

2011 Rhif 994 (Cy. 147)

HADAU, CYMRU

Rheoliadau Hadau Llysiau (Cymru) (Diwygio) 2011

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Hadau Llysiau (Cymru) 2005, O.S. 2005/3035 (Cy. 223) ("y prif Reoliadau") er mwyn gweithredu Cyfarwyddeb y Comisiwn 2009/145 (O.J. L312, 27.11.2009, t.44) ("y Gyfarwyddeb"). Mae'r Gyfarwyddeb yn darparu ar gyfer rhai rhanddirymiaid, ar gyfer derbyn amrywogaethau brodorol a botanegol o lysiau yr arferid, yn draddodiadol, eu tyfu mewn ardaloedd a rhanbarthau penodol ac sydd dan fygythiad oherwydd erydu genetig, ac amrywogaethau o lysiau nad oes iddynt werth cynhenid o ran cynhyrchu cynydau masnachol, ond a ddatblygwyd i'w tyfu o dan amodau penodol, ac ar gyfer marchnata hadau'r amrywogaethau brodorol a botanegol hynny.

Mae rheoliad 3 yn diwygio rheoliad 2(1) o'r prif Reoliadau drwy gyflwyno diffiniadau newydd.

Mae rheoliad 4 yn diwygio rheoliad 19 o'r prif Reoliadau. Mae'r rheoliad 19A newydd o'r prif Reoliadau, a fewnosodir gan reoliad 4 o'r Rheoliadau hyn, yn darparu na chaniateir marchnata hadau amrywogaeth cadwraeth ac eithrio yn rhanbarth ei tharddiad neu mewn rhanbarth ychwanegol, a'u bod yn ddarostyngedig i gyfyngiadau meintiol. Nid yw'n ofynnol cynnal archwiliad swyddogol, ond mae hadau amrywogaeth cadwraeth yn ddarostyngedig i ôl-reoli swyddogol.

Mae'r Rheoliadau yn darparu hefyd ar gyfer marchnata amrywogaethau amatur. Mae rheoliad 7 yn diwygio Atodlen 1 o'r prif Reoliadau drwy gyflwyno diffiniad o hadau safonol amrywogaeth amatur. Mae'r rheoliad 19B newydd o'r prif Reoliadau, a fewnosodir gan reoliad 4 o'r Rheoliadau hyn, yn darparu bod hadau safonol amrywogaeth amatur yn ddarostyngedig i'r cyfyngiadau meintiol yn Erthygl 28 o'r

Gyfarwyddeb ac Atodiad II iddi. Nid yw'n ofynnol cynnal archwiliad swyddogol, ond mae hadau amrywogaeth amatur yn ddarostyngedig i ôl-reoli swyddogol.

Mae'r Rheoliadau hyn hefyd yn gwneud diwygiadau canlyniadol i'r prif Reoliadau, gan gynnwys—

- (a) Mewnosod diffiniadau newydd eraill yn y prif Reoliadau (rheoliadau 3 a 7);
- (b) Amrywiol ddiwygiadau o ran samplu, selio a labelu (rheoliadau 4, 5, 6, 8 a 9).

Gwnaed Asesiad Effaith Rheoleiddiol rhannol, ar sail y DU gyfan, gan Asiantaeth Ymchwil Bwyd a'r Amgylchedd y DU (FERA) mewn perthynas â gweithredu'r Gyfarwyddeb, ac y mae'r asesiad hwnnw ar gael ar wefan Adran yr Amgylchedd, Bwyd a Materion Gwledig (DEFRA). Llywodraeth y DU.

2011 Rhif 994 (Cy. 147)

HADAU, CYMRU

Rheoliadau Hadau Llysiau (Cymru) (Diwygio) 2011

Gwnaed 29 Mawrth 2011

*gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 30 Mawrth 2011

Yn dod i rym 22 Ebrill 2011

Mae Gweinidogion Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddir gan adrannau 16(1), (1A), (2), (3), (4) a (5) ac 36 o Ddeddf Amrywogaethau a Hadau Planhigion 1964, ac a freinir bellach ynddynt hwy(1), a thrwy arfer y pwerau ym mharagraff 1A of Atodlen 2 i Ddeddf y Cymunedau Ewropeaidd 1972(2).

Yn unol ag adran 16(1) o'r Ddeddf honno, mae Gweinidogion Cymru wedi ymgynghori â chynrychiolwyr y cyfryw fuddiannau sy'n ymddangos iddynt yn berthnasol.

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- (1) 1964 p.14. Diwygiwyd adran 16 gan adran 4(1) o Ddeddf y Cymunedau Ewropeaidd 1972 (p.68) a pharagraff 5(1), (2) a (3) o Atodlen 4 i'r Ddeddf honno, O.S. 1977/1112, ac adran 2 o Ddeddf Amaeth 1986 (p.49). *Gweler* adran 38(1) am ddiffiniad o "the Minister". O dan Orchymyn Trosglwyddo Swyddogaethau (Cymru) (Rhif 1) 1978 (O.S. 1978/272), erthygl 2(1) ac Atodlen 2, trosglwyddwyd swyddogaethau'r Gweinidog dros Amaethyddiaeth, Pysgodfeydd a Bwyd o dan Ddeddf Amrywogaethau a Hadau Planhigion 1964, i'r graddau y maent yn arferadwy o ran Cymru, i'r Ysgrifennydd Gwladol; ac o dan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672), erthygl 2(1) ac Atodlen 1, trosglwyddwyd y swyddogaethau a drosglwyddwyd i'r Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru. Yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 p.32, mae'r swyddogaethau hynny'n arferadwy gan Weinidogion Cymru.
- (2) 1972 p.68 fel y'i diwygiwyd gan Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 p.51.

Mae'r Rheoliadau yn gwneud darpariaeth at ddiben a grybwyllir yn adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972, ac y mae'n ymddangos yn hwylus i Weinidogion Cymru ddehongli'r cyfeiriadau at y Gyfarwyddeb a bennir yn rheoliad 3 fel cyfeiriadau at y Gyfarwyddeb honno fel y'i diwygir o bryd i'w gilydd.

Enwi, cymhwyso a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Hadau Llysiâu (Cymru) (Diwygio) 2011.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru a deuant i rym ar 22 Ebrill 2011.

Diwygio Rheoliadau Hadau Llysiâu (Cymru) 2005

2. Diwygir Rheoliadau Hadau Llysiâu (Cymru) 2005(1) yn unol â darpariaethau canlynol y Rheoliadau hyn.

Diwygio Rheoliad 2

3. Yn rheoliad 2(1) (Dehongli cyffredinol)—

(a) Ar ôl y diffiniad o “the Act” mewnosoder—

““additional region” means the region for seed production approved by the Welsh Ministers for the purposes of the second paragraph of Article 13.1 (additional regions) of Commission Directive 2009/145;

“amateur variety” means a variety of vegetable species with no intrinsic value for commercial crop production which is developed for growing under particular conditions and is contained within a National List;”;

(b) Ar ôl y diffiniad o “breeder’s seed” mewnosoder—

““certified seed of a conservation variety” means seed of a conservation variety which—

(a) is produced in the region of origin or an additional region;

(b) descends from seed produced accordingly to well defined practices for the maintenance of the variety;

(c) satisfies the requirements for certification of certified seed set out in the Vegetable Seed Directive, except the requirements in respect of minimal

(1) O.S. 2005/3035 (Cy. 223).

varietal purity and examination and satisfies the requirements of Part V of Schedule 4; and

(d) has sufficient varietal purity;

“Commission Directive 2009/145”
Commission Directive 2009/145” means
Commission Directive 2009/145/EC
providing for certain derogations, for
acceptance of vegetable landraces and
varieties which have been traditionally
grown in particular localities and regions
and are threatened by genetic erosion and of
vegetable varieties with no intrinsic value
for commercial crop production but
developed for growing under particular
conditions and for marketing of seed of
those landraces and varieties as amended
from time to time;”;

(c) ar ôl y diffinad o “component”
mewn osod—

““conservation variety” means a landrace or
variety of vegetable species which is
naturally adapted to local and regional
conditions and threatened by genetic
erosion and is contained within a National
List and for these purposes—

(a) “landrace” means a set of populations
or clones of a plant species which are
naturally adapted to the environmental
conditions of their region; and

(b) “genetic erosion” means loss of genetic
diversity between and within
populations or varieties of the same
species over time or reduction of the
genetic basis of a species due to human
intervention or environmental change;”

;

(ch) ar ôl y diffiniad o “official measures”
mewn osod—

““official post control” means a control plot
has been sown with seed from the relevant
seed lot and has produced plants which have
been examined by or on behalf of the
relevant European Authority and for these
purposes—

(a) “control plot” means a plot sown by or
on behalf of a European Authority with
seed from a sample which is of at least
the minimum weight specified in
column 3 of the table in Schedule 7
taken by or on behalf of a European
Authority or the person marketing the
seed; and

(b) “European Authority” means:

- (i) the Welsh Ministers;
 - (ii) the Scottish Ministers;
 - (iii) the Department of Agriculture and Rural Development in Northern Ireland;
 - (iv) the Secretary of State; or
 - (v) a competent seed certification authority of an EEA state other than the United Kingdom;” and
- (d) ar ôl y diffiniad o “previously listed variety” mewnosoder—
- ““region of origin” means the region forming a part or the whole of the United Kingdom identified by the Welsh Ministers for the purposes of Article 8(1) (region of origin) of Commission Directive 2009/145;” and
- (dd) yn lle’r diffiniad o “the Vegetable Seed Directive”, rhodder—
- ““the Vegetable Seed Directive” means Council Directive 2002/55/EC on the marketing of vegetable seed, as amended from time to time:”.

Mewnosod rheoliadau newydd 19A, 19B a 19C

4. Ar ôl rheoliad 19 (Eithriad ar gyfer profi’r farchnad) mewnosoder—

“Marketing seed of conservation varieties

19A—(1) The prohibition in regulation 15(1) does not apply to the marketing of seed of a conservation variety, certified seed of a conservation variety and standard seed of a conservation variety, which is in accordance with this regulation.

(2) The Welsh Ministers must ascertain, so far as is practicable, whether seed of a conservation variety has sufficient varietal purity by the use of official post control and the consideration of any other relevant information.

(3) Where the results of official post control show that the seed does not have sufficient varietal purity, the Welsh Ministers must notify in writing the person marketing the relevant seed lot of that fact.

(4) Where in the case of standard seed of a conservation variety, notice is given under paragraph (3), further marketing of the relevant seed lot must not occur.

(5) A person must not market seed of a conservation variety other than in its region of origin or additional region.

(6) A person proposing to produce seed of a conservation variety must supply the Welsh Ministers, in such a manner and form as they require, with the following details in writing—

- (a) the size (in hectares); and
- (b) the location,

of the area to be used to produce the seed.

(7) For the purposes of Article 15 (quantitative restrictions) of Commission Directive 2009/145, the Welsh Ministers may specify the maximum amount of seed of a conservation variety which may be marketed in any given growing season and specify different maxima for different persons or classes of person.

(8) Where a person proposing to produce seed of a conservation variety has supplied the Welsh Ministers with details under paragraph (6), the Welsh Ministers may in writing authorise the person to market seed of a conservation variety not exceeding the amount specified in the authorisation and must give notice of that authorisation to the person.

(9) A person must not market more than the maximum amount of seed of a conservation variety specified in an authorisation given that person under paragraph (8).

(10) A person must not market a package of seed of a conservation variety unless it had been sealed by the supplier using a non-reusable sealing system or some other sealing system—

- (a) including the use of a label or the affixing of a seal; and
- (b) in such a manner that the package cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label or the package.”;

“Marketing seed of amateur varieties

19B—(1) The prohibition in regulation 15(1) does not apply to the marketing of standard seed of an amateur variety which is in accordance with this regulation.

(2) The Welsh Ministers must ascertain, so far as is practicable, whether standard seed of an amateur variety has sufficient varietal purity by the use of official post control and the consideration of an other relevant information.

(3) Where the results of official post control show that the seed does not have sufficient varietal purity, the Welsh Ministers must notify

in writing the person marketing the relevant seed lot of that fact.

(4) Where, in the case of standard seed of an amateur variety, notice is given under paragraph (3), no further marketing of the relevant seed lot may occur.

(5) The seed must be in a package not exceeding the maximum net weight specified for each species in Annex II to Commission Directive 2009/145/EC.

(6) A person must not market a package of standard seed of an amateur variety unless it has been sealed by the supplier using a non reusable sealing system or some other sealing system—

- (a) including the use of a label or the affixing of a seal; and
- (b) in such a manner that the package cannot be opened with damaging the sealing system or without leaving evidence of tampering on the label or the package.;

“Marketing certain seed produced and packaged elsewhere in the EU

19C. The prohibition in regulation 15(1) does not apply to the marketing of standard seed of an amateur variety which has been produced and packaged in another member State (other than the United Kingdom) and which has been sealed in accordance with Article 29 and labelled in accordance with Article 30 of Commission Directive 2009/145.”.

Diwygio rheoliad 22

5.Yn rheoliad 22 (Samplu)—

(1) Ar ôl paragraff (6) mewnosoder—

“(7) A sample of seed of a conservation variety or standard seed of an amateur variety taken for the purposes of checking compliance with these Regulations must be taken in accordance with the requirements contained in Schedule 5 of the Seed (Registration, Licensing and Enforcement) (Wales) Regulations 2005⁽¹⁾.

(8) If a sample of seed of a conservation variety or standard seed of an amateur variety taken for the purposes of an examination is found not to have been taken in accordance with

(1) O.S. 2005/3038 (Cy. 226).

the requirements of seeds regulations⁽¹⁾, no examination or no further examination may be made of that sample and any finding is null and void.”.

Diwygio rheoliad 25

6. Yn rheoliad 25 (Labelu pecynnau)—

(1) Ar ôl paragraff (1)(d) mewnosoder—

“(e) seed of a conservation variety; or

(f) standard seed of an amateur variety”.

(2) Ar ddechrau paragraff (3) mewnosoder—

“Except in relation to seed of a conservation variety or standard seed of an amateur variety”.

(3) Ar ôl paragraff (16) mewnosoder—

“(16A) A package of seed of a conservation variety must bear a supplier’s label or a printed or stamped notice containing the information specified in Part VIII of Schedule 8 (and for the avoidance of doubt neither an official label nor an official inner label is required).

(16B) A package of standard seed of an amateur variety must bear a supplier’s label or a printed or stamped notice containing the information specified in Part IX of Schedule 8 (and for the avoidance of doubt neither an official label nor an official inner label is required).”.

Diwygio Atodlen 1

7. Yn Atodlen 1 (Dehongli), Rhan IV, yn lle paragraff (28) rhodder—

“**28.** In these Regulations—

(1) “standard seed” means seed of a listed variety, other than standard seed of a conservation variety and standard seed of an amateur variety—

(a) that is intended mainly for the production of vegetables, and

(b) satisfies the conditions laid down in Annex II to the Vegetable Seed Directive.

(2) “standard seed of a conservation variety” means seed of a conservation variety which—

(a) is produced in the region of origin or additional region;

(1) O.S. 2004/2881 (Cy. 251), O.S. 2005/1207 (Cy. 79), O.S. 2005/3035 (Cy. 223), O.S. 2005/3036 (Cy. 224), O.S. 2005/3037 (Cy. 225) a O.S. 2005/3038 (Cy. 226).

- (b) descends from seed produced according to well defined practices for the maintenance of the variety;
 - (c) satisfies the requirement for marketing of standard seed set out in the Vegetable Seed Directive, except the requirements in respect of minimal varietal purity and satisfies the requirements of Part V of Schedule 4; and
 - (d) has sufficient varietal purity.
- (3) “standard seed of an amateur variety” means seed of an amateur variety which —
- (a) satisfies the requirements for maturity of standard seed set out in the Vegetable Seed Directive, except the requirement in respect of minimal varietal purity and satisfies the requirements of Part V of Schedule 4; and
 - (b) has sufficient varietal purity.”.

Diwygio Atodlen 4

8. Yn Atodlen 4 (Amodau sydd i’w Bodloni gan yr Hadau), ar ôl Rhan IV mewnosoder—

“PART V

Examinations used to ascertain whether a crop or seed lot meets the conditions relating to certified seed of a conservation variety, standard seed of a conservation variety and a standard seed of an amateur variety

9. All examinations of certified seed of a conservation variety, standard seed of a conservation variety and standard seed of an amateur variety used to ascertain whether the crops or seed lots meet the standards in this Schedule applicable to the category must be carried out in accordance with current international methods as such methods exist.”.

Diwygio Atodlen 8

9. Yn Atodlen 8 (Labelu), ar ôl Rhan VII, mewn osoder—

“PART VIII

Supplier’s label for a package of seed of a conservation variety

33. The supplier’s label for a package of a seed of a conservation variety must be a minimum size of 110 millimetres by 67 millimetres, be coloured brown and contain the following information—

- (a) the words “EU rules and standards”;
- (b) the name and address of the person responsible for affixing the label or notice or that person’s identification mark;
- (c) the year of sealing, or the year of last sampling for the purposes of the last testing of germination, expressed by the word “sealed” or “sampled” (as the case may be), followed by the year in question;
- (d) the species;
- (e) the denomination of the conservation variety;
- (f) the words “certified seed of a conservation variety” or “standard seed of conservation variety (as appropriate)”;
- (g) the region of origin;
- (h) where the region of seed production is different from the region of origin, the indication of the region of seed production;
- (i) the reference number of the lot given by the person responsible for affixing the labels;
- (j) the declared net or gross weight or declared number of seeds;
- (k) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters of pure seeds and the total weight.

PART IX

Supplier's label for a package of standard seed of an amateur variety

34. The supplier's label for a package of standard seed of an amateur variety must contain the following information—

- (a) the words “EU rules and standards”;
- (b) the name and address of the person responsible for affixing the label or notice or that person's identification mark;
- (c) the year of sealing, or the year of last sampling for the purposes of the last testing of germination, expressed by the word “sealed” or “sampled” (as the case may be), followed by the year in question;
- (d) the species;
- (e) the denomination of the amateur variety;
- (f) the words “amateur variety”
- (g) the reference number of the lot given by the person responsible for affixing the labels;
- (h) the declared net or gross weight or declared number of seeds;
- (i) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters of pure seeds and the total weight.”

Elin Jones

Y Gweinidog dros Faterion Gwledig, un o
Weinidogion Cymru

29 Mawrth 2011

