**Explanatory Memorandum to** The Marketing of Fruit Plant and Propagating Material (Wales) (Amendment) Regulations 2020.

This Explanatory Memorandum has been prepared by the Plant Health and Environment Protection Branch within the Economy, Skills and Natural Resources Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

**Minister/Deputy Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Marketing of Fruit Plant and Propagating Material (Wales) (Amendment) Regulations 2020.

Lesley Griffiths
**Minister for Environment, Energy and Rural Affairs, one of the Welsh Ministers**
19 March 2020

## PART 1

### 1. Description

These Regulations amend The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 ("the Principal Regulations"). They make provision for a supplier's document to be yellow in colour when affixed to fruit material of the grade *Conformitas Agraria Communitatis* ("CAC") and reduce the information required in the supplier's document.

### 2. Matters of special interest to the Legislation, Justice and Constitution Committee.

There are no matters of special interest to the Legislation, Justice and Constitution Committee.

### 3. Legislative background

These Regulations make changes to the Principal Regulations. There is no change being made to policy. The marketing of fruit plant and propagating material is regulated at EU level by the following Directives:

(i) Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production.

(ii) Commission Implementing Directive 2014/96/EU of 15 October 2014 on the requirements for the labelling, sealing and packaging of fruit plant propagating material and fruit plants intended for fruit production, falling within the scope of Council Directive 2008/90/EC.

(iii) Commission Implementing Directive 2014/97/EU of 15 October 2014 implementing Council Directive 2008/90/EC as regards the registration of suppliers and of varieties and the common list of varieties.

(iv) Commission Implementing Directive 2014/98/EU of 15 October 2014 implementing Council Directive 2008/90/EC as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections.

These Directives prescribe processes to ensure minimum quality standards and traceability for marketed fruit plant and propagating material. They also set out administrative provisions, impose record keeping requirements and provide for the licensing of crop inspectors to carry out these functions. These Directives are transposed by the Principal Regulations.

These Regulations are made in exercise of powers conferred by section 2(2) of the European Communities Act 1972 (ECA). The Welsh Ministers are designated for the purposes of section 2(2) of the ECA in relation to the common agricultural policy. When exercising the powers conferred by section 2(2) of the ECA there is a choice of negative or affirmative procedure. These Regulations are subject to the negative procedure.

## 4. Purpose and intended effect of the legislation

These Regulations amend the Principal Regulations to specify that a supplier's document must be yellow in colour when affixed to CAC fruit material in the form of a label; provide a transitional period (until 30 June 2021) for the continued affixing of supplier's documents in a colour other than yellow under particular circumstances; and remove a requirement to include certain prescribed information on the supplier's document. The information that will no longer be required is the quantity of the CAC material and the Member State where the CAC material was produced, where it is different from the Member State in which the supplier's document was prepared.

The changes introduced by these Regulations ensure traceability, provide more transparency for consumers and, by reducing the size of the supplier's document, afford greater flexibility for businesses.

These Regulations are required to assist the UK to fulfil its obligations under the Withdrawal Agreement to transpose EU law into domestic legislation until the end of the Implementation Period (31 December 2020). These Regulations transpose Commission Implementing Directive (EU) 2019/1813 which amends Commission Implementing Directive 2014/96/EU. These Directives state requirements for the labelling, sealing and packaging of fruit plant propagating material and fruit plants that are intended for fruit production. These fall within the scope of Council Directive 2008/90/EC as regards the colour of the label for certified categories of propagating material and fruit plants and the content of the supplier's document.

## 5. Consultation

No public consultation was conducted in the preparation of these Regulations. The Animal and Plant Health Agency who undertake functions on behalf of Welsh Ministers, including those related to plant health and seed marketing, informally consulted the Nuclear Stock Association. The Nuclear Stock Association is the main representative organisation for businesses producing and marketing fruit plant and propagating material and has not indicated any issues with this approach. There is one company in Wales which produces certified fruit plant material and they are a member of the Nuclear Stock Association.

## 6. Regulatory Impact Assessment (RIA)

The proposed changes make minor technical amendments to existing Regulations, do not reflect a change of policy and primarily affect one company in Wales. As such, no RIA has been prepared. This is in line with the Welsh Ministers' RIA Code.