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WELSH STATUTORY INSTRUMENTS

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**2019 No. 368 (W. 90)**

**EXITING THE EUROPEAN UNION, WALES  
SEEDS, WALES**

**The Marketing of Seeds and Plant Propagating Material  
(Amendment) (Wales) (EU Exit) Regulations 2019**

<i>Sift requirements satisfied</i>	<i>18 February 2019</i>
<i>Made - - - -</i>	<i>25 February 2019</i>
<i>Laid before the National Assembly for Wales - -</i>	<i>27 February 2019</i>
<i>Coming into force in accordance with regulation 1</i>	

The Welsh Ministers make these Regulations in exercise of the powers conferred—

- (a) in relation to Part 1, by the powers referred to in paragraphs (b) and (c);
- (b) in relation to Part 2, by section 2(2) of the European Communities Act 1972<sup>(1)</sup>;
- (c) in relation to Part 3, by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018<sup>(2)</sup>.

The Welsh Ministers are designated<sup>(3)</sup> for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy.

The requirements of paragraph 4(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate National Assembly for Wales scrutiny procedure for these Regulations) have been satisfied.

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(1) [1972 c.68](#); section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 ([c. 51](#)), and Part 1 of the Schedule to the European Union (Amendment) Act 2008 ([c. 7](#)). It is prospectively repealed by the European Union (Withdrawal) Act 2018 ([c. 16](#)), section 1 from exit day (*see* section 20 of that Act). The function of the former Minister of Agriculture, Fisheries and Food of making regulations under section 2(2) was transferred to the Welsh Ministers by [S.I. 1999/672](#).

(2) [2018 c.16](#).

(3) [S.I. 2010/2690](#).

## PART 1

### Introductory

#### **Title, commencement and application**

1.—(1) The title of these Regulations is the Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2019.

(2) These Regulations come into force as follows—

- (a) as regards this Part and Part 2, 21 days after the day on which these Regulations are laid;
- (b) as regards Part 3, on exit day.

(3) These Regulations apply in relation to Wales.

## PART 2

### Amendment of references in secondary legislation

#### **The Seed Marketing (Wales) Regulations 2012**

2.—(1) The Seed Marketing (Wales) Regulations 2012(4) are amended as follows.

(2) In regulation 3(1), after sub-paragraph (b), insert—

- “(c) “European Single Market State” (“*Gwladwriaeth y Farchnad Sengl Ewropeaidd*”) means an EEA state or Switzerland.”.

(3) In Schedules 3 and 4, for “member State”, in each place where it occurs, substitute “European Single Market State”;

(4) In Schedule 4—

(a) in paragraph 10, after sub-paragraph (6) insert—

“(7) Seed of an unlisted variety which is the subject of an authorisation issued by another EEA State in accordance with Commission [Decision 2004/842/EC](#)(5) may be marketed in Wales for the purpose of gaining knowledge and practical experience during cultivation.

(8) Seed marketed under sub-paragraph (7) must be labelled in accordance with Article 28 of Commission [Decision 2004/842/EC](#).”;

(b) in paragraph 14, at the end insert “, except for vegetable seed of the species listed in Council [Directive 2002/55/EC](#)(6) produced in Switzerland”.

#### **The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017**

3.—(1) The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017(7) are amended as follows.

(2) In regulation 11(7), for “Plant Health (Wales) Order 2006” substitute “Plant Health (Wales) Order 2018(8)”.

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(4) [SI 2012/245 \(W.39\)](#), amended by [SI 2013/889 \(W.101\)](#), [2014/519 \(W.61\)](#), [2016/1242 \(W.294\)](#) and [2017/1095 \(W.276\)](#).

(5) OJ L 362 9.12.2004, p. 21.

(6) OJ L 193 20.7.2002, p. 33.

(7) [S.I. 2017/691 \(W.163\)](#).

(8) [S.I. 2018/1064 \(W.223\)](#).

## PART 3

### Amendment of secondary legislation relating to the withdrawal from the European Union

#### **The Seed Marketing (Wales) Regulations 2012**

4.—(1) The Seed Marketing (Wales) Regulations 2012 are amended as follows.

(2) In regulation 3(1), after sub-paragraph (c), insert—

“(d) “country granted equivalence” (“*gwlad y caniatawyd cywerthedd iddi*”) means a country that has been granted equivalence under Council [Decision 2003/17/EC](#) on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries;

(e) “Crown Dependency” (“*Tiriogaeth Ddibynnol y Goron*”) means any of the Channel Islands or the Isle of Man.”

(3) In regulation 4(2), for “European Union” substitute “United Kingdom”.

(4) In regulation 7, for “the Common Catalogue” substitute “an equivalent list in a country referred to in the Annex to Council [Decision 2005/834/EC](#) on the equivalence of checks on practices for the maintenance of varieties carried out in certain third countries”.

(5) After regulation 8 insert—

#### **“Marketing of seed from a European Single Market State**

**8A.**—(1) No person may market seed to which these Regulations apply which has been produced in a European Single Market State.

(2) Paragraph (1) does not apply to seed which meets the conditions specified in paragraph (3).

(3) The conditions are that the seed—

(a) is of a variety listed in the United Kingdom National List or the Common Catalogue;

(b) is not vegetable seed of the species listed in the definition of “vegetables” in Article 2(1)(b) of Council [Directive 2002/55/EC](#) which is produced in Switzerland;

(c) has been produced in compliance with the requirements set out in EU law including the Council Directives referred to in regulation 3(2)(a) to (e) and (i); and

(d) has been imported into Wales before the end of the period of two years beginning with the day after the day on which exit day falls.”

(6) In regulation 10, in paragraph (a), for the words from “variety” to the end substitute—  
“variety—

(i) entered in the United Kingdom National List; or

(ii) entered in the Common Catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls;”.

(7) For regulation 21A, substitute—

**“21A.**—(1) The Welsh Ministers may by licence exempt any person or class of person from compliance with any provision of these Regulations for the purposes of a temporary experiment seeking improved alternatives to provisions of these Regulations and organised

in accordance with regulations made under section 16(5) of the Plant Varieties and Seeds Act 1964(9).

(2) The duration of an experiment must not exceed 7 years.”.

(8) In regulation 26, omit “outside the European Union”.

(9) In regulation 27—

(a) in the heading and in paragraph (1), for “from outside the European Union” substitute “into the United Kingdom”;

(b) in paragraph (3), for “from a third country” substitute “into the United Kingdom”;

(c) after paragraph (3) insert—

“(4) Paragraphs (1) and (3) do not apply to seed imported from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”.

(10) After regulation 32, insert—

#### **“Certification in a Crown Dependency**

**32A.** Any seed certified and labelled in a Crown Dependency under legislation recognised by the Welsh Ministers to have equivalent effect to these Regulations may be marketed in Wales.

#### **Transitional provision for official labels on exit day**

**32B.** For the purposes of regulation 17 and paragraphs 7(1)(a) and 8(1)(a) of Schedule 3, an official label pre-printed before exit day containing the statement “EU Rules and Standards” may be used as an official label before the end of the period of two years beginning with the day after the day on which exit day falls.”.

(11) In Schedule 2—

(a) in paragraph 7—

(i) in sub-paragraph (1), after “Article 2(3)(A)”, insert “(a) to (d)”;

(ii) in sub-paragraph (3), for “Annex III to that Directive” substitute “Schedule 3”;

(iii) after sub-paragraph (5), insert—

“(6) For the purposes of this regulation, Council [Directive 2002/54/EC](#) is to be read as if—

(a) in Article 2(3)(A)(a)(iii), for “officially licensed by the seed certification authority of the Member State concerned” there were substituted “licensed by the Welsh Ministers”;

(b) in Annex 1—

(i) in point A—

(aa) in paragraph 3, for “certification authority” there were substituted “Welsh Ministers”;

(bb) in the last paragraph, for the words from “common” to “that Directive” there were substituted “United Kingdom National List”;

(ii) in point B, in paragraph 3(c)—

- (aa) the reference to “Member States” were a reference to “The Welsh Ministers”;
  - (bb) the reference to “Community” were omitted.”.
- (b) in paragraph 15—
  - (i) in sub-paragraph (1), after “Article 2(3)(A)”, insert “(a) to (d)”;
  - (ii) in sub-paragraph (2), after “that Directive”, in the first place where it occurs, insert “ (except paragraphs 1a(f) and 1b of Article 7)”;
  - (iii) after sub-paragraph (2), insert—
    - “(2A) For the purposes of sub-paragraphs (1) and (2), Council [Directive 66/402/EEC](#) is to be read as if—
    - (a) in Article 2(3)(A)(a)(iii), for “officially licensed by the seed certification authority of the Member State concerned” there were substituted “licensed by the Welsh Ministers”;
    - (b) in Article 7—
      - (i) references to “Member States” were references to “Welsh Ministers”;
      - (ii) in paragraph 1a(a), for “seed certification authority of the Member State concerned” there were substituted “Welsh Ministers”.”.
- (c) in paragraph 28—
  - (i) in sub-paragraph (1), after “Article 2(3)(A)”, insert “(a) to (d)”;
  - (ii) after sub-paragraph (1), insert—
    - “(1A) For the purposes of sub-paragraph (1), Council [Directive 66/401/EEC](#) is to be read as if—
    - (a) in Article 2(3)(A)(a)(iii), for “officially licensed by the seed certification authority of the Member State concerned” there were substituted “licensed by the Welsh Ministers”;
    - (b) in Annex 1, in paragraph 4, in the second sub-paragraph, the words from “Upon” to the end were omitted.”.
- (d) in paragraph 42—
  - (i) in sub-paragraph (1), after “Article 2(5)(A)”, insert “(a) to (d)”;
  - (ii) after sub-paragraph (1), insert—
    - “(1A) For the purposes of sub-paragraph (1), Council [Directive 2002/57/EC](#) is to be read as if—
    - (a) in Article 2(5)(A)(a)(iii), for “officially licensed by the seed certification authority of the Member State concerned” there were substituted “licensed by the Welsh Ministers”;
    - (b) in Annex 2, in Part 1, in paragraph 5C, the last sub-paragraph were omitted.”.
- (e) in paragraph 43(2), omit “ or the Common Catalogue”;
- (f) in paragraph 50—
  - (i) in sub-paragraph (1), after “Article 2(4)(A)” insert “(a) to (d)”;
  - (ii) in sub-paragraph (2), after “Article 25”, insert “ (except paragraphs 1a(f) and 1b)”;
  - (iii) after sub-paragraph (2), insert—

“(2A) For the purposes of sub-paragraphs (1) and (2), Council [Directive 2002/55/EC](#) is to be read as if—

- (a) in Article 2(4)(A)(a)(iii), for “officially licensed by the seed certification authority of the Member State concerned” there were substituted “licensed by the Welsh Ministers”;
- (b) in Article 25—
  - (i) references to “Member States” were references to “Welsh Ministers”;
  - (ii) in paragraph 1a(a), for “seed certification authority of the Member State concerned” there were substituted “Welsh Ministers”.

(12) In Schedule 3—

- (a) in paragraph 5(5), for the words from “one of” to the end substitute “English, but may also be in other languages”;
- (b) in paragraph 6(1)—
  - (i) in paragraph (a), after “the name”, insert “ and country or country initials”;
  - (ii) omit paragraph (b);
- (c) in paragraphs 7(1) and 8(1)—
  - (i) in paragraph (a), for “EU” substitute “UK”;
  - (ii) in paragraph (b), after “the name”, insert “and country or country initials”;
  - (iii) omit paragraph (c);
- (d) in paragraph 9(1)—
  - (i) in paragraph (a), at the beginning, insert “the name and country or country initials of”;
  - (ii) omit paragraph (b);
- (e) in paragraphs 12(2)(a) and 14(1)(a), for “or the Common Catalogue” substitute “, or has been accepted onto the Common Catalogue and the seed is marketed before the end of the period of two years beginning with the day after the day on which exit day falls”;
- (f) in paragraph 19—
  - (i) in sub-paragraph (2), omit “EU”;
  - (ii) in sub-paragraph (2), omit “UE”;
  - (iii) in sub-paragraph (4)—
    - (aa) in paragraph (a), omit “EU”;
    - (bb) in paragraph (e), for “European Single Market State” substitute “country of production”;
- (g) in paragraph 20(4)(a), for “EU” substitute “UK”;
- (h) in paragraphs 21 and 22, omit “EU” in each place where it occurs;
- (i) in paragraph 23—
  - (i) omit “EU” in each place where it occurs;
  - (ii) in sub-paragraphs (2)(c)(ii) and (d)(iii), for “European Single Market State” substitute “country of production”;
- (j) in paragraphs 24 and 25, for “EU”, in each place where it occurs, substitute “UK”.

(13) In Schedule 4—

- (a) in paragraph 4(1), for “the Directive” substitute “these Regulations”;
- (b) in paragraph 5(2), for “from a third country” substitute “into the United Kingdom”;
- (c) in paragraph 6, for “Council [Directive 66/402/EEC](#)” substitute “these Regulations”;
- (d) in paragraph 7—
  - (i) after sub-paragraph 5, insert—
    - “(5A) For the purposes of sub-paragraph (5)—
      - (a) Article 14 of Commission [Directive 2008/62/EC](#) is to be read as if—
        - (i) in the first paragraph—
          - (aa) the words “Each Member State shall ensure that, ” were omitted;
          - (bb) for the reference to “that Member State” there were substituted “the United Kingdom”;
        - (ii) in the second paragraph—
          - (aa) the words “in each Member State” were omitted;
          - (bb) for the references to “the Member State”, in both places where it occurs, there were substituted “the United Kingdom”;
      - (b) Article 15 of Commission [Directive 2009/145/EC](#) is to be read as if—
        - (i) the words “Each Member State shall ensure that,” were omitted;
        - (ii) for “does” there were substituted “must.”;
      - (ii) in sub-paragraph (7), for the words from “Council [Directive 2002/54/EC](#)” to “(as the case may be)” substitute “these Regulations”;
      - (iii) in sub-paragraph (8)—
        - (aa) in paragraph (a), for the words from “Council [Directive 2002/55/EC](#)” to “seed” substitute “Schedule 2”;
        - (bb) in paragraph (b), for “that Directive” substitute “these Regulations”;
  - (e) in paragraph 8—
    - (i) in sub-paragraph (3)(b), for the words from “in accordance” to the end substitute “having taken account of any available information from plant genetic resource organisations”;
    - (ii) in sub-paragraph (4)(a), for “EU” substitute “UK”;
    - (iii) in sub-paragraph (7), after “have”, in the first place where it occurs, insert “subject to sub-paragraph (8)”;
    - (iv) after sub-paragraph (7) insert—
      - “(8) For the purposes of this paragraph, Article 1(a) of Commission [Directive 2010/60/EU](#) is to be read as if the definition of “source area” contained in that Article defined it to mean an area designated as a special area of conservation or an area contributing to the conservation of plant genetic resources in accordance with retained EU law.”;
  - (f) in paragraph 10—
    - (i) in sub-paragraph (1), omit the words from “of at least” to the end;
    - (ii) in sub-paragraph (7)—
      - (aa) at the beginning insert “Subject to sub-paragraph (9),”;

- (bb) for “another” substitute “an”;
- (iii) after sub-paragraph (8) insert—
  - “(9) Seed marketed under sub-paragraph (7) must be marketed before the end of the period of two years beginning with the day after the day on which exit day falls.”.
- (g) in paragraph 11(2), omit “or the Common Catalogue”;
- (h) in paragraph 12—
  - (i) the existing text becomes sub-paragraph (1);
  - (ii) in sub-paragraph (1)—
    - (aa) in the words before paragraph (a), omit “been authorised for cultivation under either”;
    - (bb) in paragraph (a), at the beginning, insert “before the day on which exit day falls, been authorised under”, and, at the end, omit “or”;
    - (cc) in paragraph (b), at the beginning, insert “been authorised under”, and, at the end, insert “, or”;
    - (dd) after paragraph (b), insert—
      - “(c) been authorised under the GMO Regulations.
- (2) For the purpose of paragraph (1), “the GMO Regulations” means—
  - (a) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002<sup>(10)</sup>;
  - (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002<sup>(11)</sup>;
  - (c) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002<sup>(12)</sup>;
  - (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003<sup>(13)</sup>.”;
- (i) in paragraph 13—
  - (i) in sub-paragraph (1), for “another European Single Market State or third country” substitute “a country granted equivalence”;
  - (ii) in sub-paragraph (3)—
    - (aa) omit paragraph (a);
    - (bb) in paragraph (b), omit “if the seed is from a third country”;
    - (cc) in the words after paragraph (b), omit “in both cases”;
- (j) omit paragraph 14 and its heading;
- (k) in paragraph 15(3), for “Council [Directive 2002/55/EC](#) on the marketing of vegetable seed” substitute “these Regulations”;
- (l) in paragraph 16—
  - (i) in the heading, for “another” substitute “a”;
  - (ii) in sub-paragraph (1)—

<sup>(10)</sup> S.I. 2002/3188 (W.304), amended by S.I. 2005/1913 (W.156), 2005/2759, 2011/1043, 2013/755 (W.90), 2018/1216 (W.249).

<sup>(11)</sup> S.I. 2002/2443, as amended by S.I. 2004/2411, 2005/2759, 2009/1892, 2011/1043, 2018/575.

<sup>(12)</sup> S.S.I. 2002/541, amended by S.I. 2005/2759 and 2011/1043; and by S.S.I. 2004/439, 2015/100.

<sup>(13)</sup> S. R. 2003 No. 167.



- (aa) for “Seed” substitute “Before the end of the period of two years beginning with the day on which exit day falls, seed”;
- (bb) in paragraph (a)(i), for the words from “either” to the end substitute “in a European Single Market State or a country granted equivalence”;
- (cc) in paragraph (a)(ii), for “such a third country” substitute “a country granted equivalence”;
- (dd) in paragraph (b), for “another” substitute “a”;
- (iii) in sub-paragraph (3)(a), for “European Single Market State” substitute “country”;
- (m) in paragraph 17—
  - (i) in the heading and, in sub-paragraph (1), in the words before paragraph (a), for “third country” substitute “country granted equivalence”;
  - (ii) in sub-paragraph (1)(a)(i), for the words from “a European Single Market State” to the end, substitute “the United Kingdom, a Crown Dependency (provided such seed has been produced under legislation recognised by the Welsh Ministers to have equivalent effect to these Regulations) or a country granted equivalence”;
  - (iii) for sub-paragraph (1)(a)(ii), substitute—
    - “(ii) the crossing of basic seed officially certified in the United Kingdom or a Crown Dependency (provided such seed has been produced under legislation recognised by the Welsh Ministers to have equivalent effect to these Regulations) with basic seed certified in a country granted equivalence.”;
- (n) in paragraph 18, omit “or the Common Catalogue”.

### **The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017**

5.—(1) The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 are amended as follows.

(2) In regulation 2—

- (a) in the definition of “basic material”, in paragraph (b), for “ Article 15 of [Directive 2014/98/EU](#),” substitute  
“—
  - (i) in the case of material produced in the United Kingdom, the relevant fruit marketing regulations;
  - (ii) in the case of material produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to regulation 9(1) and (2);
  - (iii) in the case of material produced in a member State, Article 15 of [Directive 2014/98/EU](#).”;
- (b) in the definition of “CAC material”, in paragraph (b), for “ Article 23 of [Directive 2014/98/EU](#),” substitute—  
“—
  - (i) in the case of material and plants produced in the United Kingdom, the relevant fruit marketing regulations;
  - (ii) in the case of material and plants produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to Schedule 1;

- (iii) in the case of material and plants produced in a member State, Article 23 of [Directive 2014/98/EU](#)”;
- (c) in the definition of “certified material”, in paragraph (b), for “ Article 20 of [Directive 2014/98/EU](#),” substitute—
- “—
- (i) in the case of material and plants produced in the United Kingdom, the relevant fruit marketing regulations;
- (ii) in the case of material and plants produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to regulation 9(1) and (2);
- (iii) in the case of material and plants produced in a member State, Article 20 of [Directive 2014/98/EU](#)”;
- (d) in the appropriate place insert—
- ““Crown Dependency” (“*Tiriogaeth Ddibynnol y Goron*”) means the Isle of Man or any of the Channel Islands;”;
- (e) in the appropriate place insert—
- ““the fruit marketing regulations” (“*y rheoliadau marchnata ffrwythau*”) means—
- (a) as regards England, the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017([14](#));
- (b) as regards Scotland, the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017([15](#));
- (c) as regards Northern Ireland, the Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017([16](#))—
- and “the relevant fruit marketing regulations” (“*y rheoliadau marchnata ffrwythau perthnasol*”), in relation to any constituent part of the United Kingdom, means the fruit marketing regulations applicable in relation to that part;”;
- (f) in the definition of “official label”, in paragraph (b), for the words “ Article 2 of [Directive 2014/96/EU](#),” substitute—
- “—
- (i) in the case of material produced in the United Kingdom, the relevant fruit marketing regulations;
- (ii) in the case of plant material produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to Part 1 of Schedule 2;
- (iii) in the case of plant material produced in a member State, Article 2 of [Directive 2014/96/EU](#)”;
- (g) in the definition of “outside Wales”, for the words from “ or any member” to the end, substitute “, any member State or any Crown Dependency”;
- (h) in the definition of “plant variety rights”—
- (i) in paragraph (a), at the end insert “or”;
- (ii) omit paragraph (b).

[\(14\) S.I. 2017/595.](#)[\(15\) S.S.I. 2017/177.](#)[\(16\) S.R. 2017 No.119.](#)

- (i) in the definition of “pre-basic material”, in paragraph (b), for “ Articles 3 or 4 of [Directive 2014/98/EU](#),” substitute—
- “—
- (i) in the case of material produced in the United Kingdom, the relevant fruit marketing regulations;
  - (ii) in the case of material produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to regulation 9(1) and (2);
  - (iii) in the case of material produced in a member State, Articles 3 or 4 of [Directive 2014/98/EU](#);
- (3) In regulation 4(3), for “European Union” substitute “United Kingdom”.
- (4) After regulation 5(4) insert—
- “(5) No person may market in Wales plant material produced in a member State.
- (6) Paragraph (5) does not apply to plant material which meets the conditions set out in paragraph (7).
- (7) The conditions are that the plant material—
- (a) is of a variety that may be marketed under regulation 7 or has been registered as a variety by the responsible authority in a member State in accordance with Article 4 of [Directive 2014/97/EU](#);
  - (b) has been produced in compliance with the requirements set out in Directives [2008/90/EC](#), [2014/98/EU](#) and [2014/96/EU](#); and
  - (c) has been imported into Wales before the end of the period of two years beginning with the day after the day on which exit day falls.”.

(5) In regulation 7—

    - (a) in paragraph (3), for the words from “the second” to the end substitute “that paragraph”;
    - (b) in paragraph (4), for sub-paragraph (b) substitute—

“(b) registration as a variety by the responsible authority in any part of the United Kingdom outside Wales in accordance with—

    - (i) in relation to England, Schedule 4 to the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017;
    - (ii) in relation to Scotland, Schedule 4 to the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017;
    - (iii) in relation to Northern Ireland, Schedule 3 to the Marketing of Fruit Plant and Propagating Material (Northern Ireland) Regulations 2017.”.

(6) In regulation 10(6), for “[Directive 2000/29/EC](#)” substitute “the Plant Health (Wales) Order 2018”.

(7) In regulation 15(1)(g)(iii), for “Annexes to [Directive 2000/29/EC](#)” substitute “Plant Health (Wales) Order 2018”.

(8) After regulation 28 insert—

**“Transitional provision for official labels on exit day**

**28A.** For the purposes of regulation 10 and paragraph 4(b) of Schedule 2, an official label pre-printed before exit day containing the statement “EU Rules and Standards” may be used as an official label for plant material before the end of the period of two years beginning with the day after the day on which exit day falls.”.

- (9) In Schedule 2—
- (a) in paragraph 4(b), for “EU” substitute “UK”;
  - (b) in paragraph 5, for “indelibly printed” to the end substitute—  
“—
    - (a) easily visible and legible, and
    - (b) indelibly printed in English (but may also be printed in other languages)”;
  - (c) in paragraph 8—
    - (i) in sub-paragraph (a), for “EU” substitute “UK”;
    - (ii) in sub-paragraphs (b)(i) and (x), for “member State” substitute “country”;
  - (d) in paragraph 9, for “indelibly printed” to the end substitute—  
“—
    - (a) easily visible and legible, and
    - (b) indelibly printed in English (but may also be printed in other languages)”.
- (10) Schedule 4 is amended in accordance with paragraphs 11 to 16.
- (11) In paragraph 1—
- (a) in the definition of “appropriate protocol”—
    - (i) omit paragraph (a);
    - (ii) in paragraph (b)—
      - (aa) omit the words from “where” to “species, ”;
      - (bb) after the word “stability” insert “for the particular genus or species concerned”;
    - (iii) in paragraph (c)—
      - (aa) omit “protocols mentioned at (a) or ”;
      - (bb) after the word “established” insert “or recognised”;
  - (b) in the appropriate place insert—  
““the GMO Regulations” (“*y Rheoliadau GMO*”) means—
    - (a) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(17);
    - (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002(18);
    - (c) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(19);
    - (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003(20);”.
- (12) In paragraph 2—
- (a) in sub-paragraph (2)(b), omit “or in another member State, ”;
  - (b) in sub-paragraph (3), for “member State” substitute “country which is a member of UPOV”.

(17) S.I. 2002/3188 (W.304), amended by S.I. 2005/1913 (W.156), 2005/2759, 2013/755 (W.90), 2018/1216 (W.249).

(18) S.I. 2002/2443, as amended by S.I.2004/2411, 2005/2759, 2009/1892, 2011/1043, 2018/575.

(19) S.S.I 2002/541, amended by S.S.I 2004/439, 2015/100 and S.I. 2005/2759 and 2011/1043.

(20) S.R. 2003 No.167.

- (13) In paragraph 3—
- (a) in sub-paragraph (1)(c), for the words from “is authorised” to the end substitute—
- “—
- (i) is authorised for cultivation pursuant to Regulation (EC) No 1829/2003 or the GMO Regulations, or
- (ii) before the day on which exit day falls has been authorised for cultivation pursuant to Directive 2001/18/EC.”;
- (b) in sub-paragraph (3), for “outside Wales” substitute “elsewhere in the United Kingdom or in another country which is a member of UPOV”.
- (14) In paragraph 6(1)—
- (a) in paragraph (c), for “or in another member State” substitute “; or”;
- (b) after paragraph (c) insert—
- “(d) by a competent authority outside the United Kingdom if the Welsh Ministers are satisfied that those growing trials are of equivalent standards to those carried out by or on behalf of the Welsh Ministers.”.
- (15) In paragraph 7—
- (a) in sub-paragraph (1)(a), for the words “consists is” to the end substitute—
- “consists—
- (i) is authorised for cultivation pursuant to Regulation (EC) No 1829/2003(21) or the GMO Regulations, or
- (ii) has, before the day on which exit day falls, been authorised for cultivation pursuant to Directive 2001/18/EC; or”;
- (b) in sub-paragraph (4)(a), omit “Directive 2001/18/EC or”.
- (16) In paragraph 8(1)(d), for the words from “ceases” to the end substitute—
- “—
- (i) ceases to be authorised pursuant to Regulation (EC) No 1829/2003 or the GMO Regulations; or
- (ii) has, before the day on which exit day falls, been authorised for cultivation pursuant to Directive 2001/18/EC and ceases to be authorised”.
- (17) In Schedule 5—
- (a) in paragraph 5—
- (i) in sub-paragraph (4)(a), for “outside Wales” substitute “in any part of the United Kingdom other than Wales or in another country which is a member of UPOV”;
- (ii) in sub-paragraph (7), for the definition of “register of varieties” substitute—
- ““register of varieties” (“*cofrestr amrywogaethau*”) means, in relation to the registration of varieties, the register maintained—
- (a) in Wales, under paragraph 4(1) of Schedule 4;
- (b) in England, under paragraph 4(1) of Schedule 4 to the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017;
- (c) in Scotland, under paragraph 2(1) of Schedule 4 to the Marketing of Fruit Plant and Propagating Material (Scotland) 2017;

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(21) Defined in paragraph 1 of Schedule 4 to S.I. 2017/691 (W.163).

- (d) in Northern Ireland, for the purposes of paragraph 1 of Schedule 3 to the Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017;”;
- (b) omit paragraph 8(2)(a).

25 February 2019

*Lesley Griffiths*  
Minister for Environment, Energy and Rural  
Affairs, one of the Welsh Ministers

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## EXPLANATORY NOTE

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

These Regulations are made in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

The Regulations also (in exercise of the powers conferred by the European Communities Act 1972 (c.68)) make amendments to the Seed Marketing Regulations (Wales) 2012 to include references to EEA states and Switzerland where appropriate.

These Regulations make amendments to subordinate legislation, which apply in relation to Wales, in the fields of seeds and the marketing of fruit plant propagating material and fruit plants intended for fruit production.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.