

**EXPLANATORY MEMORANDUM TO
THE FOREST REPRODUCTIVE MATERIAL (GREAT BRITAIN) (AMENDMENT)
REGULATIONS 2006**

2006 No. 2530

1. This explanatory memorandum has been prepared by the Forestry Commission and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations implement amendments to the Forest Reproductive Material (Great Britain) Regulations 2002 (SI no. 2002/3026) introduced by EC legislation. The principal changes are to permit the import of certain forest reproductive material (FRM) from certain countries and to permit a minor derogation from the normal marketing requirements for one type of forest reproductive material (*Pinus pinaster* Ait.).

3. Matters of special interest to the [Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments]

None

4. Legislative Background

4.1 Council Directive 1999/105/EC, which came into effect on 1 January 2003, establishes a Community-wide system for the marketing of forest reproductive material such as seeds, cones, cuttings and plants. It was implemented in Great Britain by the Forest Reproductive Material (Great Britain) Regulations 2002 (SI 2002/3026).

4.2 Since the Directive came into force, the European Commission has adopted a series of instruments which authorise (but do not require) Member States to derogate from the Directive. Two of these are the subject of the current amendments. The first is Commission Decision 2005/942/EC, which authorises Member States to take decisions under the Directive on the import of certain forest reproductive material from certain third countries. The second is Commission Regulation 69/2004/EC, which authorises a derogation from certain provisions of the Directive in respect of the marketing of *Pinus pinaster* Ait.

4.3 The instrument is made under section 2(2) of the European Communities Act 1972, the Forestry Commissioners being designated (under S.I. 1996/266) in relation to measures relating to the common agricultural policy of the European Community in respect of forestry.

5. Extent

This instrument extends to Great Britain

6. European Convention on Human Rights

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 Forest Reproductive Material (FRM) Regulations ensure that planting stock is traceable through the collection and production process to registered sources of basic material (e.g. trees from which the seed is collected or cuttings taken). This allows those who buy FRM to have sufficient information about the material being bought, such as provenance and origin.

7.2 In European Commission Decision (2005/942/EC), Member States are authorised to take decisions under the Directive on the import of forest reproductive material from third countries. This Decision lists the species, categories and types of forest reproductive material that official bodies in the EU may authorise for import. The UK has decided to permit all of the listed FRM. Such authorisation should aim to ensure that the material imported offers equivalent guarantees to those applicable to forest reproductive material produced in the Community in accordance with the Directive.

The amendments to the FRM Regulations enable the import of material from certain countries (i.e. those listed in the Decision) providing advance notification of import is given to the Forestry Commission and the material is accompanied into the country by an official certificate from the exporting country.

7.3 In European Commission Regulation (EC) No 69/2004, Member States are authorised to derogate from certain provisions of the Directive in respect of the marketing of *Pinus pinaster* Ait. (by permitting marketing of material which does not meet the requirements of 1(c) of Annex IV of the Directive). This Regulation has a duration of 15 years.

The amendments to the Regulations provide for seed of *Pinus pinaster* Ait to be certified as coming from a seed orchard, when it does not meet all the normal certification criteria. Specifically, that the component clones or families have not been planted according to an approved plan and established in a way that each component can be identified.

7.4 The legislation also corrects minor errors in the original legislation.

7.5 No consultation has taken place. The principal of the decision was set out in the consultation on the regulations (30 August 2002) and this has not changed. These decisions affect a very small number of businesses; informal contact has been made with these stakeholders and no issues have been raised.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no measurable impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is minimal

9. Contact

Helen Sellars at the Forestry Commission Tel: 0131 314 6499 or email: helen.sellars@forestry.gsi.gov.uk can answer any queries regarding the instrument.

Transposition note

Forest Reproductive Material (Great Britain) (Amendment) Regulations 2006

(1) Commission Decision [2005/942/EC]

Article 1 of Commission Decision 2005/942/EC authorises Member States to take decisions under the Directive on the import of forest reproductive material from third countries. The Annex to the Decision specifies the forest reproductive material (from specific countries) relating to which Member States may make such decisions. In Great Britain, the decision has been taken to allow all listed material.

The Decision is transposed by amending the Forest Reproductive Material (Great Britain) Regulation 2002, as follows:

1. Inclusion of official certificates from third countries in the definition of “master certificate” (regulation 3);
2. Amendment of the rules for the marketing of forest reproductive material to include such material from third countries (regulation 5);
3. Removal of the prohibition on importing forest reproductive material, subject to certain conditions to be met prior to, at the time of and after entry into Great Britain (regulation 9); and
4. Addition of phytosanitary certificates and import notifications to the list of documents which must be retained by a registered supplier or other person who undertakes the collecting or production, storage, processing or transportation of forest reproductive material (regulation 10).
5. Addition of a new Schedule, containing the list of forest reproductive material (from specific third countries) which may be imported into Great Britain (regulation 12).

(2) Commission Regulation 69/2004

Commission Regulation 69/2004 authorises the marketing of *Pinus pinaster* Ait. which does not meet the requirements of 1(c) of Annex IV of Directive 1999/105/EC. The Regulation is transposed as follows:

1. Provision for *Pinus pinaster* Ait to be classified as “qualified” (and therefore marketed) if it does not meet the requirement in Schedule 4, paragraph 1, subparagraph (c) (regulation 4; Article 1 of Regulation 69/2004).
2. Insertion of a requirement for a statement to be included in the supplier’s label for such material (regulation 6; Article 3 of Regulation 69/2004);