

POLICY NOTE

THE MARKETING OF FRUIT PLANT PROPAGATING MATERIAL (SCOTLAND) AMENDMENT REGULATIONS 2020

SSI 2020/34

The above instrument (“the SSI”) is made by the Scottish Ministers in exercise of powers conferred by section 2(2) of the European Communities Act 1972 (c.68). The SSI is subject to negative procedure.

PURPOSE OF THE INSTRUMENT:

The principal purpose of this instrument is to transpose the provisions of Commission Implementing Directive (EU) 2019/1813 by amending the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017/177.

Policy Objective

The purpose of the SSI is to transpose the provisions of Commission Implementing Directive (EU) 2019/1813 (OJ L 278, 30.10.2019, p.7) (“the Amending Directive”). Commission Implementing Directive 2014/96/EU on the requirements for the labelling, sealing and packaging of fruit plant propagating material and fruit plants intended for fruit production (OJ L298, 16.10.2014, p.12) (“the Principal Directive”) sets down certain requirements for, amongst other things, the labelling of officially certified fruit plant propagating material, officially certified fruit plants that are intended for fruit production, and propagating material and fruit that qualifies as *Conformitas Agraria Communitatis* (“CAC”) material (a certification category of fruit plant propagating material and fruit plants intended for fruit production). The requirements that are set down by the Principal Directive include provision about the colour of labels for officially certified categories of propagating material and fruit plants, and the information that must be contained in the supplier’s document that must accompany CAC material (“the Supplier’s Document”).

The Amending Directive amends the Principal Directive, clarifying the colour that labels of officially certified categories of propagating material and fruit plants must be, reducing the amount of information that must be included in the Supplier’s Document, and requiring that a Supplier’s Document that is affixed in the form of a label to CAC material must be yellow in colour. It also introduces transitional measures that permit, until 30 June 2021, the continued use of Supplier’s Documents that do not conform with the new colour requirements.

The Principal Directive is transposed by the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017/177 (“the Principal Regulations”). The SSI amends the Principal Regulations to reflect the changes made by the Amending Directive to the Principal Directive, as described in the preceding paragraph.

Policy Background

Scotland’s soft fruit certification scheme aims to provide fruit producers and propagators with planting material of a known health standard and to provide a means of preventing the spread of harmful pests and diseases.

To ensure that planting material can be identified and traced, EU legislation imposes certain requirements in relation to labelling. However, the colour of labels for the various categories of fruit plant propagating material and fruit plants intended for fruit production was not previously a mandatory part of the requirements.

The European Commission recognised the need to ensure both consistency of approach across the Member States and clear distinction between the official labels that must be affixed to pre-basic, basic, and certified material (“Official Labels”) and Supplier’s Documents that must accompany and may be affixed to CAC material. Via the Amending Directive they legislated that Official Labels must be certain colours (sufficient provision for which was already contained in domestic law), and that Supplier’s Documents, when affixed to CAC material in the form of a label, must be yellow. They also reduced the amount of information that must be included in Supplier’s Documents.

Legislative Background

The Amending Directive is being transposed after the United Kingdom’s exit from the European Union. This is because EU law will continue to apply during the Implementation Period, meaning that Scottish Government is legally obliged to transpose such legislation. A transposition note has been produced.

Timing

The Amending Directive imposes a deadline of 31 March 2020 for Member States to adopt and publish domestic measures to implement its provisions. However, as noted above, it also includes transitional measures that permit Member States to allow for a limited time the continued use of Supplier’s Documents that do not comply with the new colour requirements.

Consultation

The provisions contained in the SSI only affect two companies in Scotland. Scottish Government contacted those companies directly to discuss the changes provided for by the SSI. Neither business anticipated additional costs being incurred as a result, so no Business Regulatory Impact Assessment was carried out.

Scottish Government
Agriculture, Food and Rural Communities Directorate
February 2020