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STATUTORY INSTRUMENTS

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**2019 No. 211**

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

**PART 6** **N.I.**

**Amendment of the Marketing of Fruit Plant Propagating  
Material Regulations (Northern Ireland) 2017**

**N.I.**

**53.** The Marketing of Fruit Plant Propagating Material Regulations (Northern Ireland) 2017 <sup>M1</sup> are amended as follows.

**Commencement Information**

**II** Reg. 53 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Marginal Citations**

**M1** [S.R. 2017 No. 119](#).

**N.I.**

**54.** In regulation 2(1)—

- (a) in the definition of “basic material”, for paragraph (b), substitute—
  - “(b) in relation to propagating material produced outside Northern Ireland, certified as basic material by a responsible authority in accordance with—
    - (i) in the case of material produced in the United Kingdom, other than in Northern Ireland, the relevant fruit marketing regulations;
    - (ii) in the case of material produced in a Crown Dependency, legislation recognised by the Department 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”—
  - (i) in paragraph (b)(i) omit “or”;
  - (ii) for paragraph (b)(ii), substitute—
    - “(ii) in the case of material and plants produced in the United Kingdom, other than in Northern Ireland, the relevant fruit marketing regulations;

- (iii) in the case of material and plants produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to Schedule 1;
  - (iii) in the case of material produced in a member State, Article 3 of Directive 2014/98/EU;”.
- (c) in the definition of “certified”—
  - (i) omit “as the responsible authority in Northern Ireland;”;
  - (ii) for paragraph (b), substitute—
    - “(b) in relation to plant material produced in the United Kingdom, other than in Northern Ireland, officially certified in accordance with the relevant fruit marketing regulations;
    - (c) in relation to material produced in a member State, Article 3 of Directive 2014/98/EU, by the responsible authority in the member State concerned;”;
- (d) in the definition of “certified material”, for paragraph (b), substitute—
  - “(b) in relation to propagating material and fruit plants produced in the United Kingdom, other than in Northern Ireland, certified as certified material, in accordance with the relevant fruit marketing regulations;
  - [<sup>F1</sup>(c) in relation to propagating material and fruit plants produced in a member State, certified as certified material, in accordance with Article 20 of [Directive 2014/98/EU](#), by the responsible authority in the member State concerned;
  - (d) in relation to propagating material and fruit plants produced in a Crown Dependency, certified as certified material, in accordance with legislation recognised by the Department as having equivalent effect to regulation 9(1) and (2);”];
- (e) after the definition of “certified plant material”, insert—
 

““Crown Dependency” means the Isle of Man or any of the Channel Islands;”
- (f) after the definition of “the Department” insert
 

““the fruit marketing regulations” means—

  - (a) as regards England, the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017 <sup>M2</sup>;
  - (b) as regards Scotland, the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017 <sup>M3</sup>;
  - (c) as regards Wales, the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 <sup>M4</sup>;”;
- (g) in the definition of “official label”, for paragraph (b), substitute—
  - “(b) in relation to certified plant material produced outside Northern Ireland, a label issued, as appropriate to the plant material to which the label relates, in accordance with—
    - (i) in the case of material produced in the United Kingdom, other than in Northern Ireland, the relevant fruit marketing regulations;
    - (ii) in the case of material produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to Part 1 of Schedule 2;

- (iii) in the case of material produced in a member State, Article 2 of Directive 2014/96/EU, by the responsible authority in the member State concerned;”;
- (h) in the definition of “outside Northern Ireland”, for the words from “or any member” to the end, substitute “ , any member State or any Crown Dependency ”;
- (i) in the definition of “plant variety rights”, omit paragraph (b);
- (j) in the definition of “pre-basic material”, for paragraph (b), substitute—
  - “(b) in relation to pre-basic material produced outside Northern Ireland, material certified as pre-basic, in accordance with—
    - (i) in the case of material produced in the United Kingdom, other than in Northern Ireland, the relevant fruit marketing regulations;
    - (ii) in the case of material produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to regulation 9(1) and (2);
    - (iv) in the case of material produced in a member State, Article 3 or 4 of Directive 2014/98/EU, by the responsible authority in the member State concerned;”;
- (k) in the definition of “registered as a variety”, for paragraph (b), substitute—
  - “(b) registration outside Northern Ireland as a variety in accordance with—
    - (i) in the case of Scotland, Schedule 4 to the Marketing of Fruit Plant Propagating Material (Scotland) Regulations 2017;
    - (ii) in the case of Wales, Schedule 4 to the Marketing of Fruit Plant Propagating Material (Wales) Regulations 2017;
    - (iii) in the case of England, Schedule 4 of the Marketing of Fruit Plant Propagating Material (England) Regulations 2017;”.

#### Textual Amendments

- F1** Words in [reg. 54\(d\)](#) substituted (31.12.2020) by [The Plant Health \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/820\)](#), regs. 1(1), **5(7)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

- I2** Reg. 54 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

- M2** [S.I. 2017/595](#).  
**M3** [S.S.I. 2017/177](#).  
**M4** [S.I. 2017/691](#) (W. 163).

## N.I.

- 55.** In regulation 4(2), for “European Union”, substitute “ United Kingdom ”.

#### Commencement Information

- I3** Reg. 55 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**N.I.**

56. [F2]In regulation 5—

- (a) in paragraph (3), for “European Union” substitute “ United Kingdom ”;
- (b) at the end insert—]

“(5) No person may market in Northern Ireland 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 Northern Ireland before the end of the period of two years beginning with the day after the day on which exit day falls.”.

**Textual Amendments**

**F2** Words in [reg. 56](#) substituted (31.12.2020 immediately before IP completion day) by [The Agriculture, Environment and Rural Affairs \(Amendment\) \(Northern Ireland\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1313\)](#), regs. 1(2)(a), **8**; 2020 c. 1, Sch. 5 para. 1(1)

**Commencement Information**

**I4** Reg. 56 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**N.I.**

57. In regulation 10(6), for “Directive [2000/29/EC](#)”, substitute “ the Plant Health (Northern Ireland) Order 2018 <sup>M5</sup> ”.

**Commencement Information**

**I5** Reg. 57 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Marginal Citations**

**M5** [S.I. 2018/184](#).

**N.I.**

58. In regulation 15(1)(g)(iii), for “Annexes to Directive [2000/29/EC](#)” substitute “ Plant Health Order (Northern Ireland) 2018 ”.

#### Commencement Information

- 16** Reg. 58 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### N.I.

- 59.** After regulation 27, insert—

##### “Transitional provision for official labels on exit day

**27A.** For the purposes of regulation 10 and paragraph 4(a) 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.”.

#### Commencement Information

- 17** Reg. 59 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Amendment of Schedule 2 **N.I.**

- 60.** In Schedule 2—

- (a) in paragraph 4(a), for “EU” substitute “UK”;
- (b) in paragraph 5, for “indelibly printed” to the end substitute—
  - “(a) easily visible and legible, and
  - (b) indelibly printed in English (but may also be printed in other languages)”;
- (c) in paragraph 6—
  - (i) in sub-paragraph (a), for “EU” substitute “UK”;
  - (ii) in sub-paragraphs (b)(i) and (xi), for “member State” substitute “country”;
  - (iii) in sub-paragraph (c), for “the Directive”, substitute “Directive [2008/90/EC](#)”;
- (d) in paragraph 7, for “indelibly printed” to the end substitute—
  - “(a) easily visible and legible, and
  - (b) indelibly printed in English (but may also be printed in other languages)”.

#### Commencement Information

- 18** Reg. 60 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Amendment of Schedule 3 **N.I.**

- 61.** In Schedule 3—

- (a) in paragraph 1(2)—
  - (i) in sub-paragraph (b), omit “or”;

- (ii) in sub-paragraph (c), for “any other member State.” substitute “ a member State; or”;
- (iii) after sub-paragraph (c), insert—
  - “(d) a competent authority outside the United Kingdom if the Department is satisfied that those growing trials are of equivalent standards to those carried out by, or on behalf of, the Department.”
- (b) in paragraph 2—
  - (i) in sub-paragraph (2)(b) omit “, in another member State”;
  - (ii) in sub-paragraph (2)(e), for “member State” substitute “ country which is a member of UPOV ”;
- (c) in paragraph 3—
  - (i) in sub-paragraph (b)—
    - (aa) omit paragraph (i);
    - (bb) for paragraphs (ii) and (iii), substitute—
      - “(i) guidelines produced by UPOV relating to the conduct of tests for distinctiveness, uniformity and stability for the particular genus or species concerned;
      - (ii) where guidelines mentioned at (i) do not exist a protocol or guidelines established or recognised by the Department in relation to the same matters.”;
- (d) in paragraph 4—
  - (i) in sub-paragraph (1)(a), for “consists is” to the end substitute—
    - “consists—
      - (i) is authorised for cultivation pursuant to Regulation (EC) No 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; or”;
    - (ii) in sub-paragraph 4(3), omit “Directive 2001/18/EC”;
- (e) in paragraph 5(1)(d), for “ceases” to the end, insert—
  - “(i) ceases to be authorised pursuant to Regulation (EC) No 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.”.
- (f) in paragraph 6, for “pursuant to” to the end, substitute—
  - “pursuant to—
    - (a) the GMO regulations;
    - (b) Regulation (EC) No 1829/2003; or
    - (c) Directive 2001/18/EC, where the authorisation was granted before the day on which exit day falls.”.
- (g) in paragraph 11—
  - (i) omit the definition of “CPVO”;
  - (ii) omit the definition of “CPVO protocol”;
  - (iii) after the definition of “Directive 2001/18/EC”, insert—

- “the GMO regulations” means—
- (a) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003 <sup>M6</sup>;
  - (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002 <sup>M7</sup>;
  - (c) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) Regulations (Scotland) 2002 <sup>M8</sup>;
  - (d) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) Regulations (Wales) 2002 <sup>M9</sup>;
- (iv) in the definition of “technical questionnaire”—
- (aa) for paragraph (a), substitute—
    - “(a) protocol or guidelines established or recognised by the Department in relation to distinctiveness, uniformity and stability tests for the particular genus or species concerned;”;
  - (bb) in paragraph (b), omit from the beginning to “relevant species, in ”.

#### Commencement Information

- I9** Reg. 61 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

- M6** [S.R. 2003 No. 167](#).  
**M7** [S.I. 2002/2443](#).  
**M8** [S.S.I 2002/541](#).  
**M9** [S.I. 2002/3188 \(W. 304\)](#).

### Amendment of Schedule 5 **N.I.**

- 62.** In Schedule 5, in paragraph 5—
- (a) in sub-paragraph (3)—
    - (i) in paragraph (b), for “in any member” to the end, substitute “ in a register of varieties ”;
    - (ii) in sub-paragraph (d), at the end, add “ of varieties ”;
  - (b) in sub-paragraph (4)(a), for “outside Northern Ireland” substitute “ any part of the United Kingdom, other than Northern Ireland, or in another country which is a member of UPOV ”;
  - (c) 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 Northern Ireland, under paragraph 2(1) of Schedule 3;
    - (b) in England, under paragraph 4(1) of Schedule 4 to the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017;
    - (c) in Scotland, under paragraph 2(1) of Schedule 4 to the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017;

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**Changes to legislation:** There are currently no known outstanding effects for the *The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019, PART 6*. (See end of Document for details)

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(d) in Wales, paragraph 4(1) of Schedule 4 to the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017;”

(d) omit paragraph 8(2)(a).

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**Commencement Information**

**I10** Reg. 62 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)



**Changes to legislation:**

There are currently no known outstanding effects for the The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019, PART 6.