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WELSH STATUTORY INSTRUMENTS

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**2001 No. 3666 (W. 298 )**

**SEED, WALES**

**The Seed Potatoes (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<sup>(1)</sup> now vested in it<sup>(2)</sup> 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 Seed Potatoes (Amendment) (Wales) Regulations 2001 and shall come into force on 29th November 2001.

(2) These Regulations apply to Wales only.

**Commencement Information**

**II** Reg. 1 in force at 29.11.2001, see [reg. 1\(1\)](#)

**Amendment of the Seed Potatoes Regulations 1991**

2.—(1) The Seed Potatoes Regulations 1991<sup>(3)</sup>, in so far as they apply to Wales, are amended in accordance with the following provisions of these Regulations.

(2) Any reference in these Regulations to a numbered regulation or Schedule shall be construed as a reference to the regulation or Schedule bearing that number in the Seed Potatoes Regulations 1991.

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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); see section 38(1) for a definition of “the Minister”.

(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. 1991/2206, as amended by S.I. 1992/1031, 1993/1878, 1994/2592, 1997/1474.

### Commencement Information

**I2** Reg. 2 in force at 29.11.2001, see [reg. 1\(1\)](#)

### Regulation 2 (Interpretation)

**3.—(1)** In paragraph (1) of regulation 2 —

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

““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;”;

““third country” means a country listed in the Annex to Council Decision [95/514](#)(**5**);”.

(b) in the definition of “class” —

(i) for paragraph (a) substitute —

“(a) in relation to seed potatoes produced in Wales, the class in which the seed potatoes were placed during the course of classification and specified in the certificate relating to those potatoes, being —

(i) in the case of pre-basic seed potatoes, the class or one of the classes established pursuant to paragraph 3A of Part IA of Schedule 1;

(ii) in the case of basic seed potatoes, any one of the classes specified in order of superiority in column 1 of paragraph 2 of Schedule 3; and

(iii) the case of certified seed potatoes, CC class; and”.

(c) omit the definition of “marketing” and the reference to the construction of the related expressions of, “market” and “marketed”;

(d) after the definition of “potato”, insert —

““pre-basic seed potatoes” means —

(a) in relation to seed potatoes produced in Wales, seed potatoes in relation to which a pre-basic seed potatoes certificate has been issued in accordance with Parts I, IA and IV of Schedule 1; and

(b) in relation to seed potatoes produced outside Wales, seed potatoes being a lot or part of a lot moved into Wales in a package or container, to or in which a label or document, approved by the authority concerned with classification of seed potatoes in the country or place where the potatoes were produced, has been affixed or placed, stating that on examination of the potatoes they were classified as seed potatoes of a pre-basic category in that country or place where the National Assembly has approved the arrangements applying to pre-basic seed potatoes in that country or place as being equivalent to those applying in Wales;

“pre-basic seed potatoes certificate” means a certificate issued in accordance with Parts I, IA and IV of Schedule 1;”;

(e) for the definition of “seed potatoes” substitute —

(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. L106, 17.04.2001, p.1) by which [90/220/EEC](#) will be repealed on 17th October 2002.

(5) OJ No. L296, 8.12.95, p.34.

““seed potatoes” means potatoes which bear that description or any description indicating their suitability for planting and propagation and which are capable of being used for planting and propagation or any potatoes that are intended to be used for planting and propagation;”;

(f) in the definition of “seed potatoes produced outside Great Britain” for —

“Belgium, Denmark, Federal Republic of Germany, France, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain,”

substitute —

“Austria, Belgium, Denmark, Germany, Finland, France, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden,”.

(2) At the end of regulation 2 add —

“(4) 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 potatoes to third parties;

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

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

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

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

#### Commencement Information

**I3** Reg. 3 in force at 29.11.2001, see [reg. 1\(1\)](#)

### Regulation 5 (potatoes to which the Regulations do not apply)

4. Omit regulation 5.

#### Commencement Information

**I4** Reg. 4 in force at 29.11.2001, see [reg. 1\(1\)](#)

### Regulation 6 (marketing of seed potatoes)

5. In regulation 6, for paragraphs (2) and (3) substitute —

“(2) Subject to the provisions of regulation 21, no person shall market —

- (a) any pre-basic seed potatoes, basic seed potatoes or certified seed potatoes —
  - (i) which have been treated with a product which is produced primarily as an application for inhibiting germination; or
  - (ii) as being of a class superior to that in which those potatoes were classified; or

- (b) any basic seed potatoes or certified seed potatoes —
  - (i) which are of a size less than 25 millimetres; or
  - (ii) in a lot where the variation in size of the seed potatoes exceeds 25 millimetres.
- (3) Subject to the provisions of regulation 21, no person shall market any seed potatoes within the protected region other than —
  - (a) pre-basic seed potatoes; or
  - (b) basic seed potatoes of a Community grade.
- (4) The prohibitions in paragraph (1) above shall not apply to the marketing by producers of small quantities of seed potatoes, other than seed potatoes which contain any genetically modified material, for scientific purposes or selection work.
- (5) If the conditions specified in paragraph (6) below are satisfied the prohibitions in paragraph (1) above shall not apply to the marketing by producers, for scientific purposes or selection work, of small quantities of seed potatoes which contain any genetically modified material.
- (6) The conditions referred to in paragraph (5) 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 seed potatoes 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](#)<sup>(6)</sup>, have been taken by the producer of the seed potatoes 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 (7) below to the person marketing the seed potatoes.
- (7) An authorisation may be granted by the National Assembly for the purpose of paragraph (6)(d) above if —
  - (a) the person intending to market the seed potatoes has applied to the National Assembly no later than 15 working days before the seed potatoes are marketed —
    - (i) giving the National Assembly notice of that person's intention to market the seed potatoes 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 potatoes 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.<sup>7</sup>

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<sup>(6)</sup> OJ No. L225, 12.10.1970, p.1 (English Special Edition Supplement Series 1 (66—70) p.36); as last amended by Council Directive [98/96/EC](#) (OJ No. L25, 1.2.1999, p.27).

**Commencement Information**

**I5** Reg. 5 in force at 29.11.2001, see [reg. 1\(1\)](#)

**Regulation 7 (Classification of seed potatoes)**

6. In regulation 7(2), at the beginning, insert “Pre-basic seed potatoes and”.

**Commencement Information**

**I6** Reg. 6 in force at 29.11.2001, see [reg. 1\(1\)](#)

**Regulation 8 (Official examination of seed potatoes)**

7. In regulation 8, for “basic or certified seed potatoes” substitute “pre-basic, basic or certified seed potatoes”.

**Commencement Information**

**I7** Reg. 7 in force at 29.11.2001, see [reg. 1\(1\)](#)

**Regulation 9 (Basic and certified seed potatoes: identity and packing)**

8. In regulation 9 for —

“Subject to the provisions of regulation 21, no person shall market basic seed potatoes or certified seed potatoes otherwise than in a lot consisting wholly of either basic seed potatoes or certified seed potatoes of one variety and of one class.”,

substitute —

“Subject to the provisions of regulation 21, no person shall market seed potatoes other than in a lot consisting wholly of —

- (a) pre-basic seed potatoes, basic seed potatoes or certified seed potatoes;
- (b) one variety; and
- (c) one class.”.

**Commencement Information**

**I8** Reg. 8 in force at 29.11.2001, see [reg. 1\(1\)](#)

**Genetically modified seed potatoes**

9. After regulation 10 (packages and containers for seed potatoes) insert —

**“Genetically modified seed potatoes**

**10A.** No person shall market genetically modified seed potatoes unless —

- (a) it is clearly indicated in the sales catalogue of the person marketing the seed potatoes and in any other marketing information or marketing representations

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provided by that person, that the seed potatoes have been genetically modified; and

- (b) any label or document, whether official or otherwise, affixed to, accompanying or following a lot or any part of a lot in accordance with the provisions of regulation 11, 12 or 15, shall clearly indicate that the seed potatoes have been genetically modified.”.

#### Commencement Information

**I9** Reg. 9 in force at 29.11.2001, see [reg. 1\(1\)](#)

### Basic and certified seed potatoes from third countries: information

**10.** After regulation 12 insert —

“Basic and certified seed potatoes from third countries : information

**12A.** A person who imports a package containing a net weight of more than 2 kilograms of seed potatoes produced in a country other than a 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 seed potatoes specified in Part III of Schedule 4.”.

#### Commencement Information

**I10** Reg. 10 in force at 29.11.2001, see [reg. 1\(1\)](#)

### Schedule 1 (classification of seed potatoes)

**11.** In Schedule 1 (classification of seed potatoes)

(a) in Part I, for paragraph 3(b) substitute —

“(b) the seed potatoes are or were grown, stored, transported and handled so as to minimise the risk of contamination by such harmful diseases or pests as notified in writing by the National Assembly from time to time;”;

(b) after Part I insert —

## “PART IA

**3A.** No pre-basic seed potatoes certificate shall be issued by an authorised officer unless he or she is satisfied that the seed potatoes satisfy the minimum conditions established by the National Assembly for pre-basic seed potatoes and for classes of pre-basic seed potatoes.”;

(c) in Part II paragraph 4(b), after “the protected region only” insert “pre-basic seed potatoes and” ;

(d) in Part II paragraph 4(e), for “Brown Rot (*Pseudomonas solanacearum* (E. F. Smith) Jensen)” substitute “Brown Rot (*Ralstonia solanacearum* (Smith) Yabuuchi et al.)”;

(e) in Part III, for paragraph 6(2)(b) substitute —

“(b) the seed potatoes have been produced —

(i) directly from pre-basic seed potatoes, basic seed potatoes or certified seed potatoes;

- (ii) from a crop grown with the authority of or in circumstances notified in writing as being acceptable to the National Assembly; or
  - (iii) from seed potatoes grown elsewhere than in Great Britain and in respect of which an examination notified in writing as being acceptable to the National Assembly has been carried out.”; and
- (f) in Part III paragraph 6(2)(d), for “Brown Rot (*Pseudomonas solanacearum* (E. F. Smith) Jensen)” substitute “Brown Rot (*Ralstonia solanacearum* (Smith) Yabuuchi et al.)”.

**Commencement Information**

**I11** Reg. 11 in force at 29.11.2001, see [reg. 1\(1\)](#)

**Schedule 3 (classification of basic seed potatoes)**

**12.** In Schedule 3, paragraph 2 —

- (a) in column 2, opposite the entry for VTSC 1, for paragraph (b) substitute —
  - “(b) be seed potatoes derived from a stock which was classified as pre-basic seed potatoes in the year preceding the planting of the crop or from officially selected and tested clones propagated under the supervision of an authorised officer;”;
- (b) in column 2, opposite the entry for VTSC 2, for the words from “The seed potatoes shall be grown” to “preceding the planting of the crop” substitute “The seed potatoes shall be seed potatoes derived from a stock which was classified as VTSC 1 in the year preceding the planting of the crop.”;
- (c) in column 2 opposite the entry for Super Elite 1 (SE1), for “The seed potatoes shall be seed potatoes derived from a stock which was classified as VTSC1 or VTSC2 in the year preceding the planting of the crop.” substitute “The seed potatoes shall be seed potatoes derived from a stock which was classified as pre-basic seed potatoes, VTSC1 or VTSC2 in the year preceding the planting of the crop.”;
- (d) in column 2 opposite the entry for Elite 1 (E1), for “The seed potatoes shall be seed potatoes derived from a stock of basic seed potatoes” substitute “The seed potatoes shall be seed potatoes derived from a stock of pre-basic seed potatoes or basic seed potatoes”; and
- (e) in column 2 opposite the entry for AA, for “The seed potatoes shall be seed potatoes derived from a stock of basic seed potatoes” substitute “The seed potatoes shall be seed potatoes derived from a stock of pre-basic seed potatoes or basic seed potatoes”.

**Commencement Information**

**I12** Reg. 12 in force at 29.11.2001, see [reg. 1\(1\)](#)

**Schedule 4 (official label etc)**

**13.** In Schedule 4 —

- (a) in Part I, at the beginning insert —
  - “(A) An official label affixed or to be affixed to a package or container of pre-basic seed potatoes shall be white with a diagonal violet line.”;
- (b) in Part I, for paragraph 4 substitute —
  - “4. An official label shall state the following particulars —

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Member State;  
Country of production;  
Producer's identification number;  
Species (except basic and certified seed potatoes);  
Variety;  
Pre-basic, basic or certified seed potatoes;  
Class;  
Community grade (as appropriate);  
Size (except pre-basic seed potatoes);  
Net weight;  
Month and year of closing”;

(c) in Part II, before paragraph 5 insert —

“4A. An official document inserted or to be inserted in a package or container of pre-basic seed potatoes shall be white with a diagonal violet line.”;

(d) in Part II, for paragraph 7 substitute —

“7. An official document shall state the following particulars —

Producer's identification number;  
Species (except basic and certified seed potatoes);  
Variety;  
Pre-basic, basic or certified seed potatoes;  
Class;  
Community grade (as appropriate)”;

(e) after Part II insert —

### **“PART III**

#### **INFORMATION IN RESPECT OF SEED POTATOES PRODUCED IN A COUNTRY OTHER THAN A MEMBER STATE 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 potatoes.”.



**Commencement Information**

**I13** Reg. 13 in force at 29.11.2001, see [reg. 1\(1\)](#)

**Schedule 5 (specified diseases or pests etc)**

**14.** In Schedule 5, Part I, Part II and Part III for “Brown Rot (*Pseudomonas solanacearum* (E. F. Smith) Jensen)” (in each place) substitute “Brown Rot (*Ralstonia solanacearum* (Smith) Yabuuchi et al.)”.

**Commencement Information**

**I14** Reg. 14 in force at 29.11.2001, see [reg. 1\(1\)](#)

**Schedule 6 (particulars to be specified in a sale note etc)**

**15.** For Schedule 6, substitute —

“SCHEDULE 6 regulations 15, 16(a) and (b)

PARTICULARS TO BE SPECIFIED IN A SALE NOTE, ETC.

- Name and address of the seller;
- Net weight;
- Species (except basic and certified seed potatoes);
- Variety;
- Pre-basic, basic or certified seed potatoes;
- Class;
- Community grade (as appropriate);
- Size (except pre-basic seed potatoes);
- Producer’s identification number;
- Particulars of any chemical treatment”.

**Commencement Information**

**I15** Reg. 15 in force at 29.11.2001, see [reg. 1\(1\)](#)

**Miscellaneous amendments**

**16.—(1)** In the provisions to which paragraph (2) applies, for “basic seed potatoes or certified seed potatoes” (wherever they occur) substitute “pre-basic seed potatoes, basic seed potatoes or certified seed potatoes”.

(2) The provisions to which this paragraph applies are —

- (a) paragraph (1) of regulation 6 (marketing of seed potatoes);
- (b) paragraphs (1) and (6) of regulation 11 (basic and certified seed potatoes produced in Great Britain: labelling of packages);

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- (c) paragraphs (1) and (3) of regulation 12 (basic and certified seed potatoes produced outside Great Britain: labelling of packages);
  - (d) paragraph (1) of regulation 14 (basic and certified seed potatoes: sealing of packages);
  - (e) in regulation 15 (basic and certified seed potatoes, separate provisions); and
  - (f) in regulation 20 (information regarding seed potatoes).
- (3) In the heading to each of regulations 11, 12, 14 and 15 for “Basic and Certified seed potatoes”, substitute “Pre-basic, basic and certified seed potatoes”.

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**Commencement Information**

**I16** Reg. 16 in force at 29.11.2001, see [reg. 1\(1\)](#)

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(7).

8th November 2001

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

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## EXPLANATORY NOTE

*(This note does not form part of the Regulations)*

These Regulations amend the Seed Potatoes Regulations 1991, S.I. [1991/2206](#) (as amended by S.Is. [1992/1031](#), [1993/1878](#), [1994/2592](#) and [1997/1474](#)) (the 1991 Regulations). They come into force on 29th November 2001 and apply to Wales only.

The amendments to the 1991 Regulations give effect in Wales to Council Directive [98/95/EC](#) (OJNo. L25, 1.2.1999, p.1) amending, in respect of the consolidation of the internal market, genetically modified plant resources and plant genetic resources, directives in respect of the marketing of seeds and the common catalogue of varieties of agricultural plant species.

The directives in respect of the marketing of seeds amended by Council Directive [98/95/EC](#) include Council Directive [66/403/EEC](#) (OJ No. L125, 11.7.66, p.2320) (OJ/SE 1965—66, p.154) on the marketing of seed potatoes. Council Directive [98/96/EC](#) (OJ No. L25, 1.2.1999, p.27) also amends Council Directive [66/403/EEC](#) but the amendments do not require amendment to the 1991 Regulations.

These Regulations —

- (a) amend definitions in regulation 2 (of the 1991 Regulations), including the definitions of “marketing” and “seed potatoes” (regulation 3);
- (b) provide for the marketing of pre-basic seed potatoes (various regulations);
- (c) make new provision in regulation 6 in relation to marketing for scientific purposes or selection work and as a consequence omit regulation 5 (regulations 4 and 5);
- (d) insert a new regulation 10A concerning genetically modified seed potatoes (regulation 9);
- (e) insert a new regulation 12A concerning the import of seed potatoes from third countries (regulation 10);
- (f) amend Schedule 1 Part III in relation to the certification of seed potatoes (regulation 11) (e); and
- (g) also make minor and consequential amendments to the 1991 Regulations (various regulations).

Similar Regulations have been made to amend the 1991 Regulations in so far as they apply to England (see S.I. [2000/1788](#)). In Scotland new Regulations replacing the 1991 Regulations as respects Scotland have been made (see [S.S.I. 2000/201](#)).

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Regulations revoked by [S.I. 2006/2929 Sch. 8](#)