



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE The Marketing of Seeds and Plant Propagating Material
(Amendment etc.) (EU Exit) Regulations 2018

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Affairs

The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2018

The law which is being amended

Domestic

- The Seeds (National Lists of Varieties) Regulations 2001.

EU

- **Commission Decision 80/512/EEC:** authorising the United Kingdom and others not to apply the conditions laid down in Council Directive 66/401/EEC on the marketing of fodder plant seed, as regards the weight of the sample for the determination of seed of *Cuscuta*.
- **Council Decision 2003/17/EC:** on equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries.
- **Council Decision 2005/834/EC:** on the equivalence of checks on practices for the maintenance of varieties carried out in certain third countries and amending Decision 2003/17/EC.
- **Commission Regulation 217/2006:** laying down rules for the application of Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC 2002/55/EC and 2002/57/EC as regards the authorisation of Member States to permit temporarily the marketing of seed not satisfying the requirements in respect of the minimum germination.
- **Commission Implementing Decision 2012/340/EU:** on the organisation of a temporary experiment under Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards field inspection under official supervision for basic seed and bred seed of generations prior to basic seed.
- **Commission Implementing Decision 2014/150/EU:** on the organisation of a temporary experiment providing for certain derogations for the marketing of populations

of the plant species wheat, barley, oats and maize pursuant to Council Directive 66/402/EEC.

- **Commission Implementing Decision 2017/547/EU:** on the organisation of a temporary experiment under Council Directive 2002/56/EC as regards seed potato tubers derived from true potato seed.

Revocations

Regulations

1. Commission Regulation (EC) No 1597/2002 laying down detailed rules for the application of Council Directive 1999/105/EC as regards the format for national lists of the basic material of forest reproductive material
2. Commission Regulation (EC) No 1598/2002 laying down detailed rules for the application of Council Directive 1999/105/EC as regards the provision of mutual administrative assistance by official bodies
3. Commission Regulation (EC) No 1602/2002 laying down detailed rules for the application of Council Directive 1999/105/EC as regards the authorisation of a Member State to prohibit the marketing of specified forest reproductive material to the end-user

Decisions

1. Commission Decision 2007/321 releasing the United Kingdom from certain obligations for the marketing of vegetable seed under Council Directive 2002/55/EC
2. Commission Implementing Decision (EU) 2017/478 releasing certain Member States from the obligation to apply certain species Council Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 1999/105/EC, 2002/54/EC, 2002/55/EC and 2002/57/EC on the marketing of fodder plant seed, cereal seed, material for the vegetative propagation of the vine, forest productive material, beet seed, vegetable seed and seed of oil and fibre plants respectively
3. Commission Implementing Decision (EU) 2017/925 temporarily authorising certain Member States to certify pre-basic material of certain species of fruit plants, produced in the field under non-insect proof conditions

EEA Agreement

In Annex 1 to the EEA Agreement, in Chapter 3 (Phytosanitary matters), in Section 2 (Application texts), paragraphs 16, 22, 36 and 39 are revoked.

Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence

The territorial extent of this instrument is the United Kingdom

Plant varieties and seeds is a devolved policy area, which is currently governed by EU law. This has resulted in the adoption of common plant varieties and seeds marketing and certification rules across the UK in line with EU (CPVO) and International (UPOV) criteria whilst enabling divergence (where technically justified). The approach to the plant varieties and seeds EU Exit amendments seek to create a framework to maintain this approach as far as possible post-exit.

This SI contains provision conferring functions on the Welsh Ministers that are exercised jointly. Those provisions are conferred in the context of an existing UK wide statutory instrument in which the Welsh Ministers currently exercise functions jointly.

This SI also contains provision which enables the Welsh Ministers to exercise functions in relation to Wales without encumbrance and for the Welsh Ministers to provide consent to the Secretary of State to exercise functions in relation to Wales.

Functions transferred to the Secretary of State with consent and functions exercisable jointly would constitute functions of a Minister of the Crown for the purposes Schedule 7B to GoWA 2006. This therefore may be a relevant consideration in the context of the Assembly's competence to legislate in the future in these areas.

The purpose of the amendments

The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2018, hereafter referred to as "these regulations", make amendments to legislation concerning the marketing of seed and plant propagating material.

These Regulations amend the Seeds (National Lists of Varieties) Regulations 2001 ('the 2001 Regulations') and retained EU law on the marketing of seeds. The amendments address operability issues so that the 2001 Regulations and retained EU law continue to function after withdrawal and revoke any retained EU law which will become redundant. The amendments are for provisions which are inappropriate or redundant on withdrawal and are to ensure continuity of seed supply.

These Regulations also make necessary amendments to the Seeds (National Lists of Varieties) Regulations 2001 to reinstate a historical reference to the Novel Foods Regulation and to update the list of derogated species which is out of date.

The SI and accompanying Explanatory Memorandum, setting out the effect of each amendment is available here: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-marketing-of-seeds-and-plant-propagating-material-amendment-etc-eu-exit-regulations-2018>

Why consent was given

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency, expediency and due to the technical nature of the amendments. The amendments have been considered fully; and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU. This is in line with the principles for correcting agreed by the Cabinet Sub-Committee on European Transition in May.