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STATUTORY INSTRUMENTS

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**2019 No. 162**

**EXITING THE EUROPEAN UNION  
SEEDS**

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

<i>Sift requirements satisfied</i>	<i>8th January 2019</i>
<i>Made - - - -</i>	<i>24th January 2019</i>
<i>Laid before Parliament</i>	<i>4th February 2019</i>
<i>Coming into force in accordance with regulation 1(2)</i>	

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

- (a) in relation to Part 1, by the powers mentioned in paragraphs (b) and (c);
- (b) in relation to Part 2, by section 2(2) of the European Communities Act 1972(1);
- (c) in relation to Parts 3 to 5, by section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(2).

The Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy(3).

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.

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(1) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c. 7), Part 1 of the Schedule. It is prospectively repealed by the European Union (Withdrawal) Act 2018 (c. 16), section 1 from exit day (see section 20 of that Act).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. Under section 57(1) of the Scotland Act 1998 (c. 46), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Scotland. Under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c. 32), despite the transfer to the Welsh Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions in relation to Wales.

(2) 2018 c. 16.

(3) S.I.1972/1811, to which there are amendments not relevant to these Regulations.

## PART 1

### Introductory

#### Citation and commencement

1.—(1) These Regulations may be cited as the Marketing of Seeds and Plant Propagating Material (Amendment etc.) (EU Exit) Regulations 2019.

(2) They come into force as follows—

- (a) as regards this Part and Part 2, 21 days after the day on which these Regulations are laid;
- (b) as regards Parts 3 to 5, on exit day.

## PART 2

### Amendments made to out of date references

#### The Seeds (National Lists of Varieties) Regulations 2001

2.—(1) The Seeds (National Lists of Varieties) Regulations 2001<sup>(4)</sup> are amended as follows.

(2) In regulation 2(1), for the definition of “the Novel Foods Regulation” substitute—

““the Novel Foods Regulation” means Council Regulation (EC) No 258/97 concerning novel foods and novel food ingredients<sup>(5)</sup>, as it applied immediately before 18 April 2004;”;

(3) In Schedule 1, in Part 2, in paragraph 2—

(a) for the table headed “Agricultural crop species” substitute—

#### “Agricultural crop species

<i>Name</i>	<i>Common Name</i>
<i>Alopecurus pratensis</i> L	Meadow foxtail
<i>Arachis hypogaea</i> L	Groundnut (peanut)
<i>Avena strigosa</i> Schreb	Black oat, Bristle oat
<i>Biserrula</i>	Biserrula
<i>Carthamus tinctorius</i> L	Safflower
<i>Carum carvi</i> L	Caraway
<i>Cynodon dactylon</i> (L) Pers	Bermuda grass
<i>Galega orientalis</i> Lam	Fodder galega
<i>Gossypium spp</i>	Cotton
<i>Hedysarum coronarium</i> L	Sulla
<i>Lathyrus cicera</i>	Chickling vetch/Dwarf chickling vetch
<i>Medicago doliata</i>	Straight-spined medic

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(4) S.I. 2001/3510; relevant amending instruments are S.I. 2004/2949, 2010/1195, 2011/1043, 2018/942.

(5) OJ No L 043, 14.02.1997, p.1; as last amended by Council Regulation (EC) No 596/2009 (OJ No L 188, 18.7.2009, p. 14).

<i>Name</i>	<i>Common Name</i>
<i>Medicago italica</i>	Disc medic
<i>Medicago littoralis</i>	Shore medic/Strand medic
<i>Medicago murex</i>	Sphere medic
<i>Medicago polymorpha</i>	Bur medic
<i>Medicago rugosa</i>	Wrinkled medic/Gama medic
<i>Medicago scutellata</i>	Snail medic/Shield medic
<i>Medicago truncatula</i>	Barrel medic
<i>Ornithopus compressus</i>	Yellow serradella
<i>Ornithopus sativus</i>	Serradella
<i>Oryza sativa</i> L	Rice
<i>Papaver somniferum</i> L	Poppy
<i>Phacelia tanacetifolia</i> Benth	California bluebell
<i>Phalaris aquatica</i> L	Harding grass, Phalaris
<i>Phalaris canariensis</i> L	Canary grass
<i>Plantago lanceolata</i>	Ribwort plantain
<i>Poa palustris</i> L	Swamp meadowgrass
<i>Sorghum bicolor</i> (L) Moench	Sorghum
<i>Sorghum sudanense</i> (Piper) Stapf	Sudan grass
<i>Sorghum bicolor</i> (L) Moench x <i>Sorghum Sudanese</i> (Piper) Stapf.	Hybrids resulting from the crossing of <i>Sorghum bicolor</i> and <i>Sorghum Sudanese</i>
<i>Trisetum flavescens</i> (L) P Beauv	Golden oatgrass
<i>Trifolium alexandrinum</i> L	Berseem, Egyptian clover
<i>Trifolium fragiferum</i>	Strawberry clover
<i>Trifolium glanduliferum</i>	Glandular clover
<i>Trifolium hirtum</i>	Rose clover
<i>Trifolium incarnatum</i> L	Crimson clover
<i>Trifolium isthmocarpum</i>	Moroccan clover
<i>Trifolium michelianum</i>	Balansa clover
<i>Trifolium resupinatum</i> L	Persian clover
<i>Trifolium squarrosum</i>	Squarrose clover
<i>Trifolium subterraneum</i>	Subterranean clover
<i>Trifolium vesiculosum</i>	Arrow-leaf clover
<i>Trigonella foenum-graecum</i> L	Fenugreek
<i>Vicia benghalensis</i>	Purple vetch”

(b) after the table headed “Vegetable species” insert—

**“Vine species**

<i>Name</i>	<i>Common Name</i>
<i>Vitis</i>	Vine”

**PART 3**

Amendments relating to withdrawal from the European Union

**The Seeds (National Lists of Varieties) Regulations 2001**

- 3.—(1) The Seeds (National Lists of Varieties) Regulations 2001 are amended as follows.
- (2) In regulation 2—
- (a) in paragraph (1)—
- (i) omit the definition of “the Commission Regulation”;
- (ii) in the definition of “the relevant legislation”, in sub-paragraph (c), for paragraphs (i) and (ii) substitute—
- “(i) in relation to material authorised before exit day—
- (aa) the 1990 Directive, or
- (bb) the Deliberate Release Directive; and
- (ii) in relation to material authorised after exit day—
- (aa) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002(6);
- (bb) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(7);
- (cc) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(8);
- (dd) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003(9).”;
- (iii) in the definition of “varietal association”, in both places where it occurs, omit “or a Common Catalogue”;
- (iv) in the definition of “a variety known in the European Union”—
- (aa) in the words before paragraph (a), for “European Union” substitute “United Kingdom ”;
- (bb) omit sub-paragraphs (a)(ii) and (iii);
- (cc) in sub-paragraph (b), omit the words from “or” to “National List”;
- (dd) in the words after sub-paragraph (b), for “European Union” substitute “United Kingdom”;
- (b) omit paragraph 5.

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(6) S.I. 2002/2443, as amended by S.I. 2004/2411, 2018/575.

(7) S.I. 2002/3188 (W. 304), amended by S.I. 2005/2759, 2013/755 (W. 90).

(8) S.S. I. 2002/541, amended by S.I. 2004/439, 2015/100.

(9) S. R. 2003 No. 167.

- (3) In regulation 3(3)(b), for “to third countries” substitute “from the United Kingdom”.
- (4) In regulation 4(3)(b)—
  - (a) for “Member State” substitute “country, the Channel islands or the Isle of Man”;
  - (b) for “state” substitute “place”.
- (5) In regulation 5—
  - (a) in paragraph 1, omit the words from “or by” to the end;
  - (b) after paragraph 1 insert—
    - “(1A) The National Authorities may base acceptance of a variety on to a National List on the results of official growing trials conducted by competent authorities outside of the United Kingdom if the National Authorities are satisfied those growing trials are of equivalent standards to those carried out by or on behalf of the National Authorities.”;
  - (c) in paragraph (3A)—
    - (i) in sub-paragraph (a), for “Common Catalogue” substitute “National Lists”;
    - (ii) in sub-paragraph (b)—
      - (aa) for “Catalogue” substitute “National List”;
      - (bb) for “or the competent seed certification authority in another member State in accordance with” substitute “consistently with”;
    - (iii) in sub-paragraph (c), omit the words from “a Community” to “by”;
  - (d) after paragraph (3A), insert—
    - “(3B) For the purposes of paragraph (3A)(b)—
      - (a) Article 15(2) of the Common Catalogue Directive is to be read as if—
        - (i) in the first paragraph, for “Member States” there were substituted “National Authorities”;
        - (ii) the reference to “their own territories” were a reference to the territories in relation to which they have responsibility, and
        - (ii) the second paragraph were omitted;
      - (b) Article 15(2) of the Vegetable Seed Marketing Directive is to be read as if—
        - (i) in the first paragraph, for “Member States” there were substituted “National Authorities”;
        - (ii) the second paragraph were omitted.”;
  - (e) omit paragraphs (5) and (6).
- (6) In regulation 6—
  - (a) in paragraph (2)—
    - (i) in sub-paragraph (a), for the words from “European Union” to the end substitute “United Kingdom is precluded by a prior right of a third party”;
    - (ii) in sub-paragraph (c), for “article 4 of the Commission Regulation” substitute “regulation 3 of the Plant Breeders’ Rights (Naming and Fees) Regulations 2006(10)”;
    - (iii) in sub-paragraph (e), omit “in a member State”;
  - (b) in paragraph (3)—

- (i) in sub-paragraph (a), for the words from “, as defined” to the end substitute “ of a member of the International Union for the Protection of New Varieties of Plants”;
  - (ii) in sub-paragraph (b) omit the words from “, a list” to the end;
  - (iii) in sub-paragraph (c), in the words before paragraph (i), for the words from “those” to the end substitute “these Regulations, in a country”;
  - (iv) in sub-paragraph (d) omit the words from “, on a list” to the end;
  - (c) in paragraph (4), for “a third” substitute “another”.
- (7) In regulation 8—
- (a) in paragraph (2), for “European Union” substitute “United Kingdom and available comparable varieties accepted onto the national lists of countries outside the United Kingdom which have comparable varietal listing procedures and similar growing conditions”;
  - (b) in paragraph (3)—
    - (i) omit “also”;
    - (ii) for “not known in the European Union” substitute “in addition to those specified in paragraph (2)”.
- (8) In regulation 11—
- (a) in paragraph (2)—
    - (i) in sub-paragraph (a)—
      - (aa) for “a Common Catalogue” substitute “the National Lists”;
      - (bb) for the words from “that an” to the end substitute “published by the National Authorities that”;
    - (ii) in sub-paragraph (b), for “a Common Catalogue” substitute “the National Lists”;
    - (iii) at the end of sub-paragraph (b), insert—
      - “; and
      - (c) in relation to a plant variety accepted on to a Common Catalogue, means a notice specifying that marketing of the variety is prohibited on either of those grounds.”;
  - (b) in paragraph (4)—
    - (i) in sub-paragraph (a), omit “ or a Common Catalogue; or”;
    - (ii) omit sub-paragraph (b);
  - (c) in paragraph (5), omit “or a Common Catalogue”.
- (9) In regulation 12(2)—
- (a) in sub-paragraph (a), omit “or another Member State”;
  - (b) in sub-paragraph (b), omit “ third”.
- (10) In regulation 14—
- (a) in paragraph (2), for the words from “the Common” to “Marketing Directive” substitute “these Regulations”;
  - (b) in paragraph (3), for the words from “European Union” to the end substitute “United Kingdom”.
- (11) In Schedule 2, in Part 1, in paragraph 1—

- (a) in sub-paragraph (1), for “European Union” substitute “United Kingdom or accepted onto an official register of plant varieties corresponding to a National List in a country outside the United Kingdom with similar growing conditions”;
- (b) for sub-paragraph (3) substitute —
  - “(3) Where, at the time when an application for acceptance of a variety is duly made, a variety is known in the United Kingdom (or accepted onto an official register of plant varieties corresponding to a National List in a country outside the United Kingdom with similar growing conditions), but when that application is determined the variety is no longer known in the United Kingdom (or accepted onto that official register), that variety must be disregarded for the purpose of determining distinctness as part of that application.”.

## PART 4

### Amendment of retained direct EU legislation relating to withdrawal from the European Union

#### Commission Regulation (EC) 217/2006

4.—(1) Commission Regulation 217/2006 laying down rules for the application of Council Directives [66/401/EEC](#), [66/402/EEC](#), [2002/54/EC](#), [2002/55/EC](#) and [2002/57/EC](#) as regards the authorisation of Member States to permit temporarily the marketing of seed not satisfying the requirements in respect of the minimum germination is amended as follows.

(2) Before Article 1 insert—  
“Article A1

1. In this Regulation—

“the appropriate authority” 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;
- (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

“responsible authority” means any authority who, in relation to any part of the United Kingdom, is the appropriate authority and is the Secretary of State if consent is given by—

- (a) in relation to Wales, the Welsh Ministers;
- (b) in relation to Scotland, the Scottish Ministers;
- (c) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

“the Seeds Marketing Regulations” means—

- (a) in relation to England, the Seed Marketing Regulations 2011<sup>(11)</sup>;
- (b) in relation to Wales, the Seed Marketing (Wales) Regulations 2012<sup>(12)</sup>;
- (c) in relation to Scotland—

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<sup>(11)</sup> S.I. 2011/463, amended by S.I. 2011/2992, 2012/3035, 2014/487, 2016/613, 2017/288.

<sup>(12)</sup> 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).

- (i) the Vegetable Seeds Regulations 1993**(13)**;
  - (ii) the Oil and Fibre Plant Seed (Scotland) Regulations 2004**(14)**;
  - (iii) the Cereal Seed (Scotland) Regulations 2005**(15)**;
  - (iv) the Fodder Plant Seed (Scotland) Regulations 2005**(16)**; and
  - (v) the Beet Seed (Scotland) (No 2) Regulations 2010**(17)**;
  - (d) in relation to Northern Ireland, the Seed Marketing Regulations (Northern Ireland) 2016**(18)**.”.
- (3) In Article 1—
- (a) for paragraph 1 substitute—
 

“1. This Regulation lays down the rules applying to requests for permission temporarily to market seed which does not satisfy the requirements in respect of minimum germination in accordance with the Seeds Marketing Regulations.”;
  - (b) in paragraph 2, for the words from “Directives” to the end substitute “Seeds Marketing Regulations”.
- (4) In Article 2—
- (a) for paragraph 1 substitute—
 

“1. Interested suppliers or supplier organisations affected by supply difficulties in the United Kingdom and wishing to be authorised temporarily to market seed not satisfying the requirements in respect of minimum germination must submit to a responsible authority a request setting out the information referred to in Article 3. That authority must thereupon notify the other responsible authorities of the request.”;
  - (b) in paragraph 2—
    - (i) in the words before sub-paragraph (a), for the words “other Member” to “requesting Member State” substitute “the other responsible authorities may notify the authority to whom the request was made”;
    - (ii) in sub-paragraph (b), for “Directives referred to in Article 1(1)” substitute “Seeds Marketing Regulations”;
  - (c) for paragraph 3 substitute—
 

“3. Seeds covered by the request up to the quantity requested may be marketed in the territory of the authority without satisfying the requirements of the Seeds Marketing Regulations if, within the period referred to in paragraph 2—

    - (a) no offers or objections are notified to the authority to whom the request was made, or
    - (b) where any offers are made, that authority and the responsible authority or authorities making those offers agree that the offers are unsuitable.

The authority to whom the request was made must publish the conditions under which the marketing is authorised, including the quantity allowed.”;
  - (d) omit paragraph 4.

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**(13)** S.I. 1993/2008, amended by S.I. 1999/1863, 2011/1043 and by S.S.I. 2000/250, 2001/3510, 2007/305, 2010/219, 425, 2013/326, 2016/434.

**(14)** S.S.I. 2004/317, amended by S.I. 2011/1043 and by S.S.I. 2006/313, 2007/224, 536, 2009/223, 2010/219, 2016/68, 434.

**(15)** S.S.I. 2005/328, amended by S.S.I. 2006/313, 448, 2007/224, 536, 2009/223, 2010/219, 2016/68, 434.

**(16)** S.S.I. 2005/329, amended by S.S.I. 2006/313, /448, 2007/224, /536, 2009/223, 330, 2010/219, 2012/5, 2013/326, 2016/68, 434, 2017/384.

**(17)** S.S.I. 2010/148, amended by S.I. 2011/413, and by S.S.I. 2016/68, 434.

**(18)** S.R. 2016 No. 244, amended by S.R. 2017 No. 222.



- (5) In Article 3(e), for “of the requesting Member State” substitute “in the United Kingdom”.
- (6) In Article 4—
  - (a) for the words from “Without” to “Article 1(1)” substitute “In addition to any labelling required under the Seeds Marketing Regulations”;
  - (b) for “those Directives” substitute “the relevant Seeds Marketing Regulations”.
- (7) In Article 5—
  - (a) in paragraph 1—
    - (i) in the words before point (a), for “Member States” substitute “responsible authorities”;
    - (ii) in point (b), omit “for the Community”;
  - (b) omit paragraphs 2 and 3.
- (8) Omit the words after Article 6.

#### **Commission Decision 80/512/EEC**

5.—(1) Commission [Decision 80/512/EEC](#) authorising the Kingdom of Denmark, the Federal Republic of Germany, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the United Kingdom not to apply the conditions laid down in Council [Directive 66/401/EEC](#) on the marketing of fodder plant seed, as regards the weight of the sample for the determination of seed of *Cuscuta* is amended as follows.

(2) Before Article 1 insert—  
“Article A1

In this Decision, “the appropriate authority” 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;
  - (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.”.
- (3) In Article 1—
    - (a) in paragraph 1—
      - (i) for the words from “The Kingdom of Denmark” to “authorized” substitute “The appropriate authorities may decide”;
      - (ii) omit “for them”;
      - (iii) for “the Member State concerned” substitute “the territory in relation to which they have responsibility”;
    - (b) omit paragraph 2.
  - (4) Omit Article 3.
  - (5) In the Annex, omit paragraphs 1 to 4.

#### **Council Decision 2003/17/EC**

6.—(1) Council [Decision 2003/17/EC](#) on equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries is amended as follows.

(2) Before Article 1 insert—

“Article A1

1. In this Decision, “the Seeds Marketing Regulations” means—
  - (a) in relation to England, the Seed Marketing Regulations 2011;
  - (b) in relation to Wales, the Seed Marketing (Wales) Regulations 2012;
  - (c) in relation to Scotland—
    - (i) in relation to vegetable seed, the Vegetable Seeds Regulations 1993;
    - (ii) in relation to oil and fibre plant seed, the Oil and Fibre Plant Seed (Scotland) Regulations 2004;
    - (iii) in relation to cereal seed, the Cereal Seed (Scotland) Regulations 2005;
    - (iv) in relation to fodder plant seed, the Fodder Plant Seed (Scotland) Regulations 2005;
    - (v) in relation to beet seed, the Beet Seed (Scotland) (No 2) Regulations 2010;
  - (d) in relation to Northern Ireland, the Seed Marketing Regulations (Northern Ireland) 2016.”.
- (3) In Articles 1 and 2—
  - (a) omit “third”;
  - (b) for “Directives [66/401/EEC](#), [66/402/EEC](#), [2002/54/EC](#), [2002/55/EC](#) and [2002/57/EC](#)” substitute “the Seeds Marketing Regulations”.
- (4) In Article 3—
  - (a) in paragraph 1—
    - (i) for “Community”, in both places where it occurs, substitute “United Kingdom”;
    - (ii) for “Directives [66/401/EEC](#), [66/402/EEC](#), [2002/54/EC](#), [2002/55/EC](#) and [2002/57/EC](#)” substitute “the Seeds Marketing Regulations”;
    - (iii) omit the second paragraph.
  - (b) in paragraph 2—
    - (i) for “Community” substitute “United Kingdom”;
    - (ii) for “EC” substitute “UK”;
    - (iii) in point (a)—
      - (aa) for “Member States” substitute “the United Kingdom”;
      - (bb) for “third countries” substitute “countries listed in Annex 1”;
    - (iv) in point (b)—
      - (aa) for “small EC” substitute “beet, fodder or vegetable seed, small”;
      - (bb) for “Directives [66/401/EEC](#), [2002/54/EC](#) or [2002/55/EC](#)” substitute “the Seeds Marketing Regulations”.
- (5) Omit Article 7.
- (6) In Annex 2—
  - (a) in paragraph A—
    - (i) in the heading, for “third countries” substitute “countries listed in Annex 1”;
    - (ii) in point 3, in the first indent, omit “Member State or third”;
  - (b) in paragraph B—
    - (i) in the heading, for “third countries” substitute “countries listed in Annex 1”;

- (ii) in point 1, in the second subparagraph, for “Community rules” substitute “the Seeds Marketing Regulations”;
- (iii) in point 2.1, for “laid down in” substitute “specified by the Seeds Marketing Regulations and ”;
- (iv) in point 3.1, in the first indent—
  - (aa) for “Community rules” substitute “the Seeds Marketing Regulations”;
  - (bb) for “EC” substitute “UK”;
- (v) in point 3.2, for “Community law” substitute “the law of the United Kingdom”;
- (vi) in point 3.5, for the words from “at least” to the end substitute “English and may also be given in other languages”;
- (vii) in point 5—
  - (aa) in the first subparagraph, for “Community”, in both places where it occurs, substitute “United Kingdom”;
  - (bb) for the second subparagraph substitute—
    - “In the case of basic seed of other varieties, the seed of the preceding generations shall have been produced—
    - under the responsibility of the persons responsible for the maintenance of the variety referred to in the United Kingdom National Lists pursuant to regulation 3 of the Seeds (National Lists of Varieties) Regulations 2001;
    - in a country which has been granted equivalence of checks on practices for the maintenance of varieties, under Council [Decision 2005/834/EC](#); or
    - in an EEA State or Switzerland, provided the seed of the preceding generations was produced before the end of the period of two years beginning with exit day.”;
- (viii) in point 6—
  - (aa) in the first indent, for “Community,” substitute “United Kingdom”;
  - (bb) in the second indent, omit “third” and, at the end, insert “or”;
  - (cc) after the second indent, insert—
    - “in an EEA State or Switzerland, provided the seed of the preceding generations was produced before the end of the period of two years beginning with exit day.”.

### **Council Decision 2005/834/EC**

7.—(1) Council [Decision 2005/834/EC](#) on the equivalence of checks on practices for the maintenance of varieties carried out in certain third countries is amended as follows.

- (2) In Article 1—
  - (a) omit “third”;
  - (b) for “by the Member States” substitute “in the United Kingdom”.
- (3) Omit Articles 2, 3 and 6.

### Commission Implementing Decision 2012/340/EU

8.—(1) Commission Implementing Decision 2012/340/EU on the organisation of a temporary experiment under Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards field inspection under official supervision for basic seed and bred seed of generations prior to basic seed is amended as follows.

(2) Before Article 1 insert—

“Article A1

In this Decision—

“the appropriate authority” 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;
- (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

“the Seeds Marketing Regulations” means—

- (a) in relation to England, the Seed Marketing Regulations 2011;
  - (b) in relation to Wales, the Seed Marketing (Wales) Regulations 2012;
  - (c) in relation to Scotland--
    - (i) the Vegetable Seeds Regulations 1993;
    - (ii) the Oil and Fibre Plant Seed (Scotland) Regulations 2004;
    - (iii) the Cereal Seed (Scotland) Regulations 2005;
    - (iv) the Fodder Plant Seed (Scotland) Regulations 2005; and
    - (v) the Beet Seed (Scotland) (No 2) Regulations 2010;
  - (d) in relation to Northern Ireland, the Seed Marketing Regulations (Northern Ireland) 2016;
- “responsible authority” means any authority who, in relation to any part of the United Kingdom, is the appropriate authority.”.

(3) In Article 1—

- (a) in the first paragraph, omit “at Union level”;
- (b) in the second paragraph, omit the words from “as regards the following provisions” to the end.

(4) In Article 2—

- (a) in the words before point (a), for “Member States” substitute “responsible authorities”;
- (b) in point (c), for “the seed certification authority of the Member State concerned” substitute “the appropriate authority”;
- (c) in point (d), for “competent seed certification” substitute “appropriate”.

(5) In Article 3—

- (a) in paragraphs 1, 4 and 5, for “Member States” substitute “responsible authorities”;
- (b) in paragraph 2, for the words from “laid down in” to the end, substitute “specified in the Seeds Marketing Regulations”;
- (c) in paragraph 3—
  - (i) for “competent” substitute “appropriate”;
  - (ii) omit “covered by Directive 2002/55/EC”.

- (6) In Article 4 —
  - (a) in the first paragraph, for “Member State” substitute “responsible authority”;
  - (b) in the second paragraph—
    - (i) for “Member States”, in each place where it occurs, substitute “responsible authorities”;
    - (ii) omit “the Commission and”;
  - (c) in the third paragraph—
    - (i) for “Member States” substitute “responsible authorities”;
    - (ii) for “Commission” substitute “other responsible authorities”.
- (7) In Article 5—
  - (a) for “Member States” substitute “responsible authorities”;
  - (b) for “in respect of” substitute “from”;
  - (c) omit the words from “, from” to the end.
- (8) In Article 6—
  - (a) for “Member States”, in each place where it occurs, substitute “responsible authorities”;
  - (b) in both places it occurs, omit “to the Commission and”.
- (9) Omit Article 8.

### **Commission Implementing Decision 2014/150/EU**

9.—(1) Commission Implementing [Decision 2014/150/EU](#) on the organisation of a temporary experiment providing for certain derogations for the marketing of populations of the plant species wheat, barley, oats and maize pursuant to Council [Directive 66/402/EEC](#) is amended as follows.

(2) Before Article 1 insert—  
“Article A1

In this Decision--

“the appropriate authority” 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;
- (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

“responsible authority” means any authority who, in relation to any part of the United Kingdom, is the appropriate authority.”.

- (3) In Article 1(1) omit “at Union level”.
- (4) In Article 3—
  - (a) in the heading omit “of Member States”;
  - (b) for “Member State” substitute “responsible authority”;
  - (c) for “Member States”, in each place where it occurs, substitute “responsible authorities”;
  - (d) in paragraph 2, omit “the Commission and”;
  - (e) in paragraph 3, for “Commission” substitute “other responsible authorities”.
- (5) In Articles 4, 6, 7, 10, 12, 17 and 18—

- (a) for “Member State”, in each place where it occurs, substitute “appropriate authority”;
  - (b) for “Member States”, in each place where it occurs, substitute “responsible authorities”;
  - (c) for “seed certification authority”, in each place where it occurs, substitute “appropriate authority”.
- (6) In Article 7(4) omit “and the Commission”.
- (7) In Article 8(1), for “Article 9(6) of Council [Directive 2002/53/EC](#)” substitute “the Plant Breeders’ Rights (Naming and Fees) Regulations 2006”.
- (8) In Article 12(1), for “in the participating Member State” substitute “in the territory for which the responsible authority in question is the appropriate authority”.
- (9) In Article 14, in the words before point (a), for the words from “seed” to “States” substitute “appropriate authority”.
- (10) In Article 18, in paragraphs 1 and 2, omit “the Commission and”.
- (11) Omit Article 20.
- (12) In Annex 1—
- (a) in point 2, for “seed certification authority and the Member state” substitute “appropriate authority”;
  - (b) in point 9, for “Member State” substitute “Country”.
- (13) In Annex 2, in the last subparagraph, for “Member States” substitute “responsible authorities”.
- (14) In Annex 3—
- (a) in point (c), for “Member State” substitute “country”;
  - (b) in point (d), for “Member States” substitute “responsible authorities”.

### **Commission Implementing [Decision 2017/547/EU](#)**

**10.**—(1) Commission Implementing [Decision 2017/547/EU](#) on the organisation of a temporary experiment under Council [Directive 2002/56/EC](#) as regards seed potato tubers derived from true potato seed is amended as follows.

- (2) In Article 1—
- (a) in paragraph (1), omit “at Union level”;
  - (b) in paragraph (2)(h), for “Union” substitute “United Kingdom”.
- (3) In Article 2—
- (a) for “Union”, in each place where it occurs, substitute “United Kingdom”;
  - (b) after point (d) insert—
    - “(e) “appropriate authority” means—
      - (i) in relation to England, the Secretary of State;
      - (ii) in relation to Wales, the Welsh Ministers;
      - (iii) in relation to Scotland, the Scottish Ministers;
      - (iv) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
    - (f) “responsible authority” means any authority who, in relation to any part of the United Kingdom, is the appropriate authority;
    - (g) “the Seed Potatoes Regulations” means—

- (i) in relation to England, the Seed Potatoes (England) Regulations 2015(19);
  - (ii) in relation to Wales, the Seed Potatoes (Wales) Regulations 2016(20);
  - (iii) in relation to Scotland, the Seed Potatoes (Scotland) Regulations 2015(21);
  - (iv) in relation to Northern Ireland, the Seed Potatoes Regulations (Northern Ireland) 2016(22).”.
- (4) In Article 3—
  - (a) for “Member State”, in each place where it occurs, substitute “responsible authority”;
  - (b) for “Commission and the other Member States”, in both places it occurs, substitute “other responsible authorities”.
- (5) In Article 4—
  - (a) in the first paragraph —
    - (i) for “Member States” substitute “responsible authorities”;
    - (ii) for “[Directive 2002/56/EC](#)” substitute “the Seed Potatoes Regulations,”;
    - (iii) for point (a), substitute—
      - “(a) it is listed in the National Lists of plant varieties under regulation 3 of the Seeds (National Lists of Varieties) Regulations 2001;”;
    - (iv) omit point (b);
    - (v) in point (c), for the words from “pursuant” to the end substitute “under regulation 4 of the Seeds (National Lists of Varieties) Regulations 2001”;
  - (b) in the second paragraph—
    - (i) omit “as referred to in Article 2(b)(i) of [Directive 2002/56/EC](#)”;
    - (ii) omit the words from “as referred to in Article 2(c)(i)” to the end.
- (6) In Article 5, in the first paragraph—
  - (a) in the first place where it occurs, for “Member State” substitute “responsible authority”;
  - (b) for “participating Member State concerned” substitute “territory for which the responsible authority concerned is the appropriate authority”;
  - (c) for “certification authority” substitute “appropriate authority”.
- (7) In Article 8(1)—
  - (a) for “Member State” substitute “responsible authority”;
  - (b) for “certification authority” substitute “appropriate authority”.
- (8) In Article 9—
  - (a) in the first paragraph, for “[Directive 2002/56/EC](#)” substitute “the Seed Potatoes Regulations”;
  - (b) in the last paragraph, for “at least one of the official languages of the Union” substitute “English and may also be given in other languages”.
- (9) In Article 10, in the first paragraph, for “Member States” substitute “responsible authorities”.
- (10) In Article 11, in the first paragraph—

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(19) S.I. 2015/1953, amended by S.I. 2017/288, 2018/575.

(20) S.I. 2016/106 (W. 52), amended by 2017/596 (W. 139), 1095 (W. 276).

(21) S.S.I. 2015/395, amended by S.S.I. 2016/68, 434.

(22) S.R. 2016 No. 190, amended by S.R. 2017 No. 155.

- (a) for the words from “certification” to “States” substitute “responsible authorities”;
  - (b) omit “Without prejudice to Article 23 of [Directive 2002/56/EC](#), ”.
- (11) In Article 12—
- (a) in paragraph 1—
    - (i) for “responsible official body in the participating Member State” substitute “appropriate authority”;
    - (ii) for “Member States” substitute “responsible authorities”;
    - (iii) omit the third sentence;
  - (b) in paragraphs 2, 3 and 4—
    - (i) for “Member State”, in each place where it occurs, substitute “responsible authority”;
    - (ii) for “Commission and the other Member States”, in each place where it occurs, substitute “other responsible authorities”.
- (12) Omit Article 13.
- (13) In Annex 2—
- (a) in paragraph A, for “EU” substitute “UK”;
  - (b) in paragraph B—
    - (i) in point 1, for “EU” substitute “UK”;
    - (ii) in point 2, for “responsible official body and the respective Member State,” substitute “appropriate authority”;
    - (iii) in point 9, for “Member State” substitute “Country”;
  - (c) in paragraph C—
    - (i) in point 1, for “EU” substitute “UK”;
    - (ii) in point 2, for “responsible official body and the respective Member State” substitute “appropriate authority”;
    - (iii) in point 7, for “Member State” substitute “Country”.
- (14) In Annex 3, in point 2, omit the words from “, and,” to the end.

#### **Amendment of the EEA agreement**

**11.** In Annex 1 to the EEA agreement, in Chapter 3 (Phytosanitary matters), in Section 2 (Application texts), in paragraphs 16, 22, 36 and 39, omit the words from “The provisions of the Decision shall” to the end.

## PART 5

### Revocation of retained direct EU legislation relating to withdrawal from the European Union

#### **Revocation of retained direct EU legislation**

**12.** The retained direct EU legislation listed in the Schedule is revoked.



24th January 2019

*Gardiner of Kimble*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE

Regulation 12

### Revocation of retained direct EU legislation

#### Regulations

1. [Commission Regulation \(EC\) No 1597/2002](#) laying down detailed rules for the application of Council [Directive 1999/105/EC](#) as regards the format for national lists of the basic material of forest reproductive material.
2. [Commission Regulation \(EC\) No 1598/2002](#) laying down detailed rules for the application of Council [Directive 1999/105/EC](#) as regards the provision of mutual administrative assistance by official bodies.
3. [Commission Regulation \(EC\) No 1602/2002](#) laying down detailed rules for the application of Council [Directive 1999/105/EC](#) as regards the authorisation of a Member State to prohibit the marketing of specified forest reproductive material to the end-user.

#### Decisions

4. Commission [Decision 2000/165/EC](#) setting out the arrangements for Community comparative trials and tests on seeds and propagating material of certain plants under Council Directives [66/401/EEC](#), [66/402/EEC](#), [66/403/EEC](#) and [69/208/EEC](#).
5. Commission [Decision 2002/984/EC](#) on the continuation of Community comparative trials and tests on seeds and propagating material of gramineae, *Triticum aestivum*, *Vitis vinifera*, *Brassica napus* and *Allium ascalonicum* under Council Directives [66/401/EEC](#), [66/402/EEC](#), [68/193/EEC](#), [92/33/EEC](#), [2002/54/EC](#), [2002/55/EC](#), [2002/56/EC](#) and [2002/57/EC](#).
6. Commission [Decision 2005/5/EC](#) setting out the arrangements for Community comparative trials and tests on seeds and propagating material of certain plants of agricultural and vegetable species and vine under Council Directives [66/401/EEC](#), [66/402/EEC](#), [68/193/EEC](#), [92/33/EEC](#), [2002/54/EC](#), [2002/55/EC](#), [2002/56/EC](#) and [2002/57/EC](#) for the years 2005 to 2009.
7. Commission [Decision 2007/321/EC](#) releasing the United Kingdom from certain obligations for the marketing of vegetable seed under Council [Directive 2002/55/EC](#).
8. Commission Implementing Decision (EU) 2017/478 releasing certain Member States from the obligation to apply to certain species Council Directives [66/401/EEC](#), [66/402/EEC](#), [68/193/EEC](#), [1999/105/EC](#), [2002/54/EC](#), [2002/55/EC](#) and [2002/57/EC](#) on the marketing of fodder plant seed, cereal seed, material for the vegetative propagation of the vine, forest reproductive material, beet seed, vegetable seed and seed of oil and fibre plants respectively.
9. Commission Implementing Decision (EU) 2017/925 temporarily authorising certain Member States to certify pre-basic material of certain species of fruit plants, produced in the field under non-insect proof conditions.

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## EXPLANATORY NOTE

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

These Regulations are made 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 under sections 8(2)(c), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union. They are also made in part to amend legislation that is out of date.

These Regulations make amendments to legislation in the field of marketing of seed and plant propagating material.

Part 2 makes amendments to the Seeds (National Lists of Varieties) Regulations 2001 to amend a definition that is incorrect and to update the list of derogated species pursuant to Commission Implementing Decision (EU) 2017/478 releasing certain Member States from the obligation to apply to certain species Council Directives [66/401/EEC](#), [66/402/EEC](#), [68/193/EEC](#), [1999/105/EC](#), [2002/54/EC](#), [2002/55/EC](#) and [2002/57/EC](#) on the marketing of fodder plant seed, cereal seed, material for the vegetative propagation of the vine, forest reproductive material, beet seed, vegetable seed and seed of oil and fibre plants respectively (OJ No L 73, 18.3.2017, p. 29).

The remainder of the Regulations make amendments resulting from the United Kingdom's withdrawal from the European Union. Part 3 amends subordinate legislation, Part 4 amends retained direct EU legislation and Part 5 contains revocations.

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