I, Mary Coughlan, Minister for Agriculture and Food, in exercise of the powers conferred on me by Section 3 of the European Communities Act, 1972 (No 27 of 1972) and for the purpose of giving effect to Directive 66/402/EEC of 14 June 1966\(^1\) as amended by Council Directive 2004/117/EC of 22 December 2004\(^2\) hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Cereal Seed) (Amendment) Regulations 2005.

2. The European Communities (Cereal Seed) Regulations 2001 (S.I. No. 640 of 2001) are amended:

   (a) In Regulation 2(1)-

   (i) by deleting the definitions of “basic seed”, “cereals” “certified seed”, “certified seed of the first generation”, “certified seed of the second generation”, and “pre-basic seed”, and

   (ii) by substituting for the definition of “Directive” the following:


\(^1\) O.J. No L125 11/07/1966 p2309

\(^2\) OJ No L48/1 of 26 February, 1969.

\(^3\) OJ No L87/24, 17 April, 1971.

\(^4\) OJ No. L171/37, 29 July, 1972.

\(^5\) OJ No. L287/22, 26 December, 1972.


\(^7\) OJ No. L2/1, 1 January, 1973.


\(^10\) OJ No. L196/6, 26 July, 1975.


\(^12\) OJ No. L113/13, 25 April, 1978.

(b) by substituting for Regulation 5 (7) the following:

“5 (7) Notwithstanding paragraph 5 (1) (b), official examinations or examinations under official supervision in respect of germination and analytical purity need not be carried out on all lots during certification unless there is doubt whether the conditions laid down in Annex II have been complied with.”

c) by substituting for Regulation 6 (3) (a) the following:

“6 (3) (a) Subject to Regulation 12 and to subparagraph (b) of this paragraph, the Minister may, where the official examination or
examination under official supervision in respect of germination pursuant to Annex II has not concluded, authorise the official certification of pre-basic seed, basic seed or certified seed or certified seed of the first generation and the marketing of those categories of seed by way of trade as far as the first buyer.”

(d) by substituting for Regulation 7 (1) the following:

“7 (1) Cereal seed shall for the purposes of these Regulations be regarded as being free of the seed of *Avena fatua* if,

( a ) the crop of the relevant cereals is found on an official field inspection or field inspection carried out under official supervision to be free of *Avena fatua* and also if a sample of at least 1 kilogram of the cereal seed is found on an official examination or examination under official supervision 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 or examination under official supervision to be free of the seed of *Avena fatua*.

(2) Cereal seed which is produced in the State shall be certified pursuant to these Regulations if, and only if, the crop of the relevant cereals is found on an official field inspection or field inspection carried out under official supervision to be free of *Avena fatua* and also if a sample of at least 1 kilogram of the cereal seed is found on an official examination or examination under official supervision to be free of the seed of *Avena fatua*.”

(e) by substituting for Regulation 11 (1) the following:

“11(1) In the official examination or examination under official supervision of cereal seed for certification, samples shall be officially drawn both from sufficiently homogeneous lots and in accordance with the International Rules for Seed Testing published by the International Seed Testing Association and the maximum weight of a lot of seed and the minimum weight of a sample shall be as laid down in Annex III.”

(f) by substituting for Regulation 21 the following:

“21 (1) The Minister may set fees, payable to him or her, for inspection, application for a certificate, sampling and carrying out of tests and different fees may be set for different inspections, certificates or tests.

(2) A fee payable under this Regulation may be recovered by the Minister as a simple contract debt in a court of competent jurisdiction.

(3) The Minister shall not carry out an inspection, consider an application for a certificate or carry out sampling or a test unless the fee set under this Regulation has been paid.
(4) A fee payable under this Regulation shall not exceed an amount equal to the costs, estimated by the Minister, incurred in respect of an inspection, processing of an application for a certificate or test.

(5) The Public Offices Fees Act 1879 does not apply in respect of fees payable under this Regulation.

(6) A fee under this Regulation shall be disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.’

(g) by inserting the following after Regulation 21:

22 Seed of cereals, which have been produced in another Member State or a third country shall, on request, and without prejudice to the European Communities (National Catalogue of Agricultural Plant Varieties) Regulations 2002 be officially certified as certified seed of the appropriate category if the conditions as set down in Article 15(3) of the EC Directive have been met”,

23 (1) Field inspections carried out under official supervision shall be carried out by inspectors who fulfil the conditions set out in Article 2 (3) A of the Directive.

(2) Seed sampling carried out under official supervision shall comply with Article 7 of the Directive.

(3) Seed testing carried out under official supervision shall be carried out by seed-testing laboratories which comply with Article 2 (3) B (a), (b) and (c) of the EC Directive.

24 Notwithstanding Regulation 6, seed of heritage varieties which are:

(a) associated with specific natural and semi natural habitats,
(b) are threatened by genetic erosion, and
(c) which is placed on the market in small packages,

may be marketed subject to any conditions that the Minister may deem necessary.”, and

(h) by substituting for the first sentence in ANNEX I the following:

“1 The satisfaction of the above-mentioned standards or other conditions shall be examined in official field inspections or field inspection carried out under official supervision.”.
GIVEN under my Official Seal

7 December 2005.

Mary Coughlan
Minister for Agriculture and Food

EXPLANATORY NOTE

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


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