

2016 No. 68

SEEDS

**The Seed (Licensing and Enforcement etc.) (Scotland)
Regulations 2016**

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The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1) to (5A), 24(5), 26(2) and (3) and 36 of the Plant Varieties and Seeds Act 1964^(a) and all other powers enabling them to do so.

In accordance with section 16(1) of that Act, they have consulted with representatives of such interests as appear to them to be concerned.

(a) 1964 c.14 (“the 1964 Act”); section 16 was amended by the European Communities Act 1972 (c.68) (“the 1972 Act”), section 4(1) and Schedule 4, paragraph 5(1) and (2); by the Agriculture Act 1986 (c.49), section 2; and by S.I. 1977/1112. Section 16 is applied to seed potatoes by section 29(1) of the 1964 Act. Section 29 was amended by the 1972 Act, section 4(1) and Schedule 4, paragraph 5(4). The powers conferred by section 16 are exercisable by “the Minister”. See section 38(1) for the definition of “the Minister”. The functions of the Secretary of State, insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

PART I

GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 and come into force on 1st July 2016.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the 2006 Regulations” means the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006(a);

“the Act” means the Plant Varieties and Seeds Act 1964;

“Analyst in Charge” means a seed analyst who the Scottish Ministers are satisfied has—

- (a) passed an appropriate examination relating to laboratory management; and
- (b) been appointed as the Analyst in Charge of a licensed seed testing station and who is responsible for carrying out the functions specified in regulation 9;

“authorised officer” means an officer authorised by the Scottish Ministers for the purposes of Part II of the Act and these Regulations;

“conservation variety” has the meaning given to it by regulation 2(1) of the Seeds (National Lists of Varieties) Regulations 2001(b);

“licence holder” means a licensed crop inspector, a licensed professional seed operator, a licensed seed sampler or a licensed seed testing station;

“licensed crop inspector” means, except in relation to regulation 23(7), a person who has been granted a licence under regulation 4(1)(a) to carry out crop inspections and “crop inspector’s licence” is to be construed accordingly;

“licensed professional seed operator” means a person who has been granted a licence under regulation 4(1)(a) to carry out the functions of a seed merchant, a seed processor or, as the case may be, a seed packer or any combination of those functions and “professional seed operator’s licence” is to be construed accordingly;

“licensed seed sampler” means, except in relation to regulation 23(7), a person who has been granted a licence under regulation 4(1)(a) to carry out functions in relation to seed sampling and “seed sampler’s licence” is to be construed accordingly;

“licensed seed testing station” means, except in relation to regulation 23(7), a laboratory in respect of which a licence has been granted under regulation 4(1)(a) to carry out statutory seed testing and “seed testing station licence” is to be construed accordingly;

“official sample” means a sample obtained—

- (a) by an authorised officer or a licensed seed sampler for the purposes of the Seed Marketing Regulations; or
- (b) by an authorised officer under section 25(5) of the Act;

“Official Seed Testing Station” means the Official Seed Testing Station for Scotland maintained under section 24(1) of the Act;

“prescribed minimum weight” means the minimum acceptable weight of a sample of seed submitted to the Official Seed Testing Station as prescribed in the Seed Marketing Regulations;

(a) S.S.I. 2006/313, amended by S.S.I. 2007/536 and S.I. 2011/1043 and revoked subject to savings by regulation 23.

(b) S.I. 2001/3510, as relevantly amended by S.I. 2011/464.

“preservation mixture” has the same meaning as it has for the purposes of the Fodder Plant Seed (Scotland) Regulations 2005(a);

“professional seed operator” means a seed merchant, a seed packer or a seed processor;

“responsible person” means a person nominated under regulation 3(3) by an applicant for a professional seed operator’s licence or a seed testing station licence as the point of contact for all communications relating to the licence;

“seed” means seed of any species to which the Seed Marketing Regulations apply;

“seed analyst” means a person who the Scottish Ministers are satisfied has completed an appropriate training course and passed an appropriate examination relating to seed testing in respect of seed of the species being tested, or to be tested, by that person;

“the Seed Marketing Directives” means—

- (a) Council Directive 66/401/EEC on the marketing of fodder plant seed(b);
- (b) Council Directive 66/402/EEC on the marketing of cereal seed(c);
- (c) Council Directive 2002/54/EC on the marketing of beet seed(d);
- (d) Council Directive 2002/55/EC on the marketing of vegetable seed(e); and
- (e) Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants(f);

“the Seed Marketing Regulations” means—

- (a) in relation to vegetable seed, the Vegetable Seeds Regulations 1993(g);
- (b) in relation to oil and fibre plant seed, the Oil and Fibre Plant Seed (Scotland) Regulations 2004(h);
- (c) in relation to cereal seed, the Cereal Seed (Scotland) Regulations 2005(i);
- (d) in relation to fodder plant seed, the Fodder Plant Seed (Scotland) Regulations 2005(j); and
- (e) in relation to beet seed, the Beet Seed (Scotland) (No. 2) Regulations 2010(k);

“seed merchant” means a person who carries on a business which includes marketing seed (including seed of a conservation variety or a preservation mixture) except where that marketing is only of one or more of the following types—

- (a) marketing of small packages of seed, small EC A packages of seed or small EC B packages of seed;
- (b) marketing of unpacketed seed;
- (c) marketing by a producer of small quantities of seed for scientific purposes or selection work in compliance with an authorisation permitting such marketing granted under the Seed Marketing Regulations;

(a) S.S.I. 2005/329, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.S.I. 2012/5 and S.S.I. 2013/326.

(b) OJ L 125, 11.7.1966, p.2298 as last amended by Commission Implementing Directive 2012/37/EU (OJ L 325, 23.11.2012, p.13).

(c) OJ L 125, 11.7.1966, p.2309 as last amended by Commission Implementing Directive (EU) 2015/1955 (OJ L 284, 30.10.2015, p.142).

(d) OJ L 193, 20.7.2002, p.12 as last amended by Council Directive 2004/117/EC (OJ L 14, 18.1.2005, p.18).

(e) OJ L 193, 20.7.2002, p.33 as last amended by Commission Implementing Directive 2013/45/EU (OJ L 213, 8.8.2013, p.20).

(f) OJ L 193, 20.7.2002, p.74 as last amended by Commission Implementing Directive 2016/11 (OJ L 3, 6.1.2016, p.48).

(g) S.I. 1993/2008, amended by S.I. 1996/1452, S.I. 1997/616, S.I. 1999/1863, S.S.I. 2000/250, S.I. 2001/3510, S.S.I. 2007/305, S.S.I. 2010/219, S.S.I. 2010/425, S.I. 2011/1043 and S.S.I. 2013/326.

(h) S.S.I. 2004/317, amended by S.S.I. 2006/313, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223 and S.S.I. 2010/219.

(i) S.S.I. 2005/328, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223 and S.S.I. 2010/219.

(j) S.S.I. 2005/329, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.S.I. 2012/5 and S.S.I. 2013/326.

(k) S.S.I. 2010/148, amended by S.S.I. 2011/413.

(d) marketing by a producer of seed for test and trial purposes in compliance with an authorisation permitting such marketing granted under the Seed Marketing Regulations; or

(e) marketing of seed harvested from a crop that has been shown to meet the relevant crop standards in the Seed Marketing Regulations which is for processing, provided the identity of the seed is ensured;

“seed packer” means a person who carries on a business which includes re-packing, re-sealing or re-labelling seed, including seed of a conservation variety or a preservation mixture;

“seed processor” means a person who carries on a business which includes—

(a) packing, sealing or labelling seed (including the labelling or marking of Standard Seed of vegetables and seed of a conservation variety), small packages of seed, small EC A packages of seed or small EC B packages of seed;

(b) preparing mixtures of seeds permitted by the Seed Marketing Regulations; or

(c) cleaning, treating or otherwise processing seed intended for marketing;

“seeds regulations” means regulations made under section 16 of the Act;

“statutory seed testing” means seed testing carried out for the purposes of seeds regulations; and

“the Tribunal” means the Plant Varieties and Seeds Tribunal continued under section 42 of the Plant Varieties Act 1997(a).

(2) Expressions in these Regulations which are not defined in paragraph (1) and which appear in the Seed Marketing Regulations have the same meaning in these Regulations as they have in the Seed Marketing Regulations.

PART II LICENSING

Applications for licences

3.—(1) A person may apply to the Scottish Ministers—

(a) to be licensed as a professional seed operator, a crop inspector or a seed sampler;

(b) for a laboratory to be licensed as a seed testing station for the purpose of carrying out statutory seed testing.

(2) An application under paragraph (1) is to be made in such form and manner and be accompanied by such information as the Scottish Ministers may require.

(3) In the case of an application for a professional seed operator’s licence or a seed testing station licence, the applicant must nominate a responsible person and include the name and contact address of that person.

(4) In the case of an application for a seed testing station licence, the applicant must nominate an Analyst in Charge and include the name and contact address of that person.

Determination of licences

4.—(1) Where an application is made under regulation 3(1), the Scottish Ministers may—

(a) grant a licence—

(i) specifying the functions covered by the licence; and

(ii) subject to such conditions as the Scottish Ministers may determine; or

(a) 1997 c.66.

- (b) refuse it.
- (2) For the purpose of paragraph (1)(a)(i), the Scottish Ministers must specify—
- (a) in the case of a professional seed operator’s licence, whether the licence holder is authorised to carry out the functions of a seed merchant, a seed processor or a seed packer (or any combination of those functions) and the species and categories of seed in respect of which those functions can be carried out;
 - (b) in the case of a crop inspector’s licence, the species and categories of crops which the licence holder is entitled to inspect;
 - (c) in the case of a seed sampler’s licence, the species of seed which may be sampled and the functions which the licence holder is authorised to carry out;
 - (d) in the case of a seed testing station licence, the species and categories of seed which may be tested by the seed testing station and the methods of testing which may be carried out.
- (3) Without prejudice to the generality of paragraph (1)(a)(ii)—
- (a) a licence may include general conditions or conditions which are specific to the type of licence granted; and
 - (b) the Scottish Ministers may from time to time publish a list of standard conditions which, subject to a determination under that paragraph, may be included in any licence granted.
- (4) Before granting a licence under paragraph (1)(a), or varying a licence under regulation 5(1), the Scottish Ministers must be satisfied that—
- (a) in the case of a professional seed operator, the person—
 - (i) is suitable to carry out the functions of a seed merchant, a seed processor or, as the case may be, a seed packer;
 - (ii) has adequate premises or equipment for the purposes of carrying out those functions; and
 - (iii) has appropriate knowledge and qualifications for the purposes of carrying out those functions;
 - (b) in the case of a crop inspector or a seed sampler, the person is competent to act as such, and has completed such training courses and passed such examinations as may be required by the Scottish Ministers;
 - (c) in the case of a seed testing station, the station has adequate premises or equipment and the Analyst in Charge and any seed analyst have appropriate knowledge and qualifications, for the purposes of carrying out statutory seed testing.
- (5) The Scottish Ministers may refuse to grant a licence under paragraph (1)(b), or vary a licence under regulation 5(1), if they are not or are no longer satisfied that the person is a suitable person to be a licence holder having regard to—
- (a) any previous suspension or revocation of a licence held by the person—
 - (i) under the 2006 Regulations or these Regulations; or
 - (ii) in any other part of the United Kingdom for the purposes of the Seed Marketing Directives; or
 - (b) any circumstances which led to the person being convicted of an offence under section 16(7) of the Act(a).
- (6) A licence may be granted under paragraph (1)(a) for a maximum period of five years.
- (7) Subject to regulation 23, where a person applies for a licence under regulation 3(1) to take effect on expiry of an existing licence granted under regulation 4(1)(a), the existing licence continues to have effect, regardless of its expiry date, pending final determination of the

(a) Under section 16(7), it is an offence to include anything in a statutory statement which is false in a material particular or to contravene any provision in seeds regulations.

application or, where applicable, final determination of an appeal against refusal of the application.

Variation of licences

5.—(1) The Scottish Ministers may at any time vary a licence granted under regulation 4(1)(a) including any functions specified in, and conditions attached to, the licence, whether or not at the request of the licence holder.

(2) An application for a variation of a licence is to be made in such form and manner and be accompanied by such information as the Scottish Ministers may require.

Termination of licences

6. The Scottish Ministers may terminate a licence at the licence holder's request subject to such conditions as the Scottish Ministers may determine.

Suspension and revocation of licences

7.—(1) The Scottish Ministers may suspend or revoke a licence in whole or in part if they are satisfied that the licence holder—

- (a) is no longer competent to perform a function specified in the licence;
- (b) has failed to comply with a requirement under regulation 8;
- (c) in the case of a professional seed operator, no longer has adequate premises or equipment for the purposes of carrying out any functions specified in the licence;
- (d) has failed to comply with a condition attached to the licence;
- (e) has been convicted of an offence under section 16(7) of the Act; or
- (f) is unsuitable to perform a function specified in the licence.

(2) Without prejudice to paragraph (1), the Scottish Ministers may suspend or revoke a seed testing station licence in whole or in part if they are satisfied that—

- (a) the Analyst in Charge or any seed analyst carrying out statutory seed testing at the seed testing station is no longer qualified to act as an Analyst in Charge or, as the case may be, to carry out such testing;
- (b) the Analyst in Charge has failed to comply with the duties imposed by regulation 9 or is otherwise unfit to perform the duties of an Analyst in Charge;
- (c) the seed testing station no longer has adequate premises or equipment for the purposes of carrying out statutory seed testing;
- (d) there is no longer a person acting as Analyst in Charge at the seed testing station; or
- (e) any employee of the seed testing station has been convicted of an offence under section 16(7) of the Act.

(3) A licence suspended under paragraph (1) or (2) may be suspended for any period up to its unexpired duration and ceases to have effect and is deemed to be withdrawn during the period of suspension to the extent specified by the Scottish Ministers.

(4) The Scottish Ministers may suspend a licence under paragraph (1) or (2) in whole or in part with immediate effect if they are satisfied that the carrying out of the functions specified in the licence is causing, or is likely to cause, prejudice to the administration or enforcement of seeds regulations.

(5) The Scottish Ministers may recall a suspension of a licence if they consider it appropriate to do so.

Training and examinations

8. The Scottish Ministers may require—

- (a) a licensed crop inspector or a licensed seed sampler to attend such training courses and undergo such examinations as the Scottish Ministers consider necessary to maintain the knowledge and qualifications required in respect of any functions specified in a licence granted under regulation 4(1)(a);
- (b) a seed analyst carrying out statutory seed testing at a licensed seed testing station, or the Analyst in Charge of such a station, to attend such training courses and undergo such examinations as the Scottish Ministers consider necessary to maintain the knowledge and qualifications required in respect of the functions of the seed analyst or, as the case may be Analyst in Charge, carried out at that station.

Duties of the Analyst in Charge

9. The Analyst in Charge of a licensed seed testing station must—

- (a) have direct responsibility for the technical operations of the station;
- (b) supervise the work of all seed analysts assisting in statutory seed testing carried out at the station; and
- (c) be in effective control of all statutory seed testing carried out at the station and have direct responsibility for the issuing of the results of statutory seed testing.

Register

10. The Scottish Ministers must—

- (a) keep a register in written or electronic form specifying—
 - (i) the names and contact addresses of licence holders;
 - (ii) in the case of a professional seed operator's licence, the name of the responsible person, the functions authorised by the licence and the species and categories of seed in respect of which those functions can be carried out;
 - (iii) in the case of a crop inspector's licence, the species and categories of crops which each licensed crop inspector is entitled to inspect;
 - (iv) in the case of a seed sampler's licence, the species of seed which may be sampled and the functions which the licence holder is authorised to carry out;
 - (v) in the case of a seed testing station licence, the names of the Analyst in Charge and the responsible person and the species and categories of seed which may be tested and the methods of testing authorised under the licence;
- (b) make the register available for inspection by any person at any reasonable time; and
- (c) from time to time publish the register in such manner as they consider appropriate.

Fees

11.—(1) A licensed crop inspector, a licensed seed sampler or a licensed seed testing station must charge the fees prescribed in seeds regulations for carrying out the functions specified in the licence.

(2) Where no fees are prescribed in seeds regulations, a licensed crop inspector, a licensed seed sampler or a licensed seed testing station may charge reasonable fees for carrying out the functions specified in the licence, but may not derive any private gain in connection with the carrying out of those functions.

PART III

SUPERVISION AND ENFORCEMENT

Supervision and checking of licence holders

12.—(1) The Scottish Ministers must require an authorised officer to undertake the checks described in paragraphs (2) to (4) in the supervision of licensed crop inspectors, licensed seed samplers and licensed seed testing stations.

(2) At least 5% of all crop inspection results submitted to the Scottish Ministers by licensed crop inspectors each calendar year must be checked by an authorised officer who must undertake such crop inspections and such other investigations as are necessary to verify the accuracy of the results.

(3) At least 5% of all seed samples submitted to the Scottish Ministers by licensed seed samplers between 1st July and 30th June in the succeeding year must be checked by an authorised officer who must draw such samples and undertake such other investigations as are necessary to verify that the sampling has been undertaken in accordance with the requirements of seeds regulations.

(4) At least 5% of all seed test results submitted to the Scottish Ministers from licensed seed testing stations between 1st July and 30th June in the succeeding year must be checked by an authorised officer who must carry out such seed testing and such other investigations as are necessary to verify the accuracy of the results.

(5) The Scottish Ministers may require an authorised officer to undertake such other checks in relation to licence holders as the Scottish Ministers consider appropriate, for the purposes of ensuring compliance with these Regulations and the Seed Marketing Regulations.

Sampling for enforcement purposes

13.—(1) Paragraph (2) applies where a sample of seed is to be taken under section 25(5) of the Act for the enforcement of the Seed Marketing Regulations.

(2) Where a sample of seed is taken as mentioned in paragraph (1)—

- (a) where the sample is to be subject to moisture testing, two moisture samples must be drawn from the sample for that purpose; and
- (b) the sample must be divided to provide three parts of which—
 - (i) one part is to be delivered or sent to the owner of the seed or the owner's representative together with, where applicable, one moisture sample drawn under sub-paragraph (a);
 - (ii) two parts are to be delivered or sent to the Official Seed Testing Station together with, where applicable, one moisture sample drawn under sub-paragraph (a); and
 - (iii) one of the parts delivered or sent under sub-paragraph (b)(ii) together with, where applicable, one moisture sample drawn under sub-paragraph (a) is to be officially examined for the purposes of the Seed Marketing Regulations and the other part must be retained for production to a court in accordance with section 26(7) of the Act.

(3) The procedures described in paragraph (2) are to be carried out by an authorised officer in accordance with the requirements of the Seed Marketing Regulations and where it appears to that officer that the sample that has been taken was purchased for use and not for resale, the first part of the sample is to be delivered or sent to the last seller of the seed or the last seller's representative instead of to the owner of the seed or the owner's representative.

(4) Where a part of a sample taken under this regulation has been officially examined for the purposes of the Seed Marketing Regulations, any residue from the sample may be used for such other tests as the Scottish Ministers may direct including for the purpose of the Community comparative tests and trials referred to in the Seed Marketing Directives.

(5) Subject to paragraph (6)(a), the minimum weight of a sample of seed taken as mentioned in paragraph (1) must be such as to ensure that each of the parts into which it is divided is of not less than the prescribed minimum weight for such a sample.

(6) Where a sample of seed to be taken under section 25(5) of the Act is for the enforcement of the Vegetable Seeds Regulations 1993(a) and is contained in small packages, then—

- (a) instead of being of a prescribed minimum weight the sample must consist of as many such packages as the person taking the sample may require; and
- (b) the sample is to be delivered or sent to the Official Seed Testing Station where it must be officially examined for the purposes of the Seed Marketing Regulations and the procedures set out in paragraphs (2) and (3) do not apply.

Certificates of taking and testing a sample

14.—(1) A certificate in the form set out in Schedule 1 relating to the taking of a sample of seed for the enforcement of Seed Marketing Regulations is prescribed for the purposes of section 26(3) of the Act.

(2) For the purposes of section 24(5) of the Act, the form of certificate of the result of a test of a sample of seed carried out at the Official Seed Testing Station for the enforcement of the Seed Marketing Regulations is prescribed—

- (a) in relation to beet seed, in Part I of Schedule 2;
- (b) in relation to cereal seed, in Part II of Schedule 2;
- (c) in relation to fodder plant seed, in Part III of Schedule 2;
- (d) in relation to oil and fibre plant seed, in Part IV of Schedule 2; and
- (e) in relation to vegetable seed, in Part V of Schedule 2.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Right to make representations

15.—(1) The Scottish Ministers must not decide to—

- (a) refuse to grant a licence under regulation 4(1)(b);
- (b) vary a licence or refuse to vary a licence under regulation 5(1); or
- (c) suspend or revoke a licence under regulation 7;

unless they have complied with the provisions of this regulation.

(2) Subject to paragraph (3), before taking any decision mentioned in paragraph (1) the Scottish Ministers must give the licence holder—

- (a) a notice stating what they are proposing to do and the reasons for it; and
- (b) the opportunity of making representations within such period as the Scottish Ministers consider reasonable.

(3) Paragraph (2) does not apply to a decision of the Scottish Ministers to suspend a licence in whole or in part with immediate effect under regulation 7(4).

(4) Where the Scottish Ministers decide to suspend a licence in whole or in part with immediate effect under regulation 7(4), they must give the licence holder—

- (a) as soon as reasonably practicable notice of their decision and the reasons for it; and

(a) S.I. 1993/2008, amended by S.I. 1996/1452, S.I. 1997/616, S.I. 1999/1863, S.S.I. 2000/250, S.I. 2001/3510, S.S.I. 2007/305, S.S.I. 2010/219, S.S.I. 2010/425, S.I. 2011/1043 and S.S.I. 2013/326.

- (b) the opportunity of making representations within such period as the Scottish Ministers consider reasonable.

(5) If the Scottish Ministers have received written representations within the period referred to in paragraph (2)(b) or, as the case may be, paragraph (4)(b), they must as soon as reasonably practicable consider any such representations before taking any decision mentioned in paragraph (1) or, as the case may be, deciding that the suspension of the licence is to remain in force or is to be recalled.

(6) The Scottish Ministers must give the licence holder notice of—

- (a) any decision mentioned in paragraph (1) together with the reasons for it and the date from which the decision is to have effect;
- (b) any decision that the suspension of a licence in whole or in part is to remain in force together with the reasons for it.

(7) In giving a notice under paragraph (6), the Scottish Ministers must, where a right of appeal exists under regulation 16(1), inform the licence holder of—

- (a) the right to appeal to the Tribunal against the decision; and
- (b) the period of time within which such an appeal may be brought.

Appeals

16.—(1) Subject to paragraph (2), a person given notice of a decision in accordance with regulation 15(6) and (7) may appeal to the Tribunal.

(2) A right of appeal to the Tribunal does not apply where the Scottish Ministers have—

- (a) refused to grant or vary a licence; or
- (b) varied, suspended or revoked a licence,

for the sole reason that the applicant or licence holder has failed to undertake and pass an examination that required to be undertaken and passed in relation to an application for the grant or variation of the licence or required to be undertaken and passed as a condition of the licence.

(3) Subject to paragraph (4), a decision which may be appealed to the Tribunal under paragraph (1) does not have effect during the time allowed for making an appeal and, in the event that an appeal is timeously made, does not have effect pending final determination of the appeal.

(4) Paragraph (3) does not apply to a decision under regulation 15(5) that a suspension of the licence is to remain in force.

(5) The Scottish Ministers must give effect to any decision of the Tribunal which constitutes the final determination of an appeal under paragraph (1).

Exemptions

17. The Scottish Ministers may exempt any person or class of persons, or persons generally, from compliance with any provision of these Regulations, subject to any conditions the Scottish Ministers think appropriate.

Extension of time

18. Where any document is to be delivered or given or any act is to be done in a time prescribed by or under these Regulations the Scottish Ministers may, if they consider it reasonable, extend the time for such period and subject to such conditions as the Scottish Ministers may determine.

Form of records

19. Any record required to be kept under these Regulations, or as a condition of a licence granted under these Regulations, may be in written or electronic form and must be kept for at least six years, except where otherwise provided for in seeds regulations.

Service of notices

20.—(1) Any notice required to be given to any person by the Scottish Ministers by virtue of these Regulations may be given by—

- (a) delivering it to that person;
- (b) leaving it at that person's proper address;
- (c) sending it by post or fax to that person's proper address; or
- (d) sending it by email to that person's last known email address.

(2) For the purposes of paragraph (1), in the case of a licensed professional seed operator or a licensed seed testing station, "person" includes a responsible person.

(3) For the purposes of paragraph (1)(a), a notice is delivered to—

- (a) a body corporate where it is given to a relevant individual within that body;
- (b) a partnership where it is given to a partner or a person having control or management of the partnership;
- (c) an unincorporated association where it is given to an officer or a member of the governing body of the association or any other person having management responsibilities in respect of the association.

(4) For the purposes of paragraph (1)(b) and (c) and section 7 of the Interpretation Act 1978(a) (service of documents by post) in its application to this regulation, "proper address" means—

- (a) in the case of a body corporate, the registered office (if it is in the United Kingdom) or the principal office of the body in the United Kingdom;
- (b) in the case of a partnership, the principal office of the partnership;
- (c) in the case of an unincorporated association, the principal office of the association;
- (d) in any other case, a person's last known address.

(5) For the purposes of paragraph (1)(d), a notice is sent to an email address of—

- (a) a body corporate, where it is sent to an email address of—
 - (i) the body corporate; or
 - (ii) a relevant individual within that body,

where that address is supplied by that body for the conduct of the affairs of that body;

- (b) a partnership, where it is sent to an email address of—
 - (i) the partnership; or
 - (ii) a partner or person having control or management of that partnership,

where that address is supplied by that partnership for the conduct of the affairs of the partnership;

- (c) an unincorporated association, where it is sent to an email address of—
 - (i) an officer or member of the governing body of the association; or
 - (ii) any other person having management responsibilities in respect of the association,

where that address is supplied by that association for the conduct of the affairs of that association;

- (d) a person other than a person mentioned in sub-paragraph (a), (b) or (c), where it is sent to an email address supplied by that person for the conduct of the affairs of that person.

(6) In this regulation—

"partnership" includes a Scottish partnership; and

"relevant individual" means—

- (a) a director, manager, secretary or other similar officer of the body corporate; or
- (b) where the affairs of the body corporate are managed by its members, a member.

(a) 1978 c.30.

Written and electronic communication

21. All applications, representations, notices and requests to which these Regulations apply must be made in writing which includes an electronic communication within the meaning of section 15(1) (general interpretation) of the Electronic Communications Act 2000(a).

Amendments to the Seed Marketing Regulations

22. The Seed Marketing Regulations mentioned in Schedule 3 and the Seed Potatoes (Scotland) Regulations 2015(b) are amended in accordance with Schedule 3.

Revocations, transitional and savings provisions

23.—(1) Subject to the following provisions of this regulation, the 2006 Regulations are revoked.

(2) Any application made to the Scottish Ministers in accordance with regulation 4(1) (applications for registration) of the 2006 Regulations but not determined before 1st July 2016 is to be treated as an application to be licensed as a professional seed operator under regulation 3(1)(a) of these Regulations and is to be determined in accordance with these Regulations.

(3) Any application made to the Scottish Ministers for—

- (a) a crop inspector's licence under regulation 10(1) of the 2006 Regulations;
- (b) a seed sampler's licence under regulation 17(1) of the 2006 Regulations; or
- (c) a seed testing station licence under regulation 24(1) of the 2006 Regulations,

but not determined before 1st July 2016, is to be treated as an application for a licence under regulation 3(1)(a) or, as the case may be, regulation 3(1)(b) of these Regulations and is to be determined in accordance with these Regulations.

(4) Subject to paragraph (6), any registration granted under regulation 5(1) of the 2006 Regulations and having effect immediately before 1st July 2016 is to continue to have effect until 31st December 2016 and the 2006 Regulations continue to apply to any such registration.

(5) A registered person (as defined in regulation 2(1) of the 2006 Regulations) may, in accordance with regulation 3(1)(a) of these Regulations, apply to be licensed as a professional seed operator.

(6) Where, following the receipt of an application as mentioned in paragraph (5), the Scottish Ministers grant a licence under regulation 4(1)(a) of these Regulations, any registration granted under regulation 5(1) of the 2006 Regulations ceases to have effect as from the date of the grant of the licence.

(7) Any licence—

- (a) granted—
 - (i) to a licensed crop inspector under regulation 11(1) of the 2006 Regulations;
 - (ii) to a licensed seed sampler under regulation 18(1) of the 2006 Regulations; or
 - (iii) in respect of a licensed seed testing station under regulation 25(1) of the 2006 Regulations; and
- (b) having effect immediately before 1st July 2016,

is to have effect on and after 1st July 2016 as if it were a licence granted under regulation 4(1)(a) of these Regulations.

(8) The Scottish Ministers may, in accordance with regulation 5(1) of these Regulations, vary any licence mentioned in paragraph (7) apart from its expiry date.

(a) 2000 c.7, as amended by the Communications Act 2003 (c.21), section 406 and Schedule 17, paragraph 158.

(b) S.S.I. 2015/395.

(9) The right to make representations in accordance with regulation 15 of these Regulations and the right to appeal to the Tribunal in accordance with regulation 16 of these Regulations is not to apply in respect of any licence which was granted under the 2006 Regulations and which is, in accordance with regulation 5(1) of these Regulations, varied no later than 31st December 2016.

(10) Any fee arising whether wholly or in part under the 2006 Regulations but not paid before 1st July 2016 is to be treated as a fee arising under these Regulations and is recoverable accordingly.

St Andrew's House,
Edinburgh
2nd February 2016

RICHARD LOCHHEAD
A member of the Scottish Government

SCHEDULE 1

Regulation 14(1)

FORM OF CERTIFICATE FOR THE TAKING OF A SAMPLE OF SEED

CERTIFICATE FOR THE TAKING OF A SAMPLE OF SEEDS

PLANT VARIETIES AND SEEDS ACT 1964

THE SEED (LICENSING AND ENFORCEMENT ETC.) (SCOTLAND) REGULATIONS 2016

Name:

Address:

On (date), an officer authorised by the Scottish Ministers, visited your premises and took the following enforcement sample(s) under section 25(5) of the Plant Varieties and Seeds Act 1964—

Seed Species	Seed Variety	Seed Lot Reference Number

The sample(s) specified in this certificate was/were* taken in accordance with regulation 13 of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 and:

Regulation 17 of, and Schedule 5 to, the Beet Seed (Scotland) (No. 2) Regulations 2010* or Schedule 5 to—

- the Vegetable Seeds Regulations 1993*
- the Oil and Fibre Plant Seed (Scotland) Regulations 2004*
- the Cereal Seed (Scotland) Regulations 2005*
- the Fodder Plant Seed (Scotland) Regulations 2005*

Signed:

Authorised Officer

Date issued:

* Delete as appropriate

SCHEDULE 2

Regulation 14(2)

FORM OF CERTIFICATES OF THE RESULTS OF TESTS OF SEEDS

PART I

FORM OF CERTIFICATE OF RESULTS OF TESTS OF BEET SEED

Certificate of the Result of a Test of Seeds

SCOTTISH GOVERNMENT, DIRECTORATE FOR AGRICULTURE, FOOD AND RURAL COMMUNITIES

PLANT VARIETIES AND SEEDS ACT 1964 ("THE 1964 ACT") - SECTION 24(5)
 THE SEEDS (LICENSING AND ENFORCEMENT ETC.) (SCOTLAND) REGULATIONS 2016
 THE BEET SEED (SCOTLAND) (NO. 2) REGULATIONS 2010
 REPORT of the OFFICIAL SEED TESTING STATION for SCOTLAND
 on a SAMPLE TAKEN UNDER SECTION 25(5) of the 1964 ACT

on the premises of (Name and Address)

Official Station Sample No
 Date Received at Station
 Date of Sampling
 Quantity Sampled
 Seed Treatment

Species
 Cat & Level

Variety
 Reference No

Date of Purity Test	% Pure Seed	% Inert Matter	% Other Seeds

Inert Matter

Other Seeds

Germination % clusters

Germinated clusters with:—

One seedling	%		
Three or more seedlings	%		

Moisture Content %

Method

Varietal Purity Declared variety % Other varieties %

Other tests

REMARKS

Signed (authorised officer)

Date:

PART II

FORM OF CERTIFICATE OF RESULTS OF TESTS OF CEREAL SEED

Certificate of the Result of a Test of Seeds

SCOTTISH GOVERNMENT, DIRECTORATE FOR AGRICULTURE, FOOD AND RURAL COMMUNITIES

PLANT VARIETIES AND SEEDS ACT 1964 ("THE 1964 ACT") - SECTION 24(5)
THE SEEDS (LICENSING AND ENFORCEMENT ETC.) (SCOTLAND) REGULATIONS 2016

THE CEREAL SEED (SCOTLAND) REGULATIONS 2005
REPORT of the OFFICIAL SEED TESTING STATION for SCOTLAND
on a SAMPLE TAKEN UNDER SECTION 25(5) of the 1964 ACT

on the premises of (Name and Address)

--

Official Station Sample No
Date Received at Station
Date of Sampling
Quantity Sampled
Seed Treatment

Species

--

Variety

--

Cat & Level

--

Reference
No

--

Date of Purity Test	% Pure Seed	% Inert Matter	% Other Seeds

Inert Matter

Other Seeds

Number Determination (Search)

	500g	Further 500g	Total in 1000g
Other Cultivated Cereal Species			
Other Plant species			
Total			
Avena fatua, Avena sterilis			
Lolium temulentum			
Raphanus raphanistrum			
Agrostemma githago			

Elytrigia repens			
Bromus sterilis			
Number of Pieces of ergot (Claviceps purpurea)			

Loose smut infection %

Moisture Content % Germination % Fresh Seed %

Method

Other tests

Varietal Purity Declared variety % Other varieties %

REMARKS

Signed (authorised officer)

Date:

PART III

FORM OF CERTIFICATE OF RESULTS OF TESTS OF FODDER PLANT SEED

Certificate of the Result of a Test of Seeds

SCOTTISH GOVERNMENT, DIRECTORATE FOR AGRICULTURE, FOOD AND RURAL COMMUNITIES

PLANT VARIETIES AND SEEDS ACT 1964 ("THE 1964 ACT") - SECTION 24(5)
THE SEEDS (LICENSING AND ENFORCEMENT ETC.) (SCOTLAND) REGULATIONS 2016

THE FODDER PLANT SEED (SCOTLAND) REGULATIONS 2005
REPORT of the OFFICIAL SEED TESTING STATION for SCOTLAND
on a SAMPLE TAKEN UNDER SECTION 25(5) of the 1964 ACT

on the premises of (Name and Address)

--

Official Station Sample No
Date Received at Station
Date of Sampling
Quantity Sampled
Seed Treatment

Species		Variety	
Cat & Level		Reference No	

Date of Purity Test	% Pure Seed	% Inert Matter	% Other Seeds

% Elytrigia repens	% Alopecurus myosuroides
% Raphanus raphanistrum	% Sinapsis arvensis
% Agrostis spp.	% Melilotus spp.
% Poa annua	% Lolium spp.
	% Poa trivialis

Inert Matter

Other Seeds

Number Determination (Search)	g
Elytrigia repens	
Alopecurus myosuroides	
Avena fatua, A.sterilis	

Cuscuta spp.	
Melilotus spp.	
Rumex spp. excluding R. acetosella, R. maritimus	
Lolium spp., Dactylis glomerata, Festuca pratensis	

Germination % Hard seed % Fresh Seed %

Method

Other tests

Varietal Purity Declared variety % Other varieties %

REMARKS

Signed (authorised officer):

Date:

PART IV

FORM OF CERTIFICATE OF RESULTS OF TESTS OF OIL AND FIBRE PLANT SEED

Certificate of the Result of a Test of Seeds

SCOTTISH GOVERNMENT, DIRECTORATE FOR AGRICULTURE, FOOD AND RURAL COMMUNITIES

PLANT VARIETIES AND SEEDS ACT 1964 ("THE 1964 ACT") - SECTION 24(5)
 THE SEEDS (LICENSING AND ENFORCEMENT ETC.) (SCOTLAND) REGULATIONS 2016
 THE OIL AND FIBRE PLANT SEED (SCOTLAND) REGULATIONS 2004
 REPORT of the OFFICIAL SEED TESTING STATION for SCOTLAND
 on a SAMPLE TAKEN UNDER SECTION 25(5) of the 1964 ACT

on the premises of (Name and Address)

Official Station Sample No

Date Received at Station

Date of Sampling

Quantity Sampled

Seed Treatment

Species

Variety

Cat & Level

Reference No

Date of Purity Test	% Pure Seed	% Inert Matter	% Other Seeds

Inert Matter

Other Seeds

Number Determination (Search)

	g	g
Other plant species		
Avena fatua, Avena sterilis		
Cuscuta spp.		
Raphanus raphanistrum		
Rumex spp. other than Rumex acetosella		
Alopecurus myosuroides		

Lolium remotum		
Number of Pieces of Sclerotia , Sclerotinia sclerotiorum		

Germination % Hard Seed % Fresh seed %

Method

Other Tests

Varietal Purity Declared variety % Other varieties %

REMARKS

Signed (authorised officer):

Date:

PART V

FORM OF CERTIFICATE OF RESULTS OF TESTS OF VEGETABLE SEED

Certificate of the Result of a Test of Seeds

SCOTTISH GOVERNMENT, DIRECTORATE FOR AGRICULTURE, FOOD AND RURAL COMMUNITIES

PLANT VARIETIES AND SEEDS ACT 1964 ("THE 1964 ACT") - SECTION 24(5)
THE SEEDS (LICENSING AND ENFORCEMENT ETC.) (SCOTLAND) REGULATIONS 2016

THE VEGETABLE SEEDS REGULATIONS 1993
REPORT of the OFFICIAL SEED TESTING STATION for SCOTLAND
on a SAMPLE TAKEN UNDER SECTION 25(5) of the 1964 ACT

on the premises of (Name and Address)

--

Official Station Sample No

Date Received at Station

Date of Sampling

Quantity Sampled

Seed Treatment

Species

Variety

Cat & Level

Reference
No

Date of Purity Test	% Pure Seed	% Inert Matter	% Other Seeds

Inert Matter

Other Seeds

Germination %

--

Method

Other tests

Varietal Purity

Declared variety

%

--

Other varieties

%

--

REMARKS

Signed (authorised officer):

Date:

SCHEDULE 3

Regulation 22

AMENDMENTS TO THE SEED MARKETING REGULATIONS AND THE SEED POTATOES (SCOTLAND) REGULATIONS 2015

PART I

AMENDMENTS TO THE OIL AND FIBRE PLANT SEED (SCOTLAND) REGULATIONS 2004

1.—(1) The Oil and Fibre Plant Seed (Scotland) Regulations 2004^(a) are amended in accordance with this paragraph.

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “licensed crop inspector” substitute—

““licensed crop inspector” means a person who holds a current licence to be a crop inspector—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(b) for the definition of “licensed seed sampler” substitute—

““licensed seed sampler” means a person who holds a current licence to be a seed sampler—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(c) for the definition of “licensed seed testing station” substitute—

““licensed seed testing station” means an establishment which holds a current seed testing station licence—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(d) before the definition of “Secretary of State” insert—

““professional seed operator” means a seed merchant, a seed packer or a seed processor;

“registered or licensed number” means the number issued to a person who holds a licence granted under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or to a person licensed or registered by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”.

(a) S.S.I. 2004/317, amended by S.S.I. 2006/313, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223 and S.S.I. 2010/219.

- (3) In regulation 16 (sealing of packages of fully certified seed)—
- (a) in paragraph (4), for “or a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or a person licensed or registered in any part of the United Kingdom as a professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”; and
 - (b) in paragraph (5), for “or a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or a person licensed or registered in any part of the United Kingdom as a professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”.
- (4) For regulation 24(2)(a) (service of notices) substitute—
- “(a) in the case of a professional seed operator, a crop inspector or a seed sampler licensed under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016, it is the address which could be made available by the Scottish Ministers under regulation 10 of those Regulations; and”.
- (5) For “registered number” substitute “registered or licensed number” where it appears in the following provisions—
- (a) in Schedule 3 (particulars to be specified in an official certificate or a breeder’s confirmation)—
 - (i) paragraph 1(b) (particulars to be specified in an official certificate); and
 - (ii) paragraph 2(b) (particulars to be specified in a breeder’s confirmation);
 - (b) in Schedule 4A (standards for certification of conservation varieties)(a), in Part II (particulars to be specified in an official certificate), sub-paragraph (b); and
 - (c) in Schedule 6, in Part II (labels), paragraph 3(a)(i) (label for a package of Breeder’s Seed).
- (6) In Schedule 6, in Part II (labels), in paragraph 6B(1)(a)(ii) (official label for a package of seed of a Conservation Variety), for “registration number” substitute “registered or licensed number”.

PART II

AMENDMENTS TO THE CEREAL SEED (SCOTLAND) REGULATIONS 2005

2.—(1) The Cereal Seed (Scotland) Regulations 2005**(b)** are amended in accordance with this paragraph.

(a) Schedule 4A was inserted by S.S.I. 2009/223 Schedule 2, paragraph 1.
 (b) S.S.I. 2005/328, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223 and S.S.I. 2010/219.

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “licensed crop inspector” substitute—

““licensed crop inspector” means a person who holds a current licence to be a crop inspector—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(b) for the definition of “licensed seed sampler” substitute—

““licensed seed sampler” means a person who holds a current licence to be a seed sampler—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(c) for the definition of “licensed seed testing station” substitute—

““licensed seed testing station” means an establishment which holds a current seed testing station licence—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;” and

(d) for the definition of “registered number” substitute—

““professional seed operator” means a seed merchant, a seed packer or a seed processor;

“registered or licensed number” means the number issued to a person who holds a licence granted under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or to a person licensed or registered by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”.

(3) In regulation 16 (sealing of packages of fully certified seed)—

(a) in paragraph (4), for “or a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or a person licensed or registered in any part of the United Kingdom as a professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”; and

(b) in paragraph (5), for “or a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or a person licensed or registered in any part of the United Kingdom as a professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”.

(4) For regulation 25(2)(a) (service of notices) substitute—

“(a) in the case of a professional seed operator, a crop inspector or a seed sampler licensed under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016, it is the address which could be made available by the Scottish Ministers under regulation 10 of those Regulations; and”.

(5) For “registered number” substitute “registered or licensed number” where it appears in the following provisions—

(a) in Schedule 3 (particulars to be specified in an official certificate or a breeder’s confirmation)—

(i) paragraph 1(b) (particulars to be specified in an official certificate); and

(ii) paragraph 2(b) (particulars to be specified in a breeder’s confirmation);

(b) in Schedule 4A (standards for certification of conservation varieties)(a), in Part II, sub-paragraph (b) (particulars to be specified in an official certificate); and

(c) in Schedule 6, in Part II (labels), paragraph 3(a)(i) (labels for a package of Breeder’s Seed).

(6) In Schedule 4 (requirements for pre basic seed, basic seed, certified seed, certified seed of the first generation and certified seed of the second generation)—

(a) in Part I (conditions relating to crops from which seed is obtained)—

(i) for paragraph 7 (isolation distances – minimum distances) substitute—

“Isolation distances — minimum distances

7.—(1) Subject to sub-paragraph (2), for maize, self-pollinating varieties of triticale, rye and hybrids of barley produced by means of cytoplasmic male sterility, the minimum distance from neighbouring crops or plants of other species, or of other varieties of the same species, liable to cross-pollinate with the crop shall be the distance specified in column 2 of the following table for the corresponding crop specified in column 1 of the table (which can include any distance of at least 2 metres of fallow ground required under paragraph 6)—

<i>Column 1</i>	<i>Column 2</i>
<i>Crop</i>	<i>Minimum Distance</i>
(a) Maize—	
(i) for the production of Basic Seed	200 metres
(ii) for the production of Certified Seed	200 metres
(b) Self-pollinating variety of triticale—	
(i) for the production of Basic Seed	50 metres
(ii) for the production of Certified Seed	20 metres
(c) Rye (other than hybrids)—	
(i) for the production of Basic Seed	300 metres
(ii) for the production of Certified Seed	250 metres

(a) Schedule 4A was inserted by S.S.I. 2009/223 Schedule 3, paragraph 1.

- (d) Hybrids of rye—
 - (i) for the production of Basic Seed where male sterility is used 1,000 metres
 - (ii) for the production of Basic Seed where male sterility is not used 600 metres
 - (iii) for the production of Certified Seed 500 metres
 - (e) Hybrids of barley produced by means of cytoplasmic male sterility—
 - (i) for the production of Basic Seed 100 metres
 - (ii) for the production of Certified Seed 50 metres
-

(2) The minimum distance specified in paragraph (1) may, subject to the approval of the Scottish Ministers, be modified or disregarded if the Scottish Ministers are satisfied that there is adequate protection against undesirable foreign pollen.”;

(ii) for paragraph 8(5) (standards for varietal purity) substitute—

“(5) In crops of hybrids of durum wheat, oats, self-pollinating triticale, spelt wheat or wheat or hybrids of barley other than hybrids of barley produced by means of cytoplasmic male sterility—

- (a) subject to sub-paragraph (b), varieties of the female component of the crop shall be at least 25 metres from a crop of any other variety of the same species except from a crop of the male component;
- (b) sub-paragraph (a) shall not apply if there is sufficient protection from any undesirable foreign pollination;
- (c) where seed is produced using a chemical hybridisation agent, the crop shall conform to the following standards or other conditions—
 - (i) the minimum varietal purity of each component shall be—
 - (aa) in the case of barley, durum wheat, oats, spelt wheat or wheat, 99.7%; and
 - (bb) in the case of self-pollinating varieties of triticale, 99.0%; and
 - (ii) the minimum hybridity must be 95%; and
- (d) in cases where the hybridity is determined during seed testing prior to certification, the determination of the hybridity during a field inspection need not be done.

(6) In crops of hybrids of barley produced by means of cytoplasmic male sterility—

- (a) the percentage by number of plants which are recognisable as obviously not being true to the variety shall not exceed—
 - (i) where the crop is used for the production of Basic Seed, 0.1% for the maintainer and the restorer line and 0.2% for the cytoplasmic male sterility female component; and
 - (ii) where the crop is used for the production of Certified Seed—
 - (aa) 0.3% for the restorer and the cytoplasmic male sterility female component; or
 - (bb) 0.5% for the restorer, where the cytoplasmic male sterility female component is a simple hybrid;

- (b) the level of sterility of the female component shall be at least—
 - (i) where the crop is used for the production of Basic Seed, 99.7%; and
 - (ii) where the crop is used for the production of Certified Seed, 99.5%; and
- (c) in the case of Certified Seed, the crop may be produced in mixed cultivation of a female male-sterile component with a male component which restores fertility.”; and
- (b) in Part II (conditions relating to basic seed, certified seed, certified seed of the first generation and certified seed of the second generation)—
 - (i) in paragraph 13 (standards for varietal purity)—
 - (aa) in the table in sub-paragraph (3), for sub-paragraph (b) substitute—

“(b) Hybrids of durum wheat, oats, self-pollinating varieties of triticale, spelt wheat or wheat and hybrids of barley other than hybrids of barley produced by means of cytoplasmic male sterility—		
(i) Certified Seed		90.00%
(ba) Hybrids of barley produced by means of cytoplasmic male sterility—		
(i) Certified Seed		85.00% ”

; and

- (bb) after sub-paragraph (4) insert—
 - “(4A) For the purposes of sub-paragraph (3)(ba), impurities other than the restorer shall not exceed 2%.”; and
- (cc) in sub-paragraph (5), for “sub-paragraph (3)(c)” substitute “sub-paragraphs (3)(b), (ba) and (c)”;
- (ii) in paragraph 15 (standards for varietal purity for hybrid varieties of rye)—
 - (aa) for the heading substitute—

“Standards for varietal purity for hybrid varieties of rye and cytoplasmic male sterility hybrid varieties of barley”; and

- (bb) after “rye” insert “or a cytoplasmic male sterility hybrid variety of barley”.

(7) In Schedule 9 (definition of Cereal Seed Directive), in the table, insert after the entry for Council Directive 2006/55/EC(a) the following entries—

“Commission Directive 2009/74/EC	OJ L 166, 27.6.2009, p.40
Commission Implementing Directive 2012/1/EU	OJ L 4, 7.1.2012, p.8
Commission Implementing Directive 2012/37/EU	OJ L 325, 23.11.2012, p.13
Commission Implementing Directive (EU) 2015/1955	OJ L 284, 30.10.2015, p.142”

PART III

AMENDMENTS TO THE FODDER PLANT SEED (SCOTLAND) REGULATIONS 2005

3.—(1) The Fodder Plant Seed (Scotland) Regulations 2005(b) are amended in accordance with this paragraph.

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “licensed crop inspector” substitute—

““licensed crop inspector” means a person who holds a current licence to be a crop inspector—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(b) for the definition of “licensed seed sampler” substitute—

““licensed seed sampler” means a person who holds a current licence to be a seed sampler—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(c) for the definition of “licensed seed testing station” substitute—

““licensed seed testing station” means an establishment which holds a current seed testing station licence—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;” and

(a) That entry was inserted by S.S.I. 2007/224, regulation 11.

(b) S.S.I. 2005/329, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.S.I. 2012/5 and S.S.I. 2013/326.

- (d) for the definition of “registered number” substitute—
- ““professional seed operator” means a seed merchant, a seed packer or a seed processor;
- “registered or licensed number” means the number issued to a person who holds a licence granted under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or to a person licensed or registered by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”.
- (3) In regulation 16 (sealing of packages of fully certified seed)—
- (a) in paragraph (4), for “or by a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or by a person licensed or registered in any part of the United Kingdom as a professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”; and
- (b) in paragraph (5), for “or by a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 5(1) (registrations) of the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 or provisions equivalent to that regulation” substitute “or by a person licensed or registered in any part of the United Kingdom as professional seed operator under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or provisions equivalent to that regulation”.
- (4) For regulation 25(2)(a) (service of notices) substitute—
- “(a) in the case of a professional seed operator, a crop inspector or a seed sampler licensed under regulation 4(1)(a) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016, it is the address which could be made available by the Scottish Ministers under regulation 10 of those Regulations; and”.
- (5) For “registered number” substitute “registered or licensed number” where it appears in the following provisions—
- (a) in Schedule 3 (particulars to be specified in an official certificate, a breeder’s confirmation or an authorisation to market a preservation mixture)—
- (i) paragraph 1(b) (particulars to be specified in an official certificate); and
- (ii) paragraph 2(b) (particulars to be specified in a breeder’s confirmation);
- (b) in Schedule 4A (standards for certification of conservation varieties), in Part II, subparagraph (b) (particulars to be specified in an official certificate)(a); and
- (c) in Schedule 6, in Part II (labels), paragraph 3(a)(i) (label for a package of Breeder’s Seed).
- (6) In Schedule 5, in Part II (maximum weight of a seed lot and minimum weight of a submitted sample), for paragraph 23A(1)(b) (increase to maximum weight of a seed lot of grasses) substitute—
- “(1) Any person licensed by the Scottish Ministers as a professional seed operator under regulation 4(1)(a) (determination of licences) of the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016 or licensed or registered by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation, may apply to the Scottish Ministers for approval to increase to 25 tonnes the maximum weight of a seed lot of any of the grasses set out in column 1 of the table in paragraph 26.”.

(a) Schedule 4A was inserted by S.S.I. 2009/223, Schedule 3, paragraph 1.

(b) Paragraph 23A was inserted by S.S.I. 2013/326.

PART IV
AMENDMENTS TO THE BEET SEED (SCOTLAND) (NO. 2) (SCOTLAND)
REGULATIONS 2010

4.—(1) The Beet Seed (Scotland) (No. 2) Regulations 2010(a) are amended in accordance with this paragraph.

(2) In regulation 2(1) (interpretation)—

(a) before the definition of “the Act” insert—

““the 2016 Regulations” means the Seed (Licensing and Enforcement etc.) (Scotland) Regulations 2016;”;

(b) for the definition of “licensed crop inspector” substitute—

““licensed crop inspector” means a person who holds a current licence to be a crop inspector—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the 2016 Regulations; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(c) for the definition of “licensed seed sampler” substitute—

““licensed seed sampler” means a person who holds a current licence to be a seed sampler—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the 2016 Regulations; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(d) for the definition of “licensed seed testing station” substitute—

““licensed seed testing station” means an establishment which holds a current seed testing station licence—

(a) granted by the Scottish Ministers or having effect as if it were a licence granted by the Scottish Ministers under regulation 4(1)(a) of the 2016 Regulations; or

(b) granted by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(e) for the definition of “registered number” substitute—

““professional seed operator” means a seed merchant, a seed packer or a seed processor;

“registered or licensed number” means the number issued to a person who holds a licence granted under regulation 4(1)(a) of the 2016 Regulations or to a person licensed or registered by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;”;

(f) omit the definition of “RLE Regulations”.

(3) For regulation 18(5)(b) (sealing of packages of seed) substitute—

“(b) by a licensed seed sampler or a person licensed by the Scottish Ministers as a professional seed operator under regulation 4(1)(a) (determination of licences) of the 2016 Regulations or by a person licensed or registered by a National Authority other than the Scottish Ministers under provisions equivalent to that regulation, using a sealing device and sealed in the manner outlined in paragraph (2)(a)(i) and (ii).”.

(a) S.S.I. 2010/148, amended by S.S.I. 2011/413.

(4) For regulation 22(2)(a) (service of notices) substitute—

“(a) in the case of a professional seed operator, a crop inspector or a seed sampler licensed under regulation 4(1)(a) of the 2016 Regulations, it is the address which could be made available by the Scottish Ministers under regulation 10 of those Regulations; and”.

(5) For “registered number”, substitute “registered or licensed number” where it appears in the following provisions—

(a) in Schedule 3 (particulars to be specified in an official certificate or a breeder’s confirmation)—

(i) paragraph 1(b) (particulars to be specified in an official certificate); and

(ii) paragraph 2(b) (particulars to be specified in a breeder’s confirmation); and

(b) in Schedule 6 (labelling), in Part II (labels), paragraph 3(a)(i) (label for a package of Breeder’s Seed).

PART V

AMENDMENT TO THE SEED POTATOES (SCOTLAND) REGULATIONS 2015

5. In regulation 18(1) (information regarding seed potatoes) of the Seed Potatoes (Scotland) Regulations 2015(a), for “and of the marketing” substitute “the marketing”.

(a) S.S.I. 2015/395.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 1st July 2016 and extend to Scotland only. They revoke and replace the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 (S.S.I. 2006/313).

These Regulations implement in part—

- Council Directive 66/401/EEC on the marketing of fodder plant seed (OJ L 125, 11.7.1966, p.2298);
- Council Directive 66/402/EEC on the marketing of cereal seed (OJ L 125, 11.7.1966, p.2309);
- Council Directive 2002/54/EC on the marketing of beet seed (OJ L 193, 20.7.2002, p.12);
- Council Directive 2002/55/EC on the marketing of vegetable seed (OJ L 193, 20.7.2002, p.33); and
- Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants (OJ L 193, 20.7.2002, p.74).

Regulation 3 makes provision for the making of applications for a licence by professional seed operators (as defined in regulation 2(1) to include seed merchants, seed packers and seed processors), crop inspectors, seed samplers or by a person in respect of a seed testing station.

Regulation 4 sets out the powers of the Scottish Ministers to grant a licence (with or without conditions), for a maximum period of 5 years, or otherwise to refuse an application for a licence.

Regulation 5 provides a power to vary a licence (whether or not at the request of a licence holder).

Regulation 6 provides a power to terminate a licence at the request of the licence holder.

Regulation 7 provides powers to suspend or revoke a licence (in whole or in part).

Regulation 8 provides powers to require training or the undertaking of examinations by crop inspectors or seed samplers or personnel at a licensed seed testing station.

Regulation 9 sets out the duties of an Analyst in Charge of a licensed seed testing station.

Regulation 10 requires the Scottish Ministers to maintain a register containing information about licences granted under these Regulations.

Regulation 11 sets out the powers and duties for licensed crop inspectors, licensed seed samplers and licensed seed testing stations in respect of charging fees in connection with the carrying out of functions under a licence.

Regulation 12 requires authorised officers appointed by the Scottish Ministers to carry out checks and supervise licence holders.

Regulation 13 provides for the taking of samples for the enforcement of the Seeds Marketing Regulations (as defined in regulation 2(1)).

Regulation 14 and Schedules 1 and 2 respectively provides for the form of certificates in respect of the taking of a sample or the results of tests of seeds under these Regulations.

Regulations 15 and 16 provide respectively for a right to make representations (to the Scottish Ministers) in respect of, or to appeal (to the Plant Varieties and Seeds Tribunal), against certain decisions taken or to be taken in relation to licences under these Regulations.

Regulation 17 enables the Scottish Ministers to exempt persons from compliance with any provision of these Regulations.

Regulation 18 enables the Scottish Ministers to extend the timescales for delivery of documents otherwise applicable under these Regulations.

Regulation 19 requires records to be kept under these Regulations for at least 6 years.

Regulation 20 makes provision for the service of notices.

Regulation 21 provides for applications, representations, notices and requests under these Regulations to be in writing (which includes electronic communications).

Regulation 22 and Schedule 3 consequentially amend some of the Seed Marketing Regulations (as defined in regulation 2(1)) and also amends the Seed Potatoes (Scotland) Regulations 2015. Paragraph 2(6) of Schedule 3 also amends the Cereal Seed (Scotland) Regulations 2005 to implement Commission Implementing Directive (EU) 2015/1955 (OJ L 284, 30.10.2015, p.142), which amends Annexes I and II to Council Directive 66/402/EEC on the marketing of cereal seed, with a further consequential amendment made by paragraph 2(7) to Schedule 9 to those Regulations. Paragraph 5 of Schedule 3 amends regulation 18(1) of the Seed Potatoes (Scotland) Regulations 2015 to correct a drafting error.

Regulation 23 revokes the Seed (Registration, Licensing and Enforcement) (Scotland) Regulations 2006 subject to savings and transitional provisions.

No business and regulatory impact assessment has been prepared for these Regulations.

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