

SL(6)299 – The Seed (Equivalence) (Amendment) (Wales) Regulations 2022

Background and Purpose

The Seed (Equivalence) (Amendment) (Wales) Regulations 2022 (“the Regulations”) amend Article 6 of Council Decision 2003/17/EC of 16 December 2002 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries. The Regulations extend the expiry date of this Decision from 31 December 2022 to 31 December 2029.

The proposal to extend the Council Decision was subject to a six week period of informal stakeholder engagement. This was undertaken jointly by the Welsh, Scottish and UK Governments.

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 point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(ii) - that it appears to make unusual or unexpected use of the powers conferred by the enactment under which it is made or to be made.

In the preamble, clarification is required as to whether the powers used are correct. The corresponding instruments for England and Scotland only refer to “section 16 **(1) and (1A)**” instead of “section 16**(1) to (4)**”. It is unclear whether the powers in sub-sections (2) to (4) are used in this instrument.

Merits Scrutiny

The following 2 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

2. 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.



In the Explanatory Notes, there is no paragraph noting whether or not a Regulatory Impact Assessment (“RIA”) exists, or where it is possible to find it. The Explanatory Memorandum explains that a RIA exists but this is not explained in the Regulations.

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.

The following points are made regarding terms used in the Welsh text for “equivalence” and “field inspections”.

- a. “Cywerthedd” is used in the translation for the word “equivalence” in the Welsh text. This form does appear in the Welsh Academy Dictionary as a possible spelling of this noun, and there are some examples in recent statutory instruments. But the Welsh Government’s Legislative Translation Unit mostly follow the University of Wales Dictionary (Geiriadur Prifysgol Cymru) which notes “cyfwerthedd” as the standard spelling for this noun. Furthermore, “cywerthedd” is not referred to on the BydTermCymru website, but “cyfwerthedd” is used instead for this noun. It therefore appears that the translation has not used the Welsh Government’s translation guidance by using “cywerthedd” rather than “cyfwerthedd” in these Regulations.
- b. In these Regulations, in the Welsh text, “archwiliadau maes” is used as the translation for “field inspections”. But it appears there has been some variation between “archwiliadau maes” and “arolygiadau maes” in the translation of the statutory instruments. It appears that “arolygu” is the standardised term for “inspection” in the Legislative Translation Unit’s Legislative Terminology, and there is a need to differentiate between “examine” and “inspect” at times.

Welsh Government response

A Welsh Government response is required to the technical reporting point and both merits points.

Legal Advisers

Legislation, Justice and Constitution Committee

3 January 2023



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