

This Statutory Instrument has been made to correct errors in S.I. 2019/170, 204 and 527 and is being issued free of charge to all known recipients of those Statutory Instruments.

STATUTORY INSTRUMENTS

2019 No. 000

EXITING THE EUROPEAN UNION

ANIMALS

PLANT BREEDERS' RIGHTS

SEEDS

WILDLIFE

The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019

Sift requirements satisfied ***

Made - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by—

- (a) in relation to Part 1, the powers mentioned in paragraphs (b) and (c);
- (b) in relation to Parts 2 and 3, section 2(2) of the European Communities Act 1972(a);
- (c) in relation to Parts 4 to 7, section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(b).

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy(c) and the environment(a).

(a) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). It is prospectively repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) from exit day (see section 20 of that Act). The function of the former Minister of Agriculture, Fisheries and Food of making regulations under section 2(2) was transferred to the Secretary of State by S.I. 2002/794.

(b) 2018 c. 16.

(c) S.I. 1972/1811, to which there are amendments not relevant to these Regulations. The power of the Secretary of State, as a designated Minister in relation to the common agricultural policy, to make regulations that apply in Wales remains exercisable by virtue of article 6(1) of S.I. 2010/2690.

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019.

(2) They come into force as follows—

- (a) as regards this Part and Parts 2 and 3, 21 days after the day on which these Regulations are laid;
- (b) as regards Parts 4, 6 and 7, immediately before exit day;
- (c) as regards regulation 6, immediately after the coming into force of the Invasive Alien Species (Enforcement and Permitting) Order 2019 or (if later) on exit day;
- (d) as regards regulation 7, on exit day.

(3) Regulations 3 and 6 extend to England and Wales only.

PART 2

Amendment of the Invasive Alien Species (Enforcement and Permitting) Order 2019

The Invasive Alien Species (Enforcement and Permitting) Order 2019

2. In the Invasive Alien Species (Enforcement and Permitting) Order 2019**(b)**, in article 20, for paragraph (1) substitute—

“(1) A person guilty of an offence under this Order is liable—

- (a) on summary conviction—
 - (i) in England and Wales, to imprisonment for a term not exceeding six months or to a fine, or to both;
 - (ii) in Scotland and Northern Ireland, to imprisonment for a term not exceeding three months or to a fine which may not exceed the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

(1A) In relation to any conviction obtained before the coming into force of paragraph 3 of Schedule 27 to the Criminal Justice Act 2003**(c)**, paragraph (1)(a)(i) has effect with the substitution for “six months” of “three months”.”.

(a) S.I. 2008/301. The power of the Secretary of State, as a designated Minister in relation to the environment, to make regulations that apply in Wales as regards the prevention and remedy of environmental damage remains exercisable by virtue of article 5(1) of S.I. 2014/1890.

(b) S.I. 2019/527.

(c) 2003 c. 44.

PART 3

Marketing of seeds and plant propagating material: amendment of domestic legislation

The Marketing of Vegetable Plant Material Regulations 1995

3. In the Marketing of Vegetable Plant Material Regulations 1995(a), after regulation 4 insert—

“Plant material from outside the European Union: authorisation

4A.—(1) The Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, may authorise the marketing of plant material from any country outside the European Union if satisfied that the plant material has been produced under conditions equivalent to the requirements in these Regulations for plant material.

(2) An authorisation given under this regulation—

- (a) must be in writing;
- (b) may be subject to conditions; and
- (c) may be amended, suspended or revoked by notice.”.

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

4. In the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017(b), in regulation 5, for paragraphs (3) and (4) substitute—

“(3) The Secretary of State may authorise the marketing of plant material from any country outside the European Union if satisfied that the plant material has been produced under conditions equivalent to the requirements in these Regulations for plant material.”.

PART 4

Amendment of the Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019

The Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019

5.—(1) The Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019(c) are amended as follows.

(2) In regulation 2—

(a) in paragraph (2)(b)—

- (i) in the substituted text of paragraph 1A, in points (b) and (c), insert “the” before “Welsh Ministers” and “Scottish Ministers”, respectively;
- (ii) in the substituted text of paragraph 1B, in point (b), insert “the” before “Scottish Ministers”;

(b) in paragraph (4)(c)(i), for the substituted text of Article 6(4) substitute “The appropriate authority in Wales and (if the Northern Ireland Assembly is not in suspension) in Northern Ireland must submit an annual report to the National Assembly for Wales or the

(a) S.I. 1995/2652, to which there are amendments not relevant to these Regulations.

(b) S.I. 2017/595, to which there are amendments not relevant to these Regulations.

(c) S.I. 2019/170.

- Northern Ireland Assembly (as the case may be), and the appropriate authority in Scotland must submit an annual report to the Scottish Parliament”;
- (c) in paragraph (11)(b), for “EU retained” substitute “retained direct EU”;
 - (d) in paragraph (32)—
 - (i) in sub-paragraph (a)—
 - (aa) for paragraph (ii) substitute—
 - “(ii) in point (c), in the last paragraph, after “TRACES”, insert “or any replacement system in operation in the United Kingdom”.”;
 - (bb) for paragraph (iii) substitute—
 - “(iii) in point (d), after “TRACES”, insert “or any replacement system in operation in the United Kingdom”.”;
 - (ii) for sub-paragraph (c) substitute—
 - “(c) in point 4(e), omit “third”.”;
 - (e) for paragraph (34) substitute—
 - “(34) In point 1—
 - (a) in the words before point (a), for the words from “Member State” to “their” substitute “country or a”;
 - (b) in point (b), for “competent authority of the Member State of slaughter” substitute “appropriate authority”.”;
 - (f) in paragraph (40)(b), for “second” substitute “third”;
 - (g) in paragraph (64), before sub-paragraph (a) insert—
 - “(za) in Chapter D, in Section B, in point 2, in the words after point (b), for “Union” substitute “retained direct EU”.”.
- (3) In regulation 5—
- (a) in paragraph (4)(d), after paragraph 34 of the inserted text, insert—
 - “35. ‘devolved authority’ has the meaning given in section 20(1) of the European Union (Withdrawal) Act 2018.”;
 - (b) in paragraph (20)(a), for paragraph (iv) substitute—
 - “(iv) in point (c), for “Articles.” substitute “Articles; or”.”;
 - (c) in paragraph (23), for sub-paragraph (c) substitute—
 - “(c) in paragraph 3—
 - (i) in the first subparagraph—
 - (aa) for “The competent authority of the Member State of origin” substitute “The importer”;
 - (bb) for “Member State”, in the second place it occurs, substitute “constituent nation”;
 - (cc) after “Decision 2004/292/EC” insert “or any replacement system in operation in the United Kingdom”;
 - (dd) for “Member State of destination”, in the second place it occurs, substitute “United Kingdom”;
 - (ii) omit the second subparagraph.”;
 - (d) in paragraph (28), for “third and fourth paragraphs” substitute “third paragraph”.
- (4) In regulation 6—
- (a) in paragraph (20)(b)(i), for sub-paragraph (aa) substitute—

- “(aa) for “Union kept in a third country” substitute “United Kingdom and kept in the European Union or a third country outside the European Union”;;
- (b) in paragraph (27), for sub-paragraph (a) substitute—
 - “(a) after “TRACES system” insert “or any replacement system in operation in the United Kingdom”;;
- (c) in paragraph (47)(ii), for sub-paragraph (bb) substitute—
 - “(bb) after “TRACES system” insert “or any replacement system in operation in the United Kingdom”;;
- (d) in paragraph (62), for sub-paragraph (f) substitute—
 - “(f) in paragraph 5, after “TRACES system” insert “or any replacement system in operation in the United Kingdom”;;
- (e) in paragraph (73)(d)(vii), for “meat” substitute “fresh poultry meat”.

PART 5

Invasive alien species: amendment of domestic legislation consequent on the withdrawal of the United Kingdom from the European Union

The Wildlife and Countryside Act 1981

6.—(1) The Wildlife and Countryside Act 1981(a) is amended as follows.

(2) In section 14(4ZA)(b), for the words from “the list” to “spread of invasive alien species” substitute “the list of species in the Annex to Commission Implementing Regulation (EU) 2016/1141 adopting a list of invasive alien species of Union concern pursuant to Regulation (EU) No. 1143/2014 of the European Parliament and of the Council”.

(3) In Schedule 9A(c)—

- (a) in paragraph 1(2)(a), for “Union list” substitute “list of species of special concern”;
- (b) for paragraph 2(6) substitute—

“(6) The “list of species of special concern” means the list of species in the Annex to Commission Implementing Regulation (EU) 2016/1141 adopting a list of invasive alien species of Union concern pursuant to Regulation (EU) No. 1143/2014 of the European Parliament and of the Council, as amended from time to time.”.

The Invasive Alien Species (Enforcement and Permitting) Order 2019

7.—(1) The Invasive Alien Species (Enforcement and Permitting) Order 2019 is amended as follows.

(2) In Parts 1 and 3, in each place where it occurs (except as otherwise indicated in paragraph (3)(b)), for “Union list” substitute “list of species of special concern”.

(3) In article 2(1)—

- (a) after the definition of “the licensing authority”, insert—

““the list of species of special concern” means the list of species in the Annex to Commission Implementing Regulation (EU) 2016/1141 adopting a list of invasive alien species of Union concern pursuant to Regulation (EU) No 1143/2014 of the European Parliament and of the Council, as amended from time to time;”;

(a) 1981 c. 69.

(b) Section 14 of the Act was amended by Part 4 of Schedule 16 to the Countryside and Rights of Way Act 2000 (c. 37), sections 23 and 25 of the Infrastructure Act 2015 (c. 7) and S.I. 2019/527.

(c) Schedule 9A was inserted by section 23(3) of the Infrastructure Act 2015 and amended by S.I. 2019/527.

- (b) omit the definition of “the Union list”.
- (4) In article 12(3), in the definition of “third country ship”—
 - (a) in sub-paragraph (a), for “(other than Gibraltar) which is not a member State” substitute “other than the United Kingdom”;
 - (b) in sub-paragraph (b), for “a member State” substitute “the United Kingdom”.
- (5) In article 21(2), for “Union” substitute “United Kingdom”.
- (6) In Schedule 1—
 - (a) in Table 1, for “Union”, in both places where it occurs, substitute “United Kingdom”;
 - (b) in Table 2, in the entry relating to Article 8 paragraph 2—
 - (i) in conditions (a) and (d), for “of Union concern” substitute “of special concern”;
 - (ii) in condition (b), for “competent authorities” substitute “appropriate authority”;
 - (iii) in condition (f)—
 - (aa) for “competent authority” substitute “appropriate authority”;
 - (bb) for “Union” substitute “United Kingdom”.

PART 6

Amendment of the Plant Breeders’ Rights (Amendment etc.) (EU Exit) Regulations 2019

The Plant Breeders’ Rights (Amendment etc.) (EU Exit) Regulations 2019

8.—(1) The Plant Breeders’ Rights (Amendment etc.) (EU Exit) Regulations 2019(a) are amended as follows.

- (2) In regulation 6, for “regulation 5(2)” substitute “regulation 3(2)”.
- (3) In regulation 10, for paragraph (2) substitute—

“(2) If an application under paragraph (1) is made within the period of 6 months beginning with exit day, regulations 11 to 13 apply.”.
- (4) In regulations 11 and 12—
 - (a) in the heading, after “regulation 10”, insert “(1) and (2)”;
 - (b) in paragraph (1)—
 - (i) at the beginning insert “Where the condition in regulation 10(2) is met,”;
 - (ii) for “regulation 10” substitute “regulation 10(1)”.
- (5) In regulation 13—
 - (a) in the heading, after “regulation 10”, insert “(1) and (2)”;
 - (b) at the beginning insert “Where the condition in regulation 10(2) is met,”;
 - (c) for “regulation 10” substitute “regulation 10(1)”.
- (6) In regulation 18, for “regulation 5(2)” substitute “regulation 3(2)”.
- (7) In regulation 19(6), in the text inserted as regulation 3A(2) of the Plant Breeders’ Rights (Naming and Fees) Regulations 2006(b), for “holder of the right” substitute “proprietor of the registered trademark”.

(a) S.I. 2019/204.

(b) S.I. 2006/648, amended by S.I. 2018/942, 2019/204.

PART 7

Marketing of seeds and plant propagating material: amendment of domestic legislation consequent on the withdrawal of the United Kingdom from the European Union

The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019

9.—(1) The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019(a) are amended as follows.

(2) In regulation 4, after paragraph (2), insert—

“(2A) In regulation 4A(1) and in the heading, for “European Union” substitute “United Kingdom”.”.

(3) In regulation 8(4), for the words before the inserted text substitute—

“In regulation 5—

- (a) in paragraph (3), for “European Union” substitute “United Kingdom;
- (b) at the end insert—”.

The Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019

10. In the Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019(b), in the Schedule—

(a) after paragraph 7, insert—

“**7A.** Commission Implementing Decision (EU) 2013/166 amending Council Directive 2008/72/EC to extend the derogation relating to import conditions for vegetable propagating and planting material, other than seed, from third countries.”;

(b) after paragraph 9, insert—

“**10.** Commission Implementing Decision (EU) 2019/119 amending Council Directive 2002/56/EC as regards the date laid down in Article 21(3) until which Member States are authorised to extend the validity of decisions concerning equivalence of seed potatoes from third countries.

“**11.** Commission Implementing Decision (EU) 2019/120 amending Council Directive 2008/90/EC as regards the extension of the derogation relating to import conditions for fruit plant propagating material and fruit plants intended for fruit production from third countries.”.

Gardiner of Kimble

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in part in exercise of the powers conferred by 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 the deficiencies referred to in paragraphs (a), (c), (d) and (g) of section 8(2)) arising from the withdrawal of the United Kingdom from the European Union.

(a) S.I. 2019/131, to which there are amendments not relevant to these Regulations.

(b) S.I. 2019/162.

Parts 2 and 3 are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (c. 68). Part 2 amends the Invasive Alien Species (Enforcement and Permitting) Order 2019 (S.I. 2019/527) in order to correct errors in that Order. Part 3 makes amendments to the Marketing of Vegetable Plant Material Regulations 1995 (S.I. 1995/2652) and the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017 (S.I. 2017/595) to enable the Secretary of State to authorise the marketing of vegetable plant material and fruit plant and propagating material from countries outside the European Union in certain circumstances.

Parts 4 to 7 make amendments to legislation relating to animal disease prevention, the prevention and management of the introduction and spread of invasive alien species, plant variety rights and the marketing of seeds and plant propagating material arising from the withdrawal of the United Kingdom from the European Union.

Regulation 5 amends the Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/170).

Regulation 6 amends the Wildlife and Countryside Act 1981 (c. 69), and regulation 7 further amends the Invasive Alien Species (Enforcement and Permitting) Order 2019.

Part 6 amends the Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/204).

Regulation 9 amends the Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131). Regulation 10 amends the Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/162).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.