

**EXPLANATORY MEMORANDUM TO
THE CEREAL SEED (ENGLAND) AND FODDER PLANT SEED (ENGLAND)
(AMENDMENT) REGULATIONS 2006**

2006 No. 1678

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations reflect changes made to Annex III to Council Directive 66/402/EEC on the marketing of cereal seed and increase the maximum weight of cereal seed lots for species other than maize from 25 to 30 tonnes. They apply in England and amend the Cereal Seed (England) Regulations 2002 (SI 2002/3173).

2.2 As a result of the maximum weight being raised to 30 tonnes in the Cereal Seed (England) Regulations 2002, an amendment to regulation 23 of the Fodder Plant Seed (England) regulations 2002 (SI 2002/3172) is also required to increase to 30 tonnes the seed lot weight of a fodder mixture where 50% of the mixture consists of a species for which the maximum seed lot weight prescribed in seed regulations is 30 tonnes.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Schedule 7 to the Cereal Seed (England) Regulations 2002 sets out the maximum weight of seed lots for prescribed cereal species. It implements Annex III of Council Directive 66/402/EEC on the marketing of Cereal Seed. Changes to the seed lot weight for cereals other than maize have been agreed at EC level, following an amendment to the OECD Cereal Seed Scheme, and Commission Directive 2006/55/EC amends Directive 66/402 Annex III to increase the size of such seed lots from 25 tonnes to 30 tonnes. These Regulations amend the Cereal Seed (England) Regulations 2002 to implement those changes.

Regulation 23 of the Fodder Plant Seed (England) Regulations 2002 provides that the maximum weight of a seed lot of a mixture of fodder plant seed and other seed is 25 tonnes, where 50% of that mixture consists of a species for which the maximum seed lot weight prescribed in seed regulations is 25 tonnes. The above amendment to the Cereal Seed (England) Regulations 2002 mean that the figure of 25 tonnes needs to be increased to 30 tonnes.

4.2 A Transposition Table for Commission Directive 2006/55/EC is attached as an Annex to this memorandum. These changes only apply to the Cereal Seed (England) Regulations 2002 and the Fodder Plant Seed (England) Regulations

2002 and not the equivalent seeds regulations for other agricultural species (beet seed, and oil and fibre plant seed) or vegetable seed.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The EC Cereals Marketing Directive (Council Directive 66/402/EEC) set out in Annex III the maximum weight for seed lots of cereals species. Following a 2001 Community wide increase in net load capacities for lorries from 25 to 30 tonnes, Defra has supported seed industry calls for a matching increase in the maximum size of seed lots for cereal species. The EC standing committee adopted this desired increase for cereal seed lots other than maize on 20 April 2006, and Commission Directive 2006/55/EC amends the Cereals Marketing Directive. This must be implemented by 31 December 2006. The Cereal Seed (England) Regulations 2002 and the Fodder Plant Seed (England) Regulations 2002 now require amendment as outlined in paragraph 4 to implement the change to the Cereals Marketing Directive. This is being done now to allow industry to benefit from the changes as close as possible to the beginning of the 2006/2007 seeds year.

7.2 A wide range of interests were consulted, including the Agricultural Industries Confederation (AIC) which represents the interests of the majority of seed companies, the NFU and the British Society of Plant Breeders which represent the interests of seed producers and plant breeders respectively, as well as farmers, growers and environmental groups totalling 110. One formal response was received to the consultation. All comments, formal and informal, fully supported the proposed change in seed lot size.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 There is no impact on the public sector.

9. Contact

Tony Watts at the Defra Plant Variety Rights Office and Seeds Division Tel: 01223 34 2374 or e-mail: tony.a.watts@defra.gsi.gov.uk can answer any queries regarding the instrument.

Transposition Note

THE CEREAL SEED (ENGLAND) AND FODDER PLANT SEED (ENGLAND) (AMENDMENT) REGULATIONS 2006

Commission Directive 2006/55/EC

Commission Directive 2006/55/EC amending Annex III of Council Directive 66/402/EEC on the marketing of cereal seed as regards the maximum weight of seed lots for cereal species

Directive 2006/55/EC	Regulations	Comments
Article 1 amends the maximum seed lot weight for cereal species (excluding maize) from 25 to 30 tonnes	The Cereal Seed (England) and Fodder Plant Seed (England) (Amendment) Regulations 2006 Regulation 2 (1) (Cereal) Regulation 3 (1) (Fodder)	The effect of Article 1 is that amendment to Schedule 7 of the Cereal Seed (England) Regulations 2002 (SI 2002/3173) is required to reflect the increase in seed lot weight from 25 to 30 tonnes for cereal species other than maize. Regulation 23 of the Fodder Plant Seed (England) Regulations 2002 (SI 2002/3172) permits fodder mixture where 50% of the mixture consists of a species for which the maximum seed lot size prescribed in seed regulations is 25 tonnes. The effect of Article 1 is also to require a consequential amendment to this regulation to allow for an increase from 25 to 30 tonnes.

REGULATORY IMPACT ASSESSMENT

TITLE: AMENDMENT TO THE CEREAL SEED (ENGLAND) REGULATIONS 2002 (SI 2002/3173) AND THE FODDER PLANT SEED (ENGLAND) REGULATIONS 2002 (SI 2002/3172)

Purpose and intended effect of measure

1. Transposition of a Commission Directive 2006/55/EC amending Council Directive 66/402/EC on the marketing of cereal seed, increasing the maximum size of cereal seed lots (excluding maize) from 25 to 30 tonnes to align maximum cereal seed lot sizes with an earlier Community wide increase in net load capacities for lorries from 25 to 30 tonnes.

Background

2. A Community wide increase in net load capacities for lorries from 25 to 30 tonnes was introduced in 2001. Defra has supported seed industry calls for a matching increase in the maximum size of cereal seed lots.

3. Following acceptance of an increase in the maximum size of cereal seed lots by the International Seed Testing Association (ISTA) and OECD, the Commission proposed a corresponding change in Directive 66/402/EEC which was adopted by the EC Standing Committee on Seeds on 20 April 2006.

Rationale for government intervention

4. The government is transposing this measure as quickly as possible to allow the economic and environmental benefits to be realised without delay.

Risk assessment

5. There is common support within industry for this measure which brings with it economic and environmental benefits. To do nothing would risk infraction proceedings and hold back the aforementioned economic and environmental benefits.

Consultation

6. The proposal was subject to full consultation – see 5 above – although the need to consequentially amend the Fodder Plant Seed (England) Regulations 2002 was not identified in the consultation. The Devolved Administrations have been consulted and it is understood that they will implement the amendment to their seed marketing regulations after the summer recess.

Options

7. **Option 1:** Do nothing.

Option 2: Amend the Cereal Seed (England) Regulations 2002 to implement the Commission Directive increasing the maximum size of cereal seed lots (excluding maize) from 25 to 30 tonnes. Also make a consequential amendment to the Fodder Plant Seed (England) Regulations 2002 to ensure that, where more than 50% of a seed lot comprising a mixture of fodder plant seed and seed for which the maximum weight of seed lot is increased by the Cereal Seed (England) Regulations to 30 tonnes, the maximum weight of the mixed seed lot is also 30 tonnes.

Costs and benefits

8. **Business sectors affected**

8.1 This regulation principally affects cereal seed producers and seed merchants.

8.2 Option 1: offers no advantages, and would hold back estimated savings of around £90,000 and a potential 16% reduction in lorry movements for this sector (based on winter cereal certifications of 200,000 tonnes).

8.3 Option 2: will bring English and EU legislation and practices into line and allow the seed industry to benefit financially at a time when margins are particularly low. It will also help reduce carbon emissions through fewer lorry movements.

9. **Costs**

9.1 Option 1 - Do nothing: would deny the seed industry estimated annual savings of around £26,000 in haulage costs and a further £70,000 in seed certification costs (based on cereal certifications of 213,000 tonnes).

9.2. Option 2 - amend the Cereal Seed (England) Regulations 2002 to implement the Commission Directive increasing the maximum size of cereal seed lots (excluding maize) from 25 to 30 tonnes: will allow industry to make annual savings of around £26,000 in haulage costs and a further £70,000 in certification costs (based on winter cereal certifications of 200,000 tonnes and spring cereals certifications of 13,000 tonnes). The costs and benefits of consequential amendment to the Fodder Plant Seed (England) Regulations 2002 have not been calculated, but are likely to be negligible.

Small Firms Impact Test

10. **This measure will have no negative impact on small firms.**

Competition assessment

11. Transposition of this measure will not distort the cereal seed market.

Enforcement, sanctions and monitoring

12. Responsibility for enforcement of seeds legislation in England rests with the Plant Varieties and Seeds Division of Defra.

13. Monitoring and review is the responsibility of the Plant Varieties and Seeds Division of Defra.

Declaration and publication

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by the responsible Minister

.....Jeff Rooker.....

Date:...25th June 2006.....