
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 177

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

PART 2

Marketing of plant material

General requirements for marketing of plant material

- 5.—(1) No person may market plant material in Scotland unless—
- (a) in the case of propagating material, the plant material is—
 - (i) pre-basic material;
 - (ii) basic material;
 - (iii) certified material; or
 - (iv) CAC material;
 - (b) in the case of fruit plants, the plant material is—
 - (i) basic material;
 - (ii) certified material; or
 - (iii) CAC material;
 - (c) in the case of plant material which consists of a genetically modified organism, the organism has been authorised pursuant to [Directive 2001/18/EC](#) or Regulation (EC) No [1829/2003](#);
 - (d) in the case of plant material the products of which are intended to be used as, or in, food within the scope of Article 3 of Regulation (EC) No [1829/2003](#), or as, or in, feed within the scope of Article 15 of that Regulation, the food or feed concerned has been authorised pursuant to that Regulation;
 - (e) it is—
 - (i) of a variety which may be marketed under regulation 7(1) and is marketed with a reference to that variety in accordance with the relevant requirements of regulation 7(2); or
 - (ii) in the case of rootstocks which do not belong to a variety, marketed with a reference to the species or interspecific hybrid concerned;
 - (f) it is marketed in a sufficiently homogenous lot;
 - (g) subject to regulation 6(1), in the case of pre-basic material, basic material or certified material it is labelled, sealed and packaged in accordance with the relevant provisions of regulation 8 and schedule 5;
 - (h) subject to regulation 6(1), in the case of CAC material, it is accompanied by a supplier's document; and

- (i) subject to regulation 6(3), the person is a supplier registered by the Scottish Ministers in accordance with regulation 10, or by another responsible official body, in relation to the plant material concerned.

(2) The Scottish Ministers may, until 31st December 2018, authorise the marketing of plant material from any country outside the European Union if they are satisfied the plant material has been produced under conditions equivalent to the requirements for plant material in these Regulations.

Exemptions in relation to retail supply

6.—(1) Subject to compliance with paragraph (2), in relation to the retail supply to a non-professional final consumer of—

- (a) pre-basic material, basic material, and certified material, the requirements of regulation 5(1)(g) do not apply; and
- (b) CAC material, the requirements of regulation 5(1)(h) do not apply.

(2) The plant material mentioned in paragraph (1) must be accompanied by a document containing appropriate product information.

(3) In relation to suppliers only involved in the marketing of plant material to non-professional final consumers, the requirements of regulation 5(1)(i) and regulation 15(4) do not apply.

Varieties which may be marketed

7.—(1) For the purpose of regulation 5(1)(e)(i), a variety may be marketed if it—

- (a) is subject to the grant of plant variety rights;
- (b) is a registered variety;
- (c) is the subject of an application—
 - (i) for plant variety rights; or
 - (ii) to be a registered variety;
- (d) has been marketed in the European Union prior to 30th September 2012 and has an officially recognised description; or
- (e) in relation to a variety having no intrinsic value for commercial crop production—
 - (i) has an officially recognised description; and
 - (ii) the plant material concerned is CAC material and this is identified on the accompanying label or document.

(2) For the purpose of regulation 5(1)(e)(i)—

- (a) in the case of a variety which is the subject of an application for plant variety rights, the reference must be to the breeder's reference or to the proposed name of the variety;
- (b) in the case of a registered variety, the reference must be to that registered variety; and
- (c) in the case of a variety which is the subject of an application to be a registered variety, the reference must be to the breeder's reference or to the proposed name of the variety.

(3) Schedule 4 on the registration of varieties has effect.

Labelling, sealing and packaging

8.—(1) For the purpose of regulation 5(1)(g), pre-basic material, basic material or, as the case may be, certified material must be labelled, sealed and packaged in accordance with this regulation and schedule 5.

(2) Subject to paragraph (3), in relation to pre-basic material, basic material and certified material an official label must be affixed—

- (a) to the plant or part of a plant being marketed; or
- (b) if it is marketed in a package, bundle or container, to that package, bundle or container.

(3) Where a lot of pre-basic material, basic material or certified material is being marketed in the same package, bundle or container, a single official label may be affixed to that package, bundle or container.

(4) An official label must be affixed in such a way that its removal would render it invalid.

(5) Where pre-basic material, basic material or certified material is accompanied by a plant passport issued in accordance with 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⁽¹⁾, that plant passport may constitute the official label if it contains the information in paragraph 4 of schedule 5.

(6) A supplier may only market pre-basic material, basic material or certified material consisting of two or more lots of plants or parts of plants if those plants, or parts of plants, are in a package or container or form part of a bundle and—

- (a) in the case of a package or container, it is sealed in a way that prevents the package or container from being opened without damage to the closure; or
- (b) in the case of a bundle, it is tied in a way that prevents the plants or parts of plants from being separated without damage to the tie or ties.

Accompanying document

9.—(1) Without prejudice to the requirements of regulation 8, plant material which comprises lots of different varieties or different categories of plant material may be marketed with an accompanying document produced either by the Scottish Ministers or by the supplier of the plant material concerned (under the supervision of the Scottish Ministers).

(2) Where the information stated on the official label and the information stated on the accompanying document conflict, the conflicting information on the accompanying document must be disregarded.

(3) In this regulation an “accompanying document” means a document which complies with paragraph 8 of schedule 5.

(1) OJ L 169, 10.7.2000, p.1, repealed subject to savings by Regulation (EU) 2016/2031 (OJ L 317, 23.11.2016, p.4).