

EXPLANATORY MEMORANDUM TO
THE SEEDS (MISCELLANEOUS AMENDMENTS) (ENGLAND) REGULATIONS
2017

2017 No. 288

1. Introduction

1.1 This explanatory memorandum has been prepared by Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 To transpose Directive 2016/317 on EU labelling requirements,
- 2.2 To transpose Directive 2016/2109 changing the botanical name of hybrid ryegrass.
- 2.3 To make an unrelated formatting correction in the potato disease tolerance tables of the Seed Potatoes (England) Regulations 2015.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This instrument amends the Seed Marketing Regulations 2011 to transpose an amendment made by Directive 2016/2109/EU to Directive 66/401/EEC (marketing of fodder plant seeds) to the botanical name of ryegrass. It also amends the Seed Potatoes (England) Regulations 2015 to transpose an amendment made to Directive 2002/56/EC (marketing of seed potatoes) to require officially assigned serial numbers on labels to be affixed to seed potatoes.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

7. Policy background

7.1 Commission Implementing Directive 2016/317 amends all the seeds marketing Directives to require officially assigned serial numbers on official seed packages and

containers. This is already common practice in the UK and all of our domestic seed marketing regulations, with the exception of the Seed Potato (England) Regulations 2015, include a requirement for the sequential numbering of seed packets and containers. To achieve full compliance with the implementing directive and to create consistency across our domestic legislation on agricultural plant reproductive material, the Seed Potato (England) Regulations 2015 need to be amended to formalise new labelling requirements, which have been followed in practice for over 25 years. Industry has indicated that it would wish to continue this practice irrespective of the UK's future relationship with the EU because it ensures traceability, prevents fraudulent marketing of uncertified stocks and would most likely continue to be an export requirement for trade with third countries.

- 7.2 The International Seed Testing Association has recently changed the botanical name of hybrid ryegrass from *Lolium x boucheanum* Kunth to *Lolium x hybridum* Hausskn. Consequently, Commission Implementing Directive 2016/2109 has made the same change in Directive 66/401/EEC on the marketing of fodder plant seeds. The Seed Marketing Regulations 2011 need to be amended to take this change into account.
- 7.3 We wish to take the opportunity presented by these transposition requirements to correct a formatting error in the potato disease tolerance tables in the Schedules of the 2015 potato regulations. The formatting error relates to incorrect linear box markings in the disease tolerance tables in schedule 3 parts 2 & 3 of the 2015 Regulations which confuse the interpretation of group tolerances.

Consolidation

- 7.4 Defra will review the need for consolidation of these Regulations once government strategy on post EU exit is agreed.

8. Consultation outcome

- 8.1 A two week informal consultation with the 7 affected industry representative organisations was conducted. Six replies were received. All supported these non-contentious amendments.

9. Guidance

- 9.1 Industry will be informed by APHA

10. Impact

- 10.1 No impact is foreseen for business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action proposed to minimise the regulatory burden on small businesses.
- 11.3 No mitigating action is proposed because no additional burden is imposed. Industry already operates a non-statutory labelling system and has stated it would wish to continue this practice irrespective of the UK's future relationship with the EU because it ensures traceability and prevents fraud. The change of botanical name of hybrid

ryegrass imposes no burden and the formatting correction in the regulations provides greater clarity.

12. Monitoring & review

- 12.1 A review clause is already included in the principle regulations affected by these amendments.

13. Contact

- 13.1 Andy Mitchell at the Department for Environment, Food and Rural Affairs
Telephone: 0208 02 65714 or email: andy.mitchell@defra.gsi.gov.uk can answer any queries regarding the instrument.