STATUTORY INSTRUMENTS

1974 No. 760

SEEDS

The Seeds (Registration and Licensing) Regulations 1974

Made - - - -	*29th April* 1974
Laid before Parliament	*7th May* 1974
Coming into Operation	*28th May* 1974

The Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly, in exercise of the powers vested in them by sections 16(1), (1A), (3) and (8) and 36 of the Plant Varieties and Seeds Act 1964**(a)** as amended by section 4(1) of and paragraph 5(1), (2), (3) and (5) of Schedule 4 to the European Communities Act 1972**(b)** and of all other powers enabling them in that behalf, after consultation with the Council on Tribunals in accordance with section 10(1) of the Tribunals and Inquiries Act 1971**(c)** as applied to the Plant Varieties and Seeds Tribunal and with representatives of such interests as appear to them to be concerned, hereby make the following Regulations.

Citation and commencement

1. These Regulations, which apply to Great Britain, may be cited as the Seeds (Registration and Licensing) Regulations 1974 and shall come into operation on 28th May 1974.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

"the Act" means the Plant Varieties and Seeds Act 1964 as amended by section 43 of and Schedule 7 to the Agriculture (Miscellaneous Provisions) Act 1968**(d)** and by section 4(1) of and paragraph 5 of Schedule 4 to the European Communities Act 1972;

"marketing" includes, as the context shall permit, the offering for sale, exposing for sale, sale and possession with a view to sale of seeds, and any transaction in the course of business under which the property in seeds is transferred from one person to another and "marketed" shall be construed accordingly;

"the Minister" means, as respects England and Wales, the Minister of Agriculture, Fisheries and Food and, as respects Scotland, the Secretary of State;

"seed merchant" means a person engaged in the business of trading in seeds other than trading only in small packages of seeds as defined in seeds regulations or in unpacketed seeds which may be marketed in accordance with seeds regulations;

(a) 1964 c. 14.
(b) 1972 c. 68.
(c) 1971 c. 62.
(d) 1968 c. 34.

"seed packer" means a person engaged in the business of re-packing seeds or a person who in accordance with the requirements of seeds regulations labels or marks packages of standard seeds of vegetables;

"seed processor" means a person engaged in the business of cleaning, treating or otherwise processing seeds intended for sale;

"seeds" means seeds of any kind to which, for the time being, seeds regulations apply but does not include seed potatoes or silvicultural propagating or planting material;

"seeds regulations" means regulations made under section 16 of the Act and for the time being in force;

"the Tribunal" means the Plant Varieties and Seeds Tribunal established by section 10 of and Schedule 4 to the Act, as respectively amended by paragraph 5(5) of Schedule 4 to the European Communities Act 1972.

(2) The Interpretation Act 1889**(a)** shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Registration of seed merchants, seed packers and seed processors

3.—(1) No person shall after the 31st August 1974 carry on the business of a seed merchant, of a seed packer or of a seed processor unless he has by not later than that date applied to the Minister for registration as a seed merchant, seed packer or seed processor, as the case may be, for the purposes of these Regulations and the Minister has not refused so to register him or unless he is for the time being so registered by the Minister.

(2) A person desirous of being so registered shall make an application to the Minister in writing and shall give to the Minister such information and particulars relating to his business or proposed business as the Minister may require.

(3) The Minister shall register a person if he is satisfied that there are available to such person such premises, machinery, equipment and facilities and the services of such persons as appear to the Minister to be adequate to enable such person to carry on the business to which the application relates.

(4) A person so registered shall keep proper records of his transactions in seeds and of the transport, treatment, testing and other operations undertaken by him or on his behalf in relation to any seeds and shall give to the Minister such information as he shall require and when required to do so shall permit an officer authorised by the Minister to inspect and take copies of any such records and to inspect the premises, machinery, equipment and facilities available for the carrying on of the business in respect of which such person is registered.

(5) The registration of a person shall be effective for a period not exceeding three years: Provided that the Minister may at any time revoke such registration if it appears to him that there are no longer available to such person such premises machinery, equipment, facilities and services as are adequate to enable him to carry on the business in respect of which he is registered, or if such person has failed to comply with the obligations imposed by paragraph (4) of this Regulation.

(a) 1889 c. 63.

Prohibition of marketing of seeds

4.—(1) If it shall appear to the Minister that seeds of a particular category, kind or variety marketed by a person registered in accordance with Regulation 3 of these Regulations have been shown to fail to satisfy the requirements of seeds regulations he may prohibit for either an indeterminate or for a specified period the further marketing of seeds of that category, kind or variety by such person from such premises, if any, as may be indicated and thereafter such seeds may not be marketed by such person from such premises, if any, until the prohibition is terminated.

(2) If the Minister during the period whilst the marketing of seeds is so prohibited becomes satisfied that it is no longer likely that such seeds when marketed by such person will fail to satisfy the said requirements he shall terminate the prohibition imposed by this Regulation.

Representations and hearings

5.—(1) The Minister shall, before making a decision to refuse to register a person on the ground that he is not satisfied as to one or more of the matters referred to in Regulation 3(3) of these Regulations, to revoke the registration of a person in accordance with the proviso to Regulation 3(5) of these Regulations or to prohibit in accordance with Regulation 4(1) of these Regulations the marketing by a person of seeds of a particular category, kind or variety, give to such a person a notice in writing of his proposed decision with particulars of the grounds upon which it is founded and shall afford to such person, subject to the payment of any fee imposed by seeds regulations, an opportunity of making representations to him in writing or of being heard by a person appointed by him for the purpose or of both making such representations and being so heard.

(2) The said notice shall inform the person affected of his right to make written representations, of the manner in which and the time (not being less than 21 days from the giving of the notice) within which such representations may be made and of his right to be heard and of the manner in which and the time (not being less than 21 days from the giving of the notice) within which he may apply for an opportunity to be heard.

(3) If the person affected shall make no written representations nor apply to be heard the Minister shall proceed to make his decision.

(4) A person making written representations to the Minister shall with the representations, and a person applying to be heard shall not later than 7 days before the day appointed for the hearing, deliver to the Minister two copies of any documents upon which such person proposes to rely.

(5) If a person so entitled shall apply to be heard the Minister shall, subject to the payment of any fee imposed by seeds regulations, appoint a time and place for the hearing.

(6) In appointing such time and place the Minister shall have regard to the convenience of the person who is to be heard and of his witnesses, the situation of any premises to be viewed in connection with the matter and to the other circumstances of the case.

(7) The Minister shall give to the person who is to be heard not less than 21 days notice in writing of the time and place of the hearing.

(8) The hearing may be adjourned from time to time.

(9) The person who is to be heard may be represented at the hearing by a person chosen by him.

(10) The person who is to be heard may give evidence and he or his representative may call witnesses and produce documents: Provided that except with the leave of the person conducting the hearing no document shall be produced unless copies were delivered to the Minister in accordance with paragraph (4) of this Regulation.

(11) The person conducting the hearing may require any witness to give his evidence on oath or affirmation and may for that purpose administer an oath or affirmation in due form.

(12) The hearing shall be in public unless the person conducting the hearing after consulatation with the person who is to be heard or his representative otherwise directs.

(13) The Minister shall make his decision after taking into account any written representations made to him and the submissions made and evidence adduced at the hearing and shall give the person affected notice thereof, and, if his decision is adverse to such person, with his reasons for his decision together with an indication of the time within which and the manner in which an appeal may be brought.

Extension of time

6. Where any document is to be delivered or given or any act is to be done within a time prescribed by these Regulations such time may, if in all the circumstances of the case he consideres it reasonable to do so, be extended by the Minister for such period and upon such terms, if any, as he thinks fit.

Appeal

7.—(1) An appeal shall lie to the Tribunal against a decision of the Minister to refuse to register a person, to revoke the registration of a person or to prohibit the marketing by a person of seeds of a particular category, kind or variety.

(2) The hearing of an appeal by the Tribunal shall be held in such place as shall be determined by the Chairman of the Tribunal who shall have regard to the matters referred to in Regulation 5(6) of these Regulations as well as to the convenience of the members of the Tribunal.

(3) Where an appeal is brought against any decision of the Minister to refuse to register a person who applied for registration by not later than 31st August 1974, to revoke the registration of a person or to prohibit the marketing by a person of seeds of a particular category, kind or variety the operation of the decision shall be suspended pending the final determination of the appeal.

(4) The Minister shall take such steps as may be necessary to give effect to any decision given on the final determination of the appeal.

Seed testing stations

8.—(1) The Minister may by licence granted to any person authorise him to maintain for a period specified in the licence an establishment for the testing of seeds for the purposes of seeds regulations.

(2) A licence granted in accordance with paragraph (1) of this Regulation may impose such conditions as the Minister shall deem appropriate having

regard to the kinds of seeds to be tested, the kinds of tests to be made and the procedure to be followed in connection therewith and may require the keeping and production of records.

(3) The Minister may withdraw a licence granted in accordance with paragraph (1) of this Regulation if it appears to him that there has been a breach of any of the conditions referred to in paragraph (2) of this Regulation.

(4) A breach of any of the conditions referred to in paragraph (2) of this Regulation shall be an offence against these Regulations.

(5) Upon the granting of a licence in accordance with paragraph (1) of this Regulation there shall be payable to the Minister the appropriate fee prescribed in seeds regulations.

Crop inspectors and seed samplers

9.—(1) The Minister upon being satisfied that a person has undergone an appropriate course of instruction and is otherwise qualified for the purpose may grant him a licence for a period specified therein to be a crop inspector or a seed sampler.

(2) A person so licensed may for the purposes of seeds regulations perform such functions and in such manner, if any, as the Minister may direct.

(3) The Minister may at any time withdraw a licence granted to a person under paragraph (1) of this Regulation if he is satisfied that such person is no longer qualified or is otherwise unfit to perform the functions of a crop inspector or a seed sampler, as the case may be.

Publication

10. The Minister shall be at liberty to publish in such manner as he thinks fit the names and addresses of person for the time being registered or licensed in pursuance of these regulations.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 26th April 1974.

(L.S.)

Frederick Peart,
Minister of Agriculture, Fisheries and Food.

William Ross,
Secretary of State for Scotland.

29th April 1974.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which apply to Great Britain are made under Part II of the Plant Varieties and Seeds Act 1964 as amended by the European Communities Act 1972.

The Regulations provide that after the 31st August 1974 no person shall carry on the business of a seed merchant, seed packer or seed processor unless he is either registered or has before that date applied for registration and his application has not been refused. A seed merchant is so defined as to exclude persons trading only in small packages of seeds or loose seeds under the relevant seeds Regulations.

Registration in England and Wales is effected with the Minister of Agriculture, Fisheries and Food and in Scotland with the Secretary of State and continues for a period not exceeding three years. The appropriate Minister is to be satisfied that persons to be registered have available to them adequate premises, machinery equipment, facilities and services and he may revoke a registration if these do not continue to be available. He may also revoke the registration of a person who fails to maintain proper records and make them available for inspection by the Minister. Further, the Minister may temporarily prohibit the marketing, by a person registered, of seeds of a particular category, kind or variety which have fallen short of the requirements of seed Regulations.

Provision is made for oral and written representations to the Minister before he refuses to register a person, revokes a registration or prohibits the marketing of seeds and an appeal against his decision may be made to the Plant Varieties and Seeds Tribunal.

The Regulations also provide for the licensing by the appropriate Minister of seed testing stations, which will be required to observe such conditions as to procedure and keeping of records as are imposed by the licence, and of crop inspectors and seed samplers.

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