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STATUTORY INSTRUMENTS

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**2023 No. 957**

**The Windsor Framework (Plant Health) Regulations 2023**

**PART 3**

**Northern Ireland Plant Health Labels**

**Northern Ireland plant health label**

7. A Northern Ireland plant health label may only be issued for plants and other objects for the purposes of Article 10 or 11 of the SPS Regulation in accordance with the provisions of this Part.

**Content and format of the Northern Ireland plant health label**

8. A Northern Ireland plant health label must—
- (a) take the form of a distinct label;
  - (b) comply with requirements laid down in implementing acts adopted under Article 10(3) or 11(3)(b) of the SPS Regulation;
  - (c) be clearly distinguishable from any other information or label which may also be indicated on the same material as that used for the Northern Ireland plant health label;
  - (d) be easily visible and clearly legible;
  - (e) not contain information which is changeable or not durable.

**Issuance of Northern Ireland plant health labels**

- 9.—(1) Northern Ireland plant health labels may only be issued—
- (a) in relation to plants for planting and other objects, by authorised operators, under the official supervision of the competent authorities;
  - (b) in relation to seed potatoes, by competent authorities—
    - (i) to professional operators authorised under regulation 10(6) (authorisation); or
    - (ii) to professional operators authorised under regulation 10(4)(b) where regulation 19 (replacement) applies.
- (2) The competent authority must refuse to issue a Northern Ireland plant health label if it considers that the requirements referred to in regulation 12 (substantive requirements) are not met.
- (3) An authorised operator must not issue a Northern Ireland plant health label under paragraph (1)(a) other than—
- (a) for the plants for planting and other objects for which they are responsible;
  - (b) subject to paragraph (4), in the premises which are under their responsibility and declared by them pursuant to regulation 5(2)(d) (procedure of registration).

(4) Where regulation 17(1) (replacement of a phytosanitary certificate) applies, authorised operators may issue a Northern Ireland plant health label in another location if so authorised by the competent authority.

(5) For the purposes of this regulation, “official supervision” means action taken by the competent authorities in accordance with this Part to ensure that authorised operators meet the applicable requirements.

### **Authorisation of professional operators to issue or receive and use Northern Ireland plant health labels**

10.—(1) A registered operator may apply for an authorisation to—

- (a) issue Northern Ireland plant health labels for plants for planting and other objects;
- (b) receive and use Northern Ireland plant health labels from the competent authority in relation to seed potatoes.

(2) An application for an authorisation referred to in paragraph (1) must be submitted to the competent authority in the manner and form required by the competent authority.

(3) An application for authorisation must include the commodity types, families, genera or species of the plants for planting, seed potatoes, and where appropriate, the nature of other objects, in relation to which the registered operator intends to issue or receive and use Northern Ireland plant health labels.

(4) The competent authority must grant an authorisation to a registered operator to—

- (a) issue Northern Ireland plant health labels for particular families, genera or species, and commodity types of plants for planting, and other objects, if the competent authority is satisfied that the registered operator complies with both of the conditions in paragraph (5);
- (b) receive and use replacement Northern Ireland plant health labels from a competent authority under regulation 19 in relation to seed potatoes, if the competent authority is satisfied that the registered operator complies with the condition in paragraph (5)(b).

(5) The conditions are that the registered operator—

- (a) possesses the necessary knowledge to carry out the examination referred to in regulation 13 (examinations), concerning—
  - (i) the pests referred to in the rules for entry into Northern Ireland laid down in the EU Plant Health Regulation that could affect the plants and other objects concerned;
  - (ii) the signs of the presence of those pests, the symptoms caused by them, and the means to prevent the presence and spread of those pests; and
- (b) has in place systems and procedures enabling it to fulfil its obligations concerning traceability pursuant to regulation 18 (traceability).

(6) The competent authority must grant an authorisation to a registered operator to receive and use Northern Ireland plant health labels from the competent authority in relation to seed potatoes if the following conditions are met—

- (a) the competent authority has conducted an examination in accordance with regulation 13 to determine whether the applicable requirements have been met; and
- (b) it is satisfied that the applicable requirements have been met.

(7) An authorisation granted by the competent authority for the purposes of this regulation must be in writing and may be granted—

- (a) subject to conditions;
- (b) for an indefinite or a specified period.

(8) An authorisation granted by the competent authority may be modified, suspended or withdrawn at any time by notice in writing.

### **Obligations of authorised operators**

**11.**—(1) Where an authorised operator intends to issue a Northern Ireland plant health label, it must identify and monitor the points of its production process, and the points concerning the movement of the plants and objects concerned, which are critical as regards compliance with regulation 12 (substantive requirements) and regulation 13 (examinations), as the case may be.

(2) An authorised operator must keep for at least three years records concerning the identification and monitoring of those points.

(3) An authorised operator must ensure that appropriate training is provided to its personnel involved in the examinations referred to in regulation 13, in order to ensure that those personnel possess the necessary knowledge referred to in regulation 10(5)(a) to carry out those examinations.

### **Substantive requirements for issue of a Northern Ireland plant health label**

**12.** An authorised operator or a competent authority must not issue a Northern Ireland plant health label unless the plants and other objects concerned meet the applicable requirements for entry to Northern Ireland referred to in Article 10(1)(c) or Article 11(1)(c) of the SPS Regulation.

### **Examinations for Northern Ireland plant health labels**

**13.**—(1) A Northern Ireland plant health label may only be issued for plants and other objects for which a meticulous examination in accordance with this regulation has shown that they meet the applicable requirements referred to in regulation 12 (substantive requirements).

(2) The plants and other objects may be examined individually or by representative samples. If they are packaged, the examination must also cover their packaging.

(3) The examination must be carried out at appropriate times, and taking into account the risks involved.

(4) The examination must be carried out by the authorised operator, except in the following cases, where it must be carried out by the competent authority—

- (a) where compliance with the applicable requirements referred to in regulation 12 requires an examination to be carried out in the immediate vicinity of the place of production of the plants for planting or other objects concerned, and the authorised operator does not have access to that immediate vicinity;
- (b) where paragraph (5) applies concerning inspections, sampling and testing;
- (c) where it relates to seed potatoes.

(5) The examination must be made by visual examination, complemented by any official inspections, sampling and testing that are required to determine whether the plants for planting, seed potatoes or other objects comply with the applicable requirements referred to in regulation 12.

(6) The examination must be carried out at the premises or, for seed potatoes, land plots, referred to in regulation 5(2)(d) (procedure of registration). Where so required to comply with applicable requirements referred to in regulation 12, the examination must also be carried out in the immediate vicinity of the place of production or in the packaging facilities of the plants for planting, seed potatoes or other objects concerned.

(7) The results of an examination must be recorded and stored by the authorised operator for at least three years.

(8) This regulation is subject to regulation 17 in relation to plants for planting and other objects which have been introduced into Great Britain from a third country.

### **Attaching of the Northern Ireland plant health label**

**14.**—(1) For the purposes of Article 10(1)(b) of the SPS Regulation, an authorised operator who has issued a Northern Ireland plant health label for plants for planting or other objects must attach the label—

- (a) to the smallest applicable trade unit of the plants for planting concerned in each consignment, and to the other objects concerned,
- (b) before that operator dispatches the relevant consignment to Northern Ireland.

(2) For the purposes of Article 11(1)(b) of the SPS Regulation, the professional operator to whom a Northern Ireland plant health label has been issued by the competent authority for seed potatoes, must attach the Northern Ireland plant health label—

- (a) to the consignment of seed potatoes concerned,
- (b) before that operator dispatches the relevant consignment to Northern Ireland.

(3) Where a trade unit or a consignment referred to in paragraph (1) or (2) takes the form of a package, bundle or container, the Northern Ireland plant health label must be attached to that package, bundle or container.

### **Inspections and withdrawal of authorisation**

**15.**—(1) Subject to paragraph (2), the competent authority must carry out inspections at least once a year, and sampling and testing if appropriate, to verify compliance by authorised operators, and registered operators authorised under regulation 10(4)(b) or (6), with requirements, where applicable, in—

- (a) regulation 8 (content and format);
- (b) regulation 10 (5) (authorisation);
- (c) regulation 11 (obligations);
- (d) regulation 13 (examinations);
- (e) regulation 14 (attachment);
- (f) regulation 19(1) to (4), (6) and (7) (replacement of a Northern Ireland plant health label).

(2) Paragraph (1) does not apply to an authorised operator who is only authorised under regulation 10(4)(a) to issue Northern Ireland plant health labels for other objects only (not plants for planting).

(3) Where the competent authority becomes aware that an authorised operator, or a registered operator authorised under regulation 10(4)(b) or (6), does not comply with the provisions referred to in paragraph (1) or that plants for planting, seed potatoes or other objects for which that operator has issued or received a Northern Ireland plant health label do not comply with the requirements referred to in regulation 12 (substantive requirements), that authority must without delay take the measures necessary to ensure that non-compliance with those provisions does not continue.

(4) The measures referred to in paragraph (3) may include the withdrawal of the authorisation to issue or receive and use Northern Ireland plant health labels for the plants and other objects concerned, or the withdrawal of any Northern Ireland plant health label that has been issued.

(5) Where the competent authority has taken measures in accordance with paragraph (3) other than the withdrawal of the authorisation to issue or receive and use Northern Ireland plant health labels for the plants and other objects concerned, and non-compliance with the requirements in regulation 12 continues, that authority must without delay withdraw that authorisation.

## **Official controls on professional operators authorised to issue Northern Ireland plant health labels**

16.—(1) Competent authorities must, subject to paragraphs (4) and (5), perform official controls once per year in the premises and, where applicable, in other locations used by authorised operators who produce or grow plants for planting in respect of which they issue, or intend to issue Northern Ireland plant health labels, where so required to meet the applicable requirements referred to in regulation 12 (substantive requirements).

(2) The controls must include inspections and, in the case of suspicion of risks to plant health, the sampling and testing referred to in regulation 15 (inspections and withdrawal of authorisation), to verify compliance with applicable requirements referred to in regulation 12.

(3) The controls must be carried out at the most appropriate time with regard to the possibility of detecting the presence of relevant pests or signs or symptoms of those pests.

(4) Competent authorities may increase the frequency of the official controls referred to in paragraph (1) of this regulation and regulation 15(1), if the risk so requires, taking into account at least the following factors:

- (a) increased phytosanitary risks for the specific family, genera or species of the plants for planting produced in those premises and, where applicable, in other locations, where more than one control is necessary due to the pest biology or the environmental conditions;
- (b) phytosanitary risks linked to the origin or provenance within Great Britain of particular plants for planting;
- (c) number of production cycles in a year;
- (d) history of compliance of the professional operator with the applicable provisions of the UK Plant Health Regulation, the Official Controls Regulation and these Regulations;
- (e) available infrastructure and where the premises, and, where applicable, other locations used by the professional operator, are situated.

(5) Competent authorities may reduce the frequency of the official controls referred to in paragraph (1) to at least once every two years if—

- (a) the risk so allows; and
- (b) the professional operator concerned has complied with the applicable provisions of—
  - (i) the UK Plant Health Regulation;
  - (ii) the Official Controls Regulation; and
  - (iii) these Regulations.

(6) Premises and, where applicable, other locations used by authorised operators must be subject to at least one official control by the competent authorities in addition to the one referred to in paragraph (1) if they are the place of origin of plants for planting which—

- (a) have been grown at least part of their life or have been located in a demarcated area established in accordance with Article 18(1) of the UK Plant Health Regulation, and
- (b) can be expected to be infested by the pest for which that demarcated area had been established.

(7) That additional official control shall be carried out as close as possible to the point in time when those plants for planting are moved out of that demarcated area or from the infested zone to the buffer zone of that demarcated area.

### **Northern Ireland plant health label replacing phytosanitary certificates**

17.—(1) This regulation applies in relation to a plant for planting or other object which has been introduced into Great Britain from a third country.

(2) An authorised operator may issue a Northern Ireland plant health label for the plant for planting or other object without conducting the examinations referred to in regulation 13 if—

- (a) the applicable checks under Article 49(1)(1) of the Official Controls Regulation concerning its introduction have been completed satisfactorily, and
- (b) those checks have led the authorised operator to the conclusion that the plant for planting or other object concerned fulfils the requirements for issuance of a Northern Ireland plant health label referred to in regulation 12 (substantive requirements).

(3) The replacement of a phytosanitary certificate by a Northern Ireland plant health label may be carried out at the place of destination in Great Britain of the plant for planting or other object concerned, instead of at the point of entry, where checking at the place of destination is permitted.

### **Traceability**

18.—(1) A professional operator to whom a trade unit of plants for planting, other objects or a consignment with a Northern Ireland plant health label has been supplied must keep a record allowing that operator to identify the professional operator who supplied it.

(2) A professional operator supplying a trade unit of plants for planting, other objects or a consignment with a Northern Ireland plant health label must keep a record allowing that operator to identify the professional operator to whom it was supplied.

(3) An authorised operator who issues a Northern Ireland plant health label, and a professional operator to whom the competent authority issues a Northern Ireland plant health label, must record the following information as regards that Northern Ireland plant health label—

- (a) where applicable, the professional operator who supplied the trade unit, other object or consignment concerned;
- (b) the professional operator located in Great Britain or in Northern Ireland to whom the trade unit, other object or consignment concerned was supplied;
- (c) the contents of the Northern Ireland plant health label.

(4) Professional operators must keep the records referred to in paragraphs (1), (2) and (3) for at least three years after the date on which the plant for planting, consignment of seed potatoes or other object concerned was supplied to or by them.

(5) Professional operators referred to in paragraph (4) must provide the information in the records referred to in paragraphs (1), (2) and (3) to the competent authority on request.

### **Replacing a Northern Ireland plant health label**

19.—(1) An authorised operator which has received a trade unit of plants for planting or other object with a Northern Ireland plant health label, may issue a new Northern Ireland plant health label for that trade unit or other object, to replace the Northern Ireland plant health label initially issued, provided that the conditions in paragraph (4) are met.

(2) A competent authority, acting on the application of a professional operator authorised under regulation 10(4)(b), may issue a new Northern Ireland plant health label for a consignment of seed potatoes to replace the Northern Ireland plant health label initially issued, provided that the conditions of paragraph (4) are met.

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(1) Article 49 was amended by [S.I. 2020/1481](#).

(3) Where a trade unit of plants for planting or a consignment with a Northern Ireland plant health label is divided into two or more new trade units or consignments—

- (a) the authorised operator responsible for those new trade units or, in the case of consignments of seed potatoes, the competent authority acting on the application of a professional operator authorised under regulation 10(4)(b), must issue a Northern Ireland plant health label for each new trade unit or consignment resulting from the division, provided that the conditions set out in paragraph (4) are met;
- (b) those Northern Ireland plant health labels must replace the Northern Ireland plant health label issued for the initial trade unit or consignment.

(4) An authorised operator or competent authority must not issue a Northern Ireland plant health label under paragraphs (1), (2) and (3) unless—

- (a) the traceability requirements referred to in regulation 18(3) (traceability) concerning the plants for planting, seed potatoes or other objects concerned are met;
- (b) the plants for planting, seed potatoes or other objects continue to comply with the requirements referred to in regulation 12 (substantive requirements), as applicable;
- (c) the characteristics of the plants for planting, seed potatoes or other objects have not changed.

(5) Where a Northern Ireland plant health label is issued under paragraph (1), (2) or (3), the examination referred to in regulation 13 (examination) is not required.

(6) Following the replacement of a Northern Ireland plant health label under paragraph (1), (2) or (3), the authorised operator concerned must retain the replaced Northern Ireland plant health label or its content for at least three years.

(7) Where the replacement of a Northern Ireland plant health label under paragraph (1), (2) or (3) is carried out by the competent authority, the professional operator authorised under regulation 10(4)(b) on whose application it is issued must retain the replaced Northern Ireland plant health label, or its content, for at least three years.

(8) The retention in paragraphs (6) and (7) may take the form of storage of information contained in the Northern Ireland plant health label in a computerised database, provided that this information includes the information contained in any traceability barcode, hologram, chip or data carrier which may supplement the information on the Northern Ireland plant health label referred to in regulation 8(b) (content and format).

### **Invalidation and removal of a Northern Ireland plant health label**

**20.**—(1) This regulation applies where a professional operator becomes aware that a trade unit of plants for planting, other object or a consignment with a Northern Ireland plant health label which is under the operator's control does not comply with requirements in—

- (a) regulation 8 (content and format);
- (b) regulation 9 (issuance of Northern Ireland plant health labels);
- (c) regulation 10 (authorisation);
- (d) regulation 11 (obligations);
- (e) regulation 12 (substantive requirements);
- (f) regulation 13 (examination);
- (g) regulation 17 (replacement of a phytosanitary certificate); or
- (h) regulation 19 (replacement of a Northern Ireland plant health label).

(2) The professional operator concerned must invalidate the Northern Ireland plant health label and, where possible, remove it from that trade unit, other object or consignment.

(3) Without limiting the notification obligation on professional operators referred to in Article 14(2) of the UK Plant Health Regulation, that professional operator must inform the competent authority under the competence of which it operates of the non-compliance referred to in paragraph (1).

(4) Where the professional operator fails to comply with paragraph (2), the competent authority must invalidate the Northern Ireland plant health label and, where possible, remove it from the trade unit, other object or consignment concerned.

(5) Where paragraph (2) or (4) applies, the professional operator concerned must retain the invalidated Northern Ireland plant health label or its content for at least three years.

(6) The retention referred to in paragraph (5) may take the form of storage of the information contained in the invalidated Northern Ireland plant health label in a computerised database, provided that this includes the information contained in any traceability barcode, hologram, chip or other data carrier which may supplement the information on the Northern Ireland plant health label referred to in regulation 8(b), and a statement concerning that invalidation.

(7) Where paragraph (2) or (4) applies, the professional operator concerned must inform the authorised operator or the competent authority who issued the invalidated Northern Ireland plant health label that the label has been invalidated.

(8) For the purposes of this regulation, “invalidate” means to strike through the Northern Ireland plant health label with a mark which cannot easily be removed or faded.

### **Movements to Northern Ireland**

**21.** For the purposes of Article 10(1)(a) or 11(1)(a) of the SPS Regulation, as the case may be, a consignment must not be dispatched to Northern Ireland with a Northern Ireland plant health label—

- (a) by any person other than an authorised operator, or, for seed potatoes, a registered operator authorised to receive and use Northern Ireland plant health labels under regulation 10(4) (b) or (6) (authorisation);
- (b) by a person mentioned in paragraph (a), unless the plants for planting, seed potatoes or other objects continue to comply with the applicable requirements referred to in regulation 12 (substantive requirements).