

EXPLANATORY MEMORANDUM TO
THE SEED MARKETING AND SEED POTATOES (ENGLAND) (AMENDMENT)
REGULATIONS 2019

2019 No. 472

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for the Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument amends the Seed Marketing Regulations 2011 to make it clear that unlisted vegetable varieties authorised in the European Union may be marketed in England and excludes vegetable seed produced in Switzerland from being marketed in England because vegetable seed is not in scope of the EU/Swiss Trade agreement. This instrument also amends the Seed Potato (England) Regulations 2015 to include a labelling provision, in respect of test and trial seed.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 This instrument makes amendments to the Seeds Marketing Regulations 2011 and the Seed Potato (England) Regulations 2015 using powers under section 2(2) of the European Communities Act 1972 to provide for seed of unlisted vegetable varieties authorised in the European Union to be marketed in England; to exclude the marketing in England of vegetable seed produced in Switzerland and to specify that official labels for test and trial seed potatoes must have a unique number.

7. Policy background

What is being done and why?

- 7.1 The marketing of vegetable seed and seed potatoes is regulated at the EU level by the following directives:
- i Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed
 - ii Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes
- 7.2 These directives prescribe processes to ensure minimum quality standards and traceability for marketed seed and propagating material. They also set out administrative provisions (including, where appropriate, provision for fees), impose record keeping requirements and provide for the licensing of industry crop inspectors, seed samplers and seed testing stations to carry out these functions. These directives are transposed by the regulations being amended by this instrument stated in section 7.3.
- 7.3 This instrument makes changes to the Seed Marketing Regulations 2011 to recognise that seed of unlisted vegetable varieties, authorised for marketing by an EU Member State for the purposes of gaining knowledge and practical experience during cultivation, may be marketed by suppliers in England; and to exclude the marketing, in England, of vegetable seed produced in Switzerland because vegetable seed is not in scope of the EU/Swiss Trade agreement. This instrument also amends the Seed Potatoes (England) Regulations 2015 to specify that an official label for test and trial seed potatoes must have a unique number.
- 7.4 The changes made by this instrument represent no changes of policy nor will it produce any impact on businesses or the public. The requirement for a unique number on labels to be affixed to seed potatoes was overlooked in respect of test and trial seed when Defra transposed EU Directive 2016/317 (amending Council Directive 2002/56/EC) as regards labelling of seed packages. This new labelling requirement formalises a procedure that, in practice, has been carried out by Industry for over 25 years and will bring labelling provisions for test and trial seed in line with the regulations for other crop groups.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

- 9.1 There are no plans for consolidation.

10. Consultation outcome

- 10.1 Defra has not undertaken a public consultation on this instrument but has carried out informal consultation with industry representative organisations in the relevant sectors who have not indicated any issues with Defra's approach.

11. Guidance

- 11.1 As this legislation does not substantively change the way that certification or marketing of seed and propagating material functions, or the quality standards, guidance has not been produced at this stage. Guidance for businesses using the services will be updated before exit.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because no significant impact on business or the voluntary sector is foreseen.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is through the course of normal departmental business, as no substantive changes to current procedures or standards for the marketing of seed potatoes and vegetable seed are being introduced.
- 14.2 A review clause is already included in the principal regulations affected by these amendments.

15. Contact

- 15.1 Andy Mitchell at the Department for Environment, Food and Rural Affairs
Telephone: 0208 02 65714 or email: andy.mitchell@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Nicola Spence, Deputy Director and Chief Plant Health Officer at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.