

# **The Welsh Government's Statutory Instrument Consent Memorandum on the Plant Varieties Act (Amendment) Regulations 2026**

March 2026



# 1. Background

## **The Plant Varieties Act (Amendment) Regulations 2026**

**1.** The Plant Varieties Act (Amendment) Regulations 2026 (“the Regulations”)<sup>1</sup> were made by the UK Government on 24 February 2026 using powers in section 14(2) of the *Retained EU Law (Revocation and Reform) Act 2023* (“the 2023 Act”)<sup>2</sup>. The Regulations apply to the whole of the United Kingdom.

## **Summary of the Regulations**

**2.** The Regulations amend the definition of “small farmer” in section 9(10) of the *Plant Varieties Act 1977* (“the 1977 Act”).<sup>3</sup> The default position under the 1977 Act is that farmers, when using certain seeds, must make payments to the holders of plant breeders’ rights. However, there is an exemption for small farmers.

**3.** These Regulations amend the definition of “small farmer” to clarify that, where a small farmer cultivates multiple varieties of certain seeds, those varieties as a whole must not be grown on an area that is larger than the area required to produce 92 tonnes of cereals plus harvest.

**4.** Without clarifying the definition, the 92-tonne threshold could be interpreted as applying to the harvest of each individual variety of seed cultivated, rather than the combined harvest of all seeds within scope. That would effectively expand the scope of the “small farmer” exemption and increase the quantity of a given species that a farmer could grow without making payments to the holders of plant breeders’ rights. The UK Government argues that this could reduce payments made to breeders and frustrate innovation and investment in plant breeding.<sup>4</sup>

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<sup>1</sup> [legislation.gov.uk](https://legislation.gov.uk), [The Plant Varieties Act \(Amendment\) Regulations 2026](#)

<sup>2</sup> [legislation.gov.uk](https://legislation.gov.uk), [Retained EU Law \(Revocation and Reform\) Act 2023](#)

<sup>3</sup> [legislation.gov.uk](https://legislation.gov.uk), [Plant Varieties Act 1977](#)

<sup>4</sup> UK Government, [Explanatory Memorandum to The Plant Varieties Act \(Amendment\) Regulations 2026](#), 27 February 2026, paragraphs 5.4 to 5.5

## 2. The statutory instrument consent memorandum

**5.** Standing Order 30A states that a member of the government must lay a statutory instrument consent memorandum in relation to any statutory instrument, or draft statutory instrument, laid before the UK Parliament by UK Ministers which makes provision in relation to Wales amending primary legislation within the legislative competence of the Senedd.

**6.** On 27 February 2026, Huw Irranca-Davies MS, the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs (“the Deputy First Minister”), laid a statutory instrument consent memorandum in respect of the Regulations (“the Memorandum”)<sup>5</sup> before the Senedd, in accordance with Standing Order 30A. Alongside the Memorandum he laid a copy of the Regulations themselves<sup>6</sup> and an explanatory document produced by the UK Government<sup>7</sup>. The Deputy First Minister issued a Written Statement about the Memorandum on 2 March.<sup>8</sup>

### The Welsh Government's view

**7.** In the Memorandum, the Deputy First Minister sets out that the Regulations are within the legislative competence of the Senedd because plant varieties and seeds are devolved.<sup>9</sup> He also sets out his assessment that the Regulations do not introduce a change of policy, and therefore rely appropriately on the powers in section 14(2) of the 2023 Act.<sup>10</sup>

**8.** The Welsh Ministers could, therefore, have used section 14(2) to make the Regulations for Wales. However, the Deputy First Minister considers it appropriate for the Regulations to be made by the UK Government.<sup>11</sup> The Memorandum sets

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<sup>5</sup> Welsh Government, [Statutory Instrument Consent Memorandum: the Plant Varieties Act \(Amendment\) Regulations 2026](#), 27 February 2026

<sup>6</sup> [The Plant Varieties Act \(Amendment\) Regulations 2026](#)

<sup>7</sup> UK Government, Explanatory Memorandum to The Plant Varieties Act (Amendment) Regulations 2026, 27 February 2026

<sup>8</sup> Welsh Government, Written Statement: The Plant Varieties Act (Amendment) Regulations 2026, 2 March 2026

<sup>9</sup> Welsh Government, Statutory Instrument Consent Memorandum: the Plant Varieties Act (Amendment) Regulations 2026, 27 February 2026, paragraph 9

<sup>10</sup> Welsh Government, Statutory Instrument Consent Memorandum: the Plant Varieties Act (Amendment) Regulations 2026, 27 February 2026, paragraph 10

<sup>11</sup> Welsh Government, [Written Statement: The Plant Varieties Act \(Amendment\) Regulations 2026](#), 2 March 2026

out the Deputy First Minister's support for the Regulations making provision in devolved areas:

*"It is my view that it is appropriate to effect these amendments through the Regulations as they represent the most practicable and proportionate legislative vehicle to enable their application to Wales. Plant Breeders Rights are administered by the 'Controller' of the Plant Variety Rights Office. The Controller is appointed by Welsh, UK, Scottish and Northern Ireland Ministers (...) The provision that the Regulations amend in the 1997 Act extends to Wales, England, Scotland and Northern Ireland, the policy underpinning the Regulations is aligned across the respective Governments and this method of amendment ensures the timely alignment of the plant breeders' rights regime across their territories."*<sup>12</sup>

9. The Deputy First Minister concludes that there are no financial implications for Wales as a consequence of the Regulations.<sup>13</sup>

### 3. Committee consideration

10. We considered the Memorandum at our meeting on 9 March 2026<sup>14</sup>, and agreed our report on the Memorandum the following week<sup>15</sup>.

#### **Our view**

11. We agree with the Welsh Government's assessments of the provisions within the Regulations that require the consent of the Senedd.

**Conclusion 1.** The Regulations amend primary legislation within the legislative competence of the Senedd and therefore require consent under Standing Order 30A.

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<sup>12</sup> Welsh Government, Statutory Instrument Consent Memorandum: the Plant Varieties Act (Amendment) Regulations 2026, 27 February 2026, paragraph 11

<sup>13</sup> Welsh Government, Statutory Instrument Consent Memorandum: the Plant Varieties Act (Amendment) Regulations 2026, 27 February 2026, paragraph 13

<sup>14</sup> Legislation, Justice and Constitution Committee, [9 March 2026](#)

<sup>15</sup> Legislation, Justice and Constitution Committee, [16 March 2026](#)