

Statutory Instrument 2005 No. 2675

The Vegetable Seed (England) (Amendment) Regulations 2005

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STATUTORY INSTRUMENTS

2005 No. 2675

SEEDS, ENGLAND

The Vegetable Seed (England) (Amendment) Regulations 2005

<i>Made</i>	<i>25th September 2005</i>
<i>Laid before Parliament</i>	<i>28th September 2005</i>
<i>Coming into force</i>	<i>26th October 2005</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:

Title and commencement

1. These Regulations may be cited as the Vegetable Seed (England) (Amendment) Regulations 2005 and shall come into force on 26th October 2005.

Amendment of the Vegetable Seed (England) Regulations 2002

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

(2) In regulation 2(1)—

(a) after the definition of "late entered seed lot" there shall be inserted the following definitions—

"licensed crop inspector" means a person who has been granted a licence under regulation 11 of the Seed (Registration, Licensing and Enforcement) (England) Regulations 2002[4] or by the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development under provisions equivalent to that regulation;

"licensed EC crop inspector" means a person who is authorised by a competent seed certification authority in another member State, pursuant to Article 2(4)(A)(a)(iii) of the Vegetable Seed Directive, to carry out field inspections of crops in that member State;

"licensed EC seed testing station" means a seed testing laboratory authorised by the competent seed certification authority in another member State, pursuant to Article 2(4)B(a) of the Vegetable Seed Directive, to carry out seed testing in that member State;"

(b) after the definition of "licensed seed sampler" there shall be inserted the following definition—

"licensed seed testing station" means a laboratory in respect of which a licence has been granted under regulation 25 of the Seed (Registration, Licensing and Enforcement) (England) Regulations 2002 or by the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development under provisions equivalent to that regulation;"

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

"seed that has been subject to satisfactory official post control" means seed taken from a seed lot for which a control plot has been sown by or on behalf of the Secretary of State, the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development and which has produced plants which have been examined by or on behalf of the Secretary of State, the Scottish Ministers, the National Assembly for Wales or

the Department of Agriculture and Rural Development, as the case may be, and has been found having regard to—

(a) the conditions laid down in—

(i) paragraphs 1, 4 and 6 of Schedule 3, and

(ii) paragraphs 1, 2 and 8 of Schedule 4, and

(b) the category of the seed to be produced,

to be satisfactory seed from which to produce that category of seed;";

(d) after the definition of "third country" there shall be inserted the following definitions—

" "a UK field inspection carried out under official supervision" means an examination of a crop carried out under official supervision by a licensed crop inspector;

"a UK seed test carried out under official supervision" means a seed test carried out under official supervision by a licensed seed testing station;";

(e) 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[5] on the marketing of vegetable seed as last amended by Council Directive 2004/117/EC[6];"; and

(f) for the definition of "whenever carried out", there shall be substituted the following definition—

" "whenever carried out"—

(a) in relation to an official UK field inspection of a crop being grown to produce seed of a listed variety or a component of a listed hybrid variety, means an inspection carried out before or after the listing of the variety or hybrid variety;

(b) in relation to an official UK field inspection of a crop being grown to produce seed of a previously listed variety or a component of a previously listed hybrid variety, means an inspection carried out while the variety or hybrid variety was listed or after it became unlisted;

(c) in relation to an official UK seed test or a UK seed test carried out under official supervision of seed of a listed variety or a component of a listed hybrid variety, means a test carried out before or after the listing of the variety or hybrid variety; and

(d) in relation to an official UK seed test or a UK seed test carried

out under official supervision of seed of a previously listed variety or a component of a previously listed hybrid variety, means a test carried out while the variety or hybrid variety was listed or after it became unlisted."

(3) In regulation 6(4), for the definition of "qualifying seed test report", there shall be substituted the following definition—

" "qualifying seed test report" means—

(a) a seed test report issued in accordance with regulation 11(8), (9), (10) or (11), or

(b) in a case where an official sample taken from the seed lot has been found to meet the conditions for the category of seed for which it was tested under regulation 11(6)(b), a seed test report issued in accordance with regulation 11(12)(b)."

(4) For regulation 8, there shall be substituted the following provision—

" Field inspection of crops

8.—(1) Subject to paragraph (2), an application may be made to the Secretary of State by a registered person for the field inspection of a crop being produced in England from—

(a) an entered or late entered seed lot from which it is intended that pre-basic seed is to be harvested ("a regulation 8(1)(a) crop");

(b) an entered or late entered seed lot from which it is intended that basic seed is to be harvested ("a regulation 8(1)(b) crop");

(c) a late entered seed lot from which it is intended that CS seed is to be harvested ("a regulation 8(1)(c) crop"); or

(d) an entered seed lot from which it is intended that CS seed is to be harvested of a variety that is not listed but for which an outstanding application for listing has been made ("a regulation 8(1)(d) crop").

(2) An application made under paragraph (1) shall not be made in respect of a regulation 8(1)(a), (b) or (c) crop to produce seed of a variety or hybrid variety that is not listed, or seed of a component of a hybrid variety that is not listed, unless—

(a) an application for the listing of the variety or the hybrid variety has been made which has not been withdrawn or finally determined, or

(b) a marketing extension is in force in respect of the variety or hybrid variety.

(3) Subject to paragraph (4), an application for the field inspection of a crop being produced in England from an entered seed lot from which it is intended that CS seed is to be harvested may be made to a licensed crop inspector by a registered person.

(4) An application under paragraph (3) shall not be made—

(a) in respect of a crop to produce seed of a variety or hybrid variety that is not listed unless a marketing extension is in force in respect of the variety or hybrid variety, and

(b) except in respect of a crop that is being produced from—

(i) seed that has been subject to satisfactory official post control, or

(ii) seed that is subject to official post control and for which a determination as to whether the seed is satisfactory seed from which to produce CS seed is awaited.

(5) If required by the Secretary of State, an application made under paragraph (3) shall be considered by her instead of by a licensed crop inspector.

(6) If permitted by the Secretary of State, an application made under paragraph (3) may be made to her instead of to a licensed crop inspector.

(7) An application made under paragraph (1) or (3) shall be made in such form and manner and at such time as the Secretary of State may require and shall be accompanied by such information, material, records, illustrations and other documents as she may require.

(8) Following the receipt of an application made under paragraph (1) or (3), the Secretary of State (in the case of an application made under paragraph (1) or an application made under paragraph (3) that is being considered by her under paragraph (5) or has been made to her under paragraph (6)), or the licensed crop inspector to whom an application has been made under paragraph (3) (as the case may be) shall inspect the crop in accordance with the relevant provisions of paragraph 5 of Schedule 3 to determine—

(a) whether the crop meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the category of seed intended to be harvested, and

(b) unless requested not to do so by the applicant, whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any other category of seed to which paragraph (17) applies.

(9) Subject to paragraph (13), where in the case of an application made to the Secretary of State under paragraph (1) or an application made under paragraph (3) that is being considered by her under paragraph (5) or has been made to her under paragraph (6), the inspected crop is found

to satisfy the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of—

- (a) the category of seed intended to be harvested, and
- (b) where applicable, any other category of seed to which paragraph (17) applies,

the Secretary of State shall issue a field inspection report (which she shall retain as a lodged report unless instructed not to do so by the applicant) stating (by reference to the relevant category or categories) that the crop has been found to meet those conditions and shall send the report, or (in a case where the original report is to be retained as a lodged report by the Secretary of State) a copy of the report, to the applicant.

(10) Where in the case of an application made to a licensed crop inspector under paragraph (3) the inspected crop is found to satisfy the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of CS seed, the licensed crop inspector shall issue a field inspection report to the applicant stating that the crop has been found to meet those conditions.

(11) Subject to paragraph (13), where in the case of an application made to the Secretary of State under paragraph (1) or an application made under paragraph (3) that is being considered by her under paragraph (5) or has been made to her under paragraph (6), the inspected crop is found not to satisfy the conditions laid down in Schedule 3 or Part I of Schedule 4 for the production of the category of seed intended to be harvested, the Secretary of State shall issue a field inspection report (which she shall retain as a lodged report unless instructed not to do so by the applicant)—

- (a) stating that the crop has been found not to meet those conditions, and
- (b) in a case where the crop has been inspected to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of any other category of seed to which paragraph (17) applies, stating the conditions (by reference to the relevant category or categories), if any, met by the crop,

and shall send the report, or (in a case where the original report is to be retained as a lodged report by the Secretary of State) a copy of the report, to the applicant.

(12) Where in the case of an application made to a licensed crop inspector under paragraph (3) the inspected crop is found not to satisfy the conditions laid down in Schedule 3 or Part I of Schedule 4 for the production of CS seed, the licensed crop inspector shall issue a field inspection report to the applicant stating that the crop has been found not to meet those conditions.

(13) Where—

(a) an application has been made to the Secretary of State under paragraph (1), or an application has been made under paragraph (3) that is being considered by her under paragraph (5) or has been made to her under paragraph (6), in respect of a crop produced from seed which was taken from a seed lot for which a control plot has been sown, and

(b) the results of the examination of the control plot show that the plants produced in the plot do not meet the conditions laid down in Schedule 3 or Part I or Part III of Schedule 4 for the production of the category of seed intended to be harvested,

the Secretary of State may take account of the results of that examination when carrying out an inspection of the crop to which the paragraph (1) or (3) application relates and in determining whether she should issue a field inspection report under paragraph (9) or (11).

(14) Where paragraph (15) applies, the Secretary of State may carry out her own examination of—

(a) a crop to which an application made under paragraph (3) relates;

(b) any other crops that are being produced from seed that has been taken from the same seed lot and in respect of which an application has been made under paragraph (3); or

(c) both the crops referred to in paragraphs (a) and (b).

(15) This paragraph applies where—

(a) an application has been made to a licensed crop inspector under paragraph (3) in respect of seed that is subject to official post-control;

(b) the plants produced in the control plot being used for the purposes of the official post control have been examined by or on behalf of the Secretary of State, the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development; and

(c) it has been determined by or on behalf of the Secretary of State, the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development, having regard to the conditions laid down in paragraphs 1, 4 and 6 of Schedule 3, and paragraphs 1, 2 and 8 of Schedule 4, that the plants produced in the control plot are not satisfactory plants from which to harvest CS seed.

(16) Where the Secretary of State has carried out an examination of the crop referred to in paragraph (14)(a) or the crops referred to in paragraph (14)(b), or has carried out an examination of both the crop referred to in

paragraph (14)(a) and the crops referred to in paragraph (14)(b), she shall inform the applicant whether she is satisfied that the seed used to produce the crop to which his application relates was satisfactory seed to be used for the production of CS seed, and, if the Secretary of State is satisfied that this is the case, the seed used to produce the crop, and seed from the same seed lot, shall be treated as being seed that has been subject to satisfactory official post control for the production of CS seed.

(17) This paragraph applies to the following categories of seed—

(a) in the case of an application made under this regulation relating to a crop that has been produced from breeder's seed and from which it is intended to harvest pre-basic seed, to the category of basic seed;

(b) in the case of an application made under this regulation relating to a crop that has been produced from officially certified pre-basic seed and from which it is intended to harvest pre-basic seed, to the categories of basic and CS seed;

(c) in the case of an application made under this regulation relating to a crop that has been produced from breeder's seed and from which it is intended to harvest basic seed other than a component of a hybrid variety, to the category of pre-basic seed; and

(d) in the case of an application made under this regulation relating to a crop produced from officially certified pre-basic seed and from which it is intended to harvest basic seed other than a component of a hybrid variety, to the categories of pre-basic and CS seed.

(18) In this regulation "seed that is subject to official post control" means seed from a seed lot for which a control plot has been sown by or on behalf of the Secretary of State, the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development to produce plants which are to be, or have been, examined by or on behalf of the Secretary of State, the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development, as the case may be, to determine whether, having regard to the conditions laid down in—

(a) paragraphs 1, 4 and 6 of Schedule 3, and

(b) paragraphs 1, 2 and 8 of Schedule 4,

the plants produced in the plot indicate that the corresponding plants in the field are satisfactory plants from which to harvest CS seed."

(5) In regulation 9—

(a) in paragraph (2)(a), for the words "regulation 8(5) or (6)" there shall be substituted the words "regulation 8(9), (10), (11) or (12)";

(b) for paragraph (2)(b), there shall be substituted the following provision

—
" (b) in relation to a crop produced in the United Kingdom elsewhere than in England, to a report relating to the crop equivalent to that specified in sub-paragraph (a) issued—

(i) by or on behalf of the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development, or

(ii) by a licensed crop inspector";

(c) in paragraph (3)(c), after the words "shall", there shall be inserted the words ", subject to paragraph (4),"; and

(d) after paragraph (3), there shall be inserted the following paragraphs—

" (4) The Secretary of State may permit, subject to any conditions that she may impose, an application made under this regulation relating to a crop for which the applicant previously made an application under regulation 8(3) to be accompanied by the following document instead of the field inspection report issued under regulation 8(10) or 8(12), namely a document relating to the crop (whether relating to that crop alone or relating to other crops (including that crop) in respect of which an application has been made by the applicant under regulation 8(3))—

(a) that states, by reference to the relevant category, the conditions met by that crop;

(b) that identifies the licensed crop inspector or inspectors who inspected the crop;

(c) that states that during a period of three years from the date of issue of the field inspection report, the original report will be produced to the Secretary of State on demand and that a copy of the report will be made available to her on request during that period; and

(d) that contains such other information as the Secretary of State may require.

(5) Where a document of the type specified in paragraph (4) accompanies an application made under this regulation instead of a field inspection report, the applicant shall produce the field inspection report referred to in paragraph (3) to the Secretary of State on demand during the period of three years from the date of the issue of the field inspection report and shall make a copy of the report available to her on request during that period."

(6) In regulation 10—

(a) for paragraph (3), there shall be substituted the following paragraph—

" (3) Where an application made under this regulation has been made in respect of a crop that has not been harvested—

(a) the Secretary of State shall, in the case of an application to re-grade a crop as a crop to produce pre-basic or basic seed, carry out a field inspection of the crop to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed if—

(i) the previous field inspection report issued in respect of the crop was not issued by her, and

(ii) the condition and stage of development of the crop permit an adequate examination; and

(b) the Secretary of State may, in the case of an application to re-grade a crop as a crop to produce CS seed, carry out a field inspection of the crop to determine whether it meets the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed if the condition and stage of development of the crop permit an adequate examination."; and

(b) for paragraph (4), there shall be substituted the following paragraph

—
" (4) If the Secretary of State—

(a) in the case of an application to re-grade a crop as a crop to produce pre-basic or basic seed—

(i) has carried out a field inspection of the crop (whether in connection with the original application for a field inspection of the crop or in accordance with paragraph (3)),

(ii) is satisfied that the crop has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety, and

(iii) is satisfied that the crop meets or (if the crop has already been harvested) would have met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of the new category of seed, or

(b) in the case of an application to re-grade a crop as a crop to produce CS seed—

(i) is satisfied that the crop has been produced directly from UK, EC or overseas tested officially certified basic seed of a listed variety, or, with the breeder's authority, from UK, EC or overseas tested officially certified pre-basic seed of a listed variety, and

(ii) is satisfied that the crop meets or (if the crop has already been harvested) would have met the conditions laid down in Schedule 3 and Part I of Schedule 4 for the production of CS seed,

she shall notify the applicant that the crop has been found to meet or (if the crop has already been harvested) it has been found that it would have met the conditions referred to in sub-paragraph (a)(iii) or (b)(ii), as the case may be, and that his application to re-grade the crop has been successful."

(7) For regulation 11, there shall be substituted the following provision—

" Seed testing

11.—(1) Subject to paragraphs (2), (3) and (4), an application may be made to a licensed seed testing station by a registered person for the testing of an official sample of a qualifying seed lot of—

- (a) seed as pre-basic seed ("a regulation 11(1)(a) seed lot");
- (b) seed as basic seed ("a regulation 11(1)(b) seed lot"); or
- (c) seed as CS seed ("a regulation 11(1)(c) seed lot").

(2) An application made under this regulation shall not be made in respect of seed of a variety that is not listed, or seed of a component of a hybrid variety that is not listed, unless—

- (a) an application for listing of the variety or hybrid variety has been made which has not been withdrawn or finally determined; or
- (b) a marketing extension is in force in respect of the variety or hybrid variety.

(3) An application made under this regulation may be considered by the Secretary of State instead of a licensed seed testing station.

(4) If permitted by the Secretary of State, an application made under this regulation may be made to her instead of a licensed seed testing station.

(5) An application made under this regulation—

- (a) shall be made in such form and manner and at such time as the Secretary of State may require, and
- (b) shall be accompanied by an official sample of the seed to be tested and such other information, material, seeds, records, illustrations and other documents as the Secretary of State may require.

(6) Following the receipt of an application made under this regulation the licensed seed testing station (or the Secretary of State in a case where paragraph (3) or (4) applies) shall, subject to paragraph (7), test seed taken from the official sample provided under paragraph (5)(b) to determine whether it meets the conditions laid down in Part II of Schedule 4—

(a) for the category of seed for which the application is being made, and

(b) unless requested not to do so by the applicant, for any other category of seed to which paragraph (14) applies.

(7) Where a seed test report has previously been issued by a licensed seed testing station (or the Secretary of State in a case where paragraph (3) or (4) applies) in accordance with paragraph (8)(a), (9), (10), (11) or (12) in respect of a seed lot, the licensed seed testing station (or the Secretary of State in a case where paragraph (3) or (4) applies) may decide not to test any further official sample of that seed lot for the purposes of paragraph (6) if the information contained in the previously issued report contains sufficient information to enable it (or her) to determine that the official sample would meet the conditions laid down in Part II of Schedule 4—

(a) for the appropriate category of seed, and

(b) where applicable, for any other category of seed to which paragraph (14) applies.

(8) Subject to paragraph (13), where—

(a) the official sample is found to satisfy the conditions laid down in Part II of Schedule 4 for—

(i) the appropriate category of seed, and

(ii) where applicable, for any other category of seed to which paragraph (14) applies, or

(b) the provisions of paragraph (7) apply,

the licensed seed testing station (or the Secretary of State where paragraph (3) or (4) applies) shall issue a seed test report to the applicant stating (by reference to the relevant category or categories of seed) that the seed lot has been found to meet those conditions.

(9) Subject to paragraph (13), where it has been determined, by way of a Schedule 4 germination test, that the official sample taken from a regulation 11(1)(a) seed lot or a regulation 11(1)(b) seed lot will not meet the applicable germination condition but the sample is found to satisfy the other conditions laid down in Part II of Schedule 4 for the appropriate

category of seed, the licensed seed testing station (or the Secretary of State where paragraph (3) or (4) applies), shall issue a seed test report to the applicant containing a statement to that effect.

(10) Where (otherwise than in connection with a retest of the seed) the results of a Schedule 4 germination test of an official sample of a seed lot referred to in paragraph (1) are awaited, and except for the result of that test, the official sample has otherwise been found to meet all the other conditions laid down in Part II of Schedule 4—

(a) for the appropriate category of seed, and

(b) where applicable, for any other category of seed to which paragraph (14) applies,

the licensed seed testing station (or the Secretary of State in a case where paragraph (3) or (4) applies), shall, subject to paragraph (13), issue an interim seed test report to the applicant stating that the results of the Schedule 4 germination test for the official sample are awaited but that it has otherwise been found to meet all the other conditions laid down in Part II of Schedule 4 for the appropriate category of seed, and, where applicable for any relevant category of seed to which paragraph (14) applies.

(11) Where, following the issue of an interim seed test report under paragraph (10), the tested seed is found to meet the applicable germination condition, the licensed seed testing station (or the Secretary of State in a case where paragraph (3) or (4) applies), shall, subject to paragraph (13), issue a seed test report to the applicant stating that the official sample has been found to meet the conditions laid down in part II of Schedule 4 for the appropriate category of seed, and , where applicable, for any other category of seed to which paragraph (14) applies.

(12) Subject to paragraphs (9) and (10), where an official sample of a seed lot referred to in paragraph (1) is found not to satisfy the conditions laid down in Part II of Schedule 4 for the appropriate category of seed, the licensed seed testing station (or the Secretary of State in a case where paragraph (3) or (4) applies) shall issue and send to the applicant a seed test report—

(a) stating that the official sample has been found not to meet those conditions, and

(b) subject to paragraph (13), in a case where the seed has been tested to determine whether it meets the conditions laid down in Part II of Schedule 4 for any other category of seed to which paragraph (14) applies, stating (by reference to the relevant category) whether the seed has been found to meet the conditions for any such category.

(13) If it appears to the Secretary of State that an official sample of the seed lot taken for the purpose of a test in order to ascertain whether it met the appropriate conditions laid down in Part II of Schedule 4 was not

taken in accordance with the requirements of regulation 22 the Secretary of State may—

(a) in a case where paragraph (3) or (4) applies, refuse to issue a seed test report in accordance with paragraph (8), (9), (10), (11) or (12)(b), and, in such a case shall notify the applicant of her decision and the reason for it, or

(b) in a case where paragraph (3) or (4) does not apply, direct the licensed seed testing station to refuse to issue a seed test report in accordance with paragraph (8), (9), (10), (11) or (12)(b) and the licensed seed testing station shall comply with that direction and shall notify the applicant of the reason for its refusal to issue the report.

(14) This paragraph applies to the following categories of seed—

(a) in the case of an application made under this regulation relating to a regulation 11(1)(a) seed lot, to the categories of basic and CS seed, and

(b) in the case of an application made under this regulation relating to a regulation 11(1)(b) seed lot, other than a component of a hybrid variety, to the category of pre-basic or CS seed.

(15) In this regulation "qualifying seed lot" means a seed lot—

(a) containing seed harvested from a crop produced in England for which a field inspection report has been issued in accordance with —

(i) regulation 8(9),

(ii) regulation 8(10), or

(iii) regulation 8(11) in a case where a crop has been found to meet the conditions laid down in Schedule 3 and part I of Schedule 4 for the production of any category of seed referred to in regulation 8(11)(b);

(b) containing seed harvested from a crop produced in the United Kingdom elsewhere than in England—

(i) in respect of which the Secretary of State has received confirmation of crop approval by or on behalf of the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development (as the case may be) that the crop meets conditions equivalent to those laid down in Schedule 3 and Part I of Schedule 4, or

(ii) for which a copy of the field inspection report relating to

the crop has been lodged with the Secretary of State in accordance with regulation 9; or

(c) imported into the United Kingdom as not finally certified pre-basic, basic or CS seed harvested in another member State and for which the Annex V(C) document relating to the crop from which the seed lot was harvested has been lodged with the Secretary of State in accordance with regulation 9."

(8) For regulation 12(6), there shall be substituted the following provision—

" (6) In this regulation "final seed test report" means a seed test report issued in accordance with regulation 11(8), (9), (11) or (12)".

(9) In regulation 13—

(a) in paragraph (3)(a), after the words "may test" there shall be inserted the words ", or arrange for a licensed seed testing station to test,";

(b) in paragraph (3)(b), after the words "shall test" there shall be inserted the words ", or arrange for a licensed seed test station to test,";

(c) in paragraph (4), for the words "regulation 11(6)(a)" there shall be substituted the words "regulations 11(8)(a), (9), (10), (11) or (12)";

(d) after paragraph (5)(a), there shall be inserted the following paragraph

—
" (aa) in the case of an application to re-grade seed as pre-basic or basic seed—

(i) in a case where the seed was harvested from a crop produced in England, the Secretary of State carried out the field inspection of the crop;

(ii) in a case where the seed was harvested from a crop produced in the United Kingdom elsewhere than in England, a field inspection of the crop was carried out by or on behalf of the Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development; and

(iii) in a case where the seed was harvested from a crop produced in another member State, a field inspection of the crop was carried out by or on behalf of the seed certification authority in the member State;"; and

(e) in paragraph (5)(f)(ii), after the words "member State" there shall be inserted the words "or by a licensed EC seed testing station in another member State".

(10) In regulation 22—

(a) in paragraph (1), for subparagraph (a), there shall be substituted the following subparagraph—

" (a) by—

(i) an authorised officer, or

(ii) a licensed seed sampler acting under the supervision of the authority who appointed him;"

(b) paragraph (2) shall be deleted; and

(c) in paragraph (7)(a), the words "or (2)" shall be deleted.

(11) In regulation 23(5)(a)(ii), for the words "regulation 24(2)" there shall be substituted the words "regulation 24(5)".

(12) In regulation 24—

(a) in paragraph (1), for the words "paragraph (2)" there shall be substituted the words "paragraph (5)"; and

(b) paragraph (2) shall be deleted.

(13) In Schedule 1—

(a) in paragraph 2(3)(a)(iii) of Part I, for the words "(whenever carried out)" there shall be substituted the words "or by a UK seed test carried out under official supervision (in either case whenever carried out)";

(b) for paragraph 4(b) of Part I, there shall be substituted the following paragraph—

" (b) for which a seed test report has been issued—

(i) by or on behalf of the competent seed certification authority in the member State, or in a member State, other than the United Kingdom, into which the seed was subsequently imported, or

(ii) by a licensed EC seed testing station in either of the member States referred to in paragraph (i),

stating that the seed has been found to satisfy the relevant Directive seed conditions for basic seed;"

(c) in paragraph 5(3)(a)(iv) of Part I, for the words "(whenever carried out)" there shall be substituted the words "or by a UK seed test carried

out under official supervision (in either case whenever carried out)";

(d) in paragraph 9(3)(a)(iii) of Part II, for the words "(whenever carried out)" there shall be substituted the words "or by a UK seed test carried out under official supervision (in either case whenever carried out)";

(e) for paragraph 11(b) of Part II, there shall be substituted the following paragraph—

" (b) for which a seed test report has been issued—

(i) by or on behalf of the competent seed certification authority in the member State, or in a member State, other than the United Kingdom, into which the seed was subsequently imported, or

(ii) by a licensed EC seed testing station in either of the member States referred to in paragraph (i),

stating that the seed has been found to satisfy the relevant Directive seed conditions for basic seed;"

(f) in paragraph 12(3)(a)(iv) of Part II, for the words "(whenever carried out)" there shall be substituted the words "or by a UK seed test carried out under official supervision (in either case whenever carried out)";

(g) in paragraph 14(3)(a)(iii) of Part II, for the words "(whenever carried out)" there shall be substituted the words "or by a UK seed test carried out under official supervision (in either case whenever carried out)";

(h) for paragraph 16(b) of Part II, there shall be substituted the following paragraph—

" (b) for which a seed test report has been issued—

(i) by or on behalf of the competent seed certification authority in the member State, or in a member State, other than the United Kingdom, into which the seed was subsequently imported, or

(ii) by a licensed EC seed testing station in either of the member States referred to in paragraph (i),

stating that the seed has been found to satisfy the relevant Directive seed conditions for basic seed;"

(i) in paragraph 17(3)(a)(iv) of Part II, for the words "(whenever carried out)" there shall be substituted the words "or by a UK seed test carried out under official supervision (in either case whenever carried out)";

(j) in paragraph 21(3)(a)(i) of Part III, after the words "(whenever carried out)" there shall be inserted the words "or, in the case of a crop that has

been produced from seed that has been subject to satisfactory official post control, by a UK field inspection carried out under official supervision following the listing of the variety,";

(k) in paragraph 21(3)(a)(iii) of Part III, for the words "(whenever carried out)" there shall be substituted the words "or by a UK seed test carried out under official supervision (in either case whenever carried out)";

(l) for paragraph 23(b) of Part III, there shall be substituted the following paragraph—

" (b) for which a seed test report has been issued—

(i) by or on behalf of the competent seed certification authority in the member State, or in a member State, other than the United Kingdom, into which the seed was subsequently imported, or

(ii) by a licensed EC seed testing station in either of the member States referred to in paragraph (i),

stating that the seed has been found to satisfy the relevant Directive seed conditions for CS seed;"

(m) in paragraph 24(3)(a)(i) of Part III, after the words "(whenever carried out)" there shall be inserted the words "or, in the case of a crop that has been produced from seed that has been subject to satisfactory official post control, by a UK field inspection carried out under official supervision following the listing of the variety,";

(n) in paragraph 24(3)(a)(iv) of Part III, for the words "(whenever carried out)" there shall be substituted the words "or by a UK seed test carried out under official supervision (in either case whenever carried out)";

(o) in paragraph 27 of Part III—

(i) in sub-paragraph (2)(b)(i), after the words "official UK seed test" there shall be inserted the words "or a UK seed test carried out under official supervision";

(ii) in sub-paragraph (2)(b)(ii), after the words "competent seed certification authority" there shall be inserted the words "or a licensed EC seed testing station";

(iii) in sub-paragraph (3)(b)(i), after the words "official UK seed test" there shall be inserted the words "or a UK seed test carried out under official supervision"; and

(iv) in sub-paragraph (3)(b)(ii), after the words "competent seed certification authority" there shall be inserted the words "or a licensed EC seed testing station in another member State"; and

(p) in paragraph 31(1)(b)(ii) of Part V, after the words "in the member

State," there shall be inserted the words "or, in the case of seed that has been harvested from a crop that has been produced from seed that has undergone official post control the results of which have been satisfactory, by a field examination of the crop carried out by a licensed EC crop inspector in that member State,".

(14) In Schedule 3—

(a) in the cross-reference, for the words "Regulations 8(4), 8(5), (6) and (7)(b), 10(3), (4)(a) and (b)(ii), 11(13)(a) and (b)" there shall be substituted the words "Regulations 8(8) to (12), (13)(b), (15)(c) and (18)(a), 10(3), (4)(a) and (b)(ii) and 11(15)(a) and (b)";

(b) for paragraph 5(1), there shall be substituted the following paragraphs—

" (1) A crop from which basic seed is to be produced shall be examined by at least one official UK field inspection to determine whether the crop meets the requirements in this Schedule and in Part I of Schedule 4;

(1A) A crop from which CS seed is to be produced shall be examined by at least one official UK field inspection or a UK field inspection carried out under official supervision to determine whether the crop meets the requirements in this Schedule and in Part I of Schedule 4."; and

(15) In Schedule 4, in the cross-reference, for the words "Regulations 8(4), 8(5), (6) and (7)(b), 10(3), (4)(a) and (b), 11(4) to (11) and (13)(a)" there shall be substituted the words "Regulations 8(8) to (12), (13)(b), (15)(c) and (18)(a), 10(3), (4)(a) and (b) and 11(6) to (13) and (15)(a)".

(16) In Schedule 8—

(a) in paragraph 8(b)(ii) of Part III, the words "in a case where the package is being relabelled," shall be deleted; and

(b) in paragraph 14(b)(ii) of Part IV, the words "in a case where the package is being relabelled," shall be deleted.

(17) In Schedule 10—

(a) after the entry for "lettuce", there shall be inserted the following entries—

" licensed crop inspector	Regulation 2(1)
licensed EC crop inspector	Regulation 2(1)
licensed EC seed testing station	Regulation 2(1)";

(b) after the entry for "licensed seed sampler", there shall be inserted the following entry—

" licensed seed testing station Regulation 2(1) ";

(c) in the entry for "qualifying seed lot", for the words in the second column "Regulation 11(13)" there shall be substituted the words "Regulation 11(15)";

(d) after the entry for "seed industry activity", there shall be inserted the following entries—

seed that is subject to official post control Regulation
8(18)

seed that has been subject to satisfactory official Regulation
post control 2(1) ";

(e) after the entry for "turnip", there shall be inserted the following entry—

" UK field inspection carried out under official Regulation
supervision and 2(1) "

(f) after the entry for "UK officially certified pre-basic seed of a listed variety", there shall be inserted the following entry—

" UK seed test carried out under official Regulation 2(1)
supervision ".

Bach

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

25th September 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Vegetable Seed (England) Regulations 2002 (SI 2002/3175) as amended by the Vegetable Seed (England) (Amendment) Regulations 2004 (SI 2004/2389) (the "2002 Regulations") and come into force on 26th October 2005.

The amendments to the 2002 Regulations update definitions and provisions to take account of Council Directive 2004/117/EC (O.J. No. L14, 18.1.2005, p. 18) on examinations carried out under official supervision and equivalence of seed produced in third countries to extend arrangements for the licensing of seed trade personnel to vegetable seed.

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.

A regulatory impact assessment has not been prepared for this instrument, as it has no impact on the cost 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 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 as amended by S.I. 2004/2389.[back](#)

[4] S.I. 2002/3176 as amended by S.I. 2004/2390.[back](#)

[5] O.J. No. L193, 20.7.2002, p33.[back](#)

[6] O.J. No. L14, 18.1.2005, p18.[back](#)

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