

## SCHEDULES

### SCHEDULE 5

#### Certification requirements

### PART 2

#### Certification of pre-basic material

##### **Propagating material (other than mother plants and rootstocks)**

3.—(1) Propagating material (other than mother plants and other than rootstocks not belonging to a variety) may be certified as pre-basic material if that material meets the requirements in sub-paragraph (2).

(2) The requirements are that the propagating material—

(a) is directly propagated from a mother plant that has been—

(i) accepted in accordance with paragraph 5; or

(ii) obtained by multiplication or by micropropagation in accordance with paragraph 13;

(b) has been verified by an inspector as being true to the description of its variety in accordance with paragraph 7;

(c) has been maintained in accordance with paragraph 8;

(d) complies with the health requirement in paragraph 10;

(e) where authorised by the Department under paragraph 8(2) to be grown in the field under non-insect proof conditions, has been grown in soil that is found, by sampling and testing, to comply with paragraph 11; and

(f) complies with the requirements concerning defects in paragraph 12;

[<sup>F1</sup>(g) complies with the production site requirements in paragraph 12A.]

(3) Where a pre-basic mother plant or pre-basic material no longer fulfils the requirements in sub-paragraphs 2(b) to (f) or paragraph 8, the supplier must—

(a) remove the mother plant or material from the vicinity of other pre-basic mother plants and pre-basic material; or

(b) take appropriate measures to ensure that the mother plant or the material complies with those requirements again.

(4) A supplier may use any mother plant or material removed in accordance with sub-paragraph (3)(a) as basic material, certified material or CAC material provided the mother plant or material fulfils the requirements set out in these Regulations for the respective categories.

**F1** Sch. 5 para. 3(2)(g) inserted (31.12.2020) by The Marketing of Seed Potatoes, Plant and Propagating Material Regulations (Northern Ireland) 2020 (S.R. 2020/359), regs. 1, 5(7)(a)

**Rootstocks not belonging to a variety**

4.—(1) A rootstock not belonging to a variety may be certified as pre-basic material if it meets the requirements in sub-paragraph (2).

- (2) The requirements are that the rootstock—
- (a) is directly propagated from a mother plant that has been—
    - (i) accepted in accordance with paragraph 6; or
    - (ii) obtained by multiplication or by micropropagation in accordance with paragraph 13;
  - (b) is directly propagated from the mother plant by vegetative or sexual propagation, and in the case of sexual propagation, pollinating trees (pollenisers) are directly produced by vegetative propagation from the mother plant;
  - (c) has been verified by an inspector as being true to the description of its species;
  - (d) has been maintained in accordance with paragraph 8;
  - (e) complies with the health requirements in paragraph 10;
  - (f) where authorised under paragraph 7(2) to be grown in the field under non-insect proof conditions, has been grown in soil that is found, by sampling and testing, to comply with paragraph 11; and
  - (g) complies with the requirements concerning defects in paragraph 12.
- [<sup>F2</sup>(h) complies with the production site requirements in paragraph 12A.]

(3) Where a rootstock, which is a pre-basic mother plant or pre-basic material, no longer fulfils the requirements in sub-paragraphs (2)(d) to (g) or paragraph 8, the supplier must—

- (a) remove the rootstock from the vicinity of other pre-basic mother plants and pre-basic material; or
- (b) take appropriate measures to ensure that the rootstock complies with those requirements again.

(4) A supplier may use any rootstock removed in accordance with sub-paragraph (3)(a) as basic material, certified material or CAC material provided the rootstock fulfils the requirements set out in these Regulations for the respective categories.

**F2** Sch. 5 para. 4(2)(h) inserted (31.12.2020) by [The Marketing of Seed Potatoes, Plant and Propagating Material Regulations \(Northern Ireland\) 2020 \(S.R. 2020/359\)](#), regs. 1, **5(7)(b)**

**Requirements for the acceptance of a pre-basic mother plant**

5.—(1) A plant may be accepted as a pre-basic mother plant if an official inspection confirms—

- (a) it complies with paragraphs 7 to [<sup>F3</sup>12A]; and
- (b) its trueness to the description of its variety is established in accordance with this paragraph.

(2) An inspector must establish the trueness of the pre-basic mother plant to the description of its variety by the observation of the expression of the characteristics of the variety.

(3) That observation must be based on one of the following elements—

- (a) the official description for varieties registered in a register of varieties, and for varieties legally protected by a plant variety right;
- (b) the description accompanying the application for varieties which are the subject of an application for registration [<sup>F4</sup>in a register of varieties];

**Changes to legislation:** There are currently no known outstanding effects for the *The Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017, PART 2*. (See end of Document for details)

- (c) the description accompanying the application for varieties which are the subject of an application for registration of a plant variety right;
  - (d) the officially recognised description, if the variety subject to that description is registered in a national register [<sup>F5</sup>of varieties].
- (4) Where sub-paragraph (3)(b) or (c) applies—
- (a) the pre-basic mother plant may only be accepted if a report, produced by an inspector or by a responsible authority [<sup>F6</sup>in any part of the United Kingdom, other than Northern Ireland, or in another country which is a member of UPOV], is available proving that the respective variety is distinct, uniform and stable;
  - (b) pending the registration of the variety, the mother plant concerned and the material produced from it may only be used for the production of basic material or certified material and must not be marketed as pre-basic material, basic material or certified material.
- (5) Where the establishment of the trueness to the description of the variety is only possible on the basis of the characteristics of a fruiting plant—
- (a) the observation of the expression of the characteristics of the variety must be carried out on the fruits of a fruiting plant propagated from the pre-basic mother plant; and
  - (b) those fruiting plants must be kept separate from the pre-basic mother plants and pre-basic material.
- (6) Fruiting plants must be visually inspected in the most appropriate periods of the year taking into account climatic and growing conditions of plants of the genera or species concerned.
- (7) In this paragraph—
- “fruiting plant” means a plant propagated from a mother plant and grown for the production of fruit in order to permit the verification of the varietal identity of that mother plant;
- [<sup>F7</sup>“register of varieties” means, in relation to the registration of varieties, the register maintained—
- (a) in Northern Ireland, under paragraph 2(1) of Schedule 3;
  - (b) in England, under paragraph 4(1) of Schedule 4 to the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017;
  - (c) in Scotland, under paragraph 2(1) of Schedule 4 to the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017;
  - (d) in Wales, paragraph 4(1) of Schedule 4 to the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017;]

**F3** Word in Sch. 5 para. 5(1)(a) substituted (31.12.2020) by *The Marketing of Seed Potatoes, Plant and Propagating Material Regulations (Northern Ireland) 2020* (S.R. 2020/359), regs. 1, **5(7)(c)**

**F4** Words in Sch. 5 para. 5(3)(b) substituted (31.12.2020) by *The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019* (S.I. 2019/211), regs. 1(1), **62(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

**F5** Words in Sch. 5 para. 5(3)(d) added (31.12.2020) by *The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019* (S.I. 2019/211), regs. 1(1), **62(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

**F6** Words in Sch. 5 para. 5(4)(d) substituted (31.12.2020) by *The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019* (S.I. 2019/211), regs. 1(1), **62(b)**; 2020 c. 1, Sch. 5 para. 1(1)

**F7** Words in Sch. 5 para. 5(7) substituted (31.12.2020) by *The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019* (S.I. 2019/211), regs. 1(1), **62(c)**; 2020 c. 1, Sch. 5 para. 1(1)

*Changes to legislation:* There are currently no known outstanding effects for the *The Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017, PART 2.* (See end of Document for details)

**Requirements for the acceptance of a rootstock not belonging to a variety**

6. The Department may accept a rootstock not belonging to a variety as a pre-basic mother plant if it is true to the description of its species and if it complies with paragraphs 8 to [F8 12A].

**F8** Word in Sch. 5 para. 6 substituted (31.12.2020) by [The Marketing of Seed Potatoes, Plant and Propagating Material Regulations \(Northern Ireland\) 2020 \(S.R. 2020/359\)](#), regs. 1, **5(7)(c)**

**Verification of trueness to the description of the variety**

7.—(1) The Department and, where appropriate, the supplier must regularly verify the trueness of pre-basic mother plants and pre-basic material to the description of their variety in accordance with paragraph 4(2) and (3), as appropriate for the variety concerned and the propagation method used..

(2) In addition to the regular verification of pre-basic mother plants and pre-basic material, the Department and, where appropriate, the supplier must, after each renewal of a mother plant, verify the pre-basic mother plants resulting from it.

**Maintenance requirements: pre-basic material and pre-basic mother plants**

8.—(1) Subject to sub-paragraph (2), a supplier must—

- (a) maintain pre-basic mother plants and pre-basic material in facilities designated for the genera or species concerned, which are insect proof and ensure freedom from infection through aerial vectors and any other possible sources throughout the production process; and
- (b) grow or produce pre-basic mother plants and pre-basic material isolated from the soil, in pots of soil-free or of sterilised growing media identified by labels to ensure their traceability;
- (c) ensure that pre-basic mother plants and pre-basic material are individually identified throughout the production process;
- (d) keep candidate pre-basic mother plants under insect proof conditions, and physically isolated from pre-basic mother plants in the facilities referred to in sub-paragraph (1)(a), until all tests concerning compliance with paragraph 9 have been concluded.

(2) Sub-paragraph (1) does not apply where the Department authorises the production of pre-basic mother plants (including candidate pre-basic mother plants) and pre-basic material in a field under non-insect proof conditions, which the Department may do if satisfied—

- <sup>F9</sup>(a) .....
- (b) the plants and material are identified by labels that ensure traceability; and
- (c) appropriate measures are taken to prevent infection of the plants and material by aerial vectors, root contact, cross infection by machinery, grafting tools or any other possible source.

(3) Pre-basic mother plants and pre-basic material may be maintained by cryopreservation.

(4) Pre-basic mother plants may only be used for a period calculated on the basis of the stability of the variety or the environmental conditions under which they are grown and any other determinants having an impact on the stability of the variety.

**F9** Sch. 5 para. 8(2)(a) omitted (31.12.2020) by virtue of [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/211\)](#), regs. 1(1), **62(d)**; 2020 c. 1, Sch. 5 para. 1(1)

### **Health requirements: candidate pre-basic mother plants and pre-basic mother plants produced by renewal**

9.—(1) A candidate pre-basic mother plant must be free from the pests listed in Annex I and Annex II to Directive 2014/98/EU, as regards the genus or species concerned.

(2) Pre-basic mother plants produced by renewal must be free from the pests listed in Annex I to Directive 2014/98/EU and the viruses and viroids, listed in Annex II to Directive 2014/98/EU, as regards the genus or species concerned.

(3) This is established—

- (a) in the case of pests listed in Annex I to Directive 2014/98/EU, by visual inspection in the facilities and fields and, in case of doubts concerning the presence of those pests, by sampling and testing;
- (b) in the case of pests listed in Annex II to Directive 2014/98/EU, by visual inspection in the facilities and fields and, in relation to pre-basic mother plants produced by renewal, also of the lots, and by sampling and testing.

(4) Subject to paragraph 5, sampling and testing for pests listed in Annex II to Directive 2014/98/EU must take place—

- (a) in the most appropriate period of the year taking into account the climatic conditions and the growing conditions of the plant, and the biology of the pests relevant for that plant and, in the case of doubts concerning the presence of those pests, at any time of the year.

(5) Where a candidate pre-basic mother plant is a seedling, visual inspection and sampling and testing is only required in respect of the viruses, viroids or virus-like diseases that are transmitted by pollen and listed in Annex II to Directive 2014/98/EU, as regards the genus or species concerned if—

- (a) an official inspection confirms the seedling concerned was grown from a seed produced by a plant free from symptoms caused by those viruses, viroids and virus-like diseases;
- (b) the seedling has been maintained in accordance with paragraph 8.

### **Health requirements: pre-basic material and pre-basic mother plants**

10.—<sup>[F10]</sup>(1) A pre-basic mother plant or pre-basic material must be found to be free from any RNQP listed in Annex 1 or 2 to [Directive 2014/98/EU](#) in relation to the genus or species concerned, subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.

(2) An inspector and, where appropriate, the supplier must sample and test the pre-basic mother plant or pre-basic material—

- (i) in cases of doubt as to the presence of any RNQP listed in Annex 1 to [Directive 2014/98/EU](#), for such pests;
- (ii) for the RNQPs listed in Annex 2 to [Directive 2014/98/EU](#), subject to the requirements of Annex 4 to that Directive specified in relation to the genus or species concerned, and category.]

(3) Compliance with <sup>[F11]</sup>sub-paragraph (1) is established by visual inspection by an inspector and, where appropriate, the supplier.]

(4) Visual inspections and sampling and testing must be carried out in accordance with Annex IV to Directive 2014/98/EU, as regards the genus or species concerned and, in the case of sampling and testing, also in accordance with the appropriate protocol.

(5) Sub-paragraphs (1) and (2) do not apply to pre-basic mother plants and pre-basic material during cryopreservation.

**Changes to legislation:** There are currently no known outstanding effects for the The Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017, PART 2. (See end of Document for details)

- F10** Sch. 5 para. 10(1)(2) substituted (31.12.2020) by The Marketing of Seed Potatoes, Plant and Propagating Material Regulations (Northern Ireland) 2020 (S.R. 2020/359), regs. 1, **5(7)(d)(i)**
- F11** Words in Sch. 5 para. 10(3) substituted (31.12.2020) by The Marketing of Seed Potatoes, Plant and Propagating Material Regulations (Northern Ireland) 2020 (S.R. 2020/359), regs. 1, **5(7)(d)(ii)**

### Soil requirements

11.—(1) Pre-basic mother plants and pre-basic material may only be grown in soil that is free from any pests which are listed in Annex III to Directive 2014/98/EU, for the genus or species concerned and which host viruses affecting that genus or species.

(2) Freedom from such pests must be established by sampling and testing.

(3) Sampling and testing for pests listed in Annex III to Directive 2014/98/EU must be carried out—

- (a) before the pre-basic mother plants or the pre-basic material is planted and must be repeated during growth where there is suspicion concerning the presence of the pests referred to in sub-paragraph (1);
  - (b) taking into account the climatic conditions and the biology of the pests listed in Annex III to Directive 2014/98/EU, and where those pests are relevant for the pre-basic mother plants or the pre-basic material concerned.
- (4) Sampling and testing is not required—
- (a) where plants, which are hosts for the pests listed in Annex III to Directive 2014/98/EU for the genus or species concerned, have not been grown in the soil of production for a period of at least five years and where there is no doubt concerning the absence of the relevant pests in that soil;
  - (b) where the Department concludes, on the basis of an official inspection, that the soil is free from any pests which are listed in Annex III to Directive 2014/98/EU, for the genus or species concerned, and which host viruses affecting that genus or species.

### Requirements concerning defects likely to impair quality

12.—(1) Pre-basic mother plants and pre-basic material must be found practically free from defects on the basis of visual inspection.

(2) That visual inspection must be carried out by the Department and, where appropriate, the supplier.

(3) Injuries, discoloration, scar tissues or desiccation are considered as defects if they affect the quality and usefulness of a pre-basic mother plant or pre-basic material as propagating material.

### [<sup>F12</sup>Requirements concerning production site

12A. Pre-basic mother plants and pre-basic material must be produced in accordance with the requirements for the production site, place of production or area set out in Annex 4 to [Directive 2014/98/EU](#) and specified in relation to the genus or species concerned.]

- F12** Sch. 5 para. 12A inserted (31.12.2020) by The Marketing of Seed Potatoes, Plant and Propagating Material Regulations (Northern Ireland) 2020 (S.R. 2020/359), regs. 1, **5(7)(e)**

### **Requirements concerning multiplication, renewal and propagation of pre-basic mother plants**

13.—(1) A supplier may multiply or renew a pre-basic mother plant accepted in accordance with paragraph (4).

(2) A supplier may propagate a pre-basic mother plant to produce pre-basic material.

(3) Multiplication, renewal and propagation (including micropropagation) of pre-basic mother plants must take place in accordance with the appropriate protocol.

(4) In the case of micropropagation, the appropriate protocol must have been tested on the relevant genus or species for a period of time considered sufficient to allow phenotype validation of the plant as regards the trueness to the description of the variety based on the observation of the fruit production or of the vegetative development of rootstocks.

(5) A supplier may only renew a pre-basic mother plant before the end of the period referred to in paragraph 8(4).

**Changes to legislation:**

There are currently no known outstanding effects for the The Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017, PART 2.