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WELSH STATUTORY INSTRUMENTS

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**2017 No. 691**

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

**PART 1**

**Introduction**

**Title, commencement and application**

1.—(1) The title of these Regulations is the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 and they come into force on 19 June 2017.

(2) These Regulations apply in relation to Wales.

**Interpretation: general**

2. In these Regulations—

“basic material” (*“deunyddiau sylfaenol”*) means propagating material intended for the production of certified material, which has been—

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

“basic mother plant” (*“planhigyn tarddiol sylfaenol”*) means a mother plant intended for the production of basic material;

“CAC material” (*“deunyddiau CAC”*) means—

- (a) in relation to propagating material and fruit plants produced in Wales, material and plants that meet the requirements for CAC material in Schedule 1;
- (b) in relation to propagating material and fruit plants produced outside Wales, material and plants that meet the requirements for CAC material in Article 23 of [Directive 2014/98/EU](#);

“certification” (*“ardystio”*) means the certification of plant material in accordance with regulation 9 and “certified” (*“ardystiedig”*) is to be construed accordingly;

“certified material” (*“deunyddiau ardystiedig”*) means any propagating material or fruit plants intended for the production of fruit plants, which has been—

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

“certified mother plant” (“*planhigyn tarddiol ardystiedig*”) means a mother plant intended for the production of certified material;

“certified plant material” (“*deunyddiau planhigion ardystiedig*”) means plant material that is certified (as the case may be) as pre-basic material, basic material or certified material;

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

“defects” (“*diffygion*”) include injuries, discoloration, scar tissues or desiccation that affect the quality and usefulness of a mother plant or plant material as propagating material;

“fruit plant” (“*planhigyn ffrwythau*”) means a plant intended to be planted or replanted, after marketing;

“inspector” (“*arolygydd*”) means a person appointed under regulation 16;

“lot” (“*lot*”) means a number of units of a single commodity, identifiable by its homogeneity of composition and origin;

“micropropagation” (“*microluosogi*”) 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” (“*planhigyn tarddiol*”) means an identified plant intended for propagation;

“official description” (“*disgrifiad swyddogol*”) means the description of a variety provided for—

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

“official examination” (“*archwiliad swyddogol*”) means an examination or inspection conducted by an inspector, including one conducted by way of sample;

“official label” (“*label swyddogol*”) means—

- (a) for certified plant material produced in Wales, a label issued or approved in accordance with regulation 10(2);
- (b) for certified plant material produced outside Wales, 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” (“*disgrifiad a gydnabyddir yn swyddogol*”) means a description of key morphological features that enable the variety to be identified;

“outside Wales” (“*y tu allan i Gymru*”) means any part of the United Kingdom other than Wales or any member State other than the United Kingdom;

“plant material” (“*deunyddiau planhigion*”) means the plants and materials described in regulation 4;

“plant variety rights” (“*hawliau amrywogaeth planhigion*”) means rights granted under—

- (a) Part 1 of the Plant Varieties Act 1997(1);
- (b) Council Regulation ([EC](#)) No 2100/94 on Community plant variety rights(2); 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;

(1) 1997 c. 66. Part I was amended by [S.I. 2000/311](#), [2006/1261](#) and [2011/1043](#).

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

“practically free from defects” (“*rhydd rhag diffygion i bob pwrpas*”) 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” (“*deunyddiau cyn-sylfaenol*”) means propagating material intended for the production of basic or certified material, which has been—

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

“pre-basic mother plant” (“*planhigyn tarddiol cyn-sylfaenol*”) means a mother plant intended for the production of pre-basic material;

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

“responsible authority” (“*awdurdod cyfrifol*”) means the authority responsible for the quality of plant material in the country or territory where the plant material was produced;

“supplier” (“*cyflenwr*”) means any person involved professionally in the reproduction, production, preserving, treating, importing or marketing of plant material;

“supplier’s document” (“*dogfen y cyflenwr*”) means a document accompanying CAC material and which meets the requirements in Part 2 of Schedule 2;

“UPOV” (“*UPOV*”) means the International Union for the Protection of New Varieties of Plants(3);

“variety” (“*amrywogaeth*”) 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” (“*arolygiad gweledol*”) means the examination of plants or parts of plants in facilities, fields and lots, by an inspector or, where appropriate, the supplier, using the unaided eye, lens, stereoscope or microscope.

### Interpretation: Directives

#### 3.—(1) In these Regulations—

“[Directive 2000/29/EC](#)” (“*Cyfarwyddeb 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);

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(3) The International Union for the Protection of New Varieties of Plants (UPOV) was established by the International Convention for the Protection of New Varieties of Plants (“UPOV Convention”). The UPOV Convention was adopted on 2nd December 1961 by a Diplomatic Conference held in Paris, revised in 1972 and 1991 and ratified by the United Kingdom on 3rd December 1998.

(4) OJ No L 169, 10.7.2000, p. 1 as last amended by Regulation (EU) 2016/2031 of the European Parliament of the Council (OJ No L 317, 23.11.2016, p. 4).

“Directive 2008/90/EC” (“*Cyfarwyddeb 2008/90/EC*”) means Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production<sup>(5)</sup>;

“Directive 2014/96/EU” (“*Cyfarwyddeb 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<sup>(6)</sup>;

“Directive 2014/97/EU” (“*Cyfarwyddeb 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<sup>(7)</sup>;

“Directive 2014/98/EU” (“*Cyfarwyddeb 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<sup>(8)</sup>.

(2) References in these Regulations to Annexes I, II, III, IV or V to Directive 2014/98/EU are references to that Annex as amended from time to time.

#### **Plant material to which these Regulations apply**

4.—(1) These Regulations apply in relation to fruit plants and propagating material of the genera and species listed in Schedule 3 and their hybrids.

(2) They also apply in relation to parts of plants, including rootstocks, of other genera or species and their hybrids if material from fruit plants listed in Schedule 3 (or any hybrid of such fruit plants) is, or is to be, grafted on to them.

(3) They do not apply in relation to plant material intended for export from Wales to any country outside the European Union provided the plant material is identified as such and kept sufficiently isolated.

## **PART 2**

### **Marketing of Plant Material**

#### **Marketing of plant material**

5.—(1) A supplier may only market plant material if—

- (a) the supplier is registered in accordance with regulation 11; and
- (b) the plant material meets the requirements in paragraph (2).

(2) The plant material must be—

- (a) certified plant material or CAC material;
- (b) a variety that may be marketed in accordance with regulation 7;
- (c) marketed with a reference to the variety to which the plant material belongs in accordance with regulation 8;

<sup>(5)</sup> OJ No L 267, 8.10.2008, p. 8; as last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ No L 189, 27.6.2014, p. 1).

<sup>(6)</sup> OJ No L 298, 16.10.2014, p. 12.

<sup>(7)</sup> OJ No L 298, 16.10.2014, p. 16.

<sup>(8)</sup> OJ No L 298, 16.10.2014, p. 22.

(d) in relation to certified plant material, labelled, sealed and packaged in accordance with regulation 10; and

(e) in relation to CAC material, accompanied by a supplier's document.

(3) The Welsh Ministers may authorise the marketing of plant material from any country outside the European Union if satisfied the plant material has been produced under conditions equivalent to the requirements for plant material in these Regulations.

(4) Paragraph (3) ceases to have effect on 31 December 2018.

### **Exceptions**

6. Regulation 5(1)(b) does not apply to the marketing of plant material intended for—

(a) trials or scientific purposes;

(b) selection work;

(c) measures aimed at the conservation of genetic diversity.

### **Varieties that may be marketed**

7.—(1) Plant material is of a variety that may be marketed if the variety fulfils one or more of the requirements of paragraph (2).

(2) The variety must—

(a) have been granted plant variety rights;

(b) be registered as a variety;

(c) be the subject of an application for—

(i) plant variety rights; or

(ii) registration as a variety;

(d) have been marketed prior to 30 September 2012 within the European Union and have an officially recognised description; or

(e) in relation to varieties with no intrinsic value for commercial crop production being marketed within the United Kingdom—

(i) have an officially recognised description; and

(ii) be CAC material.

(3) A supplier who markets plant material of a variety described in paragraph (2)(e) must ensure the plant material is accompanied by a supplier's document stating that it is marketed in accordance with the second paragraph of Article 7(2) of [Directive 2008/90/EC](#).

(4) In this regulation, “registered as a variety” (“*cofrestredig fel amrywogaeth*”) (and “registration” (“*cofrestru*”) is to be construed accordingly) means—

(a) registration in Wales as a variety in accordance with Schedule 4; or

(b) registration outside Wales as a variety by the responsible authority in the country or territory in accordance with Article 4 of [Directive 2014/97/EU](#).

### **References to variety of plant material**

8. Plant material is marketed with a reference to its variety if it is marketed, in relation to—

(a) a variety of plant material that is the subject of an application for a grant of plant variety rights, by reference to the breeder's reference or the proposed name of the variety;

(b) a registered variety, by reference to its registered name;

- (c) a variety that is the subject of an application for such registration, by reference to the breeders' reference or the proposed name of the variety;
- (d) rootstocks that do not belong to a variety, by reference to the appropriate species or interspecific hybrid.

### **Certification of plant material**

9.—(1) If the requirements of paragraph (2) are satisfied, an inspector must—

- (a) certify plant material produced in Wales as being—
  - (i) pre-basic material;
  - (ii) basic material; or
  - (iii) certified material;
- (b) issue a certificate confirming certification (a crop inspection certificate).

(2) The requirements are that on official examination, the plant material has been found to comply with the requirements for certification set out in the relevant provisions of Schedule 5.

(3) An application for certification of plant material produced in Wales must be made in writing to the Welsh Ministers and must be accompanied by such information as the Welsh Ministers may require.

(4) An official label issued in accordance with these Regulations in relation to certified plant material is sufficient evidence that an inspector has certified the plant material to which the official label relates as being certified plant material.

### **Labelling, sealing and packaging of certified plant material**

10.—(1) Certified plant material, which is marketed, must be labelled, sealed and packaged in accordance with this regulation.

(2) The Welsh Ministers must issue or approve a label (an official label) if that label meets the requirements in Part 1 of Schedule 2.

(3) But a label used in the retail supply of certified plant material to a non-professional final consumer need only contain appropriate product information, including the name of the responsible authority, the supplier's name or registration number, the botanical name and variety denomination.

(4) An official label must be affixed to the certified plant material.

(5) Where certified plant material forms part of the same lot and is being marketed in a package, bundle or container, an official label must be affixed to that package, bundle or container.

(6) Paragraphs (4) and (5) do not apply where certified plant material is accompanied by a plant passport issued in accordance with [Directive 2000/29/EC](#), which contains the information in paragraph 4 of Schedule 2.

(7) A supplier must not market certified plant material in lots of two or more plants or parts of plants unless those lots are sufficiently homogeneous and are properly packaged.

- (8) For the purposes of paragraph (7), "properly packaged" means the plants or parts of plants—
  - (a) are in a package or container that is sealed in a way that prevents the package or container from being opened without damaging the closure or rendering the official label invalid; or
  - (b) form part of a bundle that is tied in such a way that the plants or parts of plants forming part of the bundle cannot be separated without damaging the tie or ties.

## PART 3

### Suppliers

#### Registration of suppliers

**11.**—(1) A supplier must not market plant material unless registered as a supplier by the Welsh Ministers in accordance with this regulation.

(2) But paragraph (1) does not apply to suppliers who are only marketing plant material to non-professional final consumers.

(3) An application for registration must be made in writing to the Welsh Ministers and must be accompanied by such information as the Welsh Ministers may require.

(4) The Welsh Ministers must register a supplier if satisfied that person will comply with these Regulations.

(5) The Welsh Ministers must inform the supplier—

- (a) of the Welsh Ministers' decision under paragraph (4) within 28 days of making it; and
- (b) where the decision is to register the supplier, of their registration number.

(6) A person who, immediately before the coming into force of these Regulations, was registered as a supplier in accordance with regulation 7 of the Marketing of Fruit Plant Material Regulations 2010<sup>(9)</sup> is registered for the purposes of this regulation.

(7) A person who is registered as a plant trader in accordance with Part 4 of the Plant Health (Wales) Order 2006<sup>(10)</sup> is registered for the purposes of this regulation.

(8) The Welsh Ministers may, by notice—

- (a) modify a supplier's registration; or
- (b) revoke or suspend a supplier's registration if satisfied the supplier—
  - (i) has failed to comply with any provision of these Regulations; or
  - (ii) is no longer acting as a supplier.

(9) Unless the Welsh Ministers otherwise direct, a revocation or suspension under paragraph (8) (b) has immediate effect and continues in effect unless the registration is reinstated.

#### Appeals

**12.**—(1) A supplier aggrieved by a decision of the Welsh Ministers not to register them under regulation 11(4) or to modify, revoke or suspend their registration under regulation 11(8) may, within 21 days of being notified of the decision, appeal against it to a person appointed for the purpose by the Welsh Ministers.

(2) The appointed person must consider the appeal and any representations made by the Welsh Ministers, and, within a period of 21 days beginning with the day on which they receive the appeal or representations (whichever is the later), report in writing with a recommended course of action to the Welsh Ministers.

(3) The Welsh Ministers must then make a final decision and notify the appellant, together with the reasons for that decision.

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<sup>(9)</sup> S.I. 2010/2079.

<sup>(10)</sup> S.I. 2006/1643 (W. 158).

**Register of suppliers**

- 13.**—(1) The Welsh Ministers must maintain a register of registered suppliers.
- (2) The register must contain the following information—
- (a) the name, address and contact details of the supplier;
  - (b) which of the activities listed in paragraph (3) the supplier is involved in;
  - (c) the genera or species concerned;
  - (d) the address of the premises where the activity is carried out;
  - (e) the supplier’s registration number.
- (3) For the purposes of paragraph (2)(b), the activities are the reproduction, production, preserving, treating, importing or marketing of plant material.
- (4) A supplier must notify the Welsh Ministers as soon as practicable of any change to the information required under paragraph (2)(a) to (d).
- (5) The Welsh Ministers may publish the register, or any part of it, at the Welsh Ministers’ discretion.

**Suppliers: plan to identify and monitor production process**

- 14.**—(1) A supplier involved in the production of plant material must have in place a plan to identify and monitor critical points in the production of that plant material.
- (2) The plan must include details on—
- (a) the location and number of plants;
  - (b) the timing of cultivation;
  - (c) propagating operations;
  - (d) packaging, storage and transportation operations.

**Suppliers: record keeping**

- 15.**—(1) A supplier must keep records of—
- (a) any sales or purchases of plant material;
  - (b) all deliveries of plant material to and from the supplier’s premises;
  - (c) any monitoring of critical points in the production of that plant material;
  - (d) the composition and origin of any plant material of different origins mixed by the supplier during packaging, storage or transport or at delivery;
  - (e) all plant material under production on their premises;
  - (f) field inspections and sampling and testing undertaken in relation to plant material under their control; and
  - (g) any occurrence on their premises of—
    - (i) any of the organisms or diseases listed in Part A of Annex I, and in Annex II, to [Directive 2014/98/EU](#);
    - (ii) plant material that exceeds the tolerance levels in the relevant column of the table in Part B of Annex I to [Directive 2014/98/EU](#); and
    - (iii) a harmful organism listed in the Annexes to [Directive 2000/29/EC](#).
- (2) The records referred to in this regulation must be kept for a minimum of 3 years.



## PART 4

### Enforcement

#### **Inspectors**

- 16.**—(1) The Welsh Ministers must appoint inspectors for the purposes of these Regulations.
- (2) An inspector has the powers set out in this Part of the Regulations.

#### **Entry and inspection of land and premises**

**17.**—(1) For the purposes of enforcing these Regulations, an inspector has power, on producing a duly authenticated authorisation, to enter any land or premises (except any 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;
  - (c) in an emergency.

(3) A justice of the peace may, by signed warrant, permit an inspector to enter any land or premises, if necessary by reasonable force, if the justice, on sworn information in writing, is satisfied that—

- (a) there are reasonable grounds to enter that land or premises for the purpose of enforcing these Regulations; and
  - (b) any of the conditions in paragraph (4) are met.
- (4) The conditions are—
- (a) 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) asking for admission to the premises, or giving notice, would defeat the object of the entry;
  - (c) entry is required urgently;
  - (d) the premises are unoccupied or the occupier is temporarily absent.

(5) A warrant is valid for three months.

(6) An inspector entering any land or premises may be accompanied by any person (up to a maximum of 4 persons), equipment, materials or vehicle 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 of items on land and premises**

- 18.**—(1) Where an inspector exercises the power conferred by regulation 17, the inspector may—
- (a) open any 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 remove them to enable them to be copied;

- (e) photograph or copy anything whose production the inspector has power to require 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;
- (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 in accordance with this regulation may perform any of the inspector's functions 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 notice**

**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 the plant material fails to comply with the requirements of these Regulations.

### **Enforcement and prohibition notice**

**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”);
- (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 notices**

**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 complaint and the Magistrates' Courts Act 1980(11) 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;
- (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.

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(11) 1980 c. 43; sections 51 and 52 have been substituted by section 47 of the Courts Act 2003 (c. 39). Sections 53 and 54 have been amended by section 17(6) of the Crime and Courts Act 2013 (c. 22).

### **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 for a person to—

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

(i) regulation 19 (information notice);

(ii) regulation 20 (prohibition on movement notice);

(iii) regulation 21(1)(a) (enforcement notice);

(iv) regulation 21(1)(b) (prohibition notice);

(b) fail, without reasonable excuse, to give any assistance that a person may require for the performance of that person's functions under these Regulations;

(c) intentionally obstruct an inspector in the exercise of any powers conferred by these Regulations.

(2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Offences by bodies corporate**

**25.—**(1) If an offence committed under these Regulations by a body corporate is proved—

(a) to have been committed with the consent or connivance of an officer, or

(b) to be attributable to any neglect on the part of an officer,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.

(3) In paragraph (1), "officer", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

## **PART 5**

### **Administration and revocations**

#### **Notices and authorisations**

**26.** A notice or authorisation given under these Regulations—

(a) must be in writing;

(b) may be made subject to conditions;

(c) may be amended, suspended or revoked by notice.

**Arrangements for official measures**

27.—(1) The Welsh Ministers may make such arrangements with any person (“A”) as the Welsh Ministers consider necessary or desirable for the purpose of enabling A to carry out official measures under these Regulations on the Welsh Ministers’ behalf.

(2) But the Welsh Ministers must not make any arrangement under this regulation unless satisfied that the arrangement makes provision for the purpose of preventing any person from—

- (a) deriving any private gain from any official measures carried out under the arrangement; and
- (b) carrying out any official measures under the arrangement except under official supervision.

(3) The Welsh Ministers may include in any arrangement such conditions as the Welsh Ministers consider necessary or desirable for the purposes referred to in paragraphs (1) and (2), including conditions—

- (a) specifying—
  - (i) the official measures that A must carry out;
  - (ii) the methods to be used in connection with the official measures that A carries out;
  - (iii) the fees that A may charge in relation to the official measures that A carries out;
  - (iv) the records that A must keep in connection with the official measures that A carries out;
- (b) prohibiting A from—
  - (i) charging fees in relation to the official measures that A carries out under the arrangement except to the extent that these do not exceed the costs that A incurs in carrying them out;
  - (ii) carrying out the official measures except under official supervision;
- (c) prohibiting A from making any further arrangement with any other person (“B”) for any purpose in connection with the carrying out of the official measures that A has arranged with the Welsh Ministers to carry out, unless—
  - (i) the Welsh Ministers have approved all the conditions of the further arrangement and A has received the prior written approval of the Welsh Ministers to make the further arrangement;
  - (ii) the further arrangement includes a condition prohibiting B from making any subsequent arrangements for any purpose connected with the carrying out of the official measures in respect of which the Welsh Ministers made the arrangement with A;
  - (iii) the further arrangement includes an acknowledgment by A that the Welsh Ministers may vary, revoke or suspend the further arrangement if it appears to the Welsh Ministers that B is not complying, or has failed to comply, with any condition of the further arrangement; and
  - (iv) the further arrangement includes the conditions specified in sub-paragraphs (a) and (b) of this paragraph and for these purposes references in those sub-paragraphs to A are to be construed as references to B and references to “the arrangement” are to be construed as references to the further arrangement.

(4) The Welsh Ministers must not approve the making of any further arrangement under this regulation unless satisfied that B will not—

- (a) derive any private gain from any official measures that B is to be authorised to carry out under the further arrangement;

(b) carry out any official measures under the further arrangement except under official supervision.

(5) The Welsh Ministers may, by notice to A or B (as the case may be), vary, suspend or revoke an arrangement or further arrangement, or any conditions of an arrangement or further arrangement made under this regulation.

(6) A notice given under paragraph (5) must specify—

(a) in respect of a variation or revocation, the date from which the variation or revocation takes effect;

(b) in respect of a suspension, the period during which the suspension has effect.

(7) When a variation, revocation or suspension has effect, the Welsh Ministers may, for any purposes in relation to these Regulations, continue to have regard to such of the official measures carried out under an arrangement (or further arrangement) which was varied, revoked or suspended as appear to the Welsh Ministers to be official measures carried out in accordance with the provisions of these Regulations.

(8) In this regulation, “official measures” include official examinations, growing trials, tests and assessments.

### **Transitional provision**

**28.**—(1) This regulation applies where plant material is produced from a parent plant existing before 19 June 2017.

(2) A supplier may market such plant material if—

(a) the parent plant meets any certification or CAC requirements relevant to it under the Marketing of Fruit Plant Material Regulations 2010; and

(b) the supplier’s document accompanying it, or the official label affixed to it, includes a reference to Article 32 of [Directive 2014/98/EU](#).

(3) In this regulation, “parent plant” means a pre-basic, basic or certified mother plant or CAC material.

(4) This regulation ceases to have effect on 31 December 2022.

### **Revocation**

**29.** The Marketing of Fruit Plant Material Regulations 2010(**12**) are revoked in relation to Wales.

14 June 2017

*Lesley Griffiths*  
Cabinet Secretary for Environment and Rural  
Affairs, one of the Welsh Ministers