

FARM-SAVED SEED

Frequently Asked Questions



This season's difficult weather conditions have brought short-term issues of seed quality and availability into sharp focus for many growers. The problems experienced this year have prompted a number of questions from growers about the regulatory position on seed use and supply.

Seed marketing regulations are in place to safeguard the integrity, quality and performance of seed supply in the UK, while Plant Variety Rights legislation provides a framework of intellectual property protection to reward and promote continued investment and innovation in the development of improved varieties by plant breeders.

Compliance with these regulations is essential to support continued access to quality seed of high-performing crop varieties, as the basis for productive, efficient, competitive agriculture.

Based on genuine queries received from growers this year, BSPB's farm-saved seed team provides a FAQ guide to the legal ins and outs on the use of farm-saved and certified seed.



I have 5 tonnes of farm-saved wheat seed left over, with FSS royalty already paid when it was cleaned by a processor. I have not been able to sow the seed – can I sell it to my neighbour?

No, it is against the law to sell or transfer farm-saved seed from one holding to another for the purposes of establishing a crop, although it is possible for farm-saved seed to be carried over from one season to the next, provided it is planted on the same holding.

The Seed Marketing Regulations 2011 are in place to safeguard plant health and seed quality by ensuring that only seed of known provenance and purity can be marketed, so protecting everyone's interests.

What if I give the seed away, or barter it, or invoice it as something else such as feed?

Any transaction involving farm-saved seed – whether free, bartered or charged – constitutes a transfer of ownership and this is against the law. If the farm-saved seed is surplus to requirements or cannot be sown in the current season, it may be carried over for planting the following year without further royalty payment.

For farm-saved seed carried over on farm for which royalty has not already been paid via a processor, the royalty will become payable on sowing at the per hectare rate for the period in which the seed is sown.

The vigour and germination rate of farm-saved seed can deteriorate over time, and growers are also strongly advised to have their seed tested prior to planting. Contact your local licensed seed testing laboratory, seed processor, NIAB or PGRO for advice.

Can I have my farm-saved seed certified in order to sell or transfer it legitimately?

No. A sample of farm-saved seed cannot be certified retrospectively.

Certified seed must be produced from an officially entered seed crop which has been field inspected by an official or licensed crop inspector and complies with all legal standards.

Inspection of the growing crop is a key principle of seed certification, providing an assurance of seed health, purity and provenance, and that the certified seed crop has been produced and inspected in accordance with regulatory requirements.

Producing certified seed crops is a specialist market sector in its own right, and the certified seed trade is always keen to hear from prospective new growers. Contact your local seed merchant for more information.

My crop has been totally ruined by slugs in the wet weather. Do I still need to declare the farm-saved seed that was used?

Yes, a declaration and payment must be made to BSPB for the farm-saved seed used. Failure to establish a crop is one of the normal risks in farming. Payment for the use of farm-saved seed applies at the point of sowing (unless already paid via a processor), regardless of the outcome of the crop.

I have several tonnes of dressed farm-saved seed sitting in my barn. I was unable to sow the seed because my land is saturated but I have already paid the FSS royalty to the processor. Can I claim a refund?

You could request a refund from the processor for any surplus farm-saved seed, although this could result in paying a higher royalty if the seed is then sown the following season as payment rates are calculated annually under the terms of the FSS agreement between BSPB and the farming unions.

If a refund is made, BSPB will check your FSS declaration the following season. If no FSS use is declared, BSPB may seek confirmation that the seed has been disposed of in accordance with the legal requirements for chemically treated seed, for example via the waste disposal note.

My land is now being farmed by a contractor. Who should make the farm-saved seed declaration?

This can vary, but under most contracting arrangements the farmer maintains control of his business accounts, which is where the responsibility and accountability for FSS declaration and payment will lie.

A farmer can delegate the responsibility for FSS declaration to a contractor by notifying BSPB, but ultimately the owner of the holding and recipient of the single farm payment is responsible for ensuring compliance on all legal matters.

My cousin sold me some barley to feed my pigs. I have been unable to buy any spring barley seed to sow this spring from local seed merchants. Can I sow the barley that I bought as feed if I pay the farm-saved seed royalty when it is cleaned by a processor?

No, it is against the law to use any grain bought in to establish a crop. By law, farm-saved seed must be sown by the business that produced the original crop.

My farm is organic and a processor never puts a dressing on my seed. Why do I have to pay farm-saved seed payments to BSPB?

In deciding to farm-save seed, a grower is acknowledging the performance benefits of a particular variety on his farm.

Payment for the use of farm-saved seed recognises and rewards the genetic value contained in a plant variety, and applies whether seed has been cleaned and dressed or taken straight from the barn.

Royalties on farm-saved and certified seed sustain continued investment in plant breeding, and support the development of improved varieties to meet ever changing disease, pest, climatic and market demands.

Payments on farm-saved seed in the UK now amount to more than £8m, and contribute significantly to the R&D investment required to safeguard the future competitiveness of UK agriculture through the development of new varieties.

I farm on heavy land in Lincolnshire and I have 20 tonnes of Xi19 certified seed in stock which I am unable to sow. I have a friend in Cotswold Brash who has spring barley seed on order – he offered to do a swap if I pay for the transport. Is this legal?

No, such a transaction would be in breach of the Seed Marketing Regulations 2011 which stipulate that the sale or transfer of certified seed between businesses can only be undertaken by officially licensed operators.

Licences can only be granted by Government-appointed agencies – Fera for England and Wales, SASA in Scotland and DARD in Northern Ireland – providing an independent assurance of the quality and integrity of certified seed supply in the UK.

I drilled a field but ran short of seed near the end and topped up the drill with some variety I had in the barn. What do I need to do?

If this was grain from your own harvest, simply declare the area sown with top up seed to BSPB in the usual way. BSPB will then invoice you for the farm-saved payment for the variety and area sown.

Please note, however, that if the grain in question had been bought in, perhaps as livestock feed, it would not fall within the farm-saved seed exemption and could not be used as seed.

What's the position on farm-saving seed of F1 hybrid varieties?

Without the breeder's consent it is against the law to establish a commercial crop using farm-saved seed from a hybrid variety.

Furthermore, it makes no agronomic or economic sense to farm-save seed of hybrid varieties because the resulting crop will segregate to produce variable offspring, reduced yields and loss of agronomic characters.

From harvest 2013, any crops grown from farm-saved seed of hybrid oilseed rape varieties are likely to be unmarketable, as the revised contract specified by European oilseed crushers' organisation FOSFA – on which virtually all UK and EU oilseed rape is traded – prohibits the use of farm-saved seed from hybrid varieties. The same contract also permits only once-grown farm-saved seed from conventional varieties.

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