
WELSH STATUTORY INSTRUMENTS

2001 No. 3665 (W.297)

SEEDS, WALES

**The Fodder Plant Seeds (Amendment)
(Wales) Regulations 2001**

Made - - - - *8th November 2001*

Coming into force - - *29th November 2001*

The National Assembly for Wales, in exercise of the powers under sections 16(1), (1A), (2), (3), (4) and (5) and 36 of the Plant Varieties and Seeds Act 1964⁽¹⁾ now vested in it ⁽²⁾ and of all other powers enabling it in that behalf, after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to it to be concerned, hereby makes the following Regulations:

Title, commencement and application

1.—(1) These Regulations are called the Fodder Plant Seeds (Amendment) (Wales) Regulations 2001, and shall come into force on 29th November 2001.

(2) These Regulations apply to Wales only.

Amendment of the Fodder Plant Seeds Regulations 1993

2.—(1) The Fodder Plant Seeds Regulations 1993⁽³⁾ shall, in so far as they relate to Wales, be amended in accordance with the following provisions of these Regulations.

(2) Any reference in these Regulations to a numbered regulation or Schedule shall be to the regulation or Schedule bearing that number in the Fodder Plant Seeds Regulations 1993.

Regulation 3 (Interpretation)

3.—(1) In paragraph (1) of regulation 3 —

(a) in the appropriate place, insert the following definitions —

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- (1) 1964 c. 14; section 16 was amended by section 4(1) of and paragraph 5(1), (2) and (3) of Schedule 4 to the European Communities Act 1972 (c. 68).
- (2) See section 38(1) for a definition of “the Minister”. Under the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as exercisable in relation to Wales, transferred to the Secretary of State. The said functions of the Secretary of State were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) to which there are amendments not relevant to these Regulations.
- (3) S.I. 1993/2009, as amended by S.I. 1993/2529, 1996/1453, 1997/616 and S.Is 1999/1864.

- ““genetically modified” has the same meaning as for the purposes of Council Directive 90/220/EEC(4) on the deliberate release into the environment of genetically modified organisms;”;
- ““the National Assembly” means the National Assembly for Wales”; and
- ““third country” means a country listed in the Annex to Council Decision 95/514(5);”
- (b) omit the definition of “marketing” and the reference to the construction of the related expressions of “market” and “marketed”.
- (c) for the definition of “official examination” substitute —
- ““official examination” means —
- (a) in relation to Certified Seed, Certified Seed of the First Generation, Certified Seed of the Second Generation or Commercial Seed produced in the United Kingdom —
- (i) an examination or a test carried out by or on behalf of the National Assembly, the Minister of Agriculture, Fisheries and Food, the Secretary of State, the Scottish Ministers or the (Northern Ireland) Department of Agriculture and Rural Development;
- (ii) an examination carried out under official supervision; or
- (iii) a test carried out by an establishment licensed as a seed testing station under official supervision;
- (b) in relation to Breeder’s Seed, Pre-basic Seed and Basic Seed, produced in the United Kingdom —
- (i) an examination or a test carried out by or on behalf of the National Assembly, the Minister of Agriculture, Fisheries and Food, the Secretary of State, the Scottish Ministers or the (Northern Ireland) Department of Agriculture and Rural Development; or
- (ii) a test carried out by an establishment licensed as a seed testing station under official supervision; and
- (c) in relation to any description of seed produced elsewhere than in the United Kingdom, an examination or a test approved by the National Assembly, the Minister of Agriculture, Fisheries and Food, the Secretary of State, the Scottish Ministers or the (Northern Ireland) Department of Agriculture and Rural Development;”;
- (d) omit the definition of “small package”; and
- (e) in the definition of “small EC B package” for “Certified Seed or Commercial Seed” substitute “Basic Seed, Certified Seed or Commercial Seed”.
- (2) In paragraph (3) of regulation 3 —
- (a) in the definition of “Certified Seed”, for “field peas or field beans” substitute “field peas, field beans, white lupin, narrow-leaved lupin (blue lupin), yellow lupin, Hungarian vetch, common vetch, hairy vetch or lucerne”; and
- (b) in the definition of “Certified Seed of the First Generation”, for “field peas or field beans” substitute “field peas, field beans, white lupin, narrow-leaved lupin (blue lupin), yellow lupin, Hungarian vetch, common vetch, hairy vetch or lucerne”.

(4) OJ No. L117, 8.5.90, p.15; last affected by Directive 2001/18/EC of the European Parliament and of the Council (OJ No. L 106, 17.04.2001, p.1) by which 90/220/EEC will be repealed on 17th October 2002.

(5) OJ No. L296, 9.2.95. p.34.

(3) After paragraph (3) of regulation 3 insert —

“(3A) For the purposes of these Regulations, seeds —

- (a) produced and packaged in a Member State other than the United Kingdom or in a third country;
- (b) accompanied by a document issued by a competent authority concerned with the certification of fodder plant seeds in that Member State or third country containing information specified at paragraph G(b) of Part I of Schedule 6; and
- (c) in respect of which an application has been made for a breeder’s confirmation under these Regulations,

shall be deemed to be seeds produced from seeds issued with a breeder’s confirmation.

(3B) For the purposes of these Regulations, seeds —

- (a) produced and packaged in a Member State other than the United Kingdom or in a third country;
- (b) accompanied by a document issued by a competent authority concerned with the certification of fodder plant seeds in that Member State or third country containing information specified (in respect of packages of seed not finally certified) at paragraph G(b) of Part I of Schedule 6; and
- (c) in respect of which an application has been made for an official certificate under these Regulations,

shall be deemed to be seeds produced from seeds issued with a breeder’s confirmation or an official certificate.

(3C) For the purposes of these Regulations, seeds —

- (a) produced and packaged in a Member State other than the United Kingdom or in a third country;
- (b) labelled in accordance with the requirements of regulation 9; and
- (c) in the case of small EC A packages and small EC B packages sealed in accordance with the requirements of regulation 8(3), or, in the case of seeds other than small EC A packages and small EC B packages, sealed by a competent authority concerned with the certification of fodder plant seeds in that Member State or third country,

shall be deemed to fall within the meaning of the appropriate category of seeds set out in paragraph (3) above”.

(4) After paragraph (4) of regulation 3, add —

“(5) In these Regulations “marketing” means —

- (a) selling, holding with a view to sale and offering for sale; and
- (b) any disposal, supply or transfer for the purpose of commercial exploitation of seed to third parties,

whether or not for consideration; and “market” and “marketed” shall be construed accordingly.

(6) Trade in seed not aimed at commercial exploitation of the variety, such as the following operations —

- (a) the supply of seed to official testing and inspection bodies; or
- (b) the supply of seed to any person for the purpose of processing or packaging the seed provided that person does not acquire title to the seed supplied,

shall not be treated as marketing of seed of that variety.”.

Regulation 4 (Seeds to which the Fodder Plant Seeds Regulations 1993 apply)**4.** In regulation 4 —

- (a) in paragraph (1), for “Subject to paragraphs (2) and (3) below” substitute “Subject to paragraph (2) below”;
- (b) in paragraph (2), omit sub-paragraphs (b), (c) and (d); and
- (c) omit paragraph (3).

Regulation 5 (Marketing of Seeds)**5.** In regulation 5 —

- (a) in paragraph (1)(b)(ii) after “regulation 9(1),” insert “(1B),”;
- (b) after paragraph (1)(b), add —

“or,

- (c) in the case of genetically modified seeds, clearly indicated in the sales catalogue of the person marketing the seeds, and in any other marketing information or marketing representations provided by that person, as having been genetically modified.”;

- (c) after paragraph (1), insert —

“(1A) Paragraph (1) above shall not prevent the marketing of seed as grown, marketed for processing, provided that the identity of the seed is ensured.”.

- (d) for paragraph (2), substitute —

“(2) Paragraph (1) above shall not prevent the marketing of a mixture of kinds or varieties of seeds if —

- (a) the seeds in the mixture are not intended for use as fodder plants and —
 - (i) if any seeds in the mixture are fodder plant seeds, these seeds meet the requirements of paragraph (1) above; and
 - (ii) if any other seeds in the mixture are cereal seeds, oil and fibre plant seeds or vegetable seeds, these seeds meet the requirements for cereal seeds, oil and fibre plant seeds or vegetable seeds respectively corresponding to paragraph (1) above in the Cereal Seeds Regulations 1993(6), the Oil and Fibre Plant Seeds Regulations 1993(7) and the Vegetable Seeds Regulations 1993(8); or
- (b) the seeds in the mixture are intended for use as fodder plants and are —
 - (i) fodder plant seeds meeting the requirements of paragraph (1) above; or
 - (ii) cereal seeds, oil and fibre plant seeds or vegetable seeds, other than any seeds of varieties of grasses in respect of which the breeder has declared that the seed of the variety is not intended for the production of fodder plants, meeting the requirements respectively corresponding to paragraph (1) above in the Cereal Seeds Regulations 1993, the Oil and Fibre Plant Seeds Regulations 1993 and the Vegetable Seeds Regulations 1993.”;

- (e) After paragraph (2), insert —

(6) S.I. 1993/2005, to which there are relevant amendments by S.Is 1995/1482, S.I. 1997/616 and S.I. 2001/3664(W.296).

(7) S.I. 1993/2007, to which there are relevant amendments by S.Is 1994/1423, 1996/1451, 1997/616, 1999/1862 and 2001/3669(W.300).

(8) S.I. 1993/2008, to which there are relevant amendments by S.Is. 1996/1452, 1997/616, S.I. 1999/1863 and 2001/3667(W.299).

- “(2A) Where there is an arrangement under which —
- (a) seed, other than seed which contains any genetically modified material, under the control of one person (“the first person”) is used by another person (“the second person”) for the purpose of —
 - (i) increasing the first person’s stock of the seed for sowing; or
 - (ii) carrying out tests or trials on the seed; and
 - (b) everything produced from the seed, whether directly or indirectly, and any unused seed, become or remain the property of the first person,

the prohibitions in paragraph (1) above shall not apply to the marketing of the seed by the first person to the second person as part of that arrangement or to the marketing by the second person to the first person of any seed produced (whether directly or indirectly) from that seed.

(2B) The prohibitions in paragraph (1) above shall not apply to the marketing by producers of small quantities of seed, other than seed which contains any genetically modified material, for scientific purposes or selection work.

(2C) If the conditions specified in paragraph (2D) below are satisfied, the prohibitions in paragraph (1) above shall not apply to—

- (a) the marketing, as part of any arrangement referred to in paragraph (2A) above by the first person referred to in that paragraph to the second person referred to in that paragraph, of seed which contains any genetically modified material;
- (b) the marketing, as part of any arrangement referred to in paragraph (2A) above by the second person referred to in that paragraph to the first person referred to in that paragraph, of seed produced (whether directly or indirectly) from the seed marketed to the second person as part of any such arrangement which contains any genetically modified material; or
- (c) the marketing by producers, for scientific purposes or selection work, of small quantities of seed which contains any genetically modified material.

(2D) The conditions referred to in paragraph (2C) above are —

- (a) the deliberate release of the genetically modified material has been authorised under a Part B consent, or the genetically modified material has been accepted for marketing in accordance with a Part C consent, issued for the purposes of Council Directive [90/220/EEC](#) on the deliberate release into the environment of genetically modified organisms;
- (b) the seeds are accompanied during marketing by a copy of the consent;
- (c) all appropriate measures, in accordance with an environmental risk assessment in respect of the material carried out in accordance with article 7(4) of Council Directive [70/457/EEC](#)(9), have been taken by the producer of the seed to avoid adverse effects on human health and the environment; and
- (d) in the case of genetically modified material accepted for marketing in accordance with a Part C consent, an authorisation has been granted by the National Assembly in accordance with paragraph (2E) below to the person marketing the seed.

(2E) An authorisation may be granted by the National Assembly for the purpose of paragraph (2D)(d) above if —

(9) OJ No. L225, 12.10.1970, p.1; as last amended by Council Directive [98/96/EC](#) (OJ No. L 25, 1.2.1999, p.27).

- (a) the person intending to market the seed has applied to the National Assembly no later than 15 working days before the seed is marketed —
 - (i) giving the National Assembly notice of that person’s intention to market the seed and a description of the proposed marketing in respect of which the authorisation is sought; and
 - (ii) giving the National Assembly such information relating to the acceptance for marketing of the variety of the seed concerned under Council Directive [90/220/EEC](#), and the proposed marketing in respect of which the authorisation is sought, as the National Assembly may require for the purposes of determining whether or not to grant the authorisation; and
- (b) the National Assembly is satisfied that an authorisation should be granted.”;
- (f) after paragraph (8) insert —
 - “(8A) Fodder plant seeds produced and packaged in a Member State other than the United Kingdom intended for official certification in the United Kingdom shall not be marketed unless they are —
 - (a) sealed and labelled as required by regulations 8 and 9; and
 - (b) accompanied by an official document containing all the information in respect of the seeds specified at paragraph G of Part I of Schedule 6.
 - “(8B) A person who imports a package containing a net weight of more than 2 kilograms of fodder plant seeds produced in a country other than another Member State shall make available to the National Assembly, in such manner and at such time as the National Assembly may require, the information in respect of the seeds specified in Part IV of Schedule 6.”; and
- (g) in paragraph (15) omit “may be imported but”.

Regulation 8 (Sealing of Packages)

6. In regulation 8, in paragraphs (1) and (3) (where it respectively occurs) omit “a small package,”;

Regulation 9 (Labelling of packages)

- 7. In regulation 9 —
 - (a) after paragraph (1A), insert —
 - “(1B) If a variety has been genetically modified, any label or document, whether official or otherwise, affixed to or accompanying a seed lot in accordance with the provisions of this regulation, shall clearly indicate that the variety has been genetically modified.”;
 - (b) in paragraphs (2), (4) and (5). (where it respectively occurs), omit “a small package,”;
 - (c) in paragraph (6), omit “(other than a small package)” ;
 - (d) in paragraph (6)(b) for “Part IV” substitute “Part V”;
 - (e) omit paragraphs (7) and (8); and
 - (f) in paragraph (11), (in both places), omit “, (7), (8)”.

Regulation 9A (Labelling of packages — breeder’s confirmation)

- 8. In regulation 9A(4)(b) for “Part IV” substitute “Part V”.

Schedule 6 (Labelling requirements)

9. In Schedule 6 —
- (a) in Part II —
 - (i) omit paragraphs A and B; and
 - (ii) in the heading of paragraph D, for “Certified or Commercial Seed” substitute “Basic Seed, Certified Seed or Commercial Seed”;
 - (b) renumber “Part IV” (Printing of specified matters on packages (whole-bag labelling)) as “Part V”; and
 - (c) after Part III, insert —

“Part IV

Information in respect of seeds imported from third countries in packages more than 2 kilograms in net weight

1. Species.
2. Variety.
3. Category.
4. Country of production and official inspection authority.
5. Country of despatch.
6. Importer.
7. Quantity of seed.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(10)

8th November 2001

D. Elis-Thomas
The Presiding Officer of the National Assembly

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Fodder Plant Seeds Regulations 1993, [S.I. 1993/2009](#), (as amended by [S.I. 1993/2529](#), [1996/1453](#), [1997/616](#) and [1999/1864](#)) (“the 1993 Regulations”). They come into force on 29th November 2001 and apply to Wales only.

The amendments to the 1993 Regulations give effect in Wales to the following Council Directives, which amended directives in respect of the marketing of seeds and the common catalogue of varieties of agricultural plant species:—

- (a) 98/95/EC (OJNo. L25, 1.2.1999, p.1), in respect of the consolidation of the internal market, genetically modified plant resources and plant genetic resources; and
- (b) 98/96/EC (OJ No. L25, 1.2.1999, p.27) as regards unofficial field inspections.

The directives in respect of the marketing of seeds amended by Council Directives [98/95/EC](#) and [98/96/EC](#) include Council Directive [66/401/EEC](#) (OJ No. L125, 11.7.66, p.2298) on the marketing of fodder plant seed.

These Regulations —

- (a) amend definitions in regulation 3 (of the 1993 Regulations), including the definitions of “marketing” and “official examination”, and omit the definition of “small package” (regulation 3);
- (b) amend provisions in regulation 5 in relation to marketing (including the marketing of genetically modified fodder plant seeds) and marketing authorisations, tests and trials, seed as grown, selection work and other scientific purposes; and make consequential amendments to regulation 4 (regulations 4 and 5);
- (c) amend regulations 8 and 9 to remove provisions in respect of small packages and amend regulation 9 to make provision in relation to clear indications for genetically modified varieties (regulations 6 and 7); and
- (d) make a consequential amendment in regulation 9A (regulation 8); and
- (e) amend Schedule 6 to make provision for the supply of information about imported seeds and remove provisions in respect of small packages (regulation 9).

Similar Regulations have been made to amend the 1993 Regulations in so far as they apply to England and to Scotland by respectively [S.I. 2000/1792](#) and [S.S.I. 2000/247](#).

Similar Regulations are being made in relation to Wales in respect of:—

- beet seeds
- vegetable seeds
- cereal seeds
- seed potatoes
- oil and fibre plant seeds.

For further information on those Regulations contact the Countryside Division, National Assembly for Wales, Cathays Park, Cardiff.