

## POLICY NOTE

### THE MARKETING OF FRUIT PLANT AND PROPAGATING MATERIAL (SCOTLAND) REGULATIONS 2017

SSI 2017/177

#### Introduction

1. The above instrument is made by the Scottish Ministers in exercise of powers conferred by section 2(2) of the European Communities Act 1972 (c.68). The instrument is subject to negative procedure.
2. In this Policy Note –

“the Implementing Directives” means–

Commission Implementing Directive 2014/96/EU on the requirements for the labelling, sealing and packaging of fruit plant propagating material and fruit plants intended for fruit production, falling within the scope of Council Directive 2008/90/EC (OJ L 298, 16.10.2014, p.12);

Commission Implementing Directive 2014/97/EU implementing Council Directive 2008/90/EC as regards the registration of suppliers and of varieties and the common list of varieties (OJ L 298, 16.10.2014, p.16); and

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 (OJ L 298, 16.10.2014, p.22).

“the Principal Directive” means Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 267, 8.10.2008, p.8) .

#### Policy Objective

3. This instrument revokes and replaces (in relation to Scotland) the Marketing of Fruit Plant Material Regulations 2010 (S.I. 2010/2079), which had transposed the requirements of the Principal Directive on a UK-wide basis. The purpose of this instrument is to transpose the requirements of the Principal Directive and the Implementing Directives and to introduce the EU statutory certification scheme for fruit plant propagating material and fruit plants intended for fruit production.

#### Policy Background

4. Scotland currently has a voluntary soft fruit certification scheme which aims to provide fruit producers and propagators with planting material of a known health standard and to provide a means of preventing the spread of harmful pests and diseases. By ensuring the regular introduction of pathogen tested nuclear stock material, an unbroken history of

certification and by limiting the time stocks can remain eligible for certification, the health of fruit stocks can be maintained.

5. The current soft fruit certification schemes are based on the European Plant Protection Organisations (EPPO) protocols. By purchasing certified stocks, propagators and growers are initiating production from material of a known health standard and purity. Stocks that do not meet the prescribed standards for certification are unlikely to be used in propagation of commercial fruit production, which aids in the prevention of pest and disease spread.
6. The existing voluntary Scottish soft fruit certification scheme will be replaced by the statutory EU fruit certification scheme in line with this instrument.

### **Legislative Background**

7. The Principal Directive provides harmonised conditions across the EU to ensure that propagators and their customers within all Member States receive propagating material and fruit plants which are consistently healthy and of good quality.
8. Certain articles of the Principal Directive were due to be transposed by 31 March 2010, to come into force on 30 September 2012. The implementing rules for these provisions were to be drawn up by the European Commission in consultation with Member States but this process was fractured and not completed in time to allow Member States to implement the provisions. Despite the delays, infraction proceedings were initiated by the Commission against Member States who had not implemented these rules.
9. It was agreed that the minimum standards of the directive would be implemented on a UK wide basis as a temporary measure to avoid infraction procedures while the European Commission finalised the implementing measures associated with the Principal Directive. The resultant SI, The Marketing of Fruit Plant Material Regulations 2010 (“the 2010 regulations”), was made in the knowledge that it would be repealed and remade before the implementing rules were to come into effect.
10. Three implementing directives in respect of the certification labelling and registration of fruit plant propagating material were subsequently published in late 2014. This instrument revokes the 2010 Regulations in relation to Scotland and transposes the Principal Directive and Implementing Directives in full.

### **Timing**

11. The transposition deadline of 1 January 2017 was not met by Scotland or the other UK administrations. In Scotland, the instrument will come into force on 1<sup>st</sup> July 2017. England, Wales and Northern Ireland are working to similar timetables.

## **Consultation**

12. An informal consultation was undertaken with Scottish stakeholders interested in the marketing of fruit plant propagating material and fruit plants intended for fruit production. An existing fruit certification scheme is already in place and while some of the required changes are important in terms of marketing, there are none that will cause an adverse impact on Scottish businesses. No Business and Regulatory Impact Assessment has been completed.

Scottish Government  
Agriculture and Rural Economy Directorate  
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