

Statutory Instrument 2003 No. 3101

The Oil and Fibre Plant Seed (England) (Amendment) Regulations 2003

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STATUTORY INSTRUMENTS

2003 No. 3101

SEEDS, ENGLAND

The Oil and Fibre Plant Seed (England) (Amendment) Regulations 2003

<i>Made</i>	<i>1st December 2003</i>
<i>Laid before Parliament</i>	<i>2nd December 2003</i>
<i>Coming into force</i>	<i>31st December 2003</i>

The Secretary of State for Environment, Food and Rural Affairs in exercise of the powers conferred upon her by sections 16(1), (1A), (2), (3), (4), (5), (5A) and 36 of the Plant Varieties and Seeds Act 1964^[1], after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to her to be concerned, hereby makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Oil and Fibre Plant Seed (England) (Amendment) Regulations 2003, and shall come into force on 31 December 2003.

Amendment of the Oil and Fibre Plant Seed (England) Regulations 2002

2. - (1) The Oil and Fibre Plant Seed (England) Regulations 2002^[2] shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1), for the definition of "the Oil and Fibre Plant Seed Directive" there shall be substituted the following definition -

" "the Oil and Fibre Plant Seed Directive" means Council Directive 2002/57/EC^[3] on the marketing of seed of oil and fibre plants as amended by Council Directive 2002/68/EC^[4] and Commission Directive 2003/45/EC ^[5];"

(3) In regulation 3, after the definition of "flax" there shall be inserted the following definition -

" "hemp" means plants of the species *Cannabis sativa L.* commonly known as hemp;"

(4) In regulation 6(3)(b), the words "or turnip rape" shall be deleted.

(5) In regulation 8(1) -

(a) in sub-paragraph (c) -

(i) after the words "brown mustard," there shall be inserted the words "dioecious hemp,"; and

(ii) for the words "a hybrid of sunflower, swede rape or turnip rape" there shall be substituted the words -

" a hybrid, other than a hybrid of swede rape,";

(b) in sub-paragraph (d) after the word "linseed" there shall be inserted the words ", monoecious hemp";

(c) in sub-paragraph (e) after the word "linseed" there shall be inserted the words ", monoecious hemp";

(d) in sub-paragraph (g) -

(i) after the words "brown mustard," there shall be inserted the words "dioecious hemp,"; and

(ii) after the words "a hybrid" the words "of sunflower, swede rape or turnip rape" shall be deleted;

(e) in sub-paragraph (h) after the word "linseed" there shall be inserted the words ", monoecious hemp"; and

(f) in sub-paragraph (i) after the word "linseed" there shall be inserted the words ",

monoecious hemp".

(6) In regulation 8(3) -

(a) in sub-paragraph (a)(i) after the words "brown mustard," there shall be inserted the words "dioecious hemp,";

(b) in sub-paragraph (a)(ii) the words "of sunflower, swede rape or turnip rape" shall be deleted;

(c) in sub-paragraph (b) after the word "linseed" there shall be inserted the words ", monoecious hemp"; and

(d) in sub-paragraph (c) after the word "linseed" there shall be inserted the words ", monoecious hemp".

(7) In regulation 8(17) -

(a) in sub-paragraph (c) after the word "linseed" there shall be inserted the words ", monoecious hemp";

(b) in sub-paragraph (d) -

(i) after the words "brown mustard," there shall be inserted the words "dioecious hemp,"; and

(ii) the words "used in the production of sunflower, swede rape or turnip rape" shall be deleted;

(c) in sub-paragraph (e) the words "of sunflower, swede rape or turnip rape" shall be deleted;

(d) in sub-paragraph (h) after the word "linseed" there shall be inserted the words ", monoecious hemp";

(e) in sub-paragraph (i) -

(i) after the words "brown mustard," there shall be inserted the words "dioecious hemp,"; and

(ii) after the words "a hybrid variety" the words "of sunflower, swede rape or turnip rape" shall be deleted;

(f) in sub-paragraph (j) after the words "a hybrid variety" the words "of sunflower, swede rape or turnip rape" shall be deleted; and

(g) in sub-paragraph (l) after the word "linseed" there shall be inserted the words ", monoecious hemp".

(8) In regulation 10(6) -

(a) in sub-paragraph (c) after the words "brown mustard," there shall be inserted the words "dioecious hemp,";

(b) in sub-paragraph (d) after the word "linseed" there shall be inserted the words ", monoecious hemp";

(c) in sub-paragraph (e) after the word "linseed" there shall be inserted the words ", monoecious hemp".

(9) In regulation 11(1) -

(a) in sub-paragraph (c) after the words "brown mustard," there shall be inserted the words "dioecious hemp,";

(b) in sub-paragraph (d) after the word "linseed" there shall be inserted the words ", monoecious hemp"; and

(c) in sub-paragraph (e) after the word "linseed" there shall be inserted the words ", monoecious hemp".

(10) In regulation 11(14) -

(a) in sub-paragraph (b) after the word "linseed" there shall be inserted the words ", monoecious hemp";

(b) in sub-paragraph (c) -

(i) after the words "brown mustard," there shall be inserted the words "dioecious hemp,"; and

(ii) for the words "other than a hybrid of sunflower, swede rape or turnip rape" there shall be substituted the words -

" other than a component used in the production of a hybrid variety,";

(c) in sub-paragraph (d) after the words "a hybrid variety" the words "of sunflower, swede rape or turnip rape" shall be deleted;

(d) in sub-paragraph (f) after the word "linseed" there shall be inserted the words ", monoecious hemp";

(e) in sub-paragraph (g) -

(i) after the words "brown mustard," there shall be inserted the words "dioecious hemp,"; and

(ii) after the words "a hybrid variety" the words "of sunflower, swede rape or turnip rape" shall be deleted;

(f) in sub-paragraph (h) after the words "a hybrid variety" the words "of sunflower,

swede rape or turnip rape" shall be deleted; and

(g) in sub-paragraph (j) after the word "linseed" there shall be inserted the words ", monoecious hemp".

(11) In regulation 26(12)(b) for the words "in accordance with the provisions of paragraph 6(d) of the Annex to Commission Decision 95/232/EC as extended by Council Directive 2002/68/EC" there shall be substituted the words -

" in accordance with point (aa) of Annex IV to the Oil and Fibre Plant Seed Directive."

(12) In Schedule 1 -

(a) in Part I, paragraph 1 -

(i) in sub-paragraph (1) -

(aa) after the words "a hybrid variety" the words "of sunflower, swede rape or turnip rape" shall be deleted;

(bb) in paragraph (b)(i) after the words "brown mustard," there shall be inserted the words "dioecious hemp,";

(cc) in paragraph (b)(ii) after the word "linseed" there shall be inserted the words ", monoecious hemp"; and

(dd) in paragraph (b)(iii) after the word "linseed" there shall be inserted the words ", monoecious hemp"; and

(ii) in sub-paragraph (2) after the words "a hybrid variety" the words "of sunflower, swede rape or turnip rape" shall be deleted;

(b) in Part II, paragraph 13 -

(i) in sub-paragraph (1) -

(aa) after the words "brown mustard, flax," there shall be inserted the word "hemp,";

(bb) after the words "a hybrid" the words "of sunflower, swede rape or turnip rape" shall be deleted;

(cc) in paragraph (b)(i) after the words "brown mustard," there shall be inserted the words "dioecious hemp,";

(dd) in paragraph (b)(ii) after the word "linseed" there shall be inserted the words ", monoecious hemp"; and

(ee) in paragraph (b)(iii) after the word "linseed" there shall be inserted the words ", monoecious hemp";

(ii) in sub-paragraph (2) -

(aa) after the words "a hybrid variety" the words "of swede rape or turnip rape" shall be deleted; and

(bb) after the words "inbred line" the words "of sunflower" shall be deleted; and

(iii) in sub-paragraph (3) after the words "hybrid variety" the words "of sunflower" shall be deleted;

(c) in Part III -

(i) in paragraph 27 -

(aa) after the words "brown mustard," there shall be inserted the words "dioecious hemp,"; and

(bb) after the word "hybrids" the words "of sunflower, swede rape and turnip rape" shall be deleted;

(ii) in paragraph 35 after the word "linseed" there shall be inserted the words ", monoecious hemp";

(iii) in paragraph 43 after the word "linseed" there shall be inserted the words ", monoecious hemp"; and

(d) in Part V, paragraph 64(3)(c) after the words "a hybrid variety" the words "of sunflower, swede rape or turnip rape" shall be deleted.

(13) In Schedule 2 after paragraph 3 there shall be inserted the following paragraph -

" 3A. Hemp."

(14) In Schedule 3 -

(a) in paragraph 1(2) after the words "of swede rape" the words "or turnip rape" shall be deleted;

(b) in the table in paragraph 2 -

(i) in entry (a) in column 1 -

(aa) after the words "brown mustard," there shall be inserted the words "dioecious hemp,"; and

(bb) after the words "hybrids of swede rape" the words "and turnip rape" shall be deleted; and

(ii) in entry (b) in column 1 after the words "of swede rape" the words "and turnip rape" shall be deleted;

(c) after entry (c)(iii) in the table at paragraph 2 there shall be inserted the following entry -

" (d) Monoecious hemp

(i) for the production of basic seed 5,000 metres

(ii) for the production of CS seed 1,000 metres.";

(d) in paragraphs 5 and 6 the words "of sunflower" shall be deleted;

(e) in paragraph 7 after the words "brown mustard," there shall be inserted the words "and dioecious hemp,";

(f) after paragraph 7 there shall be inserted the following paragraph -

" **7A.** In the case of monoecious hemp, the number of plants of the crop species which are recognisable as obviously not being true to the variety shall not exceed -

(a) one per 30 square metres for the production of basic seed; and

(b) one per 10 square metres for the production of C1 and C2 seed.";

(g) after paragraph 9 there shall be inserted the following paragraph -

" **9A.** In the case of the production of a hybrid variety of swede rape produced using the male sterility the percentage by number of plants which are recognisable as obviously not being true to the inbred line or the component shall not exceed -

(a) for the production of basic seed -

(i) in the case of an inbred line; 0.1%;

(ii) in the case of a male component of a simple hybrid; 0.1%; and

(iii) in the case of a female component of a simple hybrid; 0.2%; and

(b) for the production of CS seed -

(i) in the case of a male component; 0.3%; and

(ii) in the case of a female component; 1.0%.".

(h) in paragraph 10 -

(i) the words "or turnip rape" shall be deleted; and

(ii) for the words "at least 98%" shall be substituted the words -

" at least 99% for the production of basic seed and at least 98% for the production of CS seed."; and

(i) in paragraph 12(6) the words "or turnip rape" shall be deleted.

(15) In Schedule 4 -

(a) in Part I, paragraph 2 the words "or turnip rape" shall be deleted;

(b) for the table in paragraph 3 there shall be substituted the following table:

<i>"Species and category</i>	<i>Minimum varietal purity</i>
	<i>(percentage)</i>
<i>Column (1)</i>	<i>Column (2)</i>
(a) Flax -	
(i) basic seed	99.7
(ii) C1 seed	98.0
(iii) C2 seed	97.5
(iv) C3 seed	97.5
(b) Linseed -	
(i) basic seed	99.7
(ii) C1 seed	98.0
(iii) C2 seed	97.5
(c) Soya bean -	
(i) basic seed	99.5
(ii) C1 seed	99.0
(iii) C2 seed	99.0
(d) Sunflower except hybrid varieties and components of hybrid varieties -	99.7

(i) basic seed	99.0
(ii) CS seed	
(e) Swede rape and turnip rape except hybrid varieties, components of hybrid varieties and varieties to be used solely for fodder purposes -	99.9
(i) basic seed	99.7
(ii) CS seed	
(f) Swede rape and turnip rape varieties to be used solely for fodder purposes except hybrid varieties and components of hybrid varieties -	99.7
(i) basic seed	99.0
(ii) CS seed	
(g) Components of hybrid varieties of swede rape and hybrid varieties produced using male sterility -	99.0
(i) basic seed, female component	99.9
(ii) basic seed, male component	90.0
(iii) CS seed	";

(c) in Part II, paragraph 6 the words "or turnip rape" shall be deleted;

(d) in the table in paragraph 7(1) after the entry for flax there shall be inserted the following entry -

"Hemp - basic, CS, C1 and C2 seed (*)	98	Not applicable	30	0	0	Not applicable	Not applicable	Not applicable	Not applicable;";
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(e) after the table in paragraph 7(1) there shall be inserted the following footnote -

" (*) Hemp seed shall be free from *Orobanche* spp. However, the presence of one seed of *Orobanche* spp. in a sample of 100 grams shall not be regarded as an impurity

where a second sample of 200 grams is free from any such seeds.";

(f) in the table in paragraph 8 after the entry for flax there shall be inserted the following entry -

"Basic, CS, C1 and C2 seed of hemp	75";
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(g) in the table in paragraph 9(1), after the entry for flax there shall be inserted the following entry -

"Hemp	5	Not applicable	Not applicable"; and
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(h) in Part III, paragraph 10 the words "or turnip rape" shall be deleted.

(16) In the table in Schedule 5 -

(a) in paragraph 1 in Column (1) -

(i) in sub-paragraph (c) after the words "brown mustard," there shall be inserted the words "dioecious hemp,";

(ii) in sub-paragraph (d) after the word "linseed" there shall be inserted the words ", monoecious hemp"; and

(iii) in sub-paragraph (e) after the word "linseed" there shall be inserted the words ", monoecious hemp";

(b) in paragraph 1 in Column (2) -

(i) in sub-paragraph (c) after the words "brown mustard," there shall be inserted the words "dioecious hemp,";

(ii) in sub-paragraph (d) after the word "linseed" there shall be inserted the words ", monoecious hemp"; and

(iii) in sub-paragraph (e) after the word "linseed" there shall be inserted the words ", monoecious hemp";

(c) in paragraph 2 in Column (1) -

(i) in sub-paragraph (c) after the words "brown mustard," there shall be inserted the words "dioecious hemp,";

(ii) in sub-paragraph (d) after the word "linseed" there shall be inserted the words ", monoecious hemp"; and

(iii) in sub-paragraph (e) after the word "linseed" there shall be inserted the words ", monoecious hemp";

(d) in paragraph 2 in Column (2) -

(i) in sub-paragraph (c) after the words "brown mustard," there shall be inserted the words "dioecious hemp,";

(ii) in sub-paragraph (d) after the word "linseed" there shall be inserted the words ", monoecious hemp"; and

(iii) in sub-paragraph (e) after the word "linseed," there shall be inserted the words ", monoecious hemp";

(e) in paragraph 3 in Column (1) the words "In the case of sunflower, swede rape or turnip rape" shall be deleted;

(f) in paragraph 3 in Column (2) the words "In the case of sunflower, swede rape or turnip rape" shall be deleted;

(g) in paragraph 4 in Column (1) the words "In the case of sunflower, swede rape or turnip rape" shall be deleted; and

(h) in paragraph 4 in Column (2) the words "In the case of sunflower, swede rape or turnip rape" shall be deleted.

(17) In the table in Schedule 7 after the entry for flax there shall be inserted the following entry -

"Hemp	10	600	600".
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(18) In Schedule 8 -

(a) in Part IV, paragraph 8(n) the words "of swede rape or turnip rape" shall be deleted; and

(b) in Part VI, paragraph 24 -

(i) in sub-paragraph (a) the words "followed by the number 95/232/EC" shall be deleted; and

(ii) in sub-paragraph (k) the word "number" shall be replaced by the word "weight".

(19) In the table in Schedule 10 after the entry for grey label there shall be inserted the following entry -

" hemp regulation 3."

Consequential Amendments

3. The Seed (Registration, Licensing and Enforcement) (England) Regulations 2002[6] shall be amended in accordance with the following provisions of this regulation -

(1) In regulation 2(1), for paragraph (d) of the definition of "the Seed Marketing Directives" there shall be substituted the following paragraph -

" (d) Council Directive 2002/57/EC[7] on the marketing of seed of oil and fibre plants as last amended by Commission Directive 2003/45/EC[8]; and".

(2) In regulation 2(1), for paragraph (d) of the definition of "the Seed Marketing Regulations" there shall be substituted the following paragraph -

" (d) in relation to oil and fibre plant seed, the Oil and Fibre Plant Seed (England) Regulations 2002[9] as amended by the Oil and Fibre Plant Seed (England) (Amendment) Regulations 2003[10]; and"; and

(3) In Schedule 5 -

In the table in paragraph 13 after the entry for Hairy vetch there shall be inserted the following entry -

"Hemp	B".
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Ben Bradshaw

Parliamentary Under Secretary of State, Department for Environment, Food and Rural Affairs

1st December 2003

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Oil and Fibre Plant Seed (England) Regulations 2002 (SI 2002/3174) (the "2002 Regulations").

The amendments to the 2002 Regulations give effect in England to Commission Directive 2003/45/EC amending Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants (O.J. No. L138, 5.6.2003, p40) and Commission Decision 2003/234/EC amending Decision 74/360/EEC as regards the United Kingdom's exemption from applying to hemp (*Cannabis sativa*) (O.J. No. L86, 3.4.2003, p48).

Regulation 2 -

(a) includes hybrids of all oil and fibre plant species within the definition of basic seed;

- (b) repeals the specific numerical varietal identity, varietal purity and crop standards for hybrids of turnip rape;
- (c) repeals the specific numerical varietal identity and varietal purity standards for self-incompatible hybrids of swede rape;
- (d) introduces crop standards for hybrids of swede rape;
- (e) removes the provision for an application to be made for the field inspection of a late entered crop of hybrid swede rape;
- (f) amends labelling requirements for varietal associations;
- (g) includes hemp seeds within the scope of the 2002 Regulations; and
- (h) introduces specific standards for hemp.

Regulation 3 makes consequential amendments to the Seed (Registration, Licensing and Enforcement) (England) Regulations 2002, S.I. 2002/3176.

A Regulatory Impact Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the Plant Variety Rights Office and Seeds Division of the Department for Environment, Food and Rural Affairs, White House Lane, Huntingdon Road, Cambridge CB3 0LF.

A Transposition Note has been prepared for these Regulations and a copy has been placed in the library of each House of Parliament. Copies of the Transposition Note can be obtained from the Plant Variety Rights Office and Seeds Division of the Department for Environment, Food and Rural Affairs, White House Lane, Huntingdon Road, Cambridge CB3 0LF.

Notes:

[1] 1964 c. 14; section 16 was amended by section 4(1) of, and paragraph 5(1), (2) and (3) of Schedule 4 to, the European Communities Act 1972 (c. 68), S.I. 1977/1112 and section 2 of the Agriculture Act 1986 (c. 49); functions previously conferred on the Minister are now vested in the Secretary of State (*see* section 38(1) for a definition of "the Minister"); under the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State and under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2(1) and Schedule 1, the functions transferred to the Secretary of State by the 1978 transfer Order were transferred to the National Assembly for Wales; under the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794) the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as they are exercisable in relation to England, transferred to the Secretary of State.[back](#)

[2] S.I. 2002/3174.[back](#)

[3] O.J. No. L193, 20.7.2002, p. 74.[back](#)

[4] O.J. No. L195, 24.7.2002, p. 32.[back](#)

[5] O.J. No. L138, 5.6.2003, p. 40; by virtue of Commission Decision 2003/234/EC (O.J. No. L86, 3.4.2003, p48), amending Decision 74/360/EEC, Council Directive 2002/57/EC now applies to the marketing in the United Kingdom of seed of hemp plants.[back](#)

[6] S.I. 2002/3176.[back](#)

[7] O.J. No. L193, 20.7.2002, p. 74.[back](#)

[8] O.J. No. L138, 5.6.2003, p. 40; by virtue of Commission Decision 2003/234/EC (O.J. No. L86 3.4.2003, p48) amending Decision 74/360/EEC, Council Directive 2002/57/EC now applies to the marketing in the United Kingdom of seed of hemp plants.[back](#)

[9] S.I. 2002/3174.[back](#)

[10] S.I. 2003/3101.[back](#)

ISBN 0 11 048254 9

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Prepared 9 December 2003