

EUROPEAN COMMUNITIES (SEED OF OIL PLANTS AND FIBRE PLANTS)  
REGULATIONS 2003

I, JOE WALSH, Minister for Agriculture and Food in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Council Directive 2002/57/EC of 13 June 2002<sup>1</sup> as amended by Council Directive 2002/68/EC of 19 July 2002<sup>2</sup> and Commission Directive 2003/45/EC of 28 May 2003<sup>3</sup> hereby make the following Regulations:

**Citation**

1. These Regulations may be cited as the European Communities (Seed of Oil Plants and Fibre Plants) Regulations 2003.

**Interpretation**

2.(1) In these Regulations -

“Annex I” means Annex I to the Directive ;

“Annex II” means Annex II to the Directive ;

“Annex III” means Annex III to the Directive ;

“Annex IV” means Annex IV to the Directive ;

“Annex V” means Annex V to the Directive ;

“authorised officer” means an officer of the Minister appointed under Regulation 13 ;

“basic seed” means seed of varieties which -

- (a) has been produced under the responsibility of the breeder according to accepted practices for the maintenance of the variety,
- (b) is intended for the production of certified seed of any category,
- (c) subject to Regulation 7 satisfies the conditions laid down in Annex I for basic seed crop production and Annex II for basic seed, and
- (d) has satisfied on official examination the said conditions;

“certified seed”, except in the expression “certified seed of the first generation”, “certified seed of the second generation”, “certified seed of the third generation” and “certified seed of any category”, means, except where the context otherwise requires, seed of turnip rape or swede rape which,

- (a) has been produced directly from pre-basic seed or basic seed,
- (b) is intended for purposes other than the production of seed of oil plants or fibre plants,

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<sup>1</sup> OJ No L193 p74 20/07/2002

<sup>2</sup> OJ No L195 p32 24/07/2002

<sup>3</sup> OJ No L138 p40 05/06/2003

- (c) subject to Regulation 7, satisfies the conditions laid down in Annex I for certified seed crop production and Annex II for certified seed, and
- (d) has satisfied on official examination the said conditions;

“certified seed of any category” means seed which is certified seed, certified seed of the first generation, certified seed of the second generation and certified seed of the third generation;

“certified seed of the first generation” means seed of flax or linseed which -

- (a) has been produced directly from pre-basic seed or basic seed,
- (b) is intended either for -
  - (i) the production of certified seed of the second generation or of certified of the third generation, or
  - (ii) purposes other than the production of seed of oil plants or fibre plants,
- (c) subject to Regulation 7, satisfies the conditions laid down in Annex I for certified seed crop production and Annex II for certified seed of the first generation, and
- (d) has satisfied on official examination the said conditions;

“certified seed of the second generation” means seed of flax or linseed which -

- (a) has been produced directly from pre-basic seed, basic seed or certified seed of the first generation,
- (b) is intended either for -
  - (i) the production of certified seed of the third generation, or
  - (ii) purposes other than the production of seed of oil plants or fibre plants,
- (c) subject to Regulation 7, satisfies the conditions laid down in Annex I for certified seed crop production and Annex II for certified seed of the second generation, and
- (d) has satisfied on official examination the said conditions;

“certified seed of the third generation” means seed of flax or linseed which,

- (a) has been produced directly from pre-basic seed, basic seed, certified seed of the first generation or certified seed of the second generation,
- (b) is intended for purposes other than the production of seed of oil plants or fibre plants,
- (c) subject to Regulation 7, satisfies the conditions laid down in Annex I for certified seed crop production and Annex II for certified seed, and
- (d) has satisfied on official examination the said conditions;

“Common Catalogue” means the Common Catalogue of Varieties of Agricultural Plant Species published from time to time by the Commission of the European Communities in the Official Journal of the European Communities;

“Decision of 2002” means Council Decision 2003/17/EC of 16 December 2002<sup>4</sup> as amended by Council Decision 2003/403/EC of 26 May 2003<sup>5</sup>;

“Directive” means Council Directive 2002/57/EC of 13 June 2002 as amended by Council Directive 2002/68/EC of 19 July 2002 and Commission Directive 2003/45/EC of 28 May 2003;

“Member State” means a Member State of the European Communities;

“Minister” means the Minister for Agriculture and Food;

“National Catalogue” means the National Catalogue of Agricultural Plant Varieties maintained by the Minister under the European Communities (National Catalogue of Agricultural Plant Varieties) Regulations 2002 (S.I. No. 525 of 2002)

“official authority” means the authority officially designated by a Member State to implement the Directive or any similar authority in a third country;

“official examination” means an examination carried out by an official authority;

“oil plants and fibre plants” means any one or more or all of the plants of the following genera and species intended for agricultural production:

<i>Brassica rapa</i> L. var	Turnip rape
<i>silvestris</i> (Lam.) Briggs	
<i>Brassica napus</i> L. (partim)	Swede rape
<i>Linum usitatissimum</i> L.	Flax, linseed;

and shall not include the seed of oil plants and fibre plants intended for ornamental purposes;

“pre-basic seed” means seed of varieties of generations prior to basic seed which -

- (a) has been produced under the responsibility of the breeder according to accepted practices for the maintenance of the variety,
- (b) is intended for the production of pre-basic seed, basic seed or certified seed of any category,
- (c) subject to Regulation 7, satisfies the conditions laid down in Annex I for basic seed crop production and Annex II for basic seed, and
- (d) has satisfied on official examination the said conditions;

“seed importer” means a person who imports seed of oil plants or fibre plants in any quantity exceeding 2 kilograms and “importing” shall be construed accordingly;

“seed processor” means a person who assembles, dries, cleans, treats, mixes or otherwise processes seed of oil plants or fibre plants which is intended for sale and “processing” shall be construed accordingly;

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<sup>4</sup> OJ No L8 p10 14/01/2003

<sup>5</sup> OJ No L141 p23 07/06/2003

“seed packer” means a person who in the course of business packs certified seed in packages the net weight of which does not exceed 10 kilograms excluding, where appropriate, granulated pesticides, pelleting substances or other solid additives, and “packing” shall be construed accordingly.

“third country” means a country or territory which is not a Member State

- (2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.
- (3) (a) A reference to a Regulation, is to a Regulation to these Regulations, unless it is indicated that reference to some other Regulations is intended, and  
(b) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

### **Application**

3. These Regulations apply to the production with a view to marketing and to the marketing of seed of oil plants and fibre plants intended for agricultural production.

### **Official authority**

4. The Minister or any person authorised by the Minister for the purpose shall be the official authority for the State for the purposes of these Regulations and of the Directive.

### **Marketing and sale**

- 5.(1) Subject to Regulation 7 and to paragraph (2), a person shall not place seed of oil plants or fibre plants on the market unless -
  - (a) the seed is of a variety or a varietal association which is registered -
    - (i) in the National Catalogue, or
    - (ii) in the Common Catalogue, where there is no prohibition on the marketing of that variety or varietal association in the State,
  - (b) it has been officially certified as pre-basic seed, basic seed or certified seed of any category,
  - (c) the seed is in sufficiently homogeneous lots and in packages complying with these Regulations, and
  - (d) where the seed is harvested in a third country, it is of a species contained in the Decision of 2002 on the equivalence of seed produced in third countries relates.
- (2) Notwithstanding paragraph (1), bred seed of generations prior to basic seed, subject to the conditions set down at Regulation 9 (5) may be placed on the market.
- (3) Notwithstanding paragraph (1), the official authority may authorise producers in its own territory to place on the market-
  - (a) small quantities of seed for scientific purposes or selection work, and

- (b) appropriate quantities of seed for other test or trial purposes, provided it belongs to varieties for which an application for entry in the National Catalogue has been submitted, subject to satisfying conditions as the Minister may from time to time determine.
- (4) The Minister may determine conditions under which -
- (a) chemically treated seed may be marketed,
  - (b) seed may be marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources, including seed mixtures of species which also include species listed in Article 1 of Council Directive 70/457/EEC of 29 September 1970<sup>6</sup>, and are associated with specific natural and semi-natural habitats and are threatened by genetic erosion, and
  - (c) seed suitable for organic production may be marketed.
- (5) In the case of varietal associations, the seed of the female and male components shall be dressed using seed dressings of different colours.

**Seed not finally certified**

- 6.(1) Seed of oil plants and fibre plants, which has been produced in another Member State or a third country to which the Decision of 2002 applies, shall, on request, and without prejudice to the European Communities (National Catalogue of Agricultural Plant Varieties) Regulations 2002 be officially certified as certified seed of the appropriate category if the seed -
- (a) has been produced directly from basic seed or certified seed officially certified in another Member State or a third country to which Decision of 2002 applies,
  - (b) has been shown by official field inspection or field inspection under official supervision to satisfy the conditions laid down in Annex I for the relevant category, and
  - (c) has been shown by official examination to satisfy the conditions laid down in Annex II.
- (2) Where the seed has been produced directly from officially certified seed of pre-basic seed, it shall be officially certified as basic seed if the conditions laid down for that category are satisfied.
- (3) Seed of oil plants and fibre plants which has been harvested in another Member State and which is intended for certification in accordance with paragraph (1) shall -
- (a) be packed and labelled with an official label complying with paragraphs A and B of Annex V, and
  - (b) be accompanied by an official document complying with paragraph C of Annex V.

**Derogation from certification and marketing provisions**

- 7.(1) Subject to Regulation 9 and paragraph (5), the Minister may authorise the certification and marketing of pre-basic seed and basic seed which does not satisfy the conditions laid down in Annex II in respect of germination;

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<sup>6</sup> OJ No L225 p1 12/10/1970

provided that the supplier of the seed guarantees a specific minimum germination for the seed, such guaranteed germination to be shown on the official label.

- (2) (a) Subject to paragraph 5 and to sub-paragraph (b), the Minister may, where the official examination in respect of germination under Annex II has not concluded, authorise the official certification of pre-basic seed, basic seed or certified seed of any category and the marketing of those categories of seed once.
- (b) The powers conferred on the Minister by subparagraph (a), shall be exercised by the Minister subject to the following conditions -
  - (i) the availability of an official provisional analytical report on the seed, indicating that it satisfies the conditions laid down in Annex II, in respect of germination,
  - (ii) the name and address of the first buyer shall be given to the official authority by the supplier,
  - (iii) the supplier shall furnish to such buyer a guarantee which satisfies the Minister of the germination given in the said provisional analytical report, and
  - (iv) the germination so guaranteed shall be stated on a special label bearing the name and address of the supplier and the reference number of the relevant lot of seed.
- (3) Subject to paragraph 5, the Minister may for such period as he or she determines, authorise the marketing of pre-basic, basic or certified seed of any category of a variety or varietal association which is not accepted in the National Catalogue but which is registered in a catalogue of a Member State established under Council Directive 2002/53/EC of 13 June 2002<sup>7</sup>.
- (4) Where the Commission makes a Decision in relation to the marketing of pre-basic, basic or certified seed of any category of a variety or varietal association which is not accepted in the Common Catalogue or the National Catalogues of the Member States, the Minister may authorise such marketing in accordance with that Decision.
- (5) The foregoing provisions of this Regulation, other than paragraph (4), shall not apply to seed imported from a third country unless such seed has been produced directly from pre-basic seed, basic seed, certified seed of the first generation or certified seed of the second generation and certified as such in the State.

### **Sealing**

- 8.(1) Subject to paragraph (2), packages of pre-basic seed, basic seed, or certified seed of any category shall be sealed officially in such a manner that they cannot be opened without either damaging the sealing system or leaving evidence of tampering either on the official label provided under Regulation 9 or on the package.
- (2) The sealing system used shall be the affixing of an official seal or have the above-mentioned label as an integral part of the sealing system, except where a non-reusable closing system is used.

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<sup>7</sup> OJ No L193 p1 20/07/2002

- (3) Subject to paragraph (4), packages of pre-basic seed, basic seed or certified seed of any category shall only be resealed under official authority.
- (4) Where a package is resealed the label required under Regulation 9 shall indicate that the package has been resealed, date of resealing and the authority which resealed it.

### **Labelling**

- 9.(1) A package of pre-basic, basic or certified seed of any category shall have an official label, not previously used-
  - (i) affixed on the outside,
  - (ii) giving the information specified under Annex IV paragraph A, clearly legible in one of the official languages of the European Communities,
  - (iii) satisfying the dimensions in Annex IV paragraph B, and
  - (iv) having the appropriate colour and design as set out in the schedule to these Regulations.
- (2) Where a label with a string-hole is used, an official seal shall be used in relation to the attachment of the label to the package,
- (3) Where the seed is subject to Regulation 7(1) the label shall state that the seed does not satisfy the conditions laid down in Annex II in respect of germination and shall clearly state the specific minimum germination guaranteed for the seed,
- (4) Where the official label, under paragraph (1), is not a tear resistant label or an adhesive label, the package shall be accompanied by an official document, the same colour as the label, giving at least the information specified in Annex IV paragraph A (a) 4, 5 and 6 and such document shall be drawn up in such a manner as not to be confused with the label.
- (5) A label attached to pre-basic seed shall give the following information-
  - (i) the name of the certifying authority,
  - (ii) the lot reference number,
  - (iii) the month and year of sealing or the month and year of the last official sampling for the purposes of certification,
  - (iv) the species, indicated at least under its scientific name which may be given in abridged form and without the authorities names in Roman characters,
  - (v) the variety, indicated at least in Roman characters, and
  - (vi) the description “pre-basic seed”,
- (6) Where pre-basic seed, basic seed or certified seed of any category has been chemically treated, this fact shall be indicated either on the official label or on a supplier’s label and also on the package containing the seed or inside such package.
- (7) Where seed of a variety or a varietal association has been genetically modified, any label or document, official or otherwise, which is affixed to or accompanies the seed lot, shall clearly indicate that the seed has been genetically modified.

- (8) When the Minister gives an authorisation under Regulation 7(4) the official label of any package of seed, shall be the appropriate design and colour as set out in the Schedule attached to these Regulations and in all other cases be brown.

### **Sampling**

10. In the official examination of seed of oil plants and fibre plants for certification or for post-control testing, samples shall be officially drawn both from sufficiently homogeneous lots and in accordance with the International Rules for Seed Testing published by the International Seed Testing Association and the maximum weight of a lot of seed and the minimum weight of a sample shall be as laid down in Annex III.

### **Marketing of Small Quantities**

11. Seed of oil plants and fibre plants may be marketed at the retail stage to the final consumer in quantities not exceeding 10 kg if, the seed is taken in the presence of the purchaser from the package in which it was packed, sealed and labelled in accordance with these Regulations and the information contained on the label is displayed to the purchaser.

### **Registration**

- 12.(1) Notwithstanding Regulation 18, The Register of Processors and Importers of Seed of Oil Plants and Fibre Plants shall continue in being and shall continue to be maintained by the Minister but shall henceforth be known as the “register”.
- (2) A person shall not carry on the business of a seed processor, a seed importer or a seed packer unless his or her details are entered in the Register of Processors, Importers and Packers of Seed of Oil Plants and Fibre Plants.
- (3) Every entry into the register shall contain the following details -
- (a) the full name and address of the person,
  - (b) the nature and description of the person’s activity,
  - (c) in the case of a seed processor or a seed packer, the location and description of the premises in which the person carries on the business of seed processing or packing, and
  - (d) such other particulars as the Minister, in the circumstances of any particular case, considers relevant.
- (4) Any change in the name or address of a person registered in the register shall be notified by him or her to the Minister immediately.
- (5) The Minister may register the person, subject to paragraph (6), on application, in such form and containing such details as the Minister may direct, by or on behalf of a person who proposes to carry on the business of a seed processor, seed importer or a seed packer.
- (6) Before the Minister registers any person under paragraph (5), the Minister shall be satisfied that there are available to the person such premises and facilities as are adequate to enable the person to carry on the business to which the application relates.
- (7) Whenever the Minister proposes to refuse an application for registration he or she shall, before doing so, notify the applicant in writing of his or her intention and the reasons, and

if any representations are made to the Minister by the applicant within seven days after the giving of the notification, the Minister shall consider them.

- (8) The Minister may remove an entry from the register where he or she considers that it is appropriate to do so having first notified the person of his or her intention to do so and affording them an opportunity to, within fourteen days, make representations, the Minister shall consider them.
- (9) Any breeder wishing to avail of the provisions of Article 8 of the Directive should notify the Minister in writing

#### **Authorised officer**

13.(1) The Minister may appoint such and so many persons as he or she thinks fit to be authorised officers for the purpose of these Regulations.

- (2)(a) An authorised officer shall be furnished with a warrant of his or her appointment.
- (b) When exercising a power conferred on him or her under these Regulations an authorised officer shall, if requested by any person thereby affected, produce the warrant to that person for inspection.
- (3) Subject to paragraph (4), an authorised officer may for the purpose of ensuring that these Regulations are being complied with -
  - (a) at all reasonable times, enter any premises or a place where he or she has reason to believe there is seed and inspect the premises or place,
  - (b) require any person in charge of the premises or place or connected with any equipment or other device at that premises or place to produce to him or her any books, documents, data or records relating to the seed and to give to him or her such information as he or she may reasonably require in relation to the seed,
  - (c) inspect and take copies of, or take extracts from, any such books, documents, data or records in whatever form kept,
  - (d) there or at any other place carry out such examinations, inspections or tests of the seed, equipment or other device found on the premises or at the place as the officer considers appropriate and, if the officer so thinks fit, remove or have removed from there any seed, and retain it for a reasonable period to facilitate such examination, testing or inspection,
  - (e) examine any procedure connected with the importing, processing or packing of seed,
  - (f) subject to paragraph (g), take, without payment, such samples of the seed as the officer may reasonably require and carry out or have carried out on such samples there or elsewhere such checks and inspections as he or she considers necessary,
  - (g) Where a sample is taken, the authorised officer shall:-
    - (i) notify the person in possession or control of the seed that a sample is taken, and
    - (ii) if required by the said person at the time of giving of the notification, take a second sample, which shall be like the sample already taken, and mark and leave it with that person.

- (h) seize and detain the seed,
- (i) secure for later inspection the premises or place or part of it,
- (j) if accompanied by -
  - (i) a member of the Garda Síochána in uniform, or
  - (ii) an officer of the Revenue Commissioners in uniform authorised by them to exercise powers conferred by the Customs Acts or the statutes which relate to the duties of excise,

stop any vehicle which the authorised officer reasonably suspects to contain any seed.

- (4) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under paragraph (7) authorising such entry.
- (5) An authorised officer, where he or she considers it necessary, may be accompanied by a member of the Garda Síochána when performing any powers conferred on an authorised officer by this Regulation.
- (6) A member of the Garda Síochána not in uniform, when exercising any such power, shall, if so requested by any person affected, produce evidence in writing that he or she is such a member or officer.
- (7) If a judge of the District Court is satisfied, on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is seed at any place, the judge may issue a warrant authorising an authorised officer, accompanied, if appropriate, by other authorised officers or by a member or members of the Garda Síochána at any time or times within one month from the date of issue of the warrant, on production of the warrant requested, to enter those premises or part of it, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer under this Regulation.
- (8) A person who without reasonable excuse fails to comply with any request or requirement made by an authorised officer under this Regulation is guilty of an offence.
- (9) A person who obstructs or interferes with an authorised officer in the exercise of his or her powers under these Regulations or gives an authorised officer information which is false or misleading is guilty of an offence.

#### **Records, returns**

- 14.(1) Any person who carries on the business of processing, packing or marketing of seed of oil plants or fibre plants (including the importation and storage of such seed) shall -
  - (a) keep records of his or her transactions in such seed,
  - (b) afford to any authorised officer reasonable facilities for inspecting seed on any premises on which such person carries on such a business,
  - (c) give to an authorised officer any information he or she may reasonably require in relation to such transactions including in particular information regarding any seed specified by him or her, whether from a Member State or from a third country.

- (2) A person who imports, whether from another Member State or from a third country, a quantity of seed of oil plants or fibre plants exceeding 2 kg shall, at the time of importation, furnish to the Minister in writing the following particulars regarding the seed, namely, the species, variety or varietal associations, category, country of production, name of the relevant official authority, country of dispatch, importer and quantity of the seed.

### **Disposal of seed**

- 15.(1) Where a sample of seed is taken by an authorised officer and is found not to comply with these Regulations, the Minister may direct that the seed be destroyed or otherwise disposed of in such manner as the Minister may determine.
- (2) Where the Minister makes such a direction the following provisions shall apply -
- (a) he or she shall inform the person who is in possession or control of the seed, of the direction, in writing,
  - (b) where such a direction is issued the seed shall be moved only with the consent of an authorised officer,
  - (c) such person shall dispose of the seed or cause or permit it to be disposed of, only in accordance with the direction, and
  - (d) the Minister shall not be liable for any costs arising from the disposal of the seed.

### **Prosecution of offences**

16. An offence under these Regulations may be prosecuted by the Minister.

### **Penalty**

17. A person who contravenes these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000.

### **Revocation**

18. The following Regulations are revoked -
- (i) European Communities (Seed of Oil Plants and Fibre Plants) Regulations, 1981 (S.I. No. 38 of 1981),
  - (ii) European Communities (Seed of Oil Plants and Fibre Plants) (Amendment) Regulations, 1983 (S.I. No. 136 of 1983),
  - (iii) European Communities (Seed of Oil Plants and Fibre Plants) (Amendment) Regulations, 1988 (S.I. No. 64 of 1988),
  - (iv) European Communities (Seed of Oil Plants and Fibre Plants) (Amendment) Regulations, 1991 (S.I. No. 109 of 1991),
  - (v) European Communities (Seed of Oil Plants and Fibre Plants) (Amendment) Regulations, 1992 (S.I. No. 301 of 1992),
  - (vi) European Communities (Seed of Oil Plants and Fibre Plants) (Amendment) Regulations, 1995 (S.I. No.53 of 1995), and
  - (vii) European Communities (Seed of Oil Plants and Fibre Plants) (Amendment) Regulations, 1997 (S.I. No. 54 of 1997).

**Saver**

- 19.(1) Any authorised officer appointed under a Regulation mentioned in Regulation 18 shall continue to be so appointed as if under these Regulations.
- (2) Any prosecution commenced under a Regulation mentioned in Regulation 18 shall continue as if under these Regulations.

<b>Schedule</b>	
<b>Category</b>	<b>Colour of label</b>
Pre basic Seed	White with diagonal violet stripe
Basic Seed	White
Certified Seed of First Generation	Blue
Certified Seed of Second Generation	Red
Certified Seed of Third Generation	Red
Varietal associations	Blue with diagonal green stripe

GIVEN under my Official Seal,  
04 July 2003

Joe Walsh  
Minister for Agriculture and Food.

## **EXPLANATORY NOTE**

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations:

- i. Provide that seed of oil plants and fibre plants may not be marketed unless it has been certified, closed and labelled in accordance with the EC Directives on the marketing of seed of oil plants and fibre plants;
- ii. Provide that seed of oil plants and fibre plants may not be marketed unless it is seed of a variety or a varietal association registered in the National Catalogue or in the EC Common Catalogue;
- iii. Provide for the registration by the Minister for Agriculture and Food of any person who carries on the business of processing, importing or packing of oil plants and fibre plants;
- iv. Provide for the packaging of seed and information required on the official label.
- v. Serve to consolidate the provisions of the European Communities (Seed of Oil Plants and Fibre Plants) Regulations, 1981 to 1997 (S.I. No. 136 of 1981), (S.I. No. 136 of 1983), (S.I. No. 64 of 1988), (S.I. No. 109 of 1991), (S.I. No. 301 of 1992), (S.I. No. 53 of 1995), (S.I. No. 54 of 1997)