

SL(5)451 – The Seeds (Amendment etc.) (Wales) (EU Exit) Regulations 2019

Background and Purpose

Council Directive 2008/90/EC (“the Fruit Directive”) prescribes marketing standards for fruit plant propagating material to ensure minimum quality standards and traceability. The Fruit Directive allows a Member State to authorise in respect of their territory the marketing of fruit plant material produced in countries outside the European Union which that Member State considers to have equivalent production standards. The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 transposed this provision which was time limited. That limit has been extended to 31 December 2022 by Commission Decision (EU) 2019/120. This instrument accommodates the extension of the EU timeframe relating to the Fruit Directive and makes exit deficiency amendments with regards to references to the European Union.

This instrument makes related amendments to The Marketing of Seeds and Plant Propagating Material (Amendment) (Wales) (EU Exit) Regulations 2019.

Part 2 of this instrument is made in exercise of powers conferred by section 2(2) of the European Communities Act 1972 while Part 3 of this instrument is made in exercise of powers in paragraph 1(1) of Schedule 2 to the European Union (Withdrawal) Act 2018 (“the 2018 Act”). Part 3 of this instrument comes into force immediately before “exit day”, which is defined as 31 October 2019 at 11.00 pm.

Procedure

Affirmative.

Technical Scrutiny

No technical points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following merits point is identified for reporting under Standing Order 21.3 in respect of this instrument:

The original sift report for this instrument recommended the affirmative procedure be applied in accordance with the criteria set out in Standing Order 21.3C. That report stated also:

“As is noted above, the Commission Decision extended the authority to authorise to 31 December 2022. The present Regulations remove the current time limit (31 December 2018) in regulation 5(4) of the Marketing Regulations rather than replacing it with the new date. It does not, therefore, appropriately implement EU law.

That date may not be relevant if Wales is no longer part of the European Union by then. If so, regulation 3 (which comes into force immediately before exit) could have made an appropriate change. As the purpose of section 2(2) of the 1972 Act, which is relied upon for regulation 2, is to implement EU law, that should be done in a manner that is correct on the date the implementing legislation is made.”



We are pleased to note the uplift in procedure in response to the sift report. We note also, contrary to the sift report, the Welsh Government has chosen not to include in the Regulations the new time limit as set out in Commission Implementing Decision (EU) 2019/120. The rationale for the omission is set out in paragraph 2.5 of the Explanatory Memorandum.

Implications arising from exiting the European Union

Save for those set out above, no other implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is not required.

Legal Advisers

Constitutional and Legislative Affairs Committee

October 2019

