

Transposition Note relating to the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017

TABLE 1: Transposition of Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 267, 8.10.2008, p.8)

<i>Article of Directive 2008/90/EC</i>	<i>Transposing regulation of the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017</i>	<i>Notes on transposition</i>
Article 1		
(1)	Reg 3(1) (<i>application</i>)	
(2)	Reg 3(1) and schedule 1	
(3)	No transposition required	
(4)	Reg 3(2)	
Article 2	Reg 2(1) and (3)	
Article 3		
(1)(a)	Reg 5(1)(a) (<i>general requirements for marketing of plant material</i>)	
(1)(b)	Reg 5(1)(b)	It is permissible to sell basic material as fruit plants as it is of a higher category. Pre-basic would not be sold as fruit plants (too high value).
(2)	Reg 5(1)(c)	
(3)	Reg 5(1)(d)	
(4)	Reg 4 (<i>marketing of plant materials for trials etc.</i>)	
Article 4	No transposition required.	
Article 5		
(1)	Reg 5(1)(i), Reg 10 (<i>registration of suppliers</i>)	Plant material may only be sold by a registered supplier.
(2)	Reg 6(3) (<i>exemptions in relation to retail supply</i>)	
(3)	No transposition required	

Article 6 (1)	Reg 14 (<i>supplier's duties – identification and monitoring during production</i>), Reg 17 (<i>supplier's duties-record keeping</i>), Schedule 2 (<i>certification requirements</i>) and Schedule 7 (<i>visual inspections, sampling and testing per genera or species and category</i>)	This Article is supplemented by the provision made in Commission Implementing Directive 2014/98/EU.
(2)	Reg 15(4)	
(3)	Reg 17 (<i>supplier's duties-record keeping</i>)	
(4)	No transposition required	
Article 7 (1)	Reg 5(1)(e) (<i>general requirements for marketing of plant material</i>)	
(2)	Reg 7(1)	
(3)	No transposition required	
(4)	Reg 2(1) (interpretation), schedule 4 (<i>registration of varieties</i>), Reg 7(1)(d).	Reg 2(1) contains the definition of “registered variety”. This paragraph is supplemented by Commission Implementing Directive 2014/97/EU.
(5)	No transposition required	
(6)	No transposition required	
Article 8		
(1)	Reg 16(1)	
(2)	Reg 17(1)(c) (<i>supplier's duties-record keeping</i>)	
Article 9		
(1)	Reg 2(1), 5(1)(a),(b),(f) and (h), schedule 2 and schedule 5 (<i>official labels, supplier's documents and accompanying</i>	Reg 2(1) contains definitions of “pre-basic material”, “basic material”, certified

	<i>documents</i>)	material” and “CAC material”.
(2)	Reg 6(1) (<i>exemptions in relation to retail supply</i>)	
(3)	Schedule 5, para 4(b)	
Article 10 (1)	Not applied	
(2)	No transposition required	
Article 11	No transposition required	
Article 12	No transposition required	
Article 13 (1)	Reg 18 (<i>inspectors</i>) and schedule 8 (<i>powers of inspectors</i>), schedule 2 (<i>certification requirements</i>), schedule 7(<i>visual inspections, sampling and testing per genera or species and category</i>)	This paragraph is supplemented by Commission Implementing Directive 2014/98/EU.
(2)	Reg 22 (<i>arrangements for official measures</i>)	
(3)	No transposition required	
Article 14	No transposition required	
Article 15	No transposition required	
Article 16 (1)	Reg 2(1)(<i>interpretation</i>), reg 5 (<i>general requirements for marketing of plant material</i>), reg 20 (<i>offences and penalties</i>) schedule 8 (<i>powers of inspectors</i>)	Only plant material meeting requirements of regulation 5 may be marketed. By virtue of the defined terms used in regulation 5, official certification is necessary for pre-basic, basic and certified material in accordance with schedule 2 and compliance with schedule 3 is required for CAC material. Inspectors can issue enforcement or

		prohibition notices under schedule 8 and it is an offence to breach these notices under reg 20.
(2)	Schedule 8	
(3)	Reg 12 (<i>revocation of registration etc.</i>)	
(4)	Reg 12(2)	
Article 17	No transposition required	
Article 18	No transposition required	
Article 19	No transposition required	
Article 20	No transposition required	
Article 21	Reg 23 (<i>transitional provision</i>)	Commission Implementing Directive 2014/98/EU , Article 32 refers.
Article 22	No transposition required	
Article 23	No transposition required	
Article 24	No transposition required	
Annex I	Reg 3 (<i>application</i>) and schedule 1 (<i>genera and species to which these Regulations apply</i>)	
Annex II	No transposition required	
Annex III	No transposition required	

TABLE 2: Transposition of 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 (OJ L 298, 16.10.2014, p.12)

Article of Directive 2014/96/EU	Transposing regulation of the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017	Notes on transposition
Article 1	Reg 2(1) (interpretation); Reg 5(1)(g) and (h) (<i>general requirements for marketing of plant material</i>); Reg 8(<i>labelling, sealing and packaging</i>), reg 9 (<i>accompanying document</i>) and schedule 5, Part 3	Reg 2(1) contains definitions of “official label” and “supplier’s document” which refer to the relevant schedules.
Article 2 (1)	Reg 2(1); reg 8 and Schedule 5, Part 1 (<i>official labels, supplier’s documents and accompanying documents</i>)	Reg 2(1) contains a definition of official label which refers to the requirements of schedule 5.
(2)	Reg 2(1) and schedule 5, Part 1, paragraph 4.	
(3)	Reg 2(1) and schedule 5, Part 1, paragraph 5.	
(4)	Reg 2(1) and schedule 5, Part 1, paragraphs 1, 2 and (3).	
(5)	Reg 8(2)	
Article 3	Reg 9 and schedule 5, Part 3	
Article 4	Reg 8	
Article 5 (1)	Reg 2(1), Reg 5(1)(h) and schedule 5, Part 2.	

(2)	Schedule 5, part 2, paragraph 6	
(3)	Schedule 5, part 2, paragraph 7	
Article 6	No transposition required	
Article 7	No transposition required	
Article 8	No transposition required	
Article 9	No transposition required	

TABLE 3: Transposition of 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 (OJ L 298, 16.10.2014, p.16)

<i>Article of Directive 2014/97/EU</i>	<i>Transposing regulation of the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017</i>	<i>Notes on transposition</i>
Article 1 (1)	Reg 10 (<i>registration of suppliers</i>) and reg 11 (<i>the register of suppliers</i>)	
(2)	Reg 11	
(3)	Reg 12 (<i>revocation of registration etc.</i>)	
Article 2 (1)	Reg 10(1)	
(2)	Reg 11(2)	
(3)	Reg 10(3) and 13(3) and (4) (<i>appeals</i>)	
Article 3	Reg 2(1), 7(3) and	

(1)	schedule 4 (<i>registration of varieties</i>)	
(2)	Para 2(2) of schedule 4	
(3)	Para 2(4) of schedule 4	
Article 4 (1)	Para 3(1) of schedule 4	
(2)	Paras 3(1)(a) and 9, 10 and 11 of schedule 4.	
Article 5		
(1)	Para 4(1) of schedule 4	
(2)	Para 4(2) of schedule 4	
(3)	Para 4(3) and (4) of schedule 4.	
Article 6 (1)	Para 3(2) of schedule 4	
(2)	Para 3(2) 4(5) and 5(2) of schedule 4	
(3)	Para 3(2) of schedule 4	
(4)	Para 5(1)(b) of schedule 4	
(5)	Para 3 of schedule 4	
Article 7	Para 6(1) of schedule 4	
Article 8 (1)	Para 6(2)(a) and (3) and para 7 of schedule 4.	
(2)	Para 6(3) and (4) of schedule 4	
Article 9	Para 7(1) of schedule 4	
Article 10	No transposition required	
Article 11	No transposition required	
Article 12	No transposition required	
Article 13	No transposition required	
Article 14	No transposition required	

TABLE 4: Transposition of Commission Implementing Directive 2014/98/EU as regards specific requirements for the genus and species of fruit plants referred to I Annex I thereto , specific requirements to be met by suppliers and detailed rules concerning official inspections (OJ L 298, 16.10.2014, p.22)

<i>Article of Directive 2014/98/EU</i>	<i>Transposing regulation of the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017</i>	<i>Notes on transposition</i>
Article 1	Reg 2(1) (<i>interpretation</i>) and para 1 of schedule 2 (<i>certification requirements</i>).	Reg 2(1) contains a definition of “officially certified” which refers to schedule 2.
Article 2 (1)	Reg 2(1), Reg 3 (<i>application</i>) , 5(1)(a) and (b) (<i>general requirements for marketing of plant material</i>), reg 15 (<i>supplier’s duties – removal of non-compliant materials during production</i>), schedule 1 (<i>genera and species to which these Regulations apply</i>) and schedule 2.	Reg 5(1)(a) and (b) restricts marketing to materials within the defined terms “pre-basic material”, “basic material”, “certified material” and “CAC” material. These are defined in reg 2(1) by reference to official certification in accordance with schedule 2 (or for CAC, by reference to the requirements of schedule 3). The schedules (and reg 16) transpose the requirements of Articles

		3 to 27.
(2)	Reg 3, Reg 14 (<i>supplier's duties – identification and monitoring during production</i>), reg 16 (<i>supplier's duties- record keeping</i>), schedules 1 and 2.	
(3)	Paras 1 and 2 of schedule 2	Para 1 defines “officially inspection” to transpose Article 30(1) in relation to pre-basic material, basic material and certified material.
(4)	Reg 16(2)	
Article 3	Reg 15 (<i>supplier's duties – removal of non-compliant materials during production</i>) and para 3 of schedule 2 (certification requirements)	
Article 4	Reg 15 and para 4 of schedule 2.	
Article 5	Para 5 of schedule 2	Para 5(3) transposes the second sub-paragraph of Article 5(4).
Article 6	Para 6 of schedule 2	
Article 7	Para 7 of schedule 2	
Article 8	Para 8 of schedule 2	
Article 9	Para 9 of schedule 2	

Article 10	Para 10 of schedule 2	
Article 11	Para 11 of schedule 2	
Article 12	Para 12 of schedule 2	
Article 13	Para 13 of schedule 2	
Article 14	Para 14 of schedule 2	
Article 15	Reg 15 and Paras 15 and 16 of schedule 2	
Article 16	Para 17 of schedule 2	
Article 17	Para 18 of schedule 2	
Article 18	Para 19 of schedule 2	
Article 19	Para 20 of schedule 2	
Article 20	Reg 15 and Paras 21 and 22 of schedule 2	
Article 21	Para 23 of schedule 2	
Article 22	Para 24 of schedule 2	
Article 23	Para 1 of schedule 3 (CAC material)	
Article 24	Para 2 of schedule 3	
Article 25	Para 3 of schedule 3	
Article 26	Para 1(2)(c) and (d) of schedule 3	
Article 27	Para 1(2)(e)	
Article 28	Reg 14 (<i>supplier's duties – identification and monitoring during production</i>)	
Article 29	Reg 17 (<i>supplier's duties-record keeping</i>)	
Article 30	Paras 1 and 2 of schedule 2.	
Article 31	No transposition required	
Article 32	Reg 23 (transitional provision)	
Article 33	No transposition required	
Article 34	No transposition required	
Article 35	No transposition required	

Annex I	Schedule 6 (<i>pests</i>) Tables IA and IB	
Annex II	Schedule 6, Table II	
Annex III	Schedule 6, Table III	
Annex IV	Schedule 7	
Annex V	Para 20(5) of schedule 2.	