

2011 No. 464

AGRICULTURE

**The Seeds (National Lists of Varieties) (Amendment)
Regulations 2011**

<i>Made</i>	- - - -	<i>2nd March 2011</i>
<i>Laid before Parliament</i>		<i>7th March 2011</i>
<i>Laid before the National Assembly for Wales</i>		<i>7th March 2011</i>
<i>Coming into force</i>	- -	<i>1st April 2011</i>

The Secretary of State and the Welsh Ministers are each designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Union.

The Secretary of State and the Welsh Ministers (the Welsh Ministers acting only in relation to Wales) make these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2(c) to, the European Communities Act 1972.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State and the Welsh Ministers that it is expedient for any reference in these Regulations to any of the following EU instruments to be construed as a reference to that instrument as amended from time to time—

- (a) Commission Directive 2003/90/EC setting out implementing measures for the purposes of Article 7 of Council Directive 2002/53/EC as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species(d),
- (b) Commission Directive 2003/91/EC setting out implementing measures for the purposes of Article 7 of Council Directive 2002/55/EC as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of vegetable species(e), and

(a) For the Secretary of State, see S.I. 1972/1811; for the Welsh Ministers, see S.I. 2010/2690. The power of the Secretary of State, as a designated Minister, to make regulations which extend to Scotland and Northern Ireland remains exercisable by virtue of section 57(1) of the Scotland Act 1998 (c. 46) and article 3(2) of S.I. 2000/2812 respectively.

(b) 1972 c. 68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a), and the European Union (Amendment) Act 2008 (c. 7), Part 1 of the Schedule.

(c) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006, and amended by the European Union (Amendment) Act 2008, Part 1 of the Schedule, and S.I. 2007/1388.

(d) OJ No L 254, 8.10.2003, p. 7, as last amended by Commission Directive 2010/46/EU (OJ No L 169, 3.7.2010, p. 7).

(e) OJ No L 254, 8.10.2003, p. 11, as last amended by Commission Directive 2010/46/EU.

- (c) Commission Regulation (EC) No 637/2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species^(a).

Title and commencement

2. These Regulations may be cited as the Seeds (National Lists of Varieties) (Amendment) Regulations 2011 and come into force on 1st April 2011.

Amendment to the Seeds (National Lists of Varieties) Regulations 2001

- 3.—(1) The Seeds (National Lists of Varieties) Regulations 2001^(b) are amended as follows.
- (2) In paragraph (1) of regulation 2 (interpretation)—
- (a) for the definition of “the Commission Regulation” substitute—
- ““the Commission Regulation” means Commission Regulation (EC) No 637/2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species, as amended from time to time;”;
- (b) for the definition of “conservation variety”^(c) substitute—
- ““conservation variety” means a landrace or plant variety of a species specified in Part I of Schedule 1 that is naturally adapted to the local and regional conditions (or, in the case of a vegetable variety, that has been traditionally grown in particular localities and regions) and is threatened by genetic erosion, and for these purposes—
- (a) “landrace” means a set of populations or clones of a plant species which are naturally adapted to the environmental conditions of their region; and
- (b) “genetic erosion” means loss of genetic diversity between and within populations or varieties of the same species over time, or reduction of the genetic basis of a species due to human intervention or environmental change;”;
- (c) for the definition of “the Seeds Marketing Regulations”^(d) substitute—
- ““the Seeds Marketing Regulations” means—
- (a) as respects England—
- (i) in relation to beet seed, cereal seed, fodder plant seed, oil and fibre plant seed and vegetable seed, the Seed Marketing Regulations 2011^(e), and
- (ii) in relation to seed potatoes, the Seed Potatoes (England) Regulations 2006^(f);
- (b) as respects Wales—
- (i) in relation to beet seed, the Beet Seed (Wales) Regulations 2005^(g),
- (ii) in relation to cereal seed, the Cereal Seed (Wales) Regulations 2005^(h),
- (iii) in relation to fodder plant seed, the Fodder Plant Seed (Wales) Regulations 2005⁽ⁱ⁾,
- (iv) in relation to oil and fibre plant seed, the Oil and Fibre Plant Seed (Wales) Regulations 2004^(j),

(a) OJ No L 191, 23.7.2009, p. 10.

(b) S.I. 2001/3510, as amended by S.I. 2004/2949, 2007/1871, 2008/2683, 2009/1273 and 2010/1195. There are further amendments in relation to Scotland that are not relevant to this instrument.

(c) The definition of “conservation variety” was inserted by S.I. 2009/1273.

(d) The definition of “the Seeds Marketing Regulations” was substituted by S.I. 2004/2949.

(e) S.I. 2011/463.

(f) S.I. 2006/1161, amended by S.I. 2008/560, 2009/2342 and 2010/1511.

(g) S.I. 2005/3037 (W. 225), amended by S.I. 2007/119 and 2747 and 2009/1356.

(h) S.I. 2005/3036 (W. 224), amended by S.I. 2006/3250, 2007/119 and 2747, 2009/1356 and 2010/1808.

(i) S.I. 2005/1207 (W. 79), amended by S.I. 2006/3250, 2007/119 and 2747, 2009/1356 and 2010/1808.

(j) S.I. 2004/2881 (W. 251), amended by S.I. 2007/119 and 2747, 2009/1356 and 2010/1808.

- (v) in relation to vegetable seed, the Vegetable Seed (Wales) Regulations 2005(a), and
- (vi) in relation to seed potatoes, the Seed Potatoes (Wales) Regulations 2006(b);
- (c) as respects Scotland—
 - (i) in relation to beet seed, the Beet Seed (Scotland) (No. 2) Regulations 2010(c), 2010(c),
 - (ii) in relation to cereal seed, the Cereal Seed (Scotland) Regulations 2005(d),
 - (iii) in relation to fodder plant seed, the Fodder Plant Seed (Scotland) Regulations 2005(e),
 - (iv) in relation to oil and fibre plant seed, the Oil and Fibre Plant Seed (Scotland) Regulations 2004(f),
 - (v) in relation to vegetable seed, the Vegetable Seeds Regulations 1993(g), and
 - (vi) in relation to seed potatoes, the Seed Potatoes (Scotland) Regulations 2000(h); and
- (d) as respects Northern Ireland—
 - (i) in relation to beet seed, the Beet Seeds Regulations (Northern Ireland) 2009(i),
 - (ii) in relation to cereal seed, the Cereal Seeds Regulations (Northern Ireland) 2009(j),
 - (iii) in relation to fodder plant seed, the Fodder Plant Seeds Regulations (Northern Ireland) 2009(k),
 - (iv) in relation to oil and fibre plant seed, the Oil and Fibre Plant Seeds Regulations (Northern Ireland) 2009(l),
 - (v) in relation to vegetable seed, the Vegetable Seeds Regulations (Northern Ireland) 2009(m), and
 - (vi) in relation to seed potatoes, the Seed Potatoes Regulations (Northern Ireland) 2010(n);” and
- (d) for the definition of “standard seed”(o) substitute—
 - ““standard seed”, in relation to seed of a vegetable variety, has the same meaning—
 - (a) as respects England, as in Part 5 of Schedule 2 to the Seed Marketing Regulations 2011,
 - (b) as respects Wales, as in the Vegetable Seed (Wales) Regulations 2005,
 - (c) as respects Scotland, as in the Vegetable Seeds Regulations 1993, and
 - (d) as respects Northern Ireland, as in the Vegetable Seeds Regulations (Northern Ireland) 2009;”.

(a) S.I. 2005/3035 (W. 223), amended by S.I. 2007/119 and 2747 and 2010/1808.
 (b) S.I. 2006/2929 (W. 264), amended by S.I. 2008/1063, 2009/2980 and 2010/1796.
 (c) S.S.I. 2010/148.
 (d) S.S.I. 2005/328, amended by S.S.I. 2006/313 and 448, 2007/224 and 536, 2009/223 and 2010/219.
 (e) S.S.I. 2005/329, amended by S.S.I. 2006/313 and 448, 2007/224 and 536, 2009/223 and 330 and 2010/219.
 (f) S.S.I. 2004/317, amended by S.S.I. 2006/313, 2007/224 and 536, 2009/223 and 2010/219.
 (g) S.I. 1993/2008, amended by S.I. 1996/1452, S.I. 1997/616, S.I. 1999/1863, S.S.I. 2000/250, S.I. 2001/3510, S.S.I. 2007/305, S.S.I. 2010/219 and S.S.I. 2010/425.
 (h) S.S.I. 2000/201, as amended by S.S.I. 2005/280, 2007/418, 2009/226 and 2010/71.
 (i) S.R. (N.I.) 2009 No. 384.
 (j) S.R. (N.I.) 2009 No. 383.
 (k) S.R. (N.I.) 2009 No. 385.
 (l) S.R. (N.I.) 2009 No. 386.
 (m) S.R. (N.I.) 2009 No. 387, amended by S.R. (N.I.) No. 2011/38.
 (n) S.R. (N.I.) 2010 No. 350.
 (o) The definition of “standard seed” was substituted by S.I. 2004/2949.

(3) In regulation 3 (National Lists of plant varieties and the Gazette), in paragraph (2)(a), for “in accordance with” (the second time it appears) to the end substitute—

“in accordance with, as respects England, Part 5 of Schedule 2 to the Seed Marketing Regulations 2011, as respects Wales, the Vegetable Seed (Wales) Regulations 2005, as respects Scotland, the Vegetable Seeds Regulations 1993, and as respects Northern Ireland, the Vegetable Seeds Regulations (Northern Ireland) 2009”.

(4) In regulation 5 (acceptance of plant varieties), in paragraph (3A)(b)—

(a) in sub-paragraph (a), delete “of varieties of agricultural plant species”; and

(b) in sub-paragraph (b), after “Common Catalogue Directive” insert “or the Vegetable Seed Marketing Directive”.

(5) After regulation 5 insert—

“Amateur vegetable varieties

5A.—(1) The provisions of these Regulations relating to conservation varieties apply in relation to amateur vegetable varieties, with the exceptions and modifications listed in paragraphs (2), (3) and (4).

(2) The following provisions do not apply to amateur vegetable varieties—

(a) regulation 5(3)(ca) (requirement that the variety presents an interest for the conservation of plant genetic resources);

(b) regulation 7 (maintainers of plant varieties); and

(c) regulation 12 (maintenance of accepted plant varieties).

(3) Paragraph (3A) of regulation 5 is modified by—

(a) in sub-paragraph (a), the substitution of “an amateur vegetable variety” for “a conservation variety”; and

(b) in sub-paragraph (b), the omission of “the Common Catalogue Directive or”.

(4) Sub-paragraph (1) of paragraph 1A of Schedule 2(c) is modified by—

(a) in paragraph (a), the omission of “Directive 2003/90 or”; and

(b) in paragraph (b), the substitution of “that Directive” for “those Directives”.

(5) In this regulation an amateur vegetable variety is a vegetable variety with no intrinsic value for commercial crop production but developed for growing under particular agro-technical, climatic or pedological conditions.”.

(6) In regulation 25 (amendments of Seeds Marketing Regulations)—

(a) in the title, for “Seeds Marketing Regulations” substitute “certain Regulations relating to seed marketing”;

(b) in paragraph (1), for “The Seeds Marketing Regulations” substitute “The following Regulations”;

(c) paragraphs (2), (3), (4) and (5) are revoked;

(d) in paragraph (6), sub-paragraphs (a) and (c) are revoked; and

(e) in paragraph (7)—

(i) sub-paragraph (a) is revoked in relation to England and Wales, and

(ii) sub-paragraph (b) is revoked.

(7) In Schedule 2 (distinctness, stability, sufficient uniformity and satisfactory value for cultivation and use), in Part 1, for paragraph 1A substitute—

(a) Regulation 3(2) was amended by S.I. 2004/2949.

(b) Paragraph (3A) of regulation 5 was inserted by S.I. 2009/1273.

(c) Paragraph 1A of Part 1 of Schedule 2 was inserted by S.I. 2009/1273 and substituted by S.I. 2011/464.

“1A.—(1) A plant variety of a conservation variety is regarded as distinct if it satisfies the characteristics referred to in—

- (a) the technical questionnaires associated with the test protocols listed in Annex I to Directive 2003/90 or Directive 2003/91 applicable to the species in question, or
- (b) the technical questionnaires of the test guidelines listed in Annex II to those Directives, applicable to the species in question.

(2) In this paragraph—

- (a) “Directive 2003/90” means Commission Directive 2003/90/EC setting out implementing measures for the purposes of Article 7 of Council Directive 2002/53/EC as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species, as amended from time to time, and
- (b) “Directive 2003/91” means Commission Directive 2003/91/EC setting out implementing measures for the purposes of Article 7 of Council Directive 2002/55/EC as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of vegetable species, as amended from time to time.”.

25th February 2011

Henley
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

2nd March 2011

Elin Jones
Minister for Rural Affairs
One of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Seeds (National Lists of Varieties) Regulations 2001 (S.I. 2001/3510) to implement in part Commission Directive 2009/145/EC (OJ No L 312, 27/11/2009, p. 44). Those Regulations make provision for the entry of varieties on to the National List, so that the seeds of those varieties can then be certified and marketed.

These Regulations provide that the simplified procedure for listing agricultural conservation varieties applies also in relation to vegetable conservation varieties and amateur vegetable varieties.

The remaining provisions of Commission Directive 2009/145/EC are implemented (in relation to England) by the Seed Marketing Regulations 2011 (S.I. 2011/463).

A transposition note is available from the Food and Environment Research Agency, Whitehouse Lane, Huntingdon Road, Cambridge CB3 0LF.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from that same address, and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.