

SL(5)370 – The Seed Potatoes (Wales) (Amendment) (EU Exit) Regulations 2019

Background and Purpose

These Regulations are made in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to the Seed Potatoes (Wales) Regulations 2016 (S.I. 2016/106 W.52). Those Regulations control 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 European Union.

Procedure

Affirmative

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Regulation 2(12) substitutes references to the UK for references to the [European] Union in Schedule 1 to the 2016 Regulations. The Welsh text of 2(12) accurately reflects the English. However, there appears to have been an error in the Welsh text of paragraph 8 of Schedule 1 to the 2016 Regulations, so that the words 'yr Undeb' (the Union) does not in fact appear. Consequently, it cannot be replaced by 'y DU' (the UK) in accordance with regulation 2(12). 'Y DU' should, therefore, be an insertion in paragraph 8, and not a substitution. [Standing Order 21.2(vi) – defective drafting]
2. Regulation 2(15) states that Schedule 4 is amended in accordance with paragraphs 15 to 17. The correct cross-reference would be to paragraphs (16) to (18). [Standing Order 21.2(vi) – defective drafting]
3. The amendments made by paragraphs (16) to (18) of regulation 2 add references to UK grades of seed potato to existing references to EU grades. The changes in the Welsh text have been expressed as substitutions of UK and EU grades for EU grades. However, the way it has been done in regulation 2(17)(b)(iii) has resulted in the loss of Union grade S. [Standing Order 21.2(vi) – defective drafting]

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.



Implications arising from exiting the European Union

The following point is identified for reporting under Standing Order 21.3(ii) in respect of this instrument – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.

As is explained in paragraph 4.5 of the Explanatory Memorandum, these Regulations contain transitional provisions that permit seed potatoes from the EU and Switzerland to continue to be marketed etc. for twelve months after the amendments take effect on exit day. Those transitional provisions are removed by regulation 3 at the end of that period.

Government Response

Points 1 and 3 made by the Committee are noted by the Welsh Government. It is accepted that there is an error in the Welsh text of paragraph 8 of Schedule 1 to the 2016 Regulations, and that there is also an error in regulation 2(17)(b)(iii) which has resulted in the loss of "Union grade S' in the Welsh text. Due to the need for this statutory instrument to come into force on exit day, and the limited time available, it is proposed a further SI be brought forward as soon as practicable to amend the Welsh text to address these issues.

Point 2 made by the Committee is noted by the Welsh Government. It is accepted that the cross referencing in regulation 2(15) is incorrect. These references will be updated by way of a correction slip following publication.

Legal Advisers

Constitutional and Legislative Affairs Committee

11 March 2019

