

Explanatory Memorandum to the Seed Potatoes (Wales) (Amendment) Regulations 2010

This Explanatory Memorandum has been prepared by the Department for Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Seed Potatoes (Wales) (Amendment) Regulations 2010.

Elin Jones

Minister for Rural Affairs

12 July 2010

1. Description

These Regulations implement Commission Directive 2007/33/EC which provides that a growing crop certificate cannot be issued with a statement that seed potatoes are capable of being marketed unless the land in which they are grown is free from Potato Cyst Nematode and has not been demarcated under Schedule 15 to the Plant Health (Wales) Order 2006 or used for growing potatoes for a specified period.

2. Matters of special interest to the Constitutional Affairs Committee

None.

3. Legislative background

These Regulations are made in exercise of powers under the Plant Varieties and Seeds Act 1964. Those powers are exercisable in relation to Wales, by the Welsh Ministers.

The Seed Potatoes (Wales) (Amendment) Regulations 2010 amend the Seed Potatoes (Wales) Regulations 2006.

This statutory instrument follows a negative procedure timetable.

4. Purpose & intended effect of the legislation

Commission Directive 2007/33/EC introduces new requirements on the control of potato cyst nematodes (PCN) which are serious pests of potato crops worldwide. Controls are in place in most potato-producing countries to limit the increase and spread of PCN. This Amendment will implement updated controls which are due to be introduced in all EU Member States from 1 July 2010.

The controls on PCN are currently implemented in Wales through:

- Schedules 1 and 4 of the Plant Health (Wales) Order 2006, which implement the requirements of the Plant Health Directive in relation to the introduction and movement of PCN, seed potatoes and plants with roots intended for planting.
- Schedule 15 of the Plant Health (Wales) Order 2006 implements the requirements of the PCN Control Directive relating to land contaminated with PCN.
- Schedule 1 of the Seed Potatoes (Wales) Regulations 2006 implements the requirements of the Seed Potatoes Marketing Directive that both the production ground of seed potatoes and individual lots of seed potatoes are free of PCN.

The Seed Potatoes (Wales) (Amendment) Regulations 2010 amend Schedule 1 of the Seed Potatoes (Wales) Regulations 2006 to reflect the revised

requirements, to ensure that seed potatoes intended for marketing are produced only on land that has been tested and found free of PCN.

A separate amendment to the Plant Health (Wales) Order 2006 will implement the required changes to complete the transposition of Council Directive 2007/33/EC.

5. Consultation

Consultation undertaken on an England and Wales basis between March and June 2009.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment is not considered necessary as these Regulations transpose Commission Directive 2007/33/EC and only slightly amend the existing legislation.

7. Competition Assessment

These Regulations are not expected to have a significant impact on competition as all businesses affected will have to comply with these regulations, and no one business should be affected unduly.

8. Post implementation review

The new arrangements will be monitored in England and Wales by the Food and Environment Research Agency (Fera) under existing enforcement procedures and will be reviewed annually until the required review at European Union level in 2011.