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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 59**

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

**PART 2**

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

**The Vegetable Seeds Regulations 1993**

- 2.—**(1) The Vegetable Seeds Regulations 1993(1) are amended as follows.
- (2) In regulation 3 (interpretation)—
- (a) in paragraph (1)—
- (i) in the definition of “Commission Directive 2009/145”, at the end insert “, as amended by Commission Implementing [Directive 2013/45/EU](#)(2)”,
- (ii) after the definition of “Conservation Variety” insert—
- ““[Directive 2001/18/EC](#)” means [Directive 2001/18/EC](#) of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms and repealing Council [Directive 90/220/EEC](#)(3), as last amended by Directive (EU) 2015/412(4);”,
- (iii) for the definition of “genetically modified” substitute—
- ““genetically modified” has the same meaning as it has for the purposes of [Directive 2001/18/EC](#);”,
- (iv) omit the definition of “Member State”,
- (b) in each of paragraphs (3A), (3B) and (3C)(5)—
- (i) for “a Member State” in each place where it occurs, substitute “an EEA state”,
- (ii) for “that Member State” in each place where it occurs, substitute “that EEA state”.
- (3) For regulation 4(2) (seeds to which the regulations apply) substitute—
- “(2) These Regulations do not apply to seed intended for export to a country which is not an EEA state (other than regulation 6C (certification and labelling for export)).”.
- (4) In regulation 5 (marketing of seeds)—
- (a) for “a Member State” in each place where it occurs, substitute “an EEA state”,

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(1) [S.I. 1993/2008](#), amended by [S.I. 1996/1452](#), [S.I. 1997/616](#), [S.I. 1999/1863](#), [S.S.I. 2000/250](#), [S.I. 2001/3510](#), [S.S.I. 2007/305](#), [S.S.I. 2010/219](#), [S.S.I. 2010/425](#), [S.I. 2011/1043](#), [S.S.I. 2013/326](#) and [S.S.I. 2016/434](#).

(2) OJ L 213, 8.8.2013, p.20. The definition was inserted by [S.S.I. 2010/425](#).

(3) OJ L 106, 17.04.2001, p.1. The definition was inserted by [S.S.I. 2010/425](#).

(4) OJ L 68, 13.3.2015, p.1.

(5) Paragraphs (3A) to (3C) were inserted by [S.S.I. 2000/250](#).

- (b) in paragraph (3), for “the Fodder Plant Seeds Regulations 1993” substitute “the Fodder Plant Seed (Scotland) Regulations 2005(6)”,
- (c) in paragraph (13), for “that Member State” substitute “that EEA state”,
- (d) in paragraph (14), for “Member States” substitute “EEA states”.
- (5) In regulation 6A(1)(c) (breeder’s confirmations)(7), for “Member State” substitute “EEA state”.
- (6) After regulation 6A, insert—

**“Importation from outside the European Union**

**6B.** Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.

**Certification and labelling for export**

- 6C.**—(1) The Scottish Ministers may certify the quality of any seed intended for export.
- (2) Following certification in accordance with paragraph (1), any seed exported must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.
- (7) In schedule 4 (requirements for Basic Seed, Certified Seed, Certified Seed of a Conservation Variety, Standard Seed, Standard Seed of a Conservation Variety and Standard Seed of an Amateur Variety), in Part I (Basic Seed and Certified Seed), in paragraph 2(b) (varietal identity and varietal purity), for “Member State” substitute “EEA state”.
- (8) In schedule 6 (labels and marking)—
  - (a) in Part I(A)(a) (official label for a Package of Pre-basic Seed: prescribed contents), in point 1, for “Member State” substitute “EEA state”,
  - (b) in Part I(B)(a) (official label for a Package of Basic Seed or for a Package (Other than a Small Package) of Certified Seed: prescribed contents), in point 2, for “Member State” substitute “EEA state”.

**The Oil and Fibre Plant Seed (Scotland) Regulations 2004**

- 3.**—(1) The Oil and Fibre Plant Seed (Scotland) Regulations 2004(8) are amended as follows.
- (2) In regulation 2(1) (interpretation)—
  - (a) at the end of the definition of “the 2004 Commission Decision” insert “, as amended by Commission Implementing Decision (EU) 2016/320(9)”,
  - (b) in the definition of “the 2001 Deliberate Release Directive”, for the words from “amended by” to the end substitute “last amended by Directive (EU) 2015/412(10)”,
  - (c) in the definition of “EEA State”, at the end insert “, and for the purposes of these Regulations includes Switzerland”,

(6) S.S.I. 2005/329, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.I. 2011/1043, S.S.I. 2012/5, S.S.I. 2013/326, S.S.I. 2016/68, S.S.I. 2016/434 and S.S.I. 2017/384.

(7) Regulation 6A was inserted by S.I. 1999/1863.

(8) S.S.I. 2004/317, amended by S.S.I. 2006/313, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2010/219, S.I. 2011/1043, S.S.I. 2016/68 and S.S.I. 2016/434.

(9) OJ L 60, 5.3.2016, p.88. The definition was inserted by S.S.I. 2007/224.

(10) OJ L 68, 13.3.2015, p.1.

- (d) in the definition of “Equivalence Decision”, for the words from “amended by” to the end substitute “last amended by Decision (EU) 2018/1674(11)”,
  - (e) in the definition of “the Food and Feed Regulation”, at the end insert “, as last amended by Regulation (EC) No 298/2008 of the European Parliament and of the Council(12)”,
  - (f) in the definition of “third country”, omit “or Switzerland”.
- (3) In regulation 5(2) (seed to which the Regulations apply), after “EEA State” insert “(other than regulation 13A (certification and labelling for export))”.
- (4) After regulation 6 (marketing of seed) insert—

#### **“Importation from outside the European Union**

**6A.** Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

- (5) In regulation 8A(10) (exception for test and trial seed)(13), after “Member State” insert “or, as the case may be, Switzerland”.
- (6) After regulation 13 (requirement for homogeneity) insert—

#### **“Certification and labelling for export**

**13A.**—(1) The Scottish Ministers may certify the quality of any seed intended for export.

(2) Following certification in accordance with paragraph (1), any seed exported must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

### **The Cereal Seed (Scotland) Regulations 2005**

- 4.**—(1) The Cereal Seed (Scotland) Regulations 2005(14) are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) at the end of the definition of “the 2004 Commission Decision”, insert “, as amended by Commission Implementing Decision (EU) 2016/320(15)”,
  - (b) in the definition of “the 2001 Deliberate Release Directive”, for the words from “amended by” to the end substitute “last amended by Directive (EU) 2015/412(16)”,
  - (c) in the definition of “EEA State”, at the end insert “, and for the purposes of these Regulations includes Switzerland”,
  - (d) in the definition of “Equivalence Decision”, for the words from “amended by” to the end substitute “last amended by Decision (EU) 2018/1674(17)”,
  - (e) in the definition of “the Food and Feed Regulation”, at the end insert “, as last amended by Regulation (EC) No 298/2008 of the European Parliament and of the Council(18)”,
  - (f) in the definition of “third country”, omit “or Switzerland”.

(11) OJ L 284, 12.11.2018, p.31.

(12) OJ L 97, 9.4.2008, p.64.

(13) Regulation 8A was inserted by S.S.I. 2007/224.

(14) S.S.I. 2005/328, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2010/219, S.I. 2011/1043, S.S.I. 2016/68 and S.S.I. 2016/434.

(15) OJ L 60, 5.3.2016, p.88. The definition was inserted by S.S.I. 2007/224.

(16) OJ L 68, 13.3.2015, p.1.

(17) OJ L 284, 12.11.2018, p.31.

(18) OJ L 97, 9.4.2008, p.64.

(3) In regulation 5(2) (seed to which the Regulations apply), after “EEA State” insert “(other than regulation 13A (certification and labelling for export))”.

(4) After regulation 6 (marketing of seed) insert—

**“Importation from outside the European Union**

**6A.** Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

(5) In regulation 9A(10) (exception for test and trial seed)(19), after “Member States” insert “or, as the case may be, Switzerland”.

(6) After regulation 13 (requirement for homogeneity) insert—

**“Certification and labelling for export**

**13A.**—(1) The Scottish Ministers may certify the quality of any seed intended for export.

(2) Following certification in accordance with paragraph (1), any seed exported must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

**The Fodder Plant Seed (Scotland) Regulations 2005**

**5.**—(1) The Fodder Plant Seed (Scotland) Regulations 2005(20) are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) at the end of the definition of “the 2004 Commission Decision”, insert “, as amended by Commission Implementing Decision (EU) 2016/320(21)”,
- (b) in the definition of “the 2001 Deliberate Release Directive”, for the words from “amended by” to the end, substitute “last amended by Directive (EU) 2015/412(22)”,
- (c) in the definition of “EEA State”, at the end insert “, and for the purposes of these Regulations includes Switzerland”,
- (d) in the definition of “Equivalence Decision”, for the words from “amended by” to the end substitute “last amended by Decision (EU) 2018/1674(23)”,
- (e) in the definition of “the Food and Feed Regulation”, at the end insert “, as last amended by Regulation (EC) No 298/2008 of the European Parliament and of the Council(24);”,
- (f) in the definition of “third country”, omit “or Switzerland”.

(3) In regulation 5(2) (seed to which the Regulations apply), after “EEA State” insert “(other than regulation 13A (certification and labelling for export))”.

(4) After regulation 6 (marketing of seed) insert—

(19) Regulation 9A was inserted by S.S.I. 2007/224.

(20) S.S.I. 2005/329, amended by S.S.I. 2006/313, S.S.I. 2006/448, S.S.I. 2007/224, S.S.I. 2007/536, S.S.I. 2009/223, S.S.I. 2009/330, S.S.I. 2010/219, S.I. 2011/1043, S.S.I. 2012/5, S.S.I. 2013/326, S.S.I. 2016/68, S.S.I. 2016/434 and S.S.I. 2017/384.

(21) OJ L 60, 5.3.2016, p.88. The definition was inserted by S.S.I. 2007/224.

(22) OJ L 68, 13.3.2015, p.1.

(23) OJ L 284, 12.11.2018, p.31.

(24) OJ L 97, 9.4.2008, p.64.

#### **“Importation from outside the European Union**

**6A.** Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

(5) In regulation 9A(10) (exception for test and trial seed)(**25**), after “Member State” insert “or, as the case may be, Switzerland”.

(6) After regulation 13 (requirement for homogeneity) insert—

#### **“Certification and labelling for export**

**13A.**—(1) The Scottish Ministers may certify the quality of any seed intended for export.

(2) Following certification in accordance with paragraph (1), any seed exported must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

(7) In schedule 6, in paragraph 10 (label for a small EC A or small EC B package of Mixtures), after “Member State” in each place where it occurs insert “or Switzerland”.

#### **The Beet Seed (Scotland) (No. 2) Regulations 2010**

**6.**—(1) The Beet Seed (Scotland) (No. 2) Regulations 2010(**26**) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) at the end of the definition of “the 2004 Commission Decision”, insert “, as amended by Commission Implementing Decision (EU) 2016/320(**27**)”,

(b) at the end of the definition of “the 2001 Deliberate Release Directive” insert “, as last amended by Directive (EU) 2015/412(**28**)”,

(c) after the definition of “early movement seed” insert—

““EEA state” for the purposes of these Regulations includes Switzerland,”,

(d) in the definition of “Equivalence Decision”, insert at the end “, as last amended by Decision (EU) 2018/1674(**29**)”,

(e) in the definition of “third country”, omit “or Switzerland”.

(3) In regulation 4(2) (seed to which the Regulations apply), after “European Union” insert “(other than regulation 14A (certification and labelling for export))”.

(4) After regulation 6 (marketing of seed) insert—

#### **“Importation from outside the European Union**

**6A.** Seed imported from outside the European Union must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

(5) After regulation 14 (marketing of unpacked seed) insert—

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(25) Regulation 9A was inserted by [S.S.I. 2007/224](#).

(26) [S.S.I. 2010/148](#), amended by [S.S.I. 2011/413](#), [S.I. 2011/1043](#), [S.S.I. 2016/68](#) and [S.S.I. 2016/434](#).

(27) OJ L 60, 5.3.2016, p.88.

(28) OJ L 68, 13.3.2015, p.1.

(29) OJ L 284, 12.11.2018, p.31.

**“Certification and labelling for export**

**14A.**—(1) The Scottish Ministers may certify the quality of any seed intended for export.

(2) Following certification in accordance with paragraph (1), any seed exported must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade.”.

**The Seed Potatoes (Scotland) Regulations 2015**

**7.**—(1) The Seed Potatoes (Scotland) Regulations 2015<sup>(30)</sup> are amended as follows.

(2) In regulation 10 (labelling of seed potatoes)—

(a) in paragraph (1), after “package or container of seed potatoes” insert “produced in Scotland”,

(b) after paragraph (1) insert—

“(1A) Subject to regulation 13, no person may market a package or container of seed potatoes produced outside Scotland unless—

(a) there is attached to the outside of the package or container an official label; and

(b) in the case where the label particulars are not indelibly printed on the package or container or on a wear and tear resistant or adhesive label attached to it, it contains an official document.”.

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

**8.**—(1) The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017<sup>(31)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) at the end of the definition of “plant variety rights”, insert “or domestic legislation in countries or territories, other than those forming part of the United Kingdom, that affords plant variety protection in accordance with UPOV”,

(b) after the definition of “supplier’s document” insert—

““UPOV” means the International Union for the Protection of New Varieties of Plants, being an intergovernmental organisation established by the International Convention for the Protection of New Varieties of Plants<sup>(32)</sup>”.

(3) In schedule 4 (registration of varieties), in paragraph 1 (interpretation), omit the definition of “UPOV”.

<sup>(30)</sup> S.S.I. 2015/395, amended by S.S.I. 2016/68, S.S.I. 2016/434 and S.S.I. 2018/391.

<sup>(31)</sup> S.S.I. 2017/177.

<sup>(32)</sup> UPOV is located at 34, chemin des Colombettes, CH-1211 Genève 20, Switzerland.