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WELSH STATUTORY INSTRUMENTS

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**2020 No. 833**

**The Marketing of Seed, Plant and Propagating  
Material (Wales) Regulations 2020**

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

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

(2) In regulation 2, at the appropriate place insert—

““RNQP” (“*PRHG*”) means a Union regulated non-quarantine pest within the meaning given by Article 36 of [Regulation \(EU\) 2016/2031](#) of the European Parliament and of the Council on protective measures against pests of plants;”.

(3) In regulation 3(1), for the definition of “[Directive 2014/98/EU](#)” substitute—

““[Directive 2014/98/EU](#)” (“*Cyfarwyddeb 2014/98/EU*”) means Commission Implementing [Directive 2014/98/EU](#) implementing Council [Directive 2008/90/EC](#) as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections(2).”

(4) After regulation 14 insert—

**“Suppliers: notification requirements**

14A.—(1) A supplier must immediately report to an inspector—

- (a) plant material that shows the presence of any RNQP listed in Annex 1 or 2 to [Directive 2014/98/EU](#);
- (b) the presence in the soil of any RNQP listed in Annex 3 to [Directive 2014/98/EU](#);
- (c) the presence of any RNQP at the production site at a level greater than the tolerance specified for such organism in Annex 4 to [Directive 2014/98/EU](#); or
- (d) plant material that shows the presence of any pest listed in Annex 2 or 3 to Commission Implementing [Regulation \(EU\) 2019/2072](#) establishing uniform conditions for the implementation of [Regulation \(EU\) 2016/2031](#) of the European Parliament and of the Council, as regards protective measures against pests of plants.

(2) Where a supplier has reported to an inspector plant material referred to in paragraph (1) (d), the supplier must carry out any measures laid down by the inspector.”

(5) In regulation 15(1)(g)—

- (a) in paragraph (i), omit “Part A of”;
- (b) omit paragraph (ii) and the “and” after it;

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(1) [S.I. 2017/691 \(W. 163\)](#), amended by [S.I. 2020/206 \(W. 48\)](#); there are other amending instruments but none are relevant. [S.I. 2017/691 \(W. 163\)](#) is amended prospectively by [S.I. 2019/368 \(W. 90\)](#).

(2) Last amended by Commission Implementing [Directive \(EU\) 2020/177](#) amending Council Directives [66/401/EEC](#), [66/402/EEC](#), [68/193/EEC](#), [2002/55/EC](#), [2002/56/EC](#) and [2002/57/EC](#), Commission Directives [93/49/EEC](#) and [93/61/EEC](#) and Implementing Directives [2014/21/EU](#) and [2014/98/EU](#) as regards pests of plants on seeds and other plant reproductive material (OJ No. L 41, 13.2.2020, p. 1). See section 26 of the [Legislation \(Wales\) Act 2019](#) (anaw 4).

- (c) in paragraph (iii), for “Annex 2, 3 or 4” substitute “Annex 2 or 3”;
- (d) after paragraph (iii) insert—
  - “(iv) any RNQP listed in Annex 3 to [Directive 2014/98/EU](#), where present in the soil; and
  - (v) any RNQP at a level greater than the tolerance specified for that RNQP in Annex 4 to [Directive 2014/98/EU](#).”
- (6) In Schedule 1—
  - (a) in paragraph 1(2), for paragraphs (c) and (d) substitute—
    - “(c) complies with health requirements in paragraph 4;
    - (d) complies with requirements concerning defects in paragraph 5; and
    - (e) complies with production site requirements in paragraph 6.”;
  - (b) in paragraph 2(2), for paragraphs (b) and (c) substitute—
    - “(b) complies with health requirements in paragraph 4;
    - (c) complies with requirements concerning defects in paragraph 5; and
    - (d) complies with production site requirements in paragraph 6.”;
  - (c) in paragraph 4, for sub-paragraphs (1) to (5) substitute—
    - “(1) CAC material must be found, on visual inspection by the supplier at the stage of production, to be practically free from the RNQPs listed in Annex 1 or 2 to [Directive 2014/98/EU](#) in relation to the genus or species concerned, unless stated otherwise in Annex 4 to that Directive.
    - (2) The supplier must sample and test the identified source of material or CAC material—
      - (a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to [Directive 2014/98/EU](#), for such pests;
      - (b) for the RNQPs listed in Annex 2 to [Directive 2014/98/EU](#), subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.
    - (3) CAC material must be found after production, on visual inspection by the supplier, to be free from signs or symptoms of any RNQP listed in Annex 1 or 2 to [Directive 2014/98/EU](#).
    - (4) Visual inspections and sampling and testing must be conducted in accordance with the requirements specified in Annex 4 to [Directive 2014/98/EU](#) in relation to the genus or species concerned, and category.
    - (5) But sub-paragraphs (1) to (3) do not apply to CAC material during cryopreservation.”;
  - (d) after paragraph 5 insert—

**“Requirements concerning production site**

6. CAC material must be produced in accordance with the requirements for the production site, place of production or area set out in Annex 4 to [Directive 2014/98/EU](#) and specified in relation to the genus or species concerned.”

- (7) In Schedule 5—
  - (a) in paragraphs 3(2) and 4(2), after paragraph (f) in each case, insert—
    - “(g) complies with the production site requirements in paragraph 12A.”;

- (b) in paragraphs 5(1)(a) and 6, for “12” substitute “12A”;
- (c) in paragraph 10—
  - (i) for sub-paragraphs (1) and (2) substitute—
    - “(1) A pre-basic mother plant or pre-basic material must be found to be free from any RNQP listed in Annex 1 or 2 to [Directive 2014/98/EU](#) in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.
    - (2) An inspector and, where appropriate, the supplier must sample and test the pre-basic mother plant or pre-basic material—
      - (a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to [Directive 2014/98/EU](#), for such pests;
      - (b) for the RNPQs listed in Annex 2 to [Directive 2014/98/EU](#), subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.”;
  - (ii) for sub-paragraph (4) substitute—
    - “(4) Compliance with sub-paragraph (1) is established by visual inspection by an inspector and, where appropriate, the supplier.”;
- (d) after paragraph 12 insert—

#### **“Requirements concerning production site**

**12A.** Pre-basic mother plants and pre-basic material must be produced in accordance with the requirements for the production site, place of production or area set out in Annex 4 to [Directive 2014/98/EU](#) and specified in relation to the genus or species concerned.”;

- (e) in paragraphs 14(2) and 15(2), for paragraphs (g) and (h) substitute—
  - “(g) has been maintained in accordance with paragraph 18;
  - (h) where appropriate, has been multiplied in accordance with paragraph 19; and
  - (i) has been produced in accordance with the production site requirements in paragraph 12A.”;
- (f) in paragraph 14(3), for “(h)” substitute “(i)”;
- (g) in paragraph 16—
  - (i) for sub-paragraphs (1) and (2) substitute—
    - “(1) A basic mother plant or basic material must be found to be free from any RNQP listed in Annex 1 or 2 to [Directive 2014/98/EU](#) in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.
    - (2) An inspector and, where appropriate the supplier, must sample and test the basic mother plant or basic material—
      - (a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to [Directive 2014/98/EU](#), for such pests;
      - (b) for the RNPQs listed in Annex 2 to [Directive 2014/98/EU](#), subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.”;
  - (ii) for sub-paragraph (4) substitute—
    - “(4) Compliance with sub-paragraph (1) is established by visual inspection by an inspector and, where appropriate, the supplier.”;

- (h) in paragraph 20—
  - (i) in sub-paragraph (2), for paragraphs (e) and (f) substitute—
    - “(e) complies with the health requirements in paragraph 22;
    - (f) is grown in soil that is found by sampling and testing to comply with paragraph 23; and
    - (g) complies with the production site requirements in paragraph 12A.”;
  - (ii) in sub-paragraph (4), in the words before paragraph (a), for “(f)” substitute “(g)”;
- (i) in paragraph 22—
  - (i) for sub-paragraphs (1) and (2) substitute—
    - “(1) A certified mother plant or certified material must be found to be free from any RNQP listed in Annex 1 or 2 to [Directive 2014/98/EU](#) in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.
    - (2) An inspector and, where appropriate, the supplier must sample and test the certified mother plant or certified material—
      - (a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to [Directive 2014/98/EU](#), for such pests;
      - (b) for the RNQPs listed in Annex 2 to [Directive 2014/98/EU](#), subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.”;
  - (ii) in sub-paragraph (4), for the words from “sub-paragraphs (1)” to the end substitute “sub-paragraph (1) by visual inspection”;
- (j) in paragraph 23(4)(a), at the beginning insert “unless otherwise stated”.