

S.I. No. 161/1994 — European Communities (Marketing of Ornamental Plant Propagating Material and Ornamental Plants) Regulations, 1994.

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I, JOE WALSH, Minister for Agriculture, Food and Forestry, in exercise of the powers conferred on me by Section 3 of the European Communities Act, 1972 (No. 27 of 1972) and for the purpose of giving effect to Council Directive No. 91/682/EEC of 19 December, 1991⁽¹⁾, Commission Directive 93/49/EEC of 23 June, 1993⁽²⁾, and Commission Directive 93/63/EEC of 5 July 1993⁽³⁾, hereby make the following Regulations:

⁽¹⁾O.J. No. L376/21 of 31/12/1991.

⁽²⁾O.J. No. L250/9 of 7/10/1993.

⁽³⁾O.J. No. L250/31 of 7/10/1993.

1. (1) These Regulations may be cited as the European Communities (Marketing of Ornamental Plant Propagating Material and Ornamental Plants) Regulations, 1994.

(2) These Regulations shall come into force on the 1st day of June, 1994.

2. (1) In these Regulations—

"the Minister" means the Minister for Agriculture, Food and Forestry;

"authorised person" means a person appointed in writing by the Minister to be an authorised person for the purposes of these Regulations;

"Member State" means a Member State of the European Union;

"the Annex" means the Annex to Council Directive 91/682/EEC of 19 December, 1991⁽¹⁾;

"the Directive" means Council Directive No. 92/682/EEC of 19 December, 1991⁽¹⁾ as supplemented by Commission Directive 93/49/EEC of 23 June, 1993⁽²⁾ and Commission Directive 93/63/EEC of 5 July, 1993⁽³⁾;

⁽¹⁾O.J. No. L376/21 of 31/12/1991.

⁽²⁾O.J. No. L250/9 of 7/10/1993.

⁽³⁾O.J. No. L250/31 of 7/10/1993.

"third country" means a country or territory which is not a Member State.

(2) A word or expression which is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the meaning in these Regulations which it has in the Directive.

3. (i) The Minister shall be the responsible official authority for the purposes of the Directive and of these Regulations.

(ii) The Minister may appoint a person or body to carry out one or more of the tasks of the responsible official authority.

4. These Regulations apply to—

(a) ornamental plant propagating material and ornamental plants which pertain to any of the genera or species listed in the Annex,

(b) rootstock of genera and species not listed in the Annex, onto which material of genera or species so listed has been grafted.

5. Notwithstanding Regulation 4 of these Regulations, and without prejudice to the

provisions of the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) Regulations, 1980 to 1994, these Regulations shall not apply to any propagating material or plants referred to in the said Regulation 4, which have been shown to the satisfaction of the Minister to be intended to be exported to a third country which are properly identified as such and which have been kept isolated from other such material or plants prior to such exportation.

6. (1) Without prejudice to the provisions of Regulation 8, a person shall not market propagating material or ornamental plants to which these Regulations apply unless the conditions laid down in Articles 2, 3, 4, 5 and 6 of Commission Directive 93/49/EEC have been complied with.

(2) Any person who fails to observe the provisions of paragraph (1) of this Regulation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

7. (1) (i) A person shall not engage in the supply of plants or plant material to which these Regulations apply without having prior approval and accreditation from the Minister for this purpose.

(ii) Before granting such accreditation, the Minister shall be satisfied that the supplier has adequate technical, organisational and other facilities necessary to comply with the standards prescribed by these regulations in relation to all stages of the production and marketing of the relevant material or plants.

(iii) The Minister may from time to time attach conditions to the grant of accreditation including requirements relating to the prescribed standards, laboratory testing, and procedures for the production, storage, packaging, labelling, recording and marketing of the material or plants.

(iv) The conditions in individual cases shall be appropriate to the range and/or volume of activity of the supplier in all or some of the areas of production, packaging, distribution or marketing.

(2) Where the Minister is satisfied that there is no risk of conflict with the general objectives of these Regulations, he may exempt from the requirement of accreditation:

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(a) certain suppliers whose activity is confined to the supply of small quantities of propagating material and/or ornamental plants to non-professional final consumers,

(b) propagating material or ornamental plants which are shown to the satisfaction of the Minister to be intended for trials or scientific purposes or for selection work.

(3) (i) An accreditation shall lapse in the event that the supplier concerned engages in a range of activities other than those for which he has received accreditation.

(ii) The supplier must then apply for a new accreditation related to the new

circumstances.

(4) An accreditation may be revoked by the Minister in the event that the conditions are not being observed.

(5) A person who engages in the supply of plant material or plants to which these Regulations apply, without having either a current accreditation or exemption from the Minister, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

8. The Minister may, where the Commission makes a decision in that regard, authorise the marketing, during a period specified in the decision, of propagating material or ornamental plants meeting less stringent requirements than those prescribed in these Regulations.

9. (1) An authorised person, for the purpose of confirming that these Regulations are being correctly observed, may at all reasonable times—

(*a*) enter and inspect the premises of an accredited supplier, or other establishment where control measures relating to the operation of these Regulations are carried out, and/or records are stored,

(*b*) inspect and take samples of relevant plants or plant material which he finds in the course of inspection, and

(*c*) receive, examine and take relevant extracts from any books or records relating to the operation of these Regulations.

(2) The Minister shall furnish an authorised person with a certificate of his appointment and, when exercising any power covered by this Regulation, the authorised person shall, if requested by any other person affected, produce the certificate to that person.

(3) Any person who obstructs or interferes with an authorised person in the course of exercising a power conferred on him under this Regulation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

10. (1) Propagating material and ornamental plants to which these Regulations apply shall be marketed by reference to the variety or to the group of plants to which they belong.

(2) The varieties quoted shall be,

— either commonly known, and protected in accordance with legal provisions on the protection of new varieties of plants, or

— entered on suppliers' lists with their detailed descriptions and denominations.

(3) Each variety shall, as far as possible, be described and bear the same denomination in all Member States.

(4) Reference to a group of plants shall comprise a description and the denomination of the group of plants so as to avoid confusion with any individual variety, where the variety is quoted.

11. An offence under these Regulations may be prosecuted by the Minister.

GIVEN under my Official Seal, this 27th day of May, 1994.

JOE WALSH,

Minister for Agriculture, Food and Forestry.

EXPLANATORY NOTE.

The Regulations prescribe minimum quality standards and controls on the marketing within the European Union of ornamental plant propagating material and ornamental plants.
