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STATUTORY INSTRUMENTS

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**2020 No. 1388**

**The Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020**

**PART 5**

Amendments to domestic EU Exit legislation

**CHAPTER 8**

Plant Propagating Material and Seeds

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

**29.**—(1) The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019(1) are amended as follows.

(2) In regulation 4 —

(a) after paragraph (2) insert—

“(2A) In regulation 4A(1) and in the heading, for “European Union” substitute “United Kingdom”. ”;

(b) for paragraph (3) substitute—

“(3) In regulation 5—

(a) in paragraph (1)—

(i) in sub-paragraph (ad)—

(aa) for “Union” substitute “GB”;

(bb) for “protected zone” substitute “PFA”;

(ii) for sub-paragraph (d) substitute—

“(d) it belongs to a variety the seeds of which may be marketed in accordance with, in relation to England, the Seed Marketing Regulations 2011, and, in relation to Wales, the Seed Marketing (Wales) Regulations 2012; and”;

(b) in paragraph (2)—

(i) in the definition of “protected zone quarantine pest”, for “protected zone” substitute “PFA”;

(ii) in the definitions of “RNQP” and “Union quarantine pest”, for “Union” substitute “GB”. ”;

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(1) [S.I. 2019/131](#); amended by [S.I. 2019/809](#), prospectively amended by [S.I. 2019/1220](#), regulation 9: that regulation is being omitted by these Regulations.

- (c) omit paragraph (4).
- (3) In regulation 5 —
  - (a) in paragraph (2)(a), omit “[Directive 2000/29/EC](#)”;
  - (b) after paragraph (3), insert—
    - “(3A) In regulation 4—
      - (a) in paragraph (1)(ae)—
        - (i) for “Union” substitute “GB”;
        - (ii) for “protected zone” substitute “PFA”;
      - (b) in paragraph (2)—
        - (i) in the definition of “protected zone quarantine pest”, for “protected zone” substitute “PFA”;
        - (ii) in the definitions of “RNQP” and “Union quarantine pest”, for “Union” substitute “GB”.
  - (c) omit paragraphs (4) and (5);
  - (d) in paragraph (6)(a), after “or” insert “national”;
  - (e) in paragraph (7)—
    - (i) in sub-paragraph (b)(i), for “into the United Kingdom” substitute “produced in a country outside of the United Kingdom”;
    - (ii) for sub-paragraph (d), substitute—
      - “(5) Paragraphs (2) and (4) do not apply to suppliers importing propagating material produced in the Channel Islands or the Isle of Man.”.
- (4) In regulation 6—
  - (a) in paragraph (3)—
    - (i) omit sub-paragraph (a);
    - (ii) after sub-paragraph (b) insert—
      - “(ba) before the definition of “crossing design” insert—
        - “a “country granted equivalence” means a third country that has been assessed by the Secretary of State that the forest reproductive material from that third country is produced under conditions equivalent to the requirements of these Regulations for that category of forest reproductive material to which these Regulations apply.”;
    - (iii) in sub-paragraph (c), for the new definition of “the Department” to be inserted by that sub-paragraph, substitute—
      - ““Crown Dependency” means the Isle of Man or any of the Channel Islands;
      - “the Department” has the meaning given in the NI Regulations”;
    - (iv) for sub-paragraph (g) substitute—
      - “(g) in the definition of “Master Certificate”—
        - (i) in paragraph (b), for “official body for Northern Ireland” to the end substitute “Department in accordance with regulation 13 of the NI Regulations”;
        - (ii) omit paragraph (c);
        - (iii) in paragraph (d)—

- (aa) for “EU-approved third country” substitute “OECD country granted equivalence”;
- (bb) for the words from “a relevant” to the end substitute “the Department in accordance with the NI Regulations”;
- (iv) in paragraph (e)—
  - (aa) for “permitted third country” substitute “non-OECD country granted equivalence”;
  - (bb) for “an official body of a member State” substitute “the Department”;
- (v) after paragraph (e) insert—
  - “(f) in the case of forest reproductive material produced in a Crown Dependency, an official certificate issued in relation to the material by an official body of that Crown Dependency under legislation recognised by the Secretary of State to have equivalent effect to these Regulations.”;
- (v) after sub-paragraph (i) insert—
  - “(ia) after the definition of “the 1973 Regulations” insert—
    - “a “non-OECD country granted equivalence” means a country granted equivalence and which is not a member of the OECD Scheme;
    - an “OECD country granted equivalence” means a country granted equivalence and which is a member the OECD Scheme;
    - the “OECD Scheme” means the OECD Scheme for the Certification of Forest Reproductive Material Moving in International Trade adopted by Decision C(2007)69 of the Council of the Organisation for Economic Co-operation and development, as last amended by Decision CA(2018)14 of the Committee for Agriculture(2);”;
- (vi) for sub-paragraph (j) substitute—
  - “(j) in the definition of “official body”—
    - (i) omit paragraphs (a) and (b);
    - (ii) in paragraph (c), for “a permitted third country” substitute “a country granted equivalence or a Crown Dependency”;
- (vii) for sub-paragraph (k) substitute—
  - “(k) omit the definition of “permitted third countries”;
- (viii) in sub-paragraph (m), in the new definition of “third country”, for “United Kingdom” substitute “British Islands”;
- (ix) after sub-paragraph (m) insert—
  - “(n) after the definition of “the Tribunal” insert—
    - ““UK plant passport” has the meaning given in the EU Plant Health Regulation;”.
- (b) after paragraph (4) insert—
  - “(4A) In regulation 3, for “to third countries” substitute “outside of Great Britain”;
- (c) for paragraph (7)(a)(ii) substitute—

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(2) <https://www.oecd.org/agriculture/forest/documents/forest-scheme-rules-and-regulations.pdf>

- “(ii) in paragraph (iii), for “an EU-approved third country or a permitted third country” substitute “a country granted equivalence”.”;
- (d) for paragraph (8)(a) substitute—
- “(a) in paragraph (1)—
- (i) in sub-paragraph (b)—
- (aa) omit “or another member State”;
- (bb) for “Article 14 of the Directive” substitute “regulation 19 of the NI Regulations”;
- (ii) in sub-paragraph (c), for “EU-approved third country and imported from a third country” substitute “OECD country granted equivalence and imported”;
- (iii) omit sub-paragraph (d);
- (iv) in sub-paragraph (e) for “permitted third country and imported from a third country” substitute “non-OECD country granted equivalence and imported”;
- (v) after sub-paragraph (e) insert—
- “(ea) in the case of forest reproductive material imported into Northern Ireland, it met the requirements set out in the NI Regulations as to entry into Northern Ireland and was accompanied on its entry into England by the supplier’s label or document required by regulation 19 of the NI Regulations;
- (eb) in the case of forest reproductive material produced in a Crown Dependency and imported into England, it has met the requirements set out in legislation of that Crown Dependency which is recognised by the Secretary of State to have equivalent effect to these Regulations and was accompanied on its entry into England by a supplier’s label or document as required by regulation 23A.”;
- (vi) omit sub-paragraph (f);”;
- (e) in paragraph (10)—
- (i) in sub-paragraph (a), for paragraph (i) substitute—
- “(i) in sub-paragraph (e), for “another member State or a third country” substitute “a Crown Dependency or a country granted equivalence”.”;
- (ii) for sub-paragraph (b) substitute—
- “(b) in paragraph (3), for “an EU-approved third country” substitute “a country granted equivalence”.”;
- (f) in paragraph (11), for “United Kingdom” substitute “British Islands”;
- (g) for paragraph (12) substitute—
- “(12) Omit regulation 21.”;
- (h) after paragraph (14) insert—
- “(14A) After regulation 23 insert—

### **“Imports into Great Britain from a Crown Dependency**

**23A.** No person acting in the course of a business or trade whether or not for profit shall import from a Crown Dependency forest reproductive material into a relevant territory intending to market that material unless it is accompanied by a supplier’s label or document setting out the particulars required under legislation of that Crown Dependency which is recognised by the Secretary of State as having equivalent effect to regulation 19 of these Regulations.””

- (i) for paragraph (16) substitute—
  - “(16) In regulation 25—
    - (a) in the heading, for “third countries” substitute “countries granted equivalence”;
    - (b) in paragraphs (1) and (2), for “an EU-approved third country or a permitted third country” substitute “a country granted equivalence”;
    - (c) in paragraph (6), for “EU-approved third country” substitute “OECD country granted equivalence”.”;
- (j) in paragraph (25)—
  - (i) for sub-paragraph (a) substitute—
    - “(a) in paragraph 1, for “an EU-approved third country or a permitted third country” substitute “a country granted equivalence”.”;
  - (ii) in sub-paragraph (b)—
    - (aa) after paragraph (i) insert—
      - “(ia) omit the definition of “the OECD Scheme”.”;
    - (bb) for paragraph (ii) substitute—
      - “(ii) in the definition of “permitted material”—
        - (aa) in sub-paragraph (a), for “an EU-approved third country” substitute “an OECD country granted equivalence”;
        - (bb) in sub-paragraph (a)(iii), after “ “selected”” insert “, “tested””;
        - (cc) in sub-paragraph (b), for “permitted third country” substitute “non-OECD country granted equivalence”;
        - (dd) in sub-paragraph (b)(i), for the words from “second” to the end substitute “authorisation for that country published by the Secretary of State;
        - (ee) omit the table below sub-paragraph (b);”;
    - (iii) for sub-paragraph (c) substitute—
      - “(c) in paragraph 3, for “EU-approved third country” substitute “OECD country granted equivalence”;
      - (d) in paragraph 6 and in the heading, after “the “qualified category”” insert “or the “tested category””;
      - (e) in paragraph 7, for “permitted third country” substitute “non-OECD country granted equivalence”.”.
- (5) In regulation 7—
  - (a) for paragraph (2) substitute—
    - “(2) In regulation 3, for paragraph (1) substitute—

- “(1) For the purposes of these Regulations—
- (a) the “GB Variety List” is the list of plant varieties prepared and published by the Secretary of State in accordance with the provisions of the Seeds (National Lists of Varieties) Regulations 2001(3);
  - (b) a “country granted equivalence” means—
    - (i) a country that has been granted equivalence under Council [Decision 2003/17/EC](#) on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries; or
    - (ii) a country that has been assessed by the Secretary of State that the seed from that country is produced under conditions equivalent to the requirements in these Regulations for seed to which these Regulations apply;
  - (c) “Crown Dependency” means any of the Channel Islands or the Isle of Man;
  - (d) the “NI Variety List” means the list of plant varieties prepared and published by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland in accordance with legislation having equivalent effect to the Seeds (National Lists of Varieties) Regulations 2001.”;
- (b) for paragraph (3) substitute—
- “(3) In regulation 4(2), for “the European Union” substitute “Great Britain”.”;
- (c) for paragraph (4) substitute—
- “(4) In regulation 7, for the words from “United Kingdom” to the end substitute “GB Variety List, NI Variety List or an equivalent list in a country granted equivalence”.”;
- (d) omit paragraph (5);
- (e) for paragraph (6) substitute—
- “(6) In regulation 10, in paragraph (a) for “United Kingdom National List or the Common Catalogue” substitute “GB Variety List”.”;
- (f) in paragraph (9)—
- (i) for sub-paragraph (a) substitute—
    - “(a) in the heading, for “outside the European Union” substitute “a country granted equivalence”.”;
  - (ii) after sub-paragraph (a) insert—
    - “(aa) for paragraph (1) substitute—
    - “(1) Seed imported from a country granted equivalence must—
      - (a) be a variety listed in the GB Variety List; and
      - (b) be labelled with—
        - (i) for standard vegetable seed, a supplier’s label in accordance with paragraph 25(4) or (5) of Schedule 3;

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(3) S.I. 2001/3510, amended by S.S.I. 2004/317, S.I. 2004/2949, S.S.I. 2005/328, 329, S.I. 2007/1871, 2009/1273, 2010/1195, 2011/464, 2012/2897, 2013/2042, 2014/487, S.S.I 2015/395, S.I. 2016/106 (W. 52), 2018/942, 2020/579. It is prospectively amended by S.I. 2019/162.

- (ii) for all other seed, a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”;”;
- (iii) in sub-paragraph (b), for “into the United Kingdom” substitute “from a country granted equivalence”;
- (iv) omit sub-paragraph (c);
- (g) in paragraph (11)—
  - (i) in the new regulation 32A and in the heading, to be inserted by that paragraph, after “Crown Dependency” insert “or a country granted equivalence”;
  - (ii) in the new regulation 32B to be inserted by that paragraph—
    - (aa) for “exit day”, in each place where it occurs, substitute “IP completion day”;
    - (bb) for “two years” substitute “one year”;
- (h) omit paragraph (12);
- (i) in paragraph (13)—
  - (i) in sub-paragraph (a)(iii), in the new sub-paragraph (6)(b)(i)(bb) to be inserted by that paragraph, for “United Kingdom National” substitute “GB Variety”;
  - (ii) for sub-paragraph (e) substitute—
    - “(e) in paragraph 43(2), for “United Kingdom National List or the Common Catalogue” substitute “GB Variety List”;
- (j) in paragraph (14)—
  - (i) in sub-paragraph (c)(i), for “UK” substitute “GB”;
  - (ii) for sub-paragraph (e) substitute—
    - “(e) in paragraphs 12(2)(a) and 14(1)(a), for “United Kingdom National List or the Common Catalogue” substitute “GB Variety List”;
  - (iii) in sub-paragraphs (g) and (j), for “UK” substitute “GB”;
- (k) in paragraph (15)—
  - (i) in sub-paragraph (d)—
    - (aa) before paragraph (i), insert—
      - “(ai) in sub-paragraphs (2) and (3) for “United Kingdom National” substitute “GB Variety”;
    - (bb) in paragraph (i) in the new paragraph (5A) to be inserted by that paragraph, for “the United Kingdom”, in each place where it occurs, substitute “Great Britain”;
  - (ii) in sub-paragraph (e)(ii), for “UK” substitute “GB”;
  - (iii) after sub-paragraph (e) insert—
    - “(ea) in paragraph 9—
      - (i) in sub-paragraphs (1), (5) and (6), for “United Kingdom National” substitute “GB Variety”;
      - (ii) in sub-paragraph (8), in the words before paragraph (a), for “the United Kingdom” substitute “Great Britain”;
  - (iv) for sub-paragraph (f) substitute—
    - “(f) in paragraph 10—

- (i) in sub-paragraph (1), for the words from “United Kingdom”, where it first occurs” to the end substitute “GB Variety List provided an application has been made for entry into the GB Variety List or the NI Variety List”;
- (ii) in sub-paragraph (4) for “relevant National List” substitute “GB Variety List, NI Variety List or an equivalent list of a country granted equivalence”;
- (iii) omit sub-paragraphs (7) and (8);”;
- (v) for sub-paragraph (g) substitute—
  - “(g) in paragraph 11(2), for “United Kingdom National List or the Common Catalogue” substitute “GB Variety List”;”;
- (vi) in sub-paragraph (h)(ii)(bb) for “exit day” substitute “IP completion day”;
- (vii) for sub-paragraph (l), substitute—
  - “(l) omit paragraph 16;”;
- (viii) for sub-paragraph (n) substitute—
  - “(n) in paragraph 18, for “United Kingdom National List or Common Catalogue” substitute “GB Variety List”;”.
- (6) In regulation 8—
  - (a) in paragraph (2)—
    - (i) in sub-paragraphs (a), (b), (c), (f), and (i)—
      - (aa) in the new paragraph (ii) to be inserted by each of those sub-paragraphs, after “Crown Dependency” insert “or a country granted equivalence”;
      - (bb) omit the new paragraph (iii) to be inserted by each of those sub-paragraphs;
    - (ii) in sub-paragraph (d), for the new definition to be inserted by that paragraph, substitute—
      - ““country granted equivalence” means a country that has been assessed under regulation 5(3) and the Secretary of State is satisfied that the plant material from the country is produced under conditions equivalent to the requirements in these Regulations for plant material;
      - “Crown Dependency” means the Isle of Man or any of the Channel Islands;”;
    - (iii) in sub-paragraph (g), for “, any member State or any Crown Dependency” substitute “, any Crown Dependency or country granted equivalence”;
  - (b) in paragraph (3) for “United Kingdom” substitute “Great Britain”;
  - (c) for paragraph (4) substitute—
    - “(4) In regulation 5, in paragraph (3), for “European Union” substitute “United Kingdom”.”;
  - (d) omit paragraphs (6), (7) and (8);
  - (e) in paragraph (10)—
    - (i) in sub-paragraph (a) and (c)(i), for “UK” substitute “GB”;
    - (ii) in sub-paragraph (c)(ii), for “sub-paragraphs (b)(i) and (x)” substitute “sub-paragraph (b)(i)”;
  - (f) in paragraphs (14)(a), (16)(a) and (17), in the new paragraph (ii) to be inserted by those paragraphs, for “exit day” substitute “IP completion day”.



## **The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019**

**30.**—(1) The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019(4) are amended as follows.

(2) In regulation 4—

(a) in paragraph (2), in the new Article A1 to be inserted by that paragraph—

(i) in the definition of “the appropriate authority”, omit paragraph (d);

(ii) after the definition of “the appropriate authority”, insert—

““the Department of Agriculture” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;”;

(iii) for the definition of “responsible authority” substitute—

““responsible authority” means—

(a) in relation to shortages in supply of fodder seed, any authority who, in relation to any part of Great Britain, is the appropriate authority and, in relation to Northern Ireland, the Department of Agriculture, and is the Secretary of State if consent is given by—

(i) in relation to Wales, the Welsh Ministers;

(ii) in relation to Scotland, the Scottish Ministers;

(iii) in relation to Northern Ireland, the Department of Agriculture;

(b) in relation to shortages in supply of seed other than fodder seed, any authority who, in relation to any part of Great Britain, is the appropriate authority and is the Secretary of State if consent is given by—

(i) in relation to Wales, the Welsh Ministers;

(ii) in relation to Scotland, the Scottish Ministers;”;

(b) in paragraph (4), in sub-paragraph (a), in new paragraph 1 to be inserted by that sub-paragraph, for “in the United Kingdom” substitute “of fodder seed in the United Kingdom, or of seed other than fodder seed in Great Britain.”.

(3) In regulation 6—

(a) in paragraph (2)—

(i) in paragraph 1(d) of new Article A1 to be inserted by that paragraph, after “Northern Ireland,”, where it first occurs, insert “in relation to fodder seed, the relevant provisions of”;

(ii) in new Article A1 to be inserted by that paragraph, at the end insert—

“a “country granted equivalence” means a country that has been assessed by, in relation to England, the Secretary of State, in relation to Wales, the Welsh Ministers, and in relation to Scotland, the Scottish Ministers that the seed from that country is produced under conditions equivalent to the requirements in the Seeds Marketing Regulations for seed to which those Regulations apply.”;

(b) for paragraph (3) substitute—

“(3) In Article 1—

(a) after “Decision” insert “and, in relation to Northern Ireland, field inspections concerning seed-producing crops of the species specified in [Directive 66/401/EEC](#) on the marketing of fodder plant seed only”;

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(4) [S.I. 2019/162](#), to which there is an amendment not relevant to these Regulations.

- (b) omit “third”;
- (c) for “Directives [66/401/EEC](#), [66/402/EEC](#), [2002/54/EC](#), [2002/55/EC](#) and [2002/57/EC](#)” substitute “the Seeds Marketing Regulations”;
- (3A) In Article 2—
  - (a) after “Decision”, in the first place where it occurs, insert “and, in relation to Northern Ireland, seed of the species specified in [Directive 66/401/EEC](#) on the marketing of fodder plant seed only”;
  - (b) omit “third”;
  - (c) for “Directives [66/401/EEC](#), [66/402/EEC](#), [2002/54/EC](#), [2002/55/EC](#) and [2002/57/EC](#)” substitute “the Seeds Marketing Regulations”;
- (c) for paragraph (4)(b)(ii) substitute—
  - “(ii) for “EC labels shall be used only” substitute “labels shall be used stating, in relation to fodder seed, “UK rules and standards”, and in relation to all other seed “GB rules and standards” only”;
- (d) in paragraph (6)(b)—
  - (i) for paragraph (iv)(bb) substitute—
    - “(bb) for “EC rules and standards” substitute “in relation to fodder seed – “UK rules and standards”, and in relation to all other seed “GB rules and standards”;
  - (ii) for paragraph (v) substitute—
    - “(v) in point 3.2, for “Community law” substitute “, in relation to fodder seed, the law of the United Kingdom, and in relation to seed other than fodder seed, the law of Great Britain”;
  - (iii) for paragraph (vii) substitute—
    - “(vii) in point 5—
      - (aa) in the first sub-paragraph, for “the Community”, in both places where it occurs, substitute “United Kingdom”;
      - (bb) for the second sub-paragraph substitute—
        - “In the case of basic seed of other varieties, the seed of the preceding generations shall have been produced—
          - under the responsibility of the persons responsible for the maintenance of the variety referred to in the GB Variety Lists pursuant to regulation 3 of the Seeds (National Lists of Varieties) Regulations 2001 or the NI Variety Lists pursuant to legislation having equivalent effect to the Seeds (National Lists of Varieties) Regulations 2001;
          - in a country which has been granted equivalence of checks on practices for the maintenance of varieties under Council [Decision 2005/834/EC](#); or
          - in a country granted equivalence and under the responsibility of the persons responsible for the maintenance of the variety.”
    - (iv) in paragraph (viii), in sub-paragraph (cc), for the inserted paragraph substitute—
      - “in a country granted equivalence.”

(4) Omit regulation 7.

- (5) Omit regulation 8.
- (6) In regulation 9—
  - (a) in paragraph (2), in the new Article A1 to be inserted by that paragraph—
    - (i) in the definition of “the appropriate authority”, omit paragraph (d);
    - (ii) in the definition of “responsible authority”, for “the United Kingdom” substitute “Great Britain”;
  - (b) in paragraph (5), in the words before sub-paragraph (a), after “12” insert “, 13”;
  - (c) in paragraph (12), before sub-paragraph (a) insert—
    - “(za) in point 1, for “EU” substitute “GB”;
- (7) In regulation 10—
  - (a) in paragraph (2), for sub-paragraph (b) substitute—
    - “(b) in paragraph (2)(h), for “the Union” substitute “Great Britain”;
  - (b) in paragraph (3), for sub-paragraph (a) substitute—
    - “(a) for “the Union”, in each place where it occurs, substitute “Great Britain”;
  - (c) in paragraph (3)(b), in the new points (e) to (g) of Article 2 to be inserted by that paragraph—
    - (i) in point (e), in the definition of “appropriate authority”, omit sub-paragraph (iv);
    - (ii) in point (f), in the definition of “responsible authority”, for “the United Kingdom” substitute “Great Britain”;
    - (iii) in point (g), in the definition of “the Seed Potatoes Regulations”, omit sub-paragraph (iv);
  - (d) in paragraph (5)(a)(iii), in the new point (a) to be inserted by that paragraph, for “National”, in the first place where it occurs, substitute “GB Variety”;
  - (e) in paragraph (13), in sub-paragraphs (a), (b)(i) and (c)(i), for “UK” substitute “GB”.