



STATUTORY INSTRUMENTS.

S.I. No. 217 of 2013



EUROPEAN UNION (CEREAL SEEDS) REGULATIONS 2013

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I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of giving effect to Council Directive No. 66/402/EEC of 14 June 1966¹ as amended by Council Directive No. 69/60/EEC of 18 February 1969², Council Directive No. 71/162/EEC of 30 March 1971³, Council Directive No. 72/274/EEC of 20 July 1972⁴, Council Directive No. 72/418/EEC of 6 December 1972⁵, Council Directive No. 73/438/EEC of 11 December 1973⁶, Council Directive No. 75/444/EEC of 26 June 1975⁷, Council Directive No. 78/55/EEC of 19 December 1977⁸, Commission Directive No. 78/387/EEC of 18 April 1978⁹, Council Directive No. 78/692/EEC of 25 July 1978¹⁰, Council Directive No. 78/1020/EEC of 5 December 1978¹¹, Commission Directive No. 79/641/EEC of 27 June 1979¹², Council Directive No. 79/692/EEC of 24 July 1979¹³, Commission Directive No. 81/126/EEC of 16 February 1981¹⁴, Council Directive No. 81/561/EEC of 13 July 1981¹⁵, Council Regulation (EEC) No. 3768/85 of 20 December 1985¹⁶, Council Directive No. 86/155/EEC of 22 April 1986¹⁷, Commission Directive No. 86/320/EEC of 20 June 1986¹⁸, Commission Directive No. 87/120/EEC of 14 January 1987¹⁹, Council Directive No. 88/332/EEC of 13 June 1988²⁰, Council Directive No. 88/380/EEC of 13 June 1988²¹, Commission Directive No. 88/506/EEC of 13 September 1988²², Commission Directive No. 89/2/EEC of 15 December 1988²³, Commission Directive No. 90/623/EEC of 7 November 1990²⁴, Council Directive No. 90/654/EEC of 4 December 1990²⁵, Commission Directive

¹OJ 125, 11.7.1966, p2309

²OJ L 48, 26.2.1969, p1

³OJ L 87, 17.4.1971, p. 24

⁴OJ L 171, 29.7.1972, p. 37

⁵OJ L 287, 26.12.1972, p. 22

⁶OJ L 356, 27.12.1973, p. 79

⁷OJ L 196, 26.7.1975, p. 6

⁸OJ L 16, 20.1.1978, p. 23

⁹OJ L 113, 25.4.1978, p. 13

¹⁰OJ L 236, 26.8.1978, p. 13

¹¹OJ L 350, 14.12.1978, p. 27

¹²OJ L 183, 19.7.1979, p. 13

¹³OJ L 205, 13.8.1979, p. 1

¹⁴OJ L 67, 12.3.1981, p. 36

¹⁵OJ L 203, 23.7.1981, p. 52

¹⁶OJ L 362, 31.12.1985, p. 8

¹⁷OJ L 118, 7.5.1986, p. 23

¹⁸OJ L 200, 23.7.1986, p. 38

¹⁹OJ L 49, 18.2.1987, p. 39

²⁰OJ L 151, 17.6.1988, p. 82

²¹OJ L 187, 16.7.1988, p. 31

²²OJ L 274, 6.10.1988, p. 44

²³OJ L 5, 7.1.1989, p. 31

²⁴OJ L 333, 30.11.1990, p. 65

²⁵OJ L 353, 17.12.1990, p. 48

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 28th June, 2013.*

No. 93/2/EEC of 28 January 1993²⁶, Commission Directive No. 95/6/EC of 20 March 1995²⁷, Council Directive No. 96/72/EC of 18 November 1996²⁸, Council Directive No. 98/95/EC of 14 December 1998²⁹, Council Directive No. 98/96/EC of 14 December 1998³⁰, Commission Directive No. 1999/8/EC of 18 February 1999³¹, Commission Directive No. 1999/54/EC of 26 May 1999³², Council Directive No. 2001/64/EC of 31 August 2001³³, Council Directive No. 2002/54/EC of 13 June 2002³⁴, Council Directive No. 2003/61/EC of 18 June 2003³⁵, Council Directive No. 2004/117/EC of 22 December 2004³⁶, Commission Directive No. 2006/55/EC of 12 June 2006³⁷, Commission Directive 2009/74/EC of 26 June 2009³⁸, Commission Implementing Directive 2012/1/EU of 6 January 2012³⁹ and Commission Implementing Directive 2012/37/EU of 22 November 2012⁴⁰ hereby make the following regulations:

1. These Regulations may be cited as the European Union (Cereal Seed) Regulations 2013 and will come into effect on 1 July 2013.

2. (1) In these Regulations—

“authorised officer” means-

- (a) an officer of the Minister appointed under Regulation 20,
- (b) an authorised officer appointed under Regulation 14 of the European Communities (Seed Potatoes) Regulations 2011 (S.I. No. 532 of 2011),
- (c) an authorised officer appointed under Regulation 10 of the European Communities (Marketing of Seeds) Regulations 2009 (S.I. No. 431 of 2009),
- (d) a member of the Garda Síochána, or
- (e) an officer of the Revenue Commissioners being a member of the Customs and Excise service;

“cereal seed” means a seed of a cereal listed at point A of Article 2.1 of the Directive;

“Directive” means Council Directive No. 66/402/EEC of 14 June 1966 as amended by Council Directive No. 69/60/EEC of 18 February 1969, Council

²⁶OJ L 54, 5.3.1993, p. 20

²⁷OJ L 67, 25.3.1995, p. 30

²⁸OJ L 304, 27.11.1996, p. 10

²⁹OJ L 25, 1.2.1999, p. 1

³⁰OJ L 25, 1.2.1999, p. 27

³¹OJ L 50, 26.2.1999, p. 26

³²OJ L 142, 5.6.1999, p. 30

³³OJ L 234, 1.9.2001, p. 60

³⁴OJ L 193, 20.7.2002, p. 12

³⁵OJ L 165, 3.7.2003, p. 23

³⁶OJ L 14, 18.1.2005, p. 18

³⁷OJ L 159, 13.6.2006, p. 13

³⁸OJ L 166, 27.6.2009, p. 40

³⁹OJ L 4, 7.1.2012, p. 8

⁴⁰OJ L 325, 23.11.2012, p. 13

Directive No. 71/162/EEC of 30 March 1971, Council Directive No. 72/274/EEC of 20 July 1972, Council Directive No. 72/418/EEC of 6 December 1972, Council Directive No. 73/438/EEC of 11 December 1973, Council Directive No. 75/444/EEC of 26 June 1975, Council Directive No. 78/55/EEC of 19 December 1977, Commission Directive No. 78/387/EEC of 18 April 1978, Council Directive No. 78/692/EEC of 25 July 1978, Council Directive No. 78/1020/EEC of 5 December 1978, Commission Directive No. 79/641/EEC of 27 June 1979, Council Directive No. 79/692/EEC of 24 July 1979, Commission Directive No. 81/126/EEC of 16 February 1981, Council Directive No. 81/561/EEC of 13 July 1981, Council Regulation (EEC) No. 3768/85 of 20 December 1985, Council Directive No. 86/155/EEC of 22 April 1986, Commission Directive No. 86/320/EEC of 20 June 1986, Commission Directive No. 87/120/EEC of 14 January 1987, Council Directive No. 88/332/EEC of 13 June 1988, Council Directive No. 88/380/EEC of 13 June 1988, Commission Directive No. 88/506/EEC of 13 September 1988, Commission Directive No. 89/2/EEC of 15 December 1988, Commission Directive No. 90/623/EEC of 7 November 1990, Council Directive No. 90/654/EEC of 4 December 1990, Commission Directive No. 93/2/EEC of 28 January 1993, Commission Directive No. 95/6/EC of 20 March 1995, Council Directive No. 96/72/EC of 18 November 1996, Council Directive No. 98/95/EC of 14 December 1998, Council Directive No. 98/96/EC of 14 December 1998, Commission Directive No. 1999/8/EC of 18 February 1999, Commission Directive No. 1999/54/EC of 26 May 1999, Council Directive No. 2001/64/EC of 31 August 2001, Council Directive No. 2002/54/EC of 13 June 2002, Council Directive No. 2003/61/EC of 18 June 2003, Council Directive No. 2004/117/EC of 22 December 2004, Commission Directive No. 2006/55/EC of 12 June 2006, Commission Directive 2009/74/EC of 26 June 2009, Commission Implementing Directive 2012/1/EU of 6 January 2012 and Commission Implementing Directive 2012/37/EU of 22 November 2012;

“Minister” means the Minister for Agriculture, Food and the Marine;

“national catalogue” means the National Catalogue of Agricultural Plant Varieties established by the Minister under Regulation 4 of the European Communities (National Catalogue of Agricultural Plant Varieties) Regulations 2002 (S.I. No. 525 of 2002);

“third country” means a country or territory which is not a Member State.

(2) a word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the meaning in these Regulations that it has in the directive.

3. (1) Subject to paragraph (2) and Regulation 4, a person shall not place cereal seed on the market unless it is certified in accordance with the Directive.

(2) A person may place on the market bred seed of generations prior to basic seed and seed grown and marketed for processing provided that the identity of the seed is ensured.

- (3) A person who places on the market bred seed of generations prior to basic seed shall do so in accordance with Article 14a of the Directive.
4. The Minister may authorise the official certification and placing on the market of cereal seed in accordance with Article 4 of the Directive.
5. (1) Subject to paragraph (2), the Minister may authorise for placing on the market—
- (a) small quantities of cereal seed for scientific purposes or selection work, or
 - (b) appropriate quantities of seed for other test or trial purposes provided that the seed belongs to varieties for which an application has been made for entry in the national catalogue.
- (2) Where the cereal seed referred to in paragraph (1) contains genetically modified material, the Minister shall only authorise for placing on the market if all the appropriate measures have been met to avoid adverse effects on human health and the environment (including the assessment required under Article 7.4 of Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species).
6. (1) The Minister may restrict the certification of seed of oats, barley, rice and wheat to certified seed of the first generation.
- (2) A person shall not contravene a restriction of the Minister under paragraph (1).
7. A person seeking certification of cereal seed may request the Minister to treat the genealogical components as confidential and the Minister shall respect that request insofar as it is lawful to do so.
8. (1) Subject to paragraph (2), a person shall not market basic seed or certified seed of all kinds unless it is in sufficiently homogeneous lots and packages sealed in accordance with Article 9 of the Directive and labelled in accordance with Article 10 of the Directive.
- (2) The Minister may allow a person market small quantities of basic seed or certified seed of all kinds to the final consumer other than in accordance with paragraph (1).
9. (1) Subject to paragraph (3), a person shall seal a package of basic seed or certified seeds of all categories using an official seal or under the supervision of the Minister and in accordance with Article 9 of the Directive.
- (2) A person shall not reseal a package of basic seed or certified seed of any category except with the approval of the Minister.
- (3) The Minister may allow a person to seal a package of small quantities of basic seed or certified seed of all categories for use by the final consumer other than in accordance with paragraph (1).

10. (1) Subject to paragraph (2), a person shall label packages of basic seed or certified seed of all categories in accordance with Article 10 of the Directive.
- (2) The Minister may allow a person to label small quantities of basic seed or certified seed of all categories for the final consumer other than in accordance with paragraph (1).
11. A person who places basic seed or certified seed of all categories on the market shall ensure that a supplier's label is attached to the package either as part of an official label or otherwise.
12. (1) A person shall not place basic seed lots or certified seed lots of any category on the market unless those lots are free from *Avena Fatua*.
- (2) Cereal seed shall be regarded as being free of the seed of *Avena fatua* for the purposes of paragraph (1), if-
- (a) the crop of the relevant cereals is found, on an official field inspection, to be free of *Avena fatua* and a sample of at least 1 kilogram of that cereal seed is found on an official examination to be free of the seed of *Avena fatua*, or
 - (b) a sample of the cereal seed of at least 3 kilograms is found on official examination to be free of the seed of *Avena fatua*.
- (3) A person who produces cereal seed in the State shall have it certified in accordance with Regulation 12 (2)(a).
- (4) A person shall not import cereal seed unless each lot of seed is accompanied by an official certificate attesting to the compliance with Regulation 12 (1).
13. A person, who places a seed of variety that has been genetically modified on the market, shall ensure that any label or document affixed to or accompanying the seed lot clearly indicates that the variety has been genetically modified.
14. A person, who places a basic seed or certified seed of all categories that has had any chemical treatment applied, shall ensure that such information is noted on the official label or the supplier's label on the package or inside the package.
15. A person may place cereal seed mixtures on the market subject to the approval of the Minister and in accordance with Article 13 of the Directive.
16. (1) The Minister shall certify seed if the seed satisfies the conditions set out in Article 15 of the Directive.
- (2) A person who produces seed for the purposes of paragraph (1) shall pack, label and ensure that the official document for such seed is in accordance with Article 15.2 of the Directive.

17. (1) Subject to paragraph (2), a person shall not place basic or certified seed on the market other than in accordance with the Directive.
- (2) The Minister may permit basic or certified seed to be placed on the market on foot of a decision of the Commission under Article 17 of the Directive.
18. (1) A person shall not place cereal seed on the market or dispose of cereal seed for consideration or otherwise without registering with the Minister.
- (2) A person who places cereal seed on the market or disposes of cereal seed for consideration or otherwise shall maintain records as determined by the Minister.
- (3) A person who places cereal seed on the market or disposes of cereal seed for the consideration or otherwise shall make returns to the Minister in a manner determined by the Minister.
- (4) The Minister may impose conditions for registration.
- (5) Without prejudice to the generality of paragraph (1), the Minister may refuse an application for, or suspend or revoke a registration if it is satisfied that—
- (a) an act of the institutions of the European Communities or a provision of these Regulations has not, is not or will not be, complied with,
 - (b) the applicant or registered person has committed an offence, whether he or she has been convicted or not, relating to food, feed, animal or public health or welfare or the environment,
 - (c) the applicant or registered person has failed to comply with a condition of registration,
 - (d) in relation to an application, information required has not been furnished or information that is false or misleading in a material respect has been furnished,
 - (e) the premises to which the application or registration relates is not a fit and proper premises to be registered,
 - (f) the applicant or registered person is not a fit and proper person to be registered,
 - (g) the registered person has ceased to carry out the activity to which registration relates on the premises to which registration relates,
 - (h) the applicant or registered person, having been given 14 days to do so, fails to pay a fee under Regulation 19,

- (i) it is necessary for the protection of human health, plant health, animal health or welfare, or the environment including the prevention, control or eradication of a disease, or
 - (j) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities (including an act cited in the preamble to these Regulations) to have full effect.
- (6) Other than in the case of paragraph (5)(i) or (j), if the Minister proposes to refuse an application or suspend or revoke a registration, it shall—
- (a) notify the applicant or registered person of the proposal and the reasons for the proposal, and that he or she may make representations in relation to the proposal to the Minister within 14 days of notification,
 - (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
 - (c) notify the applicant or registered person of the decision and the reasons for the decision.
- (7) If the Minister is of the opinion that—
- (a) it is necessary for the protection of human health, plant health, animal health or welfare or the environment including the prevention, control or eradication of a disease, or
 - (b) it is necessary, ancillary or supplementary for an act of the institutions of the European Communities to have full effect,

it may refuse an application for, or suspend or revoke a registration in accordance with paragraph (8).

- (8) If the Minister refuses an application for, or suspends or revokes a registration in accordance with this paragraph, it shall—
- (a) notify the applicant or registered person of the decision and the reasons for the decision, and that he or she may make representations in relation to the decision to the Minister within 14 days of notification,
 - (b) consider a representation made, and
 - (c) confirm, modify or annul the decision and notify the applicant or registered person of the decision and the reasons for the decision.
- (9) If the Minister—
- (a) suspends registration to which this Regulation relates, the entry relating to the person and establishment suspended has no effect for the

duration of the suspension as notified to the person formerly registered, or

- (b) revokes registration to which this Regulation relates the registration expires by effluxion of time, the entry relating to the person to whom, and establishment to which, registration, formerly related has no effect.

19. (1) The Minister may charge a fee for any service or act undertaken for the purposes of these Regulations as the Minister may, from time to time, determine.

(2) The Minister may not consider an application or provide a service under these Regulations unless the appropriate fee is paid.

(3) The Minister may waive a fee in whole or in part where the Minister is of the view that it is appropriate to do so.

(4) An application for a refund of a fee shall be in such form and contain such particulars as the Minister may require.

(5) A fee, as determined by the Minister, shall be paid no later than 31 December in the year prior to the year in respect of which, the payment is made or by such other date as the Minister may from time to time determine (in this Regulation referred to as “the due date”).

(6) The Minister may remove a person from the Register where a fee due under paragraph (5) is not paid by the due date.

(7) The Minister may reinstate a person on the Register if the fee due under paragraph (5) is paid to the Minister with such other costs as the Minister considers appropriate.

20. (1) The Minister may, appoint in writing, such persons or classes of persons as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, specified in the appointment.

(2) The Minister may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period or specified purpose.

(3) An appointment as an authorised officer ceases—

- (a) if it is terminated in accordance with paragraph (2),
- (b) if it is for a fixed period, on the expiration of that period,
- (c) if the person appointed is an officer of the Minister upon the person ceasing to be such an officer or class of person.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom paragraph (3) relates.

(5) An authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and, when exercising a function conferred on him or her as an authorised officer, the officer shall, if requested by a person affected, produce the warrant, or other evidence that he or she is such an officer, for inspection.

21. (1) For the purposes of these Regulations an authorised officer may—
- (a) enter, and inspect, at all reasonable times, any premises if he or she is carrying out an official control in accordance with these Regulations or where he or she has reasonable grounds for believing that—
 - (i) a cereal seed or other thing to which these Regulations relate is, may be or has been present,
 - (ii) a record relating to a cereal seed or other thing to which these Regulations relate is, may be or has been present, or
 - (iii) equipment, machinery, vehicle, vessel or other thing used in connection with a cereal seed or other thing to which these Regulations relate is, may be or has been present, or
 - (iv) a premises has been approved, authorised, registered or licensed for a purpose specified in these Regulations, is required to be so approved, authorised, registered or licensed or is subject to an application for approval, authorisation, registration or a licence or is ancillary to such a premises,
 - (b) examine equipment, machinery, vehicle, vessel or other thing used in connection with a cereal seed or other thing to which these Regulations relate,
 - (c) require the name and address of the owner, operator or person in possession or control of equipment, machinery, vehicle, vessel or other thing used in connection with a cereal seed or other thing to which these Regulations relate,
 - (d) require details of place of departure, journey or destination of a cereal seed or other thing to which these Regulations relate,
 - (e) inspect equipment, machinery, vehicle, vessel or other thing used in connection with a cereal seed or other thing to which these Regulations relate and require the operator, person in charge or control of such to refrain from moving it,
 - (f) require the owner, operator, person in charge of any premises, equipment, machinery, vehicle, vessel or other thing used in connection

with a cereal seed or other thing to which these Regulations relate, to produce to the officer such records (and in the case of a record stored in non-legible form, produce to him or her a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,

- (g) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form), document or extracts from the record or document that the officer finds or is produced to him or her during an inspection,
- (h) take photographs,
- (i) take, without making a payment, samples of a cereal seed or other thing to which these Regulations relate, or any article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient; and mark or otherwise identify it.

(2) An authorised officer may require a person to give information regarding the ownership and identity of equipment, machinery, vehicle, vessel or other thing used in connection with a cereal seed or other thing to which these Regulations relate as is in the person's knowledge or procurement.

(3) Where an authorised officer has reasonable grounds for believing that—

- (a) there is a risk of disease or injury to public health,
- (b) a disease or disease agent is or may be present on a premises, machinery, equipment, vehicle or vessel,
- (c) an offence is being or has been committed under these Regulations,
- (d) there is a risk of contamination from a cereal seed or derived product, or
- (e) evidence of a disease or a disease agent, contamination or an offence to which paragraph (c) relates may be, is or has been on any premises, or in any equipment, machinery, vehicle,

the officer may, in addition to the powers exercisable by him or her under paragraph (1)—

- (i) search the premises,
- (ii) search the equipment, machinery, vehicle, vessel or other thing used in connection with a cereal seed or other thing to which these Regulations relate,

- (iii) require a person in charge or control of the equipment, machinery, a vehicle, a vessel or other thing used in connection with a cereal seed or other thing to which these Regulations relate to—
 - (I) refrain from using or moving it, and
 - (II) give information regarding its ownership, place of departure, journey or destination,
 - (iv) seize and detain a cereal seed or other thing to which these Regulations relate and mark or otherwise identify it,
 - (v) detain any equipment, machinery, vehicle, or vessel for such reasonable period necessary for the purposes of permitting an inspection or a search under these Regulations,
 - (vi) remove any equipment, machinery, vehicle, vessel or other thing used in connection with a cereal seed or other thing to which these Regulations relate or books, documents or records and detain them for such reasonable period necessary for the purpose of his or her functions under these Regulations,
 - (vii) give such direction to a person who has a cereal seed, or other thing to which these Regulations relate, a vehicle, vessel, container, equipment, machinery or other thing used in connection with a cereal seed, or other thing to which these Regulations relate in his or her possession or under his or her control or information relating to such, as the authorised officer may reasonably consider necessary for the purposes of these Regulations.
- (4) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he or she has obtained a search warrant under Regulation 22.
- (5) An authorised officer, when exercising a function under this Regulation, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the function.
- (6) An authorised officer may use reasonable force, if necessary, to exercise his or her functions under these Regulations.
- (7) Where, in the course of exercising a function under these Regulations, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under these Regulations, the officer may seize and retain it for use in evidence in proceedings for an offence under these Regulations.
- (8) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on him or her by these Regulations.

(9) Where a person is seen or found committing, or is reasonably suspected of being engaged in committing or having committed, an offence under these Regulations, a member of the Garda Síochána may arrest the person without warrant.

(10) Section 4 of the Criminal Justice Act 1984 applies to a person arrested under paragraph (9) as if he or she were detained under that provision.

(11) Where a member of the Garda Síochána or an officer of Customs and Excise has reasonable grounds for believing that there is evidence on a person of an offence committed under these Regulations the member or officer may without warrant—

- (a) search or cause to be searched the person and, if the member or officer considers it necessary, detain the person for such time as is reasonably necessary to carry out the search,
- (b) search or cause to be searched a vehicle in which the member or officer suspects that evidence in relation to an offence committed under these Regulations may be found and for the purpose of carrying out the search, if the member or officer thinks fit, require the person who is in charge or control of the vehicle to bring it to a stop and when stopped to refrain from moving it or, in case the vehicle is already stationary, to refrain from moving it, or
- (c) seize and detain under paragraph (3) or cause to be seized and detained anything found in the course of a search under this Regulation which any such member or officer reasonably suspects to be something which might be required as evidence in proceedings for such an offence.

(12) Where a member of the Garda Síochána or an officer of Customs and Excise decides to search or cause to be searched a person under paragraph (11) the member or officer may require the person to accompany that member or officer to either a Garda Síochána station or a Customs office for the purpose of being so searched at that station or office.

(13) A member of the Garda Síochána may stop a vehicle, for the purposes of these Regulations and may require it to be moved for inspection to such place as he or she directs.

(14) Nothing in these Regulations operates to prejudice any power to search or to stop, or to seize or detain property, which may, apart from these Regulations, be exercised by a member of the Garda Síochána or an officer of Customs and Excise.

(15) A person who has—

- (a) a cereal seed, or other thing to which these Regulations relate, or

(b) equipment, machinery, a vehicle, a vessel or other thing used in connection with a cereal seed, or other thing to which these Regulations relate in his or her possession or under his or her control, or information or a record relating to any of them, shall give such—

(i) assistance to an authorised officer, or person who accompanies the officer, and

(ii) information to an authorised officer on request being made in that behalf by the officer, as the officer may reasonably require for the exercise of his or her functions under these Regulations.

(16) The owner, operator or person in charge of any premises used in connection with a cereal seed or other thing to which these Regulations relate shall, if required by an authorised officer, where it is practicable and possible, provide suitable equipment or facilities or a suitable part of the plant or establishment for the officer to carry out his or her functions under these Regulations.

(17) An authorised officer may require a person to give to the officer such information as is in the person's power or procurement or as regards any premises specified by the officer including—

(a) whether or not the premises is used, either partly or wholly, in connection with a cereal seed or other thing to which these Regulations relate,

(b) the name of the owner, occupier or person who is in charge of the premises, and

(c) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

22. (1) If a judge of the District Court is satisfied by information on the sworn information of an authorised officer that there are reasonable grounds for believing that—

(a) there is evidence of or relating to the commission or intended commission of an offence under these Regulations relating to a cereal seed or other thing to which these Regulations relate on any premises,

(b) there is or was cereal seed or other thing to which these Regulations relate or equipment or other thing made, used or adapted for use (including dressing or transport) in connection with a cereal seed or other thing to which these Regulations relate on a premises, or

(c) a record related to a thing to which subparagraph (a) or (b) relates is or may be on the premises,

then the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter the premises named in the warrant and to exercise all or any of the functions conferred on an authorised officer under these Regulations.

23. (1) Where an authorised officer is of the opinion that—

- (a) a contravention of these Regulations may have taken place, may be taking place, or
- (b) there is a risk to public health,

the officer may serve a notice (“compliance notice”) stating that opinion on the person—

- (i) who appears to be the owner, occupier, operator or person in charge of the premises, or
- (ii) in possession or control of a cereal seed, or other thing to which the notice relates.

(2) A compliance notice shall—

- (a) require the person to whom it is served to take such action as specified in the notice,
- (b) inform the person to whom it is served that he or she may appeal the notice in the District Court under Regulation 24, and
- (c) state that if the person to whom it is served fails to comply with the notice, he or she commits an offence and is liable to a penalty set out in Regulation 27.

(3) A compliance notice may—

- (a) require that a cereal seed or other thing to which these Regulations relate be detained, disposed of or destroyed in a manner and at a place (if any) specified in the notice,
- (b) prohibit or regulate any activity specified in the notice, including prohibiting or restricting entry onto the premises specified in the notice,
- (c) require that the owner, occupier, operator or person in charge of any premises dispose of a cereal seed or other thing to which these Regulations relate in a manner specified in the notice,
- (d) prohibit the transport or further transport of a cereal seed or other thing to which these Regulations relates, either absolutely or unless such conditions as may be specified in the notice are complied with,

- (e) require a person to return a cereal seed or other thing to which these Regulations relate to the place of departure (whether within the State or otherwise) by a route which in the opinion of the authorised officer is the most direct or prudent,
- (f) require that such alterations or additions be made to any premises, vehicle, vessel, machinery or equipment as may be specified in the notice,
- (g) require a person to secure a cereal seed or other thing to which these Regulations relate in a manner (if any) as may be specified in the notice,
- (h) require a person to clean and disinfect any premises, vessel, vehicle, equipment, or machinery or other thing used in connection with a cereal seed or other thing to which these Regulations relate in a manner as may be specified in the notice,
- (i) require a person to undertake a specified type or level of sampling and analysis for a period specified in the compliance notice, or
- (j) require a person to make such changes to a label or marketing material including re-labelling of a cereal seed or other thing as may be specified in the notice.

(4) A person to whom a compliance notice is served shall comply with it until the notice expires, is withdrawn under paragraph (6) or is annulled under Regulation 24, and not cause or permit another person to contravene the terms of the notice.

(5) A compliance notice may specify a time limit within which it is to be complied with.

(6) A compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(7) A compliance notice may require the owner, occupier, operator or person in charge of any premises, cereal seed, vehicle, vessel, machinery, equipment or other thing to which these Regulations relate, to choose between two or more of the requirements specified in the notice.

(8) A compliance notice shall include an address for service of an appeal under Regulation 24.

(9) A person on whom a compliance notice is served who fails to comply with, or causes or permits another person to contravene the notice commits an offence.

24. (1) A person to whom a compliance notice is served may, within 7 days from the date of service of the notice, appeal the notice to the Judge of the District Court having jurisdiction in the District Court district—

- (a) where a cereal seed, premises, vehicle, machinery, equipment, vessel or other thing to which these Regulations relate, which is the subject of the notice, is situated, or
- (b) where the person bringing the appeal ordinarily resides or carries on business,

on the grounds that the notice is unreasonable having regard to these Regulations.

(2) Notice of an appeal shall contain a statement of the grounds upon which it is alleged that the notice or any of the terms of the notice are unreasonable and shall be served on the authorised officer who served the compliance notice at the address included on the notice in accordance with Regulation 23(8) not later than 48 hours prior to the hearing of the appeal.

(3) A person bringing an appeal shall lodge a copy of the notice or appeal with the District Court Clerk concerned not later than 48 hours prior to the hearing of the appeal.

(4) On the hearing of an appeal a Judge of the District Court may confirm, modify or annul a notice.

(5) A person, including a person on whom a compliance notice has been served, shall not—

- (a) pending the determination of an appeal, deal with a cereal seed, derived product, premises, vehicle, vessel, machinery, equipment or other thing to which the notice relates, other than in accordance with the terms of the compliance notice, or
- (b) if the notice is confirmed or modified on appeal, deal with a cereal seed, or other thing to which this Regulation relates, any premises, vehicle, vessel, equipment, machinery or other thing to which the notice relates other than in accordance with the terms of the compliance notice as confirmed or modified.

(6) In this Regulation “appeal” means an appeal under paragraph (1).

25. (1) Without prejudice to an appeal under Regulation 24, if—

- (a) a person in control of a cereal seed or other thing to which these Regulations relate, premises, vessel, vehicle, equipment, machinery or other thing used in connection with a cereal seed or fails to comply with the terms of a compliance notice within the time specified,
- (b) an authorised officer has reasonable grounds for believing that the terms of a compliance notice will not be complied with,
- (c) a compliance notice has been confirmed with or without modification under Regulation 24(4) and the notice has not been complied with,

- (d) an authorised officer has reasonable grounds for believing that the terms of a compliance notice which has been confirmed with or without modification under Regulation 24(4) will not be complied with,

an authorised officer may at any time seize the cereal seed or other thing to which these Regulations relate, vessel, vehicle, equipment, machinery or other thing used in connection with a cereal seed.

(2) If a cereal seed or other thing to which these Regulations relate, vessel, vehicle, equipment, machinery or other thing used in connection with a cereal seed is seized in accordance with paragraph (1), an authorised officer may—

- (a) sell, destroy or dispose of the cereal seed or other thing to which these Regulations relate or cause it to be sold, destroyed or be disposed of, or
- (b) take such other measures in relation to the cereal seed or other thing to which these Regulations relate, vessel, vehicle, equipment, machinery or other thing used in connection with a cereal seed as the authorised officer considers appropriate in the circumstances.

(3) Any profits arising out of the sale, destruction or disposal of a cereal seed, or other thing to which these Regulations relate in accordance with paragraph (2) shall be paid to the owner of the cereal seed, or other thing to which these Regulations relate less any expenses incurred in connection with the seizure, sale, destruction or disposal.

(4) The costs (including ancillary costs) of a measure taken under this Regulation are recoverable by the Minister—

- (a) as a simple contract debt in a court of competent jurisdiction from the person who was the owner of the cereal seed or other thing or means of transport at the time the measure was carried out, or
- (b) by deducting the costs from any sum due by the Minister to a person on whom a notice has been served.

26. A person who—

- (a) obstructs, interferes with or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,
- (b) fails or refuses, without reasonable cause, to comply with a requirement of an authorised officer under Regulation 21,
- (c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with Regulation 21, or
- (d) in purporting to give information to an authorised officer for the exercise of the officer's functions under these Regulations-

- (i) makes a statement that he or she knows to be false or misleading in a material particular or recklessly makes a statement which is false or misleading in a material particular, or
- (ii) intentionally fails to disclose a material particular,

commits an offence and shall be liable for a Class A fine.

27. (1) A person who contravenes Regulation 3, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 23 or 24 commits an offence and shall be liable for a Class A fine.

(2) If an offence under these Regulations is committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence is committed, is a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.

(3) If the affairs of a body corporate or unincorporated body are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with functions of management as if the member is a director or manager of the body corporate.

28. (1) Proceedings for an offence under these Regulations may be brought summarily by the Minister.

(2) In any proceedings for an offence under these Regulations—

- (a) the result of any test, examination or analysis of, or any report on, a sample taken shall not be adduced unless, before the proceedings were instituted, one of the parts into which the sample was divided was left with, delivered to, or sent by registered post to the defendant or his or her agent,
- (b) a certificate showing the results of analysis shall, until the contrary is shown, be sufficient evidence of the facts certified to therein in relation to—
 - (i) the presence of a basic seed or certified seed on a particular generation, or
 - (ii) the presence of a mixture of cereal seed, and
 a document purporting to be such a certificate shall be such a certificate, or
- (c) the presence of a basic seed or certified seed of any generation on any premises (including any stores), shall, until the contrary is shown, be

sufficient evidence that the basic seed or certified seed of any generation is or was being placed on the market or used by the owner and by the occupier of such premises.

29. (1) If the Minister has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations, he or she may serve a notice in writing (“fixed payment notice”) on that person stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days from the date of the notice make to the Minister a payment of €250 accompanied by the notice, and
- (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the fixed payment notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) If a fixed payment notice is given—

- (a) a person to whom the notice applies may, during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) the Minister may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence will be instituted.

(3) In a prosecution for an offence under these Regulations, the onus of proving that a payment pursuant to a notice under this Regulation has been made lies on the defendant.

30. (1) The European Communities (Cereal Seed) Regulations 2001 (S.I. 640 of 2001) are revoked.

(2) Any application for certification made under a Regulation mentioned in paragraph (1) shall continue to be certified as though the application was made under these Regulations.

(3) Any certification made under a Regulation mentioned in paragraph (1) shall continue in force as though certified under these Regulations.

(4) Any notices issued under a Regulation mentioned in paragraph (1) shall continue in force as though certified under these Regulations.

(5) Any proceeding initiated under a Regulation mentioned in paragraph (1), shall be continued as though they were initiated under the Regulations.



GIVEN under my Official Seal,
20 June 2013.

SIMON COVENEY,
Minister for Agriculture, Food and the Marine.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations give effect to the provisions of Commission Implementing Directive 2012/37/EU of 22 November 2012 which amends Annex III to Council Directive 66/402/EEC of 14 June 1966 regarding entries for *Sorghum bicolor*, *Sorghum bicolor x Sorghum sudanense*, *Sorghum sudanense* and *Sorghum sudanense* (Piper) Stapf.

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