

**EXPLANATORY MEMORANDUM TO**  
**THE MARKETING OF FRUIT PLANT AND PROPAGATING MATERIAL**  
**(ENGLAND) REGULATIONS 2017**

**2017 No. 595**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- To transpose Directive 2014/96 on requirements for labelling, sealing and packaging of fruit plant and propagating material.
- To transpose Directive 2014/97 on the registration of suppliers and of varieties and the common list of varieties
- To transpose Directive 2014/98 on specific requirements for production and marketing of fruit plant and propagating material.

**3. Matters of special interest to Parliament**

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

- 3.1 We regret to inform the Committee that in order to bring these Regulations into force in time to meet the delayed deadline for transposing the Directives listed in paragraph 2, and to ensure industry are able to market fruit material as soon as possible, we are unable to give the Committee 21 days to consider this Instrument before it comes into force.
- 3.2 The transposition date was 1st January 2017. This date was missed due to a number of delays, including in releasing the consultation. The Commission issued a letter of formal notice (a Jumbo letter) in late January. Our response committed to a revised transposition date of 1st June. Any delay beyond 1st June is highly likely to result in the Commission issuing a reasoned opinion.
- 3.3 A delay beyond 1st June will also have an effect on trade as without this Instrument in force, Industry is not able to produce and market certified fruit material and will not be able to export that material to the rest of Europe.
- 3.4 Parliament is due to be dissolved on 3<sup>rd</sup> May 2017. The Department does not consider it possible to delay the coming into force date until the new Parliament is convened.

### *Other matters of interest to the House of Commons*

- 3.5 As this instrument is subject to negative resolution procedure and has not been prayed against consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

## **4. Legislative Context**

- 4.1 This instrument revokes and replaces the Marketing of Fruit Plant Material Regulations 2010 (S.I. 2010/2079) in order to transpose a package of three EU harmonisation measures supporting intra-community trade in certified fruit propagating material and which falls within the scope of Council Directive 2008/90/EU on the marketing of fruit plant propagating material and fruit plants intended for fruit production. This instrument continues to implement Council Directive 2008/90/EU.

## **5. Extent and Territorial Application**

- 5.1 The extent of this instrument is England and Wales  
5.2 The territorial application of this instrument is England.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

- 7.1 The policy objective is to harmonise detailed requirements for the production and marketing of fruit plant propagating material to provide consumer protection through assured identity, health and quality. These requirements are based largely on the UK's voluntary certification scheme and will change little in terms of costs and processes for UK growers and suppliers. These harmonised standards will guarantee UK businesses continued access to European markets while we remain within the EU.  
7.2 This instrument revokes and replaces The Marketing of Fruit Plant Material Regulations 2010.

## **8. Consultation outcome**

- 8.1 We conducted a six week targeted consultation with the Nuclear Stock Association (the main industry representative organisation) and approximately 400 commercial producers and suppliers. Three responses were received; the Nuclear Stock Association responded on behalf of its members and was fully supportive of our proposals. Of the remaining two responses, one supported our proposals and the other expressed a preference for retaining the current voluntary certification scheme.

## **9. Guidance**

- 9.1 The Animal and Plant Health Agency is providing guidance to users and stakeholders to explain the new obligations and to ensure that they are fulfilled.

## **10. Impact**

- 10.1 There is no impact on charities or voluntary bodies. The impact on business is negligible because, as these measures largely mirror the existing UK voluntary scheme, processes and costs will remain the same.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been published for this instrument; this qualifies as a fast track measure because there will be no financial impact on businesses. A Regulatory Triage Assessment was prepared and was signed off by the Defra Better Regulation Unit confirming the fast track status. Following consultation this classification was also confirmed by the Regulatory Policy Committee.

## **11. Regulating small business**

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 The impact of the requirements on small businesses has been minimised by the UK successfully negotiating for requirements that mirrored the UK's existing voluntary scheme.
- 11.3 The majority of businesses affected by these proposals are small businesses. Defra has consulted and worked closely with the Nuclear Stock Association (the main representative organisation for producers) throughout negotiations with the EU and conducted a further formal targeted consultation with the businesses affected.

## **12. Monitoring & review**

- 12.1 A review clause is included within these regulations with a first review being undertaken by 2022 and at intervals not exceeding 5 years thereafter. Impacts of the SI will be monitored by Defra's Animal and Plant Health Agency (APHA).

## **13. Contact**

- 13.1 Andy Mitchell at the Department for Environment, Food and Rural Affairs Telephone: 0208 02 65714 or email: [andy.mitchell@defra.gsi.gov.uk](mailto:andy.mitchell@defra.gsi.gov.uk) can answer any queries regarding the instrument.