

S.I. No. 159/1994 — European Communities (Marketing of Vegetable Propagating and Planting Material, Other Than Seed) 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. 92/33/EEC of 28 April, 1992⁽¹⁾; Commission Directive 93/61/EEC of 2 July, 1993⁽²⁾, and Commission Directive 93/62/EEC of 5 July, 1993⁽³⁾ hereby make the following Regulations:

⁽¹⁾O.J. No. L 157 of 10.6.1992

⁽²⁾O.J. No. L 250 of 7.10.1993

⁽³⁾O.J. No. L 250 of 7.10.1993

1. (1) These Regulations may be cited as the European Communities (Marketing of Vegetable Propagating and Planting Material other than Seed) 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 Directive" means Council Directive No. 92/33/EEC of 28 April, 1992⁽¹⁾ as supplemented by Commission Directive 93/61/EEC of 2 July, 1993 ⁽²⁾, and Commission Directive 93/62/EEC of 5 July, 1993⁽³⁾;

"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) vegetable propagating and planting material which pertains to any of the genera, and species, and their hybrids, listed in Annex II of the Directive, and

(b) rootstocks and other parts of plants of other genera or species, or of their hybrids, not listed in Annex II onto which material of genera or species or of their hybrids so listed, is, or has to be 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 or planting material referred to in the said Regulation 4, which has been shown to the satisfaction of the Minister to be intended to be exported to a third country which is properly identified as such, and which has 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 vegetable propagating and planting material to which these Regulations apply unless the conditions laid down in Articles 2, 3, 4, 5 and 6 of Commission Directive 93/61/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 propagating or planting 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 propagating or planting material.

(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 propagating or planting material.

(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:

(a) certain suppliers whose activity is confined to the supply of small quantities of vegetable propagating and planting material to non-professional final consumers.

(b) vegetable propagating and planting material which is shown to the satisfaction of the Minister to be intended for trials or scientific purposes, for selection work or for measures aimed at preserving genetic diversity.

(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 propagating and planting material 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 vegetable propagating and planting material 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 propagating or planting 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) Without prejudice to the provisions of Regulation 5 of these Regulations, vegetable propagating and planting material to which these Regulations apply shall be marketed by reference to the variety to which it belongs. Where the particular genera or species are also covered by Directive 70/458/EEC⁽⁴⁾, the material shall not be marketed within the European Union unless it belongs to a variety accepted in accordance with Directive 70/458/EEC. Where the particular genera or species are not covered by Directive 70/458/EEC, the material shall not be marketed within the European Union unless it belongs to a variety officially accepted in at least one Member State.

⁽⁴⁾ O.J. No. L 225 of 12.10.1970

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 vegetable propagating and planting material other than seed.

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