

## STATUTORY INSTRUMENTS

### 2019 No. 211

#### The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019

#### PART 5

##### Amendment of the Seed Marketing Regulations (Northern Ireland) 2016

**39.** The Seed Marketing Regulations (Northern Ireland) 2016 <sup>M1</sup> are amended as follows.

##### Commencement Information

**I1** Reg. 39 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

##### Marginal Citations

**M1** S.R. [2016 No. 244](#), as amended by S.R. [2017 No. 222](#) and S.R. [2018 No. 188](#).

**40.** In regulation 3, for paragraph (b1), substitute—

“(b1) “country granted equivalence” means a country that has been granted equivalence under Council Decision [2003/17/EC](#)<sup>M2</sup> on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries;

(b2) “Crown Dependency” means any of the Channel islands or the Isle of Man;”.

##### Commencement Information

**I2** Reg. 40 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

##### Marginal Citations

**M2** OJ No L 8, 14.1.2003, p. 10.

**41.** In regulation 4(2), for “European Union”, substitute “ United Kingdom (other than regulation 26A which relates to export) ”.

#### Commencement Information

- I3** Reg. 41 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**42.** In regulation 7, for “the Common Catalogue”, substitute “ an equivalent list in a country referred to in the Annex to Council Decision [2005/834/EC](#) on the equivalence of checks on practices for the maintenance of varieties carried out in certain third countries <sup>M3</sup> ”.

#### Commencement Information

- I4** Reg. 42 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

- M3** OJ No L 312, 29.11.2005, p. 51.

**43.** In regulation 8(2)—

(a) for sub-paragraph (b), substitute—

“(b) seed which has been imported from [<sup>F1</sup>a European Single Market State] and—

- (i) is of a variety listed in the National List or the Common Catalogue [<sup>F2</sup>except the vegetable seed of the species listed in Council [Directive 2002/55/EC](#) produced in Switzerland];
- (ii) is officially certified, in compliance with the requirements set out in EU law, including those measures referred to in regulation 3(2)(a) to (e) and (i); and
- (iii) has been imported into Northern Ireland before the end of the period of two years beginning with the day after the day on which exit day falls.”;

(b) in sub-paragraph (c), from “a third country”, to “seed produced in third countries”, substitute “ a country with equivalence ”.

#### Textual Amendments

- F1** Words in [reg. 43\(a\)](#) substituted (31.12.2020) by [The Plant Health \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/820\)](#), regs. 1(1), [5\(5\)\(a\)](#); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F2** Words in [reg. 43\(a\)](#) inserted (31.12.2020) by [The Plant Health \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/820\)](#), regs. 1(1), [5\(5\)\(b\)](#); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

#### Commencement Information

- I5** Reg. 43 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**44.** In regulation 10(a), for “variety to the end”, substitute—

“variety—

- (i) entered in the National List; or

- (ii) entered in the Common catalogue at any time before the end of the period of two years beginning with the day after the day on which exit day falls;”.

**Commencement Information**

- I6** Reg. 44 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**45.** For regulation 22, substitute—

“**22.**—(1) The Department may by licence exempt any person or class of person from compliance with any provision of these Regulations for the purposes of a temporary experiment seeking improved alternatives to provisions of these Regulations organised in accordance with regulations made under section 2(4) of the Seeds Act (Northern Ireland) 1965 <sup>M4</sup>.

(2) The duration of an experiment shall not exceed 7 years.”.

**Commencement Information**

- I7** Reg. 45 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**Marginal Citations**

- M4** [1965 c.22.](#)

**46.** After regulation 26 insert—

**“Certification for export**

**26A.** The Department may certify the quality of seed intended for export.”.

**Commencement Information**

- I8** Reg. 46 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**47.** In regulation 27—

- (a) in paragraph (1), for “from outside the European Union”, substitute “ into the United Kingdom ”;

- (b) after paragraph (1), insert—

“(1A) But seed imported from a European Single Market State before the end of 2 years beginning with the day after the day on which exit day falls, may be labelled with an official label issued in accordance with the relevant requirements in the Directive relating to that seed.”.

#### Commencement Information

- I9** Reg. 47 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**48.** After regulation 31, insert—

#### “Marketing seed under a specific derogation

**31A.** In order to remove any temporary difficulties in the general supply of seed, the Department may permit, temporarily the marketing of seed not satisfying the requirements of minimum germination specified in Schedule 2 for the relevant species of seed.”

#### Commencement Information

- I10** Reg. 48 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

**49.** After regulation 33, insert—

#### “Certification in a Crown Dependency

**33A.** Any seed certified and labelled in a Crown Dependency under legislation recognised by the Department to have equivalent effect to these Regulations may be marketed in Northern Ireland.

#### Transitional provision for official labels on exit day

**33B.** For the purposes of regulation 17 and paragraphs 7(1)(a) and 8(1)(a) of Schedule 3, an official label, pre-printed before exit day, containing the statement “EU rules and standards” may be used as an official label before the end of the period of two years beginning with the day after the day on which exit day falls.”.

#### Commencement Information

- I11** Reg. 49 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

### Amendment of Schedule 2 (Certification requirements)

**50.** In Schedule 2—

(a) in paragraph 6—

- (i) in sub-paragraph (1), after Article 2(3)(A), insert “ (a) to (d) ”;
- (ii) in sub-paragraph (3), for Annex III to that Directive”, substitute “ Schedule 3 ”;
- (iii) after sub-paragraph (5), insert—

“(6) For the purposes of this paragraph, Council Directive [2002/54/EC](#) is to be read as if—

- (a) in Article 2(3)(A)(a)(iii), for “officially licensed by the seed certification authority of the member State concerned”, there were substituted “licensed by the Department”;
  - (b) in Annex I—
    - (i) in point A—
      - (aa) in paragraph 3, for “certification authority” there were substituted “Department”;
      - (bb) in the last paragraph, for the words from “the common” to “that Directive”, there were substituted “United Kingdom National List”;
    - (ii) in point B, in paragraph 3(c)—
      - (aa) the reference to “member States” were a reference to “The Department”;
      - (bb) the reference to “Community” were omitted.”.
- (b) in paragraph 13—
  - (i) in sub-paragraph (1), after Article 2(3)(A), insert “(a) to (d)”;
  - (ii) in sub-paragraph (2), after “that Directive”, insert “(with the omission of paragraphs 1a(f) and 1b)”;
  - (iii) after sub-paragraph (2), insert—

“(2A) For the purposes of sub-paragraphs (1) and (2), Council Directive [66/402/EEC](#) is to be read as if—

    - (a) in Article 2(3)(A)(a)(iii), for “officially licensed by the seed certification authority of the member State concerned”, there were substituted “licensed by the Department”;
- (b) in Article 7—
  - (i) the reference to “member States” were a reference to “The Department”;
  - (ii) in paragraph 1a(a), for “seed certification authority of the member State concerned”, there were substituted “Department”.”.
- (c) in paragraph 25—
  - (i) in sub-paragraph (1), after Article 2(3)(A), insert “(a) to (d)”;
  - (ii) after sub-paragraph (1), insert—

“(1A) For the purposes of sub-paragraph (1), Council Directive [66/401/EEC](#) is to be read as if—

    - (a) in Article 2(3)(A)(a)(iii), for “officially licensed by the seed certification authority of the member State concerned”, there were substituted “licensed by the Department”;
    - (b) in Annex I, in paragraph 4, in the second sub-paragraph, the words from “Upon” to the end were omitted.”.
- (d) in paragraph 37—
  - (i) in sub-paragraph (1), after Article 2(5)(A), insert “(a) to (d)”;
  - (ii) after sub-paragraph (1), insert—

“(1A) For the purposes of sub-paragraph (1), Council Directive [2002/57/EC](#) is to be read as if—

- (a) in Article 2(5)(A)(a)(iii), for “officially licensed by the seed certification authority of the member State concerned”, there were substituted “licensed by the Department”;
  - (b) in Annex 2, in Part 1, in paragraph 5C the last sub-paragraph were omitted.”;
- (e) in paragraph 38(2), omit “or the Common Catalogue”;
- (f) in paragraph 44—
  - (i) in sub-paragraph (1), after Article 2(4)(A), insert “ (a) to (d) ”;
  - (ii) in sub-paragraph (2), after “Article 25”, insert “ (with the omission of paragraphs 1a(F) and 1b) ”;
  - (iii) after sub-paragraph (2), insert—
 

“(2A) For the purposes of sub-paragraphs (1) and (2), Council Directive [2002/55/EC](#) is to be read as if—

    - (a) in Article 2(4)(A)(a)(iii), for “officially licensed by the seed certification authority of the member State concerned”, there were substituted “licensed by the Department”;
    - (b) in Article 25—
      - (i) references to “member States” were references to “the Department”;
      - (ii) in paragraph 1a(a), for “seed certification authority of the member State concerned”, there were substituted “ Department ”.”;

#### Commencement Information

**I12** Reg. 50 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Amendment of Schedule 3 (Labelling and loose sales)

##### 51. In Schedule 3—

- (a) in paragraph 5(5), from “one of” to the end, substitute “ English but may also be in other languages ”;
- (b) in paragraph 6(1)—
  - (i) in sub-paragraph (a), after “the name”, insert “ and country or country initials ”;
  - (ii) omit sub-paragraph (b);
- (c) in paragraphs 7(1) and 8(1)—
  - (i) in sub-paragraph (a), for “EU”, substitute “ UK ”;
  - (ii) in sub-paragraph (b), after “the name”, insert “ and country or country initials ”;
  - (iii) omit sub-paragraph (c);
- (d) in paragraph 9(1)—
  - (i) in sub-paragraph (a), at the beginning, insert “ the name and country or country initials of ”;
  - (ii) omit sub-paragraph (b);

- (e) in paragraphs 11(2)(a) and 13(1)(a), for “ the Common Catalogue”, substitute “ , has been accepted on to the Common Catalogue and the seed is marketed before the end of the period of two years beginning with the day after the day on which exit day falls ”;
- (f) in paragraph 18—
  - (i) in sub-paragraph (2), omit “EU”;
  - (ii) in sub-paragraph (4)—
    - (aa) in paragraph (a), omit “EU”;
    - (bb) in paragraph (d), for “European Single Market State”, substitute “ country of production ”;
- (g) in paragraph 19(4)(a), for “EU”, substitute “ UK ”;
- (h) in paragraphs 20 and 21, omit “EU” in each place it occurs;
- (i) in paragraph 22—
  - (i) omit “EU” in each place it occurs;
  - (ii) in sub-paragraphs (2)(c)(ii) and (2)(d)(ii), for “European Single Market State”, substitute “ country of production ”;
- (j) in paragraphs 23 and 24, for “EU” in each place it occurs, substitute “ UK ”;

#### Commencement Information

**I13** Reg. 51 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Amendment of Schedule 4 (Exceptions)

##### 52. In Schedule 4—

- (a) In paragraph 4(1), for “the Directive”, substitute “ these Regulations ”;
- (b) in paragraph 5—
  - (i) in sub-paragraphs (1)(a)(i) and (ii) and (2)(a)(i), for “EU minimum percentage of germination for the relevant species of seed” in each place it occurs, substitute “ the minimum percentage of germination set out in the Directive relating to that seed specified in Schedule 2 ”;
  - (ii) in sub-paragraph (6)(b), for “from a third country”, substitute “ into the United Kingdom ”;
- (c) in paragraph 6—
  - (i) in sub-paragraph (2)(b), for “another European Single Market State”, substitute “ a European Single Market State, where the seed has been accepted on to the Common Catalogue and the seed is marketed before the end of the period of two years beginning with the day after the day on which exit day falls ”;
  - (ii) in sub-paragraph (3)(b)(i) for “another European Single Market State”, substitute “ a European Single Market, where the seed has been accepted on to the Common Catalogue and the seed is marketed before the end of the period of two years beginning with the day after the day on which exit day falls ”;
- (d) in paragraph 7, for “Council Directive [66/402/EEC](#)”, substitute “ these Regulations ”;
- (e) in paragraph 8—
  - (i) after sub-paragraph (5), insert—

- “(5A) For the purposes of sub-paragraph (5)—
- (a) Article 14 of Commission Directive [2008/62/EC](#) is to be read as if—
    - (i) in the first paragraph—
      - (aa) the words “Each member State shall ensure that, ” were omitted;
      - (bb) the reference to “that member State”, there were substituted “the United Kingdom”;
    - (ii) in the second paragraph—
      - (aa) the words “in each member State” were omitted;
      - (bb) for the references to “the member State”, in both places, there were substituted “ the United Kingdom ”;
  - (b) Article 15 of Commission Directive [2009/145/EC](#), is to be read as if—
    - (i) the words “Each member State shall ensure that” were omitted;
    - (ii) for “does”, there were substituted “ must ”.
  - (ii) in sub-paragraph (7), for “Council Directive [2002/54/EC](#)” to “(as the case may be)”, substitute “ these Regulations ”;
  - (iii) in sub-paragraph (8)—
    - (aa) in paragraph (a), for “Council Directive [2002/55/EC](#) on the marketing of vegetable seed”, substitute “ Schedule 2 ”;
    - (bb) in paragraph (b), for “that Directive”, substitute “ these Regulations ”;
- (f) in paragraph 9—
- (i) in sub-paragraph (3)(b), for “in accordance with Article 3 of Commission Directive 2010/60/EU”, substitute “ having taken account of any available information from plant genetic resource organisations ”;
  - (ii) in sub-paragraph (5)(a), for “EU”, substitute “ UK ”;
  - (iii) in sub-paragraph (7), after “have the”, insert “ , subject to sub-paragraph (8), ”;
  - (iv) after sub-paragraph (7), insert—
 

“(8) For the purposes of this paragraph, Article 1(a) of Commission Directive 2010/60/EU is to be read as if the definition of “source area” contained in that Article defined it to mean an area designated as a special area of conservations or an area contributing to the conservation of plant genetic resources in accordance with retained EU law.”;
- [<sup>F3</sup>(g) in paragraph 11(1), for “for entry into the National List of at least one European Single Market State”, substitute “, before the end of the period of two years beginning with the day after the day on which exit day falls, for entry into a national list maintained in accordance with Council [Directive 2002/55/EC](#) on the marketing of vegetable seed of at least one European Single Market State”];
- (h) in paragraph 12(2), omit “or the Common Catalogue”;
  - (i) in paragraph 13—
    - (i) in the words before sub-paragraph (a), omit “been authorised for cultivation under either”;
    - (ii) in sub-paragraph (a), at the beginning, insert “ before the day on which exit day falls, been authorised under ”, and at the end omit “or”;



- (iii) in sub-paragraph (b), at the beginning, insert “ been authorised under ”, and, at the end, insert “ ; or ”;
- (iv) after sub-paragraph (b), insert—
  - “(c) been authorised under the GMO Regulations.
  - (d) For the purpose of this paragraph, “the GMO Regulations” means—
    - (i) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003 <sup>M5</sup>;
    - (ii) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002 <sup>M6</sup>;
    - (iii) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002 <sup>M7</sup>;
    - (iv) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002 <sup>M8</sup>.”;
- (j) in paragraph 14—
  - (i) in sub-paragraph (1), for “another European Single Market State or third country”, substitute “ a country granted equivalence ”;
  - (ii) in sub-paragraph 3—
    - (aa) omit paragraph (a);
    - (bb) in paragraph (b), omit, “if the seed is from a third country”;
    - (cc) in the words after paragraph (b), omit “in both cases ”;
- (k) in paragraph 15(3), for “Council Directive [2002/55/EC](#) on the marketing of vegetable seed”, substitute “ these Regulations ”;
- (l) in paragraph 17—
  - (i) in the heading, for “another”, substitute “ a ”;
  - (ii) in sub-paragraph (1)—
    - (aa) in the words before paragraph (a), insert “ Before the end of the period of two years beginning with the day on which exit day falls, ”;
    - (bb) in paragraph (a)(i), for “either in another” to the end, substitute “ in a European Single Market State or a country granted equivalence ”;
    - (cc) in paragraph (a)(ii), for “such a third country”, substitute “ a country granted equivalence ”;
    - (dd) in paragraph (b), for “another”, substitute “, “a”;
  - (iii) in sub-paragraph (3)(a), for “European Single Market State”, substitute “ country ”;
- (m) in paragraph 18—
  - (i) in the heading and in sub-paragraph (1), in the words before sub-paragraph (a), for “third country”, substitute “ country granted equivalence ”;
  - (ii) in sub-paragraph (1)(a)(i), for “a European Single Market State” to the end, substitute “ the United Kingdom, a Crown Dependency (provided such seed has been produced under legislation recognised by the Department to have equivalent effect to these Regulations) or a country granted equivalence ”;
  - (iii) for sub-paragraph (1)(a)(ii), substitute—

“(ii) the crossing of basic seed officially certified in the United Kingdom or a Crown Dependency (provided such seed has been produced under legislation recognised by the Department to have equivalent effect to these Regulations) with basic seed certified in a country granted equivalence;”;

(n) in paragraph 19, omit “or the Common Catalogue”.

#### Textual Amendments

**F3** [Reg. 52\(g\)](#) substituted (31.12.2020) by [The Plant Health \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/820\)](#), [regs. 1\(1\), 5\(6\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

#### Commencement Information

**I14** [Reg. 52](#) in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

#### Marginal Citations

**M5** [S.R. 2003 No. 167](#).

**M6** [S.I. 2002/2443](#).

**M7** [S.I. 2002/3188](#).

**M8** [S.I. 2002/541](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019, PART 5.