

EXPLANATORY MEMORANDUM TO

The Marketing of Plant and Propagating Material (Legislative Functions) (Amendment) (EU Exit) Regulations (Northern Ireland) 2020

SR 2020 No 339

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 11(1) of, and Part 1 of Schedule 2 to, the European Union (Withdrawal) Act 2018 ("the Withdrawal Act") and is subject to the draft affirmative resolution procedure.

2. Purpose

- 2.1. This Statutory Rule provides for legislative functions that are currently conferred by European Union ("EU") legislation upon the European Commission ("the Commission") and the Council of the European Union ("the Council") to be exercisable instead by the appropriate authority in Northern Ireland ("NI"), so that they can be exercised at national level after the end of the EU exit transition period.
- 2.2. This instrument contains provisions relating to the marketing of ornamental plant and propagating material and vegetable propagating material (other than seed).

3. Background

- 3.1. The Department of Agriculture, Environment and Rural Affairs ("DAERA") currently uses the Section 2(2) powers of the European Communities Act 1972 to make legislation on the marketing of plant propagating and planting material. These Section 2(2) powers will not be available after the end of the EU exit implementation period. While similar powers are available under the Withdrawal Act for matters included in Annex 2 of the Northern Ireland Protocol, Council Directive 98/56/EC, which regulates ornamental plant propagating material and Council Directive 2008/72/EC, which regulates vegetable propagating and planting material (other than seed), are not included in Annex 2 of the NI Protocol.
- 3.2. This instrument will allow DAERA, as the appropriate authority in NI, to exercise legislative functions in NI after the end of the transition period, which are equivalent to legislative functions exercisable by the Commission and the Council. These regulation-making powers will enable the Department to amend marketing requirements after the end of the transition period to ensure those statutory requirements can keep pace with scientific and technical knowledge and can be responsive to market conditions.

4. Consultation

4.1. No public consultation has been undertaken.

5. Equality Impact

5.1. This Statutory Rule has been screened out for equality impacts. The implementing measures will apply in equal measure to all Section 75 groups.

6. Regulatory Impact

6.1. There is no impact on business, charities, voluntary bodies or the public sector. A Regulatory Impact Assessment has not been prepared.

7. Financial Implications

7.1. The Regulations have no financial implications for business.

8. Section 24 of the Northern Ireland Act 1998

8.1. This Statutory Rule does not have any human rights implications nor is it incompatible with EU law. The Order is therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. This instrument is being made to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the UK from the European Union.

10. Parity or Replicatory Measure

10.1. England, Scotland and Wales are introducing similar legislation.

11. Additional Information

11.1. Not applicable.