
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the enforcement of the banana marketing standards as provided for by Article 75 of Council Regulation (EC) No 1308/2013 (O.J. No. L 347, 20.12.2013, p.671) establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation), and contained in Commission Implementing Regulation (EU) No 1333/2011 laying down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector (O.J. No. L 336, 20.12.2011, p.23).

Annex I of the Commission Implementing Regulation sets out detailed requirements relating to quality, size, presentation and marking of bananas at the “un-ripened green stage” of marketing after preparation and packaging where the bananas are intended for supply fresh to the consumer.

The marketing standards are applicable to bananas falling within CN code 0803 90, excluding plantains, fig bananas and bananas intended for processing, and apply to bananas originating in third countries at the stage of release for free circulation, to bananas originating in the EU at the stage of first landing at a Community port, and to bananas delivered fresh to the consumer in the producing region at the stage of leaving the packing shed.

The Regulations designate the Department of Agriculture, Environment and Rural Affairs as the competent national authority and inspection body in Northern Ireland and provide for the Department to exchange information with other competent national authorities and inspection bodies (regulation 3).

The Regulations make the failure to comply with the banana marketing standards an offence. They contain additional offences necessary for the effective enforcement of the banana quality standards (regulation 4 and Schedule 1).

Regulation 5 provides that the powers under Parts 3 and 4 of the Regulations may not be exercised on premises used wholly as a dwelling house.

The Regulations confer on authorised officers powers of entry (regulation 6) and other powers, including seizure powers (regulation 7). They also contain powers to affix non-compliance labels indicating various types of non-conformity with the marketing standards for bananas (regulations 9, 10 and 11). These labels must contain the information set out in Schedule 2 (Parts 1 and 2).

Regulation 12 confers power on authorised officers to prohibit the movement of bananas and gives a right of review to those served with a written notice informing of the exercise of that power. Regulation 13 confers power to affix a stop notice label warning of the exercise of power in regulation 12, which must contain the information set out in Schedule 2 (Parts 3 and 4). Regulation 14 makes provision for giving consent by authorised officers to the movement of controlled bananas where certain conditions are met. Regulation 15 confers powers on authorised officers to accept written undertakings and sets out the contents of a written undertaking.

Regulations 16, 17, 18 and 19 respectively contain provisions on offences relating to controlled bananas, to the obstruction of an authorised officer, to the commission of an offence due to the fault of another person and to the commission of offences by bodies corporate etc. Regulation 20 provides for defences of acting with lawful authority or exercising due diligence and taking reasonable precautions. Regulation 21 provides that the penalty for offences is on summary conviction a fine not exceeding level 5 on the standard scale.

Changes to legislation: *There are currently no known outstanding effects for the The Marketing of Bananas Regulations (Northern Ireland) 2019. (See end of Document for details)*

These Regulations disapply (see regulation 22) the Horticulture Act (Northern Ireland 1966 (c. 15 (N.I.)) as it does not apply to bananas and, insofar as they apply to Northern Ireland, the Agricultural Marketing Act 1958 (c.47) from the banana marketing standards.

No Business and Regulatory Impact Assessment has been prepared for these Regulations as they have no impact on the cost of business in Northern Ireland.

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