STATUTORY RULES OF NORTHERN IRELAND

1999 No. 502

PLANT HEALTH

The Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999

Made - - - -	*22nd December 1999*
Coming into operation	*31st December 1999*

The Department of Agriculture and Rural Development, being a Department 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 Community, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999 and shall come into operation on 31st December 1999.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations—

"the Department" means the Department of Agriculture and Rural Development;

"Directive 77/93/EEC" means Council Directive of 21st December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community(**4**), as amended;

"Directive 98/56/EC" means Council Directive 98/56/EC on the marketing of propagating material of ornamental plants(**5**);

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

(**1**) *See*S.I. 1972/1811
(**2**) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read with S.I. 1984/703 (N.I. 3) and S.R. 1984 No. 253
(**3**) 1954 c. 33 (N.I.)
(**4**) O.J. No. L.26, 31.1.77, p. 20 as last amended by Commission Directive 98/2/EC (O.J. No. L.15, 21.1.98, p. 34)
(**5**) O.J. No. L.226, 13.8.98, p. 16

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

"marketing" in relation to any propagating material means the holding available or in stock, the display with a view to sale, the offering for sale, or the sale or delivery by a supplier to another person of that material;

"propagating material" means plant material intended for—

(a) the propagation of ornamental plants; or

(b) the production of ornamental plants; however, in the case of production from complete plants, the material used shall only be considered to be propagating material if the resulting ornamental plant is intended for further marketing;

"propagation" means reproduction by vegetative or other means;

"Regulation 2100/94" means Council Regulation 2100/94/EC on Community Plant Variety Rights(**6**);

"supplier" means any person professionally engaged in the marketing or in the importation from third countries of propagating material; and

"third country" means a country other than a Member State.

Marketing requirements and exceptions

3.—(1) Subject to paragraph (2), a supplier shall not market any propagating material unless it complies with the requirements of these Regulations.

(2) These Regulations shall not apply to propagating material intended for—

(a) export to third countries, if identified as such and kept sufficiently isolated from plant material not intended for such export;

(b) trials or scientific purposes;

(c) selection work;

(d) use in the conservation of genetic diversity.

Quality requirements for propagating material

4. Propagating material shall, when marketed—

(a) be substantially free from any defects likely to impair its quality as propagating material and in particular, at least on visual inspection, be substantially free from any harmful organisms impairing such quality, or any signs or symptoms of such organisms, which reduce its usefulness as propagating material;

(b) have satisfactory vigour and dimensions in respect of its usefulness as propagating material;

(c) in the case of seeds, have a satisfactory germination capacity;

(d) have satisfactory identity and purity relative to the genus or species or group of plants to which it belongs; and

(e) if marketed with reference to a variety pursuant to regulation 11, have satisfactory varietal identity and purity.

(**6**) O.J. No. L.227, 1.9.94, p. 1, as last amended by Council Regulation 2506/95/EC (O.J. No. L.258, 28.10.95, p. 3)

Further provisions relating to citrus propagating material

5. In addition to meeting the requirements of regulation 4, citrus propagating material shall—

(a) have been derived from initial source material which has been checked and found to show no symptoms of any viruses, virus-like organisms or diseases;

(b) have been checked and found to be substantially free of viruses, virus-like organisms or diseases since the beginning of the last cycle of vegetative growth; and

(c) where grafting has taken place, have been grafted on to rootstocks of a kind which are not susceptible to viroids.

Further provision relating to flower bulbs

6. In addition to meeting the requirements of regulation 4, flower bulbs shall have been derived directly from material which, at the time the crop of bulbs concerned was growing, was checked and found to be substantially free from any harmful organisms and diseases or any signs or symptoms of such organisms and diseases.

Registration

7.—(1) Subject to paragraph (2), a person shall not carry on business as a supplier unless he is registered as such by the Department.

(2) For the purposes of paragraph (1), the Department shall maintain a register of persons carrying on business as a supplier.

(3) Paragraph (1) shall not apply to a supplier marketing only to persons who are not professionally engaged in the production or sale of ornamental plants or propagating material.

(4) An application for registration under this regulation shall be made to the Department in writing and shall be accompanied by the following information—

(a) the name of the applicant;

(b) the address of the main premises at which the applicant carries on or intends to carry on business as a supplier;

(c) the activities which the applicant carries on or intends to carry on which are or will be covered by these Regulations.

(5) Registration of a supplier on the register referred to in regulation 16 of the Plant Health Order (Northern Ireland) 1993(**7**) is deemed to constitute registration under and for the purposes of this regulation.

(6) A supplier registered under this regulation shall keep records of his sales and purchases of propagating material and shall retain them for a period of not less than 12 months from the date of the sale or purchase, as the case may be.

Measures to be taken by suppliers

8.—(1) Any supplier who engages in the production of propagating material shall—

(a) identify and monitor critical points in the production process which influence the quality of the material;

(b) keep records on the monitoring required by sub-paragraph (*a*);

(**7**) S.R. 1993 No. 256 as amended by S.R. 1994 No. 28, S.R. 1995 No. 250, S.R. 1995 No. 494, S.R. 1996 No. 204, S.R. 1996 No. 249, S.R. 1997 No. 110, S.R. 1997 No. 397, S.R. 1998 No. 16, S.R. 1998 No. 146, S.R. 1998 No. 315 and S.R. 1999 No. 24

(c) take samples of the propagating material where necessary and send them to be analysed in a laboratory with suitable facilities and expertise;

(d) ensure that, during production, different lots of propagating material remain separately identifiable.

(2) Without prejudice to paragraph (3), a supplier shall treat or, where appropriate, remove any propagating material which, on the basis of visible signs or symptoms, is not substantially free of harmful organisms impairing quality.

(3) If a supplier engaged in the production of propagating material finds on his premises a plant pest of a description specified in Schedule 6 to the Plant Health Order (Northern Ireland) 1993 he shall, if he would not otherwise be required to notify it under Article 20 of that Order (notification of the presence or suspected presence of certain plant pests), report it to the Department and shall take such measures in relation to that material as may be notified in writing to him by the Department.

Information on propagating material

9.—(1) Subject to paragraphs (2) and (3), a supplier shall not market any propagating material unless it is accompanied by a label or other document made out by him and on which appears the appropriate information prescribed by the Schedule.

(2) Where propagating material is accompanied by a plant passport issued in accordance with Council Directive 77/93/EEC, the plant passport may constitute the label or other document for the purposes of paragraph (1) if it contains the appropriate information prescribed in the Schedule.

(3) Paragraph (1) shall not apply to propagating material which is marketed to persons who are not professionally engaged in the production or sale of ornamental plants or propagating material.

Marketing in lots

10.—(1) Subject to paragraph (2), a supplier shall not market any propagating material unless it is in lots.

(2) Paragraph (1) shall not apply to—

(a) the sale of different lots in a single consignment provided the supplier keeps records of the composition and origin of the different lots for a period of not less than 12 months from the date of the sale;

(b) propagating material which is marketed to persons who are not professionally engaged in the production or sale of ornamental plants or propagating material.

Description of propagating material

11.—(1) Subject to paragraph (2) a supplier shall not market propagating material with reference to a variety unless—

(a) it is the subject of Community plant variety rights pursuant to Regulation 2100/94/EC or national plant variety rights under any jurisdiction; or

(b) the existence of that variety is a matter of common knowledge as defined in section 38 of the Plant Varieties Act 1997(**8**); or

(c) that variety is entered on a list kept by a supplier which includes:

(i) the name of the variety together with its commonly known synonyms, where appropriate;

(**8**) 1997 c. 66