

# S.I. No. 805/2005 — European Communities (Cereal Seed) (Amendment) Regulations 2005

S.I No. 805 of 2005

## European Communities (Cereal 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 Directive 66/402/EEC of 14 June 1966<sup>1</sup> as amended by Council Directive 2004/117/EC of 22 December 2004<sup>32</sup> hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Cereal Seed) (Amendment) Regulations 2005.
2. The European Communities (Cereal Seed) Regulations 2001 ( S.I. No. 640 of 2001 ) are amended:

(a) In Regulation 2(1)-

- (i) by deleting the definitions of “basic seed”, “cereals” “certified seed”, “certified seed of the first generation”, “certified seed of the second generation”, and “pre-basic seed”, and
- (ii) by substituting for the definition of “Directive” the following:

“ ‘EC Directive’ means Council Directive 66/402/EEC of 14 June 1966 as amended by Council Directive No. 69/60/EEC of 18 February, 1969<sup>2</sup> ; Council Directive No. 71/162/EEC of 30 March, 1971<sup>3</sup> ; Council Directive No. 72/274/EEC of 20 July, 1972<sup>4</sup> ; Council Directive No. 72/418/EEC of 6 December, 1972<sup>5</sup> ; Act of Accession<sup>6</sup> ; Council Decision of 1 January, 1973<sup>7</sup> ; Council Directive No. 73/438/EEC of 11 December, 1973<sup>8</sup> ; Council Decision No. 74/532/EEC of 16 October 1974<sup>8a</sup> ; Council Directive No. 75/444/EEC of 26 June, 1975<sup>9</sup> ; Council Directive No. 78/55/EEC of 19 December, 1977<sup>10</sup> ; First Commission Directive No. 78/387/EEC of 18 April, 1978<sup>11</sup> ; Council Directive No. 78/692/EEC of 25 July, 1978<sup>12</sup> ; Council Directive No. 78/1020/EEC of 5 December, 1978<sup>13</sup> ; Commission Directive No. 79/641/EEC of 27 June, 1979<sup>14</sup> ; Council Directive No. 79/692/EEC of 24 July, 1979<sup>15</sup> ; Commission Decision No. 80/755/EEC of 17 July, 1980<sup>16</sup> , Commission Directive No. 81/126/EEC of 16 February, 1981<sup>17</sup> ; Directive No. 87/120/EEC of 14 January 1987<sup>18</sup> ; Council Directive No. 88/380/EEC of 13 June 1988<sup>19</sup> , Commission Directive No. 88/506/EEC of 13

September 1988<sup>20</sup> , Commission Directive No. 89/2/EEC of 15 December 1988<sup>21</sup> ; Commission Decision No. 89/101/EEC of 20 January, 1989<sup>22</sup> , Commission Directive No. 90/623/EEC of 7 November, 1990<sup>23</sup> , Commission Directive No 93/2/EEC of 28 January, 1993<sup>24</sup> ; Commission Directive No. 95/6/EC of 20 March 1995<sup>25</sup> ; Council Directive No. 96/72/EC of 18 November, 1996<sup>26</sup> , Council Directive No. 98/95/EC of December 1998<sup>27</sup> ; Council Directive No. 98/96/EC of 14 December, 1999<sup>28</sup> , Corregendum to Council Directive No. 98/95/EC of 14 December, 1999<sup>29</sup> ; Commission Directive 1999/8/EC of 18 February 1999<sup>30</sup> ; Commission Directive 1999/54/EC of 26 May, 1999<sup>31</sup> ; Council Directive 2004/117/EC of 22 December 2004<sup>32</sup> .

(b) by substituting for Regulation 5 (7) the following:

“5 (7) Notwithstanding paragraph 5 (1) (b), official examinations or examinations under official supervision in respect of germination and analytical purity need not be carried out on all lots during certification unless there is doubt whether the conditions laid down in Annex II have been complied with.”

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

“6 (3) (a) Subject to Regulation 12 and to subparagraph (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 pre-basic seed, basic seed or certified seed or certified seed of the first generation and the marketing of those categories of seed by way of trade as far as the first buyer.”

(d) by substituting for Regulation 7 (1) the following:

“7 (1) Cereal seed shall for the purposes of these Regulations be regarded as being free of the seed of *Avena fatua* if,

(a) the crop of the relevant cereals is found on an official field inspection or field inspection carried out under official supervision to be free of *Avena fatua* and also if a sample of at least 1 kilogram of the cereal seed is found on an official examination or examination under official supervision to be free of the seed of *Avena fatua*, or

(b) a sample of the cereal seed of at least 3 kilograms is found on official examination or examination under official supervision to be free of the seed of *Avena fatua*.

(2) Cereal seed which is produced in the State shall be certified pursuant to these Regulations if, and only if, the crop of the relevant cereals is found on an official field inspection or field inspection carried out under

official supervision to be free of *Avena fatua* and also if a sample of at least 1 kilogram of the cereal seed is found on an official examination or examination under official supervision to be free of the seed of *Avena fatua*.”

(e) by substituting for Regulation 11 (1) the following:

“11(1) In the official examination or examination under official supervision of cereal seed for certification, samples shall be officially drawn 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 21 the following:

“21 (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, 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.’

(g) by inserting the following after Regulation 21:

22 Seed of cereals, 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”,

23 (1) Field inspections carried out under official supervision shall be carried out by inspectors who fulfil the conditions set out in

Article 2 (3) A of the Directive.

- (2) Seed sampling carried out under official supervision shall comply with Article 7 of the Directive.
- (3) Seed testing carried out under official supervision shall be carried out by seed-testing laboratories which comply with Article 2 (3) B (a), (b) and (c) of the EC Directive.

24 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) which is placed on the market in small packages,

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

(h) by substituting for the first sentence in ANNEX I the following:

“1 The satisfaction of the above-mentioned standards or other conditions shall be examined in official field inspections or field inspection carried out under official supervision.”.

**GIVEN** under my Official Seal

7 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 1999/54/EC on the marketing of cereal seed; the collection of fees and the marketing of heritage seed.

O.J. No L125 11/07/1966 p2309

<sup>32</sup> OJ No. L14 18/1/2005 p18

<sup>2</sup> OJ No L48/1 of 26 February, 1969.

<sup>3</sup> OJ No. L87/24, 17 April, 1971.

<sup>4</sup> OJ No. L171/37, 29 July, 1972.

<sup>5</sup> OJ No. L287/22, 26 December, 1972

<sup>6</sup> OJ Special Edition, P. 14, 27 March, 1972.

<sup>7</sup> OJ No. L2/1, 1 January, 1973.

<sup>8</sup> OJ No. L356/79, 27 December, 1973

<sup>8a</sup> OJ No. L 299/14, 7 November, 1974

<sup>9</sup> OJ No. L196/6, 26 July, 1975

<sup>10</sup> OJ No. L16/23, 20 January, 1978.

<sup>11</sup> OJ No. L113/13, 25 April, 1978.

<sup>12</sup> OJ No. L236/13, 26 August, 1978.

<sup>13</sup> OJ No. L350/27, 14 December, 1978

<sup>14</sup> OJ No. L183/13, 19 July, 1979

<sup>15</sup> OJ No. L205/1, 13 August, 1979.

<sup>16</sup> OJ No. L207/37, 9 August, 1980.

<sup>17</sup> OJ No. L67/36, 13 March, 1981.

<sup>18</sup> OJ No. L49/39, 18 February, 1987.

<sup>19</sup> OJ No. L187/31, 16 July, 1988.

<sup>20</sup> OJ No. L274/44, 6 October, 1988.

<sup>21</sup> OJ No. L5/31, 7 January, 1989.

<sup>22</sup> OJ No. L38/37, 10 February, 1989.

<sup>23</sup> OJ No. L333/65, 30 November, 1990.

<sup>24</sup> OJ No. L54/20, 5 March, 1993.

<sup>25</sup> OJ No. L67/30, 25 March, 1995.

26

OJ No. L304/10, 27 November, 1996.

<sup>27</sup> OJ No. L25/1, 1 February, 1999.

<sup>28</sup> OJ No. L25/27, 1 February, 1999.

<sup>29</sup> OJ No. L126/23, 1 September, 1999.

<sup>30</sup> OJ No. L50/26, 26 February, 1999.

<sup>31</sup> OJ No. L142/30, 5 June, 1999

<sup>32</sup> OJ No. L14 18/1/2005 p18

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