



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2018**

DATE **10 December 2018**

BY **Julie James AM, Leader of the House and Chief Whip**

The Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2018

The law which is being amended

European legislation to be revoked

Council Regulation (EC) No. 2100/94 on Community plant variety rights

Commission Regulation (EC) No.1768/95 implementing rules on the agricultural exemption provided for in Article 14(3) of Council Regulation (EC) No 2100/94 on Community plant variety rights

Council Regulation (EC) No 2506/95 amending Regulation (EC) No 2100/94 on Community plant variety rights

Commission Regulation (EC) No. 1238/95 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards fees payable to the Community Plant Variety Office

Commission Regulation (EC) No 2605/98 amending Regulation (EC) No 1768/95 implementing rules on the agricultural exemption provided for in Article 14(3) of Council Regulation (EC) No 2100/94 on Community Plant Variety Rights

Commission Regulation (EC) No 329/2000 amending Regulation (EC) No 1238/95 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards the fees payable to the Community Plant Variety Office

Commission Regulation (EC) No 569/2003 amending Regulation (EC) No 1238/95 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards the fees payable to the Community Plant Variety Office

Council Regulation (EC) No 807/2003 adapting to Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (unanimity)

Council Regulation (EC) No 1650/2003 amending Regulation (EC) No 2100/94 on Community plant variety rights

Council Regulation (EC) No 873/2004 amending Regulation (EC) No 2100/94 on Community plant variety rights

Commission Regulation (EC) No 1177/2005 amending Regulation (EC) No 1238/95 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards the fees payable to the Community Plant Variety Office

Commission Regulation (EC) No 2039/2005 amending Regulation (EC) No 1238/95 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards the fees payable to the Community Plant Variety Office

Council Regulation (EC) No 15/2008 amending Regulation (EC) No 2100/94 as regards the entitlement to file an application for a Community plant variety right

Commission Regulation (EC) 637/2009 establishing implementing rules as to the suitability of denominations of agricultural plant varieties and vegetable varieties

Commission Regulation (EC) No 874/2009 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards proceedings before the Community Plant Variety Office

Commission Implementing Regulation (EU) No 510/2012 amending Regulation (EC) No 1238/95 as regards the application fee payable to the Community Plant Variety Office

Commission Implementing Regulation (EU) No 623/2013 amending Regulation (EC) No 1238/95 as regards the level of the annual fee payable to the Community Plant Variety Office

Commission Implementing Regulation (EC) No 763/2013 amending Regulation (EC) No 637/2009 as regards the classification of certain plant species for the purposes of assessing the suitability of the denomination of varieties

Commission Implementing Regulation (EU) No 1294/2014 amending Regulation (EC) No 1238/95 as regards the level of the application fee and of the examination fee payable to the Community Plant Variety Office

Commission Implementing Regulation (EU) 2015/2206 amending Regulation (EC) No 1238/95 as regards the fees payable to the Community Plant Variety Office

Commission Implementing Regulation 2016/1448 amending Regulation (EC) 874/2009 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards proceedings before the Community Plant Varieties Office

Commission Implementing Regulation (EU) 2016/2141 amending Regulation (EC) No 1238/95 as regards the level of the annual fee and of the examination fees payable to the Community Plant Variety Office. The following implementing regulations are being revoked:

- Implementing Regulation (EU) 2017/1454 which specified the technical format for reporting by Member States.
- Implementing Regulation (EU) 2016/145 which adopted the format of the document serving as evidence for the permit issued by the competent authorities of Member States.
- Commission Delegated Regulation (EU) 2018/968 which specified the methodology for risk assessments for invasive alien species.

Domestic legislation

The Plant Varieties Act 1997

The Plant Breeders' Rights (Farm Saved Seed) (Specified Information) Regulations 1998

The Plant Breeders' Rights Regulations 1998

The Plant Breeders' Rights (Information Notices) Regulations 1998

The Plant Breeders' Rights (Naming and Fees) Regulations 2006

The Plant Variety Rights Office (Extension of Functions) Regulations 1995 (being revoked)

The Plant Breeders' Rights (Information Notices) (Extension to the European Community Plant Variety Rights) Regulations 1998 (being revoked)

Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence

These regulations confer functions on the Controller of Plant Variety Rights, an officer established by the Plant Varieties Act 1997 as the head of the Plant Variety Rights Office. The Controller acts under the direction of and is appointed by the Secretary of State, the Welsh Ministers, the Scottish Ministers and the Northern Ireland Department acting jointly.

Functions transferred to a public authority other than a devolved Welsh authority would engage paragraph 10 of Schedule 7B to GoWA 2006. This therefore may be a relevant consideration in the context of the Assembly's competence to legislate in the future in these areas.

The purpose of the amendments

The amendments made by this instrument do not amount to a change in policy. These regulations make amendments to ensure that industry can continue to function efficiently in the event of the UK leaving the EU in a "no deal" scenario, for example, by retaining existing EU rules allowing equivalent third countries to retain their status in the UK in regards to intellectual property rights. The instrument corrects deficiencies that arise as a result of EU exit so that the legislation works effectively, for example removes reference to the EU

Common Catalogue as plant varieties will need to be listed on the UK's National List only after EU Exit.

The SIs and accompanying Explanatory Memorandums, setting out the effect of each amendment is available here: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments>

Why consent was given

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency, expediency and due to the technical nature of the amendments. The amendments have been considered fully; and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU. This is in line with the principles for correcting agreed by the Cabinet Sub-Committee on European Transition in May.