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WELSH STATUTORY INSTRUMENTS

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**2007 No. 119**

**The Seed (Wales) (Amendments for Tests and Trials etc.) Regulations 2007**

**Amendment of the Vegetable Seed (Wales) Regulations 2005**

6.—(1) The Vegetable Seed (Wales) Regulations 2005(1) are amended as follows.

(2) In regulation 2(1)—

(a) after “In these Regulations—”, insert the following definition—

““the 2004 Commission Decision” means Commission Decision [2004/842/EC](#) concerning implementing rules whereby member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted;” and

(b) after the definition of “marketing year” insert the following definition—

““market test seed” means seed which is the subject of a regulation 19 authorisation;”.

(3) For regulation 19 substitute the following regulation—

**“Exception for market test seed**

19.—(1) The prohibition in regulation 15(1) does not apply to the marketing by a breeder of seed in accordance with—

- (a) an authorisation which has been granted to the breeder by the National Assembly in accordance with this regulation; or
- (b) an authorisation which has been granted to the breeder by or on behalf of—
  - (i) the Secretary of State;
  - (ii) the Scottish Ministers;
  - (iii) the Department of Agriculture and Rural Development; or
  - (iv) a competent seed certification authority in another member State, in accordance with Article 20(1) of the 2004 Commission Decision.

(2) A breeder must not market market test seed—

- (a) except for the purposes of gaining knowledge from practical experience during cultivation;
- (b) unless the seed satisfies the conditions laid down in Schedule 4; or
- (c) if such marketing would contravene a prohibition on the use of the variety published by the National Assembly in the gazette that complies with Article 33 of the 2004 Commission Decision.

- (3) A breeder of seed established in Wales may apply to the National Assembly for the grant or renewal of a regulation 19 authorisation.
- (4) A regulation 19 authorisation granted by the National Assembly—
- (a) shall last for a period of one year or such shorter period as the National Assembly may specify; and
  - (b) may be renewed no more than twice.
- (5) An application for authorisation or renewal of a regulation 19 authorisation shall be made in writing to the National Assembly and shall be accompanied by such information as the National Assembly may require.
- (6) The National Assembly must not grant a regulation 19 authorisation unless it is satisfied that—
- (a) an application has been submitted by the breeder to the relevant authority—
    - (i) under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001 for acceptance of the variety on to a National List; or
    - (ii) in another member State for inclusion of the variety in a national catalogue equivalent to a National List,  
that has not been withdrawn or finally determined and for which any technical information that may be required in support of such an application has been submitted; and
  - (b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety under either—
    - (i) Part C of the Deliberate Release Directive; or
    - (ii) the Food and Feed Regulation.
- (7) A regulation 19 authorisation may impose such conditions as the National Assembly may think necessary or desirable having regard to the nature of the cultivation and the nature of the seed to which the authorisation relates.
- (8) The National Assembly may withdraw a regulation 19 authorisation where there is a breach of any condition referred to in paragraph (7).
- (9) A regulation 19 authorisation ceases to have effect where the application referred to in paragraph (6)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.
- (10) The National Assembly may require a person to whom it has granted a regulation 19 authorisation to provide it with information about—
- (a) the knowledge gained from practical experience during cultivation of the variety; or
  - (b) the quantities of seed marketed during the authorised period and the name of the member State for which the seed was destined.”.
- (4) In regulation 22—
- (a) after paragraph (1), insert—

“(1A) A sample of seeds taken in connection with a regulation 19 application shall be drawn from a homogeneous lot.”; and
  - (b) in paragraph (6)—
    - (i) for “regulation 6, 11 or 13”, substitute “regulation 6, 11, 13 or 19”; and
    - (ii) in sub-paragraph (a), for “paragraph (1)”, substitute “paragraph (1) or (1A)”.
- (5) In regulation 23—

- (a) after paragraph (2)(c), insert—
  - “; or
  - (d) market test seed,”;
- (b) in paragraph (3), for “Paragraph (2)” substitute “Paragraph (2)(a), (b) and (c)”;
- (c) after paragraph (12), add—
  - “(13) In this regulation, in the case of market test seed, a “properly sealed package” means a package of seed that has been sealed in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.”.
- (6) In regulation 25—
  - (a) after paragraph (1)(c), insert—
    - “; or
    - (d) market test seed,”;
  - (b) in paragraph (3), after “A person may market any seeds” insert “, other than market test seed,”;
  - (c) after paragraph (12), insert—
    - “(12A) A package of market test seed must be labelled—
      - (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 33, 34 and 35 of Schedule 8; and
      - (b) in the case of a package of seed sealed—
        - (i) in the United Kingdom, elsewhere than in Wales, or
        - (ii) in another member State,
    - in accordance with the provisions of Article 28 of the 2004 Commission Decision.”;
  - (d) in paragraph (14), for “or standard seed”, substitute “standard seed or market test seed”;
  - and
  - (e) in paragraph (14)(b)(ii), for “or (10)” substitute “, (10) or (12A)”.
- (7) After regulation 26, insert—
  - “Special provisions that apply in connection with the marketing of market test seed**
  - 26A.** A person who, in the course of marketing any market test seed, affixes a label or prints or stamps any particulars, or causes any of those things to be done, in accordance with regulation 25(12A) must—
    - (a) keep for a period of three years a record of the seed lots of the market test seed and, if so required by the National Assembly, must produce such record to it.
    - (b) keep for a period of two years a sample of seed from each seed lot and, if so required by the National Assembly, must deliver such sample to it”.
- (8) In Schedule 8—
  - (a) in paragraph 28 (Part VI), for “20 or 24” substitute “20, 24 or 30”; and
  - (b) after Part VI insert—

## “PART VII

### *Labelling of Packages of Market Test Seed*

#### **Official label for a package of market test seed**

**30.** The package must be labelled, not later than the time of sealing, on the outside with a supplier’s label or a printed or stamped notice which has not previously been used containing the following particulars—

- (a) the reference number of the lot;
- (b) the month and year of sealing;
- (c) the species;
- (d) the denomination of the variety under which the seed is to be marketed (which may be the breeder’s reference, the proposed denomination or the approved denomination) and the official application number for listing the variety, if any;
- (e) the statement “variety not yet officially listed”;
- (f) the declared net or gross weight or declared number of pure seeds or, where applicable, clusters; and
- (g) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of pure seeds or, where applicable, clusters and the total weight.

**31.** The label or notice referred to in paragraph 30 must be coloured orange.

**32.** The label or notice referred to in paragraph 30 must be an adhesive label.”.

(9) In Schedule 10—

- (a) before the entry for “the Act” insert the following entry—  
“the 2004 Commission Decision Regulation 2(1)”; and
- (b) after the entry for “marketing year” insert the following entry—

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“market test seed

Regulation 2(1)”.  

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