EXPLANATORY NOTE
(This note is not part of the Regulations)


These Regulations, which apply in relation to Wales, amend the following Regulations (“the Marketing Regulations”)—

— the Seed Marketing (Wales) Regulations 2012 (S.I. 2012/245) (W. 39) (“the 2012 Regulations”),
— the Seed Potatoes (Wales) Regulations 2016 (S.I. 2016/106) (W. 52) (“the 2016 Regulations”), and

The 1995 Regulations implement Council Directive 2008/72/EC on the marketing of vegetable propagating and planting material, other than seed (OJ No. L 205,


These Regulations amend provisions in the Marketing Regulations to require seed, plants and plant propagating material (“plant material”) intended for marketing in Wales to be practically free from regulated non-quarantine pests at the place of production and for the presence of such pests on plant material not to exceed specified thresholds.

Regulation 2(4) also amends the 1995 Regulations to ensure correct implementation of Council Directive 2008/72/EC.
Regulation 5(4) also amends the 2016 Regulations to correct formatting errors in the tables in Parts 2 and 3 of Schedule 3 to the 2016 Regulations.

Regulation 6(4) also amends the 2017 Regulations to ensure correct implementation of Council Directive 2008/90/EC.

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.
The Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to the common agricultural policy(2).
The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 16(1), (1A), (3), (4) and 36 of the Plant Varieties and Seeds Act 1964(1) and section 2(2) of the European Communities Act 1972.

The Welsh Ministers have consulted representatives of such interests as appear to them to be concerned in accordance with section 16(1) of the Plant Varieties and Seeds Act 1964.

Title, application and commencement

1. The title of these Regulations is the Marketing of Seed, Plant and Propagating Material (Wales) Regulations 2020, they apply in relation to Wales and come into force on 29 August 2020.

The Marketing of Vegetable Plant Material Regulations 1995

2.—(1) The Marketing of Vegetable Plant Material Regulations 1995(2) are amended as follows.

(2) In regulation 2(1), after the definition of “Directive 2008/72/EC” insert—

““EU Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants(3);”.

(3) In regulation 5—

(a) the existing text becomes paragraph (1);

(b) in paragraph (1), for sub-paragraph (a) substitute—

“(a) at the place of production it was found, at least on visual inspection, to be practically free from all pests listed in relation to that plant material in the Annex to Directive 93/61/EEC;”.

(1) 1964 c. 14. Section 16(1A) was inserted by section 4 of, and paragraph 5 of Schedule 4 to, the European Communities Act 1972. See section 38(1) for a definition of “the Minister”. In accordance with article 2(1) of, and Schedule 1 to, the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272) the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as exercisable in relation to Wales, transferred to the Secretary of State. In accordance with article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions transferred to the Secretary of State by the 1978 Order were transferred to the National Assembly for Wales. By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32) those functions are now exercisable by the Welsh Ministers.

(2) S.I. 1995/2652, amended by S.I. 2007/2190 (W. 174), 2014/519 (W. 61), 2018/1216 (W. 249), 2020/206 (W. 48); there are other amending instruments but none are relevant.

(ab) the quantity of any RNQP present on the plant material does not, at least on visual inspection, exceed the threshold set out in respect of that RNQP in the Annex to Directive 93/61/EEC;

(ac) it is found, at least on visual inspection, to be practically free from any pests which reduce its usefulness and quality as plant material, other than those pests listed in the Annex to Directive 93/61/EEC in relation to that plant material;

(ad) it complies with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in the EU Plant Health Regulation and in the implementing acts adopted pursuant to that Regulation, including measures adopted pursuant to Article 30(1) of that Regulation;";

(c) after paragraph (1) insert—

“(2) In this regulation—

“protected zone quarantine pest” means a pest within the meaning given by Article 32(1) of the EU Plant Health Regulation;

“RNQP” means a Union regulated non-quarantine pest within the meaning given by Article 36 of the EU Plant Health Regulation;

“Union quarantine pest” means a pest within the meaning given by Article 4 of the EU Plant Health Regulation.”

(4) For regulation 6 substitute—

“6.—(1) A producer must—

(a) report to an inspector any plant material that fails to comply with the requirements of regulation 5(1)(a) or (ab);

(b) immediately report to an inspector any plant material that shows the presence of a plant pest of a description specified in Annex 2 or 3 to the Phytosanitary Conditions Regulation and carry out any measures laid down by the inspector; and

(c) keep plant material in lots of homogenous composition and origin during growing and lifting or removal from parent material.

(2) In this regulation—
“the Phytosanitary Conditions Regulation” means Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and of the Council, as regards protective measures against pests of plants(1).”

(5) Omit regulations 7 and 8(5).

(6) In regulation 9(4)(c), for “harmful organisms referred to in regulation 5(a)” substitute “pests referred to in regulations 5(1)(a), (ab) and 6(1)(b)’’.

(7) In regulation 11(4), for “5(a)” substitute “5(1)(a) to (ac)’’.

The Marketing of Ornamental Plant Propagating Material Regulations 1999

3.—(1) The Marketing of Ornamental Plant Propagating Material Regulations 1999(2) are amended as follows.

(2) In regulation 2(1), before the definition of “Directive 98/56/EC” insert—


(3) In regulation 4—

(a) the existing text becomes paragraph (1);

(b) in paragraph (1), after sub-paragraph (a) insert—

“(ab) have been found at the place of production to be practically free, at least on visual inspection, from all pests listed in the Annex to Directive 93/49/EEC in relation to that propagating material;

(ac) be free, at least on visual inspection, from any RNQP in a quantity exceeding the thresholds set out in the Annex to Directive 93/49/EEC for the presence of that RNQP;

(ad) be, at least on visual inspection, practically free from, and from any

signs or symptoms of, any pests which reduce its usefulness or quality as propagating material, other than the pests listed in the Annex to Directive 93/49/EEC with regard to the respective propagating material;

(ae) comply with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in the implementing acts adopted pursuant to the EU Plant Health Regulation, and measures adopted pursuant to Article 30(1) of that Regulation;”;

(c) after paragraph (1) insert—

“(2) In this regulation—

“protected zone quarantine pest” means a pest within the meaning given by Article 32(1) of the EU Plant Health Regulation;

“RNQP” means a Union regulated non-quarantine pest within the meaning given by Article 36 of the EU Plant Health Regulation;

“Union quarantine pest” means a pest within the meaning given by Article 4 of the EU Plant Health Regulation.”

(4) Omit regulation 6A.

The Seed Marketing (Wales) Regulations 2012

4.—(1) The Seed Marketing (Wales) Regulations 2012(1) are amended as follows.

(2) In Schedule 2—

(a) before Part 1 insert—

“Part A1

Introduction

Interpretation

A1. In this Schedule—


(1) S.I. 2012/245 (W. 39). There are amending instruments but none are relevant. S.I. 2012/245 (W. 39) is prospectively amended by S.I. 2019/368 (W. 90).
“protected zone quarantine pest” ("pla cwarantin parth gwarchodedig") means a pest within the meaning given by Article 32(1) of the EU Plant Health Regulation;

“RNQP” ("PRHG") means a Union regulated non-quarantine pest within the meaning given by Article 36 of the EU Plant Health Regulation;

“Union quarantine pest” ("pla cwarantin yr Undeb") means a pest within the meaning given by Article 4 of the EU Plant Health Regulation.”;

(b) for paragraph 15(4) substitute—

“(4) The crop and the seed produced by the crop must be practically free from any pests which reduce the usefulness and quality of the seed.

(5) The crop and the seed produced by the crop must comply with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in implementing acts adopted pursuant to the EU Plant Health Regulation, and measures adopted pursuant to Article 30(1) of that Regulation.”;

(c) in paragraphs 28 and 42, for sub-paragraph (3) in each case substitute—

“(3) The crop and the seed produced by the crop must be practically free from any pests which reduce the usefulness and quality of the seed.

(4) The crop and seed produced by the crop must comply with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in implementing acts adopted pursuant to the EU Plant Health Regulation, and measures adopted pursuant to Article 30(1) of that Regulation.”;

(d) for paragraph 50(4) substitute—

“(4) The crop and seed produced by the crop must be practically free from any pests which reduce the usefulness and quality of the seed.

(4A) The crop and seed produced by the crop must comply with the requirements concerning Union quarantine pests, protected zone quarantine pests and RNQPs set out in implementing acts adopted pursuant to the EU Plant Health Regulation, and measures adopted pursuant to Article 30(1) of that Regulation.”
The Seed Potatoes (Wales) Regulations 2016

5.—(1) The Seed Potatoes (Wales) Regulations 2016(1) are amended as follows.

(2) In regulation 3, for the definition of “Directive 2014/21/EU” substitute—

““Directive 2014/21/EU” (“Cyfarwyddeb 2014/21/EU”) means Commission Implementing Directive 2014/21/EU determining minimum conditions and Union Grades for pre-basic seed potatoes(2);”.

(3) In Schedule 1—

(a) in paragraph 3(c), for paragraphs (vi) and (vii) substitute—

“(vi) Colorado Beetle (Leptinotarsa decemlineata (Say));

(vii) Potato Tuber Eelworm (Ditylenchus destructor (Thorne));

(viii) Candidatus Liberibacter solanacearum Liefting et al.; and

(ix) Candidatus Phytoplasma solani Quaglino et al;”;

(b) in paragraph 8, in the words after subparagraph (b)(iii), omit “prevalent in Europe”;

(c) in paragraph 10, in the words after subparagraph (b)(ii), omit “prevalent in Europe”.

(4) In Schedule 3—

(a) in the table in Part 1, in column 1—

(i) under the heading “Group II”, for the words from “Blackleg” to “et al or both” substitute “Blackleg (Dickeya Samson et al. spp. or Pectobacterium Waldee emend. Hauben et al. spp. or both)”;

(ii) under the heading “Group IV”, for “Black Scurf (Rhizoctonia solani Kuhn)” substitute “Black scurf as caused by Thanatephorus cucumeris (A.B. Frank) Donk”;

(b) in the table in Part 1, under the heading “Group 1”, after the entry “Colorado Beetle” insert—


| *Candidatus Liberibacter solanacearum* Liefting et al | Nil |
|*Candidatus Phytoplasma solani* Quaglino et al | Nil |

(c) for Parts 2 and 3 substitute—
“PART 2
Pre-basic seed potatoes of Union grade PB produced in Wales

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Specified diseases or pests, damage and defects</td>
<td>Individual tolerances</td>
<td>Group tolerances</td>
<td>Collective group tolerances</td>
</tr>
</tbody>
</table>

**Group I**

<table>
<thead>
<tr>
<th>Disease</th>
<th>Individual tolerances</th>
<th>Group tolerances</th>
<th>Collective group tolerances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wart Disease (<em>Synchytrium endobioticum</em> (Schlib) Perc)</td>
<td>Nil</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Potato Tuber Eelworm (<em>Ditylenchus destructor</em> Thorne)</td>
<td>Nil</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Potato Cyst Nematode (<em>Globodera</em> species infesting potatoes)</td>
<td>Nil</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Ring Rot (<em>Clavibacter michiganensis</em> (Smith) Davis et al spp <em>sepedonicus</em> (Spieck &amp; Kotth) Davis et al)</td>
<td>Nil</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Brown Rot (<em>Ralstonia solanacearum</em> (Smith) Yabuuchi et al)</td>
<td>Nil</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Potato Spindle Tuber Viroid</td>
<td>Nil</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Blackleg (<em>Dickeya</em> Samson et al. spp. or <em>Pectobacterium</em> Waldee emend. Hauben et al. spp. or both)</td>
<td>0.2%</td>
<td>)</td>
<td>)</td>
</tr>
<tr>
<td>Soft Rots including: Watery Wound Rot (<em>Pythium ultimum</em> Trow)</td>
<td>0.2%</td>
<td>)</td>
<td>)</td>
</tr>
<tr>
<td>Pink Rot (<em>Phytophthora erythroseptica</em> Pethybridge) and Pit Rot</td>
<td>0.2%</td>
<td>0.2%</td>
<td>)</td>
</tr>
<tr>
<td>Dry Rot (<em>Fusarium</em> species)</td>
<td>0.2%</td>
<td>)</td>
<td>)</td>
</tr>
<tr>
<td>Gangrene (<em>Phoma</em> species)</td>
<td>0.2%</td>
<td>)</td>
<td>)</td>
</tr>
<tr>
<td>Frost damaged tubers</td>
<td>0.2%</td>
<td>)</td>
<td>)</td>
</tr>
</tbody>
</table>

**Group II**

<table>
<thead>
<tr>
<th>Disease</th>
<th>Individual tolerances</th>
<th>Group tolerances</th>
<th>Collective group tolerances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blight (<em>Phytophthora infestans</em> (Mont) de Bary)</td>
<td>0.2%</td>
<td>)</td>
<td>)</td>
</tr>
<tr>
<td>Blackleg (<em>Dickeya</em> Samson et al. spp. or <em>Pectobacterium</em> Waldee emend. Hauben et al. spp. or both)</td>
<td>0.2%</td>
<td>)</td>
<td>)</td>
</tr>
<tr>
<td>Pink Rot (<em>Phytophthora erythroseptica</em> Pethybridge) and Pit Rot</td>
<td>0.2%</td>
<td>0.2%</td>
<td>)</td>
</tr>
<tr>
<td>Dry Rot (<em>Fusarium</em> species)</td>
<td>0.2%</td>
<td>)</td>
<td>)</td>
</tr>
<tr>
<td>Gangrene (<em>Phoma</em> species)</td>
<td>0.2%</td>
<td>)</td>
<td>)</td>
</tr>
<tr>
<td>Frost damaged tubers</td>
<td>0.2%</td>
<td>)</td>
<td>)</td>
</tr>
</tbody>
</table>

**Group III**

<table>
<thead>
<tr>
<th>Disease</th>
<th>Individual tolerances</th>
<th>Group tolerances</th>
<th>Collective group tolerances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Skin spot (<em>Polyscytalum pustulans</em> (Owen &amp; Wake-field)) M B Ellis</td>
<td>0.2%</td>
<td>)</td>
<td>)</td>
</tr>
</tbody>
</table>
Group IV
Black scurf as caused by *Thanatephorus cucumeris* (A.B. Frank) Donk
Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-tenth of whose surface area has been affected are deemed to be unaffected by the disease

Common Scab (*Streptomyces* species)
Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-third of whose surface area has been affected are deemed to be unaffected by the disease

Group V
Powdery scab (*Spongospora subterranea* (Wallr) Legerh)
Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-tenth of whose surface area has been affected are deemed to be unaffected by the disease

Group VI
External blemishes including damaged tubers or tubers other than diseased tubers whose shape is atypical for the variety
Superficial necrosis caused by potato virus Y
Nil
Shrivelled tubers due to excessive dehydration or dehydration caused by silver scurf (*Helminthosporium solani*)
0.5%

Group VII
Dirt or other extraneous matter
1.0%

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PART 3
Basic seed potatoes and certified seed potatoes produced in Wales

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Specified diseases or pests, damage and defects</td>
<td>Individual tolerances</td>
<td>Group tolerances</td>
<td>Collective group tolerances</td>
</tr>
</tbody>
</table>

**Group I**

Wart Disease (*Synchytrium endobioticum* (Schlib) Perc)
Nil

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<table>
<thead>
<tr>
<th>Potentially infective pathogens</th>
<th>%</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Potato Tuber Eelworm (<em>Ditylenchus destructor</em> Thorne)</td>
<td>Nil</td>
<td>-</td>
</tr>
<tr>
<td>Potato Cyst Nematode (<em>Globodera</em> species infesting potatoes)</td>
<td>Nil</td>
<td>-</td>
</tr>
<tr>
<td>Ring Rot (<em>Clavibacter michiganensis</em> (Smith) Davis et al spp <em>sepedonicus</em> (Spieck &amp; Koth) Davis et al)</td>
<td>Nil</td>
<td>-</td>
</tr>
<tr>
<td>Brown Rot (<em>Ralstonia solanacearum</em> (Smith) Yabuuchi et al)</td>
<td>Nil</td>
<td>-</td>
</tr>
<tr>
<td>Potato Spindle Tuber Viroid</td>
<td>Nil</td>
<td>-</td>
</tr>
<tr>
<td>Colorado Beetle (<em>Lepinotarsa decemlineata</em> (Say))</td>
<td>Nil</td>
<td>-</td>
</tr>
<tr>
<td><em>Candidatus Liberibacter solanacearum</em> Liefting et al</td>
<td>Nil</td>
<td>-</td>
</tr>
<tr>
<td><em>Candidatus Phytoplasma solani</em> Quaglino et al</td>
<td>Nil</td>
<td>-</td>
</tr>
</tbody>
</table>

**Group II**

| Blight (*Phytophthora infestans* (Mont) de Bary) | 0.5% | ) | ) |
| Blackleg (*Dickeya* Samson et al. spp. or *Pectobacterium* Waldee emend. Hauben et al. spp. or both) | 0.5% | ) | ) |
| Soft Rots including Watery Wound Rot (*Pythium ultimum* Trow) | 0.5% | ) | ) |
| Pink Rot (*Phytophthora erythroseptica* *Pethybridge*) and Pit Rot | 0.5% | 0.5% | ) |
| Dry Rot (*Fusarium* species) | 0.5% | ) | ) |
| Gangrene (*Phoma* species) | 0.5% | ) | ) |
| Frost damaged tubers | 0.5% | ) | ) |
| Any of these Group II defects that present as a wet rot symptom | 0.2% | ) | 6.0% for basic seed potatoes and 8.0% for certified seed potatoes |
### Group III

**Skin spot** (*Polyscytalum pustulans* (Owen & Wakefield) M B Ellis)

0.5% except Union grade E, Union grade A and Union grade B grades; 2.0% for Union grade E, Union grade A and Union grade B grades only.

**Powdery scab** (*Spongospora subterranea* (Wallr) Legerh)

Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-tenth of whose surface area has been affected are deemed to be unaffected by the disease (except where powdery scab takes its cankerous form).

3.0% 5.0%

### Group IV

**Black scurf** as caused by *Thanatephorus cucumeris* (A.B. Frank) Donk

Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-tenth of whose surface area has been affected are deemed to be unaffected by the disease.

5.0%

**Common Scab** (*Streptomyces* species)

Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-third of whose surface area has been affected are deemed to be unaffected by the disease.

5.0%

### Group V

**External blemishes including damaged tubers or tubers other than diseased tubers whose shape is atypical for the variety**

3.0%

**Shrivelled tubers due to excessive dehydration or dehydration caused by silver scurf** (*Helminthosporium solani*)

1.0% 3.0%

**Superficial necrosis caused by strains of potato virus Y**

0.1%
<table>
<thead>
<tr>
<th>Group VI</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Dirt or other extraneous matter</td>
<td>1.0%</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>&quot;&quot;</td>
</tr>
</tbody>
</table>
(d) in the table in Part 4, after the entry for “Colorado Beetle” insert—

<table>
<thead>
<tr>
<th>Organism</th>
<th>Nil</th>
<th>-</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Candidatus Liberibacter solanacearum</em> Liefting et al</td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Candidatus Phytoplasma solani</em> Quaglino et al</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(5) In Part 1 of Schedule 4, in table 1—

(a) in the entry for Union grade “PBTC”, in the second column—

(i) in paragraph (1)(a)(i), after “*Dickeya* spp.”, insert “*Candidatus Liberibacter solanacearum, Candidatus Phytoplasma solani, Potato spindle tuber viroid.”;

(ii) in paragraph (1)(b)(i), at the beginning insert “*Candidatus Liberibacter solanacearum, Candidatus Phytoplasma solani, Potato spindle tuber viroid.”;

(b) in the entry for Union grade “PB”, in the second column—

(i) in paragraph (1)(a)(ii), after “*Dickeya* spp.”, insert “*Candidatus Liberibacter solanacearum, Candidatus Phytoplasma solani, Potato spindle tuber viroid.”;

(ii) in paragraph (2)(i), at the beginning insert “*Candidatus Liberibacter solanacearum, Candidatus Phytoplasma solani, Potato spindle tuber viroid.”.

(6) In Schedule 5, in paragraph 3(f)(ii), omit “prevalent in Europe”.

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

6.—(1) The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017(1) are amended as follows.

(2) In regulation 2, at the appropriate place insert—

““RNQP” (“PRHG”) means a Union regulated non-quarantine pest within the meaning given by Article 36 of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants;”.

(1) S.I. 2017/691 (W. 163), amended by S.I. 2020/206 (W. 48); there are other amending instruments but none are relevant. S.I. 2017/691 (W. 163) is amended prospectively by S.I. 2019/368 (W. 90).
(3) In regulation 3(1), for the definition of “Directive 2014/98/EU” substitute—


(4) After regulation 14 insert—

“Suppliers: notification requirements

14A.—(1) A supplier must immediately report to an inspector—

(a) plant material that shows the presence of any RNQP listed in Annex 1 or 2 to Directive 2014/98/EU;

(b) the presence in the soil of any RNQP listed in Annex 3 to Directive 2014/98/EU;

(c) the presence of any RNQP at the production site at a level greater than the tolerance specified for such organism in Annex 4 to Directive 2014/98/EU; or

(d) plant material that shows the presence of any pest listed in Annex 2 or 3 to Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and of the Council, as regards protective measures against pests of plants.

(2) Where a supplier has reported to an inspector plant material referred to in paragraph (1)(d), the supplier must carry out any measures laid down by the inspector.”

(5) In regulation 15(1)(g)—

(a) in paragraph (i), omit “Part A of”;

(b) omit paragraph (ii) and the “and” after it;

(c) in paragraph (iii), for “Annex 2, 3 or 4” substitute “Annex 2 or 3”;

(d) after paragraph (iii) insert—

“(iv) any RNQP listed in Annex 3 to Directive 2014/98/EU, where present in the soil; and

(v) any RNQP at a level greater than the tolerance specified for that RNQP in Annex 4 to Directive 2014/98/EU.”

(6) In Schedule 1—

(a) in paragraph 1(2), for paragraphs (c) and (d) substitute—

“(c) complies with health requirements in paragraph 4;

(d) complies with requirements concerning defects in paragraph 5; and

(e) complies with production site requirements in paragraph 6.”;

(b) in paragraph 2(2), for paragraphs (b) and (c) substitute—

“(b) complies with health requirements in paragraph 4;

(c) complies with requirements concerning defects in paragraph 5; and

(d) complies with production site requirements in paragraph 6.”;

(c) in paragraph 4, for sub-paragraphs (1) to (5) substitute—

“(1) CAC material must be found, on visual inspection by the supplier at the stage of production, to be practically free from the RNQPs listed in Annex 1 or 2 to Directive 2014/98/EU in relation to the genus or species concerned, unless stated otherwise in Annex 4 to that Directive.

(2) The supplier must sample and test the identified source of material or CAC material—

(a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to Directive 2014/98/EU, for such pests;

(b) for the RNQPs listed in Annex 2 to Directive 2014/98/EU, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.

(3) CAC material must be found after production, on visual inspection by the supplier, to be free from signs or symptoms of any RNQP listed in Annex 1 or 2 to Directive 2014/98/EU.
(4) Visual inspections and sampling and testing must be conducted in accordance with the requirements specified in Annex 4 to Directive 2014/98/EU in relation to the genus or species concerned, and category.

(5) But sub-paragraphs (1) to (3) do not apply to CAC material during cryopreservation.”;

(d) after paragraph 5 insert—

“Requirements concerning production site

6. CAC material must be produced in accordance with the requirements for the production site, place of production or area set out in Annex 4 to Directive 2014/98/EU and specified in relation to the genus or species concerned.”

(7) In Schedule 5—

(a) in paragraphs 3(2) and 4(2), after paragraph (f) in each case, insert—

“(g) complies with the production site requirements in paragraph 12A.”;

(b) in paragraphs 5(1)(a) and 6, for “12” substitute “12A”;

(c) in paragraph 10—

(i) for sub-paragraphs (1) and (2) substitute—

“(1) A pre-basic mother plant or pre-basic material must be found to be free from any RNQP listed in Annex 1 or 2 to Directive 2014/98/EU in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.

(2) An inspector and, where appropriate, the supplier must sample and test the pre-basic mother plant or pre-basic material—

(a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to Directive 2014/98/EU, for such pests;

(b) for the RNQPs listed in Annex 2 to Directive 2014/98/EU, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.”;

(ii) for sub-paragraph (4) substitute—

“(4) Compliance with sub-paragraph (1) is established by visual inspection by an inspector and, where appropriate, the supplier.”;

(d) after paragraph 12 insert—

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12A. Pre-basic mother plants and pre-basic material must be produced in accordance with the requirements for the production site, place of production or area set out in Annex 4 to Directive 2014/98/EU and specified in relation to the genus or species concerned.”;

(e) in paragraphs 14(2) and 15(2), for paragraphs (g) and (h) substitute—

“(g) has been maintained in accordance with paragraph 18;

(h) where appropriate, has been multiplied in accordance with paragraph 19; and

(i) has been produced in accordance with the production site requirements in paragraph 12A.”;

(f) in paragraph 14(3), for “(h)” substitute “(i)”;

(g) in paragraph 16—

(i) for sub-paragraphs (1) and (2) substitute—

“(1) A basic mother plant or basic material must be found to be free from any RNQP listed in Annex 1 or 2 to Directive 2014/98/EU in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.

(2) An inspector and, where appropriate the supplier, must sample and test the basic mother plant or basic material—

(a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to Directive 2014/98/EU, for such pests;

(b) for the RNQPs listed in Annex 2 to Directive 2014/98/EU, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.”;

(ii) for sub-paragraph (4) substitute—

“(4) Compliance with sub-paragraph (1) is established by visual inspection by an inspector and, where appropriate, the supplier.”;

(h) in paragraph 20—

(i) in sub-paragraph (2), for paragraphs (e) and (f) substitute—

“(e) complies with the health requirements in paragraph 22;

(f) is grown in soil that is found by sampling and testing to comply with paragraph 23; and
(g) complies with the production site requirements in paragraph 12A.”;

(ii) in sub-paragraph (4), in the words before paragraph (a), for “(f)” substitute “(g)”;

(i) in paragraph 22—

(i) for sub-paragraphs (1) and (2) substitute—

“(1) A certified mother plant or certified material must be found to be free from any RNQP listed in Annex 1 or 2 to Directive 2014/98/EU in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.

(2) An inspector and, where appropriate, the supplier must sample and test the certified mother plant or certified material—

(a) in cases of doubt as to the presence of any RNQP listed in Annex 1 to Directive 2014/98/EU, for such pests;

(b) for the RNQPs listed in Annex 2 to Directive 2014/98/EU, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.”;

(ii) in sub-paragraph (4), for the words from “sub-paragraphs (1)” to the end substitute “sub-paragraph (1) by visual inspection”;  

(j) in paragraph 23(4)(a), at the beginning insert “unless otherwise stated,”.

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

4 August 2020