2002 No. 404

SEEDS

The Forest Reproductive Material Regulations (Northern Ireland) 2002

Made - - - - - 19th December 2002

Coming into operation 1st January 2003

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

1. Title, extent and commencement
2. Interpretation
3. Application

PART II

FOREST REPRODUCTIVE MATERIAL AND APPROVAL OF BASIC MATERIAL FOR ENTRY IN THE NATIONAL REGISTER

4. Categories of forest reproductive material
5. Demarcation of regions of provenance in respect of certain basic material
6. Establishment and maintenance of the National Register
7. Approval of basic material for use in the production of forest reproductive material
8. Specific requirements for certain basic material after its approval
9. Withdrawal and amendment of approval of basic material

PART III

COLLECTION AND PRODUCTION OF FOREST REPRODUCTIVE MATERIAL

10. Collection and production of forest reproductive material for marketing
11. Collection of forest reproductive material
12. Production of forest reproductive material by subsequent vegetative propagation
13. Master Certificates
14. Identification and separation of forest reproductive material during production
15. Permitted mixing of forest reproductive material

PART IV

REGISTRATION OF SUPPLIERS

16. Registration of Suppliers of forest reproductive material

PART V

MARKETING OF FOREST REPRODUCTIVE MATERIAL

17. Forest reproductive material which may be marketed
18. Licences
19. Labelling and packaging of lots for marketing
20. Seed testing

PART VI

MOVEMENT OF FOREST REPRODUCTIVE MATERIAL BETWEEN NORTHERN IRELAND AND ELSEWHERE IN THE EUROPEAN COMMUNITY

21. Forest reproductive material despatched to Great Britain
22. Movement of forest reproductive material to another member State
23. Movement of forest reproductive material into Northern Ireland from Great Britain
24. Imports into Northern Ireland from a member State
25. Prohibition against imports of forest reproductive material from third countries

PART VII

COMPLIANCE

26. Keeping and production of documents
27. Powers to inspect and take samples
28. Treatment of seed samples
29. Use of samples in criminal proceedings
30. Offences and penalties

PART VIII

MISCELLANEOUS

31. Transitional arrangements for forest reproductive material existing at 1st January 2003
32. Appeals
33. Exemptions
34. Revocation

SCHEDULES

1. List of tree species and artificial hybrids
2. Minimum requirements for the approval of basic material intended for the production of reproductive material to be certified “source-identified”
3. Minimum requirements for the approval of basic material intended for the production of reproductive material to be certified as “selected”
4. Minimum requirements for the approval of basic material intended for the production of reproductive material to be certified as “qualified”

5. Minimum requirements for the approval of basic material intended for the production of reproductive material to be certified as “tested”
6. Model master certificate of identity for reproductive material derived from seed sources and stands
7. Model master certificate of identity for reproductive material derived from seed orchards or parents of family
8. Model master certificate of identity for reproductive material derived from clones and clonal mixtures
9. Requirements for external quality standards for *Populus* spp. propagated by stem cuttings or sets
10. Requirements which must be met by planting stock which is to be marketed to the end-user in the Mediterranean climatic region
11. Small quantities of seeds which may be marketed without fulfilling the requirements of regulation 19(2)(b) and (d)
12. Form of certificate to be given by an authorised officer upon taking samples pursuant to regulation 28(2)

The Department of Agriculture and Rural Development, in exercise of the powers conferred on it by sections 1 and 2 of the Seeds Act (Northern Ireland) 1965(**a**) (“the Act of 1965”) and of every other power enabling it in that behalf, and being a Department designated(**b**) for the purposes of section 2(2) of the European Communities Act 1972(**c**) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, and after consultation, in accordance with section 1(1) of the Act of 1965 with representatives of such interests as appear to it to be concerned, hereby makes the following Regulations:

PART I
GENERAL

Title, extent and commencement

1. These Regulations may be cited as the Forest Reproductive Material Regulations (Northern Ireland) 2002, shall extend to Northern Ireland, and shall come into operation on 1st January 2003.

Interpretation

2.—(1) These Regulations shall be interpreted in accordance with the provisions of this regulation.

(2) In these Regulations –

“approved basic material” means basic material which is approved in accordance with regulation 7;

“autochthonous” means, in relation to a stand or seed source, either –

(a) that it has been continuously regenerated by natural regeneration, or

(b) that it has been regenerated artificially from –

(i) reproductive material collected in the same stand or seed source, or

---

(**a**) 1965 c. 22 (N.I.); section 1 was amended by section 10 of the Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1970 c. 20 (N.I.) and S.R. & O. (N.I.) 1972 No. 351; section 2 was amended by section 10 of the Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1970 and S.R. 1977 No. 295

(**b**) S.I. 2000/2812

(**c**) 1972 c. 68

(ii) from other stands or seed sources within close proximity meeting the descriptions in (a) or (b)(i);

"authorised officer" means a person authorised by the Department of Agriculture and Rural Development to exercise its powers and execute its functions under these Regulations;

"basic material" means material from which reproductive material may be collected or produced and which is in the form of one of the types defined in paragraph (3);

"category" in respect of forest reproductive material means one of the categories listed in regulation 4(1);

"clonal mixture" is a type of basic material and has the meaning given it in paragraph (3);

"clone" is a type of basic material and has the meaning given it in paragraph (3);

"collecting" includes the taking of parts of plants, extraction of seed, and harvesting;

"contact details" means a person's telephone number, if he has one, and, where he may be contacted by other telephonic or electronic communication, his fax number or e-mail address;

"crossing design" means the method by which individual trees used as female parents are pollinated, whether naturally or artificially, by one or more trees used as male parents;

"Department" refers to the Department of Agriculture and Rural Development;

"the Directive" means Council Directive 1999/105/EC of 22nd December 1999 on the marketing of forest reproductive material(**a**);

"EC classification" refers, in respect of *Populus* spp., to the classification EC 1, EC 2, N1, N2, S1 or S2, each of which has the meaning given it in Schedule 9;

"Forest reproductive material" means reproductive material of the tree species and artificial hybrids listed in Schedule 1;

"full-sibling" means progeny obtained from parents of family where the identified parent used as female is pollinated with the pollen of one other parent tree;

"genetically modified organism" has the meaning given to it in Article 2(1) and (2) of Council Directive 2001/18/EC(**b**), unless in reference to a requirement under regulation 7(4) for authorisation to have been given before 17th October 2002, when it has the meaning given it in Article 2(1) and (2) of Council Directive 90/220/EEC(**c**);

"half-sibling" means progeny obtained from parents of family where the identified parent used as female is pollinated with a number of identified or unidentified parent trees;

"indigenous" in respect of a stand or seed source means that it is an autochthonous stand or seed source, or has been raised artificially from seed, the origin of which is situated in the same region of provenance;

"infructescense" is a type of seed unit and means a group of fruits formed on a single inflorescence;

"marketing" means –

(a) displaying with a view to sale,

(b) offering for sale,

(c) selling, or

(d) delivering under a contract (other than where an agent delivers to his principal items procured on the principal's behalf), including a contract for the supply of services;

"owner" in respect of basic material has the meaning given it in regulation 7(6), subject to regulation 7(9);

(**a**) O.J. L11, 15.1.00, p. 17
(**b**) O.J. L106, 17.4.01, p. 1
(**c**) O.J. L117, 8.5.90, p. 15

"Master Certificate" means, in the case of forest reproductive material collected or otherwise derived from basic material which is located in –

(a) Northern Ireland, a Master Certificate issued in accordance with regulation 7(4), (6) and (7) in the form required under regulation 13(8);

(b) in Great Britain, a Master Certificate issued by the official body in accordance with Article 12 of the Directive; or

(c) in another member State, a Master Certificate issued by the official body of that member State in accordance with Article 12 of the Directive;

"the Mediterranean climatic region" means Greece, Italy, Portugal, Spain and the following regions of France: Aquitaine, Langedoc-Roussillon, Midi-Pyrenées, Provence-Alpes-Côte d'Azur;

"Northern Ireland Register" has the meaning given to it in regulation 6;

"the 1977 Regulations" means the Forest Reproductive Material Regulations (Northern Ireland) 1977(**a**);

"the 1973 Regulations" means the Forest Reproductive Material Regulations (Northern Ireland) 1973(**b**);

"official body" in respect of other member States has the meaning given it in Article 2, paragraph (k) of the Directive; and in respect of Great Britain means the Forestry Commissioners;

"origin" means –

(a) in respect of an autochthonous stand or seed source, the place in which the trees are growing, and

(b) in respect of any other stand or seed source, the place from which the seed or plants in the stand or seed source were originally introduced;

"ortet" has the meaning given it under "clones" in paragraph (3) of this regulation;

"parents of family" are a type of basic material, and the phrase has the meaning given to it in paragraph (3);

"parts of plants" refers to a type of reproductive material, and the phrase has the meaning given it in paragraph (4);

"plant passport" has the meaning given it in the Plant Health Order (Northern Ireland) 1993(**c**);

"planting stock" refers to a type of reproductive material, and has the meaning given it in paragraph (4);

"*Populus* spp." includes all species of the genus, including artificial hybrids;

"production" includes all stages in –

the generation of a seed unit and, where the seed unit is not already a seed, the conversion from seed unit to seed, and

the raising of planting stock from seed units and parts of plants;

"provenance" means the place in which any stand of trees is growing or where a seed source is located;

"ramet" has the meaning given it under "clones" in paragraph (3) of this regulation;

"region of provenance" means, in respect of a species or sub-species, an area demarcated pursuant to regulation 5 by the Department or in accordance with Article 9 of the Directive by another official body, in which stands or seed sources showing similar phenotypic or genetic character are found, or a group of such areas subject to uniform or similar ecological conditions;

(**a**) S.R. 1977 No. 194 amended by S.R. 1993 No. 197
(**b**) S.R. & O. (N.I.) 1973 No. 208
(**c**) S.R. 1993 No. 256

“registered supplier” means a supplier of forest reproductive material registered in accordance with regulation 16;

“reproductive material” means material which is derived from basic material and is in one of the forms defined in paragraph (4);

“seed orchard” is a type of basic material and has the meaning given it in paragraph (3);

“seed source” is a type of basic material and has the meaning given it in paragraph (3);

“seed unit” is a type of reproductive material and has the meaning given it in paragraph (4);

“specified purpose” in Schedules 3 and 5 has the meaning given it in Schedule 3, in the paragraph headed “General”;

“stand” is a type of basic material and has the meaning given it in paragraph (3);

“standard” means basic material or reproductive material which serves as a comparator in comparative tests and is defined more specifically in Schedule 5, paragraph 3(b);

“subsequent multiplication by vegetative propagation” means propagation by vegetative methods from forest reproductive material in respect of which a Master Certificate has been issued or sought

“supplier” means any person who, acting in the course of a business or trade (whether or not for profit), markets or imports forest reproductive material;

“supplier’s label or document” means, except in regulations 23 and 24, the label or document setting out the particulars required under regulation 19(1);

“third countries” means countries which are not member States of the European Union;

“the Tribunal” means the Tribunal continued under section 42 of, and Schedule 3 to, the Plant Varieties Act 1997(**a**);

“unit of approval” shall be construed in accordance with regulation 7(5); and

“verification test” means an assessment, whether by observation or measurement of characteristics, including molecular methods of measurement, or by other means, of the proportion of hybrid material in reproductive material, where that reproductive material is produced as an artificial hybrid.

(3) In respect of basic material –

“clonal mixture” means a mixture of identified clones in known proportions;

“clone” means a group of individuals (referred to as “ramets”) derived originally from a single individual (referred to as an “ortet”) by means of vegetative propagation, such as cuttings, micropropagation, grafts, layers or divisions;

“parents of family” means trees used to obtain progeny by controlled or open pollination of one identified parent used as a female;

“seed orchard” means a plantation of selected clones or families which is isolated or managed so as to avoid or reduce pollination from outside sources, and managed so as to produce frequent, abundant and easily collected crops of seed;

“seed source” means trees within an area from which seed is collected; and

“stand” means a delineated population of trees possessing at least a moderate degree of uniformity in composition.

(4) In respect of reproductive material,

“parts of plants” means –

(a) buds,

(b) cuttings of stem, leaf or root,

(c) explants or embryos for micropropagation,

(d) layers,

(e) roots,

(**a**) 1997 c. 66

(f) scions,

(g) sets, and

(h) any other part of a plant intended for the production of planting stock;

"planting stock" means plants which are produced from seed units or from parts of plants, or which originated by natural regeneration; and

"seed unit" means cones, infructescenses, fruits and seeds intended for the production of planting stock.

(5) References to member States and the European Community shall be construed as including the Channel Islands and the Isle of Man.

(6) References to the Department's prescribed fee or fees are to those fees payable to the Department in respect of its functions under these Regulations by virtue of Regulations made under the European Communities Act 1972.

Application

3. These Regulations shall not apply to forest reproductive material intended for export or re-export to third countries.

PART II

FOREST REPRODUCTIVE MATERIAL AND APPROVAL OF BASIC MATERIAL FOR ENTRY IN THE NATIONAL REGISTER

Categories of Forest Reproductive Material

4.—(1) Forest reproductive material shall be categorised as follows –

(a) "source-identified" material shall be so categorised if the basic material from which it is derived meets the requirements of Schedule 2;

(b) "selected" material shall be so categorised if the basic material from which it is derived meets the requirements of Schedule 3;

(c) "qualified" material shall be so categorised if the basic material from which it is derived meets the requirements of Schedule 4; and

(d) "tested" material shall be so categorised if the basic material from which it is derived meets the requirements of Schedule 5.

(2) In these Regulations "the relevant Schedule" refers, in respect of each category of forest reproductive material described in sub-paragraphs (1)(a) to (d), to the Schedule referred to in the sub-paragraph in which the category is described.

Demarcation of regions of provenance in respect of certain basic material

5.—(1) The Department shall demarcate a region of provenance in respect of each of the species listed in Schedule 1 which exist in Northern Ireland and shall allocate to the region of provenance an identity code.

(2) The Department shall draw up maps showing the demarcated regions of provenance referred to in paragraph (1), distinguishing areas by different altitudes where relevant, and shall make such maps available to the public, whether by electronic means or in paper form, upon payment of the prescribed fee, if any.

Establishment and maintenance of the National Register

6.—(1) The Department shall establish and maintain a register of approved basic material which shall be known as the National Register of Approved Basic Material for Northern Ireland ("the Northern Ireland Register").

(2) The Department shall make the Northern Ireland Register available to the public, whether by electronic means or in paper form, upon payment of the prescribed fee, if any.

Approval of basic material for use in the production of forest reproductive material

7.—(1) The Department may approve basic material where, subject to paragraphs (2) to (4), it is satisfied that it meets the requirements set out in at least one of Schedules 2 to 5 and in the case of basic material in the form of clones and clonal mixtures, it may give approval which lasts for a specified number of years or to a specified maximum level of production.

(2) The Department may give approval ("conditional approval") lasting for a period of up to ten years in respect of basic material under paragraph (1) for the production of forest reproductive material categorised pursuant to regulation 4(1)(d) as "tested" notwithstanding the absence of concluded genetic evaluation or comparative tests, where the Department is satisfied that the provisional results of genetic evaluation or comparative tests referred to in Schedule 5 demonstrate that the basic material is likely to meet the requirements for approval under these Regulations once the genetic evaluation or comparative tests are concluded.

(3) The Department may, up to and including 31st December 2012, approve basic material under paragraph (1) for the production of forest reproductive material categorised pursuant to regulation 4(1)(d) as "tested":

(a) in the case of forest reproductive material of the species and artificial hybrids not previously controlled by the 1977 or 1973 Regulations, where concluded comparative test results are obtained using a testing method which does not satisfy the requirements set out in Schedule 5, if such comparative tests begun before 1st January 2003 have shown to the satisfaction of the Department that the reproductive material derived from the basic material is superior to the relevant standard as provided for in Schedule 5; and

(b) where genetic evaluation test results are obtained using a testing method which does not satisfy the requirements set out in Schedule 5, if such genetic evaluation tests begun before 1st January 2003 have shown to the satisfaction of the Department that the reproductive material derived from the basic material is superior to the relevant reference population as provided for in Schedule 5.

(4) Basic material consisting of a genetically modified organism shall not be approved under this regulation unless –

(a) the Department is satisfied that it is safe for human health and the environment; and

(b) the basic material has been authorised in accordance with Council Directive 2001/18/EC of 12th March 2001, or in the case of material authorised prior to 17th October 2002, in accordance with Council Directive 90/220/EEC.

(5) Basic material which is approved in accordance with this regulation shall be entered by the Department in the Northern Ireland Register by reference to a unit of approval to which it shall allocate a unique register reference, and –

(a) in the case of material whose approval under paragraphs (1) or (2) is limited in time or otherwise qualified, the date on which the approval shall end, or other qualification as is appropriate, shall be entered in the Northern Ireland Register in respect of that unit of approval; and

(b) in the case of approval being given of basic material intended for the production of forest reproductive material of the category "selected", where approval has been granted for a specified purpose within the meaning of Schedule 3, the specified purpose shall be entered in the Northern Ireland Register by the Department.

(6) Subject to any exceptions permitted under paragraph (9), the following categories of person may seek approval of basic material under this regulation –

(a) the owner of the basic material for which approval is sought, or

(b) a person authorised in writing by the owner of the basic material for which approval is sought;

and for the purposes of this paragraph, "owner" shall mean, in the case of basic material which is owned by more than one person, all the owners of the material acting together.

(7) Subject to any exceptions permitted under paragraph (9), persons seeking approval of basic material under this regulation shall apply in writing to the Department, providing the following particulars and documentation:

(a) the applicant's name, address and contact details;

(b) if the applicant is not the owner of the basic material, the name and address of the owner, and the written authority referred to in paragraph (6)(b);

(c) the Ordnance Survey Irish grid reference for the location of the basic material, together with a copy of a map drawn on a scale of 1:10,000 showing clearly its location;

(d) the category of forest reproductive material which it is proposed be derived from the basic material for which approval is sought; and

(e) the documentation referred to and the information required of the applicant in the relevant Schedule for the category of forest reproductive material referred to in sub-paragraph (d).

(8) An applicant under paragraph (6) shall –

(a) pay to the Department the prescribed fee, if any, which shall accompany his application;

(b) furnish the Department with such further documentation which demonstrates or pertains to the eligibility of the basic material for approval as it may request; and

(c) provide for access by the Department, should it so require, to inspect the basic material the subject of the application when considering whether to approve the basic material.

(9) Nothing in this regulation shall prevent the Department, where it judges it appropriate in all the circumstances, from accepting an application for approval which does not fully comply with paragraphs (6) and (7), and in the case of such an application in which not all owners have joined, from treating those applicants together as the "owner" for the purposes of regulations 9(1), (7), (10) and (11).

(10) Basic material approved and registered under the 1973 and 1977 Regulations in the Northern Ireland Register of Basic Material for the Production of Forest Reproductive Material established under regulation 5(1) of the 1973 Regulations –

(a) shall be approved basic material within the meaning of these Regulations;

(b) shall be deemed to have been entered in the Northern Ireland Register created by these Regulations; and

(c) shall be allocated a unique register reference by the Department.

Specific requirements for certain basic material after its approval

8.—(1) A seed orchard which has been approved as basic material intended for the production of forest reproductive material of the category "qualified" shall be managed and its seed harvested in such a way that the objective of the orchard referred to in paragraph (a) of Schedule 4 is attained.

(2) An applicant who obtains approval, under regulation 7, of basic material other than in the form of a seed source approved for the production of forest reproductive material of the category "source-identified" or a seed orchard or parent of family approved for the production of forest reproductive material of the category "qualified" shall notify the Department in writing of the following alterations in respect of that basic material no later than 28 days before the date on which a collection notifiable to the Department pursuant to regulation 11 is to take place –

(a) a reduction in area; or

(b) a material change in the composition or stocking of the basic material.

Withdrawal and amendment of approval of basic material

9.—(1) The Department shall periodically re-inspect approved basic material from which forest reproductive material of the categories "selected", "qualified" and "tested" may be derived, and the owner of such material shall provide for arrangements for such re-inspections to be made upon the Department giving the owner at least 14 days' written notice.

(2) An applicant under regulation 7(7) who has obtained conditional approval of basic material under regulation 7(2) shall notify the Department in writing of results of genetic evaluation or concluded comparative testing in respect of that basic material no later than 28 days after obtaining such results.

(3) An applicant under regulation 7(7) who has obtained approval of basic material for production of forest reproductive material of the category "qualified" shall –

(a) in respect of seed orchards, write to the Department seeking its approval in writing for changes in the type, objective, crossing design and field layout, components, isolation or location no later than 28 days after such changes take effect;

(b) in respect of seed orchards, notify the Department in writing of thinning of the seed orchard, and the selection criteria used for such thinning, no later than 28 days after the thinning is carried out; and

(c) in respect of parents of family, write to the Department seeking its approval in writing for significant changes in the objective, crossing design and pollination system, components, isolation or location no later than 28 days after such changes take effect.

(4) Where the Department declines to approve changes referred to in paragraph (3)(a) and (c), it may, after giving 14 days' notice in writing, withdraw approval of the basic material which was the subject of the changes and remove the relevant unit of approval from the Northern Ireland Register.

(5) The Department may, after giving 14 days' notice in writing specifying its reasons for doing so, withdraw approval granted under this Part in respect of any basic material and remove the relevant unit of approval from the Northern Ireland Register if it is satisfied that any of the requirements of regulations 7(1) to (4) or 8 are not met in respect of that basic material.

(6) The Department may, after giving 14 days' notice in writing specifying its reasons for doing so, withdraw approval granted under the 1977 and 1973 Regulations and remove the relevant unit of approval from the Northern Ireland Register if it is satisfied that the basic material which was the subject of the approval does not meet the requirements of the relevant Schedule for the category of forest reproductive material in respect of which the basic material has been entered in the Northern Ireland Register.

(7) Notice required under paragraphs (4) to (6) shall be given to the owner of the basic material in respect of which the notice is required and, in the case of basic material which was first approved upon the application of another person authorised by the owner, notice shall also be given to that other person.

(8) Where approval of basic material is given for a specific period under regulation 7(1) or (2), and has not been withdrawn for any other reason under this regulation, approval shall automatically be withdrawn at the end of that specific period, and the Department shall remove the unit of approval from the Northern Ireland Register.

(9) Where approval of basic material in the form of clones or clonal mixtures is limited to a specific level of production under regulation 7(1) –

(a) the applicant under regulation 7(7) who has obtained such approval shall inform the Department in writing no later than 28 days after the level of production reaches that specific level of production; and

(b) the Department shall, on receipt of such information, withdraw approval, remove the unit of approval from the Northern Ireland Register, and write to the applicant confirming the action it has taken.

(10) Upon withdrawing approval of any basic material and removing the relevant unit of approval from the Northern Ireland Register under paragraphs (4) to (6), the Department may, without further application by the owner or other person authorised by the owner of that basic material, approve that material for the production of forest reproductive material of another of the categories referred to in regulation 4(1) and re-enter that basic material in the National Register ("amend the approval") if it is satisfied that the requirements of the relevant Schedule for that other category are met.

(11) Where the Department amends the approval of basic material pursuant to paragraph (10), it shall write to the owner and, in the case of basic material which was first approved upon

the application of another person authorised by the owner, to that other person, informing him, or them as appropriate, of the fact.

PART III

COLLECTION AND PRODUCTION OF FOREST REPRODUCTIVE MATERIAL

Collection and production of forest reproductive material for marketing

10. Unless acting under a licence granted pursuant to regulation 18, no person shall collect or produce forest reproductive material for the purpose of marketing or for use in the production of forest reproductive material which is to be marketed unless he does so from approved basic material and in accordance with the provisions of this Part.

Collection of forest reproductive material

11.—(1) Subject to paragraph (3), any person proposing to collect, or cause to be collected, forest reproductive material for the purpose of marketing or for use in the production of forest reproductive material which is to be marketed shall notify the Department in writing at least 14 days before the proposed collection, providing the following particulars and documentation –

(a) his name, address and contact details;

(b) the place of collection;

(c) the unique register reference or references allocated to the approved basic material from which the forest reproductive material is to be collected, or, in the case of forest reproductive material of the category "source-identified", the region of provenance; and

(d) the proposed date, time and anticipated duration of the collection;

and shall afford the Department or persons acting on the Department's behalf such reasonable facilities as may be required to observe the collection so notified.

(2) Regulation 27(2) and (3) shall apply when the Department or other persons on their behalf attend to observe a collection as provided for in paragraph (1) as if the attendance were an inspection carried out under regulation 27(1).

(3) This regulation shall not apply to the extraction of seed from cones or fruits.

Production of forest reproductive material by subsequent vegetative propagation

12. Subsequent multiplication by vegetative propagation from a single unit of approval may be used for the production of forest reproductive material only in the categories "selected", "qualified" and "tested".

Master Certificates

13.—(1) The owner of any forest reproductive material intended to be marketed which –

(a) has been collected from approved basic material in accordance with regulation 11, or

(b) is in the form of seed which has been extracted from cones or fruit collected from approved basic material in accordance with regulation 11, shall, within nine months of the date of the collection, apply to the Department in writing for the issue of a Master Certificate in respect of that material, providing the particulars set out in paragraph (2).

(2) The particulars referred to in paragraph (1) are:

(a) the owner's name, address and contact details;

(b) a description of the forest reproductive material collected, namely

(i) botanical name;

(ii) nature and category; and

(iii) quantity of material, as defined in paragraph (3), for which the certificate is sought;

(c) the type of basic material from which it is derived;

(d) the unique register reference for the basic material from which it is derived; and

(e) such other information as may be necessary to enable the Department to complete the form on which the Master Certificate is to be issued in accordance with paragraph (8).

(3) "Quantity of material" refers in paragraph (2)(b)(iii) –

(a) in the case of seeds to their weight, and where those seeds have been extracted from cones or infructescences, additionally, to the volume of cones or fruit from which the seeds were extracted; and

(b) in the case of parts of plants, to their number.

(4) The owner of forest reproductive material produced by means of subsequent multiplication by vegetative propagation permitted in accordance with regulation 12 shall within two months from the date the material used in such propagation is first collected apply for a new Master Certificate in respect of the forest reproductive material so produced, providing the particulars required under paragraph (2) above and stating that it has been produced by such means.

(5) The owner of forest reproductive material which is produced by mixing forest reproductive material from approved basic material permitted under regulation 15(3) and (4) shall within two months from the date of mixing the material apply to the Department for a Master Certificate in respect of the mixture so produced –

(a) providing the particulars required under paragraph (2);

(b) stating the register references of each of the components of the mixture in the case of mixtures permitted under regulation 15(3); and

(c) stating the years of ripening and the proportion of material from each year in the case of mixtures permitted under 15(4).

(6) Any application required under this regulation to be made by an owner of forest reproductive material may be made by a person who is not the owner of the material if that person has the written authority of the owner to do so, and if he provides at the time of making such an application –

(a) details of the owner's name and address, and

(b) a copy of the written authority.

(7) The Department shall issue to the owner, or other applicant authorised by the owner, of any forest reproductive material which they are satisfied has been collected or produced for purposes of marketing in accordance with this Part a Master Certificate in respect of the forest reproductive material and shall allocate to each certificate its own number.

(8) A Master Certificate issued under this regulation shall take the form of the document set out in –

(a) Schedule 6, where the forest reproductive material to be certified is derived from seed sources or stands;

(b) Schedule 7, where the forest reproductive material to be certified is derived from seed orchards or parents of family; and

(c) Schedule 8, where the forest reproductive material to be certified is derived from clones or clonal mixtures.

(9) A Master Certificate issued in respect of forest reproductive material produced by mixing permitted under regulation 15(3) from seed sources and stands in the category "source-identified" shall certify such forest reproductive material as "reproductive material derived from a seed source".

(10) A Master Certificate issued in respect of forest reproductive material produced from mixing permitted under regulation 15(3) of reproductive material derived from basic material which is neither autochthonous nor indigenous with basic material of unknown origin shall certify such forest reproductive material as being "of unknown origin".

Identification and separation of forest reproductive material during production

14.—(1) Except for material which is mixed in accordance with regulation 15, no person shall keep forest reproductive material at any stage of production, including collection and during the course of marketing, other than in separate lots in respect of each unit of approval, and distinguished from each other by reference to the following criteria ("the identification criteria"):

(a) Master Certificate code and number (where a certificate has been issued);

(b) botanical name;

(c) category of forest reproductive material ;

(d) whether for multiple forestry purposes or a specific purpose, and if the latter, specifying that purpose;

(e) type of basic material from which it is derived;

(f) either –

(i) the reference number given to the approved basic material in the Northern Ireland Register, or in the case of approved EC basic material or approved Great Britain basic material, in the equivalent register drawn up and maintained by the relevant official body in accordance with Article 10 of the Directive; or

(ii) in the case of source-identified and selected forest reproductive material or forest reproductive material which is mixed in accordance with regulation 15, the identity code for the region of provenance from which the forest reproductive material is derived;

(g) in the case of forest reproductive material derived from basic material in the form of a stand or seed source, whether the origin of the material is autochthonous, indigenous, or neither; or unknown;

(h) in the case of seed units, the year of ripening;

(i) the age and type of planting stock of seedlings or cuttings, whether undercuts, transplants or containerised;

(j) whether the forest reproductive material is genetically modified or derived from basic material which consists of a genetically modified organism; and

(k) in the case of mixed forest reproductive material permitted under regulation 15 clear identification of the components of the forest reproductive material so mixed.

(2) Without prejudice to the requirements of paragraph (1), in the case of forest reproductive material which is produced in accordance with regulation 12 by subsequent multiplication by vegetative propagation, forest reproductive material shall be kept in separate lots from other forest reproductive material produced from such propagation from the same basic material carried out on other occasions.

(3) The identification criteria and the information required under this regulation shall be documented either by labelling which clearly distinguishes each lot, or by any other method which has been approved by the Department in writing prior to its use.

Permitted mixing of forest reproductive material

15.—(1) Forest reproductive material in respect of which a Master Certificate has been obtained pursuant to these Regulations may be mixed during production to create a single lot in one of the ways described in paragraphs (3) and (4).

(2) A single lot of mixed forest reproductive material created in accordance with paragraph (1) shall be distinguished as a lot by reference to the identification criteria provided for in regulation 14(1)(a) to (k).

(3) Forest reproductive material may be mixed where it is derived from two or more units of approval within a single region of provenance and where the units of approval each fall within one of the categories "source-identified" or "selected".

(4) Forest reproductive material of different years of ripening may be mixed where the material is derived from a single unit of approval.

PART IV
REGISTRATION OF SUPPLIERS

Registration of suppliers of forest reproductive material

16.—(1) A person shall not market or import forest reproductive material if he does so acting in the course of a business or trade whether or not for profit unless his name appears in the Register of Suppliers of Forest Reproductive Material ("the Register of Suppliers").

(2) Any person seeking entry of his name in the Register of Suppliers shall apply to the Department in writing, paying the Department's prescribed fee, if any, and providing the following:

(a) his name, address and contact details;

(b) the nature of his business or trade in the course of which he supplies forest reproductive material; and

(c) if different from the address provided under sub-paragraph (a), each address at which he produces, stores or markets forest reproductive material.

(3) The Department shall enter in the Register of Suppliers the name of a supplier (a "registered supplier") whose application has been submitted in accordance with paragraph (2), except that if it is satisfied that upon its doing so, a breach of these Regulations is likely to occur within a reasonable time after entry of the applicant's name in the Register of Suppliers, or if it is not satisfied that the applicant is or intends to be a supplier or importer of forest reproductive material, it need not enter the applicant's name in the Register of Suppliers, and shall instead provide the applicant, within 14 days of reaching such a decision, with written reasons for doing so.

(4) If the Department is satisfied that a breach of these Regulations has occurred for which the registered supplier is responsible, it may –

(a) on giving 28 days' notice in writing specifying its reasons for doing so, remove a registered supplier's name from the Register of Suppliers; or

(b) on giving 14 days' notice in writing specifying its reasons for doing so, impose conditions upon the supplier's continuing registration.

(5) Where the Department acts under paragraph (4) to remove a supplier's name from the Register of Suppliers or impose conditions on his registration in reliance wholly or partly on seed testing results obtained from an independent third party, it shall provide to the supplier when giving notice under paragraph (4) a copy of those results in documentary form.

(6) The Department shall make the Register of Suppliers available for inspection by the public.

PART V
MARKETING OF FOREST REPRODUCTIVE MATERIAL

Forest reproductive material which may be marketed

17.—(1) Subject to regulation 18, a person shall not market forest reproductive material unless –

(a) in the case of all such material –

(i) its collection and production meet the requirements of regulations 10 to 12 and 14 to 15;

(ii) its marketing and labelling meet the requirements of paragraphs (2) to (12) and regulation 19, as read with regulation 20 in the case of seeds;

(iii) it is certified in accordance with regulation 13; and

(iv) it falls into one of the categories described in regulation 4(1), subject as the case may be to the application of regulation 7(2) and (3);

(b) in the case of forest reproductive material from Great Britain or another member State,

(i) it has met the requirements as to entry to Northern Ireland set out in regulations 23 and 24; and

(ii) after entry to Northern Ireland it meets the requirements of this regulation, and regulations 14 and 19, as read with regulation 20 in the case of seeds; and

(c) it is marketed in compliance with regulation 31.

(2) Forest reproductive material of the artificial hybrids listed in Schedule 1 may be marketed only if it is of the categories "selected", "qualified" or "tested".

(3) Vegetatively reproduced forest reproductive material may be marketed only under the categories "selected", "qualified" or "tested" and in the case of forest reproductive material of the category "selected", may be marketed only if it is produced by means of subsequent multiplication by vegetative propagation from seeds.

(4) Forest reproductive material derived from basic material in the form of a seed source may be marketed only under the category "source identified".

(5) Forest reproductive material derived from basic material in the form of a stand may be marketed only under the categories "source identified", "selected" and "tested".

(6) Forest reproductive material derived from basic material of the following types may be marketed only under the categories "qualified" and "tested" –

(a) seed orchard;

(b) parents of family;

(c) clone; and

(d) clonal mixture.

(7) Forest reproductive material which consists wholly or partly of genetically modified organisms may be marketed only under the category "tested".

(8) Forest reproductive material in the form of fruit and seed lots of the species listed in Schedule 1 shall reach a minimum species purity level of 99%, except in the case of closely related species other than artificial hybrids in respect of which the purity of the fruit or seed lot shall be stated in any labelling or record documenting information about the seed required under regulations 14, 15 and 19.

(9) Forest reproductive material in the form of parts of plants shall be of fair marketable quality determined with reference to general characteristics, health and appropriate size.

(10) Forest reproductive material in the form of stem cuttings or sets of *Populus* spp. shall meet the standards described in Schedule 9.

(11) Forest reproductive material in the form of planting stock shall be of fair marketable quality determined with reference to general characteristics, health, vitality and physiological quality.

(12) Forest reproductive material in the form of planting stock which is intended to be marketed to the Mediterranean climatic region shall comply with the requirements of Schedule 10.

Licences

18.—(1) The Department may authorise by licence in writing, whether or not subject to conditions, for a specified period or indefinitely, the marketing by a registered supplier of any forest reproductive material which would otherwise be prohibited under regulation 17 –

(a) where the material is marketed for use in tests, selection work, or for scientific or genetic conservation purposes; or

(b) where the material consists of seed units which are clearly shown not to be intended for forestry purposes.

(2) The Department shall give reasons in writing upon declining to provide a licence under paragraph (1).

Labelling and packaging of lots for marketing

19.—(1) Forest reproductive material in the separate, distinct lots required under regulation 14 may be marketed under regulation 17 only if the lot is accompanied by a supplier's label or document which documents the following:

(a) the identification criteria and any other information required to be recorded under regulation 14(2) and (3);

(b) the Master Certificate number or numbers;

(c) the name of the supplier;

(d) the quantity supplied;

(e) the words "provisionally approved" in the case of forest reproductive material of the category "tested" which has been approved under regulation 7(2);

(f) whether the material has been vegetatively propagated;

(g) in the case of forest reproductive material derived from basic material which consists of a genetically modified organism, the fact that it is so derived; and

(h) in the case of parts of plants of *Populus* spp., the EC classification described in Schedule 9, paragraphs 1(b) and 2(b).

(2) In the case of forest reproductive material marketed as a seed lot, the supplier's label or document shall, subject to paragraphs (3) and (4), in addition to the information required under paragraph (1), also contain the following information, stating in each case the date on which any assessment which is the source of the information so provided was carried out:

(a) the respective percentage by weight of pure seed, other seed and inert matter;

(b) the germination percentage of the pure seed, or, where germination percentage is impossible or impractical to assess, the viability percentage assessed by reference to a method which shall be described;

(c) the weight of 1,000 pure seeds; and

(d) the number of germinable seeds per kilogram of the seed, or, where the number of germinable seeds is impossible or impractical to assess, the number of viable seeds per kilogram.

(3) When forest reproductive material in the form of seed of any given season's crop is first sold in that season as forest reproductive material, it need not meet the requirements of sub-paragraph (2)(b) if the testing required to ascertain that information has not been concluded, but shall meet those requirements during all subsequent marketing where the supplier's label or document is needed.

(4) The information requirements of sub-paragraphs (2)(b) and (d) shall not apply to forest reproductive material in the form of seed which is marketed in quantities no greater than those described in respect of the individual species and artificial hybrids listed in Schedule 11.

(5) Seed units shall be marketed only in sealed packages, the sealing device of which shall be such that it becomes unusable once the sealed package has been opened.

(6) Any label or document, other than those which may be created pursuant to regulation 14(1) or this regulation, which accompanies any lot of forest reproductive material derived from basic material consisting of a genetically modified organism shall clearly document that fact, whether the label is required by law or not.

(7) Where a supplier's labels or documents are printed or otherwise created using coloured labels, the colour of the supplier's label or document shall be:

(a) yellow for forest reproductive material of the category "source-identified";

(b) green for forest reproductive material of the category "selected";

(c) pink for forest reproductive material of the category "qualified"; and

(d) blue for forest reproductive material of the category "tested".

Seed testing

20. For the purposes of providing the information required under regulation 19(2), the supplier shall obtain assessments using testing techniques which the Department has confirmed in writing, prior to the assessments taking place, it is satisfied are, so far as is practical in all the circumstances, internationally accepted techniques.

PART VI

MOVEMENT OF FOREST REPRODUCTIVE MATERIAL BETWEEN NORTHERN IRELAND AND ELSEWHERE IN THE EUROPEAN COMMUNITY

Forest reproductive material despatched to Great Britain

21.—(1) A person other than a registered supplier shall not despatch forest reproductive material to a destination in Great Britain.

(2) A registered supplier shall not despatch forest reproductive material to a destination in Great Britain unless that material complies with the requirements of regulation 17 as if the forest reproductive material were to be marketed within Northern Ireland, and it is accompanied by a supplier's label or document.

Movement of forest reproductive material to another member State

22.—(1) A person, other than a registered supplier, shall not despatch forest reproductive material to a destination in another member State.

(2) A registered supplier shall not despatch forest reproductive material to a destination in another member State unless that material complies with the requirements of regulation 17 as if the forest reproductive material were to be marketed within Northern Ireland, and it is accompanied by a supplier's label or document.

(3) A registered supplier who despatches forest reproductive material to a destination in another member State shall inform the Department in writing no later than 14 days from the date on which the material has left Northern Ireland providing the following information:

(a) the Master Certificate number;

(b) date of despatch or intended date of despatch of the forest reproductive material;

(c) address to which the forest reproductive material has been or is to be despatched;

(d) the botanical name, and (if different from that stated in the Master Certificate), the nature and quantity of the forest reproductive material; and

(e) the supplier's label or document number.

Movement of forest reproductive material into Northern Ireland from Great Britain

23. A person acting in the course of a business or trade whether or not for profit shall not take delivery of forest reproductive material intending to market it if the material has been despatched to him from Great Britain unless it is accompanied by the supplier's label or document required by Article 14 of the Directive.

Imports into Northern Ireland from a member State

24. A person acting in the course of a business or trade whether or not for profit shall not import from a member State forest reproductive material into Northern Ireland intending to market that material unless it is accompanied by the supplier's label or document required by Article 14 of the Directive.

Prohibition against imports of forest reproductive material from third countries

25. A person acting in the course of a business or trade whether or not for profit shall not import into Northern Ireland from a third country forest reproductive material which he intends to market.

PART VII
COMPLIANCE

Keeping and production of documents

26.—(1) Subject to paragraph (2), any applicant under regulation 7(7) who seeks or obtains approval of basic material shall, for a period of five years from the date of his application, retain such copies of any documentation referred to in Schedules 2 to 5 as he has obtained or created pursuant to his application, and in particular, in respect of basic material intended for the production of forest reproductive material to be certified as "tested", shall keep and retain records which describe test sites, including location, climate, soil, past use, establishment, management and any damage due to abiotic or biotic factors.

(2) An applicant under regulation 7(7) who is unsuccessful in obtaining approval of basic material, shall cease to be subject to the obligations of paragraph (1) after his time has expired for appealing against a decision of the Department not to approve the basic material which was the subject of the application, or, in the case where he lodges an appeal against such a decision, on the expiry of his time for further appeal after receiving notification of a decision of the Tribunal or other relevant appeal body rejecting his appeal.

(3) Any registered supplier and any other person who undertakes the collecting or production, storage, processing, or transportation of forest reproductive material ("relevant activities") shall –

(a) retain or cause to be retained such of the following documents as he has obtained or created pursuant to these Regulations or, where in accordance with these Regulations, the original is no longer retained, a copy thereof:

(i) notification under regulation 11 of the proposed collection of forest reproductive material and any written authorization or evidence of the collector's authority to collect that forest reproductive material;

(ii) Master Certificate;

(iii) evidence of any assessment undertaken for the purpose of regulation 19(2), including the date on which the assessment was made;

(iv) supplier's label or document;

(v) licence granted under regulation 18;

(vi) communication required under regulation 22;

(vii) plant passports; and

(b) retain or cause to be retained if so required by a notice in writing served on him by the Department, such other records relating to relevant activities, or to activities undertaken as a registered supplier, in such form, as may be specified in the said notice.

(4) All such documents and other records required to be retained by a registered supplier or other person –

(a) pursuant to paragraph (3)(a) shall be so retained for a period of 5 years from the date of the document; and

(b) pursuant to paragraph (3)(b) shall be so retained for the period of time specified in the notice served pursuant to that paragraph.

(5) A registered supplier or other person required pursuant to paragraph (3)(b) to retain specified records shall furnish to the Department at its request such information relating to those records as it may reasonably require.

(6) Any applicant referred to in paragraph (1) (as read with paragraph (2)), any registered supplier and any other person who undertakes relevant activities shall, on the request of an authorised officer, produce to that officer or another person nominated by that officer, and allow the officer or other person to make copies of –

(a) records and documents kept or retained by him or on his behalf pursuant to paragraphs (1) or (3); and

(b) any other books, plans, maps, photographs, records or other documents, including those held in electronic form ("electronic material"), in his possession or control which relate to his application under regulation 7(7) or to the relevant activities or his activities as a registered supplier, as appropriate.

(7) Any applicant, registered supplier or other person required to produce electronic material under paragraph (6) shall give the authorised officer or other person referred to in that paragraph access to the computer processor or disk or any other electronic storage on which the electronic material is held, and shall provide the authorised officer or other person nominated by him with reasonable facilities for the inspection and copying of such electronic material.

Powers to inspect and take samples

27.—(1) Subject to paragraph (5), an authorised officer may, for the purposes set out in paragraph (4), and at all reasonable hours, enter and inspect any premises within the meaning of paragraph (5), and shall, if requested, produce documentary evidence of his authorisation by the Department so to enter and inspect.

(2) An authorised officer entering and inspecting premises in exercise of his powers under paragraph (1) may take with him such other persons, including representatives of the Commission of the European Communities, and such equipment or vehicles as he considers necessary for the purposes of entering and inspecting the premises, or for facilitating the checks required under Article 16(6) of the Directive.

(3) Any persons who have accompanied an authorised officer in entering and inspecting premises in accordance with paragraph (2) may, for the purposes of (2) and (4), whether or not accompanied by the authorised officer and on production if so requested of documentary evidence of their authorisation from the Commission of the European Communities or an authorised officer, remain on and from time to time re-enter the premises with such equipment or vehicles as the authorised officer considers necessary.

(4) The purposes for which an authorised officer may enter and inspect premises in accordance with paragraph (1) are as follows –

(a) to check that the requirements of regulations 16(1), 17, 21 to 25 and 31 have been and are being met;

(b) to observe and monitor practices as to production, and in particular as to separation, identification, propagation, mixing, production and labelling of forest reproductive material intended for marketing;

(c) to check that the conditions on which any licence granted under regulation 18 have been and are being complied with;

(d) to observe testing premises, practices and techniques which are used or which it is proposed be used for the assessment of seeds for purposes of regulations 19(2) and 20;

(e) to examine records or other documents including those held in electronic form pursuant to regulation 26;

(f) to examine any forest reproductive material or basic material on those premises and to take samples of such forest reproductive material and basic material as the authorised officer considers necessary; and

(g) to take such photographs of the premises or any material or other objects found there or of any activity carried on at the premises in connection with marketing of forest reproductive material or any relevant activity as the authorised officer considers necessary.

(5) In this regulation, "premises" shall –

(a) mean premises which the authorised officer exercising the powers granted him under this regulation reasonably believes are used for collection, production, storage, trade, transportation, importation or marketing of forest reproductive material;

(b) exclude premises used wholly or mainly for domestic purposes; and

(c) include any vehicle or vessel.

Treatment of seed samples

28.—(1) A sample of seed taken by an authorised officer shall be divided by him into three parts, each of which he shall seal, and one part shall be delivered or sent by him to the owner of the seed or a representative nominated by the owner, one part shall be delivered or sent to a third party for independent testing, and the remaining part shall be retained by the authorised officer and be available for production to a court in accordance with regulation 29, provided that where it appears to the person taking the sample that the seed from which the sample has been taken was purchased for use and not for re-sale, the first part of the sample shall be delivered or sent to the last seller of the seed or to his representative in place of the owner of the seed or to his representative.

(2) An authorised officer taking a sample of seeds pursuant to this regulation shall issue to the owner of the seeds a certificate in the form set out in Schedule 12.

Use of samples in criminal proceedings

29.—(1) Evidence shall not be adduced in proceedings for an offence under regulation 30 respecting a sample of seeds taken by an authorised officer unless the sample was dealt with in accordance with the manner prescribed in regulation 28 and the provisions of this regulation have been and are observed.

(2) A certificate in the form prescribed by regulation 28(2) purporting to be issued by an authorised officer and stating that a sample was dealt with in a particular manner shall be sufficient evidence of the facts stated in the certificate.

(3) If part of a sample taken by an authorised officer is sent to a third party for independent testing, it shall be so sent as soon as practicable after the sample is taken, and the person to whom any other part of the sample is given shall be informed before the part to be sent to the third party is sent.

(4) A copy of a test result issued by an independent third party in documentary form in respect of a test of part of a sample taken by an authorised officer shall be sent to the person to whom any other part of the sample was or is being sent.

(5) In any proceedings for an offence in respect of which evidence obtained pursuant to this regulation and regulation 28 is to be relied on by the prosecutors of the offence, a copy of a test result issued by an independent third party in documentary form shall accompany the summons or complaint.

(6) Where proceedings are brought for an offence –

(a) under regulation 30(1)(e) in respect of providing false information about seed assessments undertaken for the purposes of regulation 19(2) as read with regulation 20, or

(b) under regulation 30(1)(f),

if any sample of the seeds has been taken by an authorised officer, the third part of that sample required by regulation 28(1) to be kept by the authorised officer shall be produced at the hearing, and the court may, if it thinks fit, upon the request of a party to the proceedings, cause the part so produced to be sent to an independent third party for testing.

(7) If, in a case where an appeal is brought, no action has been taken under paragraph (6), the provisions of that paragraph shall apply also to the court by which the appeal is heard.

Offences and Penalties

30.—(1) A person shall be guilty of an offence if without reasonable excuse, proof of which shall lie with him, he –

(a) contravenes regulations 8(2), 9(2),(3) and (9)(a), 16(1), 17 and 21 to 25;

(b) breaches any condition on which a licence has been granted to him under regulation 18;

(c) fails to produce records or other documents when required to do so under regulation 26 or to provide access and reasonable facilities for the inspection or copying of electronic material under that regulation;

(d) obstructs or impedes an authorised officer, or any person nominated by an authorised officer under regulation 26(6) in the exercise of powers set out in regulations 26 and 27;

(e) provides or permits to be provided false information in any document required under these regulations; or

(f) falsifies test results of assessments carried out for the purpose of providing the information required under regulation 19(2) as read with regulation 20, or otherwise interferes with the testing process so that the information provided pursuant to regulation 19(2) as read with regulation 20 is false.

(2) A prosecution for an offence under this regulation may begin no later than after the expiry of –

(a) three years from the commission of the offence; or

(b) one year from its discovery by the Department.

(3) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART VIII
MISCELLANEOUS

Transitional arrangements for forest reproductive material existing at 1st January 2003

31.—(1) An owner on 31st December 2002 of forest reproductive material which remains to be marketed after the coming into force of these Regulations ("existing stock") may not market that existing stock unless he is a registered supplier under regulation 16, and the existing stock meets the relevant requirements of paragraphs (2) to (5).

(2) Existing stock of the species and artificial hybrids controlled under the 1977 Regulations may be marketed under this regulation only if –

(a) prior to 1st January 2003, it complied with the 1977 Regulations, including compliance by virtue of a licence granted under those Regulations prior to 1st January 2003; and

(b) after 31st December 2002 it meets the requirements of regulations 12 to 14, 16, 18 and 19 of these Regulations.

(3) Existing stock of the species and artificial hybrids not controlled under the 1977 Regulations may be marketed under this regulation notwithstanding that it is not produced from approved basic material and does not have a Master Certificate provided that after 31st December 2002 –

(a) as to its production, it complies with regulations 14(1)(b) to (e) and (g) to (k) and (3); and

(b) at the time of marketing, it satisfies the requirements of regulations 17(8) to (12), 19(3) and (5), and is accompanied by a supplier's label or document which –

(i) sets out the information referred to in regulation 19(1)(c), (d), (f) to (h) and (2) as read with (4) and regulation 20;

(ii) sets out the identification criteria referred to in regulation 14(1)(b) to (e) and (g) to (k);

(iii) otherwise meets the labelling requirements of regulation 19(6) and (7); and

(iv) identifies the stock as existing stock by the statement: "From forest reproductive material in existence before 1st January 2003, pursuant to Council Directive 1999/105/EC, Article 28(3)."

(4) An owner of existing stock referred to in paragraph (3) in the form of seeds as at 1st January 2003 may market such stock only if, no later than 10th February 2003, he provides the Department with written details of that stock, describing the species, quantity and year of ripening of such stock.

(5) Existing stock marketed under this regulation which is despatched to Great Britain or moved to another member State shall meet the relevant requirements of regulations 21 and 22.

Appeals

32.—(1) An appeal shall lie to the Tribunal from any decision of the Department made under the following regulations –

(a) regulation 7(1) to (3) not to approve basic material;

(b) regulation 7(1) to approve basic material in the form of clones or clonal mixtures subject to qualifications as to duration of approval or level of production;

(c) regulation 9 (except for paragraphs (8) and (9)) to withdraw or amend approval of basic material;

(d) regulation 13(7) not to issue a Master Certificate;

(e) regulation 16(3) not to enter a person's name in the Register of Suppliers;

(f) regulation 16(4) to remove a supplier's name from the Register of Suppliers or impose conditions upon his continued registration;

(g) regulation 18 not to grant a licence to market forest reproductive material;

(h) regulation 20 that testing techniques used to obtain assessments necessary to provide the information required under regulation 19(2) are not, to the Department's satisfaction, internationally accepted techniques; and

(i) the requirements of :

(i) Schedule 4, paragraphs (1)(d) and 2(d) not to approve verification test methodology;

(ii) Schedule 5, paragraph (1)(d)(ii) not to approve a statistical design, and

(iii) Schedule 5, paragraph (1)(e)(i) not to approve a statistical methodology as being one that is internationally recognised.

(2) References in section 45(1) and Schedule 3 of the Plant Varieties Act 1997 to the statutory jurisdiction of the Tribunal shall be construed for the purposes of an appeal brought under this regulation as if including the Tribunal's jurisdiction under these Regulations.

(3) Where an appeal is brought under paragraph (1), the operation of a decision described in that paragraph shall be suspended pending the final determination of the appeal, including determination of any subsequent appeals, and the Department shall take such steps as may be necessary to give effect to any decision given on the final determination of an appeal.

Exemptions

33.—(1) Forest reproductive material intended for purposes other than forestry which is in the form of planting stock or parts of plants shall be exempted from the requirements of these Regulations.

(2) Where a supplier markets forest reproductive material both for forestry and other purposes, material exempted by virtue of paragraph (1) shall be accompanied by a label or document bearing the statement: "Not for forestry purposes", unless it is plain from a label accompanying it, in compliance (where applicable) with any United Kingdom or European Community legal requirement, that the material is not intended for forestry purposes.

Revocation

34. The 1977 Regulations, the Forest Reproductive Material Regulations 1977, and the Forest Reproductive Material (Amendment) Regulations 1993,(**a**) are revoked.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 19th December 2002.

(L.S.) *Malcolm Beatty*

A Senior Officer of the Department of Agriculture and Rural Development

(**a**) The SI numbers for these two instruments are set out in the footnote to the definition given in regulation 2(2) for the 1977 Regulations

SCHEDULE 1

Regulation 2(2)

LIST OF TREE SPECIES AND ARTIFICIAL HYBRIDS

Abies alba Mill.	*Pinus canariensis* C.Smith
Abies cephalonica Loud.	*Pinus cembra* L.
Abies grandis Lindl.	*Pinus contorta* Loud.
Abies pinsapo Boiss.	*Pinus halepensis* Mill.
Acer platanoides L.	*Pinus leucodermis* Antoine
Acer pseudoplatanus L.	*Pinus nigra* Arnold
Alnus glutinosa Gaertn.	*Pinus pinaster* Ait.
Alnus incana Moench.	*Pinus pinea* L.
Betula pendula Roth	*Pinus radiata* D. Don
Betula pubescens Ehrh.	*Pinus sylvestris* L.
Carpinus betulus L.	*Prunus avium* L.
Castanea sativa Mill.	*Populus* spp.
Cedrus atlantica Carr.	*Pseudotsuga menziesii* Franco
Cedrus libani A.Richard	*Quercus cerris* L.
Fagus sylvatica L.	*Quercus ilex* L.
Fraxinus angustifolia Vahl.	*Quercus petraea* Liebl.
Fraxinus excelsior L.	*Quercus pubescens* Willd.
Larix decidua Mill.	*Quercus robur* L.
Larix x eurolepis Henry	*Quercus rubra* L.
Larix kaempferi Carr.	*Quercus suber* L.
Larix sibirica Ledeb.	*Robinia pseudoacacia* L.
Picea abies Karst.	*Tilia cordata* Mill.
Picea sitchensis Carr.	*Tilia platyphyllos* Scop.
Pinus brutia Ten.	

SCHEDULE 2

Regulation 4(1)(a)

MINIMUM REQUIREMENTS FOR THE APPROVAL OF BASIC MATERIAL INTENDED FOR THE PRODUCTION OF REPRODUCTIVE MATERIAL TO BE CERTIFIED AS "SOURCE-IDENTIFIED"

1. The basic material shall be a seed source or stand located within a single Region of Provenance.

2. (a) The applicant shall inform the Department of the Region of Provenance and the location and the altitude or altitudinal range of the place(s) where the reproductive material is to be collected or otherwise harvested.

(b) The applicant shall inform the Department or its authorised officer whether the basic material is:

(i) autochthonous;

(ii) indigenous;

(iii) neither (in which case the origin must be stated if known); or

(iv) the origin is unknown.

SCHEDULE 3

Regulation 4(1)(b)

MINIMUM REQUIREMENTS FOR THE APPROVAL OF BASIC MATERIAL INTENDED FOR THE PRODUCTION OF REPRODUCTIVE MATERIAL TO BE CERTIFIED AS "SELECTED"

General

The Department will assess a stand with respect to the purpose specified in the application made under regulation 7(7) to which the reproductive material produced from it is intended to be put ("the specified purpose"). It shall give due weight to such of the criteria for selection set out in paragraphs 1 to 10 below as are appropriate to the specified purpose.

1. Origin

The Department shall determine either by historical evidence or other appropriate means whether the stand is autochthonous, indigenous or neither (in which case the origin must be established if known), or that the origin is not known.

2. Isolation

The Department shall be satisfied that stands are situated at a reasonable distance from poor stands of the same species, or from stands of a related species or variety which can form hybrids with the species in respect of which application is made, so as to reduce the chances of the stand's quality and characteristics being detrimentally affected by such poor stands. The Department shall pay particular attention to this requirement when the stands surrounding autochthonous or indigenous stands are not autochthonous or indigenous or if they are of unknown origin.

3. Effective Size of the Population

The Department shall be satisfied that stands consist of one or more groups of trees well distributed and sufficiently numerous to ensure adequate inter-pollination. Selected stands shall consist of a sufficient number and density of individuals on a given area so as to avoid the unfavourable effects of inbreeding.

4. Age and Development

Stands must consist of trees of such an age or stage of development that the Department may clearly assess them against the criteria given for the selection.

5. Uniformity

The Department shall be satisfied that stands show a normal degree of individual variation in morphological characters and, when in the Department's judgment it is necessary, inferior trees shall be removed.

6. Adaptation

Adaptation to the ecological conditions prevailing in the Region of Provenance must be evident to the Department.

7. Health and Resistance

Trees in stands must in general be free from attacks by damaging organisms and show resistance to any adverse climatic and site conditions in the place where they are growing, except that resistance to damage by pollution need not be demonstrated.

8. Volume production

For the approval of stands, the Department shall be satisfied that volume production of wood is superior to the accepted mean under similar ecological and management conditions.

9. Wood Quality

The Department shall take into account the quality of the wood and, if it thinks fit in any particular case, may regard this as an essential criterion.

10. Form or Growth Habit

The Department shall be satisfied that trees in stands show particularly good morphological features, especially straightness and circularity of stem, favourable branching habit, small size of branches and good natural pruning. In addition, it shall be satisfied that the proportion of forked trees and those showing spiral grain is low.

SCHEDULE 4

Regulation 4(1)(c)

MINIMUM REQUIREMENTS FOR THE APPROVAL OF BASIC MATERIAL INTENDED FOR THE PRODUCTION OF REPRODUCTIVE MATERIAL TO BE CERTIFIED AS "QUALIFIED"

1. Seed Orchards

(a) The Department shall approve the type, objective, crossing design and field layout, components, isolation and location of the seed orchard.

(b) The component clones or families shall be selected for their outstanding characters and the Department shall assess them in accordance with the requirements of paragraphs 1 to 10 of Schedule 3, giving particular weight to those requirements set out in paragraphs 4 and 6 to 10.

(c) The component clones or families shall be planted according to a plan approved by the Department and shall be established in such a way that each component can be identified.

(d) In the case of a seed orchard intended for the production of an artificial hybrid, the percentage of hybrids in the reproductive material must be determined by a verification test the methodology of which shall be approved in writing by the Department.

2. Parents of Family

(a) The Department shall be satisfied that the parents shall be selected either for their combining ability, or for their outstanding characters as assessed by it in accordance with paragraphs 1 to 10 of Schedule 3, giving particular weight to the requirements of paragraphs 4 and 6 to 10 of that Schedule.

(b) The Department shall approve the objective, crossing design and pollination system, components, isolation and location of the parents.

(c) The identity, number and proportion of the parents in a combination must be notified to the Department when the application is made under regulation 7(7) and the Department's approval of these features shall be obtained before the parents may be approved.

(d) In the case of parents intended for the production of an artificial hybrid, the percentage of hybrids in the reproductive material must be determined by a verification test the methodology of which shall be approved in writing by the Department.

3. Clones

(a) Clones shall be identifiable by distinctive characters which must be notified to the Department in the application referred to in regulation 7(7) and must be approved by the Department if the basic material is itself to be approved.

(b) The superiority of individual clones shall be demonstrated to the satisfaction of the Department by the established use in forestry practice of the clones, or from the results of experimentation which is in the Department's view of sufficient duration to be a reliable indication of the individual clone's characters.

(c) The Department shall be satisfied that ortets used for the production of clones shall be selected for their outstanding characters as judged by the Department in accordance with such of the requirements of paragraphs 1 to 10 of Schedule 3 as apply to ortets, with particular weight being given to the requirements of paragraphs 4 and 6 to 10 of that Schedule.

4. Clonal Mixtures

(a) Clonal mixtures shall meet the requirements of points 3(a), 3(b) and 3(c) above.

(b) The identity, number and proportion of the component clones in a clonal mixture, and information as to the selection method and foundation stock must be notified to the Department when the application is made under regulation 7(7) and the Department shall be satisfied as to the suitability of these features.

(c) The Department shall be satisfied that any clonal mixture for which approval is given is genetically diverse.

SCHEDULE 5

Regulation 4(1)(d)

MINIMUM REQUIREMENTS FOR THE APPROVAL OF BASIC MATERIAL INTENDED FOR THE PRODUCTION OF REPRODUCTIVE MATERIAL TO BE CERTIFIED AS "TESTED"

1. Requirements for all tests

(a) General

The basic material must satisfy the requirements of Schedules 3 or 4 which are relevant to the type of basic material. Tests set up for the approval of basic material are to be prepared, laid out, conducted and their results interpreted in accordance with internationally recognised procedures, which the provisions of paragraph (e) require shall be approved by the Department in writing. For comparative tests, the reproductive material under test must be compared with one or preferably several standards approved by the Department or the standards set out in paragraph 3(b) below.

(b) Characters to be examined

(i) The Department shall be satisfied that tests relied on by an applicant seeking approval under regulation 7(7) are designed in such a way as to assess specific characters, which must be indicated for each test.

(ii) Weight shall be given in the testing process to adaptation, growth, biotic and abiotic factors of importance. In addition, the Department shall be satisfied that other characters which are important in light of the specified purpose, have been evaluated in relation to the ecological conditions of the region in which the test is carried out.

(c) Documentation

The age of the material and results at the time of the evaluation must be notified to the Department.

(d) Setting up the tests

(i) Each sample of reproductive material shall be raised, planted and managed in an identical way as far as the types of plant material permit.

(ii) Each experiment must be established in a valid statistical design with a sufficient number of trees in order that the individual characteristics of each component under examination can be evaluated. The statistical design shall be approved by the Department in writing.

(e) Analysis and validity of results

(i) The data from experiments must be analysed using statistical methods, which the Department is satisfied are internationally recognised, and which it shall approve in writing; and results shall be presented to the Department for each character examined.

(ii) The methodology used for the test and the detailed results obtained shall be made freely available by the applicant to the public on request and payment of reasonable copying and postage charges.

(iii) An applicant seeking approval under regulation 7(7) shall inform the Department of the likely region of adaptation within the country in which the test was carried out and information as to any characteristics which might limit the usefulness of the material must also be provided to the Department.

(iv) If during tests it is proved that the reproductive material produced from the basic material the subject of the application under regulation 7(7) does not possess the characteristics of the basic material, or similar resistance of the basic material to plant pests within the meaning of the Plant Health Act (Northern Ireland) 1967(**a**) and any other harmful organisms which may have an undesirable economic impact, then such reproductive material shall be eliminated from further comparative testing.

2. Requirements for genetic evaluation of components of basic material

(a) Only the components of the following basic material may be genetically evaluated: seed orchards, parents of family, clones and clonal mixtures.

(b) Documentation

The following additional documentation is required for approval of the basic material:

(i) evidence or a statement of the identity, origin and pedigree of the evaluated components; and

(ii) evidence or a statement or plan of the crossing design used to produce the reproductive material used in the evaluation tests.

(**a**) 1967 c. 28 (N.I.)

(c) Test procedures

The following requirements must be met:

(i) the genetic value of each component must be estimated in two or more evaluation test-sites, at least one of which must be in an environment relevant to the proposed specified use of the reproductive material;

(ii) the estimated superiority of the reproductive material to be marketed shall be calculated on the basis of these genetic values and the specific crossing design; and

(iii) evaluation tests and genetic calculations must be approved in writing by the Department.

(d) Interpretation

(i) The estimated superiority of the reproductive material shall be calculated against a reference population for a character or set of characters.

(ii) The applicant seeking approval under regulation 7(7) shall advise the Department whether the estimated genetic value of the reproductive material is inferior to the reference population for any important character.

3. Requirements for comparative testing of reproductive material

(a) Sampling of the reproductive material

(i) The sample of the reproductive material for comparative testing must be truly representative of the reproductive material derived from the basic material to be approved.

(ii) Sexually produced reproductive material for comparative testing shall be:

– harvested by methods that ensure that the samples obtained are representative;

– harvested in years of good flowering and good fruit or seed production, and

– in any event may be produced by artificial pollination.

(b) Standards

(i) The performance of standards used for comparative purposes in comparative tests should if possible have been known in the region in which the test is to be carried out over a sufficiently long period to enable their use as a standard, namely, they shall represent, in principle, material that has been shown useful for forestry at the time that the test starts, and in ecological conditions for which it is proposed to certify the material. They should come as far as possible from stands selected according to the criteria in Schedule 3 or from basic material approved by the Department or another official body for production of tested material.

(ii) For comparative testing of artificial hybrids, both parent species shall, if it is practically possible, be included among the standards.

(iii) Whenever possible several standards are to be used. When necessary and justified, standards may be replaced by the most suitable of the material under test or the mean of the components of the test.

(iv) The same standards will be used in all tests over as wide a range of site conditions as possible.

(c) Interpretation

(i) A statistically significant superiority as compared with the standards must be demonstrated for at least one important character.

(ii) The applicant under regulation 7(7) shall clearly report in his application for approval if there are any characters of economic or environmental importance which show significantly inferior results to the standards; and the Department must be satisfied before approving the basic material that the effect of these inferior qualities is compensated for by other favourable characters.

4. Conditional approval

The requirements of this Schedule are subject to the discretion of the Department to grant conditional approval under regulation 7(2).

5. Early tests

Nursery, greenhouse and laboratory tests may be accepted by the Department for approval or for conditional approval if it is satisfied that there is a close correlation between the measured trait and the characters which would normally be assessed in forest stage tests. Other characters to be tested must meet the requirements set out in paragraph 3.

SCHEDULE 6

Regulation 13(8)

MODEL MASTER CERTIFICATE OF IDENTITY FOR REPRODUCTIVE MATERIAL DERIVED FROM SEED SOURCES AND STANDS

(Certificate must contain all the information outlined below, and in the exact format)

ISSUED IN ACCORDANCE WITH DIRECTIVE 1999/105/EC

MEMBER STATE: ..... CERTIFICATE No EC:/(MEMBER STATE CODE)/(No) .....

It is certified that the forest reproductive material described below has been produced:

in accordance with the EC Directive ☐

reproductive material under transitional arrangements ☐

1. Botanical name: .....

2. Nature of reproductive material:
   - Seed unit ☐
   - Part of plants ☐
   - Planting stock ☐

3. Category of reproductive material
   - Source-identified ☐
   - Selected ☐
   - Tested ☐

4. Type of basic material:
   - Seed source ☐
   - Stand ☐

5. Purpose: .....

6. Country register reference or identity of basic material in National register:
   ...../Mixture: .....

7. Autochthonous ☐ Not autochthonous ☐ Unknown ☐
   Indigenous ☐ Not indigenous ☐

8. Origin of basic material (for material which is not autochthonous or indigenous, if known)
   .....

9. Country and Region of provenance of basic material: .....
   Provenance (Short title, if appropriate): .....

10. Altitude or altitudinal range of site of basic material: .....
    .....

11. Year in which seeds ripened: .....

12. Quantity of reproductive material: .....

13. Is the material covered by this certificate the result of a subdivision of a larger lot covered by a previous EC Certificate? Yes ☐ No ☐
    Previous certificate number .....Quantity in initial lot .....

14. Length of time in nursery: .....

15. Has there been subsequent vegetative propagation of material derived from seed? Yes ☐ No ☐
    Method of propagation .....Number of cycles of propagation.....

16. Other relevant information: .....

17. Name and address of supplier .....

.....

Name and Address of Official Body:	Stamp of Official Body: Date:	Name off Responsible Officer: Signature:

SCHEDULE 7

Regulation 13(8)

MODEL MASTER CERTIFICATE OF IDENTITY FOR REPRODUCTIVE MATERIAL DERIVED FROM SEED ORCHARDS OR PARENTS OF FAMILY

(Certificate must contain all the information outlined below, and in the exact format)

ISSUED IN ACCORDANCE WITH DIRECTIVE 1999/105/EC

MEMBER STATE: ..... CERTIFICATE No EC:/(MEMBER STATE CODE)/(No) .....

It is certified that the forest reproductive material described below has been produced:

in accordance with the EC Directive ☐

reproductive material under transitional arrangements ☐

1. (a) Botanical name: .....
   (b) Name of basic material (as mentioned in the catalogue): .....

2. Nature of reproductive material:
   - Seed unit ☐
   - Part of plants ☐
   - Planting stock ☐

3. Category of reproductive material
   - Qualified ☐
   - Tested ☐

4. Type of basic material:
   - Seed orchard ☐
   - Parent of family(ies) ☐

5. Purpose: .....

6. Country register reference or identity of basic material in National register: .....

7. (If appropriate) Autochthonous ☐ Not autochthonous ☐ Unknown ☐
   Indigenous ☐ Not indigenous ☐

8. Origin of basic material (for material which is not autochthonous or indigenous, if known):

.....

9. Country and Region of provenance or location of basic material: .....
   Provenance (Short title): .....

10. Seed derived from:
    - open pollination ☐
    - supplemental pollination ☐
    - controlled pollination ☐

11. Year in which seeds ripened:.....

12. Quantity of reproductive material: .....

13. Is the material covered by this certificate the result of a subdivision of a larger lot covered by a previous EC Certificate? Yes ☐ No ☐

Previous certificate number .....Quantity in initial lot .....

14. Length of time in nursery: .....

15. Number of components represented:
Families .....
Clones.....

16. Altitude or altitudinal range of site of basic material: .....

17. Has genetic modification been used in the production of the basic material? Yes ☐ No ☐

18. For reproductive material derived from parents of family(ies):

Crossing design .....Range of percentage composition of component families.....

19. Has there been subsequent vegetative propagation of material derived from seed?
Yes ☐ No ☐

Method of propagation .....Number of cycles of propagation.....

20. Other relevant information: .....

21. Name and address of supplier .....

.....

Name and Address of Official Body:	Stamp of Official Body: Date:	Name of Responsible Officer: Signature:

SCHEDULE 8

Regulation 13(8)

MODEL MASTER CERTIFICATE OF IDENTITY FOR REPRODUCTIVE MATERIAL DERIVED FROM CLONES AND CLONAL MIXTURES

(Certificate must contain all the information outlined below, and in the exact format)

ISSUED IN ACCORDANCE WITH DIRECTIVE 1999/105/EC

MEMBER STATE: ..... CERTIFICATE No EC:/(MEMBER STATE CODE)/(No) .....

It is certified that the forest reproductive material described below has been produced:

in accordance with the EC Directive ☐

reproductive material under transitional arrangements ☐

1. (a) Botanical name: .....
(b) Name of basic material (as mentioned in the catalogue): .....

2. Nature of reproductive material:
Part of plants ☐
Planting stock ☐

3. Category of reproductive material

Qualified ☐

Tested ☐

4. Type of basic material:

Clones ☐

Clonal mixture ☐

5. Purpose: .....

6. Country register reference or identity of basic material in National register: .....

7. (If appropriate) Autochthonous ☐ Not autochthonous ☐ Unknown ☐

Indigenous ☐ Not indigenous ☐

8. Origin of basic material (for material which is not autochthonous or indigenous, if known):

.....

9. Country and Region of provenance or location of basic material: .....

Provenance (Short title): .....

10. Has genetic modification been used in the production of the basic material? Yes ☐ No ☐

11. (a) Method of propagation: .....

(b) Number of cycles of propagation: .....

12. Quantity of reproductive material: .....

13. Is the material covered by this certificate the result of a subdivision of a larger lot covered by a previous EC Certificate? Yes ☐ No ☐

Previous certificate number .....Quantity in initial lot .....

14. Length of time in nursery: .....

15. For clonal mixtures:

Number of clones in mixture: .....Range of percentage composition of component clones: .....

16. Other relevant information: .....

17. Name and address of supplier .....

.....

Name and Address of Official Body:	Stamp of Official Body: Date:	Name of Responsible Officer: Signature:

SCHEDULE 9

Regulation 17(10)

REQUIREMENTS FOR EXTERNAL QUALITY STANDARDS FOR *POPULUS* SPP. PROPAGATED BY STEM CUTTINGS OR SETS

1. Stem cuttings

(a) Stem cuttings shall not be considered to be of fair marketable quality if any of the following defects exist:

(i) their wood is more than two years old;

(ii) they have less than two well formed buds;

(iii) they are affected by necroses or show damage by harmful organisms;

(iv) they show signs of desiccation, overheating, mould or decay.

(b) Minimum dimensions for stem cuttings –

– minimum length: 20 cm,

– minimum top diameter:

Class EC 1: 8 mm

Class EC 2: 10 mm.

2. Sets

(a) Sets shall not be considered to be of fair marketable quality if any of the following defects exist:

(i) their wood is more than three years old;

(ii) they have less than five well formed buds;

(iii) they are affected by necroses or show damage by harmful organisms;

(iv) they show signs of desiccation, overheating, mould or decay;

(v) they have injuries other than pruning cuts;

(vi) they have multiple stems;

(vii) they have excessive stem curvature.

(b) Size classes for sets

Class	*Minimum diameter (mm) at mid-length*	*Minimum height (m)*
Non-Mediterranean regions		
N1	6	1.5
N2	15	3.00
Mediterranean regions		
S1	25	3.00
S2	30	4.00

SCHEDULE 10

Regulation 17(12)

REQUIREMENTS WHICH MUST BE MET BY PLANTING STOCK WHICH IS TO BE MARKETED TO THE END-USER IN THE MEDITERRANEAN CLIMATIC REGION

Planting stock shall not be marketed unless 95% of each lot is of fair marketable quality and the requirements and specifications of paragraphs 1 to 3 of this Schedule are met.

1. Planting stock shall not be considered to be of fair marketable quality if any of the following defects exist:

(a) injuries other than pruning cuts or injuries due to damage when lifting;

(b) lack of buds with the potential to form a leading shoot;

(c) multiple stems;

(d) deformed root system;

(e) signs of desiccation, overheating, mould, decay or other harmful organisms;

(f) the plants are not well balanced.

2. Size of the plants:

Species	*Maximum age (years)*	*Minimum height (cm)*	*Maximum height (cm)*	*Minimum root collar diameter (mm)*
Pinus halepensis	1 2	8 12	25 40	2 3
Pinus leucodermis	1 2	8 10	25 35	2 3
Pinus nigra	1 2	8 10	15 20	2 3
Pinus pinaster	1 2	7 15	30 45	2 3
Pinus pinea	1 2	10 15	30 40	3 4
Quercus ilex	1 2	8 15	30 50	2 3
Quercus suber	1	13	60	3

3. Size of the container, where used

Species	*Minimum volume of the container (cm^3)*
Pinus pinaster Other species	120 200

SCHEDULE 11

Regulation 19(4)

SMALL QUANTITIES OF SEEDS WHICH MAY BE MARKETED WITHOUT FULFILLING THE REQUIREMENTS OF REGULATION 19(2)(b) AND (d)

(Listed by species)

CONIFERS		small quantity
Abies alba	Mill.	1,200 g
Abies cephalonica	Loud.	1,800 g
Abies grandis	Lindl.	500 g
Abies pinsapo	Boiss.	1,600 g
Cedrus atlantica	Carr.	2,000 g
Cedrus libani	A.Richard	2,000 g
Larix decidua	Mill.	170 g
Larix x eurolepis	Henry	160 g
Larix kaempferi	Carr.	100 g
Larix sibirica	Ledeb.	100 g
Picea abies	Karst.	200 g
Picea sitchensis	Carr.	60 g
Pinus brutia	Ten.	500 g
Pinus canariensis	C.Smith	300 g
Pinus cembra	Linne	7,000 g
Pinus contorta	Loud.	90 g
Pinus halepensis	Mill.	500 g
Pinus leudodermis	Antoine	600 g
Pinus nigra	Arnold	500 g
Pinus pinaster	Ait.	1,200 g
Pinus pinea	L.	10,000 g
Pinus radiata	D.Don	800 g
Pinus sylvestris	L.	200 g
Pseudotsuga menziesii	Franco	300 g
BROAD-LEAVED SPECIES		
Acer platanoides	L.	3,500 g
Acer pseudoplatanus	L.	3,000 g
Alnus glutinosa	Gaertn.	40 g
Alnus incana	Moench.	20 g
Betula pendula	Roth	50 g
Betula pubescens	Ehrh.	50 g
Carpinus betulus	L.	2,500 g
Castanea sativa	Mill.	45,000 g
Fagus sylvatica	L.	6,000 g
Fraxinus angustifolia	Vahl.	2,000 g
Fraxinus excelsior	L.	2,000 g
Populus spp.		20 g
Prunus avium	L.	4,500 g
Quercus spp.	L.	40,000 g
Robinia pseudoacacia	L.	500 g
Tilia cordata	Mill.	900 g
Tilia platyphyllos	Scop.	2,500 g

SCHEDULE 12 Regulation 28(2)

FORM OF CERTIFICATE TO BE GIVEN BY AUTHORISED OFFICER UPON TAKING SAMPLES PURSUANT TO REGULATION 28(2)

THE FOREST REPRODUCTIVE MATERIAL REGULATIONS (NORTHERN IRELAND) 2002

Name .....

Address .....

.....

1. Species: .....

2. Quantity from which sample is taken: .....

3. The number(s) of any of the following documents which have been issued in respect of the material from which the sample is taken:
   - the Master Certificate: .....
   - the supplier's label or document: .....

4. Any reference number by which the supplier identifies the lot from which the sample is taken:

   .....

5. In the case of seed not covered by the Master Certificate, the place of provenance and altitude:

   . ……

6. Date of sampling: .....

7. Sampler's reference number: .....

I certify that in taking the sample referred to above I used the following method of sampling:

.....

(Signed) .....

Date .....

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations implement in Northern Ireland Council Directive 1999/105/EC of 22nd December 1999 on the marketing of forest reproductive material (O.J. No. L11, 15.1.2000, p. 17). The Directive replaces Directive 66/404/EEC on the marketing of forest reproductive material and Council Directive 71/161/EEC on external quality standards for forest reproductive material marketed within the Community. The Regulations replace the Forest Reproductive Material Regulations 1977 (S.R. 1977/194) ("the 1977 Regulations").

These Regulations make provisions for the approval of basic material for use in the production of forest reproductive material intended to be marketed, providing for four categories of forest reproductive material which may be marketed in Northern Ireland: source-identified, selected, qualified and tested. Approval of basic material for production of forest reproductive material in one or other of these categories is dependent on the basic material meeting certain criteria set out in the Schedule relevant for the particular category (Schedules 2–5).

The Regulations provide for the Department of Agriculture and Rural Development to demarcate and publish a Region of Provenance in respect of certain basic material (regulation 5), and for the establishment and maintenance by it of a Register of approved basic material (regulation 6). Provision is made for the approval, withdrawal of and amendment to approval of basic material for use in the production of forest reproductive material (regulations 7 to 9). Applicants seeking approval for a specific unit of basic material must provide the Department of Agriculture and Rural Development with certain information and afford it inspection facilities if requested to do so. Applicants may be asked to provide further information about the basic material before it is registered. Once material is approved and registered, the Regulations require successful applicants to keep the Department informed about certain matters ongoing to the continuing validity of the approval.

Regulation 11 provides for notice of collection of forest reproductive material to be given to the Department of Agriculture and Rural Development at least fourteen days prior to the collection of forest reproductive materials from identified approved basic material, and the Department may arrange to observe the collection process. Regulation 13 provides for the issue of Master Certificates in respect of material which has been collected or produced by other authorised means, such as mixing or subsequent multiplication by vegetative propagation, if the material is to be marketed as forest reproductive material. A Master Certificate must be applied for within nine months of the material being collected, etc, or in any event, before the material is marketed, whichever is the sooner.

During production, forest reproductive material must be kept in separate lots according to the unit of approved basic material from which it was obtained, and each lot must satisfy the identification criteria if it is to be marketed subsequently (regulation 14).

The marketing of forest reproductive material is limited to material which has been produced from basic material approved under Part II of the Regulations in accordance with the collection and production requirements set out in Part III (regulations 10–15). There are transitional provisions which allow certain stocks of forest reproductive materials existing when the Regulations come into force to be marketed until exhaustion, and there are also provisions for material brought into Northern Ireland from Great Britain and elsewhere in the EC to be marketed under certain conditions (for the purposes of these Regulations, the Channel Islands and the Isle of Man are to be treated as part of the European Community).

There are provisions for other material which could not otherwise be marketed under these Regulations to be marketed under licence issued by the Department of Agriculture and Rural Development for scientific purposes or in the case of seed units clearly shown as not intended for forestry purposes (regulation 18). There are also labelling requirements for forest

reproductive material marketed under these Regulations, principally for a suppliers' label or document disclosing key information (including the Master Certificate number) to accompany the material when it is marketed.

Suppliers of forest reproductive materials must be registered and may be removed from the register if the Department is satisfied that a breach of the Regulations has occurred for which the registered supplier is responsible (regulation 16). Forest reproductive material may not be marketed by persons who are not registered suppliers, and commercial importers who bring forest reproductive material into Northern Ireland intending to market it must also be registered.

The seed testing requirements of the 1977 Regulations have been replaced by independent assessments carried out using techniques approved in advance by the Department of Agriculture and Rural Development. There is no longer a requirement for testing to take place at an official seed testing station (regulations 19(2) and 20).

Restrictions exist as to material exported elsewhere in the European Community from Northern Ireland (regulations 21 and 22) so that such forest reproductive material circulating in the Community which has been produced in Northern Ireland should comply with the regime as implemented in Great Britain, the Channel Islands, the Isle of Man and other Member States.

There are various requirements imposed as to record keeping by those who successfully apply for approval of basic material, by registered suppliers, and by any other person undertaking the collection, production, storage, processing or transportation of forest reproductive material (regulation 26), and authorised officers have powers to inspect premises and take samples (regulation 27). Similar provisions are made as to the treatment of seed samples and their use in criminal proceedings as existed under the 1977 Regulations. (regulations 28 and 29).

Offences are created in respect of failure to provide statutory information as to the condition of basic material which has been approved, and there are offences in respect of marketing and importing material in breach of the Regulations, including an offence of marketing in breach of the requirements for suppliers and importers of forest reproductive material to be registered suppliers.

Appeal from certain decisions of the Department of Agriculture and Rural Development lie to the Plant Varieties and Seeds Tribunal (regulation 32), and forest reproductive material intended for purposes other than forestry is exempted on certain conditions, under regulation 33; under regulation 3, these Regulations do not apply to forest reproductive material intended for export or re-export to third countries.

The Regulation imposes negligible costs to the industry and no Regulatory Impact Assessment `has been undertaken in respect of Northern Ireland.

£6·00

Published by The Stationery Office Limited

Printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly

Dd. N789. C3. 1/03. Gp. 130. 14567.

ISBN 0-337-94511-X

9 780337 945113