



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2016 Rhif 1242 (Cy. 294)

2016 No. 1242 (W. 294)

HADAU, CYMRU

SEEDS, WALES

**Rheoliadau Marchnata Hadau
(Cymru) (Diwygio) 2016**

**The Seed Marketing (Wales)
(Amendment) Regulations 2016**

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Marchnata Hadau (Cymru) 2012 (O.S. 2012/245 (Cy. 39)).

These Regulations amend the Seed Marketing (Wales) Regulations 2012 (S.I. 2012/245 (W. 39)).

Mae rheoliad 3 yn diwygio un o'r gofynion ynghylch selio pecynnau hadau. Mae rheoliad 4 yn diwygio'r gofynion ynghylch samplu hadau at ddibenion gorfodi.

Regulation 3 amends one of the requirements regarding the sealing of packages of seed. Regulation 4 amends the requirements regarding the sampling of seed for enforcement purposes.

Mae rheoliad 5 yn mewnosod darpariaeth newydd sy'n caniatáu i Weinidogion Cymru wneud trefniadau i unrhyw berson gyflawni mesurau swyddogol. Mae rheoliadau 6 a 7 yn gwneud mân ddiwygiadau.

Regulation 5 inserts a new provision which allows the Welsh Ministers to make arrangements for any person to carry out official measures. Regulations 6 and 7 make minor amendments.

Nid oes asesiad effaith wedi'i lunio ar gyfer yr offeryn hwn, gan na ragwelir y bydd yr offeryn yn cael unrhyw effaith ar y sector preifat na'r sector gwirfoddol na'r sector cyhoeddus, neu na ragwelir y bydd yn cael unrhyw effaith sylweddol ar y sectorau hynny.

An impact assessment has not been produced for this instrument as no impact, or no significant impact, on the private, voluntary or public sector is foreseen.

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Gwnaed 15 Rhagfyr 2016
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru 19 Rhagfyr 2016
Yn dod i rym 11 Ionawr 2017

Made 15 December 2016
Laid before the National Assembly for Wales 19 December 2016
Coming into force 11 January 2017

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 16(1), (1A), (2), (3) a (4) o Ddeddf Amrywogaethau a Hadau Planhigion 1964(1) ac a freiniwyd bellach ynddynt hwy(2), yn gwneud y Rheoliadau a ganlyn.

The Welsh Ministers, in exercise of the powers conferred by sections 16(1), (1A), (2), (3) and (4) of the Plant Varieties and Seeds Act 1964(1), and now vested in them(2), make the following Regulations.

Yn unol ag adran 16(1) o'r Ddeddf honno, mae Gweinidogion Cymru wedi ymgynghori â chynrychiolwyr y buddiannau hynny y mae'n ymddangos i Weiniogion Cymru eu bod yn ymwneud â hyn.

In accordance with section 16(1) of that Act, the Welsh Ministers have consulted with representatives of such interests as appear to the Welsh Ministers to be concerned.

Enwi, cychwyn a chymhwyso

Title, commencement and application

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Marchnata Hadau (Cymru) (Diwygio) 2016 a deuant i rym ar 11 Ionawr 2017.

1.—(1) The title of these Regulations is the Seed Marketing (Wales) (Amendment) Regulations 2016 and they come into force on 11 January 2017.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(2) These Regulations apply in relation to Wales.

(1) 1964 (p. 14). Diwygiwyd adran 16(1) a mewnosodwyd adran 16(1A) gan baragraff 5 o Atodlen 4 i Ddeddf y Cymunedau Ewropeaidd 1972 (p. 68).

(2) *Gweler* adran 38(1) am ddiffiniad o "the Minister" ("y Gweinidog"). O dan Orchymyn Trosglwyddo Swyddogaethau (Cymru) (Rhif 1) 1978 (O.S. 1978/272) erthygl 2(1) ac Atodlen 1, trosglwyddwyd swyddogaethau'r Gweinidog Amaethyddiaeth, Pysgodfeydd a Bwyd o dan Ddeddf Amrywogaethau a Hadau Planhigion 1964, i'r graddau y maent yn arferadwy o ran Cymru, i'r Ysgrifennydd Gwladol ac o dan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672), erthygl 2 ac Atodlen 1, trosglwyddwyd y swyddogaethau a drosglwyddwyd i'r Ysgrifennydd Gwladol o dan Orchymyn 1978 i Gynulliad Cenedlaethol Cymru. Yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32), mae'r swyddogaethau hyn bellach yn arferadwy gan Weiniogion Cymru.

(1) 1964 (c. 14). Section 16(1) was amended and section 16(1A) was inserted by the European Communities Act 1972 (c. 68), Schedule 4, paragraph 5.

(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 they are exercisable in relation to Wales, transferred to the Secretary of State and under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1, the functions transferred to the Secretary of State by the 1978 Order were transferred to the National Assembly for Wales. By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32) those functions are now exercisable by the Welsh Ministers.

Diwygio Rheoliadau Marchnata Hadau (Cymru) 2012

2. Mae Rheoliadau Marchnata Hadau (Cymru) 2012(1) wedi eu diwygio yn unol â'r darpariaethau a ganlyn.

Rheoliad 16 (pecynnu a selio)

3. Yn rheoliad 16, yn lle paragraff (3) rhodder—

“(3) Rhaid i becyn gael ei selio gan samplwr hadau trwyddedig, neu o dan oruchwyliaeth samplwr hadau trwyddedig, gan ddefnyddio sêl swyddogol.”

Rheoliad 24 (samplu at ddibenion gorfodi)

4. Yn rheoliad 24, ar ôl paragraff (2) mewnosoder—

“(3) Rhaid dal gafael ar y ddwy ran o'r sampl a anfonir i orsaf brofi swyddogol am o leiaf ddwy flynedd.”

Trefniadau ar gyfer mesurau swyddogol

5. Ar ôl rheoliad 28 mewnosoder—

“Trefniadau ar gyfer mesurau swyddogol

28A.—(1) Caiff Gweinidogion Cymru wneud y cyfryw drefniadau gydag unrhyw berson (“A”) y mae Gweinidogion Cymru yn ystyried eu bod yn angenrheidiol neu'n ddymunol at ddiben galluogi A i gyflawni mesurau swyddogol ar ran Gweinidogion Cymru.

(2) Rhaid i Weiniogion Cymru beidio â gwneud unrhyw drefniant o dan y rheoliad hwn oni bai eu bod wedi eu bodloni bod y trefniant yn gwneud darpariaeth at ddiben atal unrhyw berson rhag—

- (a) cael unrhyw elw preifat o unrhyw fesurau swyddogol a gyflawnir o dan y trefniant; a
- (b) cyflawni unrhyw fesurau swyddogol o dan y trefniant ac eithrio o dan oruchwyliaeth swyddogol.

(3) Caiff Gweinidogion Cymru gynnwys mewn unrhyw drefniant y cyfryw amodau y mae Gweinidogion Cymru yn ystyried eu bod yn angenrheidiol neu'n ddymunol at y dibenion y cyfeirir atynt ym mharagraffau (1) a (2), gan gynnwys amodau—

Amendment of the Seed Marketing (Wales) Regulations 2012

2. The Seed Marketing (Wales) Regulations 2012(1) are amended in accordance with the following provisions.

Regulation 16 (packaging and sealing)

3. In regulation 16, for paragraph (3) substitute—

“(3) A package must be sealed by or under the supervision of a licensed seed sampler using an official seal.”

Regulation 24 (sampling for enforcement purposes)

4. In regulation 24, after paragraph (2) insert—

“(3) The two parts of the sample sent to an official testing station must be retained for at least two years.”

Arrangements for official measures

5. After regulation 28 insert—

“Arrangements for official measures

28A.—(1) The Welsh Ministers may make such arrangements with any person (“A”) as the Welsh Ministers consider necessary or desirable for the purpose of enabling A to carry out official measures on the Welsh Ministers' behalf.

(2) The Welsh Ministers must not make any arrangement under this regulation unless satisfied that the arrangement makes provision for the purpose of preventing any person from—

- (a) deriving any private gain from any official measures carried out under the arrangement; and
- (b) carrying out any official measures under the arrangement except under official supervision.

(3) The Welsh Ministers may include in any arrangement such conditions as the Welsh Ministers consider necessary or desirable for the purposes referred to in paragraphs (1) and (2), including conditions—

(1) O.S. 2012/245 (Cy. 39), a ddiwygiwyd gan O.S. 2013/889 (Cy. 101) ac O.S. 2014/519 (Cy. 61).

(1) S.I. 2012/245 (W. 39), amended by S.I. 2013/889 (W. 101) and S.I. 2014/519 (W. 61).

- (a) sy'n pennu—
- (i) y mesurau swyddogol y mae'n rhaid i A eu cyflawni;
 - (ii) y rhywogaethau a'r cenedlaethau o hadau y caiff A gyflawni'r mesurau swyddogol mewn cysylltiad â hwy;
 - (iii) y dulliau i'w defnyddio mewn cysylltiad â'r mesurau swyddogol a gyflawnir gan A;
 - (iv) y ffioedd y caiff A eu codi mewn perthynas â'r mesurau swyddogol a gyflawnir gan A;
 - (v) y cofnodion y mae'n rhaid i A eu cadw mewn cysylltiad â'r mesurau swyddogol a gyflawnir gan A;
- (b) sy'n gwahardd A rhag—
- (i) codi ffioedd mewn perthynas â'r mesurau swyddogol a gyflawnir gan A o dan y trefniant ac eithrio i'r graddau nad yw'r ffioedd yn uwch na'r costau y mae A yn mynd iddynt wrth eu cyflawni;
 - (ii) cyflawni'r mesurau swyddogol ac eithrio o dan oruchwyliaeth swyddogol;
- (c) sy'n gwahardd A rhag gwneud unrhyw drefniant pellach gydag unrhyw berson arall ("B") at unrhyw ddiben mewn cysylltiad â chyflawni'r mesurau swyddogol y mae A wedi gwneud trefniadau gyda Gweinidogion Cymru i'w cyflawni, oni bai—
- (i) bod Gweinidogion Cymru wedi cymeradwyo holl amodau'r trefniant pellach a bod A wedi cael cymeradwyaeth ysgrifenedig Gweinidogion Cymru ymlaen llaw i wneud y trefniant pellach;
 - (ii) bod y trefniant pellach yn cynnwys amod sy'n gwahardd B rhag gwneud unrhyw drefniadau dilynol at unrhyw ddiben sy'n gysylltiedig â chyflawni'r mesurau swyddogol y mae Gweinidogion Cymru wedi gwneud trefniant gydag A mewn cysylltiad â hwy;
- (a) specifying—
- (i) the official measures that A must carry out;
 - (ii) the species and generation of seed in respect of which A may carry out the official measures;
 - (iii) the methods to be used in connection with the official measures that A carries out;
 - (iv) the fees that A may charge in relation to the official measures that A carries out;
 - (v) the records that A must keep in connection with the official measures that A carries out;
- (b) prohibiting A from—
- (i) charging fees in relation to the official measures that A carries out under the arrangement except to the extent that the fees do not exceed the costs that A incurs in carrying them out;
 - (ii) carrying out the official measures except under official supervision;
- (c) prohibiting A from making any further arrangement with any other person ("B") for any purpose in connection with the carrying out of the official measures that A has arranged with the Welsh Ministers to carry out, unless—
- (i) the Welsh Ministers have approved all the conditions of the further arrangement and A has received the prior written approval of the Welsh Ministers to make the further arrangement;
 - (ii) the further arrangement includes a condition prohibiting B from making any subsequent arrangements for any purpose connected with the carrying out of the official measures in respect of which the Welsh Ministers made an arrangement with A;

- (iii) bod y trefniant pellach yn cynnwys cydnabyddiaeth gan A y caiff Gweinidogion Cymru amrywio, ddirymu neu atal dros dro y trefniant pellach os yw'r ymddangos i Weinidogion Cymru nad yw B yn cydymffurfio ag unrhyw un neu ragor o amodau'r trefniant pellach, neu bod B wedi methu â chydymffurfio ag unrhyw un neu ragor o'r amodau hynny; a
 - (iv) bod y trefniant pellach yn cynnwys yr amodau a bennir yn is-baragraffau (a) a (b) o'r paragraff hwn ac at y dibenion hyn mae cyfeiriadau yn yr is-baragraffau hynny at A i gael eu dehongli fel cyfeiriadau at B, ac mae cyfeiriadau at "y trefniant" i gael eu dehongli fel cyfeiriadau at y trefniant pellach.
- (4) Rhaid i Weinidogion Cymru beidio â chymeradwyo gwneud unrhyw drefniant pellach o dan y rheoliad hwn oni bai eu bod wedi eu bodloni na fydd B—
- (a) yn cael unrhyw elw preifat o unrhyw fesurau swyddogol y mae B i gael ei awdurdodi i'w cyflawni o dan y trefniant pellach;
 - (b) yn cyflawni unrhyw fesurau swyddogol o dan y trefniant pellach ac eithrio o dan oruchwyliaeth swyddogol.
- (5) Caiff Gweinidogion Cymru, drwy hysbysiad ysgrifenedig i A neu B (yn ôl y digwydd), amrywio, atal dros dro neu ddirymu unrhyw drefniant neu drefniant pellach, neu unrhyw amodau trefniant neu amodau trefniant pellach a wneir o dan y rheoliad hwn.
- (6) Rhaid i hysbysiad a roddir o dan baragraff (5) bennu—
- (a) mewn cysylltiad ag amrywiad neu ddirymiad, y dyddiad y mae'r amrywiad neu'r dirymiad yn cael effaith ohono;
 - (b) mewn cysylltiad ag atal dros dro, y cyfnod pryd y mae'r atal dros dro yn cael effaith.
- (iii) the further arrangement includes an acknowledgement by A that the Welsh Ministers may vary, revoke or suspend the further arrangement if it appears to the Welsh Ministers that B is not complying, or has failed to comply, with any condition of the further arrangement; and
 - (iv) the further arrangement includes the conditions specified in subparagraphs (a) and (b) of this paragraph and for these purposes references in those subparagraphs to A are to be construed as references to B and references to "the arrangement" are to be construed as references to the further arrangement.
- (4) The Welsh Ministers must not approve the making of any further arrangement under this regulation unless satisfied that B will not—
- (a) derive any private gain from any official measures that B is to be authorised to carry out under the further arrangement;
 - (b) carry out any official measures under the further arrangement except under official supervision.
- (5) The Welsh Ministers may, by written notice to A or B (as the case may be), vary, suspend or revoke an arrangement or further arrangement, or any conditions of an arrangement or further arrangement made under this regulation.
- (6) A notice given under paragraph (5) must specify—
- (a) in respect of a variation or revocation, the date from which the variation or revocation takes effect;
 - (b) in respect of a suspension, the period during which the suspension has effect.

(7) Pan fydd amrywiad, dirymiad neu atal dros dro yn cael effaith, caiff Gweinidogion Cymru, at unrhyw ddibenion mewn perthynas â'r Rheoliadau hyn, barhau i roi sylw i'r cyfryw fesurau swyddogol a gyflawnir o dan drefniant (neu drefniant pellach) a gafodd ei amrywio, ei ddirymu neu ei atal dros dro yr ymddengys i Weiniogion Cymru eu bod yn fesurau swyddogol a gyflawnir yn unol â darpariaethau'r Rheoliadau hyn.

(8) Yn y rheoliad hwn, mae "mesurau swyddogol" ("*official measures*") yn cynnwys archwiliadau swyddogol, treialon tyfu, profion ac asesiadau."

Atodlen 2 (gofynion ardystio)

6. Yn Atodlen 2, yn lle paragraff 29 (safonau gwirfoddol uwch ar gyfer hadau porthiant) rhodder—

"29. Caniateir marchnata'r canlynol fel hadau o safon wirfoddol uwch—

- (a) troed y ceiliog, festulolium, rhygwellt hybrid, rhygwellt yr Eidal, peiswellt, rhygwellt parhaol, meillion coch, peiswellt coch, y godog, rhonwelt bach, rhonwelt, gweunwelt llyfn, peiswellt tal a meillion gwyn, pan fo unrhyw un neu ragor o'r rhain wedi eu dosbarthu'n hadau ardystiedig (CS);
- (b) maglys rhuddlas, a ddosbarthwyd naill ai'n hadau ardystiedig o'r genhedlaeth gyntaf (CI) neu'n hadau ardystiedig o'r ail genhedlaeth (C2)."

Atodlen 3 (labelu a gwerthiannau rhydd)

7.—(1) Mae Atodlen 3 wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 22 (hadau porthiant ac eithrio cymysgedd: gofynion labelu), yn lle is-baragraff (2)(b) rhodder—

"(b) enw a chyfeiriad neu rif adnabod y person sy'n gosod y label;"

(3) Ym mharagraff 25 (hadau llyisiau: labeli cyflenwr), yn lle is-baragraff (5)(b) rhodder—

"(b) enw a chyfeiriad neu rif adnabod y person sy'n gosod y label;"

(7) When a variation, revocation or suspension has effect, the Welsh Ministers may, for any purposes in relation to these Regulations, continue to have regard to such of the official measures carried out under an arrangement (or further arrangement) which was varied, revoked or suspended as appear to the Welsh Ministers to be official measures carried out in accordance with the provisions of these Regulations.

(8) In this regulation, "official measures" ("*mesurau swyddogol*") include official examinations, growing trials, tests and assessments."

Schedule 2 (certification requirements)

6. In Schedule 2, for paragraph 29 (higher voluntary standards for fodder seed) substitute—

"29. The following may be marketed as seed of a higher voluntary standard—

- (a) cocksfoot, festulolium, hybrid ryegrass, Italian ryegrass, meadow fescue, perennial ryegrass, red clover, red fescue, sainfoin, small timothy, timothy, smooth stalked meadow grass, tall fescue and white clover, where any of these are classified as certified seed (CS);
- (b) lucerne, classified either as certified seed of the first generation (CI) or certified seed of the second generation (C2)."

Schedule 3 (labelling and loose sales)

7.—(1) Schedule 3 is amended as follows.

(2) In paragraph 22 (fodder seed other than a mixture: labelling requirements), for sub-paragraph (2)(b) substitute—

"(b) the name and the address or identification number of the person affixing the label;"

(3) In paragraph 25 (vegetable seed: supplier's labels), for sub-paragraph (5)(b) substitute—

"(b) the name and address or identification number of the person affixing the label;"

Lesley Griffiths

Ysgrifennydd y Cabinet dros yr Amgylchedd a
Materion Gwledig, un o Weinidogion Cymru
15 Rhagfyr 2016

Cabinet Secretary for Environment and Rural Affairs,
one of the Welsh Ministers
15 December 2016

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