STATUTORY RULES OF NORTHERN IRELAND

2017 No. 119

PLANT HEALTH

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

Made - - - -	*28th June 2017*
Coming into operation	*29th June 2017*

The Department of Agriculture, Environment and Rural Affairs is a Northern Ireland department designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to the common agricultural policy of the European Union.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Department of Agriculture, Environment and Rural Affairs that it is expedient for any reference in these Regulations to Annexes I to V to Commission Implementing Directive 2014/98/EU to be construed as a reference to those Annexes as amended from time to time.

The Department of Agriculture, Environment and Rural Affairs makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and paragraph 1A of Schedule 2 to the European Communities Act 1972 [F3].

F1 S.I. 2000/2812.

F2 1972 c.62. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

F3 Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and amended 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 Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017 and come into operation on 29th June 2017.

Interpretation; general

2.—(1) In these Regulations—

"basic material" means propagating material intended for the production of certified material, which has been—

(a) in relation to propagating material produced in Northern Ireland, certified as basic material in accordance with regulation 9;

(b) **[**F4in relation to propagating material produced outside Northern Ireland, certified as basic material by a responsible authority in accordance with—

(i) in the case of material produced in the United Kingdom, other than in Northern Ireland, the relevant fruit marketing regulations;

(ii) in the case of material produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to regulation 9(1) and (2);

(iii) in the case of material produced in a member State, Article 15 of Directive 2014/98/EU;**]**

"basic mother plant" means a mother plant intended for the production of basic material;

"CAC material" means propagating material and fruit plants which—

(a) are intended for the production of propagating material, fruit plants or fruit; and

(b) in the case of—

(i) plant material produced in Northern Ireland, meet the requirements for CAC material in Schedule 1; F5...

(ii) **[**F6in the case of material and plants produced in the United Kingdom, other than in Northern Ireland, the relevant fruit marketing regulations;

(iii) in the case of material and plants produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to Schedule 1;

(iv) in the case of material produced in a member State, Article 3 of Directive 2014/98/EU;**]**

"category" means pre-basic material, basic material, certified material or CAC material;

"certified" (and "certification" is to be construed accordingly) means—

(a) in relation to plant material produced in Northern Ireland, officially certified by the Department, F7... in accordance with regulation 9;

(b) **[**F8in relation to plant material produced in the United Kingdom, other than in Northern Ireland, officially certified in accordance with the relevant fruit marketing regulations;

(c) in relation to material produced in a member State, Article 3 of Directive 2014/98/EU, by the responsible authority in the member State concerned;**]**

"certified material" means any propagating material or fruit plants intended respectively for the production of fruit plants or the production of fruits, which have been—

(a) in relation to propagating material and fruit plants produced in Northern Ireland, certified as certified material in accordance with regulation 9

(b) **[**F9in relation to propagating material and fruit plants produced in the United Kingdom, other than in Northern Ireland, certified as certified material, in accordance with the relevant fruit marketing regulations;

(c) in relation to propagating material and fruit plants produced in a member State, certified as certified material, in accordance with Article 20 of Directive 2014/98/EU, by the responsible authority in the member State concerned;

(d) in relation to propagating material and fruit plants produced in a Crown Dependency, certified as certified material, in accordance with legislation recognised by the Department as having equivalent effect to regulation 9(1) and (2);**]**

"certified mother plant" means a mother plant intended for the production of certified material;

"certified plant material" means plant material that is certified as pre-basic material, basic material or, as the case may be, certified material;

[[F10]"Crown Dependency" means the Isle of Man or any of the Channel Islands;**]**

"cryopreservation" means the maintenance of plant material by cooling to ultra low temperatures in order to retain the viability of the material;

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

[[F11]"the fruit marketing regulations" means—

(a) as regards England, the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017;

(b) as regards Scotland, the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017;

(c) as regards Wales, the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017;**]**

"fruit plants" means plants intended to be planted or replanted, after marketing;

"inspector" means a person authorised by the Department to be an inspector for the purposes of these Regulations;

"lot" means a number of units of a single commodity, identifiable by its homogeneity of composition and origin;

"marketing" means the sale, holding with a view to sale, offer for sale, and any disposal, supply or transfer aimed at commercial exploitation of propagating material or fruit plants to third parties, whether or not for consideration, and "marketed" is to be construed accordingly;

"micropropagation" means the multiplication of plant material in order to produce a large number of plants, using *in vitro* culture of differentiated vegetative buds or differentiated vegetative meristems taken from a plant;

"mother plant" means an identified plant intended for propagation;

"official description" means the description of a variety provided on—

(a) registration; or

(b) the grant of plant variety rights;

"official examination" means an examination or inspection conducted by an inspector, including one conducted by way of sample;

"official label" means—

(a) in relation to certified plant material produced in Northern Ireland, a label issued or approved by the Department, which has not been previously used and which meets the requirements in Part 1 of Schedule 2;

(b) **[**[F12]in relation to certified plant material produced outside Northern Ireland, a label issued, as appropriate to the plant material to which the label relates, in accordance with—

(i) in the case of material produced in the United Kingdom, other than in Northern Ireland, the relevant fruit marketing regulations;

(ii) in the case of material produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to Part 1 of Schedule 2;

(iii) in the case of material produced in a member State, Article 2 of Directive 2014/96/EU, by the responsible authority in the member State concerned;**]**

"officially recognised description" means a description of key morphological features that enable the variety to be identified;

"outside Northern Ireland" means any part of the United Kingdom other than Northern Ireland **[**F13, any member State or any Crown Dependency**]**;

F14...

"plant material" means the plants and materials described in regulation 4;

"plant variety rights" means rights granted under—

(a) Part 1 of the Plant Varieties Act 1997 F15;

(b) F16...

(c) domestic legislation in countries or territories, other than those forming part of the United Kingdom, that affords plant variety protection in accordance with UPOV;

"practically free from defects" means that defects likely to impair the quality and usefulness of the propagating material or fruit plants, are present at a level equal to, or lower than, the level expected to result from good cultivating and handling practices, and that level is consistent with good cultivating and handling practices;

"pre-basic material" means propagating material intended for the production of basic material or certified material, other than fruit plants, which has been—

(a) in relation to propagating material produced in Northern Ireland, certified as pre-basic material in accordance with regulation 9;

(b) **[**F17in relation to pre-basic material produced outside Northern Ireland, material certified as pre-basic, in accordance with—

(i) in the case of material produced in the United Kingdom, other than in Northern Ireland, the relevant fruit marketing regulations;

(ii) in the case of material produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to regulation 9(1) and (2);

(iv) in the case of material produced in a member State, Article 3 or 4 of Directive 2014/98/EU, by the responsible authority in the member State concerned;**]**

"pre-basic mother plant" means a mother plant intended for the production of pre-basic material;

"propagating material" means seeds, parts of plants and all plant material, including rootstocks, intended for the propagation and production of fruit plants;

[F18"RNQP" means a Union regulated non-quarantine pest within the meaning given by Article 36 of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants as last amended by Regulation (EU) 2017/625 of the European Parliament and of the Council;**]**

"registered as a variety" (and "registration" is to be construed accordingly) means—

(a) registration in Northern Ireland as a variety in accordance with Schedule 3; or

(b) **[**F19registration outside Northern Ireland as a variety in accordance with—

(i) in the case of Scotland, Schedule 4 to the Marketing of Fruit Plant Propagating Material (Scotland) Regulations 2017;

(ii) in the case of Wales, Schedule 4 to the Marketing of Fruit Plant Propagating Material (Wales) Regulations 2017;

(iii) in the case of England, Schedule 4 of the Marketing of Fruit Plant Propagating Material (England) Regulations 2017;**]**

"responsible authority" means the authority established or designated by a member State in accordance with Article 2(11) of the Directive, responsible for the quality of plant material in the country or territory where the plant material was produced;

"supplier" means a person who is involved professionally in the reproduction, production, preservation, treatment, importation or marketing of plant material;

"supplier's document" means a document prepared by the supplier that meets the requirements in Part 2 of Schedule 2;

"variety" means a plant grouping within a single botanical taxon of the lowest known rank, which can be—

(a) defined by the expression of the characteristics resulting from a given genotype or combination of genotypes;

(b) distinguished from any other plant grouping by the expression of at least one of the said characteristics; and

(c) considered as an entity in view of its ability to be propagated unchanged;

"visual inspection" means the examination of plants or parts of plants in facilities, fields and lots, by the Department or, where appropriate, the supplier, using the unaided eye, lens, stereoscope or microscope.

(2) The Interpretation Act (Northern Ireland) 1954 [F20] applies to these Regulations as it applies to an Act of the Assembly.

F4 Words in reg. 2(1) substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), **54(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F5 Word in reg. 2(1) omitted (31.12.2020) by virtue of The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), **54(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F6 Words in reg. 2(1) substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), **54(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F7 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), **54(c)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F8 Words in reg. 2(1) substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), **54(c)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F9 Words in reg. 2(1) substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), **54(d)** (as amended by S.I. 2019/820, regs. 1(1), **5(7)**); 2020 c. 1, Sch. 5 para. 1(1)

F10 Words in reg. 2(1) inserted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), **54(e)**; 2020 c. 1, Sch. 5 para. 1(1)

F11 Words in reg. 2(1) inserted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), **54(f)**; 2020 c. 1, Sch. 5 para. 1(1)

F12 Words in reg. 2(1) substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/211), regs. 1(1), **54(g)**; 2020 c. 1, Sch. 5 para. 1(1)