

2011 No. 2587

HORTICULTURE

**The Marketing of Fresh Horticultural Produce (Amendment)
Regulations 2011**

<i>Made</i>	- - - -	<i>26th October 2011</i>
<i>Laid before Parliament</i>		<i>1st November 2011</i>
<i>Coming into force</i>	- -	<i>1st December 2011</i>

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Union.

These Regulations make provision for a purpose mentioned in that section of that Act and it appears to the Secretary of State that it is expedient for references to provisions of Commission Implementing Regulation (EU) No 543/2011(c) in the instrument which these Regulations amend to be construed as references to those provisions as amended from time to time.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(d).

Title, commencement, extent and application

1.—(1) These Regulations may be cited as the Marketing of Fresh Horticultural Produce (Amendment) Regulations 2011 and come into force on 1st December 2011.

(2) This regulation and regulations 2, 3(a) and (c) and 4(a), (b) and (c) extend to the United Kingdom.

(3) Otherwise, these Regulations apply in relation to England only.

Amendment of the Marketing of Fresh Horticultural Produce Regulations 2009

2. The Marketing of Fresh Horticultural Produce Regulations 2009(e) are amended as follows.

Amendment of regulation 2

3. In regulation 2—

(a) in paragraph (1), for the definition of “Commission Regulation 1580/2007” substitute—

(a) S.I. 1972/1811.

(b) 1972 c.68.

(c) OJ No L 157, 15.6.2011, p.1, as last amended by Commission Implementing Regulation (EU) No 898/2011 (OJ No L 231, 8.9.2011, p.11).

(d) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).

(e) S.I. 2009/1361, amended by S.I. 2011/1043.

““Commission Implementing Regulation 543/2011” means Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors, as amended from time to time.”;

- (b) in paragraph (2)—
 - (i) in the definition of “EU marketing rules”(a), for “Commission Regulation 1580/2007” substitute “Commission Implementing Regulation 543/2011”,
 - (ii) in the definition of “general marketing standard”, for “Article 2a(1) and Part A of Annex I to Commission Regulation 1580/2007” substitute “Article 3(1) and Part A of Annex I to Commission Implementing Regulation 543/2011”,
 - (iii) in the definition of “specific marketing standards”, for “Article 2a(2) and Part B of Annex I to Commission Regulation 1580/2007” substitute “Article 3(2) and Part B of Annex I to Commission Implementing Regulation 543/2011”; and
- (c) in paragraph (3), for “Commission Regulation 1580/2007” substitute “Commission Implementing Regulation 543/2011”.

Amendment of regulation 3

- 4. In regulation 3—
 - (a) in paragraphs (1) and (2)(a)(i), for “Article 8(1)(a) of Commission Regulation 1580/2007” substitute “Article 9(1)(a) of Commission Implementing Regulation 543/2011”;
 - (b) in paragraph (2)(a)(ii) and (iii) and in the introductory words of paragraph (2)(b), for “Article 8(1)(b) of Commission Regulation 1580/2007” substitute “Article 9(1)(b) of Commission Implementing Regulation 543/2011”;
 - (c) in paragraph (2)(b)(i), for “Article 9 of Commission Regulation 1580/2007” substitute “Article 10 of Commission Implementing Regulation 543/2011”; and
 - (d) in paragraph (3), for “Article 8(1)(b) of Commission Regulation 1580/2007” substitute “Article 9(1)(b) of Commission Implementing Regulation 543/2011”.

Amendment of regulation 4

5. In regulation 4(3), for “Commission Regulation 1580/2007” substitute “Commission Implementing Regulation 543/2011”.

Amendment of regulation 8

6. In regulation 8(2), for “Annex VI to Commission Regulation 1580/2007” substitute “Annex V to Commission Implementing Regulation 543/2011”.

Insertion of Part 7

- 7. After Part 6 insert—

“PART 7

Review

- 23.—(1) Before the end of each review period, the Secretary of State must—
 - (a) carry out a review of these Regulations,

(a) The term “EU marketing rules” was substituted for “Community marketing rules” in regulation 2(2) by Article 7 of and paragraph 13 of Schedule 1 to the Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043).

- (b) set out the conclusions of the review in a report, and
 - (c) publish the report.
- (2) The report must in particular—
- (a) set out the objectives intended to be achieved by these Regulations,
 - (b) assess the extent to which the objectives have been achieved, and
 - (c) assess whether the objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.
- (3) The first review period is the period of five years beginning on 1st December 2011.
- (4) Each subsequent review period is a period of five years beginning with the date on which the report of the preceding review was published.”.

Substitution of the Schedule

8. For the Schedule substitute the following—

“SCHEDULE Regulation 4(3)
Provisions of Commission Implementing Regulation 543/2011

<i>Column 1</i> Relevant provision of Commission Implementing Regulation 543/2011	<i>Column 2</i> Provision of Commission Implementing Regulation 543/2011 to be read with the provision in column 1	<i>Column 3</i> Subject matter
Article 5(1)	Annex I, Art 4(3), Art 5(2) to (4), Art 6, Art 7	General requirement for information particulars
Article 5(2)	Annex I, Art 5(1), (3) and (4), Art 7	Requirements for information particulars in documents accompanying bulk shipments and goods loaded directly onto a means of transport
Article 5(3)	Annex I, Art 5(1) and (4), Art 7	Requirement for information particulars in the case of distance contracts to be available before the purchase is concluded
Article 5(4)	Annex I, Art 5(1) to (3), Art 7	Requirement for information particulars on invoices and accompanying documents
Article 6	Annex I, Art 4(3), Art 7	Requirement for information particulars at the retail stage
Article 7(1)	Annex I, Art 4(3), Art 6, Art 7(2) and (3)	Requirements for sale of mixes of different types of fruit and vegetables
Article 10(6)	Art 10(1) to (5)	Requirement for traders to provide information that

Article 11(4)	Art 11(1) to (3), Art 12, Art 14 and Annex III, Art 15	Member States consider necessary for the database Requirement for traders to provide inspection bodies with all information required by them for organising and carrying out conformity checks
Article 17(3), final sub-paragraph	Art 10, Art 17(1), (2) and the rest of (3), Annex V	Requirement for traders to supply all information deemed necessary by the inspection body for method of inspection.”.

26th October 2011

Jim Paice
Minister of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Commission Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors (OJ No L 157, 15.6.2011, p.1) in England and partially implement that EU Regulation for the rest of the United Kingdom.

The EU Regulation consolidates Regulation (EC) No 1580/2007 (OJ No L 350, 31.12.2007, p.1) and its amendments, and these Regulations amend the Marketing of Fresh Horticultural Produce Regulations 2009 (S.I. 2009/1361) to update the necessary references. They also insert a provision into those Regulations requiring the Secretary of State to review them as they apply in England at least every five years.

An impact assessment for this instrument has not been produced as no impact on the private, voluntary or public sectors is foreseen.

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£4.00

E1666 11/2011 111666T 19585

ISBN 978-0-11-151645-4

