EXPLANATORY MEMORANDUM

THE FODDER PLANT SEED (ENGLAND) (AMENDMENT) REGULATIONS 2004

2004 No. 2387

1. This explanatory memorandum has been prepared by Defra and is laid before Parliament by Command of Her Majesty.

2. Description

These Regulations reflect the provisions of Council Decision 2003/17/EC, as amended by Council Decision 2003/403/EC, and Council Regulation (EC) No 885/2004 and make minor amendments to take account of accession; they also reflect changes made by Commission Decision 2004/266/EC and Commission Directive 2004/55/EC to Council Directive 66/401/EEC on the marketing of fodder plant seed. The Regulations apply in England and amend the Fodder Plant Seed (England) Regulations 2002 (SI 2002/3172).

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Background

4.1 These Regulations amend legislation in England to reflect changes to the European regime on the marketing of seed of fodder plants.

The principal changes:

- update and extend equivalence rules in respect of seed imported from third countries whose seed production control systems have been recognised by the EC Council of Ministers as equivalent to those in the Community. The definition of 'equivalent third country' is also amended to take account of the recent accession of new members to the EC;
- Provide that, where there is a requirement for a consent to have been obtained in relation to seed of genetically modified varieties, a consent can be obtained either in accordance with Council Directive 2001/18/EC on the deliberate release to the environment of genetically modified organisms or in accordance with Council Regulation (EC) No 1829/2003 on genetically modified food and feed;
- amend of the definition of *Festulolium* to include crosses of all species of *Festuca* and *Lolium;*
- make technical amendments including a reduction of the minimum germination standard of field beans from 85% to 80%, and provide that required information on packages of basic and certified seed may either be contained on an official label or on an official stamp;
- Update references to amended EC legislation.

4.2 A Transposition Note is attached as an Annex to this memorandum.

4.3 These Regulations also correct typographical errors in the Fodder Plant Seed (England) Regulations 2002.

5. Extent

This instrument applies to England.

6. European Convention on Human Rights

It is the view of Defra that these Regulations are compatible with the Convention Rights.

7. Policy background

7.1 EC Directives require official certification of seed of the main commercial crop species before marketing, to ensure that seed sold to farmers and growers meets specified standards. The Directives are implemented in England by 5 regulations concerned with different species groups (cereals, beet, oil and fibre plants, vegetables and fodder plants) and by a regulation controlling the registration and licensing of seed companies and personnel.

7.2. The regulations were substantially revised in 2002 to bring them into line with latest directive requirements, and to reduce official and industry costs by removing 'gold plating'. Amendments are now needed, as outlined in paragraph 4 above, to implement subsequent changes to EU legislation; and correct typographical errors in and omissions from the current regulations.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Kevin Johnson at Defra, Plant Variety Rights Office and Seeds Division Tel: 01223 342351 or e-mail: Kevin.Johnson@defra.gsi.gov.uk can answer any queries about the instrument.

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Annex

Transposition Table

Table showing how the main elements of-

- Council Directive **2004/55/EC** of 20 April 2004 amending Council Directive 66/401/EEC on the marketing of fodder plant seed;

- Commission Decision **2004/266/EC** authorising the indelible printing of prescribed information on packages of seed of fodder plants; and

- Council Decision **2003/17/EC** on the equivalence of field inspections carried out in third countries, as amended by Council Decision **2003/403/EC** and Council Regulation (EC) No **885/2004**.

have been implemented by-

The Fodder Plant Seed (England) (Amendment) Regulations 2004.

The Regulations apply only to England and amend the **Fodder Plant Seed (England) Regulations 2002 (SI 2002/3172)** ("the Fodder Regulations"). The devolved administrations are making separate provision with regard to implementation.

Council Directive 2004/55/EC			
Article	**Purpose**	**Implementation**	**Comment**
1(1)	Widens the definition of *festulolium* to include all hybrids resulting from the crossing of a species of the genus *Festuca* with a species of the genus *Lolium*.	Regulation 2(3)(b)	The regulation amends the definition of festulolium in regulation 3 of the Fodder Plant Seed (England) Regulations 2002 (SI 2002/3172), and specifies the species of *Festuca* and *Lolium* that could be crossed to produce festulolium. Consequential amendment to Schedule 1 of the Seeds (National Lists of Varieties) Regulations 2001 will be made by Regulation 2(10) of the Seeds (National Lists of Varieties) (Amendment) Regulations.
1(2)(a)	Reduces the germination standard for field beans (*Vicia faba*) from 85% to 80%.	Regulation 2(14)(e)	The regulation amends the germination standard for *Vicia faba* set out in paragraph 14(1) of Schedule 4 to the Fodder Plant Seed (England) Regulations 2002 (SI 2002/3172)

1(2)(b)	Provides that, in the case of festulolium, the names of the species within the genus *Festuca* and *Lolium* shall be indicated on the official label	Regulations 2(17)(a); 2(17)(b)(ii); and 2(17)(g)(ii)	The regulation amends the labelling requirements set out in paragraphs 5(d), 9(e) and 25(f) of Schedule 8 to the Fodder Plant Seed (England) Regulations 2002 (SI 2002/3172)

Commission Decision 2004/266/EC			
Article	**Purpose**	**Implementation**	**Comment**
1(2)	Provides conditions that must be met where member States permit the printing under official supervision of prescribed information on packages of basic and certified seed of fodder plant species.	Regulations 2(17)(b)(i); 2(17)(c); 2(17)(d); 2(17)(e); and 2(17)(f)	The regulation amends the labelling requirements set out in paragraphs 9, 10, 11, 12, 13 and 25 of, and insert a new paragraph 28A into, Schedule 8 to the Fodder Plant Seed (England) Regulations 2002 (SI 2002/3172)

Council Decision 2003/17/EC			
Article	**Purpose**	**Implementation**	**Comment**
1	Field inspections carried out in the countries specified in Annex I to the Decision are deemed equivalent to inspections carried out in the Community provided that the conditions specified in part A of Annex II to the Decision are met.	Regulations 2(5); 2(6)(c); 2(13)(d); 2(13)(f); 2(13)(i); 2(13)(l); 2(13)(m); and 2(13)(n);	These regulations incorporate third country equivalence into the Fodder Regulations. Equivalence is currently provided for by way of a general licence issued under regulation 21 of the Fodder Regulations. The general licence will be revoked on 30th September 2004.
2	Seed certified in the countries specified in Annex I to the Decision is deemed equivalent to seed certified in the Community provided that the conditions	Regulations 2(11); 2(12)(a); 2(12)(c); 2(13)(a); 2(13)(b); 2(13)(c); 2(13)(e); and 2(13)(h)	These regulations incorporate third country equivalence into the Fodder Regulations. Equivalence is currently provided for by way of a general licence issued under regulation 21 of the

	specified in part B of Annex II to the Decision are met.		Fodder Regulations. The general licence will be revoked on 30th September 2004.
3	n/a	n/a	The provisions of article 3 are implemented in the Fodder Regulations.