

**2020 No. 359**

**PLANT HEALTH**

**SEEDS**

**The Marketing of Seed Potatoes, Plant and Propagating Material  
Regulations (Northern Ireland) 2020**

*Made* - - - - *31st December 2020*

*Coming into operation* - *31st December 2020*

The Department of Agriculture, Environment and Rural Affairs is a department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b), in relation to the common agricultural policy of the European Union.

The Department of Agriculture, Environment and Rural Affairs makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(c).

**Citation and commencement**

1. These Regulations may be cited as the Marketing of Seed Potatoes, Plant and Propagating Material Regulations (Northern Ireland) 2020 and come into operation on 31st December 2020.

**The Marketing of Vegetable Plant Material Regulations (Northern Ireland) 1995**

2.—(1) The Marketing of Vegetable Plant Material Regulations (Northern Ireland) 1995(d) are amended as follows.

(2) In regulation 2(2), for the definition of “Directive 93/61/EEC” substitute—

““Directive 93/61/EEC” means Commission Directive 93/61/EEC setting out the Schedules indicating the conditions to be met by vegetable propagating and planting material other than seed pursuant to Directive 92/33/EEC as last amended by Commission Implementing Directive (EU) 2020/177 and any reference to the Annex to Directive 93/61/EEC is a reference to that Annex as amended from time to time;”(e).

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(a) S.I. 2000/2812.

(b) 1972 c. 68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) with effect from exit day, but saved with modifications until IP completion day by section 1A of that Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1). Section 2(2) of the European Communities Act 1972 was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

(c) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51) and amended by section 3, and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

(d) S.R. 1995 No. 415, amended prospectively on IP completion day by S.I. 2019/211; there are other amendments but none is relevant.

(e) O.J. No. L 250, 7.10.1993, p. 19.

(3) In regulation 5—

- (a) the existing text becomes paragraph (1);
- (b) for sub-paragraph (a) substitute—

“(a) at the place of production it was found, at least on visual inspection, it is practically free from all pests listed in relation to that plant material in the Annex to Directive 93/61/EEC;

(aa) the quantity of any RNQP present on the plant material does not, at least on visual inspection, exceed the threshold set out in respect of that RNQP in the Annex to Directive 93/61/EEC;

(ab) it is found, at least on visual inspection, to be practically free from any pests which reduce its usefulness and quality as plant material, other than those pests listed in the Annex to Directive 93/61/EEC in relation to that plant material;

(ac) it complies with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in the EU Plant Health Regulation and in the implementing acts adopted pursuant to that Regulation, including measures adopted pursuant to Article 30(1) of that Regulation.”.

(c) after paragraph (1) insert—

“(2) In this regulation—

“protected zone quarantine pest” means a pest within the meaning given by Article 32(1) of the EU Plant Health Regulation;

“RNQP” means a Union regulated non-quarantine pest within the meaning given by Article 36 of the EU Plant Health Regulation;

“Union quarantine pest” means a pest within the meaning given by Article 4 of the EU Plant Health Regulation.”.

(4) For regulation 6 substitute—

“**6.**—(1) A producer shall—

(a) report to an inspector any plant material that fails to comply with the requirements of regulation 5(1)(a) or (aa);

(b) immediately report to an inspector any plant material that shows the presence of a plant pest of a description specified in Annex 2 or 3 to the Phytosanitary Conditions Regulation, as amended from time to time, and carry out any measures laid down by the inspector; and

(c) keep plant material in lots of homogenous composition and origin during growing and lifting or removal from parent material.

(2) In this regulation—

“the Phytosanitary Conditions Regulation” means Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and of the Council, as regards protective measures against pests of plants.”(a).

(5) Omit regulation 7.

(6) In regulation 9(4)(c), for “harmful organisms referred to in regulation 5(a)” substitute “pests referred to in regulations 5(1)(a), (aa) and 6(1)(b)”.

(7) In regulation 11(4), for “5(a)” substitute “5(1)(a) to (ab)”.

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(a) O.J. No. L 319, 10.12.2019, p. 1.

### **The Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999**

3.—(1) The Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999(a) are amended as follows.

(2) In regulation 2(2), before the definition of “Directive 98/56/EC” insert—

““Directive 93/49/EEC” means 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 as last amended by Commission Implementing Directive (EU) 2020/177 and any reference to the Annex to Directive 93/49/EEC is a reference to that Annex as amended from time to time;”(b).

(3) In regulation 4—

(a) the existing text becomes paragraph (1);

(b) after sub-paragraph (a) insert—

“(aa) have been found at the place of production to be practically free, at least on visual inspection, from all pests listed in the Annex to Directive 93/49/EEC in relation to that propagating material;

(ab) be free, at least on visual inspection, from any RNQP in a quantity exceeding the thresholds set out in the Annex to Directive 93/49/EEC for the presence of that RNQP;

(ac) be, at least on visual inspection, practically free from, and from any signs or symptoms of, any pests which reduce its usefulness or quality as propagating material, other than the pests listed in the Annex to Directive 93/49/EEC in relation to the respective propagating material;

(ad) comply with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in the implementing acts adopted pursuant to the EU Plant Health Regulation, and measures adopted pursuant to Article 30(1) of that Regulation;”.

(c) after paragraph (1) insert—

“(2) In this regulation—

“protected zone quarantine pest” means a pest within the meaning given by Article 32(1) of the EU Plant Health Regulation;

“RNQP” means a Union regulated non-quarantine pest within the meaning given by Article 36 of the EU Plant Health Regulation;

“Union quarantine pest” means a pest within the meaning given by Article 4 of the EU Plant Health Regulation.”.

(4) Omit regulation 6A.

### **The Seed Potatoes Regulations (Northern Ireland) 2016**

4.—(1) The Seed Potatoes Regulations (Northern Ireland) 2016(c) are amended as follows.

(2) In regulation 2(1)—

(a) after the definition of “Directive 2014/20/EU” insert—

“Directive 2014/21/EU” means Commission Implementing Directive 2014/21/EU determining minimum conditions and Union Grades for pre-basic seed potatoes as last amended by Commission Implementing Directive (EU) 2020/177 and any reference to

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(a) S.R. 1999 No. 502, amended prospectively on IP completion day by S.I. 2019/211, as amended by S.I. 2019/820; there are other amendments but none is relevant.

(b) O.J. No. L 250, 7.10.1993, p. 9.

(c) S.R. 2016 No. 190, amended prospectively on IP completion day by S.I. 2019/962; there are other amendments but none is relevant.

the Annex to Directive 2014/21/EU is a reference to that Annex as amended from time to time;”(a);

- (b) in the definition of “Union grade”, in paragraph (b), after the word “Annex” insert “, as amended from time to time,”.

(3) In Schedule 1—

- (a) in paragraph 3(c), for paragraphs (vii) and (viii) substitute—

“(vii) Colorado Beetle;

(viii) Dickeya;

(ix) *Candidatus Liberibacter solanacearum* (Liefting et al.); and

(x) *Candidatus Phytoplasma solani* (Quaglino et al.);”.

- (b) in paragraph 7, omit the words “prevalent in Europe”;

- (c) in paragraph 8(b), omit the words “prevalent in Europe”.

(4) In Schedule 3, in each table, under the heading “(a) Group 1”, after the entry “Dickeya” insert—

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“(ix) <i>Candidatus Liberibacter solanacearum</i> (Liefting et al.)	nil
(x) <i>Candidatus Phytoplasma solani</i> (Quaglino et al.)	nil”

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

**5.**—(1) The Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017(b) are amended as follows.

(2) In regulation 2(1), after the definition of “propagating material” insert—

““RNQP” means a Union regulated non-quarantine pest within the meaning given by Article 36 of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants as last amended by Regulation (EU) 2017/625 of the European Parliament and of the Council;”(c).

(3) After regulation 14 insert—

### **“Suppliers: notification requirements**

**14A.**—(1) A supplier must immediately report to an inspector—

- (a) plant material that shows the presence of any RNPQ listed in Annex 1 or 2 to Directive 2014/98/EU;
- (b) the presence in the soil of any RNQP listed in Annex 3 to Directive 2014/98/EU;
- (c) the presence of any RNQP at the production site at a level greater than the tolerance specified for such organism in Annex 4 to Directive 2014/98/EU; or
- (d) plant material that shows the presence of any pest listed in Annex 2 or 3, as amended from time to time, to Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and of the Council, as regards protective measures against pests of plants.

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(a) O.J. No. L 038, 7.2.2014, p. 39, as last amended by Directive (EU) 2020/177 (O.J. No. L 41, 13.2.2020, p. 1).

(b) S.R. 2017 No. 119, amended prospectively on IP completion day by S.I. 2019/211, as amended by S.I. 2019/820; there are other amendments but none is relevant.

(c) O.J. No. L 317, 23.11.2016, p. 4, amended by Regulation (EU) 2017/625 of the European Parliament and of the Council (O.J. No. L 95, 7.4.2017, p. 1).

(2) Where a supplier has reported to an inspector plant material referred to in paragraph (1)(d), the supplier must carry out any measures laid down by the inspector.”.

(4) In regulation 15(1)(g)—

(a) in paragraph (i), omit “Part A of”;

(b) omit paragraph (ii);

(c) after paragraph (iii) insert—

“(iv) any RNQP listed in Annex 3 to Directive 2014/98/EU, where present in the soil; and

(v) any RNQP at a level greater than the tolerance specified for that RNQP in Annex 4 to Directive 2014/98/EU.”

(5) In regulation 27A, for paragraph (2) substitute—

“(2) This regulation ceases to have effect on 30th June 2021.”.

(6) In Schedule 1—

(a) in paragraph 1(2), for paragraphs (c) and (d) substitute—

“(c) complies with health requirements in paragraph 4;

(d) complies with requirements concerning defects in paragraph 5; and

(e) complies with production site requirements in paragraph 6.”.

(b) in paragraph 2(2), for paragraphs (b) and (c) substitute—

“(b) complies with health requirements in paragraph 4;

(c) complies with requirements concerning defects in paragraph 5; and

(d) complies with production site requirements in paragraph 6.”;

(c) in paragraph 4, for sub-paragraphs (1) to (5) substitute—

“(1) CAC material must be found, on visual inspection by the supplier at the stage of production, to be practically free from the RNQPs listed in Annex 1 or 2 to Directive 2014/98/EU in relation to the genus or species concerned, unless stated otherwise in Annex 4 to that Directive

(2) The supplier must sample and test the identified source of material or CAC material—

(a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to Directive 2014/98/EU, for such pests;

(b) for the RNQPs listed in Annex 2 to Directive 2014/98/EU, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.

(3) CAC material must be found after production, on visual inspection by the supplier, to be free from signs or symptoms of any RNQP listed in Annex 1 or 2 to Directive 2014/98/EU.

(4) Visual inspections and sampling and testing must be conducted in accordance with the requirements specified in Annex 4 to Directive 2014/98/EU, in relation to the genus or species concerned, and category.

(5) But paragraphs (1) to (3) do not apply to CAC material during cryopreservation.”;

(d) after paragraph 5 insert—

**“Requirements concerning production site**

**6.** CAC material must be produced in accordance with the requirements for the production site, place of production or area set out in Annex 4 to Directive 2014/98/EU and specified in relation to the genus or species concerned.”.

(7) In Schedule 5—

- (a) after paragraph 3(2)(f) insert “(g) complies with the production site requirements in paragraph 12A.”;
- (b) after paragraph 4(2)(g) insert “(h) complies with the production site requirements in paragraph 12A.”;
- (c) in paragraphs 5(1)(a) and 6, for “12” substitute “12A”;
- (d) in paragraph 10—
  - (i) for sub-paragraphs (1) to (2) substitute—
 

“(1) A pre-basic mother plant or pre-basic material must be found to be free from any RNQP listed in Annex 1 or 2 to Directive 2014/98/EU in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.

(2) An inspector and, where appropriate, the supplier must sample and test the pre-basic mother plant or pre-basic material—

    - (i) in cases of doubt as to the presence of any RNQP listed in Annex 1 to Directive 2014/98/EU, for such pests;
    - (ii) for the RNQPs listed in Annex 2 to Directive 2014/98/EU, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.”;
  - (ii) in sub-paragraph (3), for the words from “sub-paragraphs (1)” to the end substitute “sub-paragraph (1) is established by visual inspection by an inspector and, where appropriate, the supplier.”;
- (e) after paragraph 12 insert—

**“Requirements concerning production site**

**12A.** Pre-basic mother plants and pre-basic material must be produced in accordance with the requirements for the production site, place of production or area set out in Annex 4 to Directive 2014/98/EU and specified in relation to the genus or species concerned.”;

- (f) in paragraphs 14(2) and 15(2), for paragraphs (g) and (h) substitute—
  - “(g) has been maintained in accordance with paragraph 18;
  - (h) where appropriate, has been multiplied in accordance with paragraph 19; and
  - (i) has been produced in accordance with the production site requirements in paragraph 12A.”;
- (g) in paragraph 14(5), for “paragraphs 7, 8(1) and (4) and 12” substitute “paragraphs 7, 8(1) and (4), 12 and 12A”;
- (h) in paragraph 16—
  - (i) for sub-paragraphs (1) to (3) substitute—
 

“(1) A basic mother plant or basic material must be found free from any RNQP listed in Annexes 1 or 2 to Directive 2014/98/EU in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive, specified in relation to the genus or species concerned, and category.

(2) An inspector and, where appropriate the supplier, must sample and test the basic mother plant or basic material—

    - (a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to Directive 2014/98/EU, for such pests;
    - (b) for the RNQPs listed in Annex 2 to Directive 2014/98/EU, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.

(3) Compliance with sub-paragraph (1) is established by visual inspection by an inspector and, where appropriate, the supplier.”;

- (i) in paragraph 20—
  - (i) in sub-paragraph (2), for (e) to (f) substitute—
    - “(e) complies with the health requirements in paragraph 22;
    - (f) is grown in soil that is found by sampling and testing to comply with paragraph 23; and
    - (g) complies with the production site requirements in paragraph 12A.”;
  - (ii) in sub-paragraph (3), in the words before paragraph (a), for “f” substitute “g”;
- (j) in paragraph 22—
  - (i) for sub-paragraphs (1) and (2) substitute—
    - “(1) A certified mother plant or certified material must be found to be free from any RNQP listed in Annex 1 or 2 to Directive 2014/98/EU in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.
    - (2) An inspector and, where appropriate the supplier, must sample and test the certified mother plant or certified material—
      - (a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to Directive 2014/98/EU, for such pests;
      - (b) for the RNQPs listed in Annex 2 to Directive 2014/98/EU, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.”;
  - (ii) in sub-paragraph (3), for the words from “paragraphs (1)” to the end substitute “paragraph (1) by visual inspection.”;
- (k) in paragraph 23(4)(a), at the beginning insert “unless otherwise stated.”.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 31st December 2020.



*John Joe O’Boyle*  
A senior officer of the  
Department of Agriculture, Environment and Rural Affairs

### **EXPLANATORY NOTE**

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

These Regulations implement—

Commission Implementing Directive (EU) 2019/990 amending the list of genera and species in Annex II to Council Directive 2008/72/EC and in the Annex to Commission Directive 93/61/EEC (O.J. No. L 160, 18.6.2019, p. 14); and

Commission Implementing Directive (EU) 2020/177 amending Council Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/55/EC, 2002/56/EC and 2002/57/EC, Commission Directives 93/49/EEC and 93/61/EEC and Implementing Directives 2014/21/EU and 2014/98/EU as regards pests of plants on seeds and other plant reproductive material (O.J. No. L 41, 13.2.2020, p. 1).

These Regulations amend the following Regulations (“the Marketing Regulations”)—

- the Marketing of Vegetable Plant Material Regulations (Northern Ireland) 1995 (S.R. 1995 No. 415) (“the 1995 Regulations”)
- the Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999 (S.R. 1999 No. 502) (“the 1999 Regulations”)
- the Seed Potatoes Regulations (Northern Ireland) 2016 (S.R. 2016 No. 190) (“the 2016 Regulations”)
- the Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017 (S.R. 2017 No. 119) (“the 2017 Regulations”).

The 1995 Regulations implement Council Directive 2008/72/EC on the marketing of vegetable propagating and planting material, other than seed (O.J. No. L 205, 1.8.2008, p. 28) (Council Directive 2008/72/EC) and Commission Directive 93/61/EEC setting out the schedules indicating the conditions to be met by vegetable propagating and planting material, other than seed pursuant to Directive 92/33/EEC (O.J. No. L 157, 28.4.1992, p. 1-9).

The 1999 Regulations implement Council Directive 98/56/EC on the marketing of propagating material of ornamental plants (O.J. No. L 226, 13.8.1998, p. 16) and 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 (O.J. No. L 250, 7.10.1993, p. 9).

The 2016 Regulations implement various EU instruments, in particular Council Directive 2002/56/EC on the marketing of seed potatoes (O.J. No. L 193, 20.7.2002, p. 60) and Commission Implementing Directive 2014/21/EU determining minimum conditions and Union grades for pre-basic seed potatoes (O.J. No. L 38, 7.2.2014, p. 39).

The 2017 Regulations implement various EU instruments, in particular Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production (O.J. No. L 267, 8.10.2008, p. 8) 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 1 thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections (O.J. No. L 298, 16.10.2014, p. 22).

These Regulations amend provisions in the 2017 Regulations to require plants and plant propagating material (“plant material”) intended for marketing in Northern Ireland to be practically free from Union regulated non-quarantine pests at the place of production and for the presence of such pests on plant material not to exceed specified thresholds.

Regulation 2 amends and updates the 1995 Regulations to ensure the correct implementation of Council Directive 2008/72/EC.

Regulation 3 amends the 1999 Regulations to ensure correct implementation of Commission Directive 93/49/EEC.

Regulation 4 amends the 2016 Regulations to ensure correct implementation of Council Directive 2002/56/EC and Commission Implementing Directive 2014/21/EU.

Regulation 5 amends the 2017 Regulations to ensure correct implementation of Council Directive 2008/90/EC and Commission Implementing Directive 2014/98/EU.



A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. An Explanatory Memorandum will be published alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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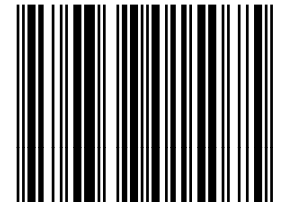


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