EXPLANATORY MEMORANDUM TO

THE VEGETABLE SEED (ENGLAND)(AMENDMENT) REGULATIONS 2005

2005 No. 2675

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 Vegetable Seed (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 arrangements 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.

4.2 These Regulations implement Article 5 of Directive 2004/117/EC by providing for licensed trade personnel and licensed seed testing stations to undertake the following tasks, under official supervision:

- Inspection of seed crops produced from seed subject to satisfactory official post control which are intended to produce CS seed, to assess compliance with crop conditions;
- Drawing official samples of seed;
- Testing official samples of seed for compliance with seed conditions.

4.2 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.

4.3 A transposition table for Article 5 of 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 Seed (Registration, Licensing and Enforcement) (England)(Amendment) Regulations 2005.

5. Extent

5.1 This instrument applies to 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 received one comment in response to consultation on these proposed changes, welcoming the extension of licensing arrangements to vegetable seed.

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 VEGETABLE SEED (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

Article 5: Amendments to Directive 2002/55/EC on the marketing of vegetable seed

Notes (1) Article 5 applies only to examinations carried out under official supervision, because there are no third country equivalence arrangements for vegetable seed).
(2) The 2005 Amendments align the Vegetable Seed (England) Regulations 2002 with those for fodder plant, cereals, beet and oil and fibre plant seed.

DIRECTIVE 2004/117/EC	REGULATIONS (references are to 2005 amending regulations unless otherwise stated)
Article 5.1 amends the seed category definitions in the vegetable seed directive to provide for - seed testing under official supervision (by licensed seed testing stations) for all seed categories; - field inspection under official supervision (by licensed crop inspectors) for crops to produce CS seed. Article 5.2 (part) requires that crops which are inspected by licensed inspectors must be produced from seed which has been subject to satisfactory official post control. The remainder of Article 5.2 is implemented by the Seed (Registration, Licensing and Enforcement)(England) Regulations 2005, or administratively.	Regulation 2(2)(a)&(b) define licensed crop inspector, licensed EC crop inspector, licensed EC seed testing station and licensed seed testing station. Regulation 2(2)(c) defines seed that has been subject to satisfactory official post control. Regulation 2(3) adds seed test reports issued by licensed seed testing stations to the definition of “qualifying seed test report”. Regulation 2(4) provides for: - applications to inspect crops to produce CS seed of listed varieties may be made to licensed crop inspectors, provided the crops are produced from seed subject to satisfactory offical post control or undergoing official post control; - licensed personnel to issue reports stating whether crops meet the crop conditions for CS seed. Regulation 2(5) provides for reports issued by licensed crop inspectors, or summary reports, to be lodged with the Secretary of State. Regulation 2(6) amends re-grading provisions to require official inspection of crops to be re-graded to pre basic or basic and to permit official inspection of crops to be re-graded to CS. Regulation 2(7) provides for official samples of seed to be tested by licensed seed testing stations and for seed test reports to be issued by licensed seed testing stations. .

	Regulation 2(8) provides for reports issued by licensed seed testing stations to be lodged with the Secretary of State. Regulation 2(9) provides for testing by licensed seed testing stations where applications are made to re-grade seed. Regulation 2(13) amends all definitions of "UK officially certified seed of a listed variety", "UK officially certified early movement seed of a listed variety" and seed in early multiplication in Schedule 1 of the 2002 Regulations, to provide for UK seed testing under official supervision (i.e. by a licensed seed testing station). Definitions of "overseas tested officially certified seed of a listed variety" and seed in early multiplication are also amended to provide for licensed EC seed testing stations. The definitions of "UK officially certified CS seed of a listed variety" and "UK officially certified early movement CS seed of a listed variety" are amended to provide for licensed inspection of crops to produce CS seed which are grown from seed subject to satisfactory official post control. The definition of not finally certified CS seed harvested in another member state is amended to provide for field inspection by a licensed EC crop inspector. Regulation 2(14) amends the crop conditions in Schedule 3 to provided for licensed crop inspectors to inspect crops to produce CS seed.
Article 5.3 introduces provisions allowing seed trade personnel to be licensed to draw official samples under official supervision.	Regulation 2(10) provides for official samples to be drawn by a licensed seed sampler acting under official supervision. Regulation 2(11) & (12) provide for the ancillary activity of sealing packages to be done by a licensed seed sampler or a person supervised by a licensed seed sampler. Regulation 2(16) provides for the ancillary activity of affixing labels to packages to be done by a licensed seed sampler or a person supervised by a licensed seed sampler
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.