

**2005 No. 329**

**SEEDS**

**The Fodder Plant Seed (Scotland) Regulations 2005**

<i>Made</i> - - - -	<i>8th June 2005</i>
<i>Laid before the Scottish Parliament</i>	<i>9th June 2005</i>
<i>Coming into force</i> - -	<i>1st July 2005</i>

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The Scottish Ministers, in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4) and (5) and 36 of the Plant Varieties and Seeds Act 1964<sup>(a)</sup> and of all other powers enabling them in that behalf, after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to them to be concerned, hereby make the following Regulations:

## PART I GENERAL

### **Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Fodder Plant Seed (Scotland) Regulations 2005 and shall come into force on 1st July 2005.

(2) These Regulations extend to Scotland only.

### **Interpretation**

2.—(1) In these Regulations—

“the Act” means the Plant Varieties and Seeds Act 1964;

“AFP number” means official application for protection number issued by the Plant Variety Rights Office;

“Annex V(C) document” means a document of the type specified in the second indented subparagraph of the first paragraph of Article 15(2) (packing and labelling of not yet finally certified seed harvested in another EEA State or third country) of the Fodder Plant Seed Directive containing the particulars specified in Part C (document to be provided in the case of not yet finally certified seed harvested in another EEA State or third country) of Annex V of that Directive issued by the relevant competent seed certification authority;

“blended seed lot” means a seed lot obtained by mixing seed where—

(a) the seed that goes into the seed lot—

- (i) is of the same variety;
- (ii) has come from different sources; and
- (iii) either—

(aa) is fully certified seed;

(bb) is not fully certified seed, but is seed which has been harvested from seed crops for which official field inspection reports have been issued showing that the relevant crops met the conditions for the relevant category of seed specified in Part I of Schedule 4 or Annex I (crop conditions) of the Fodder Plant Seed Directive; or

(cc) is made up of seed which falls within sub-paragraph (aa) and seed which falls within sub-paragraph (bb); and

(b) a National Authority has been notified that the seed which goes into the seed lot is intended to be included in a blended seed lot;

“breeder”—

(a) in relation to a variety which has not been accepted on to a UK National List or the Common Catalogue, includes any person lawfully multiplying (on their own account) seed bred by another; and

(b) in relation to a variety which has been so accepted, means the person who is indicated in the relevant UK National List or in the Common Catalogue as responsible for

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<sup>(a)</sup> 1964 (c.14); section 16 was amended by the European Communities Act 1972 (c.68), section 4(1) and Schedule 4, paragraph 5(1) and (2). See section 38(1) for the definition of “the Minister”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

maintaining the plant variety in accordance with the characteristics to which regard was had when the plant variety was accepted on to the relevant UK National List or Common Catalogue;

“breeder’s confirmation” means a document issued by the Scottish Ministers in accordance with Part II of Schedule 2 containing in respect of the seed to which it relates the particulars specified in paragraph 2 of Schedule 3;

“breeder’s designation” means the title, name or other designation proposed by a breeder for a new plant variety which is the subject of an application for acceptance on to a UK National List;

“bulked seed lot” means a seed lot obtained by mixing seed where–

- (a) the seed that goes into the seed lot is–
  - (i) of the same variety;
  - (ii) has come from different sources; and
  - (iii) has been harvested from seed crops for which official field inspection reports have been issued showing that the relevant crops met the conditions for the relevant category of seed specified in Part I of Schedule 4 or Annex I (crop conditions) of the Fodder Plant Seed Directive; and
- (b) a National Authority has been notified that the seed which goes into the seed lot is intended to be included in a bulked seed lot;

“Common Catalogue” means the Common Catalogue of varieties of species of agricultural plants published in the Official Journal of the European Communities;

“the Common Catalogue Directive” means Council Directive 2002/53/EC(a) on the common catalogue of varieties of agricultural plant species as amended by the Food and Feed Regulation;

“component” means a component of a hybrid variety;

“constituent” means seed of a single species and, where appropriate, variety, which forms part of a mixture of seeds;

“control plot” means a plot sown by a European Authority with seed from a submitted sample taken–

- (a) by a European Authority; or
- (b) by a licensed seed sampler;

“the 1990 Deliberate Release Directive” means Council Directive 90/220/EEC(b) on the deliberate release into the environment of genetically modified organisms, as amended by Commission Directive 94/15/EC(c) and Commission Directive 97/35/EC(d);

“the 2001 Deliberate Release Directive” means Directive 2001/18/EC of the European Parliament and of the Council(e) on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC, as amended by Commission Decision 2002/623(f), the Food and Feed Regulation and Regulation (EC) No. 1830/2003 of the European Parliament and of the Council(g);

“Department of Agriculture and Rural Development” means the Department of Agriculture and Rural Development in Northern Ireland;

“early movement seed” means seed marketed under regulation 12;

“EEA State” means a Member State, Norway, Iceland or Liechtenstein;

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(a) O.J. No. L 193, 20.7.02, p.1.  
(b) O.J. No. L 117, 8.5.90, p.15.  
(c) O.J. No. L 103, 22.4.94, p.20.  
(d) O.J. No. L 169, 27.6.97, p.72.  
(e) O.J. No. L 106, 17.4.01, p.1.  
(f) O.J. No. L 200, 30.7.02, p.22.  
(g) O.J. No. L 268, 18.10.03, p.24.

“Equivalence Decision” means Council Decision 2003/17/EC<sup>(a)</sup> on the equivalence of field inspections carried out in third countries on seed producing crops and on the equivalence of seed produced in third countries, as amended by Council Decision 2003/403/EC<sup>(b)</sup> and Council Regulation (EC) No 885/2004<sup>(c)</sup>;

“European Authority” means a National Authority or a competent seed certification authority of an EEA State other than the United Kingdom and “by a European Authority” means–

- (a) by or on behalf of the Department of Agriculture and Rural Development;
- (b) by or on behalf of the National Assembly for Wales;
- (c) by the Scottish Ministers;
- (d) by or on behalf of the Secretary of State; or
- (e) by a competent seed certification authority of an EEA State other than the United Kingdom;

“Excepted Seed Marketed in Bulk” means seed of field peas or field beans which are Certified Seed of the First Generation or Certified Seed of the Second Generation–

- (a) which is marketed in bulk direct to the final consumer in a container that is closed after filling; and
- (b) in respect of which a random sample has been taken in accordance with paragraph 12 of Schedule 5, by a person authorised in that behalf;

“first buyer by way of trade” has the same meaning as for the purposes of the Fodder Plant Seed Directive;

“the Fodder Plant Seed Directive” has the same meaning as it has in Schedule 9;

“the Food and Feed Regulation” means Regulation (EC) No 1829/2003 of the European Parliament and of the Council<sup>(d)</sup> on genetically modified food and feed;

“fully certified” means–

- (a) officially certified; or
- (b) certified by a European Authority other than the Scottish Ministers,

as satisfying the conditions specified for the relevant category of seed in regulation 3 and either in Schedule 4 or in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;

“genetically modified” has the same meaning as for the purposes of the 2001 Deliberate Release Directive;

“Higher Voluntary Standard” means the standards which–

- (a) are higher than the minimum standards prescribed for Certified Seed; and
- (b) are specified in Part II of Schedule 4, being the standards and the level in respect of which an official certificate has been issued in accordance with Schedule 2,

and the abbreviation “HVS” shall be construed accordingly;

“HVS species of seed” means a species of fodder plant seed designated in Schedule 1 to which Higher Voluntary Standards may be applied;

“homogeneous seed lot” means a seed lot in which the seed has been so mixed or blended that it is as uniform as practicable and, as far as is practicable, the seed lot shows no evidence of heterogeneity;

“licensed crop inspector” means a person who holds a current licence to be a crop inspector granted by–

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(a) O.J. No. L 8, 14.1.03, p.10.  
(b) O.J. No. L 141, 7.6.03, p.23.  
(c) O.J. No. L 168, 1.5.04, p.1.  
(d) O.J. No. L 268, 18.10.03, p.1.



- (a) the Scottish Ministers under regulation 10(1) (licensing of seed samplers and crop inspectors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985(a); or
- (b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

“licensed EC crop inspector” means a person authorised by a competent seed certification authority in an EEA State other than the United Kingdom, pursuant to Article 2(3)(i)(c) (licensed crop inspectors) of the Fodder Plant Seed Directive, to carry out field inspections of crops in that EEA State;

“licensed seed sampler” means a person who holds a current licence to be a seed sampler granted by–

- (a) the Scottish Ministers under regulation 10(1) (licensing of seed samplers and crop inspectors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985; or
- (b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

“licensed seed testing station” means an establishment which holds a current licence for testing of seed granted by–

- (a) the Scottish Ministers under regulation 9(1) (licensing of seed testing stations) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985; or
- (b) a National Authority other than the Scottish Ministers under provisions equivalent to that regulation;

“lower germination seed” means seed marketed under regulation 11;

“mixture of seeds” means a mixture of seeds to which regulation 8 applies;

“National Authority” means the Department of Agriculture and Rural Development, the National Assembly for Wales, the Scottish Ministers or the Secretary of State;

“official certificate” means a certificate issued by the Scottish Ministers in accordance with Part I of Schedule 2 containing in respect of the seed to which it relates the particulars specified in paragraph 1 of Schedule 3 and “officially certified” shall be construed accordingly;

“official control” means under the supervision of, and in accordance with any conditions set by, a European Authority;

“official examination” means–

- (a) in relation to Seed of a Certified Generation or Commercial Seed–
  - (i) an examination or a test carried out by the Scottish Ministers;
  - (ii) if the seed has undergone official post-control the results of which have been satisfactory, a field examination carried out by a licensed crop inspector; or
  - (iii) a test carried out by a licensed seed testing station; and
- (b) in relation to Pre-basic Seed and Basic Seed–
  - (i) an examination or a test carried out by the Scottish Ministers; or
  - (ii) a test carried out by a licensed seed testing station;

“official field inspection” means a field examination of a crop carried out–

- (a) by a European Authority; or
- (b) in the case of seed which, if it were fully certified would be Seed of a Certified Generation, and which has been harvested from a crop which has been produced from seed that has undergone official post control the results of which have been satisfactory, by a licensed crop inspector or a licensed EC crop inspector;

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(a) S.I. 1985/980, as relevantly amended by S.I. 1987/1098, 1990/611 and 1993/2530.

“official label” means a label issued by a European Authority;

“official post-control” means a control plot has been sown with seed from the relevant seed lot and has produced plants which have been examined by the relevant European Authority; and

“official post-control the results of which have been satisfactory” means official post-control has been carried out for the relevant seed lot and the relevant European Authority has found, having regard to–

(a) the conditions specified in–

(i) in the case of the Scottish Ministers–

(aa) paragraphs 4, 9 and 10 of Part I of Schedule 4; and

(bb) paragraphs 11 and 12 of Part II of Schedule 4; and

(ii) in the case of a European Authority other than the Scottish Ministers–

(aa) Annex I (crop conditions) of the Fodder Plant Seed Directive; and

(bb) Annex II (seed conditions) of the Fodder Plant Seed Directive; and

(b) the category of the seed to be produced,

that the plants produced in the control plot indicate that the corresponding plants in the field are satisfactory plants from which to harvest the relevant category of seed;

“official sticker” means a sticker issued by a European Authority and attached to an official label;

“registered number” means the number issued to a person registered by the Scottish Ministers under regulation 4 of the Seeds (Registration, Licensing and Enforcement) Regulations 1985 or by another National Authority under any equivalent provision extending to any other part of the United Kingdom;

“Secretary of State” means the Secretary of State for Environment, Food and Rural Affairs;

“seed lot” means an identifiable consignment of seed of a weight not exceeding–

(a) in the case of a mixture of seed, that specified in paragraph 25 of Part II of Schedule 5; or

(b) in any other case, that specified in column 2 of the table in paragraph 26 of Part II of Schedule 5 for the species specified in column 1 of that table by more than 5%, including a blended seed lot or a bulked seed lot; and

which bears a unique seed lot reference number;

“small EC A package” means a package of seed containing a net weight of not more than 2 kilograms of a mixture of seeds not intended for agricultural use;

“small EC B package” means a package of seed containing a net weight of not more than 10 kilograms of Basic Seed, Certified Seed or Commercial Seed or, where the package is not a small EC A package, a mixture of seeds;

“submitted sample” means a sample of at least the minimum weight of a sample specified in paragraph 26 of Part II of Schedule 5, or in the case of a sample to be submitted to a licensed seed testing station, double the minimum weight of a sample specified in paragraph 26 of Part II of Schedule 5, taken from a seed lot in accordance with the provisions of Part I of Schedule 5;

“third country” means a country listed in Annex I (countries, authorities and species) to the Equivalence Decision or Switzerland;

“UK National List “ means a list of varieties of species of fodder plants for the time being published in accordance with the Seeds (National Lists of Varieties) Regulations 2001(a); and

“volunteers” means plants of a species and variety that have grown from seed that was not deliberately sown as part of the crop.

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(a) S.I. 2001/3510.

(2) In these Regulations–

“Alaska brome-grass” means plants of the species specified in column 2 of Schedule 1 in relation to Alaska brome-grass;

“Alsike clover” means plants of the species specified in column 2 of Schedule 1 in relation to Alsike clover;

“annual meadowgrass” means plants of the species specified in column 2 of Schedule 1 in relation to annual meadowgrass;

“birdsfoot trefoil” means plants of the species specified in column 2 of Schedule 1 in relation to birdsfoot trefoil;

“brown top” means plants of the species specified in column 2 of Schedule 1 in relation to brown top;

“cocksfoot” means plants of the species specified in column 2 of Schedule 1 in relation to cocksfoot;

“common vetch” means plants of the species specified in column 2 of Schedule 1 in relation to common vetch;

“creeping bent” means plants of the species specified in column 2 of Schedule 1 in relation to creeping bent;

“festulolium” means plants of the species specified in column 2 of Schedule 1 in relation to festulolium;

“field bean” means plants of the species specified in column 2 of Schedule 1 in relation to field bean;

“field pea” means plants of the species specified in column 2 of Schedule 1 in relation to field pea;

“fodder kale” means plants of the species specified in column 2 of Schedule 1 in relation to fodder kale;

“fodder radish” means plants of the species specified in column 2 of Schedule 1 in relation to fodder radish;

“hairy vetch” means plants of the species specified in column 2 of Schedule 1 in relation to hairy vetch;

“Hungarian vetch” means plants of the species specified in column 2 of Schedule 1 in relation to Hungarian vetch;

“hybrid ryegrass” means plants of the species specified in column 2 of Schedule 1 in relation to hybrid ryegrass;

“Italian ryegrass (including Westerwolds ryegrass)” means plants of the species specified in column 2 of Schedule 1 in relation to Italian ryegrass (including Westerwolds ryegrass);

“lucerne” means plants of the species specified in column 2 of Schedule 1 in relation to lucerne;

“lupins” means blue, white and yellow lupins;

“meadow fescue” means plants of the species specified in column 2 of Schedule 1 in relation to meadow fescue;

“narrow-leaved lupin (blue lupin)” means plants of the species specified in column 2 of Schedule 1 in relation to narrow-leaved lupin (blue lupin);

“perennial ryegrass” means plants of the species specified in column 2 of Schedule 1 in relation to perennial ryegrass;

“red clover” means plants of the species specified in column 2 of Schedule 1 in relation to red clover;

“red fescue (including chewings fescue)” means plants of the species specified in column 2 of Schedule 1 in relation to red fescue (including chewings fescue);

“red top” means plants of the species specified in column 2 of Schedule 1 in relation to red top;

“rescue grass” means plants of the species specified in column 2 of Schedule 1 in relation to rescue grass;

“rough stalked meadowgrass” means plants of the species specified in column 2 of Schedule 1 in relation to rough stalked meadowgrass;

“sainfoin” means plants of the species specified in column 2 of Schedule 1 in relation to sainfoin;

“sheep’s fescue (including fine-leaves fescue and hard fescue)” means plants of the species specified in column 2 of Schedule 1 in relation to sheep’s fescue (including fine-leaves fescue and hard fescue);

“small Timothy” means plants of the species specified in column 2 of Schedule 1 in relation to small Timothy;

“smooth-stalked meadowgrass” means plants of the species specified in column 2 of Schedule 1 in relation to smooth-stalked meadowgrass;

“swede” means plants of the species specified in column 2 of Schedule 1 in relation to swede;

“tall fescue” means plants of the species specified in column 2 of Schedule 1 in relation to tall fescue;

“tall oatgrass” means plants of the species specified in column 2 of Schedule 1 in relation to tall oatgrass;

“Timothy” means plants of the species specified in column 2 of Schedule 1 in relation to Timothy;

“trefoil, black medick” means plants of the species specified in column 2 of Schedule 1 in relation to trefoil, black medick;

“velvet bent” means plants of the species specified in column 2 of Schedule 1 in relation to velvet bent;

“vetches” means common, hairy and Hungarian vetches;

“white clover” means plants of the species specified in column 2 of Schedule 1 in relation to white clover;

“white lupin” means plants of the species specified in column 2 of Schedule 1 in relation to white lupin;

“wood meadowgrass” means plants of the species specified in column 2 of Schedule 1 in relation to wood meadowgrass; and

“yellow lupin” means plants of the species specified in column 2 of Schedule 1 in relation to yellow lupin.

(3) In these Regulations–

(a) any reference to a numbered regulation, to a numbered Part or to a numbered Schedule is a reference to the regulation, Part or Schedule in these Regulations so numbered; and

(b) any reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which that reference occurs.

**Definitions of seed categories**

**3. In these Regulations–**

“Breeder’s Seed” means seed of a generation prior to Basic Seed which has been produced by or under the responsibility of the breeder and is intended for the production of Pre-basic Seed or Basic Seed;

“Pre-basic Seed” means seed of a generation prior to Basic Seed which–

- (a) has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety;
- (b) is intended to be used for the production of more Pre-basic Seed, Basic Seed, or with the written authority of the breeder–
  - (i) in the case of seed other than field peas, field beans, Lucerne, lupins and vetches, Certified Seed;
  - (ii) in the case of field peas, field beans, Lucerne, lupins and vetches, Certified Seed of the First Generation; or
  - (iii) in the case of field peas and field beans, Certified Seed of the Second Generation; and
- (c) has been–
  - (i) subject to regulation 12, officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Basic Seed specified in Schedule 4; or
  - (ii) certified by a European Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Basic Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;

“Basic Seed”, other than in relation to a component of a hybrid variety of fodder kale, means seed which–

- (a) in relation to seed of bred varieties has been produced by or under the responsibility of the breeder according to accepted practices for the maintenance of the variety; or
- (b) in relation to seed of local varieties has been produced under official control from material officially accepted as being of the local variety on one or more holdings situated within a clearly demarcated region of origin; and
- (c) in either case is intended to be used for the production of–
  - (i) in the case of seed other than field beans, field peas, Lucerne, lupins and vetches, Certified Seed;
  - (ii) in the case of field beans, field peas, Lucerne lupins and vetches, Certified Seed of the First Generation; or
  - (iii) in the case of field beans and field peas, Certified Seed of the Second Generation; and
- (d) has been–
  - (i) subject to regulation 12, officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions specified in paragraph (a) or (b) and paragraph (c) and the requirements for Basic Seed specified in Schedule 4; or
  - (ii) certified by a European Authority other than the Scottish Ministers as satisfying the conditions specified in paragraph (a) or (b) and paragraph (c) and the requirements for Basic Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;

“Basic Seed” in relation to a component of a hybrid variety of fodder kale, means seed of the component which–

- (a) has been produced by or under the responsibility of the breeder;
- (b) is intended to be used for the production of Certified Seed of the hybrid variety; and
- (c) has been–
  - (i) subject to regulation 12, officially certified, or confirmed by the Scottish Ministers by means of a breeder’s confirmation, as satisfying the conditions specified in

paragraph (a) or (b) and paragraph (c) and the requirements for Basic Seed specified in Schedule 4; or

- (ii) certified by a European Authority other than the Scottish Ministers as satisfying the conditions specified in paragraph (a) or (b) and paragraph (c) and the requirements for Basic Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;

“Certified Seed” means seed which in relation to all of the species listed in Schedule 1 other than field beans, field peas, Lucerne, lupins and vetches—

- (a) has been produced directly from Basic Seed or, on the breeder’s written authority, from Pre-basic seed;
- (b) is intended for purposes other than the production of fodder plant seed; and
- (c) has been—
  - (i) subject to regulation 12, officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed specified in Schedule 4; or
  - (ii) certified by a European Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;

“Certified Seed of the First Generation” means seed of field beans, field peas, Lucerne, lupins and vetches which—

- (a) has been produced directly from Basic Seed or, on the breeder’s written authority, from Pre-basic seed;
- (b) is intended—
  - (i) in the case of field beans and field peas, for the production of Certified Seed of the Second Generation, or
  - (ii) in the case of field beans, field peas, Lucerne, lupins and vetches, for purposes other than the production of fodder plant seed;
- (c) has been—
  - (i) subject to regulation 12, officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the First Generation specified in Schedule 4; or
  - (ii) certified by a European Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the First Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;

“Certified Seed of the Second Generation” means seed of field beans, field peas, Lucerne, lupins and vetches which—

- (a) in the case of field beans or field peas has been produced directly from Basic Seed, from Certified Seed of the First Generation or, on the breeder’s written authority, from Pre-basic seed;
- (b) is intended for purposes other than the production of fodder plant seed;
- (c) has been—
  - (i) subject to regulation 12, officially certified as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the Second Generation specified in Schedule 4; or
  - (ii) certified by a European Authority other than the Scottish Ministers as satisfying the conditions specified in paragraphs (a) and (b) and the requirements for Certified Seed of the Second Generation specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;

“Commercial Seed” means seed of annual meadowgrass, Hungarian vetch or sainfoin which is identifiable as to its species and has been—

- (a) subject to regulation 12, officially certified as satisfying the requirements for Commercial Seed specified in Schedule 4; or
- (b) certified by a European Authority other than the Scottish Ministers as satisfying the requirements for Commercial Seed specified in Annexes I (crop conditions) and II (seed conditions) of the Fodder Plant Seed Directive;

“Seed of a Certified Generation” means Certified Seed, Certified Seed of the First Generation and Certified Seed of the Second Generation.

### **Definition of marketing**

**4.**—(1) 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.

(2) 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 purposes of processing or packaging the seed provided that person does not acquire title to the seed supplied,

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

### **Seed to which the Regulations apply**

**5.**—(1) Subject to paragraph (2), these Regulations apply to fodder plant seed of the species specified in Schedule 1, being seed intended to be used only for the production of agricultural or horticultural crops other than for ornamental purposes.

(2) These Regulations shall not apply to seed which is shown to be intended for export to a country which is not an EEA State.

## **PART II MARKETING**

### **Marketing of seed**

**6.**—(1) Subject to the provisions of this Part, no person shall market any seed unless—

- (a) it is marketed in seed lots or in parts of seed lots; and
- (b) it is—
  - (i) Commercial Seed; or
  - (ii) seed of a plant variety of a species specified in Part I of Schedule 1 (varieties of plant species on national lists) to the Seeds (National Lists of Varieties) Regulations 2001<sup>(a)</sup> accepted on to a UK National List or the Common Catalogue and which is fully certified Pre-basic Seed, fully certified Basic Seed or Seed of a Certified Generation; or
  - (iii) Breeder’s Seed.

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(a) S.I. 2001/3510.

(2) Paragraph (1) shall not apply to the marketing of seed which has not yet been fully certified if—

- (a) the seed is marketed for processing;
- (b) the identity of the seed is ensured; and
- (c) the seed has been harvested from a crop which has been found by an official field inspection to satisfy the conditions specified in Part I of Schedule 4 or Annex I (crop conditions) of the Fodder Plant Seed Directive for the relevant category of seed.

(3) Where seed is sampled in an untreated state for either the official examination referred to in paragraph 2(1)(c) of Part I of Schedule 2, or for an examination or test carried out by a European Authority other than the Scottish Ministers, and the seed is subsequently subjected to chemical treatment the seller shall, upon or before delivering the seed to the purchaser, provide the purchaser with a statement in writing that the seed has been subsequently subjected to chemical treatment and specifying the chemical nature of such treatment.

(4) Notwithstanding paragraph (1), no person shall market seed of a genetically modified variety unless it is clearly indicated, in the sales catalogue of the person marketing the seed and in any other marketing information or marketing representations provided by that person, as having been genetically modified.

(5) Any person marketing seed which has been imported from a country which is not an EEA State and which exceeds 2 kilograms of seed shall supply the Scottish Ministers, in such manner and at such time as the Scottish Ministers may require, with the particulars relating to the seed specified in paragraph 12 of Part V of Schedule 6.

#### **Marketing of seed of a Higher Voluntary Standard**

7.—(1) This regulation applies to the marketing of Seed of a Certified Generation of an HVS species of seed, where any label or notice affixed to, contained in or marked on any package containing the seed, any document accompanying the seed or any particulars displayed in respect of the seed, states or indicates that the seed attains the Higher Voluntary Standards for such seed.

(2) Any mixture of seeds to which the provisions of paragraph (1) relate shall be required to meet the appropriate standards prescribed in seeds regulations.

(3) Where any person markets seed to which this regulation applies, the person marketing the seed shall be deemed to state for the purpose of these Regulations, and in relation to the particulars given to a purchaser, that—

- (a) the seed meets the Higher Voluntary Standards for such seed laid down in Part II of Schedule 4; and
- (b) a successful application has been made to the Scottish Ministers under paragraph (4) verifying that the seed has attained those standards.

(4) An application for verification that seed which is Certified Seed of an HVS species of seed has attained the Higher Voluntary Standards for such seed shall be made to the Scottish Ministers in such form and manner and shall contain such information and be accompanied by such documents as the Scottish Ministers may require and the Scottish Ministers shall grant the application if they are satisfied that the seed meets the Higher Voluntary Standards for such seed laid down in Part II of Schedule 4.

#### **Mixtures**

8.—(1) The prohibition in regulation 6(1)(b) shall not apply to the marketing of a mixture of various genera, species or varieties of seeds that includes seed to which these Regulations apply and any other seed and that is not intended to be used to produce fodder plants if—

- (a) the seed in the mixture to which these Regulations apply complied, before mixing, with the relevant provisions of these Regulations; and
- (b) if any seeds in the mixture are cereal seeds, oil and fibre plant seeds or vegetable seeds, they complied, before mixing, with the relevant provisions of the Cereal Seed



(Scotland) Regulations 2005(a), the Oil and Fibre Plant Seed (Scotland) Regulations 2004(b) or the Vegetable Seeds Regulations 1993(c) respectively.

(2) The prohibition in regulation 6(1)(b) shall not apply to the marketing of a mixture of various genera, species or varieties of seeds that is intended to be used to produce a mixture of plants, including plants of a species specified in Schedule 1, which are intended for use as fodder plants, if—

- (a) the seed in the mixture is a mixture of seed to which these Regulations apply and the seed in the mixture complied, before mixing, with the relevant provisions of these Regulations; or
- (b) the seed in the mixture is a mixture of—
  - (i) seed to which these Regulations apply that complied, before mixing, with the relevant provisions of these Regulations; and
  - (ii) cereal seeds, oil and fibre plant seeds or vegetable seeds to which the Cereal Seed (Scotland) Regulations 2005, the Oil and Fibre Plant Seed (Scotland) Regulations 2004 or the Vegetable Seeds Regulations 1993 respectively apply and that complied, before mixing, with the relevant provisions of those Regulations; and

the mixture does not include any grass seed of a variety which has not been examined for its value for cultivation and use for the purposes of Article 4(1) of the Common Catalogue Directive because the breeder has declared that seed of that variety is not intended for the production of fodder plants.

(3) A person who wishes to market a mixture of seeds to which paragraph (1), or (2) applies without including the percentage by weight of each of the constituents by species and, where appropriate, by variety on the label referred to in regulation 17(1), (5), (8) or (11) may apply to the Scottish Ministers to register the mixture.

(4) An application referred to in paragraph (3) shall include the name under which the mixture is to be marketed and the percentage, by weight, of each of the constituents by species and, where appropriate, by variety.

(5) The Scottish Ministers shall register a mixture in respect of which an application has been made under paragraph (3) and in accordance with paragraph (4) if the name under which the mixture is to be marketed has not already been registered with them.

(6) Any person who sells or supplies a package (other than a small EC A or EC B package) containing a registered mixture of seeds and does so under its registered name and without including—

- (a) the species and, where appropriate, the variety of each of the constituents in the mixture; and
- (b) the percentage by weight of each of those constituents,

on the label referred to in regulation 17(8), shall, on or before the sale or supply of such package, provide the person to whom the package of seeds is sold or supplied with a notice containing the information referred to in sub-paragraphs (a) and (b).

(7) Any person (“the seller”) who sells or supplies a small EC A or EC B package containing a registered mixture of seeds produced in the United Kingdom and does so—

- (a) under its registered name, and
- (b) in a package that includes the species and, where appropriate, the variety of each of the constituents in the mixture on the label referred to in regulation 17(8) in the case of a small EC A or a small EC B package of seeds, but does not include the percentage by weight of each of those constituents in the mixture,

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(a) S.S.I. 2005/328.  
(b) S.S.I. 2004/317.  
(c) S.I. 1993/2008.

shall, on or before the sale or supply of such seed, notify the person (“the purchaser”) to whom the package of seeds is sold or supplied that the seller shall provide the information relating to the percentage by weight of each of the constituents in the mixture to the purchaser on request.

(8) A person who has registered a mixture of seeds with the Scottish Ministers in accordance with this regulation may apply to the Scottish Ministers to cancel the registration and the Scottish Ministers, having received such an application, shall cancel the registration and notify the applicant that this has been done.

### **Exception for scientific selection work and for tests and trials**

9.—(1) Regulation 6(1)(b) shall not apply to the marketing by a producer of—

- (a) small quantities of seed for scientific purposes or selection work; or
- (b) seed for test and trial purposes,

for which—

- (i) an authorisation has been granted to the producer by the Scottish Ministers in accordance with this regulation; or
- (ii) an authorisation has been granted to the producer by a European Authority other than the Scottish Ministers in respect of small quantities of seed for scientific purposes or selection work pursuant to Article 6(1)(a) (exemption for small quantities of seed for scientific purposes or selection work) of the Fodder Plant Seed Directive or in respect of seed for test and trial purposes, pursuant to Article 6(1)(b) (exemption for test and trial purposes) of the Fodder Plant Seed Directive.

(2) A producer in Scotland may apply to the Scottish Ministers for authorisation under this regulation.

(3) An application under this regulation shall be made in such form and manner and at such time as the Scottish Ministers shall require and shall be accompanied by such information as the Scottish Ministers may require for the purpose of determining whether to grant an authorisation.

(4) The Scottish Ministers shall not grant an authorisation under this regulation for scientific purposes and selection work in respect of seed of a genetically modified variety unless an authorisation is in force in respect of the variety concerned under the Food and Feed Regulation, or under Part B (deliberate release of GMOs for any other purpose than for placing on the market) or Part C (placing on the market of GMOs as or in products) of the 2001 Deliberate Release Directive, or under Part B (deliberate release of GMOs for any other purpose than for placing on the market) or Part C (placing on the market of GMOs as or in products) of the 1990 Deliberate Release Directive and then only if all appropriate measures, in accordance with the environmental risk assessment in respect of the genetically modified material carried out in accordance with Article 7(4) (environmental risk assessment for seed varieties) of the Common Catalogue Directive have been taken by the producer of the seed to avoid adverse effects on human health and the environment.

(5) The Scottish Ministers shall not grant an authorisation under this regulation in respect of seed for test and trial purposes unless—

- (a) they consider that the amount of seed that may be marketed under it is of an appropriate quantity for the test or trial; and
- (b) (i) either—
  - (aa) an application has been submitted to the relevant authority under regulation 4(1)(a) (applications in relation to national lists) of the Seeds (National Lists of Varieties) Regulations 2001 for acceptance of the variety concerned on to a UK National List and the application has not been withdrawn or finally determined; and
  - (bb) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety concerned under the Food and Feed Regulation or under Part C (placing on the market of GMOs as or in products) of the

2001 Deliberate Release Directive or under Part C (placing on the market of GMOs as or in products) of the 1990 Deliberate Release Directive; or

- (ii) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety concerned under Part B (deliberate release of GMOs for any other purpose than for placing on the market) of the 2001 Deliberate Release Directive or under Part B (deliberate release of GMOs for any other purpose than for placing on the market) of the 1990 Deliberate Release Directive.

(6) An authorisation under this regulation may—

- (a) and in the case of an authorisation in respect of seed for test and trial purposes shall, specify the amount of seed which may be marketed under it; and
- (b) impose such conditions as the Scottish Ministers may think necessary or desirable having regard in the case of an authorisation granted for scientific purposes and selection work to the nature of the scientific purpose or selection work involved and, in all cases, to the nature of the seed to which the authorisation relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

### General exemptions

**10.**—(1) Subject to paragraphs (2) and (3), the Scottish Ministers may, by a general licence, exempt any person or class of persons, or persons generally, from compliance with any provision of these Regulations.

(2) The Scottish Ministers shall not exercise the power to issue a general licence under paragraph (1) except—

- (a) to the extent that the provisions of the general licence are permitted in accordance with a temporary experiment organised under Article 13a (temporary experiments) of the Fodder Plant Seed Directive;
- (b) to the extent that the provisions of the general licence are permitted in accordance with Article 15(2) (waiving packing and labelling requirements for not yet fully certified seed imported from other EEA States) of the Fodder Plant Seed Directive;
- (c) to give effect to the provisions of a Council Decision made under Article 16 (checks on third country field inspections and quality control) of the Fodder Plant Seed Directive, including for the avoidance of doubt the Equivalence Decision, and amendments made to such a Decision;
- (d) to the extent that the provisions of the general licence are permitted in accordance with measures taken pursuant to Article 17 (permission to market lower quality seed) of the Fodder Plant Seed Directive; or
- (e) to give effect to the provisions of the Agreement between the European Community and the Swiss Confederation on Trade in Agriculture Products<sup>(a)</sup> as adapted by Decision 2002/309/EC, Euratom of the Council and of the Commission as regards the Agreement on Scientific and Technological Co-operation<sup>(b)</sup> and as amended by Commission Decision 2004/660/EC<sup>(c)</sup> on the Community position on the amendment of the Appendices to Annex 6 to the Agreement between the European Community and the Swiss Confederation on Trade in Agriculture Products.

(3) A general licence issued under paragraph (1)—

- (a) shall have effect during the period specified in it unless the Scottish Ministers revoke it earlier; and
- (b) may impose such conditions as the Scottish Ministers may think necessary or desirable having regard to the marketing permitted by the general licence and the nature of the

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<sup>(a)</sup> O.J. No. L 114, 30.4.02, p.132.

<sup>(b)</sup> O.J. No. L 114, 30.4.02, p.1.

<sup>(c)</sup> O.J. No. L 301, 28.9.04, p.55.

seed to which it relates, including a condition relating to the keeping of records in respect of the marketing of the seed.

### **Marketing of officially certified lower germination seed**

**11.**—(1) Notwithstanding regulation 6(1)(b) and the requirement in regulation 3 that Pre-basic Seed and Basic Seed shall attain the minimum standards of germination specified for Basic Seed in Part II of Schedule 4 or Annex II (seed conditions) of the Fodder Plant Seed Directive, any person may, subject to paragraphs (2) and (3) and regulation 17(6) and the other provisions of these Regulations, market seed—

- (a) in respect of which an official certificate certifying that the seed is of the relevant category of seed has been issued in accordance with Part I of Schedule 2, although it attains a lower percentage of germination than that specified in paragraph 13 of Part II of Schedule 4 in relation to Basic Seed by virtue of exception (ii) of paragraph 2(1)(c) of Part I of Schedule 2;
- (b) which has been certified as satisfying the conditions for the relevant category of seed by a European Authority other than the Scottish Ministers although the seed attains a lower germination than that specified in Annex II (seed conditions) of the Fodder Plant Seed Directive in relation to Basic Seed, by virtue of Article 4(a) (marketing of lower germination seed) of the Fodder Plant Seed Directive; or
- (c) which the person marketing the seed knows does not satisfy the minimum standards of germination specified for Basic Seed—
  - (i) in the case of seed which has been officially certified as being Pre-basic Seed or Basic Seed, in paragraph 13 of Part II of Schedule 4, irrespective of the findings of the Scottish Ministers; and
  - (ii) in the case of seed which has been fully certified as being Pre-basic Seed or Basic Seed by a European Authority other than the Scottish Ministers, in Annex II (seed conditions) of the Fodder Plant Seed Directive, irrespective of the findings of the relevant European Authority.

(2) Paragraph (1) shall not apply unless the person marketing the seed guarantees a specific minimum percentage of germination of the seed.

(3) Paragraph (1) shall not apply to seed which has been imported into the United Kingdom from a country which is not an EEA State.

### **Marketing of early movement seed**

**12.**—(1) In a case where—

- (a) the official examination in respect of the germination of any seed lot of Pre-basic Seed, Basic Seed or Seed of a Certified Generation of a plant variety of a species specified in Part I (varieties of plant species on national lists) of Schedule 1 to the Seeds (National Lists of Varieties) Regulations 2001 accepted on to a UK National List or the Common Catalogue is being undertaken and has not been completed, but a provisional germination report has shown that the seed attains the appropriate minimum standard of germination specified in paragraph 13 of Part II of Schedule 4, the seed in all other respects satisfies the appropriate requirements of Schedule 4 and the provisional analytical report and the provisional germination report on the seed have been presented by the producer to the Scottish Ministers; or
- (b) any seed lot has been certified by a European Authority other than the Scottish Ministers by virtue of Article 4(b) (early movement of seed) of the Fodder Plant Seed Directive, and the provisional germination report on the seed has been presented by the producer to the Scottish Ministers,

the seed lot or any part of the seed lot may, notwithstanding regulation 6(1)(b) but subject to paragraphs (2) to (5), regulation 17(7) and the other provisions of these Regulations, be marketed to the first buyer by way of trade.

- (2) In the event of any marketing under paragraph (1), the seller of the seed shall—
- (a) upon or before delivery, provide the first buyer by way of trade with a written statement that the seed is marketed before the completion of the official germination test together with the result in the provisional germination report;
  - (b) notify the Scottish Ministers in writing of the name and address of the first buyer by way of trade as soon as practicable after delivery and in any event not later than 7 days after delivery;
  - (c) guarantee a specific minimum percentage of germination, which shall be the percentage of the germination of the seed as ascertained in the provisional germination report; and
  - (d) in the event of the official germination test showing the failure of the seed to comply with the minimum germination standard specified in paragraph 13 of Part II of Schedule 4 for seed of the relevant category, the seller shall provide the first buyer by way of trade with the result of the completed official germination test, in writing, as soon as practicable and in any event not later than 7 days after being informed of it.
- (3) The provisions of paragraph (1) shall not apply to the marketing of any seed lot or part of any seed lot in respect of which a previous official examination or an examination by a European Authority other than the Scottish Ministers has shown that the seed fails to meet the standards specified for the relevant category of seed in Part II of Schedule 4 or Annex II (seed conditions) of the Fodder Plant Seed Directive.
- (4) A person who sells any seed in accordance with paragraph (1) shall make and, until the end of the period of 2 years after the date of delivery of the seed to the first buyer by way of trade, keep available for inspection by the Scottish Ministers a record of the date of such delivery, of the reference number of the seed lot or part of a seed lot delivered, of the name and address of the first buyer by way of trade, of the date on which the preliminary test of germination was carried out and of the result of that test in the provisional germination report and, if appropriate, of the date on which the first buyer by way of trade was informed of the result of the completed official germination test.
- (5) Paragraph (1) shall not apply to seed which has been imported into the United Kingdom from a country which is not an EEA State.

### **Requirement for homogeneity**

**13.** No person shall market seed in accordance with regulation 6(1)(b)(i) or (ii), 11 or 12 unless it is marketed in a homogeneous seed lot or in part of a homogeneous seed lot.

## **PART III**

### **PROCEDURES FOR ISSUING OFFICIAL CERTIFICATES**

#### **Applications for official certificates**

**14.—**(1) An application in respect of a seed lot for the issue of an official certificate certifying the seed to be Pre-basic Seed, Basic Seed, Seed of a Certified Generation or Commercial Seed—

- (a) shall be made in writing to the Scottish Ministers in such form and manner, and shall include such information, records, illustrations, material and seed as the Scottish Ministers may require; and
- (b) shall be made not later than 31st December in the year following the year of harvest of the crop from which the seed lot is obtained or within such other time as the Scottish Ministers may allow.

(2) Where an application for the issue of an official certificate is made to the Scottish Ministers in accordance with paragraph (1) the Scottish Ministers shall, subject to paragraph (3), deal with the application in accordance with the provisions of Part I of Schedule 2.

(3) Where a breeder applies to the Scottish Ministers for the issue of an official certificate in accordance with paragraph (1), in respect of a seed lot which already has a breeder's confirmation, after the variety of the seed in that seed lot has been accepted on to a UK National List (or an equivalent list in another EEA State), or if the seed in the seed lot is a component of a hybrid variety, after the hybrid variety has been accepted on to a UK National List (or an equivalent list in another EEA State), the Scottish Ministers shall issue an official certificate in respect of that seed lot provided they are satisfied that—

- (a) the seed is the seed in respect of which the breeder's confirmation was issued;
- (b) the breeder's confirmation has not been withdrawn pursuant to regulation 20(3);
- (c) the provisions of regulation 21 have been complied with; and
- (d) there is no reason why the breeder's confirmation should be withdrawn pursuant to regulation 20(3).

(4) An official certificate which has been issued by the Scottish Ministers may be withdrawn by them in respect of either the whole of a seed lot or any part of a seed lot if—

- (a) the results of an official examination of the sample taken from the seed lot in respect of which the official certificate has been issued are deemed to be null and void in accordance with regulation 15(2);
- (b) on the basis of information received by them, the Scottish Ministers are satisfied that the crop from which the seed in the seed lot was harvested did not meet the conditions laid down in Part I of Schedule 4;
- (c) on the basis of information received by them, the Scottish Ministers are satisfied that the seed in the seed lot, or part of the seed lot—
  - (i) did not meet the conditions laid down in Part II of Schedule 4 at the time the seed was tested for seed certification purposes, which includes the purpose of issuing a breeder's confirmation; or
  - (ii) although it met the conditions in Part II of Schedule 4 at the time of such testing no longer meets them; or
- (d) the licensed seed sampler who sampled the seed lot or the licensed crop inspector or licensed EC crop inspector who inspected the crop, did so in breach of any of the terms of the licensed seed sampler's, or licensed crop inspector's, or licensed EC crop inspector's, licence,

and any seed from which an official certificate has been so withdrawn shall be deemed not to have been officially certified.

(5) The Scottish Ministers may withdraw the official certificate in respect of a seed lot, or any part of a seed lot, by giving notice to—

- (a) the person who made an application in respect of the seed lot under paragraph (1); or
- (b) any person marketing, or who has marketed, any of the seed.

(6) Where, in accordance with paragraph (5), the official certificate in respect of a seed lot, or part of a seed lot, is withdrawn under paragraph (4), the Scottish Ministers may notify—

- (a) the person who made an application under paragraph (1) in respect of the seed lot;
- (b) any person marketing, or who has marketed, any of the seed; and
- (c) any person who has purchased, or been supplied with, any of the seed,

that the official certificate in respect of the seed lot, or part of a seed lot, as the case may be, has been withdrawn.

(7) Where the official certificate in respect of a seed lot, or part of a seed lot, is withdrawn under paragraph (4), any seller of the seed shall, as soon as practicable and in any case not later than 7 days after being informed of it, notify the purchaser, in writing, that the official certificate has been withdrawn and that the seed is deemed not to have been officially certified.

## **Sampling**

**15.—(1)** A sample of seed taken for the purposes of an official examination shall be taken—

- (a) (i) by a European Authority; or
- (ii) by a licensed seed sampler in accordance with the terms of the licensed seed sampler's licence;
- (b) in accordance with the methods specified in Part I of Schedule 5; and
- (c) from a homogeneous seed lot.

**(2)** If a sample from a seed lot submitted or taken for the purpose of an official examination—

- (a) is found not to have been taken in accordance with paragraph (1);
- (b) is taken from a seed lot which, subject to paragraph 24 of Part II of Schedule 5, does not comply with paragraph 23 of Part II of Schedule 5;
- (c) is not a submitted sample; or
- (d) is otherwise found not to have been taken in accordance with the seeds regulations,

no, or no further, official examination of that sample shall be made under these Regulations, and any findings or results obtained in the course of any official examination of that sample, or from inspecting plants grown in a plot which has been sown with seed from that sample, shall be deemed to be null and void and shall be disregarded.

**(3)** For the avoidance of doubt, the provisions of this regulation apply for the purpose of issuing a breeder's confirmation, as they do for the purpose of issuing an official certificate.

## **PART IV**

### **PACKAGING AND LABELLING REQUIREMENTS FOR FULLY CERTIFIED SEED**

#### **Sealing of packages of fully certified seed**

**16.—(1)** Subject to regulations 18 and 19, no person shall market in accordance with regulations 6(1), 8, 9, 11 or 12 a package (other than a small EC A or a small EC B package sealed in accordance with paragraph (4)) of Pre-basic Seed, Basic Seed, Seed of a Certified Generation, Commercial Seed, a mixture of seeds to which regulation 8 applies, lower germination seed or early movement seed unless, subject to paragraph (2), it has been—

- (a) (i) not later than at the time of sampling; or
- (ii) in the case of seed which is wholly or partly repackaged, the original package has been not later than at the time of sampling,  
sealed in Scotland by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal, in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package; or
- (b) sealed—
  - (i) in the United Kingdom but not in Scotland; or
  - (ii) in an EEA State other than the United Kingdom,  
in accordance with the provisions of Article 9(1) (sealing of packages) of the Fodder Plant Seed Directive.

(2) In the case of a package of seed in respect of which the Scottish Ministers have issued an official certificate under regulation 14(3)–

- (a) paragraph (1)(a) shall apply as if the words “not later than at the time of sampling” were omitted; and
- (b) subject to sub-paragraph (a), the package of seed shall be sealed in accordance with paragraph (1)(a) within 7 days of the issue of the official certificate.

(3) If a package of seed which has been sealed in accordance with paragraph (1) is opened it may not be marketed in accordance with regulations 6(1), 8, 9, 11 or 12 unless it is resealed or further resealed–

- (a) in Scotland by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal, in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package; or
- (b) (i) in the United Kingdom but not in Scotland; or  
(ii) in an EEA State other than the United Kingdom,

in accordance with the provisions of Article 9(2) (resealing of packages) of the Fodder Plant Seed Directive.

(4) No person shall market in accordance with regulations 6(1), 8, 9, 11 or 12 a small EC A or a small EC B package of Pre-basic Seed, Basic Seed, Seed of a Certified Generation, Commercial Seed, lower germination seed or early movement seed, unless it has been, or in the case of seed which is wholly or partly repackaged, the original package has been, sealed by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler or by a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 4(1) (registration of seed merchants, seed packers and seed processors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985<sup>(a)</sup> or provisions equivalent to that regulation, not later than at the time of sampling in the United Kingdom with a sealing device in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.

(5) If a small EC A or a small EC B package of seed which has been sealed in accordance with paragraph (4) is opened, it may not be marketed in accordance with regulations 6(1), 8, 9, 11 or 12 unless it is resealed or further resealed by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler or by a person registered by a National Authority in any part of the United Kingdom as a seed merchant, seed packer or seed processor under regulation 4(1) (registration of seed merchants, seed packers and seed processors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985 or provisions equivalent to that regulation, with a sealing device, in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.

(6) No person shall market in accordance with regulation 6(1) a package of Breeder’s Seed unless it is marketed in a package which has been sealed with a sealing device in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.

(7) If a package of Breeder’s Seed which has been sealed in accordance with paragraph (6) is opened it may not be marketed in accordance with regulation 6(1) unless it is resealed or further resealed with a sealing device in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.

### **Labelling of packages of fully certified seed**

17.—(1) Subject to regulations 18 and 19, no person shall market in accordance with regulations 6(1), 8, 9, 11 or 12 any Pre-basic Seed, Basic Seed, Seed of a Certified Generation,

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(a) S.I. 1985/980, as relevantly amended by S.I. 1987/1098, 1990/611 and 1993/2530.



Commercial Seed, a mixture of seeds to which regulation 8 applies, lower germination seed or early movement seed, except in a package which, not later than at the time of sealing, is labelled, inscribed or otherwise dealt with in accordance with this regulation.

(2) In the case of a package of seed in respect of which the Scottish Ministers have issued an official certificate under regulation 14(3) or in respect of which the Scottish Ministers have issued an official certificate re-grading the seed to a different category or level—

- (a) paragraph (1) shall apply as if the words “not later than at the time of sealing” were omitted; and
- (b) subject to sub-paragraph (a), the package of seed shall be re-labelled in accordance with this regulation within 7 days of the issue of the official certificate.

(3) In the case of seed of a variety which has been genetically modified, any label, document, printing or stamp, 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, and any particulars given under regulation 18 or 19, shall clearly indicate that the variety has been genetically modified.

(4) A package of Breeder’s Seed shall have affixed on the outside a label, which has not previously been used, containing, as appropriate to the seed, particulars of the matters specified, and being of the colour also specified, in paragraph 3 of Part II of Schedule 6, which shall be either an adhesive label or tear-proof label and shall be affixed, in either case, not later than at the time of sealing.

(5) Subject to paragraph (10), a package (other than a small EC A or a small EC B package sealed in the United Kingdom in accordance with regulation 16(4)) of Pre-basic Seed, Basic Seed, Seed of a Certified Generation, Commercial Seed, a mixture of seeds to which regulation 8 applies, lower germination seed or early movement seed—

- (a) which is sealed in Scotland shall have affixed on the outside an official label—
  - (i) which has not previously been used;
  - (ii) containing, as appropriate to the category of seed and the seed itself, particulars of the matters specified, and being of at least the size and of the colour also specified, in the relevant paragraph of Part II of Schedule 6; and
  - (iii) which shall be either an adhesive label or a label secured to the package by a sealing system approved by the Scottish Ministers and shall be affixed, in either case, by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler; and
- (b) which is sealed—
  - (i) in the United Kingdom but not in Scotland; or
  - (ii) in an EEA State other than the United Kingdom,
    - in accordance with the provisions of Articles 9(2) (resealing), 10(1)(a) (labelling of packages), 13(2) (labelling of packages of mixtures of seeds) and 14a(c) (labelling of packages of Pre-basic Seed) of the Fodder Plant Seed Directive appropriate to the relevant category of seed and the seed or mixture of seeds itself.

(6) If in accordance with regulation 11 a person markets any lower germination seed, that person shall ensure—

- (a) that the official label or the particulars printed or stamped on the package in accordance with paragraph (10), contains a statement that the minimum percentage of germination of the seed is less than the minimum percentage of germination for Basic Seed; and
- (b) that there is a label affixed to the outside of the package containing a statement of the specific minimum percentage of germination of the seed guaranteed by the person marketing the seed in accordance with regulation 11(2) together with the name and address of the seller and the reference number of the seed lot.

(7) If in accordance with regulation 12 a person markets any early movement seed, that person shall ensure that there is a label affixed to the outside of the package containing—

- (a) a statement that the seed is being sold before the official examination of the germination of that seed lot has been concluded; and
- (b) a statement of the specific minimum percentage of germination guaranteed by the person marketing the seed in accordance with regulation 12(2)(c), together with the name and address of the seller and the reference number of the seed lot.

(8) Subject to paragraph (9), a package (other than a small EC A or a small EC B package sealed in the United Kingdom in accordance with regulation 16(4)) of Pre-basic Seed, Basic Seed, Seed of a Certified Generation, Commercial Seed, a mixture of seeds to which regulation 8 applies, lower germination seed or early movement seed—

- (a) which is sealed in Scotland shall contain an official inner label which shall be of the same colour as, and in addition to, the official label affixed to the outside of the package in accordance with paragraph (5) and shall contain particulars of the matters specified in the items numbered—
  - (i) in the case of Pre-basic Seed and lower germination seed to which paragraph 4 of Part II of Schedule 6 is relevant, paragraph 4(a)(iii) to (v) of Part II of Schedule 6;
  - (ii) in the case of Basic Seed, Seed of a Certified Generation, or lower germination seed to which paragraph 5 of Part II of Schedule 6 is relevant, paragraph 5(a)(iv) to (vi) of Part II of Schedule 6;
  - (iii) in the case of Commercial Seed, paragraph 6(a)(iv) to (vi) of Part II of Schedule 6; and
  - (iv) in the case of a mixture of seeds to which regulation 8 applies, paragraph 7(a)(i) and (iv) of Part II of Schedule 6; and
- (b) which is sealed in—
  - (i) the United Kingdom but not in Scotland; or
  - (ii) an EEA State other than the United Kingdom,

shall contain an official document in accordance with Article 10(1)(b) (official documents) and 13(2) (labelling of packages of mixtures of seeds) of the Fodder Plant Seed Directive.

(9) The official inner label or document referred to in paragraph (8) shall not be required if the particulars specified in paragraphs (3), (8) and (13) are printed indelibly on the outside of the package or if the official label is an adhesive or a tear resistant label.

(10) Notwithstanding paragraphs (5) and (6)(a), but subject to paragraphs (6)(b) and (7), a package (other than a small EC A or a small EC B package sealed in the United Kingdom in accordance with regulation 16(4)) of Pre-basic Seed, Basic Seed, Seed of a Certified Generation, Commercial Seed, a mixture of seeds to which regulation 8 applies, lower germination seed or early movement seed may be marketed if—

- (a) the appropriate particulars of the matters specified in Part II of Schedule 6 and paragraphs (3), (6)(a), (12) and (13) for packages sealed in Scotland, and in Articles 4 (lower germination and early movement seed), 9(2) (resealing) 10(1)(a) (labelling) and 11a (identification of genetically modified varieties) and Annex IV (labels) of the Fodder Plant Seed Directive for packages sealed in either—
  - (i) the United Kingdom but not Scotland; or
  - (ii) an EEA State other than the United Kingdom,
 are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified; and
- (b) the requirements of paragraphs 13 to 16 of Part VI of Schedule 6 are satisfied, in the case of a package sealed in Scotland; and
- (c) the requirements of paragraph 17 of Part VI of Schedule 6 are satisfied in the case of a package sealed in either—
  - (i) the United Kingdom but not in Scotland; or
  - (ii) an EEA State other than the United Kingdom.

(11) A small EC A or a small EC B package sealed in the United Kingdom shall have affixed on the outside a label containing, as appropriate to the category of the seed and the seed itself, particulars of the matters specified in paragraphs (3), (12) and (13) and the relevant paragraph of Part III of Schedule 6, and being of the colour specified in the relevant paragraph of Part II of Schedule 6, except that subject to paragraphs (6) and (7)–

- (a) if such particulars are printed indelibly on the outside of the package in a panel of the colour so specified, the label shall not be required; and
- (b) if the packaging material is transparent the label may be placed inside the package provided it can be read through the packaging.

(12) Subject to paragraph (10) or (11), if a package of seed has been resealed in accordance with regulation 16(3) or 21(4) this fact shall be stated on the official label required under paragraph (5) or the label required under paragraph (11), as the case may be, together with the month and year of resealing and the name of the authority responsible for the resealing.

(13) If any seed has been subjected to any chemical treatment this fact and the nature of the treatment or the proprietary name of the chemical used in the treatment shall be stated either–

- (a) where seed is being marketed in accordance with regulation 18, with the particulars given in accordance with that regulation;
- (b) in a case where seed is not being marketed in accordance with regulation 18–
  - (i) on a separate label on the package; or
  - (ii) on the label referred to in paragraph (4), (5) or (11), the official inner label or document referred to in paragraph (8), or the printing or stamp referred to in paragraph (9), (10) or (11),

and also, except where the information prescribed by this paragraph is given on an adhesive or tear resistant label, either on the outside of the package or on a document enclosed inside the package.

(14) The particulars and information given in accordance with this regulation shall be given in one of the official languages of the European Community.

(15) Subject to the provisions of the Act and of these Regulations, no person shall, in the course of the marketing or the preparation for marketing of any seed by that person or by any other person, wilfully reproduce, remove, alter, deface, conceal or misuse in any way any label affixed to, contained in or marked on any package of seed or which is to be so affixed, contained or marked, except as may occur in the course of opening the package for the purposes of regulation 17(2)(b).

### **Marketing of unpacketed seed**

**18.** Subject to regulation 17(3) and (13) a person may sell any seed otherwise than in a package which is sealed, labelled, inscribed or otherwise dealt with in accordance with regulations 16 and 17 where–

- (a) (i) in relation to species other than field peas and field beans the seed is sold in a quantity not exceeding 2 kilograms to the final consumer;
- (ii) in relation to field peas and field beans the seed is sold in a quantity not exceeding 3 kilograms to the final consumer;
- (iii) in relation to mixtures the seed is sold in a quantity not exceeding 7 kilograms to the final consumer; and
- (b) the seed is taken, in the presence of the final consumer, from a container on which there is clearly and visibly marked, or near which there is clearly and visibly displayed, a statement containing particulars of the matters specified in paragraph 11 of Part IV of Schedule 6.

## **Marketing of Excepted Seed Marketed in Bulk**

**19.**—(1) Regulations 16 and 17 shall not apply to marketing of Excepted Seed Marketed in Bulk where the person marketing the seed delivers a note to the final consumer, not later than the time of delivery of the seed, containing the information given on the official label on the container from which the seed was taken.

(2) A supplier of seed shall prior to 10th January 2006 and prior to 10th January in each year thereafter notify the Scottish Ministers in such manner as they may from time to time specify of the quantities of Excepted Seed Marketed in Bulk by that supplier in the period from 1st January to 31st December in the immediately preceding year.

## **PART V**

### **PROCEDURES FOR ISSUING BREEDER'S CONFIRMATIONS**

#### **Breeder's confirmations**

**20.**—(1) An application for the issue of a breeder's confirmation for Pre-basic Seed or Basic Seed in respect of a seed lot—

- (a) shall be made in writing by the breeder to the Scottish Ministers in such form and manner, and shall include such information, records, illustrations, material and seed, as the Scottish Ministers may require; and
- (b) shall be made not later than 31st December in the year following the year of harvest of the crop from which the seed lot is obtained or within such other time as the Scottish Ministers may allow; and
- (c) shall be made only—
  - (i) for seed of a variety for which an application has been made to have that variety accepted on to a UK National List (or an equivalent list in another EEA State); or
  - (ii) for seed of a component of a hybrid variety for which an application has been made to have that hybrid variety accepted on to a UK National List (or to an equivalent list in another EEA State).

(2) Where an application for the issue of a breeder's confirmation is made to the Scottish Ministers in accordance with paragraph (1) the Scottish Ministers shall deal with the application in accordance with the provisions of Part II of Schedule 2.

(3) A breeder's confirmation which has been issued by the Scottish Ministers may be withdrawn by them in respect of either the whole of a seed lot or any part of a seed lot if—

- (a) the results of an official examination of the sample taken from the seed lot in respect of which the breeder's confirmation has been issued are declared null and void in accordance with regulation 15(2);
- (b) on the basis of information received by them, the Scottish Ministers are satisfied that the crop from which the seed in the seed lot was harvested did not meet the conditions specified in Part I of Schedule 4; or
- (c) on the basis of information received by them, the Scottish Ministers are satisfied that the seed in the seed lot, or part of the seed lot—
  - (i) did not meet the conditions laid down in Part II of Schedule 4 at the time the seed was tested for breeder's confirmation purposes; or
  - (ii) although it met the conditions in Part II of Schedule 4 at the time of such testing no longer meets them,

and any seed from which a breeder's confirmation has been so withdrawn shall be deemed not to have had a breeder's confirmation.

(4) The Scottish Ministers may withdraw the breeder's confirmation in respect of a seed lot, or any part of a seed lot, by giving notice to the person who made an application in respect of the seed lot under paragraph (1).

(5) The breeder applying for the breeder's confirmation shall notify the Scottish Ministers if the application to have the relevant variety or hybrid variety accepted on to a UK National List (or to an equivalent list in another EEA State) referred to in paragraph (1)(c) is withdrawn or refused.

(6) If the application to have the relevant variety or hybrid variety accepted on to a UK National List (or to an equivalent list in another EEA State) referred to in paragraph (1)(c) is refused, the breeder applying for the breeder's confirmation shall notify the Scottish Ministers if the refusal is the subject of appeal proceedings and shall further notify the Scottish Ministers of the final outcome of those proceedings.

## PART VI

### PACKAGING AND LABELLING REQUIREMENTS RELATING TO BREEDER'S CONFIRMATION

#### Sealing of packages of seed in relation to breeder's confirmation

**21.**—(1) No person shall have in their possession any package of seed in respect of which a breeder's confirmation for Pre-basic Seed or Basic Seed has been applied for or issued unless it has been sealed in accordance with this regulation by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal, in such manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package.

(2) Sealing under paragraph (1) shall take place not later than at the time of sampling or, in the case of seed which is wholly or partly repackaged, the sealing of the original package shall take place no later than that time.

(3) Subject to paragraph (4), no person shall open a package of seed which has been sealed in accordance with paragraph (1) or resealed in accordance with paragraph (4) except—

- (a) for the purpose of sowing all the seed;
- (b) where—
  - (i) some of the seed is sown immediately after the package is opened;
  - (ii) the rest of the seed remains in the package after the seed is sown in accordance with sub-paragraph (b)(i); and
  - (iii) the package is resealed immediately after the seed is sown in accordance with sub-paragraph (b)(i); or
- (c) for the purpose of re-packaging and resealing all of the seed.

(4) If a package of seed which has been sealed in accordance with paragraph (1), or resealed in accordance with this paragraph, is opened, whether in accordance with paragraph (3) or otherwise, neither it nor any other package containing any of that seed may be sealed, resealed or further resealed, as the case may be, except by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler.

(5) If the details on any label required by regulation 22 cease to be correct as a consequence of any action of the kind described in paragraph (3) the label shall be replaced by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler at the time the package is resealed under paragraph (4).

## **Labelling of packages of seed in relation to breeder's confirmation**

22.—(1) No person shall have in their possession any package of seed in respect of which a breeder's confirmation has been applied for unless it has been, not later than at the time of sealing under regulation 21, labelled, inscribed or otherwise dealt with in accordance with this regulation.

(2) In the case of a package of seed in respect of which the Scottish Ministers have issued a breeder's confirmation regrading the seed to a different category or level—

- (a) paragraph (1) shall apply as if the words “not later than at the time of sealing” were omitted; and
- (b) subject to sub-paragraph (a), the package of seed shall be re-labelled in accordance with this regulation within 7 days of the issue of that breeder's confirmation.

(3) In the case of seed of a variety which has been genetically modified, any label, document, printing or stamp, 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.

(4) Packages of seed in respect of which a breeder's confirmation has been applied for shall have affixed on the outside an official label—

- (a) containing, as appropriate to the category of seed and the seed itself, particulars of the matters specified, and being of at least the size and of the colour also specified, in the relevant paragraph of Part II of Schedule 6; and
- (b) which shall be—
  - (i) either an adhesive label or a label secured to the package by a sealing device approved by the Scottish Ministers;
  - (ii) affixed, in either case, by the Scottish Ministers or by, or under the supervision of, a licensed seed sampler; and
  - (iii) over-stamped “not certified”.

(5) If in accordance with paragraphs 5 and 6(c) of Part II of Schedule 2 a breeder's confirmation has been issued in respect of seed of a lower percentage of germination than that specified for Basic Seed in Part II of Schedule 4—

- (a) the official label, or the particulars printed or stamped on the package in accordance with paragraph (6), shall contain a statement that the minimum percentage of germination of the seed is less than the minimum percentage of germination for Basic Seed; and
- (b) where possession of the package is transferred to another person, the transferor shall—
  - (i) guarantee a specific minimum percentage of germination of the seed; and
  - (ii) affix a label to the outside of the package containing a statement of the specific minimum percentage of germination of the seed guaranteed by the person transferring possession of the seed together with the name and address of the transferor and the reference number of the seed lot.

(6) Notwithstanding paragraphs (3) to (5)(a) and (10), but subject to paragraph (5)(b), a package of seed need not be labelled if—

- (a) the appropriate particulars of the matters specified in the relevant paragraph of Part II of Schedule 6 and paragraphs (3), (5)(a), (9) and (10) are printed or stamped indelibly on the package in a panel of at least the size and of the colour so specified and over-stamped “not certified”; and
- (b) the requirements of paragraphs 13 to 16 of Part VI of Schedule 6 are satisfied.

(7) Subject to paragraph (8), a package of seed for which a breeder's confirmation has been issued shall contain an official inner label which shall be of the same colour as, and in addition to, the official label affixed to the outside of the package in accordance with paragraph (4) and shall contain particulars of the matters specified in the items numbered—

- (a) in the case of Pre-basic Seed and lower germination seed to which paragraph 4 of Part II of Schedule 6 is relevant, paragraph 4(a)(iii) to (v) of Part II of Schedule 6; and
- (b) in the case of Basic Seed and lower germination seed to which paragraph 5 of Part II of Schedule 6 is relevant, paragraph 5(a)(iv) of Part II of Schedule 6.

(8) The official inner label referred to in paragraph (7) shall not be required if the particulars specified in paragraphs (3), (7) and (10) are printed indelibly on the outside of the package or if the official label is an adhesive or tear resistant label.

(9) If a package of seed has been resealed in accordance with regulation 21(4) this fact shall be stated on the official label required in terms of paragraph (4), and if an official certificate is issued in respect of the seed, on the official label required in terms of regulation 17(12), together with the month and year of resealing and the name of the authority responsible for the resealing.

(10) If any seed has been subjected to any chemical treatment this fact and the nature of the treatment and the proprietary name of the chemical used in the treatment shall be stated either—

- (a) on a separate label on the package; or
- (b) on the label referred to in paragraph (4) or the printing or stamp referred to in paragraph (6),

and also, except where the information prescribed by this paragraph is given on an adhesive or tear resistant label, either on the outside of the package or as a document enclosed inside the package.

(11) The particulars and information given in accordance with this regulation shall be given in one of the official languages of the European Community.

(12) For the purposes of this regulation, references in Schedule 6 to the “certifying authority” shall, in the case of a breeder’s confirmation, be taken to be references to that authority as issuer of the breeder’s confirmation.

(13) Subject to the provisions of the Act and of these Regulations, no person shall wilfully reproduce, remove, alter, deface, conceal or misuse in any way any label affixed to, contained in or marked on any package of seed or which is to be so affixed, contained or marked, except as may occur in the course of opening the package for the purposes of paragraph (2)(b) or regulations 17(2)(b) or 21(3).

## PART VII

### MISCELLANEOUS

#### **Comparative tests and trials**

**23.** For the purposes of comparative tests and trials under Article 20 (comparative tests and trials) of the Fodder Plant Seed Directive, the Scottish Ministers shall be entitled, on request, to an additional submitted sample taken from any seed lot of seed to which these Regulations apply whenever that seed lot is sampled for the purposes of an official examination under these Regulations.

#### **Civil liabilities of sellers of seed**

**24.—(1)** The particulars given to a purchaser by the seller of seed to which these Regulations apply, whether given in pursuance of these Regulations expressly or by implication arising from the description under which the seed is sold, shall constitute a statutory warranty for the purpose of section 17 of the Act in so far as they relate to the category of the seed, the percentage germination of the seed, the percentage analytical purity of the seed, the content of seed of other plant species, the varietal identity and the varietal purity of the seed or, in the case of a mixture of seed permitted by regulation 8, of each of its constituents to which these Regulations apply.

(2) Section 17(2) of the Act shall apply to any particulars given to a purchaser by the seller of seed, being particulars given or implied as in paragraph (1), in so far as they relate to the

percentage germination, the percentage analytical purity, or the content of seed of other plant species and there are hereby prescribed in respect of such matters the limits of variation set out in Schedule 7.

(3) Section 17(3) of the Act shall apply to any particulars given to a purchaser by the seller of the seed, being particulars given or implied as in paragraph (1), in so far as they relate to the percentage germination, the percentage analytical purity or the content of seed of other plant species.

(4) A purchaser who intends to obtain a test of seed for the purposes of section 17(3) of the Act shall, not more than 10 days after delivery to that purchaser of the seed, give to the seller written notice of the purchaser's intention and thereupon the seller may indicate a day (not being more than 21 days after delivery of the seed to the purchaser) and a reasonable time on that day at which a sample of the seed may be taken in the presence of the seller or the seller's representative and the purchaser shall afford to the seller reasonable facilities for that purpose.

(5) On the day and at the time appointed by the seller in accordance with paragraph (4) or, if the seller fails to appoint such a day and time, on a day not more than 28 days after delivery of the seed to the purchaser, the purchaser or the purchaser's representative may, and if the seller or the seller's representative is present shall, take a sample from the relevant seed lot or part of a seed lot sold to the purchaser, which sample shall be at least twice the minimum weight prescribed in paragraph 26 of Part II of Schedule 5.

(6) A sample taken in accordance with the requirements of paragraph (5) shall be taken, and divided by the purchaser or the purchaser's representative into two parts in accordance with the methods specified in Part I of Schedule 5, each part being of at least the minimum weight prescribed in paragraph 26 of Part II of Schedule 5, of which one part shall be sent to the Chief Officer of the Official Seed Testing Station for Scotland for the purpose of being tested and the other part delivered or tendered to the seller or the seller's representative or, if the seller or the seller's representative was not present when the sample was taken, sent to the seller by post.

### Service of notices

**25.—**(1) Any notice required by virtue of these Regulations to be given to any person by the Scottish Ministers may be given by them—

- (a) by delivering it to that person or by leaving it at that person's proper address or by sending it by post to that person at that address;
- (b) if the person is a body corporate other than a limited liability partnership, by giving it in accordance with sub-paragraph (a) to the secretary of the body;
- (c) if the person is a limited liability partnership, by giving it in accordance with sub-paragraph (a) to a member of the partnership; or
- (d) if the person is a partnership, by giving it in accordance with sub-paragraph (a) to a partner or a person having control of the management of the partnership business.

(2) For the purposes of this regulation and section 7 (service of documents by post) of the Interpretation Act 1978(a) in its application to this regulation, the proper address of any person to whom a notice is to be given shall be that person's last known address, except that—

- (a) in the case of a seed merchant, seed packer or seed processor registered under regulation 4(1) (registration of seed merchants, seed packers and seed processors) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985(b) or a licensed crop inspector who has a current licence granted by the Scottish Ministers or a licensed seed sampler who has a current licence granted by the Scottish Ministers, it shall be the address which could be made available by the Scottish Ministers under regulation 13(a) (inspection and publication of lists of registered and licensed persons) of the Seeds (Registration, Licensing and Enforcement) Regulations 1985; and
- (b) in other cases it shall be—

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(a) 1978 (c.30).

(b) S.I. 1985/980, as relevantly amended by S.I. 1987/1098, 1990/611 and 1993/2530.



- (i) in the case of a body corporate (other than a limited liability partnership) or its secretary, the address of the registered or principal office of the body;
- (ii) in the case of a limited liability partnership or a member of the partnership, the address of the registered or principal office of the partnership; and
- (iii) in the case of a partnership or a partner or a person having the control or management of a partnership business, the address of the principal office of the partnership.

(3) Paragraph (4) applies if a person to be given a notice under these Regulations by the Scottish Ministers has specified to them an address within the United Kingdom other than that person's proper address (as determined under paragraph (2)) as the one at which that person or someone on that person's behalf will accept notices of that description.

(4) In relation to that notice, that address shall be treated as that person's proper address for the purposes of this regulation and section 7 (service of documents by post) of the Interpretation Act 1978 in its application to this regulation, instead of that determined under paragraph (2).

### **Written and electronic communication**

**26.**—(1) All applications, approvals, authorisations, notices, notifications and statements to which these Regulations apply shall be made in writing.

(2) "Writing" in paragraph (1) includes an electronic communication as defined in the Electronic Communications Act 2000(a), which has been recorded and is consequently capable of being reproduced, provided that—

- (a) any document of the type referred to in paragraph (1) shall only be sent to the Scottish Ministers by an electronic communication if the Scottish Ministers have represented that electronic communication is a means by which persons can send such a document to them; and
- (b) notifications required to be sent by the Scottish Ministers to any person shall only be made by an electronic communication if the intended recipient has used the same form of electronic communication in communicating with the Scottish Ministers for the purpose of these Regulations or has otherwise represented that that form of electronic communication is a means by which the Scottish Ministers can communicate with them.

### **Amendment to the Seeds (Fees) (Scotland) Regulations 2002**

**27.** In Schedule 2 (matters arising under the Fodder Plant Seeds Regulations 1993) of the Seeds (Fees) (Scotland) Regulations 2002(b) for "Fodder Plant Seeds Regulations 1993" substitute "Fodder Plant Seed (Scotland) Regulations 2005(c)".

### **Revocations and supplementary provisions**

**28.**—(1) Subject to paragraph (2), the Regulations set out in column 1 of Schedule 8 are revoked to the extent specified in the corresponding entry in relation to those Regulations in column 3 of Schedule 8.

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(a) 2000 (c.7).  
 (b) S.S.I. 2002/526.  
 (c) S.S.I. 2005/329.

(2) Section 17 (repeal and re-enactment) of the Interpretation Act 1978 shall not apply in relation to general licences granted under the Fodder Plant Seeds Regulations 1993.

St Andrew's House,  
Edinburgh  
8th June 2005

*ROSS FINNIE*  
A member of the Scottish Executive

## SCHEDULE 1

Regulations 2(1) and (2)  
5(1), 8(2) and 12(1)

### SPECIES OF SEED TO WHICH THE REGULATIONS APPLY

Column 1 Common Name	Column 2 Latin Name
<b>Grasses</b>	
Alaska brome-grass	<i>Bromus sitchensis</i> Trin.
Annual meadowgrass	<i>Poa annua</i> L.
Brown top	<i>Agrostis capillaris</i> L.
Cocksfoot *	<i>Dactylis glomerata</i> L.
Creeping bent	<i>Agrostis stolonifera</i> L.
Festulolium (Hybrids resulting from crossing of a species of the genus <i>Festuca</i> with a species of the genus <i>Lolium</i> ) *	<i>Festuca</i> spp. x <i>Lolium</i> spp.
Hybrid ryegrass *	<i>Lolium x boucheanum</i> Kunth
Italian ryegrass (including Westerwolds ryegrass) *	<i>Lolium multiflorum</i> Lam.
Meadow fescue *	<i>Festuca pratensis</i> Hudson
Perennial ryegrass *	<i>Lolium perenne</i> L.
Red fescue (including Chewings fescue) *	<i>Festuca rubra</i> L.
Red top	<i>Agrostis gigantea</i> Roth
Rescue grass	<i>Bromus catharticus</i> Vahl.
Rough-stalked meadowgrass	<i>Poa trivialis</i> L.
Sheep's fescue (including fine-leaved fescue and hard fescue)	<i>Festuca ovina</i> L.
Small Timothy *	<i>Phleum bertolonii</i> DC.
Smooth-stalked meadowgrass *	<i>Poa pratensis</i> L.
Tall fescue *	<i>Festuca arundinacea</i> Schreber
Tall oatgrass	<i>Arrhenatherum elatius</i> (L.) P.Beauv. ex J. S. and K. B. Presl

Column 1 Common Name	Column 2 Latin Name
Timothy *	<i>Phleum pratense</i> L.
Velvet bent	<i>Agrostis canina</i> L.
Wood meadowgrass	<i>Poa nemoralis</i> L.
<b>Legumes</b>	
Alsike clover	<i>Trifolium hybridum</i> L.
Birdsfoot trefoil	<i>Lotus corniculatus</i> L.
Common vetch	<i>Vicia sativa</i> L.
Field bean	<i>Vicia faba</i> L. (partim)
Field pea	<i>Pisum sativum</i> L. (partim)
Hairy vetch	<i>Vicia villosa</i> Roth
Hungarian vetch	<i>Vicia pannonica</i> Crantz
Lucerne *	<i>Medicago sativa</i> L.
Lucerne *	<i>Medicago x varia</i> T. Martyn
Narrow-leaved lupin (Blue lupin)	<i>Lupinus angustifolius</i> L.
Red clover *	<i>Trifolium pratense</i> L.
Sainfoin *	<i>Onobrychis viciifolia</i> Scop.
Trefoil, Black medick	<i>Medicago lupulina</i> L.
White clover *	<i>Trifolium repens</i> L.
White lupin	<i>Lupinus albus</i> L.
Yellow lupin	<i>Lupinus luteus</i> L.
<b>Others</b>	
Fodder kale	<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef. var. <i>medullosa</i> Thell. + var. <i>viridis</i> L.
Fodder radish	<i>Raphanus sativus</i> L. var. <i>oleiformis</i> Pers.
Swede	<i>Brassica napus</i> L. var. <i>napobrassica</i> (L.) Rchb.

\* denotes species to which Higher Voluntary Standards may be applied

## SCHEDULE 2

Regulations 2(1), 6(3), 11(1),  
14(2), 20(2) and 22(5)

### OFFICIAL CERTIFICATES AND BREEDER'S CONFIRMATIONS

#### PART I

#### OFFICIAL CERTIFICATES

##### **Applications for seed harvested in the United Kingdom**

1. On receipt of an application made in accordance with regulation 14(1) but not made in pursuance of Article 15 (certification of seed from other EEA States or equivalent third countries) of the Fodder Plant Seed Directive for the issue of an official certificate in respect of a seed lot as Pre-basic Seed, Basic Seed, Seed of a Certified Generation or Commercial Seed, the Scottish Ministers shall, subject to paragraphs 2 and 3, issue in respect of such a seed lot an official certificate containing the particulars specified in paragraph 1 of Schedule 3.

##### **When applications will be refused**

2.—(1) The Scottish Ministers shall refuse to issue an official certificate in respect of a seed lot unless—

- (a) an application has been made to the Scottish Ministers, in writing in such form and manner and at such time as the Scottish Ministers may require, and has been accompanied by such information, material, records, illustrations and other documents as they may require, in respect of—
  - (i) the seed lot or seed lots to be used for the production of the crop or crops from which is to be or has been obtained the seed lot in respect of which the application for an official certificate has been made; and
  - (ii) the crop or crops from which the seed lot is to be or has been obtained;
- (b) an official examination of the crop or crops from which was obtained the seed lot in respect of which the application for an official certificate has been made has shown that the crop or crops met the standards appropriate to the category of seed referred to in the application specified in Part I of Schedule 4; and
- (c) an official examination of a sample of the seed lot has shown that the seed lot meets the standards appropriate to the relevant category of seed referred to in the application specified in Part II of Schedule 4,

except that—

- (i) paragraphs 2(1)(a) and (b) shall not apply in relation to an application for the issue of an official certificate in respect of Commercial Seed; and
- (ii) paragraph 2(1)(c), in so far as it relates to standards of percentage of germination specified in paragraph 13 of Part II of Schedule 4, shall not apply in relation to an application for the issue of an official certificate in respect of lower germination seed.

(2) Notwithstanding sub-paragraph (1), the Scottish Ministers shall refuse to issue an official certificate certifying a seed lot either as—

- (a) Basic Seed if the seed lot was certified at the time of the relevant application as Seed of a Certified Generation; or
- (b) Pre-basic Seed if the seed lot was certified at the time of the relevant application as either Basic Seed or Seed of a Certified Generation,

unless the application is accompanied by the written consent of the Breeder.

### **When applications may be refused**

3. The Scottish Ministers may refuse to issue an official certificate in respect of a seed lot if it appears to them that—

- (a) a sample taken from the seed lot for the purpose of an official examination to ascertain whether the seed lot meets the appropriate standards specified in Part II of Schedule 4 has not been taken in accordance with regulation 15(1);
- (b) an official examination of a control plot sown with a sample of the seed lot sown in the field shows that the crop does not meet the appropriate standards specified in Part I of Schedule 4; or
- (c) there has been any breach of seeds regulations in relation to the seed lot in respect of which the application for an official certificate has been made.

### **Applications for seed harvested in an EEA State or third country**

4. Notwithstanding paragraphs 2 and 3, on receipt of an application made in accordance with regulation 14(1) and in pursuance of Article 15 (certification of seed from other EEA States or equivalent third countries) of the Fodder Plant Seed Directive for the issue of an official certificate in respect of a seed lot as Pre-basic Seed, Basic Seed, Seed of a Certified Generation or Commercial Seed, the Scottish Ministers shall issue in respect of the seed lot an official certificate containing the particulars specified in paragraph 1 of Schedule 3 if—

- (a) the seed has been—
  - (i) produced directly from fully certified Basic Seed, Certified Seed of the First Generation or seed certified in a third country which is permitted to be sold as Basic Seed or Certified Seed of the First Generation by virtue of a general licence granted by the Scottish Ministers under regulation 10 or the implementation of the Equivalence Decision; and
  - (ii) harvested in an EEA State other than the United Kingdom or in a third country; or
- (b) the seed has been—
  - (i) produced directly from the crossing of fully certified Basic Seed with seed certified in a third country which is permitted to be sold as Basic Seed by virtue of a general licence granted by the Scottish Ministers under regulation 10 or the implementation of the Equivalence Decision; and
  - (ii) harvested in an EEA State other than the United Kingdom or in a third country; or
- (c) the seed—
  - (i) is to be certified by the Scottish Ministers as Basic Seed;
  - (ii) has been produced directly from fully certified Pre-basic Seed or from seed certified in a third country which is permitted to be sold as Pre-basic seed by virtue of a general licence granted by the Scottish Ministers under regulation 10 or the implementation of the Equivalence Decision; and
  - (iii) has been harvested in an EEA State other than the United Kingdom or in a third country; andprovided that—
- (d) if the seed has been harvested in an EEA State other than the United Kingdom, the seed has been harvested from a crop which has been found by official field inspection to satisfy the crop conditions specified in Annex I (crop standards) of the Fodder Plant Seed Directive for the relevant category of seed;
- (e) if the seed has been harvested in an EEA State, the seed has been packed in a sealed package in accordance with the requirements of Article 9(1) (sealing) of the Fodder Plant Seed Directive and has been labelled in accordance with the requirements of the

second indented sub-paragraph of the first paragraph of Article 15(2) (labelling requirements for certification of seed from other EEA States or equivalent third countries) of the Fodder Plant Seed Directive;

- (f) if the seed has been harvested in an EEA State, the seed has been imported into the United Kingdom as not finally certified seed;
- (g) if the seed has been harvested in an EEA State, the seed is accompanied by an Annex V(C) document relating to the seed issued by the competent seed certification authority in the EEA State; and
- (h) official examination has shown that the conditions specified in Part II of Schedule 4 for the relevant category of seed have been satisfied.

## PART II

### BREEDER'S CONFIRMATIONS

#### **Applications**

5. On receipt of an application made in accordance with regulation 20(1) for the issue of a breeder's confirmation in respect of a seed lot, as Pre-basic Seed or Basic Seed, the Scottish Ministers shall, subject to paragraphs 6 and 7, issue in respect of that seed lot a breeder's confirmation containing the particulars specified in paragraph 2 of Schedule 3.

#### **When applications will be refused**

6. The Scottish Ministers shall refuse to issue a breeder's confirmation in respect of a seed lot unless—

- (a) an application has been made to the Scottish Ministers in writing in such form and manner and at such time as the Scottish Ministers may require, and has been accompanied by such information, material, records, illustrations and other documents as they may require, in respect of—
  - (i) the seed lot or seed lots to be used for the production of the crop or crops from which is to be or has been obtained the seed lot in respect of which the application for a breeder's confirmation has been made; and
  - (ii) the crop or crops from which the seed lot is to be or has been obtained;
- (b) an official examination of the crop or crops from which was obtained the seed lot in respect of which the application for a breeder's confirmation has been made has shown that the crop or crops meet the standards specified in Part I of Schedule 4 appropriate to the category referred to in the application; and
- (c) an official examination of a sample taken from the seed lot has shown that the seed lot meets the standards specified in Part II of Schedule 4 appropriate to the relevant category of seed referred to in the application except that a breeder's confirmation can be issued for Pre-basic Seed or Basic Seed in respect of seed which attains a lower percentage of germination than that specified in paragraph 13 of Part II of Schedule 4.

#### **When applications may be refused**

7. The Scottish Ministers may refuse to issue a breeder's confirmation in respect of a seed lot if it appears to them that—

- (a) a sample taken from the seed lot for the purpose of an official examination to ascertain whether the seed lot meets the appropriate standards specified in Part II of Schedule 4 has not been taken in accordance with regulation 15(1);

- (b) an official examination of a control plot sown with a sample of the seed lot sown in the field shows that the crop does not meet the appropriate standards specified in Part I of Schedule 4;
- (c) there has been a breach of seeds regulations in relation to the seed lot in respect of which application for a breeder's confirmation has been made; or
- (d) the breeder applying for the breeder's confirmation in respect of the seed lot notifies them that the application to have the relevant variety or hybrid variety accepted on to a UK National List (or to an equivalent list in an EEA State) has been withdrawn or refused.



## SCHEDULE 3

Regulation 2(1), paragraphs 1  
and 4 of Part I of Schedule 2  
and paragraph 5 of Part II of  
Schedule 2

### PARTICULARS TO BE SPECIFIED IN AN OFFICIAL CERTIFICATE OR A BREEDER'S CONFIRMATION

#### **Particulars to be specified in an official certificate**

1. The following particulars shall be specified in an official certificate—
  - (a) name and address of certifying authority;
  - (b) applicant's name, address and, if appropriate, registered number;
  - (c) seed lot reference number;
  - (d) species/variety/category/level, as appropriate;
  - (e) net weight of seed lot and number of containers;
  - (f) seed treatment, if any; and
  - (g) if the seed is Pre-basic Seed or Basic Seed and the seed attains a lower percentage of germination than that specified in paragraph 13 of Part II of Schedule 4, a statement to that effect.

#### **Particulars to be specified in a breeder's confirmation**

2. The following particulars shall be specified in a breeder's confirmation—
  - (a) name and address of issuing authority;
  - (b) applicant's name, address and, if appropriate, registered number;
  - (c) seed lot reference number;
  - (d) species/variety, or AFP number and breeder's designation, if appropriate/category, as appropriate;
  - (e) net weight of seed lot and number of containers;
  - (f) seed treatment, if any;
  - (g) statement that the breeder's confirmation does not constitute an official certificate and does not permit marketing of the seed; and
  - (h) if the seed is Pre-basic Seed or Basic Seed and the seed attains a lower percentage of germination than that specified in paragraph 13 of Part II of Schedule 4, a statement to that effect.

## SCHEDULE 4

Regulations 2(1), 3, 6(2), 7, 11, 12(1), (2) and (3), 14(4), 20(3), 22(5), and paragraphs 2, 3 and 4 of Part I of Schedule 2, paragraphs 6 and 7 of Part II of Schedule 2 and paragraphs 1 and 2 of Schedule 3

# REQUIREMENTS FOR PRE-BASIC SEED, BASIC SEED, CERTIFIED SEED, CERTIFIED SEED OF THE FIRST GENERATION, CERTIFIED SEED OF THE SECOND GENERATION AND COMMERCIAL SEED

## PART I

### CONDITIONS RELATING TO CROPS FROM WHICH SEED OTHER THAN COMMERCIAL SEED IS OBTAINED

#### **Methods of ascertaining whether crop requirements are met**

1. The Scottish Ministers may ascertain, so far as practicable, whether the requirements for the crop set out in this Part of this Schedule are met by the use of methods which shall include official field inspection of the crop and which may include examination of a control plot sown with a sample from the seed lot sown in the field and the consideration of any other relevant information.

#### **Varietal identity and varietal purity**

2. The characteristics used for the determination of varietal identity and varietal purity shall be those to which regard was had when the relevant variety was accepted on to the relevant UK National List, an equivalent list in another EEA State or the Common Catalogue.

#### **Crop inspection**

3.—(1) An official examination of the crop shall be made by means of an official field inspection.

(2) The official field inspection shall only be carried out when the cultural condition of the field and the stage of development and condition, including state of health, of the crop—

- (a) are such as to permit suitable checks of varietal identity, varietal purity and species purity to be made; and
- (b) meet the requirements of the Scottish Ministers.

(3) At least one official field inspection of the crop shall be carried out.

#### **Harmful organisms in the crop**

4. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.

### Previous cropping

5.—(1) The previous cropping of the field shall not have been incompatible with the production of seed of the species and variety of the crop, and the field shall be sufficiently free from plants which are volunteers from previous cropping.

(2) The crop may be grown only on land which complies with the Scottish Ministers' requirements in respect of previous cropping.

### Limitations on number of harvest years

6. A crop to produce Pre-basic Seed, Basic Seed or Certified Seed of hybrid or Italian ryegrass shall not be used to produce a crop in the second year unless—

- (a) Pre-basic Seed was produced in the first harvest year in which case Basic Seed may be produced in the second harvest year;
- (b) Basic Seed was produced in the first harvest year from a crop grown from officially certified Pre-basic Seed, in which case Certified Seed may be produced in the second harvest year;
- (c) for a tetraploid variety of hybrid ryegrass, Certified Seed was produced in the first harvest year from a crop grown from officially certified Basic Seed, in which case Certified Seed may be produced in the second harvest year.

### Isolation distances – general

7. There shall be either a physical barrier or at least 2 metres of fallow ground between the seed crop and any crop likely to cause contamination in the seed.

### Isolation distances - minimum distances

8. For a crop shown in Column 1 of the following table, the minimum distances from neighbouring crops or plants of other species, or of other varieties of the same species, liable to cross-pollinate with the crop shall be the distances specified in column 2 or 3, as appropriate (which can include any distance of at least 2 metres of fallow ground required under paragraph 7 of this Part of this Schedule)—

<b>Column 1</b> <b>Crop</b>	<b>Column 2</b> <b>Minimum</b> <b>Distances</b> <i>Crop Area</i> <i>up to 2 hectares</i>	<b>Column 3</b> <b>Minimum</b> <b>Distances</b> <i>Crop Area</i> <i>over 2 hectares</i>
(a) All grasses other than apomictic uniclinal varieties of smooth stalked meadowgrass—		
(i) for the production of Basic Seed	200 metres	100 metres
(ii) for the production of Certified Seed	100 metres	50 metres
(b) All legumes other than field bean, field pea, vetches & lucerne and for fodder radish—		
(i) for the production of Basic Seed	200 metres	100 metres
(ii) for the production of Certified Seed	100 metres	50 metres
(c) Field bean, vetches & lucerne—		
(i) for the production of Basic Seed & Certified Seed of the First Generation	200 metres	100 metres
(ii) for the production of Certified Seed of the Second Generation	100 metres	50 metres
(d) Fodder kale & swede—		
(i) for the production of Basic Seed	400 metres	400 metres
(ii) for the production of Certified Seed	200 metres	200 metres

but with the approval of the Scottish Ministers these distances may be modified or disregarded if there is adequate protection against undesirable foreign pollen.

### Standards for varietal purity

9. The crop shall have sufficient varietal identity and varietal purity and in particular the number of plants of the crop species which are recognisable as obviously not being true to the variety shall not exceed—

	<b>In Crops to Produce</b>	
	<b>Basic Seed</b>	<b>Seed of a Certified Generation</b>
(a) In the case of all grasses except smooth stalked meadowgrass	One plant in 30 square metres	One plant in 10 square metres
(b) In the case of all legumes except field peas & field beans and in the case of fodder radish	One plant in 30 square metres	One plant in 10 square metres
(c) In the case of smooth stalked meadowgrass		
(i) apomictic uniclinal varieties	One plant in 20 square metres	Six plants in 10 square metres
(ii) all varieties except apomictic uniclinal varieties	One plant in 20 square metres	Four plants in 10 square metres

Plants of other species, the seeds of which are difficult to distinguish from the crop seeds in a laboratory test, shall be at a low level and in particular the number of plants of a ryegrass species or festulolium, other than the crop species itself, shall not exceed—

	<b>In Crops to Produce</b>	
	<b>Basic Seed</b>	<b>Certified Seed</b>
In the case of perennial, Italian & hybrid ryegrass and festulolium	One plant in 50 square metres	One plant in 10 square metres

### Crop conditions for Pre-basic Seed

10. For the purpose of determining whether a crop from which Pre-basic Seed is to be produced meets the conditions specified in this Part of this Schedule, the crop from which such seed is to be produced shall be treated in the same way as a crop from which Basic Seed is to be produced.

## PART II

### CONDITIONS RELATING TO BASIC SEED, CERTIFIED SEED, CERTIFIED SEED OF THE FIRST GENERATION, CERTIFIED SEED OF THE SECOND GENERATION AND COMMERCIAL SEED

#### Standards for varietal purity

11.—(1) The seed shall possess sufficient varietal identity and varietal purity and in particular seed of the species and category specified in Column 1 of the following table shall possess at least the percentage of minimum varietal purity specified in the corresponding entry in column 2 of the table—

<i>Species and category</i> <i>Column 1</i>	<i>Percentage of minimum varietal purity</i> <i>Column 2</i>
(a) Fodder kale, apomictic uniclinal varieties of smooth-stalked meadowgrass and swede—	
(i) Basic Seed	99.7
(ii) Certified Seed	98.0
(b) Field beans and field peas—	
(i) Basic Seed	99.7
(ii) Certified Seed of the First Generation	99.0
(iii) Certified Seed of the Second Generation	98.0

(2) For the purposes of paragraph (1), the minimum varietal purity of seed shall be examined mainly in official field inspections carried out in accordance with conditions specified in Part I of this Schedule.

#### Harmful organisms in the seed

12. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.

**Standards for germination, analytical purity and content of seed of other plant species**

**13.** The seed shall conform to the standards or other conditions as regards germination, analytical purity and the content of seeds of other plant species specified in the following table—

**TABLE I**

Species	Minimum germination (% by number of pure seeds or pure pellets)(a)	Maximum hard seed content (% by number of pure seeds or pure pellets)	Minimum analytical purity (% by weight)		Maximum total content of seeds of other plant species (% by weight)		
	Basic Seed and Certified Seed	Basic Seed and Certified Seed	Basic Seed and Certified Seed (minimum standard)	Certified Seed (Higher Voluntary Standard)	Basic Seed	Certified Seed (minimum standard)	Certified Seed (Higher Voluntary Standard)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
<b>Grasses</b>							
Cocksfoot	80	n/a	90	90	0.3	1.5	1.5
Festulolium	75	n/a	96	98	0.3	1.5	1.5
Hybrid ryegrass	75	n/a	96	98	0.3	1.5	1.5
Italian ryegrass	75	n/a	96	98	0.3	1.5	1.5
Meadow fescue	80	n/a	95	98	0.3	1.5	1.5
Perennial ryegrass	80	n/a	96	98	0.3	1.5	1.5
Red fescue	75	n/a	90	95	0.3	1.5	1.5
Smooth-stalked meadowgrass	75	n/a	85	90	0.3	2.0	1.5
Tall fescue	80	n/a	95	98	0.3	1.5	1.5
Timothy (including small Timothy)	80	n/a	96	98	0.3	1.5	1.5
<b>Legumes</b>							
Lucerne	80(b)	40	97	98	0.3	1.5	1.5
Red clover	80(b)	20	97	98	0.3	1.5	1.5
Sainfoin	75(b, c)	20(c)	95(c)	98	0.3	2.5(d)	1.5
White clover	80(b)	40	97	98	0.3	1.5	1.5

(a) All fresh and healthy seeds which do not germinate after pre-treatment shall be considered as seeds which have germinated.

(b) Up to the maximum content indicated in column (3), hard seeds present shall be considered as seeds capable of germination.

(c) Including Commercial Seed.

(d) For Commercial Seed 3.5%.

n/a Not applicable (no standard).

TABLE II

Species	Minimum germination (% by number of pure seeds or pure pellets)(a)	Maximum hard seed content (% by number of pure seeds or pure pellets)	Minimum analytical purity (% by weight)	Maximum total content of seeds of other plant species (% by weight)	
	All categories	All categories	All categories	Basic Seed	Certified Seed, Certified Seed of the First, and Second Generations
(1)	(2)	(3)	(4)	(5)	(6)
<b>Grasses</b>					
Alaska brome-grass	75	n/a	97	0.4	1.5
Annual meadowgrass	75	n/a	85	0.3	2.0(e)
Brown top	75	n/a	90	0.3	2.0
Creeping bent	75	n/a	90	0.3	2.0
Red top	80	n/a	90	0.3	2.0
Rescue grass	75	n/a	97	0.4	1.5
Rough-stalked meadowgrass	75	n/a	85	0.3	2.0
Sheep's fescue	75	n/a	85	0.3	2.0
Tall oatgrass	75	n/a	90	0.3	3.0
Velvet bent	75	n/a	90	0.3	2.0
Wood meadowgrass	75	n/a	85	0.3	2.0
<b>Legumes</b>					
Aliske clover	80(b)	20	97	0.3	1.5
Birdsfoot trefoil	75(b)	40	95	0.3	1.8
Common vetch	85(b)	20	98	0.3	1.0
Field bean	80(b)	5	98	0.3	0.5
Field pea	80	n/a	98	0.3	0.5
Hairy vetch	85(b)	20	98	0.3	1.0
Hungarian vetch	85(b)	20	98(c)	0.3	1.0(d)
Narrow-leaved lupin (Blue lupin)	75(b)	20	98	0.3	0.5
Trefoil	80(b)	20	97	0.3	1.5
White lupin	80(b)	20	98	0.3	0.5
Yellow lupin	80(b)	20	98	0.3	0.5
<b>Others</b>					
Fodder kale	75	n/a	98	0.3	1.0
Fodder radish	80	n/a	97	0.3	1.0
Swede	80	n/a	98	0.3	1.0

(a) All fresh and healthy seeds which do not germinate after pre-treatment shall be considered as seeds which have germinated.  
(b) Up to the maximum content indicated in column (3), hard seeds present shall be considered as seeds capable of germination.  
(c) For Commercial Seed 97%.  
(d) For Commercial Seed 2.0%.  
(e) For Commercial Seed 3.0%.  
n/a Not applicable (no standard).

**Standards regarding content of seeds of other plant species**

14. The seeds shall comply, where appropriate, with the standards in the following tables and where number standards are indicated a sample of the size indicated in column 2 shall be examined—

**TABLE I**

Species	Weight of sample for determination of foreign seeds by number (grams)	Maximum permitted content of seed impurities (by number or as a percentage by weight)															
		Avena fatua, A. ludoviciana and A. sterilis (Wild oat) or Cuscuta spp. (Dodder)		Rumex spp. (Docks, Sorrels) excluding R. acetosella (Sheep's sorrel) and R. maritimus (Golden dock)		Alopecurus myosuroides (Blackgrass)		Agropyron repens (Couch)		Melilotus spp. (Sweetclovers)		Maximum content of any one other plant species					
		Basic Seed	Certified Seed	Basic Seed	Certified Seed	Basic Seed	Certified Seed	Basic Seed	Certified Seed	Basic Seed	Certified Seed	Basic Seed	Certified Seed	Basic Seed	Certified Seed		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)
<b>Grasses</b>																	
Cocksfoot	30	0	0(a)	2	5	5	5	0.3	10	5	0.3	10	n/a	n/a	20(b)	1.0	0.5
Festulolium	60	0	0(a)	2	5	5	5	0.3	10	5	0.5	10	n/a	n/a	20(b)	1.0	0.5(e),(f)
Hybrid ryegrass	60	0	0(a)	2	5	5	5	0.3	10	5	0.5	10	n/a	n/a	20(b)	1.0	0.5(c),(f)
Italian ryegrass	60	0	0(a)	2	5	5	5	0.3	10	5	0.5	10	n/a	n/a	20(b)	1.0	0.5(e),(f)
Meadow fescue	50	0	0(a)	2	5	5	5	0.3	10	5	0.5	10	n/a	n/a	20(b)	1.0	0.5(e),(f)
Perennial ryegrass	60	0	0(a)	2	5	5	5	0.3	10	5	0.5	10	n/a	n/a	20(b)	1.0	0.5(b),(f)
Red fescue	30	0	0(a)	2	5	5	5	0.3	10	5	0.5	10	n/a	n/a	20(b)	1.0	0.5(f),(g)
Smooth-stalked meadowgrass	5	0	0(a)	1	2	2	1	0.3	3	1	0.3	3	n/a	n/a	20(m)	1.0(k)	0.5(i)
Tall fescue	50	0	0(a)	2	5	5	5	0.3	10	5	0.5	10	n/a	n/a	20(b)	1.0	0.5(e),(f)
Timothy (including Small Timothy)	10	0	0(a)	2	5	4	1	0.3	10	1	0.3	10	n/a	n/a	20	1.0	0.5(d)
<b>Legumes</b>																	
Lucerne	50	0	0	3	10	10	n/a	n/a	10	n/a	n/a	10	0(b)	0(b)	20	1.0	0.5
Red clover	50	0	0	5	10	10	n/a	n/a	10	n/a	n/a	10	0(b)	0(b)	20	1.0	0.5
Sainfoin Seed/Fruit	400/600	0	0(f)	2	5(j)	5	n/a	n/a(j)	10	n/a	n/a(j)	10	0	0	20	1.0(n)	0.5
White clover	20	0	0	5	10	10	n/a	n/a	10	n/a	n/a	10	0(b)	0(b)	20	1.0	0.5

(a) For Certified Seed, minimum standard, 1 seed of dodder in a sample of the size specified in column (2) shall not be regarded as an impurity if a second sample of the same weight is free from dodder.

(b) There shall be no more than 80 seeds of meadowgrasses in a sample of the size specified in column (2).

(c) There shall be no more than 0.4% by weight of annual meadowgrass.

(d) There shall be no more than 0.3% by weight of bentgrasses.

(e) There shall be no more than 0.3% by weight of ryegrasses.

(f) For Certified Seed, Higher Voluntary Standard, of red fescue, there shall be no more than a total of 4 seeds of ryegrass, cocksfoot and meadow fescue in a sample of the size specified in column 2.

(g) One seed of sweetclover in a sample of the size specified in column 2 shall not be regarded as an impurity if a second sample of twice that size is free from seed of sweetclovers.

(h) Including Commercial Seed.

(i) In Certified Seed there shall be no more than 0.8% by weight of seeds of other meadowgrasses.

(j) In Certified Seed there shall be no more than 0.4% by weight of seeds of other meadowgrasses.

(k) In Basic seed of meadowgrass there shall be no more than 1 seed of meadowgrasses other than the species being examined, in a sample of 500 seeds.

(l) For Commercial Seed 2.0%.

(m) Not applicable (no standard).



**TABLE II**

Species	Weight of sample for determination of foreign seeds by number (grams)	Maximum permitted content of seed impurities (by number or as a percentage by weight)																Other Requirements
		<i>Avena fatua</i> , <i>A. ludoviciana</i> and <i>A. sterilis</i> (Wild oat)		<i>Rumex</i> spp. (Dock, Sorrels) excluding <i>R. acetosella</i> (Sheep's sorrel) and <i>R. maritimus</i> (Golden dock)		<i>Alopecurus myosuroides</i> (Blackgrass)		<i>Agropyron repens</i> (Couch)		<i>Melilotus</i> spp. (Sweetclovers)		Maximum content of any one other plant species						
		Basic Seed Number (3)	All other categories Number (4)	Basic Seed Number (5)	All other categories Number (6)	Basic Seed Number (7)	All other categories % (8)	Basic Seed Number (9)	All other categories % (10)	Basic Seed % (11)	All other categories % (12)	Basic Seed Number (13)	Certified Seed or Certified 1 <sup>st</sup> or 2 <sup>nd</sup> Generations % (14)					
<b>Grasses</b>																	(15)	
Alaska brome-grass	200	0(c),(d)	0(c),(d)	5	10	5	0.3	5	0.5	n/a	n/a	20	1.0	n/a	n/a	n/a	n/a	
Annual meadow grass	10	0	0(c)	1	5	1	0.3	1	0.3	n/a	n/a	20(e)	1.0(f),(n)	n/a	n/a	(g)	(g)	
Brown top	5	0	0(c)	2	2	1	0.3	1	0.3	n/a	n/a	20	1.0	n/a	n/a	n/a	n/a	
Creeping bent	5	0	0(c)	2	2	1	0.3	1	0.3	n/a	n/a	20	1.0	n/a	n/a	n/a	n/a	
Red top	5	0	0(c)	2	2	1	0.3	1	0.3	n/a	n/a	20	1.0	n/a	n/a	n/a	n/a	
Rescue grass	200	0(c),(d)	0(c),(d)	5	10	5	0.3	5	0.5	n/a	n/a	20	1.0	n/a	n/a	n/a	n/a	
Rough-stalked meadowgrass	5	0	0(c)	2	2	1	0.3	1	0.3	n/a	n/a	20(e)	1.0(f)	n/a	n/a	n/a	n/a	
Sheep's fescue	30	0	0(c)	2	5	5	0.3	5	0.5	n/a	n/a	20(a)	1.0	n/a	n/a	n/a	n/a	
Tall oatgrass	80	0(c),(d)	0(c),(d)	2	5	5	0.3	5	0.5	n/a	n/a	20(a)	1.0(q)	n/a	n/a	n/a	n/a	
Velvet bent	5	0	0(c)	2	2	1	0.3	1	0.3	n/a	n/a	20	1.0	n/a	n/a	n/a	n/a	
Wood meadowgrass	5	0	0(c)	2	2	1	0.3	1	0.3	n/a	n/a	20(e)	1.0(f)	n/a	n/a	n/a	n/a	
<b>Legumes</b>																		
Alsike clover	20	0	0	3	10	n/a	n/a	n/a	n/a	0(b)	0.3	20	1.0	n/a	n/a	n/a	n/a	
Birdsfoot trefoil	30	0	0	3	10	n/a	n/a	n/a	n/a	0(b)	0.3	20	1.0(h)	n/a	n/a	n/a	n/a	
Common vetch	1,000	0	0	2	5	n/a	n/a	n/a	n/a	0	0.3	20	0.5(j)	n/a	n/a	n/a	n/a	
Field bean	1,000	0	0	2	5	n/a	n/a	n/a	n/a	0	0.3	20	0.3	n/a	n/a	n/a	n/a	
Field pea	1,000	0	0	2	5	n/a	n/a	n/a	n/a	0	0.3	20	0.3	n/a	n/a	n/a	n/a	
Hairy vetch	1,000	0	0	2	5	n/a	n/a	n/a	n/a	0	0.3	20	0.5(j)	n/a	n/a	n/a	n/a	
Hungarian vetch	1,000	0	0	2	5	n/a	n/a	n/a	n/a	0	0.3	20	0.5(j),(p)	(l)	n/a	n/a	n/a	
Narrow-leaved lupin (Blue lupin)	1,000	0	0	2	5	n/a	n/a	n/a	n/a	0	0.3	20	0.3(j)	(k)	n/a	n/a	n/a	
Trefoil	50	0	0	5	10	n/a	n/a	n/a	n/a	0(b)	0.3	20	1.0	n/a	n/a	n/a	n/a	
White lupin	1,000	0	0	2	5	n/a	n/a	n/a	n/a	0	0.3	20	0.3(j)	(k)	n/a	n/a	n/a	
Yellow lupin	1,000	0	0	2	5	n/a	n/a	n/a	n/a	0	0.3	20	0.3(j)	(k)	n/a	n/a	n/a	
<b>Others</b>																		
Fodder kale	100	0	0(c)	3	10	n/a	n/a	n/a	n/a	n/a	n/a	20	0.5	n/a	n/a	(m)	(m)	
Fodder radish	300	0	0	2	5	n/a	n/a	n/a	n/a	n/a	n/a	20	0.5	n/a	n/a	(m)	(m)	
Sweede	100	0	0(c)	2	5	n/a	n/a	n/a	n/a	n/a	n/a	20	0.5	n/a	n/a	(m)	(m)	

(a) The presence of a maximum of 80 seeds of meadowgrasses in a sample of the size specified in column (2) shall not be regarded as an impurity.  
 (b) One seed of sweetclovers in a sample of the size specified in column (2) shall not be regarded as an impurity if a second sample of twice that size is free from seed of sweetclovers.  
 (c) One seed of dodder in a sample of the size specified in column (2) shall not be regarded as an impurity if a second sample of the same weight is free from dodder.  
 (d) A maximum of 2 seeds of wild oat in a sample of the size specified in column (2) shall not be regarded as an impurity if a second sample of the same weight is free from wild oat.  
 (e) In Basic Seed of meadowgrass there shall be no more than 1 seed of meadowgrass other than the species being examined in a sample of 500 seeds.  
 (f) In Certified Seed of meadowgrass a maximum of 0.8% by weight of seeds of other meadowgrasses shall not be regarded as an impurity.  
 (g) In Commercial Seed 10% by weight of other species of meadowgrass shall not be regarded as an impurity.  
 (h) The presence of a maximum of 1.0% by weight of seeds of red clover shall not be regarded as an impurity.  
 (i) The presence of a maximum of 0.5% by weight in total of seeds of white, narrow-leaved (blue) and yellow lupins, Hungarian, common and hairy vetch, field pea and field bean in another relevant species shall not be regarded as an impurity (including Commercial Seed of Hungarian vetch).  
 (j) In Basic Seed of lupins the presence of bitter lupins in sweet varieties shall not exceed 1.0%. In Certified Seed of lupins the presence of bitter lupin seeds in sweet varieties shall not exceed 2.5% and the presence of seeds of another colour shall not exceed 2.0% in bitter lupins and 1.0% in other lupins. In Commercial Seed of lupins (bitter varieties) the presence of seeds of another colour shall not exceed 4.0%.  
 (k) In Commercial Seed the presence of a maximum of 6% by weight in total seeds of other species of vetch shall not be regarded as an impurity.  
 (l) For all categories there shall be no more than a maximum of 0.5% by weight of *Raphanus raphanistrum* (wild radish) or *Sinapis arvensis* (charlock).  
 (m) For Commercial Seed 2.0%.  
 (n) For Commercial Seed 1.5%.  
 (p) The prescribed maximum percentage by weight of seeds of a single species shall not apply to seeds of meadowgrasses.  
 (q) Not applicable (no standard).  
 n/a Not applicable.

## SCHEDULE 5

Regulations 2(1), 15(1) and  
(2) and 24(5) and (6)

### PART I

#### SAMPLING OF SEED LOTS

##### Definitions

1. In this Part of this Schedule—

“composite sample” means a single sample comprising all of the primary samples taken from a seed lot during a single sampling exercise to produce a submitted sample for the seed lot; and

“primary sample” means a sample taken from a seed lot in accordance with paragraphs 13 to 19 of this Part of this Schedule.

##### Obtaining a submitted sample

2. A submitted sample shall be obtained from the seed lot by taking primary samples systematically or at random from different positions in the seed lot and combining them to form a composite sample. Where the composite sample is a submitted sample, it may be submitted for an official examination intact or it may be reduced in weight by using one of the instruments referred to in paragraph 20 of this Part of this Schedule in accordance, where appropriate, with the relevant procedures specified in paragraphs 20 to 22 of this Part of this Schedule to give a smaller submitted sample.

##### Primary sample size

3. At each position of sampling of a seed lot, primary samples of approximately equal size shall be taken.

##### Condition of the seed lot

4. The seed lot to be sampled shall be a homogeneous seed lot.

##### Seed lot containers

5. If a seed lot is presented for sampling in more than one container, the containers shall be of the same size and type and contain approximately the same weight of seed.

##### Sampling from sacks - minimum number of containers to be sampled

6. When the seed lot is in sacks or similar sized containers each containing at least 15 kilograms of seed and not more than 100 kilograms of seed, the minimum number of containers to be sampled shall be in accordance with the following table—

<b>Number of containers in which the seed lot is contained</b>	<b>Minimum number of containers to be sampled</b>
1-4	3 primary samples from each container
5-8	2 primary samples from each container

<b>Number of containers in which the seed lot is contained</b>	<b>Minimum number of containers to be sampled</b>
9-15	1 primary sample from each container
16-30	A total of 15 primary samples with each sample being taken from a different container
31-59	A total of 20 primary samples with each sample being taken from a different container
60 or more	A total of 30 primary samples with each sample being taken from a different container

### **Sampling from sacks or similar containers**

7. The containers to be sampled shall be selected systematically or at random and primary samples shall be drawn from the top, middle and bottom of containers; and if more than one primary sample is taken from any container then the position from which the seed is taken shall be varied from primary sample to primary sample and from container to container.

### **Sampling from small containers – general**

8. For sampling seed lots in containers holding less than 15 kilograms of seed, a 100 kilogram weight of seed shall be taken as the basic unit and the small containers shall be combined to form sampling units not exceeding this weight (for example 9 packages of 10 kilograms, 20 packages of 5 kilograms) and for sampling purposes each unit shall be regarded as one container and the sampling procedures prescribed in paragraphs 6 and 7 of this Part of this Schedule shall be used.

### **Sampling from small containers - moisture-proof containers**

9. When seed is in moisture-proof containers the opened or pierced containers shall be adequately closed or the residues from sampling transferred to new containers.

### **Sampling from small containers - primary samples**

10. When seed is in packets of 100 grams or less each packet may be considered as a primary sample and sufficient packets shall be taken at random to obtain a submitted sample.

### **Sampling from large containers**

11. For the sampling of containers holding at least 100 kilograms of seed, primary samples shall be taken from different horizontal and vertical positions selected at random and the minimum number of primary samples to be taken shall be in accordance with the following table–

<b>Seed lot weight (kilograms)</b>	<b>Number of primary samples to be taken</b>
Up to 500	At least 5
501-3,000	1 for each 300 kilograms but no fewer than 5
3,001-20,000	1 for each 500 kilograms but no fewer than 10
20,001 and above	1 for each 700 kilograms but no fewer than 40

### **Sampling of seed lots intended to be Excepted Seed Marketed in Bulk**

12. Random sampling of seed lots of seed which is intended to be Excepted Seed Marketed in Bulk shall be carried out in accordance with the requirements of this Schedule during the filling of the container used by the final consumer and into which the seed is placed.

### **Sampling from a seed stream**

13. Primary samples may be drawn from a seed stream during processing using an automatic sampling device, which shall uniformly sample the entire cross-section of the seed stream when a sample is taken. Primary samples of seed shall be taken at regular intervals throughout the processing of the seed lot using the same sampling intensity as specified in paragraph 11 of this Part of this Schedule.

### **Sampling instruments – general**

14. Sampling instruments shall be capable of sampling all parts of the seed lot.

### **Sampling instruments - instruments and methods**

15. Subject to paragraph 16 of this Part of this Schedule, one of the instruments described in paragraph 17 of this Part of this Schedule shall be used, as appropriate to the location of the seed, to draw primary samples in accordance with the relevant methods described in paragraphs 18 and 19 of this Part of this Schedule.

### **Sampling instruments - power to allow other instruments and methods**

16. Where it is not practicable to use any of the instruments described in paragraph 17 of this Part of this Schedule in accordance with the relevant methods described in paragraphs 18 and 19 of this Part of this Schedule, another instrument or method may be used with the written approval of the Scottish Ministers.

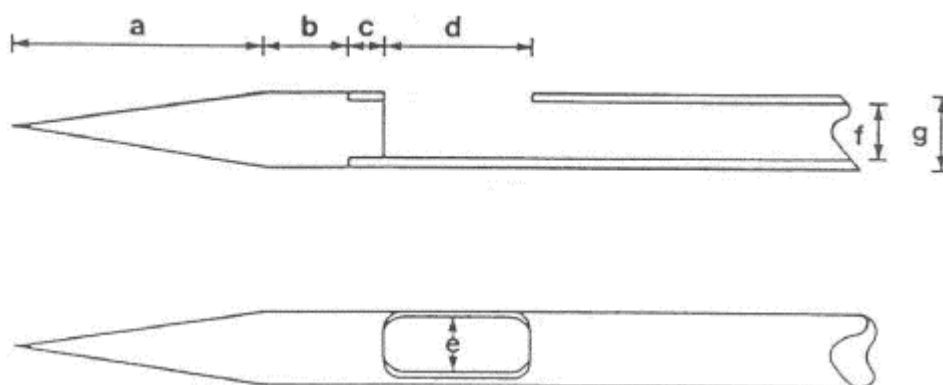
### **Sampling instruments - instruments for drawing primary samples**

17. The instruments referred to in paragraph 15 of this Part of this Schedule, to be used for drawing primary samples are as follows–

#### **(a) Dynamic spear sampler**

Subject to paragraph 14 of this Part of this Schedule, a dynamic spear sampler may be used, in accordance with the methods described in paragraph 19(a) of this Part of this Schedule, for sampling seed lots in sacks or small containers. It shall be a hollow, cylindrical, solid-pointed metal spear or trier which shall be long enough to reach beyond the middle of the sack from the side and shall have an aperture so positioned that portions of seed of equal volume are removed from each part of the sack through which it travels. In sampling seed lots of the species specified in column 1 of the following table a dynamic spear sampler shall have a point length (a), shoulder length (b), boss length (c), aperture length (d), aperture width (e), bore width (f) and outside diameter (g) as shown in the diagrams below of dimensions no smaller than those specified in the corresponding entries in the table–

Species of Seed for which dynamic spear sampler can be used	Dimensions in millimetres						
	Point length	Shoulder length	Boss length	Aperture length	Aperture width	Bore width	Outside diameter
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
All legumes other than sainfoin, field pea, field bean, lupins and vetches. Meadowgrasses, brown top, creeping bent, red top, velvet bent, Timothy, fodder kale, fodder radish and swede.	42	7	8	20	8	10	12
Ryegrasses, festulolium, fescues, cocksfoot, tall oatgrass, rescue grass, Alaska brome-grass, sainfoin and field pea.	85	12	10	33	11	13	15
Field bean, lupins and vetches.	82	12	13	40	15	17	19



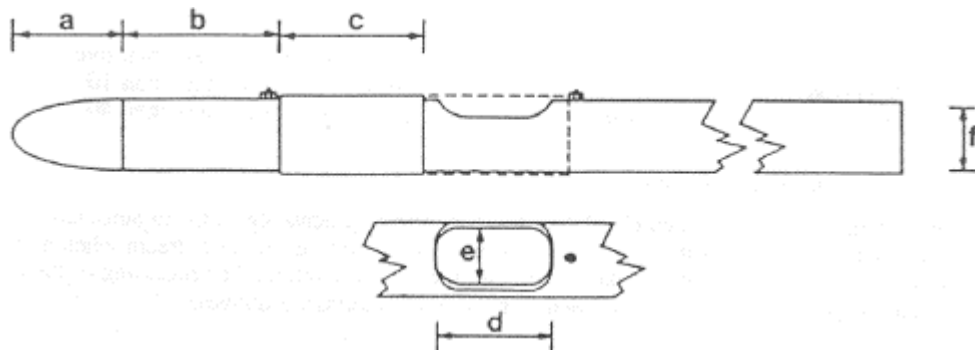
**(b) Stick samplers**

A stick sampler of one of the types described in sub-paragraphs (i) and (ii) may, subject to sub-paragraphs (i) and (ii), be used if it has an aperture or apertures of sufficient size to allow the unrestricted entry of seed and other particles and is capable of being opened and closed during the sampling procedure as appropriate to the method of use described in paragraph 19(b) of this Part of this Schedule.

**(i) Single chamber type**

Subject to paragraph 14 of this Part of this Schedule, a single chamber type stick sampler may be used to sample seed lots in open sacks or in large containers. In sampling seed lots in open sacks or in large containers, as specified in column 1 of the following table, a single chamber type stick sampler shall have a point length (a), shoulder length (b), sliding sleeve length (c), aperture length (d), aperture width (e) and bore width (f), as shown in the diagrams below, of the dimensions specified in the corresponding entries in the table, or such other dimensions as the Scottish Ministers may approve in writing—

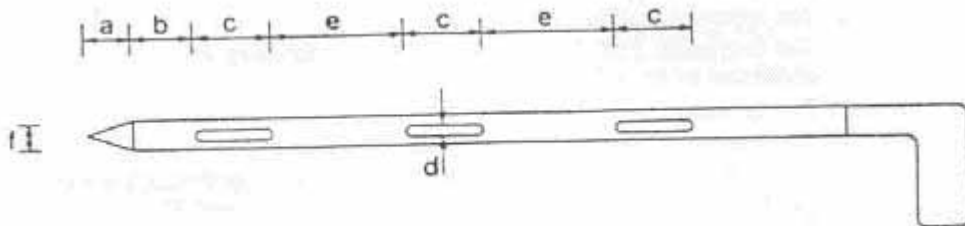
Column 1 Type of Container	Dimensions in millimetres					
	Point length	Shoulder length	Sliding sleeve length	Aperture length	Aperture width	Bore width
	(a)	(b)	(c)	(d)	(e)	(f)
Seed lots in sacks	55	25	75	50	22	25
Seed lots in large containers or seed in bulk	100	390	63	50	22	30



(ii) **Multi-chamber type**

Subject to paragraph 14 of this Part of this Schedule, a multi chamber type stick sampler may be used to sample seed lots in sacks or any other containers. The apertures shall open into chambers which shall be separated from one another by transverse partitions. The contents of each chamber shall be regarded as a primary sample. The multi-chamber type stick sampler shall have a point length (a), shoulder length (b), aperture length (c), aperture width (d), aperture separation distance (e) and bore width (f), as shown in the diagram below, of the dimensions specified in the following table or such other dimensions as the Scottish Ministers may approve in writing—

Dimensions in millimetres					
Point length	Shoulder length	Aperture length	Aperture width	Aperture separation distance	Bore width
(a)	(b)	(c)	(d)	(e)	(f)
60	50	100	15	110	25



(c) **Cargo sampler**

Subject to paragraph 14 of this Part of this Schedule, a cargo sampler may be used, in accordance with the method described in paragraph 19(c) of this Part of this Schedule, to sample seed lots in large containers and shall only be used in the vertical position.

(d) **Seed stream sampler**

Subject to paragraph 14 of this Part of this Schedule, a seed stream sampler may be used if it has been approved in writing by the Scottish Ministers and if it uniformly samples the cross section of the seed stream without any loss of the seed and any other particles which enter the seed stream sampler, in accordance with the method described in paragraph 19(d) of this Part of this Schedule. Timing devices shall be attached so that the frequency and duration of sampling can be adjusted to meet the requirements of paragraph 13 of this Part of this Schedule.

**Methods of use of dynamic spear samplers, stick samplers, cargo samplers and seed stream samplers – general**

18. All instruments shall be clean before use.

**Methods of use of dynamic spear samplers, stick samplers, cargo samplers and seed stream samplers**

19. The methods of using the instruments described in paragraph 17 shall be as follows–

**Dynamic spear sampler**

(a) Dynamic spear samplers may be used in one of two ways depending on their length–

**Method 1**

- (i) in the case of a dynamic spear sampler in which the aperture reaches only to the centre of the sack or small container–
  - (aa) the instrument shall be inserted into the sack in an upward direction at an angle of approximately 30° to the horizontal with its aperture downwards until the aperture reaches the centre of the sack or container;
  - (bb) the instrument shall be lightly tapped to remove any seed taken in and then rotated to bring the aperture uppermost;
  - (cc) the instrument shall be withdrawn immediately with a vibratory or oscillatory motion and at a decreasing speed so that the quantity of seed and any other particles obtained from successive locations increases progressively from the centre to the side of the sack; and
  - (dd) seed and any other particles passing through the instrument shall be collected in a clean container.

**Method 2**

- (ii) in the case of a dynamic spear sampler in which the aperture reaches to the far side of a sack or small container–
  - (aa) the instrument shall be inserted in the manner described in subparagraph (i)(aa) until its aperture reaches almost to the far side of the sack or container;
  - (bb) the instrument shall be tapped and rotated in the manner described in subparagraph (i)(bb) and then withdrawn at a uniform speed; and
  - (cc) the seed and any other particles passing through the instrument shall be collected in a clean container;

### **Stick samplers**

- (b) The method of using a single chamber type stick sampler and the method of using a multi-chamber type stick sampler are as follows–

#### **Single chamber type stick sampler**

- (i) in the case of a single chamber type stick sampler–
- (aa) the sleeve shall move freely;
  - (bb) the instrument shall be inserted vertically downwards until the aperture reaches the appropriate primary sampling position ensuring that the sleeve covers the aperture as it enters the seed lot;
  - (cc) the instrument shall be withdrawn sufficiently to uncover the aperture;
  - (dd) the instrument shall be left in position until the primary sample has been collected; and
  - (ee) the instrument shall be withdrawn and the contents emptied into a clean container;

#### **Multi-chamber type stick sampler**

- (ii) in the case of a multi-chamber type stick sampler–
- (aa) the apertures shall be closed before insertion;
  - (bb) the instrument shall be inserted diagonally into sacks or vertically into large containers so that all apertures are fully covered;
  - (cc) the apertures shall be opened;
  - (dd) the instrument shall be agitated so that seed and any other particles enter the chambers;
  - (ee) the apertures shall be closed gently to ensure that trapped seed and any other particles are not broken or damaged;
  - (ff) the instrument shall be withdrawn and if the chambers are full the contents shall be emptied onto a clean surface or into a clean container; and
  - (gg) if all the chambers are not full, the contents shall be discarded and the procedures specified in sub-paragraphs (ii)(aa) to (ff) shall be repeated;

### **Cargo samplers**

- (c) in the case of a cargo sampler–
- (i) the lid shall open and close easily;
  - (ii) the instrument shall be inserted with the lid closed to the appropriate primary sampling position which shall be at least 300 millimetres below the surface of the seed lot;
  - (iii) the handle shall be raised sufficiently to open the lid;
  - (iv) the instrument shall be left in position until the primary sample has been collected;
  - (v) the instrument shall be withdrawn and the contents shall be emptied into a clean container; and
  - (vi) if all the chambers are not full, the contents shall be discarded and the procedures specified in sub-paragraph (c)(i) to (v) shall be repeated; and

### **Seed stream sampler**

- (d) In the case of a seed stream sampler, the instrument shall take the number of primary samples necessary for the weight of seed lot being sampled, the primary samples being taken from the seed lot at regular intervals and the resultant composite sample being of a weight not less than the minimum weight prescribed in paragraph 26 of Part II of this Schedule and not greater than can conveniently be reduced by means of one of the



methods of sample reduction specified in paragraphs 21 and 22. They shall be installed in such a way that the composite sample can be readily identified with the seed lot from which it was taken.

### **Obtaining a submitted sample - composite sample division instruments**

20. Where the composite sample exceeds the minimum weight prescribed for a sample in paragraph 26 of Part II of this Schedule, any of the following instruments may be used to reduce the weight of the sample—

(a) **Riffle divider**

- (i) the riffle divider shall consist of a rectangular hopper leading to a series of evenly spaced chutes, arranged so that seed is distributed equally on two sides;
- (ii) there shall be a minimum of 18 chutes, each discharging in the opposite direction to its immediate neighbour; and
- (iii) three (or more) metal collecting vessels (pans) of sufficient depth to prevent seed bouncing out shall be used;

(b) **Centrifugal divider**

- (i) the centrifugal divider shall consist of a hopper from which seed flows on to a shallow cup which is then rotated by an electric motor; and
- (ii) the seed shall be distributed by centrifugal force onto a stationary baffle which divides it into two equal parts which are then discharged through separate spouts. Four metal collecting vessels (pans) of sufficient depth to prevent seed bouncing out shall be used;

(c) **Other instruments**

other instruments and methods may be used with the written approval of the Scottish Ministers.

### **Method of use of riffle divider**

21. The method of using a riffle divider shall be as follows—

- (a) the riffle divider shall be placed on a firm level surface;
- (b) the riffle divider and pans shall be clean;

### **Sample mixing**

- (c) an empty pan shall be placed on each side of the riffle divider to receive the discharge from the chutes;
- (d) the entire composite sample shall be poured evenly into the other pan(s);
- (e) the seed shall then be poured from the pan(s) evenly along the entire length of the hopper;
- (f) the two pans into which the seed has passed shall then be replaced with empty pans;
- (g) the procedures specified in sub-paragraphs (e) and (f) shall then be repeated twice to mix the sample thoroughly;

### **Sample reduction**

- (h) before reduction, the composite sample shall have been thoroughly mixed using the procedures specified in sub-paragraphs (c) to (g). The contents of one of the two receiving pans shall then be set aside. If the seed and any other particles in the second pan is of at least the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, it may be used as a submitted sample. If the weight of seed in the second pan is greater than the minimum weight prescribed in paragraph 26 of Part

II of this Schedule for a sample, it may be reduced using the procedures specified in sub-paragraphs (i) to (k);

- (i) an empty pan shall be placed on each side of the divider to receive the discharge from the chutes;
- (j) the contents of the second pan shall be poured evenly along the entire length of the hopper;
- (k) the contents of one of the two pans into which the seed and other particles have passed shall then be set aside. If the weight of seed and other particles in the other pan is still greater than the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, it may be used as a submitted sample intact or it may be reduced further using the procedures specified in sub-paragraphs (i) to (k);
- (l) if the weight of seed and other particles in either of the two pans set aside in the procedures specified either in sub-paragraph (h) or sub-paragraph (k) is less than the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, the procedures specified in sub-paragraphs (m) to (q) shall be used;
- (m) an empty pan shall be placed on each side of the divider to receive the discharge from the chutes;
- (n) the contents of one of the pans shall be set aside. The contents of the other pan shall be poured evenly along the entire length of the hopper;
- (o) one receiving pan and its contents shall then be removed and replaced with an empty pan. The other pan, with its contents, shall be left in place;
- (p) the contents of the pan removed during the procedure specified in sub-paragraph (o) shall be poured evenly along the entire length of the hopper so that two sub-samples of different weights shall be produced;
- (q) the procedures specified in sub-paragraphs (o) and (p), when repeated, constitute the process of continuous halving, and shall be repeated using whichever sub-sample is appropriate until sufficient seed and any other particles is obtained in one pan, which, when added to the seed and any other particles set aside during the procedure specified in sub-paragraph (n), produces a submitted sample;

#### **Obtaining more than one submitted sample**

- (r) when two submitted samples are required from one composite sample, one composite sample of at least twice the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample shall be obtained using the procedures specified in sub-paragraphs (c) to (g) and (h) to (q), as appropriate. The composite sample shall then be divided into two parts by passing it once through the riffle divider; and
- (s) when three submitted samples are required from one composite sample, one composite sample of at least three times the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample shall be obtained using the procedures specified in sub-paragraphs (c) to (g) and (h) to (q) as appropriate. A submitted sample shall then be extracted using the procedures specified in sub-paragraphs (c) to (g) and (h) to (q), as appropriate. All portions of seed which have been set aside shall then be recombined and two submitted samples shall be obtained from this residue of the composite sample by following the procedure specified in sub-paragraph (r).

#### **Method of use of a centrifugal divider**

22. The method of using a centrifugal divider shall be as follows—

- (a) the centrifugal divider shall be levelled prior to use;
- (b) the centrifugal divider and pans shall be clean;

### **Sample mixing**

- (c) an empty pan shall be placed under each spout of the centrifugal divider;
- (d) the entire composite sample shall be poured into the centre of the hopper;
- (e) the motor shall be operated so that the seed and any other particles in the sample pass into the pans;
- (f) the motor shall be switched off;
- (g) the two pans containing seed and any other particles shall be removed and replaced by empty ones;
- (h) the contents of both pans removed during the procedure specified in sub-paragraph (g) shall be poured together into the centre of the hopper, the seed and any other particles being allowed to blend as they flow in. The procedures specified in sub-paragraphs (e) to (g) shall be repeated;
- (i) the procedure specified in sub-paragraph (h) shall be repeated twice to mix the sample thoroughly;

### **Sample reduction**

- (j) before reduction, the composite sample shall have been thoroughly mixed using the procedures specified in sub-paragraphs (c) to (i). The contents of one of the two receiving pans shall then be set aside. If the seed and any other particles in the second pan is of at least the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, it may be used as a submitted sample. If the weight of seed in the second pan is greater than the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, it may be reduced using the procedures specified in sub-paragraphs (k) to (m);
- (k) empty pans shall be placed under the spouts;
- (l) the contents of the second pan shall be poured into the hopper and the procedures specified in sub-paragraphs (e) and (f) shall be repeated;
- (m) the contents of one of the two pans into which the seed and any other particles have passed shall then be set aside. If the weight of seed and any other particles in the other pan is still greater than the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, the sample may be used as a submitted sample intact or it may be reduced further using the procedures specified in sub-paragraphs (k) to (m);
- (n) if the weight of seed and any other particles in either of the two pans referred to either in sub-paragraph (j) or (m) is less than the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample, the procedures specified in sub-paragraphs (o) to (s) shall be used;
- (o) empty pans shall be placed under the spouts;
- (p) the contents of one of the pans shall be set aside. The contents of the other pan shall be poured into the centre of the hopper and the procedures specified in sub-paragraphs (e) and (f) shall be repeated;
- (q) one receiving pan and its contents shall then be removed and replaced with an empty pan. The other pan, with its contents, shall be left in place;
- (r) the contents of the pan removed during the procedure specified in sub-paragraph (q) shall be poured into the centre of the hopper and the procedures specified in sub-paragraphs (e) and (f) shall be repeated so that two sub-samples of different weights shall be produced;
- (s) the procedures specified in sub-paragraphs (q) and (r), when repeated, constitute the process of continuous halving, and shall be repeated using whichever sub-sample is appropriate until a sufficient sample is obtained in one pan, which, when added to the seed and any other particles set aside during the procedure specified in sub-paragraph (p), produces a submitted sample;

**Obtaining more than one submitted sample**

- (t) when two submitted samples are required from one composite sample, one composite sample of at least twice the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample shall be obtained using the procedures specified in sub-paragraphs (c) to (i) and (j) to (s) as appropriate. The composite sample shall then be divided into two parts by passing it once through the centrifugal divider; and
- (u) when three submitted samples are required from one composite sample, one composite sample of at least three times the minimum weight prescribed in paragraph 26 of Part II of this Schedule for a sample shall be obtained using the procedures specified in sub-paragraphs (c) to (i) and (j) to (s), as appropriate. A submitted sample shall then be extracted using the procedures specified in sub-paragraphs (c) to (i) and (j) to (s), as appropriate. All portions of seed which have been set aside shall then be recombined and two submitted samples shall be obtained from this residue of the composite sample by following the procedure specified in sub-paragraph (t).

**PART II**

**MAXIMUM WEIGHT OF A SEED LOT AND MINIMUM WEIGHT OF A SUBMITTED SAMPLE**

**Maximum weight of a seed lot**

23. Subject to paragraphs 24 and 25, the maximum weight of a seed lot shall be that set out in column 2 of the table in paragraph 26 in relation to the corresponding entry in column 1 of the table.

**Margin by which seed lots can exceed maximum weight**

24. A seed lot may exceed the maximum weight for a seed lot set out in column 2 of the table in paragraph 26 by not more than 5%.

**Maximum weight of a seed lot of mixtures**

25. The maximum weight of a seed lot to which regulation 8 applies shall be 10 tonnes, except that, where more than 50% of the mixture consists of species of seeds for which the maximum seed lot weight prescribed in seeds regulations is more than 10 tonnes, the maximum weight of a mixture shall be that of the larger or largest seed lot.

**Minimum weight of a sample**

26. The minimum weight of a sample submitted for official examination shall be that specified in column 3 of the following table in relation to the corresponding entry in column 1 of the table—

<i>Species</i>	<i>Maximum weight of a lot (tonnes)</i>	<i>Minimum weight of a sample to be drawn from a lot (grams)</i>	<i>Weight of the sample for the determinations by number provided for in Schedule 4, Part II, paragraph 14, Table I columns 3 to 8, 10, 11, 13, 14 and 16 together with paragraph 14 Table II columns 3 to 7, 9 and 13.</i>
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<b>Grasses</b>			
Alaska brome-grass	10	200	200
Annual meadowgrass	10	50	10
Brown top	10	50	5

<i>Species</i>	<i>Maximum weight of a lot (tonnes)</i>	<i>Minimum weight of a sample to be drawn from a lot (grams)</i>	<i>Weight of the sample for the determinations by number provided for in Schedule 4, Part II, paragraph 14, Table I columns 3 to 8, 10, 11, 13, 14 and 16 together with paragraph 14 Table II columns 3 to 7, 9 and 13.</i>
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
Cocksfoot	10	100	30
Creeping bent	10	50	5
Festulolium	10	200	60
Hybrid ryegrass	10	200	60
Italian ryegrass (including Westerwolds ryegrass)	10	200	60
Meadow fescue	10	100	50
Perennial ryegrass	10	200	60
Red fescue, Chewings fescue	10	100	30
Red top	10	50	5
Rescue grass	10	200	200
Rough-stalked meadowgrass	10	50	5
Sheep's fescue, including Fine-leaved fescue, Hard fescue	10	100	30
Small Timothy	10	50	10
Smooth-stalked meadowgrass	10	50	5
Tall oatgrass	10	200	80
Tall fescue	10	100	50
Timothy	10	50	10
Velvet bent	10	50	5
Wood meadowgrass	10	50	5
<b>Legumes</b>			
Alsike clover	10	200	20
Birdsfoot trefoil	10	200	30
Common vetch	25	1,000	1,000
Field bean	25	1,000	1,000
Field pea	25	1,000	1,000
Hairy vetch	20	1,000	1,000
Hungarian vetch	20	1,000	1,000
Lucerne	10	300	50
Narrow-leaved lupin (Blue lupin)	25	1,000	1,000
Red clover	10	300	50
Sainfoin			
(a) fruit	10	600	600
(b) seed	10	400	400
Trefoil, Black medick	10	300	50
White clover	10	200	20
White lupin	25	1,000	1,000
Yellow lupin	25	1,000	1,000
<b>Others</b>			
Fodder kale	10	200	100
Fodder radish	10	300	300
Swede	10	200	100

## SCHEDULE 6

Regulations 6(5), 17(4), (5),  
(8), (10) and (11), 18, 22(4),  
(6), (7) and (12)

### PART I GENERAL

#### **Method of referring to species of seed**

1. Where the species of seed is one of the particulars to be indicated on a label, in accordance with the provisions of this Schedule, with the exception of paragraphs 7(a)(v), 8, 9(a)(iv) and 10(e), the species must be indicated at least under its botanical name, which may be given in abridged form and without the authority's name, in Roman characters.

#### **Method of referring to varieties of seed**

2. Where the variety of seed is one of the particulars to be indicated on a label, in accordance with the provisions of this Schedule, the variety must be indicated at least in Roman characters.

### PART II LABELS

#### **Label for a package of Breeder's Seed**

3. The label for a package of Breeder's Seed shall—

- (a) contain the following information—
  - (i) name and address of the supplier responsible for affixing the labels or the supplier's registered number;
  - (ii) reference number of the seed lot;
  - (iii) species (in the case of *x Festulolium* the names of the species within the genus *Festuca* and *Lolium* shall be indicated);
  - (iv) variety;
  - (v) the words "Breeder's Seed";
  - (vi) declared net or gross weight; and
  - (vii) the words "NOT CERTIFIED"; and
- (b) be coloured buff.

#### **Official label for a package of Pre-basic Seed**

4. The official label for a package of Pre-basic Seed shall—

- (a) contain the following information—
  - (i) certifying authority and EEA State or their commonly used initials;
  - (ii) month and year of sealing or the month and year of the last official sampling for the purposes of certification, expressed respectively as follows—
    - (aa) by the word "Sealed" followed by the month and year of sealing; or
    - (bb) by the word "Sampled" followed by the month and year of official sampling;
  - (iii) reference number of the seed lot;

- (iv) species (in the case of *x Festulolium* the names of the species within the genus *Festuca* and *Lolium* shall be indicated);
  - (v) variety;
  - (vi) the words “Pre-basic Seed”;
  - (vii) country of production;
  - (viii) declared net or gross weight;
  - (ix) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additives and also the approximate ratio between the weight of seed and the total weight; and
  - (x) number of generations preceding seed of the categories Certified Seed or Certified Seed of the First Generation;
- (b) be a minimum size of 110 millimetres by 67 millimetres; and
- (c) be coloured white with a diagonal violet line.

**Official label for a package of Basic Seed or Seed of a Certified Generation**

5. The official label for a package of Basic Seed or Seed of a Certified Generation shall–
- (a) subject to sub-paragraph (b), contain the following information–
    - (i) the words “EC rules and standards”;
    - (ii) certifying authority and EEA State or their commonly used initials;
    - (iii) month and year of sealing or the month and year of the last official sampling for the purposes of certification, expressed respectively as follows–
      - (aa) by the word “Sealed” followed by the month and year of sealing; or
      - (bb) by the word “Sampled” followed by the month and year of official sampling;
    - (iv) reference number of the seed lot;
    - (v) species (in the case of *x Festulolium* the names of the species within the genus *Festuca* and *Lolium* shall be indicated);
    - (vi) variety;
    - (vii) category;
    - (viii) country of production;
    - (ix) declared net or gross weight;
    - (x) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seed and the total weight;
    - (xi) for Certified Seed of the Second Generation and subsequent generations from Basic Seed: number of generations from Basic Seed;
    - (xii) for seeds of grass varieties, in respect of which no official examination of their value for cultivation and use has been carried out the words “Not intended for fodder production”; and
    - (xiii) where at least germination has been retested, the word “Retested” followed by the month and year of retesting and the service responsible for such retesting;
  - (b) not contain the information referred to in sub-paragraph (a)(xiii) if that information is given on an official sticker attached to the official label;
  - (c) be a minimum size of 110 millimetres by 67 millimetres; and
  - (d) be coloured–
    - (i) white for Basic Seed;
    - (ii) blue for Certified Seed and Certified Seed of the First Generation; and

- (iii) red for Certified Seed of the Second Generation.

**Official label for a package of Commercial Seed**

6. The official label for a package of Commercial Seed shall—
- (a) subject to sub-paragraph (b), contain the following information—
    - (i) the words “EC rules and standards”;
    - (ii) certification authority and EEA State or their commonly used initials;
    - (iii) month and year of sealing expressed by the word “Sealed” followed by the month and year of sealing;
    - (iv) reference number of the seed lot;
    - (v) species;
    - (vi) the words “Commercial Seed (not certified as to variety)”;
    - (vii) country of production and the region of production within that country;
    - (viii) declared net or gross weight;
    - (ix) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seed and the total weight; and
    - (x) where at least germination has been retested, the word “Retested” followed by the month and year of retesting and the service responsible for such retesting;
  - (b) not contain the information referred to in sub-paragraph (a)(x) if that information is given on an official sticker attached to the official label;
  - (c) be a minimum size of 110 millimetres by 67 millimetres; and
  - (d) be coloured brown.

**Official label for a package of a mixture of seeds to which regulation 8 applies**

7. The official label for a package of a mixture of seeds shall—
- (a) subject to sub-paragraph (b), contain the following information—
    - (i) the words “Mixture of seeds for...” (intended use);
    - (ii) certification authority and EEA State or their commonly used initials;
    - (iii) reference number of the seed lot ;
    - (iv) month and year of sealing expressed by the word “Sealed” followed by the month and year of sealing;
    - (v) species, variety, category, country of production and percentage by weight of each of the constituents which in the case of the species and of the variety, shall be indicated at least in Roman characters;
    - (vi) where the kinds of constituents are given and this includes *x Festulolium* the names of the species within the genus *Festuca* and *Lolium*;
    - (vii) declared net or gross weight or declared number of pure seeds;
    - (viii) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seed and the total weight; and
    - (ix) where at least germination has been retested, the word “Retested” followed by the month and year of retesting and the service responsible for such retesting;
  - (b) not contain the information referred to in sub-paragraph (a)(ix) if that information is given on an official sticker attached to the official label;
  - (c) be a minimum size of 110 millimetres by 67 millimetres; and



- (d) be coloured green.

**Further particulars to be given in respect of a mixture of seeds - other than a mixture in a small package of seeds not intended for use for agricultural purposes where said mixtures contain *Festulolium***

**8.** For each constituent the official label for a package of a mixture of seeds shall also contain the following information–

- (a) species indicated at least in Roman characters;
- (b) category;
- (c) variety (except for Commercial Seed); and
- (d) proportion by weight of the mixtures.

### PART III

#### LABELS FOR SMALL EC A OR SMALL EC B PACKAGES

**Label for a small EC B package of Basic Seed, Seed of a Certified Generation or Commercial Seed**

**9.** The label for a small EC B package of Basic Seed, Seed of a Certified Generation or Commercial Seed shall–

- (a) contain the following information–
  - (i) the words “small EC ‘B’ package”;
  - (ii) name and address of the person responsible for affixing the label;
  - (iii) reference number of the seed lot;
  - (iv) species indicated at least in Roman characters (in the case of *x Festulolium* the names of the species within the genus *Festuca* and *Lolium* shall be indicated);
  - (v) variety (or, in the case of Commercial Seed the words “Commercial Seed not certified as to variety”);
  - (vi) category; and
  - (vii) declared net weight, except in the case of packages not exceeding 15 grams net weight; and
- (b) be coloured–
  - (i) white for Basic Seed;
  - (ii) blue for Certified Seed and Certified Seed of the First Generation;
  - (iii) red for Certified Seed of the Second Generation; and
  - (iv) brown for Commercial Seed.

**Label for a small EC A or small EC B package of Mixtures**

**10.** The label for a small EC A or small EC B package of Pre-basic Seed, Basic Seed, Seed of a Certified Generation or Commercial Seed shall contain the following information–

- (a) the words “Small EC ‘A’ package” or “small EC ‘B’ package”;
- (b) the words “Mixture of seeds for ...” (intended use);
- (c) net weight or gross weight or number of pure seeds;
- (d) where weight is indicated and granulated pesticides, pelleting substances, or other solid additives are used, the nature of the additives and also the approximate ratio between the weight of pure seed and the total weight;

- (e) percentage by weight of the various constituents shown by species and, where appropriate, by variety both indicated at least in Roman characters or such part of this information as a Member State may have prescribed for small packages produced in its territory if a reference to the kind of mixture including the proportion by weight can be communicated to the purchaser on request and has been officially recorded;
- (f) for lupins, it should be specified whether they are bitter or sweet lupins;
- (g) name and address of the supplier responsible for marking or his identification mark;
- (h) for a small EC A package–
  - (i) the reference number enabling the used seed lots to be identified; and
  - (ii) the Member State or its initials; and
- (i) for a small EC B package–
  - (i) the officially assigned serial number;
  - (ii) the service which assigned the serial number and the name of the Member State or their initials; and
  - (iii) the reference number if the official serial number does not enable the used seed lots to be identified.

## PART IV

### PARTICULARS TO BE MARKED OR DISPLAYED ON THE SALE OF UNPACKETED SEED

#### **Particulars to be marked or displayed on the sale of unpacketed seed**

**11.** The following particulars shall be marked on, or displayed near, the container referred to in regulation 18–

- (a) the words “complies with legal standards”;
- (b) species (in the case of *x Festulolium* the names of the species within the genus *Festuca* and *Lolium* shall be indicated); and
- (c) except in the case of Commercial Seed, variety.

## PART V

### INFORMATION IN RESPECT OF SEED IMPORTED FROM COUNTRIES WHICH ARE NOT EEA STATES IN PACKAGES EXCEEDING 2 KILOGRAMS NET WEIGHT

#### **Information to be supplied in respect of seed imported from a country which is not an EEA State in a package exceeding 2 kilograms net weight**

**12.** The information to be supplied to the Scottish Ministers in accordance with regulation 6(5) in respect of seed imported from a country which is not an EEA State in a package exceeding 2 kilograms of seed is as follows–

- (a) species;
- (b) variety;
- (c) category;
- (d) country of production and official inspection authority;
- (e) country of despatch;
- (f) importer; and

(g) quantity of seed.

## PART VI

### PRINTING OF SPECIFIED MATTERS ON PACKAGES (WHOLE BAG LABELLING)

#### **Packages sealed in Scotland - printers' returns**

13. Arrangements shall be made with the printers for returns to be made to the Scottish Ministers of the number of packages printed or stamped pursuant to regulations 17(10) and 21(5) and of the individual serial numbers of such packages.

#### **Packages sealed in Scotland - individual serial numbers**

14. Each package shall have printed or stamped on it, or be perforated with, an individual serial number allocated by the Scottish Ministers, which shall appear in the same panel as the particulars of the matters specified in Part II of this Schedule.

#### **Packages sealed in Scotland - printing or stamping**

15. The printing or stamping of the packages shall be by, and in accordance with the instructions of, the Scottish Ministers or by a licensed seed sampler.

#### **Packages sealed in Scotland - particulars to be included in the printing or stamp**

16. The reference number of the seed lot and the month and year in which the package was officially sealed shall be printed or stamped by the Scottish Ministers or a licensed seed sampler at the time of sampling for official examination.

#### **Seed packages sealed in the United Kingdom but not in Scotland, or in an EEA State other than the United Kingdom**

17. (a) Such requirements of the EEA State (if the seed was sealed in that EEA State) or the Department of Agriculture and Rural Development (if the seed was sealed in Northern Ireland), the National Assembly for Wales (if the seed was sealed in Wales) or the Secretary of State (if the seed was sealed in England) as correspond to the requirements specified in paragraphs 13 to 16 of this Part of this Schedule for seed which has been sealed in Scotland shall be satisfied; and

(b) the Scottish Ministers shall be satisfied that the requirements specified in sub-paragraph (a) have been met.

## SCHEDULE 7

Regulation 24(2)

### LIMITS OF VARIATION

#### GERMINATION

<i>Minimum percentage of germination (expressed as an integer)</i>	<i>Limit of variation Per cent</i>
99-100	2
97-98	3
94-96	4
91-93	5
87-90	6
82-86	7
76-81	8
69-75	9
65-68	10

#### ANALYTICAL PURITY - (a) grasses

<i>Minimum percentage of analytical purity (expressed to one decimal point)</i>	<i>Limit of variation Per cent</i>
99.9-100	0.2
99.7-99.8	0.4
99.5-99.6	0.5
99.3-99.4	0.6
99.0-99.2	0.7
98.8-98.9	0.8
98.3-98.7	0.9
98.0-98.2	1.0
97.5-97.9	1.1
97.0-97.4	1.2
96.5-96.9	1.3
96.0-96.4	1.4
95.0-95.9	1.5
94.0-94.9	1.6
93.0-93.9	1.7
92.0-92.9	1.9
91.0-91.9	2.0
90.0-90.9	2.1
88.0-89.9	2.2
86.0-87.9	2.4
84.0-85.9	2.5
82.0-83.9	2.6
80.0-81.9	2.8

ANALYTICAL PURITY - (b) legumes and crucifers

<i>Minimum percentage of analytical purity (expressed to one decimal point)</i>	<i>Limit of variation Per cent</i>
99.9-100	0.2
99.8	0.3
99.6-99.7	0.4
99.3-99.5	0.5
99.0-99.2	0.6
98.5-98.9	0.7
98.3-98.4	0.8
97.5-98.2	0.9
97.0-97.4	1.0
96.5-96.9	1.1
95.5-96.4	1.2
95.0-95.4	1.3
94.0-94.9	1.4
93.0-93.9	1.5
92.0-92.9	1.6
91.0-91.9	1.7
90.0-90.9	1.8

CONTENT OF SEEDS OF OTHER SPECIES IN GRASSES

<i>Maximum percentage of seeds of other species (expressed to one decimal point)</i>	<i>Limit of variation Per cent</i>
0.0	0.2
0.1	0.3
0.2	0.4
0.3-0.4	0.5
0.5-0.6	0.6
0.7-0.9	0.7
1.0-1.2	0.8
1.3-1.7	0.9
1.8-1.9	1.0
2.0-2.4	1.1
2.5-2.9	1.2
3.0-3.4	1.3
3.5-3.9	1.4
4.0-4.9	1.5
5.0	1.6

CONTENT OF SEEDS OF OTHER SPECIES OR VARIETIES IN LEGUMES AND CRUCIFERS

<i>Maximum percentage of seeds of other species (expressed to one decimal point)</i>	<i>Limit of variation Per cent</i>
per cent	per cent
0.0	0.1
0.1-0.2	0.3
0.3-0.4	0.4
0.5-0.6	0.5

<i>Maximum percentage of seeds of other species (expressed to one decimal point)</i>	<i>Limit of variation Per cent</i>
0.7-0.9	0.6
1.0-1.4	0.7
1.5-1.7	0.8
1.8-2.4	0.9
2.5-2.9	1.0
3.0-3.4	1.1
3.5-4.4	1.2
4.5-4.9	1.3
5.0-5.9	1.4
6.0-6.9	1.5
7.0-7.9	1.6
8.0-8.9	1.7
9.0-9.9	1.8
10.0	1.9

NUMBER OF SEEDS OF OTHER SPECIES

<i>Maximum number of seeds of other species</i>	<i>Limit of variation Number</i>
Number	Number
0	1
1	3
2	4
3-4	5
5-6	6
7-8	7
9-11	8
12-14	9
15-17	10
18-21	11
22-25	12
26-29	13
30-34	14
35-40	15
41-45	16
46-51	17
52-57	18
58-64	19
65-71	20
72-79	21
80-87	22
88-95	23
96-100	24

## SCHEDULE 8

Regulation 28(1)

### REVOCATIONS

<b>Regulations revoked Column 1</b>	<b>References Column 2</b>	<b>Extent Column 3</b>
The Fodder Plant Seeds Regulations 1993	S.I. 1993/2009	The whole Regulations insofar as they apply to Scotland
The Fodder Plant Seeds (Amendment) Regulations 1993	S.I. 1993/2529	The whole Regulations insofar as they apply to Scotland
The Fodder Plant Seeds (Amendment) Regulations 1996	S.I. 1996/1453	The whole Regulations insofar as they apply to Scotland
The Seeds (Miscellaneous Amendments) Regulations 1997	S.I. 1997/616	Regulation 3, and regulation 4(2), insofar as it applies to the Fodder Plant Seeds Regulations 1993, but only insofar as regulation 4(2) applies to Scotland
The Fodder Plant Seeds (Amendment) Regulations 1999	S.I. 1999/1864	The whole Regulations insofar as they apply to Scotland
The Fodder Plant Seeds (Amendment) (Scotland) Regulations 2000	S.S.I. 2000/247	The whole Regulations
The Seeds (National Lists of Varieties) Regulations 2001	S.I. 2001/3510	Regulation 25(4)(a) insofar as it applies to Scotland
The Seeds (Miscellaneous Amendments) (No. 2) (Scotland) Regulations 2002	S.S.I. 2002/564	Regulation 4
The Fodder Plant Seeds Amendment (Scotland) Regulations 2004	S.S.I. 2004/380	The whole Regulations

## SCHEDULE 9

Regulation 2(1)

### DEFINITION OF THE FODDER PLANT SEED DIRECTIVE

“The Fodder Plant Seed Directive” means Council Directive 66/401/EEC(a) on the marketing of fodder plant seed as amended by–

Community Instrument	Reference
Council Directive 69/63/EEC(b)	O.J. No. L 48 26.2.1969, p.8
Council Directive 71/162/EEC(c)	O.J. No. L 87 17.4.1971, p.24
Act of Accession of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland(d)	O.J. No. L 73 27.3.1972, p.14
Council Directive 72/274/EEC	O.J. No. L 171 29.7.1972, p.37
Council Directive 72/418/EEC(e)	O.J. No. L 287 26.12.1972, p.22
Council Directive 73/438/EEC(f)	O.J. No. L 356 27.12.1973, p.79
Council Directive 75/444/EEC	O.J. No. L 196 26.7.1975, p.6
Council Directive 78/55/EEC	O.J. No. L 16 20.1.1978, p.23
First Commission Directive 78/386/EEC	O.J. No. L 113 25.4.1978, p.1
Council Directive 78/692/EEC	O.J. No. L 236 26.8.1978, p.13
Council Directive 78/1020/EEC	O.J. No. L 350 14.12.1978, p.27
Commission Directive 79/641/EEC	O.J. No. L 183 19.7.1979, p.13
Council Directive 79/692/EEC	O.J. No. L 205 13.8.1979, p.1
Act of Accession of Greece	O.J. No. L 291 19.11.1979, p.17
Commission Directive 80/754/EEC	O.J. No. L 207 9.8.1980, p.36
Commission Directive 81/126/EEC	O.J. No. L 67 12.3.1981, p.36
Commission Directive 82/287/EEC	O.J. No. L 131 13.5.1982, p.24
Commission Directive 85/38/EEC	O.J. No. L 16 19.1.1985, p.41
Council Regulation (EEC) No 3768/85	O.J. No. L 362 31.12.1985, p.8
Council Directive 86/155/EEC	O.J. No. L 118 7.5.1986, p.23
Commission Directive 87/120/EEC	O.J. No. L 49 18.2.1987, p.39
Commission Directive 87/480/EEC	O.J. No. L 273 26.9.1987, p.43
Council Directive 88/332/EEC	O.J. No. L 151 17.6.1988, p.82
Council Directive 88/380/EEC	O.J. No. L 187 16.7.1988, p.31
Commission Directive 89/100/EEC	O.J. No. L 38 10.2.1989, p.36
Council Directive 90/654/EEC	O.J. No. L 353 17.12.1990, p.48
Commission Directive 92/19/EEC(g)	O.J. No. L 104 22.4.1992, p.61
Act of Accession of Austria, Sweden and Finland(h)	O.J. No. C 241 29.8.1994, p.21
Commission Directive 96/18/EC	O.J. No. L 76 26.3.1996, p.21
Council Directive 96/72/EC	O.J. No. L 304 27.11.1996, p.10
Council Directive 98/96/EC(i)	O.J. No. L 25 1.2.1999, p.27

(a) O.J. p.125, 11.7.1966, p.2298, Corrected by Consolidated text of corrigenda to instruments published in Special Editions 1952-72, p. 16, Corrigendum, O.J. L 298, 1.11.1997, p.70.

(b) As corrected by consolidated text of corrigenda to instruments published in Special Editions 1952-72, p.30.

(c) As corrected by consolidated text of corrigenda to instruments published in Special Editions 1952-72, p.87.

(d) Adapted by Council Decision of 1st January 1973 L 2, 1.1.1973, p.1.

(e) As corrected by consolidated text of corrigenda to instruments published in Special Editions 1952-72, p.106.

(f) As corrected by Corrigendum, O.J. L 138, 21.5.1974, p.27.

(g) As corrected by Corrigendum, O.J. L 128, 21.5.1997, p.16.

(h) Adapted by Council Decision 95/1/EC, Euratom, ECSC) L 1, 1.1.1995, p.1.

(i) As corrected by Corrigendum, O.J. L 161, 16.6.2001, p.48.



<b>Community Instrument</b>	<b>Reference</b>
Council Directive 98/95/EC	O.J. No. L 25 1.2.1999, p.1
Council Directive 2001/64/EC	O.J. No. L 234 1.9.2001, p.60
Council Directive 2003/61/EC	O.J. No. L 165 3.7.2003, p.23
Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded	O.J. No. L 236, 23.9.03, p.33
Commission Directive 2004/55/EC	O.J. No. L 114 21.4.2004, p.18

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which extend to Scotland only, consolidate, with amendments, the provisions of the Fodder Plant Seeds Regulations 1993 (S.I. 1993/2009) (“the 1993 Regulations”) insofar as they apply to Scotland. The 1993 Regulations have been relevantly amended by The Fodder Plant Seeds (Amendment) Regulations 1993 (S.I. 1993/2529), the Fodder Plant Seeds (Amendment) Regulations 1996 (S.I. 1996/1453), the Seeds (Miscellaneous Amendments) Regulations 1997 (S.I. 1997/616), the Fodder Plant Seeds (Amendment) Regulations 1999 (S.I. 1999/1864), the Fodder Plant Seeds (Amendment) (Scotland) Regulations 2000 (S.S.I. 2000/247), the Seeds (National Lists of Varieties) Regulations 2001 (S.I. 2001/3510), the Seeds (Miscellaneous Amendments) (No. 2) (Scotland) Regulations 2002 (S.S.I. 2002/564) and the Fodder Plant Seeds Amendment (Scotland) Regulations 2004 (S.S.I. 2004/380).

The 1993 Regulations implemented the provisions of Council Directive 66/401/EEC on the marketing of fodder plant seed (O.J. No. P 125, 11.7.1966, p.2298) (“the Directive”). These Regulations continue to implement the Directive, which has been amended as shown in the table contained in Schedule 9 to the Regulations.

The Regulations apply to the certification and marketing of fodder plant seed of the species specified in Schedule 1 (regulation 5 and Schedule 1).

The Regulations include provisions which prohibit the marketing of fodder plant seed in Scotland unless it is Commercial Seed, seed of a listed variety which has been officially certified or Breeder’s Seed (regulation 6(1)). The prohibition does not apply in the case of seed–

- (a) which has not yet been fully certified if it is marketed for processing (regulation 6(2));
- (b) which forms part of a permitted mixture (regulation 8);
- (c) where authorisation has been granted for scientific purposes or selection work or for the purposes of tests and trials (regulation 9); or
- (d) the marketing of which is authorised by general licence under regulation 10.

The Regulations introduce provision for licensed crop inspections of multiplication crops when the results of control plots are satisfactory.

The Regulations include provisions about the standards to be met by fodder plant seed before it will be officially certified by the Scottish Ministers (regulations 3, 14 and Schedules 2 and 4). There are provisions allowing the marketing of seed which does not attain the relevant germination standards (regulation 11) and for marketing seed before it is shown to meet the relevant germination standards (regulation 12).

The Regulations make provision for breeder’s confirmations for seed which is not yet accepted onto a UK National List or the Common Catalogue but which otherwise meets the requirements for Pre-basic Seed or Basic Seed (regulations 3, 20 and Schedules 2 and 4) and for upgrading a breeder’s confirmation to an official certificate (regulation 14(3)).

The Regulations lay down requirements relating to seed sampling (regulation 15 and Schedule 5) and the packaging and sealing of packages of seed (regulations 16, 18 and 21) and the labelling of packages of such seed (regulations 17, 18 and 22 and Schedule 6).

The Regulations introduce the power to require an additional sample of seed for the purposes of European tests and trials (regulation 23).

The Regulations provide that particulars given to a purchaser by a seller of seed to which the Regulations apply will constitute a statutory warranty so far as they relate to certain information about the seed being sold (regulation 24).

The Regulations introduce provisions about service of notices (regulation 25) and permit electronic communications to be used in certain circumstances (regulation 26).

The Regulations amend the Seeds (Fees) (Scotland) Regulations 2002 (S.S.I. 2002/526) to allow fees to be charged for procedures carried out in relation to the Regulations (regulation 27).

The Regulations revoke the Fodder Plant Seed Regulations 1993 as amended, insofar as they relate to Scotland.(regulation 28).

General licences made under the 1993 Regulations will be replaced by general licences made under these Regulations (regulation 28).

Contravention of these Regulations is a criminal offence (section 16(7) of the Plant Varieties and Seeds Act 1964).

A copy of the Scottish Ministers' requirements in respect of previous cropping and crop conditions for field examinations can be obtained from SEERAD, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.

No Regulatory Impact Assessment has been prepared in relation to these Regulations.