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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 289**

**EXITING THE EUROPEAN UNION  
AGRICULTURE  
HORTICULTURE  
PLANT HEALTH  
SEEDS**

**The Seed, Propagating Material and Common Agricultural  
Policy (EU Exit) (Scotland) (Amendment) Regulations 2019**

*Made - - - - 10th September 2019*  
*Laid before the Scottish*  
*Parliament - - - - 12th September 2019*  
*Coming into force in accordance with regulation 1*

The Scottish Ministers make these Regulations in the exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup>, paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018<sup>(2)</sup> and all other powers enabling them to do so.

In accordance with paragraph 4 of schedule 2 of the European Union (Withdrawal) Act 2018, they have consulted with the Secretary of State.

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- (1) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(1) and (3) and Part 1 of the schedule of the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2), insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. The European Communities Act 1972 is prospectively repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) from exit day (see section 20 of that Act). The powers in section 2(2) are exercised in relation to Part 2 of these Regulations.
- (2) 2018 c.16 (“the 2018 Act”).

## PART 1

### INTRODUCTION

#### **Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 and come into force as follows—

- (a) as regards this Part and Part 2, on 31 October 2019,
  - (b) as regards Part 4, immediately before exit day,
  - (c) as regards Part 3, on exit day.
- (2) These Regulations extend to Scotland only.

## PART 2

### AMENDMENTS MADE UNDER SECTION 2(2) OF THE EUROPEAN COMMUNITIES ACT 1972

#### **The Marketing of Vegetable Plant Material Regulations 1995**

2. In the Marketing of Vegetable Plant Material Regulations 1995(3), after regulation 4 (small producers) insert—

#### **“Plant Material from outside the European Union: authorisation**

4A.—(1) The Scottish Ministers may, until 31 December 2022, authorise the marketing of plant material from any country outside the European Union if satisfied that the plant material has been produced under conditions equivalent to the requirements in these Regulations from plant material.

- (2) An authorisation given under this regulation—
- (a) must be in writing,
  - (b) may be subject to conditions, and
  - (c) may be amended, suspended or revoked by notice.”.

## PART 3

### AMENDMENTS OF SECONDARY LEGISLATION RELATING TO WITHDRAWAL FROM THE EUROPEAN UNION

#### **The Marketing of Vegetable Plant Material Regulations 1995**

3. In the Marketing of Vegetable Plant Material Regulations 1995, in regulation 4A (plant material from outside the European Union: authorisation)—

- (a) in the heading, for “European Union” substitute “United Kingdom”,

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(3) [S.I. 1995/2652](#), to which there are amendments not relevant to these Regulations.

(b) in paragraph (1), for “European Union” substitute “United Kingdom”.

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

4. In the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017(4), in regulation 5(2) (general requirements for marketing of plant material), for “European Union” substitute “United Kingdom”.

## **PART 4**

### **REVOCATIONS**

#### **The Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019**

5. Regulations 9(2)(a)(ix) (the Vegetable Seeds Regulations 1993), 13(5)(c) and (d) (the Cereal Seed (Scotland) Regulations 2005) and 16(7)(a) (the Seed Potatoes (Scotland) Regulations 2015) of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019(5) are revoked.

#### **The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019**

6. Regulation 7(4) (the Rural Development (Scotland) Regulations 2015) of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019(6) is revoked.

#### **The Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019**

7. Regulation 3(13) (amendment of the Marketing of Horticultural Produce (Scotland) Regulations 2009) of the Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019(7) is revoked.

#### **The Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019**

8. Regulation 6 (revocation) of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019(8) is revoked.

#### **The Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019**

9. Part 4 (revocation) of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019(9) is revoked.

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(4) [S.S.I. 2017/177](#); relevant amending instruments are [S.S.I. 2019/59](#) and [S.S.I. 2019/190](#). Certain amendments made by [S.S.I. 2019/59](#) come into force on “exit day” within the meaning of section 20 of the 2018 Act (others came into force on 28 March 2019).

(5) [S.S.I. 2019/59](#).

(6) [S.S.I. 2019/60](#).

(7) [S.S.I. 2019/169](#).

(8) [S.S.I. 2019/190](#).

(9) [S.S.I. 2019/209](#).

St Andrew's House,  
Edinburgh  
10th September 2019

*MAIRI GOUGEON*  
Authorised to sign by the Scottish Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are principally made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018 (c.16) in order to address deficiencies in EU-derived domestic legislation in Scotland arising from the withdrawal of the UK from the European Union.

Part 2 (regulation 2), made in exercise of powers under the European Communities Act 1972 (c.68), amends the Marketing of Vegetable Plant Material Regulations 1995 to implement a derogation available to Member States in Article 16 of Council Directive 2008/72/EC (OJ L 205, 1.8.2008, p.28-39) on the marketing of vegetable propagating and planting material, other than seed.

Part 3 (regulations 3 and 4) makes amendments to fix deficiencies in secondary legislation concerning the marketing of vegetable plant material and fruit plant and propagating material consequential on the United Kingdom's withdrawal from the European Union.

Part 4 (regulations 5 to 9) makes revocations. Regulation 5 revokes regulations 9(2)(a)(ix), 13(5) (c) and (d) and 16(7)(a) of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019 in consequence of regulations 3 to 5 of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 which correct drafting errors identified in amendments made by the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019, in fulfilment of a commitment to the Scottish Parliament to do so. Regulation 6 revokes regulation 7(4) of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 in consequence of the amendment to regulation 16(1)(d) of the Rural Development (Scotland) Regulations 2015 made by regulation 4 of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019. Regulation 7 revokes regulation 3(13) of the Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019 in consequence of the amendment to the Marketing of Horticultural Produce (Scotland) Regulations 2009 made by regulation 3 of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019. Regulations 8 and 9 revoke respectively regulation 6 of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 and Part 4 (regulations 5 and 6) of the Common Agricultural Policy (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 and are made in consequence of regulations 5, 6 and 7 of this instrument which make provision in place of those regulations.

No Business and Regulatory Impact Assessment has been produced for this instrument as no, or no significant impact upon business, charities or voluntary bodies is foreseen.