
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 in

(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 \(W.225\)](#).

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)”;
- (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)”;
 - (b) after the entry for “sugar beet” insert the following entry—

“test and trial seed	Regulation 2(1)”.
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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;”;
 - (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—

- (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 cereal 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—
 - (i) for the following varieties, the seed satisfies the conditions for CS seed laid down in Schedule 3—
 - (aa) rye and maize (including hybrids of rye and maize); and
 - (bb) hybrids of barley, durum wheat, oats, spelt wheat, triticale other than self-pollinating varieties and wheat; and
 - (ii) for non-hybrid varieties of barley, durum wheat, oats, self-pollinating triticale, spelt wheat and wheat, the seed satisfies the conditions for C2 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—
 - (i) for the following varieties, the seed to which the application relates has been found to meet the conditions for CS seed laid down in Schedule 4—
 - (aa) rye and maize (including hybrids of rye and maize); and
 - (bb) hybrids of barley, durum wheat, oats, spelt wheat, triticale other than self-pollinating varieties and wheat; and
 - (ii) for non-hybrid varieties of barley, durum wheat, oats, self-pollinating triticale, spelt wheat and wheat, the seed satisfies the conditions for C2 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 20 authorisation.
- (4) A regulation 20 authorisation granted by the National Assembly will 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 20 authorisation must be made in writing to the National Assembly and be accompanied by such information as the National Assembly may require.
- (6) The National Assembly will not grant a regulation 20 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 for 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 will not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.

(8) A regulation 20 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 Assembly may vary, suspend, revoke or add conditions to authorisations to which paragraph (1) applies by service of a notice on the producer.

(10) Where an authorisation to which paragraph (1) applies has been granted, the marketing by a producer of seed for test and trial purposes shall be in accordance with the conditions attached to that authorisation, whether granted by the Assembly or, subject to paragraph (9), any other competent seed certification authority in the United Kingdom or in another member State.

(11) The Assembly may revoke or suspend an authorisation that has effect in Wales by virtue of this regulation by service of a notice in writing on the producer concerned, and where such a notice has been served, marketing of seed for test and trial purposes may only be authorised subsequently by the National Assembly for Wales in accordance with this regulation.

(12) A regulation 20 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.

(13) The National Assembly may require a person to whom it has granted a regulation 20 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.

(14) A producer to whom a regulation 20 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 23(1) and (6) for “regulation 6, 11 or 13”, substitute “regulation 6, 11, 13 or 20”.

(5) In regulation 24—

(a) after paragraph (2)(c), insert—

“; or

(d) test and trial seed”;

(b) in paragraph (3), for “Paragraph (2)” substitute “Paragraph (2)(a), (b) and (c)”; and

(c) after paragraph (11), insert—

“(12) 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 25(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 25, after paragraph (4), insert—
- “(4A) A person will not seal or reseal a package of test and trial seed unless paragraph (5) applies to that person.”.
- (7) In regulation 26—
- (a) after paragraph (1)(c), insert—
- “; or
- (d) test and trial seed,”;
- (b) in paragraph (4), after “A person may market any seed” insert “, other than test and trial seed,”;
- (c) after paragraph (13), insert—
- “(13A) 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 32, 33 and 34 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 (15), for “or C2 seed”, substitute “C2 seed or test and trial seed”; and
- (e) in paragraph (15)(b)(ii), for “or (10)” substitute “, (10) or (13A)”.
- (8) In Schedule 8, after Part VI insert—

“PART VII

Labelling of Packages of Test and Trial Seed

Official label for a package of test and trial seed

32. 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.
- 33. The label referred to in paragraph 32 must be coloured orange.
- 34. The label referred to in paragraph 32 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)”;
 - (b) after the entry for “sterile brome” insert the following entry—

“test and trial seed

Regulation 2(1)”.

Amendment of the Fodder Plant Seed (Wales) Regulations 2005

- 4.—(1) The Fodder Plant Seed (Wales) Regulations 2005(6) 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;”;
 - (b) after the definition of “small EC B package of seed” 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) 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) A producer will not 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 fodder plant 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—
 - (i) for the following plant species, the seed satisfies the conditions for C2 seed laid down in Schedule 3—
 - (aa) field bean; and
 - (bb) field pea;
 - (ii) for plant species other than field bean and field pea, 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—
 - (i) for the following plant species, the seed meets the conditions for C2 seed laid down in Schedule 4—
 - (aa) field bean; and
 - (bb) field pea;
 - (ii) for plant species other than field bean and field pea, 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 20 authorisation.
- (4) A regulation 20 authorisation granted by the National Assembly will 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 20 authorisation must be made in writing to the National Assembly and must be accompanied by such information as the National Assembly may require.
- (6) The National Assembly will not grant a regulation 20 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 for acceptance on to a National List and which application has not been withdrawn or finally determined; and
 - (d) 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 will not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.
- (8) A regulation 20 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 Assembly may vary, suspend, revoke or add conditions to authorisations to which paragraph (1) applies by service of a notice on the producer.

(10) Where an authorisation to which paragraph (1) applies has been granted, the marketing by a producer of seed for test and trial purposes shall be in accordance with the conditions attached to that authorisation, whether granted by the Assembly or, subject to paragraph (9), any other competent seed certification authority in the United Kingdom or in another member State.

(11) The Assembly may revoke or suspend an authorisation that has effect in Wales by virtue of this regulation by service of a notice in writing on the producer concerned, and where such a notice has been served, marketing of seed for test and trial purposes may only be authorised subsequently by the National Assembly for Wales in accordance with this regulation.

(12) A regulation 20 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.

(13) The National Assembly may require a person to whom it has granted a regulation 20 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.

(14) A producer to whom a regulation 20 authorisation has been granted shall, 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 23(1) and (6) for “regulation 6, 11 or 13”, substitute “regulation 6, 11, 13 or 20”.

(5) In regulation 24—

(a) after paragraph (2)(c), insert—

“; or

(d) test and trial seed,”;

(b) in paragraph (3), for “Paragraph (2)” substitute “Paragraph (2)(a), (b) and (c)”;

(c) after paragraph (14), insert—

“(15) 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 25(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 25, 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 26—
- (a) after paragraph (1)(c), insert—
- “; or
- (d) test and trial seed.”;
- (b) in paragraph (4), after “A person may market any seeds” insert “, other than test and trial seed.”;
- (c) after paragraph (16), insert—
- “(16A) 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 42, 43 and 44 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 (18), for “or a mixture of seeds to which regulation 22(1) or (2) applies”, substitute “, a mixture of seeds to which regulation 22(1) or (2) applies or test and trial seed”; and
- (e) in paragraph (18)(b)(ii), for “or (13)” substitute “, (13) or (16A)”.
- (8) In Schedule 8, after Part VI insert—

“PART VII

Labelling of Packages of Test and Trial Seed

Official label for a package of test and trial seed

- 42.** 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.
- 43. The label referred to in paragraph 42 must be coloured orange.
- 44. The label referred to in paragraph 42 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)”;
 - (b) after the entry for “tall oatgrass” insert the following entry—

“test and trial seed Regulation 2(1)”.

Amendment of the Oil and Fibre Plant Seed (Wales) Regulations 2004

- 5.—(1) The Oil and Fibre Plant Seed (Wales) Regulations 2004(7) 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;”;
 - (b) after the definition of “small package” insert the following definition—

““test and trial seed” means seed which is the subject of a regulation 19 authorisation;”.
- (3) For regulation 19 substitute the following regulation—

“Exception for test and trial seed

- 19.—(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) 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 an oil and fibre plant 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—
 - (i) for linseed, the seed satisfies the conditions for C2 or C3 seed laid down in Schedule 3; and
 - (ii) for species other than linseed, 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—
 - (i) for linseed, the seed satisfies the conditions for C2 or C3 seed laid down in Schedule 4; and
 - (ii) for species other than linseed, 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 19 authorisation.
- (4) A regulation 19 authorisation granted by the National Assembly will 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 19 authorisation must be made in writing to the National Assembly and must be accompanied by such information as the National Assembly may require.
- (6) The National Assembly will not grant a regulation 19 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 for 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 will not authorise marketing of an amount of seed in excess of that permitted by Article 7 of the 2004 Commission Decision.
- (8) A regulation 19 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 19 authorisation where there is a breach of any condition referred to in paragraph (8).
- (10) A regulation 19 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 person to whom it has granted a regulation 19 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 19 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 23(1) and (5) for “regulation 6, 11 or 13”, substitute “regulation 6, 11, 13 or 19”.

(5) In regulation 24—

(a) after paragraph (3)(c), insert—

“; or

(d) test and trial seed.”;

(b) in paragraph (4), for “Paragraph (3)” substitute “Paragraph (3)(a), (b) and (c)”; and

(c) after paragraph (10), insert—

“(11) 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 25(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 25, 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 26—

(a) in paragraph (1), for “or a varietal association of seeds to which regulation 22 applies” substitute “a varietal association of seeds to which regulation 22 applies 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 (12), insert—

“(12A) A package of test and trial seed shall be labelled—

(a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 36, 37 and 38 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.”; and
 - (d) in paragraph (14), for “or a varietal association of seed”, substitute “, a varietal association of seed or test and trial seed”; and
 - (e) in paragraph (14)(b)(ii), for “or (12)” substitute “, (12) or (12A)”.
- (8) In Schedule 8, after Part VII insert—

“PART VIII

Labelling of Packages of Test and Trial Seed

Official label for a package of test and trial seed

- 36.** 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.
- 37.** The label referred to in paragraph 36 must be coloured orange.
- 38.** The label referred to in paragraph 36 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 “swede rape” insert the following entry—
 - “test and trial seed Regulation 2(1)”.

Amendment of the Vegetable Seed (Wales) Regulations 2005

6.—(1) The Vegetable Seed (Wales) Regulations 2005(8) 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 “marketing year” insert the following definition—

““market test seed” means seed which is the subject of a regulation 19 authorisation;”.

(3) For regulation 19 substitute the following regulation—

“Exception for market test seed

19.—(1) The prohibition in regulation 15(1) does not apply to the marketing by a breeder of seed in accordance with—

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

(b) an authorisation which has been granted to the breeder 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 20(1) of the 2004 Commission Decision.

(2) A breeder must not market market test seed—

(a) except for the purposes of gaining knowledge from practical experience during cultivation;

(b) unless the seed satisfies the conditions laid down in Schedule 4; or

(c) 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 33 of the 2004 Commission Decision.

(3) A breeder of seed established in Wales may apply to the National Assembly for the grant or renewal of a regulation 19 authorisation.

(4) A regulation 19 authorisation granted by the National Assembly—

(a) shall last for a period of one year or such shorter period as the National Assembly may specify; and

(b) may be renewed no more than twice.

(5) An application for authorisation or renewal of a regulation 19 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 must not grant a regulation 19 authorisation unless it is satisfied that—
- (a) an application has been submitted by the breeder to the relevant authority—
 - (i) under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001 for acceptance of the variety on to a National List; or
 - (ii) in another member State for inclusion of the variety in a national catalogue equivalent to a National List,

that has not been withdrawn or finally determined and for which any technical information that may be required in support of such an application has been submitted; 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) A regulation 19 authorisation may impose such conditions as the National Assembly may think necessary or desirable having regard to the nature of the cultivation and the nature of the seed to which the authorisation relates.
- (8) The National Assembly may withdraw a regulation 19 authorisation where there is a breach of any condition referred to in paragraph (7).
- (9) A regulation 19 authorisation ceases 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.
- (10) The National Assembly may require a person to whom it has granted a regulation 19 authorisation to provide it with information about—
- (a) the knowledge gained from practical experience during cultivation of the variety; or
 - (b) the quantities of seed marketed during the authorised period and the name of the member State for which the seed was destined.”.
- (4) In regulation 22—
- (a) after paragraph (1), insert—

“(1A) A sample of seeds taken in connection with a regulation 19 application shall be drawn from a homogeneous lot.”; and
 - (b) in paragraph (6)—
 - (i) for “regulation 6, 11 or 13”, substitute “regulation 6, 11, 13 or 19”; and
 - (ii) in sub-paragraph (a), for “paragraph (1)”, substitute “paragraph (1) or (1A)”.
- (5) In regulation 23—
- (a) after paragraph (2)(c), insert—

“; or

(d) market test seed.”;
 - (b) in paragraph (3), for “Paragraph (2)” substitute “Paragraph (2)(a), (b) and (c)”; and
 - (c) after paragraph (12), add—

“(13) In this regulation, in the case of market test seed, a “properly sealed package” means a package of seed that has been sealed in such a manner that it cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or package.”.

- (6) In regulation 25—
- (a) after paragraph (1)(c), insert—
 - “; or
 - (d) market test seed,”;
 - (b) in paragraph (3), after “A person may market any seeds” insert “, other than market test seed,”;
 - (c) after paragraph (12), insert—
 - “(12A) A package of market test seed must be labelled—
 - (a) in the case of a package of seed sealed in Wales, in accordance with paragraphs 33, 34 and 35 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 28 of the 2004 Commission Decision.”;
 - (d) in paragraph (14), for “or standard seed”, substitute “standard seed or market test seed”; and
 - (e) in paragraph (14)(b)(ii), for “or (10)” substitute “, (10) or (12A)”.
- (7) After regulation 26, insert—

“Special provisions that apply in connection with the marketing of market test seed

26A. A person who, in the course of marketing any market test seed, affixes a label or prints or stamps any particulars, or causes any of those things to be done, in accordance with regulation 25(12A) must—

- (a) keep for a period of three years a record of the seed lots of the market test seed and, if so required by the National Assembly, must produce such record to it.
 - (b) keep for a period of two years a sample of seed from each seed lot and, if so required by the National Assembly, must deliver such sample to it”.
- (8) In Schedule 8—
- (a) in paragraph 28 (Part VI), for “20 or 24” substitute “20, 24 or 30”; and
 - (b) after Part VI insert—

“PART VII

Labelling of Packages of Market Test Seed

Official label for a package of market test seed

30. The package must be labelled, not later than the time of sealing, on the outside with a supplier’s label or a printed or stamped notice which has not previously been used containing the following particulars—

- (a) the reference number of the lot;
- (b) the month and year of sealing;
- (c) the species;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (d) 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;
- (e) the statement “variety not yet officially listed”;
- (f) the declared net or gross weight or declared number of pure seeds or, where applicable, clusters; and
- (g) 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.

31. The label or notice referred to in paragraph 30 must be coloured orange.

32. The label or notice referred to in paragraph 30 must be an adhesive label.”.

(9) In Schedule 10—

- (a) before the entry for “the Act” insert the following entry—
“the 2004 Commission Decision Regulation 2(1)”;
- (b) after the entry for “marketing year” insert the following entry—

“market test seed	Regulation 2(1)”.
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Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(9).

23 January 2007

D. Elis-Thomas
The Presiding Officer of the National Assembly

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which apply in relation to Wales amend the following regulations:

- (a) The Beet Seed (Wales) Regulations 2005 (S.I. [2005/3037](#));
- (b) The Cereal Seed (Wales) Regulations 2005 (S.I. [2005/3036](#));
- (c) The Fodder Plant Seed (Wales) Regulations 2005 (S.I. [2005/1207](#));
- (d) The Oil and Fibre Seed (Wales) Regulations 2004 (S.I. [2004/2881](#)); and
- (e) The Vegetable Seed (Wales) Regulations 2005 (S.I. [2005/3035](#)).

They give effect to 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 (OJ L 362, 9.12.2004, p 21), which sets out the conditions under which beet, cereal, fodder plant, oil and fibre plant and vegetable seed which have not yet been added to a National List may be marketed for test and trial purposes or, in the case of vegetable seed, for purposes of gaining knowledge from practical experience during cultivation.

A Regulatory Appraisal has been prepared. Copies may be obtained from the Food and Market Development Division of the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.