of State, the Scottish Ministers or the National Assembly for Wales, having regard to—

(i) the conditions laid down in paragraphs 4 to 10, 11(4) to (7), 12(4) to (6), 14 and 16 of Schedule 3, and paragraphs 1 to 5, 7, 10, 17, 18 and 20 of Schedule 4, and

(ii) the category and, where applicable, level 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 and, where applicable, level to which the application relates.

(16) Where the Department 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), the Department shall inform the applicant whether it is satisfied that the seed used to produce the crop to which his application relates was satisfactory seed to be used for the production of the category, and, where applicable, level of seed to which his application relates, and, if the Department 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 satisfactory official post control for the production of that category and, where applicable, level of seed.

(17) This paragraph applies to the following categories and, where applicable, levels of seed—

- (a) in the case of an application made under paragraph (1) relating to a regulation 8(1)(a) crop of maize, rye or triticale, other than a component used in the production of a listed hybrid variety in each case, 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 maize or rye, other than a component used in the production of a listed hybrid variety in each case, that has been produced from officially certified pre-basic seed, to the categories of basic and CS seed;
- (c) in the case of an application made under paragraph (1) relating to a regulation 8(1)(a) crop of triticale, other than a component used in the production of a listed hybrid variety, 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 a component used in the production of a listed hybrid variety, to the category of basic seed;
- (e) in the case of an application made under paragraph (1) relating to a regulation 8(1)(b) crop of barley, durum wheat, oats, spelt wheat or wheat, other than a component used in the production of a listed hybrid variety in each case, that has been produced from breeder's seed, to the categories of HVS level and minimum level basic seed;
- (f) in the case of an application made under paragraph (1) relating to a regulation 8(1)(b) crop of barley, durum wheat, oats, spelt wheat or wheat, other than a component of a hybrid variety in each case, that has been produced from officially certified pre-basic seed, to the categories of HVS level basic, minimum level basic, HVS level C1, minimum level C1, HVS level C2 and minimum level C2 seed;
- (g) in the case of an application made under paragraph (1) relating to a regulation 8(1)(c) crop of a component of a hybrid variety of barley, durum wheat, maize (other than a regulation 8(1)(c) crop of maize being grown to produce a simple hybrid of maize as a component of a more complex hybrid), oats, rye, self-pollinating triticale, spelt wheat or wheat, to the category of pre-basic seed;
- (h) in the case of an application made under paragraph (1) relating to a regulation 8(1)(c) crop of maize or rye produced from officially certified pre-basic seed, other than a component of a hybrid in each case, to the categories of pre-basic and CS seed;



- (i) in the case of an application made under paragraph (1) relating to a regulation 8(1)(c) crop of triticale, other than a component of a hybrid variety, produced from officially certified pre-basic seed, to the categories of pre-basic, C1 and C2 seed;
- (j) in the case of an application made under paragraph (1) relating to a regulation 8(1)(d) crop of barley, durum wheat, oats, rye, spelt wheat, triticale or wheat produced from breeder's seed, to the categories of pre-basic and minimum level basic seed;
- (k) in the case of an application made under paragraph (1) relating to a regulation 8(1)(d) crop of barley, durum wheat, oats, spelt wheat or wheat produced from officially certified pre-basic seed, to the categories of pre-basic, minimum level basic, HVS level C1, minimum level C1, HVS level C2 and minimum level C2 seed;
- (l) in the case of an application made under paragraph (1) relating to a regulation 8(1)(e) crop of barley, durum wheat, oats, spelt wheat or wheat that has been produced from breeder's seed, to the categories of pre-basic and HVS level basic seed;
- (m) in the case of an application made under paragraph (1) relating to a regulation 8(1)(e) crop of barley, durum wheat, oats, spelt wheat or wheat that has been produced from officially certified pre-basic seed, to the categories of pre-basic, HVS level basic, HVS level C1, minimum level C1, HVS level C2 and minimum level C2 seed;
- (n) in the case of an application made under paragraph (1) relating to a regulation 8(1)(g) or (n) crop or an application made under paragraph (3) relating to a regulation 8(3)(b) crop of barley, durum wheat, oats, spelt wheat or wheat, to the categories of minimum level C1, HVS level C2, and minimum level C2 seed;
- (o) in the case of an application made under paragraph (1) relating to a regulation 8(1)(h) or (o) crop or an application made under paragraph (3) relating to a regulation 8(3)(c) crop of barley, durum wheat, oats, spelt wheat or wheat, to the categories of HVS level C1, HVS level C2 and minimum level C2 seed;
- (p) in the case of an application made under paragraph (1) relating to a regulation 8(1)(i) or (p) crop or an application made under paragraph (3) relating to a regulation 8(3)(d) crop of triticale, to the category of C2 seed; and
- (q) in the case of an application made under paragraph (1) relating to a regulation 8(1)(j) or (q) crop or an application made under paragraph (3) relating to a regulation 8(3)(e) crop of barley, durum wheat, oats, spelt wheat or wheat, to the category of minimum level C2 seed; and
- (r) in the case of an application made under paragraph (1) relating to a regulation 8(1)(k) or (r) crop or an application made under paragraph (3) relating to a regulation 8(3)(f) crop of barley, durum wheat, oats, spelt wheat or wheat, to the category of HVS level C2 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 Department, the Secretary of State, the Scottish Ministers or the National Assembly for Wales to produce plants which are to be, or have been, examined by or on behalf of the Department, the Secretary of State, the Scottish Ministers or the National Assembly for Wales, as the case may be, to determine whether, having regard to—

- (a) the conditions laid down in—
  - (i) paragraphs 4 to 10, 11(4) to (7), 12(4) to (6), 13 and 15 of Schedule 3, and
  - (ii) paragraphs 1 to 5, 7, 10, 17, 18 and 20 of Schedule 4, and
- (b) the category and, where applicable, level of the seed,

the plants produced in the plot indicate that the corresponding plants in the field are satisfactory plants from which to harvest the category and, where applicable, level 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 Department by a registered person.

(2) This paragraph applies—

- (a) in relation to a crop produced in Northern Ireland, 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 Northern Ireland, 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 National Assembly for Wales, 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, an Annex 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 Department may require;
- (b) shall be made within such time as the Department may require but, unless otherwise permitted by the Department, 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 Department under regulation 12;
- (c) shall, subject to paragraph (4), be accompanied—
  - (i) in relation to a crop produced in Northern Ireland, 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 Northern Ireland, 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 and, where applicable, level of seed has already been provided to the Department by or on behalf of the Secretary of State, the Scottish Ministers or the National Assembly for Wales (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 Department may require.

(4) The Department may permit, subject to any conditions that the Department 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 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 and, where appropriate, level, 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 Department 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 Department 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 Department 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 and, where appropriate, level of seed to which paragraph (6) applies as a crop for the production of another category and, where appropriate, level of seed (“the new category”) to which that paragraph applies may be made to the Department 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 Department 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 Department 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 Department 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 1 of Schedule 4 for the production of the new category and, where appropriate, level of seed if—
  - (i) the previous field inspection report issued in respect of the crop was not issued by it, and
  - (ii) the condition and stage of development of the crop permit an adequate examination; and
- (b) the Department may, in the case of an application to re-grade a crop as a crop to produce CS, C1 or C2 seed, carry out a field inspection of the crop to determine whether it meets the conditions laid down in Schedule 3 and Part 1 of Schedule 4 for the production of the new category and, where appropriate, level of seed if the condition and stage of development of the crop permit an adequate examination.

(4) If the Department—

- (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 1 of Schedule 4 for the production of the new category and, where appropriate, level 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 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, third country 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 1 of Schedule 4 for the production of the new category and, where appropriate, level 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 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, third country 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 1 of Schedule 4 for the production of the new category and, where appropriate, level of seed,

the Department 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) or (c)(ii), as the case may be, and that the application to re-grade the crop has been successful.

(5) If the Department is satisfied that the conditions specified in paragraph (4) for the relevant category and, where applicable, level of seed have not been met it shall notify the applicant that his application to re-grade the crop has been unsuccessful.

- (6) This paragraph applies to the following categories and levels of seed—
- (a) pre-basic seed;
  - (b) basic seed of maize, rye or triticale, other than a component of a hybrid in each case;
  - (c) basic seed of a component of a hybrid variety of barley, durum wheat, maize (other than a simple hybrid of maize which is a component of a more complex hybrid), oats, rye, self-pollinating triticale, spelt wheat or wheat;
  - (d) in the case of barley, durum wheat, oats, spelt wheat or wheat, HVS level basic seed;
  - (e) in the case of barley, durum wheat, oats, spelt wheat or wheat, minimum level basic seed;
  - (f) in the case of maize or rye, other than a hybrid, CS seed;
  - (g) in the case of barley, durum wheat, oats, spelt wheat or wheat, HVS level C1 seed;
  - (h) in the case of barley, durum wheat, oats, spelt wheat or wheat, minimum level C1 seed;
  - (i) in the case of triticale, C1 seed;
  - (j) in the case of barley, durum wheat, oats, spelt wheat or wheat, HVS level C2 seed;
  - (k) in the case of barley, durum wheat, oats, spelt wheat or wheat, minimum level C2 seed; and
  - (l) in the case of triticale, C2 seed.

### **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 of—
  - (i) maize or rye (including a hybrid of maize or rye);

- (ii) triticale; or
  - (iii) a hybrid of barley, durum wheat, oats, self-pollinating triticale, spelt wheat or wheat, as basic seed (“a regulation 11(1)(b) seed lot”);
  - (c) barley, durum wheat, oats, spelt wheat or wheat seed, other than a component of a hybrid variety in each case, as HVS level basic seed (“a regulation 11(1)(c) seed lot”);
  - (d) barley, durum wheat, oats, spelt wheat or wheat seed, other than a component of a hybrid variety in each case, as minimum level basic seed (“a regulation 11(1)(d) seed lot”);
  - (e) seed of—
    - (i) maize or rye (including a hybrid of maize or rye), or
    - (ii) a hybrid of barley, durum wheat, oats, self-pollinating triticale, spelt wheat or wheat, as CS seed (“a regulation 11(1)(e) seed lot”);
  - (f) barley, durum wheat, oats, spelt wheat or wheat seed as HVS level C1 seed (“a regulation 11(1)(f) seed lot”);
  - (g) barley, durum wheat, oats, spelt wheat or wheat seed as minimum level C1 seed (“a regulation 11(1)(g) seed lot”);
  - (h) triticale seed as C1 seed (“a regulation 11(1)(h) seed lot”);
  - (i) barley, durum wheat, oats, spelt wheat or wheat seed as HVS level C2 seed (“a regulation 11(1)(i) seed lot”);
  - (j) barley, durum wheat, oats, spelt wheat or wheat seed as minimum level C2 seed (“a regulation 11(1)(j) seed lot”); and
  - (k) triticale seed as C2 seed (“a regulation 11(1)(k) seed lot”).
- (2) An application made under this regulation shall not be made in respect of seed of a variety, or 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 Department instead of a licensed seed testing station.
- (4) If permitted by the Department, 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 Department 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 Department may require.
- (6) Following the receipt of an application made under this regulation the licensed seed testing station (or the Department 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 2 of Schedule 4—
- (a) for the category and, where applicable, level of seed for which the application is being made, and
  - (b) unless requested not to do so by the applicant, for any other category and level 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 Department in a case where an application made under this regulation is being considered by it under paragraph (3) or has been made to it under paragraph (4)) in accordance with paragraph (8) (a), (9), (10), (11) or (12) in respect of a seed lot, the licensed seed testing station (or the Department 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 it) to determine that the official sample would meet the conditions laid down in Part 2 of Schedule 4—

- (a) for the appropriate category and, where applicable, level of seed, and
- (b) where applicable, for any other category and level 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 2 of Schedule 4 for—
  - (i) the appropriate category and, where applicable, level of seed, and
  - (ii) where applicable, for any other category and level of seed to which paragraph (14) applies, or
- (b) the provisions of paragraph (7) apply,

the licensed seed testing station (or the Department where paragraph (3) or (4) applies) shall issue a seed test report to the applicant stating (by reference to the relevant category or categories and, where applicable, level 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), (b), (c) or (d) seed lot will not meet the applicable germination condition but the sample is found to satisfy all the other conditions laid down in Part 2 of Schedule 4 for the appropriate category of seed, the licensed seed testing station (or the Department 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 all the other conditions laid down in Part 2 of Schedule 4—

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

the licensed seed testing station (or the Department 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 all the other conditions laid down in Part 2 of Schedule 4 for the appropriate category and, where applicable, level of seed, and, where applicable, for any other category and level 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, the licensed seed testing station (or the Department 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 2 of Schedule 4 for the appropriate category and, where applicable, level of seed, and, where applicable, for any other category and level 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 conditions laid down in Part 2 of Schedule 4 for the appropriate category and, where applicable, level of seed, the licensed seed testing station (or the

Department 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
- (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 2 of Schedule 4 for any other category and, where applicable, level of seed to which paragraph (14) applies, stating (by reference to the relevant category and level) whether the seed has been found to meet the conditions for any such category and level.

(13) If it appears to the Department 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 2 of Schedule 4 was not taken in accordance with the requirements of regulation 23 the Department 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 the Department's 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 and levels of seed—

- (a) in the case of an application made under this regulation relating to a regulation 11(1)(a) seed lot of barley, durum wheat, oats, spelt wheat or wheat, other than a component used in the production of a listed hybrid variety in each case, to the categories of minimum level basic seed, minimum level C1 and minimum level C2 seed, and, if requested by the applicant, the categories of HVS level basic, HVS level C1 and HVS level C2 seed;
- (b) in the case of an application made under this regulation relating to a regulation 11(1)(a) seed lot of triticale, other than a component used in the production of a listed hybrid variety, 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 maize or rye, other than a component used in the production of a listed 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 listed hybrid variety of barley, durum wheat, oats, rye, self-pollinating triticale, spelt wheat or wheat, to the category of basic seed;
- (e) 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 listed hybrid variety of maize (other than where the component itself is a hybrid and is a component of a hybrid variety which is itself a component of another hybrid variety) to the category of basic seed;
- (f) in the case of an application made under this regulation relating to a regulation 11(1)(b) seed lot of triticale, other than a component of a hybrid variety, 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 maize or rye, 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, other than a component which is itself a hybrid, to the category of pre-basic seed;



- (i) in the case of an application made under this regulation relating to a regulation 11(1)(c) seed lot of barley, durum wheat, oats, spelt wheat or wheat, other than a component of a hybrid variety in each case, to the categories of pre-basic, minimum level basic, minimum level C1 and minimum level C2 seed, and, if requested by the applicant, to the categories of HVS level C1 and HVS level C2 seed;
  - (j) in the case of an application made under this regulation relating to a regulation 11(1)(d) seed lot of barley, durum wheat, oats, spelt wheat or wheat, other than a component of a hybrid variety in each case, to the categories of pre-basic, minimum level C1 and minimum level C2 seed, and, if requested by the applicant, to the categories of HVS level C1 and HVS level C2 seed;
  - (k) in the case of an application made under this regulation relating to a regulation 11(1)(f) seed lot of barley, durum wheat, oats, spelt wheat or wheat, to the categories of minimum level C1 and minimum level C2 seed, and, if requested by the applicant, the category of HVS level C2 seed;
  - (l) in the case of an application made under this regulation relating to a regulation 11(1)(g) seed lot of barley, durum wheat, oats, spelt wheat or wheat, to the category of minimum level C2 seed, and, if requested by the applicant, the category of HVS level C2 seed;
  - (m) in the case of an application made under this regulation relating to a regulation 11(1)(h) seed lot of triticale, to the category of C2 seed; and
  - (n) in the case of an application made under this regulation relating to a regulation 11(1)(i) seed lot of barley, durum wheat, oats, spelt wheat or wheat, to the category of minimum level C2 seed.
- (15) In this regulation “qualifying seed lot” means a seed lot—
- (a) containing seed harvested from a crop produced in Northern Ireland 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 1 of Schedule 4 for the production of any category and, where applicable, level of seed referred to in regulation 8(11)(b);
    - (iv) regulation 8(12) in a case where the crop has been found to meet the conditions laid down in Schedule 3 and Part 1 of Schedule 4 for the production of any category and, where applicable, level of seed referred to in regulation 8(12)(b);
  - (b) containing seed harvested from a crop produced in the United Kingdom elsewhere than in Northern Ireland—
    - (i) in respect of which the Department has received confirmation of crop approval by or on behalf of the Secretary of State, the Scottish Ministers or the National Assembly for Wales (as the case may be) that the crop meets conditions equivalent to those laid down in Schedule 3 and Part 1 of Schedule 4, or
    - (ii) for which a copy of the field inspection report relating to the crop has been lodged with the Department in accordance with regulation 9; or
  - (c) imported into the United Kingdom as—
    - (i) not finally certified pre-basic, basic, CS, C1 or C2 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 Department in accordance with regulation 9, or

- (ii) not finally certified CS, C1 or C2 seed harvested in an equivalent third country and for which the Annex II.A(3) official certificate relating to the crop from which the seed in the seed lot was harvested has been lodged with the Department 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 Department—

- (a) except in relation to seed to which sub-paragraph (b) applies, within one month of the report being issued or within such time as the Department may otherwise allow; 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 or within such time as the Department may otherwise allow.

(2) An application to lodge a final seed test report—

- (a) shall be made in such form and manner as the Department may require, and
- (b) shall be accompanied by the final seed test report and such other information and documents as the Department may require.

(3) Subject to paragraph (4), the Department shall acknowledge receipt of each final seed test report lodged with it.

(4) Subject to paragraph (5), unless specifically requested to do so by the applicant, the Department 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 Department 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 the Department 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)(b).

### **Re-grading of seed**

**13.**—(1) An application to re-grade seed of any category and, where applicable, level specified in entry 1, 2, 3 or 4 in column 1 of the table in Schedule 5 as seed of any category and, where applicable, level (“the new category”) specified in entry 1, 2, 3 or 4 respectively in column 2 of the table may be made to the Department 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 Department shall require and, if required by the Department, 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 Department may require for the purpose of determining the application.

(3) The Department—

- (a) may test, or arrange for a licensed seed testing station to test, the official sample referred to in paragraph (2) in a case where an application has been made under this regulation to re-grade—
  - (i) UK, EC, third country or overseas tested officially certified pre-basic seed of a listed variety as UK officially certified basic seed of a listed variety;
  - (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 testing station to test, the official sample in the case of any other application made under this regulation, to determine whether it meets the conditions laid down in Part 2 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 Department 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 2 of Schedule 4 for the appropriate category and, where applicable, level of seed.

(5) Where—

- (a) in the case of an application to re-grade seed as pre-basic or basic seed, the Department 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 Northern Ireland, the Department 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 Northern Ireland, a field inspection of the crop was carried out by or on behalf of the Secretary of State, the Scottish Ministers or the National Assembly for Wales;
  - (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 or C2 seed, the Department is satisfied that the seed has been produced from UK, EC, 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 or C1 seed, the Department is satisfied that the seed has been harvested from a crop produced, with the breeder's written authority, directly from UK, EC, third country or overseas tested officially certified pre-basic seed of a listed variety;
- (e) in the case of an application to re-grade seed as C2 seed, the Department is satisfied that the seed has been harvested from a crop produced directly from—

- (i) UK, EC, third country or overseas tested officially certified basic seed of a listed variety, or
  - (ii) with the breeder's written authority, from UK, EC, third country or overseas tested officially certified pre-basic seed of a listed variety;
  - (f) the Department is satisfied that the seed was harvested from a crop that met the conditions laid down in Schedule 3 and Part 1 of Schedule 4 for the production of the new category of seed;
  - (g) 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 2 of Schedule 4 for the new category of seed; and
  - (h) in a case where the official sample referred to in paragraph (2) has not been tested, the Department is satisfied on the basis of the information contained in a seed test report previously issued in respect of the lot—
    - (i) by or on behalf of the Department, the Secretary of State, the Scottish Ministers or the National Assembly for Wales or by a licensed seed testing station;
    - (ii) by or 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 2 of Schedule 4 for the new category of seed, the Department shall notify the applicant that his application to re-grade the seed lot has been successful.
- (6) Where the Department is satisfied that the conditions specified in paragraph (5) have not been met it shall notify the applicant that the application to re-grade the seed lot has been unsuccessful.

### **Withdrawals**

- 14.—**(1) The Department 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(6);
  - (b) on the basis of information received by the Department 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 1 of Schedule 4; or
  - (c) on the basis of information received by the Department it is satisfied that the seed in the lot, or part of the lot—
    - (i) did not meet the conditions laid down in Part 2 or 4 of Schedule 4 at the time the seed was tested for seed certification purposes, or
    - (ii) although it met the requirements of Part 2 of Schedule 4 at the time of such testing it no longer meets them.
- (2) The Department 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 under regulation 11 in respect of the seed lot; 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 Department 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 any of the seed has been sold or supplied 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 any of the seed has been sold or supplied of the withdrawal as soon as practicable after receiving notice of it—

- (a) pursuant to paragraph (3), by the Department, or
- (b) pursuant to paragraph (4), by the person who sold or supplied the seed, and, in any case, not later than 7 days after receiving such notice.

## PART 3

### Control of cereal seed

#### Marketing of seed

**15.**—(1) Subject to paragraph (2) and regulations 19 to 23, a person shall not 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 Department, 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 HVS seed

**16.**—(1) This regulation applies to the marketing of any officially certified basic, C1 or C2 seed of barley, durum wheat, oats, spelt wheat or wheat where any label or notice affixed to, contained in or marked on any package containing the seed, any document accompanying the seed or any particulars displayed in respect of the seed, states or indicates that the seed attains the Higher Voluntary Standards for such seed.

(2) Where any person markets seed to which this regulation applies, the person marketing the seed shall be deemed to state for the purposes of these Regulations, and in relation to the particulars given to a purchaser, that—

- (a) the crop from which the seed has been harvested met the Higher Voluntary Standards for such seed laid down in Schedule 3 and Part 1 of Schedule 4;
  - (b) the seed meets the Higher Voluntary Standards for such seed laid down in Part 2 of Schedule 4; and
  - (c) a successful application has been made to the Department under paragraph (3) verifying that the crop and seed has attained those standards.
- (3) An application for verification that basic, C1 or C2 seed of barley, durum wheat, oats, spelt wheat or wheat has attained the Higher Voluntary Standards for such seed may be made to the Department in such form and manner and containing such information and accompanied by such documents as the Department may require and the Department shall grant the application if the Department is satisfied that—
- (a) the crop from which the seed has been harvested met the Higher Voluntary Standards for such seed laid down in Schedule 3 and Part 1 of Schedule 4; and
  - (b) the seed meets the Higher Voluntary Standards for such seed laid down in Part 2 of Schedule 4.

#### **Marketing of officially certified lower germination seed**

17. A person shall not 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, his name and address and the reference number of the seed lot.

#### **Marketing of officially certified early movement seed**

18.—(1) A person shall not market officially certified early movement pre-basic or basic seed unless—

- (a) that person guarantees a minimum percentage of germination for the seed that is—
  - (i) the same as the EC minimum percentage of germination for the relevant species of seed and the same as or less than the percentage of germination for the seed ascertained by the provisional analysis on which the certification of the seed was based, or
  - (ii) less than the EC minimum percentage of germination for the relevant species of seed and the same as the percentage of germination ascertained by the provisional analysis on which the certification of the seed was based; and
- (b) that person provides the purchaser, upon or before delivery of the seed, with a statement—
  - (i) stating that the seeds are being marketed before the completion of the official germination test;
  - (ii) specifying the guaranteed minimum percentage of germination; and

- (iii) specifying the name and address of the person marketing the seed and the reference number of the seed lot.
- (2) A person shall not market officially certified early movement CS, C1 or C2 seed unless—
  - (a) that person guarantees a minimum percentage of germination for the seed that is—
    - (i) the same as the EC minimum percentage of germination for the relevant species of seed, and
    - (ii) the same as, or less than, the percentage of germination for the seed ascertained by the provisional analysis on which the certification of the seed was based, and
  - (b) that person provides the purchaser, upon or before delivery of the seed, with a statement—
    - (i) stating that the seeds are being marketed before the completion of the official germination test;
    - (ii) specifying the guaranteed minimum percentage of germination; and
    - (iii) specifying the name and address of the person marketing the seed and the reference number of the seed lot.
- (3) Where any person—
  - (a) markets seed in accordance with paragraph (1) or (2), and
  - (b) the official germination test shows that the percentage of germination of the seed is less than the minimum percentage of germination guaranteed in accordance with the requirements of paragraph (1)(a) or (2)(a) as the case may be,

he shall provide the purchaser with the result of the completed official germination test as soon as practicable and, in any event, not later than seven days after being informed of it.

### **Exception for scientific purposes and selection work**

**19.**—(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 Department in accordance with this regulation, or
- (b) an authorisation has been granted to the producer by or on behalf of—
  - (i) the Secretary of State;
  - (ii) the Scottish Ministers;
  - (iii) the National Assembly for Wales; or
  - (iv) a competent seed certification authority in another member State,

pursuant to Article 4a(1)(a) of the Cereal Seed Directive.

(2) A producer in Northern Ireland may apply to the Department for a regulation 19 authorisation.

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

(4) The Department shall not grant a regulation 19 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 19 authorisation may—
  - (a) specify the amount of seed that may be marketed under it; and



- (b) impose such conditions as the Department 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 test and trials**

**20.**—(1) The prohibition in regulation 15(1) shall not apply to the marketing by a producer of seed for test and trial purposes in accordance with—

- (a) an authorisation which has been granted to the producer by the Department in accordance with this regulation; or
- (b) an authorisation which has been granted to the producer by or on behalf of—
  - (i) the Secretary of State;
  - (ii) the Scottish Ministers;
  - (iii) the National Assembly for Wales; or
  - (iv) a competent seed certification authority in another member State, in accordance with Article 2(1) of the 2004 Commission Decision.

(2) A producer shall not market test and trial seed—

- (a) except for the purposes of tests or trials carried out at agricultural enterprises to gather information on the cultivation or use of a variety of a cereal species specified in Schedule 2;
- (b) unless a field inspection report has been issued by the Department or by a licensed crop inspector stating that—
  - (i) for the following varieties, the crop satisfies the conditions for CS seed laid down in Schedule 3—
    - (aa) rye and maize (including hybrids of rye and maize); and
    - (bb) hybrids of barley, durum wheat, oats, spelt wheat, triticale other than self-pollinating varieties and wheat; and
  - (ii) for non-hybrid varieties of barley, durum wheat, oats, self-pollinating triticale, spelt wheat and wheat, the crop satisfies the conditions for C2 seed laid down in Schedule 3;
- (c) unless a seed test report has been issued by the Department or by a licensed seed testing station stating that—
  - (i) for the following varieties, the seed to which the application relates has been found to meet the conditions for CS seed laid down in Schedule 4—
    - (aa) rye and maize (including hybrids of rye and maize); and
    - (bb) hybrids of barley, durum wheat, oats, spelt wheat, triticale other than self-pollinating varieties and wheat; and
  - (ii) for non-hybrid varieties of barley, durum wheat, oats, self-pollinating triticale, spelt wheat and wheat, the seed satisfies the conditions for C2 seed laid down in Schedule 4; or
- (d) if such marketing would contravene a prohibition on the use of the variety published by the Department in the gazette that complies with Article 14 of the 2004 Commission Decision.

(3) A producer of seed established in Northern Ireland may apply to the Department for the grant or renewal of a regulation 20 authorisation.

(4) A regulation 20 authorisation granted by the Department shall last for a period of one year or such shorter period as the Department may specify.

(5) An application for authorisation or renewal of a regulation 20 authorisation shall be made in writing to the Department and shall be accompanied by such information as the Department may require.

(6) The Department shall not grant a regulation 20 authorisation unless it is satisfied that—

(a) the seed is of a variety for which an application has been made by the producer under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001 for acceptance on to a National List and which application has not been withdrawn or finally determined; and

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

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

(ii) the Food and Feed Regulation.

(7) The Department shall not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.

(8) A regulation 20 authorisation may impose such conditions as the Department may think necessary or desirable having regard to the nature of the test or trial and the nature of the seed to which the authorisation relates.

(9) The Department may withdraw a regulation 20 authorisation where there is a breach of any condition referred to in paragraph (8).

(10) A regulation 20 authorisation shall cease to have effect where the application referred to in paragraph (6)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.

(11) The Department may require a person to whom a regulation 20 authorisation has been granted to provide the Department with information about—

(a) the results of the tests and trials to which the authorisation relates; or

(b) the quantities of seed marketed during the authorised period and the name of the member State for which the seed was destined.

(12) A producer to whom a regulation 20 authorisation has been granted shall, within such period as is specified by the Department, lodge copies of the reports referred to in paragraphs (2)(b) and (c) with the Department.

### **Exception for conservation varieties**

**21.—**(1) The prohibition in regulation 15(1) does not apply to the marketing of seed of a conservation variety, provided that the requirements of this regulation are met.

(2) The seed must be descended from seed produced according to well defined practices for maintenance of the variety.

(3) The seed must have been harvested from a crop that—

(a) has been produced in the region of origin for the variety, and

(b) satisfies the conditions laid down in Schedule 3 and Part 1 of Schedule 4 for a crop from which CS, C1 or C2 seed (whichever is the final generation) for the species in question is to be produced, except for the conditions in respect of minimum varietal purity and those concerning official examination or examination under official supervision.

(4) The seed must satisfy the conditions laid down in Parts 2 and 4 of Schedule 4 for CS, C1 or C2 seed (whichever is the final generation) for the species in question, except for the conditions in respect of minimum varietal purity and those concerning official examination or examination under official supervision.

(5) The seed may only be marketed in its region of origin.

(6) A person proposing to produce seed of a conservation variety must supply the Department, in such manner and form as the Department requires, with details in writing of the size and location of the area to be used to produce that seed.

(7) For the purposes of Articles 14 and 15(2) of Commission Directive 2008/62, the Department may specify the maximum amount of conservation variety seed which may be marketed in any given production season; and different maxima for different persons or classes of persons may be specified.

(8) The amount of seed marketed by a person must not exceed any maximum amount specified under paragraph (7) in relation to that person.

(9) Any person marketing seed of a conservation variety must supply the Department, on request, with details in writing of the amount and variety of the seed placed on the market during each production season.

(10) In this regulation—

- (a) “official examination or examination under official supervision” means an official UK field inspection, a UK field inspection carried out under official supervision, or a seed test carried out by an official testing station or under official supervision by a licensed seed testing laboratory;
- (b) “region of origin” has the meaning given to it by regulation 2(1) of the Seeds (National Lists of Varieties) Regulations 2001, but also includes any other area approved by the Department for the purposes of the second paragraph of Article 11(1) of Commission Directive 2008/62.

### **General exemptions**

**22.**—(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 Department 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 Department 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 Department 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 13a of the Cereal Seed Directive;
  - (b) to give effect to the provisions of a Council Decision made under Article 16 of the Cereal 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 17 of the Cereal Seed Directive.
- (4) A general licence issued under paragraph (2)—
- (a) shall have effect during the period specified in it unless the Department revokes it earlier, and
  - (b) may impose such conditions as the Department 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

**23.**—(1) The prohibition in regulation 15(1) shall not apply to the marketing of a mixture of seeds to which paragraph (2) applies.

- (2) This paragraph applies to—
- (a) a specific mixture of various varieties of one species of seed—
    - (i) that, as a mixture, is effective against the propagation of a harmful organism, and
    - (ii) each component of which complied, before mixing, with the relevant provisions of these Regulations;
  - (b) a mixture of different species of seeds, each component of which complied, before mixing, with the relevant provisions of these Regulations; and
  - (c) a mixture of seeds permitted by the Fodder Plant Seed Regulations (Northern Ireland) 2009(17) that includes seed of a species to which these Regulations apply and that complied, before mixing with the fodder plant seed, with the relevant provisions of these Regulations.

## Sampling

**24.**—(1) A sample of seeds taken in connection with an application made under regulation 6, 11, 13 or 20 shall be drawn—

- (a) by—
  - (i) an authorised officer, or
  - (ii) a licensed seed sampler acting under the supervision of the authority who appointed him;
- (b) in accordance with the method laid down in Schedule 5 of the Seed (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009; and
- (c) from a homogeneous seed lot.

(2) A sample of seed taken from a conservation variety for the purpose of checking compliance with these Regulations must be taken from a homogeneous seed lot.

(3) Subject to paragraph (3), the maximum weight of a seed lot shall be that set out in column of the table in Schedule 7.

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

(5) The minimum weight of a sample shall be that set out in column (4) of the table in Schedule 7.

(6) The minimum weight of a sample for a moisture test shall be that specified in column (5) of the table in Schedule 7.

(7) 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 (2); or
- (c) does not comply with paragraph (4) or (5);

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**

25.—(1) A person shall not market—

- (a) any officially certified pre-basic, basic, CS, C1 or C2 seed; or
- (b) a mixture of seeds to which regulation 23 applies,

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

(2) Subject to paragraph (3), a person shall not market—

- (a) breeder's seed;
- (b) officially certified pre-basic, basic, CS, C1 or C2 seed;
- (c) a mixture of seeds to which regulation 23 applies;
- (d) test and trial seed; or
- (e) seed of a conservation variety,

unless it is in a properly sealed package.

(3) Paragraph (2)(a), (b) and (c) shall not apply in the case of—

- (a) the marketing of seed not exceeding 5 kilograms in weight to the final consumer; and
- (b) the marketing of officially certified CS seed (other than maize), C1 seed or C2 seed in bulk direct to the final consumer in a container that is closed after filling and in respect of which the person marketing the seed delivers a note to the final consumer containing the information given on the official label on the container from which the seed was taken.

(4) In this regulation, in the case of breeder's seed and seed of a conservation variety, "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 Northern Ireland, 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 26(6) 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;
- (b) in the case of a package of seed sealed in—
  - (i) the United Kingdom, elsewhere than in Northern Ireland, or
  - (ii) another member State,

a sealed package of seed that has been sealed in accordance with the provisions of Article 9(1) of the Cereal Seed Directive;

- (c) in the case of a package of seed sealed in an equivalent third country, a sealed package of seed that has been sealed in accordance with the provisions of paragraph 1 of Part B of Annex II to the Third Country Equivalence Decision.

(6) This paragraph applies to a package of officially certified pre-basic, basic, CS, C1 or C2 seed other than a small package of such seed that has been sealed in the United Kingdom.

(7) In this regulation, in relation to a package of a mixture of seeds to which paragraph (8) applies and that has been sealed only once, “properly sealed package” means a sealed package of seed that has been sealed—

- (a) in the case of a package of seed sealed in Northern Ireland, a sealed package of seed that has been sealed—
  - (i) by a person to whom regulation 26(6) applies;
  - (ii) 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
  - (iii) 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;

(8) This paragraph applies to a package of a mixture of seeds to which regulation 24 applies other than a small package of such seed that has been sealed in the United Kingdom.

(9) In this regulation, in the case of—

- (a) a small package of officially certified pre-basic, basic, CS, C1 or C2 seed, and
- (b) a small package of a mixture of seeds to which regulation 24 applies, 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.

(10) In this regulation, in the case of a package of seed to which paragraph (11) applies 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 Northern Ireland, a sealed package of seed that, on each occasion it has been resealed, has been resealed—
  - (i) by a person to whom regulation 26(6) 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;
- (b) in the case of a package of seed that has been resealed in—
  - (i) the United Kingdom, elsewhere than in Northern Ireland, or
  - (ii) another member State,

a sealed package of seed that, on each occasion it has been resealed, has been sealed in accordance with the provisions of Article 9(2) of the Cereal Seed Directive;

- (c) in the case of seed that has been resealed in an equivalent third country, a sealed package of seed that, on each occasion it has been resealed, has been resealed in accordance with the provisions of paragraph 1 of Part B of Annex II to the Third Country Equivalence Decision.

(11) This paragraph applies to—

- (a) a package of officially certified pre-basic, basic, CS, C1 or C2 seed, and
- (b) a package of a mixture of seeds to which regulation 24 applies,

other than a small package of such seed that has been sealed in the United Kingdom or another member State.

(12) In this regulation, in the case of test and trial seed, a “properly sealed package” means—

- (a) in the case of a package of seed sealed in Northern Ireland, a package of seed that has been sealed—
  - (i) by a person to whom regulation 26(6) applies;

- (ii) 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
- (iii) 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) the United Kingdom, elsewhere than in Northern Ireland, or
  - (ii) another member State,
 a package of seed that has been sealed in accordance with the provisions of Article 8 of the 2004 Commission Decision.

### **Sealing of packages**

- 26.**—(1) Subject to paragraph (2), no person shall seal a package of—
- (a) officially certified pre-basic, basic, CS, C1 or C2 seed, or
  - (b) a mixture of seeds to which regulation 24 applies,
- except a person to whom paragraph (6) applies.
- (2) Paragraph (1) shall not apply to the sealing of a small package of officially certified pre-basic, basic, CS, C1 or C2 seed.
- (3) Subject to paragraph (4), no person shall reseal a package of—
- (a) officially certified pre-basic, basic, CS, C1 or C2 seed, or
  - (b) a mixture of seeds to which regulation 24 applies,
- except a person to whom paragraph (6) applies.
- (4) Paragraph (3) shall not apply—
- (a) to a small package of seed, or
  - (b) 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.
- (5) A person shall not seal or reseal a package of test and trial seed except a person to whom paragraph (6) applies.
- (6) 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.

### **Labelling of packages**

- 27.**—(1) Subject to paragraphs (2), (3) and (4), no person shall market any—
- (a) breeder's seed;
  - (b) officially certified pre-basic, basic, CS, C1 or C2 seed;
  - (c) a mixture of seeds to which regulation 24 applies;
  - (d) test and trial seed; or
  - (e) seed of a conservation variety,
- 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) Paragraph (1) shall not apply to the marketing of officially certified CS seed (other than maize), officially certified C1 seed or C2 seed in bulk direct to the final consumer in a container that is closed after filling and in respect of which the person marketing the seed delivers a note to the final consumer, not later than the time of delivery of the seed, containing the information given on the official label on the container from which the seed was taken.

(4) A person may market any seed, other than test and trial seed or seed of a conservation variety, otherwise than in a package that complies with the other provisions of this regulation direct to the final consumer where the seed is sold or supplied in a quantity not exceeding 5 kilograms and is 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 in the case of seed other than a mixture and paragraph 2 of that Schedule in the case of a mixture of seeds.

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

(6) A package of officially certified pre-basic seed, other than a small package of such seed sealed in the United Kingdom, shall be labelled—

- (a) in the case of a package of seed sealed in Northern Ireland, in accordance with paragraphs 5 to 8 of Schedule 8, and
- (b) in the case of a package of seed sealed—
  - (i) in the United Kingdom, elsewhere than in Northern Ireland, or
  - (ii) in another member State,in accordance with the provisions of Article 14a(c) of the Cereal Seed Directive; and
- (c) in the case of a package of seed sealed in an equivalent third country, in accordance with the provisions of paragraphs 1 and 3 of Part B of Annex II to the Third Country Equivalence Decision.

(7) A package of officially certified basic, CS, C1 or C2 seed, other than a small package of such seed sealed in the United Kingdom, shall be labelled—

- (a) in the case of a package of seed sealed in Northern Ireland, in accordance with paragraphs 9 to 13 of Schedule 8;
- (b) in the case of a package of seed sealed—
  - (i) in the United Kingdom, elsewhere than in Northern Ireland, or
  - (ii) in another member State,in accordance with the provisions of Article 10(1)(a) of the Cereal Seed Directive as they apply to basic, CS, C1 or C2 seed; and
- (c) in the case of a package of seed sealed in an equivalent third country, in accordance with the provisions of paragraphs 1 and 3 of Part B of Annex II to the Third Country Equivalence Decision.

(8) A small package of officially certified pre-basic, basic, CS, C1 or C2 seed sealed in the United Kingdom shall be labelled—

- (a) in the case of a package of seed sealed in Northern Ireland, in accordance with paragraphs 14 to 16 of Schedule 8, and
- (b) in the case of a package of seed sealed in the United Kingdom, elsewhere than in Northern Ireland, in accordance with provisions equivalent to the ones contained in subparagraph (a).

(9) A package of a mixture of seeds to which regulation 24 applies, other than a small package of such seeds sealed in the United Kingdom, shall be labelled—



- (a) in the case of a package of seed sealed in Northern Ireland, in accordance with paragraphs 17 to 21 of Schedule 8, and
  - (b) in the case of a package of seed sealed—
    - (i) in the United Kingdom, elsewhere than in Northern Ireland, or
    - (ii) in another member State,
      - in accordance with the provisions of Article 10(1)(a) of the Cereal Seed Directive as read with Article 13(3) of that Directive.
- (10) A small package of a mixture of seeds to which regulation 24 applies sealed in the United Kingdom shall be labelled—
- (a) in the case of a package of seed sealed in Northern Ireland, in accordance with paragraphs 22 to 24 of Schedule 8, and
  - (b) in the case of a package of seed sealed in the United Kingdom, elsewhere than in Northern Ireland, in accordance with provisions equivalent to the ones contained in subparagraph (a).
- (11) A package of Officially certified basic, CS, C1 or C2 (other than a small package of such seed sealed in the United Kingdom) and a package of a mixture of seeds to which regulation 24 applies (other than a small package of such seed sealed in the United Kingdom) shall contain a document that—
- (a) in the case of a package of seed sealed in Northern Ireland —
    - (i) is the same colour as the official label fixed to the outside of the package in accordance with the provisions of this regulation, and
    - (ii) that contains the particulars specified in paragraph 9(c), (e) and (f) of Schedule 8, in the case of basic, CS, C1 or C2 seed, and paragraph 17(a) and (c) of Schedule 8 in the case of a mixture of seeds to which regulation 24 applies;
  - (b) in the case of a package of seed sealed—
    - (i) in the United Kingdom, elsewhere than in Northern Ireland, or
    - (ii) in another member State,
      - is in accordance with the provisions of Article 10(1)(b) of the Cereal Seed Directive as they apply to such seed and as read with Article 13(3) of that Directive in the case of a mixture of seeds to which regulation 24 applies; and
  - (c) in the case of a package of seed sealed in an equivalent third country, is in accordance with the provisions of paragraph 3.3 of Part B of Annex II to the Third Country Equivalence Decision.
- (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, or
  - (b) the official label is an adhesive or a tear resistant label.
- (13) Notwithstanding paragraph (7) a package (other than a small package) of officially certified basic, CS, C1 or C2 seed may be marketed if—
- (a) the appropriate particulars of the matters specified in paragraphs 9(a) to (l) of Schedule 8, and if so desired the particulars specified in paragraph 10 of that Schedule, are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified, and
  - (b) the requirements of Part 6 of that Schedule are satisfied.
- (14) A package of test and trial seed shall be labelled—

- (a) in the case of a package of seed sealed in Northern Ireland, in accordance with paragraphs 32, 33 and 34 of Schedule 8; and
  - (b) in the case of a package of seed sealed—
    - (i) in the United Kingdom, elsewhere than in Northern Ireland, or
    - (ii) in another member State,in accordance with the provisions of Article 9 of the 2004 Commission Decision.
- (15) A package of seed of a conservation variety must be labelled—
- (a) in the case of a package of seed sealed in Northern Ireland, in accordance with paragraph 35 of Schedule 8; and
  - (b) in the case of a package of seed sealed—
    - (i) in the United Kingdom, elsewhere than in Northern Ireland, or
    - (ii) in another member State,in accordance with the provisions of Article 18 of Commission Directive 2008/62.
- (16) 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 (4),
- shall clearly indicate that the variety has been genetically modified.
- (17) If any breeder's seed or officially certified pre-basic, basic, CS, C1, C2 seed or test and trial seed or a mixture of seeds to which regulation 23 applies 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) or (4) applies, with the particulars given in accordance with that paragraph; and
  - (b) in a case where paragraph (3) or (4) does not apply—
    - (i) on a separate supplier's label on the package; or
    - (ii) on the label required under paragraph (5), (6), (7), (8), (9), (10) or (14);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.
- (18) Subject to paragraph (17), if a package of officially certified pre-basic, basic, CS, C1 or C2 seed, other than a small package of such seed, has 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.
- (19) Where a package of seed of the type specified in paragraphs 4, 10, 18, 19(3), 24, 25(3), 32, 33(3), 33(4), 40 and 41(3), 41(4), 48, 49(3) or 49(4) of Schedule 1 is resealed, the package shall be labelled with an OECD label containing the particulars otherwise required under this regulation.
- (20) The particulars and the information given in accordance with this regulation shall be given in one of the official languages of any member State.
- (21) 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 himself 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.

## PART 4

### Miscellaneous and supplemental provisions

#### **Civil liability of sellers of seeds**

**28.**—(1) Particulars given to a purchaser by the seller of seed in pursuance of these Regulations, whether given expressly or by implication arising from the description under which the seed is sold, shall constitute a statutory warranty for the purpose of section 4 of the Act in so far as they relate to the category of seed, the level of seed, the percentage germination of the seed, the percentage analytical purity of the seed, the content of seed of other plant species and the varietal identity and varietal purity of the seed or, in the case of a mixture of seed permitted by regulation 23(2), of each of its constituents to which these Regulations apply.

(2) Section 4(2) of the Act shall apply to any particulars given to a purchaser by the seller of seed, being particulars given or implied as in paragraph (1), in so far as they relate to the percentage germination, the percentage analytical purity or the content of seed of other plant species and there are thereby prescribed in respect of such matters the limits of variation set out in Schedule 9.

(3) Section 4(3) of the Act shall apply to any particulars given to a purchaser by the seller of the seed, being particulars given or implied as in paragraph (1), in so far as they relate to the percentage germination, the percentage analytical purity or the content of seed of other plant species.

(4) A purchaser who intends to obtain a test of seed for the purposes of section 4(3) of the Act shall, not more than ten days after delivery to him of the seed, give to the seller notice of his intention and thereupon the seller may indicate a day (not being more than twenty-one days after the delivery of the seed to the purchaser) and a reasonable time on that day at which a sample of the seed may be taken in the presence of the seller or the seller's representative and the purchaser shall afford to the seller reasonable facilities for that purpose.

(5) On the day and at the time appointed by the seller in accordance with paragraph (4) or, if the seller shall have failed to appoint such a day and time, on a day not more than twenty eight days after delivery of the seed to the purchaser, the purchaser or the purchaser's representative may, and if the seller or his representative is present shall, take a sample of seed.

(6) A sample taken in accordance with the requirements of paragraph (5) shall be taken and divided by the purchaser or his representative into two parts in accordance with the requirements contained in Schedule 5 of the Seed (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009, of which one part shall be sent to the chief officer of an official testing station for the purpose of being tested and the other part delivered or tendered to the seller or the seller's representative or, if he or his representative was not present when the sample was taken, sent to him by post.

(7) Where a sample is taken in accordance with the requirements of paragraph (5) and divided into two parts in accordance with paragraph (6) each part of the divided sample shall be of at least the appropriate minimum weight specified in Schedule 7 (lots and sample weights) of these Regulations.

#### **Arrangements for official measures**

**29.**—(1) Subject to the following provisions of this regulation, the Department may make arrangements, in such form as it is of the opinion may be necessary or desirable, for the purpose of enabling any person to act under the Department's responsibility in carrying out official measures.

(2) The Department shall not make an arrangement under this regulation unless it is satisfied that it will make provision for the purpose of preventing the person with whom the arrangement is made, and any other person, from—

- (a) deriving any private gain from any official measures carried out under the arrangement; and
  - (b) carrying out any official measures under the arrangement except under the supervision of the Department.
- (3) An arrangement under this regulation may include such conditions as the Department is of the opinion are necessary or desirable for the purposes referred to in paragraphs (1) and (2) above, including conditions—
- (a) specifying—
    - (i) the official measures that the person with whom the arrangement is made shall carry out under it;
    - (ii) the species and generation of seed in respect of which that person may carry out the official measures;
    - (iii) the methods to be used in connection with the official measures that person carries out under the arrangement;
    - (iv) the fees that may be charged by the person with whom the arrangement is made in relation to the official measures carried out under it; and
    - (v) the records that must be kept by the person with whom the arrangement is made in connection with the official measures carried out;
  - (b) prohibiting the person with whom the arrangement is made from—
    - (i) carrying out the official measures except under official supervision, and
    - (ii) charging fees in relation to the official measures carried out under the arrangement except to the extent that these do not exceed the costs incurred in carrying them out; and
  - (c) prohibiting the person with whom the arrangement is made from making any further arrangement for any purpose in connection with the carrying out of any of the official measures arranged with the Department , unless—
    - (i) the Department has first approved all the conditions of the further arrangement and the person with whom the arrangement was made has received the prior approval of the Department to make the further arrangement;
    - (ii) the further arrangement includes a condition prohibiting the making of any subsequent arrangements for any purpose in connection with the carrying out of any of the official measures in respect of which the Department made the arrangement;
    - (iii) the further arrangement includes an acknowledgement by the person with whom it is made that the Department may vary, suspend or revoke the further arrangement, whether or not it also varies, suspends or revokes the arrangement she made with the person seeking approval for the further arrangement; and
    - (iv) the further arrangement includes the conditions specified in sub-paragraphs (a) and (b).
- (4) The Department shall not approve the making of a further arrangement by any person with whom it makes an arrangement under this regulation unless it is satisfied that the person with whom the further arrangement is to be made—
- (a) will not derive any private gain from any official measures that person is to be authorised to carry out under the further arrangement, and
  - (b) will not carry out any official measures under the further arrangement except under official supervision.

(5) The Department may vary, suspend or revoke an arrangement or the conditions of an arrangement made under this regulation, or a further arrangement or any of the conditions of a further arrangement under this regulation, by giving notice to the person with whom the arrangement or further arrangement is made, and a further arrangement may be varied, suspended or revoked under this paragraph notwithstanding that the arrangement in respect of which it was made is not also varied, suspended or revoked.

(6) A notice of a variation, suspension or revocation of an arrangement or further arrangement, or of a condition of an arrangement or further arrangement, shall specify—

- (a) in respect of a variation or a revocation, a date on and after which the variation or revocation shall have effect, and
- (b) in respect of a suspension, a period during which suspension shall have effect, and the variation, suspension or revocation shall have effect in accordance with the notice.

(7) When a variation, suspension or revocation has effect the Department may, for any purposes in relation to these Regulations or a determination under these Regulations, continue to have regard to such of the official measures carried out under an arrangement which was varied, suspended or revoked as appear to it to be official measures carried out in accordance with the provisions of these Regulations.

## **Fees**

**30.**—(1) The Department may charge any person reasonable fees in respect of costs reasonably incurred by the Department in carrying out official measures for the purposes of these Regulations.

(2) The Department may charge any person concerned in any matter connected with these Regulations reasonable fees in respect of costs reasonably incurred by the Department in connection with that matter for the purposes of these Regulations, including the costs reasonably incurred by an officer authorised for the purposes of these Regulations by the Department in connection with—

- (a) the taking of samples in accordance with regulation 24;
- (b) the sealing of packages in accordance with regulations 25 and 26; and
- (c) the labelling of packages in accordance with regulation 27.

(3) A person carrying out official measures in accordance with an arrangement or further arrangement under regulation 29 may charge any person, including any other person with whom an arrangement or further arrangement has been made under regulation 29, reasonable fees in respect of costs reasonably incurred in carrying out official measures under the responsibility of the Department in accordance with these Regulations.

(4) All fees payable under these Regulations in connection with any application shall be payable—

- (a) at the time the application is made, or
- (b) with the agreement of the Department or a person carrying out official measures

in accordance with an arrangement or further arrangement under regulation 29 (as the case may be), within twenty-eight days following notice from the Department or that person (as the case may be) demanding the fee payable in respect of such application.

(5) All other fees payable under these Regulations shall be payable within twenty-eight days following the issue of a notice under these Regulations demanding the payment of the fee.

(6) A fee charged in accordance with this regulation shall be recoverable as a debt from the person by whom the fee is payable.

## **Index of defined words and expressions**

31. Schedule 10 contains an index of defined words and expressions used in these Regulations.

## **Revocations and transitional provisions**

32.—(1) Subject to paragraph (3)—

- (a) the Cereal Seeds Regulations (Northern Ireland) 1994(**18**);
- (b) the Cereal Seeds (Amendment) Regulations (Northern Ireland) 1995(**19**);
- (c) the Cereal Seeds (Amendment) Regulations (Northern Ireland) 2000(**20**);
- (d) the Cereal Seeds (Amendment No.2) Regulations (Northern Ireland) 2000(**21**); and
- (e) the Cereal Seeds (Amendment) Regulations (Northern Ireland) 2001(**22**)

are revoked.

(2) Subject to paragraph (3)—

- (a) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 1997(**23**);
- (b) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 2003(**24**);
- (c) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 2004(**25**);
- (d) the Seeds (Miscellaneous Amendments) Regulations (Northern Ireland) 2008(**26**);

are revoked in relation to matters arising under the Cereal Seeds Regulations 1994.

(3) The provisions of these Regulations shall not apply to seed harvested on or before 31st December 2009 until 1st July 2010.

(4) Section 29 of the Interpretation Act (Northern Ireland) 1954(**27**) shall not apply in relation to general licences made under the Cereal Seeds Regulations (Northern Ireland) 1994.

Sealed with the official Seal of the Department of Agriculture and Rural Development on 25th November 2009.



*John Speers*  
A senior officer of the Department of Agriculture  
and Rural Development.

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(18) S.R. 1994 No. 254  
(19) S.R. 1995 No. 366  
(20) S.R. 2000 No. 53  
(21) S.R. 2000 No. 128  
(22) S.R. 2001 No. 330  
(23) S.R. 1997 No. 240  
(24) S.R. 2003 No. 42  
(25) S.R. 2004 No. 460  
(26) S.R.2008 No. 114  
(27) 1954 c. 33