STATUTORY INSTRUMENTS

2000 No. 1789

SEEDS
ENGLAND

The Oil and Fibre Plant Seeds (Amendment) (England) Regulations 2000

Made - - - - -	*7th July 2000*
Laid before Parliament	*10th July 2000*
Coming into force - -	*1st August 2000*

The Minister of Agriculture, Fisheries and Food, in relation to England, in exercise of the powers conferred on him by sections 16(1), (1A), (2), (3), (4) and (5) and 36 of the Plant Varieties and Seeds Act 1964(**a**), after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to him to be concerned, hereby makes the following Regulations:

Title, extent and commencement

1. These Regulations may be cited as the Oil and Fibre Plant Seeds (Amendment) (England) Regulations 2000, shall extend to England and shall come into force on 1st August 2000.

Amendment of the Oil and Fibre Plant Seeds Regulations 1993

2.—(1) The Oil and Fibre Plant Seeds Regulations 1993(**b**), in so far as they extend to England, shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 3(1)—

(a) after the definition of "Common Catalogue" there shall be inserted the following definition—

""genetically modified" has the same meaning as for the purposes of Council Directive 90/220/EEC(**c**) on the deliberate release into the environment of genetically modified organisms;";

(b) the definition of "marketing" shall be deleted; and

(c) for the definition of "official examination" there shall be substituted the following definition—

""official examination" means—

(a) "in relation to Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation, Certified Seed of the Third Generation or Commercial Seed produced in the United Kingdom—

(**a**) 1964 c. 14; section 16 was amended by section 4(1) of and paragrah 5(1), (2) and (3) of Schedule 4 to the European Communities Act 1972 (c. 68); see section 38(1) for a definition of "the Minister". Under the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State.

(**b**) S.I. 1993/2007, as amended by S.I. 1994/1423, S.I. 1996/1451, 1997/616, S.I. 1999/1862.

(**c**) O.J. No. L117, 8.5.90, p.15; as last amended by Commission Decision 98/294/EC, OJ No. L131, 5.5.98, p.33.

(i) an examination or a test carried out by or on behalf of the Minister, Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development;

(ii) an examination carried out under official supervision; or

(iii) a test carried out by an establishment licensed as a seed testing station under official supervision;

(b) in relation to Breeder's Seed, Pre-basic Seed and Basic Seed, produced in the United Kingdom—

(i) an examination or a test carried out by or on behalf of the Minister, Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development; or

(ii) a test carried out by an establishment licensed as a seed testing station under official supervision; and

(c) in relation to any description of seed produced elsewhere than in the United Kingdom, an examination or a test approved by the Minister, Scottish Ministers, the National Assembly for Wales or the Department of Agriculture and Rural Development;".

(3) After paragraph (3) of regulation 3 there shall be inserted the following paragraphs—

"(3A) For the purposes of these Regulations, seeds—

(a) produced and packaged in a member State other than the United Kingdom or a third country;

(b) accompanied by a document validly issued by a competent authority in that member State or third country containing information specified at paragraph E(b) of Part I of Schedule 6; and

(c) in respect of which an application has been made for a breeder's confirmation under these Regulations,

shall be deemed to be seeds produced from seeds issued with a breeder's confirmation.

(3B) For the purposes of these Regulations, seeds—

(a) produced and packaged in a member State other than the United Kingdom or a third country;

(b) accompanied by a document validly issued by a competent authority in that member State or third country containing information specified (in respect of packages of seed not finally certified) at paragraph E(b) of Part I of Schedule 6; and

(c) in respect of which an application has been made for an official certificate under these Regulations,

shall be deemed to be seeds produced from seeds issued with a breeder's confirmation or an official certificate.

(3C) For the purposes of these Regulations, seeds—

(a) produced and packaged in a member State other than the United Kingdom or a third country;

(b) labelled appropriately in accordance with the requirements of regulation 9; and

(c) in the case of a small package of seeds, sealed in accordance with the requirements of regulation 8(3), or, in the case of seeds other than a small package of seeds, validly sealed by a competent authority in a member State other than the United Kingdom or a third country,

shall be deemed to fall within the meaning of the appropriate category of seeds set out in paragraph (3) above".

(4) At the end of regulation 3 there shall be added the following paragraphs—

"(6) In these Regulations "marketing" means—

(a) selling, holding with a view to sale and offering for sale; and

(b) any disposal, supply or transfer for the purpose of commercial exploitation of seed to third parties,

whether or not for consideration,; and "market" and "marketed" shall be construed accordingly.

(7) Trade in seed not aimed at commercial exploitation of the variety, such as the following operations—

(a) the supply of seed to official testing and inspection bodies; or

(b) the supply of seed to any person for the purpose of processing or packaging the seed provided he does not acquire title to the seed supplied,

shall not be treated as marketing of seed of that variety.".

(5) In regulation 4—

(a) in paragraph (1), for the words "Subject to paragraphs (2) and (3) below" there shall be substituted the words "Subject to paragraph (2) below";

(b) in paragraph (2), sub-paragraphs (b), (c) and (d) shall be revoked; and

(c) paragraph (3) shall be revoked.

(6) In regulation 5(1)—

(a) in paragraph (ii) of sub-paragraph (b) for the words "Regulation 9(1)" there shall be inserted the words "regulation 9(1), (1B),"; and

(b) after sub-paragraph (b) there shall be added the following sub-paragraph—

"(c) in the case of genetically modified seeds, clearly indicated, in the sales catalogue of the person marketing the seeds and in any other marketing information or marketing representations provided by that person, or having been genetically modified.".

(7) After paragraph (1) of regulation 5 there shall be inserted the following paragraph—

"(1A) Paragraph (1) above shall not prevent the marketing of seed as grown, marketed for processing, provided that the identity of the seed is ensured.".

(8) After paragraph (2) of regulation 5 there shall be inserted the following paragraphs—

"(2A) Where there is an arrangement under which—

(a) seed, other than seed which contains any genetically modified material, under the control of one person is used by another person for the purpose of—

(i) increasing the first person's stock of the seed for sowing; or

(ii) carrying out tests or trials on the seed; and

(b) everything produced from the seed, whether directly or indirectly, and any unused seed, become or remain the property of the first person,

the prohibitions in paragraph (1) above shall not apply to the marketing of the seed by the first person to the second person as part of that arrangement or to the marketing by the second person to the first person of any seed produced (whether directly or indirectly) from that seed.

(2B) The prohibitions in paragraph (1) above shall not apply to the marketing by producers of small quantities of seed, other than seed which contains any genetically modified material, for scientific purposes or selection work.

(2C) If the conditions specified in paragraph (2D) below are satisfied, the prohibitions in paragraph (1) above shall not apply to—

(a) the marketing, as part of any arrangement referred to in paragraph (2A) above by the first person referred to in that paragraph to the second person referred to in that paragraph, of seed which contains any genetically modified material;

(b) the marketing, as part of any arrangement referred to in paragraph (2A) above by the second person referred to in that paragraph to the first person referred to in that paragraph, of seed produced (whether directly or indirectly) from the seed marketed to him as part of any such arrangement which contains any genetically modified material; or

(c) the marketing by producers, for scientific purposes or selection work, of small quantities of seed which contains any genetically modified material.

(2D) The conditions referred to in paragraph (2C) above are—

(a) the deliberate release of the genetically modified material has been authorised under a Part B consent, or the genetically modified material has been accepted for marketing in accordance with a Part C consent, issued for the purposes of Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms;

(b) the seeds are accompanied during marketing by a copy of the consent;

(c) all appropriate measures, in accordance with an environmental risk assessment in respect of the material carried out in accordance with article 7(4) of Council Directive 70/457/EEC(**a**), have been taken by the producer of the seed to avoid adverse effects on human health and the environment; and

(d) in the case of genetically modified material accepted for marketing in accordance with a Part C consent, an authorisation has been granted by the Minister in accordance with paragraph (2E) below to the person marketing the seed.

(2E) An authorisation may be granted by the Minister for the purpose of paragraph (2D)(d) above if—

(a) the person intending to market the seed has applied to the Minister no later than 15 working days before the seed is marketed—

(i) giving the Minister notice of his intention to market the seed and a description of the proposed marketing in respect of which the authorisation is sought; and

(ii) giving the Minister such information relating to the acceptance for marketing of the variety of the seed concerned under Council Directive 90/220/EEC, and the proposed marketing in respect of which the authorisation is sought, as the Minister may require for the purposes of determining whether or not to grant the authorisation; and

(b) the Minister is satisfied that an authorisation should be granted.".

(9) After paragraph (8) in regulation 5 there shall be inserted the following paragraphs—

"(8A) Oil and fibre plant seeds produced and packaged in a Member State other than the United Kingdom intended for official certification in the United Kingdom shall not be marketed unless they are—

(a) sealed and labelled as required by regulations 8 and 9; and

(b) accompanied by an official document containing all the information in respect of the seeds specified at paragraph E of Part I of Schedule 6.

(8B) A person who imports a package containing a net weight of more than 2 kilograms of oil and fibre plant seeds produced in a country other than another Member State shall make available to the Minister, in such manner and at such time as the Minister may require, the information in respect of the seeds specified in Part IV of Schedule 6.".

(10) In regulation 5(11) the words "may be imported but" shall be deleted.

(11) In regulation 9—

(a) after paragraph (1A) there shall be inserted the following paragraph—

"(1B) If a variety has been genetically modified, any label or document, whether official or otherwise, affixed to or accompanying a seed lot or any part of a seed lot in accordance with the provisions of this regulation, shall clearly indicate that the variety has been genetically modified."; and

(b) in paragraph (4A)(b) for the words "Part IV" there shall be substituted the words "Part V"; and

(12) In Schedule 6—

(a) in Part II, paragraph (a)8 shall be revoked;

(b) "Part IV" (Printing of specified matters on packages (whole-bag labelling)) shall be renumbered "Part V"; and

(c) after Part III there shall be inserted the following part—

(**a**) OJ No. L225, 12.10.1970, p.1; as last amended by Council Directive 98/96/EC (OJ No. L 25, 1.2.1999, p.27).

"Part IV

Information in respect of seeds imported from third countries in packages more than 2 kilograms in net weight

1. Species.

2. Variety.

3. Category.

4. Country of production and official inspection authority.

5. Country of despatch.

6. Importer.

7. Quantity of seed.".

Hayman
Minister of State,
Ministry of Agriculture, Fisheries and Food

7th July 2000

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Oil and Fibre Plant Seeds Regulations 1993, S.I. 1993/2007, as amended by S.I. 1994/1423, 1996/1451, 1997/616 and 1999/1862 (the 1993 Regulations), in so far as they extend to England. Similar Regulations are being made to amend the 1993 Regulations in so far as they extend to Scotland and are being considered by the competent authorities in Wales and Northern Ireland.

The amendments to the 1993 Regulations give effect in England to Council Directive 98/95/EC (OJ No. L25, 1.2.1999, p.1) in respect of the consolidation of the internal market, genetically modified plant resources and plant genetic resources and Council Directive 98/96/EC (OJ No. L25, 1.2.1999, p.27) amending, as regards unofficial field inspections, directives in respect of the marketing of seeds and the common catalogue of varieties of agricultural plant species. The directives in respect of the marketing of seeds amended by Council Directive 98/95/EC and Council Directive 98/96/EC include Council Directive 69/208/EEC (OJ No. L169, 10.7.69, p.3) on the marketing of seed of oil and fibre plants (last amended by Commission Directive 98/96/EC).

These amending Regulations—

(a) amend definitions in the 1993 Regulations, including the definitions of "marketing" and "official examination";

(b) include provisions in regulation 5 in relation to marketing and marketing authorisations, tests and trials, seed as grown, selection work and other scientific purposes; and make consequential amendments to regulation 4;

(c) include in regulation 5 provisions in relation to the marketing of genetically modified oil and fibre plant seeds;

(d) amend regulation 9 to make provision in relation to clear indications for genetically modified varieties; and

(e) amend Schedule 6 to make provision for the supply of information about imported seeds and amend provisions in respect of small packages.

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