

Statutory Instrument 2004 No. 2389

The Vegetable Seed (England) (Amendment) Regulations 2004

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STATUTORY INSTRUMENTS

2004 No. 2389

SEEDS, ENGLAND

The Vegetable Seed (England) (Amendment) Regulations 2004

<i>Made</i>	<i>10th September 2004</i>
<i>Laid before Parliament</i>	<i>15th September 2004</i>
<i>Coming into force</i>	<i>8th October 2004</i>

The Secretary of State in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4), (5), (5A) and 36 of the Plant Varieties and Seeds Act

1964[1], and now vested in her[2], 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:

Citation and commencement

1. - (1) These Regulations may be cited as the Vegetable Seed (England) (Amendment) Regulations 2004, and shall come into force on 8th October 2004.

Amendment of the Vegetable Seed (England) Regulations 2002

2. - (1) The Vegetable Seed (England) Regulations 2002[3] shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) -

(a) after the definition of "control plot" there shall be inserted the following definition -

" "the Deliberate Release Directive" means Council Directive 2001/18/EC[4] on the deliberate release into the environment of genetically modified organisms, as last amended by Council Regulation (EC) No 1830/2003[5] concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms;"

(b) for the definition of "EEA State" there shall be substituted the following definition -

" "EEA State" means -

(a) a State which is a member of the Communities; and

(b) Iceland, Liechtenstein and Norway;"

(c) after the definition of "entered seed lot" there shall be inserted the following definition -

" "the Food and Feed Regulation" means Council Regulation (EC) No 1829/2003[6] on genetically modified food and feed;"

(d) for the definition of "genetically modified" there shall be substituted the following definition -

" "genetically modified" has the same meaning as for the purposes of the Deliberate Release Directive;" and

(e) for the definition of "member State" there shall be substituted the following definition -

" "member State" means, in addition to a State which is a member of the Communities, any other EEA State and Switzerland;"

(f) for the definition of the "Vegetable Seed Directive" there shall be substituted the following definition -

" "the Vegetable Seed Directive" means Council Directive 2002/55/EC[7] on the marketing of vegetable seed, as last amended by Commission Decision 2004/297/EC[8];".

(3) In regulation 12 -

(a) in paragraph (1)(a), after the words "being issued" there shall be inserted the words "or within such time as the Secretary of State may otherwise allow"; and

(b) in paragraph (1)(b), after the words "is listed" there shall be inserted the words "or within such time as the Secretary of State may otherwise allow".

(4) In regulation 18, for paragraph (4) there shall be substituted the following paragraph -

" (4) The Secretary of State shall not grant a regulation 18 authorisation in respect of seed of a genetically modified variety unless an authorisation is in force in respect of the variety concerned under either -

(a) Part C of the Deliberate Release Directive; or

(b) the Food and Feed Regulation."

(5) In regulation 19, for paragraph (4)(b) there shall be substituted the following paragraph -

" (b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety concerned under either -

(i) Part C of the Deliberate Release Directive; or

(ii) the Food and Feed Regulation."

(6) In Schedule 1, in paragraph 21(3)(e), the words "or an equivalent third country" shall be deleted.

(7) In Schedule 8, paragraphs 5, 11 and 16 shall be deleted.

(8) In Schedule 10 -

(a) after the entry for "curly kale" there shall be inserted the following entry -

"Deliberate Release Directive Regulation 2(1)"; and

(b) after the entry for "final seed test report" there shall be inserted the following entry -

"Food and Feed Regulation Regulation 2(1)".

Ben Bradshaw

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

10th September 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Vegetable Seed (England) Regulations 2002 (SI 2002/3175) ("the 2002 Regulations").

The principal amendments made to the 2002 Regulations -

- (a) update references to amended EC legislation (*regulations 2(2)(a),(c), and (f)*);
- (b) provide for Switzerland to be treated as a member State or an EEA State for the purpose of the 2002 Regulations, in accordance with Annex 6 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (O.J. No. L114, 30.4.2002, p.132) (*regulation 2(2)(e)*);
- (c) allow the Secretary of State to vary the time in which a final test seed report is to be lodged (*regulation 2(3)*); and
- (d) provide that, where there is a requirement for a consent to have been obtained in relation to seed of genetically modified varieties, a consent can be obtained either in accordance with Council Directive 2001/18/EC on the deliberate release to the environment of genetically modified organisms (O.J. No. L106, 17.4.2001, p.1) or in accordance with Council Regulation (EC) No 1829/2003 on genetically modified food and feed (O.J. No. L268, 18.10.2003, p. 1) (*regulations 2(4) and 2(5)*).

A regulatory impact assessment has not been prepared for this instrument, as it has no impact on the costs of businesses, charities or voluntary bodies.

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); *see* section 38(1) for a definition of "the Minister".[.back](#)

[2] 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](#)

[3] S.I. 2002/3175.[.back](#)

[4] O.J. No. L106, 17.4.2001, p. 1.[.back](#)

[5] O.J. No. L268, 18.10.2003, p. 24.[.back](#)

[6] O.J. No. L268, 18.10.2003, p.1.[.back](#)

[7] O.J. No. L193, 20.7.2002, p. 33.[.back](#)

[8] O.J. L97, 1.4.2004, p. 66.[.back](#)

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