

Rural Affairs and Islands Committee

22nd Meeting, 2023 (Session 6), Wednesday, 13
September

Subordinate legislation cover note

Title of Instrument:	The Cereal Seed (Scotland) Amendment Regulations 2023 (SSI 2023/193)
Type of Instrument:	Negative (see paras 10 and 11)
Laid date:	23 June 2023
Reporting deadline:	2 October 2023
Coming into force:	6 October 2023
Instrument drawn to Parliament's attention by DPLRC:	No
Instrument made using powers conferred by:	Plant Varieties and Seeds Act 1964
Supporting documentation:	Policy note attached Annexe A

Purpose of the Instrument

1. The policy note states that the purpose of the instrument is to amend the Cereal Seed (Scotland) Regulations 2005 to allow for a lower varietal purity standard for hybrid wheat produced by using the cytoplasmic male sterility (CMS) technique.

Background

2. The CMS technique is a plant breeding method used to create hybrid plants with specific desirable traits, particularly in crops like wheat.
3. Hybrid wheat developed through the CMS technique offers benefits like enhanced disease resistance and higher yields. However, the particular production method in the field, combined with weather risks during flowering, can impact the purity of the plants in the crop.
4. Currently, under [Council Directive 66/402/EEC](#), self-pollinating hybrid cereal varieties like hybrid wheat must have a varietal purity of 90% to be marketed.

5. [Commission Implementing Directive \(EU\) 2021/1927](#) and [Paragraph 11.2 of Appendix 1 of Annex VIII of the OECD Seed Schemes Rules and Regulations 2022](#) introduces a new variety purity standard of 85% for hybrid wheat varieties created by using the cytoplasmic male sterility (CMS) technique in EU and OECD countries.
6. The proposed amendment would lower the varietal purity standard for CMS-produced hybrid wheat seeds to 85% in [The Cereal Seed \(Scotland\) Regulations 2005](#) bringing it into line with standards in the EU and OECD countries. This, according to the policy note, would permit Scottish growers to accept seeds coming from the EU or OECD countries and “enable Scottish farmers to gain the best from these new hybrid cereal varieties.”
7. A consultation lasting six weeks was initiated on May 27, 2023, specifically addressing a small number of cereal breeders who would be affected by the proposed changes. Relevant stakeholders, including the British Society of Plant Breeders, the National Farmers Union (Scotland), the Scottish Seed Trade Association, and the Agricultural Industries Confederation, Scotland, were involved. The consultation document was also made available on the SASA website. By June 8, three responses were received from breeders, all expressing support for the proposed reduction in varietal purity standards.
8. [Detailed information on seed testing and certification is available on the Scottish Agriculture Science Agency \(SASA\) website.](#)

Consideration by the Delegated Powers and Law Reform Committee

9. [The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 5 September 2023 and agreed that no points arose.](#)

Parliamentary procedure – negative instruments

10. The negative parliamentary procedure is set out in Chapter 10 of the Parliament’s Standing Orders. Instruments subject to the negative procedure come into force on a specified date and remain in force unless it is annulled by the Parliament. Thus, the Parliament does not need to agree to the instrument in order for it to come into force.
11. The Parliament may, however, and on the recommendation of the lead committee, recommend the instrument be annulled within 40 days of the instrument being laid. Any MSP may by motion propose to the lead committee that the committee recommends “that nothing further is to be done under the instrument”. Any motion for annulment would be debated by the lead committee and a report made to Parliament.

For decision

12. The Committee is invited to note the instrument set out above.

Rural Affairs and Islands Committee clerks
September 2023

Policy Note

The Cereal Seed (Scotland) Amendment Regulations 2023

SSI 2023/193

The above instrument was made in exercise of the powers conferred by sections 16(1), (3) and (4) and 36 of the Plant Varieties and Seeds Act 1964. The instrument is subject to the negative procedure.

Purpose of the instrument.

To amend the Cereal Seed (Scotland) Regulations 2005 to allow for a lower varietal purity standard for hybrid wheat produced by using the cytoplasmic male sterility (CMS) technique.

Policy Objectives

As with other agricultural seeds, cereal seed can only be marketed in lots following analysis and certification, and must meet the specific minimum seed quality standards for growers. One of these standards is for crop varietal purity.

Hybrid wheat varieties created using the CMS technique can result in improvements in disease resistance and yields. However, the specific blend production system applied in the field, in combination with weather related risks during the flowering period, can affect the varietal purity of the plants seen in the crop and therefore a lower standard has been set and recognised by the EU and OECD.

Commission Implementing Directive 2021/1927 legislates for a lower varietal purity rate for hybrid wheat created using the CMS technique. The EU is Scotland's main provider of cereal seeds and therefore we should remain aligned. If Scotland does not implement the lower standard for hybrid wheat varieties created using the CMS technique, growers will not be able to accept any seed coming from the EU or OECD countries, as it will have been certified using the 85% standard for varietal purity.

To enable Scottish farmers to gain the best from these new hybrid cereal varieties when growing them in their fields, the current standard of 90% needs to be reduced to 85% for hybrid varieties created using the CMS technique.

Consultation

Due to the proposals affecting only a small handful of cereal breeders a six week consultation document was issued to relevant stakeholders on 27 May 2023, including;-

- the British Society of Plant Breeders,

- the National Farmers Union (Scotland),
 - the Scottish Seed Trade Association and
 - Agricultural Industries Confederation, Scotland,
- as well as being placed on the SASA website.

On 8th June Scottish Government received 3 responses from Breeders, who all welcomed the proposed change to reduce the varietal purity standard.

Impact Assessments

As the change to legislation is of a technical nature, and does not result in new costs or burdens for businesses, there are no cost implications for the crop inspection or Scottish Government and therefore a BRIA is not required.

There are no equality/children's/privacy, etc. impact issues.

Financial Effects

The Cabinet Secretary for Rural Affairs, Land Reform and Islands confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
ARE Directorate
23 June 2023