

## STATUTORY INSTRUMENT CONSENT MEMORANDUM

### THE PLANT VARIETIES ACT (AMENDMENT) REGULATIONS 2026

1. This statutory instrument consent memorandum is laid under standing order (“SO”) 30A.2. SO30A provides that a statutory instrument consent memorandum must be laid and a statutory instrument consent motion may be tabled before Senedd Cymru if a UK statutory instrument makes provision in relation to Wales amending primary legislation within the legislative competence of the Senedd.

2. The Plant Varieties Act (Amendment) Regulations 2026 (“the Regulations”) are subject to the negative procedure, were laid before the UK Parliament on 25 February 2026 and can be found at:

[The Plant Varieties Act \(Amendment\) Regulations 2026](#)

3. Copies of the Regulations and associated documentation have today been laid before the Senedd alongside this memorandum.

4. There is a political commitment for the UK Government to seek the consent of the Welsh Government when making legislation that applies to Wales in an area of devolved competence. Baroness Hayman, the UK Minister for biosecurity, borders and animals, has written to seek the consent of the Welsh Ministers to the application of the Regulations to Wales. As the Regulations engage standing order 30A (consent in relation to statutory instruments made by UK Ministers), the agreement of the Senedd is also sought.

#### **Summary of the Instrument and its objective (SO30A.4(i) requirement)**

5. The Regulations substitute ‘varieties’ for ‘variety’ in every place it occurs in the definition of “small farmer” in section 9(10)(b) of the Plant Varieties Act 1997. The definition of “small farmer” is connected to the exception in section 9(4) and the payment of equitable remuneration to the holders of plant breeders’ rights (a form of intellectual property). The policy intention was and is for the element of the “small farmer” exception in section 9(10)(b) to apply to the sum of varieties grown in an area, not to each variety grown in an area.

6. The objectives of the Regulations are to clarify the definition of “small farmer” so it aligns with the policy intention, prevent its misinterpretation and ensure the intended payments are made to the holders of plant breeders’ rights thereby supporting innovation and investment in plant breeding.

7. Plant breeding is fundamental to ensuring sustainable food production and addressing the challenges posed by climate change. Innovation in plant breeding leads to the development of new crop varieties that can be more resilient to environmental stresses such as drought, heat, flooding, and emerging pests and diseases. These improved varieties not only help

maintain and increase crop yields under changing climatic conditions but also reduce the need for chemical inputs, thereby supporting more environmentally friendly farming practices. Sustained investment in plant breeding is a cornerstone of both sustainable agriculture and climate resilience, ensuring that food systems remain robust in the face of future challenges.

8. The Regulations extend to Wales, England, Scotland and Northern Ireland.

**Provision to be made by the Instrument for which consent is sought (SO30A.4(ii) requirement)**

9. The Regulations (save for their application beyond Wales) are within the legislative competence of the Senedd. The Regulations amend section 9(10)(b) of the Plant Varieties Act 1997. Plant, varieties and seeds are a devolved area and appear as an exception in Schedule 7A (reserved matters) to the Government of Wales Act 2006.

**Why is it appropriate for the SI to make this provision (SO30A.4(iii) requirement)**

10. The Regulations are made in exercise of powers in section 14(2) of the Retained EU Law (Revocation and Reform) Act 2023. The objectives of the Regulations include, to clarify the definition of “small farmer” so it aligns with the policy intention and prevent its misinterpretation. The Regulations do not introduce a change of policy and, as such, section 14(2) is appropriate as the Regulations pursue the “same or similar” objectives. The power is time limited: section 14(9) provides that no regulations may be made in exercise of the powers in section 14 after 23 June 2026.

11. 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. Officials from each Government work under the provisional UK Common Framework on Plant Varieties and Seeds. 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.

12. Though the Regulations will not be made bilingually, I note the 1997 Act itself was not made bilingually.

**Financial implications**

13. There are no financial implications in Wales in consenting to the provisions in the Regulations.

**Huw Irranca-Davies MS**  
**Deputy First Minister and Cabinet Secretary for Climate Change and**  
**Rural Affairs**  
**27 February 2026**

