WELSH STATUTORY INSTRUMENTS

2007 No. 2747 (W.230)

SEEDS, WALES

The Seed (Miscellaneous Amendments) (Wales) Regulations 2007

Made - - - -	*17 September 2007*
Laid before the National Assembly for Wales - -	*18 September 2007*
Coming into force - -	*11 October 2007*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4) and (5) and 36 of the Plant Varieties and Seeds Act 1964 and now vested in them(**1**).

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

Title and commencement

1. The title of these Regulations is the Seed (Miscellaneous Amendments) (Wales) Regulations 2007 and they come into force on 11 October 2007.

Amendment of the Beet Seed (Wales) Regulations 2005

2.—(1) The Beet Seed (Wales) Regulations 2005(**2**) are amended as follows.

(2) In regulation 2(1)—

(a) in the definition of "equivalent third country" omit "Bulgaria" and "Romania"; and

(b) for the definition of "the Third Country Equivalence Decision", substitute—

(**1**) 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. See section 31(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 2, 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(1) 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.

(**2**) S.I. 2005/3037 (W.225) amended by S.I. 2007/119 (W.9).

""the Third Country Equivalence Decision" means 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;"(**3**).

(3) In regulation 18(2)(b) for "the seed satisfies" substitute "the crop satisfies".

(4) In regulation 23—

(a) for paragraph (5) substitute—

"(5) A package of officially certified pre-basic seed must be labelled—

(a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 4 to 7 of Schedule 8;

(b) in the case of a package of seed sealed—

(i) in the United Kingdom, elsewhere than in Wales, or

(ii) in another member State,

in accordance with the provisions of Article 21(c) of the Beet Seed Directive; and

(c) in the case of a package of seed sealed in an equivalent third country, in accordance with the provisions of paragraphs 1 and 3 of Part B of Annex II to the Third Country Equivalence Decision."; and

(b) in paragraph (13) after "paragraph" insert "3A,".

(5) In Part I of Schedule 1—

(a) after paragraph 3 insert—

"**Third country officially certified pre-basic seed of a listed variety**

3A.—(1) In these Regulations "third country officially certified pre-basic seed of a listed variety" means seed to which sub-paragraph (2) or (4) applies.

(2) This sub-paragraph applies to pre-basic seed of a listed variety—

(a) that was harvested from a crop that was produced—

(i) in an equivalent third country; and

(ii) from a preceding generation of seed that was produced in accordance with the provisions applicable to basic seed specified in paragraph 5 of Part B of Annex II to the Third Country Equivalence Decision;

(b) that has been officially certified as pre-basic seed by the approved seed certification authority in that country in accordance with the OECD Beet Seed Scheme and the conditions specified in paragraphs 1 and 2 of Part B of Annex II to the Third Country Equivalence Decision;

(c) that has been packed in packages that have been officially closed and marked in accordance with the OECD Beet Seed Scheme and, as regards the packaging, in accordance with the relevant conditions specified in paragraph 3 of Part B of Annex II to the Third Country Equivalence Decision; and

(d) that has been imported into the United Kingdom accompanied by the appropriate documentation.

(**3**) OJ No. L 8, 14.1.2003, p 10, as last amended by Council Decision 2005/834/EC (OJ No. L 312, 29.11.2005, p. 51).

(3) For the purposes of sub-paragraph (2)(d), the appropriate documentation is—

(a) in a case where the seed has been certified in the United States of America, a Lot Inspection Certificate issued by the Official Seed Testing Laboratory under the authority of the State Seed Testing Agency showing that it has been found to satisfy those conditions; and

(b) in all other cases—

(i) an OECD Certificate issued by the approved seed certification authority in respect of the seed lot from which the seed was taken approving the seed in that lot as pre-basic seed; and

(ii) an Orange or Green International Seed Lot Certificate issued under the Rules of ISTA showing that it has been found to satisfy the relevant Directive seed conditions for pre-basic seed other than those relating to varietal identity and varietal purity.

(4) This sub-paragraph applies to pre-basic seed—

(a) of a previously listed variety that is on the OECD List and for which a marketing extension is in force; and

(b) that complies with sub-paragraph (2)(a) to (d).";

(b) for paragraph 7 substitute—

"**Officially certified pre-basic seed**

7. In these Regulations "officially certified pre-basic seed" means—

(a) UK officially certified pre-basic seed of a listed variety;

(b) EC officially certified pre-basic seed of a listed variety;

(c) third country officially certified pre-basic seed of a listed variety;

(d) overseas tested officially certified pre-basic seed of a listed variety;

(e) UK officially certified early movement pre-basic seed of a listed variety; and

(f) EC officially certified early movement pre-basic seed of a listed variety.".

(6) In Schedule 5 in column (1) of the table, in the entry numbered 1, after "EC" insert ", third country".

(7) In Schedule 6 after paragraph 3 insert—

"**3A.** Third country officially certified pre-basic seed of a listed variety.".

(8) In Schedule 10 in the table, after the row containing the entry for "third country officially certified CS seed of a listed variety" insert the following row—

"third country officially certified pre-basic seed of a listed variety	Paragraph 3A of Schedule 1"

Amendment of the Cereal Seed (Wales) Regulations 2005

3.—(1) The Cereal Seed (Wales) Regulations 2005(**4**) are amended as follows.

(**4**) S.I. 2005/3036 (W.224), as amended by S.I. 2007/119 (W.9).

(2) In regulation 2(1)—

(a) in the definition of "equivalent third country" omit "Bulgaria" and "Romania"; and

(b) for the definition of "the Third Country Equivalence Decision" substitute—

""the Third Country Equivalence Decision" means 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;".

(3) In regulation 13(3)(a)(i), (5)(c), (d) and (e)(ii) after "EC" insert ", third country".

(4) In regulation 20(2)(b)(i) and (ii), for "the seed satisfies" substitute "the crop satisfies".

(5) In regulation 26—

(a) for paragraph (6) substitute—

"(6) A package of officially certified pre-basic seed, other than a small package of such seed sealed in the United Kingdom, shall be labelled—

(a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 5 to 8 of Schedule 8;

(b) in the case of a package of seed sealed—

(i) in the United Kingdom, elsewhere than in Wales, or

(ii) in another member State,

in accordance with the provisions of Article 14a(c) of the Cereal Seed Directive; and

(c) in the case of a package of seed sealed in an equivalent third country, in accordance with the provisions of paragraphs 1 and 3 of Part B of Annex II to the Third Country Equivalence Decision."; and

(b) in paragraph (17) after "paragraph" insert "3A, 8A,".

(6) In Part I of Schedule 1—

(a) after paragraph 3 insert—

"**Third country officially certified pre-basic seed of a listed variety**

3A.—(1) In these Regulations "third country officially certified pre-basic seed of a listed variety" means seed of an approved species to which sub-paragraph (2) or (4) applies.

(2) This sub-paragraph applies to pre-basic seed of a listed variety—

(a) that was harvested from a crop that was produced—

(i) in an equivalent third country; and

(ii) from a preceding generation of seed that was produced in accordance with the provisions applicable to basic seed specified in paragraph 5 of Part B of Annex II to the Third Country Equivalence Decision;

(b) that has been officially certified as pre-basic seed by the approved seed certification authority in that country in accordance with—

(i) in the case of seed other than maize, the OECD Cereal Seed Scheme;

(ii) in the case of maize, the OECD Maize and Sorghum Seed Scheme; and

(iii) in both cases, the conditions specified in paragraphs 1 and 2 of Part B of Annex II to the Third Country Equivalence Decision;

(c) that has been packed in packages that have been officially closed and marked in accordance with—

(i) in the case of seed other than maize, the OECD Cereal Seed Scheme;

(ii) in the case of maize, the OECD Maize and Sorghum Seed Scheme;

and, as regards the packaging, in accordance with the relevant conditions specified in paragraph 3 of Part B of Annex II to the Third Country Equivalence Decision; and

(d) that has been imported into the United Kingdom accompanied by the appropriate documentation.

(3) For the purposes of sub-paragraph (2)(d), the appropriate documentation is—

(a) in a case where the seed has been certified in Canada or the United States of America, a Lot Inspection Certificate issued by the Official Seed Testing Laboratory under the authority of the State Seed Testing Agency showing that it has been found to satisfy those conditions; and

(b) in all other cases—

(i) an OECD Certificate issued by the approved seed certification authority in respect of the seed lot from which the seed was taken approving the seed in that lot as pre-basic seed; and

(ii) an Orange or Green International Seed Lot Certificate issued under the Rules of ISTA showing that it has been found to satisfy the relevant Directive seed conditions for pre-basic seed other than those relating to varietal identity and varietal purity.

(4) This sub-paragraph applies to pre-basic seed—

(a) of a previously listed variety that is on the OECD List and for which a marketing extension is in force; and

(b) that complies with sub-paragraph (2)(a) to (d).";

(b) after paragraph 8 insert—

"**Third country officially certified pre-basic seed of a component used in the production of a listed hybrid variety**

8A.—(1) In these Regulations "third country officially certified pre-basic seed of a component used in the production of a listed hybrid variety" means pre-basic seed of an approved species to which sub-paragraph (2) or (4) applies.

(2) This sub-paragraph applies to pre-basic seed of a component used in the production of a listed hybrid variety—

(a) that was harvested from a crop that was produced—

(i) in an equivalent third country; and

(ii) from a preceding generation of seed that was produced in accordance with the provisions applicable to basic seed specified in paragraph 5 of Part B of Annex II to the Third Country Equivalence Decision;