Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Cereal Seeds (Amendment) (Scotland) Regulations 2000. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2000 No. 248

SEEDS

The Cereal Seeds (Amendment) (Scotland) Regulations 2000

Made - - - -	*24th July 2000*
Laid before the Scottish Parliament - - - -	*27th July 2000*
Coming into force - -	*1st August 2000*

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.".

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

(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).