

Statutory Rule 1999 No. 502

The Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999

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STATUTORY RULES OF NORTHERN IRELAND

1999 No. 502

PLANT HEALTH

The Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999

Made

22nd December 1999

Coming into operation

31st December 1999

The Department of Agriculture and Rural Development, being a Department designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] 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 Propagating Material Regulations (Northern Ireland) 1999 and shall come into operation on 31st December 1999.

Interpretation

2. - (1) The Interpretation Act (Northern Ireland) 1954[3] shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations -

"the Department" means the Department of Agriculture and Rural Development;

"Directive 77/93/EEC" means Council Directive 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[4], as amended;

"Directive 98/56/EC" means Council Directive 98/56/EC on the marketing of propagating material of ornamental plants[5];

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

"lot" means a number of units of a single commodity, identifiable by its homogeneity of composition and origin;

"marketing" in relation to any propagating material means the holding available or in stock, the display with a view to sale, the offering for sale, or the sale or delivery by a supplier to another person of that material;

"propagating material" means plant material intended for -

(a) the propagation of ornamental plants; or

(b) the production of ornamental plants; however, in the case of production from complete plants, the material used shall only be considered to be propagating material if the resulting ornamental plant is intended for further marketing;

"propagation" means reproduction by vegetative or other means;

"Regulation 2100/94" means Council Regulation 2100/94/EC on Community Plant Variety Rights[6];

"supplier" means any person professionally engaged in the marketing or in the importation from third countries of propagating material; and

"third country" means a country other than a Member State.

Marketing requirements and exceptions

3. - (1) Subject to paragraph (2), a supplier shall not market any propagating material unless it complies with the requirements of these Regulations.

(2) These Regulations shall not apply to propagating material intended for -

(a) export to third countries, if identified as such and kept sufficiently isolated from plant material not intended for such export;

(b) trials or scientific purposes;

- (c) selection work;**
- (d) use in the conservation of genetic diversity.**

Quality requirements for propagating material

4. Propagating material shall, when marketed -

- (a) be substantially free from any defects likely to impair its quality as propagating material and in particular, at least on visual inspection, be substantially free from any harmful organisms impairing such quality, or any signs or symptoms of such organisms, which reduce its usefulness as propagating material;**
- (b) have satisfactory vigour and dimensions in respect of its usefulness as propagating material;**
- (c) in the case of seeds, have a satisfactory germination capacity;**
- (d) have satisfactory identity and purity relative to the genus or species or group of plants to which it belongs; and**
- (e) if marketed with reference to a variety pursuant to regulation 11, have satisfactory varietal identity and purity.**

Further provisions relating to citrus propagating material

5. In addition to meeting the requirements of regulation 4, citrus propagating material shall -

- (a) have been derived from initial source material which has been checked and found to show no symptoms of any viruses, virus-like organisms or diseases;**
- (b) have been checked and found to be substantially free of viruses, virus-like organisms or diseases since the beginning of the last cycle of vegetative growth; and**
- (c) where grafting has taken place, have been grafted on to rootstocks of a kind which are not susceptible to viroids.**

Further provision relating to flower bulbs

6. In addition to meeting the requirements of regulation 4, flower bulbs shall have been derived directly from material which, at the time the crop of bulbs concerned was growing, was checked and found to be substantially free from any harmful organisms and diseases or any signs or symptoms of such organisms and diseases.

Registration

7. - (1) Subject to paragraph (2), a person shall not carry on business as a supplier unless he is registered as such by the Department.

(2) For the purposes of paragraph (1), the Department shall maintain a register of persons carrying on business as a supplier.

(3) Paragraph (1) shall not apply to a supplier marketing only to persons who are not professionally engaged in the production or sale of ornamental plants or propagating material.

(4) An application for registration under this regulation shall be made to the Department in writing and shall be accompanied by the following information -

- (a) the name of the applicant;**
- (b) the address of the main premises at which the applicant carries on or intends to carry on business as a supplier;**
- (c) the activities which the applicant carries on or intends to carry on which are or will be covered by these Regulations.**

(5) Registration of a supplier on the register referred to in regulation 16 of the Plant Health Order (Northern Ireland) 1993^[7] is deemed to constitute registration under and for the purposes of this regulation.

(6) A supplier registered under this regulation shall keep records of his sales and purchases of propagating material and shall retain them for a period of not less than 12 months from the date of the sale or purchase, as the case may be.

Measures to be taken by suppliers

8. - (1) Any supplier who engages in the production of propagating material shall -

- (a) identify and monitor critical points in the production process which influence the quality of the material;**
- (b) keep records on the monitoring required by sub-paragraph (a);**
- (c) take samples of the propagating material where necessary and send them to be analysed in a laboratory with suitable facilities and expertise;**
- (d) ensure that, during production, different lots of propagating material remain separately identifiable.**

(2) Without prejudice to paragraph (3), a supplier shall treat or, where appropriate, remove any propagating material which, on the basis of visible signs or symptoms, is not substantially free of harmful organisms impairing quality.

(3) If a supplier engaged in the production of propagating material finds on his premises a plant pest of a description specified in Schedule 6 to the Plant Health Order (Northern Ireland) 1993 he shall, if he would not otherwise be required to notify it under Article 20 of that Order (notification of the presence or suspected presence of certain plant pests), report it to the Department and shall take such measures in relation to that material as may be notified in writing to him by the Department.

Information on propagating material

9. - (1) Subject to paragraphs (2) and (3), a supplier shall not market any propagating material unless it is accompanied by a label or other document made out by him and on which appears the appropriate information prescribed by the Schedule.

(2) Where propagating material is accompanied by a plant passport issued in accordance with Council Directive 77/93/EEC, the plant passport may constitute the label or other document for the purposes of paragraph (1) if it contains the appropriate information prescribed in the Schedule.

(3) Paragraph (1) shall not apply to propagating material which is marketed to

persons who are not professionally engaged in the production or sale of ornamental plants or propagating material.

Marketing in lots

10. - (1) Subject to paragraph (2), a supplier shall not market any propagating material unless it is in lots.

(2) Paragraph (1) shall not apply to -

(a) the sale of different lots in a single consignment provided the supplier keeps records of the composition and origin of the different lots for a period of not less than 12 months from the date of the sale;

(b) propagating material which is marketed to persons who are not professionally engaged in the production or sale of ornamental plants or propagating material.

Description of propagating material

11. - (1) Subject to paragraph (2) a supplier shall not market propagating material with reference to a variety unless -

(a) it is the subject of Community plant variety rights pursuant to Regulation 2100/94/EC or national plant variety rights under any jurisdiction; or

(b) the existence of that variety is a matter of common knowledge as defined in section 38 of the Plant Varieties Act 1997[8]; or

(c) that variety is entered on a list kept by a supplier which includes:

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

(ii) information as to how the varietal identity and purity of the variety is being maintained and as to the propagation system used;

(iii) a description of the variety which shall include, where appropriate, the characteristics of the variety which would be relevant for the purpose of an application for a Community plant variety right in respect of the variety under Regulation 2100/94/EC; and

(iv) an explanation of how the variety differs from other varieties most closely resembling it.

(2) The requirements of sub-paragraphs (c)(ii) and (c)(iv) of paragraph (1) shall not apply to a supplier engaged only in the marketing of propagating material.

(3) Each supplier shall make any list kept by him in accordance with paragraph (1) (c) available to the Department on request.

(4) Where a supplier markets propagating material with reference to the group of plants to which it belongs, he shall identify the group of plants in such a way as to avoid confusion with any varietal denomination.

Propagating material produced in third countries

12. - (1) A supplier shall not import propagating material from a third country unless he has ensured prior to import that the material to be imported is of an equivalent standard to propagating material produced in accordance with Directive 98/56/EC.

(2) A supplier shall notify the Department in writing of the importation of a consignment of propagating material from a third country within one month of its importation.

(3) A supplier shall be deemed to have complied with paragraph (2) if he delivers a phytosanitary certificate or reforwarding phytosanitary certificate in respect of the consignment in accordance with Article 13(5) of the Plant Health Order (Northern Ireland) 1993.

(4) A supplier shall retain documentary evidence of every contract relating to the import of propagating material from a third country during the subsistence of the contract and for at least 12 months after its termination.

Powers of inspectors

13. - (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 covered by these Regulations is being 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 such other persons as he reasonably 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 propagating material or sample from any propagating material and send it for analysis;

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

(c) inspect 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 propagating material on the supplier's premises that the inspector has reasonable grounds for suspecting fails to comply with the requirements of these Regulations require the supplier not to market or to move from his premises or to permit or cause to be marketed or moved from his premises the propagating material until the supplier has carried out such reasonable measures as the notice may specify.

Offences

14. - (1) A person who contravenes or fails to comply with any provision of these Regulations without reasonable excuse shall be guilty of an offence.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Revocation

15. The Marketing of Ornamental Plant Material Regulations (Northern Ireland) 1995 ("the 1995 Regulations")[2] are revoked.

Sealed with the Official Seal of the Department of Agriculture and Rural Development
on 22nd December 1999.

L.S.

Liam McKibben
Senior Officer of the Department of Agriculture and Rural Development

SCHEDULE

Regulation 9

Information to appear on a supplier's label or other document

- 1. Indication that the material is of "EC quality".**
- 2. Indication of EC Member State code.**
- 3. Indication of Department or its distinguishing code.**
- 4. Supplier's registration number.**
- 5. Individual serial, week or batch number.**
- 6. Botanical name.**
- 7. Where appropriate, denomination of the variety or, in the case of rootstock, denomination of the variety or its designation.**
- 8. Where appropriate, denomination of the group of plants.**
- 9. Quantity.**
- 10. In the case of propagating material imported from a third country the name of the country of production.**

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations revoke and replace the Marketing of Ornamental Plant Material Regulations (Northern Ireland) 1995. The Regulations implement Council Directive 98/56/EC on the marketing of propagating material of ornamental plants (O.J. No. L.226, 13.8.98, p. 16); Commission Directive 1999/68/EC setting out additional provisions for lists of varieties of ornamental plants as kept by suppliers under Directive 98/56 (O.J. No. L.172, 8.7.99, p. 42); and Commission Directive 1999/66/EC setting out requirements as to the label or other document made out by the supplier pursuant to Council Directive 98/56 (O.J. No. L.164, 30.6.99, p. 76).

The Regulations come into operation on 31st December 1999. The Regulations set quality standards to be met by ornamental plant propagating material when marketed and prescribe conditions to be satisfied by suppliers. They introduce the following principal changes -

- (1) The Regulations apply to the propagating material of all ornamental plants (regulations 2 and 3).**
- (2) Propagating material intended for use in the conservation of genetic diversity is exempted from the Regulations (regulation 3).**
- (3) The quality requirements for propagating material, including citrus material and flower bulbs, are modified (regulations 4, 5 and 6).**
- (4) The system of accreditation for those who market plant material is ended and a system of registration is introduced (regulations 1 and 7).**
- (5) Suppliers must notify the Department of the appearance on their premises of any plant pest which is listed in the Plant Health Order (Northern Ireland) 1993 (regulation 8).**
- (6) The information to appear in suppliers' documentation is modified with effect from 31st December 1999 (regulations 1 and 9 and the Schedule).**
- (7) Importers of propagating material from third countries are required to ensure that it is equivalent to material produced in accordance with Directive 98/56 and to notify the Department (regulation 12).**

Notes:

[1] See S.I. 1972/1811[back](#)

[2] 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[back](#)

[3] 1954 c. 33 (N.I.)[back](#)

[4] O.J. No. L.26, 31.1.77, p. 20 as last amended by Commission Directive 98/2/EC (O.J. No. L.15, 21.1.98, p. 34)[back](#)

[5] O.J. No. L.226, 13.8.98, p. 16[back](#)

[6] O.J. No. L.227, 1.9.94, p. 1, as last amended by Council Regulation 2506/95/EC (O.J. No. L.258, 28.10.95, p. 3)[back](#)

[7] S.R. 1993 No. 256 as amended by S.R. 1994 No. 28, S.R. 1995 No. 250, S.R. 1995 No. 494, S.R. 1996 No. 204, S.R. 1996 No. 249, S.R. 1997 No. 110, S.R. 1997 No. 397, S.R. 1998 No. 16, S.R. 1998 No. 146, S.R. 1998 No. 315 and S.R. 1999 No. 24[back](#)

[8] 1997 c. 66[back](#)

[9] S.R. 1995 No. 414[back](#)

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