

*Draft Regulations laid before the Senedd Cymru under paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2020 No. (W.)**

**EXITING THE EUROPEAN  
UNION, WALES**

**PLANT HEALTH, WALES**

Plant Health (Forestry)  
(Miscellaneous Amendments)  
(Wales) (EU Exit) Regulations 2020

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The Welsh Ministers, in exercise of the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018<sup>(1)</sup>, make the following Regulations, in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to the Plant Health (Forestry) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019<sup>(1)</sup> which amends the Forest Reproductive Material (Great Britain) Regulations 2002 and the Plant Health (Forestry) (Fees) (Wales) Regulations 2019<sup>(2)</sup>.

The Welsh Ministers' Code of Practice on the carrying out of regulatory impact assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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(1) 2019/735 (W.138)

(2) 2019/497 (W.114)

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(Wales) (EU Exit) Regulations 2020

*Made* \*\*\*

*Coming into force* \*\*\*

The Welsh Ministers make these Regulations in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (1) as amended by the European Union (Withdrawal Agreement) Act 2020(2).

The requirements of paragraph 4 of Schedule 2 and paragraph 4(2) of Schedule 7 to that Act have been satisfied.

In accordance with paragraph 1(8) of Schedule 7 to that Act, a draft of this instrument has been laid before and approved by the Senedd Cymru.

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(1) 2018 c. 16.

(2) 2020 c.1

## Introductory

### **Title, commencement and application**

**1.**—The title of these Regulations is the Plant Health (Forestry) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020.

**2.** These Regulations come into force—

(1) as regards regulations 1, 2, 3 and 5 immediately before IP completion day,

(2) as regards regulation 4 and 6 on IP completion day,

**3.** These Regulations apply in relation to Wales.

### **Revocation of Parts 2 and 3 of the Plant Health (Forestry) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019**

**4.** Part 2 and Part 3 of the Plant Health (Forestry) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 are revoked.

### **Amendment of Part 4 of the Plant Health (Forestry) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019**

**5.**— Part 4 of the Plant Health (Forestry) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 is amended as follows.

(1) in regulation 57(2)(a) after the word “substitute—” to the end substitute —

““controlled consignment” means a consignment which—

(a) is introduced into Wales from a third country; and

(b) consists of, or includes, isolated bark or wood of a type that is described in Part A of Annex 11, or Annex 12, to Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants.”;

(2) after regulation 57(2)(c) insert —

“(ca) in the definition of “the EU Plant Health Regulation”, omit “EU”, in the first place where it occurs;”;

(3) after regulation 57(2)(d) insert —

“(da) omit the definition of “the Phytosanitary Conditions Regulation”.

(4) in regulation 57(2)(f) after the words “insert “UK”” insert “and omit “EU””;

(5) after article 57(2)(f) insert —

“(g) in the definition of “WPM authorisation” omit “EU”.

(h) in paragraph (2), omit “EU”, in the first and third places where it occurs.”.

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

**6.—**

(1) The Forest Reproductive Material (Great Britain) Regulations 2002<sup>(1)</sup> are amended as follows.

(2) In Regulation 2(2) —

(a) omit the definition of “Council Decision 2008/971/EC”;

(b) before the definition of “crossing design” insert—

“a “country granted equivalence” means a third country that has been assessed by the Welsh Ministers that the forest reproductive material from that third country is produced under conditions equivalent to the requirements of these Regulations for that category of forest reproductive material to which these Regulations apply;”;

(c) after the definition of “crossing design” insert—

““Crown Dependency” means the Isle of Man or any of the Channel Islands;

“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<sup>(2)</sup>”;

(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) omit paragraph (c);

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(1) S.I. 2002/3026, relevant amending instruments are S.I. 2006/2530, 2011/1043, 2013/755 (W. 90)

(2) 1990 c. 43; section 106 was amended in relation to Wales by the Human Fertilisation and Embryology Act 2008 (c. 22), section 60 and by S.I. 2002/3188.

- (iii) in paragraph (d)—
  - (aa) for “EU-approved third country” substitute “OECD country granted equivalence”;
  - (bb) for the words from “a relevant” to the end substitute “the Department in accordance with the NI Regulations”;
- (iv) in paragraph (e)—
  - (aa) for “permitted third country” substitute “non-OECD country granted equivalence”;
  - (bb) for “an official body of a member State” substitute “the Department”;
- (v) after paragraph (e) insert—
  - “(f) in the case of forest reproductive material produced in a Crown Dependency, an official certificate issued in relation to the material by an official body of that Crown Dependency under legislation recognised by the Welsh Ministers to have equivalent effect to these Regulations.”.
- (h) omit the definition of “the Mediterranean climatic region”;
- (i) after the definition of “National Register” insert—
  - ““the NI Regulations” means the Forest Reproductive Material Regulations (Northern Ireland) 2002(1);”;
- (j) after the definition of “the 1973 Regulations” insert—
  - “a “non-OECD country granted equivalence” means a country granted equivalence and which is not a member of the OECD Scheme;
  - an “OECD country granted equivalence” means a country granted equivalence and which is a member the OECD Scheme;
  - the “OECD Scheme” means the OECD Scheme for the Certification of Forest Reproductive Material Moving in International Trade adopted by Decision C(2007)69 of the Council of the Organisation for Economic Co-operation and development, as last amended by Decision C(2013)30 of that Council;”;
- (k) in the definition of “official body”—

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

- (i) omit paragraphs (a) and (b);
- (ii) in paragraph (c), for “a permitted third country” substitute “a country granted equivalence or a Crown Dependency”;
- (l) in the definition of “plant passport”, before “plant passport” insert “UK”;
- (m) omit the definition of “permitted third countries;”
- (n) 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”;
- (o) for the definition of “third countries” substitute—
  - ““third country” means a country or territory outside the British Islands;”;
- (3) Omit paragraphs (4A) to (6).
- (4) In regulation 3, for “to third countries” substitute “outside of Great Britain”.
- (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) after sub-paragraph (b) insert—
    - “(c) as regards Wales, consent to the marketing of the basic material has been given by the Welsh Ministers in accordance with the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(1).”.
- (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

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(1) 2002/3188 (W. 304), amended by S.I. 2005/1913 (W. 156); there are other amending instruments but none is relevant. The functions of the National Assembly for Wales under these Regulations are vested in the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

- regulation 7 of the NI Regulations”;
- (ii) in paragraph (iii), for “an EU-approved third country or a permitted third country” substitute “a country granted equivalence”;
  - (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”;
      - (bb) for “Article 14 of the Directive” substitute “regulation 19 of the NI Regulations”;
    - (ii) in sub-paragraph (c), for “EU-approved third country and imported from a third country” substitute “OECD country granted equivalence and imported”;
    - (iii) omit sub-paragraph (d);
    - (iv) in sub-paragraph (e) for “permitted third country and imported from a third country” substitute “non-OECD country granted equivalence and imported”;
    - (v) after sub-paragraph (e) insert—
      - “(ea) 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 Wales by the supplier’s label or document required by regulation 19 of the NI Regulations;
      - (eb) in the case of forest reproductive material produced in a Crown Dependency and imported into Wales, it has met the requirements set out in legislation of that Crown Dependency which is recognised by the Welsh Ministers to have equivalent effect to these Regulations and was accompanied on its entry into Wales by a supplier’s label or document as required by regulation 23A.”;
    - (vi) omit sub-paragraph (f);
  - (b) omit paragraph (12).
- (9) In regulation 18(3), 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<sup>(1)</sup>”.

- (10) In regulation 19—
  - (a) in paragraph (1)—
    - (i) in sub-paragraph (e), for “another member State or a third country” substitute “a Crown Dependency or a country granted equivalence”;
    - (ii) omit sub-paragraph (h) and the preceding “and”;
    - (iii) omit sub-paragraph (i);
  - (b) in paragraph (3), for “an EU-approved third country” substitute “a country granted equivalence”;
- (11) In the heading to Part 6, for “Between Great Britain and elsewhere in the European Union” substitute “within the British Islands”.
- (12) Omit regulation 21.
- (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) After regulation 23 insert—

**“Imports into Great Britain from a Crown Dependency**

**23A.** No person acting in the course of a business or trade whether or not for profit shall import from a Crown Dependency forest reproductive material into a relevant territory intending to market that material unless it is accompanied by a supplier’s label or document setting out the particulars required under legislation of that Crown Dependency which is recognised by the Welsh Ministers as having equivalent effect to regulation 19 of these Regulations.”;

- (16) Omit regulation 24.

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(1) 1964 c. 14.



- (17) In regulation 25—
- (a) in paragraphs (1) and (2), for “an EU-approved third country or a permitted third country” substitute “a country granted equivalence”;
  - (b) in paragraph 6, for “EU-approved third country” substitute “OECD country granted equivalence”;
- (18) In regulation 26(3)(a)(vii), at the beginning insert “UK”.
- (19) 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”.
- (20) In regulation 34(2), omit “or European Community”.
- (21) 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**”.
- (22) 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**”.
- (23) 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**”.
- (24) In Schedule 9—
- (a) in paragraph 1(b), omit “EC”, in both places where it occurs;
  - (b) in the table in paragraph 2(b), omit the first row and the last three rows.
- (25) Omit Schedule 10.
- (26) In Schedule 13—
- (a) in paragraph 1, for “an EU-approved third country or a permitted third country” substitute “a country granted equivalence”;
  - (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) omit the definition of “the OECD Scheme”.
    - (iii) in the definition of “permitted material”—
      - (aa) in sub-paragraph (a), for “an EU-approved third country” substitute “an OECD country granted equivalence”;
      - (bb) in sub-paragraph (a)(iii), after “selected” insert “, “tested””;

- (cc) in sub-paragraph (b), for “permitted third country” substitute “non-OECD country granted equivalence”;
- (dd) in sub-paragraph (b)(i), for the words from “second” to the end, substitute “authorisation for that country published by the Welsh Ministers”;
- (ee) omit the table below sub-paragraph (b);
- (c) in paragraph 3, for “EU-approved third country” substitute “OECD country granted equivalence”;
- (d) in paragraph 7, for “permitted third country” substitute “non-OECD country granted equivalence”.

*Name*

Minister for Environment, Energy and Rural Affairs,  
one of the Welsh Ministers

Date