

## SCHEDULE 2

### Certification requirements

#### Modifications etc. (not altering text)

- C1** Sch. 2: power to amend conferred (31.12.2020) by [The Aquatic Animal Health and Alien Species in Aquaculture, Animals, and Marketing of Seed, Plant and Propagating Material \(Legislative Functions and Miscellaneous Provisions\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1463\)](#), regs. 1(2)(b), **20(1)** (with reg. 20(2))

## PART 2

### Pre-basic material

#### Acceptance of plants as pre-basic mother plants

5.—(1) Subject to sub-paragraph (4) the Scottish Ministers may accept a plant as a pre-basic mother plant if it has been found on official inspection and, where appropriate, through administrative checks, that—

- (a) there has been compliance with paragraphs 8 to 12; and
- (b) its trueness to the description of its variety is—
  - (i) established in accordance with sub-paragraphs (2) and (3); and
  - (ii) verified in accordance with paragraph 7.

(2) The trueness of the pre-basic mother plant to the description of its variety must be established by observation of the expression of the characteristics of the variety and such observation must be based on one of the following descriptions:—

- (a) the official description of the variety;
- (b) the description accompanying the application to be a registered variety;
- (c) the description accompanying the application for the grant of plant variety rights; or
- (d) the officially recognised description, if the variety in question is a registered variety.

(3) Where the establishment of the trueness to the description of the variety is only possible on the basis of the characteristics of a fruiting plant—

- (a) the observation of the expression of the characteristics of the variety must be carried out on the fruits of a fruiting plant propagated from the pre-basic mother plant; and
- (b) the fruiting plant mentioned in head (a) must be kept separate from the pre-basic mother plant and pre-basic material.

(4) If the observation mentioned in sub-paragraph (2) is based on a description mentioned in either head (b) or (c) of sub-paragraph (2), the pre-basic mother plant may only be accepted—

- [<sup>F1</sup>(a) following production of a report from the responsible official body which proves that the variety in question is distinct, uniform and stable; and]
- (b) pending registration of the variety, the pre-basic mother plant and any material produced from it may only be used for the production of basic or certified material and may not be marketed as pre-basic, basic or certified material.

**Changes to legislation:** There are currently no known outstanding effects for the The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017, Paragraph 5. (See end of Document for details)

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**Textual Amendments**

- F1** Sch. 2 para. 5(4)(a) substituted (31.12.2020) by The Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/59), regs. 1(1)(b), **18(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 (Scotland) Regulations 2017, Paragraph 5.