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WELSH STATUTORY INSTRUMENTS

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**2017 No. 691**

**The Marketing of Fruit Plant and Propagating  
Material (Wales) Regulations 2017**

**PART 1**

**Introduction**

**Title, commencement and application**

1.—(1) The title of these Regulations is the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 and they come into force on 19 June 2017.

(2) These Regulations apply in relation to Wales.

**Interpretation: general**

2. In these Regulations—

“basic material” (*“deunyddiau sylfaenol”*) means propagating material intended for the production of certified material, which has been—

- (a) in relation to propagating material produced in Wales, certified as basic material in accordance with regulation 9;
- (b) in relation to propagating material produced outside Wales, certified as basic material by a responsible authority in accordance with Article 15 of [Directive 2014/98/EU](#);

“basic mother plant” (*“planhigyn tarddiol sylfaenol”*) means a mother plant intended for the production of basic material;

“CAC material” (*“deunyddiau CAC”*) means—

- (a) in relation to propagating material and fruit plants produced in Wales, material and plants that meet the requirements for CAC material in Schedule 1;
- (b) in relation to propagating material and fruit plants produced outside Wales, material and plants that meet the requirements for CAC material in Article 23 of [Directive 2014/98/EU](#);

“certification” (*“ardystio”*) means the certification of plant material in accordance with regulation 9 and “certified” (*“ardystiedig”*) is to be construed accordingly;

“certified material” (*“deunyddiau ardystiedig”*) 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 Wales, certified as certified material in accordance with regulation 9;
- (b) in relation to propagating material and fruit plants produced outside Wales, certified as certified material by a responsible authority in accordance with Article 20 of [Directive 2014/98/EU](#);

“certified mother plant” (“*planhigyn tarddiol ardystiedig*”) means a mother plant intended for the production of certified material;

“certified plant material” (“*deunyddiau planhigion ardystiedig*”) means plant material that is certified (as the case may be) as pre-basic material, basic material or certified material;

“cryopreservation” (“*rhewgadw*”) means the maintenance of plant material by cooling to ultra-low temperatures in order to retain the viability of the material;

“defects” (“*diffygion*”) 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” (“*planhigyn ffrwythau*”) means a plant intended to be planted or replanted, after marketing;

“inspector” (“*arolygydd*”) means a person appointed under regulation 16;

“lot” (“*lot*”) means a number of units of a single commodity, identifiable by its homogeneity of composition and origin;

“micropropagation” (“*microluosogi*”) 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” (“*planhigyn tarddiol*”) means an identified plant intended for propagation;

“official description” (“*disgrifiad swyddogol*”) means the description of a variety provided for—

- (a) registration as a variety; or
- (b) the grant of plant variety rights;

“official examination” (“*archwiliad swyddogol*”) means an examination or inspection conducted by an inspector, including one conducted by way of sample;

“official label” (“*label swyddogol*”) means—

- (a) for certified plant material produced in Wales, a label issued or approved in accordance with regulation 10(2);
- (b) for certified plant material produced outside Wales, 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” (“*disgrifiad a gydnabyddir yn swyddogol*”) means a description of key morphological features that enable the variety to be identified;

“outside Wales” (“*y tu allan i Gymru*”) means any part of the United Kingdom other than Wales or any member State other than the United Kingdom;

“plant material” (“*deunyddiau planhigion*”) means the plants and materials described in regulation 4;

“plant variety rights” (“*hawliau amrywogaeth planhigion*”) 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;

(1) 1997 c. 66. Part I was amended by [S.I. 2000/311](#), [2006/1261](#) 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, 11.1.2008, p. 2).

“practically free from defects” (“*rhydd rhag diffygion i bob pwrpas*”) 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” (“*deunyddiau cyn-sylfaenol*”) means propagating material intended for the production of basic or certified material, which has been—

- (a) in relation to propagating material produced in Wales, certified as pre-basic material in accordance with regulation 9;
- (b) in relation to propagating material produced outside Wales, 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” (“*planhigyn tarddiol cyn-sylfaenol*”) means a mother plant intended for the production of pre-basic material;

“propagating material” (“*deunyddiau lluosogi*”) means seeds, parts of plants and all plant material, including rootstocks, intended for the propagation and production of fruit plants;

“responsible authority” (“*awdurdod cyfrifol*”) means the authority responsible for the quality of plant material in the country or territory where the plant material was produced;

“supplier” (“*cyflenwr*”) means any person involved professionally in the reproduction, production, preserving, treating, importing or marketing of plant material;

“supplier’s document” (“*dogfen y cyflenwr*”) means a document accompanying CAC material and which meets the requirements in Part 2 of Schedule 2;

“UPOV” (“*UPOV*”) means the International Union for the Protection of New Varieties of Plants(3);

“variety” (“*amrywogaeth*”) 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” (“*arolygiad gweledol*”) 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](#)” (“*Cyfarwyddeb 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);

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(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).

“Directive 2008/90/EC” (“*Cyfarwyddeb 2008/90/EC*”) means Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production<sup>(5)</sup>;

“Directive 2014/96/EU” (“*Cyfarwyddeb 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<sup>(6)</sup>;

“Directive 2014/97/EU” (“*Cyfarwyddeb 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<sup>(7)</sup>;

“Directive 2014/98/EU” (“*Cyfarwyddeb 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<sup>(8)</sup>.

(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 Wales to any country outside the European Union provided the plant material is identified as such and kept sufficiently isolated.

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(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.

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

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