
STATUTORY INSTRUMENTS

2019 No. 131

**The Marketing of Seeds and Plant Propagating Material
(Amendment) (England and Wales) (EU Exit) Regulations 2019**

PART 3

**Amendment of secondary legislation relating
to the withdrawal from the European Union**

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

8.—(1) The Marketing of Fruit Plant and Propagating Material (England) Regulations 2017(1) are amended as follows.

(2) In regulation 2—

(a) in the definition of “basic material”, in paragraph (b), for “ Article 15 of [Directive 2014/98/EU](#),” substitute—

“—

- (i) in the case of material produced in the United Kingdom, the relevant fruit marketing regulations;
- (ii) in the case of material produced in a Crown Dependency, legislation recognised by the Secretary of State as having equivalent effect to regulation 9(1) and (2);
- (iii) in the case of material produced in a member State, Article 15 of [Directive 2014/98/EU](#),”;

(b) in the definition of “CAC material”, in paragraph (b), for “ Article 23 of [Directive 2014/98/EU](#),” substitute—

“—

- (i) in the case of material and plants produced in the United Kingdom, the relevant fruit marketing regulations;
- (ii) in the case of material and plants produced in a Crown Dependency, legislation recognised by the Secretary of State as having equivalent effect to Schedule 1;
- (iii) in the case of material and plants produced in a member State, Article 23 of [Directive 2014/98/EU](#),”;

(c) in the definition of “certified material”, in paragraph (b), for “ Article 20 of [Directive 2014/98/EU](#),” substitute—

“—

- (i) in the case of material and plants produced in the United Kingdom, the relevant fruit marketing regulations;
 - (ii) in the case of material and plants produced in a Crown Dependency, legislation recognised by the Secretary of State as having equivalent effect to regulation 9(1) and (2);
 - (iii) in the case of material and plants produced in a member State, Article 20 of [Directive 2014/98/EU](#);”;
- (d) after the definition of “certified plant material” insert—
- ““Crown Dependency” means the Isle of Man or any of the Channel Islands;”;
- (e) after the definition of “defects” insert—
- ““the fruit marketing regulations” means—
- (a) as regards Wales, the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017(2);
 - (b) as regards Scotland, the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017(3);
 - (c) as regards Northern Ireland, the Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017(4);”;
- (f) in the definition of “official label”, in paragraph (b), for the words “ Article 2 of [Directive 2014/96/EU](#);” substitute—

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- (i) in the case of material produced in the United Kingdom, the relevant fruit marketing regulations;
 - (ii) in the case of plant material produced in a Crown Dependency, legislation recognised by the Secretary of State as having equivalent effect to Part 1 of Schedule 2;
 - (iii) in the case of plant material produced in a member State, Article 2 of [Directive 2014/96/EU](#);”;
- (g) in the definition of “outside England”, for the words from “ or any member” to the end, substitute “, any member State or any Crown Dependency”;
- (h) in the definition of “plant variety rights”—
- (i) in paragraph (a), at the end insert “or”;
 - (ii) omit paragraph (b);
- (i) in the definition of “pre-basic material”, in paragraph (b), for “ Articles 3 or 4 of [Directive 2014/98/EU](#);” substitute—

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- (i) in the case of material produced in the United Kingdom, the relevant fruit marketing regulations;
- (ii) in the case of material produced in a Crown Dependency, legislation recognised by the Secretary of State as having equivalent effect to regulation 9(1) and (2);

(2) [S.I. 2017/691 \(W. 163\)](#).

(3) [S.S.I. 2017/177](#).

(4) [S.R. 2017 No. 119](#).

- (iii) in the case of material produced in a member State, Articles 3 or 4 of [Directive 2014/98/EU](#).”.
- (3) In regulation 4(3), for “European Union” substitute “United Kingdom”.
- (4) After regulation 5(4) insert—
 - “(5) No person may market in England plant material produced in a member State.
 - (6) Paragraph (5) does not apply to plant material which meets the conditions set out in paragraph (7).
 - (7) The conditions are that the plant material—
 - (a) is of a variety that may be marketed under regulation 7 or has been registered as a variety by the responsible authority in a member State in accordance with Article 4 of [Directive 2014/97/EU](#);
 - (b) has been produced in compliance with the requirements set out in Directives [2008/90/EC](#), [2014/98/EU](#) and [2014/96/EU](#); and
 - (c) has been imported into England before the end of the period of two years beginning with the day after the day on which exit day falls.”.
- (5) In regulation 7—
 - (a) in paragraph (3), for the words from “the second” to the end substitute “that paragraph”;
 - (b) in paragraph (4), for sub-paragraph (b) substitute—
 - “(b) registration as a variety by the responsible authority in any part of the United Kingdom outside England in accordance with—
 - (i) in relation to Wales, Schedule 4 to the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017;
 - (ii) in relation to Scotland, Schedule 4 to the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017;
 - (iii) in relation to Northern Ireland, Schedule 3 to the Marketing of Fruit Plant and Propagating Material (Northern Ireland) Regulations 2017.”.
- (6) In regulation 10(6), for “[Directive 2000/29/EC](#)” substitute “the Plant Health (England) Order 2015”.
- (7) In regulation 15(1)(g)(iii), for “Annexes to [Directive 2000/29/EC](#)” substitute “Plant Health (England) Order 2015”.
- (8) After regulation 28 insert—

“Transitional provision for official labels on exit day

28A. For the purposes of regulation 10 and paragraph 4(b) of Schedule 2, an official label pre-printed before exit day containing the statement “EU Rules and Standards” may be used as an official label for plant material before the end of the period of two years beginning with the day after the day on which exit day falls.”.

- (9) In regulation 31—
 - (a) omit paragraph (4);
 - (b) in paragraph (6), omit the definition of “the Directives”.
- (10) In Schedule 2—
 - (a) in paragraph 4(b), for “EU” substitute “UK”;
 - (b) in paragraph 5, for “indelibly printed” to the end substitute—

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- (a) easily visible and legible, and
- (b) indelibly printed in English (but may also be printed in other languages)”;
- (c) in paragraph 8—
 - (i) in sub-paragraph (a), for “EU” substitute “UK”;
 - (ii) in sub-paragraphs (b)(i) and (x), for “member State” substitute “country”;
- (d) in paragraph 9, for “indelibly printed” to the end substitute—

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- (a) easily visible and legible, and
- (b) indelibly printed in English (but may also be printed in other languages)”.
 - (11) Schedule 4 is amended in accordance with paragraphs 12 to 17.
 - (12) In paragraph 1—
 - (a) in the definition of “appropriate protocol”—
 - (i) omit paragraph (a);
 - (ii) in paragraph (b)—
 - (aa) omit the words from “where” to “species, ”;
 - (bb) after the word “stability” insert “ for the particular genus or species concerned;
 - (iii) in paragraph (c)—
 - (aa) omit “protocols mentioned at (a) or ”;
 - (bb) after the word “established” insert “or recognised”;
 - (b) after the definition of “distinct”, insert—
 - ““the GMO regulations” means—
 - (a) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002(5);
 - (b) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(6);
 - (c) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(7);
 - (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003(8);”.
 - (13) In paragraph 2—
 - (i) in sub-paragraph (2)(b), omit “or in another member State, ”;
 - (ii) in sub-paragraph (3), for “member state” substitute “country which is a member of UPOV”.
 - (14) In paragraph 3—
 - (a) in sub-paragraph (1)(c), for the words from “ is authorised” to the end substitute—

(5) S.I. 2002/2443, as amended by S.I. 2004/2411, 2005/2759, 2009/1892, 2018/575.

(6) S.I. 2002/3188 (W. 304), amended by S.I. 2005/2759, 2013/755 (W. 90).

(7) S.S.I. 2002/541, amended by S.I. 2004/439, 2015/100.

(8) S.R. 2003 No. 167.

- “—
- (i) is authorised for cultivation pursuant to Regulation (EC) No 1829/2003 or the GMO regulations, or
 - (ii) before the day on which exit day falls has been authorised for cultivation pursuant to Directive 2001/18/EC.”;
- (b) in sub-paragraph (3), for “outside England” substitute “elsewhere in the United Kingdom or in another country which is a member of UPOV”.
- (15) In paragraph 6(1)—
- (a) in paragraph (c), for “ or in another member State” substitute “; or”;
 - (b) after paragraph (c) insert—
 - “(d) by a competent authority outside the United Kingdom if the Secretary of State is satisfied that those growing trials are of equivalent standards to those carried out by or on behalf of the Secretary of State.”.
- (16) In paragraph 7—
- (a) in sub-paragraph (1)(a), for the words “consists is” to the end substitute—
 - “consists—
 - (i) is authorised for cultivation pursuant to Regulation 1829/2003(9) or the GMO regulations, or
 - (ii) has, before the day on which exit day falls, been authorised for cultivation pursuant to Directive 2001/18/EC; or”;
 - (b) in sub-paragraph (4)(a), omit “Directive 2001/18/EC or”.
- (17) In paragraph 8(1)(d), for the words from “ ceases” to the end substitute—
- “—
- (i) ceases to be authorised pursuant to Regulation 1829/2003 or the GMO regulations; or
 - (ii) has, before the day on which exit day falls, been authorised for cultivation pursuant to Directive 2001/18/EC and ceases to be authorised”.
- (18) In Schedule 5—
- (a) in paragraph 5—
 - (i) in sub-paragraph (4)(a), for “outside England” substitute “in any part of the United Kingdom other than England or in another country which is a member of UPOV”;
 - (ii) in sub-paragraph (7), for the definition of “register of varieties” substitute—
 - ““register of varieties” means, in relation to the registration of varieties, the register maintained—
 - (a) in England, under paragraph 4(1) of Schedule 4;
 - (b) in Wales, under paragraph 4(1) of Schedule 4 to the Marketing of Fruit Plant and Propagating Material (Wales) 2017(10);
 - (c) in Scotland, under paragraph 2(1) of Schedule 4 to the Marketing of Fruit Plant and Propagating Material (Scotland) 2017(11);

(9) Defined in paragraph 1 of Schedule 4 to S.I. 2017/595.

(10) S.I.2017/691 (W. 163).

(11) S.S.I. 2017/177.

- (d) in Northern Ireland, for the purposes of paragraph 1 of Schedule 3 to the Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017⁽¹²⁾”;
- (b) omit paragraph 8(2)(a).