

SCHEDULE 4 **E+W**

Regulation 7(4)

Registration of varieties

Interpretation **E+W**

1. In this Schedule—

“appropriate protocol” (“*protocol priodol*”) means—

- (a) ^{F1} ...
- (b) ^{F2} ... guidelines produced by UPOV relating to the conduct of tests for distinctness, uniformity and stability [^{F3}for the particular genus or species concerned]; or
- (c) where ^{F4} ... guidelines mentioned at paragraph (b) do not exist, a protocol or guidelines established [^{F5}or recognised] by the Welsh Ministers in relation to the same matters;

“[Directive 2001/18/EC](#)” (“*Cyfarwydddeb 2001/18/EC*”) means [Directive 2001/18/EC](#) of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms and repealing Council [Directive 90/220/EEC](#)(1);

“distinct” (“*gwahanol*”) means the variety is clearly distinguishable by one or more characteristics that result from a particular genotype or combination of genotypes, from any other variety whose existence is a matter of common knowledge at the time of the application for registration as a variety;

[^{F6}“the GMO Regulations” (“*y Rheoliadau GMO*”) means—

- (a) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002;
- (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002;
- (c) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002;
- (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003;]

“[Regulation \(EC\) No 1829/2003](#)” (“*Rheoliad (EC) Rhif 1829/2003*”) means [Regulation \(EC\) No 1829/2003](#) of the European Parliament and of the Council on genetically modified food and feed(2);

“stable” (“*sefydlog*”) means the characteristics of the variety, which are included in the examination for distinctness, as well as any others used for the variety description, remain unchanged after repeated propagation or, in the case of micropropagation, at the end of each such cycle;

“uniform” (“*unffurf*”) means, subject to the variation that may be expected from the particular features of its propagation, the variety is sufficiently uniform in those characteristics which are included in the examination for distinctness, as well as any other characteristics used for the variety description.

(1) OJ No L 106, 17.4.2001, p. 1 as last amended by Directive (EU) 2015/412 (OJ No L 68, 13.3.2015, p. 1).

(2) OJ No L 268, 18.10.2003, p. 1; as last amended by Regulation (EC) No. 298/2008 of the European Parliament and of the Council (OJ No L 97, 9.4.2008, p. 64).

Changes to legislation: There are currently no known outstanding effects for the *The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017, SCHEDULE 4.* (See end of Document for details)

Textual Amendments

- F1** Words in Sch. 4 para. 1 omitted (31.12.2020) by virtue of [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(11)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Sch. 4 para. 1 omitted (31.12.2020) by virtue of [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(11)(a)(ii)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Sch. 4 para. 1 inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(11)(a)(ii)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Sch. 4 para. 1 omitted (31.12.2020) by virtue of [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(11)(a)(iii)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Sch. 4 para. 1 inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(11)(a)(iii)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Sch. 4 para. 1 inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(11)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I1** Sch. 4 para. 1 in force at 19.6.2017, see [reg. 1\(1\)](#)

Application for registration with an official description **E+W**

2.—(1) An application for registration of a variety with an official description must be made in writing to the Welsh Ministers in such form as the Welsh Ministers may require.

(2) An application must be accompanied by—

- (a) any technical information (such as, but not limited to, details of the genus and species to which the variety belongs, its common name, the applicant's details, the variety denomination, origin, and characteristics of the variety) required under an appropriate protocol that is relevant to the species;
- (b) information on whether the variety is officially registered elsewhere in the United Kingdom^{F7}... or is the subject of an application for such a registration;
- (c) a proposed denomination; and
- (d) such other information as the Welsh Ministers may require.

(3) Where applicable, an application may be accompanied by details of an official description established by a responsible authority elsewhere in the United Kingdom or in another [^{F8}country which is a member of UPOV].

Textual Amendments

- F7** Words in Sch. 4 para. 2(2)(b) omitted (31.12.2020) by virtue of [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(12)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Sch. 4 para. 2(3) substituted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(12)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I2 Sch. 4 para. 2 in force at 19.6.2017, see [reg. 1\(1\)](#)

Registration **E+W**

3.—(1) The Welsh Ministers must register a variety with an official description if satisfied that—

- (a) the variety is distinct, uniform and stable;
- (b) a sample of the variety is available; and
- (c) in relation to genetically modified varieties, the genetically modified organism of which the variety consists

[^{F9}(i) is authorised for cultivation pursuant to Regulation (EC) No 1829/2003 or the GMO Regulations, or

(ii) before the day on which implementation period completion day falls has been authorised for cultivation pursuant to Directive 2001/18/EC.]

(2) The Welsh Ministers must base acceptance that a variety is distinct, uniform and stable on the results of growing trials in accordance with paragraph 6.

(3) Growing trials are not required where the Welsh Ministers are satisfied, on the basis of information submitted by the application, that an official description established by a responsible body [^{F10}elsewhere in the United Kingdom or in another country which is a member of UPOV] fulfils the conditions for registration required by sub-paragraph (1).

(4) The Welsh Ministers may register a variety that has been marketed within the European Union prior to 30 September 2012 provided that variety has an officially recognised description.

Textual Amendments

F9 Words in Sch. 4 para. 3(1)(c) substituted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(13)(a)** (as amended by [S.I. 2020/1573](#), regs. 1(2)(b), **4(4)(f)**); 2020 c. 1, **Sch. 5 para. 1(1)**

F10 Words in Sch. 4 para. 3(3) substituted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(13)(b)**; 2020 c. 1, **Sch. 5 para. 1(1)**

Commencement Information

I3 Sch. 4 para. 3 in force at 19.6.2017, see [reg. 1\(1\)](#)

Register of varieties **E+W**

4.—(1) The Welsh Ministers must maintain and publish a register of varieties (“the register”).

(2) The register must include the following information for each registered variety—

- (a) the denomination of the variety and synonyms;
- (b) the species the variety belongs to;
- (c) the indication ‘official description’ or ‘officially recognised description’, as appropriate;
- (d) the date of registration, or, where applicable, of renewal of registration;
- (e) the date the validity of the registration ends.

(3) The Welsh Ministers must also, in relation to each variety registered, keep a file containing a description of the variety and a summary of the facts relevant to its registration.

Changes to legislation: There are currently no known outstanding effects for the *The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017, SCHEDULE 4.* (See end of Document for details)

Commencement Information

I4 Sch. 4 para. 4 in force at 19.6.2017, see [reg. 1\(1\)](#)

Additional requirements for products to be used as genetically modified food or feed **E+W**

- 5.—(1) This paragraph applies to any variety from which products are derived for use as, or in—
- (a) food within the scope of Article 3 of Regulation (EC) No 1829/2003; or
 - (b) feed within the scope of Article 15 of Regulation (EC) No 1829/2003.
- (2) Before registering any such variety, the Welsh Ministers must be satisfied that the food or feed has been authorised pursuant to Regulation (EC) No 1829/2003.
- (3) Where a growing trial is required, a sample of the material of the variety must be submitted on request.

Commencement Information

I5 Sch. 4 para. 5 in force at 19.6.2017, see [reg. 1\(1\)](#)

Growing trials **E+W**

- 6.—(1) Growing trials may be carried out—
- (a) by the Welsh Ministers;
 - (b) for the Welsh Ministers in accordance with arrangements for official measures made under regulation 27; or
 - (c) by a responsible authority elsewhere in the United Kingdom [^{F11}; or]
 - [^{F12}(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.]
- (2) Growing trials must—
- (a) establish whether a variety is distinct, uniform and stable; and
 - (b) be conducted, as regards trial design, growing conditions and characteristics of the variety to be covered, in accordance with an appropriate protocol.

Textual Amendments

- F11** Word in Sch. 4 para. 6(1)(c) substituted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(14)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Sch. 4 para. 6(1)(d) inserted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(14)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

I6 Sch. 4 para. 6 in force at 19.6.2017, see [reg. 1\(1\)](#)

Duration and renewal of registration **E+W**

- 7.—(1) Registration of a variety is valid—
- (a) in the case of a genetically modified variety, for the period for which the genetically modified organism of which the variety ^{F13}consists—
 - (i) is authorised for cultivation pursuant to Regulation (EC) No 1829/2003 or the GMO Regulations, or
 - (ii) has, before the day on which implementation period completion day falls, been authorised for cultivation pursuant to Directive 2001/18/EC; or]
 - (b) otherwise until the end of the 30th calendar year from the date of acceptance.
- (2) But sub-paragraph (1) does not apply if the registration is—
- (a) renewed in accordance with sub-paragraph (3) or (4) (as appropriate);
 - (b) revoked in accordance with paragraph 8.
- (3) Subject to sub-paragraph (4), the Welsh Ministers may, on the basis of a written application, renew the registration for a further period of 30 years if—
- (a) the variety is distinct, uniform and stable;
 - (b) there is material of that variety available on the market.
- (4) In the case of a genetically modified variety—
- (a) any renewal of registration must be subject to a condition that the respective genetically modified organism continues to be authorised for cultivation pursuant to ^{F14}... Regulation (EC) No 1829/2003;
 - (b) the renewal period must be limited to the period of authorisation of the genetically modified organism concerned.
- (5) Subject to sub-paragraph (4), the Welsh Ministers may renew the registration in the absence of a written application if satisfied renewal serves to preserve genetic diversity and sustainable production.

Textual Amendments

F13 Words in Sch. 4 para. 7(1)(a) substituted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(15)(a)** (as amended by [S.I. 2020/1573](#), regs. 1(2)(b), **4(4)(f)**); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

F14 Words in Sch. 4 para. 7(4)(a) omitted (31.12.2020) by virtue of [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(15)(b)**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Commencement Information

I7 Sch. 4 para. 7 in force at 19.6.2017, see [reg. 1\(1\)](#)

Removal from register **E+W**

- 8.—(1) The Welsh Ministers must revoke the registration of a variety if—
- (a) it is no longer distinct, uniform or stable;
 - (b) there is no longer available any material of that variety that is sufficiently uniform or which corresponds to the description of the variety at the time of registration;
 - (c) false or misleading information material to registration was provided to the Welsh Ministers in connection with the application for registration;

Changes to legislation: There are currently no known outstanding effects for the *The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017, SCHEDULE 4.* (See end of Document for details)

(d) in the case of any genetically modified variety, the genetically modified organism contained in that variety

[^{F15}(i) ceases to be authorised pursuant to Regulation (EC) No 1829/2003 or the GMO Regulations; or

(ii) has, before the day on which implementation period completion day falls, been authorised for cultivation pursuant to Directive 2001/18/EC and ceases to be authorised.]

(2) But sub-paragraph (1)(a) to (c) does not apply if the Welsh Ministers are satisfied that the variety should remain on the register in the interests of preserving the genetic diversity of varieties.

Textual Amendments

F15 Words in Sch. 4 para. 8(1)(d) substituted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/368\)](#), regs. 1(2)(b), **5(16)** (as amended by S.I. 2020/1573, regs. 1(2)(b), **4(4)(f)**); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Commencement Information

I8 Sch. 4 para. 8 in force at 19.6.2017, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017, SCHEDULE 4.