

# S.I. No. 920/2005 — European Communities (Vegetable Seed) (Amendment) Regulations 2005

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## European Communities (Vegetable Seed) (Amendment) Regulations 2005

I, Mary Coughlan, Minister for Agriculture and Food, in exercise of the powers conferred on me by Section 3 of the European Communities Act, 1972 (No 27 of 1972) and for the purpose of giving effect to Council Directive 2004/117/EC<sup>1</sup> of 22 December 2004, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Vegetable Seed) (Amendment) Regulations 2005.
2. Any reference made in the definitions of the Council Directive and the Council Directives in the European Communities (Vegetable Seed) Regulations ( S.I. No. 306 of 2001 ) to a directive repealed by Article 51 of Directive 2002/55/EC of the European Parliament and of the Council of 13 June 2002 (“the Consolidated Directive”) shall be construed as a reference to the Consolidated Directive and should be read in accordance with the correlation table set out in Annex VII to the Consolidated Directive.
3. The European Communities (Vegetable Seed) Regulations 2001 ( S.I. No. 306 of 2001 ) are amended-
  - (a) in Regulation 2(1)-
    - (i) by substituting for the definition of “authorised officer” the following-

“authorised officer” means a person appointed under Regulation 28.
    - (ii) by deleting the definitions of “basic seed”, “certified seed”, “pre basic seed”, “standard seed”, and “vegetable”
    - (iii) by substituting for the definition of “ the directive” the following:

“ ‘EC Directive’ means Council Directive 2002/55/EC<sup>2</sup> of 13 June 2002 as amended by Council Directive 2004/117/EC of 22 December 2004.”
  - (b) by substituting for Regulation 6 (A) 1 (b) the following:

“(b) which has been harvested in another Member State, shall, on request, be officially certified as certified seed if it has undergone field inspection satisfying the conditions laid down in Annex I for the relevant category and official examination, or examination under official supervision, has shown

that the conditions laid down in Annex II of the same category are satisfied, and where in such cases vegetable seed has been produced directly from officially certified seed of pre-basic seed, it shall be officially certified as basic seed if the conditions laid down for the species concerned are satisfied.”

(c) by substituting for Regulation 6 (A) 3 (b) the following:

“(b) which has been harvested in a third country shall, on request, be officially certified as certified seed if the seed has undergone field inspection satisfying the conditions laid down in an equivalence decision made under Article 32(1)(a) of Council Directive No. 70/458/EEC of 29 September 1970<sup>(1)</sup>, for the relevant category, and if official examination, or examination under official supervision, has shown that the conditions laid down in Annex II for the same category are satisfied.”

(d) by substituting for Regulation 8 (2) (a) the following:

“(2)(a) Subject to Regulation 15 of these Regulations and to sub paragraph (b) of this paragraph, the Minister may, where the official examination, or examination under official supervision, in respect of germination pursuant to Annex II has not concluded, authorise the official certification of basic seed or certified seed, and the marketing of those categories of seed by way of trade as far as the first buyer.”

(e) by substituting for Regulation 14 (1) the following:

“14. (1) In the official examination, or examination under official supervision, of vegetable seed for certification or for post-control testing, samples shall be officially drawn, or drawn under official supervision, both from sufficiently homogeneous lots and in accordance with the International Rules for Seed Testing published by the International Seed Testing Association and the maximum weight of a lot of seed and the minimum weight of a sample shall be as laid down in Annex III.”

(f) by substituting for Regulation 19 (1) the following:

“19. (1) Where a sample of seed is taken pursuant to these Regulations by an authorised officer and is found on official examination, or examination under official supervision, not to comply with a requirement of these Regulations, the Minister may require that the seed shall be destroyed or otherwise disposed of in such manner as the Minister shall determine.

(b) by inserting after Regulation 23 the following-

“24 (1) The Minister may set fees, payable to him or her, for inspection, application for a certificate, sampling and carrying out of tests and different fees may be set for different inspections, certificates or tests.

(2) A fee payable under this Regulation may be recovered by the Minister as a simple contract debt in a court of competent

jurisdiction.

- (3) The Minister shall not carry out an inspection, consider an application for a certificate or carry out sampling or a test unless the fee set under this Regulation has been paid.
- (4) A fee payable under this Regulation shall not exceed an amount equal to the costs, estimated by the Minister, incurred in respect of an inspection or processing of an application for a certificate or test.
- (5) The Public Offices Fees Act 1879 does not apply in respect of fees payable under this Regulation.
- (6) A fee under this Regulation shall be disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.” and

25. Vegetable seeds, which have been produced in another Member State or a third country shall, on request, and without prejudice to the European Communities (National Catalogue of Agricultural Plant Varieties) Regulations 2002 be officially certified as certified seed of the appropriate category if the conditions as set down in Article 15(3) of the EC Directive have been met”,

26 (1) Field inspections carried out under official supervision shall be carried out by inspectors who fulfil the requirements set out in Article 2 (4) A (a) of the EC Directive.

(2) Seed sampling carried out under official supervision shall comply with Article 25 of the EC Directive.

(3) Seed testing carried out under official supervision shall be carried out by seed-testing laboratories which comply with Article 2 (4) B (a), (b), (c) of the EC Directive.

27 Notwithstanding Regulation 6, seed of heritage varieties which are:

- (a) associated with specific natural and semi natural habitats,
- (b) are threatened by genetic erosion, and
- (c) placed on the market in small packages,

may be marketed subject to any conditions that the Minister may deem necessary.”

28 (1)The Minister may appoint in writing such and so many persons as he or she deems necessary to be authorised officers for the purposes of these regulations.

(2) (a)An authorised officer shall be furnished with a warrant of his or her

appointment.

- (b) When exercising a power conferred on him or her under these Regulations an authorised officer shall, if requested by any person affected, produce the warrant to that person for inspection””.

**GIVEN** under my Official Seal,

21 December 2005

Mary Coughlan

Minister for Agriculture and Food

#### EXPLANATORY NOTE

*(This note is not part of the instrument and does not purport to be a legal interpretation).*

These Regulations give effect to Council Directive 2004/117/EC amending Commission Directive 2002/55/EC on the marketing of vegetable seed; the collection of fees and the marketing of heritage seed.

<sup>1</sup> O.J. No L14 18/1/2005 p18

<sup>2</sup> O.J. No 193 20/07/2002 p33