

POLICY NOTE

THE SEED (EQUIVALENCE OF COUNTRIES) (AMENDMENT) (SCOTLAND) REGULATIONS 2022

S.S.I. 2022/328

Introduction

1. The above instrument (“the SSI”) is made by Scottish Ministers in exercise of the powers conferred by sections 16(1) and (1A) of the Plant Varieties and Seeds Act 1964 (“the Act”) and all other powers enabling them to do so. The SSI is subject to negative procedure.

Purpose Of The Instrument

The purpose of this instrument is to amend the expiry date of retained EU Council Decision 2003/17 (“the Decision”) so that it will continue to have effect for a further period of 7 years. The Decision has application in GB and permits the import of seed of certain agricultural species from specified ‘third’ (i.e. non EU) countries whose systems of field inspections, production and certification of seed are regarded as equivalent to EU marketing standards. In Scotland, seed marketing standards are aligned to those of the EU, and this is the same across the UK. The Decision is due to expire on 31 December 2022 and extending the expiry date will ensure that all specified countries currently recognised as equivalent in GB law through the Decision, will continue to be recognised as equivalent until 31 December 2029.

Policy objectives

2. Scotland’s seed marketing regulations require that for most seed and other propagating material produced outside of the UK to be marketed in Scotland, the systems of field inspections, production and certification of seed and other propagating material in the country of production need to be recognised as equivalent to those in GB.
3. Prior to EU Exit, the European Commission carried out equivalence assessments for the whole of the EU, with equivalence being granted legislatively through Decision 2003/17/EC (EU law proper). The Decision, in its retained form, is due to expire on 31 December 2022. If the current equivalence arrangements are allowed to lapse, this could potentially leave GB farmers and growers short of the seed they need for agricultural production. A reduction in the choice of suitable varieties could compel farmers and growers who depend on them to use less favourable varieties with potentially lower yields and/or disease resistance, impacting on market availability and less choice for the final consumer. The EU has already extended the validity date of the EU law proper version of Decision 2003/17/EC to 31 December 2029.
4. Extending the expiry date will ensure that all specified countries currently recognised as equivalent in GB law through the Decision will continue to be recognised as equivalent until 31 December 2029.

Explanation of the law being amended by the regulations

5. The SSI amends the expiry date of retained EU Council Decision 2003/17 (“the Decision”) so that it will continue to have effect up to 31 December 2029. The Decision is retained direct minor EU legislation as defined by section 7 of the European Union (Withdrawal) Act 2018 (the “Withdrawal Act”) and was incorporated into United Kingdom law by section 3 of the Withdrawal Act.

Reasons for and effect of the proposed change or changes on retained EU law

6. The UK is not capable of being self-sufficient in the production of small agricultural seeds, relying heavily on importing seed lots from EU Member states, New Zealand, Canada and America and a number of other third countries. On leaving the EU, GB was granted equivalence for small seeds based on a reciprocal arrangement, which provided for continued trade between the EU and their trading partners.
7. Extending the expiry date of the Decision will also provide an opportunity for a GB wide policy review of the equivalence process to be undertaken to consider alignment with provisions in the Aquatic Animal Health and Alien Species in Aquaculture, Animals, and Marketing of Seed, Plant and Propagating Material (Legislative Functions and Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2020 (“the 2020 Regulations”). Regulation 26 of the 2020 Regulations provides for the recognition of the equivalence of plant material from countries outside of the British Islands on an administrative rather than legislative basis.

Consultation

8. A six-week informal consultation with agricultural and forest seed breeders, grower associations and organisations, located in the United Kingdom and internationally, was undertaken jointly by the UK National Authorities. The consultation did not attract a high response rate, possibly as the proposal does not seek to amend current policy. Five responses were received, all supportive of the proposal.

Impact Assessments

9. Full impact assessments have not been prepared for this instrument as it relates to the extension of existing regulatory standards and no, or no significant impact, on the private, voluntary, or public sector is foreseen.

Financial Effects

10. The current estimated annual value to GB businesses importing seed from countries granted equivalence legislatively by the Decision, based on 2019-2021 averages, is £20 million. Removing access to this seed by allowing current equivalence arrangements to lapse could result in adverse financial impacts on GB businesses who rely on seed imported from these countries.
11. The Minister for Environment and Land reform confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Timing

12. The SSI comes into force on 30 December 2022.

Scottish Government ,
Agriculture and Rural Economy Directorate

November 2022