

EXPLANATORY MEMORANDUM TO
THE FOREST REPRODUCTIVE MATERIAL (GREAT BRITAIN) (AMENDMENT)
(ENGLAND AND SCOTLAND) REGULATIONS 2014

2014 No. 1833

1. This explanatory memorandum has been prepared by the Forestry Commission and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

These Regulations amend the Forest Reproductive Material (Great Britain) Regulations 2002 (S.I. 2002/3026) (“the Principal Regulations”) in relation to England and Scotland.

The amendments implement EU decisions on the equivalence of forest reproductive material produced in countries outside the European Union and set out the revised requirements which apply in England and Scotland.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Context**

4.1 Council Directive 1999/105/EC (“the Forest Reproductive Material Directive”) (OJ No L 11, 15.1.2000, p17) establishes an EU-wide system for the marketing of forest reproductive material such as seed, cuttings and planting stock used for forestry purposes. It contains measures to be taken to ensure full traceability of the material.

4.2 The Forest Reproductive Material Directive is implemented in Great Britain, by the Principal Regulations. Similar but separate legislation operates in Northern Ireland.

- 4.3 Since the Forest Reproductive Material Directive came into force, a series of EU decisions have been adopted under this Directive in relation to the importation of forest reproductive material from countries outside the EU. Council Decision 2008/971/EC on the equivalence of forest reproductive material produced in third countries (OJ No L 345, 23.12.2008) currently sets out the conditions under which certain forest reproductive material from third countries may be imported and marketed in the EU and was amended by Decision No. 1104/2012/EC of the European Parliament and of the Council (OJ No L 238, 28.11. 2012, p1). Commission Decision 2008/989/EC authorising Member States, in accordance with Council Directive 1999/105/EC, to take decisions on the equivalence of the guarantees afforded by forest reproductive material to be imported from certain third countries (OJ L 352, 31.12.2008, p55) also provides a derogation allowing member States to authorise the

importation of certain forest reproductive material from third countries. This instrument implements Council Decision 2008/971/EC, as amended, and also implements the full extent of the derogation in Commission Decision 2008/989/EC.

5. Territorial Extent and Application

This instrument extends to Great Britain but applies in relation to England and Scotland only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 The Forest Reproductive Material Directive ensures that forest reproductive material produced in the EU is traceable through the collection and production process to registered sources of basic material (e.g. trees from which the seed is collected or cuttings taken). This allows those who buy forest reproductive material to have sufficient information about the material, such as provenance and origin.

Since 2005, various EU decisions have authorised the importation into the EU of certain forest reproductive material from listed countries outside the EU. Authorisation has aimed at ensuring that the imported material afforded equal guarantees to forest reproductive material produced in the EU in accordance with the Forest Reproductive Material Directive.

7.2 Council Decision 2008/971/EC, as amended, and Commission Decision 2008/989/EC currently set out the circumstances in which member States may permit the importation of forest reproductive material from countries outside the EU.

7.3 Council Decision 2008/971/EC, which was updated by Decision No. 1104/2012/EU, allows certain categories of forest reproductive material within a wide selection of species to be imported from listed countries provided that various requirements are met. The rules for the certification of this material in these countries, together with the conditions of importation are considered to provide equivalent guarantees to forest reproductive material produced in the EU. Council Decision 2008/989/EC, on the other hand, authorises member States to take decisions in relation to the importation of a small range of reproductive material from a limited number of countries. It has been decided that this derogation should be implemented in full. The amendments made by this instrument will ensure that any such material which is imported into England or Scotland will provide equivalent guarantees to those applicable to forest reproductive material produced in the EU. The Regulations also provide for references in the Principal Regulations to Council Decision 2008/971/EC to be read as amended from time to time.

7.4 Import levels of forest reproductive material from non-EU countries amounts to less than 1% of the total volume of imports of forest reproductive material into England and Scotland. Therefore, adopting these provisions does not result in significant changes to current processes and procedures. 7.5 Consolidation

The Forest Reproductive Material Directive is currently under review. There are therefore no immediate plans to consolidate the principal Order.

8. Consultation outcome

No formal consultation was considered necessary due to the small number of businesses that import material from out with the European Union. Informal discussions were held with suppliers who, as part of their business, import a small amount of forest reproductive material from third countries. Feedback indicated that businesses were supportive of the measures and that there would be no impact to their businesses.

9. Guidance

Stakeholders will be provided with guidance on the amendments to the legislation via the issue of a newsletter.

10. Impact

No impact assessment has been produced for this instrument as informal discussion with industry has shown that there will be no impact on businesses, in the private or voluntary sector due to the very small volume of trade in relevant material.

11. Regulating small business

The new measures will apply to all businesses, including micro-businesses, importing forest reproductive material from third countries.

12. Monitoring & review

12.1 The European Commission has proposed a new regulation on Plant Reproductive Material (PRM) which incorporates regulation of forest reproductive material. The proposal aims to update, simplify and consolidate the current EU regulatory regime which comprises 12 directives and some 90 secondary acts which will be repealed. This is part of a package of 'smarter rules for safer food' changes which includes updates to the Official Feed and Food Regulation as well as animal and plant health legislation.

12.2 The review of current regime provides an opportunity to update, simplify and harmonise EU legislation whilst ensuring the identity, productivity and quality of material in a way that promotes farming, horticulture and forestry. The measures adopted under the new regime will need to face the challenges of climate change, protect biodiversity and encourage innovation and export to 3rd countries.

The Forestry Commission will continue to monitor the situation and the need for future amendments to take account of new developments.

13. Contact

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