

Explanatory Memorandum to The Seed Potatoes (Wales) (Amendment) Regulations 2009

This Explanatory Memorandum has been prepared by the Department for Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Seed Potatoes (Wales) (Amendment) Regulations 2009.

Elin Jones
Minister for Rural Affairs

10 November 2009

1. Description

These Regulations implement Commission Directive 2008/62/EC which provides certain derogations for the national listing and marketing of conservation varieties. Conservation varieties are agricultural landraces and varieties which are naturally adapted to local and regional conditions and are threatened by genetic erosion.

2. Matters of special interest to the Subordinate Legislation Committee

None.

3. Legislative background

These Regulations are made in exercise of powers under the Plant Varieties and Seeds Act 1964. Those powers are exercisable in relation to Wales, by the Welsh Ministers.

The Seed Potatoes (Wales) (Amendment) Regulations 2009 amend The Seed Potatoes (Wales) Regulations 2006.

This statutory instrument follows a negative procedure timetable.

4. Purpose & intended effect of the legislation

Before seeds of the main agricultural varieties can be legally marketed in Wales, they have to be listed on the UK National List or on the EC Common Catalogue (a compendium of the national lists of all the Member States). In order to be included on the Common Catalogue, agricultural plant species have to meet a minimum level of distinctiveness, uniformity and stability (DUS) and display satisfactory value for cultivation and use (VCU). DUS and VCU testing are part of the seed certification process which ensures that marketed seeds are pure, healthy, viable and correctly labelled.

Commission Directive 2008/62/EC provide, by the way of derogation from the above described requirements, for the listing and marketing of conservation varieties. 2008/62/EC describes conservation varieties as species not included on the Common Catalogue and defines them as landraces (species biologically adapted to the environment they live in) or varieties naturally adapted to local and regional conditions and are threatened by genetic erosion. The Directive's main objective is to ensure biodiversity and encourage the conservation of plant genetic resources together with traditional practices they support. The provisions of the Directive are optional as no seed producers are compelled to make applications for listing conservation varieties or to market them. It simply facilitates the legal marketing of such varieties.

The Seed Potatoes (Wales) Regulations 2006 outline the requirements for the certification and marketing of seed potatoes. Seed potatoes produced and marketed in England and Wales must also be classified under the Seed Potato Classification Scheme (SPCS). The Scheme is designed to ensure that seed potatoes meet the standards specified by The Seed Potatoes (Wales)

Regulations 2006. The amendment to these regulations introduced by this instrument present the legislative framework for the marketing of conservation varieties of seed potatoes. The conditions and tolerances applicable under the SPCS will apply to conservation varieties, too.

Directive 2008/62/EC limits the quantity of seed potatoes of conservation varieties which may be marketed in Member States each year. This limit is not anticipated to pose any difficulties in Wales, but applications will be monitored to ensure that the quantitative restrictions are not exceeded. There is also a requirement for a “suppliers” label to be attached to seed potato packages, and this will be met by means of official labels produced under the SPCS.

The impact of these Regulations is not expected to be extensive. Applications for seed potatoes of conservation varieties are likely to be around 20 in the whole of the UK, with the majority being in Scotland. These figures have been provided by technical experts from Certifying Authorities who are in close liaison with potential applicants.

Implementation of the national listing provision and provisions for the marketing of seed other than seed potatoes of conservation varieties are covered in a separate Explanatory Memorandum. This EM focuses on the implementation of the certification and marketing arrangements for seed potatoes of conservation varieties.

5. Consultation

Consultation with Welsh stakeholders was undertaken on an England and Wales basis between October and December 2008. Organisations representing the seed potato trade supported the proposals.

6. Regulatory Impact Assessment (RIA)

Regulatory Impact assessment has not been prepared because it was not deemed necessary. These Regulations transpose Commission Directive 2008/62/EC and slightly amend the existing legislation.

7. Competition Assessment

These Regulations are not expected to have a significant impact on competition, because the amount of seed potatoes marketed will be small in relation to the total market

Small firms will not be adversely affected by these Regulations. The Regulations could apply to small businesses if they wish to make applications to enter conservation varieties under the SPCS.

8. Post implementation review

The new arrangements will be monitored in England and Wales by the Food and Environment Research Agency (Fera) under existing enforcement procedures and will be reviewed annually until the required review at European Union level in 2011.