
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 388

The Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 2009

PART 7

Miscellaneous and supplemental

Arrangements for official measures

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

(2) The Department shall not make arrangements under this regulation unless the Department 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), including conditions—

- (a) specifying—
 - (i) the official measures that the person with whom the arrangement is made shall carry out under it;
 - (ii) the fees that may be charged by the person with whom the arrangement is made in relation to the official measures carried out; and
 - (iii) the records that must be kept by the person with whom the arrangement is made in connection with the official measures carried out; and
- (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 official measures carried out under the arrangement except to the extent that these do not exceed the costs incurred in carrying them out.

(4) The Department may vary, suspend or revoke an arrangement or the conditions of an arrangement made under this regulation, by giving notice to the person with whom the arrangement is made.

(5) A notice of a variation, suspension or revocation of any arrangement or of a condition of an 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 the suspension shall have effect,
- and the variation, suspension or revocation shall have effect in accordance with the notice.

(6) 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 her to be official measures carried out in accordance with the provisions of these Regulations.

Fees

35.—(1) The Department may charge any person, including any person with whom an arrangement has been made under regulation 34, reasonable fees in respect of the costs the Department reasonably incurs in carrying out official measures for the purposes of these Regulations.

(2) A person with whom an arrangement has been made in accordance with regulation 34, may charge any other person reasonable fees in respect of costs reasonably incurred in carrying out official measures under the responsibility or control of the Department in accordance with these Regulations.

(3) Where a person has been given notice—

- (a) by or on behalf of the Department of a fee duly charged in accordance with paragraph (1); or
- (b) by a person with whom an arrangement has been made under regulation 34 of a fee duly charged in accordance with paragraph (2),

the person given the notice shall pay as specified in the notice the amount of the fee so charged.

Right to make representations

36.—(1) The Department shall not—

- (a) refuse to register a person as a person who may engage in a seed industry activity;
- (b) revoke the registration of a person as a person who may engage in a seed industry activity;
- (c) refuse to grant or vary a crop inspector's licence;
- (d) vary a crop inspector's licence pursuant to regulation 12(4);
- (e) suspend or revoke a licensed crop inspector's licence;
- (f) refuse to grant a seed sampler's licence;
- (g) vary a licensed seed sampler's licence;
- (h) suspend or revoke a licensed seed sampler's licence;
- (i) refuse to grant or vary a licensed seed testing station licence;
- (j) vary a licensed seed testing station licence pursuant to regulation 26(4); or
- (k) suspend or revoke a licensed seed testing station licence;

unless the Department has complied with the provisions of this regulation.

(2) The Department shall—

- (a) give the person concerned notice stating what the Department is proposing to do and the reasons for it; and

(b) inform the person concerned of his right to make representations to the Department and of the manner in which and the time (not being less than 21 days from the giving of the notice) within which such representations may be made.

(3) In this regulation, the person concerned in the case of any notice served in connection with a licensed seed testing station shall be the person in charge of the licensed seed testing station.

(4) Subject to paragraph (5), the Department shall not proceed with its proposed refusal, variation, suspension or revocation (as the case may be) until the period allowed for making representations has passed.

(5) Where the Department considers it necessary to suspend a crop inspector's licence, a seed sampler's licence or a licensed seed testing station licence, with immediate effect, the Department may do so notwithstanding the right of the person concerned to make representations and when the Department gives notice of its decision under paragraph (7) the Department shall—

- (a) indicate whether the suspension should for the time being remain in force; or
- (b) withdraw the suspension of the licence.

(6) A person who makes representations to the Department shall provide the Department with a copy of any document upon which that person seeks to rely within the time allowed for the making of such representations.

(7) The Department shall consider any representations made to it under this regulation before giving the person concerned notice of its decision together with the reasons for that decision and, where appropriate, of the date from which the decision shall have effect.

(8) A notice under paragraph (7) shall where applicable inform the person concerned of—

- (a) his right to appeal to the Tribunal against the Department's decision; and
- (b) the time within which such an appeal may be brought.

(9) There shall be no right of appeal to the Tribunal where the Department—

- (a) has refused to grant a crop inspector's licence or a seed sampler's licence for the sole reason that he failed to pass the relevant examination for the grant of the licence;
- (b) has refused to vary a crop inspector's licence for the sole reason that he failed to pass the relevant examination for the variation of the licence; or
- (c) has decided that a licensed crop inspector or licensed seed sampler is no longer qualified to inspect crops or sample seed (as the case may be) and has—
 - (i) in the case of a crop inspector varied, suspended or revoked his licence, or
 - (ii) in the case of a licensed seed sampler suspended or revoked his licence,

for the sole reason that he failed to pass an examination which he was required to undergo as a condition of his licence.

(10) The Department may charge any person making representations under this regulation reasonable fees in that connection which shall be payable on making the representations to her.

Appeals

37.—(1) A person notified of his right to appeal under regulation 36(8) may bring an appeal to the Tribunal.

(2) The Department shall take such steps as may be necessary to give effect to any decision of the Tribunal given on the final determination of an appeal under paragraph (1).

Extension of time

38. Where any document is to be delivered or given or any act is to be done in a time prescribed by these Regulations the Department may, if in all the circumstances of the case the Department considers it reasonable, extend the time for such period and upon such terms as the Department thinks fit.

Form of records

39. Any record required to be kept under these Regulations may be in written or electronic form and shall be kept for at least three years.

Form of lists

40. Any list required to be kept by the Department under these Regulations may be in written or electronic form.

Revocations, transitional and savings provisions

41.—(1) Subject to the following provisions of this regulation, the following Regulations are revoked—

- (a) the Seeds (Registration, Licensing and Enforcement) Regulations (Northern Ireland) 1994(1) (the 1994 Regulations); and
- (b) the Seeds (Fees) (No.2) Regulations (Northern Ireland) 2002(2) in relation to matters arising under the 1994 Regulations

(2) The revocation in paragraph (1) shall not apply in relation to seed harvested on or before 31st December 2009 until 1st July 2010.

(3) Any application made to the Department in accordance with regulation 4(2) of the 1994 Regulations but not determined at the coming into force of these Regulations shall be treated as an application referred to in regulation 4(1) of these Regulations and shall be determined in accordance with these Regulations.

(4) Any registration made pursuant to regulation 4(3) of the 1994 Regulations and having effect at the coming into force of these Regulations shall have effect as though it were a registration made pursuant to regulation 5 of these Regulations.

(5) Subject to paragraph (6)—

- (a) any licence granted to a seed testing station pursuant to regulation 8(1) of the 1994 Regulations and having effect at the coming into force of these Regulations shall have effect as though it were a licence granted pursuant to regulation 25 of these Regulations; and
- (b) any licence granted to a crop inspector or seed sampler pursuant to regulation 9(1) of the 1994 Regulations and having effect at the coming into force of these Regulations shall have effect as though it were a licence granted pursuant to regulation 11 of these Regulations in the case of a crop inspector and regulation 18 of these Regulations in the case of a seed sampler.

(6) The right to make representations pursuant to regulation 36 of these Regulations and to appeal to the Tribunal pursuant to regulation 37 of these Regulations shall not apply in respect of any licence which was granted under the 1994 Regulations and which is varied within three months of the coming into force of these Regulations.

(1) [S.R. 1994 No. 253](#)

(2) [S.R. 2002 No.407](#)

(7) Any fee arising (whether wholly or in part) under the 1994 Regulations or the Seeds (Fees) (No. 2) Regulations (Northern Ireland) 2002 but not paid at the coming into force of these Regulations shall be treated as a fee arising under these Regulations and shall be recoverable accordingly.