

EUROPEAN COMMUNITIES (FOREST REPRODUCTIVE MATERIAL) REGULATIONS 1982

I, BRENDAN DALY, Minister for Fisheries and Forestry, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), for the purpose of giving effect to Council Directive No. 66/404/EEC of 14 June, 1966(1) as amended by Council Directive No. 75/445/EEC of 26 June, 1975(2) and to Council Directive No. 71/161/EEC of 30 March, 1971(3), as amended by Commission Directive No. 74/13/EEC of 4 December, 1973(4), hereby make the following Regulations:

- (1) O.J. No. 125, 11.7.1966
- (2) O.J. No. L196/14, 26.7.1975
- (3) O.J. No. L87, 17.4.1971
- (4) O.J. No. L15, 18.1.1974

REG 1

1. (1) These Regulations may be cited as the European Communities (Forest Reproductive Material) Regulations, 1982.
- (2) The Principal Regulations and these Regulations may be cited together as the European Communities (Forest Reproductive Material) Regulations, 1973 and 1982.
- (3) The Principal Regulations and these Regulations shall be construed together as one.

REG 2

2. In these Regulations—
 - "the Directive of 1966" means Council Directive No. 66/404/EEC of 14 June, 1966(1);
 - (1) O.J. No. 125, 11.7.1966
 - "the Directive of 1975" means Council Directive No. 75/445/EEC of 26 June, 1975(2);
 - (2) O.J. No. L196/14, 26.7.1975
 - "the Principal Regulations" means the European Communities (Forest Reproductive Material) Regulations, 1973 (S.I. No. 165 of 1973);
 - "selected reproductive material" and "tested reproductive material" have the meanings assigned to them, respectively, by Article 3 of the Directive of 1966, as amended by Article 3 of the Directive of 1975;
 - "third country" means a country or territory other than a Member State of the European Communities.

REG 3

3. The Principal Regulations are hereby amended by the substitution of the following Regulation for Regulation 4:

"4 (1) Subject to paragraph (2) of this Regulation, reproductive material shall not be marketed unless—

(a) in case it is of a species listed in Article 2 (1) (a) of the Directive of 1966, as amended by Article 2 (1) of the Directive of 1975, it is either selected reproductive material or tested reproductive material,

(b) in case it is of a species listed in Article 2 (1) (b) of the Directive of 1966, inserted by Article 2 (2) of the Directive of 1975, it is tested reproductive material.

(2) This Regulation shall not apply to—

(a) reproductive material used for tests for scientific purposes or selection work,

(b) any quantity of seed described in subparagraph (c) of Article 4 (2) of the Directive of 1966, inserted by Article 4 (2) of the Directive of 1975,

(c) reproductive material which is intended for export or re-export to a third country".

REG 4

4. (1) This Regulation applies to reproductive or selected material—

(a) to which an authorisation given to the Minister under Article 13 (2) of the Directive of 1966 (inserted by Article 13 of the Directive of 1975) applies, and

(b) particulars of which are specified in a notice published pursuant to Regulation 5 of these Regulations.

(2) Subject to paragraph (3) of this Regulation, a person shall not market reproductive material or selected material to which this Regulation applies.

(3) Paragraph (2) of this Regulation shall not apply to basic material which is intended for re-export to a third country.

REG 5

5. Where an authorisation referred to in paragraph (a) of Regulation 4 (1) of these Regulations is given to the Minister, he shall, as soon as may be, cause to be published in the *Iris Oifigiúil* particulars of the authorisation (including particulars of the reproductive material or selected material to which the authorisation relates).

REG 6

6. (1) A person shall not market reproductive material unless the material is marketed in conformity with the criteria given in the scheduled directives.

(2) A person who, prior to delivery to the final consumer, is in the course of his business in possession or control of reproductive material shall ensure that, for so long as it remains in such possession or control, the material—

(a) bears or is accompanied by information identifying its source,

(b) is, if and for so long as it is collected, processed, stored, transported or raised, kept in lots separated and identified in conformity with the criteria given in the scheduled directives.

REG 7

7. In any proceedings for an offence under these Regulations it shall not be necessary for the prosecution—

(a) to prove that the reproductive material to which the alleged offence relates was not either—

(i) material coming within the provisions of Article 16 (b) of the Directive of 1966, inserted by Article 15 of the Directive of 1975, or

(ii) material excluded from the scope of Regulation 4 of the Principal Regulations, inserted by Regulation 3 of these Regulations, by paragraph (2) of the said Regulation 4, or

(b) to prove that the basic material to which the alleged offence relates was not either—

(i) intended for export or re-export to a third country, or

(ii) parts of plants or young plants intended mainly for purposes other than the production of wood,

or

(c) to negative the existence of any approval for marketing given pursuant to an authorisation by the Commission under Article 15 of the Directive of 1966,

and, accordingly, the onus of proving, as may be appropriate, that the said reproductive material was material coming within the said provisions or so excluded, or that the said basic material was intended to be so exported or re-exported or was parts of plants or young plants which were intended for such purposes, or that at the time of the alleged offence such an approval was then in force, shall be on the defendant.

REG 8

8. A person who fails to comply with the requirements of or otherwise contravenes Regulation 4 (2) or 6 of these Regulations shall be guilty of an offence and shall be liable on summary conviction to the penalty specified in Regulation 9 (1) of the Principal Regulations.

REG 9

9. The Principal Regulations are hereby amended by—
(a) the substitution of the following Regulation for Regulation 6:

"6 (1) Reproductive material shall not be imported unless it is accompanied by a certificate conforming to the requirements of the scheduled directives.

(2) A copy of every certificate accompanying imported reproductive material shall be furnished to the Minister on importation"; and:

(b) the substitution of the following for the entry in the Schedule thereto:

Directives.

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Ref. No.

(1) Directive and EEC Reference No. EEC Official Journal Reference (3) 1. Council Directive No. 66/404/EEC of 14 June, 1966, as modified by

OJ No. 125, 11 July, 1966. Council Directive No. 69/64/EEC of 18 February, 1969, and by

OJ No. L148, 26 February, 1969. Council Directive No. 75/445/EEC of 26 July, 1975.

OJ No. L196, 26 July, 1975. 2. Council Directive No. 71/161/EEC of 30 March, 1971, as modified by

OJ No. L87, 17 April, 1971. Commission Directive No. 74/13/EEC of 4 December, 1973.

OJ No. L15, 18 January, 1974.

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REG 10

10. The following provisions of the Principal Regulations are hereby revoked:

(a) "Council" in the definition of "scheduled directives" in Regulation 2;

(b) "5," in Regulation 9 (1); and

(c) Regulations 3 (2) and 5.

GIVEN under my Official Seal, this 8th day of December, 1982.
BRENDAN DALY,
Minister for Fisheries and Forestry.

EXPLANATORY NOTE.

These Regulations provide that approved forest basic material be of either tested reproductive material or selected reproductive material categories, that no reproductive material (seed, parts of plants, young plants) may be marketed unless derived from such basic material and that prior to delivery to the final consumer, all such material if and for so long as it is collected, processed, stored, transported or raised, be kept in lots separated and identified in accordance with the criteria given in the scheduled directives. It is provided also that in any proceedings for an offence under these Regulations the onus of proof shall be on the defendant. The maximum fine for an offence, on summary conviction, is £200.