

Draft Regulations laid before the Assembly under paragraphs 1(11) of Schedule 7 to the European Union (Withdrawal) Act 2018 for approval by resolution of the Assembly.

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2020 No.

EXITING THE EUROPEAN UNION

PLANT HEALTH

**The Marketing of Plant and Propagating Material
(Legislative Functions) (Amendment) (EU
Exit) Regulations (Northern Ireland) 2020**

*Made - - - - xx xxx 2020
Coming into operation in accordance with
regulation 1(1)*

The Department of Agriculture, Environment and Rural Affairs makes these Regulations in exercise of the powers conferred by section 11(1) of, and Part 1 of Schedule 2 to, the European Union (Withdrawal) Act 2018(1).

A draft of this instrument has been laid before and approved by a resolution of the Assembly in accordance with paragraph 1(11) of Schedule 7 to the European Union (Withdrawal Act) 2018.

PART 1

Introductory

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Marketing of Plant and Propagating Material (Legislative Functions) (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 and come into operation on IP completion day.

(2) The Interpretation Act (Northern Ireland) 1954(2) applies to these Regulations as it applies to an Act of the Assembly.

(3) In these Regulations—

“the Department” means the Department of Agriculture, Environment and Rural Affairs.

(1) 2018 c. 16.
(2) 1954 c. 33 (N.I.).

“[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⁽³⁾;

“[Directive 93/61/EEC](#)” means Commission [Directive 93/61/EEC](#) setting out the schedules indicating the conditions to be met by vegetable propagating and planting material, other than seed⁽⁴⁾;

“[Directive 98/56/EC](#)” means Council [Directive 98/56/EC](#) on the marketing of propagating material of ornamental plants⁽⁵⁾;

“[Directive 2008/72/EC](#)” means Council [Directive 2008/72/EC](#) on the marketing of vegetable propagating and planting material, other than seed⁽⁶⁾;

“marketing” means holding available or in stock, display with a view to sale, offering for sale, sale or delivery by a supplier to another person;

“ornamental plant material” means plant material intended for—

- (a) the propagation of ornamental plants; or
- (b) the production of ornamental plants; however, in the case of production from complete plants, the material used shall only be considered to be propagating material if the resulting ornamental plant is intended for further marketing;

“vegetable plant material” means the plant material described in regulation 3 of the Marketing of Vegetable Plant Material Regulations (Northern Ireland) 1995⁽⁷⁾.

PART 2

Amendments to enactments corresponding to EU Directives

Power to set conditions with which ornamental plant material must comply

2.—(1) The Department may, by regulations—

- (a) amend provision in any enactment which gave effect to provisions made by Article 3 of, and the Annex to, [Directive 93/49/EEC](#);
- (b) make provision requiring (whether by amending an enactment or otherwise) a reference to Article 3 of, and the Annex to, [Directive 93/49/EEC](#) to be read as a reference to that Article and Annex subject to modifications.

(2) But the Department may exercise the power in paragraph (1) only to the extent that the Department considers it necessary or appropriate—

- (a) in the light of developments in scientific or technical knowledge, production techniques or agronomic practices;
- (b) to address concerns relating to the quality of ornamental plant material;
- (c) due to the economic importance of the ornamental plant material; or
- (d) for consistency with international standards for pests and diseases affecting the quality of ornamental plant material.

(3) O.J. No. L 250, 07.10.1993, p. 9, as last amended by Commission Implementing Directive (EU) 2020/177 (O.J. No. L 41, 13.02.2020, p. 1).

(4) O.J. No. L 250, 07.10.1993, p. 19, as last amended by Commission Implementing Directive (EU) 2020/177 (O.J. No. L 41, 13.02.2020, p. 1).

(5) O.J. No. L 226, 13.08.1998, p. 16, as last amended by Regulation (EU) 652/2014 (O.J. No. L 189, 27.06.2014, p. 1).

(6) O.J. No. L 205, 1.08.2008, p. 28, as last amended by Commission Implementing Directive (EU) 2019/990 (O.J. No. L 160, 18.06.2019, p. 14).

(7) [S.R. 1995 No. 415](#).

Power to set labelling and document requirements for plant material

3.—(1) The Department may, by regulations, amend provision in any enactment which gave effect to provision made by Article 8(3) of [Directive 98/56/EC](#).

(2) But the Department may exercise the power in paragraph (1) only to the extent that the Department considers it—

- (a) necessary or appropriate to do so in the light of market conditions; or
- (b) necessary to do so to ensure traceability of ornamental plant material.

Power to modify the regulated species of vegetable plant material

4.—(1) The Department may, by regulations—

- (a) amend provision in any enactment which gave effect to provisions made by Annex 2 to [Directive 2008/72/EC](#);
- (b) make provision requiring (whether by amending an enactment, or otherwise) a reference to Annex 2 to [Directive 2008/72/EC](#) to be read as a reference to that Annex subject to modifications.

(2) But the Department may exercise the power in paragraph (1) only to the extent that the Department considers it necessary or appropriate to do so—

- (a) in the light of developments in scientific or technical knowledge, production techniques or agronomic practices;
- (b) to address concerns relating to the quality of vegetable plant material; or
- (c) due to the economic importance of the vegetable plant material.

Power to set conditions with which vegetable plant material must comply

5.—(1) The Department may, by regulations—

- (a) amend provision in any enactment which gave effect to provisions made by Article 3 of, and the Annex to, [Directive 93/61/EEC](#);
- (b) make provision requiring (whether by amending an enactment, or otherwise) a reference to Article 3 of, and the Annex to, [Directive 93/61/EEC](#) to be read as a reference to that Article and Annex subject to modifications.

(2) But the Department may exercise the power in paragraph (1) only to the extent that the Department considers it necessary or appropriate—

- (a) in the light of developments in scientific or technical knowledge, production techniques or agronomic practices;
- (b) to address concerns relating to the quality of vegetable plant material;
- (c) due to the economic importance of the vegetable plant material; or
- (d) for consistency with international standards for pests and diseases affecting the quality of vegetable plant material.

Power to set labelling and document requirements for plant material

6.—(1) The Department may, by regulations, amend provision in any enactment which corresponds to that made by the Annex to [Directive 93/61/EEC](#).

(2) But the Department may exercise the power in paragraph (1) only to the extent that the Department considers it is—

- (a) necessary or appropriate to do so in the light of market conditions; or

- (b) necessary to do so to ensure traceability of vegetable plant material.

Power to derogate in the event of temporary supply difficulties

7.—(1) The Department may, by regulations, derogate from the provisions of the Marketing of Vegetable Plant Material Regulations (Northern Ireland) 1995⁽⁸⁾ in the event of a temporary difficulty affecting the supply of vegetable plant material.

(2) But regulations may only be made under paragraph (1) where—

- (a) the Department has carried out an assessment that has taken account of available information regarding the temporary difficulty affecting the supply of vegetable plant material and the reasons for that difficulty;
- (b) the assessment has confirmed that—
 - (i) there is a temporary difficulty affecting the supply of vegetable plant material; and
 - (ii) the derogations provide safeguards to address any risk to plant health arising from vegetable plant material in relation to which the derogations apply.

PART 3

Regulations

Regulations

8.—(1) This regulation sets out—

- (a) the procedure for the making of regulations under this Part; and
- (b) power to make ancillary provision.

(2) Regulations made by the Department are to be made by statutory rule.

(3) A statutory rule containing regulations made by the Department is subject to annulment in pursuance of a resolution of the Assembly.

(4) Regulations may—

- (a) contain supplementary, incidental, consequential, transitional, transitory or saving provision (including provision amending, repealing or revoking enactments);
- (b) make different provision for different cases or descriptions of case, different circumstances, different purposes or different areas.

⁽⁸⁾ S.R. 1995 No. 415.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on
xx xxx 2020.



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Department of Agriculture, Environment and
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Draft Legislation: This is a draft item of legislation. This draft has since been made as a Northern Ireland Statutory Rule: *The Marketing of Plant and Propagating Material (Legislative Functions) (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 No. 339*

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 11(1) of, and Part 1 of Schedule 2 to, the European Union (Withdrawal Act) 2018 (c. 16) to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

Part 2 makes provision, in relation to the marketing of ornamental plant and propagating material and vegetable propagating material for certain functions of the European Commission of a legislative character to be exercisable instead by the Department.

Part 3 sets out the procedure for making regulations.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.