

---

STATUTORY RULES OF NORTHERN IRELAND

---

**2017 No. 119**

The Marketing of Fruit Plant and Propagating  
Material Regulations (Northern Ireland) 2017

PART 1

Introduction

**Citation and commencement**

1. These Regulations may be cited as the Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017 and come into operation on 29th June 2017.

**Interpretation; general**

2.—(1) In these Regulations—

“basic material” means propagating material intended for the production of certified material, which has been—

- (a) in relation to propagating material produced in Northern Ireland, certified as basic material in accordance with regulation 9;
- (b) in relation to propagating material produced outside Northern Ireland, certified as basic material by a responsible authority in accordance with Article 15 of [Directive 2014/98/EU](#);

“basic mother plant” means a mother plant intended for the production of basic material;

“CAC material” means propagating material and fruit plants which—

- (a) are intended for the production of propagating material, fruit plants or fruit; and
- (b) in the case of—
  - (i) plant material produced in Northern Ireland, meet the requirements for CAC material in Schedule 1; or
  - (ii) plant material produced outside Northern Ireland meet the requirements for CAC material in Article 23 of [Directive 2014/98/EU](#);

“category” means pre-basic material, basic material, certified material or CAC material;

“certified” (and “certification” is to be construed accordingly) means—

- (a) in relation to plant material produced in Northern Ireland, officially certified by the Department, as the responsible authority in Northern Ireland, in accordance with regulation 9;
- (b) in relation to plant material produced outside Northern Ireland, officially certified for the purposes of Article 3 of the Directive by the responsible authority in the country or territory concerned;

“certified material” means any propagating material or fruit plants intended respectively for the production of fruit plants or the production of fruits, which have been—

- (a) in relation to propagating material and fruit plants produced in Northern Ireland, certified as certified material in accordance with regulation 9
- (b) in relation to propagating material and fruit plants produced outside Northern Ireland, certified as certified material by a responsible authority in accordance with Article 20 of [Directive 2014/98/EU](#);

“certified mother plant” means a mother plant intended for the production of certified material;

“certified plant material” means plant material that is certified as pre-basic material, basic material or, as the case may be, certified material;

“cryopreservation” means the maintenance of plant material by cooling to ultra low temperatures in order to retain the viability of the material;

“the Department” means the Department of Agriculture, Environment and Rural Affairs;

“fruit plants” means plants intended to be planted or replanted, after marketing;

“inspector” means a person authorised 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” means the sale, holding with a view to sale, offer for sale, and any disposal, supply or transfer aimed at commercial exploitation of propagating material or fruit plants to third parties, whether or not for consideration, and “marketed” is to be construed accordingly;

“micropropagation” means the multiplication of plant material in order to produce a large number of plants, using *in vitro* culture of differentiated vegetative buds or differentiated vegetative meristems taken from a plant;

“mother plant” means an identified plant intended for propagation;

“official description” means the description of a variety provided on—

- (a) registration; or
- (b) the grant of plant variety rights;

“official examination” means an examination or inspection conducted by an inspector, including one conducted by way of sample;

“official label” means—

- (a) in relation to certified plant material produced in Northern Ireland, a label issued or approved by the Department, which has not been previously used and which meets the requirements in Part 1 of Schedule 2;
- (b) in relation to certified plant material produced outside Northern Ireland, a label issued or approved by the responsible authority in the country or territory where the plant material was produced and which meets, as appropriate to the plant material to which the label relates, the requirements of Article 2 of [Directive 2014/96/EU](#);

“officially recognised description” means a description of key morphological features that enable the variety to be identified;

“outside Northern Ireland” means any part of the United Kingdom other than Northern Ireland or any member State other than the United Kingdom;

“plant material” means the plants and materials described in regulation 4;

“plant variety rights” means rights granted under—

- (a) Part 1 of the Plant Varieties Act 1997<sup>(1)</sup>;
- (b) Council Regulation (EC) No 2100/94 on Community plant variety rights<sup>(2)</sup>; or
- (c) domestic legislation in countries or territories, other than those forming part of the United Kingdom, that affords plant variety protection in accordance with UPOV;

“practically free from defects” means that defects likely to impair the quality and usefulness of the propagating material or fruit plants, are present at a level equal to, or lower than, the level expected to result from good cultivating and handling practices, and that level is consistent with good cultivating and handling practices;

“pre-basic material” means propagating material intended for the production of basic material or certified material, other than fruit plants, which has been—

- (a) in relation to propagating material produced in Northern Ireland, certified as pre-basic material in accordance with regulation 9;
- (b) in relation to propagating material produced outside Northern Ireland, certified as pre-basic material by a responsible authority in accordance with Article 3 or 4 of Directive 2014/98/EU;

“pre-basic mother plant” means a mother plant intended for the production of pre-basic material;

“propagating material” means seeds, parts of plants and all plant material, including rootstocks, intended for the propagation and production of fruit plants;

“registered as a variety” (and “registration” is to be construed accordingly) means—

- (a) registration in Northern Ireland as a variety in accordance with Schedule 3; or
- (b) registration outside Northern Ireland as a variety by the responsible authority in the country or territory in accordance with Article 4 of Directive 2014/97/EU;

“responsible authority” means the authority established or designated by a member State in accordance with Article 2(11) of the Directive, responsible for the quality of plant material in the country or territory where the plant material was produced;

“supplier” means a person who is involved professionally in the reproduction, production, preservation, treatment, importation or marketing of plant material;

“supplier’s document” means a document prepared by the supplier that meets the requirements in Part 2 of Schedule 2;

“variety” means a plant grouping within a single botanical taxon of the lowest known rank, which can be—

- (a) defined by the expression of the characteristics resulting from a given genotype or combination of genotypes;
- (b) distinguished from any other plant grouping by the expression of at least one of the said characteristics; and
- (c) considered as an entity in view of its ability to be propagated unchanged;

“visual inspection” means the examination of plants or parts of plants in facilities, fields and lots, by the Department or, where appropriate, the supplier, using the unaided eye, lens, stereoscope or microscope.

(2) The Interpretation Act (Northern Ireland) 1954<sup>(3)</sup> applies to these Regulations as it applies to an Act of the Assembly.

---

(1) 1997 c.66

(2) OJ L 227, 1.9.1994, p.1 as last amended by Council Regulation (EC) No 15/2008 (OJL 8/2, 11.1.2008, p.2).

(3) 1954 c.33 (N.I.)

**Interpretation: European Union instruments****3.—(1) In these Regulations—**

“[Directive 2000/29/EC](#)” means Council [Directive 2000/29/EC](#) 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](#));

“[Directive 2014/96/EU](#)” means Commission Implementing [Directive 2014/96/EU](#) on the requirements for the labelling, sealing and packaging of fruit plant propagating material and fruit plants intended for fruit production, falling within the scope of Council [Directive 2008/90/EC](#)([5](#));

“[Directive 2014/97/EU](#)” means Commission Implementing [Directive 2014/97/EU](#) implementing Council [Directive 2008/90/EC](#) as regards the registration of suppliers and of varieties and the common list of varieties([6](#));

“[Directive 2014/98/EU](#)” means Commission Implementing [Directive 2014/98/EU](#) implementing Council [Directive 2008/90/EC](#) as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections([7](#));

“the Directive” means Council [Directive 2008/90/EC](#) on the marketing of fruit plant propagating material and fruit plants intended for fruit production([8](#)).

(2) Any reference in these Regulations to Annex I, Annex II, Annex III, Annex IV or Annex V to [Directive 2014/98/EU](#) is a reference to that Annex as amended from time to time.

**Plant material to which these Regulations apply****4.—(1) Subject to paragraph (2), these Regulations apply in relation to—**

- (a) fruit plants and propagating material of the genera and species listed in Schedule 4 and their hybrids; and
- (b) parts of plants, including rootstocks, of other genera or species and their hybrids if material from fruit plants listed in Schedule 4 (or any hybrid of such fruit plants) is, or is to be, grafted on to them.

(2) These Regulations do not apply in relation to plant material intended for export from Northern Ireland to any country outside the European Union, provided the plant material is identified as such and kept sufficiently isolated.

(4) OJ L 169, 10.7.2000, p.1 as last amended by Regulation (EU) 2016/2031 of the European Parliament and of the Council (OJL 317, 23.11.2016, p.4)

(5) OJ L 298, 16.10.2014, p.12

(6) OJ L 298, 16.10.2014, p.16

(7) OJ L 298, 16.10.2014, p.22

(8) OJ L 267, 8.10.2008, p.8, as last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJL 189, 27.6.2014, p.1).