1995 No. 416

PLANT HEALTH

Marketing of Fruit Plant Material Regulations (Northern Ireland) 1995

Made . . . . . *2nd November 1995*

Coming into operation . . *11th December 1995*

The Department of Agriculture, being a Department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) 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 Fruit Plant Material Regulations (Northern Ireland) 1995 and shall come into operation on 11th December 1995.

Interpretation

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

(2) In these Regulations—

"the Department" means the Department of Agriculture for Northern Ireland;

"Directive 92/34 EEC" means Council Directive 92/34/EEC(**d**) of 28th April 1992 on the marketing of fruit plant propagating material and fruit plants intended for fruit production;

"Directive 93/48/EEC" means Commission Directive 93/48/EEC(**e**) of 23rd June 1993 setting out the schedule indicating the conditions to be met by fruit plant propagating material and fruit plants intended for fruit production pursuant to Directive 92/34/EEC;

"Directive 93/79/EEC" means Commission Directive 93/79/EEC(**f**) of 21st September 1993 setting out additional implementing provisions for lists of varieties of fruit plant propagating material and fruit plants, as kept by suppliers under Directive 92/34/EEC;

(**a**) *See* S.I. 1972/1811

(**b**) 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

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

(**d**) O.J. No. L.157, 10.6.92, p. 10, as amended by Commission Decision 95/26/EC (O.J. No. L.36, 16.2.95, p. 36)

(**e**) O.J. No. L.250, 7.10.93, p. 1

(**f**) O.J. No. L.256, 14.10.93, p. 25

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

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

"marketing" means the delivery, offer for sale, exposure for sale, sale and possession with a view to sale of plant material;

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

"producer" means a supplier engaged in the production or reproduction of plant material;

"responsible official body" means the Department;

"supplier" means any person professionally engaged in the production, reproduction, preservation, treatment or marketing of plant material.

Plant material to which these Regulations apply

3.—(1) Subject to paragraph (2), these Regulations shall apply to—

(*a*) plant material of the genera and species set out in Schedule 1 and their hybrids;

(*b*) rootstocks of other genera or species and their hybrids if plant material of a genus or species set out in Schedule 1 or of a hybrid of such a genus or species is or is to be grafted on to them.

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

(*a*) export to countries outside the European Community, if identified as such and kept sufficiently isolated from plant material not intended for such export;

(*b*) trials or scientific purposes;

(*c*) selection work; or

(*d*) measures aimed at the conservation of genetic diversity.

Small producers

4. These Regulations shall not apply to a small producer all of whose production and sales of plant material are intended for final use by persons on the local market who are not professionally involved in plant production.

Quality requirements for plant material

5. A supplier shall not market any plant material unless—

(*a*) it is substantially free on visual inspection from any harmful organisms and diseases impairing quality which reduce its usefulness as plant material and in particular from the organisms and diseases listed in the Annex to Directive 93/48/EEC in respect of its genus or species;

(*b*) it is substantially free from any defects likely to impair its usefulness as plant material;

(*c*) it has adequate identity and purity relative to its genus or species and, except in the case of rootstocks which do not belong to a variety, variety; and

(*d*) it is in lots of sufficiently homogeneous composition and origin.

Measures to be taken by producers

6. A producer shall—

(*a*) treat or, where appropriate, remove any plant material showing visible signs or symptoms of any of the harmful organisms and diseases referred to in regulation 5(*a*) at the stage of the growing crop;

(*b*) report to an inspector any plant material that fails to comply with the requirements of regulation 5(*a*) as a result of the presence of organisms and diseases listed in the Annex to Directive 93/48/EEC; and

(*c*) keep plant material in lots of homogeneous composition and origin during growing and lifting or removal from parent material.

Special provisions relating to the marketing of citrus plant material

7. A producer shall not market any plant material of the genus *Citrus* unless—

(*a*) it is derived from initial material which has been checked and found to show no symptoms of the viruses, virus-like organisms and diseases listed in the Annex to Directive 93/48/EEC in respect of *Citrus* and which has been tested individually using appropriate methods and found to be free from such viruses, virus-like organisms and diseases;

(*b*) it has been checked and found to be substantially free from such viruses, virus-like organisms and diseases since the beginning of the last cycle of vegetation; and

(*c*) in the case of grafting, it has been grafted onto rootstocks other than those susceptible to viroids.

Description of plant material

8.—(1) A supplier shall not market plant material except with reference to its variety or, in the case of rootstocks which do not belong to a variety, to the appropriate species or interspecific hybrid.

(2) Where a supplier markets plant material with reference to its variety, the reference shall be—

(*a*) in the case of a commonly known variety which is the subject of a grant of plant breeders' rights, to the official denomination of the variety;

(*b*) in the case of a variety which is the subject of an application for plant breeders' rights, to the breeders' reference or proposed name of the variety;

(*c*) subject to paragraph (3), in the case of any other variety, based on the description of the variety on a written list kept by a supplier which includes—

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

(ii) a description of the variety, having regard to the Annex to Directive 93/79/EEC;

(iii) indications as to the maintenance of the variety and the propagation system applied; and

(iv) any indications as to how the variety differs from the other varieties most closely resembling it.

(3) Sub-paragraphs (2)(*c*)(iii) and (iv) shall not apply to a supplier engaged only in the marketing of plant material.

Information to accompany plant material

9.—(1) Subject to paragraphs (2) and (3), a supplier shall not market any plant material unless it is accompanied by a supplier's document on which appears the appropriate information prescribed in Part A of Schedule 2.

(2) Where plant material is accompanied by a plant passport issued in accordance with Council Directive 77/93/EEC(**a**), the plant passport may constitute the supplier's document for the purposes of paragraph (1) if accompanied by the appropriate additional information prescribed in Part B of Schedule 2.

(3) Paragraph (1) shall not apply to plant material, accompanied by appropriate product information, which is marketed to a non-professional final consumer.

Records to be kept by suppliers

10.—(1) Subject to paragraphs (2) and (3), a supplier other than a producer shall keep—

(*a*) written records, or records registered in an indelible fashion, on the buying, selling or delivery of plant material; and

(*b*) records on the composition and origin of any plant material of different origins mixed by him during packaging, storage or transport or at delivery.

(2) Paragraph (1) shall not apply to a supplier engaged only in the marketing of small quantities of plant material to non-professional final consumers.

(3) Paragraph (1)(*b*) shall not apply to a supplier engaged only in the marketing of plant material to non-professional final consumers.

(4) A producer shall keep—

(*a*) the records specified in paragraph 2 of Schedule 3;

(*b*) records on the composition and origin of any plant material of different origins mixed by him during packaging, storage or transport or at delivery; and

(a) Council Directive 77/93/EEC 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 (O.J. No. L.26, 31.1.77, p. 20), as last amended by Commission Directive 95/41/EC of 19th July 1995 (O.J. No. L.182, 2.8.95, p. 17)

(*c*) records on all occurrences on his premises of the harmful organisms referred to in regulation 5(*a*) and on any measures taken in relation to such occurrences.

Accreditation of producers

11.—(1) A producer shall not market plant material unless he is accredited.

(2) The Department shall accredit a producer if it is satisfied that the producer complies with the requirements set out in Schedule 3.

(3) The Department may, by notice in writing served on an accredited producer who fails to comply with the requirements set out in Schedule 3, suspend or revoke accreditation, and in such notice shall state the grounds for suspension or revocation.

(4) Applications for accreditation shall be made to the Department in such form as it may from time to time require.

Powers of inspectors

12.—(1) An inspector, upon producing, if required to do so, some duly authenticated document showing his authority, may at any reasonable time enter any premises of a supplier where he reasonably suspects that any activity which is governed by these Regulations is being or has been carried on for the purposes of ascertaining whether there is or has been any contravention of these Regulations.

(2) An inspector on entering any premises under paragraph (1) may take with him representatives of the European Commission and such other persons as he considers to be necessary.

(3) An inspector may carry out all reasonable checks and examinations necessary to ensure compliance with these Regulations, and in particular may—

(*a*) take any plant material or sample from any plant material and send it for analysis;

(*b*) require the production of any relevant records, lists and other documents;

(*c*) inspect or take copies or extracts from any relevant records, lists and other documents;

(*d*) take any relevant records, lists and other documents for copying.

(4) An inspector may by notice in writing served on a supplier in respect of any plant material on the supplier's premises that the inspector has reasonable grounds for suspecting fails to comply with the requirements of regulation 5(*a*) require the supplier not to market or move from his premises or to permit or cause to be marketed or moved from his premises the plant material until the supplier has carried out such reasonable measures as the notice may specify.

Offences and penalties

13. A person who without reasonable excuse, proof of which shall be on him, contravenes any provision of these Regulations shall be guilty of an