

SL(5)152 - The Seed (Miscellaneous Amendments) (Wales) Regulations 2017

Background and Purpose

These Regulations amend the Seed Marketing (Wales) Regulations 2012 and the Seed Potatoes (Wales) Regulations 2016.

Regulation 2 implements Commission Implementing Directive (EU) 2016/2109 which amends Directive 66/401/EEC to reflect the change of the botanical name of the species *Lolium x boucheanum* Kunth. Regulation 2 amends the Seed Marketing (Wales) Regulations 2012 to reflect that change of botanical name.

Regulation 3 implements Commission Implementing Decision (EU) 2016/320 ("the Decision"). The Decision amends Decision 2004/842/EC regarding the rules by which Member States may authorise the placing on the market of seed belonging to certain varieties. The Decision includes the requirement for an officially assigned serial number to be stated on the official label of seed potatoes that are authorised to be marketed for the purposes of tests and trials. Regulation 3 amends the Seed Potatoes (Wales) Regulations 2016 to reflect that requirement.

Procedure

Negative.

Technical Scrutiny

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

Merits Scrutiny

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

Article 2 of Directive 2016/2109 (which gives rise to regulation 2) requires transposition by the 31st December 2017, with the provision to apply from the 1st January 2018. The Regulations come into force on the 15th December 2017, so the change will be in force from that date until the 31st December, a period when it should not apply. [Standing Order 21.3(iv) – inappropriately implements EU legislation]

Commission Decision 2016/320 (which gives rise to regulation 3) was made on the 3rd March 2016 and applied from 1st April 2017. These implementing Regulations will not apply until 15th December 2017. [Standing Order 21.3(iv) – inappropriately implements EU legislation]

Implications arising from exiting the European Union

The following analysis is based on the European Union (Withdrawal) Bill ("the Bill") as introduced.

These Regulations can continue to operate after the UK leaves the EU, as they are made under domestic powers in the Plant Varieties and Seeds Act 1964, which pre-dates British membership of the EU. This is the case despite the fact that they are made to implement EU legislation.



Government Response

The 'Merits Scrutiny' element of the report makes two time points both of which are accepted. Regarding the first, the amendment is limited to the change of the botanical name of a ryegrass and is not, in itself, anticipated to have a substantive impact. Regarding the second, the deadline was missed due to a number of delays during the process through which the Regulations were produced.

Committee Consideration

The committee considered the instrument and the government response at its meeting on 4 December 2017. It reports to the Assembly in line with the merits points identified above.

