STATUTORY RULES OF NORTHERN IRELAND

2019 No. 50

SEEDS

The Forest Reproductive Material (Amendment) Regulations (Northern Ireland) 2019

Made - - - -	*20th March 2019*
Coming into operation -	*22nd March 2019*

The Department of Agriculture Environment and Rural Affairs(**a**) make these Regulations in exercise of the powers conferred by sections 1 and 2 of the Seeds Act (Northern Ireland) 1965(**b**), and being a Department designated (**c**) for the purposes of section 2(2) of the European Communities Act 1972 (**d**) in relation to the common agricultural policy of the European Union, in exercise of the powers conferred on it by section 2(2) of and paragraph 1A of Schedule 2 to the Act.

Citation and commencement

1. These Regulations may be cited as the Forest Reproductive Material (Amendment) Regulations (Northern Ireland) 2019, and come into operation on 22nd March 2019.

Amendments to the Forest Reproductive Material Regulations (Northern Ireland) 2002

2. The Forest Reproductive Material Regulations (Northern Ireland) 2002(**e**) are amended as follows.

Regulation 2 (interpretation)

3.—(1) In regulation 2(2)—

(a) for the definition of "approved basic material" substitute—

""approved basic material" in relation to basic material approved by an appropriate authority means basic material which is approved in accordance with regulation 7;";

(b) after the definition of "contact details", insert—

(**a**) The Ministry of Agriculture became known as the Department of Agriculture by virtue of section 7(5) of the Northern Ireland Constitution Act (c.36), and was renamed the Department of Agriculture and Rural Development by Article 3(4) of the Departments (Northern Ireland) Order 1999 (S.I 1999/283 (N.i.1). The Department of Agriculture and Rural Development was renamed the Department of Agriculture, Environment and Rural Affairs by section 1(2) of the Departments Act (Northern Ireland) 2016 c.5 (N.I.)

(**b**) 1965c.22 (NI); section 1 was amended by section 10 of the Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1970c 20 (NI) and S.E. & O.(N.I.) 1972 No 351:section 2 was amended by section 10 of the Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1970 and S.R. 1977 No.295

(**c**) S.I. 2000/2812;

(**d**) 1972 c.68 section 2(2) was amended by section 27(1) (a) of the Legislative and Regulatory Reform Act 2006 (c 51) and section 3(3) of and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c7)

(**e**) S.R. 2002 No 404

""Council Decision 2008/971/EC" means Council Decision 2008/971/EC on the equivalence of forest reproductive material produced in third countries, as amended from time to time;";

(c) after the definition of "EC classification", insert—

""EU-approved third countries" are Canada, Norway, Serbia, Switzerland, Turkey and the United States of America;";

(d) for the definition of "Master Certificate", substitute—

""Master Certificate" means—

(a) in the case of forest reproductive material collected or otherwise derived from basic material which is located in a relevant territory, a Master Certificate issued in accordance with regulation 13;

(b) in the case of forest reproductive material collected or otherwise derived from basic material which is located in Great Britain a Master Certificate issued by the official body for Great Britain in accordance with Article 12 of the Directive;

(c) in the case of forest reproductive material collected or otherwise derived from basic material which is located in another member State, a Master Certificate issued by an official body of that member State in accordance with Article 12 of the Directive;

(d) in the case of forest reproductive material produced in an EU-approved third country, a Master Certificate issued by the Department in accordance with regulation 25(5) and (6) or a Master Certificate issued by a relevant official body in accordance with Article 4 of Council Decision 2008/971/EC;

(e) in the case of forest reproductive material produced in a permitted third country, a Master Certificate issued by the Department in accordance with regulation 25(5), a Master Certificate issued in relation to the material by an official body of a member State or an official certificate within the meaning of paragraph 8 of Schedule13;";

(e) for the definition of "official body" substitute—

""official body"—

(a) in relation to a member State has the meaning given in Article 2(k) of the Directive;

(b) in relation to an EU-approved third country means the competent authority for the relevant country, as listed in Annex 1 to Council Decision 2008/971/EC;

(c) in relation to a permitted third country means the authority or body which is officially responsible in that country for the approval and control of forest reproductive material produced in the country;";

(f) for the definition of "plant passport", substitute—

""plant passport" has the meaning given in the Plant Health (Wood and Bark) Order (Northern Ireland) 2006(**a**);".

(2) After regulation 2(4), insert—

"(4A) Other terms in these Regulations that appear in the Directive or Council Decision 2008/971/EC have the same meaning in these Regulations as they have in the Directive or that Decision.".

Regulation 14 (identification and separation of forest reproductive material during production)

4.—(1) In regulation 14(1)(f), for paragraph (i), substitute—

(**a**) S.R. 2006 No 66

"(i) the reference number given to the approved basic material from which the forest reproductive material is derived;".

(2) After regulation 14(3), insert—

"(4) In this regulation—

(a) "reference number" means

(i) in the case of basic material approved by an appropriate authority in accordance with regulation 7, the reference number given to the material in the National Register;

(ii) in the case of basic material approved by any other official body of a member State, the reference number given to the material in the register drawn up and maintained by the official body in accordance with Article 10 of the Directive;

(iii) in the case of approved basic material from which reproductive material produced in an EU-approved third country or a permitted third country has been derived, the reference number given to the material in the national register of basic material approved for forest reproductive material drawn up and maintained by the official body of that country;

(b) "unit of approval"—

(i) in the case of forest reproductive material derived from basic material approved by an appropriate authority, has the meaning given in regulation

(ii) in the case of forest reproductive material derived from basic material approved by another official body, means the unit of basic material from which the forest reproductive material is derived, as recorded in the national register of basic material approved for forest reproductive material drawn up and maintained by the official body.".

Regulation 17 (forest reproductive material which may be marketed)

5. For paragraph 1 of regulation 17, substitute—

"(1) Subject to regulations 18 and 31, no person shall market forest reproductive material in Northern Ireland unless—

(a) in the case of forest reproductive material produced in a relevant territory—

(i) its collection and production meet the requirements of regulations 10 to 12 and 14 to 15;

(ii) it has been certified in accordance with regulation 13; and

(iii) it falls into one of the categories described in regulation 4(1), subject to the application of regulation 7(2);

(b) in the case of forest reproductive material produced in Northern Ireland or another member State, it was accompanied on its entry into Northern Ireland by the supplier's label or document required by Article 14 of the Directive;

(c) in the case of forest reproductive material produced in an EU-approved third country and imported from a third country into Northern Ireland, a Master Certificate has been issued by the Department in relation to the material in accordance with regulation 25(5) and (6);

(d) in the case of any other forest reproductive material produced in an EU-approved third country—

(i) a Master Certificate has been issued in relation to the material in accordance with Article 4 of Decision 2008/971/EC; and

(ii) the forest reproductive material was accompanied on its entry into Northern Ireland by the supplier's label or document required by Article 14 of the Directive;

(e) in the case of forest reproductive material produced in a permitted third country and imported from a third country into Northern Ireland, it has met the requirements as to entry into Northern Ireland set out in regulation 25;

(f) in the case of any other forest reproductive material produced in a permitted third country—

(i) a Master Certificate has been issued in relation to the material by an official body of a member State; and

(ii) the forest reproductive material was accompanied on its entry into Northern Ireland by the supplier's label or document required by Article 14 of the Directive;

(g) it is marketed and labelled in compliance with paragraphs (2) to (7), regulation 14 and regulation 19 as read with regulation 20 in the case of seeds; and

(h) it meets the requirements of paragraphs (8) to (12).".

Regulation 18 (licences)

6. For regulation 18, substitute—

"**18. —**

(1) The Department may authorise a registered supplier by licence to—

(a) market forest reproductive material in Northern Ireland which would otherwise be prohibited under regulation 17(1); or

(b) import into Northern Ireland forest reproductive material which would otherwise be prohibited under regulation 25.

(2) The licence shall be in writing and may be granted—

(a) subject to conditions;

(b) for a definite or an indefinite period.

(3) The Department may only give an authorisation under paragraph (1)(a) or (1)(b)—

(a) if the forest reproductive material is to be marketed for use in tests, for scientific purposes or for genetic conservation purposes;

(b) if the forest reproductive material consists of seed units which are clearly shown not to be intended for forestry purposes; or

(c) in exercise of a derogation permitted by the Directive.

(4) The Department may also give an authorisation under paragraph (1)(a) if the forest reproductive material is to be marketed for use in selection work.

(5) If the Department decline to give an authorisation under paragraph (1), it shall give the applicant its reasons for doing so in writing.".

Regulation 19 (labelling and packaging of lots for marketing)

7. In regulation 19—

(a) in paragraph (3), for "sub-paragraph (2)(b)" substitute "paragraph (2)(b) or, in the case of material produced in an EU-approved third country, the requirements of paragraph (2)(d)";

(b) in paragraph (4), for "sub-paragraphs" substitute "paragraph".

Regulation 25 (prohibition against imports of forest reproductive material from third countries)

8. For regulation 25 , substitute—

"**25. Prohibition against imports of forest reproductive material into Northern Ireland from third countries.**".

"(1) No person may import forest reproductive material into Northern Ireland from a third country for the purpose of marketing it unless—

(a) it has been produced in an EU-approved third country or a permitted third country;

(b) it is permitted material; and

(c) the requirements set out in Schedule 13 are met on entry.

(2) A person intending to import permitted material into Northern Ireland from an EU-approved third country or a permitted third country shall notify the Department of the arrival of the material at least three days before the intended date of its arrival into Northern Ireland.

(3) The notification to the Department shall be—

(a) in writing;

(b) contain the following details in relation to the material—

(i) its anticipated point of entry into Northern Ireland; and

(ii) its anticipated date and time of arrival into Northern Ireland.

(4) After the permitted material has been imported into Northern Ireland, the owner of the permitted material may apply to the Department for a Master Certificate in relation to the material.

(5) If the Department is satisfied that the requirements set out in Schedule 13 have been met in relation to the permitted material, the Department shall issue a Master Certificate for the material to its owner.

(6) In the case of permitted material from an EU-approved third country, a Master Certificate issued under paragraph (5) shall—

(a) be based on the OECD Certificate of Provenance; and

(b) indicate that the material has been imported under an equivalence regime.

(7) In this regulation—

"OECD Certificate of Provenance" has the meaning given in paragraph 2 of Schedule 13;

"permitted material" has the meaning given in paragraph 2 of Schedule 13.".

Schedule 13

9. After Schedule 12, insert—

"SCHEDULE 13

PART 1

Regulation 25

Scope of Schedule

1. This Schedule applies to consignments of forest reproductive material produced in an EU-approved third country or a permitted third country.

Interpretation

2. In this Schedule—

"OECD Certificate of Provenance" means a certificate of provenance issued in accordance with the rules of the OECD Scheme;

"OECD label" means a label issued in accordance with the rules of 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;

"permitted material" means—

(a) in the case of forest reproductive material produced in an EU-approved third country, forest reproductive material which;

(i) is in the form of seeds or planting stock;

(ii) is of a species or artificial hybrid listed in Schedule 1;

(iii) has been certified as "source-identified", "selected" or "qualified" by the relevant official body in accordance with the rules of the OECD Scheme;

(iv) where it is in the form of seeds, it has been certified as derived from approved basic material by the relevant official body; and

(v) where it is in the form of planting stock, it has been produced in a nursery registered with, or under the official supervision of, the relevant official body.

PART 2

Scope of Part 2

3. This Part applies to consignments of permitted material produced in an EU-approved third country.

General requirements

4.—(1) A consignment of permitted material shall be accompanied by—

(a) a copy of the OECD Certificate of Provenance issued in relation to the permitted material; or

(b) a document completed by the supplier of the consignment containing—

(i) the supplier's name;

(ii) all of the information contained in the OECD Certificate of Provenance; and

(iii) in relation to any seed lot, the information specified in paragraph 5.

(2) An OECD label shall be attached to each seed lot and to each consignment of planting stock.

Additional requirements applicable to seed lots

5.—(1) The OECD label attached to a seed lot and any supplier's document accompanying the seed lot shall contain the following additional information in relation to the seed lot, assessed, so far as is practical in all the circumstances, using internationally accepted techniques—

(a) the percentage by weight of pure seed, other seed and inert matter;

(b) the germination percentage of pure seed, or where the germination percentage is impossible or impractical to assess, the viability percentage assessed by reference to a method which shall be described;

(c) the weight of 1000 pure seeds;

(d) the number of germinable seeds per kilogram of the seed, or where the number of germinable seeds is impossible or impractical to assess, the number of viable seeds per kilogram; and

(e) in the case of a seed lot of closely related species which does not reach a minimum species purity of 99%, the species purity.

(2) But the OECD label and supplier's document may omit the following information—

(a) any information mentioned in paragraph (1)(a) to (e) which is yet to be ascertained by testing the seed using internationally accepted techniques;

(b) in the case of a seed lot containing seed which has been harvested from the current season's crop, any information mentioned in paragraph (1)(b) or (d) which is not yet available;

(c) in the case of seed which is to be marketed in quantities no greater than those described for the species or artificial hybrid of the seed in Schedule 11, the information mentioned in paragraph (1)(b) or (d).

(3) All seed shall be consigned in sealed packages which have been closed in accordance with the rules of the OECD scheme.

Additional requirements applicable to seed or planting stock of the "qualified category"

6. In the case of forest reproductive material in the form of seed or planting stock of the "qualified category", the OECD label attached to a seed lot or to a consignment of planting stock shall state whether genetic modification has been used in the production of the basic material from which the forest reproductive material is derived.".

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 20th March 2019.

L.S.

John Joe O'Boyle
A senior officer of the
Department of Agriculture, Environment and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend The Forest Reproductive Material Regulations (Northern Ireland) 2002 (S.R.2002/404) ("the Principal Regulations") in relation to Northern Ireland.

The amendments set out the revised requirements which apply in Northern Ireland in relation to forest reproductive material produced in countries outside the European Union and;

The Regulations implement in relation to Northern Ireland Council Decision 2008/971/EC on the equivalence of forest reproductive material produced in third countries (OJ No L 345, 23.12.2008, p83), as amended by Decision No. 1104/2012/EU of the European Parliament and of the Council (OJ No L 328, 28.11.2012, p1).

Regulation 3(1)(b) provides for the references to Council Decision 2008/971/EC in the Principal Regulations to read as references to that instrument as amended from time to time.

An impact assessment has not been produced for this instrument as no impact on business, or the private or voluntary sector is foreseen. The Explanatory Memorandum for this instrument is available alongside this instrument at www.legislation.gov.uk.

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