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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 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 Secretary of State may make such arrangements with any person (“A”) as the Secretary of State considers necessary or desirable for the purpose of enabling A to carry out official measures under these Regulations on the Secretary of State’s behalf.

(2) But the Secretary of State 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 Secretary of State may include in any arrangement such conditions as the Secretary of State considers 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 Secretary of State to carry out, unless—
- (i) the Secretary of State has approved all the conditions of the further arrangement and A has received the prior written approval of the Secretary of State 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 Secretary of State made the arrangement with A;
  - (iii) the further arrangement includes an acknowledgment by A that the Secretary of State may vary, revoke or suspend the further arrangement if it appears to the Secretary of State 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 Secretary of State 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 Secretary of State 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 Secretary of State 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 Secretary of State 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 provisions**

**28.—**(1) This regulation applies where plant material is produced from a parent plant existing before 1st 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 31st December 2022.

### **Consequential amendment**

**29.**—(1) In Part 2 of the Schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007<sup>(1)</sup>, for “Marketing of Fruit Plant Material Regulations 1995”, substitute “Marketing of Fruit Plant and Propagating Material (England) Regulations 2017”.

(2) In Part 3 of the Schedule to the Economic Growth (Regulatory Functions) Order 2017<sup>(2)</sup>, for “Marketing of Fruit Plant Material Regulations 2010”, substitute “Marketing of Fruit Plant and Propagating Material (England) Regulations 2017”.

### **Revocation**

**30.** The Marketing of Fruit Plant Material Regulations 2010<sup>(3)</sup> are revoked in relation to England.

### **Review**

**31.**—(1) The Secretary of State must, from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st June 2022.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015<sup>(4)</sup> requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the Directives are implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation—

“the Directives” means [Directive 2008/90/EC](#), [Directive 2014/96/EU](#), [Directive 2014/97/EU](#) and [Directive 2014/98/EU](#);

“regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

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(1) [S.I. 2007/3544](#), to which there are amendments not relevant to these Regulations.

(2) [S.I. 2017/267](#).

(3) [S.I. 2010/2079](#).

(4) [2015 c.26](#). Section 30(3) was amended by the Enterprise Act [2016 \(c.12\)](#), section 19.