

2007 No. 401

SEEDS

**The Seed Potatoes (Amendment) Regulations (Northern Ireland)
2007**

Made - - - - - *13th September 2007*

Coming into operation - *1st November 2007*

The Department of Agriculture and Rural Development^(a), in exercise of the powers conferred on it by sections 2(2), sections 1(1) and (2A), 2 and 12(1) of the Seeds Act (Northern Ireland) 1965^(b), Article 3(8) of the Agriculture (Miscellaneous Provisions) (Northern Ireland) Order 1984^(c), and being a Department designated^(d) for the purposes of section 2(2) of the European Communities Act 1972^(e) 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), after consultation, in accordance with section 1(1) of the said Act of 1965, with representatives of such interests as appear to it to be concerned, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as The Seed Potatoes (Amendment) Regulations (Northern Ireland) 2006 and shall come into operation on 1st November 2007.

(2) In these Regulations “the principal Regulations” means the Seed Potatoes Regulations (Northern Ireland) 2001^(f).

(3) The Interpretation Act (Northern Ireland) 1954^(g) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the Seed Potatoes Regulations (Northern Ireland) 2001

2. The principal Regulations are amended in accordance with regulations 3 to 22.

3.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (b) of the definition of “basic seed potatoes”, after “label or document” insert—

“and which is in accordance with Article 13(1)(a) of Council Directive 2002/56/EC of

(a) Formerly the Department of Agriculture for Northern Ireland; see S.I. 1999/283 (N.I.1), Article 3(4)

(b) 1965 c.22 (N.I.) as amended by 1970 C.20 (N.I.) S.10; S.R. & O.(N.I.) 1972 No. 351 Art.3 and Schedule 3 and S.R. 1977 No.295

(c) S.I. 1984/702 (N.I.2)

(d) S.I. 2000/2812

(e) 1972 c.68

(f) S.R. 2001 No.188

(g) 1954 c. 33 (N.I.)

13th June 2002 on the marketing of seed potatoes,(a)”;

(b) after the definition of “class” insert—

““Commission Directive 93/17” means Commission Directive 93/17/EEC(b) of 30th March 1993 determining Community grades of basic seed potatoes, together with the conditions and designations applicable to such grades;”.

(c) after the definition of “Common Catalogue” insert—

““Common Catalogue Directive” means Council Directive 2002/53/EC(c) (as amended by Council Directive 2003/61/EC(d) on the common catalogue of varieties of agricultural plant species);”.

(d) after the definition of “Community grade” insert—

““Council Directive 90/220” means Council Directive 90/220/EEC(e) on the deliberate release into the environment of genetically modified organisms;”;

““Council Directive 2002/56” means Council Directive 2002/56/EC of 13th June 2002(f) on the marketing of seed potatoes;”;

““Council Directive 2003/61” means Council Directive 2003/61/EC of 18th June 2003(g) on the marketing of seed potatoes, as it amends Article 20 of 2002/56;”

““Commission Decision 2004/3” means Commission Decision 2004/3/EC of 19 December 2003 authorising, in respect of the marketing of seed potatoes in all or part of the territory of certain member States, more stringent measures against certain diseases than are provided for in Annexes I and II to Directive 2002/56;”;

““Commission Decision 2004/842” means Commission Decision 2004/842/EC of 1 December 2004(h) concerning implementing rules whereby member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted;”.

(e) after the definition of “damage” insert—

““declared net weight” means the net weight of seed potatoes contained in a package or container as declared at the time of an application for an official label under regulation 12(3);”;

(f) after the definition of “Department” insert—

““Directive 2001/18” means Directive 2001/18/EC(i) of the European Parliament and of the Council of 12th March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220(a);”.

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- (a) O.J. No. L 193 20.07.2002, p.60 as amended by Commission Decision 2003/66/EC (O.J. No. L 025 30.01.2003, p.42) and Council Directive 2003/61/EC (O.J. No. L 165 18.06.2003, p.23)
- (b) O.J. No. L 106, 30.04.1993, p.7. The grades of EEC grade 1, EEC grade 2 and EEC grade 3 stated in Commission Directive 93/17/EEC are now referred to as EC grade 1, EC grade 2 and EC grade 3 respectively; see references in Article 1 of Commission Decision of 19 December 2003 authorising, in respect of the marketing of seed potatoes in all or part of the territory of certain member States, more stringent measures against certain diseases than are provided for in Annexes I and II to Council Directive 2002/56/EC (O.J. L 2, 6.1.2004, p.47)
- (c) O.J. No. L 193 20.07.2002, p.60, as amended by Commission Decision 2003/66/EC (O.J. No. L 025 30.01.2003, p.42) and Council Directive 2003/61/EC (O.J. No. L 165 18.06.2003, p.23)
- (d) O.J. No. L 165 03.07.2003, p.23
- (e) O.J. No. L 117 08.05.1990, p.15
- (f) O.J. No. L 193 20.07.2002, p.60 as amended by Commission Decision 2003/66/EC (O.J. No. L 025 30.01.2003, p.42) and Council Directive 2003/61/EC (O.J. No. L 165 18.06.2003, p.23)
- (g) O.J. No. L 165 03.07.2003, p.23
- (h) O.J. No. L 362 09.12.2004, p.21
- (i) O.J. No. L 106 17.04.2001, p.1 as amended by Commission Decision 2002/623/EC (O.J. No. L 200 30.07.2002, p.22), Regulation 1829/2003/EC of the European Parliament and the Council of 22nd September 2003 (O.J. No. L 268 18.10.2003, p.1) and Regulation 1830/2003/EC of the European Parliament and the Council of 22nd September 2003 (O.J. No. L 268 18.10.2003, p.24)

- (g) in the definition of “disease or pest” for “Tables I, II, III, IV and V of Schedule 6” substitute “Tables I, II, III and IV of Schedule 6”;
- (h) in the definition of “genetically modified” for “Council Directive 90/220/EEC” substitute “Directive 2001/18”;
- (i) after the definition of “lot” insert—

““marketing” means—

- (a) selling, holding with a view to sale or offering for sale; and
- (b) any disposal, supply or transfer for the purpose of commercial exploitation of seed potatoes to third parties,

whether or not for consideration and for these purposes “commercial exploitation” shall not be taken to include the supply of seed potatoes to any person for the purpose of processing or packaging them provided he does not acquire title to the seed potatoes supplied; and “market” and “marketed” shall be construed accordingly;”

- (j) after the definition of “member State” insert—

““National List” means a list of varieties of potato species prepared and published—

- (a) in accordance with regulation 3 of the Seeds (National List of Varieties) Regulations 2001**(b)**; or
- (b) by a member State other than the United Kingdom pursuant to Article 3 of Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species**(c)** as amended by the Food and Feed Regulation**(d)**;

“official document” means—

a document issued or approved by the Department or where the seed potatoes are produced outside Northern Ireland which meets the requirements of Article 13(1)(b) of Council Directive 2002/56**(e)**;

- (k) replace the definition of “official label” with the following—

““official label” means—

- (a) for seed potatoes produced in Northern Ireland, a label which complies with the requirements set out in Part I of Schedule 5 and which is supplied by or on behalf of the Department; and
- (b) for seed potatoes produced outside Northern Ireland, a label issued or approved by the Certification Authority in the country or territory where the seed potatoes were produced which meets, as appropriate to the seed potatoes to which the label relates, the requirements of Article 13(1)(a) or Article 18(f) of Directive 2002/56 or Article 9 of Commission Decision 2004/842;”

- (l) in the definition of “pre-basic seed potatoes”—

- (i) delete “and” from the end of sub-paragraph (a);
- (ii) after “label or document,” and before “approved by the authority” in sub-paragraph (b) insert “in accordance with Article 18(f) of Council Directive 2002/56,”;
- (iii) after “Northern Ireland;” at the end of paragraph (b) insert “and”;
- (iv) insert the following new sub-paragraph—
 - “(c) pre-basic seed potatoes may be placed on the market in accordance with the provisions of Articles 4 and 18 of Council Directive 2002/56.”.

- (m) after the definition “protected region” insert—

(a) O.J. No. L 117, 08.05.1990, p.15

(b) S.I. 2001/3510

(c) O.J. No. L. 193, 20.7.2002, p.1

(d) O.J. No. L. 268, 18.10.2003, p.1; i.e. Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed

(e) O.J. No. L 193, 20.07.2002, p.60

““relevant authority or authority” means the authority in the country or place where seed potatoes are produced which is concerned with the classification and certification of seed potatoes in that country or place for the purposes of Council Directive 2002/56.

“Regulation (EC) No 1829/2003” means Regulation (EC) 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (i.e. the “Food and Feed Regulation”)(a);”.

(n) after the definition of “size” insert—

““test and trial seed potatoes” means seed potatoes which—

- (a) in relation to seed potatoes produced in Northern Ireland, are seed potatoes which have been authorised by the Department for marketing for test and trial purposes in accordance with regulations 4 and 4A and Schedule 11 of the principal Regulations (as amended by regulations 5 and 21 of these Regulations); and
- (b) in relation to seed potatoes produced outside Northern Ireland, are seed potatoes brought into Northern Ireland in a package or container which bears an official label in accordance with Article 9 of Commission Decision 2004/842.”.

(3) In paragraph (2) after “the Plant Health Order (Northern Ireland)” for “1993” substitute “2006”(b).

(4) After paragraph (6), insert—

“(7) In relation to seed potatoes produced in Switzerland, any reference in these Regulations to Council Directive 2002/56 or Commission Decision 2004/842 or any provision thereof shall be construed as a reference to the legislation of the Swiss Confederation having equivalent effect in accordance with the Swiss trade agreement on trade in agricultural products(c), as amended by amendments up to and including Commission Decision 2004/660/EC(d);

(8) Expressions in these Regulations which are not defined in this regulation or elsewhere in these Regulations and which appear in Directive 2002/56 or Commission Decision 2004/842 have the same meaning in these Regulations as they have in Directive 2002/56 or Decision 2004/842.”.

4. For regulation 3 (exemptions) substitute—

“Exemptions

3.—(1) These Regulations shall not apply to seed potatoes produced in the Republic of Ireland consigned through Northern Ireland to a destination outside Northern Ireland if, without being unloaded in Northern Ireland, they are moved direct from the point of entry to the point of exit.

(2) The provisions of Council Directive 2002/56 do not apply to seed potatoes intended for export to any ‘third’ country, i.e. any country outside the European Community, in accordance with Article 1 of Council Directive 2002/56.”

5.—(1) Regulation 4 (marketing of seed potatoes) is amended as follows.

(2) For paragraph (1) substitute—

“Subject to the provisions of regulation 21, a person shall not market any potatoes as seed potatoes other than pre-basic seed potatoes, seed potatoes for test and trial purposes or for scientific purposes or selection work, or basic seed potatoes which have been graded at a Community Grade and which meet the requirements of Commission Decision 2004/3/EC of

(a) O.J. No. L 268, 18.10.2003, p.1

(b) S.R. 2006/82

(c) O.J. No. L 114, 30.4.2002, p.166. This, together with six other Agreements with the Swiss Confederation, was approved by the Council and the Commission by way of Council and Commission Decision 2002/309/EC, Euratom, OJ L 114, 30.4.2002, p.1.

(d) O.J. No. L 301, 28.9.2004, p.55.

19 December 2003 authorising, in respect of the marketing of seed potatoes in all or part of the territory of certain Member States, more stringent measures against certain diseases than are provided for in Annexes I and II to Council Directive 2002/56/EC.”;

(3) In paragraph (2), for “or basic seed potatoes” substitute “, scientific purposes and selection work seed potatoes and test and trial seed potatoes or basic seed potatoes—”;

(4) In paragraph (3), for sub-paragraphs (a) and (b) substitute—

- “(a) pre-basic seed potatoes;
- (b) basic seed potatoes of a Community grade;
- (c) scientific purposes and selection work seed potatoes; or
- (d) test and trial seed potatoes.”;

(5) Delete paragraph (4);

(6) For paragraph (5) substitute—

“(5) If the conditions specified in paragraph (6) are satisfied small quantities of seed potatoes which contain any genetically modified material may be marketed for scientific or selection work or for test and trial purposes.”;

(7) In sub-paragraph (6)(a) and head (7)(a)(ii) for “90/220/EEC” substitute “2001/18 and/or Commission Decision 2004/842”;

(8) In paragraphs (7)(a)(i) and 7(a)(ii) for “scientific purposes or selection work” substitute “for scientific purposes or selection work or for test and trial purposes.”;

(9) For paragraph (7)(b)(ii) substitute the following—

“an authorisation would be in accordance with the purpose of Articles 6(1) and 18 of Council Directive 2002/56/EC on the marketing of seed potatoes, as last amended by Council Directive 2003/61/EC, and/or Commission Decision 2004/842”;

(10) After paragraph (7) insert—

“(8) In this regulation, “scientific and selection seed potatoes” means seed potatoes which—

- (a) in relation to seed potatoes produced in Northern Ireland, are seed potatoes which have been authorised by the Department for marketing in accordance with regulation 4; and
- (b) in relation to seed potatoes produced outside Northern Ireland, are seed potatoes which have been authorised by the Certification Authority in the country or territory where the potatoes were produced for marketing in accordance with Article 6(1)(a) of Council Directive 2002/56.”

(11) After regulation 4 (marketing of seed potatoes) insert—

“Test and trial seed potatoes

4A.—(1) The Department may authorise marketing of seed potatoes for tests or trials carried out at agricultural enterprises to gather information on the cultivation or use of a variety of potato species in accordance with this regulation and Schedule 11 and in accordance with Article 4 of Commission Decision 2004/842.

(2) Application for authorisation or renewal of authorisation to market seed potatoes in accordance with paragraph (1) shall be made in writing to the Department and shall be accompanied by such information as it may require, including a reference to the original authorisation and any available information which supplements the information already provided on the description, whether the maintenance and/or cultivation or use of the variety concerned is still ongoing, if not otherwise available to the Department.

(3) The Department shall not authorise marketing—

- (a) of an amount of seed potatoes in excess of that permitted by Article 7 of Commission Decision 2004/842;

(b) of seed potatoes which contain any genetically modified material unless that material is authorised under the Food and Feed Regulation or Part C of Directive 2001/18.

(4) Authorisation given in accordance with paragraph (1), or the renewal of such authorisation, shall be for a period of one year or such shorter period as the Department may specify.

(5) In authorising marketing in accordance with paragraph (1), the Department may impress such conditions as it thinks necessary or desirable having regard to the nature of the tests or trials and the nature of the seed potatoes to which the application relates, including a condition relating to the keeping of records in respect of the marketing of the seed potatoes.

(6) Authorisation given in accordance with paragraph (1) shall cease to have effect where—

(a) the application referred to in paragraph 3(a) of Schedule 11 is withdrawn or rejected in accordance with the Seeds (National List of Varieties) Regulations 2001; or

(b) the variety of potato species, to which the seed potatoes to which the authorisation relates belong, is entered in a National List or the Common Catalogue.

(7) The Department may withdraw authorisation given in accordance with paragraph (1) where there is a breach of any condition referred to in paragraph (5).

(8) The Department may require the person to whom authorisation has been given in accordance with paragraph (1) to provide it with information about—

(a) the results of the tests or trials to which the authorisation relates; and

(b) the quantities of seed potatoes marketed during the authorised period and the name of the member State in which the seed potatoes were or were intended to be marketed.”.

6. For regulation 7 (Separation in the interests of varietal purity) substitute—

“Composition of lots of seed potatoes and separation in the interests of varietal purity

7.—(1) A person shall not market pre-basic seed potatoes or basic seed potatoes otherwise than in a lot consisting wholly of seed potatoes of—

(a) one category;

(b) one variety; and

(c) one class.

(2) A person shall not market test and trial seed potatoes otherwise than in a lot consisting wholly of seed potatoes of one variety.

(3) For the purposes of this regulation a lot of seed potatoes shall be treated as if it consists wholly of one variety provided that—

(a) it complies with the requirements of Schedule 4;

(b) in relation to seed potatoes produced outside Northern Ireland, the lot is sufficiently homogeneous in accordance with the standards imposed by the Certification Authority pursuant to Council Directive 2002/56 in respect of the marketing of those potatoes and in accordance with Article 6(5) of Commission Decision 2004/842; and

(c) for the examination of seed potatoes for test and trial purposes or for scientific purposes or selection work, samples shall be drawn officially or under official supervision, in accordance with appropriate methods, as required by Article 6 of Commission Decision 2004/842.”.

7.—(1) Regulation 10 (packages and containers) is amended as follows.

(2) In paragraph 2, after the first sentence insert the following— “The requirements of Schedule 5, Part II, paragraph 1 may not apply at the discretion of the Department.”

(3) After paragraph (4) insert the following new paragraphs in accordance with Article 11 of Council Directive 2002/56 and Commission Decision 2004/842—

“(5) A person shall not market seed potatoes otherwise than, in accordance with regulation 7 and Article 11(1) of 2002/56 and Article 8 of Commission Decision 2004/842—

- (a) a new package or container; or
- (b) a container which, having been previously used for any purpose, has been cleaned and disinfected, in accordance with the requirements of an authorised officer, since being so last used.

(6) The packages shall bear an official label in English or one of the other official languages of the European Union.

(7) The Department may provide derogations from the provisions in these Regulations in respect of packaging, sealing and marking as permitted by Article 11(2) of Directive 2002/56.

(8) The Department may authorise marketing of small quantities of seed potatoes for scientific purposes or selection work or for test and trial purposes in accordance with this regulation and Schedule 11.”.

8.—(1) Regulation 11 (Genetically modified seed potatoes) is amended as follows.

(2) In sub-paragraph (a), delete the “and” after the semi-colon.

(3) After sub-paragraph (b) insert—

“(c) The Department shall not authorise marketing of seed potatoes which contain any genetically modified material unless an authorisation is in force under Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 or Part C of Directive 2001/18 or, where appropriate, in accordance with Article 25 of Commission Decision 2004/842; and

(d) Application for authorisation to market seed potatoes in accordance with this regulation shall be made in writing to the Department and shall be accompanied by such information as it may require.”.

9.—(1) Regulation 12 (Labelling of packages and containers) is amended as follows.

(2) In paragraphs (1), (3) and (5) for “pre-basic seed potatoes and basic seed potatoes” substitute “pre-basic seed potatoes, basic seed potatoes or test and trial seed potatoes”.

(3) After paragraph (7), insert the following—

“(8) The label for unlisted varieties shall be orange and shall include the necessary information required in Articles 9 and 10 of Commission Decision 2004/842.”.

(4) After regulation 12(7), insert the following—

“(8) An official label should normally be used. If in an exceptional case the Department authorises or accepts a consignment without a label (such as small quantities under 50kg for retail sales), where an official label cannot be used an official document may be substituted, for example, where approval is by the Certification Authority of another country or territory. The official document must comply with Article 13(1) or Article 18(f) of Council Directive 2002/56, or Article 9 of Commission Decision 2004/842.”

10.—(1) Regulation 14 (Sealing of packages and containers) is amended as follows.

(2) In paragraphs (1), (2), (3) and (4), for “pre-basic seed potatoes or basic seed potatoes” substitute “pre-basic seed potatoes, basic seed potatoes or test and trial seed potatoes”.

11.—(1) Regulation 15 (Separate note, etc., of Schedule 7 particulars) is amended as follows.

(2) For “pre-basic seed potatoes and basic seed potatoes” substitute “pre-basic seed potatoes, basic seed potatoes or test and trial seed potatoes”.

12.—(1) In Schedule 1, for paragraph 2(a) substitute—

“the seed potatoes (other than seed potatoes delivered or intended to be delivered in pursuance of a sale or proposed sale elsewhere than in the United Kingdom or a member State) are of a variety for the time being listed in the National List published in accordance with the Seeds (National Lists of Varieties) Regulations 2001 or in the Common Catalogue and which has not been notified in writing by the Department as being unacceptable for classification; or”.

(2) In Schedule 1, paragraph 5(b) for “Pre-basic 1 or Pre-basic 2 seed potatoes” substitute “Pre-basic 1, 2, 3 or 4 seed potatoes.

(3) In Schedule 1, paragraph 5(b)(ii) change “0.01%” to “0.05%”; and

(4) In Schedule 1 paragraph 5(c), for “basic seed potatoes” substitute “basic seed potatoes or test and trial seed potatoes”.

13.—(1) In Schedule 2, Table I, Column 3 (*Other Requirements*) after “the owner’s agent by an authorised officer” insert “, otherwise the crop may be downgraded to the next lower grade.”;

(2) In Schedule 2, Table I, after “Pre-basic 2” insert the following—

“Pre-basic 3	Stock which was classified in the year preceding the planting of the crop as Pre-basic 2.	As for Pre-basic 1.	As for Pre-basic 1.
Pre-basic 4	Stock which was classified in the year preceding the planting of the crop as Pre-basic 3.	As for Pre-basic 1.	As for Pre-basic 1.”

14.—(1) Schedule 2, Table II is amended as follows.

(2) Delete the details in Columns 1-4 for “VTSC SEED”.

(3) In Column 2 (*Source Material*), for *Class* ELITE SEED (E) E and for *Class* CLASS A SEED A replace “EEC1 or EEC2” with “EC1 and EC2 respectively.”.

(4) In Column 3, after “the owner’s agent by an authorised officer” insert, in the three places where it occurs— “, otherwise the crop may be downgraded to the next lower grade.”

(5) In Column 4 (*Tolerances*), under CLASS A SEED A, for paragraph (ii) substitute “total virus disease — 0.8% of which not more than 0.25% shall be Leafroll and Severe mosaic;”.

15.—(1) Schedule 5 Part I is amended as follows.

(2) For (b) substitute—

“(b) (i) a package or container of pre-basic seed potatoes shall be white with a diagonal violet line; and

(ii) a package or container of test and trial seed potatoes shall be orange;”

(3) In (d) for “Variety indicated at least in Roman characters” substitute “Variety or denomination of the variety indicated in at least Roman characters”;

(4) For (3) substitute—

“(3) An official label or document for test and trial seed potatoes shall also have the markings—

(a) variety not yet officially listed; and

(b) for test and trials only.”.

16. In Schedule 5, Part II, after paragraph 1 insert the following new paragraph—

“2. Where it is impracticable due to the size or shape of a package or container, or inappropriate given the nature of the consignment being exported, the requirement in paragraph 1 above may not apply at the discretion of the Department.”.

17.—(1) Schedule 6 is amended as follows.

(2) Under *Tolerances*—

(a) in paragraph (1)(1)(b)(i) for “Pre-basic 1 or 2; and” substitute “Pre-basic 1, 2, 3 or 4; and”;

(i) delete head (1)(c) substitute—

“Table III applies to basic seed potatoes produced in any other part of the United Kingdom which are approved by the Department as being equivalent to either of these classes.”

18. For Schedule 6, Table II substitute the following—

“Table II

PRE-BASIC TO PRE-BASIC 4 CLASS AND EQUIVALENT (NORTHERN IRELAND AND OTHER PARTS OF THE UK)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
Disease, pests, damage and defects	Individual Tolerances	Group Tolerances	Collective group tolerances	Allowable % surface area cover
GROUP 1				
Wart Disease (<i>Synchytrium endobioticum</i> Schilb.)	NIL	NIL	NIL	NIL
Potato Tuber Eelworm (<i>Ditylenchus destructor</i> Thorne)	NIL	NIL	NIL	NIL
Potato Cyst Nematode (<i>Globodera</i> species infesting potatoes)	NIL	NIL	NIL	NIL
Ring Rot (<i>Clavibacter michiganensis</i> (Smith) Davis <i>et al.</i> ssp. <i>sepedonicus</i> (Spieck & Kotth) Davis <i>et al.</i>)	NIL	NIL	NIL	NIL
Brown Rot (<i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i>)	NIL	NIL	NIL	NIL
Potato Tuber Moth (<i>Phthorimaea operculella</i>)	NIL	NIL	NIL	NIL

(Zell)				
Potato Spindle Tuber Viroid	NIL	NIL	NIL	NIL
Colorado Beetle (<i>Leptinotarsa decemlineata</i> (Say))	NIL	NIL	NIL	NIL
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GROUP II				
Blight (<i>phytophthora infestans</i> (Mont) de Bary	0.2%	0.2%	4.0%	NIL
Blackleg (<i>Erwinia carotovora</i> (Jones) Bergey <i>et al. ssp atroseptica</i> (Hellmers & Dowson) Dye) or <i>Erwinia chrysanthemi</i> Burkholder <i>et al.</i> or both	0.05%	0.2%	4.0%	NIL
Gangrene/Dry Rot/Wet Rot	0.1%	0.2%	4.0%	NIL
Frost damaged tubers	0.1%	0.2%	4.0%	NIL
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GROUP III				
Skin spot (<i>Polyscytalum pustulans</i> (Owen & Wakefield) M. B. Ellis)	0.2%	3.0%	4.0%	NIL
Black scurf (<i>Rhizoctonia solani</i> Kuhn)	1.0%	3.0%	4.0%	12.5%
Powdery scab (<i>Spongospora subterranea</i> (Wallr) Lagerh)	1.0%	3.0%	4.0%	12.5%
Common scab (<i>Streptomyces species</i>)	3.0%	3.0%	4.0%	25.0%
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GROUP IV				
Blemishes such as damaged or misshapen tubers	1.0%	NIL	4.0%	NIL
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GROUP V				

Dirt or other extraneous matter	NIL	1.0%	NIL	NIL
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Note: The collective group tolerance in Column 4 applies to Groups II, III, and IV in Column 1.”

19. Delete Schedule 6 Table III.

20. For the title of Schedule 6 Table IV substitute—

“TABLE III. BASIC SEED POTATOES CLASSES AND EQUIVALENT, INCLUDING TEST AND TRIAL SEED POTATOES (NORTHERN IRELAND AND OTHER PARTS OF THE UK).”

21. For the title of Schedule 6, Table V substitute—

“TABLE IV. BASIC SEED POTATOES PRODUCED OUTSIDE THE UK.”

22. After Schedule 10, add a new Schedule 11, as follows—

“SCHEDULE 11

regulation 4A

AUTHORISATION FOR MARKETING SEED POTATOES FOR TEST AND TRIAL PURPOSES

1. On receipt of an application made in accordance with regulation 4A, an authorised officer shall—

- (a) allocate to the person making such application a number to be known as a “grower’s number” (where one does not already exist for that person);
- (b) conduct an official examination of the seed potatoes in order to determine whether the requirements of this Schedule and Table III of Schedule 6 have been met; and
- (c) subject to paragraph 3 and regulation 4A, issue an authorisation to market seed potatoes for test and trial purposes.

2. An authorisation shall state—

- (a) the name and address of the applicant;
- (b) the grower’s number;
- (c) the amount of seed potatoes for which marketing is authorised;
- (d) the period for which marketing is authorised;
- (e) the date on which the authorisation was issued;
- (f) the country of destination (if required by the Department); and
- (g) the proposed name of the variety of the seed potatoes.

3. No authorisation shall be issued by an authorised officer unless he is satisfied that—

- (a) the seed potatoes are of a variety for which an application has been made under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001 for acceptance of the variety concerned on to a National List and which application has not been withdrawn or finally determined;
- (b) the land on which the seed potatoes are growing or were grown is not land which is demarcated under Schedule 14 to the Plant Health Order (Northern Ireland)

2006(a) as contaminated with Wart Disease (*Synchytrium endobioticum* (Schilb.) Perc.);

- (c) the land on which the seed potatoes are growing or were grown is land which is not contaminated by *Globodera* species infesting potatoes;
- (d) the seed potatoes are taken from a crop of seed potatoes free from *Globodera* species infesting potatoes, *Synchytrium endobioticum* (Schilb.) Perc., *Clavibacter michiganensis* (Smith) Davis et al. ssp. *sepedonicus* (Spieck. & Kotth.) Davis et al.) and *Ralstonia solanacearum* (Smith) Yabuuchi et al.);
- (e) the growing crop meets the requirements and tolerances set out in Columns 3 and 4 of Table II of Schedule 2 in respect of Class A;
- (f) the seed potatoes are ascertained not to have exceeded any of the tolerances for the diseases, pests, damage or defects specified in Table III of Schedule 6.

4. Notwithstanding an authorisation, the Department may prohibit the use of the variety in all or in part of its territory or lay down appropriate conditions for cultivating the variety (where it has valid reasons for considering that the variety presents a risk for human health or the environment) in accordance with the conditions of Commission Decision 2004/842 and Council Directive 2002/56.

5. The Department may check maintenance of the variety. Where maintenance takes place in a member State of the EU other than the authorising member State, the Department shall assist its counterpart(s) administratively regarding the necessary checks.

6. The Department may accept maintenance in a third country, provided that the checks on practices for the maintenance afford the same assurances as those carried out in Northern Ireland or comply with Directive 2002/53.

7. The Department shall notify other member States and the EU Commission of the following—

- (a) an application, as soon as this is received, or the rejection of an application for authorisation; and
- (b) the grant, renewal or withdrawal of an authorisation.

8. The Department shall use the existing computerised information exchange systems to facilitate the exchange of information regarding connection with the application for acceptance of varieties into the national catalogues and the authorisation for seed potato varieties not yet listed.

9. In the case of genetically modified varieties of seed potatoes, authorisation shall be granted in accordance with Article 25 of 2004/842 and in accordance with the provisions of Directive 2001/18 and the Food and Feed Regulation.”.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 13th September 2007.



John Speers
A senior officer of the Department of Agriculture and Rural Development

(a) S.R. 2006/82

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Seed Potatoes Regulations (Northern Ireland) 2001 (S.R. 2001/188) (“the principal Regulations”) as amended by The Plant Health Order (Northern Ireland) 2006, which revokes regulation 22. The principal Regulations regulate the production, classification and marketing of seed potatoes in line with EC requirements. These Regulations amend the principal Regulations to implement in Northern Ireland Council Directive 2002/56/EC on the Marketing of Seed Potatoes (“the Directive”) (O.J. No. L 193 20.07.02, p.60, as last amended by Council Directive 2003/61/EC 18.06.03 O.J. No. L 165, p.23), and which consolidated the much amended Directive 66/403/EEC (O.J. No. 1 125 11.07.66, p.154). These Regulations also implement in Northern Ireland Commission Decision 2004/842/EC on the placing on the market of seed belonging to varieties which an application for entry in the national catalogue of varieties of seed potatoes has been submitted (“the National Varieties Decision”) (O.J. No. L 362, 01.12.04, p.21).

These Regulations—

allow for official documents to be used as well as official labels, in accordance with Article 13 of Council Directive 2002/56/EC (regulations 3(2)(i) and 15(4));

insert a definition of “marketing” in line with The Seed Potato (England) Regulations (2006) (regulation 3(2)(i));

update references from the Plant Health Order (Northern Ireland) 1993 to The Plant Health Order (Northern Ireland) 2006 (regulation 3(3));

implement provision for the Swiss trade agreement in accordance with Commission Decision 2004/660/EC, giving Swiss produce equivalence to that of member States (regulation 3(4));

amend and clarify the exemptions that are in operation (regulation 4);

amend the regulation concerning the marketing of seed potatoes to allow for the introduction of Directive 2001/18/EC, Council Directive 2002/56/EC, Council Directive 2003/61/EC, Commission Decision 2004/3/EC and Commission Decision 2004/842/EC (regulation 5);

regulate the composition of lots of pre-basic, basic and test and trial seed potatoes (regulation 6);

include authorisation and regulation of the marketing of seed potatoes for test and trial purposes (throughout, especially in regulations 5, 7, 8, 9, 10, 11, 15, 17, 18 and 22);

implement the National Varieties Decision on the marketing of seed potatoes for test and trial purposes belonging to varieties for which an application for national listing has been submitted (regulation 5, 12 and 22);

enable growers to bulk up stocks of unlisted varieties of seed potatoes prior to National Listing and allow entry into the Seed Potato Classification Scheme at an appropriate grade (regulations 6, 18 and 22);

ensure that packages and containers must be new or be cleaned and disinfected, in accordance with Article 11(1) of Council Directive 2002/56/EC (regulation 7(3));

amend the regulation concerning genetically modified seed potatoes to allow for the introduction of Commission Decision 2004/842, Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003, and Part C of Directive 2001/18 (regulation 8);

amend the principal Regulations so that labelling requirements take account of test and trial seed potatoes (regulations 9 and 15);

amend the principal Regulations so that sealing requirements take account of test and trial seed potatoes (regulation 10);

update references from the Seeds National List of Varieties Regulations 1982 to the Seeds National List of Varieties Regulations 2001 (regulation 12(1));

amend the tolerance for symptoms of mild or severe virus diseases attributable to infections in the mother crop, in crops grown from Pre-basic 1 and Pre-basic 2 seed potatoes from 0.01% to 0.05% (regulation 12(3));

allow for a crop being downgraded to the next lower grade where burn-off has not occurred by the specified date (regulations 13(1) and 14(4));

amend the tolerance for Class A Seed A for total viral disease from 1.0% to 0.8% to comply with international certification standards (regulation 14(5));

permit the requirement to print details of the produce, such as country of origin, on packages and containers to be discretionary (regulation 16);

replace the VTSC 1 and VTSC 2 classes with the new classes Pre-basic 3 and Pre-basic 4 (especially in Schedules 2 and 6 of the principle Regulations) and amend the tolerances in Schedule 6, Table II of the principal Regulations to cover these Classes and delete the old VTSC Table III (regulations 17, 18, 19, 20 and 21);

insert a new Schedule on Authorisation for Marketing Seed Potatoes for Test and Trial Purposes (regulation 22); and

throughout update references to EC directives and decisions in light of relevant documents released since 2001, in particular Directive 2001/18/EC, Council Directives 2002/53/EC, 2002/56/EC, 2003/61/EC, Commission Decision 2004/842/EC and regulation (EC) No. 1829/2003 of the European Parliament and of the Council of 22 September 2003.