

Statutory Instrument 1995 No. 2652

The Marketing of Vegetable Plant Material Regulations 1995

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STATUTORY INSTRUMENTS

1995 No. 2652

PLANT HEALTH

The Marketing of Vegetable Plant Material Regulations 1995

Made 29th September 1995

Laid before Parliament 11th October 1995

Coming into force 1st December 1995

The Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly, being Ministers designated for the purposes of section 2(2) of the European Communities Act 1972^[1] in relation to the common agricultural policy of the European Community^[2], in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title, commencement and extent

1.—(1) These Regulations may be cited as the Marketing of Vegetable Plant Material Regulations 1995 and shall come into force on 1st December 1995.

(2) These Regulations extend to Great Britain.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

"Directive 92/33/EEC" means Council Directive 92/33/EEC^[3] on the marketing of vegetable propagating and planting material other than seed;

"Directive 93/61/EEC" means Commission Directive 93/61/EEC^[4] setting out the schedules indicating the conditions to be met by vegetable propagating and planting material other than seed pursuant to Directive 92/33/EEC;

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

"marketing" means the delivery, offer for sale, exposure for sale, sale and possession with a view to sale of plant material, and "market" and "marketed" shall be construed accordingly;

"the Minister" means, as respects England, the Minister of Agriculture, Fisheries and Food and, as respects Scotland or Wales, the Secretary of State;

"plant material" means parts of plants and all vegetative material, including rootstocks, or entire plants (including the grafted components of grafted plants), intended for the production of vegetables, other than seeds;

"producer" means a supplier engaged in the production or reproduction of plant material;

"responsible official body" means, as respects England and Wales, the Ministry of Agriculture, Fisheries and Food and, as respects Scotland, the Scottish Office Agriculture and Fisheries Department;

"supplier" means any person professionally engaged in the production, reproduction, preservation, treatment or marketing of plant material.

(2) Any reference in these Regulations to a numbered regulation or a numbered schedule is a reference to the regulation or schedule so numbered in these Regulations.

Plant material to which these Regulations apply

3.—(1) Subject to paragraph (2) below, these Regulations shall apply to—

(a) plant material of the genera and species set out in Schedule 1 and their hybrids; and

(b) rootstocks and other parts of plants of other genera or species and their hybrids if plant material of a genus or species set out in Schedule 1 or of a hybrid of such a genus or species is or is to be grafted on to them.

- (2) These Regulations shall not apply to plant material intended for—
- (a) export to countries outside the European Community, if identified as such and kept sufficiently isolated from plant material not intended for such export;
 - (b) trials or scientific purposes;
 - (c) selection work; or
 - (d) measures aimed at the conservation of genetic diversity.

Small producers

4. These Regulations shall not apply to a small producer all of whose production and sales of plant material are intended for final use by persons on the local market who are not professionally involved in plant production.

Quality requirements for plant material

5. No supplier shall market any plant material unless—

(a) it is substantially free on visual inspection from any harmful organisms and diseases impairing quality which reduce its usefulness as plant material and in particular from the organisms and diseases listed in the Annex to Directive 93/61/EEC in respect of its genus or species;

(b) it is substantially free from any defects, including unsatisfactory vigour and dimensions and imbalances between roots, stems and leaves, likely to impair its usefulness as plant material;

(c) it has adequate identity and purity relative to its genus or species and variety;

(d) either—

(i) it belongs to a variety the seeds of which may be marketed in accordance with the Vegetable Seeds Regulations 1993^[5], or

(ii) it belongs to a variety officially accepted in a member State in accordance with Article 9 of Directive 92/33/EEC; and

(e) it is in lots of sufficiently homogeneous composition and origin.

Measures to be taken by producers

6. A producer shall—

(a) treat or, where appropriate, remove any plant material showing visible signs or symptoms of the harmful organisms or diseases referred to in regulation 5(a) at the stage of the growing crop;

(b) report to an inspector any plant material that fails to comply with the requirements of regulation 5(a) as a result of the presence of organisms and diseases listed in the Annex to Directive 93/61/EEC; and

(c) keep plant material in lots of homogeneous composition and origin during growing and lifting or removal from parent material.

Special provisions relating to the marketing of bulbs of shallots and garlic

7. No producer shall market bulbs of shallots or garlic other than bulbs derived directly from plant material which was checked at the stage of the growing crop and which was found to satisfy the requirements of regulation 5(a).

Information to accompany plant material

8.—(1) Subject to paragraphs (2) and (3) below, no supplier shall market any plant material unless it is accompanied by a supplier's document on which appears the appropriate information prescribed in Part A of Schedule 2.

(2) Where plant material is accompanied by a plant passport issued in accordance with Council Directive 77/93/EEC^[6], the plant passport may constitute the supplier's document for the purposes of paragraph (1) above if accompanied by the appropriate additional information prescribed in Part B of Schedule 2.

(3) Paragraph (1) above shall not apply to plant material, accompanied by appropriate product information, which is marketed to a non-professional final consumer.

(4) Where young plants raised directly from seeds marketed in accordance with the Vegetable Seeds Regulations 1993 are marketed accompanied by a supplier's document under paragraph (1) above on which appears the appropriate information prescribed in Part A of Schedule 1, the supplier shall if so requested provide the relevant seed lot reference number of the seeds to the responsible official body.

Records to be kept by suppliers

9.—(1) Subject to paragraphs (2) and (3) below, a supplier other than a producer shall keep—

- (a) written records, or records registered in an indelible fashion, on the buying and selling or delivery of plant material; and
- (b) records on the composition and origin of any plant material of different origins mixed by him during packaging, storage or transport or at delivery.

(2) Paragraph (1) above shall not apply to a supplier engaged only in the marketing of small quantities of plant material to non-professional final consumers;

(3) Sub-paragraph (1)(b) above shall not apply to a supplier engaged only in the marketing of plant material to non-professional final consumers;

(4) A producer shall keep—

- (a) the records specified in item 2 of Schedule 3;
- (b) records on the composition and origin of any plant material of different origins mixed by him during packaging, storage or transport or at delivery; and
- (c) records on all occurrences on his premises of the harmful organisms referred to in regulation 5(a) and on any measures taken in relation to such occurrences.

Accreditation of producers

10.—(1) No producer shall market plant material unless he is accredited.

(2) The Minister shall accredit a producer if he is satisfied that the producer complies with the requirements set out in Schedule 3.

(3) The Minister may, by notice in writing served on an accredited producer who fails to comply with the requirements set out in Schedule 3, suspend or revoke accreditation, and in such notice shall state the grounds for suspension or revocation.

(4) Applications for accreditation shall be made to the Minister in such form as the Minister may from time to time require.

Powers of inspectors

11.—(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 governed 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) above may take with him representatives of the European Commission and such other persons as he 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 plant material or sample from any plant 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 plant material on the supplier's premises that the inspector has reasonable grounds for suspecting fails to comply with the requirements of regulation 5(a) 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 plant material until the supplier has carried out such reasonable measures as the notice may specify.

Service of notices

12.—(1) A notice under these Regulations shall be deemed to have been served on a supplier if it is delivered to him personally or left for him at his last known place of abode or business or sent through the post addressed to him at his last known place of abode or business.

(2) A notice under these Regulations may—

- (a) in the case of a body corporate, be served on the secretary or clerk of that body at the address of the registered or principal office of that body;
- (b) in the case of a partnership, be served on a partner or on a person having the control or management of the partnership business or, in Scotland, the firm at the principal office of the partnership.

Offences

13.—(1) A person who contravenes or fails to comply with any provision of these Regulations without reasonable excuse, proof of which shall lie on him, shall be guilty of an offence.

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

Tim Boswell

Parliamentary Secretary Ministry of Agriculture, Fisheries and Food

29th September 1995

Raymond Robertson

Parliamentary Under Secretary of State Scottish Office

25th September 1995

SCHEDULE 1
Regulation 3(1)

GENERA AND SPECIES TO WHICH REGULATIONS APPLY

Asparagus (*Asparagus officinalis* L.)
Aubergine or eggplant (*Solanum melongena* L.)
Beetroot or red beet (*Beta vulgaris* L.)
Broad bean (*Vicia faba* L.)
Broccoli (*Brassica oleracea* L.)
Brussels sprouts (*Brassica oleracea* L.)
Cabbage (red, Savoy, white) (*Brassica oleracea* L.)
Cardoon (*Cynara cardunculus* L.)
Carrot (*Daucus carota* L.)
Cauliflower (*Brassica oleracea* L.)
Celery (*Apium graveolens* L. var. *dulce* (Mill.) DC.)
Chervil (*Anthriscus cerefolium* (L.) H. Hoffm.)
Chinese cabbage (described in Directive 92/33/EEC as *Brassica pekinensis* L.)
Corn salad (*Valerianella locusta* (L.) Betteke.)
Courgette and marrow (*Cucurbita pepo* L.)
Cucumber and gherkin (*Cucumis sativus* L.)
Curly kale (*Brassica oleracea* L.)
Endive (*Cichorium endivia* L.)
Fennel (*Foeniculum vulgare* Mill.)
French bean (*Phaseolus vulgaris* L.)
Garlic (*Allium sativum* L.)
Globe artichoke (*Cynara scolymus* L.)
Gourd (*Cucurbita maxima* Duchesne)
Japanese or Welsh bunching onion (*Allium fistulosum* L.)
Kohlrabi (*Brassica oleracea* L.)
Leek (described in Directive 92/33/EEC as *Allium porrum* L.)
Lettuce (*Lactuca sativa* L.)
Mangold (*Beta vulgaris* L.)
Melon (*Cucumis melo* L.)
Onion (described in Directive 92/33/EEC as *Allium cepa* L.)

Parsley (*Petroselinum crispum* (Mill.) A. W. Hill)
Peas excepting fodder peas (*Pisum sativum* L.)
Pepper (*Capsicum annuum* L.)
Radish (*Raphanus sativus* L.)
Rhubarb (*Rheum*)
Runner bean (*Phaseolus coccineus* L.)
Scorzonera (*Scorzonera hispanica* L.)
Shallot (described in Directive 92/33/EEC as *Allium ascalonicum* L.)
Spinach (*Spinacia oleracea* L.)
Tomato (*Lycopersicon esculentum* Mill. but described in Directive 92/33/EEC as
Lycopersicon lycopersicum (L.) Karsten ex Farw.)
Turnip (*Brassica rapa* L.)
Watermelon (*Citrullus lanatus* (Thunb.) Matsum. & Nakai)
Witloof chicory (*Cichorium intybus* L.)

SCHEDULE 2

Regulation 8

CONTENT OF SUPPLIER'S DOCUMENT

PART A: INFORMATION TO APPEAR ON A SUPPLIER'S DOCUMENT

1. "EC quality".
2. Indication of EC Member State code.
3. Indication of responsible official body or its distinguishing code.
4. Registration or accreditation number.
5. Name of supplier.
6. Individual serial, week or batch number.
7. Date of issue of supplier's document.
8. Common name.
9. Denomination of the variety or, in the case of rootstock, denomination of the variety or its designation.
10. Quantity.

PART B: INFORMATION TO ACCOMPANY A PLANT PASSPORT WHICH CONSTITUTES A SUPPLIER'S DOCUMENT

1. "EC quality".
2. Indication of responsible official body or its distinguishing code.
3. Denomination of the variety or, in the case of rootstock, denomination of the variety or its designation.

SCHEDULE 3

Regulation 10

ACCREDITATION REQUIREMENTS FOR PRODUCERS

1. To ensure that the following aspects of the production process are monitored as appropriate—
 - (a) the quality of plant material used to start the production process;

(b) the sowing, pricking-out, potting-up and planting of plant material;

(c) the cultivation plan and method and general crop care;

(d) the multiplication and harvesting operations; and

(e) hygiene, treatments, packaging, storage, transport and administration.

2. To keep, and to retain for at least one year, written records, or records registered in an indelible fashion, on plant material purchased for storage or planting on the premises, under production, or dispatched to others, and to keep, and to retain for at least one year, written records, or records registered in an indelible fashion, and related documents on any chemical treatments applied to plants.

3. To designate a person technically experienced in plant production and related plant health matters to liaise with the responsible official body.

4. To carry out visual observations as necessary and at appropriate times in a manner acceptable to the responsible official body.

5. To ensure access to the premises for persons entitled to entry under these Regulations, in particular for inspections and, where appropriate, sampling, and to the records and related documents referred to in item 2 of this Schedule.

6. To co-operate with the responsible official body.

Notes:

[1] 1972 c. 68. back

[2] S.I. 1972/1811. back

[3] OJ No. L157, 10.6.92, p.1, as amended by Commission Decision 95/25/EC (OJ No. L36, 16.2.95, p.34). back

[4] OJ No. L250, 7.10.93, p.19. back

[5] S.I. 1993/2008. back

[6] Council Directive 77/93/EEC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ No. L26, 31.1.77, p.20), as last amended by Commission Directive 95/41/EC (OJ No. L182, 2.8.95, p.17). back