

*Draft Regulations laid before the National Assembly for Wales under paragraph 1(9) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales.*

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W E L S H   S T A T U T O R Y  
I N S T R U M E N T S

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**2019 No. (W. )**

**EXITING THE EUROPEAN  
UNION, WALES**

**SEEDS, WALES**

**The Seed Potatoes (Wales)  
(Amendment) (EU Exit)  
Regulations 2019**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to the Seed Potatoes (Wales) Regulations 2016 (S.I. 2016/106 W.52).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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**The Seed Potatoes (Wales)  
(Amendment) (EU Exit)  
Regulations 2019**

*Made*

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*Coming into force in accordance with  
regulation 1(2) and (3)*

The Welsh Ministers, in exercise of the powers conferred by paragraph 1(1) of Schedule 2, and paragraph 21 of Schedule 7, to the European Union (Withdrawal) Act 2018<sup>(1)</sup>, make the following Regulations.

In accordance with paragraph 1(9) of Schedule 7 to the European Union (Withdrawal) Act 2018 a draft of this instrument has been laid before the National Assembly for Wales and approved by a resolution of the National Assembly for Wales.

**Title, commencement and application**

**1.**—(1) The title of these Regulations is the Seed Potatoes (Wales) (Amendment) (EU Exit) Regulations 2019.

(2) These Regulations, apart from regulations 3 and 4, come into force on exit day.

(3) Regulations 3 and 4 come into force on the day one year after the day on which exit day falls.

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(1) 2018 c.16. See section 20(1) of that Act for the definition of “devolved authority”.

(4) These Regulations apply in relation to Wales.

**Amendment to the Seed Potatoes (Wales) Regulations 2016 consequent on the withdrawal of the United Kingdom from the European Union**

2.—(1) The Seed Potatoes (Wales) Regulations 2016 are amended as follows.

(2) In regulation 2—

(a) in the definition of “basic seed potatoes”, in paragraph (b), for the words from “in accordance” to the end substitute—

“, stating that the potatoes were certified as basic seed potatoes and the grade, in accordance with—

(i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;

(ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to paragraphs 2, 5, 7, 9, 10 and 11 of Part 1 of Schedule 2;

(iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(a) of the Directive;”;

(b) in the definition of “category” omit the words “in accordance with the Swiss trade agreement”;

(c) in the definition of “certification” in paragraph (b), for the words from “in accordance” to the end substitute—

“in accordance with—

(i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;

(ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to regulation 10(2) and (3);

(iii) in the case of seed potatoes produced in a member State or Switzerland, the Directive;”;

(d) in the definition of “certified seed potatoes” in paragraph (b) for the words from “in accordance” to the end substitute—

- “, stating that the potatoes were certified as certified seed potatoes and the grade, in accordance with—
- (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
  - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to paragraphs 3, 5, 7, 9, 10 and 11 of Schedule 2;
  - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(a) of the Directive;”;
- (e) after the definition of “Common Catalogue” insert—
- ““Crown Dependency” (*“Tiriogaeth Ddibynnol y Goron”*) means the Isle of Man and any of the Channel Islands;
- (f) after the definition of “genetically modified” insert—
- ““the GMO regulations” (*“y Rheoliadau GMO”*) means—
- (a) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002(1);
  - (b) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(2);
  - (c) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(3);
  - (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003(4);”;
- (g) for the definition of “grade” substitute—
- ““grade” (*“mae “gradd”*) includes the United Kingdom grade;”;
- (h) for the definition of “National List” substitute—

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(1) S.I. 2002/2443, amended by S.I. 2004/2411, 2018/575.  
(2) S.I. 2002/3188 (W. 304), amended by S.I. 2005/2759, 2013/755 (W. 90).  
(3) S.S.I. 2002/541, amended by S.S.I. 2004/439, 2015/100.  
(4) S.R. 2003 No. 167.

““National List” (*“Rhestr Genedlaethol”*) means a list of varieties of potato species prepared and published in accordance with regulation 3 of the National Lists Regulations;”;

- (i) in the definition of “official document”, in paragraph (b), for the words from “requirements of” to the end substitute—

“requirements of—

(i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;

(ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to the requirements of Part 2 of Schedule 2;

(iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(b) of the Directive;”;

- (j) in the definition of “official label” in paragraph (b), for the words from “requirements of” to the end substitute—

“requirements of—

(i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;

(ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to the requirements of Part 1 of Schedule 2;

(iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(a) or 18(f) of the Directive or Article 9 of the Decision;”;

- (k) in the definition of “pre-basic seed potatoes” in paragraph (b), for the words “in accordance” to the end substitute—

“, stating that the potatoes were certified as pre-basic seed potatoes and the grade, in accordance with—

(i) in the case of seed potatoes produced in the United Kingdom,

- the relevant seed potatoes regulations;
- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to paragraphs 1, 5, 6, 9, 10 and 11 of Part 1 of Schedule 2;
  - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 18(f) of the Directive;”;
- (l) for the definition of “seed potatoes of a conservation variety” substitute—
- ““seed potatoes of a conservation variety” (*“tatws hadyd o amrywogaeth gadwraeth”*) means any variety of seed potatoes listed as a conservation variety in the National List;”
- ;
- (m) in the definition of “seed potatoes produced outside Wales” in paragraph (b) omit “other than the United Kingdom”;
- (n) after the definition of “seed potatoes produced outside Wales” insert—
- ““the seed potatoes regulations” (*“y rheoliadau tatws hadyd”*) means—
- (a) in relation to England, the Seed Potatoes (England) Regulations 2015;
  - (b) in relation to Scotland, the Seed Potatoes (Scotland) Regulations 2015(1);
  - (c) in relation to Northern Ireland, the Seed Potatoes Regulations (Northern Ireland) 2016(2);
- and “the relevant seed potatoes regulations” (*“y rheoliadau tatws hadyd perthnasol”*), in relation to any constituent part of the United Kingdom, means the seed potatoes regulations applicable in relation to that part;”;
- (o) in the definition of “test and trial seed potatoes” in paragraph (b), for the words from “accordance with Article 9 of the Decision” substitute—
- “accordance with—
- (i) in the case of seed potatoes produced in the United Kingdom,

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(1) S.S.I. 2015/395, amended by S.S.I. 2016/68, 434.  
(2) S.R. 2016 No. 190, amended by S.R. 2017 No. 155.

- the relevant seed potatoes regulations;
- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to paragraphs 4, 5, 8, 9, 10 and 11(c) of Part 1 of Schedule 2;
  - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 9 of the Decision”;
- (p) for the definition of “Union grade” substitute—
- ““Union grade” (*“gradd yr Undeb”*) means, in relation to seed potatoes produced in a member State or Switzerland —
- (a) in the case of pre-basic seed potatoes, Union grade PBTC or Union grade PB, the minimum conditions for which are set out in Articles 2 and 3 of, and Annex 1 to, Directive 2014/21/EU(1);
  - (b) in the case of basic seed potatoes, Union grade S, Union grade SE, or Union Grade E, the minimum conditions for which are set out in Article 1 of, and Annex 1 to, Directive 2014/20/EU(2);
  - (c) in the case of certified seed potatoes, Union grade A or Union grade B, the minimum conditions for which are set out in Article 2 of, and Annex 2 to, Directive 2014/20/EU;”;
- (q) after the definition of “Union grade” insert—
- ““United Kingdom grade” (*“gradd y Deyrnas Unedig”*) means—
- (a) in relation to seed potatoes produced in Wales, the United Kingdom grade determined in accordance with Schedule 4 during certification, this being—
    - (i) in the case of pre-basic seed potatoes, UK grade PBTC or UK grade PB;
    - (ii) in the case of basic seed potatoes, UK grade S, UK grade SE or UK grade E;

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(1) OJ No L 38, 7.2.2014, p. 39.

(2) OJ No L 38, 7.2.2014, p. 32.

- (iii) in the case of certified seed potatoes, UK grade A or UK grade B;
  - (b) in relation to seed potatoes produced in the United Kingdom other than in Wales, the United Kingdom grade determined in accordance with the relevant seed potatoes regulations;”;
  - (r) in paragraph (2), omit the words from “in accordance” to the end;
  - (s) omit paragraph (4).
- (3) In regulation 4, for “European Union” substitute “United Kingdom”.
- (4) In regulation 5, in paragraph 3(b), for the words from “accordance with”—
- “accordance with—
  - (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
  - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to regulation 8;
  - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 6(1)(a) of the Directive”;
- (5) In regulation 6—
- (a) in paragraph (3), for the words from the beginning to “Directive 2008/62/EC” substitute “Where the quantities specified in Article 14 of Directive 2008/62/EC(1) would otherwise be likely to be exceeded”;
  - (b) after paragraph (3) insert—
    - “(3A) For the purposes of paragraph (3), Article 14 of Directive 2008/62/EC is to be read as if—
    - (a) in the first paragraph, in the first sentence—
      - (i) the words “Each Member State shall ensure that” were omitted;
      - (ii) for the words “does not exceed” there were substituted “may not exceed”;
      - (iii) for the reference to “that Member State” there were substituted “the United Kingdom”;

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(1) OJ No L 162, 21.6.2008, p. 13.

- (b) in the second paragraph—
  - (i) in the first sentence, for the reference to “each Member State” there were substituted “the United Kingdom”;
  - (ii) for the references to “the Member State” in both places there were substituted “the United Kingdom”.

(6) In regulation 8(2), for the words from “the Food and Feed Regulation” to the end substitute—

“—

- (a) the Food and Feed Regulation;
- (b) the GMO regulations; or
- (c) before exit day, Part C of the Deliberate Release Directive”.

(7) In regulation 9—

(a) in paragraph (2)—

- (i) in sub-paragraph (a), for “in excess of that permitted by Article 7 of the Decision” substitute “which exceeds the greater of 0.1% of the annual number of seed potatoes used in the United Kingdom or such quantity as the Welsh Ministers considers is sufficient to sow 10 hectares”;
- (ii) in sub-paragraph (b), for the words from “the Food and Feed Regulation” to the end substitute—

“—

- (i) the Food and Feed Regulation;
- (ii) the GMO regulations; or
- (iii) before exit day, Part C of the Deliberate Release Directive”;
- (b) in paragraph (6)(b), omit “or the Common Catalogue”;
- (c) in paragraph (8)(b), for “member State” substitute “country”.

(8) In regulation 11(3)(b), for the words from “pursuant to the Directive” to the end substitute—

“, in respect of the marketing of potatoes of that category, pursuant to—

- (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having

equivalent effect to sub-paragraph (a);

- (iii) in the case of seed potatoes produced in a member State or Switzerland, the Directive”.

(9) In regulation 14(2)(b), for the words from “accordance with” to the end substitute—

“accordance with—

- (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Welsh Ministers as having equivalent effect to sub-paragraph (a);
- (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 11(1) of the Directive”.

(10) In regulation 16—

- (a) in the heading, for “from outside the European Union” substitute “imported into Wales”;
- (b) renumber the existing text as paragraph (1);
- (c) in paragraph (1)—
  - (i) at the start insert the words “Subject to paragraph (2),”;
  - (ii) omit the words “from a country outside the European Union”;
- (d) after paragraph (1), insert—

“(2) Paragraph (1) does not apply to any person marketing more than 2 kilograms of seed potatoes that have been imported into Wales from—

  - (a) within the British Islands;
  - (b) a member state or Switzerland.”.

(11) After regulation 23 insert—

**“Transitional provision for official labels on exit day**

**23A.** A label pre-printed before exit day which at the date on which it was printed was an official label for the purposes of these Regulations is to be treated as an official label for the purposes of any use of that label before the end of the period of one year beginning with the day after the day on which exit day falls.”.

(12) In Schedule 1 in paragraphs 5, 6, 8 and 10, for “Union”, in each place where it occurs, substitute “UK”.

(13) In Schedule 2—

- (a) in paragraph 6(a), for “member State” substitute “country”;
- (b) in paragraph 7—
  - (i) in sub-paragraph (a), for “EU” substitute “UK”;
  - (ii) in sub-paragraph (b)(i), for “member State” substitute “country”;
- (c) in paragraph 8(b)(i), for “member State” substitute “country”;
- (d) in paragraph 9—
  - (i) for “required by” substitute “specified in”;
  - (ii) at the end, insert “read as if, in point (a), for “EC” there were substituted “UK””;
- (e) in paragraph 11, for “Union”, in each place where it occurs, substitute “UK”.

(14) In Schedule 3—

- (a) in the headings to Parts 1 and 2 for “Union” substitute “UK”;
- (b) in the table in Part 3, in column 2, for “Union”, in each place where it occurs, substitute “UK”.

(15) Schedule 4 is amended in accordance with paragraphs 15 to 17.

(16) In Part 1—

- (a) in the paragraph preceding Table 1, for “Union” substitute “United Kingdom”;
- (b) in Table 1—
  - (i) in the heading to column 1, for “Union” substitute “UK”;
  - (ii) in the row relating to grade “PB”, in column 2, in paragraph (1)(b), after “graded as” insert “UK grade PB,”.

(17) In Part 2—

- (a) in the paragraph preceding Table 2, for “Union” substitute “United Kingdom”;
- (b) in Table 2—
  - (i) in the heading to column 1, for “Union” substitute “UK”;
  - (ii) in the row relating to grade “S”, in column 2, after “graded as” insert “UK grade S or”;
  - (iii) in the row relating to grade “SE”, in column 2, after the word “graded” insert ““UK grade S, UK grade SE,””;

- (iv) in the row relating to grade “E”, in column 2—
  - (aa) in paragraph (1)(a), after “graded as” insert “UK grade S, UK grade SE,”;
  - (bb) in paragraph (1)(b), after “graded as” insert “UK grade S, UK grade SE, UK grade E”.

(18) In Part 3—

- (a) in Table 3—
  - (i) in the heading to column 1, for “Union” substitute “UK”;
  - (ii) in the row relating to grade “A”, in column 2—
    - (aa) after “graded” insert “as UK grade A or”;
  - (iii) in the row relating to grade “B”, in column 2—
    - (aa) after the first instance of “graded” insert “ as UK grade A or”;
    - (bb) after the second instance of “graded” insert “ as UK grade B or”.

(19) In the heading to Schedule 6, for “other than a member state” substitute “outside the British Islands”.

**Marketing of seed potatoes produced in a member State or Switzerland**

3.—(1) The Seed Potatoes (Wales) Regulations 2016 as amended by regulation 2 are amended as follows.

(2) In regulation 2—

- (a) in the definition of “basic seed potatoes”, in paragraph (b), omit sub-paragraph (iii);
- (b) in the definition of “certification”, in paragraph (b) omit sub-paragraph (iii);
- (c) in the definition of “certified seed potatoes”, in paragraph (b) omit sub-paragraph (iii);
- (d) in the definition of “official document”, in paragraph (b) omit subparagraph (iii);
- (e) in the definition of “official label”, in paragraph (b), omit sub-paragraph (iii);
- (f) in the definition of “pre-basic seed potatoes” in paragraph (b), omit sub-paragraph (iii);
- (g) in the definition of “seed potatoes produced outside Wales” omit paragraphs (b) and (c);
- (h) in the definition of “test and trial seed potatoes”, in paragraph (b), omit subparagraph (iii);

(3) In regulation 11(3)(b), omit sub-paragraph (iii);

- (4) In regulation 14(2)(b), omit sub-paragraph (iii);
- (5) In regulation 16, omit paragraph (2)(b).
- (6) In Schedule 1, in paragraph 3(a) omit “or the Common Catalogue”.

**Marketing of seed potatoes produced in a member State or Switzerland: saving provision**

- 4.—(1) In the case of seed potatoes—
- (a) produced in a member State or Switzerland, and
  - (b) imported into Wales before the coming into force of regulation 3,
- the Seed Potatoes (Wales) Regulations 2016 continue to have effect as if the amendments made by regulation 3 were not in force.

*Lesley Griffiths*  
Minister for Environment, Energy and Rural Affairs,  
one of the Welsh Ministers  
5 March 2019