

2019 No. 190

EXITING THE EUROPEAN UNION

SEEDS

**The Seed and Propagating Material (EU Exit) (Scotland)
(Amendment) (No. 2) Regulations 2019**

Made - - - - - *28th May 2019*

Laid before the Scottish Parliament *30th May 2019*

Coming into force in accordance with regulation 1(1)

The Scottish Minister make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), paragraph 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018(b), and all other powers enabling them to do so.

PART 1

INTRODUCTION

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 and come into force as follows—

- (a) as regards this Part, Part 2 and regulation 6, on 29 June 2019,
- (b) as regards the remainder of Part 3, on exit day.

(2) These Regulations extend to Scotland only.

(a) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(3) and Part 1 of the schedule of the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2), insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. The powers in section 2(2) are exercised in relation to Part 2 of these Regulations.

(b) 2018 c.16.

PART 2

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

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

2.—(1) The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017(a) are amended as follows.

(2) In regulation 5(2) (general requirements for marketing of plant material), for “31st December 2018” substitute “31 December 2022”.

PART 3

AMENDMENT OF SECONDARY LEGISLATION RELATING TO WITHDRAWAL FROM THE EUROPEAN UNION

The Vegetable Seeds Regulations 1993

3.—(1) The Vegetable Seeds Regulations 1993(b) are amended as follows.

(2) In regulation 3(1) (interpretation), at the end of the definition of “the Food and Feed Regulation”(c), insert “, as last amended by Regulation (EC) No 298/2008 of the European Parliament and of the Council(d)”.

The Cereal Seed (Scotland) Regulations 2005

4.—(1) The Cereal Seed (Scotland) Regulations 2005(e) are amended as follows.

(2) For regulation 6(6) (marketing of seed), substitute—

“(6) Paragraph (5) does not apply to seed imported into Scotland from a European Single Market State before the end of the period of two years beginning with the day after the day on which exit day falls.”.

The Seed Potatoes (Scotland) Regulations 2015

5.—(1) The Seed Potatoes (Scotland) Regulations 2015(f) are amended as follows.

(2) In regulation 7(2) (marketing requirements - conservation varieties), for the words from the beginning to “Commission Directive 2008/62/EC” substitute “Where the quantities laid down in Article 14 of Commission Directive 2008/62/EC would otherwise be likely to be exceeded”.

(a) S.S.I. 2017/177, as amended by S.S.I. 2019/59 (some of these amendments are not yet in force).
(b) 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, S.S.I. 2016/434 and S.S.I. 2019/59.
(c) That definition will be inserted by regulation 9(2)(a)(iii) of S.S.I. 2019/59.
(d) OJ L 97, 9.4.2008, p.64.
(e) 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, S.S.I. 2016/434 and S.S.I. 2019/59.
(f) S.S.I. 2015/395, amended by S.S.I. 2016/68, S.S.I. 2016/434, S.S.I. 2018/391 and S.S.I. 2019/59.

Revocation

6. Regulations 9(2)(a)(ix), 13(5)(c) and (d) and 16(7)(a) of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019^(a) are revoked.

St Andrew's House,
Edinburgh
28th May 2019

MAIRI GOUGEON
Authorised to sign by the Scottish Ministers

^(a) S.S.I. 2019/59.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are principally made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular, those mentioned in section 8(2)(a), (c), (d) and (g) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

Part 2 (regulation 2), made in exercise of powers under the European Communities Act 1972 (c.68), amends the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017 in implementation of Commission Implementing Decision (EU) 2019/120 (OJ L 24, 28.1.2019, p.27), which amends Article 12(2) of Council Directive 2008/90/EC (OJ L 267, 8.10.2008, p.8), to extend the derogation available to Member States relating to import conditions for fruit plant propagating material and fruit plants intended for fruit production from third countries. This extends that derogation from 31 December 2018 until 31 December 2022.

Part 3 makes amendments to secondary legislation concerning the marketing of vegetable and cereal seed and seed potatoes, consequential on the United Kingdom's withdrawal from the European Union. Regulations 3 to 5 correct drafting errors identified in amendments made by the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019 and fulfil a commitment to the Scottish Parliament to do so. In consequence, regulation 6 revokes regulations 9(2)(a)(ix), 13(5)(c) and (d) and 16(7)(a) of the Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019.

A business and regulatory impact assessment has not been produced for this instrument as no, or no significant, impact upon business, charities or voluntary bodies is foreseen.

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