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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 111**

**PLANT HEALTH**

**The Marketing of Vegetable Plant Material  
Amendment (Scotland) Regulations 2014**

<i>Made</i>	- - - -	<i>23rd April 2014</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>25th April 2014</i>
<i>Coming into force</i>	- -	<i>26th May 2014</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972<sup>(1)</sup> and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for the references in these Regulations to Annex II to Council [Directive 2008/72/EC](#) on the marketing of vegetable propagating and planting material, other than seed<sup>(2)</sup> to be construed as references to Annex II to that instrument as amended from time to time.

**Citation, commencement and extent**

1. (1) These Regulations may be cited as the Marketing of Vegetable Plant Material Amendment (Scotland) Regulations 2014 and come into force on 26th May 2014.

(2) These Regulations extend to Scotland only.

**Amendments to the Marketing of Vegetable Plant Material Regulations 1995**

2. The Marketing of Vegetable Plant Material Regulations 1995<sup>(3)</sup> are amended in accordance with regulations 3 to 5.

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(1) [1972 c.68](#). Section 2(2) was amended by the Scotland Act [1998 \(c.46\)](#) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act [2006 \(c.51\)](#) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act [2008 \(c.7\)](#) (“the 2008 Act”), Schedule, Part 1. Paragraph 1A of Schedule 2 was inserted by the 2006 Act, section 28 and was amended by the 2008 Act, Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(2) OJ L 205, 1.8.2008, p.28 as last amended by Commission Implementing Directive 2013/45/EU (OJ L 213, 8.8.2013, p.20).

(3) [S.I. 1995/2652](#) as relevantly amended by [S.S.I. 2007/133](#).

### **Amendment of regulation 2**

3. In regulation 2(1) (interpretation)—

(a) omit the definition of “[Directive 92/33/EEC](#)”; and

(b) after the definition of “[Directive 93/61/EEC](#)”, insert—

““[Directive 2008/72/EC](#)” means Council [Directive 2008/72/EC](#) on the marketing of vegetable propagating and planting material, other than seed;”.

### **Amendment of regulation 3**

4. In regulation 3(1) (plant material to which the Marketing of Vegetable Plant Material Regulations 1995 apply) for sub-paragraphs (a) and (b) substitute—

“(a) “(a) plant material of the genera and species set out in Annex II, as amended from time to time, to [Directive 2008/72/EC](#) and their hybrids; and

(b) rootstocks and other parts of plants of other genera or species and their hybrids if plant material of a genus or species set out in Annex II, as amended from time to time, to [Directive 2008/72/EC](#) or of a hybrid of such a genus or species is or is to be grafted on to them.”.

### **Amendment of regulation 5**

5. In regulation 5(d)(ii) (quality requirements for plant material), for “[92/33/EEC](#)” substitute “[2008/72/EC](#)”.

### **Offences by bodies corporate, Scottish partnerships and unincorporated associations**

6. After regulation 13 (offences), insert—

#### **“Offences by bodies corporate, Scottish partnerships and unincorporated associations**

14. (1) Where—

(a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association; and

(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—

(i) a relevant individual; or

(ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association, commits an offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

(a) in relation to a body corporate—

(i) a director, manager, secretary or other similar officer of the body;

(ii) where the affairs of the body are managed by its members, a member;

(b) in relation to a Scottish partnership, a partner; and

(c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.”.

St Andrew's House, Edinburgh  
23rd April 2014

*RICHARD LOCHHEAD*  
A member of the Scottish Government

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Marketing of Vegetable Plant Material Regulations 1995 (“the 1995 Regulations”) in order to change the botanical name for tomato to reflect revisions to the International Code of Botanical Nomenclature. This implements Article 2 of Commission Implementing Directive 2013/45/EU, which amends Council [Directive 2008/72/EC](#) (regulations 3 and 4).

They also update references in the 1995 Regulations to provisions in the previous Directive on the marketing of vegetable propagating and planting material other than seed (Council [Directive 92/33/EEC](#)) to correspond to provisions in the codified version of that Directive ([2008/72/EC](#)) (regulations 3-5).

The 1995 Regulations apply to the list of genera and species in Annex II to the Council [Directive 2008/72/EC](#), as it is amended from time to time (regulation 4).

Regulation 6 of these Regulations inserts a new regulation 14 of the 1995 Regulations, to make provision regarding the commission of offences by bodies corporate, Scottish partnerships and unincorporated associations.

These Regulations extend to Scotland only.

A Transposition Note is incorporated within the Policy Note which is available alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk), or from the Scottish Government - Agriculture, Food and Rural Communities Directorate, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD.

No Business and Regulatory Impact Assessment has been prepared in respect of these Regulations as they have no impact on costs to business.