



# Info Note

Brussels, 15 July 2020

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## Brexit

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# Introduction

On 29 March 2017, the United Kingdom, following the outcome of a referendum held in the United Kingdom and its decision to leave the European Union, notified its intention to withdraw from the European Union in accordance with Article 50 of the [Treaty on European Union](#).

The UK was due to leave the EU on 29 March 2019, when the period for negotiating a Withdrawal Agreement was supposed to be concluded. However, the withdrawal period has been extended several times.

On 25 November 2018, the European Council endorsed the draft Agreement on the withdrawal of the United Kingdom from the European Union ('Withdrawal Agreement') and approved the Political Declaration setting out the framework for the future relationship.

On 11 January 2019, the Council adopted [Decision \(EU\) 2019/274](#) on the signing of the Withdrawal Agreement.

By [Decision \(EU\) 2019/476](#), the European Council, in agreement with the United Kingdom, initially decided to extend the period until 12 April 2019. That period was further extended until 31 October 2019 by [Decision \(EU\) 2019/584](#) taken in agreement with the United Kingdom.

On 17 October 2019, the European Council endorsed the [withdrawal agreement](#) as agreed by the negotiators of both sides.

On 21 October 2019, the Council adopted [Decision \(EU\) 2019/1750](#) amending [Decision \(EU\) 2019/274](#) on the signing of the Withdrawal Agreement.

On 29 October 2019, the European Council published [Decision 2019/1810](#) (taken in agreement with the United Kingdom) extending the withdrawal period to 31 January 2020.

On 31 January 2020 at midnight (CET), the withdrawal agreement entered into force upon the UK's exit from the EU. The UK is no longer an EU member state and is considered a third country.

The entry into force of the withdrawal agreement marks the end of the period under Article 50 TEU and the start of a transition period due to last until 31 December 2020.

There is now a transition period until the end of 2020 while the UK and EU negotiate additional arrangements.

The current rules on trade, travel, and business for the UK and EU will continue to apply during the transition period.

New rules will take effect on 1 January 2021.

The present document is meant to raise awareness towards Euroseeds' members in regards of business impacts in the plant reproductive material sector.

# Variety registration and Seed marketing

- What do we know from the EU?

In order to inform, the European Commission issued a notice to stakeholders.

[Withdrawal of the United Kingdom and EU rules in the field of marketing of seeds and other plant reproductive propagating material](#)

## **Inclusion in Common Catalogues or national registry (catalogue, register or list)**

Varieties of agricultural and vegetable species have to be maintained in an EU-27-Member State in order for their seed to be allowed to be marketed within the Union.

Varieties that have been included in the Common Catalogues by the United Kingdom only must have been accepted by another Member State in order for the varieties to remain in those Common Catalogues and be allowed to be marketed in the EU.

Breeders should be aware that the examination results have to stem from examinations in an EU-27 Member State for the variety to be included in the Common Catalogues or national registry.

## **Marketing of seed and propagating material**

According to the Directives 66/401/EEC (fodder plants), 66/402/EEC (cereals), 2002/53/EC (Common Catalogue of agricultural varieties), 2002/54/EC (beet), 2002/55/EC (vegetable seeds), 2002/56/EC (potato seeds), 2002/57/EC (oil and fibre plants), and 2008/72/EC (vegetable propagating material), imports of seed and propagating material from third countries are subject to the respective provisions of each Directive concerning recognition of equivalent requirements of third countries. The UK will not have third-country equivalence from 1 January 2021. The UK will have to apply to the EU for 'third-country equivalence' on plant reproductive material certification and DUS testing after 1 January 2021.

The EU will not accept UK certified plant reproductive material, even if the variety is on the EU's Common Catalogue, if the UK is not granted equivalence. The EU will not accept UK DUS test results for the purpose of taking any decision on DUS for registration in the EU. However, it cannot be guaranteed this recognition would be in place in a timely manner.

- What do we know from the UK?

In order to inform, the UK issued a notice to stakeholders.

[Guidance on Plant variety rights and marketing plant reproductive material from 1 January 2021](#)

There is now a transition period until the end of 2020 while the UK and EU negotiate additional arrangements.

The current rules on trade, travel, and business for the UK and EU will continue to apply during the transition period.

New rules will take effect on 1 January 2021.

### **Inclusion in UK variety lists**

The UK intends to allow varieties on the EU Common Catalogue to be marketed in the UK for an interim period of two years after the UK leaves the EU (one year for seed potatoes). After the 2-year interim period, and one-year interim period for seed potatoes, the main agricultural food and feed crop varieties, including vegetables, marketed in the UK need to be on the UK National List.

The UK plans to continue to accept EU DUS reports if they are of comparable quality to UK DUS reports.

The exception to this will be agricultural species currently tested by the:

- Agri-Food and Biosciences Institute
- National Institute of Agricultural Botany
- Science and Advice for Scottish Agriculture

For these species, the UK will only accept DUS reports from these approved UK science organisations.

### **Marketing of seed and propagating material**

The UK will not have third-country equivalence from 1 January 2021. The UK will apply to the EU for 'third-country equivalence' on plant reproductive material certification and DUS testing after 1 January 2021.

The EU will not accept UK certified plant reproductive material, even if the variety is on the EU's Common Catalogue, if the UK is not granted equivalence.

The EU's plant health import requirements mean that seed potatoes cannot be exported from the UK to the EU unless a change in requirements can be agreed. Defra is responsible for negotiating agreements with the EU for seed potatoes.

Regardless of the outcome of the UK's application for third-country equivalence, it will be possible to market in the UK:

- varieties, except potatoes, listed on the EU Common Catalogue for a 2-year period after 1 January 2021
- varieties of potatoes for a one-year period after 1 January 2021

EU certified seed of agricultural species will be accepted in the UK for a period of 2 years after 1 January 2021. There are specific arrangements for other groups of material.

EU certified seed potatoes will continue to be recognised in England, Wales and Northern Ireland for one year from 1 January 2021. Scotland will continue to operate its voluntary arrangement with industry on sourcing seed potatoes locally to maintain Scotland's higher phytosanitary status.

Vegetables varieties on the EU Common Catalogue can be marketed for a 2-year interim period from 1 January 2021. The same labelling can still be used. After this period, vegetable varieties must be on the UK National List and labelled as UK standard seed or vegetable propagating material.

For fruit propagating and planting material, the UK will continue to recognise EU-certified and Conformitas Agraria Communitatis (CAC) material for a 2-year interim period. Varieties accepted for marketing in the EU will continue to be marketable in the UK. Before the end of the 2-year period, the UK will decide if it will continue to accept EU-certified and CAC material and EU varieties.

EU material of ornamental species will continue to be allowed to be marketed in the UK, including after the 2-year interim period.

### **Placing on the market before the end of the transition period**

Article 41(1) of the Withdrawal Agreement provides that an existing and individually identifiable good lawfully placed on the market in the EU or the United Kingdom before the end of the transition period may be further made available on the market of the EU or of the United Kingdom and circulate between these two markets until it reaches its end-user. It is for the operator who wishes to rely on this provision to prove by any relevant document that the good was placed on the market in the EU or the United Kingdom before the end of the transition period.<sup>1</sup>

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<sup>1</sup> This means for instance that an individual plant of a plant variety included in the registry of the United Kingdom sold from a UK producer to a UK distributor before the end of the transition period can still be imported into the EU on the basis of the registration in the United Kingdom.

“Placing on the market” means the first supply of a good for distribution, consumption or use on the market in the course of a commercial activity, whether in return for payment or free of charge.

This is without prejudice to phytosanitary controls that may apply to imports after the end of the transition period.

### **The Protocol on Ireland / Northern Ireland**

In the relation of Ireland and Northern Ireland, after the end of the transition period the Protocol on Ireland / Northern Ireland will apply which is periodically reviewed after its first duration of validity which is for 4 years. This Protocol provides that after the end of the transition period certain provisions of EU law will apply in the UK in respect of Northern Ireland. This covers also the EU PRM legislation.

More in details this will mean that:

- plant reproductive material placed on the market in Northern Ireland has to comply with EU PRM legislation;
- from an EU law point of view, plant reproductive material originating from Northern Ireland and shipped to the EU is not considered as imported plant reproductive material whereas plant reproductive material shipped from Great Britain to Northern Ireland is considered as an import under the EU PRM legislation;

However, it also has to be noted that:

- Inclusion of plant reproductive material in the UK’s national registry or in UK supplier’s list according to EU PRM legislation does allow for marketing plant reproductive material in Northern Ireland only. The inclusion of plant reproductive material in the UK’s national registry or in a UK supplier’s list does not allow for marketing plant reproductive material in the EU.
- The inclusion of plant reproductive material in the national registry of an EU Member State or in the list of an EU supplier does allow for marketing plant reproductive material in Northern Ireland.
- The Common Catalogues established by Directives 2002/53/EC and 2002/55/EC cannot include seed varieties bred or examined in Northern Ireland and notified by the United Kingdom.

# Plant Variety Rights

- What do we know from the EU?

In order to inform, the Community Plant Variety Office (CPVO) issued a notice to stakeholders.

[Withdrawal of the United Kingdom and EU rules in the field of Union plant variety rights](#)

All Community Plant Variety Rights granted will remain valid in the Union territory, regardless of the origin of the breeder or the location of the Examination Offices.

The Examination Offices in the United Kingdom will no longer have the possibility to participate in the technical verification of the maintenance of the protected varieties. Technical verifications following the withdrawal date will be organised by the CPVO in an EU-27 based Examination Office.

All interested breeders who are currently domiciled or have a seat in the United Kingdom only should consider the need to designate in a timely manner a procedural representative to comply with the provisions of Article 82 of Regulation (EC) No 2100/94 on Community plant variety rights (designation of a procedural representative who is domiciled or has his seat or an establishment within the EU territory). This is because any party who wishes to be able to act before the CPVO in appeal cases, needs to be domiciled in the EU territory or has to have a designated representative domiciled in the EU territory.

The Withdrawal Agreement contains some provisions (Articles 54 and 55) which already lay down the foundations regarding the separation of the EU and UK plant variety protection systems for the future.

- What do we know from the UK?

In order to inform, the UK issued a notice to stakeholders.

[Guidance on Plant variety rights and marketing plant reproductive material from 1 January 2021](#)

There is now a transition period until the end of 2020 while the UK and EU negotiate additional arrangements.

The current rules on trade, travel, and business for the UK and EU will continue to apply during the transition period.

New rules will take effect on 1 January 2021.



EU rights granted 2 months or more before the transition period ends are protected under UK law, becoming UK rights.

If Breeders already applied for EU rights, but these have not been granted before 31 October 2020, breeders must also apply to the Animal and Plant Health Agency (APHA) for rights to protect the variety in the UK.

This is because EU legislation allows a 2-month period for appeals. APHA cannot protect varieties in the UK which might be subject to appeal against the Community Plant Variety Office's (CPVO) decision to grant rights.

If the UK application is made within 6 months from 1 January 2021, then the same distinctness, uniformity and stability (DUS) test can be used.

If EU rights were granted less than 2 months before 1 January 2021, then breeders must apply for rights to protect the variety in the UK. If breeders make the UK application within 6 months of 1 January 2021, then the same distinctness, uniformity and stability (DUS) test can be used.

If the variety is not distinct from an independently bred variety, priority will be decided using the date of the application for EU rights.

For new varieties after 1 January 2021, breeders will need to apply separately in the UK and the EU. You must apply to:

- APHA for UK protection
- the CPVO for EU protection

The EU will continue to recognise EU plant variety rights granted to all breeders before 1 January 2021.

# Plant Health

- What do we know from the EU?

In order to inform, the European Commission issued a notice to stakeholders.

[Withdrawal of the United Kingdom and EU rules on plant health](#)

## **Introduction of plants, plant products or other objects into the EU**

There is now a transition period until the end of 2020 while the UK and EU negotiate additional arrangements.

The current rules on trade, travel, and business for the UK and EU will continue to apply during the transition period.

New rules will take effect on 1 January 2021.

As of the end of the transition period, the introduction of plants, plant products and other objects from the United Kingdom into the EU-27 will be governed by Regulation (EU) 2016/2031 on protective measures against pests of plants.

The introduction into the European Union of certain plants, plant products and other objects listed in [Commission Implementing Regulation \(EU\) 2019/2072](#) is prohibited (which includes seed potatoes from third countries other than Switzerland), or shall be accompanied by a phytosanitary certificate. Moreover, certain plants, plant products and other objects may only be introduced into the Union if they comply with the special requirements (additional declarations on the phytosanitary certificate).

The UK has requested a derogation under the Plant Health Directive for seed potatoes (and ware potatoes).

Plants, plant products and other objects submitted to phytosanitary certificate are subject to:

- 100% documentary controls at the point of entry;
- 100% identity and physical controls, unless specified minimum frequencies are established depending on the risk that they present

In case seeds and other propagating material are not subject to the above plant health controls, they are subject to random controls.

- What do we know from the UK?

In order to inform, the UK issued a notice to stakeholders.

#### [Importing and exporting plants and plant products from 1 January 2021](#)

#### [Introduction of plants, plant products or other objects into the UK](#)

The UK has left the EU and is in a transition period until 1 January 2021. This means that there will be new processes that exporters and importers will have to follow.

Further details on the requirements for importing plants and plant products from 1 January 2021 will be published in 2020 by DEFRA.

The UK will become a third country and will need to meet EU third country import requirements to export regulated plants and plant products to the EU from 1 January 2021.

#### [Exports of plants, plant products or other objects into the EU from the UK](#)

For exports to the EU, third-country rules will apply on all:

- plants for planting
- wood, wood products or bark
- wood packaging material

The process for sending regulated plants and plant products to the EU will be the same as the current process for sending them to third countries. When exporting regulated plants and plant products to third countries, professional operators need to:

- check whether a phytosanitary certificate is required by contacting the plant health authority or a plant health inspector in the destination country
- apply for a phytosanitary certificate from the relevant UK plant health authority before export
- check if plants require laboratory testing of samples to ensure they are free from pests and diseases or inspections during the growing

Regulated plant and plant products exports to the EU from the UK may be subject to checks at the EU border.

Some plants and plant products must meet specific requirements to enter '[protected zones](#)' within EU countries. The UK cannot designate all or parts of the UK as an EU Protected Zones from 1 January 2021.

The UK will replace the biosecurity protections provided by EU Protected Zones by creating 2 new designations.

- Quarantine pest designation

This will designate the existing plant pests and diseases covered by Protected Zone arrangements as 'quarantine pests'. Quarantine pests are plant pests and diseases which are not established, and which would be damaging if introduced, where they are absent from the whole of the UK.

Quarantine pests are prohibited from entering the UK and are subject to statutory control if found on plants or plants products. The requirements to prevent the entry of these pests will remain the same from 1 January 2021.

- Pest Free Areas designations

This will designate Pest Free Areas in line with international standards for those pests and diseases which are absent from part of the UK, but not the whole of the UK. Pest Free Areas are declared in line with recognised international standards and requirements. They can be applied to movements of plants and plant products into Pest Free Areas.

Both EU Protected Zones and Pest Free Areas allow countries to control movements of plants and plant products which may carry plant pests and diseases, where the whole country or an area within the country are free from those pests or diseases. Moving from Protected Zones to quarantine pests and Pest Free Areas will not change the requirements for goods moving within the UK.

There will be no new import or movement restrictions from the replacement of certain Protected Zones with requirements for quarantine pests. These requirements are already in place now under the Protected Zone system. The requirements for importing into and moving within Pest Free Areas will be the same as they currently are for the equivalent Protected Zones.

If plants and plant products are moved into or within UK Protected Zones currently, an EU plant passport will be needed. An UK plant passport will be needed if the relevant plants and plant products into or will be moved within UK Pest Free Areas from 1 January 2021.

From 1 January 2021, plants and plant products currently covered by EU plant passports for movements within the UK will need to be moved with a UK plant passport. When moving controlled plants in the UK, operators will need to:

- register with the relevant UK plant health authority
- be authorised to issue plant passports
- replace references to 'EU' with 'GB' when issuing plant passports

Find [details](#) on Pest Free Areas and what plants must have passports to understand what to do from 1 January 2021.

# Plant Protection Products and Seed Treatment

- What do we know from the EU?

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a “third country”. The Withdrawal Agreement provides for a transition period ending on 31 December 2020. Until that date, EU law in its entirety applies to and in the United Kingdom. During the transition period, the EU and the United Kingdom will negotiate an agreement on a new partnership, providing notably for a free trade area. However, it is not certain whether such an agreement will be concluded and will enter into force at the end of the transition period. In any event, such an agreement would create a relationship which in terms of market access conditions will be very different from the United Kingdom’s participation in the internal market, in the EU Customs Union, and in the VAT and excise duty area.

After the end of the transition period, Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market no longer apply to the UK.

In practice, this means that the UK cannot act as leading authority for the approval of active substances and/or for authorisation of plant protection products.

Hence, since the withdrawal of the United Kingdom, and already during the transition period, the United Kingdom can no longer act as:

- rapporteur Member State (RMS) for the evaluation of applications for approval of new active substances or for renewal of approval of active substances.
- zonal rapporteur Member State (zRMS), and authorisations by the United Kingdom can no longer be mutually recognised. Authorisations granted by EU Member States prior to the withdrawal for which the UK was the zRMS remain valid.

Authorisation in the mutual recognition procedure of an authorisation by the United Kingdom issued before the withdrawal date: an EU Member State of the same zone or another zone (in accordance with Article 40(1) (a), (b) and (c) of Regulation (EC) No 1107/2009) can no longer accept an application for mutual recognition nor issue an authorisation by recognising an authorisation issued by the United Kingdom, even if this authorisation was granted by the United Kingdom prior to the withdrawal date. Authorisations based on mutual recognition of a United Kingdom authorisation granted prior to the withdrawal date remain valid.

In order to inform, the European Commission issued a notice to stakeholders.

## Withdrawal of the United Kingdom and EU rules on plant protection products

### ● What do we know from the UK?

EU law will no longer apply from 1 January 2021. New laws that ensure the safe use of plant protection products will be similar to existing laws.

Operators producing or placing plant protection products on the market make sure they are authorised under the new rules.

Professional operators in the seed sector must ensure to comply with regulations for Maximum Residue Levels (MRLs) when marketing treated seeds. Current product authorisations and MRLs will be valid from 1 January 2021.

The Health and Safety Executive (HSE) will continue to operate as the UK's regulator.

During the transition period:

- all active substance approvals, Plant Protection Products authorisations and Maximum Residue Levels (MRLs) in place before exit day continue to be valid in the UK
- Any new EU decisions will apply to the UK. This includes active substance and MRL decisions and any new EU Plant Protection Products legislation
- HSE remains the UK's national regulator, on behalf of the UK Government (Defra) and the devolved administrations
- Applicants, authorisation holders and approval holders can be based anywhere in the world, as was the case before exit day
- the UK is no longer a 'leading authority' under the EU regime. Businesses wishing to submit an active substance or MRL application for the EU will need to apply to another EU member state's regulatory authority
- HSE no longer acts as the lead for zonal product authorisation applications. These must be made to another EU member state
- The UK has no formal role in EU decision making processes

In order to inform, the UK issued a notice to stakeholders: Regulating pesticides during the transition period.

### **Treated seed**

The situation in the case of a negotiated deal with the EU is unknown. In the current situation without a deal, for treated seed the EU regulation remains in force during the transition period and UK authorities would anticipate that the 'operability fixing' Statutory Instrument will be amended to bring the transitional measures for treated seeds into force for 3 years from the end of the transition period in GB.

The Northern Ireland protocol will come into force at the end of the transition period, meaning that EU regulation will continue to apply in Northern Ireland with the same constraints that NI cannot participate in EU decision making or be a lead evaluator for the EU.

## **Research and Innovation**

- What do we know from the EU?

The conditions for participation will remain unchanged until the end of the Horizon 2020 projects (the last H2020 projects are scheduled to end in 2025), as long as the United Kingdom respects its commitments under the withdrawal agreement.

When Horizon Europe comes into force, unless there is an agreement between the European Union and the United Kingdom, the latter will be a "third country", like others (Canada, Japan). British entities will be able to participate in calls for projects allowing the participation of third countries but will not be eligible for funding by the European Union under Horizon Europe. They may however request funding from their national funding agency (ies), according to conditions to be determined by the latter.

- What do we know from the UK?

Under the Withdrawal Agreement, the UK will continue to participate in programmes funded under the current 2014-2020 Multiannual Financial Framework (MFF) until their closure.

This means that the vast majority of programmes will continue to receive EU funding across the programme's lifetime. In many cases, funding will continue until after 2020 and the end of the transition period. In addition, UK organisations can continue to bid for new grant funding under the current MFF.

UK scientists, researchers and businesses can continue to participate in, bid for and lead projects in Horizon 2020, as if the UK remained a member state, even after the UK exits the EU on 31 January 2020.

The UK government is encouraging UK organisations to continue to bid into calls for new Horizon 2020 grant funding for the lifetime of the Horizon 2020 programme and, if successful, funding will be provided by the Commission.

This includes Horizon 2020 calls that extend into 2021, after the transition period has ended.

UK participants may be unable to access funding from the EU after Brexit if the UK becomes a third country.

The UK government has committed to provide funding for all successful eligible UK bids to Horizon 2020 that are submitted before the end of 2020. This funding will apply for the lifetime of projects.

This funding guarantee and extension to the guarantee will be delivered by UK Research and Innovation (UKRI).



Avenue des Arts 52 B  
1000 Brussels

[www.euroseeds.eu](http://www.euroseeds.eu)

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