

SCOTTISH STATUTORY INSTRUMENTS

2000 No. 248

SEEDS

The Cereal Seeds (Amendment) (Scotland) Regulations 2000

<i>Made</i>	- - - -	<i>24th July 2000</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>27th July 2000</i>
<i>Coming into force</i>	- -	<i>1st August 2000</i>

The Scottish Ministers, in exercise of the powers conferred on them by sections 16(1), (1A), (2) and (3) and 36 of the Plant Varieties and Seeds Act 1964^{F1} and of all other powers enabling them in that behalf, after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to them to be concerned, hereby makes the following Regulations:

F1 1964 c.14 section 16 was amended by the [European Communities Act 1972 \(c.68\)](#), [section 4\(1\)](#) and Schedule 4, paragraph 5(1), (2) and (3); see [section 38\(1\)](#) for the definition of “the Minister”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the [Scotland Act 1998 \(c.46\)](#).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Cereal Seeds (Amendment) (Scotland) Regulations 2000 and shall come into force on 1st August 2000.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations “the principal Regulations” means the Cereal Seeds Regulations 1993 ^{F2}.

F2 [S.I. 1993/2005](#), amended by [S.I. 1995/1482](#), 1997/616 and 1999/1860.

Amendment of the principal Regulations

3.—(1) The principal Regulations shall be amended in accordance with the provisions of this and the following regulations.

(2) For any reference in the principal Regulations to “the Minister”, other than that mentioned in regulation 4 of these Regulations, there is substituted reference to “the Ministers”.

Amendment of regulation 3 of the principal Regulations

4.—(1) In regulation 3(1) (interpretation)—

(a) there shall be inserted—

- (i) in sub paragraph (b) of the definition of “Basic Seed”, for the words “and rye” there shall be substituted, “rye and self-pollinating triticale”; and
- (ii) in the definition of “Certified Seed”, for the words “spelt wheat and rye” both times they appear there shall be substituted “spelt wheat and self pollinating triticale”;
- (iii) after the definition of “Member State”—
““the Ministers” means the Scottish Ministers;”;
- (iv) after the definition of “Common Catalogue”—
““genetically modified” has the same meaning as for the purposes of Council Directive [90/220/EEC](#)^{F3} on the deliberate release into the environment of genetically modified organisms;”;
- (v) after the definition of “small package”—
““third country” means a country listed in the Annex to Council Decision [95/514/EC](#)^{F4} on the equivalence of field inspections carried out in third countries.”.

(b) the definitions of “marketing” and “the Minister” shall be omitted; and

(c) for the definition of “official examination” there shall be substituted—

““official examination” means—

- (a) in relation to Certified Seed, Certified Seed of the First Generation or Certified Seed of the Second Generation, produced in the United Kingdom—
 - (i) an examination or test carried out by or on behalf of the Ministers, the Minister of Agriculture Fisheries and Food, the National Assembly for Wales or the Department of Agriculture and Rural Development;
 - (ii) an examination carried out under official supervision; or
 - (iii) a test carried out by an establishment licensed as a seed testing station under official supervision;
- (b) in relation to Breeder’s Seed, Pre-Basic Seed and Basic Seed produced in the United Kingdom—
 - (i) an examination or test carried out by or on behalf of the Ministers, the Minister of Agriculture Fisheries and Food, the National Assembly for Wales or the Department of Agriculture and Rural Development;
 - (ii) a test carried out by an establishment licensed as a seed testing station under official supervision; and
- (c) in relation to any description of seed produced elsewhere than the United Kingdom, an examination or test approved by the Ministers;”.

(2) After paragraph (3) of regulation 3 (interpretation) there shall be inserted—

“(3A) For the purposes of these Regulations, seeds—

- (a) produced and packaged in a Member State other than the United Kingdom or a third country;
- (b) accompanied by a document issued by a competent authority concerned with the certification of cereal seeds in that Member State or third country containing the information specified at paragraph F(b) of Part I of Schedule 6; and

- (c) in respect of which an application has been made for a breeder's confirmation under these Regulations,

shall be deemed to be seeds produced from seeds issued with a breeder's confirmation.

(3B) For the purposes of these Regulations, seeds—

- (a) produced and packaged in a Member State other than the United Kingdom or a third country;
- (b) accompanied by a document issued by a competent authority concerned with the certification of cereal seeds in that Member State or third country containing the information specified (in respect of packages of seed not finally certified) at paragraph F(b) of Part I of Schedule 6; and
- (c) in respect of which an application has been made for an official certificate under these Regulations,

shall be deemed to be seeds produced from seeds issued with such a breeder's confirmation or an official certificate.

(3C) For the purposes of these Regulations, seeds—

- (a) produced and packaged in a Member State other than the United Kingdom or a third country;
- (b) labelled in accordance with the requirements of regulation 9; and
- (c) in the case of a small package of seeds, sealed in accordance with the requirements of regulation 8(3), or, in the case of seeds other than a small package of seeds, sealed by a competent authority concerned with the certification of cereal seeds in that Member State or third country,

shall be deemed to fall within the meaning of the appropriate category of seeds set out in paragraph (3) above.”.

(3) After paragraph (5) of regulation 3 (interpretation) there shall be inserted—

“(6) In these Regulations “marketing” means—

- (a) selling, holding with a view to sale and offering for sale; and
- (b) any disposal, supply or transfer for the purpose of commercial exploitation of seed to third parties,

whether or not for consideration; and “market” and “marketed” shall be construed accordingly.

(7) Trade in seed not aimed at commercial exploitation of the variety, such as the following operations, shall not be treated as marketing of seed of that variety—

- (a) the supply of seed to official testing and inspection bodies; or
- (b) the supply of seed to any person for the purpose of processing or packaging the seed provided he does not acquire title to the seed supplied.”.

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| F3 | O.J. No. L 117 8.5.90; as last amended by Commission Decision 98/294/EC O.J. No. L 131, 5.5.98, p.33. |
| F4 | O.J. No. L 296, 9.12.95, p.34. |

Amendment of regulation 4 of the principal Regulations

5. In regulation 4 (seeds to which the Regulations apply)

- (a) in paragraph (1) for—

“Subject to paragraphs (2) and (3) below there shall be substituted “Subject to paragraph (2) below”.”

- (b) paragraph (2)(b), (c) and (d) and paragraph (3) shall be omitted.

Amendment of regulation 5 of the principal Regulations

6. In regulation 5 (marketing of seeds)–

- (a) in paragraph (1)(a) after the words “Breeder’s Seed,” there shall be inserted “Pre-basic Seed,”;

- (b) after paragraph (1) there shall be inserted–

“(1A) Paragraph (1) above shall not prevent the marketing of seed as grown, marketed for processing, provided the identity of the seed is ensured.”;

- (c) in paragraph (1)(b) for the words “regulation 9(1)” there shall be inserted “regulation 9(1), (1B),”;

- (d) after paragraph (1)(c) there shall be inserted–

“(d) in respect of genetically modified seeds, clearly indicated, in the sales catalogue of the person marketing the seeds and in any other marketing information or marketing representations provided by that person, as having been genetically modified.”;

- (e) after paragraph (2) there shall be inserted–

“(2A) Where there is an arrangement under which–

- (a) seed, other than seed which contains any genetically modified material, under the control of one person (“the first person”) is used by another person (“the second person”) for the purpose of–

(i) increasing the first person’s stock of the seed for sowing; or

(ii) carrying out tests or trials on the seed; and

- (b) everything produced from the seed, whether directly or indirectly, and any unused seed, become or remain the property of the first person,

the prohibitions in paragraph (1) above shall not apply to the marketing of the seed by the first person to the second person as part of that arrangement or to the marketing by the second person to the first person of any seed produced (whether directly or indirectly) from that seed.

(2B) The prohibitions in paragraph (1) above shall not apply to the marketing by producers of small quantities of seed, other than seed which contains any genetically modified material, for scientific purposes or selection work.

(2C) If the conditions specified in paragraph (2D) below are satisfied, the prohibitions in paragraph (1) above shall not apply to–

- (a) the marketing, as part of any arrangement referred to in paragraph (2A) above by the first person referred to in that paragraph to the second person referred to in that paragraph, of seed which contains any genetically modified material;

- (b) the marketing, as part of any arrangement referred to in paragraph (2A) above by the second person referred to in that paragraph to the first person referred to in that paragraph, of seed produced (whether directly or indirectly) from the seed marketed to him as part of any such arrangement which contains any genetically modified material; or

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- (c) the marketing by producers, for scientific purposes or selection work, of small quantities of seed which contains any genetically modified material.
- (2D) The conditions referred to in paragraph (2C) above are—
 - (a) the deliberate release of the genetically modified material has been authorised under a Part B consent, or the genetically modified material has been accepted for marketing in accordance with a Part C consent, issued for the purpose of Council Directive 90/220/EEC;
 - (b) the seeds are accompanied during marketing by a copy of the consent;
 - (c) all appropriate measures, in accordance with an environmental risk assessment in respect of the material carried out in accordance with article 7(4) of Council Directive 70/457/EEC^{F5}, have been taken by the producer of the seed to avoid adverse effects on human health and the environment; and
 - (d) in the case of genetically modified material issued with a Part C consent, an authorisation has been granted by the Ministers in accordance with paragraph (2E) below to the person marketing the seed.
- (2E) An authorisation may be granted by the Ministers for the purpose of paragraph (2D)(d) above if—
 - (a) the person intending to market the seed has applied to the Ministers before the seed is marketed—
 - (i) giving the Ministers notice of his intention to market the seed and a description of the proposed marketing in respect of which the authorisation is sought; and
 - (ii) giving the Ministers such information relating to the acceptance for marketing of the variety of the seed concerned under Council Directive 90/220/EEC, and the proposed marketing in respect of which the authorisation is sought as the Ministers may require for the purposes of determining whether or not to grant the authorisation; and
 - (b) the Ministers are satisfied that an authorisation should be granted.”;
- (f) after paragraph (12) there shall be inserted—

“(12A) Cereal seeds produced and packaged in a Member State other than the United Kingdom which have not yet been officially certified shall not be marketed unless they are—

 - (a) sealed and labelled as required by regulations 8 and 9; and
 - (b) accompanied by an official document, containing all the information in respect of seeds specified in Part 1F(b) of Schedule 6.

(12B) A person who imports a package containing a net weight of more than 2 kilograms of cereal seeds produced other than in a Member State shall make available to the Ministers in such manner and at such time as the Ministers may require the information in respect of the seeds specified in Part IV of Schedule 6.”;

and
- (g) in paragraph (13) the words “may be imported but” shall be omitted.

F5 O.J. No. L 225, 12.10.70, p.1; as last amended by Council Directive 98/96/EC (O.J. No. L 25, 1.2.99, p.27).

Amendment of regulation 9 of the principal Regulations

7. In regulation 9 (labelling of packages)–

(a) after paragraph (1A) there shall be inserted–

“(1B) If a variety has been genetically modified, any label or document, whether official or otherwise, affixed to or accompanying a seed lot or any part of a seed lot in accordance with the provisions of this regulation, shall clearly indicate that the variety has been genetically modified.”.

(b) in paragraph (5) there shall be inserted–

(i) for “marked” there shall be substituted “marketed”; and

(ii) in sub-paragraph (b) for “Part V” there shall be substituted “Part VI”; and

(c) in paragraph (12)(b) for “Part IV” there shall be substituted “Part V”.

Amendment of Schedule 4 to the principal Regulations

8. In Schedule 4 (requirements for basic seed, certified seed and certified seed of the first and second generations)–

(a) in Part 1 (conditions relating to crops from which seeds are obtained)–

(i) paragraph 2 (varietal identity and varietal purity) shall be renumbered 2(1) and after that paragraph there shall be inserted–

“(2) The crop shall have sufficient varietal identity and varietal purity. In the case of an inbred line, the crop shall have sufficient varietal identity and purity as regards its characteristics. For the production of seed of hybrid varieties, the requirement for sufficient varietal identity and purity shall apply also to the characteristics of the components, including characteristics as to male sterility and fertility restoration.”;

(ii) in paragraph 6 (standards for varietal purity, species purity and wild oats)–

(a) for the heading to the third column to the table there shall be substituted–

“Varietal purity (excluding rye!, maize#, hybrids of oats, barley, wheat, durum wheat, spelt wheat= and self-pollinating varieties of triticale Ø) percentage by number”;

and

(b) below footnote# there shall be added–

“= For hybrids of oats, barley, wheat, durum wheat, spelt wheat and self pollinating triticale, the crop shall comply with the standards set out in paragraph 10 below.

Ø The varietal purity of self-pollinating varieties of triticale percentage by number shall be 99.7 for Basic Seed and 99.0 for Certified Seed of the First Generation.”.

(iii) after paragraph 9 (special conditions for hybrids of rye) there shall be inserted–

“Special conditions for crops to produce hybrids of oats, barley, wheat, durum wheat, spelt wheat and self-pollinating triticale

- (a) The crop shall conform to the following standards as regards distances from neighbouring sources of pollen which may result in undesirable foreign pollination. The minimum distance of the female component shall be 25 metres from any other variety of the same

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species except from a crop of the male component. This distance may be disregarded if there is sufficient protection from any undesirable foreign pollination.

- (b) The crop shall have sufficient identity and purity as regards the characteristics of the components.
- (c) Where seed is produced by use of a chemical hybridisation agent, the crop shall conform to the following standards or other conditions—
 - (i) the minimum varietal purity of each component shall be—
 - (a) oats, barley, wheat, durum wheat and spelt wheat 99.7%;
 - (b) self-pollinating triticale 99.0%;
 - (ii) the minimum hybridity shall be 95%. The percentage hybridity shall be assessed in accordance with current international methods, in so far as such methods exist. In cases where the hybridity is determined during seed testing prior to certification, the determination of the hybridity during field inspection need not be done.”;

(b) in Part II (conditions relating to the seeds)–

(i) for paragraph 1 there shall be substituted–

“The seeds shall possess the varietal identity and the varietal purity (appropriate to the kind, category and level of the seeds) specified in Part I. In the case of seed of an inbred line, it shall possess the varietal identity and the varietal purity (appropriate to the kind, category and level of the seeds) specified in Part I as regards its characteristics. For the seed of hybrid varieties, the requirements as to varietal identity and varietal purity (appropriate to the kind, category and level of the seeds) specified in Part I, other than the requirement as to the varietal purity of Basic Seed specified in the third column of the table in paragraph 6 of Part I, shall apply also the characteristics of the components. For hybrids of oats, barley, wheat, durum wheat, spelt wheat and self-pollinating triticale, the minimum varietal purity of the seed of the category “Certified Seed” shall be 90%. It shall be examined in official post-control tests on an appropriate proportion of samples.”;

and

(ii) in paragraph 3–

(a) for–

“Germination (% by number)	All categories	85	85
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there shall be substituted–

Germination (% by number)	All categories (except Triticale)	85	85
	Triticale	80	

; and”

(b) in the table headed “Minimum Standard-maximum number of other seeds or structures in 500g.”, in the third box down in the first column, there shall

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be inserted before the words “Certified Seed of the First Generation” the words “Certified Seed,”.

Amendment of Schedule 6 to the principal Regulations

9. In Schedule 6 (labelling requirements)–
- (a) Part III, paragraphs A(a)9 and B(a)6 shall be omitted;
 - (b) “Part IV” (Particulars to be marked or displayed on the sale of unpacked seeds) shall be renumbered “Part V”;
 - (c) “Part V” (Printing of specified matters on packages (whole bag labelling)) shall be renumbered “Part VI”; and
 - (d) after Part III there shall be inserted–

“PART IV

INFORMATION IN RESPECT OF SEEDS IMPORTED FROM THIRD COUNTRIES IN PACKAGES OF MORE THAN 2 KILOGRAMS IN NET WEIGHT

- 1. Kind.
- 2. Variety.
- 3. Category.
- 4. Country of production and official inspection authority.
- 5. Country of despatch.
- 6. Importer.
- 7. Quantity of seed.”.

Edinburgh
24th July 2000

SAM GALBRAITH
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Cereal Seeds Regulations 1993, S.I. 1993/2005 ("the principal Regulations"), as amended by S.I. 1995/1482, 1997/616, 1999/1860.

The amendments to the principal Regulations implement Commission Directive 99/8/EC (O.J. No. L 50, 26.2.99, p.26) and Commission Directive 99/54/EC (O.J. No. L 142, 5.6.99, p.30) amending Council Directive 66/402/EEC (O.J. No. L 125, 11.7.66, p.2309/66) (O.J./SE 1965-66, p.143) on the marketing of cereal seed and give effect to Council Directive 98/95/EC (O.J. No. L 25, 1.2.99, p.1) in respect of the consolidation of the internal market, genetically modified plant resources and plant genetic resources and Council Directive 98/96/EC (O.J. No. L 25, 1.2.99, p.27) amending, as regards unofficial field inspections, directives in respect of the marketing of seeds and the common catalogue of varieties of agricultural plant species. The directives in respect of the marketing of seeds amended by Council Directive 98/95/EC and Council Directive 98/96/EC include Council Directive 66/402/EEC (O.J. No. L 125, 11.7.66, p.2309/66) (O.J./SE 1965-66, p.143) on the marketing of cereal seed (last amended by Council Directive 99/54/EC (O.J. No. L 142, 5.6.99, p.30).

These amending Regulations—

- a)** amend definitions in the principal Regulations, including the definitions of "marketing" and "official examination" (regulation 4);
- b)** include provisions in relation to marketing and marketing authorisations, tests and trials, seed as grown, selection work and other scientific purposes; and make consequential amendments to regulation 4 (regulations 5 and 6);
- c)** include provisions in relation to the marketing of genetically modified seeds (regulation 6);
- d)** amend regulation 9 to make provision in relation to clear indications for genetically modified varieties (regulation 7);
- e)** amend Schedule 4 to reduce the minimum germination requirement for triticale from 85% to 80%, introduce sample purity standards for certified seed and to make provision for the marketing of seeds of hybrids of self polluting varieties of triticale as Basic Seed and Certified Seed and to establish, in respect of such hybrids and hybrids of oats, barley, wheat, durum wheat and spelt wheat, conditions to be met both by crops from which seeds are obtained and by the seeds themselves (regulation 8); and
- f)** amend Schedule 6 to make provision for the supply of information about imported seeds and amend provisions in respect of small packages (regulation 9).

Status:

Point in time view as at 01/08/2000.

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