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DRAFT STATUTORY INSTRUMENTS

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**2020 No.**

The Aquatic Animal Health and Alien Species in Aquaculture,  
Animals, and Marketing of Seed, Plant and Propagating  
Material (Legislative Functions and Miscellaneous  
Provisions) (Amendment) (EU Exit) Regulations 2020

PART 5

Functions relating to third country equivalence and the marketing of seed,  
plant and plant propagating material in Directives [66/401/EEC](#), [66/402/EEC](#), [1999/105/EC](#), [2002/54/EC](#), [2002/55/EC](#), [2002/56/EC](#) and [2002/57/EC](#)

**Meaning of “the appropriate authority”**

- 24.—(1) In this Part, “the appropriate authority”, in relation to an authorisation, means—
- (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers;
  - (c) in relation to Scotland, the Scottish Ministers.
- (2) But “the appropriate authority” is the Secretary of State if consent is given—
- (a) in the case of an authorisation in relation to Wales, by the Welsh Ministers;
  - (b) in the case of an authorisation in relation to Scotland, by the Scottish Ministers.

**General interpretation**

25. In this Part—
- “agricultural seed” means seed intended to be used for agricultural or horticultural production, of the plants listed—
- (a) in relation to England, in the first column of the table in Schedule 1 to the Seed Marketing Regulations 2011(1);
  - (b) in relation to Wales, in the first column of the table in Schedule 1 to the Seed Marketing (Wales) Regulations 2012(2);
  - (c) in relation to Scotland, in—
    - (i) Schedule 1 to the Vegetable Seeds Regulations 1993(3);
    - (ii) Schedule 1 to the Oil and Fibre Plant Seed (Scotland) Regulations 2004(4);
    - (iii) Schedule 1 to the Cereal Seed (Scotland) Regulations 2005(5);

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(1) [S.I. 2011/463](#), relevant amending instruments are [S.I. 2017/288](#), [2020/579](#).  
(2) [S.I. 2012/245 \(W. 39\)](#), relevant amending instruments are [S.I. 2017/1095 \(W. 276\)](#), [2020/601 \(W. 138\)](#).  
(3) [S.I. 1993/2008](#), relevant amending instruments are [S.I. 2002/3175](#), [2005/3035 \(W. 223\)](#), [S.S.I. 2007/305](#).  
(4) [S.S.I. 2004/317](#), amended by [S.S.I. 2010/219](#); there are other amending instruments but none is relevant.  
(5) [S.S.I. 2005/328](#), amended by [S.S.I. 2010/219](#); there are other amending instruments but none is relevant.

- (iv) Schedule 1 to the Fodder Plant Seed (Scotland) Regulations 2005**(6)**;
- (v) Schedule 1 to the Beet Seed (Scotland) (No. 2) Regulations 2010**(7)**;

“forest reproductive material” has the meaning given in regulation 2 of the Forest Reproductive Material (Great Britain) Regulations 2002**(8)**;

“OECD Seed Scheme” means any of the schemes established by the Organisation for Economic Cooperation and Development for the varietal certification or the control of seed moving in international trade for—

- (a) grasses and legumes;
- (b) crucifers and other oil or fibre species;
- (c) cereals;
- (d) maize;
- (e) sorghum;
- (f) beet; and
- (g) vegetables;

“OECD Forest Scheme” means the scheme established by the Organisation for Economic Cooperation and Development for the certification of forest reproductive material moving in international trade;

“plant material” means agricultural seed, forest reproductive material and seed potatoes;

“relevant legislation” means—

- (a) the Forest Reproductive Material (Great Britain) Regulations 2002**(9)**;
- (b) in relation to England—
  - (i) the Seed Marketing Regulations 2011**(10)**;
  - (ii) the Seed Potatoes (England) Regulations 2015**(11)**;
- (c) in relation to Wales—
  - (i) the Seed Marketing (Wales) Regulations 2012**(12)**;
  - (ii) the Seed Potatoes (Wales) Regulations 2016**(13)**;
- (d) in relation to Scotland—
  - (i) the Vegetable Seeds Regulations 1993**(14)**;
  - (ii) the Oil and Fibre Plant Seed (Scotland) Regulations 2004**(15)**;
  - (iii) the Cereal Seed (Scotland) Regulations 2005**(16)**;

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**(6)** S.S.I. 2005/329, amended by S.S.I. 2010/219; there are other amending instruments but none is relevant.

**(7)** S.S.I. 2010/148, to which there are amendments not relevant to the Schedule. It is prospectively amended by S.S.I. 2019/59.

**(8)** S.I. 2002/3026, to which there are amendments not relevant to this definition and Schedule 1.

**(9)** S.I. 2002/3026, amended by S.I. 2006/2530, 2011/1043, 2013/755 (W. 90), 2014/1833, 2019/496 (W. 113), 1517, 2020/206 (W. 48), S.S.I. 2019/421, 734. It is prospectively amended by S.I. 2019/131, S.S.I. 2019/130, S.I. 2019/735 (W. 138).

**(10)** S.I. 2011/463, amended by S.I. 2011/2992, 2012/3035, 2014/487, 2016/613, 2017/288, 2019/131, 472, 2020/579, 682. It is prospectively amended by S.I. 2019/809.

**(11)** S.I. 2015/1953, amended by S.I. 2017/288, 2018/575, 2019/472, 1517, 2020/682. It is prospectively amended by S.I. 2019/809.

**(12)** S.I. 2012/245 (W. 39), amended by S.I. 2013/889 (W. 101), 2014/519 (W. 61), 2016/1242 (W. 294), 2017/1095 (W. 276), 2019/368 (W. 90), 737 (W. 140), 2020/601 (W. 138), 833 (W. 182).

**(13)** S.I. 2016/106 (W. 52), amended by S.I. 2017/596 (W. 139), 1095 (W. 276), 2018/1216 (W. 249), 2020/206 (W. 48), 833 (W. 182). It is prospectively amended by S.I. 2019/738 (W. 141).

**(14)** S.I. 1993/2008, amended by S.I. 1996/1452, 1997/616, 1999/1863, 2000/1790, 2001/3510, 2001/3667 (W. 299), 2002/3175, 2005/3035 (W. 223), 2011/1043, S.S.I. 2000/250, 2007/305, 2010/219, 425, 2013/326, 2016/434, 2019/59, 2020/165. It is prospectively amended by S.S.I. 2019/190.

**(15)** S.S.I. 2004/317, amended by S.S.I. 2006/313, 2007/224, 2009/223, 2010/219, 2016/68, 434, 2019/59, 2020/165.

**(16)** S.S.I. 2005/328, amended by S.S.I. 2006/313, 448, 2007/224, 2009/223, 2010/219, 2011/1043, 2016/68, 434, 2019/59, 2020/165. It is prospectively amended by S.S.I. 2019/190.

- (iv) the Fodder Plant Seed (Scotland) Regulations 2005<sup>(17)</sup>;
- (v) the Beet Seed (Scotland) (No. 2) Regulations 2010<sup>(18)</sup>;
- (vi) the Seed Potatoes (Scotland) Regulations 2015<sup>(19)</sup>;

“seed potatoes” has the meaning given—

- (a) in relation to England, by regulation 2 of the Seed Potatoes (England) Regulations 2015;
- (b) in relation to Wales, by regulation 2 of the Seed Potatoes (Wales) Regulations 2016;
- (c) in relation to Scotland, by regulation 2 of the Seed Potatoes (Scotland) Regulations 2015.

### **Power to recognise the equivalence of plant material measures adopted by countries outside the British Islands**

**26.**—(1) The appropriate authority may authorise the marketing of plant material from any country outside the British Islands if satisfied—

- (a) that the plant material produced in that country has been produced under conditions equivalent to the requirements in the relevant legislation relating to the plant material concerned; and
  - (b) in relation to plant material other than forest reproductive material, that the official checks on practices for the maintenance of varieties for the plant material concerned carried out in that country afford the same guarantees as those carried out under the Seeds (National Lists of Varieties) Regulations 2001<sup>(20)</sup>.
- (2) The appropriate authority may only give an authorisation under paragraph (1) where—
- (a) the appropriate authority has made an assessment of the legislation of the country concerned;
  - (b) the appropriate authority has made an assessment of the practices of the competent authority of the country concerned, including as regards the certification, inspection and examination of the plant material;
  - (c) in relation to agricultural seed, the country concerned is a member of the relevant OECD Seed Scheme;
  - (d) in relation to forest reproductive material, unless such material is not available from any country that is a member of the OECD Forest Scheme, the country concerned is a member of that Scheme.
- (3) An authorisation given under paragraph (1)—
- (a) must be based on assessments that have been approved by the Secretary of State, the Welsh Ministers and the Scottish Ministers;
  - (b) must be in writing;
  - (c) may be subject to conditions; and
  - (d) may be amended, suspended or revoked by notice.

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<sup>(17)</sup> S.S.I. 2005/329, amended by S.S.I. 2006/313, 448, 2007/224, 2009/223, 330, 2010/219, 2011/1043, 2012/5, 2013/326, 2016/68, 434, 2017/384, 2019/59, 2020/165.

<sup>(18)</sup> S.S.I. 2010/148, amended by S.S.I. 2016/68, 434, 2011/1043, 2019/59.

<sup>(19)</sup> S.S.I. 2015/395, amended by S.S.I. 2016/68, 434, 2018/391, 2019/59, 421, 2020/165. It is prospectively amended by S.S.I. 2019/190.

<sup>(20)</sup> S.I. 2001/3510, amended by S.S.I. 2004/317, S.I. 2004/2949, S.S.I. 2005/328, 329, S.I. 2007/1871, 2009/1273, 2010/1195, 2011/464, 2012/2897, 2013/2042, 2014/487, S.S.I. 2015/395, S.I. 2016/106 (W. 52), 2018/942, 2020/579. It is prospectively amended by S.I. 2019/162.

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**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:  
*The Aquatic Animal Health and Alien Species in Aquaculture, Animals, and Marketing of Seed, Plant and Propagating  
Material (Legislative Functions and Miscellaneous Provisions) (Amendment) (EU Exit) Regulations 2020 No. 1463*

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