

## **Explanatory Memorandum to The Marketing of Vegetable Plant Material (Wales) (Amendment) Regulations 2007**

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

### **1. Description**

These Regulations implement Commission Directive 2006/124/EC in Wales by updating the list of genera and species of plant material currently covered in England, Wales and Scotland by the Marketing of Vegetable Plant Material Regulations 1995.

### **2. Matters of special interest to the Joint Committee on Statutory Instruments**

None. These Regulations purely update the list of genera and species of plant material covered by the 1995 Regulations to include Zea Mays (popcorn and sweetcorn).

### **3. Legislative Background**

The Marketing of Vegetable Plant Material Regulations 1995 implement Council Directives 92/33/EEC and 93/62/EEC on the marketing of vegetable propagating and planting material, other than seed. Commission Directive 2006/124/EC amends Council Directive 92/33/EEC.

The Marketing of Vegetable Plant Material (Wales) (Amendment) Regulations 2007 will be made under section 2(2) of the European Communities Act 1972. Welsh Ministers are designated under this Act by virtue of S.I. 2005/2766. Powers under this Act have been designated to the Welsh Ministers by virtue of section 162 of, and paragraph 28, to the Government of Wales Act 2006.

### **4. Purpose and intended effect of legislation**

Council Directives 92/33/EEC and 93/62/EEC establish a regime to ensure that purchasers throughout the European Community receive vegetable propagating and planting material which is healthy and of good quality. They set quality standards to be met by certain genera and species of plant material when marketed and prescribe conditions to be satisfied by suppliers of plant material. The Directives are currently implemented in England, Wales and Scotland by the Marketing of Vegetable Plant Material Regulations 1995. Similar but separate legislation operates in Northern Ireland.

The Assembly Government is required to implement these Council Directives as soon as practically possible to ensure a consistent

approach to the marketing of plant material across the EU. The Plant Health and Seeds Inspectorate (PHSI), who operate in Wales on behalf of the Assembly Government, advise that these Regulations will have little effect within Wales, as marketing of young plants of Zea Mays is unlikely to take place.

**5. Implementation**

These Regulations were made on 25 July 2007 and are intended to come into force on 28 August 2007. Similar legislation has already been implemented in England on 1 July 2007 and is under consideration in Scotland and Northern Ireland. There is likely to be little effect within Wales as a result of the implementation of these Regulations. However, failure to implement these Regulations would lead to operational difficulties for PHSI, as it would need to apply separate regulatory regimes to the provision of services relating to these Regulations in England and Wales.

**6. Consultation**

A consultation on these Regulations was not deemed necessary (please see Regulatory Impact Assessment).

**7. Regulatory Impact Assessment**

A Regulatory Impact Assessment has been prepared for these Regulations.

## **Regulatory Impact Assessment**

### **Options**

#### **Option 1 – Do Nothing**

Failure to implement these Regulations would lead to operational difficulties for PHSI, as it would need to apply separate regulatory regimes to the provision of services relating to these Regulations in England and Wales

#### **Option 2 – Introduce the Regulations**

Making the proposed Regulations will bring Wales into line with the other Member States of the European Community, thus providing consistency and a level playing field. The Regulations would also assist in providing additional protection against plant diseases and simplify cross border operations for the PHSI.

#### **Issues of equity or fairness**

It is considered that these Regulations would impact equally across the industry. Any likely burden on small businesses should not be disproportionate when compared to the impact on larger businesses, although it is recognised that smaller businesses would, in the main, have less administrative capacity.

#### **Benefits**

As marketing of young plants of Zea Mays is unlikely to take place in Wales, these Regulations will have little effect, if any, on sector businesses in Wales. Therefore the benefits of doing nothing are minimal. However, non-implementation would lead to operational difficulties for PHSI inspectors who would be forced to operate two separate sets of legislation in England and Wales for the provision of services relating to these Regulations.

Conversely, the benefits of implementing the measures are:

- Consistency with other Member States – this would facilitate trade in that the introduction of these Regulations will ensure that purchasers throughout the European Community receive vegetable propagating and planting material which is healthy and of good quality, and
- Ensure a co-ordinated approach and enhanced plant protection and pest risk management regime, and

- The Regulations would also ensure the smooth running of the PHSI service especially in terms of simplifying cross border operations.

## **Costs**

The Regulations would not affect charities and voluntary organisations and as marketing of young plants of Zea Mays is unlikely to take place in Wales, these Regulations will have little effect, if any, on nurseries and other companies in Wales. There would be no compliance costs associated with the option of doing nothing.

Similarly, there will be no costs incurred by the Welsh Assembly Government as a result of the implementation of these Regulations. Any costs will be met by the Department of Food and Rural Affairs' Plant Health and Seeds Inspectorate, who have been appointed by the Welsh Assembly Government to operate in Wales, on its behalf.

## **Competition Assessment**

The competition filter has been applied and the conclusion is that there is no significant risk of impact on competition. Therefore, a detailed assessment has not been prepared.

In preparing the filter, the market identified was the plant and plant products industry in Wales. Within the sector, no businesses are known to have more than a 10% share of the market. The proposals will have no impact on market structure and will not adversely affect new firms compared to existing ones. Rapid technology change is not a characteristic of this market. Finally, the introduction of these measures has no impact on the choice of firms in respect of price, quality range or location of their products.

## **Consultation**

A consultation on the introduction of the proposed Regulations was not considered necessary due to the limited impact of the Regulations.

## **Post Implementation Review**

There is a continuous programme to monitor plant health developments, carried out at Community level by the Standing Committee on Plant Health. This takes into account developments within Member States. The introduction of these Regulations will ensure that purchasers throughout the European Community receive vegetable propagating and planting material which is healthy and of good quality. The overall effect of implementing these Regulation is to ensuring an enhanced plant protection and pest risk management regime operates across the EU.

## **Summary and recommendation**

The options are to do nothing or to implement the new Regulations.

The costs associated with implementing the new Regulations are negligible, but the risks associated with non-implementation are potentially more significant. In particular, trade with other Member States would be affected and the health status of vegetable propagating and planting material in Wales would be jeopardised. Additionally, PHSI would experience operational difficulties, which could impact on its service delivery and relationship with the Assembly Government. In light of this assessment, it is recommended that the measures are implemented in Wales, as required.