# EXPLANATORY MEMORANDUM TO

# THE MARKETING OF FRUIT PLANT AND PROPAGATING MATERIAL (ENGLAND) (AMENDMENT) REGULATIONS 2020

## 2020 No. 248

## 1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for the Environment, Food and Rural Affairs ("Defra") and is laid before Parliament by Command of Her Majesty.

## 2. Purpose of the instrument

2.1 This instrument amends The Marketing of Fruit Plant and Propagating Material (England) Regulations 2017 ("the Principal Regulations"). It makes provision for a supplier's document to be yellow in colour when affixed to fruit material of the grade *Conformitas Agraria Communitatis* ("CAC") and reduces the information required in the supplier's document. The changes ensure traceability, provide more transparency for consumers and, by reducing the size of the supplier's document, affords greater flexibility for businesses.

2.2 This instrument is required to ensure that the UK fulfils its obligations under the Withdrawal Agreement to transpose EU law into domestic legislation until the end of the Implementation Period (31 December 2020). We are therefore transposing Commission Implementing Directive (EU) 2019/1813, which amends Implementing Directive 2014/96/EU. These Directives state requirements for the labelling, sealing and packaging of fruit plant propagating material and fruit plants that are intended for fruit production. These fall within the scope of Council Directive 2008/90/EC as regards the colour of the label for certified categories of propagating material and fruit plants and the content of the supplier's document.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments***

3.1 None.

***Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)***

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

## 4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

## 5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 6. Legislative Context

6.1 This instrument makes amendments to the Principal Regulations. It specifies that a supplier's document must be yellow in colour when affixed to CAC fruit material in the form of a label; provides for a transitional period (until 31st June 2021) for the continued affixing of supplier's documents in a colour other than yellow under particular circumstances; and removes a requirement to include certain prescribed information on the supplier's document. The information that will no longer be required is the quantity of the CAC material and the Member State where the CAC material was produced, where it is different from the Member State in which the supplier's document was prepared.

## 7. Policy background

***What is being done and why?***

7.1 This instrument makes changes to the Principal Regulations as specified above under section 6.1 (Legislative Context). There is no change being made to policy. The marketing of fruit plant and propagating material is regulated at EU level by the following Directives:

i Council Directive 2008/90/EU of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production.

ii Commission Implementing Directive 2014/96/EU of 15 October 2014 on the requirements for the labelling, sealing and packaging of fruit plant propagating material and fruit plants intended for fruit production, falling within the scope of Council Directive 2008/90/EC.

iii Commission Implementing Directive 2014/97/EU of 15 October 2014 implementing Council Directive 2008/90/EC as regards the registration of suppliers and of varieties and the common list of varieties.

iv Commission Implementing Directive 2014/98/EU of 15 October 2014 implementing Council Directive 2008/90/EC as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections.

7.2 These Directives prescribe processes to ensure minimum quality standards and traceability for marketed fruit plant and propagating material. They also set out administrative provisions, impose record keeping requirements and provide for the licensing of crop inspectors to carry out these functions. These Directives are transposed by the Regulations being amended by this instrument (stated in section 7.1).

## 8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act 2018.

## 9. Consolidation

9.1 There are no plans for consolidation.

## 10. Consultation outcome

10.1 Defra has not undertaken a public consultation on this instrument. Instead, the Animal and Plant Health Agency has informally consulted the Nuclear Stock Association on Defra's behalf. The Nuclear Stock Association is the main representative organisation for businesses producing and marketing fruit plant and propagating material and has not indicated any issues with Defra's approach.

## 11. Guidance

11.1 As this legislation does not substantively change the way that certification or marketing of fruit plant and propagating material functions, or the quality standards, guidance has not been produced at this stage. The Nuclear Stock Association is aware of the changes and guidance for businesses using the services will be updated before material produced during 2020 is marketed.

## 12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because no significant impact on business or the voluntary sector is foreseen.

## 13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 No mitigating action is proposed because the impacts are small and the industry, which is mostly small businesses, is aware and already planning to make the changes. Businesses can avoid much of the change by providing the supplier's document separately from the fruit material.

## 14. Monitoring & review

14.1 The approach to monitoring of this legislation is through the course of normal departmental business, as no substantive changes to current procedures or standards for the marketing of fruit plant and propagating material are being introduced.

14.2 A statutory review clause is already included in the Principal Regulations affected by these amendments.

## 15. Contact

15.1 Andrew Mitchell at the Department for Environment, Food and Rural Affairs Telephone: 0208 02 65714 or email: andy.mitchell@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Nicola Spence, Deputy Director and Chief Plant Health Officer at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.

15.3 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble, at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.