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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 2**

**Marketing of Plant Material**

**Marketing of plant material**

5.—(1) A supplier may only market plant material if—

- (a) the supplier is registered in accordance with regulation 11; and
- (b) the plant material meets the requirements in paragraph (2).

(2) The plant material must be—

- (a) certified plant material or CAC material;
- (b) a variety that may be marketed in accordance with regulation 7;
- (c) marketed with a reference to the variety to which the plant material belongs in accordance with regulation 8;
- (d) in relation to certified plant material, labelled, sealed and packaged in accordance with regulation 10; and
- (e) in relation to CAC material, accompanied by a supplier's document.

(3) The Secretary of State may authorise the marketing of plant material from any country outside the European Union if satisfied the plant material has been produced under conditions equivalent to the requirements for plant material in these Regulations.

(4) Paragraph (3) ceases to have effect on 31st December 2018.

**Exceptions**

6. Regulation 5(1)(b) does not apply to the marketing of plant material intended for—

- (a) trials or scientific purposes;
- (b) selection work;
- (c) measures aimed at the conservation of genetic diversity.

**Varieties that may be marketed**

7.—(1) Plant material is of a variety that may be marketed if the variety fulfils one or more of the requirements of paragraph (2).

(2) The variety must—

- (a) have been granted plant variety rights;
- (b) be registered as a variety;

- (c) be the subject of an application for—
  - (i) plant variety rights; or
  - (ii) registration as a variety;
- (d) have been marketed prior to 30th September 2012 within the European Union and have an officially recognised description; or
- (e) in relation to varieties with no intrinsic value for commercial crop production being marketed within the United Kingdom—
  - (i) have an officially recognised description; and
  - (ii) is CAC material.

(3) A supplier who markets plant material of a variety described in paragraph (2)(e) must ensure the plant material is accompanied by a supplier’s document stating that it is marketed in accordance with the second paragraph of Article 7(2) of [Directive 2008/90/EC](#).

(4) In this regulation, “registered as a variety” (and “registration” is to be construed accordingly) means—

- (a) registration in England as a variety in accordance with Schedule 4; or
- (b) registration outside England as a variety by the responsible authority in the country or territory in accordance with Article 4 of [Directive 2014/97/EU](#).

#### **References to variety of plant material**

8. Plant material is marketed with a reference to its variety if it is marketed, in relation to—
- (a) a variety of plant material that is the subject of an application for a grant of plant variety rights, by reference to the breeder’s reference or the proposed name of the variety;
  - (b) a registered variety, by reference to its registered name;
  - (c) a variety that is the subject of an application for such registration, by reference to the breeders’ reference or the proposed name of the variety;
  - (d) rootstocks that do not belong to a variety, by reference to the appropriate species or interspecific hybrid.

#### **Certification of plant material**

9.—(1) If the requirements of paragraph (2) are satisfied, an inspector must—

- (a) certify plant material produced in England as being—
  - (i) pre-basic material;
  - (ii) basic material; or
  - (iii) certified material;
- (b) issue a certificate confirming certification (a crop inspection certificate).

(2) The requirements are that on official examination, the plant material has been found to comply with the requirements for certification set out in the relevant provisions of Schedule 5.

(3) An application for certification of plant material produced in England must be made in writing to the Secretary of State and must be accompanied by such information as the Secretary of State may require.

(4) An official label issued in accordance with these Regulations in relation to certified plant material is sufficient evidence that an inspector has certified the plant material to which the official label relates as being certified plant material.

### **Labelling, sealing and packaging of certified plant material**

**10.**—(1) Certified plant material, which is marketed, must be labelled, sealed and packaged in accordance with this regulation.

(2) The Secretary of State must issue or approve a label (an official label) if that label meets the requirements in Part 1 of Schedule 2.

(3) But a label used in the retail supply of certified plant material to a non-professional final consumer need only contain appropriate product information, including the name of the responsible authority, the supplier's name or registration number, the botanical name and variety denomination.

(4) An official label must be affixed to the certified plant material.

(5) Where certified plant material forms part of the same lot and is being marketed in a package, bundle or container, an official label must be affixed to that package, bundle or container.

(6) Paragraphs (4) and (5) do not apply where certified plant material is accompanied by a plant passport issued in accordance with [Directive 2000/29/EC](#), which contains the information in paragraph 4 of Schedule 2.

(7) A supplier must not market certified plant material in lots of two or more plants or parts of plants unless those lots are sufficiently homogeneous and are properly packaged.

(8) For the purposes of paragraph (7), “properly packaged” means the plants or parts of plants—

- (a) are in a package or container that is sealed in a way that prevents the package or container from being opened without damaging the closure or rendering the official label invalid; or
- (b) form part of a bundle that is tied in such a way that the plants or parts of plants forming part of the bundle cannot be separated without damaging the tie or ties.