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STATUTORY INSTRUMENTS

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**2017 No. 595**

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

**PART 1**

Introduction

**Citation, commencement, extent and application**

1.—(1) These Regulations may be cited as the Marketing of Fruit Plant and Propagating Material (England) Regulations 2017 and come into force on 1st June 2017.

(2) They extend to England and Wales but only apply to England.

**Interpretation: general**

2. In these Regulations—

“basic material” means propagating material intended for the production of certified material, which has been—

- (a) in relation to propagating material produced in England, certified as basic material in accordance with regulation 9;
- (b) in relation to propagating material produced outside England, certified as basic material by a responsible authority in accordance with [F1—
  - (i) in the case of material and plants produced in the United Kingdom, the relevant fruit marketing regulations;
  - (ii) in the case of material and plants produced in a Crown Dependency or a country granted equivalence, legislation recognised by the Secretary of State as having equivalent effect to Schedule 1;]

“basic mother plant” means a mother plant intended for the production of basic material;

“CAC material” means—

- (a) in relation to propagating material and fruit plants produced in England, material and plants that meet the requirements for CAC material in Schedule 1;
- (b) in relation to propagating material and fruit plants produced outside England, material and plants that meet the requirements for CAC material in [F2—
  - (i) in the case of material and plants produced in the United Kingdom, the relevant fruit marketing regulations;
  - (ii) in the case of material and plants produced in a Crown Dependency or a country granted equivalence, legislation recognised by the Secretary of State as having equivalent effect to Schedule 1;]

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

“certified material” 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 England, certified as certified material in accordance with regulation 9;
- (b) in relation to propagating material and fruit plants produced outside England, certified as certified material by a responsible authority in accordance with <sup>[F3]</sup>—
  - (i) in the case of material and plants produced in the United Kingdom, the relevant fruit marketing regulations;
  - (ii) in the case of material and plants produced in a Crown Dependency or a country granted equivalence, legislation recognised by the Secretary of State as having equivalent effect to regulation 9(1) and (2);]

“certified mother plant” means a mother plant intended for the production of certified material;

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

<sup>[F4]</sup>“country granted equivalence” means a country that has been assessed under regulation 5(3) and the Secretary of State is satisfied that the plant material from the country is produced under conditions equivalent to the requirements in these Regulations for plant material;]

<sup>[F4]</sup>“Crown Dependency” means the Isle of Man or any of the Channel Islands; ]

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

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

<sup>[F5]</sup>“the fruit marketing regulations” means—

- (a) as regards Wales, the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017;
- (b) as regards Scotland, the Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017;
- (c) as regards Northern Ireland, the Marketing of Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017;]

<sup>[F5]</sup>“the relevant fruit marketing regulations”, in relation to any constituent part of the United Kingdom, means the fruit marketing regulations applicable in relation to that part;]

“fruit plant” means a plant intended to be planted or replanted, after marketing;

“inspector” means a person appointed under regulation 16;

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

“micropropagation” 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” means an identified plant intended for propagation;

“official description” means the description of a variety provided for—

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

“official examination” means an examination or inspection conducted by an inspector, including one conducted by way of sample;

“official label” means—

- (a) for certified plant material produced in England, a label issued or approved in accordance with regulation 10(2);
- (b) for certified plant material produced outside England, 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 [<sup>F6</sup>—
  - (i) in the case of material produced in the United Kingdom, the relevant fruit marketing regulations;
  - (ii) in the case of plant material produced in a Crown Dependency or a country granted equivalence, legislation recognised by the Secretary of State as having equivalent effect to Part 1 of Schedule 2;]

“officially recognised description” means a description of key morphological features that enable the variety to be identified;

“outside England” means any part of the United Kingdom other than England [<sup>F7</sup>, any Crown Dependency or country granted equivalence];

“plant material” means the plants and materials described in regulation 4;

“plant variety rights” means rights granted under—

- (a) Part 1 of the Plant Varieties Act 1997 <sup>M1</sup>; [<sup>F8</sup>or]
- (b) <sup>F9</sup> ...
- (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;

“practically free from defects” 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” means propagating material intended for the production of basic or certified material, which has been—

- (a) in relation to propagating material produced in England, certified as pre-basic material in accordance with regulation 9;
- (b) in relation to propagating material produced outside England, certified as pre-basic material by a responsible authority in accordance with [<sup>F10</sup>—
  - (i) in the case of material produced in the United Kingdom, the relevant fruit marketing regulations;
  - (ii) in the case of material produced in a Crown Dependency or a country granted equivalence, legislation recognised by the Secretary of State as having equivalent effect to regulation 9(1) and (2);]

“pre-basic mother plant” means a mother plant intended for the production of pre-basic material;

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

[<sup>F11</sup>“RNQP” means a [<sup>F12</sup>GB] regulated non-quarantine pest within the meaning given by Article 36 of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants;]

“responsible authority” means the authority responsible for the quality of plant material in the country or territory where the plant material was produced;

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

“supplier's document” means a document accompanying CAC material and which meets the requirements in Part 2 of Schedule 2;

“UPOV” means the International Union for the Protection of New Varieties of Plants <sup>M2</sup>;

“variety” 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” 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.

#### Textual Amendments

- F1** Words in reg. 2 substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131), regs. 1, **8(2)(a)** (as amended by S.I. 2020/1388, regs. 1(2)(a), **29(6)(a)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F2** Words in reg. 2 substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131), regs. 1, **8(2)(b)** (as amended by S.I. 2020/1388, regs. 1(2)(a), **29(6)(a)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F3** Words in reg. 2 substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131), regs. 1, **8(2)(c)** (as amended by S.I. 2020/1388, regs. 1(2)(a), **29(6)(a)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F4** Words in reg. 2 inserted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131), regs. 1, **8(2)(d)** (as amended by S.I. 2020/1388, regs. 1(2)(a), **29(6)(a)(ii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F5** Words in reg. 2 inserted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131), regs. 1, **8(2)(e)** (as amended by S.I. 2019/809, regs. 1(a), **8(3)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** Words in reg. 2 substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131), regs. 1, **8(2)(f)** (as amended by S.I. 2020/1388, regs. 1(2)(a), **29(6)(a)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F7** Words in reg. 2 substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131), regs. 1, **8(2)(g)** (as amended by S.I. 2020/1388, regs. 1(2)(a), **29(6)(a)(iii)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F8** Word in reg. 2 inserted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131), regs. 1, **8(2)(h)(i)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F9** Words in reg. 2 omitted (31.12.2020) by virtue of The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131), regs. 1, **8(2)(h)(ii)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F10** Words in reg. 2 substituted (31.12.2020) by The Marketing of Seeds and Plant Propagating Material (Amendment) (England and Wales) (EU Exit) Regulations 2019 (S.I. 2019/131), regs. 1, **8(2)(i)** (as amended by S.I. 2020/1388, regs. 1(2)(a), **29(6)(a)(i)**); 2020 c. 1, **Sch. 5 para. 1(1)**

- F11** Words in reg. 2 inserted (24.7.2020) by [The Marketing of Seed, Plant and Propagating Material \(England\) Regulations 2020 \(S.I. 2020/682\)](#), regs. 1(1), **6(2)**
- F12** Word in reg. 2 substituted (16.11.2022) by [The Animals, Food, Plant Health, Plant Propagating Material and Seeds \(Miscellaneous Amendments etc.\) Regulations 2022 \(S.I. 2022/1090\)](#), regs. 1(1), **3(2)**

#### Marginal Citations

- M1** 1997 c. 66. Part I was amended by [S.I. 2000/311](#), 2005/2726 and 2011/1043.
- M2** 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.

### Interpretation: Directives

#### 3.—(1) In these Regulations—

<sup>F13</sup>  
...

“Directive [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>M3</sup>;

“Directive [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>M4</sup>;

“Directive [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>M5</sup>;

[<sup>F14</sup>“Directive [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.]

(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.

#### Textual Amendments

- F13** Words in reg. 3(1) omitted (14.1.2020) by virtue of [The Official Controls \(Plant Health and Genetically Modified Organisms\) \(England\) Regulations 2019 \(S.I. 2019/1517\)](#), reg. 1, **Sch. 5 para. 6(2)**
- F14** Words in reg. 3(1) substituted (24.7.2020) by [The Marketing of Seed, Plant and Propagating Material \(England\) Regulations 2020 \(S.I. 2020/682\)](#), regs. 1(1), **6(3)**

#### Marginal Citations

- M3** 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).
- M4** OJ No L 298, 16.10.2014, p. 12.
- M5** OJ No L 298, 16.10.2014, p. 16.

### **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 England to any country outside the [<sup>F15</sup>Great Britain] provided the plant material is identified as such and kept sufficiently isolated.

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#### **Textual Amendments**

**F15** Words in [reg. 4\(3\)](#) substituted (31.12.2020) by [The Marketing of Seeds and Plant Propagating Material \(Amendment\) \(England and Wales\) \(EU Exit\) Regulations 2019 \(S.I. 2019/131\)](#), [regs. 1, 8\(3\)](#) (as amended by [S.I. 2020/1388](#), [regs. 1\(2\)\(a\), 29\(6\)\(b\)](#)); 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 (England) Regulations 2017, PART 1.