

Statutory Instrument 1999 No. 1862

The Oil and Fibre Plant Seeds (Amendment) Regulations 1999

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STATUTORY INSTRUMENTS

1999 No. 1862

SEEDS

The Oil and Fibre Plant Seeds (Amendment) Regulations 1999

<i>Made</i>	<i>29th June 1999</i>
<i>Laid before Parliament</i>	<i>30th June 1999</i>
<i>Coming into force</i>	<i>30th July 1999</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred by sections 16(1), (1A) and (8) and 36 of the Plant Varieties and Seeds Act 1964^[1] and now vested in them^[2], after consultation in accordance with the said section 16(1) with representatives of such interests as appear to them to be concerned, hereby make the following Regulations -

Title and commencement

1. These Regulations may be cited as the Oil and Fibre Plant Seeds (Amendment) Regulations 1999 and shall come into force on 30th July 1999.

Interpretation

2. In these Regulations "the principal Regulations" means the Oil and Fibre Plant Seeds Regulations 1993^[3].

Amendment of the Oil and Fibre Plant Seeds Regulations 1993

3. - (1) The principal Regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulation 3(1), after the definition of "the Act" there shall be inserted -

" "breeder" -

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

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

"breeder's confirmation" means a document issued by the Minister in accordance with Schedule 2A containing in respect of the seed to which it relates the particulars specified in Schedule 3A;"

(3) In regulation 3(3) -

(a) in the definition of "Breeder's Seed" -

(i) in paragraph (a) for the words -

" by or under the responsibility of the maintainer carrying out in the United Kingdom the duties of a maintainer set out in regulation 19 of the Seeds (National Lists of Varieties) Regulations 1982"

there shall be substituted the words -

" by or under the responsibility of the breeder"; and

(ii) for paragraph (c) there shall be substituted -

" (c) which satisfy the requirements for Basic Seed set out in Schedule 4 and in respect of which -

(i) an official certificate has been issued in accordance with Schedule 2;
or

(ii) a breeder's confirmation has been issued in accordance with Schedule 2A;"

(b) for the definition of "Pre-basic Seed" there shall be substituted -

" "Pre-basic Seed" means seeds of a generation earlier than that of Basic Seed -

(a) which have been produced directly from Breeder's Seed or Pre-basic Seed by or under the responsibility of the breeder,

(b) which are intended for the production of Pre-basic Seed, Basic Seed or, with the written authority of the breeder and the Minister, Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation or, as regards flax, Certified Seed of the Third Generation, and

(c) which satisfy the requirements for Basic Seed set out in Schedule 4 and in respect of which -

(i) an official certificate has been issued in accordance with Schedule 2;
or

(ii) a breeder's confirmation has been issued in accordance with Schedule 2A;"

(c) in the definition of "Basic Seed" -

(i) in paragraph (a) -

(aa) in sub-paragraph (i) for the words -

" by or under the responsibility of the maintainer"

there shall be substituted the words -

" by or under the responsibility of the breeder"; and

(bb) for sub-paragraph (iii) there shall be substituted -

" (iii) satisfy the requirements for Basic Seed set out in Schedule 4 and in respect of which -

(aa) an official certificate has been issued in accordance with Schedule 2; or

(bb) a breeder's confirmation has been issued in accordance with Schedule 2A;"

(ii) for paragraph (b) there shall be substituted -

" (b) seeds, in the case of inbred lines of sunflower intended for the production of hybrids, which have been produced from Breeder's Seed or Pre-basic Seed and which satisfy the requirements for Basic Seed set out in Schedule 4 and in respect of which -

(i) an official certificate has been issued in accordance with Schedule 2;
or

(ii) a breeder's confirmation has been issued in accordance with Schedule 2A;" and

(iii) for sub-paragraph (c)(ii) there shall be substituted -

" (ii) satisfy the requirements for Basic Seed set out in Schedule 4 and in respect of which -

(aa) an official certificate has been issued in accordance with Schedule 2; or

(bb) a breeder's confirmation has been issued in accordance with Schedule 2A;"

(d) in the definition of "Certified Seed" for the word "maintainer" there shall be substituted the word "breeder";

(e) in the definition of "Certified Seed of the First Generation" for the word "maintainer" there shall be substituted the word "breeder";

(f) in the definition of "Certified Seed of the Second Generation" for the word "maintainer" there shall be substituted the word "breeder"; and

(g) in the definition of "Certified Seed of the Third Generation" for the word "maintainer" there shall be substituted the word "breeder".

(4) In regulation 3(5) for the word "maintainer" each time it occurs there shall be substituted the word "breeder".

(5) In regulation 5(1)(b)(i) (marketing of seeds) after the words "or Certified Seed of the Third Generation" there shall be inserted the words "in respect of which an official certificate has been issued".

(6) In regulation 6 (official certificates) -

(a) for paragraph (1)(a) there shall be substituted -

" (a) shall be made in writing to the Minister in such form and manner, and shall include such information, records, illustrations, material and seeds, as the Minister may require; and"; and

(b) after paragraph (4) there shall be added -

" (5) A breeder may apply to the Minister for the issue of an official certificate in place of a breeder's confirmation once the seed of that variety may be marketed in accordance with regulation 31 of the Seeds (National Lists of Varieties) Regulations 1982^[4].

(6) An application under paragraph (5) above -

(a) shall be made in writing to the Minister in such form and manner, and shall be accompanied by such documents, as the Minister may require; and

(b) shall be made not later than the thirty-first day of December of the year following the year of harvest of the crop from which the seed lot is obtained or within such other time as the Minister may allow.

(7) The Minister shall issue an official certificate in the circumstances described in paragraph (5) above provided he is satisfied that -

(a) the seed is the seed in respect of which the breeder's confirmation was issued;

(b) the breeder's confirmation has not been withdrawn pursuant to regulation 6A(3); and

(c) there is no reason why the breeder's confirmation should be withdrawn pursuant to regulation 6A(3).

(8) Schedule 2 below shall not apply to an application for an official certificate made under paragraph (5) above.

(9) Where an official certificate is issued under paragraph (7) above in respect of any seed, no person shall market the seed unless it has been re-labelled with a label which complies with regulation 9."

(7) After regulation 6 (official certificates) there shall be inserted -

" Breeder's confirmations

6A. - (1) An application for the issue of a breeder's confirmation in respect of a seed lot -

(a) shall be made in writing by the breeder to the Minister in such form and manner, and shall include such information, records, illustrations, material and seeds, as the Minister may require;

(b) shall be made not later than the thirty-first day of December of the year following the year of harvest of the crop from which the seed lot is obtained or within such other time as the Minister may allow; and

(c) shall be made only -

(i) for seed of a variety when an application has been made to add the variety to the National List (or an equivalent list in another Member State); or

(ii) for seed of a component of a hybrid variety of oilseed rape when an application has been made to add the hybrid variety to the National List (or to an equivalent list in another Member State).

(2) Where an application for the issue of a breeder's confirmation is made to the Minister in accordance with paragraph (1) above the Minister shall deal with the application in accordance with the provisions of Schedule 2A.

(3) A breeder's confirmation which has been issued by the Minister may be

withdrawn by him in respect of either the whole of a seed lot or any part of a seed lot and any seeds from which a breeder's confirmation has been so withdrawn shall be deemed not to have had a breeder's confirmation if -

(a) the results of an official examination of the seeds in respect of which the breeder's confirmation has been issued are declared null and void in accordance with paragraph (2) of regulation 7, or

(b) information has been received by him which, if known to him before the breeder's confirmation was issued, would have resulted in the application for its issue being refused on the grounds that the seeds did not meet the requirements of the seeds regulations."

(8) After regulation 8 (sealing of packages) there shall be inserted -

" Sealing of packages - breeder's confirmation

8A. - (1) No person shall have in his possession any package of seed in respect of which a breeder's confirmation for Breeder's Seed, Pre-basic Seed or Basic Seed has been applied for unless it has been sealed in accordance with this regulation by or under the supervision of a person authorised by the Minister in that behalf in such manner that when the package is opened the sealing device will be broken and cannot be re-used.

(2) Sealing under paragraph (1) above shall take place not later than at the time of sampling or, in the case of seed that is wholly or partly re-packaged, the sealing of the original package shall take place no later than that time.

(3) No person shall open a package of seed which has been sealed in accordance with paragraph (1) above except -

(a) for the purpose of sowing all the seed;

(b) where -

(i) any action carried out in relation to the package is done immediately after opening;

(ii) some seed remains in the package after that action has been done; and

(iii) the package is re-sealed under paragraph (4) below immediately after the completion of that action; or

(c) for the purpose of re-packaging and re-sealing all of the seed.

(4) If a package of seeds which has been sealed in accordance with paragraph (1) above shall (in accordance with paragraph (3) above or otherwise) have been opened neither it nor any other package containing any of those seeds may be sealed, re-sealed or further re-sealed (as the case may be) except by or under the supervision of a person authorised by the Minister in that behalf.

(5) If the details on any label required by regulation 9A cease to be correct as a consequence of any action of the kind described in paragraph (3) above the label shall be replaced, by or under the supervision of a person authorised by the Minister in that

behalf at the time the package is re-sealed under paragraph (4) above."

(9) After regulation 9(1) (labelling of packages) there shall be inserted -

" (1A) In the case of a package of seeds in respect of which the Minister has issued an official certificate under regulation 6(7), paragraph (1) above shall apply as if the words "not later than at the time of sealing" were omitted."

(10) After regulation 9 (labelling of packages) there shall be inserted -

" Labelling of packages - breeder's confirmation

9A. - (1) No person shall have in his possession any package of seed in respect of which a breeder's confirmation for Breeder's Seed, Pre-basic Seed or Basic Seed has been applied for unless it has been, not later than the time of sealing under regulation 8A, labelled, inscribed or otherwise dealt with in accordance with paragraphs (2) to (9) of this regulation.

(2) Packages of seeds shall have affixed on the outside an official label containing, as appropriate to the seeds, particulars of the matters specified, and being at least the size and of the colour also specified in Part I of Schedule 6 and over-stamped "not certified", which shall be either an adhesive label or a label secured to the package by a sealing device approved by the Minister and shall be affixed (in either case) by or under the supervision of a person authorised by the Minister in that behalf.

(3) If in accordance with paragraph 2 of Schedule 2A (applications for breeder's confirmation) a breeder's confirmation shall have been issued in respect of seed of a lower percentage of germination than that specified in Schedule 4 the fact shall be stated on the official label, or included in the particulars printed or stamped on the package in accordance with paragraph (4) of this regulation, and where possession of the package is transferred to another person, the transferor shall affix a label to the outside of the package containing a statement of the germination of the seeds together with his name and address and the reference number of the lot.

(4) Notwithstanding paragraphs (2) and (3) above, a package of seeds need not be labelled if -

(a) the appropriate particulars of the matter specified in Part I of Schedule 6 are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified and over-stamped "not certified", and

(b) the requirements of Section A of Part IV of that Schedule are satisfied.

(5) A package shall contain an official inner label which shall be of the same colour as, and in addition to the official label affixed to the outside of the package in accordance with paragraph (2) above. The official inner label shall contain particulars of the matters specified in the items numbered 4, 5 and 6 in Part IC of Schedule 6; except that if such particulars are printed indelibly on the outside of the package or if the official label is an adhesive or tear-resistant label, an official inner label shall not be required.

(6) If a package of seeds shall have been re-sealed in accordance with regulation 8A(4) this fact shall be stated on the official label, together with the month and year of re-sealing and the name of the authority responsible for the re-sealing.

(7) If any seeds have been subjected to any chemical treatment this fact and the nature of the treatment or the proprietary name of the chemical used in the treatment shall be stated either -

(a) on a separate label, or

(b) on the label referred to in paragraph (2) or (3) above or the printing or stamp referred to in paragraph (4) above,

and also, except where the information prescribed by this paragraph is given on an adhesive or tear-resistant label, either on the outside of the package or in a statement enclosed in the package.

(8) The particulars and information given in accordance with this regulation shall be given in one of the official languages of the Community.

(9) For the purposes of this regulation, references in Schedule 6 to the "Certifying Authority" shall, in the case of a breeder's confirmation, be taken to be references to that authority as issuer of the confirmation.

(10) Subject to the provisions of these Regulations, no person shall wilfully reproduce, remove, alter, deface, conceal or misuse in any way any label affixed to, contained in or marked on any package of seeds or which is to be so affixed, contained or marked, except as may occur in the course of opening the package for the purpose of sowing or for any other lawful purpose."

(11) After Schedule 2 (official certificates) there shall be inserted -

" SCHEDULE 2A

Regulations 3(1) and (3), and 6A(2)

BREEDER'S CONFIRMATIONS

1. On receipt of an application made in accordance with regulation 6A(1) for the issue of a breeder's confirmation in respect of a seed lot, for Breeder's Seed, Pre-basic Seed or Basic Seed, the Minister shall, subject to paragraphs 2 and 3 below and to the payment of any fees payable under seeds regulations, issue in respect of such seed lot a breeder's confirmation containing the particulars specified in Schedule 3A.

2. The Minister shall refuse to issue a breeder's confirmation in respect of a seed lot unless -

(a) an application has been made to the Minister, at such time as he may require, for registration by him of -

(i) the seed lot or seed lots to be used for the production of the crop or crops from which the seed lot is to be obtained, and

(ii) the crop or crops from which the seed lot is to be obtained;

(b) an official examination of the crop or crops from which the seed lot was obtained shall have shown that the crop or crops meet the standards appropriate to the category and the level set out in Part I of Schedule 4; and

(c) an official examination of a sample of the seed lot shall have shown that the seeds meet the standards appropriate to the category and the level set out in Part II of Schedule 4;

except that -

(i) paragraphs 2(a), (b) and (c) shall not apply in relation to an application for the issue of a breeder's confirmation in respect of Breeder's Seed where the seed has been officially sampled for the purposes of official examination of a plot in accordance with paragraph 1 of Part I of Schedule 4; and

(ii) paragraph 2(c) above, in so far as it relates to standards of germination set out in Part II of Schedule 4, shall not apply in relation to the issue of a breeder's confirmation for Breeder's Seed, Pre-basic Seed or Basic Seed in respect of seeds which attain a lower percentage of germination than that specified in Schedule 4.

3. An application under paragraph 2(a) above shall be in writing in such form and manner as the Minister may require and shall be accompanied by such information and records as he may require in order to satisfy himself as to the identity of the seed lot or lots or crop or crops to be registered.

4. The Minister may refuse to issue a breeder's confirmation in respect of a seed lot if it appears to him -

(a) a sample of the seed lot taken for the purpose of an official examination in order to ascertain whether the seed lot meets the appropriate standards set out in Part II of Schedule 4 has not been taken in accordance with the requirements contained in Schedule 5;

(b) an official examination of a plot sown with a sample of the seed lot sown in the field shows that the crop does not meet the appropriate standards set out in Part I of Schedule 4; or

(c) there has been a breach of seeds regulations in relation to the seed lot in respect of which application for a breeder's confirmation has been made."

(12) After Schedule 3 (particulars to be specified in an official certificate) there shall be inserted -

" SCHEDULE 3A

Regulation 3(1)

PARTICULARS TO BE SPECIFIED IN A BREEDER'S CONFIRMATION

- (i) Name and address of issuing authority
- (ii) Applicant's name, address and registered number
- (iii) Seed lot reference number
- (iv) Kind/variety/category*
- (v) Net weight of seed lot and number of containers
- (vi) Seed treatment (if applicable)
- (vii) Statement that the breeder's confirmation does not constitute an official certificate and does not permit marketing of the seed

* as appropriate."

(13) For Schedule 4, Part I, paragraph 2 (varietal identity and varietal purity) there shall be substituted -

" 2. The characteristics for the determination of varietal identity and varietal purity shall be -

- (a) in respect of an official certificate, those recognised as those of the variety for the purposes of the National List or the Common Catalogue; and
- (b) in respect of a breeder's confirmation, those recognised as those of the variety used in testing for the purposes of the National List or an equivalent list in another Member State."

Transitional provisions

4. - (1) Where the Minister is satisfied in relation to a seed lot that -

- (a) he would issue an official certificate under regulation 6 of the principal Regulations were it not for the absence of an official certificate or a breeder's confirmation in respect of an earlier generation of seed sown before the coming into force of these Regulations from which the seed lot is derived; and
- (b) if these Regulations had been in force at the time the earlier generation of seed was sown he would (on application having duly been made) have issued a breeder's confirmation in respect of it,

he shall disregard the absence of such certificate or confirmation in deciding whether to issue an official certificate in respect of that seed lot.

(2) Where the Minister is satisfied in relation to a seed lot that -

- (a) he would issue a breeder's confirmation under regulation 6A of the principal Regulations were it not for the absence of a breeder's confirmation in respect of an

earlier generation of seed sown before the coming into force of these Regulations from which the seed lot is derived; and

(b) if these Regulations had been in force at the time the earlier generation of seed was sown he would (on application having duly been made) have issued a breeder's confirmation in respect of it,

he shall disregard the absence of such confirmation in deciding whether to issue a breeder's confirmation in respect of that seed lot.

(3) Paragraph 2(a) of Schedule 2A to the principal Regulations (registration of seed lots) shall not apply in the case of an application for the issue of a breeder's confirmation in respect of a seed lot produced from a crop or crops sown before the coming into force of these Regulations, but without prejudice to regulation 6A(1)(a) of the principal Regulations (form of application etc.), the Minister shall refuse to issue a breeder's confirmation in respect of that seed lot unless he is satisfied -

(a) as to the identity of -

(i) the seed lot or seed lots used for the production of the crop or crops from which the seed lot was obtained, and

(ii) the crop or crops from which the seed lot was obtained; and

(b) that the crop or crops from which the seed lot was obtained was or were examined by him or on his behalf with a view to establishing whether standards equivalent to those specified in Part I of Schedule 4 to the principal Regulations were met.

Jeff Rooker

Minister of State, Ministry of Agriculture Fisheries and Food

29th June 1999

Calum MacDonald

Parliamentary Under Secretary of State, Scottish Office

29th June 1999

Signed by authority of the Secretary of State for Wales

Jon Owen Jones

Parliamentary Under Secretary of State, Welsh Office

29th June 1999

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Oil and Fibre Plant Seeds Regulations 1993 (as amended) to provide for the issue to a breeder of a document called a breeder's confirmation in respect of seed in the categories Breeder's Seed, Pre-basic Seed and Basic Seed prior to the entry of that variety of seed (or, in the case of a component of a hybrid variety, of the hybrid variety of seed) on a United Kingdom National List (regulation 3(2) (3) and (4)).

The Regulations provide that a breeder's confirmation is issued in similar circumstances to an official certificate (regulation 3(7), (11), (12) and (13)). However, seed in respect of which a breeder's confirmation is issued cannot be marketed (regulation 3(5)).

The Regulations provide for similar sealing and labelling requirements for seed in respect of which a breeder's confirmation has been issued to those which apply to seed in respect of which an official certificate has been issued (regulation 3(8) and (10)).

The Regulations provide that once a variety has been entered on a National List a breeder's confirmation which is issued in respect of seed of that variety may be exchanged for an official certificate for that seed provided certain conditions are fulfilled. When the official certificate has been issued, the seed may be marketed provided it has been relabelled (regulation 3(6)(b) and (9)).

The Regulations include transitional provisions to provide that seed which would have satisfied the provisions of these Regulations if they had been in force may be issued with an official certificate or breeder's confirmation, as appropriate (regulation 4).

The Regulations also -

(a) revise the items which may be required to accompany an application for an official certificate (regulation 3(6)(a)); and

(b) remove the requirement that seed in the category Breeder's Seed shall be produced in the United Kingdom (regulation 3(3)(a)(i)).

Notes:

[1] 1964 c.14; section 16 was amended by section 4(1) and paragraph 5(1), (2) and (3) of Schedule 4 to the European Communities Act 1972 (c.68). See section 38(1) for a definition of "the Ministers". [back](#)

[2] In the case of the Secretary of State for Wales by virtue of S.I. 1978/272. [back](#)

[3] S.I. 1993/2007 as amended by S.I. 1994/1423, 1996/1451 and 1997/616. [back](#)

[4] S.I. 1982/844, as amended by S.I. 1985/1529, 1989/1314, 1990/1353, 1992/1615 and 1998/2726. [back](#)

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