
STATUTORY INSTRUMENTS

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 Article 15 of [Directive 2014/98/EU](#);

“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 Article 23 of [Directive 2014/98/EU](#);

“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 Article 20 of [Directive 2014/98/EU](#);

“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;

“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;

“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 Article 2 of [Directive 2014/96/EU](#);

“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 or any member State other than the United Kingdom;

“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⁽¹⁾;
- (b) Council Regulation [\(EC\) No 2100/94](#) on Community plant variety rights⁽²⁾; or
- (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—

(1) 1997 c. 66. Part I was amended by [S.I. 2000/311](#), [2005/2726](#) and [2011/1043](#).

(2) OJ No L 227, 1.9.1994, p.1 as last amended by Council Regulation [\(EC\) No 15/2008](#) (OJ L 8, 2 11.1.2008, p. 2).

- (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 Articles 3 or 4 of [Directive 2014/98/EU](#);

“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;

“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(3);

“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.

Interpretation: Directives

3.—(1) In these Regulations—

“[Directive 2000/29/EC](#)” means Council [Directive 2000/29/EC](#) on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community(4);

“[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(5);

“[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](#)(6);

(3) 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.

(4) OJ No L 169, 10.7.2000, p. 1 as last amended by Regulation (EU) 2016/2031 of the European Parliament of the Council (OJ No L 317, 23.11.2016, p. 4).

(5) 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).

(6) OJ No L 298, 16.10.2014, p. 12.

“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(7);

“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(8).

(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.

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 European Union provided the plant material is identified as such and kept sufficiently isolated.

(7) OJ No L 298, 16.10.2014, p. 16.

(8) OJ No L 298, 16.10.2014, p. 22.