

1994—No. 441

**SEEDS ACT 1982—REGULATION**

(Seeds Regulation 1994)

NEW SOUTH WALES



*[Published in Gazette No. 108 of 26 August 1994]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Seeds Act 1982, has been pleased to make the Regulation set forth hereunder.

IAN R. CAUSLEY, M.P.,  
Minister for Agriculture and Fisheries.

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**PART 1—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Seeds Regulation 1994.

**Commencement**

2. This Regulation commences on 26 August 1994.

**Definitions**

3. In this Regulation:

“**common name**” of a seed means the common name of the seed, as listed in the CSIRO Handbook;

“**CSIRO Handbook**” means the document entitled “CSIRO Handbook of Economic Plants of Australia”, published in 1993 by the Commonwealth Scientific and Industrial Research Organisation;

“**Department**” means the Department of Agriculture;

“**declared weed**” means a plant specified in Schedule 1;

**“germinable seed”** means pure seed which, if subjected to a germination test, would produce seedlings having the essential structures that indicate that the seedlings will become normal plants within the meaning of the International Seed Testing Rules;

**“germination test”** means:

- (a) for a seed listed in the International Seed Testing Rules, the relevant germination test procedure specified in those Rules; and
- (b) for any other seed, the relevant germination test procedure approved by the Director-General of the Department;

**“International Seed Testing Rules”** means the document entitled “International Rules for Seed Testing” (being Rules adopted by the International Seed Testing Association), as published in 1993 in volume 21 of the journal “Seed Science and Technology”, copies of which are obtainable from the offices of the Department;

**“section 5 statement”** means the particulars required by section 5 (1) of the Act to be specified in a statement written on, or on a label attached to, a parcel of seed;

**“source lot”**, in relation to a parcel of seed, means the bulk lot containing seed of a purity or germinability uniform (within the tolerances allowed by the International Seed Testing Rules) with the purity and germinability of the seed contained in the parcel, being a bulk lot that is uniquely identified by some distinguishing brand, code or mark;

**“pure seed”** has the same meaning as it has in the International Seed Testing Rules;

**“Seed Testing Handbook”** means document entitled “Handbook of Tolerances and of Measures of Precision for Seed Testing” published in 1963 in volume 28 of the journal “Proceedings of the International Seed Testing Association”, copies of which are obtainable from the offices of the Department;

**“the Act”** means the Seeds Act 1982.

## PART 2—EXEMPT SALES

### General exemption

4. For the purposes of section 6 of the Act, each of the following sales of seed is prescribed as an exempt sale:

- (a) a sale of sowing seed to be used for experimental or breeding purposes, but only if the Director-General has approved in writing of the sale;

- (b) a sale of sowing seed of wheat, oats, barley, rye or triticale by a primary producer who does not grow sowing seed for sale in the ordinary course of the business of the primary producer, but only if
  - (i) the sale is to another primary producer who, so far as the seller is aware, is not buying the seed for sale but intends to use the seed for the purpose of sowing; and
  - (ii) the sale is not solicited by the seller; and
  - (iii) the seed has not been produced under an approved varietal verification scheme (within the meaning of Part 4 of the Act); and
  - (iv) the total of all such sales by the primary producer during the previous period of 12 months, together with the present sale, does not exceed 5 tonnes;
- (c) a sale by retail of a parcel of sowing seed that has been made up at the express direction of the purchaser from 2 or more parcels of seed (each containing a different variety of seed and each bearing a section 5 statement), but only if, at the time of the sale, the seller gives the purchaser a written statement identifying the source lots for the various seeds;
- (d) a sale by retail of a parcel containing less than 10 kilograms of seed that has been made up at the express direction of the purchaser from a parcel of seed bearing a section 5 statement, but only if, at the time of the sale, the seller gives the purchaser a written statement identifying the source lot for the seed.

### **Exemption for small parcels of sowing seed**

**5. (1)** In this clause, a reference to a small parcel of sowing seed is a reference to a parcel of sowing seed containing:

- (a) less than 100 grams of vegetable seed (other than maize, bean or pea seed); or
- (b) less than 1 kilogram of maize, bean or pea seed; or
- (c) less than 10 kilograms of seed, where the seed is labelled as being suitable for growing lawn or turf.

**(2)** For the purposes of section 6 of the Act, a sale of a small parcel of sowing seed is prescribed as an exempt sale if the following particulars are legibly and durably written on the parcel or on a label securely attached to the parcel:

- (a) the common name of the seed;
- (b) the brand, code or mark that identifies the source lot for the seed;

- (c) the name (including a recognised brand name) of any chemical that, subsequent to harvesting, has been applied to seed in that source for the purpose of protecting it against any pest or disease;
- (d) the words “USE BY” or “SOW BEFORE”, together with the date by which the seed should be sown if it is to germinate.

(3) The particulars must be in boldface Roman type of at least 6 points in size.

#### **Exemption for winter cereal seed**

6. For the purposes of section 6 of the Act, the sale of a parcel of wheat, oats, barley, rye or triticale seed is prescribed as an exempt sale:

- (a) if the parcel has legibly and durably written on it, or on a label securely attached to it, a brand, code or mark that identifies the source lot for the seed; and
- (b) if, at the time of the sale, the seller gives to the purchaser a written statement containing the information that would otherwise be required to be contained in a section 5 statement for the seed; and
- (c) if, at all times while the parcel is being offered for sale, the seller keeps at the place of sale, and permits any person to inspect free of charge, a register containing the information that would otherwise be required to be contained in a section 5 statement for the seed.

#### **Exemption for flower seed and native tree and shrub seed**

7. For the purposes of section 6 of the Act, a sale of a parcel of seed is prescribed as an exempt sale if the seed is flower seed or the seed of a native Australian tree or shrub.

### **PART 3—MISCELLANEOUS**

#### **Prohibited matter**

8. For the purposes of the definition of “prohibited matter” in section 4 of the Act, the following substances are prescribed as prohibited matter:

Sclerote (that is, the whole or any part of an externally black resting body composed of a mass of fungal hyphae produced by *Sclerotinia* SPP.)

*Anguina agrostis* Steinbuch, (1799) Filipjev galls

**Prohibited seed**

9. For the purposes of the definition of “prohibited seed” in section 4 of the Act, each of the following is prescribed as a prohibited seed:

- (a) the seed of any plant specified in Schedule 2;
- (b) a seed of a species of the genus sorghum that is physically indistinguishable from *Sorghum almun* or *Sorghum halepense*.

**Labelling of seed parcels**

10. (1) A section 5 statement must specify (in addition to the botanical name or names or the common name or names of the seed) the following particulars:

- (a) the mass, or (in the case of vegetable seed) the number, of seeds contained in the parcel;
- (b) a brand, code or mark that identifies the source lot for the seed;
- (c) the name (including a recognised brand name) of any chemical that, subsequent to harvesting, has been applied to the source lot for the seed for the purpose of protecting it against pest or disease;
- (d) for each kind of seed that comprises at least 5 per cent of the mass of the contents of the parcel:
  - (i) the common name of the seed; and
  - (ii) the minimum proportion of the mass of the parcel that comprises pure seed of that kind, being a proportion no greater than the corresponding proportion of pure seed of that kind in the source lot for the seed; and
  - (iii) the minimum proportion of the number of pure seed of that kind in the parcel that is germinable seed, being a proportion no greater than the corresponding proportion of pure seed of that kind that is germinable seed in the source lot for the seed; and
  - (iv) in the case of leguminous seed, the maximum proportion of the seed that is hard seed (that is, seed which, if subjected to a germination test, would remain unswollen), being a proportion no less than the corresponding proportion of the seed that is hard seed in the source lot for the seed; and
- (e) for other seed (that is, seed for which particulars are not required under paragraph (d)), the maximum proportion of the mass of the parcel that comprises that other seed, being a proportion no less than the corresponding proportion of that other seed occurring in the source lot for the seed.

(2) For seed that is labelled as being suitable for growing lawn or turf, the reference in subclause (1) (d) to 5 per cent is to be read as 1 per cent.

(3) A section 5 statement for seed of a declared weed must also contain the common name of the weed, together with:

(a) the maximum number of seeds of the weed per 100 grams (or per kilogram) of the parcel, in the case of the seed of:

(i) *Trifolium subterranean*; or

(ii) *Medicago scutellata*; or

(iii) any species of plant for which the Working Sample for Count of Other Species in Table 2A of the Annex to the International Seed Testing Rules is less than 250 grams; or

(b) the maximum number of seeds of the weed per kilogram of seed in the source lot for the seed (being a number no less than the number of seeds of that kind in the parcel), in any other case.

(4) Subclause (3) does not apply to the seed of flowers, vegetables (other than maize, bean or pea seed), trees or shrubs.

(5) A section 5 statement must be in boldface Roman type of at least 8 points in size.

### **Description of seed by its common name**

**11.** For the purposes of section 5 (2) of the Act, the common name of a seed listed in the CSIRO Handbook may be used in the section 5 statement instead of the botanical name of the seed.

### **Maximum proportion of certain prohibited matter**

**12.** For the purposes of section 8 (2) of the Act, a maximum proportion of 0.1 per cent by mass is prescribed in respect of sclerotes when contained in a parcel of seed of the species *Helianthus annuus*.

### **Labelling of seed sample taken by inspector**

**13.** For the purposes of section 25 (2) (c) (i) of the Act, the prescribed particulars to be contained on a label attached to a sample of seed taken under section 22 of the Act are as follows:

(a) the name and address of the person from whom the sample was taken;

(b) the date on which the sample was taken;

(c) the botanical name or names or the common name or names of the seed;

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- (d) the particulars referred to in clause 10 (1) (b), (d) and (e) and clause 10 (2) in respect of the seed.

**Tolerances for analyses and tests**

**14.** For the purposes of this Regulation, the tolerances applicable to an analysis or test conducted for determining purity, germination or seed count are:

- (a) the tolerances specified in the International Seed Testing Rules; or  
 (b) if no such tolerances are specified in those Rules, the tolerances specified in the Seed Testing Handbook.

**Repeal**

**15. (1)** The Seeds Regulation 1983 is repealed.

**(2)** Any act, matter or thing that, immediately before the repeal of the Seeds Regulation 1983, had effect under that Regulation is taken to have effect under this Regulation.

**SCHEDULE 1—DECLARED WEEDS**

(Cl.3)

**Common name****Botanical name**

Australian Bindweed .....	<i>Convolvulus erubescens</i> Sims
Bugloss .....	<i>Echium</i> spp.
Bulbous Oatgrass .....	<i>Arrhenatherum elatis</i> var. <i>bulbosum</i> (Wild) Spenner
Common Heliotrope .....	<i>Heliotropium europaeum</i> L.
Docks (not Sorrel) .....	<i>Rumex</i> spp. (not <i>R. acetosella</i> L.s.lat.)
Glaucous Star Thistle .....	<i>Carthamus glaucus</i> auct.
Hexham Scent .....	<i>Melilotus indicus</i> (L.) All.
Hoary Cress .....	<i>Cardaria draba</i> (L.) Desv.
Horehound .....	<i>Marrubium vulgare</i> L.
Khaki weed .....	<i>Alternanthera pungens</i> Kunth.
Mexican Poppy .....	<i>Argemone mexicana</i> L.s. lat.
Mintweed .....	<i>Salvia reflexa</i> Hornem.
Mustard .....	<i>Sisymbrium</i> spp.
Oat (Wild, Black) .....	<i>Avena</i> spp. (not cultivated oats)
Onion grass .....	<i>Romulea</i> spp.
Onion weed .....	<i>Asphodelus fistulosus</i> L.

Paterson's Curse .....	<i>Echium plantagineum</i> L.
Saffron Thistle .....	<i>Carthamus lanatus</i> L.
Skeleton weed .....	<i>Chondrilla juncea</i> L.
Slender Thistle .....	<i>Carduus</i> spp.
Spear Thistle .....	<i>Cirsium vulgare</i> (Savi) Ten.
St. Barnaby's Thistle .....	<i>Centaurea solstitialis</i> L.
Three-cornered Jack .....	<i>Emex Australis</i> Steinh.
Turnip weed .....	<i>Rapistrum rugosum</i> (L.) All.
Variigated Thistle .....	<i>Silybum marianum</i> (L.) Gaertn.
Wild turnip .....	<i>Brassica tournefortii</i> Gouan
Yellow Burrweed .....	<i>Amsinckiaspp.</i>

## SCHEDULE 2—PROHIBITED SEEDS

(Cl. 9)

## Common name

## Botanical name

African Feather grass .....	<i>Pennisetum macrourum</i> Trin.
Black Bindweed .....	<i>Polygonum convolvulus</i> L.
Blue Heliotrope .....	<i>Heliotropium amplexicaule</i> Vahl.
Broomrape .....	<i>Orobanche</i> spp.
Buffalo burr .....	<i>Solanum rostratum</i> Dunal
Burr grass .....	<i>Cenchrus brownii</i> Roem and Schult.
Burrs .....	<i>Xanthium</i> spp.
Caltrop .....	<i>Tribulus terrestris</i> L.
Cape Tulips .....	<i>Homeria</i> spp.
Cardoon .....	<i>Cynara cardunculus</i> L.
Carolina Horse Nettle .....	<i>Solanum carolinense</i> L.
Charlock .....	<i>Sinapis arvensis</i> L.
Clockweed .....	<i>Gaura parviflora</i> Hook
Colombus grass .....	<i>Sorghum X alnum</i> Parodi
Corn Sowthistle .....	<i>Sonchus arvensis</i> L.
Creeping Knapweed .....	<i>Acroptilon repens</i> (L.) DC.
Dark Blue Snakeweed .....	<i>Stachytarpheta urticifolia</i> (Salisb.) Sims
Dodders .....	<i>Cuscuta</i> spp.
Espartillo .....	<i>Stipa brachychaeta</i> Godron
Field Bindweed .....	<i>Convolvulus arvensis</i> L.
Gallon's Curse .....	<i>Cenchrus biflorus</i> Roxb.
Giant Foxtail .....	<i>Setaria faberi</i> Herm.
Golden Thistle .....	<i>Scolymus hispanicus</i> L.
Gooseberries .....	<i>Physalis</i> spp.
Groundsel bush .....	<i>Baccharis halimifolia</i> L.
Hemlocks .....	<i>Conium maculatum</i> L.
Indian Hemp .....	<i>Cannabis sativa</i> L.s. lat.
Johnson grass .....	<i>Sorghum halepense</i> (L.) Pers.
Mesquite .....	<i>Prosopis</i> spp.
Mignonette .....	<i>Reseda lutea</i> L. and <i>Reseda luteola</i> L.
Mossman River grass .....	<i>Cenchrus echinatus</i> L.



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Nodding Thistle .....	<i>Carduus nutans</i>	L.
Nutgrass .....	<i>Cyperus rotundus</i>	L.
Opium Poppy .....	<i>Papaver somniferum</i>	L.
Oxalis .....	<i>Oxalis</i>	spp.
Parthenium weed .....	<i>Parthenium hysterophorus</i>	L.
Perennial Thistle .....	<i>Cirsium arvense</i> (L.) Scop.	S
Ragweeds .....	<i>Ambrosia</i>	spp.
Ragwort .....	<i>Senecio jacobaea</i>	L.
Red Rice .....	<i>Oryza rufipogon</i>	Griff.
Serrated Tussock .....	<i>Nassella trichotoma</i> (Nees)	Arech.
Silverleaf Nightshade .....	<i>Solanum elaeagnifolium</i>	Cav.
Smallflower Opium Poppy .....	<i>Papaver somniferum</i> spp.	<i>grave setigerum</i> (D.C.) Corbitre
Smoothstem Turnip .....	<i>Brassica oxyrrhina</i> (Coss.)	Willk.
Soldier's Thistle .....	<i>Picnomon acarna</i> (L.)	Cass.
Spotted Thistle .....	<i>Scolymus maculatus</i>	L.
Spiny Burr grass .....	<i>Cenchrus incertus</i>	M.A. Curtis
Spiny Burr grass .....	<i>Cenchrus longispinus</i>	(Hack.) Fernald
Star Thistle .....	<i>Centaurea calcitrapa</i>	L.
St John's wort .....	<i>Hypericum perforatum</i>	L.
Stinkwort .....	<i>Dittrichia graveolens</i> (L.)	Greuter
Texas Blueweed .....	<i>Helianthus ciliaris</i>	DC.
Thistles .....	<i>Onopordum</i>	spp.
Thornapples .....	<i>Datura</i>	spp.
Wild radish .....	<i>Raphanus raphanistrum</i>	L.
Witch weed .....	<i>Striga</i>	spp.
Yellow nutsedge .....	<i>Cyperus esculentus</i>	L.

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SCHEDULE 1—DECLARED WEEDS

SCHEDULE 2—PROHIBITED SEEDS

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**EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake, without any changes in substance, the provisions of the Seeds Regulation 1983 under the Seeds Act 1982. The new Regulation deals with the following matters:

- (a) exempting certain kinds of seed from the labelling requirements of section 6 of the Act (clauses 4, 5, 6 and 7);
- (b) prescribing certain matter as “prohibited matter” for the purposes of the Act (clause 8);
- (c) prescribing certain kinds of seed as “prohibited seed” for the purposes of the Act (clause 9);
- (d) prescribing information to be included on a label attached to a parcel of seeds in accordance with the requirements of section 5 of the Act (clause 10);
- (e) allowing seeds to be described by their common names for the purposes of section 5 of the Act rather than by their botanical names (clause 11);
- (f) prescribing a maximum proportion of prohibited matter that may be contained in a parcel of seeds for the purposes of section 8 of the Act (clause 12);
- (g) prescribing the particulars to be included on a label attached to a sample of seeds taken in accordance with section 25 of the Act (clause 13);
- (h) prescribing tolerances applicable to tests and analyses carried out for the purposes of the Act (clause 14);
- (i) making provision for other formal matters (clauses 1, 2, 3 and 15).

This Regulation is made under the Seeds Act 1982, including section 31 (the general regulation making power) and sections 4, 5, 6, 8 and 25.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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