EXPLANATORY MEMORANDUM TO

THE SEED (MISCELLANEOUS AMENDMENTS) (ENGLAND) REGULATIONS 2007 No. 1872

THE SEEDS (NATIONAL LISTS OF VARIETIES) (AMENDMENT) REGULATIONS 2007 No. 1871

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 The Seed (Miscellaneous Amendments) Regulations 2007 amends several sets of Regulations relating to the marketing of seed of various species. This instrument makes changes to permit certain seed from outside the European Union to be marketed, and updates the list of species of vegetable seed which are subject to marketing control (adding sweetcorn/popcorn to that list). A minor technical change is made in relation to seed sampling, and changes made as a result of Bulgaria and Romania joining the European Union. Minor drafting errors resulting from earlier amendments are also corrected.

2.2 The Seeds (National Lists of Varieties) (Amendment) Regulations 2007 amend a set of Regulations to update the list of vegetable varieties which may be added to the National List of such varieties (adding shallot, Japanese bunching onion/Welsh onion, garlic, chives, rhubarb and sweetcorn/popcorn to that list).

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Background

4.1 The Seeds (National Lists of Varieties) Regulations 2001, the Beet Seed (England) Regulations 2002, the Cereal Seed (England) Regulations 2002, the Fodder Plant Seed (England) Regulations 2002, the Oil and Fibre Plant Seed (England) Regulations 2002, the Vegetable Seed (England) Regulations 2002 and the Seed (Registration, Licensing and Enforcement) Regulations 2002 implement several European Directives relating to the marketing of seed of various species and to the keeping of National Lists of varieties eligible for marketing.

4.2 The Seeds (National Lists of Varieties) Regulations 2001 are amended by the Seeds (National Lists of Varieties) (Amendment) Regulations 2007; the other six sets of Regulations are amended by the Seed (Miscellaneous Amendments) Regulations 2007. Both these instruments have been made to implement Council Decision 2005/834/EC and Commission Directive 2006/124/EC, reflecting the fact that the United Kingdom has been released from its obligation to implement all the amendments made by Directive 2006/124/EC by Commission Decision 2007/321/EC.

4.3 A Transposition Note for the main provisions of Decision 2005/834/EC and Directive 2006/124/EC is attached as an Annex to this memorandum.

5. Territorial Extent and Application

The Seeds (National Lists of Varieties) (Amendment) Regulations 2007 apply to all of the United Kingdom. The Seed (Miscellaneous Amendments) (England) Regulations 2007 apply to England only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required**.**

7. Policy background

7.1 European Directives prohibit the marketing of seed of the main agricultural and vegetable species unless it is of a variety entered on a UK National List or the EC Common Catalogue (an amalgam of Member States' National Lists). The Directives also require official certification of seed of these species before marketing, to ensure that seed sold to farmers and growers meets specified standards.

7.2 The Directives (excluding Directive 2002/53/EC on the common catalogue of varieties of agricultural plant species) are implemented separately by England, Scotland, Wales and Northern Ireland. Directive 2002/53/EC is implemented on a UK wide basis.

7.3 Commission Directive 2006/124/EC amends the Directive relating to the marketing of vegetable seed (Directive 2002/55/EC) by adding shallot, Japanese bunching onion/Welsh onion, garlic, chives, rhubarb and sweetcorn/popcorn to the list of species controlled by that Directive, and by updating the names of other controlled species. The Seeds (National Lists of Varieties) (Amendment) Regulations 2007 make all these changes in relation to the list of species that can be entered onto the UK National List. The Seed (Miscellaneous Amendments) (England) Regulations 2007 updates the names of controlled species in the list of vegetable species eligible for official certification (and consequently marketing) but only adds sweetcorn/popcorn to that list. Commission Decision 2007/321/EC releases the UK from its obligation to apply the marketing control provisions of Directive 2002/55/EC in relation to shallot, Japanese bunching onion/Welsh onion, garlic, chives and rhubarb, as there is little production of such seed in the UK.

7.4 The Seeds (National Lists of Varieties) (Amendment) Regulations 2007 also give effect to Council Decision 2005/834/EC, updating the list of authorities in various non-EU countries whose checks on practices for the maintenance of varieties are considered to be equivalent to those carried out by Member States. (A variety that is on a National List generally has to be 'maintained'.)

7.5 The Directives – and the Regulations which implement their obligations – permit seed of certain categories produced and officially certified in specified countries outside the European Union ('third countries') to be treated as being equivalent to seed of the same category produced in Member States (and hence eligible for marketing). Commission Directive 2006/124/EC extends those 'third country equivalence' provisions to the

category of “pre-basic seed”. The Seed (Miscellaneous Amendments) (England) Regulations 2007 adds that new category to the implementing Regulations.

7.6. This instrument also makes some miscellaneous minor amendments. It removes Bulgaria and Romania from the definition of ‘third countries’, following their accession to the European Union. It also corrects errors resulting from amendments made by the Seed (England) (Amendments for Tests and Trials etc.) Regulations 2006 (‘seed’ was used in places rather than ‘crop’, and one type of specified label was misnamed). It further makes minor changes to the type of device to be used in relation to the taking of samples of seed.

7.7. Consultation on the proposed changes took place with the seeds industry and other interested persons between February and May 2007. No substantive responses were received. Defra intends to write to the relevant industry representative organisations to inform them of the changes that have been made.

8. **Impact**

A Regulatory Impact Assessment has not been prepared as no significant impact (and no impact at all on the private and voluntary sectors) is foreseen.

9. **Contact**

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Transposition Note

The Seeds (National Lists of Varieties) (Amendment) Regulations 2007
The Seed (Miscellaneous Amendments)(England) Regulations 2007

These regulations do what is necessary to implement those parts of the Directive and the Decision that are relevant to the areas to which they apply, including making consequential changes to domestic legislation.

COMMISSION DIRECTIVE 2006/124/EC

Articles	Objectives	Implementation	Responsibility
Article 2	By replacing the list of vegetable species to which Directive 2002/55/EC on the marketing of vegetable seed applies, requires those species to be subject to the controls required by that Directive. New species have been added to the list and some scientific names have been updated. Also requires specified standards of purity, content and germination to be met in relation to those new species.	Regulation 2(4)-(7) of the Seeds (National Lists of Varieties) (Amendment) Regulations 2007 Regulation 6(3)-(6) of the Seed (Miscellaneous Amendments)(England) Regulations 2007 Implementation takes account of Commission Decision 2007/321/EC, releasing the United Kingdom from its responsibility to apply some of the marketing controls in Directive 2002/55/EC to several species contained on the revised list.	Secretary of State, Scottish and Northern Irish Executives, National Assembly for Wales in relation to the Seeds (National Lists of Varieties) (Amendment) Regulations 2007 Secretary of State in relation to the Seed (Miscellaneous Amendments)(England) Regulations 2007

COUNCIL DECISION 2005/834/EC

Articles	Objectives	Implementation	Responsibility

Article 1	Identifies the list of third country authorities whose official checks on practices for the maintenance of varieties are treated as being equivalent to those carried out by Member States.	Regulation 2(2) of the Seeds (National Lists of Varieties) (Amendment) Regulations 2007	Secretary of State, Scottish and Northern Irish Executives, National Assembly for Wales
Article 4	The effect of this Article is to add pre-basic seed to the categories of seed officially certified in third countries that are treated as being equivalent to seed officially certified in Member States.	Regulations 2 (other than paragraph (2)), 3 (other than paragraph (3), 4 (other than paragraph (5)) and 5 (other than paragraph 5)) of the Seed (Miscellaneous Amendments)(England) Regulations 2007.	Secretary of State