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WELSH STATUTORY INSTRUMENTS

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**2016 No. 1242 (W. 294)**

**SEEDS, WALES**

**The Seed Marketing (Wales) (Amendment) Regulations 2016**

*Made* - - - - 15 December 2016  
*Laid before the National*  
*Assembly for Wales* - - - 19 December 2016  
*Coming into force* - - - 11 January 2017

The Welsh Ministers, in exercise of the powers conferred by sections 16(1), (1A), (2), (3) and (4) of the Plant Varieties and Seeds Act 1964<sup>(1)</sup>, and now vested in them<sup>(2)</sup>, make the following Regulations.

In accordance with section 16(1) of that Act, the Welsh Ministers have consulted with representatives of such interests as appear to the Welsh Ministers to be concerned.

**Title, commencement and application**

1.—(1) The title of these Regulations is the Seed Marketing (Wales) (Amendment) Regulations 2016 and they come into force on 11 January 2017.

(2) These Regulations apply in relation to Wales.

**Amendment of the Seed Marketing (Wales) Regulations 2012**

2. The Seed Marketing (Wales) Regulations 2012<sup>(3)</sup> are amended in accordance with the following provisions.

**Regulation 16 (packaging and sealing)**

3. In regulation 16, for paragraph (3) substitute—

“(3) A package must be sealed by or under the supervision of a licensed seed sampler using an official seal.”

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- (1) 1964 (c. 14). Section 16(1) was amended and section 16(1A) was inserted by the European Communities Act 1972 (c. 68), Schedule 4, paragraph 5.
- (2) See section 38(1) for a definition of “the Minister”. Under the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272) article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were so far as they are exercisable in relation to Wales, transferred to the Secretary of State and under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1, the functions transferred to the Secretary of State by the 1978 Order were transferred to the National Assembly for Wales. By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32) those functions are now exercisable by the Welsh Ministers.
- (3) S.I. 2012/245 (W. 39), amended by S.I. 2013/889 (W. 101) and S.I. 2014/519 (W. 61).

#### **Regulation 24 (sampling for enforcement purposes)**

4. In regulation 24, after paragraph (2) insert—

“(3) The two parts of the sample sent to an official testing station must be retained for at least two years.”

#### **Arrangements for official measures**

5. After regulation 28 insert—

##### **“Arrangements for official measures**

**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;
  - (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.”

## **Schedule 2 (certification requirements)**

6. In Schedule 2, for paragraph 29 (higher voluntary standards for fodder seed) substitute—

“29. The following may be marketed as seed of a higher voluntary standard—

- (a) cocksfoot, festulolium, hybrid ryegrass, Italian ryegrass, meadow fescue, perennial ryegrass, red clover, red fescue, sainfoin, small timothy, timothy, smooth stalked meadow grass, tall fescue and white clover, where any of these are classified as certified seed (CS);
- (b) lucerne, classified either as certified seed of the first generation (CI) or certified seed of the second generation (C2).”

## **Schedule 3 (labelling and loose sales)**

- 7.—(1) Schedule 3 is amended as follows.

(2) In paragraph 22 (fodder seed other than a mixture: labelling requirements), for sub-paragraph (2)(b) substitute—

- “(b) the name and the address or identification number of the person affixing the label;”.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (3) In paragraph 25 (vegetable seed: supplier's labels), for sub-paragraph (5)(b) substitute—  
“(b) the name and address or identification number of the person affixing the label;”.

15 December 2016

*Lesley Griffiths*  
Cabinet Secretary for Environment and Rural  
Affairs, one of the Welsh Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Seed Marketing (Wales) Regulations 2012 ([S.I. 2012/245 \(W. 39\)](#)).

Regulation 3 amends one of the requirements regarding the sealing of packages of seed. Regulation 4 amends the requirements regarding the sampling of seed for enforcement purposes.

Regulation 5 inserts a new provision which allows the Welsh Ministers to make arrangements for any person to carry out official measures. Regulations 6 and 7 make minor amendments.

An impact assessment has not been produced for this instrument as no impact, or no significant impact, on the private, voluntary or public sector is foreseen.