STATUTORY RULES OF NORTHERN IRELAND

2020 No. 319

EXITING THE EUROPEAN UNION

SEEDS

The Seed Marketing and Fertilisers (Amendment) (EU Exit) Regulations (Northern Ireland) 2020

Made - - - - 10th December 2020

Coming into operation in accordance with regulation 1

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The Department of Agriculture, Environment and Rural Affairs, in exercise of the powers conferred by section 11 and 22 of, and paragraph 1(1) of Part 1 and paragraph 11M of Part 1C of Schedule 2 and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018(**a**), makes the following Regulations.

(**a**) 2018 c. 16; Part 1C was inserted by section 22 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) and paragraph 21(b) of Schedule 7 was amended by paragraph 53(2)(b) of Schedule 5 to the 2020 Act..

PART 1

Introduction

Citation, commencement and interpretation

1. These Regulations may be cited as the Seed Marketing and Fertilisers (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 and shall come into operation on IP completion day.

2. The Interpretation Act (Northern Ireland) 1954(**a**) applies to these Regulations as it applies to an Act of the Assembly.

PART 2

Amendment of seed marketing legislation

Amendment of the Seed Marketing Regulations (Northern Ireland) 2016

3. The Seed Marketing Regulations (Northern Ireland) 2016(**b**) are amended as follows—

(a) in regulation 3(b1), for " or Switzerland", substitute ", Switzerland or Northern Ireland";

(b) for regulation 4(2), substitute—

"(2) They do not apply—

(a) in relation to cereal seed, vegetable seed, beet seed and oil and fibre plant seed intended for export outside the European Union; or

(b) in relation to fodder seed intended for export outside the United Kingdom.";

(c) in regulation 8(2)—

(i) in sub-paragraph (a), at the beginning, insert "fodder ";

(ii) in sub-paragraph (c)—

(aa) for "seed which", substitute "cereal seed, vegetable seed, beet seed and oil and fibre plant seed which";

(bb) omit "third" in the first place it occurs; and

(d) for regulation 22, substitute—

"**22.**—(1) The Department may by licence exempt any person or class of person from compliance with any provision of these Regulations for the purpose of a temporary experiment—

(a) organised under—

(i) Article 19 of Council Directive 2002/54/EC on the marketing of beet seed;

(ii) Article 13a of Council Directive 66/402/EEC on the marketing of cereal seed;

(iii) Article 16 of Council Directive 2002/57/EC on the marketing of seed of oil and fibre plants;

(iv) Article 33 of Council Directive 2002/55/EC on the marketing of vegetable seed; or

(b) in the case of fodder seed, seeking improved alternatives to provisions of these Regulations organised in accordance with regulations made under section 2(4) of the Seeds Act (Northern Ireland) 1965(**c**).

(2) The duration of an experiment shall not exceed 7 years.";

(**a**) 1954 c. 33 (NI).
(**b**) S.R. 2016 No. 244, as amended by S.R. 2017 No. 222.
(**c**) 1965 c. 22 (N.I.).

(e) for regulation 27(1), substitute—

"(1) In the case of—

(a) cereal seed, vegetable seed, beet seed and oil and fibre plant seed, which has been imported into Northern Ireland from outside the European Union; and

(b) fodder seed, which has been imported into Northern Ireland from outside the United Kingdom,

the seed must be labelled with a label approved by the Organisation for Economic Cooperation and Development for the varietal certification on the control of seed moving in international trade."(**a**);

(f) in Schedule 2, after paragraph 25(1), insert—

"(1A) For the purposes of sub-paragraph (1), Council Directive 66/401/EEC is to be read as if—

(a) in Article 2(3)(A)(a)(iii), for "officially licensed by the seed certification authority of the member State concerned", there were substituted "licensed by the Department";

(b) in Annex 1, in Part 4, in the second sub-paragraph, the words from "Upon" to "appropriate means" were omitted.";

(g) in Schedule 3—

(i) for paragraph 5(5), substitute—

"(5) It must—

(a) in the case of cereal seed, vegetable seed, beet seed or oil and fibre plant seed, be in one of the official languages of the European Union; or

(b) in the case of fodder seed, English.";

(ii) for paragraph 6(1)(b) substitute—

"(b) in the case of—

(i) cereal seed, vegetable seed, beet seed or oil and fibre plant seed, the name or initials of the European Single Market State;

(ii) seed certified in Northern Ireland "UK(NI)";";

(iii) for paragraphs 7(1)(a) and 8(1)(a), substitute—

"(a) in the case of—

(i) cereal seed, vegetable seed, beet seed and oil and fibre plant seed, the words "EU rules and standards";

(ii) fodder seed, the words "UK rules and standards";";

(iv) for paragraphs 7(1)(c) and 8(1)(c), substitute—

"(c) in the case of—

(i) cereal seed, vegetable seed, beet seed or oil and fibre plant seed, the name or initials of the European Single Market State;

(ii) seed certified in Northern Ireland "UK(NI)";";

(v) for paragraph 9(1)(b), substitute—

"(b) in the case of—

(i) cereal seed, vegetable seed, beet seed or oil and fibre plant seed, the name or initials of the European Single Market State;

(ii) fodder seed "UK(NI)";";

(vi) in paragraphs 20, 21 and 22, in each place it occurs, for "EU", substitute "UK";

(**a**) https://www.oecd.org/agriculture/seeds/documents/oecd-seed-schemes-rules-and-regulations.pdf

(vii) in paragraphs 21(2)(d), 22(2)(c)(ii) and 22(d)(ii), in each place it occurs, for "European Single Market State", substitute "country";

(h) in Schedule 4—

(i) in paragraph 5—

(aa) in sub-paragraphs (1)(a)(i) and (ii) and (2)(a)(i), for "EU minimum percentage of germination", substitute "minimum percentage of germination specified in the relevant Directive";

(bb) for sub-paragraph (6)(b), substitute—

"(b) seed imported into Northern Ireland from a country that has been granted equivalence."

(ii) in paragraph 6—

(aa) in sub-paragraph (2)(a), at the beginning, insert "fodder";

(bb) for sub-paragraph (2)(b), substitute—

"(b) cereal seed, vegetable seed, beet seed or oil and fibre plant seed of a listed variety officially certified as early movement seed in Northern Ireland; or

(c) cereal seed, vegetable seed, beet seed or oil and fibre plant seed of a listed variety officially certified as early movement seed by or on behalf of the competent seed certification authority in a European Single Market State.";

(cc) for sub-paragraph (3)(a)(i), substitute—

"(i) in the case of—

(aa) cereal seed, vegetable seed, beet seed or oil and fibre plant seed that has been harvested from a crop produced in Northern Ireland; or

(bb) fodder seed that has been harvested from a crop produced in the United Kingdom,

for which a field inspection report has been issued stating that the crop has been found by an official field inspection (whenever carried out) to satisfy the conditions set out in the Directive relating to the crop from which seed is to be produced specified in Schedule 2;";

(dd) in sub-paragraph (3)(b), in each place it occurs, for "the United Kingdom", substitute "Northern Ireland";

(iii) in paragraph 8—

(aa) after sub-paragraph (5), insert—

"(5A) For the purposes of sub-paragraph (5), insofar as it relates to fodder seed, Article 14 of Commission Directive 2008/62/EC is to be read as if—

(a) in the first paragraph—

(i) the words "Each Member State shall ensure that," were omitted;

(ii) the reference to "that Member State", there were substituted "the United Kingdom";

(b) in the second paragraph—

(i) the words "in each Member State" were omitted;

(ii) for the references to "the Member State", in both places, there were substituted "the United Kingdom".";

(bb) in sub-paragraph (7), for "set out in" to "(as the case may be)", substitute "specified for that species (as the case may be) in Schedule 2";

(iv) in paragraph 9—

(aa) after sub-paragraph (b), insert—

"(b1) for the purposes of sub-paragraph (b), Article 3 of Commission Directive 2010/60/EU is to be read as if—

(i) for “a Member State”, there were substituted “the Department”; and

(ii) the second and third sentences were omitted.”;

(bb) for sub-paragraph (5)(a), substitute—

“(a) where the mixture contains seed of—

(i) cereal, vegetable, beet or oil and fibre plants, the words “EU rules and standards”; and

(ii) fodder, the words “UK rules and standards”;”;

(cc) in sub-paragraph (7), at the beginning, insert “Subject to sub-paragraph (8)”;

(dd) after sub-paragraph (7), insert—

“(8) For the purposes of this paragraph, Article 1(a) of Commission Directive 2010/60/EU is to be read as if the definition of “source area” contained in that Article defined it to mean an area designated as a special area of conservation or an area contributing to the conservation of plant genetic resources in accordance with retained EU law.”;

(v) in paragraph 10(8), for “the United Kingdom”, substitute “Northern Ireland”;

(vi) in paragraph 13(a), at the beginning, insert “Part C of”;

(vii) in paragraph 14—

(aa) in sub-paragraph (1), for “third country” to “produced in third countries)”, substitute “country that has been granted equivalence”;

(bb) in sub-paragraph (3)(b), for “is from a third”, substitute “has been imported from a country that has been granted equivalence”;

(viii) in paragraph 16—

(aa) in the head, at the beginning, insert “Fodder”;

(bb) in paragraph (1), in the words before sub-paragraph (a), at the beginning, insert “Fodder”;

(ix) in paragraph 17(1)—

(aa) after the first instance of “seed”, insert “of cereal, vegetable, beet or oil and fibre plant”;

(bb) in sub-paragraph (a)(i), omit “third”;

(x) in regulation 18—

(aa) in the head and in paragraph (1), in the words before sub-paragraph (a), for “third country”, substitute “country that has been granted equivalence”;

(bb) in sub-paragraph (1)(a)(i), from “third country” to “third countries)”, substitute “country that has been granted equivalence”;

(cc) in sub-paragraph (1)(a)(ii), omit “third”;

(xi) after paragraph 19, insert—

“**Interpretation**

20. For the purposes of this Schedule, “country that has been granted equivalence” means a country that has been granted equivalence under Council Decision 2003/17/EC on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries.”.

PART 3

Amendment of fertiliser legislation

Amendment of the Fertilisers Regulations (Northern Ireland) 1992

4. Regulation 3 of the Fertilisers Regulations (Northern Ireland) 1992(**a**) is amended as follows—

(1) In paragraph (1), at the beginning, insert "Subject to paragraph (3),";

(2) After paragraph (2), insert—

"(3) A person may sell a fertiliser designated as a "UK fertiliser" under Regulation (EC) No 2003/2003."(**b**).

Amendment of the EC Fertilisers Regulations (Northern Ireland) 2006

5. For paragraph (2) of regulation 12 of the EC Fertilisers Regulations (Northern Ireland) 2006(**c**), substitute—

"(2) An inspector may be accompanied by such other persons the inspector considers necessary.".

PART 4

Revocation

Revocation

6. The Fertilisers (Amendment) (Northern Ireland) (EU Exit) Regulations 2019(**d**) are revoked.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 10th December 2020.

L.S.

Dave Foster
A senior officer of the
Department of Agriculture, Environment and Rural Affairs

(**a**) S.R. 1992 No. 187, as amended by S.R. 1995 No. 49, S.R. 1997 No. 378, S.R. 1998 No. 353 and S.R. 2018 No. 188.
(**b**) OJ No L304, 21.11.2003, p. 1, as given effect in UK law, by dint of the European Union (Withdrawal) Act 2018 (c. 16).
(**c**) S.R. 2006 No. 503, as amended by S.R. 2018 No. 188.
(**d**) S.I. 2019/100.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply in Northern Ireland and implement the Ireland/Northern Ireland Protocol (the Protocol), in respect of seed marketing and fertilisers.

Part 2 amends the Seed Marketing Regulations (Northern Ireland) 2016 to implement the Protocol in respect of seed of cereal, beet, vegetables and oil and fibre plants. It also provides for the marketing of fodder seed to continue under the UK regime. In addition, the amendments provide for fodder seed which has been certified in the EU to be marketed in Northern Ireland under OECD trade rules.

Schedule 3 of the 2016 Regulations is amended to reflect the difference in labelling requirements between fodder seed as part of the UK regime and the other species of seed which will continue to use EU labels.

Schedule 4 of the 2016 Regulations is amended to reflect the different requirements between fodder seed and the other species of seeds with regards to exceptions to the regulations such as early movement of seed, labelling of preservation varieties and seed not finally certified.

The Regulations also provide for references to Directive 66/401/EEC (fodder seed) in the 2016 Regulations to be read as if references to the EU in the Directive are references to the UK or NI, as the case may be.

Part 3 amends Northern Ireland legislation relating to the manufacture and marketing of fertilisers. Regulation 4 amends the Fertiliser Regulations (Northern Ireland) 1992 to ensure that fertilisers designated as "UK fertilisers" under retained EU law in Great Britain, can be marketed in Northern Ireland at the end of the Implementation Period.

Regulation 5 amends the EC Fertiliser Regulations (Northern Ireland) 2006 to reflect the fact that Northern Ireland is not part of the EU.

Regulation 6 revokes the Fertilisers (Amendment) (Northern Ireland) (EU Exit) Regulations 2019.

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