EXPLANATORY MEMORANDUM TO

THE SEED (REGISTRATION, LICENSING AND ENFORCEMENT) (ENGLAND)(AMENDMENT) REGULATIONS 2005

2005 No. 2676

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

2. Description

2.1 These Regulations reflect changes made by Article 5 of Council Directive 2004/117/EC on examinations carried out under official supervision and equivalence of seed produced in third countries, which extends the use of licensed trade personnel to undertake tasks related to seed certification, under official supervision, for vegetable seed. The Regulations apply in England and amend the Seed (Registration, Licensing and Enforcement)(England) Regulations 2002 (the 2002 Regulations).

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

3.1 None

4. Legislative Background

4.1 Long standing provisions in the EC regime for fodder plant, cereal, beet and oil and fibre plant seed have provided for licensed crop inspectors to inspect lower generation (CS, C1, C2 or C3) seed crops for compliance with crop conditions under official supervision. Licensed seed samplers may draw official samples and licensed seed testing stations may test official samples of all seed generations for compliance with seed conditions, in each case under official supervision. The rules for licensing crop inspectors were in the fodder plant, cereals, beet and oil and fibre plant seed directives. Those for licensing seed samplers and seed testing stations were laid down in a temporary experiment (most recently, Commission Decision 98/320/EC).

4.2 The directive and temporary experiment provisions for licensing trade personnel in respect of fodder plant, cereal, beet and oil and fibre plant seed were implemented in the 2002 Regulations. The substance of these provisions is not changed by Directive 2004/117/EC and the 2002 Regulations do not therefore require amendment to implement Articles 1(1), (2) and (4); Articles 2(1), (2) and (4); Articles 3(1), (2) and (4); and Articles 4(1), (2) and (4).

4.3 Provisions for use of licensed personnel have not hitherto applied to vegetable seed. Article 5 of Directive 2004/117/EC, which is implemented by these Regulations, extends the use of licensed personnel to vegetable seed on exactly the same basis as for other species. The only other changes made to the 2002 Regulations are to update definitions.

4.4 Directive 2004/117/EC was considered and cleared by Scrutiny Committee in the House of Commons on 18 May 2004 and by Scrutiny Committee in the House of Lords on 21 May 2004.

4.5 A transposition table for Directive 2004/117/EC is attached as an Annex to this memorandum. Other Regulations in the series implementing Directive 2004/117/EC are:

- The Fodder Plant Seed (England)(Amendment) Regulations 2005
- The Cereal Seed (England)(Amendment) Regulations 2005
- The Beet Seed (England)(Amendment) Regulations 2005
- The Oil and Fibre Plant Seed (England)(Amendment) Regulations 2005
- The Vegetable Seed (England)(Amendment) Regulations 2005.

5. Extent

5.1 This instrument applies England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 EC Seeds Marketing Directives require official certification of seed of the main commercial crop species before marketing, to ensure seed sold to farmers and growers meets specified standards. The Directives are implemented in England by 5 regulations concerned with different species groups (fodder plant, cereals, beet, oil and fibre plant and vegetables) and by a regulation controlling the registration and licensing of seed companies and personnel. The 2002 Regulations now require amendment, as outlined in paragraph 4, to implement subsequent changes to EU legislation.

7.2 A wide range of interests were consulted, including plant breeders and the seed industry, farmers and growers, environmental and consumer groups, totalling 117 organisations and individuals. Defra did not receive any comment in response to consultation on the proposed changes.

8. Impact

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

8.2 There is no impact on the public sector.

9. Contact

Dick Staward at Defra, Plant Variety Rights Office and Seeds Division, Tel:01223 342358 or e-mail Dick.Staward@defra.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX
THE SEED (REGISTRATION, LICENSING AND ENFORCEMENT)(ENGLAND)(AMENDMENT) REGULATIONS 2005

Council Directive 2004/117/EC amending Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards examinations carried out under official supervision and equivalence of seed produced in third countries

Articles 1 to 5 and 8: Licensing of crop inspectors, seed samplers and seed testing stations.

DIRECTIVE 2004/117/EC	**REGULATIONS** (references are to 2005 amending regulations unless otherwise stated)
Articles 1(1), (2) &(4) (fodder plant seed) Articles 2(2), (2) & (4) (cereal seed) Articles 3(2), (2) & (4) (beet seed) Articles 4(2), (2) & (4) (oil and fibre plant seed.	These Articles concern the licensing of crop inspectors, seed samplers and seed testing stations. The 2002 Regulations implement them as follows for fodder plant, cereals, beet and oil and fibre plant seed: Part III and Schedule 2 – Licensed crop inspectors Part IV and Schedule 3 – Licensed seed samplers Part V and Schedule 4 – Licensed Seed Testing Stations Schedule 5 – Sampling (this prescribes how seed samples must be drawn; the species regulations, e.g. fodder plant, require official samples, including those drawn by licensed seed samplers, to be drawn in accordance with Schedule 5). The level of official checks on crops inspected by licensed inspectors, seed sampled by licensed samplers and seed testing by licensed seed testing stations is set administratively at the lowest level required by the directives. For example, 5% by species of the total crops inspected by licensed inspectors are checked by official inspectors.
Article 5 extends the arrangements for using licensed personnel to vegetable seed.	Regulation 2(3), (4) and (5) remove the exception for vegetable seed and so extend the licensing arrangements to it on exactly the same basis as for other species.
Article 8 provides that Member States shall implement the Directive by 1 October 2005	Regulation 1 provides for the Regulations to come into force on 26 October 2005.