Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Marketing of Bananas Regulations (Northern Ireland) 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2019 No. 66

AGRICULTURE

HORTICULTURE

The Marketing of Bananas Regulations (Northern Ireland) 2019

Made - - - -	*27th March 2019*
Coming into operation	*29th March 2019*

The Department of Agriculture, Environment and Rural Affairs is designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**), in relation to the common agricultural policy of the European Union the following.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department that it is expedient for any reference in these Regulations to the following EU instruments to be construed as a reference to those instruments as being amended from time to time—

(a) Council Regulation (EC) No 1308/2013 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)(**3**);

(b) Commission Implementing Regulation (EU) No 1333/2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector(**4**).

The Department of Agriculture, Environment and Rural Affairs makes the following Regulations in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2(**5**) to, the European Communities Act 1972.

(**1**) S.I. 2000/2812.
(**2**) 1972 c.68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part I of the Schedule to, the European Union (Amendment) Act 2008 (c.7).
(**3**) O.J. No. L 347, 20.12.2013, p.671.
(**4**) O.J. No. L 336, 20.12.2011, p.23, as amended by O.J. No L 167, 19.6.2013 P.26-28, O.J. No. L 171, 4.7.2017, P.113 and O.J. No L 177, 8.7.2017, P.6-6.
(**5**) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Marketing of Bananas Regulations (Northern Ireland) 2019 and come into operation on 29th March 2019.

Commencement Information

I1 Reg. 1 in operation at 29.3.2019, see **reg. 1**

Interpretation

2.—(1) In these Regulations—

"authorised officer" means an officer appointed by the Department for the purposes of these Regulations;

"banana marketing standards" means the marketing standards for bananas laid down in Annex I to the Commission Implementing Regulation;

"bananas" means bananas, intended to be supplied fresh to the consumer after preparation and packaging, which falls within—

(a) CN code 0803 90 10 as provided for in Part XI of Annex I to the Single CMO Regulation; and

(b) the description in Article 1 of, and Point I of Annex I to, the Commission Implementing Regulation;

"Commission Implementing Regulation" means Commission Implementing Regulation (EU) No 1333/2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector, as amended from time to time;

"container" includes any basket, pail, tray, package or receptacle of any kind, whether open or closed;

"contravention" includes a failure to comply;

"controlled" in relation to bananas, means that the power conferred by regulation 12(1) (stop notice) has been exercised in relation to those bananas and that consent to their movement has been given under regulation 14(1) when the circumstances in regulation 14(2) or (3) apply;

"the Department" means the Department of Agriculture, Environment and Rural Affairs;

"exit day" has the same meaning as given in section 20 of the European Union (Withdrawal) Act 2018(**6**);

"inspection body" means a body of a member State responsible for carrying out conformity checks of the Commission Implementing Regulation;

"label" includes any device for conveying information particulars by written characters or symbols, and any characters or symbols stamped or otherwise placed directly on to any bananas or container, and references to the affixing of a label are construed accordingly;

"non-compliance label", in relation to any bananas, means a label indicating that the bananas do not comply with the banana marketing standards;

(**6**) 2018 c.16.

"notice" means notice in writing;

"premises" includes any place, vehicle or trailer, stall, vessel, container, moveable structure, aircraft, or hovercraft;

"Single CMO Regulation" means Council Regulation (EC) No 1308/2013 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation), as amended from time to time;

"stop notice" has the meaning given by regulation 12;

"stop notice label" has the meaning given by regulation 13.

(2) Expressions used in these Regulations which are also used in the Single CMO Regulation or Commission Implementing Regulation have the same meaning as they have in those Regulations.

(3) Any reference in these Regulations to the Commission Implementing Regulation or to the Single CMO Regulation is a reference to that instrument as in force immediately preceding exit day.

(4) The Interpretation Act (Northern Ireland) 1954(**7**), except section 20(2) and (3), applies to these Regulations as it applies to an Act of the Assembly.

Commencement Information

I2 Reg. 2 in operation at 29.3.2019, see **reg. 1**

Designation of Department and exchange of information

3.—(1) The Department is designated as the competent national authority and inspection body for the purposes of the Commission Implementing Regulation and Article 74 of the Single CMO Regulation in relation to bananas.

(2) For the purposes of fulfilling the obligations, laid down in Article 3 of the Commission Implementing Regulation and in Article 74 of the Single CMO Regulation, on competent national authorities and inspection bodies contained in the banana marketing standards and for the enforcement of these Regulations or the equivalent regulations in England, Scotland or Wales, the Department may, as appropriate or where required to do so, provide information to and request information from—

(a) the competent national authorities and inspection bodies in other member States and in England, Scotland and Wales; or

(b) the European Commission.

Commencement Information

I3 Reg. 3 in operation at 29.3.2019, see **reg. 1**

(**7**) 1954 c.33 (N.I.).

PART 2

General offences and exercise of powers on premises

Banana marketing standards: offences

4.—(1) It is an offence for a person to market bananas in contravention of any provision in Annex I to the Commission Implementing Regulation, as read with other provision(s) of that Regulation or the Single CMO Regulation of the banana marketing standards.

(2) It is an offence for a person to fail to comply with any provision of the Commission Implementing Regulation mentioned in column 1 of Schedule 1, as read with any provision mentioned in any corresponding entry in column 2 of that Schedule.

(3) Where—

(a) an authorised officer has inspected bananas and found them not to be compliant with the banana marketing standards; and

(b) the person in charge of those bananas has given an undertaking under regulation 14, or has been responsible for the giving of an undertaking under that regulation, in relation to those bananas,

it is an offence for that person to act in breach of the undertaking.

(4) A person is guilty of an offence if, in purporting to provide the information particulars, laid down in Paragraph VI of Annex I to the Commission Implementing Regulation, required by the banana marketing standards, they give a false description of those bananas on a label affixed to those bananas.

(5) It is an offence for a person, other than an authorised officer, to remove, conceal, deface or alter, or cause or permit another person to remove, conceal, deface or alter—

(a) any information particulars, laid down in Paragraph VI of Annex I to the Commission Implementing Regulation, required by the banana marketing standards to accompany bananas or any label required by those standards to be affixed to those bananas or to their container;

(b) a non-compliance label which has been affixed by an authorised officer to any bananas or to their container under regulation 9 or 10;

(c) any demarcation tape or other material used by an authorised officer in accordance with regulation 7(1)(f) to identify bananas or a specific lot of bananas which are found not to be compliant with the banana marketing standards;

(d) a stop notice affixed by an authorised officer under regulation 13(1).

(6) A person is guilty of an offence if they export from or import to Northern Ireland any consignment of bananas to or from any place outside the European Union without the information particulars, laid down in Paragraph VI of Annex I to the Commission Implementing Regulation, required by the banana marketing standards to accompany those bananas.

Commencement Information

I4 Reg. 4 in operation at 29.3.2019, see **reg. 1**

Exercise of powers on premises

5. The powers under Part 3 and Part 4 of these Regulations may not be exercised on premises used wholly as a dwelling house.

Commencement Information

I5 Reg. 5 in operation at 29.3.2019, see **reg. 1**

PART 3

Powers of authorised officers

Powers of entry

6.—(1) An authorised officer may enter any premises at any reasonable hour for the purpose of the enforcement of these Regulations or the checks required by the Single CMO Regulation, or the Commission Implementing Regulation, or the enforcement of the banana marketing standards.

(2) An authorised officer shall, if requested to do so, produce a duly authenticated authorisation document.

(3) An authorised officer may be accompanied by such persons and equipment as the authorised officer considers necessary.

(4) A lay magistrate may by signed warrant authorise an authorised officer to enter any premises, if necessary by reasonable force, if the lay magistrate, is satisfied, on complaint on oath—

(a) that there are reasonable grounds for entry into the premises for the purposes of enforcing these Regulations; and

(b) that any one of the conditions in paragraph (5) is met.

(5) The conditions are—

(a) that admission to the premises has been, or is likely to be, refused and (in either case) notice of the intention to apply for a warrant has been given to the occupier;

(b) that asking for admission to the premises, or the giving of such a notice, would defeat the object of the entry;

(c) that the premises are unoccupied or the occupier is temporarily absent; or

(d) that entry is required urgently.

(6) A warrant issued under paragraph (4) is valid for a period of three months.

(7) An authorised officer who enters, by virtue of this regulation, any premises which are unoccupied or the occupier of which is temporarily absent, shall leave them as effectively secured against unauthorised entry as they were before entry.

(8) It is an offence for a person who has obtained confidential information in the course of acting for the purposes of the enforcement of these Regulations to disclose that information, whether it was obtained on premises entered under or by virtue of these Regulations or otherwise, unless the disclosure is made in the performance of that person's duty or in accordance with section 17(2) of the Anti-terrorism, Crime and Security Act 2001(**8**).

Commencement Information

I6 Reg. 6 in operation at 29.3.2019, see **reg. 1**

(**8**) 2001 c.24.