

Statutory Instrument 2004 No. 2949

The Seeds (National Lists of Varieties) (Amendment) Regulations 2004

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STATUTORY INSTRUMENTS

2004 No. 2949

AGRICULTURE

**The Seeds (National Lists of Varieties) (Amendment) Regulations
2004**

Made

11th November 2004

Laid before Parliament

12th November 2004

Coming into force

10th December 2004

The Secretary of State and the National Assembly for Wales, being designated[1] for the purposes of section 2(2) of the European Communities Act 1972[2] in relation to the common agricultural policy of the European Community, acting jointly in exercise of the powers conferred on them by that section hereby make the following Regulations:

Title and commencement

1. These Regulations may be cited as the Seeds (National Lists of Varieties) (Amendment) Regulations 2004 and shall come into force on 10th December 2004.

Amendment of the Seeds (National Lists of Varieties) Regulations 2001

2. - (1) The Seeds (National Lists of Varieties) Regulations 2001[3] shall be amended in accordance with the following provisions of this Regulation.

(2) In Regulation 2(1) -

(a) before the definition of "authorised officer" there shall be inserted the following definition -

" "the 1990 Directive" means Council Directive 90/220/EEC[4] on the deliberate release into the environment of genetically modified organisms, as amended by Commission Directive 94/15/EC[5] and Commission Directive 97/35/EC[6];";

(b) for the definition of "the Common Catalogue Directive" there shall be substituted the following definition -

" "the Common Catalogue Directive" means Council Directive 2002/53/EC[7] on the common catalogue of varieties of agricultural plant species, as amended by the Food and Feed Regulation;";

(c) after the definition of "the Common Catalogue Directive" there shall be inserted the following definition -

" "the Deliberate Release Directive" means Council Directive 2001/18/EC[8] on the deliberate release into the environment of genetically modified organisms, as amended by Commission Decision 2002/623/EC[9], Council Decision 2002/811/EC[10], the Food and Feed Regulation and Council Regulation (EC) No 1830/2003[11];";

(d) after the definition of "derogated species" there shall be inserted the following definition -

" "the Equivalence Decision" means Council Decision 97/788/EC[12] on the equivalence of checks on practices for the maintenance of varieties carried out in third countries, as amended by Council Decision 2002/580/EC[13], the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the

Slovak Republic and the adjustments to the Treaties on which the European Union is founded[14], and Commission Decision 2004/120/EC[15]";

(e) after the definition of "the fees Regulations" there shall be inserted the following definition -

" "the Food and Feed Regulation" means Council Regulation (EC) No 1829/2003[16] on genetically modified food and feed;"

(f) 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;"

(g) after the definition of "the National Lists" there shall be inserted the following definition -

" "the Novel Foods Regulation" means Council Regulation (EC) No 258/97[17] concerning novel foods and food ingredients, as amended by the Food and Feed Regulation and Council Regulation (EC) No 1882/2003[18];"

(h) after the definition of "relevant decision" there shall be inserted the following definition -

" "the relevant legislation" means -

(a) in respect of a genetically modified variety any material derived from which is intended to be used as food or a food ingredient within the meaning of article 2 of Council Regulation (EC) No 178/2002[19] laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety and falling within the scope of article 3 of the Food and Feed Regulation -

(i) in relation to material authorised prior to 18 April 2004 -

(aa) the 1990 Directive; or

(bb) the Deliberate Release Directive,

and the Novel Foods Regulation; and

(ii) in relation to material authorised after 18 April 2004, the Food and Feed Regulation;

(b) in respect of a genetically modified variety any material derived from which is intended to be used as feed or a feed ingredient within the meaning of article 3 of Council Regulation (EC) No 178/2002 and falling within the scope of article 15 of the Food and Feed Regulation -

(i) in relation to material authorised prior to 18 April 2004 -

(aa) the 1990 Directive; or

(bb) the Deliberate Release Directive; and

(ii) in relation to material authorised after 18 April 2004, the Food and Feed Regulation; and

(c) in respect of a genetically modified variety any material derived from which is intended to be used for any other purpose -

(i) the 1990 Directive; or

(ii) the Deliberate Release Directive;";

(i) for the definition of "the Seeds Marketing Directives" there shall be substituted the following definition -

" "the Seeds Marketing Directives" means -

(a) Council Directive 2002/54/EC[20] on the marketing of beet seed, as last amended by Council Directive 2003/61/EC[21];

(b) Council Directive 66/402/EEC[22] on the marketing of cereal seed, as last amended by Council Directive 2003/61/EC;

(c) Council Directive 66/401/EEC[23] on the marketing of fodder plant seed, as last amended by Commission Directive 2004/55/EC[24];

(d) Council Directive 2002/57/EC[25] on the marketing of oil and fibre plant seed, as last amended by Council Directive 2003/61/EC;

(e) Council Directive 2002/56/EC[26] on the marketing of seed potatoes, as last amended by Council Directive 2003/61/EC; and

(f) Council Directive 2002/55/EC[27] on the marketing of vegetable seed, as last amended by the Food and Feed Regulation;";

(j) for the definition of "the Seeds Marketing Regulations" there shall be substituted the following definition -

" "the Seeds Marketing Regulations" means -

(a) in relation to beet seeds -

(i) as respects England, the Beet Seed (England) Regulations

2002[[28](#)];

(ii) as respects Scotland and Wales, the Beet Seeds Regulations 1993[[29](#)]; and

(iii) as respects Northern Ireland, the Beet Seeds Regulations (Northern Ireland) 1994[[30](#)];

(b) in relation to cereal seeds -

(i) as respects England, the Cereal Seed (England) Regulations 2002[[31](#)];

(ii) as respects Scotland and Wales, the Cereal Seeds Regulations 1993[[32](#)]; and

(iii) as respects Northern Ireland, the Cereal Seeds Regulations (Northern Ireland) 1994[[33](#)];

(c) in relation to fodder plant seeds -

(i) as respects England, the Fodder Plant Seed (England) Regulations 2002[[34](#)];

(ii) as respects Scotland and Wales, the Fodder Plant Seeds Regulations 1993[[35](#)]; and

(iii) as respects Northern Ireland, the Fodder Plant Seeds Regulations (Northern Ireland) 1994[[36](#)];

(d) in relation to oil and fibre plant seeds -

(i) as respects England, the Oil and Fibre Plant Seed (England) Regulations 2002[[37](#)];

(ii) as respects Scotland, the Oil and Fibre Plant Seed (Scotland) Regulations 2004[[38](#)];

(iii) as respects Wales, the Oil and Fibre Plant Seeds Regulations 1993[[39](#)]; and

(iv) as respects Northern Ireland, the Oil and Fibre Plant Seeds Regulations (Northern Ireland) 1994[[40](#)];

(e) in relation to seed potatoes -

(i) as respects England and Wales, the Seed Potatoes Regulations 1991[[41](#)];

(ii) as respects Scotland, the Seed Potatoes (Scotland)

Regulations 2000[42]; and

(iii) as respects Northern Ireland, the Seed Potatoes Regulations (Northern Ireland) 2001[43]; and

(f) in relation to vegetable seeds -

(i) as respects England, the Vegetable Seed (England) Regulations 2002[44];

(ii) as respects Scotland and Wales, the Vegetable Seeds Regulations 1993[45]; and

(iii) as respects Northern Ireland, the Vegetable Seeds Regulations (Northern Ireland) 1994[46];";

(k) for the definition of "standard seed" there shall be substituted the following definition -

" "standard seed", in relation to seed of a vegetable variety, has the same meaning -

(a) as respects England, as in the Vegetable Seed (England) Regulations 2002;

(b) as respects Scotland and Wales, as in the Vegetable Seeds Regulations 1993; and

(c) as respects Northern Ireland, as in the Vegetable Seeds Regulations (Northern Ireland) 1994;"; and

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

" "the Vegetable Seed Marketing Directive" means Council Directive 2002/55/EC on the marketing of vegetable seed, as last amended by the Food and Feed Regulation."

(3) In Regulation 3 -

(a) in paragraph (2), after the words "as "standard seed", in accordance with" there shall be inserted the words ", as respects England, the Vegetable Seed (England) Regulations 2002, as respects Scotland and Wales,";

(b) in paragraph (5), for the words "Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms" there shall be inserted the words "the relevant legislation"; and

(c) after paragraph (6), there shall be inserted the following paragraph -

" (6A) Where an application for acceptance of a variety onto a National List is yet to be determined, the Secretary of State shall not publish in the Gazette details of any proposed maintainer or proposed substitution or addition of a maintainer of that variety."

(4) For sub-paragraphs (d) and (e) of Regulation 5(3) there shall be substituted the following sub-paragraphs -

" (d) in respect of a genetically modified variety, it has been accepted for marketing in accordance with the relevant legislation;

(e) in respect of a variety other than a genetically modified variety any material to be derived from which is intended for use as a food, or a food ingredient, within the meaning of article 1(2) of the Novel Foods Regulation, the food or food ingredient intended to be so derived is authorised pursuant to the relevant legislation;"

(5) For sub-paragraph (c)(ii) of Regulation 6(3), there shall be substituted the following sub-paragraph -

" (ii) with which there is an agreement in relation to official checks on practices for the maintenance of that other variety in the Annex to the Equivalence Decision; or"

(6) In Regulation 9, for paragraphs (5) and (6) there shall be substituted the following paragraph -

" (5) The National Authorities may vary, suspend or revoke an arrangement or the conditions of an arrangement made under this regulation, or a further arrangement or any of the conditions of a further arrangement under this regulation, by giving notice in writing to the person with whom the arrangement or further arrangement is made, and a further arrangement or any of the conditions of that arrangement may be varied, suspended or revoked under this paragraph notwithstanding that the arrangement in respect of which it was made or the conditions of that arrangement are not also varied, suspended or revoked."

(7) For sub-paragraph (b) of Regulation 12(2), there shall be substituted the following sub-paragraph -

" (b) in a third country referred to in the Equivalence Decision."

(8) In Regulation 14 -

(a) for sub-paragraph (b) of paragraph (4), there shall be substituted the following sub-paragraph -

" (b) in respect of a genetically modified variety, any authorisation for marketing of the variety in accordance with the relevant legislation has been revoked or has otherwise expired;" and

(b) for sub-paragraph (c) of paragraph (4) there shall be substituted the following sub-paragraph -

" (c) in respect of a variety other than a genetically modified variety any material derived from which is intended for use as a food, or a food ingredient, within the meaning of article 2(1) of the Novel Foods Regulation, the authorisation of the food or food ingredient for the purposes of that Regulation has been revoked or has otherwise expired;"

(9) In Regulation 15 -

(a) in sub-paragraph (d) of paragraph (2), for the words "Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms", there shall be substituted the words "the relevant legislation";

(b) for sub-paragraph (e) of paragraph (2) there shall be substituted the following sub-paragraph -

" (e) in respect of a variety other than a genetically modified variety any material to be derived from which is intended for use as a food, or a food ingredient, within the meaning of article 2(1) of the Novel Foods Regulation, the reference under which the food or food ingredient may be placed on the market under that Regulation;"

(10) In Schedule 1 -

(a) In the table in Part I, paragraph 1 -

(i) for the entry for *Festuca pratensis* Huds. x *Lolium multiflorum* Lam. under the heading "**Fodder plants**" there shall be substituted the following entry -

" *Festuca arundinacea* Schreber; *Festuca ovina* L.;
Festulolium

Festuca pratensis Hudson; or *Festuca rubra* L. x *Lolium multiflorum* Lam.; *Lolium perenne* L.; or *Lolium x boucheanum* Kunth."; and

(ii) after the entry for *Brassica rapa* L. var. *silvestris* (Lam.) Briggs under the heading "**Oleaginous and fibrous plants**" there shall be inserted the following entry -

" *Cannabis sativa* L. Hemp"; and

(b) In the table in Part II, paragraph 2, the entry for *Cannabis sativa* L. shall be deleted.

Ben Bradshaw

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

11th November 2004

Signed on behalf of the National Assembly for Wales

D. Elis Thomas

The Presiding Officer

9th November 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Seeds (National Lists of Varieties) Regulations 2001 (SI 2001/3510) ("the 2001 Regulations").

The amendments to the 2001 Regulations give effect to the consequential amendments made to Council Directive 2002/53/EC (OJ No. L193, 20.7.01, p. 1) on the common catalogue of varieties of agricultural plant species by Council Regulation (EC) No 1829/2003 (OJ No. L286, 18.10.03, p. 1) on genetically modified food and feed.

The amendments make consequential amendments resulting from Commission Decision 2003/234/EC (OJ No. L86, 3.4.2003, p. 48) amending Decision 74/360/EEC as regards the United Kingdom's exemption from applying to hemp (*Cannabis sativa*) Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants, by adding hemp to the list of species of oleaginous and fibrous plants included on the National Lists; and from Commission Directive 2004/55/EC (OJ No. L114, 21.4.2004, p. 18) amending Council Directive 66/401/EEC on the marketing of fodder plant seed by amending the definition of festulolium.

These amending regulations -

(a) update references to relevant EC and National legislation
(*Regulations 2(2)(a); 2(2)(b); 2(2)(c); 2(2)(d); 2(2)(e); 2(2)(f); 2(2)(g); 2(2)(i); 2(2)(j); 2(2)(k); 2(2)(l); 2(3)(a); 2(5); and 2(7)*);

(b) amend the provisions relating to the records that must be kept and

information that must be published by the Secretary of State in relation to the National Listing of genetically modified varieties (*Regulations 2(3)(b) and 2(9)*);

(c) remove the requirement for details of a proposed maintainer, substitution or addition of maintainer to be published in the Gazette before an application for inclusion on the National List has been determined (*Regulation 2(3)(c)*);

(d) amend the provisions relating to the marketing authorisations required in respect of genetically modified varieties in order for National Listing to take place (*Regulations 2(2)(h); and 2(4)*);

(e) amend the provisions relating to the variation, suspension, or revocation of arrangements for official measures (*Regulation 2(6)*);

(f) provide that the National Listing of a genetically modified variety can be revoked where an authorisation issued under the relevant legislation has been revoked or has otherwise expired (*Regulation 2(8)*); and

(g) amend the definition of festulolium (*Regulation 2(10)(a)(i)*).

(h) add hemp to the National List of agricultural crop varieties (*Regulations 2(10)(a)(ii); and 2(10)(b)*).

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.

Notes:

[1] S.I. 1972/1811; in the case of the National Assembly for Wales by S.I. 1999/2788.[back](#)

[2] 1972 c. 68.[back](#)

[3] S.I. 2001/3510.[back](#)

[4] O.J. No L117, 8.5.1990, p. 15.[back](#)

[5] O.J. No L103, 22.4.1994, p. 20.[back](#)

[6] O.J. No L169, 27.6.1997, p. 72.[back](#)

[7] O.J. No. L193, 20.7.2002, p.1.[back](#)

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

[9] O.J. No L200, 30.7.2002, p.22.[back](#)

[10] O.J. No L280, 18.10.2002, p. 27.[back](#)

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

[12] O.J. No. L322, 25.11.97, p. 39.[back](#)

- [13] O.J. No. L184, 13.7.2002, p. 26.[back](#)
- [14] O.J. No. L236, 23.9.2003, p. 33.[back](#)
- [15] O.J. No. L36, 7.2.2004, p. 57.[back](#)
- [16] O.J. No. L268, 18.10.2003, p. 1.[back](#)
- [17] O.J. No. L43, 14.2.1997, p. 1.[back](#)
- [18] O.J. No L284, 31.10.2003, p. 1.[back](#)
- [19] O.J. No. L31, 1.2.2002, p. 1.[back](#)
- [20] O.J. No. L193, 20.7.2002, p. 12.[back](#)
- [21] O.J. No. L165, 3.7.2003, p. 23.[back](#)
- [22] O.J. No. L125, 11.7.66, p. 2309, OJ/SE 1965 - 66, p. 143.[back](#)
- [23] O.J. No. L125, 11.7.66, p. 2298, OJ/SE 1965 - 66, p. 132.[back](#)
- [24] O.J. No. L114, 21.4.2004, p. 18.[back](#)
- [25] O.J. No. L193, 20.7.2002, p. 74.[back](#)
- [26] O.J. No. L193, 20.7.2002, p. 60.[back](#)
- [27] O.J. No. L193, 20.7.2002, p. 33.[back](#)
- [28] S.I. 2002/3171, as amended by S.I. 2004/2385.[back](#)
- [29] S.I. 1993/2006, as amended by S.I. 1997/616, S.I. 1999/1861 and, as respects Scotland, S.S.I. 2000/246; and, as respects Wales, S.I. 2001/3658 (W.295).[back](#)
- [30] S.R. 1994 No. 251, as amended by S.R. 1997, No. 240, S.R. 2000 No. 52 and S.R. 2001 No. 331.[back](#)
- [31] S.I. 2002/3173, as amended by S.I. 2004/2386.[back](#)
- [32] S.I. 1993/2005, as amended by S.I. 1995/1482, SI 1997/616, S.I. 1999/1860 and, as respects Scotland, S.S.I. 2000/248 and S.S.I. 2002/564; and, as respects Wales, S.I. 2001/3664 (W.296).[back](#)
- [33] S.R. 1994 No. 254, as amended by S.R. 1995 No. 366, S.R. 1997 No. 240, S.R. 2000 No. 53, S.R. 2000 No. 128, S.R. 2001 No. 330 and S.R. 2003 No. 42.[back](#)
- [34] S.I. 2002/3172, as amended by S.I. 2004/2387.[back](#)
- [35] S.I. 1993/2009, as amended by S.I. 1993/2529, S.I. 1996/1453, S.I. 1997/616, S.I. 1999/1864 and, as respects Scotland, S.S.I. 2000/247 and S.S.I. 2002/564; and, as respects Wales, S.I. 2001/3665 (W.297).[back](#)
- [36] S.R. 1994 No. 252, as amended by S.R. 1996 No. 311, S.R. 1997 No. 240, S.R. 2000 No. 54, S.R. 2001 No. 329 and S.R. 2003 No. 42.[back](#)
- [37] S.I. 2002/3174, as amended by S.I. 2003/3101 and S.I. 2004/2388.[back](#)

[38] S.S.I. 2004/3174.[back](#)

[39] S.I. 1993/2007, as amended by S.I. 1994/1423, S.I. 1996/1451, S.I. 1997/616, SI 1999/1862 and, as respects Wales, S.I. 2001/3669 (W.300).[back](#)

[40] S.R. 1994 No. 255, as amended by S.R. 1996 No. 312, S.R. 1997 No. 240, S.R. 2000 No. 55, S.R. 2001 No. 328, S.R. 2003 No. 384 and S.R. 2004 No. 237.[back](#)

[41] S.I. 1991/2206, as amended by S.I. 1992/1031, S.I. 1993/1878, S.I. 1994/2592, S.I. 1997/1474 and, as respects England, S.I. 2000/1788; and, as respects Wales, S.I. 2001/3666 (W.298).[back](#)

[42] S.S.I. 2000/201.[back](#)

[43] S.R. 2001 No. 188.[back](#)

[44] S.I. 2002/3175, as amended by S.I. 2004/2389.[back](#)

[45] S.I. 1993/2008, as amended by S.I. 1996/1452, S.I. 1997/616, S.I. 1999/1863 and, as respects Scotland, S.S.I. 2000/250; and, as respects Wales, S.I. 2001/3667 (W.299).[back](#)

[46] S.R. 1994 No. 250, as amended by S.R. 1996 No. 313, S.R. 1997 No. 240, S.R. 2000 No. 56 and S.R. 2001 No. 327.[back](#)

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