1995 No. 414

PLANT HEALTH

Marketing of Ornamental 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 Ornamental 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 93/49/EEC" means Commission Directive 93/49/EEC(**d**) of 23rd June 1993 setting out the schedule indicating the conditions to be met by ornamental plant propagating material and ornamental plants pursuant to Council Directive 91/682/EEC(**e**);

"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;

"ornamental plant" means a plant, other than a pot plant, intended, after marketing, to be planted or replanted;

(**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.250, 7.10.93, p. 9

(**e**) Council Directive 91/682/EEC of 19th December 1991 on the marketing of ornamental plant propagating material and ornamental plants (O.J. No. L.376, 31.12.91, p. 21), as amended by Commission Decision 95/19/EC (O.J. No. L.28, 7.2.95, p. 10)

"plant material" means ornamental plants and seeds, parts of plants and all vegetative material intended for the propagation and production of ornamental 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 plant material of the genera and species set out in Schedule 1 and to rootstocks of other genera or species if plant material from a genus or species set out in that Schedule is 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; or

(*c*) selection work.

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 93/49/EEC in respect of its genus or species;

(*b*) it is substantially free from any defects, including unsatisfactory vigour and dimensions and imbalances between roots, stems and leaves, likely to impair its usefulness as plant material;

(*c*) either—

(i) where the plant material is marketed with reference to the group of plants to which it belongs, it has adequate identity and purity relative to its genus or species or group; or

(ii) where the plant material is marketed with reference to the variety to which it belongs, it has identity and purity as to variety;

(*d*) in the case of seeds, it possesses a satisfactory germination capacity; and

(*e*) 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 93/49/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 flower bulbs

7. A producer shall not market flower bulbs other than flower bulbs derived directly from material which was checked at the stage of the growing crop and found to satisfy the requirements of regulation 5(*a*).

Description of plant material

8.—(1) A supplier shall not market plant material except with reference to either the group of plants or the variety to which it belongs.

(2) Where a supplier markets plant material with reference to the group of plants to which it belongs, the reference shall be made in such a way as to avoid confusion with any of the references to variety described in paragraph (3).

(3) Where a supplier markets plant material with reference to the variety to which it belongs, 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 (4), 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 Commission Directive 93/78/EEC(**a**);

(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.

(**a**) Commission Directive 93/78/EEC of 21st September 1993 setting out additional implementing provisions for lists of varieties of ornamental plant propagating material and ornamental plants, as kept by suppliers under Council Directive 91/682/EEC (O.J. No. L.256, 14.10.93, p. 19)

(4) Sub-paragraphs (3)(*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) Sub-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

(*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.

(**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)