

Jane Hutt AC/AM
Arweinydd y Tŷ a'r Prif Chwip
Leader of the House and Chief Whip



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-L/LG/5337/16

Elin Jones AM
Llywydd
National Assembly for Wales

16 June 2017

Dear Llywydd,

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

In accordance with guidance I am notifying you that section 11A(4) of the Statutory Instruments Act 1946, as inserted by Sch.10 para 3 of the Government of Wales Act 2006, which affords the rule that statutory instruments come into force at least 21 days from the date of laying, will be breached for the introduction of the above amending Regulations. The Explanatory Memorandum is attached for your information.

The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 implement three EU Directives which introduce harmonised EU certification schemes with high standards for fruit propagating material, while also permitting producers to market uncertified material meeting minimum standards. The three Directives in question are:

- Directive 2014/69/EC on requirements for labelling, sealing and packaging of fruit plant and propagating material;
- Directive 2014/97/EC on the registration of suppliers and of varieties and the common list of varieties; and
- Directive 2014/98/EC on specific requirements for production and marketing of fruit plant and propagating material.

The Directives introduce specific requirements for establishing the identity and quality of propagating material and for labelling and packaging, to provide assurance for buyers of the material. The most important species relevant to the UK are strawberry, raspberry,

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Jane.Hutt@llyw.cymru
Correspondence.Jane.Hutt@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

blackberry and blueberry; although apples, pear and plums etc. are also included. The Regulations revoke and replace the Marketing of Fruit Plant Material Regulations 2010.

The transposition date for these Directives was 1 January 2017. This date was missed due to a number of delays, including a delay in releasing the consultation, which included the National Assembly for Wales' elections and the EU referendum.

These Regulations are enforced by the Plant Health and Seed Inspectorate (PHSI), part of Defra's Animal and Plant Health Agency, on a Wales and England basis. To ensure parity of enforcement procedures for industry in Wales and England, Welsh Government officials have had to follow Defra's lead and timetable in preparing this Instrument.

The European Commission issued a letter of formal notice (a Jumbo letter) in late January for failure to transpose these Directives. Our response committed to a revised transposition date of 19 June. Any delay beyond 19 June is highly likely to result in the Commission issuing a reasoned opinion.

Similar legislation came into force in England on 1st June 2017 and Defra breached the 21 day rule in order to comply with their commitment to the European Commission to have Regulations in force by 1 June 2017.

I regret to inform you that in order to bring these Regulations into force in time to meet the delayed deadline of 19 June 2017 for transposing the Directives listed above, and to ensure industry are able to market fruit material as soon as possible, we are unable to allow 21 days before this instrument comes into force.

An eight week, targeted consultation with the main interested parties was undertaken in England and Wales. Welsh Fruit Stocks is the only company in Wales which produces certified fruit plant material and they are a member of the Nuclear Stock Association (NSA) who, together with the Animal and Plant Health Agency (APHA), manages the existing voluntary scheme. NSA held meetings to advise all of its members of the proposed changes.

The eight week consultation started on 30 September 2016 and ended on 25 November 2016:

- Two responses were favourable and supported the objectives of the Directive and the approach to implementation by adapting the current voluntary scheme. One of the responses from Dr Walpole, NSA Chair, wrote to Defra to confirm its members had unanimously agreed the content of the proposals.
- One respondent indicated a preference to retain a voluntary domestic scheme and not implement the EU Directives but did not set out his views in any more detail.

To ensure continued enforceability with the rest of the UK it has become necessary to breach the 21 day rule.

A Regulatory Impact Assessment has not been prepared for these Regulations. A Regulatory Triage Assessment has been prepared by Defra on an England and Wales basis. There will be additional costs for labelling and reduced costs for inspection with a small overall benefit. However, an Explanatory Memorandum has been prepared and this has been laid, together with the Regulations, in Table Office.

A copy of this letter goes to Huw Irranca-Davies AM, Chair of the Constitutional and Legislative Affairs Committee and Chris Warner, Head of Policy and Legislation Committee Service.

A handwritten signature in cursive script that reads "Jane".

Jane Hutt AC/AM

Arweinydd y Tŷ a'r Prif Chwip
Leader of the House and Chief Whip