

SL(6)267 – The Marketing of Seeds and Plant Propagating Material (Wales) (Amendment) (EU Exit) Regulations 2022

Background and Purpose

These Regulations make operability amendments to the Seed Marketing (Wales) Regulations 2012 and the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017.

The Welsh Government explains in its Explanatory Memorandum that these amendments are “required as a result of the UK’s Exit from the European Union” and that they “amend secondary legislation relating to the marketing of seed and fruit planting material to correct operability deficiencies that were not accounted for in earlier amending instruments.”

Procedure

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following two points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 1, in the English version, the Regulations are titled the “Marketing of Seeds and Plant Propagating Material **(Wales) (Amendment)** (EU Exit) Regulations 2022” (emphasis added). However, in regulation 1 of the Welsh version of the Regulations, the Regulations are titled “Rheoliadau Marchnata Hadau a Deunyddiau Lluosogi Planhigion **(Diwygio) (Cymru)** (Ymadael â’r UE) 2022” (emphasis added).

It is unclear why “(Wales)” and “(Amendment)”, and “(Cymru)” and “(Diwygio)”, appear in a different order when comparing both versions of the Regulations. Given that these Regulations amend Welsh SIs, as opposed to UK SIs, the order in the English version would appear to be appropriate.

2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements



In regulation 2(2)(a)(i), in the Welsh version of the Regulations, the closing quotation marks are missing after "...*quarantine pest*")" and prior to "rhodder". Without those closing quotation marks, it may not be clear where the text to be substituted ends, which has a consequence as to the effect of the regulation.

Different approaches are also taken in the English and Welsh versions of the Regulations to the use of quotation marks in regulation 2(2)(a)(i) and (iii). When substituting text, the English version includes the quotation marks preceding the defined term in paragraph A1 of Schedule 2 to the Seed Marketing (Wales) Regulations 2012 (in both the substituted and new text), whilst the Welsh text does not include those preceding quotation marks.

Merits Scrutiny

The following two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

3. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

A draft of these Regulations was laid before the Senedd for sifting under paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018, in accordance with Standing Order 27.9A. The Committee considered that draft on 26 September 2022 and agreed that the negative procedure was the appropriate procedure for these Regulations.

4. Standing Order 21.3(ii) - that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

A formal consultation has not been undertaken in respect of these Regulations. In this regard, the following from the Explanatory Memorandum is noted:

"As the Regulations provide a limited amendment, affecting a small number of individuals and does not reflect a change in the Welsh Government's policy, a formal public consultation did not take place."

Welsh Government response

A Welsh Government response is required in relation to reporting points 1 and 2 only.

Committee Consideration

The Committee considered the instrument at its meeting on 24 October 2022 and reports to the Senedd in line with the reporting points above.

