

Explanatory Memorandum for The Seed Potatoes (Wales) Regulations 2016

This Explanatory Memorandum has been prepared by the Natural Environment and Agriculture Team within the Economy, Skills and Natural Resources Group and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Seed Potatoes (Wales) Regulations 2016.

Rebecca Evans
Deputy Minister for Farming and Food

4 February 2016

1. Description

This instrument revokes and replaces the Seed Potatoes (Wales) Regulations 2006 (S.I. 2006/2929 (W. 264)), which controls the production with a view to marketing, the certification and the marketing of seed potatoes in Wales other than those intended for export outside the EU.

This instrument implements a number of Directives and Commission Implementing Decisions relating to seed potatoes, in particular Council Directive 2002/56/EC on the marketing of seed potatoes.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

3. Legislative background

This instrument is made under sections 16 and 36 of the Plant Varieties and Seeds Act 1964 using the negative procedure. The statutory functions in sections 16 and 36 were transferred to the National Assembly for Wales pursuant to Article 2 of and Schedule 1, to the National Assembly for Wales (Transfer of Functions) Order 1999. The functions are now vested in Welsh Ministers pursuant to section 162 of and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

Council Directive 2002/56/EC on the marketing of seed potatoes establishes an uniform certification scheme to ensure that seed potatoes produced and marketed within the EU meet certain quality standards. The Directive is implemented in Wales through the Seed Potatoes (Wales) Regulations 2006. Similar legislation applies in England, Scotland and Northern Ireland. The Regulations are applied through the Seed Potato Classification Scheme (SPCS), which aims to ensure that seed potatoes are healthy, true to variety and free from mixtures. Commission Implementing Directives 2013/63/EU (of 17 December 2013), 2014/20/EU and 2014/21/EU (of 6 February 2014) and Commission Implementing Decision 2014/105/EU (of 24 February 2014) modify the annexes of Council Directive 2002/56/EC as a result of technical changes in the assessment of risks presented by particular pests and diseases and introduce new measures to address risks presented by other pests and diseases. These amendments are transposed through this instrument which also gives effect to Commission Decision 2004/3/EC authorising in respect of the marketing of seed potatoes in all or part of the territory of certain Member States, more stringent measures against certain diseases than provided for in Annexes I and II to Council Directive 2002/56/EC, as amended by Council Implementing Decision 2014/105/EU.

4. Purpose & intended effect of the legislation

The EU has been working towards a harmonised approach to nomenclature and meaningful minimum quality standards for seed potatoes, reflecting

technical changes in methods of potato breeding and improvements in diagnostic techniques and agronomic practices to fight the spread of harmful organisms. These technical developments now allow the production of seed potatoes fulfilling stricter requirements than those currently set out in Council Directive 2002/56/EC on the marketing of seed potatoes. At the same time new disease agents have become known and knowledge about existing diseases has evolved, showing that some diseases require stricter measures. In light of these developments and knowledge, Commission Implementing Directives 2013/63/EU, 2014/20/EU and 2014/21/EU and Commission Implementing Decision 2014/105/EU update the minimum conditions and disease tolerances set out in Council Directive 2002/56/EC.

While each part of the UK has its own classification scheme (and legislation) seed potatoes are commonly traded within the UK and currently the schemes are closely aligned. The trade's preference is for that alignment to continue.

In line with the provision in Council Directive 2002/56/EC, and following consideration of the consultation responses, stricter standards than the minimum standards required under the Directive are applied in Wales (and in the other parts of the UK). Given these stricter tolerances, we were obliged under the Technical Standards and Regulations Directive (Directive 98/34/EC) to inform the Commission (and other Member States), of our approach by submitting our implementing measures before they are adopted. No comments were received from the Commission or other Member States in light of the notification.

5. Consultation

Scottish Government conducted a UK consultation which targeted the key seed potato stakeholders in Scotland, Northern Ireland, England and Wales. It started on 24 November 2014 and ended on 12 January 2015. All respondents agreed that the existing harmonised standards in place across the UK should continue to be applied and that where appropriate stricter requirements than the minimum standards under the Directive should be applied.

Details of the consultation are available at:
<http://www.gov.scot/Publications/2014/11/5992>

6. Regulatory Impact Assessment

An impact assessment has not been prepared for these Regulations.

No impact on charities or voluntary bodies is foreseen.

No impact on the public sector is foreseen.