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STATUTORY RULES OF NORTHERN IRELAND

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**2017 No. 119**

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

**PART 5**

**Enforcement**

**Powers of Entry**

17.—(1) For the purposes of enforcing these Regulations, an inspector, on producing a duly authenticated authorisation, may enter any premises (except premises used wholly or mainly as a private dwelling house) at any reasonable hour by giving reasonable notice.

(2) But the requirement to give notice is not necessary—

- (a) where reasonable efforts to agree an appointment have failed;
- (b) where an inspector has reasonable suspicion of a failure to comply with these Regulations;  
or
- (c) in an emergency.

(3) A lay magistrate may, by warrant, authorise an inspector to enter any premises, if necessary using reasonable force, if the lay magistrate is satisfied on complaint on oath—

- (a) that there are reasonable grounds to enter the premises; and
- (b) that any of the conditions in paragraph (4) are met.

(4) The conditions are—

- (a) that entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
- (b) that asking for admission to the premises, or giving notice, would defeat the object of the entry;
- (c) that entry is required urgently; or
- (d) that the premises are unoccupied or the occupier is temporarily absent.

(5) A warrant is valid for 3 months.

(6) An inspector entering any premises may be accompanied by such other persons (up to a maximum of 4 persons) and such materials and equipment (including vehicles) as the inspector considers necessary for the purposes of this regulation.

(7) An inspector entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

**Search and examination**

18.—(1) Where an inspector enters any premises pursuant to regulation 17, the inspector may—

- (a) open any package, bundle or container;
- (b) carry out any searches, inspections, measurements and tests;
- (c) take samples;
- (d) have access to, and inspect any books, documents or records (in whatever form they are held) relating to these Regulations and removing them to enable them to be copied;
- (e) photograph or copy anything the inspector may inspect under sub-paragraph (d);
- (f) photograph anything which the inspector has reasonable cause to believe may be relevant in connection with the enforcement of these Regulations; and
- (g) seize any computers and associated equipment for the purpose of copying documents provided that they are returned as soon as practicable.

(2) Any person who accompanies an inspector pursuant to regulation 17(6) may perform any of the inspector's functions under this regulation but only under the supervision of that inspector.

#### **Information notice**

**19.** An inspector may, by notice served on any person require that person to provide such information as is specified in the notice in such form and within such period following service of the notice or at such time as is so specified.

#### **Prohibition on movement**

**20.** An inspector may, by notice served on any person, prohibit that person from moving plant material from any premises where the inspector has reasonable grounds to suspect that the plant material fails to comply with the requirements of these Regulations.

#### **Enforcement and prohibition notices**

**21.—(1)** An inspector may serve a notice on any person who contravenes, or who the inspector has reasonable grounds to suspect may contravene, these Regulations—

- (a) requiring that person to act in accordance with the Regulations (“an enforcement notice”);  
or
- (b) prohibiting that person from acting in breach of them (“a prohibition notice”).

(2) The notice must give reasons for serving it and, if appropriate, specify what action must be taken and give time limits.

#### **Appeals against enforcement notices etc.**

**22.—(1)** Any person who is aggrieved by a decision of an inspector to serve a notice under this Part may appeal to a magistrates' court.

(2) The procedure on appeal to a magistrates' court is by way of notice and Part VII of the Magistrates' Courts (Northern Ireland) Order 1981(1) applies to the proceedings.

(3) The period within which an appeal must be brought is 28 days from the service of the notice or, in the case of an enforcement notice, the period specified in the notice, whichever ends earlier.

- (4) A notice served under this Part must state—
  - (a) the right of appeal to a magistrates' court; and
  - (b) the period in which such an appeal may be brought.

(5) On an appeal under this regulation, the court may either cancel or affirm the notice and, if it affirms the notice, it may do so either in its original form or with such modifications as it thinks fit.

### **Compliance with notices**

**23.** A notice served under this Part must be complied with at the expense of the person on whom it is served and, if it is not complied with, an inspector may arrange for it to be complied with at the expense of that person.

### **Offences and penalties**

**24.—**(1) It is an offence—

(a) to fail to comply with a notice served under—

- (i) regulation 19 (information notice);
- (ii) regulation 20 (prohibition on movement);
- (iii) regulation 21(1)(a) (enforcement notice);
- (iv) regulation 21(1)(b) (prohibition notice).

(b) to fail, without reasonable excuse, to give any assistance that any person acting in the execution of these Regulations may reasonably require for the performance of that person's functions under these Regulations.

(2) A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding level 3 on the standard scale.