

WELSH STATUTORY INSTRUMENTS

2019 No. 368

**The Marketing of Seeds and Plant Propagating Material
(Amendment) (Wales) (EU Exit) Regulations 2019**

PART 3

Amendment of secondary legislation relating
to the withdrawal from the European Union

The Seed Marketing (Wales) Regulations 2012

4.—(1) The Seed Marketing (Wales) Regulations 2012 are amended as follows.

[^{F1}(2) In regulation 3, for paragraph (1) substitute—

“(1) For the purposes of these Regulations—

- (a) the “GB Variety List” is the list of plant varieties prepared and published by the Secretary of State in accordance with the provisions of the Seeds (National Lists of Varieties) Regulations 2001;
- (b) a “country granted equivalence” means—
 - (i) a country that has been granted equivalence under Council [Decision 2003/17/EC](#) on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries; or
 - (ii) a country that has been assessed by the Welsh Ministers that the seed from that country is produced under conditions equivalent to the requirements in these Regulations for seed to which these Regulations apply;
- (c) “Crown Dependency” means any of the Channel Islands or the Isle of Man;
- (d) the “NI Variety List” means the list of plant varieties prepared and published by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland in accordance with legislation having equivalent effect to the Seeds (National Lists of Varieties) Regulations 2001.”;]

[^{F2}(3) In regulation 4(2), for “the European Union” substitute “Great Britain”.]

[^{F3}(4) In regulation 7, for the words from “United Kingdom” to the end substitute “GB Variety List, NI Variety List or an equivalent list in a country granted equivalence”.]

[^{F4}(5)

[^{F5}(6) In regulation 10, in paragraph (a), for “United Kingdom National List or the Common Catalogue” substitute “GB Variety List”.]

(7) For regulation 21A, substitute—

“**21A.**—(1) The Welsh Ministers may by licence exempt any person or class of person from compliance with any provision of these Regulations for the purposes of a temporary experiment seeking improved alternatives to provisions of these Regulations and organised in accordance with regulations made under section 16(5) of the Plant Varieties and Seeds Act 1964^{M1}.

(2) The duration of an experiment must not exceed 7 years.”.

(8) In regulation 26, omit “outside the European Union”.

(9) In regulation 27—

[^{F6}(a) in the heading, for “outside the European Union” substitute “a country granted equivalence”];

[^{F7}(aa) for paragraph (1) substitute—

“(1) Seed imported from a country granted equivalence must—

(a) be a variety listed in the GB Variety List; and

(b) be labelled with—

(i) for standard vegetable seed, a supplier’s label in accordance with paragraph 25(4) or (5) of Schedule 3;

(ii) for all other seed, a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”];

(b) in paragraph (3), for “from a third country” substitute “ [^{F8}from a country granted equivalence] ”;

^{F9}(c)

(10) After regulation 32, insert—

“Certification in a Crown Dependency [^{F10}or a country granted equivalence]

32A. Any seed certified and labelled in a Crown Dependency [^{F10}or a country granted equivalence] under legislation recognised by the Welsh Ministers to have equivalent effect to these Regulations may be marketed in Wales.

Transitional provision for official labels on [^{F11}implementation period completion day]

32B. For the purposes of regulation 17 and paragraphs 7(1)(a) and 8(1)(a) of Schedule 3, an official label pre-printed before [^{F11}implementation period completion day] containing the statement “EU Rules and Standards” may be used as an official label before the end of the period of [^{F12}one year] beginning with the day after the day on which [^{F11}implementation period completion day] falls.”.

(11) In Schedule 2—

(a) in paragraph 7—

(i) in sub-paragraph (1), after “Article 2(3)(A)”, insert “ (a) to (d) ”;

(ii) in sub-paragraph (3), for “Annex III to that Directive” substitute “ Schedule 3 ”;

(iii) after sub-paragraph (5), insert—

“(6) For the purposes of this regulation, Council Directive [2002/54/EC](#) is to be read as if—

- (a) in Article 2(3)(A)(a)(iii), for “officially licensed by the seed certification authority of the Member State concerned” there were substituted “licensed by the Welsh Ministers”;
- (b) in Annex 1—
 - (i) in point A—
 - (aa) in paragraph 3, for “certification authority” there were substituted “Welsh Ministers”;
 - (bb) in the last paragraph, for the words from “common” to “that Directive” there were substituted “ [F13GB Variety] List ”;
 - (ii) in point B, in paragraph 3(c)—
 - (aa) the reference to “Member States” were a reference to “The Welsh Ministers”;
 - (bb) the reference to “Community” were omitted.”.
- (b) in paragraph 15—
 - (i) in sub-paragraph (1), after “Article 2(3)(A)”, insert “ (a) to (d) ”;
 - (ii) in sub-paragraph (2), after “that Directive”, in the first place where it occurs, insert “ (except paragraphs 1a(f) and 1b of Article 7) ”;
 - (iii) after sub-paragraph (2), insert—

“(2A) For the purposes of sub-paragraphs (1) and (2), Council Directive [66/402/EEC](#) is to be read as if—

 - (a) in Article 2(3)(A)(a)(iii), for “officially licensed by the seed certification authority of the Member State concerned” there were substituted “licensed by the Welsh Ministers”;
 - (b) in Article 7—
 - (i) references to “Member States” were references to “Welsh Ministers”;
 - (ii) in paragraph 1a(a), for “seed certification authority of the Member State concerned” there were substituted “Welsh Ministers”.”.
- (c) in paragraph 28—
 - (i) in sub-paragraph (1), after “Article 2(3)(A)”, insert “ (a) to (d) ”;
 - (ii) after sub-paragraph (1), insert—

“(1A) For the purposes of sub-paragraph (1), Council Directive [66/401/EEC](#) is to be read as if—

 - (a) in Article 2(3)(A)(a)(iii), for “officially licensed by the seed certification authority of the Member State concerned” there were substituted “licensed by the Welsh Ministers”;
 - (b) in Annex 1, in paragraph 4, in the second sub-paragraph, the words from “Upon” to the end were omitted.”.
- (d) in paragraph 42—
 - (i) in sub-paragraph (1), after “Article 2(5)(A)”, insert “ (a) to (d) ”;
 - (ii) after sub-paragraph (1), insert—

“(1A) For the purposes of sub-paragraph (1), Council Directive [2002/57/EC](#) is to be read as if—

- (a) in Article 2(5)(A)(a)(iii), for “officially licensed by the seed certification authority of the Member State concerned” there were substituted “licensed by the Welsh Ministers”;
 - (b) in Annex 2, in Part 1, in paragraph 5C, the last sub-paragraph were omitted.”.
 - [^{F14}(e) in paragraph 43(2), for “United Kingdom National List or the Common Catalogue” substitute “GB Variety List”;
 - (f) in paragraph 50—
 - (i) in sub-paragraph (1), after “Article 2(4)(A)” insert “ (a) to (d) ”;
 - (ii) in sub-paragraph (2), after “Article 25”, insert “ (except paragraphs 1a(f) and 1b) ”;
 - (iii) after sub-paragraph (2), insert—
 - “(2A) For the purposes of sub-paragraphs (1) and (2), Council Directive [2002/55/EC](#) is to be read as if—
 - (a) in Article 2(4)(A)(a)(iii), for “officially licensed by the seed certification authority of the Member State concerned” there were substituted “licensed by the Welsh Ministers”;
 - (b) in Article 25—
 - (i) references to “Member States” were references to “Welsh Ministers”;
 - (ii) in paragraph 1a(a), for “seed certification authority of the Member State concerned” there were substituted “Welsh Ministers”.”.
- (12) In Schedule 3—
- (a) in paragraph 5(5), for the words from “one of” to the end substitute “English, but may also be in other languages”;
 - (b) in paragraph 6(1)—
 - (i) in paragraph (a), after “the name”, insert “and country or country initials”;
 - (ii) omit paragraph (b);
 - (c) in paragraphs 7(1) and 8(1)—
 - (i) in paragraph (a), for “EU” substitute “[^{F15}GB]”;
 - (ii) in paragraph (b), after “the name”, insert “and country or country initials”;
 - (iii) omit paragraph (c);
 - (d) in paragraph 9(1)—
 - (i) in paragraph (a), at the beginning, insert “the name and country or country initials of”;
 - (ii) omit paragraph (b);
 - [^{F16}(e) in paragraphs 12(2)(a) and 14(1)(a), for “United Kingdom National List or the Common Catalogue” substitute “GB Variety List”;
 - (f) in paragraph 19—
 - (i) in sub-paragraph (2), omit “EU”;
 - (ii) in sub-paragraph (2), omit “UE”;
 - (iii) in sub-paragraph (4)—
 - (aa) in paragraph (a), omit “EU”;

- (bb) in paragraph (e), for “European Single Market State” substitute “ country of production ”;
 - (g) in paragraph 20(4)(a), for “EU” substitute “ [F17GB] ”;
 - (h) in paragraphs 21 and 22, omit “EU” in each place where it occurs;
 - (i) in paragraph 23—
 - (i) omit “EU” in each place where it occurs;
 - (ii) in sub-paragraphs (2)(c)(ii) and (d)(iii), for “European Single Market State” substitute “ country of production ”;
 - (j) in paragraphs 24 and 25, for “EU”, in each place where it occurs, substitute “ [F18GB] ”.
- (13) In Schedule 4—
- (a) in paragraph 4(1), for “the Directive” substitute “ these Regulations ”;
 - (b) in paragraph 5(2), for “from a third country” substitute “ into the United Kingdom ”;
 - (c) in paragraph 6, for “Council Directive [66/402/EEC](#)” substitute “ these Regulations ”;
 - (d) in paragraph 7—
 - [F19(ai) in sub-paragraphs (2) and (3), for “United Kingdom National” substitute “GB Variety”];
 - (i) after sub-paragraph 5, insert—
 - “(5A) For the purposes of sub-paragraph (5)—
 - (a) Article 14 of Commission Directive [2008/62/EC](#) is to be read as if—
 - (i) in the first paragraph—
 - (aa) the words “Each Member State shall ensure that, ” were omitted;
 - (bb) for the reference to “that Member State” there were substituted “ [F20Great Britain] ”;
 - (ii) in the second paragraph—
 - (aa) the words “in each Member State” were omitted;
 - (bb) for the references to “the Member State”, in both places where it occurs, there were substituted “ [F20Great Britain] ”;
 - (b) Article 15 of Commission Directive [2009/145/EC](#) is to be read as if—
 - (i) the words “Each Member State shall ensure that,” were omitted;
 - (ii) for “does” there were substituted “ must ”.”;
 - (ii) in sub-paragraph (7), for the words from “Council Directive [2002/54/EC](#)” to “(as the case may be)” substitute “ these Regulations ”;
 - (iii) in sub-paragraph (8)—
 - (aa) in paragraph (a), for the words from “Council Directive [2002/55/EC](#)” to “seed” substitute “ Schedule 2 ”;
 - (bb) in paragraph (b), for “that Directive” substitute “ these Regulations ”;
 - (e) in paragraph 8—
 - (i) in sub-paragraph (3)(b), for the words from “in accordance” to the end substitute “ having taken account of any available information from plant genetic resource organisations ”;

- (ii) in sub-paragraph (4)(a), for “EU” substitute “ [F21GB] ”;
 - (iii) in sub-paragraph (7), after “have”, in the first place where it occurs, insert “ subject to sub-paragraph (8) ”;
 - (iv) after sub-paragraph (7) insert—
 - “(8) For the purposes of this paragraph, Article 1(a) of Commission Directive 2010/60/EU is to be read as if the definition of “source area” contained in that Article defined it to mean an area designated as a special area of conservation or an area contributing to the conservation of plant genetic resources in accordance with retained EU law.”;
- [F22(ea) in paragraph 9—
- (i) in sub-paragraphs (1), (5) and (6), for “United Kingdom National” substitute “GB Variety”;
 - (ii) in sub-paragraph (8), in the words before paragraph (a), for “the United Kingdom” substitute “Great Britain”;
- [F23(f) in paragraph 10—
- (i) in sub-paragraph (1), for the words from “United Kingdom” to the end substitute “GB Variety List provided an application has been made for entry into the GB Variety List or the NI Variety List”;
 - (ii) in sub-paragraph (4), for “relevant National List” substitute “GB Variety List, NI Variety List or an equivalent list of a country granted equivalence”;
 - (iii) omit sub-paragraphs (7) and (8);]

[F24(g) in paragraph 11(2), for “United Kingdom National List or the Common Catalogue” substitute “GB Variety List”;

 - (h) in paragraph 12—
 - (i) the existing text becomes sub-paragraph (1);
 - (ii) in sub-paragraph (1)—
 - (aa) in the words before paragraph (a), omit “been authorised for cultivation under either”;
 - (bb) in paragraph (a), at the beginning, insert “ before the day on which [F25:implementation period completion day] falls, been authorised under ”, and, at the end, omit “or”;
 - (cc) in paragraph (b), at the beginning, insert “ been authorised under ”, and, at the end, insert “ , or ”;
 - (dd) after paragraph (b), insert—
 - “(c) been authorised under the GMO Regulations.
 - (2) For the purpose of paragraph (1), “the GMO Regulations” means—
 - (a) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002 ^{M2};
 - (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002 ^{M3};
 - (c) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002 ^{M4};

- (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003^{M5}.”;
- (i) in paragraph 13—
- (i) in sub-paragraph (1), for “another European Single Market State or third country” substitute “a country granted equivalence”;
- (ii) in sub-paragraph (3)—
- (aa) omit paragraph (a);
- (bb) in paragraph (b), omit “if the seed is from a third country”;
- (cc) in the words after paragraph (b), omit “in both cases”;
- (j) omit paragraph 14 and its heading;
- (k) in paragraph 15(3), for “Council Directive 2002/55/EC on the marketing of vegetable seed” substitute “these Regulations”;
- [^{F26}(l) omit paragraph 16;]
- (m) in paragraph 17—
- (i) in the heading and, in sub-paragraph (1), in the words before paragraph (a), for “third country” substitute “country granted equivalence”;
- (ii) in sub-paragraph (1)(a)(i), for the words from “a European Single Market State” to the end, substitute “the United Kingdom, a Crown Dependency (provided such seed has been produced under legislation recognised by the Welsh Ministers to have equivalent effect to these Regulations) or a country granted equivalence”;
- (iii) for sub-paragraph (1)(a)(ii), substitute—
- “(ii) the crossing of basic seed officially certified in the United Kingdom or a Crown Dependency (provided such seed has been produced under legislation recognised by the Welsh Ministers to have equivalent effect to these Regulations) with basic seed certified in a country granted equivalence;”;
- [^{F27}(n) in paragraph 18, for “United Kingdom National List or the Common Catalogue” substitute “GB Variety List”];]

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| F1 | Reg. 4(2) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573) , regs. 1(2)(b), 4(3)(a) |
| F2 | Reg. 4(3) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573) , regs. 1(2)(b), 4(3)(b) |
| F3 | Reg. 4(4) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573) , regs. 1(2)(b), 4(3)(c) |
| F4 | Reg. 4(5) omitted (31.12.2020 immediately before IP completion day) by virtue of The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573) , regs. 1(2)(b), 4(3)(d) |
| F5 | Reg. 4(6) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573) , regs. 1(2)(b), 4(3)(e) |

- F6** Reg. 4(9)(a) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(f)(i)**
- F7** Reg. 4(9)(aa) inserted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(f)(ii)**
- F8** Words in reg. 4(9)(b) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(f)(iii)**
- F9** Reg. 4(9)(c) omitted (31.12.2020 immediately before IP completion day) by virtue of The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(f)(iv)**
- F10** Words in reg. 4(10) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(g)(i)**
- F11** Words in reg. 4(10) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(g)(ii)(aa)**
- F12** Words in reg. 4(10) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(g)(ii)(bb)**
- F13** Words in reg. 4(11)(a)(iii) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(h)(i)**
- F14** Reg. 4(11)(e) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(h)(ii)**
- F15** Word in reg. 4(12)(c)(i) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(i)**
- F16** Reg. 4(12)(e) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(i)(ii)**
- F17** Word in reg. 4(12)(g) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(i)(iii)**
- F18** Word in reg. 4(12)(j) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(i)(iii)**
- F19** Reg. 4(13)(ai)(d) inserted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(j)(i)(aa)**
- F20** Words in reg. 4(13)(d)(i) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(j)(i)(bb)**
- F21** Word in reg. 4(13)(e)(ii) substituted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(j)(ii)**
- F22** Reg. 4(13)(ea) inserted (31.12.2020 immediately before IP completion day) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1573), regs. 1(2)(b), **4(3)(j)(iii)**

- F23** Reg. 4(13)(f) substituted (31.12.2020 immediately before IP completion day) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1573\)](#), regs. 1(2)(b), **4(3)(j)(iv)**
- F24** Reg. 4(13)(g) substituted (31.12.2020 immediately before IP completion day) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1573\)](#), regs. 1(2)(b), **4(3)(j)(v)**
- F25** Words in reg. 4(13)(h)(ii)(bb) substituted (31.12.2020 immediately before IP completion day) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1573\)](#), regs. 1(2)(b), **4(3)(j)(vi)**
- F26** Reg. 4(13)(l) substituted (31.12.2020 immediately before IP completion day) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1573\)](#), regs. 1(2)(b), **4(3)(j)(vii)**
- F27** Reg. 4(13)(n) substituted (31.12.2020 immediately before IP completion day) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1573\)](#), regs. 1(2)(b), **4(3)(j)(viii)**

Commencement Information

- I1** Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see reg. 1(2)(b)

Marginal Citations

- M1** 1964 c.14.
- M2** [S.I. 2002/3188 \(W.304\)](#), amended by [S.I. 2005/1913 \(W.156\)](#), [2005/2759](#), [2011/1043](#), [2013/755 \(W.90\)](#), [2018/1216 \(W.249\)](#).
- M3** [S.I. 2002/2443](#), as amended by [S.I. 2004/2411](#), [2005/2759](#), [2009/1892](#), [2011/1043](#), [2018/575](#).
- M4** [S.S.I. 2002/541](#), amended by [S.I. 2005/2759](#) and [2011/1043](#); and by [S.S.I. 2004/439](#), [2015/100](#).
- M5** [S. R. 2003 No. 167](#).

Changes to legislation:

There are currently no known outstanding effects for the The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2019, Section 4.