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SCOTTISH STATUTORY INSTRUMENTS

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**2023 No. 193**

**SEEDS**

**The Cereal Seed (Scotland) Amendment Regulations 2023**

<i>Made</i>	- - - - -	<i>21st June 2023</i>
<i>Laid before the Scottish Parliament</i>	- - - - -	<i>23rd June 2023</i>
<i>Coming into force</i>	- -	<i>6th October 2023</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1), (3) and (4) and 36 of the Plant Varieties and Seeds Act 1964<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 16(1) of that Act, they have consulted with representatives of such interests as appear to them to be concerned.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Cereal Seed (Scotland) Amendment Regulations 2023, and come into force on 6 October 2023.

(2) These Regulations extend to Scotland only.

**Amendments to the Cereal Seed (Scotland) Regulations 2005**

2. The Cereal Seed (Scotland) Regulations 2005<sup>(2)</sup> are amended in accordance with regulations 3 and 4.

**Amendments to schedule 4**

3.—(1) In schedule 4 (requirements for pre basic seed, basic seed, certified seed, certified seed of the first generation and certified seed of the second generation)—

(a) in paragraph 7(1) (isolation distances — minimum distances)—

(i) after “barley” (where it appears first), insert “, durum wheat, spelt wheat and wheat”;  
and

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(1) 1964 c. 14. Section 16(1) was amended by section 4(1) and schedule 4, paragraph 5(1) and (2) of the European Communities Act 1972 (c. 68). Section 16(3) was amended by S.I. 1977/1112. See section 38(1) for the definition of “the Minister”. The functions of the Secretary of State, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.S.I. 2005/328; relevant amending instruments are S.S.I. 2016/68 and S.S.I. 2020/445.

(ii) in the table, after head (e) insert—

“(f)	<p>Hybrids of durum wheat, spelt wheat and wheat produced by means of cytoplasmic male sterility—</p> <p>(i) for the production of Basic Seed 300 metres</p> <p>(ii) for the production of 25 metres” Certified Seed</p>
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(b) In paragraph 8 (standards for varietal purity)—

(i) in sub-paragraph (5) for “In crops of hybrids of durum wheat, oats, self-pollinating triticale, spelt wheat or wheat or hybrids of barley other than hybrids of barley produced by means of cytoplasmic male sterility—” substitute “In crops of hybrids of barley, durum wheat, oats, self-pollinating triticale, spelt wheat or wheat other than hybrids of barley, durum wheat, spelt wheat or wheat produced by means of cytoplasmic male sterility—”; and

(ii) for sub-paragraph (6)(a)(ii)(bb) substitute—

“(bb) 0.3% for the restorer and 0.5% for the cytoplasmic male sterility female component, where the cytoplasmic male sterility component is a simple hybrid;”; and

(iii) after sub-paragraph (6) insert—

“(7) In crops of hybrids of durum wheat, spelt wheat and wheat produced by means of cytoplasmic male sterility—

(a) the percentage by number of plants which are recognisable as obviously not being true to the variety shall not exceed—

(i) where the crop is used for the production of Basic Seed—

(aa) 0.1% for the maintainer and the restorer line and 0.3% for the cytoplasmic male sterility female component; and

(ii) where the crop is used for the production of Certified Seed—

(aa) 0.3% for the restorer line and 0.6% for the cytoplasmic male sterility female component; or

(bb) 0.3% for the restorer line and 1% for the cytoplasmic male sterility female component, where the cytoplasmic male sterility female component is a simple hybrid;

(b) the level of sterility of the female component shall be at least—

(i) where the crop is used for the production of Basic Seed, 99.7%; and

(ii) where the crop is used for the production of Certified Seed, 99%; and

(c) in the case of Certified Seed, the crop may be produced in mixed cultivation of a female male-sterile component with a male component which restores fertility.”.

(c) In paragraph 13 (standards for varietal purity)—

(i) in the table in sub-paragraph (3)—

(aa) for head (b) substitute—

“(b) Hybrids of barley, durum wheat, oats, self-pollinating varieties of triticale, spelt wheat or wheat other than hybrids of barley, durum wheat, spelt wheat and wheat produced by means of cytoplasmic male sterility—		
(i) Certified Seed		90.00%”

(bb) in head (ba) after “barley” insert “, durum wheat, spelt wheat and wheat”.

(d) in paragraph 15 (Standards for varietal purity for hybrid varieties of rye and cytoplasmic male sterility hybrid varieties of barley)—

(i) for the heading substitute—

*“Standards for varietal purity for hybrid varieties of rye and cytoplasmic male sterility hybrid varieties of barley, durum wheat, spelt wheat and wheat”; and*

(ii) after “barley” insert “, durum wheat, spelt wheat or wheat”.

**Amendment to schedule 9**

4.—(1) In schedule 9 (definition of Cereal Seed Directive), in the table, insert after the entry for Commission Implementing Directive (EU) 2020/177 the following entry—

“Commission Implementing Directive (EU) 2021/1927	OJ L 393, 8.11.2021, p.13”
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St Andrew’s House,  
Edinburgh  
21st June 2023

*MAIRI GOUGEON*  
A member of the Scottish Government

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations come into force on 6 October 2023 and extend to Scotland only. They amend the Cereal Seed (Scotland) Regulations 2005 ('the 2005 Regulations'). These Regulations specify standards in relation to seed of hybrids of durum wheat, spelt wheat and wheat produced by means of cytoplasmic male sterility ('CMS').

Regulation 3(a) amends paragraph 7 of schedule 4 of the 2005 Regulations to specify the minimum distances between CMS crops and neighbouring crops.

Regulation 3(b) amends paragraph 8 of schedule 4 of the 2005 Regulations to specify standards for the crop that will produce basic and certified seed by means of CMS. The varietal purity standard of the crop is set by specifying the maximum percentage of plants in different parts of the crop that need not be true to type. The level of male sterility of the crop is set by specifying the minimum percentage levels of male sterility in the female component of the crop.

The purity standards for crops of hybrid of barley produced by means of CMS are amended to bring those standards into line with those set out in in Commission Implementing Directive (EU) 2015/1955 and the OECD Seed Scheme.

Regulation 3(c) amends paragraph 13 of schedule 4 of the 2005 Regulations to specify the minimum percentage of varietal purity of the certified seed of hybrids of durum wheat, spelt wheat and wheat produced by means of CMS. Associated amendments are made to specify the maximum percentage of impurities in the seed and how varietal purity should be tested.

Regulation 3(d) amends paragraph 15 of schedule 4 of the 2005 Regulations to specify the testing requirements that must be met before seed of hybrids can be certified as certified seed.

These Regulations align standards as regards seed of hybrids of durum wheat, spelt wheat and wheat produced by means of CMS with Commission Implementing Directive (EU) 2021/1927. Regulation 4 amends schedule 9 of the 2005 Regulations to update the definition of Council Directive [66/402/EEC](#) as it appears in those Regulations.