

Explanatory Memorandum to The Vegetable Plant Material and Seed (Miscellaneous Amendments) (Wales) Regulations 2020

This Explanatory Memorandum has been prepared by the Plant Health and Environment Protection Branch within the Economy, Skills and Natural Resources Department and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Vegetable Plant Material and Seed (Miscellaneous Amendments) (Wales) Regulations 2020.

Lesley Griffiths MS
Minister for Environment, Energy and Rural Affairs
17 June 2020

PART 1

1. Description

These Regulations amend the Marketing of Vegetable Plant Material Regulations 1995 (“the 1995 Regulations”) in relation to Wales and the Seed Marketing (Wales) Regulations 2012 (“the 2012 Regulations”). These Regulations make amendments which are related to amendments being made to the Seeds (National Lists of Varieties) Regulations 2001 (“the 2001 Regulations”) by the Vegetable Plant Material and Seed (Miscellaneous Amendments) Regulations 2020.

These Regulations are required to assist the UK to meet its obligations under the Withdrawal Agreement to transpose EU law into domestic legislation until the end of the Implementation Period (31st December 2020). These Regulations transpose Commission Implementing Directive (EU) 2019/990 (“the 2019 Directive”) amending the list of genera and species in Article 2(1)(b) of Council Directive 2002/55/EC, in Annex II to Council Directive 2008/72/EC, and in the Annex to Commission Directive 93/61/EEC.

These Regulations change the common names of certain vegetable species in accordance with the grouping used in the International Code of Nomenclature for Cultivated Plants. They also bring hybrids between the species and groups listed into the scope of the 2012 Regulations. The changes aim to provide greater clarity for businesses.

These Regulations also bring into line the species *Cichorium intybus L.* (Chicory) with Commission Implementing Decision (EU) 2017/478. As the United Kingdom is released from the obligation to apply Directive 2002/55/EC in respect of *Cichorium intybus L.* the 2001 Regulations are being amended by the Vegetable Plant Material and Seed (Miscellaneous Amendments) Regulations 2020 to extend the derogation from the requirement to provide a national list and restrict marketing, to that species in its entirety. The 2012 Regulations will, therefore, no longer regulate *Cichorium intybus L.* of the type large-leaved (Italian) chicory.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

Section 2(2) of the European Communities Act 1972 offers a choice between negative and affirmative procedures. The negative procedure will be used in this case as the discretion of the Welsh Ministers is limited over the content of these Regulations because they are giving effect to EU provisions. Further, these Regulations amend Regulations that were subject to the negative procedure.

3. Legislative background

The following domestic legislation prescribe the requirements for the marketing of vegetable seed, plant and propagating material:

- The 1995 Regulations, which implement Council Directive 2008/72/EC on the marketing of vegetable propagating and planting material, other than seed and Council Directive 93/61/EEC setting out the schedules indicating the conditions to be met by vegetable propagating and planting material, other than seed pursuant to Council Directive 2008/72/EC. They extend and apply to Great Britain. Similar legislation operates in Northern Ireland;
- The 2001 Regulations, which implement those elements of Council Directive 2002/55/EC which require member States to establish national lists of vegetable varieties. They extend and apply to the United Kingdom; and
- The 2012 Regulations, which implement Council Directive 2002/55/EC. They apply to Wales. Similar legislation operates in England, Scotland, and Northern Ireland.

The 2019 Directive amends the list of vegetable species and their associated common names covered by Council Directive 2002/55/EC and Directive 2008/72/EC, to specify the varieties covered by the scope of those Directives. The 2019 Directive takes into account the species where all varieties fall within their scope and those where only certain varieties are covered. It brings into the scope of Council Directive 2002/55/EC hybrids between the species and groups listed. The 2019 Directive also updates the botanical names of certain species in Directive 93/61/EEC, in accordance with the development of scientific knowledge. These Regulations amend the 1995 Regulations and the 2012 Regulations to implement those changes.

4. Purpose and intended effect of the legislation

The marketing of vegetable seed, plant and propagating material is regulated at EU level by Council Directives 2002/55/EC, 2008/72/EC and Commission Directive 93/61/EEC. These Directives establish a regime to ensure that purchasers throughout the European Union receive vegetable seed, plants and propagating material which is healthy and of good quality. They set quality standards to be met by certain genera and species of vegetable seed, plants and propagating material when marketed and prescribe conditions to be satisfied by suppliers of propagating material. Directive 2002/55/EC also provides for a national catalogue to be established listing the vegetable varieties officially accepted for certification and marketing in a Member State's territory.

The Directives specified above are transposed by the 1995 Regulations, the 2001 Regulations and the 2012 Regulations. These three Regulations provide

for the vegetable species they cover by way of a table listing both the scientific names and associated common names. However, certain varieties belong to species listed under their scientific names, but not to the types of varieties described by their common names, risking confusion as to whether a variety is covered by the scope of the regulations. These Regulations amend the 2012 Regulations to update the list of vegetable species and associated common names in order to more clearly define which varieties are regulated and, where necessary, specify the species where all varieties fall within the scope of the Regulations and those of which only certain varieties are covered. They also bring hybrids between the species and groups listed within the scope of the 2012 Regulations.

As the United Kingdom is released from the obligation to apply Directive 2002/55/EC in respect of *Cichorium intybus* L. The 2001 Regulations are being amended by the Vegetable Plant Material and Seed (Miscellaneous Amendments) Regulations 2020 to extend the derogation from the requirement to provide a national list and restrict marketing, to that species in its entirety. The 2012 Regulations will, therefore, no longer regulate *Cichorium intybus* L. of the type large-leaved (Italian) chicory.

5. Consultation

Given the minor and technical nature of these amendments, the Welsh Government has not undertaken a full public consultation on these Regulations, but has carried out a targeted consultation with organisations including the British Society of Plant Breeders, the Agricultural Industries Confederation and the National Farmers Union. These industry organisations represent the businesses directly affected by the amendments across Great Britain and have raised no concerns with the Welsh Government's approach.

6. Regulatory Impact Assessment (RIA)

These Regulations make minor technical amendments to existing Regulations, do not reflect a change of policy and will not have a substantive impact on current practices, because the underlying processes and standards are unchanged. The amendments aim to provide greater clarity for businesses in terms of the varieties covered and not covered by the scope of the regulations being amended. As such, no RIA has been prepared. This is in line with the Welsh Ministers' RIA Code.