



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

ADRODDIAD GAN Y PWYLLGOR DEDDFAU
DRAFFT

LEGISLATION COMMITTEE REPORT
DRAFT

The Seeds (Fees) (Amendment) (Wales) Regulations 2001

Background

These regulations amend the Seeds (Fees) Regulations 1985. They prescribe revised fees in respect of matters arising under the:

- Cereal Seeds Regulations 1993
- Fodder Plant Seeds Regulations 1993
- Oil and Fibre Plant Seeds Regulations 1993
- Beet Seeds Regulations 1993
- Vegetable Seeds Regulations 1993
- Seeds (Registration, Licensing and Enforcement) Regulations 1985.

A Regulatory Appraisal has been prepared.

Similar provisions (S.I. No. 2000/1542) were made for England on 7th June 2000 and came into force on 7th July 2000.

Standing Order 11.5

It is noted that the inserted Schedules 1, 3 and 6 contain the following references –

- Items D and E in Schedule 1 and item D in Schedule 3 refer to a demand for fees made by or on behalf of “the appropriate Minister”.
- Item A in Schedule 6 refers to fees for making written representations to (or being heard by a person appointed by) “the Minister”.
- Item B in Schedule 6 refers to a demand for fees made by “the Minister”.

It is further noted that -

- This wording was the same in the pre-existing Schedules 1, 3 and 6 which were inserted into the 1985 Regulations on 1 July 1999.
- “the appropriate Minister” is defined in the 1985 Regulations as meaning, for Wales, the Minister of Agriculture, Fisheries and Food.
- “the Minister” is defined in the 1985 Regulations as meaning, for Wales, the Secretary of State.
- Article 3 of the National Assembly for Wales (Transfer of Functions) Order 1999 provides for the transfer of functions contained in subordinate legislation, where functions under the relevant primary legislation are transferred.
- Under Schedule 1 to the 1999 Transfer of Functions Order, functions under the Plant Varieties and Seeds Act 1964 were only transferred to the Assembly to the extent that they had been transferred to the Secretary of State by the 1978 transfer of functions order.

The following questions accordingly need to be raised with the appropriate Assembly Minister under SO 11.4 -

1. Having regard to the above, is the position that the “Minister” functions have transferred to the Assembly but that the “appropriate Minister” functions remain vested in the Minister of Agriculture?
2. If so, would it have been more satisfactory for the Assembly functions to have been referred to as such, both from the point of view of clarity and on the basis that Article 3 of the 1999 Transfer of Functions Order cannot necessarily be assumed to apply to Schedules inserted subsequently to the coming into force of that order?

In addition to the above, reference is made to the following more minor points –

- The final sentence in the first paragraph of the explanatory note may be misleading. It implies that the regulations contain provision as to examination fees which is additional to the amendments already described in that paragraph. But the provision as to examination fees is contained in the amendments which are made to the 1985 Registration regulations.

- Although the regulations have been made under the executive procedure the date of making does not appear on the copy submitted to the Legislation Committee.

J H TURNBULL
Legal Adviser
Legislation Committee

Ref: LAD 01-01-387

11 September 2001