Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Seed Marketing (Wales) Regulations 2012. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2012 No. 245 (W.39)

SEEDS, WALES

The Seed Marketing (Wales) Regulations 2012

Made - - - -	*1 February 2012*
Laid before the National Assembly for Wales - -	*2 February 2012*
Coming into force - -	*27 February 2012*

The Welsh Ministers make these Regulations in exercise of the powers in sections 16(1), (1A), (2), (3), (4), (5) and (5A) and 36 of the Plant Varieties and Seeds Act 1964 [F1], after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to be concerned, and in exercise of the powers in paragraph 1A of Schedule 2 to the European Communities Act 1972 [F2].

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for the references in these Regulations to the Directives specified in regulation 3(2) to be construed as references to those Directives as amended from time to time.

F1 1964 c. 14; section 16 was amended by section 4(1) of, and paragraph 5(1), (2) and (3) of Schedule 4 to, the European Communities Act 1972 (c. 68), S.I. 1977/1112 and section 2 of the Agriculture Act 1986 (c. 49). *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 transfer Order were transferred to the National Assembly for Wales. By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 those functions are exercisable by the Welsh Ministers.

F2 1972 c. 68; paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

PART 1

Introduction

Title, application and commencement

1.—(1) The title of these Regulations is the Seed Marketing (Wales) Regulations 2012.

(2) These Regulations apply in relation to Wales and come into force on 27 February 2012.

Meaning of "marketing"

2.—(1) In these Regulations "marketing" ("*marchnata*") means the sale, holding with a view to sale, offer for sale or any disposal, supply or transfer aimed in each case at commercial exploitation of seed to third parties, whether or not for consideration.

(2) But marketing does not include trade that is not aimed at commercial exploitation, such as—

(a) the supply of seed to official testing and inspection bodies; or

(b) the supply of seed to a person who provides processing services but who does not acquire title to the seed.

Interpretation of other terms

3.—(1) For the purposes of these Regulations—

(a) the "United Kingdom National List" ("*Rhestr Genedlaethol y Deyrnas Unedig*") is the list of plant varieties published by the Secretary of State in accordance with the provisions of the Seeds (National Lists of Varieties) Regulations 2001 [F3];

(b) the "Common Catalogue" ("*Catalog Cyffredin*") is the catalogue provided for in Council Directive 2002/53/EC on the common catalogue of varieties of agricultural plant species [F4] and in Council Directive 2002/55/EC on the marketing of vegetable seed [F5].

[[F6](c) "European Single Market State" ("*Gwladwriaeth y Farchnad Sengl Ewropeaidd*") means an EEA state or Switzerland.**]**

(2) In these Regulations all references to—

(a) Council Directive 2002/54/EC on the marketing of beet seed [F7],

(b) Council Directive 66/402/EEC on the marketing of cereal seed [F8],

(c) Council Directive 66/401/EEC on the marketing of fodder plant seed [F9],

(d) Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants [F10],

(e) Council Directive 2002/55/EC on the marketing of vegetable seed,

(f) Commission Directive 2008/62/EC providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties [F11],

(g) Commission Directive 2009/145/EC providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties [F12], [F13]...

(h) Commission Directive 2010/60/EU providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment [F14], **[**[F15]and

(i) Council Decision 2003/17/EC on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries,**]**

are references to **[**[F16]those instruments**]** as amended from time to time.

F3 S.I. 2001/3510, as amended by S.I. 2004/2949, 2007/1871, 2008/2683, 2009/1273, 2010/1195 and 2011/464.
F4 OJ No L 193, 20.7.2002, p. 1, as last amended by Regulation (EC) No 1829/2003 (OJ No L 268, 18.10.2003, p. 1).
F5 OJ No L 193, 20.7.2002, p. 33, as last amended by Commission Directive 2009/74/EC (OJ No L 166, 27.6.2009, p. 40).
F6 Reg. 3(1)(c) inserted (20.3.2019) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/368), regs. 1(2)(a), **2(2)**
F7 OJ No L 193, 20.7.2002, p. 12, as last amended by Council Directive 2004/117/EC (OJ No L 14, 18.1.2005, p. 18).
F8 OJ No L 125, 11.7.1966, p. 2309, as last amended by Commission Directive 2009/74/EC (OJ No L 166, 27.6.2009, p. 40).
F9 OJ No L 125, 11.7.1966, p. 2298, as last amended by Commission Directive 2009/74/EC (OJ No L 166, 27.6.2009, p. 40).
F10 OJ No L 193, 20.7.2002, p. 74, as last amended by Commission Directive 2009/74/EC (OJ No L 166, 27.6.2009, p. 40).
F11 OJ No L 162, 21.6.2008, p. 13.
F12 OJ No L 312, 27.11.2009, p. 44.
F13 Word in reg. 3(2)(g) omitted (10.5.2013) by virtue of The Seed Marketing (Wales) (Amendment) Regulations 2013 (S.I. 2013/889), regs. 1, **3(a)**
F14 OJ No L 228, 31.8.2010, p. 10.
F15 Reg. 3(2)(i) and word inserted (10.5.2013) by The Seed Marketing (Wales) (Amendment) Regulations 2013 (S.I. 2013/889), regs. 1, **3(b)**
F16 Words in reg. 3(2) substituted (10.5.2013) by The Seed Marketing (Wales) (Amendment) Regulations 2013 (S.I. 2013/889), regs. 1, **3(c)**

PART 2

Categories of seed

Seed to which these Regulations apply

4.—(1) These Regulations apply in relation to seed of the plants in the first column of the table in Schedule 1 intended to be used for agricultural or horticultural production, but do not apply in relation to seed intended to be used for ornamental plants.

(2) These Regulations do not apply in relation to seed intended for export outside the European Union (other than regulation 26 which relates to certification for export).

Categories of seed

5. Seed is divided into the following categories, commonly known by the abbreviations given—

(a) breeder's seed ("BR");

(b) pre-basic seed ("PB");

(c) basic seed ("BS");

(d) certified seed ("CS");

(e) certified seed, first generation ("C1");

(f) certified seed, second generation ("C2");

(g) certified seed, third generation ("C3");

(h) commercial seed ("CM");

(i) standard seed (vegetables only) ("ST");

(j) seed of a higher voluntary standard ("HVS").

Breeder's seed

6. Breeder's seed is seed produced by or under the responsibility of the breeder and intended for the production of pre-basic seed or basic seed.

Maintainers for pre-basic and basic seed

7. Pre-basic seed and basic seed may only be produced with the written authorisation of the person listed as the maintainer of that seed in the United Kingdom National List or the Common Catalogue.

PART 3

Marketing seed

Marketing seed

8. Seed to which these Regulations apply may only be marketed as seed if it is—

(a) certified under regulations 10 and 11 as being one of the categories in regulation 5;

(b) packaged and sealed in accordance with regulation 16;

(c) labelled in accordance with regulation 17;

(d) marketed by a person licensed to do so in accordance with regulation 20.

Exceptions

9.—(1) The requirement for certification does not apply in relation to breeder's seed.

(2) Schedule 4 makes provision for the marketing of seed not fully complying with regulation 8.

Overriding requirements for certification

10. To be certified under these Regulations as one of the categories in regulation 5 seed must—

(a) be a variety entered in the United Kingdom National List or the Common Catalogue;

(b) be grown from a seed eligible to produce that category in accordance with Schedule 2;

(c) come from a crop inspected under these Regulations and certified as complying with the requirements of Schedule 2;

(d) be tested in accordance with these Regulations.

Detailed requirements for certification

11.—(1) In order to be certified a sample of the seed from which the crop is going to be produced must be entered with the Welsh Ministers in sufficient time for the Welsh Ministers to grow a control plot.

(2) The Welsh Ministers may accept the entry of a sample of the seed after this time, but in this case the crop grown to produce the seed must be inspected by an official crop inspector in accordance with regulation 12.

(3) The crop used to produce the seed must be inspected by a crop inspector in accordance with the provisions relating to that crop in Schedule 2, and the crop inspector must certify that—

(a) the crop meets the standard for that crop specified in Schedule 2, or

(b) the crop meets a lower standard but still meets one of the standards in Schedule 2,

and lodge a report to that effect with the Welsh Ministers.

(4) The crop inspector may indicate that remedial action or further inspection is necessary before the crop is certified as meeting the required standard.

(5) Once the crop has been harvested and processed, a sample of the seed must be taken by a licensed seed sampler (using current international sampling methods in so far as they exist) in accordance with the provisions relating to that crop in Schedule 2 (for the avoidance of doubt the seed lot sizes and sample weights are specified in each of the Directives in that Schedule dealing with the seed).

(6) The seed must be tested in a seed testing station (either licensed or operated by the Welsh Ministers), which must test the seed (using current international sampling and testing methods in so far as they exist) to ensure that the certification standards in Schedule 2 are complied with and issue a seed test report stating the results and lodge the report with the Welsh Ministers.

Crop inspections

12. A crop inspection for certification must be carried out by a licensed crop inspector; except for the inspection of—

(a) a crop intended for the production of pre-basic or basic seed, or

(b) a crop producing seed when the entry of the seed under regulation 11 was too late to allow the Welsh Ministers to grow a control plot,

when the inspection must be carried out by an official crop inspector appointed by the Welsh Ministers for the purposes of such inspection.

Standard of seed at the time of marketing

13. At the time of marketing the seed must as a minimum comply with the standards in Schedule 2 relating to that type of seed.

Re-grading a crop or seed

14. For the avoidance of doubt, if a crop or seed has been certified as belonging to one category, but complies with the requirements of another category for that seed, it may be re-graded as any category for which it satisfies the requirements.

Control plots and tests

15.—(1) The Welsh Ministers must carry out any necessary tests on the entered seed, and in particular must grow the seed in a control plot.