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STATUTORY INSTRUMENTS

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**2018 No. 974**

**PLANT HEALTH, ENGLAND AND WALES  
SEEDS**

**The Marketing of Ornamental Plant Propagating Material  
(Amendment) (England and Wales) Regulations 2018**

<i>Made</i>	- - - -	<i>3rd September 2018</i>
<i>Laid before Parliament</i>		<i>7th September 2018</i>
<i>Coming into force</i>	- -	<i>1st October 2018</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup>.

The Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Union<sup>(2)</sup>.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Marketing of Ornamental Plant Propagating Material (Amendment) (England and Wales) Regulations 2018 and come into force on 1st October 2018.

(2) These Regulations extend to England and Wales.

**The Marketing of Ornamental Plant Propagating Material Regulations 1999**

2. The Marketing of Ornamental Plant Propagating Material Regulations 1999<sup>(3)</sup> are amended as follows.

3. After regulation 6 insert—

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- (1) [1972 c. 68](#). Section 2(2) was amended by the Legislative and Regulatory Reform Act [2006 \(c. 51\)](#), section 27(1)(a) and the European Union (Amendment) Act [2008 \(c. 7\)](#), the Schedule, Part 1. It is prospectively repealed by the European Union (Withdrawal) Act [2018 \(c. 16\)](#), section 1 from exit day (see section 20 of that Act). The function of the former Minister of Agriculture, Fisheries and Food of making regulations under section 2(2) was transferred to the Secretary of State by [S.I. 2002/794](#). Under paragraph 5 of Schedule 3 to the Government of Wales Act [2006 \(c.32\)](#), despite the transfer to the Welsh Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Wales.
- (2) [S.I. 1972/1811](#), to which there are amendments not relevant to these Regulations.
- (3) [S.I. 1999/1801](#), to which there are amendments not relevant to these Regulations.



**“Further provision relating to Palmae: England and Wales**

**6A.**—(1) In addition to meeting the requirements of regulation 4, propagating material of *Palmae* belonging to the genera and species referred to in the Annex to Commission Directive 93/49/EEC setting out the schedule indicating the conditions to be met by ornamental plant propagating material and ornamental plants pursuant to Council Directive 91/682/EEC<sup>(4)</sup> and having a diameter of the stem at the base of over 5 cm must meet the condition set out in paragraph 2 or the conditions set out in paragraph 3.

(2) The condition is that the material has been grown for its entire life in an area which has been established as free from the organism by a responsible official body in accordance with relevant International Standards for Phytosanitary Measures.

(3) The conditions are that the material has been grown in the two years prior to its marketing in a site subject to visual inspections carried out at least once every four months confirming the freedom of that material from the organism and it has been grown in a site—

- (a) with complete physical protection against the introduction of the organism, or
- (b) where the appropriate preventative treatments have been applied with respect to the organism.

(4) For the purposes of this regulation—

“International Standards for Phytosanitary Measures” means International Standards for Phytosanitary Measures prepared by the Secretariat of the International Plant Protection Convention established by the Food and Agriculture Organisation of the United Nations<sup>(5)</sup>;

“the organism” means “*Rhynchophorus ferrugineus* (Olivier)”;

“responsible official body” means a body described in Article 2(1)(g) of Directive 2000/29/EC<sup>(6)</sup>.”.

*Gardiner of Kimble*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

3rd September 2018

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(4) OJ No. L 250, 7.10.1993, p. 9, as last amended by Commission Implementing Directive (EU) 2018/484 (OJ No. L 81, 23.4.2018, p. 10).

(5) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/en/core-activities/standards-setting/ispm/>.

(6) OJ No. L 169, 10.7.2000, p. 1, as last amended by Commission Implementing Directive (EU) 2017/1920 (OJ No. L 271, 20.10.2017, p. 34).



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## EXPLANATORY NOTE

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

These Regulations amend the Marketing of Ornamental Plant Propagating Material Regulations 1999 ([S.I. 1999/1801](#)), in relation to England and Wales, to implement Commission Implementing Directive (EU) 2018/484 amending [Directive 93/49/EEC](#) as regards the requirements to be fulfilled by the propagating material of certain genera or species of *Palmae* in respect of *Rhynchophorus ferrugineus* (Olivier) (OJNo. L 81, 23.3.2018, p. 10).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.