

Explanatory Memorandum to the Seed Potatoes (Wales) (Amendment) Regulations 2008.

This Explanatory Memorandum has been prepared by the Department for Rural Affairs and is laid before the National Assembly for Wales.

1. Description

These Regulations amend the Seed Potatoes (Wales) Regulations 2006, (“the principal Regulations”) which control production with a view to the certification and marketing of seed potatoes in Wales to introduce less restrictive tolerances for Common Scab (*Streptomyces* species) in line with the minimum laid down in Directive 2002/56/EC.

2. Matters of special interest to the Subordinate Legislation Committee

None.

3. Legislative Background

These Regulations are made under section 16(1) of the Plant Varieties and Seeds Act 1964.

This instrument is made using the negative resolution procedure.

4. Purpose and intended effect of legislation

Council Directive 2002/56/EC includes a minimum tolerance of 5% by weight of tubers affected over more than one-third of their surface for Common Scab (*Streptomyces* species) in harvested seed potatoes of the basic and certified categories.

In England and Wales, a tolerance of 3% by weight of tubers affected over more than one-quarter of their surfaces applies for pre-basic seed potatoes and 4% for basic and certified seed potatoes.

The tighter tolerances were included in the existing Regulations with the support of stakeholders, who saw them as a means of retaining high quality standards and offering a marketing advantage. However, in some years, growing conditions have been such that it has not been possible for a number of crops to meet the higher tolerances. In such circumstances, a derogation has been issued, either for specific varieties or all crops permitting the EC minimum tolerances to be applied for that particular season, providing customers are informed and are content to receive seed potatoes on that basis.

It has been acknowledged that this has not been a particularly satisfactory arrangement, as stakeholders in different parts of the UK have often taken different views on the scope of proposed derogations. It has often been the case that derogations have been introduced only after the marketing season

had started. A further difficulty is that there is no longer a specific legal provision in the Regulations to facilitate such derogations. Previous Regulations were consolidated in 2006, as it was felt it was too wide ranging and general. This means that derogations are now issued on an administrative basis.

The proposed Regulations amend the tolerance for Common Scab in harvested seed potatoes of the basic and certified categories laid down in Council Directive 2002/56/EC. The amendment is required because in recent years, growing conditions have precluded a number of crops from meeting the existing tolerances. In such circumstances a derogation has been issued, either for specific varieties or all crops, permitting the EC minimum tolerance to be applied for that particular season, providing customers are informed and are content to receive seed potatoes on that basis.

Amendment of the tolerances in line with Directive 2002/56/EC would respond to industry needs, avoid the need for derogations in future and would provide greater clarity and consistency for growers and their customers.

The Plant Health and Seeds Inspectorate (PHSI), which operates in Wales on behalf of the Assembly Government, advise that non-implementation of these amendments could lead to confusion among growers and inspectors, as different standards would apply in England and Wales.

5. Implementation

It is intended that these Regulations should come into force on 6 May, 2008. Similar legislation will be implemented in England on 6 April, 2008. Scotland has already introduced new Regulations and Northern Ireland has plans to update its Regulations in the future. Apart from the continued availability of certified seed potatoes, no other significant effects are expected in Wales as a result of the implementation of these Regulations.

6. Consultation

A public consultation on these amendment Regulations was not deemed necessary as a targeted consultation of interested stakeholders was undertaken by Defra, which included consultation with limited audience Welsh interests, on behalf of the Assembly Government.

7. Regulatory Impact Assessment

A regulatory impact assessment has not been prepared, as the Regulations have no impact on the costs for business.