STATUTORY RULES OF NORTHERN IRELAND

2012 No. 299

HORTICULTURE

The Marketing of Fresh Horticulture Produce (Amendment) Regulations (Northern Ireland) 2012

Made - - - -	*20th July 2012*
Coming into operation	*27th August 2012*

The Department of Agriculture and Rural Development 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 Department of Agriculture and Rural Development makes the following Regulations under the powers conferred by section 2(2) of the European Communities Act 1972.

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 references to Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors(**3**) to be construed as references to that Regulation as amended from time to time.

There has been open and transparent public consultation during the preparation of these Regulations as required by Article 9 of Regulation (EC) No 178/2002(**4**) of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

Title and commencement

1. These Regulations may be cited as the Marketing of Fresh Horticulture Produce (Amendment) Regulations (Northern Ireland) 2012 and shall come into operation on 27th August 2012.

(**1**) S.I. 2000/2812, see also S.I. 2011/1043
(**2**) 1972 c.68; paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51)
(**3**) O.J. L 157, 15.6.2011, p.1, as last amended by Commission Implementing Regulation (EU) No 898/2011 (O.J. No L 231, 8.9.2011, p.11)
(**4**) O.J. No L 31, 1.2.2002, p.1, as last amended by Commission Regulation (EC) No 202/2008 (O.J. No L 60, 5.3.2008, p.17)

Amendment of the Marketing of Fresh Horticulture Produce Regulations (Northern Ireland) 2010

2. The Marketing of Fresh Horticulture Produce Regulations (Northern Ireland) 2010(**5**) are amended in accordance with regulations 3 to 13.

3. In regulation 2 (Interpretation)—

(a) in paragraph (1)—

(i) for the definition of "Commission Regulation 1580/2007" substitute—

> ""Commission Implementing Regulation 543/2011" means Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors(**6**), as amended from time to time;";

(ii) for the definition of "Community marketing rules" substitute—

> ""Community marketing rules" means the general marketing standard and the specific marketing standards covering fresh fruit and vegetables listed in Part IX of Annex I to Council Regulation 1234/2007, and includes the rules relating to those standards contained in Articles 113 and 113a of that Council Regulation and in Title II of Commission Implementing Regulation 543/2011;";

(iii) for the definition of "general marketing standard" substitute—

> ""general marketing standard" means the requirements of Article 113a(1) of Council Regulation 1234/2007 as detailed in Article 3(1) of, and Part A of Annex I to, Commission Implementing Regulation 543/2011"; and

(iv) for the definition of "specific marketing standards" substitute—

> ""specific marketing standards" means the marketing standards provided for under Article 113(1)(b) of Council Regulation 1234/2007 as detailed in Article 3(2) of, and Part B of Annex I to, Commission Implementing Regulation 543/2011;"; and

(b) in paragraph (2), for "Commission Regulation 1580/2007" substitute "Commission Implementing Regulation 543/2011".

4. In regulation 3(1) (Designations, provisions of information and appointment of authorised officers) for "Article 8(1)(b) of Commission Regulation 1580/2007" substitute "Article 9(1)(b) of Commission Implementing Regulation 543/2011".

5. For regulation 10(3) (Authorised officer: powers to control the movement of horticultural produce) substitute—

> "(3) Any notice served under paragraph (1) shall state—
>
> (a) the right of review under regulation 11; and
>
> (b) how it may be exercised.".

6. For regulation 13(6) (Authorised officer: consents to the movement of controlled horticultural produce) substitute—

> "(6) A consent given by an authorised officer under this regulation must—
>
> (a) specify the horticultural produce to which it relates;

(**5**) S.R. 2010 No. 198
(**6**) O.J. L 157, 15.6.2011, p.1.

(b) include the terms of any undertaking given under paragraph (3) or (5); and

(c) where the consent is given under paragraph (4), state that the horticultural produce continues to be controlled.".

7. In regulation 15(3) (Community marketing rules offences), for "Commission Regulation 1580/2007" substitute "Commission Implementing Regulation 543/2011".

8. After regulation 15 insert—

"**Provision of information – trader database**

15A.—(1) A trader must provide to the Department such information as the Department considers necessary to set up and update the database established for the purpose of Article 10 of Commission Implementing Regulation 543/2011.

(2) A person is guilty of an offence if they fail to provide any information required by the Department in accordance with paragraph (1).

Provision of information – conformity checks

15B.—(1) A trader must provide to an authorised officer such information as that officer considers necessary—

(a) for organising and carrying out a conformity check in accordance with Article 11 of Commission Implementing Regulation 543/2011; or

(b) for the purposes of Article 17 of Commission Implementing Regulation 543/2011.

(2) A person is guilty of an offence if they fail to provide any information required by an authorised officer in accordance with paragraph (1).".

9. In regulation 17 (Offences relating to movement of controlled horticultural produce)—

(a) for paragraph (1) substitute—

"(1) A person is guilty of an offence if they move controlled horticultural produce, or a container with controlled horticultural produce in it, or causes or permits it to be moved—

(a) without the written consent; or

(b) other than in accordance with the written consent,

of an authorised officer given under regulation 13(1)."; and

(b) omit paragraph (3).

10. In regulation 18(1) (Obstruction)—

(a) in sub-paragraph (a) omit "intentionally";

(b) for sub-paragraph (b) substitute—

"(b) fail without reasonable excuse to give an authorised officer acting for the purpose of the enforcement of these Regulations any assistance or information or to provide any record or facilities that the authorised officer may reasonably require;

(c) in sub-paragraph (d), for "without reasonable excuse, proof of which shall lie on that person, supply" substitute "supply".

11. For regulation 19(2) (Offence due to fault of another person) substitute—

"(2) Proceedings may be taken against B whether or not proceedings are taken against A .