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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2019 No.**

**The Forestry (EU Exit) (Scotland)  
(Amendment etc.) Regulations 2019**

**PART 3**

**Amendment of the Forest Reproductive Material (Great Britain) Regulations 2002**

**66.**—(1) The Forest Reproductive Material (Great Britain) Regulations 2002(1) are amended as follows.

- (2) Regulation 2 is amended in accordance with paragraphs (3) and (4).
- (3) In paragraph (2)—
  - (a) after the definition of “approved basic material” insert—

““approved non-EU third country” means a country listed in Part 1A of schedule 13;”,
  - (b) omit the definition of “Council [Decision 2008/971/EC](#)”,
  - (c) after the definition of “crossing design” insert—

““the Department” has the meaning given in the NI Regulations;”,
  - (d) omit the definition of “EC classification”,
  - (e) omit the definition of “EU-approved third countries”,
  - (f) in the definition of “genetically modified organism”, for the words from “Article 2(1)” to the end substitute “section 106 of the Environmental Protection Act 1990(2)”,
  - (g) in the definition of “Master Certificate”—
    - (i) in paragraph (b), for “official body for Northern Ireland” to the end substitute “Department in accordance with regulation 13 of the NI Regulations”,
    - (ii) in paragraph (d)—
      - (aa) for “EU-approved” substitute “approved non-EU”,
      - (bb) for the words from “a relevant” to the end substitute “the Department in accordance with the NI Regulations”,
    - (iii) in paragraph (e), for “an official body of a member State” substitute “the Department”,
  - (h) omit the definition of “the Mediterranean climatic region”,
  - (i) after the definition of “National Register” insert—

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(1) [S.I. 2002/3026](#), amended by [S.I. 2006/2530](#), [S.I. 2011/1043](#), [S.I. 2013/755 \(W.90\)](#), [S.I. 2014/1833](#), and [Defra deficiencies regs].

(2) [1990 c.43](#). Section 106 was amended in relation to England by the Human Fertilisation and Embryology Act 2008 (c.22), section 60 and by [S.I. 2002/2443](#) and [S.I. 2009/2232](#).

- ““the NI Regulations” means the Forest Reproductive Material Regulations (Northern Ireland) 2002(3);”
- (j) in the definition of “official body”—
- (i) omit paragraph (b),
- (ii) in paragraph (c), after “in relation to” insert “an approved non-EU third country or”,
- (k) omit the definition of “plant passport”,
- (l) in the definition of “region of provenance”, for “in accordance with Article 9 of the Directive by another official body” substitute “pursuant to regulation 5 of the NI Regulations by the Department”,
- (m) for the definition of “third countries” substitute—
- ““third country” means a country or territory outside the United Kingdom;”
- (n) after the definition of “the Tribunal” insert—
- ““UK plant passport” has the meaning given in the Plant Health (Forestry) order 2005;”.
- (4) Omit paragraphs (4A) to (6).
- (5) In regulation 4—
- (a) in paragraph (1)(c), omit “subject to paragraph (1A)”,
- (b) omit paragraph (1A).
- (6) In regulation 7(4)—
- (a) omit sub-paragraph (b),
- (b) at the end insert—
- “(d) as regards Scotland, consent to the marketing of the basic material has been given by the Scottish Ministers in accordance with the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(4)
- (7) In regulation 14(4)—
- (a) in sub-paragraph (a)—
- (i) in paragraph (ii)—
- (aa) for “any other official body of a member State” substitute “the Department”,
- (bb) for “the official body in accordance with Article 10 of the Directive” substitute “the Department in accordance with regulation 7 of the NI Regulations”,
- (ii) in paragraph (iii), for “an EU-approved” substitute “a member State, an approved non-EU”,
- (b) in sub-paragraph (b), after paragraph (i) insert—
- “(ia) in the case of forest reproductive material derived from basic material approved by the Department, has the meaning given in regulation 7(5) of the NI Regulations;”.
- (8) In regulation 17—
- (a) in paragraph (1)—
- (i) in sub-paragraph (b)—
- (aa) omit “or another member State”,

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(3) S.R. 2002 No. 404.

(4) S.S.I. 2002/541.

- (bb) for “Article 14 of the Directive” substitute “regulation 19 of the NI Regulations”,
- (ii) after sub-paragraph (b), insert—
  - “(bb) in the case of forest reproductive material produced in a member State and imported into Scotland, it has met the requirements as to entry into Scotland set out in regulation 25;”,
- (iii) in sub-paragraph (c), for “EU-approved” substitute “approved non-EU”,
- (iv) omit sub-paragraph (d),
- (v) after sub-paragraph (e) insert—
  - “(eb) in the case of forest reproductive material imported into Northern Ireland, it met the requirements set out in the NI Regulations as to entry into Northern Ireland and was accompanied on its entry into Scotland by the supplier’s label or document required by regulation 19 of the NI Regulations;”,
- (vi) omit sub-paragraph (f),
- (b) omit paragraph (12).
- (9) In regulation 18A(3)(5), in sub-paragraph (c), for “the Directive” substitute “any provision made under retained EU law relating to forest reproductive material or under the Plant Varieties and Seeds Act 1964(6)”.
- (10) In regulation 19—
  - (a) in paragraph (1)—
    - (i) in sub-paragraph (e), omit “, another member State”,
    - (ii) omit sub-paragraph (h)
    - (iii) omit sub-paragraph (i) and the preceding “and”,,
  - (b) in paragraph (3), for “EU-approved” substitute “approved non-EU”.
- (11) In the heading to Part VI for “Between Great Britain and elsewhere in the European Union” substitute “within the United Kingdom”.
- (12) In regulation 21 for “Northern Ireland”, in each place where it occurs (including the heading) substitute “another part of the United Kingdom”.
- (13) Omit regulation 22.
- (14) In regulation 23—
  - (a) in the heading, at the end, insert “or within Great Britain”,
  - (b) for “Northern Ireland” substitute “another part of the United Kingdom”,
  - (c) for “required by Article 14 of the Directive” substitute “setting out the particulars required under regulation 19 of these Regulations or regulation 19 of the NI Regulations”.
- (15) Omit regulation 24.
- (16) In regulation 25A(7)—

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(5) Regulation 18A is inserted by paragraph 63(10) of the schedule of the Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/XX).

(6) 1964 c.14.

(7) Regulation 25A is inserted into the Forest Reproductive Material (Great Britain) Regulations 2002 by paragraph 63(16) of the Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.S.I. 2019/XX).

- (a) in paragraphs (1) and (2), for “an EU-approved” substitute “a member State, an approved non-EU”,
- (b) in paragraph (6), for “an EU-approved” substitute “a member State or an approved non-EU”.
- (17) In regulation 26(3)(a)(vii), at the beginning insert “UK”.
- (18) In regulation 27—
- (a) in paragraph (2)—
- (i) omit “, including representatives of the Commission of the European Union”,
- (ii) omit “, or for facilitating the checks required under Article 16(6) of the Directive”,
- (b) in paragraph (3), omit “the Commission of the European Union or”.
- (19) In regulation 34(2), omit “or European Community”.
- (20) In the model certificate in schedule 6—
- (a) for “ISSUED IN ACCORDANCE WITH DIRECTIVE 1999/105/EC” substitute—
- “ISSUED IN ACCORDANCE WITH THE OECD FOREST AND PLANT SCHEME AND THE FOREST REPRODUCTIVE MATERIAL (GREAT BRITAIN) REGULATIONS 2002”,*
- (b) for “MEMBER STATE:” substitute “UNITED KINGDOM”,
- (c) for “No EC:/(MEMBER STATE CODE)/ (No)” substitute “UK (No.)”,
- (d) for “EC Directive” substitute “OECD Forest Seed and Plant Scheme moving in International Trade and the Forest Reproductive Material (Great Britain) Regulations 2002”,
- (e) for “EC Certificate” substitute “UK or OECD Certificate”.
- (21) In the model certificate in schedule 7—
- (a) for “ISSUED IN ACCORDANCE WITH DIRECTIVE 1999/105/EC” substitute—
- “ISSUED IN ACCORDANCE WITH THE OECD FOREST AND PLANT SCHEME AND THE FOREST REPRODUCTIVE MATERIAL (GREAT BRITAIN) REGULATIONS 2002”,*
- (b) for “MEMBER STATE:” substitute “UNITED KINGDOM”,
- (c) for “No EC:/(MEMBER STATE CODE)/ (No.)” substitute “UK (No.)”,
- (d) for “EC Directive” substitute “OECD Forest Seed and Plant Scheme and the Forest Reproductive Material (Great Britain) Regulations 2002”,
- (e) for “EC Certificate” substitute “UK or OECD Certificate”.
- (22) In the model certificate in schedule 8—
- (a) for “ISSUED IN ACCORDANCE WITH DIRECTIVE 1999/105/EC” substitute—
- “ISSUED IN ACCORDANCE WITH THE OECD FOREST AND PLANT SCHEME AND THE FOREST REPRODUCTIVE MATERIAL (GREAT BRITAIN) REGULATIONS 2002”,*
- (b) for “MEMBER STATE:” substitute “UNITED KINGDOM”,
- (c) for “No EC:/(MEMBER STATE CODE)/ (No)” substitute “UK (No.)”,

- (d) for “EC Directive” substitute “OECD Forest Seed and Plant Scheme and the Forest Reproductive Material (Great Britain) Regulations 2002”,
  - (e) for “EC Certificate” substitute “UK or OECD Certificate”.
- (23) In schedule 9—
- (a) in paragraph 1(b), omit “EC”, in both places where it occurs,
  - (b) in the table in paragraph 2(b)—
    - (i) omit the first row after the heading “Non-Mediterranean regions”, and
    - (ii) omit the heading “Mediterranean regions” and the two rows following it.
- (24) Omit schedule 10.
- (25) In schedule 13—
- (a) in paragraph 1, for “an EU-approved” substitute “a member State, an approved non-EU”,
  - (b) in paragraph 2—
    - (i) before the definition of “OECD Certificate of Provenance” insert—

““OECD Certificate of Identity” means a certificate of identity issued in accordance with the rules of the OECD Scheme;”,
    - (ii) in the definition of “permitted material”—
      - (aa) before paragraph (a) insert—

“(za) in the case of forest reproductive material produced in a member State, forest reproductive material which has been certified by the relevant official body in accordance with Article 12 of the Directive or the OECD Scheme;”,
      - (bb) in paragraph (a), for “EU-approved” substitute “approved non-EU”,
  - (c) after Part 1, insert—

## “PART 1A

### **Approved non-EU third countries**

Canada  
Norway  
Serbia  
Switzerland  
Turkey  
United States

## PART 1B

### **Scope of Part 1B**

**2A.** This Part applies to consignments of permitted material produced in a member State.

### **General requirements**

**2B.** A consignment of permitted material must be accompanied by—

- (a) a copy of the Master Certificate issued by the relevant official body under Article 12 of the Directive;
- (b) a label or document which complies with the requirements in Article 14 of the Directive;
- (c) an OECD Certificate of Provenance or OECD Certificate of Identity issued in relation to the permitted material; or
- (d) a label or document completed by the supplier of the consignment containing—
  - (i) the supplier's name;
  - (ii) all of the information contained in the OECD Certificate of Provenance or OECD Certificate of Identity; and
  - (iii) in relation to any seed lot which is accompanied by an OECD Certificate of Provenance or an OECD Certificate of Identity, the information specified in paragraph 2D.

**2C.** Where the permitted material is accompanied by an OECD Certificate of Provenance or OECD Certificate of Identity, or a label or document referred to in paragraph 2B(d), an OECD label must be attached to each seed lot and to each consignment of planting stock.

**2D.** The OECD label attached to the seed lot and any supplier's document accompanying the seed lot must contain the following additional information in relation to the seed lot assessed, so far as is practicable in all the circumstances, using internationally accepted techniques—

- (a) the percentage by weight of pure seed, other seed and inert matter;
- (b) the germination percentage of pure seed or, where it is impossible or impracticable to assess the germination percentage, the viability percentage assessed by reference to a method which must be described;
- (c) the weight of 1000 pure seeds;
- (d) the number of germinable seeds per kilogram of the seed, or where it is impossible or impracticable to assess the number of germinable seeds, the number of viable seeds per kilogram;
- (e) in the case of a seed lot of closely related species which does not reach a minimum species purity of 99%, the species purity.

**2E.** But the OECD label and supplier's document may omit the following information—

- (a) any information mentioned in paragraph 2D(a) to (e) which is yet to be ascertained by testing the seed using internationally accepted techniques;
- (b) in the case of a seed lot containing seed which has been harvested from the current season's crop, any information mentioned in paragraph 2D(b) or (d) which is not yet available;
- (c) in the case of seed which is to be marketed in quantities no greater than those specified for the species or artificial hybrid of the seed in schedule 11, the information mentioned in paragraph 2D(b) or (d).

**2F.** All seed must be consigned in sealed packages.”

