

WELSH STATUTORY INSTRUMENTS

2012 No. 245

The Seed Marketing (Wales) Regulations 2012

PART 5 **E+W**

Administration and revocations

Withdrawing certification **E+W**

- 23.**—(1) The Welsh Ministers may withdraw certification from any seed if satisfied that—
- (a) the seed, or the seed from which the crop producing the seed was grown, was incorrectly sampled;
 - (b) the crop from which the seed was harvested did not meet the conditions in Schedule 2; or
 - (c) the seed—
 - (i) did not meet the conditions in Schedule 2 when it was tested; or
 - (ii) no longer meets those conditions.
- (2) If certification is withdrawn the Welsh Ministers must notify the applicant.
- (3) Within 7 days of being notified the applicant must notify any person to whom they have sold or supplied the seed.

Sampling for enforcement purposes **E+W**

24.—(1) A sample of seed taken for the purposes of enforcing these Regulations must be taken by an authorised officer of the Welsh Ministers, who must divide it into three parts.

(2) One part must be given to the owner of the seed (or a representative of the owner) and the other two parts must be sent to an official testing station, one for testing and the other for retention pending production to a court in accordance with section 26(7) of the Plant Varieties and Seeds Act 1964 ^{M1}.

[^{F1}(3) The two parts of the sample sent to an official testing station must be retained for at least two years.]

Textual Amendments

F1 Reg. 24(3) inserted (11.1.2017) by The Seed Marketing (Wales) (Amendment) Regulations 2016 (S.I. 2016/1242), regs. 1(1), 4

Marginal Citations

M1 1964 c. 14.

Forms of certificates used for enforcement **E+W**

25.—(1) For the purposes of section 26(3) of the Plant Varieties and Seeds Act 1964, a certificate of how a sample was taken for the purpose of enforcing these Regulations must—

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- (a) make reference to these Regulations, and must certify that the sample was taken and treated in accordance with regulation 24;
- (b) specify—
 - (i) the name and address of the person taking the sample;
 - (ii) the premises at which the sample was taken;
 - (iii) the type of seed sampled;
 - (iv) the date the sample was taken;
 - (v) the reference number of the seed lot;
 - (vi) the quantity sampled.

(2) For the purposes of section 24(5) of the Plant Varieties and Seeds Act 1964, a certificate of the result of a test at an official seed testing station of a sample taken by an authorised officer for the purposes of that Act must—

- (a) make reference to these Regulations;
- (b) identify the seed tested;
- (c) contain all test results relating to the standard required for that seed.

Certification for export E+W

26. The Welsh Ministers may certify the quality of any seed intended for export outside the European Union.

Importation from outside the European Union E+W

27.—(1) Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development ^{M2} for the varietal certification on the control of seed moving in international trade.

(2) If the seed is to be further multiplied the person intending to multiply it must first submit a sample to the Welsh Ministers for verification.

(3) Any person marketing seed that has been imported from a third country and exceeds two kilograms must supply the Welsh Ministers, in writing and within one month of the first marketing of the seed, with the following particulars relating to the seed—

- (a) the species;
- (b) the variety;
- (c) the category;
- (d) the country of production and the official inspection authority;
- (e) the country of despatch;
- (f) the importer; and
- (g) the quantity of seed.

Marginal Citations

M2 Details of these labels are available on the OECD's website.

Appeals E+W

28.—(1) Any person who is aggrieved by a decision of the Welsh Ministers to—

- (a) vary, suspend, revoke or refuse to grant a licence of a crop inspector, seed sampler, seed testing station, or a person requiring a licence under regulation 20,
- (b) refuse to certify seed,
- (c) withdraw certification of seed,

may, within 21 days of being notified of the decision, appeal against it to a person appointed for the purpose by the Welsh Ministers.

(2) The appointed person must consider the appeal and any representations made by the Welsh Ministers, and within 21 days report in writing with a recommended course of action to the Welsh Ministers.

(3) The Welsh Ministers must then make a final decision and notify the appellant, together with the reasons.

[^{F2}Arrangements for official measures **E+W**

28A.—(1) The Welsh Ministers may make such arrangements with any person (“A”) as the Welsh Ministers consider necessary or desirable for the purpose of enabling A to carry out official measures on the Welsh Ministers’ behalf.

(2) The Welsh Ministers must not make any arrangement under this regulation unless satisfied that the arrangement makes provision for the purpose of preventing any person from—

- (a) deriving any private gain from any official measures carried out under the arrangement; and
- (b) carrying out any official measures under the arrangement except under official supervision.

(3) The Welsh Ministers may include in any arrangement such conditions as the Welsh Ministers consider necessary or desirable for the purposes referred to in paragraphs (1) and (2), including conditions—

- (a) specifying—
 - (i) the official measures that A must carry out;
 - (ii) the species and generation of seed in respect of which A may carry out the official measures;
 - (iii) the methods to be used in connection with the official measures that A carries out;
 - (iv) the fees that A may charge in relation to the official measures that A carries out;
 - (v) the records that A must keep in connection with the official measures that A carries out;
- (b) prohibiting A from—
 - (i) charging fees in relation to the official measures that A carries out under the arrangement except to the extent that the fees do not exceed the costs that A incurs in carrying them out;
 - (ii) carrying out the official measures except under official supervision;
- (c) prohibiting A from making any further arrangement with any other person (“B”) for any purpose in connection with the carrying out of the official measures that A has arranged with the Welsh Ministers to carry out, unless—
 - (i) the Welsh Ministers have approved all the conditions of the further arrangement and A has received the prior written approval of the Welsh Ministers to make the further arrangement;

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- (ii) the further arrangement includes a condition prohibiting B from making any subsequent arrangements for any purpose connected with the carrying out of the official measures in respect of which the Welsh Ministers made an arrangement with A;
 - (iii) the further arrangement includes an acknowledgement by A that the Welsh Ministers may vary, revoke or suspend the further arrangement if it appears to the Welsh Ministers that B is not complying, or has failed to comply, with any condition of the further arrangement; and
 - (iv) the further arrangement includes the conditions specified in sub-paragraphs (a) and (b) of this paragraph and for these purposes references in those sub-paragraphs to A are to be construed as references to B and references to “the arrangement” are to be construed as references to the further arrangement.
- (4) The Welsh Ministers must not approve the making of any further arrangement under this regulation unless satisfied that B will not—
- (a) derive any private gain from any official measures that B is to be authorised to carry out under the further arrangement;
 - (b) carry out any official measures under the further arrangement except under official supervision.
- (5) The Welsh Ministers may, by written notice to A or B (as the case may be), vary, suspend or revoke an arrangement or further arrangement, or any conditions of an arrangement or further arrangement made under this regulation.
- (6) A notice given under paragraph (5) must specify—
- (a) in respect of a variation or revocation, the date from which the variation or revocation takes effect;
 - (b) in respect of a suspension, the period during which the suspension has effect.
- (7) When a variation, revocation or suspension has effect, the Welsh Ministers may, for any purposes in relation to these Regulations, continue to have regard to such of the official measures carried out under an arrangement (or further arrangement) which was varied, revoked or suspended as appear to the Welsh Ministers to be official measures carried out in accordance with the provisions of these Regulations.
- (8) In this regulation, “official measures” (“*mesurau swyddogol*”) include official examinations, growing trials, tests and assessments.]

Textual Amendments

F2 [Reg. 28A](#) inserted (11.1.2017) by [The Seed Marketing \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/1242\)](#), regs. 1(1), 5

Fees **E+W**

29. The Welsh Ministers may charge a reasonable fee for anything done under these Regulations.

Marketing seed under a specific derogation **E+W**

30. The Secretary of State acts as the member State for the purposes of Commission Regulation (EC) No 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 ^{M3}.

Marginal Citations

M3 OJ No L 38, 9.2.2006, p. 17.

Confidentiality **E+W**

31. If the breeder so requests, the description of genealogical components of seed must not be disclosed by the Welsh Ministers.

Licensing and certifying in another part of the United Kingdom **E+W**

32.—(1) Any seed certified in another part of the United Kingdom may be marketed in Wales.

(2) A crop inspector, seed sampler or seed testing station licensed to act as such in another part of the United Kingdom may act as such under these Regulations.

Transitional provisions **E+W**

33.—(1) A crop inspector, seed sampler or seed testing station licensed at the time these Regulations come into force under the Seed (Registration, Licensing and Enforcement) (Wales) Regulations 2005 ^{M4} continues to be licensed as such under these Regulations.

(2) A person requiring to be licensed under regulation 20 of these Regulations who was licensed under the Seed (Registration, Licensing and Enforcement) (Wales) Regulations 2005, at the time these Regulations come into force, is now licensed to act as such under these Regulations subject to such conditions as may be notified by the Welsh Ministers and continues to be licensed unless the licence is subsequently suspended or revoked by the Welsh Ministers under these Regulations.

Marginal Citations

M4 S.I. 2005/3038 (W. 226).

Revocation **E+W**

34. The following Regulations are revoked—

- (a) the Oil and Fibre Plant Seed (Wales) Regulations 2004 ^{M5};
- (b) the Vegetable Seed (Wales) Regulations 2005 ^{M6};
- (c) the Cereal Seed (Wales) Regulations 2005 ^{M7};
- (d) the Beet Seed (Wales) Regulations 2005 ^{M8};
- (e) the Fodder Plant Seed (Wales) Regulations 2005 ^{M9};
- (f) the Seed (Registration, Licensing and Enforcement) (Wales) Regulations 2005 ^{M10};
- (g) the Cereal Seed (Wales) and Fodder Plant Seed (Wales) (Amendment) Regulations 2006 ^{M11};
- (h) the Seed (Wales) (Amendments for Tests and Trials etc) Regulations 2007 ^{M12};
- (i) the Seed (Conservation Varieties Amendments) (Wales) Regulations 2009 ^{M13};

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- (j) the Seed (Miscellaneous Amendments) (Wales) Regulations 2010 ^{M14};
- (k) the Vegetable Seed (Wales) (Amendment) Regulations 2011 ^{M15}.

Marginal Citations

- M5** S.I. 2004/2881 (W. 251)
- M6** S.I. 2005/3035 (W. 223)
- M7** S.I. 2005/3036 (W. 224)
- M8** S.I. 2005/3037 (W. 225)
- M9** S.I. 2005/1207 (W. 79).
- M10** S.I. 2005/3038 (W. 226).
- M11** S.I. 2006/3250 (W. 294).
- M12** S.I. 2007/119 (W. 9).
- M13** S.I. 2009/1356 (W. 131).
- M14** S.I. 2010/1808 (W. 176).
- M15** S.I. 2011/994 (W. 147).

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