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WELSH STATUTORY INSTRUMENTS

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**2020 No. 833 (W. 182)**

**PLANT HEALTH, WALES  
SEEDS, WALES**

**The Marketing of Seed, Plant and Propagating  
Material (Wales) Regulations 2020**

<i>Made</i>	- - - -	<i>4 August 2020</i>
<i>Laid before Senedd Cymru</i>		<i>6 August 2020</i>
<i>Coming into force</i>	- -	<i>29 August 2020</i>

The Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to the common agricultural policy(2).

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 16(1), (1A), (3), (4) and 36 of the Plant Varieties and Seeds Act 1964(3) and section 2(2) of the European Communities Act 1972.

The Welsh Ministers have consulted representatives of such interests as appear to them to be concerned in accordance with section 16(1) of the Plant Varieties and Seeds Act 1964.

**Title, application and commencement**

**1.** The title of these Regulations is the Marketing of Seed, Plant and Propagating Material (Wales) Regulations 2020, they apply in relation to Wales and come into force on 29 August 2020.

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- (1) [1972 c. 68](#). The European Communities Act 1972 (“the 1972 Act”) was repealed by section 1 of the European Union (Withdrawal) Act [2018 \(c. 16\)](#) (“the 2018 Act”) with effect from exit day. “Exit day” is defined in section 20 of the 2018 Act as 31 January 2020 at 11pm. Despite that repeal the 1972 Act continues to have effect with modifications until IP completion day, by virtue of section 1A of the 2018 Act. Section 1A was inserted by section 1 of the European Union (Withdrawal Agreement) Act [2020 \(c. 1\)](#) (“the 2020 Act”). “IP completion day” is defined in section 1A as 31 December 2020 at 11pm (the meaning given in section 39 of the 2020 Act). Section 2(2) of the 1972 Act was previously amended by section 27(1) of the Legislative and Regulatory Reform Act [2006 \(c. 51\)](#) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act [2008 \(c. 7\)](#).
- (2) [S.I. 2010/2690](#), which is prospectively revoked by [S.I. 2018/1011](#) from IP completion day.
- (3) [1964 c. 14](#). Section 16(1A) was inserted by section 4 of, and paragraph 5 of Schedule 4 to, the European Communities Act 1972. See section 38(1) for a definition of “the Minister”. In accordance with article 2(1) of, and Schedule 1 to, the Transfer of Functions (Wales) (No. 1) Order 1978 ([S.I. 1978/272](#)) the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as exercisable in relation to Wales, transferred to the Secretary of State. In accordance with article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 ([S.I. 1999/672](#)) the functions transferred to the Secretary of State by the 1978 Order were transferred to the National Assembly for Wales. By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act [2006 \(c. 32\)](#) those functions are now exercisable by the Welsh Ministers.

## The Marketing of Vegetable Plant Material Regulations 1995

2.—(1) The Marketing of Vegetable Plant Material Regulations 1995<sup>(4)</sup> are amended as follows.

(2) In regulation 2(1), after the definition of “[Directive 2008/72/EC](#)” insert—

““EU Plant Health Regulation” means [Regulation \(EU\) 2016/2031](#) of the European Parliament and of the Council on protective measures against pests of plants<sup>(5)</sup>”.

(3) In regulation 5—

(a) the existing text becomes paragraph (1);

(b) in paragraph (1), for sub-paragraph (a) substitute—

“(a) at the place of production it was found, at least on visual inspection, to be practically free from all pests listed in relation to that plant material in the Annex to [Directive 93/61/EEC](#);

(ab) the quantity of any RNQP present on the plant material does not, at least on visual inspection, exceed the threshold set out in respect of that RNQP in the Annex to [Directive 93/61/EEC](#);

(ac) it is found, at least on visual inspection, to be practically free from any pests which reduce its usefulness and quality as plant material, other than those pests listed in the Annex to [Directive 93/61/EEC](#) in relation to that plant material;

(ad) it complies with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in the EU Plant Health Regulation and in the implementing acts adopted pursuant to that Regulation, including measures adopted pursuant to Article 30(1) of that Regulation;”;

(c) after paragraph (1) insert—

“(2) In this regulation—

“protected zone quarantine pest” means a pest within the meaning given by Article 32(1) of the EU Plant Health Regulation;

“RNQP” means a Union regulated non-quarantine pest within the meaning given by Article 36 of the EU Plant Health Regulation;

“Union quarantine pest” means a pest within the meaning given by Article 4 of the EU Plant Health Regulation.”

(4) For regulation 6 substitute—

“6.—(1) A producer must—

(a) report to an inspector any plant material that fails to comply with the requirements of regulation 5(1)(a) or (ab);

(b) immediately report to an inspector any plant material that shows the presence of a plant pest of a description specified in Annex 2 or 3 to the Phytosanitary Conditions Regulation and carry out any measures laid down by the inspector; and

(c) keep plant material in lots of homogenous composition and origin during growing and lifting or removal from parent material.

(2) In this regulation—

“the Phytosanitary Conditions Regulation” means [Commission Implementing Regulation \(EU\) 2019/2072](#) establishing uniform conditions for the implementation

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(4) [S.I. 1995/2652](#), amended by [S.I. 2007/2190 \(W. 174\)](#), [2014/519 \(W. 61\)](#), [2018/1216 \(W. 249\)](#), [2020/206 \(W. 48\)](#); there are other amending instruments but none are relevant.

(5) OJ No. L 317, 23.11.2016, p. 4.

of [Regulation \(EU\) 2016/2031](#) of the European Parliament and of the Council, as regards protective measures against pests of plants<sup>(6)</sup>.”

(5) Omit regulations 7 and 8(5).

(6) In regulation 9(4)(c), for “harmful organisms referred to in regulation 5(a)” substitute “pests referred to in regulations 5(1)(a), (ab) and 6(1)(b)”.

(7) In regulation 11(4), for “5(a)” substitute “5(1)(a) to (ac)”.

### **The Marketing of Ornamental Plant Propagating Material Regulations 1999**

**3.—(1)** The Marketing of Ornamental Plant Propagating Material Regulations 1999(7) are amended as follows.

(2) In regulation 2(1), before the definition of “[Directive 98/56/EC](#)” insert—

““[Directive 93/49/EEC](#)” means Commission [Directive 93/49/EEC](#) setting out the schedule indicating the conditions to be met by ornamental plant propagating material and ornamental plants pursuant to Council [Directive 91/682/EEC](#)(**8**);”.

(3) In regulation 4—

(a) the existing text becomes paragraph (1);

(b) in paragraph (1), after sub-paragraph (a) insert—

“(ab) have been found at the place of production to be practically free, at least on visual inspection, from all pests listed in the Annex to [Directive 93/49/EEC](#) in relation to that propagating material;

(ac) be free, at least on visual inspection, from any RNQP in a quantity exceeding the thresholds set out in the Annex to [Directive 93/49/EEC](#) for the presence of that RNQP;

(ad) be, at least on visual inspection, practically free from, and from any signs or symptoms of, any pests which reduce its usefulness or quality as propagating material, other than the pests listed in the Annex to [Directive 93/49/EEC](#) with regard to the respective propagating material;

(ae) comply with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in the implementing acts adopted pursuant to the EU Plant Health Regulation, and measures adopted pursuant to Article 30(1) of that Regulation;”;

(c) after paragraph (1) insert—

“(2) In this regulation—

“protected zone quarantine pest” means a pest within the meaning given by Article 32(1) of the EU Plant Health Regulation;

“RNQP” means a Union regulated non-quarantine pest within the meaning given by Article 36 of the EU Plant Health Regulation;

“Union quarantine pest” means a pest within the meaning given by Article 4 of the EU Plant Health Regulation.”

(4) Omit regulation 6A.

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(6) OJ No. L 319, 10.12.2019, p. 1.

(7) [S.I. 1999/1801](#), relevant amending instruments are [S.I. 2018/974](#), [2018/1216 \(W. 249\)](#), [2020/206 \(W. 48\)](#). [S.I. 1999/1801](#) is amended prospectively by [S.I. 2019/131](#).

(8) OJ No. L 250, 7.10.1993, p. 9, as last amended by Commission Implementing [Directive \(EU\) 2020/177](#) (OJ No. L 41, 13.2.2020, p. 1).

## The Seed Marketing (Wales) Regulations 2012

- 4.—(1) The Seed Marketing (Wales) Regulations 2012<sup>(9)</sup> are amended as follows.
- (2) In Schedule 2—
- (a) before Part 1 insert—

### “Part A1

#### Introduction

##### Interpretation

##### A1. In this Schedule—

“EU Plant Health Regulation” (*“Rheoliad Iechyd Planhigion yr UE”*) means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants;

“protected zone quarantine pest” (*“pla cwarantin parth gwarchoddedig”*) means a pest within the meaning given by Article 32(1) of the EU Plant Health Regulation;

“RNQP” (*“PRHG”*) means a Union regulated non-quarantine pest within the meaning given by Article 36 of the EU Plant Health Regulation;

“Union quarantine pest” (*“pla cwarantin yr Undeb”*) means a pest within the meaning given by Article 4 of the EU Plant Health Regulation.”;

(b) for paragraph 15(4) substitute—

“(4) The crop and the seed produced by the crop must be practically free from any pests which reduce the usefulness and quality of the seed.

(5) The crop and the seed produced by the crop must comply with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in implementing acts adopted pursuant to the EU Plant Health Regulation, and measures adopted pursuant to Article 30(1) of that Regulation.”;

(c) in paragraphs 28 and 42, for sub-paragraph (3) in each case substitute—

“(3) The crop and the seed produced by the crop must be practically free from any pests which reduce the usefulness and quality of the seed.

(4) The crop and seed produced by the crop must comply with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in implementing acts adopted pursuant to the EU Plant Health Regulation, and measures adopted pursuant to Article 30(1) of that Regulation.”;

(d) for paragraph 50(4) substitute—

“(4) The crop and seed produced by the crop must be practically free from any pests which reduce the usefulness and quality of the seed.

(4A) The crop and seed produced by the crop must comply with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in implementing acts adopted pursuant to the EU Plant Health Regulation, and measures adopted pursuant to Article 30(1) of that Regulation.”

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<sup>(9)</sup> S.I. 2012/245 (W. 39). There are amending instruments but none are relevant. S.I. 2012/245 (W. 39) is prospectively amended by S.I. 2019/368 (W. 90).

## The Seed Potatoes (Wales) Regulations 2016

- 5.—(1) The Seed Potatoes (Wales) Regulations 2016(10) are amended as follows.
- (2) In regulation 3, for the definition of “[Directive 2014/21/EU](#)” substitute—
- ““[Directive 2014/21/EU](#)” (“*Cyfarwydddeb 2014/21/EU*”) means Commission Implementing [Directive 2014/21/EU](#) determining minimum conditions and Union Grades for pre-basic seed potatoes(11);”.
- (3) In Schedule 1—
- (a) in paragraph 3(c), for paragraphs (vi) and (vii) substitute—
- “(vi) Colorado Beetle (*Leptinotarsa decemlineata* (Say));
- (vii) Potato Tuber Eelworm (*Ditylenchus destructor* (Thorne));
- (viii) *Candidatus Liberibacter solanacearum* Liefting et al.; and
- (ix) *Candidatus Phytoplasma solani* Quaglino et al.”;
- (b) in paragraph 8, in the words after sub-paragraph (b)(iii), omit “prevalent in Europe”;
- (c) in paragraph 10, in the words after sub-paragraph (b)(ii), omit “prevalent in Europe”.
- (4) In Schedule 3—
- (a) in the table in Part 1, in column 1—
- (i) under the heading “Group II”, for the words from “Blackleg” to “et al or both” substitute “Blackleg (*Dickeya* Samson et al. spp. or *Pectobacterium* Waldee emend. Hauben et al. spp. or both)”;
- (ii) under the heading “Group IV”, for “Black Scurf (*Rhizoctonia solani* Kuhn)” substitute “Black scurf as caused by *Thanatephorus cucumeris* (A.B. Frank) Donk”;
- (b) in the table in Part 1, under the heading “Group 1”, after the entry “Colorado Beetle” insert—

“ <i>Candidatus Liberibacter solanacearum</i> Liefting et al	Nil
<i>Candidatus Phytoplasma solani</i> Quaglino et al	Nil”;
(c) for Parts 2 and 3 substitute—	

## “PART 2

### Pre-basic seed potatoes of Union grade PB produced in Wales

Column 1	Column 2	Column 3	Column 4
<i>Specified diseases or pests, damage and defects</i>	<i>Individual tolerances</i>	<i>Group tolerances</i>	<i>Collective group tolerances</i>
<b>Group I</b>			

(10) S.I. 2016/106 (W. 52), relevant amending instruments are S.I. 2018/1216 (W. 249), 2020/206 (W. 48). S.I. 2016/106 (W. 52) is amended prospectively by S.I. 2019/738 (W. 141).

(11) Last amended by Commission Implementing [Directive \(EU\) 2020/177](#) amending Council Directives [66/401/EEC](#), [66/402/EEC](#), [68/193/EEC](#), [2002/55/EC](#), [2002/56/EC](#) and [2002/57/EC](#), Commission Directives [93/49/EEC](#) and [93/61/EEC](#) and Implementing Directives [2014/21/EU](#) and [2014/98/EU](#) as regards pests of plants on seeds and other plant reproductive material (OJ No. L 41, 13.2.2020, p. 1). See section 26 of the [Legislation \(Wales\) Act 2019](#) (anaw 4).

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Column 1	Column 2	Column 3	Column 4
Specified diseases or pests, damage and defects	Individual tolerances	Group tolerances	Collective group tolerances
Wart Disease ( <i>Synchytrium endobioticum</i> (Schlib) Perc)	Nil		
Potato Tuber Eelworm ( <i>Ditylenchus destructor</i> Thorne)	Nil		
Potato Cyst Nematode ( <i>Globodera</i> species infesting potatoes)	Nil		
Ring Rot ( <i>Clavibacter michiganensis</i> (Smith) Davis et al spp <i>sepedonicus</i> (Spieck & Kotth) Davis et al)	Nil		
Brown Rot ( <i>Ralstonia solanacearum</i> (Smith) Yabuuchi et al)	Nil		
Potato Spindle Tuber Viroid	Nil		
Colorado Beetle ( <i>Lepinotarsa decemlineata</i> (Say))	Nil		
<i>Candidatus</i> Liberibacter <i>solanacearum</i> Liefting et al	Nil		
<i>Candidatus</i> Phytoplasma <i>solani</i> Quaglino et al	Nil		
<b>Group II</b>			
Blight ( <i>Phytophthora infestans</i> (Mont) de Bary)	0.2%	)	)
Blackleg ( <i>Dickeya</i> Samson et al. spp. or <i>Pectobacterium</i> Waldee emend. Hauben et al. spp. or both)	0.2%	)	)
Soft Rots including: Watery Wound Rot ( <i>Pythium ultimum</i> Trow)	0.2%	)	)
Pink Rot ( <i>Phytophthora erythroseptica</i> Pethybridge) and Pit Rot	0.2%	) 0.2%	)
Dry Rot ( <i>Fusarium</i> species)	0.2%	)	)
Gangrene ( <i>Phoma</i> species)	0.2%	)	)
Frost damaged tubers	0.2%	)	)
<b>Group III</b>			
Skin spot ( <i>Polyscytalum pustulans</i> (Owen & Wake-field)) M B Ellis	0.2%	)	) 6.0%
<b>Group IV</b>			
Black scurf as caused by <i>Thanatephorus cucumeris</i> (A.B. Frank) Donk Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-	1.0%	) 5.0%	)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Specified diseases or pests, damage and defects</i>	<i>Individual tolerances</i>	<i>Group tolerances</i>	<i>Collective group tolerances</i>
tenth of whose surface area has been affected are deemed to be unaffected by the disease			
Common Scab ( <i>Streptomyces</i> species)	5.0%	)	)
Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-third of whose surface area has been affected are deemed to be unaffected by the disease			
<b>Group V</b>			
Powdery scab ( <i>Spongospora subterranea</i> (Wallr) Legerh)	1.0%	)	)
Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-tenth of whose surface area has been affected are deemed to be unaffected by the disease			
<b>Group VI</b>			
External blemishes including damaged tubers or tubers other than diseased tubers whose shape is atypical for the variety	3.0%	)	)
Superficial necrosis caused by potato virus Y	Nil	) 3.0%	)
Shrivelled tubers due to excessive dehydration or dehydration caused by silver scurf ( <i>Helminthosporium solani</i> )	0.5%	)	)
<b>Group VII</b>			
Dirt or other extraneous matter	1.0%		

### PART 3

#### Basic seed potatoes and certified seed potatoes produced in Wales

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Specified diseases or pests, damage and defects</i>	<i>Individual tolerances</i>	<i>Group tolerances</i>	<i>Collective group tolerances</i>
<b>Group I</b>			
Wart Disease ( <i>Synchytrium endobioticum</i> (Schlib) Perc)	Nil		
Potato Tuber Eelworm ( <i>Ditylenchus destructor</i> Thorne)	Nil		

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Specified diseases or pests, damage and defects</i>	<i>Individual tolerances</i>	<i>Group tolerances</i>	<i>Collective group tolerances</i>
Potato Cyst Nematode ( <i>Globodera</i> species infesting potatoes)	Nil		
Ring Rot ( <i>Clavibacter michiganensis</i> (Smith) Davis et al spp <i>sepedonicus</i> (Spieck & Kotth) Davis et al)	Nil		
Brown Rot ( <i>Ralstonia solanacearum</i> (Smith) Yabuuchi et al)	Nil		
Potato Spindle Tuber Viroid	Nil		
Colorado Beetle ( <i>Lepinotarsa decemlineata</i> (Say))	Nil		
<i>Candidatus</i> Liberibacter <i>solanacearum</i> Lieferting et al	Nil		
<i>Candidatus</i> Phytoplasma <i>solani</i> Quaglino et al	Nil		
<b>Group II</b>			
Blight ( <i>Phytophthora infestans</i> (Mont) de Bary)	0.5%	)	)
Blackleg ( <i>Dickeya</i> Samson et al. spp. or <i>Pectobacterium</i> Waldee emend. Hauben et al. spp. or both)	0.5%	)	)
Soft Rots including Watery Wound Rot ( <i>Pythium ultimum</i> Trow)	0.5%	)	)
Pink Rot ( <i>Phytophthora erythroseptica</i> Pethybridge) and Pit Rot	0.5%	) 0.5%	)
Dry Rot ( <i>Fusarium</i> species)	0.5%	)	)
Gangrene ( <i>Phoma</i> species)	0.5%	)	)
Frost damaged tubers	0.5%	)	)
Any of these Group II defects that present as a wet rot symptom	0.2%	)	)6.0% for basic seed potatoes and 8.0% for certified seed potatoes
<b>Group III</b>			
Skin spot ( <i>Polyscytalum pustulans</i> (Owen & Wakefield) M B Ellis)	0.5% except Union grade E, Union grade A and Union grade B grades; 2.0% for Union	)	)



<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Specified diseases or pests, damage and defects</i>	<i>Individual tolerances</i>	<i>Group tolerances</i>	<i>Collective group tolerances</i>
	grade E, Union grade A and Union grade B grades only		
Powdery scab ( <i>Spongospora subterranea</i> (Wallr) Legerh)	3.0%	) 5.0%	)
Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-tenth of whose surface area has been affected are deemed to be unaffected by the disease (except where powdery scab takes its cankerous form)			
<b>Group IV</b>			
Black scurf as caused by <i>Thanatephorus cucumeris</i> (A.B. Frank) Donk Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-tenth of whose surface area has been affected are deemed to be unaffected by the disease	5.0%	)	)
Common Scab ( <i>Streptomyces</i> species) Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-third of whose surface area has been affected are deemed to be unaffected by the disease	5.0%	)	)
<b>Group V</b>			
External blemishes including damaged tubers or tubers other than diseased tubers whose shape is atypical for the variety	3.0%	)	)
Shrivelled tubers due to excessive dehydration or dehydration caused by silver scurf ( <i>Helminthosporium solani</i> )	1.0%	) 3.0%	)
Superficial necrosis caused by strains of potato virus Y	0.1%	)	)
<b>Group VI</b>			
Dirt or other extraneous matter	1.0%		”;

(d) in the table in Part 4, after the entry for “Colorado Beetle” insert—

“*Candidatus Liberibacter solanacearum* Liefting et al

| Nil

*Candidatus* Phytoplasma solani Quaglino et al | Nil |”.

- (5) In Part 1 of Schedule 4, in table 1—
- (a) in the entry for Union grade “PBTC”, in the second column—
    - (i) in paragraph (1)(a)(i), after “*Dickeya* spp.,” insert “*Candidatus* Liberibacter solanacearum, *Candidatus* Phytoplasma solani, Potato spindle tuber viroid,”;
    - (ii) in paragraph (1)(b)(i), at the beginning insert “*Candidatus* Liberibacter solanacearum, *Candidatus* Phytoplasma solani, Potato spindle tuber viroid,”;
  - (b) in the entry for Union grade “PB”, in the second column—
    - (i) in paragraph (1)(a)(ii), after “*Dickeya* spp.,” insert “*Candidatus* Liberibacter solanacearum, *Candidatus* Phytoplasma solani, Potato spindle tuber viroid,”;
    - (ii) in paragraph (2)(i), at the beginning insert “*Candidatus* Liberibacter solanacearum, *Candidatus* Phytoplasma solani, Potato spindle tuber viroid.”
- (6) In Schedule 5, in paragraph 3(f)(ii), omit “prevalent in Europe”.

### The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017

6.—(1) The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017(12) are amended as follows.

- (2) In regulation 2, at the appropriate place insert—
- ““RNQP” (“*PRHG*”) means a Union regulated non-quarantine pest within the meaning given by Article 36 of [Regulation \(EU\) 2016/2031](#) of the European Parliament and of the Council on protective measures against pests of plants;”
- (3) In regulation 3(1), for the definition of “[Directive 2014/98/EU](#)” substitute—
- ““[Directive 2014/98/EU](#)” (“*Cyfarwydddeb 2014/98/EU*”) means Commission Implementing [Directive 2014/98/EU](#) implementing Council [Directive 2008/90/EC](#) as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections(13).”
- (4) After regulation 14 insert—

#### “Suppliers: notification requirements

- 14A.—(1) A supplier must immediately report to an inspector—
- (a) plant material that shows the presence of any RNQP listed in Annex 1 or 2 to [Directive 2014/98/EU](#);
  - (b) the presence in the soil of any RNQP listed in Annex 3 to [Directive 2014/98/EU](#);
  - (c) the presence of any RNQP at the production site at a level greater than the tolerance specified for such organism in Annex 4 to [Directive 2014/98/EU](#); or
  - (d) plant material that shows the presence of any pest listed in Annex 2 or 3 to Commission Implementing [Regulation \(EU\) 2019/2072](#) establishing uniform conditions for the implementation of [Regulation \(EU\) 2016/2031](#) of the European Parliament and of the Council, as regards protective measures against pests of plants.

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(12) S.I. 2017/691 (W. 163), amended by S.I. 2020/206 (W. 48); there are other amending instruments but none are relevant. S.I. 2017/691 (W. 163) is amended prospectively by S.I. 2019/368 (W. 90).

(13) Last amended by Commission Implementing [Directive \(EU\) 2020/177](#) amending Council Directives [66/401/EEC](#), [66/402/EEC](#), [68/193/EEC](#), [2002/55/EC](#), [2002/56/EC](#) and [2002/57/EC](#), Commission Directives [93/49/EEC](#) and [93/61/EEC](#) and Implementing Directives [2014/21/EU](#) and [2014/98/EU](#) as regards pests of plants on seeds and other plant reproductive material (OJ No. L 41, 13.2.2020, p. 1). See section 26 of the [Legislation \(Wales\) Act 2019](#) (anaw 4).

- (2) Where a supplier has reported to an inspector plant material referred to in paragraph (1) (d), the supplier must carry out any measures laid down by the inspector.”
- (5) In regulation 15(1)(g)—
- (a) in paragraph (i), omit “Part A of”;
  - (b) omit paragraph (ii) and the “and” after it;
  - (c) in paragraph (iii), for “Annex 2, 3 or 4” substitute “Annex 2 or 3”;
  - (d) after paragraph (iii) insert—
    - “(iv) any RNQP listed in Annex 3 to [Directive 2014/98/EU](#), where present in the soil; and
    - (v) any RNQP at a level greater than the tolerance specified for that RNQP in Annex 4 to [Directive 2014/98/EU](#).”
- (6) In Schedule 1—
- (a) in paragraph 1(2), for paragraphs (c) and (d) substitute—
    - “(c) complies with health requirements in paragraph 4;
    - (d) complies with requirements concerning defects in paragraph 5; and
    - (e) complies with production site requirements in paragraph 6.”;
  - (b) in paragraph 2(2), for paragraphs (b) and (c) substitute—
    - “(b) complies with health requirements in paragraph 4;
    - (c) complies with requirements concerning defects in paragraph 5; and
    - (d) complies with production site requirements in paragraph 6.”;
  - (c) in paragraph 4, for sub-paragraphs (1) to (5) substitute—
    - “(1) CAC material must be found, on visual inspection by the supplier at the stage of production, to be practically free from the RNQPs listed in Annex 1 or 2 to [Directive 2014/98/EU](#) in relation to the genus or species concerned, unless stated otherwise in Annex 4 to that Directive.
    - (2) The supplier must sample and test the identified source of material or CAC material—
      - (a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to [Directive 2014/98/EU](#), for such pests;
      - (b) for the RNQPs listed in Annex 2 to [Directive 2014/98/EU](#), subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.
    - (3) CAC material must be found after production, on visual inspection by the supplier, to be free from signs or symptoms of any RNQP listed in Annex 1 or 2 to [Directive 2014/98/EU](#).
    - (4) Visual inspections and sampling and testing must be conducted in accordance with the requirements specified in Annex 4 to [Directive 2014/98/EU](#) in relation to the genus or species concerned, and category.
    - (5) But sub-paragraphs (1) to (3) do not apply to CAC material during cryopreservation.”;
  - (d) after paragraph 5 insert—

**“Requirements concerning production site**

6. CAC material must be produced in accordance with the requirements for the production site, place of production or area set out in Annex 4 to [Directive 2014/98/EU](#) and specified in relation to the genus or species concerned.”

(7) In Schedule 5—

(a) in paragraphs 3(2) and 4(2), after paragraph (f) in each case, insert—

“(g) complies with the production site requirements in paragraph 12A.”;

(b) in paragraphs 5(1)(a) and 6, for “12” substitute “12A”;

(c) in paragraph 10—

(i) for sub-paragraphs (1) and (2) substitute—

“(1) A pre-basic mother plant or pre-basic material must be found to be free from any RNQP listed in Annex 1 or 2 to [Directive 2014/98/EU](#) in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.

(2) An inspector and, where appropriate, the supplier must sample and test the pre-basic mother plant or pre-basic material—

(a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to [Directive 2014/98/EU](#), for such pests;

(b) for the RNQPs listed in Annex 2 to [Directive 2014/98/EU](#), subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.”;

(ii) for sub-paragraph (4) substitute—

“(4) Compliance with sub-paragraph (1) is established by visual inspection by an inspector and, where appropriate, the supplier.”;

(d) after paragraph 12 insert—

**“Requirements concerning production site**

**12A.** Pre-basic mother plants and pre-basic material must be produced in accordance with the requirements for the production site, place of production or area set out in Annex 4 to [Directive 2014/98/EU](#) and specified in relation to the genus or species concerned.”;

(e) in paragraphs 14(2) and 15(2), for paragraphs (g) and (h) substitute—

“(g) has been maintained in accordance with paragraph 18;

(h) where appropriate, has been multiplied in accordance with paragraph 19; and

(i) has been produced in accordance with the production site requirements in paragraph 12A.”;

(f) in paragraph 14(3), for “(h)” substitute “(i)”;

(g) in paragraph 16—

(i) for sub-paragraphs (1) and (2) substitute—

“(1) A basic mother plant or basic material must be found to be free from any RNQP listed in Annex 1 or 2 to [Directive 2014/98/EU](#) in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.

- (2) An inspector and, where appropriate the supplier, must sample and test the basic mother plant or basic material—
  - (a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to [Directive 2014/98/EU](#), for such pests;
  - (b) for the RNQPs listed in Annex 2 to [Directive 2014/98/EU](#), subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.”;
- (ii) for sub-paragraph (4) substitute—
  - “(4) Compliance with sub-paragraph (1) is established by visual inspection by an inspector and, where appropriate, the supplier.”;
- (h) in paragraph 20—
  - (i) in sub-paragraph (2), for paragraphs (e) and (f) substitute—
    - “(e) complies with the health requirements in paragraph 22;
    - (f) is grown in soil that is found by sampling and testing to comply with paragraph 23; and
    - (g) complies with the production site requirements in paragraph 12A.”;
  - (ii) in sub-paragraph (4), in the words before paragraph (a), for “(f)” substitute “(g)”;
- (i) in paragraph 22—
  - (i) for sub-paragraphs (1) and (2) substitute—
    - “(1) A certified mother plant or certified material must be found to be free from any RNQP listed in Annex 1 or 2 to [Directive 2014/98/EU](#) in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.
    - (2) An inspector and, where appropriate, the supplier must sample and test the certified mother plant or certified material—
      - (a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to [Directive 2014/98/EU](#), for such pests;
      - (b) for the RNQPs listed in Annex 2 to [Directive 2014/98/EU](#), subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.”;
  - (ii) in sub-paragraph (4), for the words from “sub-paragraphs (1)” to the end substitute “sub-paragraph (1) by visual inspection”;
- (j) in paragraph 23(4)(a), at the beginning insert “unless otherwise stated,”.

4 August 2020

*Lesley Griffiths*  
Minister for Environment, Energy and Rural  
Affairs, one of the Welsh Ministers

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Commission Implementing Directive (EU) 2020/177 amending Council Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/55/EC, 2002/56/EC and 2002/57/EC, Commission Directives 93/49/EEC and 93/61/EEC and Implementing Directives 2014/21/EU and 2014/98/EU as regards pests of plants on seeds and other plant reproductive material (OJ No. L 41, 13.2.2020, p. 1).

These Regulations, which apply in relation to Wales, amend the following Regulations (“the Marketing Regulations”)—

- the Marketing of Vegetable Plant Material Regulations 1995 (S.I. 1995/2652) (“the 1995 Regulations”),
- the Marketing of Ornamental Plant Propagating Material Regulations 1999 (S.I. 1999/1801) (“the 1999 Regulations”),
- the Seed Marketing (Wales) Regulations 2012 (S.I. 2012/245) (W. 39) (“the 2012 Regulations”),
- the Seed Potatoes (Wales) Regulations 2016 (S.I. 2016/106) (W. 52) (“the 2016 Regulations”), and
- the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 (S.I. 2017/691) (W. 163) (“the 2017 Regulations”).

The 1995 Regulations implement Council Directive 2008/72/EC on the marketing of vegetable propagating and planting material, other than seed (OJ No. L 205, 1.8.2008, p. 28) (“Council Directive 2008/72/EC”) and Commission Directive 93/61/EEC setting out the schedules indicating the conditions to be met by vegetable propagating and planting material, other than seed pursuant to Directive 92/33/EEC (OJ No. L 250, 7.10.1993, p. 19).

The 1999 Regulations implement Council Directive 98/56/EC on the marketing of propagating material of ornamental plants (OJ No. L 226, 13.8.1998, p. 16) and Commission Directive 93/49/EEC setting out the schedule indicating the conditions to be met by ornamental plant propagating material and ornamental plants pursuant to Council Directive 91/682/EEC (OJ No. L 250, 7.10.1993, p. 9).

The 2012 Regulations implement various EU instruments, in particular Council Directive 66/401/EEC on the marketing of fodder plant seed (OJ No. L 125, 11.7.1966, p. 2298), Council Directive 66/402/EEC on the marketing of cereal seed (OJ No. L 125, 11.7.1966, p. 2309), Council Directive 2002/55/EC on the marketing of vegetable seed (OJ No. L 193, 20.7.2002, p. 33) and Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants (OJ No. L 193, 20.7.2002, p. 74).

The 2016 Regulations implement various EU instruments, in particular Council Directive 2002/56/EC on the marketing of seed potatoes (OJ No. L 193, 20.7.2002, p. 60) and Commission Implementing Directive 2014/21/EU determining minimum conditions and Union grades for pre-basic seed potatoes (OJ No. L 38, 7.2.2014, p. 39).

The 2017 Regulations implement various EU instruments, in particular Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ No. L 267, 8.10.2008, p. 8) (“Council Directive 2008/90/EC”) and Commission Implementing Directive 2014/98/EU implementing Council Directive 2008/90/EC as regards

specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections (OJ No. L 298, 16.10.2014, p. 22).

These Regulations amend provisions in the Marketing Regulations to require seed, plants and plant propagating material (“plant material”) intended for marketing in Wales to be practically free from regulated non-quarantine pests at the place of production and for the presence of such pests on plant material not to exceed specified thresholds.

Regulation 2(4) also amends the 1995 Regulations to ensure correct implementation of Council [Directive 2008/72/EC](#).

Regulation 5(4) also amends the 2016 Regulations to correct formatting errors in the tables in Parts 2 and 3 of Schedule 3 to the 2016 Regulations.

Regulation 6(4) also amends the 2017 Regulations to ensure correct implementation of Council [Directive 2008/90/EC](#).

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.