WELSH STATUTORY INSTRUMENTS

2007 No. 119 (W.9)

SEEDS, WALES

The Seed (Wales) (Amendments for Tests and Trials etc.) Regulations 2007

Made - - - -	*23 January 2007*
Coming into force - -	*31 January 2007*

The National Assembly for Wales, in exercise of the powers conferred by sections 16(1), (1A), (2), (3) and (5) and 36 of the Plant Varieties and Seeds Act 1964(**1**) and now vested in it, makes the following Regulations.

In accordance with section 16(1) of that Act it has consulted with representatives of such interests as appear to him to be concerned.

Title and commencement and application

1. The title of these regulations is the Seed (Wales) (Amendments for Tests and Trials etc.) Regulations 2007 and they come into force on 31 January 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) after "In these Regulations—", insert the following definition—

> ""the 2004 Commission Decision" means Commission Decision 2004/842/EC concerning implementing rules whereby member States may authorise the placing on the market of seed belonging to varieties for which an application for entry

(**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, S.I. 1977/1112 and section 2 of the Agriculture Act 1986; *see* section 38(1) for a definition of "the Secretary of State". 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. Under the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I.2002/794) 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 England, transferred to the Secretary of State.

(**2**) S.I. 2005/3037 (W.225).

in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted(**3**);"; and

(b) after the definition of "sugar beet" insert the following definition—

""test and trial seed" means seed which is the subject of a regulation 18 authorisation;".

(3) For regulation 18 substitute the following regulation—

"**Exception for test and trial seed**

18.—(1) The prohibition in regulation 14(1) shall not apply to the marketing by a producer of seed for test and trial purposes in accordance with—

(a) an authorisation which has been granted to the producer by the National Assembly in accordance with this regulation; or

(b) an authorisation which has been granted to the producer by or on behalf of—

(i) the Secretary of State;

(ii) the Scottish Ministers;

(iii) the Department of Agriculture and Rural Development; or

(iv) a competent seed certification authority in another member State,

in accordance with Article 2(1) of the 2004 Commission Decision.

(2) No producer shall market test and trial seed—

(a) except for the purposes of tests or trials carried out at agricultural enterprises to gather information on the cultivation or use of a variety of a beet species specified in Schedule 2;

(b) unless a field inspection report has been issued by the National Assembly or by a licensed crop inspector stating that the seed satisfies the conditions for CS seed laid down in Schedule 3;

(c) unless a seed test report has been issued by the National Assembly or by a licensed seed testing station stating that the seed satisfies the conditions for CS seed laid down in Schedule 4; or

(d) if such marketing would contravene a prohibition on the use of the variety published by the National Assembly in the gazette that complies with Article 14 of the 2004 Commission Decision.

(3) A producer of seed established in Wales may apply to the National Assembly for the grant or renewal of a regulation 18 authorisation.

(4) A regulation 18 authorisation granted by the National Assembly shall last for a period of one year or such shorter period as the National Assembly may specify.

(5) An application for authorisation or renewal of a regulation 18 authorisation shall be made in writing to the National Assembly and shall be accompanied by such information as the National Assembly may require.

(6) The National Assembly shall not grant a regulation 18 authorisation unless it is satisfied that—

(a) the seed is of a variety for which an application has been made by the producer under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001(**4**) for

(**3**) OJ L 362, 9.12.2004, p21.
(**4**) S.I. 2001/3510 as amended by S.I. 2004/2949

acceptance on to a National List and which application has not been withdrawn or finally determined; and

(b) in the case of seed of a genetically modified variety, an authorisation is in force in respect of the variety under either—

(i) Part C of the Deliberate Release Directive; or

(ii) the Food and Feed Regulation.

(7) The National Assembly shall not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.

(8) A regulation 18 authorisation may impose such conditions as the National Assembly may think necessary or desirable having regard to the nature of the test or trial and the nature of the seed to which the authorisation relates.

(9) The National Assembly may withdraw a regulation 18 authorisation where there is a breach of any condition referred to in paragraph (8).

(10) A regulation 18 authorisation shall cease to have effect where the application referred to in paragraph (6)(a) is withdrawn or rejected or the variety is entered in a National List or the Common Catalogue.

(11) The National Assembly may require a producer to whom it has granted a regulation 18 authorisation to provide it with information about—

(a) the results of the tests and trials to which the authorisation relates; or

(b) the quantities of seed marketed during the authorised period and the name of the member State for which the seed was destined.

(12) A producer to whom a regulation 18 authorisation has been granted must, within such period as is specified by the National Assembly, lodge copies of the reports referred to in paragraphs (2)(b) and (c) with it.".

(4) In regulation 20(1) and (6), for "regulation 5, 10 or 12", substitute "regulation 5, 10, 12 or 18".

(5) In regulation 21—

(a) in paragraph (2), for "or CS seed" substitute ", CS or test and trial seed";

(b) in paragraph (3), for "Paragraph (2)" substitute "Except in relation to test and trial seed, paragraph (2)"; and

(c) after paragraph (8), insert—

"(9) In this regulation, in the case of test and trial seed, a "properly sealed package" means—

(a) in the case of a package of seed sealed in Wales, a package of seed that has been sealed—

(i) by a person to whom regulation 22(5) applies;

(ii) using a non-reusable sealing system or some other sealing system that includes the use of an official label or the affixing of an official seal; and

(iii) in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the official label or package; and

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

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

(ii) another member State,

a package of seed that has been sealed in accordance with the provisions of Article 8 of the 2004 Commission Decision.".

(6) In regulation 22, after paragraph (4), insert—

"(4A) No person shall seal or reseal a package of test and trial seed except a person to whom paragraph (5) applies.".

(7) In regulation 23—

(a) in paragraph (1), for "or CS seed" insert ", CS seed or test and trial seed";

(b) in paragraph (3), after "A person may market any seeds" insert ", other than test and trial seed";

(c) after paragraph (9), insert—

"(9A) A package of test and trial seed must be labelled—

(a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 16, 17 and 18 of Schedule 8; and

(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 9 of the 2004 Commission Decision.";

(d) in paragraph (11), for "or CS seed", substitute ", CS seed or test and trial seed"; and

(e) in paragraph (11)(b)(ii), for "or (7)" substitute ", (7) or (9A)".

(8) In Schedule 8, after Part IV insert—

"PART V

Labelling of Packages of Test and Trial Seed

Official label for a package of test and trial seed

16. The package must be labelled, not later than the time of sealing, on the outside with an official label which has not previously been used containing the following particulars—

(a) the name of the certifying authority and member State or their distinguishing abbreviations;

(b) the reference number of the lot;

(c) the month and year of sealing;

(d) the species;

(e) the denomination of the variety under which the seed is to be marketed (which may be the breeder's reference, the proposed denomination or the approved denomination) and the official application number for listing the variety, if any;

(f) the statements "variety not yet officially listed" and "for tests and trials only";

(g) the declared net or gross weight or declared number of pure seeds or, where applicable, clusters; and

(h) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and the approximate ratio between the weight of pure seeds or, where applicable, clusters and the total weight.

17. The label referred to in paragraph 16 must be coloured orange.

18. The label referred to in paragraph 16 must be—

(a) adhesive; and

(b) affixed to the package by—

(i) an authorised officer or any person being supervised by such a person; or

(ii) a licensed seed sampler or any person being supervised by such a person.".

(9) In Schedule 10—

(a) before the entry for "the Act" insert the following entry—

"the 2004 Commission Decision Regulation 2(1)"; and

(b) after the entry for "sugar beet" insert the following entry—

"test and trial seed	Regulation 2(1)".

Amendment of the Cereal Seed (Wales) Regulations 2005

3.—(1) The Cereal Seed (Wales) Regulations 2005(**5**) are amended as follows.

(2) In regulation 2(1)—

(a) after "In these Regulations—", insert the following definition—

""the 2004 Commission Decision" means Commission Decision 2004/842/EC concerning implementing rules whereby member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted;"; and

(b) after the definition of "small package" insert the following definition—

""test and trial seed" means seed which is the subject of a regulation 20 authorisation;".

(3) For regulation 20 substitute the following regulation—

"**Exception for test and trial seed**

20.—(1) The prohibition in regulation 15(1) does not apply to the marketing by a producer of seed for test and trial purposes in accordance with—

(a) an authorisation which has been granted to the producer by the National Assembly in accordance with this regulation; or

(b) an authorisation which has been granted to the producer by or on behalf of—

(i) the Secretary of State;

(ii) the Scottish Ministers;

(iii) the Department of Agriculture and Rural Development; or

(iv) a competent seed certification authority in another member State,

in accordance with Article 2(1) of the 2004 Commission Decision.

(2) A producer cannot market test and trial seed—

(**5**) S.I. 2005/3036 (W.224)