

REGULATORY APPRAISAL

SEEDS, WALES

THE SEED (WALES) (AMENDMENTS FOR TESTS AND TRIALS ETC.) REGULATIONS 2007

Background

1. EC Seed Marketing Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/57/EC and 2002/55/EC require official certification of fodder plant, cereal, beet, oil and fibre plant and vegetable seed respectively, of prescribed species before marketing to ensure that seed sold to farmers and growers meets specified standards.
2. EC Seed Marketing Directives are implemented in Wales by the following Regulations (collectively called “the Seed Marketing (Wales) Regulations”):
 - The Beet Seed (Wales) Regulations 2005 (S.I. 2005/3037);
 - The Cereal Seed (Wales) Regulations 2005 (S.I. 2005/3036);
 - The Fodder Plant Seed (Wales) Regulations 2005 (S.I. 2005/1207);
 - The Oil and Fibre Plant Seed (Wales) Regulations 2004 (S.I. 2004/2881); and
 - The Vegetable Seed (Wales) Regulations 2005 (S.I. 2005/3035).
3. The Seed (Wales) (Amendments for Tests and Trials etc.) Regulations 2007 will amend all five Seed Marketing (Wales) Regulations in order to implement Commission Decision 2004/842/EC.

Purpose and intended effect of the measure

4. Commission Decision 2004/842/EC introduces procedures that set out how Member States may authorise the placing on the market seed of a variety, for which, an application for entry in a National List of varieties of agricultural plant species or vegetable species has been received.
5. The purpose of the Commission Decision is to determine the specific requirements for the granting of authorisations in each case under the EC Seed Marketing Directives. Articles 2-19 set out the requirements for fodder plant, cereal, beet and oil and fibre plant seed (they are the same for all the agricultural species) and Articles 20-38 set out the slightly different requirements for vegetable seed.
6. The Seed Marketing (Wales) Regulations (as amended) covering Beet, Cereal, Fodder Plant, Oil and Fibre, and Vegetable seed currently provide for authorisations to be granted that permit the marketing in Wales of

agreed quantities of agricultural and vegetable species for the purpose of test and trials. The procedures required by the Commission Decision are more prescriptive and align them closely to the seed certification procedure for a variety that is already on a national list.

7. These Regulations replace regulation 18, of the Beet Seed Regulations, regulation 19 of the Oil and Fibre Plant Seed Regulations and the Vegetable Seed Regulations and regulation 20 of the Cereal Seed Regulations and the Fodder Plant Seed Regulations with a new regulation, which sets out the detailed requirements for the granting of an authorisation. Amendments are also made to the sampling, packaging, sealing and labelling provisions in the Seed Marketing (Wales) Regulations. These Regulations extend to Wales only.

Risk Assessment

8. Failure to operate the seed certification system in line with EC requirements could lead to a reduction in quality of the seeds marketed in Wales and could lead to Welsh industry being disadvantaged against competitors elsewhere.

Options

Option 1: Do Nothing

9. This would disadvantage Welsh plant breeders, preventing them from continuing existing levels of marketing seed for tests and trials and exploiting EU-wide opportunities.

Option 2: Make the Legislation

10. This is necessary to fully comply with all aspects of the Commission decision. It will also ensure Welsh plant breeders are not disadvantaged.

Benefits

11. The Seed Marketing (Wales) Regulations already permit authorisation for marketing to be issued for scientific and selection work, test and trials. The Commission Decision, however, requires a more detailed procedure that mirrors seed certification for a listed variety. The changes will benefit companies who previously considered that the quantity of seed permitted for multiplication under the previous agreement was not viable.

Costs

12. The procedures introduced by the Decision place additional small burdens on applicants. Seed entered for test and trial will have to comply with the technical conditions set out in the Seed Marketing (Wales) Regulations as they apply to crop and seed standards and those relating to seed tests, packing, sealing and labelling of the seed. Indicative costs are set out in the attached Annex A, and are produced by the Department of Environment, Food and Rural Affairs (Defra), who operate the seed system on an England and Wales basis. There will be no financial implications for the Assembly. Historically, there have been no applications from Welsh seed companies to enter seed for test and trial.

Competition Assessment

13. The changes will enable Welsh breeding companies to maintain and expand activities in this area EU wide and will, therefore, assist competitiveness.

Enforcement, Sanctions and Monitoring

Enforcement

14. Subject to completion and acceptance of an application, companies will receive an authorisation to market a stated quantity of seed of a specific variety for test and trial purposes. The applicant will have to ensure the seed covered by the authorisation achieves the technical standards set out in the Seeds Marketing (Wales) Regulations. Company records may be subject to inspection by an authorised official, normally a Defra Plant Health and Seeds Inspector, in the same way as with all other seed activities.

Sanctions

15. Breaches of the authorisation or the technical standards set out in the Seed Marketing Directives could lead to a contravention of the Seed Marketing (Wales) Regulations for which the penalty, on conviction, is a fine not exceeding level 5 on the standard scale (currently £5000).

Monitoring

16. The technical aspects of an authorisation would be overseen by NIAB, formerly the National Institute of Agricultural Botany, the technical contractor for seed certification. Seed activities are subject to routine inspection by the Department for Environment, Food and Rural Affairs (Defra's) Plant Health and Seeds Inspectors, who operate in Wales on behalf of the Assembly.

Consultation

With Stakeholders

17. A consultation was carried out on a Wales-only basis, which commenced on 10 March 2006 and concluded on 7 April 2006. There was no response from Stakeholders in Wales. A list of consultees is attached at Annex B.

With Subject Committee

18. These Regulations were first notified to the Environment, Planning and Countryside Committee via the list of forthcoming legislation on 1 February 2006 (EPC(2)-02-06 (p.3), No. 86: Id No. CFA155) and have remained on the list ever since. However, the title of these Regulations at that time was The Seeds (Unlisted Varieties) (Wales) Regulations 2006. They were not identified for detailed scrutiny.

Review

19. The impact of these Regulations will be considered as part of an ongoing UK and EU review. Any substantial issues concerning these Regulations may also be raised as part of Assembly Business.

Summary

20. The National Assembly for Wales is required to meet its EU obligations by producing Regulations that fulfil the requirements of EU Decisions or Directives, are consistent with its policies on seeds and which address public concerns. The Regulations will also ensure Welsh plant breeders are not disadvantaged.

Unlisted Varieties Test and Trial

1. Application for authorisation 2004/05

In the seeds year June 2004 - July 2005, 14 authorisations for test and trial of unlisted species were granted covering the following species:

White Lupins - 1x 30T
Wheat - 1 x 500t
Oil Seed Rape - 7 total 8571Kg
Barley - 1x 25t
Field Peas - 1x 100t
Oats - 1x 1.5t
Swede - 1x 6kg
Lettuce - 1 no weight required

2. Cost Example

a) Using the example of a 25t seed lot of barley entered for malting trials the additional cost under the new regulations would be:

1. *Seed lot entry fee*

C2 lot = £22.25

2. *Crop entry fees*

C2 crop of 4 hectares at £6.10p per hectare = £24. 40. (25t of seed at a yield of 7 tonnes per hectare = 3.6 hectares rounded to 4 hectares)

3. *Cost of labels*

25t in 500kg bags would require 50 labels at 12p = £ 6.00

Total cost per application for an authorisation £52.65

b) There will be costs for the company in providing information and carrying out licensed crop inspection, seed sampling and testing under official supervision. However, the additional costs are likely to be low given that companies would probably carry out similar quality assurance on seed marketed under existing arrangements for test and trials.

Annex B

Consultation list

Assembly Members
National Farmers' Union Cymru-Wales
Farmers' Union of Wales
Country Land and Business Association (Wales)
Wales Young Farmers Clubs
ADAS Wales
Welsh Institute of Rural Studies
Organic Farming Centre for Wales
Countryside Council for Wales
Institute of Grassland and Environmental Research
Seed Companies: Wynnstay Group PLC
Dyfed Seeds Ltd
Tom Jones & Sons
Arthur Adrian Evans
David Thomas & Son
RM & GV Williams
Border Counties Agriculture
Powys Leys

RSPB
Welsh Beekeepers' Association
Friends of the Earth (Wales)
GM-Free Cymru
CBI Wales
Welsh Consumer Council
Wales Tourist Board
Welsh Development Industry
Environment Agency (Wales)
Food Standards Agency (Wales)
Forestry Commission (Wales)
Brecon Beacons National Park
Snowdonia National Park Authority
Pembrokeshire Coast National Park Authority
Welsh Local Government Association
Defra
SEERAD
DARDNI
Agricultural Industries Confederation
Burgess (Agricultural Engineers) Ltd