1977 No. 194

SEEDS

Forest Reproductive Material Regulations (Northern Ireland) 1977

Made . . . . . *8th July* 1977

Coming into operation . . . *1st September* 1977

The Department(a) of Agriculture in exercise of the powers vested in it by section 1 (as amended by article 3 of and Schedule 3 to the European Communities (Agriculture) Order (Northern Ireland) 1972(b)), section 2(1), 2(2) and 2(3) of the Seeds Act (Northern Ireland) 1965(c) and all other powers enabling it in that behalf and after consultation with representatives of such interests as appear to it to be concerned, hereby makes the following regulations:—

PART I

GENERAL

Citation and commencement

1.—(1) These regulations may be cited as the Forest Reproductive Material Regulations (Northern Ireland) 1977.

(2) These regulations shall come into operation on 1st September 1977.

Interpretation

2. In these regulations—

"the Act" means the Seeds Act (Northern Ireland) 1965;

"basic material" means—

(*a*) in relation to forest reproductive material produced by sexual means, stands of trees and seed orchards, and

(*b*) in relation to forest reproductive material produced by vegetative means, clones and mixtures of clones;

"clone" means a group of plants produced vegetatively from one original seedling or stock (and includes parts of plants so produced);

"cones" means cones derived from basic material of the genera and species specified in Schedule 1 and which contain seed;

"the Department" means the Department of Agriculture;

"forest reproductive material" means—

(*a*) seed and cones intended for the production of plants,

(*b*) parts of plants intended for the production of plants, and

(*c*) young plants raised from seed or from parts of plants, natural seedlings and sets,

derived from basic material of the genera and species specified in Schedule 1;

(a) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8(1)
(b) S.R. & O. (N.I.) 1972 No. 351 (p. 1740)
(c) 1965 c. 22 (N.I.)

"marketing" means exposure for sale, offer for sale, sale or delivery;

"Member State" means a state, other than the United Kingdom, which is a member of the European Communities;

"Northern Ireland Register" means the Northern Ireland Register of Basic Material for the Production of Forest Reproductive Material established in accordance with regulation 5(1) of the 1973 Regulations;

"the 1973 Regulations" means the Forest Reproductive Material Regulations (Northern Ireland) 1973(d);

"official testing station" means the official testing station for forest reproductive material established by the Department of Agriculture;

"origin" means the place in which an indigenous stand of trees is growing, or the place from which a non-indigenous stand was originally introduced;

"parts of plants" means cuttings, layers, roots and scions derived from basic material of the genera and species specified in Schedule 1;

"provenance" means the place in which any stand of trees, whether indigenous or non-indigenous, is growing;

"region of provenance" means:—

(*a*) for a species, a sub-species or distinct variety, the whole of Northern Ireland,

(*b*) for a conservation seed orchard, the region of provenance of the basic material used for the creation of the orchard;

"seed" means seed derived from basic material of the genera and species specified in Schedule 1 and includes fruits;

"seed orchard" means a plantation of selected clones or progenies which is isolated or laid out to avoid or reduce pollination from outside sources, and managed so as to produce frequent, abundant and easily harvested crops of seed;

"selected reproductive material" means:—

(*a*) forest reproductive material derived from basic material approved for registration in accordance with regulation 5(2)(*a*) or (in relation to basic material approved for registration before 1st July 1977) in accordance with regulation 6(2) of the 1973 Regulations,

(*b*) forest reproductive material officially designated as selected reproductive material under legislation of a Member State or Great Britain corresponding to regulation 5(2)(*a*) or to regulation 6(2) of the 1973 Regulations;

"small quantity of seed" means a quantity of seed sufficient to produce not more than 1,000 usable plants;

"test certificate" means a test certificate issued under regulation 12, or under regulation 8 of the 1973 Regulations;

"tested reproductive material" means:—

(*a*) forest reproductive material derived from basic material approved for registration in accordance with regulation 5(2)(*b*),

(*b*) forest reproductive material officially designated as tested reproductive material under legislation of a Member State or Great Britain corresponding with regulation 5(2)(*b*);

(d) S.R. & O. (N.I.) 1973 No. 208 (I, p. 1050) as amended by S.R. 1974 No. 141 (I, p. 493)

"the Tribunal" means the Plant Varieties and Seeds Tribunal established by section 10 of, and Schedule 4 to, the Plant Varieties and Seeds Act (1964)(e);

"young plants" means plantable stock derived from basic material of the genera and species specified in Schedule 1.

Application

3.—(1) These regulations shall not apply to—

(*a*) seed or cones collected or marketed for export to countries other than Member States;

(*b*) parts of plants or young plants taken, raised or marketed for purposes other than the production of wood;

(*c*) seed or cones authorised by the Department in writing to be used in tests or for scientific purposes.

(2) Regulations 7, 8, 9, 10(1)(*a*), 13 and 14 shall not apply to—

(*a*) small quantities of seed not intended for forestry purposes;

(*b*) parts of plants or young plants intended for export to countries other than Member States, or authorised by the Department in writing to be used in tests or for scientific purposes;

(*c*) forest reproductive material authorised by the Department in writing to be used in selection work.

PART II

REGISTRATION OF BASIC MATERIAL AND DELINEATION OF REGIONS OF PROVENANCE

Northern Ireland Register of Basic Material

4.—(1) The Department shall maintain the Northern Ireland Register which shall be kept at the Department's Headquarters at Dundonald House, Belfast, or such other place as the Department may from time to time determine and in which shall be recorded the particulars of such basic material as may be approved and accepted by the Department for registration.

(2) A copy of the Northern Ireland Register shall be held at the official testing station, and at every District Forest Office in Northern Ireland.

(3) The Department shall provide reasonable facilities for inspecting the Northern Ireland Register and each of the copies thereof mentioned in paragraph (2) of this regulation, and for taking copies of and extracts from them.

Registration of basic material

5.—(1) An owner of basic material seeking approval and registration thereof in the Northern Ireland Register shall apply in writing to the Department who, upon receiving payment of a fee of £10 per stand for its services in connection with such application, shall arrange for an inspection of the basic material to be made by a Forestry officer of the Department.

(e) 1964 c. 14

(2) The Department shall not approve basic material for registration unless it is satisfied that the qualities of the material are such as to make it suitable for reproductive purposes and that it has no characteristics undesirable for forestry purposes and—

(*a*) that the material conforms to the requirements set out in Schedule 2, or

(*b*) that the material shows improved value for use as determined by tests which conform to the requirements set out in Schedule 3.

(3) If any basic material inspected is approved for registration the Department shall register it in the Northern Ireland Register.

(4) Entries in the Northern Ireland Register relating to basic material approved for registration in accordance with paragraph 2(*a*) shall be made separately from entries relating to basic material as approved in accordance with paragraph 2(*b*).

(5) The Department may at any time remove basic material from the Register if it is satisfied that it should be so removed having regard to the matters mentioned in paragraph (2).

(6) For the purposes of this regulation basic material shows improved value for use when the genetic characters of that material, taken as a whole, show a distinct improvement for forestry purposes as compared with the genetic character of standards selected in accordance with Schedule 3, at least for cultivation in the region in which those standards are generally used.

Appeals against refusal to register or removal from the Northern Ireland Register

6.—(1) Where the Department proposes to make a decision—

(*a*) to refuse to register basic material submitted for registration, or

(*b*) to remove basic material from the Northern Ireland Register,

the Department shall give to the owner of the basic material notice of the proposal together with the reasons for it; and the owner may, within 28 days from the day on which the notice is given, submit to the Department representations in writing or a written request to make oral representations with respect to the proposal.

(2) Where, within the period specified in paragraph (1), the owner of the basic material shall submit a request to make oral representations, the Department shall give him an opportunity to be heard either in person or by any person authorised by him in that behalf, and the procedure to be followed at such hearing shall be such as the Department may direct.

(3) The Department shall not decide to refuse to register the basic material submitted for registration or, as the case may be, to remove the basic material from the Northern Ireland Register until after the expiration of the said period and, before deciding whether or not to do so, shall consider any representations made to them by or on behalf of the owner of the basic material.

(4) Where the Department decides to refuse to register basic material submitted for registration or to remove basic material from the Northern Ireland Register, it shall notify the owner accordingly and shall at the same time furnish a statement of its reasons for the decision.

(5) An appeal shall lie to the Tribunal for any decision of the Department as to a matter mentioned in paragraph (1).

(6) Where an appeal is brought against a decision of the Department under the foregoing provisions of this regulation, the operation of such decision shall be suspended pending the final determination of the appeal; and the Department shall take such steps as may be necessary to give effect to any decision given on the final determination of an appeal.

PART III

COLLECTION, MARKING AND LABELLING OF FOREST REPRODUCTIVE MATERIAL FOR MARKETING

Collection and taking of forest reproductive material

7.—(1) Except in the case of forest reproductive material authorised for marketing under regulation 10(2), no seed or cones shall be collected, and no parts of plants shall be taken, for the purpose of marketing unless they are derived from basic material which has been registered in the Northern Ireland Register.

(2) Any person proposing to collect seed or cones or to take parts of plants for the purpose of marketing shall inform the Department of the proposed collection or taking at least 28 days before the date on which the collection or taking is to commence stating—

(*a*) his name, his address and (if any) his telephone number,

(*b*) the place of collection or of taking, and

(*c*) the proposed date of commencement, and the approximate date of completion, of the collection or taking.

(3) On completion of the collection of any lot of seed or of the taking of any lot of parts of plants the owner thereof shall inform the Department in writing of the kind and quantity of seed collected or of parts of plants taken, and the Department shall—

(*a*) if satisfied that the seed or parts of plants are derived from basic material registered in accordance with regulation 5, issue to the owner in respect of the lot a Master Certificate of Provenance or Clonal Identity in the form set out in Schedule 4, or

(*b*) if the seed or parts of plants have been authorised for marketing under regulation 10(2), issue to the owner in respect of the lot a certificate of provenance or clonal identity in the form set out in Schedule 9.

(4) On completion of the collection of any lot of cones the owner thereof shall inform the Department in writing of the quantity of cones collected, and on completion of extraction of seed therefrom the owner of the seed shall inform the Department in writing of the kind and the quantity of seed extracted and the Department shall—

(*a*) if satisfied that the seed is derived from basic material registered in accordance with regulation 5, issue to the owner in respect of the seed extracted from the lot a Master Certificate of Provenance in the form set out in Schedule 4, or