

## SCHEDULE 1

Regulation 2

### CAC material

#### **Conditions for CAC material (other than rootstocks not belonging to a variety)**

1.—(1) CAC material (other than rootstocks not belonging to a variety) may only be marketed if it fulfils the requirements in sub-paragraph (2).

(2) The requirements are that the CAC material—

- (a) is propagated from an identified source of material recorded by the supplier;
- (b) is true to the description of its variety in accordance with paragraph 3;
- (c) complies with health requirements in paragraph 4; and
- (d) complies with requirements concerning defects in paragraph 5.

(3) Where CAC material no longer complies with sub-paragraph (2), the supplier—

- (a) must remove it from the vicinity of other CAC material;
- (b) may take appropriate measures to ensure that that material complies with sub-paragraph (2) again.

#### **Rootstocks not belonging to a variety**

2.—(1) CAC material consisting of rootstocks not belonging to a variety may only be marketed if it fulfils the requirements in sub-paragraph (2).

(2) The requirements are that the CAC material—

- (a) is true to the description of its species;
- (b) complies with health requirements in paragraph 4; and
- (c) complies with requirements concerning defects in paragraph 5.

(3) Where CAC material no longer complies with sub-paragraph (2), the supplier—

- (a) must remove it from the vicinity of other CAC material;
- (b) may take appropriate measures to ensure that that material complies with sub-paragraph (2) again.

#### **Trueness to the description of the variety**

3.—(1) A supplier must establish and regularly verify the trueness of CAC material to the description of its variety in accordance with this paragraph.

(2) This is done by observing the expression of the characteristics of a variety, that observation being based on one of the following elements—

- (a) its official description;
- (b) the description accompanying an application for registration;
- (c) the description accompanying an application for plant variety rights;
- (d) where the variety is registered with an officially recognised description, or subject to an application for registration with an officially recognised description, that description.

#### **Health requirements**

4.—(1) CAC material must be practically free from the pests listed in Annex I and in Annex II to Directive 2014/98/EU, as regards the genus or species concerned.

**Status:** Point in time view as at 01/04/2020.

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

(2) This is established by a visual inspection by the supplier, or where there is doubt, by sampling and testing.

(3) A visual inspection and sampling and testing must be carried out in accordance with Annex IV to Directive 2014/98/EU.

(4) But paragraph (1) does not apply to CAC material during cryopreservation

(5) CAC material belonging to the species *Citrus* L., *Fortunella* Swingle, or *Poncirus* Raf—

(a) must be produced from an identified source of material that has been found to be free, on sampling and testing, from the pests listed in Annex II to Directive 2014/98/EU for those species; and

(b) since the beginning of the last cycle of vegetation, must have been found, on visual inspection and any sampling and testing, to be practically free from the pests listed in Annex II to Directive 2014/98/EU, as regards the species concerned.

(6) In this paragraph, “practically free from pests” means that the extent to which pests are present on the propagating material or fruit plants is sufficiently low to ensure acceptable quality and usefulness of the propagating material.

#### **Requirements concerning defects likely to impair quality**

5.—(1) CAC material must be practically free from defects.

(2) This is established on the basis of a visual inspection.

(3) Injuries, discoloration, scar tissues or desiccation are considered as defects, if they affect the quality and usefulness of CAC material as propagating material.

## SCHEDULE 2

Regulation 2

### Official labels and supplier's documents

## **PART 1**

### Official labels

1. An official label used in relation to pre-basic material must be white with a diagonal violet stripe.

2. An official label used in relation to basic material must be white.

3. An official label used in relation to certified material must be blue.

4. An official label must—

(a) not have been previously used;

(b) contain the statement “EU rules and Standards”;

(c) state the following particulars—

(i) the name of the responsible authority or its distinguishing abbreviation;

(ii) the name of the supplier or their supplier's registration number;

(iii) the crop inspection certificate number;

(iv) the botanical name of the plant material;

**Status:** Point in time view as at 01/04/2020.

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

- (v) the category of plant material (pre-basic material, basic material, certified material or CAC material) and, for basic material, the generation number;
- (vi) the denomination of the variety, and where appropriate, the clone.
- (vii) in the case of rootstocks not belonging to a variety, the name of the species or the interspecific hybrid concerned;
- (viii) in the case of grafted fruit plants, the denomination of the variety of the rootstock and of the top-graft;
- (ix) for varieties for which an application for registration of plant variety right is pending, any information given in relation to sub-paragraphs (b)(vi) and (viii) must be prefaced with the words “proposed denomination” and “application pending”;
- (x) where appropriate, the words “variety with an officially recognised description”;
- (xi) the quantity of plant material;
- (xii) where not England, the country of production and its respective code or abbreviation;
- (xiii) the year of issue, or in the case of a replacement label, the year of issue of the original label;
- (xiv) in the case of a genetically modified variety—
  - (aa) a statement that the variety has been genetically modified; and
  - (bb) a list of the genetically modified organisms.

5. The information and particulars required on an official label must be indelibly printed in one of the official languages of the European Union, easily visible and legible.

6. An official label may contain such further particulars as the Secretary of State considers appropriate.

7. In this Part, the “crop inspection certificate number” means the number allocated to the crop inspection certificate by the inspector at the time of issue.

## PART 2

### Supplier's document: CAC material

8. A supplier's document accompanying CAC material must—
- (a) contain the statements “EU rules and Standards” and “CAC material”; and
  - (b) state the following particulars—
    - (i) the responsible authority and member State where the supplier's document was prepared or their distinguishing abbreviations;
    - (ii) the supplier's registration number;
    - (iii) the individual serial, week or batch number;
    - (iv) the botanical name of the plant material;
    - (v) the denomination of the variety and, where appropriate, the clone;
    - (vi) in the case of rootstocks not belonging to a variety, the name of the species or the interspecific hybrid concerned;
    - (vii) in the case of grafted fruit plants, the denomination of the variety of the rootstock and of the top-graft;

**Status:** Point in time view as at 01/04/2020.

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

(viii) for varieties for which an application for registration of plant variety right is pending, any information given in relation to sub-paragraphs (v) and (vii) must be pre-fixed with the words “proposed denomination” and “application pending”;

<sup>F1</sup>(ix) . . . . .

<sup>F2</sup>(x) . . . . .

(xi) the date the supplier's document was issued.

**Textual Amendments**

**F1** Sch. 2 para. 8(b)(ix) omitted (1.4.2020) by virtue of The Marketing of Fruit Plant and Propagating Material (England) (Amendment) Regulations 2020 (S.I. 2020/248), regs. 1, **2(4)(a)**

**F2** Sch. 2 para. 8(b)(x) omitted (1.4.2020) by virtue of The Marketing of Fruit Plant and Propagating Material (England) (Amendment) Regulations 2020 (S.I. 2020/248), regs. 1, **2(4)(a)**

[<sup>F3</sup>**8A.** A supplier’s document affixed to CAC material in the form of a label must be yellow.]

**Textual Amendments**

**F3** Sch. 2 para. 8A inserted (1.4.2020) by The Marketing of Fruit Plant and Propagating Material (England) (Amendment) Regulations 2020 (S.I. 2020/248), regs. 1, **2(4)(b)**

**9.** The information and particulars required in a supplier's document must be indelibly printed in one of the official languages of the European Union, easily visible and legible.

**10.** A supplier's document accompanying CAC material produced in England may contain such further particulars as the Secretary of State considers appropriate.

SCHEDULE 3

Regulation 4

Genera and species to which these Regulations apply

<i>Genera and species</i>	<i>Common name (for guidance only)</i>
<i>Castanea sativa</i> Mill.	Chestnut
<i>Citrus</i> L.	includes Grapefruit, Lemon, Lime, Mandarin and Orange
<i>Corylus avellana</i> L.	Hazel
<i>Cydonia oblonga</i> Mill.	Quince
<i>Ficus carica</i> L.	Common edible fig
<i>Fortunella</i> Swingle	Kumquat
<i>Fragaria</i> L.	all cultivated strawberry species
<i>Juglans regia</i> L.	Walnut
<i>Malus</i> Mill.	Apple
<i>Olea europaea</i> L.	Olive

<i>Pistacia vera</i> L.	Pistachio
<i>Poncirus</i> Raf.	Trifoliate orange
<i>Prunus armeniaca</i> L.	Apricot
<i>Prunus avium</i> (L.) L.	Sweet cherry
<i>Prunus cerasus</i> L.	Sour cherry
<i>Prunus domestica</i> L.	Plum
<i>Prunus dulcis</i> (Mill) D A Webb (otherwise known as <i>Prunus amygdalus</i> Batsch)	Almond
<i>Prunus persica</i> (L.) Batsch	Peach
<i>Prunus salicina</i> Lindley	Japanese plum
<i>Pyrus</i> L.	All cultivated edible pears, including perry pears
<i>Ribes</i> L.	Blackcurrant, gooseberry, redcurrant and white currant
<i>Rubus</i> L.	Blackberry, raspberry and hybrid berries
<i>Vaccinium</i> L.	includes Blueberry, cranberry and bilberry

---

#### SCHEDULE 4

Regulation 7(4)

#### Registration of varieties

#### Interpretation

**1.** In this Schedule—

“appropriate protocol” means—

- a protocol published by the Administrative Council of the Community Plant Variety Office in relation to distinctness, uniformity and stability tests for the particular genus or species concerned; or
- where no protocol has been published for the relevant genus or species, guidelines produced by UPOV relating to the conduct of tests for distinctness, uniformity and stability; or
- where protocols mentioned at (a) or guidelines mentioned at (b) do not exist, a protocol or guidelines established by the Secretary of State in relation to the same matters.

“Directive 2001/18/EC” means Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC<sup>M1</sup>;

“distinct” means variety is clearly distinguishable by one or more characteristics that result from a particular genotype or combination of genotypes, from any other variety whose existence is a matter of common knowledge at the time of the application for registration as a variety;

“Regulation (EC) No 1829/2003” means Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed<sup>M2</sup>;

**Status:** Point in time view as at 01/04/2020.

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

“stable” means the characteristics of the variety, which are included in the examination for distinctness, as well as any others used for the variety description, remain unchanged after repeated propagation or, in the case of micropropagation, at the end of each such cycle;

“uniform” means, subject to the variation that may be expected from the particular features of its propagation, the variety is sufficiently uniform in those characteristics which are included in the examination for distinctness, as well as any other characteristics used for the variety description.

#### Marginal Citations

- M1** OJ No L 106, 17.4.2001, p. 1 as last amended by Directive (EU) 2015/412 (OJ No L 68, 13.3.2015, p. 1).  
**M2** OJ No L 268, 18.10.2003, p.1 as last amended by Regulation (EC) No.298/2008 of the European Parliament and of the Council (OJ No L 97.9.4.2008, p.64).

### Application for registration with an official description

**2.—**(1) An application for registration of a variety with an official description must be made in writing to the Secretary of State in such form as the Secretary of State may require.

(2) An application must be accompanied by—

- (a) any technical information (such as, but not limited to, details of the genus and species to which the variety belongs, its common name, the applicant's details, the variety denomination, origin, and characteristics of the variety) required under an appropriate species that is relevant to the species;
- (b) information on whether the variety is officially registered elsewhere in the United Kingdom or in another member State, or is the subject of an application for such a registration;
- (c) a proposed denomination; and
- (d) such other information as the Secretary of State may require.

(3) Where applicable, an application may be accompanied by details of an official description established by a responsible authority elsewhere in the United Kingdom or in another member State.

### Registration

**3.—**(1) The Secretary of State must register a variety with an official description if satisfied that—

- (a) the variety is distinct, uniform and stable;
- (b) a sample of the variety is available; and
- (c) in relation to genetically modified varieties, the genetically modified organism of which the variety consists is authorised for cultivation pursuant to Directive [2001/18/EC](#) or Regulation [\(EC\) No 1829/2003](#).

(2) The Secretary of State must base acceptance that a variety is distinct, uniform and stable on the results of growing trials in accordance with paragraph 6.

(3) Growing trials are not required where the Secretary of State is satisfied, on the basis of information submitted by the application, that an official description established by a responsible body outside England fulfils the conditions for registration required by sub-paragraph (1).

(4) The Secretary of State may register a variety that has been marketed within the European Union prior to 30th September 2012 provided that variety has an officially recognised description.

## Register of varieties

- 4.—(1) The Secretary of State must maintain and publish a register of varieties (“the register”).
- (2) The register must include the following information for each registered variety—
- (a) the denomination of the variety and synonyms;
  - (b) the species the variety belongs to;
  - (c) the indication ‘official description’ or ‘officially recognised description’, as appropriate;
  - (d) the date of registration, or, where applicable, of renewal of registration;
  - (e) the date the validity of the registration ends.
- (3) The Secretary of State must also, in relation to each variety registered, keep a file containing a description of the variety and a summary of the facts relevant to its registration.

## Additional requirements for products to be used as genetically modified food or feed

- 5.—(1) This paragraph applies to any variety from which products are derived for use as, or in—
- (a) food within the scope of Article 3 of Regulation (EC) No 1829/2003; or
  - (b) feed within the scope of Article 15 of Regulation (EC) No 1829/2003.
- (2) Before registering any such variety, the Secretary of State must be satisfied that the food or feed has been authorised pursuant to Regulation (EC) No 1829/2003.
- (3) Where a growing trial is required, a sample of the material of the variety must be submitted on request.

## Growing trials

- 6.—(1) Growing trials may be carried out—
- (a) by the Secretary of State;
  - (b) for the Secretary of State in accordance with arrangements for official measures made under regulation 27; or
  - (c) by a responsible authority elsewhere in the United Kingdom or in another member State.
- (2) Growing trials must—
- (a) establish whether a variety is distinct, uniform and stable; and
  - (b) be conducted, as regards trial design, growing conditions and characteristics of the variety to be covered, in accordance with an appropriate protocol.

## Duration and renewal of registration

- 7.—(1) Registration of a variety is valid—
- (a) in the case of a genetically modified variety, for the period for which the genetically modified organism of which the variety consists is authorised for cultivation pursuant to Directive 2001/18/EC or Regulation (EC) No 1829/2003; or
  - (b) otherwise until the end of the 30th calendar year from the date of acceptance.
- (2) But sub-paragraph (1) does not apply if the registration is—
- (a) renewed in accordance with sub-paragraphs (3) or 4 (as appropriate);
  - (b) revoked in accordance with paragraph 8.
- (3) Subject to sub-paragraph (4), the Secretary of State may, on the basis of a written application, renew the registration for a further period of 30 years if—

**Status:** Point in time view as at 01/04/2020.

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

- (a) the variety is distinct, uniform and stable;
  - (b) there is material of that variety available on the market.
- (4) In the case of a genetically modified variety—
- (a) any renewal of registration must be subject to a condition that the respective genetically modified organism continues to be authorised for cultivation pursuant to Directive [2001/18/EC](#) or Regulation [\(EC\) No 1829/2003](#);
  - (b) the renewal period must be limited to the period of authorisation of the genetically modified organism concerned.
- (5) Subject to sub-paragraph 4, the Secretary of State may renew the registration in the absence of a written application if satisfied renewal serves to preserve genetic diversity and sustainable production.

### Removal from register

- 8.—(1) The Secretary of State must revoke the registration of a variety if—
- (a) it is no longer distinct, uniform or stable;
  - (b) there is no longer available any material of that variety that is sufficiently uniform or which corresponds to the description of the variety at the time of registration;
  - (c) false or misleading information material to registration was provided to the Secretary of State in connection with the application for registration;
  - (d) in the case of any genetically modified variety, the genetically modified organism contained in that variety ceases to be authorised pursuant to Directive [2011/18/EC](#) or Regulation [\(EC\) No 1829/2003](#).
- (2) But sub-paragraphs (1)(a) to (c) do not apply if the Secretary of State is satisfied that the variety should remain on the register in the interests of preserving the genetic diversity of varieties.

## SCHEDULE 5

Regulation 9

### Certification of plant material

## PART 1

### Introduction

#### Interpretation

1. In this Schedule—

“appropriate protocol” means—

- (a) a protocol published by the European and Mediterranean Plant Protection Organisation in relation to the particular activity (such as, but not limited to, sampling and testing or multiplication, renewal and propagation, including by micropropagation, of mother plants) and the particular genus or species concerned;
- (b) where no protocol mentioned at (a) exists, a protocol in relation to the same matters which has international recognition; or



**Status:** Point in time view as at 01/04/2020.

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

(c) where neither protocol mentioned at (a) or (b) exists, a protocol established by the Secretary of State in relation to the same matters;

“candidate pre-basic mother plant” means a mother plant which the supplier intends to have accepted as a pre-basic mother plant;

“multiplication” means the vegetative production of plants in order to obtain a sufficient number of plants in the same category;

“official inspection” means a visual inspection and, where appropriate, sampling and testing carried out by an inspector in accordance with paragraph 2;

“renewal” means replacing a plant with a plant vegetatively produced from it.

### **Official inspections**

2.—(1) During an official inspection, an inspector must pay attention to—

- (a) the suitability and use of methods by the supplier for checking each of the critical points in the production process;
- (b) the overall competence of the supplier's staff to carry out the production or reproduction of propagating material and fruit plants.

(2) An inspector must keep records of the results and dates of all field inspections and sampling and testing carried out by that inspector.

## **PART 2**

### **Certification of pre-basic material**

#### **Propagating material (other than mother plants and rootstocks)**

3.—(1) Propagating material (other than mother plants and rootstocks) may be certified as pre-basic material if that material meets the requirements in sub-paragraph (2).

(2) The requirements are that the propagating material—

- (a) is directly propagated from a mother plant—
  - (i) accepted in accordance with paragraph 5;
  - (ii) obtained by multiplication or micropropagation in accordance with paragraph 13;
- (b) has been verified by an inspector as being true to the description of its variety in accordance with paragraph 7;
- (c) has been maintained in accordance with paragraph 8;
- (d) complies with the health requirements in paragraph 10;
- (e) where authorised under paragraph 8(2) to be grown in the field under non-insect proof conditions, is grown in soil that is found, by sampling and testing, to comply with paragraph 11;
- (f) complies with paragraph 12 concerning defects.

(3) Where the mother plant or propagating material no longer fulfils the relevant requirements in sub-paragraph (2), the supplier—

- (a) must remove the plant or material from the vicinity of other pre-basic mother plants and pre-basic material;

*Status: Point in time view as at 01/04/2020.*

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

(b) may take appropriate measures in order to ensure that the mother plant or material complies with those requirements again.

(4) A supplier may use any mother plant or material removed in accordance with sub-paragraph (3)(a) as basic, certified or CAC material provided the plant or material fulfils the requirements set out in these Regulations for the respective categories.

#### **Rootstocks not belonging to a variety**

4.—(1) A rootstock not belonging to a variety may be certified as pre-basic material if it meets the requirements in sub-paragraph (2).

(2) The requirements are that the rootstock—

(a) is directly propagated from a mother plant—

(i) by vegetative or sexual propagation, and in the case of sexual propagation, by pollinating trees (pollenisers) that are directly produced by vegetative propagation from a mother plant;

(ii) accepted in accordance with paragraph 5;

(iii) obtained by multiplication or micropropagation in accordance with paragraph 13;

(b) has been verified by an inspector as being true to the description of its variety in accordance with paragraph 7;

(c) has been maintained in accordance with paragraph 8;

(d) complies with the health requirements in paragraph 10;

(e) where authorised under paragraph 8(2) to be grown in the field under non-insect proof conditions, is grown in soil that is found, by sampling and testing, to comply with paragraph 11;

(f) complies with paragraph 12 concerning defects.

(3) Where a rootstock, which is a pre-basic mother plant or pre-basic material, no longer fulfils the relevant requirements in sub-paragraph (2), the supplier—

(a) must remove the mother plant or material from the vicinity of other pre-basic mother plants and pre-basic material;

(b) may take appropriate measures to ensure the mother plant or the material complies with those requirements again.

(4) A supplier may use any mother plant or material removed in accordance with sub-paragraph (3)(a) as basic, certified or CAC material provided the mother plant or material fulfils the requirements set out in these Regulations for the respective categories.

#### **Requirements for the acceptance of a pre-basic mother plant**

5.—(1) A plant may be accepted as a pre-basic mother plant if an official inspection confirms—

(a) compliance with paragraphs 7 to 12; and

(b) its trueness to the description of its variety is established in accordance with this regulation.

(2) An inspector must establish the trueness of the pre-basic mother plant to the description of its variety by the observation of the expression of the characteristics of the variety.

(3) That observation must be based on one of the following elements—

(a) the official description for varieties registered in a register of varieties, and for varieties legally protected by a plant variety right;

- (b) the description accompanying the application for varieties which are the subject of an application for registration in a register of varieties;
  - (c) the description accompanying the application for varieties which are the subject of an application for registration of a plant variety right;
  - (d) the officially recognised description, if the variety subject to that description is registered in a register of varieties.
- (4) Where sub-paragraphs (3)(b) or (c) applies—
- (a) the pre-basic mother plant may only be accepted if a report, produced by an inspector or by a responsible authority outside England, is available proving that the respective variety is distinct, uniform and stable;
  - (b) pending the registration of the variety, the mother plant concerned and the material produced from it may only be used for the production of basic or certified material and must not be marketed as pre-basic, basic or certified material.
- (5) 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) those fruiting plants must be kept separate from the pre-basic mother plants and pre-basic material.
- (6) Fruiting plants must be visually inspected in the most appropriate periods of the year taking into account climatic and growing conditions of plants of the genera or species concerned.
- (7) In this paragraph—
- “fruiting plant” means a plant propagated from a mother plant and grown for the production of fruit in order to permit the verification of the varietal identity of that mother plant;
- “register of varieties” means—
- (a) in relation to the registration of varieties in England, the register maintained in accordance with paragraph 2(1) of Schedule 4;
  - (b) in relation to the registration of varieties outside England, the register maintained in accordance with Article 3(1) of Directive 2014/97/EU.

#### **Requirements for the acceptance of a rootstock not belonging to a variety**

6. An inspector may accept a rootstock not belonging to a variety as a pre-basic mother plant if it is true to the description of its species and if it complies with paragraphs 8 to 12.

#### **Verification of trueness to the description of the variety**

7.—(1) An inspector and, where appropriate, the supplier, must regularly verify the trueness of pre-basic mother plants and of pre-basic material to the description of their variety, in accordance with paragraph 5(2) and (3), as appropriate for the variety concerned and the propagation method used.

(2) In addition to the regular verification of pre-basic mother plants and pre-basic material, the inspector and, where appropriate, the supplier must, after each renewal of a mother plant, verify the pre-basic mother plants resulting from it.

#### **Maintenance requirements: pre-basic material and pre-basic mother plants**

8.—(1) A supplier must—

**Status:** Point in time view as at 01/04/2020.

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

- (a) maintain pre-basic mother plants and pre-basic material in facilities designated for the genera or species concerned, which are insect proof and ensure freedom from infection through aerial vectors and any other possible sources throughout the production process;
  - (b) grow or produce pre-basic mother plants and pre-basic material isolated from the soil, in individually labelled pots of soil-free or of sterilised growing media;
  - (c) ensure pre-basic mother plants and pre-basic material are individually identified throughout the production process;
  - (d) keep candidate pre-basic mother plants under insect proof conditions, and physically isolated from pre-basic mother plants in the facilities referred to in sub-paragraph 1(a), until all tests concerning compliance with paragraph 9 have been concluded.
- (2) But paragraph (1) does not apply where the Secretary of State authorises the production of pre-basic mother plants (including candidate pre-basic mother plants) and pre-basic material in a field under non-insect proof conditions, which the Secretary of State may do if satisfied—
- (a) the European Commission has authorised the United Kingdom to do so under Article 8(4) of Directive 2014/98/EU;
  - (b) the plants and material are identified by labels that ensure traceability; and
  - (c) appropriate measures are taken to prevent infection of the plants and material by aerial vectors, root contact, cross infection by machinery, grafting tools or any other possible source.
- (3) Pre-basic mother plants and pre-basic material—
- (a) may be maintained by cryopreservation; and
  - (b) may only be used for a period calculated on the basis of the stability of the variety or the environmental conditions under which they are grown and any other determinants having an impact on the stability of the variety.

### **Health requirements: candidate pre-basic mother plants and pre-basic mother plants produced by renewal**

9.—(1) A candidate pre-basic mother plant and a pre-basic mother plant produced by renewal must be free from the pests listed in Annex I and Annex II to Directive 2014/98/EU, as regards the genus or species concerned.

- (2) This is established—
- (a) for pests listed in Annex I to Directive 2014/98/EU, by visual inspection and, in cases of doubt concerning the presence of those pests, by sampling and testing;
  - (b) for pests listed in Annex II to Directive 2014/98/EU, by visual inspection and sampling and testing.
- (3) Subject to paragraph (4), sampling and testing—
- (a) must be carried out by an inspector or, where appropriate, the supplier in accordance with the appropriate protocol;
  - (b) in relation to viruses, viroids, virus-like diseases and phytoplasmas, is by means of biological indexing on indicator plants, or such other method the Secretary of State considers to be as reliable;
  - (c) must take place—
    - (i) in the most appropriate period of the year taking into account the climatic conditions and the growing conditions of the plant, and the biology of the pests relevant for that plant;
    - (ii) in case of doubts concerning the presence of those pests, at any time of the year.

(4) Where a candidate pre-basic mother plant is a seedling, visual inspection and sampling and testing is only required in respect of the viruses, viroids or virus-like diseases listed in Annex II to Directive 2014/98/EU, as regards the genus or species concerned, that are transmitted by pollen if—

- (a) an official inspection confirms the seedling was grown from a seed produced by a plant free from symptoms caused by those viruses, viroids and virus-like diseases;
- (b) the seedling has been maintained in accordance with paragraph 8 .

#### **Health requirements: pre-basic material and pre-basic mother plants**

**10.**—(1) A pre-basic mother plant or pre-basic material must be free from the pests listed in Part A of Annex I and in Annex II to Directive 2014/98/EU, as regards the genus or species concerned.

(2) The percentage of pre-basic mother plants or pre-basic material infested by the pests listed in the table in Part B of Annex I to Directive 2014/98/EU, must not exceed the tolerance levels set out in the relevant column of that table.

(3) But paragraphs (1) and (2) do not apply to pre-basic mother plants or pre-basic material during cryopreservation.

(4) Compliance with sub-paragraphs (1) and (2) is established by visual inspection and, in cases of doubt concerning the presence of those pests, by sampling and testing.

(5) Visual inspections and sampling and testing must be conducted in accordance with Annex IV to Directive 2014/98/EU, as regards the genus or species concerned and, in the case of sampling and testing, also in accordance with the appropriate protocol.

#### **Soil requirements; pre-basic material**

**11.**—(1) Pre-basic mother plants and pre-basic material must be grown in soil that is free from any of the pests listed in Annex III to Directive 2014/98/EU relevant to the genus or species concerned and which host viruses affecting that genus or species.

(2) Freedom from such pests must be established by sampling and testing by an inspector and, where appropriate, the supplier.

(3) Sampling and testing must be carried out—

- (a) before the pre-basic mother plants or the pre-basic material is planted, and must be repeated during growth where there is suspicion concerning the presence of the pests referred to in sub-paragraph (1);
- (b) taking into account the climatic conditions and the biology of the pests listed in Annex III to Directive 2014/98/EU, and where those pests are relevant for the pre-basic mother plants or the pre-basic material concerned;
- (c) in accordance with the appropriate protocol.

(4) Sampling and testing is not required—

- (a) where plants, which are hosts for the pests listed in Annex III to Directive 2014/98/EU for the genus or species concerned, have not been grown in the soil of production for a period of at least five years and where there is no doubt concerning the absence of the relevant pests in that soil;
- (b) where an inspector concludes, on the basis of an official inspection, that the soil is free from any pests which are listed in Annex III to Directive 2014/98/EU, for the genus or species concerned, and which host viruses affecting that genus or species.

*Status: Point in time view as at 01/04/2020.*

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

### **Requirements concerning defects likely to impair quality**

**12.**—(1) Pre-basic mother plants and pre-basic material must be found to be practically free from defects on the basis of visual inspection.

(2) That visual inspection must be carried out by an inspector and, where appropriate, the supplier.

### **Requirements concerning multiplication, renewal and propagation of pre-basic mother plants**

**13.**—(1) A supplier may multiply or renew a pre-basic mother plant accepted in accordance with paragraph 5.

(2) A supplier may propagate a pre-basic mother plant to produce pre-basic material.

(3) Multiplication, renewal and propagation (including micropropagation) of pre-basic mother plants must take place in accordance with the appropriate protocol.

(4) In the case of micropropagation, the appropriate protocol must have been tested on the relevant genus or species for a period of time considered sufficient to allow phenotype validation of the plants as regards the trueness to the description of the variety based on the observation of the fruit production or of the vegetative development of rootstocks.

(5) A supplier may only renew a pre-basic mother plant before the end of the period referred to in paragraph 8(3)(b).

## **PART 3**

### **Certification of basic material**

#### **Propagating material (other than basic mother plants and other than rootstocks not belonging to a variety)**

**14.**—(1) Propagating material (other than basic mother plants and rootstocks not belonging to a variety) may be certified as basic material if that material meets the requirements in sub-paragraph (2).

(2) The requirements are that the propagating material—

(a) is propagated from a basic mother plant—

(i) grown from pre-basic material;

(ii) produced by multiplication from a basic mother plant in accordance with paragraph 19;

(b) is verified by an inspector as being true to the description of its variety in accordance with paragraph 7;

(c) complies with the time period specified in paragraph 8(3)(b);

(d) complies with paragraph 12 concerning defects;

(e) complies with the health requirements in paragraph 16;

(f) is grown in soil that is found, by sampling and testing, to comply with paragraph 17;

(g) has been maintained in accordance with paragraph 18; and

(h) where appropriate, has been multiplied in accordance with paragraph 19.

(3) For the purpose of this paragraph, any reference to pre-basic mother plants or to pre-basic material in the paragraphs mentioned in sub-paragraph (2)(b) to (h) is to be construed as reference to basic mother plants or basic material, as the case may be.

(4) Where the mother plant or material no longer fulfils the requirements referred to in sub-paragraphs (2), the supplier—

- (a) must remove the mother plant or material from the vicinity of other basic mother plants and basic material;
- (b) may take appropriate measures in order to ensure that the mother plant or the material complies with those requirements again.

(5) A supplier may use any mother plant or material removed in accordance with sub-paragraph (4)(a) as certified or CAC material provided the mother plant or material fulfils the requirements set out in these Regulations for the respective categories.

### **Rootstock not belonging to a variety**

**15.**—(1) A rootstock not belonging to a variety may be certified as basic material if it meets the requirements in sub-paragraph (2).

(2) The requirements are that the rootstock—

- (a) is true to the description of its species;
- (b) is individually identified throughout the production;
- (c) complies with the time period specified in paragraph 8(3)(b);
- (d) complies with paragraph 12 concerning defects;
- (e) complies with the health requirements in paragraph 16;
- (f) is grown in soil that is found, by sampling and testing, to comply with paragraph 17;
- (g) has been maintained in accordance with paragraph 18; and
- (h) where appropriate, has been multiplied in accordance with paragraph 19.

(3) For the purpose of this paragraph, any reference to pre-basic mother plants or pre-basic material in the paragraphs mentioned in sub-paragraph (2) is to be construed as reference to basic mother plants or basic material, as the case may be.

(4) Where a rootstock not belonging to a variety is a basic mother plant or basic material that no longer fulfils the requirements of sub-paragraph (2) the supplier—

- (a) must remove the rootstock from the vicinity of other basic mother plants and basic material;
- (b) may take appropriate measures in order to ensure the rootstock complies with those requirements again.

(5) A supplier may use any rootstock removed in accordance with sub-paragraph (4)(a) as certified or CAC material provided the rootstock fulfils the requirements set out in these Regulations for the respective categories.

### **Health requirements: basic mother plant or basic material**

**16.**—(1) A basic mother plant or basic material must be free from the pests listed in Part A of Annex I and in Annex II to Directive 2014/98/EU, as regards the genus or species concerned.

(2) The percentage of basic mother plants or basic material infested by the pests listed in the table in Part B of Annex I to Directive 2014/98/EU, must not exceed the tolerance levels set out in the relevant column of that table.

(3) But paragraphs (1) and (2) do not apply to basic mother plants or basic material during cryopreservation.

*Status: Point in time view as at 01/04/2020.*

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

(4) Compliance with sub-paragraphs (1) and (2) is established by visual inspection of the facilities, fields and, where appropriate, lots and, in case of doubts concerning the presence of those pests, by sampling and testing by an inspector and, where appropriate, the supplier.

(5) Visual inspections and sampling and testing must be conducted in accordance with Annex IV to Directive 2014/98/EU, as regards the genus or species concerned and, in the case of sampling and testing, also in accordance with the appropriate protocol.

#### **Soil requirements; basic material**

17.—(1) Basic mother plants and basic material may only be grown in soil that is free from any pests which are listed in Annex III of Directive 2014/98/EU relevant to the genus or species concerned and which host viruses affecting that genus or species.

(2) Freedom from such pests must be established by sampling and testing by an inspector and, where appropriate, a supplier.

(3) Sampling and testing must be carried out—

- (a) before the basic mother plants or the basic material is planted, and must be repeated during growth where there is suspicion concerning the presence of the pests referred to in sub-paragraph (1);
- (b) taking into account the climatic conditions and the biology of the pests listed in Annex III to Directive 2014/98/EU, and where those pests are relevant for the basic mother plants or the basic material concerned;
- (c) in accordance with the appropriate protocol.

(4) Sampling and testing need not be carried out—

- (a) where plants, which are hosts for the pests listed in Annex III to Directive 2014/98/EU for the genus or species concerned, have not been grown in the soil of production for a period of at least five years and where there is no doubt concerning the absence of the relevant pests in that soil;
- (b) where an inspector concludes on the basis of an official inspection that the soil is free from any pests which are listed in Annex III to Directive 2014/98/EU, for the genus or species concerned, and which host viruses affecting that genus or species.

#### **Maintenance requirements: basic mother plants and basic material**

18. Basic mother plants and basic material must be maintained in fields isolated by distance from potential sources of infection including aerial vectors, root contact, cross infection by machinery, grafting tools and any other possible sources.

#### **Conditions for multiplication: basic mother plants**

19.—(1) Basic mother plants grown from pre-basic material may be multiplied in a number of generations to obtain the necessary number of basic mother plants in accordance with this paragraph.

(2) Any multiplication of a basic mother plant under paragraph (1) must be done in accordance with paragraph 13 and, for the purposes of this sub-paragraph, a reference to a pre-basic mother plant in paragraph 13 is to be construed as reference to a basic mother.

(3) The maximum permitted number of generations, and the maximum permitted life span of a basic mother plant must not exceed the limits set out in Annex V to Directive 2014/98/EU for the relevant genera or species.

(4) Where multiple generations of basic mother plants are permitted, each generation, other than the first one, may derive from any previous generation.



- (5) Propagating material of different generations must be kept separate.

## **PART 4**

### **Certification of certified material**

#### **Propagating material (other than mother plants) and fruit plants**

**20.**—(1) Propagating material (other than mother plants) and fruit plants may be certified as certified material if the propagating material or fruit plant meets the requirements in sub-paragraph (2).

(2) The requirements are that the propagating material or fruit plant—

- (a) is grown from a certified mother plant grown from pre-basic or basic material;
- (b) is verified by an inspector as being true to the description of its variety in accordance with paragraph 7;
- (c) complies with the time period specified in paragraph 8(3)(b);
- (d) complies with paragraph 12 concerning defects;
- (e) complies with the health requirements in paragraph 22; and
- (f) is grown in soil that is found, by sampling and testing, to comply with paragraph 23.

(3) For the purpose of this paragraph, any reference to pre-basic mother plants or pre-basic material in the paragraphs mentioned in sub-paragraph (2) is to be construed as reference to certified mother plants or certified material, as the case may be.

(4) Where a certified mother plant or certified material no longer fulfils the requirements referred to in sub-paragraphs (2)(b) to (f), the supplier—

- (a) must remove the mother plant or material from the vicinity of other certified mother plants and certified material;
- (b) may take appropriate measures in order to ensure that the mother plant or the material complies with those requirements again.

(5) A supplier may use any mother plant or material removed in accordance with sub-paragraph (3)(a) as CAC material provided the mother plant or material fulfils the requirements set out in Schedule 1 for CAC material.

#### **Rootstock not belonging to a variety**

**21.**—(1) A rootstock not belonging to a variety may be certified as certified material if it meets the requirements in sub-paragraph (2).

(2) The requirements are that the rootstock—

- (a) is grown from a certified mother plant grown from pre-basic or basic material;
- (b) complies with the time period specified in paragraph 8(3)(b);
- (c) complies with paragraph 12 concerning defects;
- (d) complies with the health requirements in paragraph 22; and
- (e) is grown in soil that is found, by sampling and testing, to comply with paragraph 23.

(3) For the purpose of this paragraph, any reference to pre-basic mother plants or pre-basic material in the paragraphs mentioned in sub-paragraph (2) is to be construed as reference to certified mother plants or certified material, as the case may be.

*Status: Point in time view as at 01/04/2020.*

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

(4) Where a rootstock not belonging to a variety is a certified mother plant or certified material that no longer fulfils the requirements referred to in sub-paragraph (2), the supplier—

- (a) must remove the rootstock from the vicinity of other certified mother plants and certified material;
- (b) may take appropriate measures in order to ensure the rootstock complies with those requirements again.

(5) A supplier may use any rootstock removed in accordance with paragraph (3)(a) as CAC material provided the rootstock fulfils the requirements set out in Schedule 1 for CAC material.

### **Health requirements: certified mother plants and material**

**22.**—(1) A certified mother plant or certified material must be free from the pests listed in Part A of Annex I and in Annex II to Directive 2014/98/EU, as regards the genus or species concerned.

(2) The percentage of certified mother plants or certified material infested by the pests listed in the table in Part B of Annex I to Directive 2014/98/EU, must not exceed the tolerance levels set out in the relevant column of that table.

(3) But paragraphs (1) and (2) do not apply to certified mother plants or certified material during cryopreservation.

(4) An inspector and, where appropriate, a supplier, establishes compliance with paragraphs (1) and (2) by visual inspection of the facilities, fields and, where appropriate, lots and, in case of doubts concerning the presence of those pests, by sampling and testing.

(5) Visual inspections and sampling and testing must be conducted in accordance with Annex IV to Directive 2014/98/EU, as regards the genus or species concerned and, in the case of sampling and testing, also in accordance with the appropriate protocol.

### **Soil requirements; certified mother plants and material**

**23.**—(1) Certified mother plants and certified material must be grown in soil that is free from any of the pests listed in Annex III of Directive 2014/98/EU relevant to the genus or species concerned and which host viruses affecting that genus or species.

(2) Freedom from such pests must be established by sampling and testing by an inspector and, where appropriate, a supplier.

(3) Sampling and testing must be carried out—

- (a) before the certified mother plant or the certified material is planted, and must be repeated during growth if the presence of such pests is suspected;
- (b) taking account of climatic conditions, the biology of the pests, and the relevance of the pests for the certified mother plant or the certified material concerned;
- (c) in accordance with the appropriate protocol.

(4) Sampling and testing is not required—

- (a) in the case of certified fruit plants;
- (b) where plants, which are hosts for the pests listed in Annex III to Directive 2014/98/EU for the genus or species concerned, have not been grown in the soil of production for a period of at least five years and where there is no doubt concerning the absence of the relevant pests in that soil;
- (c) where an inspector concludes, on the basis of an official inspection, that the soil is free from any pests which are listed in Annex III to Directive 2014/98/EU, for the genus or species concerned, and which host viruses affecting that genus or species.

**Status:**

Point in time view as at 01/04/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the The Marketing of Fruit Plant and Propagating Material (England) Regulations 2017.