

pN(5)30 – The Seeds (Amendment etc.) (Wales) (EU Exit) Regulations

Background and Purpose

Part 2 of these Regulations is made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 ('the 1972 Act') to implement EU law. Regulation 2 amends the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 ('the Marketing Regulations') to enable the Welsh Ministers to continue to authorise the marketing of fruit plant and propagating material from countries outside the European Union in certain circumstances. Commission Implementing Decision (EU) 2019/120 extended the existing authority to 31 December 2022.

Part 3 of these Regulations is made in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 and comes into force immediately before exit day. Regulation 3 amends the Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2019 to ensure that the amendment made by regulation 2 continues to operate effectively after the withdrawal of the United Kingdom from the European Union.

These Regulations were laid for the purposes of sifting under the EU (Withdrawal) Act 2018 in accordance with Standing Order 27.9A.

Committee Recommendation as to Appropriate Procedure

We have considered the criteria set out in Standing Order 21.3C. We recommend that the appropriate procedure for these Regulations is the affirmative resolution procedure.

As is noted above, the Commission Decision extended the authority to authorise to 31 December 2022. The present Regulations remove the current time limit (31 December 2018) in regulation 5(4) of the Marketing Regulations rather than replacing it with the new date. It does not, therefore, appropriately implement EU law.

That date may not be relevant if Wales is no longer part of the European Union by then. If so, regulation 3 (which comes into force immediately before exit) could have made an appropriate change. As the purpose of section 2(2) of the 1972 Act, which is relied upon for regulation 2, is to implement EU law, that should be done in a manner that is correct on the date the implementing legislation is made.

Government Response

If the Welsh Government does not agree with the Committee's recommendation as to the appropriate procedure for these Regulations, the Welsh Government must explain why it disagrees with the Committee's recommendation in accordance with Standing Order 27.9B.

Legal Advisers

Constitutional and Legislative Affairs Committee
July 2019

