WELSH STATUTORY INSTRUMENTS

2006 No. 2929 (W.264)

SEEDS, WALES

The Seed Potatoes (Wales) Regulations 2006

Made - - - -	*7 November 2006*
Coming into force - -	*15 November 2006*

The National Assembly for Wales makes 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(**1**) and now vested in it(**2**).

In accordance with section 16(1) of that Act it has consulted with representatives of such interests as appear to it to be concerned by the following Regulations:

Title, commencement and application

1.—(1) These title of these Regulations is the Seed Potatoes (Wales) Regulations 2006 and these Regulations come into force on 15 November 2006.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"the Act"("*y Ddeddf*") means the Plant Varieties and Seeds Act 1964;

"authorised officer"("*swyddog awdurdodedig*") means an officer of the National Assembly or a person authorised by the National Assembly for any purpose in connection with these Regulations;

"basic seed potatoes" ("*tatws hadyd sylfaenol*") means seed potatoes which—

(a) in relation to seed potatoes produced in Wales, are seed potatoes intended mainly for the production of certified seed potatoes and which have been certified as basic seed potatoes in accordance with regulation 9; and

(**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 (c. 49); see section 38(1) for a definition of "*the Minister*".

(**2**) Under Article 2 and Schedule 1 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964, which were transferred to the Secretary of State by the Transfer of Functions (Wales) (No 1) Order 1978 (S.I. 1978/272), were transferred to the National Assembly for Wales.

(b) in relation to seed potatoes produced outside Wales, are seed potatoes brought into Wales in a package or container which bears an official label for basic seed potatoes in accordance with Article 13(1)(a) of the Directive;

"category"("*categori*") means the category of pre-basic seed potatoes, basic seed potatoes, or certified seed potatoes (or, in relation to seed potatoes produced in Switzerland, the categories having equivalent effect under the legislation of the Swiss Confederation in accordance with the Swiss trade agreement);

"certification"("*ardystio*") means—

(a) in relation to seed potatoes produced in Wales, certification in accordance with regulation 9; and

(b) in relation to seed potatoes produced outside Wales, certification by the Certification Authority in accordance with the Directive;

and "certified"("*ardystiedig*") is to be construed accordingly;

"Certification Authority" ("*Awdurdod Ardystio*") means the authority concerned with the certification of seed potatoes in the country or territory where the seed potatoes were produced;

"certified seed potatoes" ("*tatws hadyd ardystiedig*") means seed potatoes which—

(a) in relation to seed potatoes produced in Wales, are intended mainly for the production of potatoes other than seed potatoes and which have been certified as certified seed potatoes in accordance with regulation 9; and

(b) in relation to seed potatoes produced outside Wales, are seed potatoes brought into Wales in a package or container which bears an official label for certified seed potatoes in accordance with Article 13(1)(a) of the Directive;

"class" ("*dosbarth*") means—

(a) in relation to seed potatoes produced in Wales, the class or Community Grade determined—

(i) in the course of certification, or

(ii) under the Seed Potatoes Regulations 1991(**3**),

(b) in relation to seed potatoes produced outside Wales, the class or grade, if any, specified in the official label affixed to the package or container in which the seed potatoes are brought into Wales or in any official document contained in that package or container;

and "classification" ("*dosbarthiad*"), "classify" ("*dosbarthu*") and "classified" ("*wedi'i ddosbarthu*") are to be construed accordingly; and

"Common Catalogue" ("*Catalog Cyffredin*") means the common catalogue of varieties of species of agricultural plants published in the Official Journal of the European Communities;

"Community Grade" ("*Gradd Gymuned*") means one of the grades of basic seed potatoes (EC grade 1, EC grade 2 or EC grade 3) determined by Commission Directive 93/17/EEC of 30 March 1993 determining Community grades of basic seed potatoes, together with the conditions and designations applicable to such grades(**4**);

"Deliberate Release Directive" ("*Cyfarwyddeb Gollyngiadau Bwriadol*") means Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate

(**3**) S.I. 1991/2206; relevant amending instruments are S.I. 1992/1031, S.I. 1993/1878, S.I. 1994/2592, S.I. 1997/1474 and S.I. 2000/1788.

(**4**) OJ L106, 30.4.1993, p7. The grades of EEC grade 1, EEC grade 2 and EEC grade 3 stated in Commission Directive 93/17/EEC are now referred to as EC grade 1, EC grade 2 and EC grade 3 respectively: references in Article 1 of Commission Decision of 19 December 2003 authorising, in respect of the marketing of seed potatoes in all or part of the territory of certain member States, more stringent measures against certain diseases than are provided for in Annexes I and II to Council Directive 2002/56/EC (OJ L2, 6.1.2004, p47).

release into the environment of genetically modified organisms(**5**), as amended by amendments up to and including those effected by Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and traceability of food and feed products produced from genetically modified organisms(**6**);

"the Directive" ("*y Gyfarwyddeb*") means Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes(**7**), as amended by Commission Decision 2003/66/EC of 28 January 2003(**8**) and Council Directive 2003/61/EC of 18 June 2003(**9**);

"Food and Feed Regulation" ("*Rheoliad Bwyd a Bwyd Anifeiliaid*") means Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed(**10**);

"genetically modified" ("*wedi'i addasu'n enetig*") has the same meaning as in the Deliberate Release Directive;

"grade" ("*gradd*") includes Community Grade;

"growing crop certificate" ("*tystysgrif cnwd sy'n tyfu*") means—

(a) a growing crop certificate issued by the National Assembly in accordance with Schedule 1;

(b) a pre-basic seed potatoes certificate issued by the National Assembly in accordance with the Seed Potatoes Regulations 1991;

(c) a basic seed potatoes certificate issued by the National Assembly in accordance with the Seed Potatoes Regulations 1991; or

(d) a certified seed potatoes certificate issued by the National Assembly in accordance with the Seed Potatoes Regulations 1991;

"lot" ("*lot*") for the purposes of regulations 6(2) and (3) and 10 means a consignment or an identifiable part of a consignment which is recorded and listed as a separate item in an invoice, delivery note or other document provided in accordance with regulation 16;

"marketing" ("*marchnata*") means—

(a) selling, holding with a view to sale or offering for sale; and

(b) any disposal, supply or transfer for the purpose of commercial exploitation of seed potatoes to third parties,

whether or not for consideration and for these purposes "commercial exploitation" ("*defnydd masnachol*") is not to be taken to include the supply of seed potatoes to official testing and inspection bodies, or the supply of seed potatoes to any person for the purpose of processing or packaging them provided he or she does not acquire title to the seed potatoes supplied; and "market" ("*marchnata*") and "marketed" ("*wedi'i farchnata*") are to be construed accordingly;

"National Assembly"("*Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"National List" ("*Rhestr Genedlaethol*")means a list of varieties of potato species prepared and published—

(a) in accordance with regulation 3 of the Seeds (National Lists of Varieties) Regulations 2001(**11**); or

(**5**) OJ L 106, 17.4.2001, p1.
(**6**) OJ L 268, 18.10.2003, p24.
(**7**) OJ L 193, 20.7.2002, p60.
(**8**) OJ L 25, 30.1.2003, p42.
(**9**) OJ L 165, 3.7.2003, p23.
(**10**) OJ L 268, 18.10.2003, p1.
(**11**) S.I. 2001/3510.

(b) by a member State other than the United Kingdom pursuant to Article 3 of Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species(**12**) as amended by the Food and Feed Regulation;

"official document" ("*dogfen swyddogol*") means—

(a) for seed potatoes produced in Wales, a document issued or approved by the National Assembly which meets the requirements of Part II of Schedule 2; and

(b) for seed potatoes produced outside Wales, a document issued or approved by the Certification Authority in the country or territory where the seed potatoes were produced which meets the requirements of Article 13(1)(b) of the Directive;

"official examination" ("*archwiliad swyddogol*") means an examination or inspection conducted by an authorised officer, including one conducted by way of sample;

"official label" ("*label swyddogol*") means—

(a) for seed potatoes produced in Wales, a label issued or approved by the National Assembly which has not been previously used and which meets the requirements of Part I of Schedule 2; and

(b) for seed potatoes produced outside Wales, a label issued or approved by the Certification Authority in the country or territory where the seed potatoes were produced which meets, as appropriate to the seed potatoes to which the label relates, the requirements of Article 13(1)(a) or Article 18(f) of the Directive or Article 9 of Commission Decision 2004/842/EC of 1 December 2004 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(**13**);

"package or container" ("*pecyn neu gynhwysydd*") means—

(a) any package which has not been previously used for any purpose and is capable of being closed and sealed; or

(b) any container which has not been previously used for any purpose or which, since having been previously used, has been cleaned and disinfected provided that the use of any container in respect of seed potatoes produced in Wales must be subject to the approval of the National Assembly;

"potato" ("*taten*") means any tuber or part thereof or any plant or part thereof of Solanum tuberosum L. or other tuber-forming species or hybrids of Solanum;

"pre-basic seed potatoes" ("*tatws hadyd cyn-sylfaenol*") means seed potatoes which—

(a) in relation to seed potatoes produced in Wales, are intended mainly for the production of basic seed potatoes and which have been certified as pre-basic seed potatoes in accordance with regulation 9; and

(b) in relation to seed potatoes produced outside Wales, are seed potatoes brought into Wales in a package or container which bears an official label for pre-basic seed potatoes in accordance with Article 18(f) of the Directive;

"premises" ("*mangre*") includes any land or building, other than a private dwelling house, and any fixed or moveable structure, vehicle, vessel, aircraft, hovercraft or freight container;

"protected region" ("*rhanbarth sydd wedi'i ddiogelu*") means the county of Cumbria, excluding the districts of Barrow-in-Furness and South Lakeland, and the county of Northumberland, excluding the districts of Blyth Valley and Wansbeck;

(**12**) OJ L 193, 20.7.2002, p1.
(**13**) OJ L 362, 9.12.2004, p21.

"seed potatoes" ("*tatws hadyd*") means—

(a) potatoes which bear that description or any description indicating their suitability for planting and propagation and which are capable of being used for planting and propagation; or

(b) any potatoes that are intended to be used for planting and propagation;

"seed potatoes produced outside Wales" ("*tatws hadyd a gynhyrchir y tu allan i Gymru*") means—

(a) seed potatoes produced in any part of the British Islands other than Wales;

(b) seed potatoes produced in any member State other than the United Kingdom; or

(c) seed potatoes produced in Switzerland;

"Swiss trade agreement" ("*cytundeb masnach y Swistir*") means the Agreement between the European Community and the Swiss Confederation on trade in agricultural products(**14**), as amended by amendments up to and including Commission Decision 2004/660/EC(**15**);

"test and trial seed potatoes" ("*tatws hadyd sydd i'w profi a'u treialu*") means seed potatoes which—

(a) in relation to seed potatoes produced in Wales, are seed potatoes which have been authorised by the National Assembly for marketing for test and trial purposes in accordance with regulation 8; and

(b) in relation to seed potatoes produced outside Wales, are seed potatoes brought into Wales in a package or container which bears an official label in accordance with Article 9 of Commission Decision 2004/842/EC.

(2) In relation to seed potatoes produced in Switzerland, any reference in these Regulations to the Directive or Commission Decision 2004/842/EC or any provision thereof is to be construed as a reference to the legislation of the Swiss Confederation having equivalent effect in accordance with the Swiss trade agreement.

(3) Any reference in these Regulations to a tolerance in relation to seed potatoes comprised in a sample is to be construed—

(a) in relation to a tolerance for any disease, pest or damage specified in Schedule 3, as a reference to the proportion of the weight of seed potatoes in the sample affected by the disease, pest or damage, or any combination of such disease, pest or damage, in relation to the total weight of the sample, expressed as a percentage;

(b) in relation to a tolerance for dirt or other extraneous matter specified in Schedule 3, as a reference to the proportion of the weight of such matter in relation to the total weight of the sample, expressed as a percentage; and

(c) in relation to a tolerance for a deviation or disease specified in the tables in Schedule 4, as a reference to the number of plants of seed potatoes affected by the deviation or disease in relation to the total number of plants in the sample, expressed as a percentage.

(4) For the purposes of Schedule 1, "agricultural unit" ("*uned amaethyddol*") has the meaning assigned to that expression in section 109(2) of the Agriculture Act 1947(**16**).

(5) Expressions in these Regulations which are not defined in this regulation or elsewhere in these Regulations and which appear in the Directive or Commission Decision 2004/842/EC have the same meaning in these Regulations as they have in the Directive or that Decision.

(**14**) OJ L 114, 30.4.2002, p166. This, together with six other Agreements with the Swiss Confederation, was approved by the Council and the Commission by way of Council and Commission Decision 2002/309/EC, Euratom, OJ L 114, 30.4.2002, p1.
(**15**) OJ L 301, 28.9.2004, p55.
(**16**) 1947 c. 48.