POLICY NOTE

THE MARKETING OF FRUIT PLANT AND PROPAGATING MATERIAL (SCOTLAND) AMENDMENT REGULATIONS 2025

S.S.I. 2025/155

Introduction

1. The above instrument ("the SSI") is made by the Scottish Ministers in exercise of the powers conferred by sections 16(1), 16(1A), 29(1) and 36 of the Plant Varieties and Seeds Act 1964 ("PVS Act") and all other powers enabling them to do so. The SSI is subject to negative procedure.

PURPOSE OF THE INSTRUMENT

The purpose of this SSI is to amend the lists of Regulated Non-Quarantine Pests, and associated requirements, in the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017, in order to align with amendments made by the European Union to Commission Implementing Directive 2014/98/EU, therefore maintaining equivalence with the European Union for fruit plants and fruit plant propagating material.

Policy objectives

2. Regulated Non-Quarantine Pests ('RNQPs') are plant pests that are present in a country and not subject to quarantine measures. However, their presence on plants intended for planting can cause economically unacceptable impacts. The presence of RNQPs on plant hosts is therefore regulated on both domestic plants for planting and imported plants to reduce their potential impact, be that by requiring treatment of GB populations or refusing entry of imported infested plants. The definition of a RNQP is set out in Article 36 of Regulation (EU) 2016/2031.

3. The purpose of the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017 ('the 2017 Regulations') is to ensure that fruit plants and fruit plant propagating material are consistently healthy and of good quality. To that end, the 2017 Regulations set out inspection, sampling, testing and production site requirements in relation to plant species and the RNQPs to which they are vulnerable. This SSI makes changes to the RNQPs referred to in the 2017 Regulations and to requirements in relation to some of them.

4. The 2017 Regulations transposed the requirements of European Union ('EU') legislation as regards to fruit plant propagating material and fruit plants. After the exit of the UK from the EU, the EU granted equivalence to the UK for fruit plants and fruit plant propagating material, meaning that such material from Great Britain can be marketed in the EU and Northern Ireland. Amendments are made to the 2017 Regulations by this SSI in order to align with the amendments made by the EU to Commission Implementing

Directive 2014/98/EU regarding RNQPs and species of fruit plants. Such alignment is necessary to ensure the continuation of EU equivalence for fruit plants and fruit plant propagating material from Great Britain.

5. This SSI makes the following amendments to the 2017 Regulations:

    - Schedule 6 is amended to remove Fig mosaic agent, because it no longer fulfils the conditions to be listed as a RNQP, and *Candidatus* Phytoplasma australiense Davis *et al*, because it is now classed as a quarantine pest. *Pucciniastrum minimum* (Schweinitz) Arthur is added to the list of RNQPs in relation to *Vaccinium* L,

    - Schedule 6A is amended to add Tomato ringspot virus as a RNQP in relation to *Malus* Mill., *Rubus* L., *Vaccinium* L. and species of *Prunus* L. Tobacco ringspot virus is also added as a RNQP in relation to *Vaccinium* L.,

    - The plant material sampling, testing and production site requirements in Schedule 7 are amended to include requirements in relation to Tomato ringspot virus and Tobacco ringspot virus,

    - The requirements in Schedule 7 regarding Pyrus L. and its associated RNQP, *Candidatus* Phytoplasma pyri Seemüller & Schneider, are amended. Production site requirements in relation to pre-basic *Cydonia oblonga* Mill. produced in non-insect proof conditions are removed.

    These proposed changes to meet EU equivalence will have minimum impact on Scottish industry.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

6. Under the requirements of the UNCRC (Incorporation) (Scotland) Act 2024, these amendments are not relevant to children's rights or wellbeing as set out in the UNCRC (Incorporation) (Scotland) Act 2024.

7. In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, *The Marketing of Fruit Plant and Propagating Material (Scotland) Amendment Regulations 2025* is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

8. This instrument is relevant to the Scottish Government's policy to maintain alignment with the EU.

9. The UK (or Great Britain since NI still applies EU law) is the only country to be granted **EU wide equivalence** for fruit plants and fruit plant propagating material. Details of the equivalence decision can be found in Commission Implementing Decision 2020/2219.

10. The UK Plant Variety and Seed Committee (PVSC) concluded that to **reduce the risk of loss of EU equivalence** for fruit propagating material and fruit plants, the best option was to pursue alignment as far as possible with the EU timetable.

11. The current EU proposal states that Member States should have transcribed the requirements by 31st July 2025, and officials consider Scotland should make these changes as soon as possible in order to cause no equivalence impacts.

12. Alignment across UK governments (Defra, the Scottish Government, and the Welsh Government) is necessary to prevent any disadvantage to the industry. Consequently, the coming into force (CIF) date has been delayed to allow Welsh government adequate time to align with the process. A revised date of 7th October 2025 has been set, as this is the earliest achievable timeline for all administrations to commit to. This delay will have minimal impact on industry while maintaining equivalence with minimal risk.

Statement required by the European Union (Withdrawal) Act 2018 - why the Scottish Ministers consider that there are good reasons for the amendments made to regulations made under section 2(2) of the European Communities Act 1972

13. The Minister for Parliamentary Business has made the following statement under paragraph 16(2) of Part 1 of schedule 8 of the European Union (Withdrawal) Act 2018:

"I believe there are good reasons for the amendments made by this instrument to the 2017 Regulations, which were made under section 2(2) of the European Communities Act 1972. The 2017 Regulations transposed EU requirements as regards fruit plants and fruit plant propagating material. Those requirements facilitated the granting of equivalence by the EU to fruit plants and propagating material originating from Great Britain. It is therefore appropriate to continue to align with the updated EU phytosanitary requirements for fruit plants and propagating material to ensure equivalence and maintain ongoing trade in this specific market."

Consultation

14. Section 16(1) of the PVS Act requires Scottish Ministers to consult with representatives of such interests as appear to them to be concerned before making regulations under that power.

15. A joint consultation (Defra, Welsh Government and Scottish Government) ran for an eight week period (10th March 2025 to 5th May 2025) and was targeted specific relevant stakeholders.

16. No responses were received within the consultation period, indicating the majority are content with the proposed amendments.

Financial Considerations

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

18. The Minister for Agriculture and Connectivity confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Timing

19. The SSI comes into force on 7th October 2025.

Scottish Government

Agriculture and Rural Economy Directorate

SASA, Agriculture Division

May 2025