

**2010 No. 350**

**SEEDS**

**The Seed Potatoes Regulations (Northern Ireland) 2010**

*Made* - - - - *21st October 2010*

*Coming into operation-* - *1st November 2010*

The Department of Agriculture and Rural Development(a) makes the following Regulations, in exercise of the powers conferred by 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 agriculture 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.

**Citation and commencement**

1. These Regulations may be cited as The Seed Potatoes Regulations (Northern Ireland) 2010 and shall come into operation on 1<sup>st</sup> November 2010.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Seeds Act (Northern Ireland) 1965;

“additional region” means the region for seed production approved by the Department for the purposes of the second paragraph of article 11(1) of Commission Directive 2008/62/EC;

“authorised officer” means an officer authorised for the purposes of these Regulations by the Department of Agriculture and Rural Development;

“authority concerned” means the authority in the country or place where seed potatoes are produced which is concerned with the certification and classification of seed potatoes in that country or place;

“basic seed potatoes” means—

- (a) in relation to seed potatoes produced in Northern Ireland, seed potatoes in relation to which a certificate classifying them as seed potatoes of a basic category has been issued in accordance with Schedule 1;
- (b) in relation to seed potatoes produced elsewhere, seed potatoes in a lot or part of a lot imported into Northern Ireland in a package or container, to or in which has been affixed

---

(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 S.R. & O.(N.I.) 1972 No.351 Art.3 and Schedule 3  
(c) S.I. 1984/702 (N.I. 2)  
(d) S.I. 2000/2812  
(e) 1972 c.68

or placed a label or document and which is in accordance with Article 13(1)(a) of Council Directive 2002/56/EC of 13<sup>th</sup> June 2002 on the marketing of seed potatoes(a), approved by the authority concerned which states that on examination of the potatoes they were classified as seed potatoes of a basic category in that country or place where the Department has approved the arrangements applying to basic seed potatoes in that country or place as being equivalent to those applying in Northern Ireland;

“certificate” means a certificate issued by the Department in accordance with the provisions of Schedule 1 stating in respect of the seed potatoes to which it relates the particulars specified in Schedule 3;

“certification” means—

- (c) in relation to seed potatoes produced in Northern Ireland, certification in accordance with the provisions of Schedule 1;
- (d) in relation to seed potatoes produced elsewhere, the official controls exercised by and the official examination carried out by the authority concerned;

“class” means—

- (e) in relation to seed potatoes produced in Northern Ireland the class in which the seed potatoes were placed during the course of classification and specified in the certificate relating to those potatoes, being, in the case of pre-basic seed potatoes, the class or one of the classes specified in order of superiority in Column 1 of Table 1 in Schedule 2, and in the case of basic seed potatoes any one of the classes specified in order of superiority in Column 1 of Table II of Schedule 2; and
- (f) in relation to seed potatoes produced elsewhere, the class stated in a label or document approved by the authority concerned, being a label attached to or document contained in the package or container in which the seed potatoes are imported into Northern Ireland;

“Commission Decision 2004/3/EC” means Commission Decision 2004/3/EC of 19 December 2003(b) 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/EC” means Commission Decision 2004/842/EC of 1 December 2004(c) 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;

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

“Commission Directive 2008/62/EC” means Commission Directive 2008/62/EC(e) of 20 June 2008 providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties;

“Common Catalogue” means the Common Catalogue of varieties of seed potatoes published in the Official Journal of the European Communities;

---

(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 2, 06.01.2004, p.47

(c) O.J. No. L 362, 09.12.2004, p.21

(d) 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)

(e) O.J. No. L 162 21.06.2008, p.13

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

“Community grade” in relation to basic seed potatoes means one of the grades designated by Commission Directive 93/17/EEC(c) determining Community grades of basic seed potatoes, together with the conditions and designations applicable to such grades;

“Conservation variety seed potatoes” means any variety of seed potatoes accepted by any member State into its national catalogue of varieties of agricultural plant species in accordance with Article 3 of Commission Directive 2008/62/EC;

“Council Directive 70/457/EEC” means Council Directive 70/457/EEC of 29 September 1970(d) on the common catalogue of varieties of agricultural plant species;

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

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

“Council Directive 2002/53/EC” means Council Directive 2002/53/EC of 13 June 2002(g) on the common catalogue of varieties of agricultural species;

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

“damage” means damage arising from the action of extreme temperature or from bruising or in any other way if such damage is likely to impair germination and growth or allow the spread of any disease or pest;

“Department” means the Department of Agriculture and Rural Development;

“disease or pest” means a disease or pest set out in Groups 1 to 3 in Column 1 of Tables 1, 2, 3 and 4 of Schedule 6;

“export” and “import” respectively mean the sending out of Northern Ireland to any other place and the bringing into Northern Ireland from any other place;

“genetically modified” has the same meaning as for the purposes of Council Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms;

“grower’s number” has the meaning assigned to it in regulation 11(2);

“lot” means an identifiable part of a consignment which is recorded and listed as a separate item in an invoice, delivery note or other document provided in accordance with regulation 18;

“marketing” means—

(g) selling, holding with a view to sale or offering for sale; and

(h) 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

---

(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 165 03.07.2003, p.23

(c) O.J. No. L 106, 30.04.93, p.7

(d) O.J. No. L 225, 29.09.1970, p.1

(e) 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 22 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 22 September 2003 (O.J. No. L 268 18.10.2003, p.24)

(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 193, p.1

(h) O.J. No. L 165 03.07.2003, p.23

packaging them provided he does not acquire title to the seed potatoes supplied; and “market” and “marketed” shall be construed accordingly;

“member State” means a member State of the Communities;

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

- (i) in accordance with regulation 3 of the Seeds (National List of Varieties) Regulations 2001(a); or
- (j) 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(b), as amended by Regulation (EC) No.1829/2003(c);

“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 15(3);

“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/EC;

“official examination” means an examination carried out by or on behalf of the Department;

“official label” means—

- (k) for seed potatoes produced in Northern Ireland, a label which complies with the requirements set out in Part 1 of Schedule 5 and which is supplied by or on behalf of the Department; and
- (l) for seed potatoes produced outside Northern Ireland, a label issued or approved by the authority concerned in the country or place 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 Council Directive 2002/56/EC or Article 9 of Commission Decision 2004/842/EC;

“package or container” means—

- (m) a bag, or sack, which has been previously unused; or
- (n) a box, or crate, which has either been previously unused or has been cleaned and disinfected since its previous use;

“potato” means a tuber or part thereof or any plant or part thereof of *Solanum tuberosum* L or other tuber-forming species or hybrid of *Solanum*;

“pre-basic seed potatoes” means—

- (o) in relation to seed potatoes produced in Northern Ireland, seed potatoes in relation to which a certificate classifying them as seed potatoes of a pre-basic category has been issued in accordance with Schedule 1;
- (p) in relation to seed potatoes produced outside Northern Ireland, seed potatoes being a lot or part of a lot imported into Northern Ireland in a package or container, to or in which a label or document, in accordance with Article 18(f) or Council Directive 2002/56/EC, approved by the authority concerned has been affixed or placed, stating that on examination of the potatoes they were classified as seed potatoes of a pre-basic category in that country or place where the Department has approved the arrangements applying to pre-basic seed potatoes in that country or place as being equivalent to those applying in Northern Ireland; and
- (q) 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/EC.

“protected region” means Northern Ireland and any of those regions listed in the Annex 1 to Commission Decision 2004/3/EC;

---

(a) S.I. 2001/3510, as amended by S.I. 2009/1273, S.S.I. 2004/317, S.S.I. 2005/328 and 329

(b) O.J. No. L 193, 20.07.2002, p.1

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

“region of origin” means the region forming a part or the whole of Northern Ireland identified by the Department for the purposes of article 8.1 of Commission Directive 2008/62/EC;

“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 **(a)**;

“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/EC;

“scientific purposes and selection work seed potatoes” means seed potatoes which—

- (r) in relation to seed potatoes produced in Northern Ireland, are seed potatoes which have been authorised by the Department for marketing in accordance with regulations 4 and 5; and
- (s) in relation to seed potatoes produced outside Northern Ireland, are seed potatoes which have been authorised by the authority concerned in the country or place where the potatoes were produced for marketing in accordance with Article 6(1)(a) of Council Directive 2002/56/EC;

“sealing device” means a device used to seal a package or a container of seed potatoes which will be broken if it is applied to a package or a container and that package or container is opened in the ordinary way subject to—

- (t) such a device not being deemed to include an official label which is machine stitched into the mouth of the bag;
- (u) in the case of seed potatoes produced in Northern Ireland such a device being deemed to include an official label which is machine stitched into the mouth of the bag and which is also endorsed with the official stamp of the Department;

“seed potatoes” means potatoes which bear that description or any description indicating their suitability for planting and propagation and which are capable of being used for planting and propagation or any potatoes that are intended to be used for planting and propagation;

“seed potatoes produced elsewhere” means seed potatoes produced outside Northern Ireland and imported into Northern Ireland in compliance with Orders made under the Plant Health Act (Northern Ireland) 1967**(b)** which regulate the landing of potatoes in Northern Ireland;

“size” means the size of the square of the mesh of the riddle or gauge through, or by means of which, seed potatoes are passed or retained;

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

- (v) 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 6 and Schedule 10; and
- (w) 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/EC;

“unlisted varieties” means varieties of seed potatoes not yet officially listed on or accepted onto the National List.

(2) These Regulations are without prejudice to the provisions of the Plant Health Order (Northern Ireland) 2006**(c)**.

(3) In these Regulations a reference to a tolerance in a sample shall be construed in relation to seed potatoes in the sample affected by—

---

**(a)** O.J. No. L 125, 11/07/1966 pp. 2320 - 2326

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

**(c)** S.R. 2006 No. 82, as amended by S.R. 2006 No. 165, S.R. 2006 No. 435, S.R. 2007 No. 333, S.R. 2007 No. 483 and S.R. 2008 No. 205, S.R. 2008 No. 442, S.R. 2008 No. 493, S.R. 2009 No. 179, S.R. 2010 No. 197, S.R. 2010 No. 232 and S.R. 2010 No. 307

- (a) disease, damage, blemish, pest or any combination thereof as a reference to the proportion, expressed as a percentage of the weight of potatoes so affected, in relation to the total weight of potatoes in the sample;
- (b) earth or other extraneous matter as a reference to a proportion expressed as a percentage, of the weight of such matter in relation to the total weight of potatoes in the sample.

(4) In relation to seed potatoes produced in Switzerland, any reference in these Regulations to Council Directive 2002/56/EC or Commission Decision 2004/842/EC 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;

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

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

### **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 these Regulations 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/EC.

### **Marketing of seed potatoes**

4.—(1) Subject to the provisions of regulation 24, a person shall not market any potatoes as seed potatoes other than—

- (a) pre-basic seed potatoes,
- (b) test and trial seed potatoes,
- (c) scientific purposes and selection work seed potatoes,
- (d) conservation variety seed potatoes, or
- (e) basic seed potatoes.

(2) Subject to the provisions of regulation 24, a person shall not market any pre-basic seed potatoes, scientific purposes and selection work seed potatoes, test and trial seed potatoes, conservation variety seed potatoes, or basic seed potatoes—

- (a) which have been treated with a product which is produced primarily as an application for inhibiting germination;
- (b) as being of a class superior to that into which such potatoes were classified;
- (c) as being of a class inferior to that into which such potatoes were classified except with the approval of the Department; or
- (d) otherwise than in a lot which meets the requirements as to varietal purity and size specified in Schedule 4.

(3) Subject to the provisions of regulation 24, a person shall not market any seed potatoes within the protected region other than—

- (a) pre-basic seed potatoes; or
- (b) basic seed potatoes of a Community Grade;

---

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

- (c) scientific purposes and selection work seed potatoes;
- (d) test and trial seed potatoes; or
- (e) conservation variety seed potatoes.

### **Marketing of seed potatoes for scientific purposes and selection work**

5.—(1) The Department may authorise marketing of small quantities of seed potatoes for scientific purposes and selection work in accordance with this regulation.

(2) The Department shall not authorise marketing of seed potatoes which may contain any genetically modified material unless an authorisation is in force under the Food and Feed Regulation or Part C of the Deliberate Release Directive.

(3) Application for 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 the Department may require.

### **Test and trial seed potatoes**

6.—(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 10 and in accordance with Article 4 of Commission Decision 2004/842/EC.

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

(3) The Department shall not authorise marketing—

- (a) of an amount of test and trial seed potatoes in excess of that permitted by Article 7 of Commission Decision 2004/842/EC;
- (b) of seed potatoes which contain any genetically modified material unless that material is authorised under Regulation (EC) No. 1829/2003 or Part C of Council Directive 2001/18/EC.

(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 impose 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 10 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 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.

### **Marketing of seed potatoes of conservation varieties**

7.—(1) A person shall not market conservation variety seed potatoes unless—

- (a) the seed potatoes have been produced in the variety's region of origin or additional region; and
- (b) marketing takes place in the region of origin or additional region.

(2) A person proposing to produce conservation variety seed potatoes shall, before doing so, supply the Department, in such manner and form as the Department requires, with details in writing of the size and location of the area to be used to produce that seed.

(3) For the purposes of Articles 14 and 15(2) of Commission Directive 2008/62/EC, the Department may specify the maximum amount of seed potatoes of a conservation variety that may be marketed in any given production season and different maxima for different persons or classes of persons may be specified.

(4) The amount of seed potatoes of a conservation variety marketed by a person shall not exceed any maximum amount specified under paragraph (3) in relation to that person.

### **Seed potatoes from third countries: information**

8. A person who imports a package containing a net weight of more than 2 kilograms of seed potatoes produced in a country other than a member State shall not market the seed potatoes unless that person provides the Department with the information specified in Part 3 of Schedule 5, in respect of the seed potatoes.

### **Production measures in the interests of plant health**

9. The production of seed potatoes shall at all stages be conducted in such manner as to ensure that they do not come into contact with any potatoes other than seed potatoes during growing, harvesting, storing, preparation for marketing, transportation, handling and grading.

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

10.—(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 examination of seed potatoes for test and trial purposes, samples shall be drawn officially or under official supervision, in accordance with appropriate methods, as required by Article 6 of Commission Decision 2004/842/EC.

(4) 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) in relation to seed potatoes produced in Northern Ireland, 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 authority concerned pursuant to Council Directive 2002/56/EC in respect of the marketing of those potatoes and in accordance with Article 6(5) of Commission Decision 2004/842/EC; and
- (c) for the examination of seed potatoes for test and trial purposes or for scientific purposes and 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/EC.



### **Certification and classification**

11.—(1) Application for certification of seed potato crops shall be made to the Department with such information, in such form and in such manner as it may require.

(2) On receipt of an application under paragraph (1) the Department shall allocate to the grower who produces the seed potatoes in respect of which such application has been made a number to be called a “grower’s number”.

(3) Certification and classification of basic seed potatoes and pre-basic seed potatoes shall be carried out by an authorised officer in accordance with the provisions of Schedule 1 and Schedule 2.

(4) A certificate shall not be issued in respect of seed potatoes which fail to meet the requirements and tolerances—

- (a) set out in Table 2 of Schedule 2 in respect of Class A, or
- (b) set out in regulations 4, 8, 9 and 10.

(5) The Department may withdraw a certificate after it has been issued where an authorised officer is satisfied that the seed potatoes in respect of which that certificate has been issued have not been so grown, harvested, stored, prepared for marketing, transported, handled or graded as to ensure that seed potatoes of each class or variety have been or are kept separate from all other potatoes.

### **Community grading of basic seed potatoes**

12.—(1) Basic seed potatoes marketed within Northern Ireland shall be graded by an authorised officer into one of the Community grades.

(2) Basic seed potatoes marketed outside Northern Ireland which fulfil the requirements of a Community grade may be graded by an authorised officer into that Community grade.

### **Packages and containers**

13.—(1) Subject to paragraph (2) and regulation 15, a person shall not, in the course of marketing, deliver or cause to be delivered a lot otherwise than in a package or container.

(2) A person shall not export, attempt to export or cause the export from Northern Ireland of a lot produced in Northern Ireland otherwise than in a package or container marked with the information and complying with the requirements set out in paragraph 1 of Part 2 of Schedule 5 unless that person obtains from the Department a decision to disapply the requirements in accordance with paragraph 2 of that Part.

(3) Each lot delivered, or intended for delivery, in the course of marketing shall be homogenous to the extent that the contents of each package or container in the lot is fairly and truly representative of the contents of all packages or containers in the lot.

(4) Each package or container in the lot shall be so packed that any potatoes exposed to view, or which would be exposed to view if the package or container is opened, are representative in size, condition and quality of the entire contents of that package or container.

(5) A person shall not market seed potatoes otherwise than in—

- (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; and
- (c) in accordance with regulation 10 and Article 11(1) of Council Directive 2002/56/EC and Article 8 of Commission Decision 2004/842/EC.

(6) The containers or 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 Council Directive 2002/56/EC and Commission Directive 2008/62/EC.

### **Genetically modified seed potatoes**

14.—(1) A person shall not market genetically modified seed potatoes unless—

- (a) it is clearly indicated in the sales catalogue of the person marketing the seed potatoes and in any other marketing information or marketing representations provided by that person, that the seed potatoes have been genetically modified;
- (b) any label or document, whether official or otherwise, affixed to, accompanying or following a lot or any part of a lot in accordance with the provisions of regulation 13(2), 15 or 16, shall clearly indicate that seed potatoes have been genetically modified; and
- (c) authorisation to market seed potatoes that have been genetically modified has been granted by the Department in accordance with paragraph (2).

(2) (a) An application for authorisation to market seed potatoes that have been genetically modified in accordance with this regulation shall be made in writing to the Department and shall be accompanied by such information as it may require.

- (b) 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 or Part C of Directive 2001/18/EC.

(3) If the conditions specified in paragraph (4) are satisfied small quantities of seed potatoes which contain any genetically modified material may be marketed for—

- (a) scientific purposes and selection work; and
- (b) test and trial purposes.

(4) The conditions referred to in paragraph (3) are—

- (a) the deliberate release of the genetically modified material has been authorised under a Part B consent, or the genetically modified material has been accepted for marketing in accordance with a Part C consent, issued for the purposes of Directive 2001/18/EC, or under Regulation (EC) No. 1829/2003;
- (b) the seed potatoes are accompanied during marketing by a copy of the consent;
- (c) all appropriate measures, in accordance with an environmental risk assessment in respect of the material carried out in accordance with Article 7(4) of Council Directive 70/457/EEC<sup>(a)</sup> have been taken by the producer of the seed potatoes to avoid adverse effects on human health and the environment; and
- (d) in the case of genetically modified material accepted for marketing with a Part C consent, an authorisation has been granted by the Department of the Environment in accordance with paragraph (5) to the person marketing the potatoes.

(5) An authorisation may be granted by the Department of the Environment for the purpose of paragraph (5)(d) if—

- (a) the person intending to market the small quantity of seed potatoes for scientific purposes and selection work or for test and trial purposes has made an application to that Department no later than 15 working days before the seed potatoes are marketed—
  - (i) giving the Department notice of the person's intention to market a small quantity of seed potatoes for—
    - (aa) scientific purposes and selection work;
    - (bb) test and trial purposes; or

---

(a) O.J. No. L 225, 12.10.1970, p.1 (English Special Edition Supplement Series I (66-70) p.36); as last amended by Council Directive 98/96/EC (O.J. No. L 25, 01.02.1999, p.27)

- (cc) conservation;
  - (ii) giving that Department such information relating to the acceptance for marketing of the variety of the seed potatoes concerned under Council Directive 2001/18/EC and Regulation (EC) No. 1829/2003, and the scientific purposes and selection work or test and trial purposes or conservation purposes in respect of which the marketing is to be carried out, as that Department may require for the purposes of identifying the marketing and determining whether or not to grant the authorisation; and
- (b) that Department is satisfied that—
- (i) the applicant has complied with each of the provisions of sub-paragraph (a); and
  - (ii) an authorisation would be in accordance with the purpose of Article 6(1) of Council Directive 2002/56/EC on the marketing of seed potatoes and Commission Decision 2004/842/EC.

### **Labelling of packages and containers**

**15.—**(1) Subject to paragraph 8 and regulation 19, a person shall not market a package or container of seed potatoes otherwise than in accordance with the provisions of paragraphs (2), (4), (5) and (6), and regulation 17.

(2) Subject to paragraph (4), there shall be attached to the outside of each package or container an official label on which there is correctly stated in relation to the contents the particulars set out in Part 1 of Schedule 5.

(3) Application for official labels for seed potatoes produced in Northern Ireland in respect of which a certificate has been issued under regulation 9 shall be made to the Department with such information as the Department may require. A person shall not in connection with the issue of an official label supply any information which is false in a material respect.

(4) If a package or container has been re-sealed by an authorised officer in accordance with regulation 17 or by an officer of the authority concerned the official label in respect of it shall also state—

- (a) that the package or container has been so re-sealed;
- (b) the date of re-sealing;
- (c) the authority responsible for such re-sealing.

(5) Subject to paragraph (6) where seed potatoes have been treated with a chemical product, the name of the chemical product or the generally recognised abbreviation of the chemical name or the proprietary name of that product shall be stated on a label attached to the package or container.

(6) Paragraph (5) shall not apply where the statement required thereby is indelibly printed on the package or container or on a wear and tear resistant label, or adhesive label, attached to that package or container.

(7) A person shall not in connection with the marketing or preparation for marketing of seed potatoes wilfully reproduce, remove, deface, conceal or misuse in any way—

- (a) an official label;
- (b) a label attached in accordance with paragraph (5) or (6);
- (c) a label approved by the authority concerned; or
- (d) any particulars or statement printed on a package or container.

(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), or where an official label cannot be used, an official document may be substituted, for example, where approval is by the authority concerned of another country or place. The official document must comply with Article 13(1) or Article 18(f) of Council Directive 2002/56/EC, or Article 9 of Commission Decision 2002/842/EC.

(9) The official label for unlisted varieties of test and trial seed potatoes shall be orange and shall include the necessary information required in Articles 9 and 10 of Commission Decision 2004/842/EC.

#### **Withholding or withdrawal of sealing devices or official labels**

16.—(1) An authorised officer may in respect of a lot or any part thereof withhold or withdraw a sealing device or official label where the officer is reasonably satisfied that—

- (a) the lot or part thereof has not been so harvested, stored, prepared for marketing, transported, handled or graded as to ensure that seed potatoes of one class or variety have been or are kept separate from all other potatoes;
- (b) the lot or part thereof does not comply with the requirements as to varietal purity and size specified in Schedule 4 in relation to a lot of seed potatoes of the class stated on the label;
- (c) the lot or part thereof is not contained, or intended for delivery, in a package or container;
- (d) the lot or part thereof has been treated with a product which is produced primarily as an application for inhibiting germination;
- (e) a sample taken from the lot exceeds any of the tolerances for disease, pest, damage, blemish or impurity specified in the Tables set out in Schedule 6;
- (f) an official label already issued in respect of the lot contains particulars which are false in a material respect;
- (g) the lot is delivered, or intended for delivery, in conditions which expose potatoes in the lot to damage by frost or other weather conditions; or
- (h) there has been any other failure to comply with the provisions of these Regulations.

(2) Where a certificate has been issued in respect of a crop and Potato Cyst Nematode is subsequently found in the land in which any of the potatoes comprised in that crop were grown an authorised officer shall cancel such certificate in respect of any unsold portion of that crop or part thereof.

(3) If in the opinion of the Department weather conditions are such that they do not permit delivery in the course of marketing of seed potatoes produced in Northern Ireland without a risk of damage by frost to such potatoes the Department may, for such period as it may decide, withhold sealing devices for such potatoes. A decision to withhold sealing devices shall be communicated by the Department to representatives of such interests as appear to the Department to be concerned.

(4) An authorised officer shall not, without the authority of the person who in accordance with regulation 9 made an application for certification and classification of the crop, apply a sealing device to any seed potatoes from such crop.

#### **Sealing of packages and containers**

17.—(1) Subject to paragraph (3) and regulation 19, a person shall not market a package or container of seed potatoes produced outside Northern Ireland unless that package or container has been sealed by or under the supervision of an authorised officer or an officer of the authority concerned and the sealing device thus applied remains unbroken.

(2) Subject to paragraph (3) and regulation 19, a person shall not market a package or container of seed potatoes produced in Northern Ireland unless that package or container has been sealed by an authorised officer and the sealing device thus applied remains unbroken.

(3) Where a sealing device on a package or container of seed potatoes has been broken that package or container shall not be re-sealed with a sealing device except by or under the supervision of an authorised officer or an officer of the authority concerned.

### **Separate note, etc., of Schedule 7 particulars**

18. Subject to regulation 19, a person who sells, consigns or delivers seed potatoes shall furnish to the purchaser, not later than 14 days after the sale or the delivery, whichever is the later, of such seed potatoes a sale note, delivery note, invoice or similar document setting out in respect of those seed potatoes the particulars listed in Schedule 7.

### **Retail sales**

19. Regulations 13, 15, 17 and 18 shall not apply to a sale by retail of a quantity of less than 50 kg of pre-basic seed potatoes or basic seed potatoes—

- (a) where, at the time of the sale, there was conspicuously displayed on or in close proximity to the seed potatoes a statement setting out the particulars listed in Schedule 7; or
- (b) in new containers, upon each of which there is printed or otherwise legibly or indelibly marked or to or in which there is attached or inserted a label setting out the particulars listed in Schedule 7.

### **Tolerances**

20.—(1) Where particulars of the variety of seed potatoes being marketed are stated pursuant to these Regulations, the particulars so stated shall be deemed to be correct if the varietal impurity of those seed potatoes does not exceed 0.1% by number of tubers or plants.

(2) The tolerances set out in Column 4 of Tables 1 and 2 of Schedule 2 are to be calculated as the number of plants in a sample affected by disease or impurity expressed as a percentage of the total number of plants in that sample.

(3) The tolerances specified in the Tables set out in Schedule 6 are to be calculated as the weight of seed potatoes in a sample affected by disease or pest, damage, blemish, or impurity expressed as a percentage of the total weight of seed potatoes in that sample.

### **Taking of samples**

21.—(1) Where a sample of seed potatoes is required for the purposes of these Regulations such sample shall be taken by an authorised officer in accordance with the provisions of this regulation.

(2) Where a sample of seed potatoes is required in connection with the certification or classification of seed potatoes an authorised officer may take a sample of the soil in which the crop of such potatoes is growing or of any part of the plant of that crop, of such quantity or number and from such part of that crop as the officer may think appropriate.

(3) Where a sample of seed potatoes is required otherwise than as is mentioned in paragraph (2) an authorised officer shall take the sample in accordance with the provisions of Schedule 8.

### **Sub-standard seed potatoes**

22.—(1) Where in the course of an official examination of seed potatoes an authorised officer is reasonably satisfied that such potatoes do not meet the requirements of these Regulations the officer shall serve a notice on the person in whose possession or charge the potatoes appear to be so informing that person and prohibiting delivery in the course of marketing of those potatoes as seed potatoes.

(2) Where in the course of an official examination of seed potatoes an authorised officer is of the opinion that any of such potatoes are affected, or may within a period of 14 days beginning with the date of such examination become affected, by a disease, pest or damage to such an extent that such potatoes may not meet the requirements of these Regulations the officer may serve a notice on the person in whose possession or charge the potatoes appear to be so informing that person and prohibiting delivery of those potatoes.

(3) A notice under paragraph (1) or (2) may require the person upon whom such notice is served to carry out on such premises at such time, within such period and in accordance with such

methods as are stated in the notice the measures set out therein, being measures which in the opinion of the authorised officer are necessary—

- (a) to ensure that the requirements of these Regulations are met; or
- (b) to prevent the spread by means of the seed potatoes of any disease or pest, including in particular, but without prejudice to the generality of the foregoing, any of the measures set out in Schedule 9.

(4) The measures set out in a notice under paragraph (1) or (2) shall—

- (a) not be varied except by or in accordance with the written consent of an authorised officer;
- (b) be carried out to the satisfaction of an authorised officer by and at the expense of the person upon whom the notice has been served.

(5) Where a notice under paragraph (1) or (2) has been served, and until such time as the requirements of that notice have been complied with to the officer's satisfaction, an authorised officer may withhold or remove or cause to be removed and retain any official label, or sealing device.

### **Records and information**

23.—(1) A person who produces seed potatoes shall for a period of not less than 2 years maintain records of—

- (a) such potatoes purchased by that person for planting;
- (b) particulars of the crops grown from such potatoes; and
- (c) the sales or other disposal of the produce of those crops.

(2) A person who markets seed potatoes shall for a period of not less than 2 years thereafter maintain a record of the person's marketing of such seed potatoes.

(3) A person who produces, markets or otherwise has or has had possession of or charge of seed potatoes shall, if so required by notice from an authorised officer, within 7 days of the service of the notice, give to an authorised officer any information in that person's possession as to the identity, address and occupation of any person in whose possession or under whose charge such potatoes are or have been and shall also produce for examination by an authorised officer any declaration, certificate, label, record or invoice relating to the planting, classification or marketing of such seed potatoes.

(4) Information given under paragraph (3) shall not be available as evidence in any proceedings under these Regulations against a person required to give such information except in respect of an alleged failure to comply with this regulation.

### **Power to exempt**

24. Notwithstanding any provision in these Regulations the Department may, subject to such conditions as it thinks fit, exempt any person, class of person or persons generally from compliance with any of the requirements of these Regulations in respect of seed potatoes.

### **Modifications of the Act**

25. The operation of the provisions of the Act referred to in paragraphs (a) and (b) shall in connection with these Regulations be modified as follows—

- (a) section 7 shall not apply in respect of seed potatoes; or/and
- (b) section 9 sub-sections (2), (4), (5), (6), (7), (8) and (9) shall be omitted.

### **Revocations and consequential amendments**

26. The Regulations and Order specified in Schedule 11 to these Regulations are revoked or consequentially amended.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 21st  
October 2010.



*Mark Browne*  
A senior officer of the Department of Agriculture and Rural Development

## SCHEDULE 1

regulations 2(1) and 11(3)

### Certification of seed potatoes

1. Certification shall consist of an official examination of seed potatoes made by an authorised officer which shall include the classification of such potatoes in accordance with the provisions of Schedule 2 and the issue by the Department of a certificate of the result of that examination as specified in Schedule 3.

2. Unless an authorised officer is satisfied that—

- (a) 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
- (b) the seed potato are or were grown, harvested, stored, prepared for marketing, transported, handled and graded so as to minimize the risk of contamination by such harmful diseases or pests as notified by the Department from time to time; or
- (c) blanking in the growing crop of seed potatoes is or was not excessive; or
- (d) there has been no roguing of a pre-basic seed potato crop before inspection; or
- (e) any roguing of a basic seed potato growing crop has been carried out effectively and the growing crop has not been over rogued; or
- (f) all reasonable husbandry practices for the prevention of the occurrence, development or spread of pests and diseases have been effectively carried out;

the Department may refuse to issue a certificate.

3. A certificate for pre-basic seed potatoes shall not be issued by an authorised officer unless the officer is satisfied that the seed potatoes satisfy the minimum conditions established by the Department for classes of pre-basic seed potatoes.

4. A certificate shall not be issued by the Department unless an authorised officer is satisfied that—

- (a) the land on which the seed potatoes are growing or were grown—
  - (i) is not land in respect of which a notice has been served under Article 32 of the Plant Health Order (Northern Ireland) 2006 declaring that land to be infected with wart disease, potato ring rot, or potato cyst nematode;
  - (ii) is not land in respect of which an Inspector has demarcated a zone under Article 38(7) of the Plant Health Order (Northern Ireland) 2006 to prevent the spread of potato brown rot;
  - (iii) has by sampling and laboratory examination been found to be free from potato cyst nematode; and
  - (iv) is not demarcated under Schedule 15 to the Plant Health Order (Northern Ireland) 2006 as infested with European population of Potato Cyst Nematode; and
  - (v) is land which has not been used for growing potatoes in any of the previous 6 years for crops classified as Pre-basic 1, Pre-basic 2, Pre-basic 3 or Pre-basic 4 or, in any of the previous 4 years for crops of any other class.

but sub-paragraph (iii) does not apply in the case of seed potatoes grown in a soil free medium.

- (b) the seed potatoes have been produced from—
  - (i) basic seed potatoes or pre-basic seed potatoes;



- (ii) a crop grown with the authority of or in circumstances acceptable to the Department;  
or
- (iii) seed potatoes grown elsewhere than in Northern Ireland and in respect of which an examination acceptable to the Department has been carried out;
- (c) the seed potatoes in any crop are of a single variety;
- (d) the seed potatoes are taken from a crop which is free from the following diseases or pests—
  - Wart Disease (*Synchytrium endobioticum* (Schilb.) Perc.)
  - Potato Cyst Nematode (*Globodera* (*Heterodera*) species infesting potatoes)
  - Ring Rot (*Clavibacter michiganensis* (Smith) Davis *et al.* ssp. *sepedonicus* (Spiek & Kotth) Davis *et al.*)
  - Brown Rot (*Ralstonia solanacearum* (Smith) Yabuuchi *et al.*)
  - Potato Tuber Moth (*Phthorimaea* (= *Gnorimoschema*) *operculella* (Zell.))
  - Potato Tuber Eelworm (*Ditylenchus destructor* (Thorne))
  - Potato Spindle Tuber Viroid
  - Colorado Beetle (*Leptinotarsa decemlineata* (Say));
- (e) the seed potatoes are taken from a crop which has been classified in accordance with the provisions of Schedule 2 and in which the presence of diseased potato plants and rogues, groundkeepers and undesirable variations is ascertained not to exceed the respective tolerances set out in Schedule 2 in relation to the classes described therein.

**5. Seed potatoes shall not be classified—**

- (a) as Pre-basic TC seed potatoes, if the immediately succeeding crop produced therefrom is likely to contain—
  - (i) plants of another variety; or
  - (ii) virus affected plants;
- (b) as Pre-basic 1, 2, 3 or 4 seed potatoes, if, in relation to the immediately succeeding crop produced therefrom, the number of growing plants which—
  - (i) deviate from variety and type, is likely to exceed 0.01% of the total number of plants in that crop; or
  - (ii) show symptoms of mild or severe virus diseases attributable to infection in the mother crop, is likely to exceed 0.05% of that total number; or
- (c) as basic seed potatoes or test and trial seed potatoes or conservation variety seed potatoes, if, in relation to the immediately succeeding crop produced therefrom, the number of growing plants which—
  - (i) deviate from variety, is likely to exceed 0.1% of the total number of plants in that crop;
  - (ii) deviate from variety and type, is likely to exceed 0.25% of that total number; or
  - (iii) show symptoms of mild or severe virus diseases attributable to infection in the mother crop, is likely to exceed 4.0% of that total number.

## SCHEDULE 2

regulations 2(1), 11(3) and (4) and 20(2) and Schedule 1 paragraphs 1 and 4(e)

### Classification: source material for planting, requirements and tolerances for the growing crop

1. In the course of certification of any seed potatoes produced in Northern Ireland, an authorised officer may classify the potatoes as being pre-basic seed potatoes or basic seed potatoes of a class specified in Column 1 of Table 1 (pre-basic seed potatoes) or Table 2 (basic seed potatoes) to this Schedule if the officer is satisfied—

- (a) that the seed potatoes are derived from source material of the kind specified in the entry in Column 2 corresponding to that class;
- (b) that the requirements specified in the entry in Column 3 corresponding to that class have been met; and
- (c) on a sample that any of the tolerances specified in the entry in Column 4 corresponding to that class have not been exceeded.

2. Any tolerance in Column 4 of Table 1 or Table 2 expressed as a percentage is a reference to the proportion expressed as a percentage which the number of growing plants affected by the disease or varietal impurity bears to the total number of plants in the sample.

**Table 1**

#### PRE-BASIC SEED POTATOES

<i>Column 1</i> <i>Class</i>	<i>Column 2</i> <i>Source Material</i>	<i>Column 3</i> <i>Other Requirements</i>	<i>Column 4</i> <i>Tolerances</i>
Pre-basic TC	Nuclear stock or a crop which meets the requirements set out in Schedule 1 paragraph 4(b)(ii).	The seed potatoes shall: (a) be grown in a unit officially approved for production of Pre-basic TC; (b) be kept free, as far as practicable, from diseases and aphids by appropriate husbandry measures.	(i) Deviations from variety— nil; (ii) Severe mosaic— nil; (iii) Leafroll— nil (iv) Mild Mosaic— nil; (v) Blackleg— nil. (vi) <i>Dickeya</i> spp.— nil.
Pre-basic 1	Stock which was classified in the year preceding the planting of the crop as Pre-basic TC or a crop which meets the requirements set out in Schedule 1 paragraph 4(b)(ii).	The seed potatoes shall: (a) be grown and entered for classification by a person whose facilities, planting arrangements and manner of keeping	(i) Deviations from variety and type and groundkeepers — nil; (ii) Severe mosaic— nil; (iii) Leafroll— nil;

- appropriate records in relation to production of seed potatoes are acceptable to the Department;
- (iv) Mild mosaic— nil;
- (v) Blackleg— nil.
- (vi) *Dickeya* spp.— nil.

- (b) be grown in the year in which they are entered for classification on an agricultural unit on which all potato crops planted were seed potatoes of Pre-basic classes;
- (c) be sufficiently isolated from potato crops below the standard of Pre-basic 3 and Pre-basic 4 in order to prevent the transmission of disease from such crops; and
- (d) have had the foliage of the plants destroyed by the date notified to the owner of the crop or the owner's agent by an authorised officer,

otherwise the crop may be downgraded to the next lower grade.

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

Pre-basic 4	preceding the planting of the crop as Pre-basic 2. 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.
-------------	---	---------------------	---------------------

**Table 2**

**BASIC SEED POTATOES**

<i>Column 1</i> <i>Class</i>	<i>Column 2</i> <i>Source Material</i>	<i>Column 3</i> <i>Other Requirements</i>	<i>Column 4</i> <i>Tolerances</i>
SUPER ELITE SEED (SE) SE 1	The seed potatoes shall:  (a) be seed potatoes derived from a stock which was classified as Pre-basic TC, Pre-basic 1, Pre-basic 2, Pre-basic 3, or Pre-basic 4 in the year preceding the planting of the crop; or  (b) be seed potatoes which meet the requirements set out in Schedule 1 paragraph 4 (b)(ii) and (iii).	The seed potatoes shall:  (a) be sufficiently isolated from potato crops below the standard of Super Elite in order to prevent the transmission of disease from such crops; and  (b) have had the foliage of the plants destroyed by the date notified to the owner of the crop or the owner's agent by an authorised officer,  otherwise the crop may be downgraded to the next lower grade.	(i) Deviations from variety and type and groundkeepers -0.05%; (ii) Leafroll and Severe mosaic- 0.01%; (iii) Mild mosaic- 0.05%;  (iv) Blackleg- 0.25%.  (v) <i>Dickeya</i> spp.- nil.
SE 2	(a) The requirements shall be the same as for SE 1 except that the seed potatoes shall be derived from a stock which was classified as SE 1 in the year preceding the planting of the crop; or	As for SE 1.	As for SE 1.

	(b) seed potatoes which meet the requirements set out in Schedule 1 paragraph 4(b)(ii) and (iii).		
SE 3	The requirements shall be the same as for SE 1 except that the seed potatoes shall be derived from a stock which was classified as SE 2 in the year preceding the planting of the crop.	As for SE 1.	As for SE 1.
ELITE SEED (E) E	The seed potatoes shall: <ul style="list-style-type: none"> <li>(a) be derived from a stock which was classified as Pre-basic TC, Pre-basic 1, Pre-basic 2, Pre-basic 3, Pre-basic 4, SE 1, SE 2, SE 3 or E in the year preceding the planting of the crop; or</li> <li>(b) be derived from seed potatoes produced in accordance with Schedule 1 paragraph 4(b)(ii) and (iii); or</li> </ul>	The seed potatoes shall: <ul style="list-style-type: none"> <li>(a) be sufficiently isolated from potato crops below the standard of Elite in order to prevent the transmission of disease from such crops; and</li> <li>(b) have had the foliage of the plants destroyed by the date notified to the owner of the crop or the owner's agent by an authorised officer,</li> </ul> <p>otherwise the crop may be downgraded to the next lower grade.</p>	<ul style="list-style-type: none"> <li>(i) Deviations from variety and type and ground keepers — 0.07%;</li> <li>(ii) total virus disease (Leafroll, Severe mosaic and Mild mosaic) — 0.5% of which not more than 0.1% (in total) shall be Leafroll and Severe mosaic;</li> <li>(iii) Blackleg — 0.5%;</li> </ul>

- (c) be derived from seed potatoes which have been found to meet the requirements of Commission Directive 93/17 and which have been designated by the authority concerned as Community grade EC1 or EC2.

CLASS A  
SEED  
A

The seed potatoes shall:

- (a) be derived either from a stock which was classified as Pre-basic TC, Pre-basic 1, Pre-basic 2, Pre-basic 3, Pre-basic 4, SE 1, SE 2, SE 3 or E in the year preceding the planting of the crop or from seed potatoes produced in accordance with Schedule 1 paragraph 4(b)(ii) and (iii); or
- (b) be derived from seed potatoes which have been found to meet the requirements of Commission Directive 93/17 and which have been designated by the authority concerned as Community grade EC1 or EC2.

The seed potatoes shall:

- (a) be sufficiently isolated from potato crops below the standard of Class A in order to prevent the transmission of disease from such crops; and
- (b) have had the foliage of the plants destroyed by the date notified to the grower of the crop or the owner's agent by an authorised officer,
  - (i) Deviations from variety and type and groundkeepers — 0.1%;
  - (ii) total virus disease — 0.8% of which not more than 0.25% shall be Leafroll and Severe mosaic;
  - (iii) Blackleg — 1.0%;

otherwise the crop may  
be downgraded to the  
next lower grade.

## SCHEDULE 3

regulation 2(1) and  
Schedule 1 paragraph 1

### Particulars to be set out in a certificate

1. Name and address of the applicant.
2. Location of the farm on which the crop was grown.
3. Grower's number.
4. Pre-basic seed potatoes or basic seed (as appropriate).
5. Class.
6. Community grade, where appropriate.
7. Date on which the certificate was issued.
8. Variety of the crop classified.
9. Area of the crop classified.
10. The grower's farm survey number and the number of the field in which the crop was grown.



SCHEDULE 4      regulations 4(2)(d) and 16(1)(b)

Seed potato tubers: requirements as to varietal purity and size

**Requirements as to varietal purity and size**

1. For the purposes of regulation 4(2)(d), the requirements, if any, set out in paragraphs 2, 3 and 4 as to the varietal purity or minimum size of or maximum size between tubers in a lot of seed potatoes are specified in relation to any lot of seed potatoes to which those paragraphs respectively apply.

**Pre-basic TC and equivalent seed potatoes**

2.—(1) This paragraph applies—

- (a) to seed potatoes classified under these Regulations as being of the class Pre-basic TC; and
- (b) to pre-basic seed potatoes produced outside Northern Ireland which are approved by the Department as being equivalent to that class.

(2) In the case of seed potatoes to which this paragraph applies there shall be no deviation from variety.

**Pre-basic 1, Pre-basic 2, Pre-basic 3, Pre-basic 4 and equivalent seed potatoes**

3.—(1) This paragraph applies—

- (a) to seed potatoes classified under these Regulations as being of the class Pre-basic 1, Pre-basic 2, Pre-basic 3 or Pre-basic 4; and
- (b) to seed potatoes produced outside Northern Ireland which are approved by the Department as being equivalent to that class.

(2) Subject to paragraphs (3) and (4), in the case of seed to which this paragraph applies—

- (a) there shall be no deviation from variety;
- (b) the minimum size is 25 millimetres; and
- (c) the maximum variation in size between the tubers in a lot is 25 millimetres.

(3) For the purposes of determining whether any lot of seed potatoes to which this paragraph applies meets the requirements specified in sub-paragraph (2)(a), the variety of any seed potatoes shall be deemed to be as stated on the official label in respect of the lot, if, on a sample taken in accordance with regulation 21(3) and Schedule 8, the proportion of the weight of potatoes which deviate from variety does not exceed 0.01% of the total weight of the sample.

(4) For the purposes of determining whether any lot of seed potatoes to which this paragraph applies meets the requirements specified in sub-paragraph (2)(b) or (c), the size of any seed potatoes shall be deemed to be as stated on the official label in respect of the lot, if, on a sample taken in accordance with regulation 21(3) and Schedule 8, the proportion of the weight of potatoes—

- (i) smaller than the minimum size stated on the official label; and
- (ii) larger than the maximum size stated on the official label

does not exceed 2% of the total weight of the sample.

**Basic seed potatoes**

4.—(1) This paragraph applies to basic seed potatoes.

(2) Subject to sub-paragraphs (3) and (4), in the case of seed potatoes to which this paragraph applies—

- (a) there shall be no variation from variety;
- (b) the minimum size is 25 millimetres; and
- (c) the maximum variation in size between tubers in a lot is 25 millimetres.

(3) For the purposes of determining whether any lot of seed potatoes to which this paragraph applies meets the requirements specified in sub-paragraph (2)(a), the variety of any seed potatoes shall be deemed to be as stated on the official label in respect of the lot, if, on a sample taken in accordance with regulation 21(3) and Schedule 8, the proportion of the weight of potatoes which deviate from variety does not exceed 0.1% of the total weight of the sample.

(4) For the purposes of determining whether any lot of seed potatoes to which this paragraph applies meets the requirements specified in sub-paragraph (2)(b) or (c)—

- (a) in the case of seed potatoes produced in the United Kingdom, the size of any seed potatoes shall be deemed to be as stated on the official label in respect of the lot, if, on a sample taken in accordance with regulation 21(3) and Schedule 8, the proportion of the weight of potatoes which are—
  - (i) smaller than the minimum size stated on the official label; and
  - (ii) larger than the maximum size stated on the official label

does not exceed 2% of the total weight of the sample; and

- (b) in the case of potatoes produced outside the United Kingdom, the size of any seed potatoes shall be deemed to be as stated on the official label in respect of the lot, if, on a sample taken in accordance with regulation 21(3) and Schedule 8, the proportion of the weight of potatoes which are—
  - (i) smaller than the minimum size stated on the official label, does not exceed 3%; and
  - (ii) larger than the maximum size stated on the official label, does not exceed 3%—

of the total weight of the sample.

SCHEDULE 5 regulations 2(1), 8, 13(2) and 15(2)

PART 1

Requirements for an official label

- 1.—(1) An official label affixed or to be affixed to—
- (a) a package or container of basic seed potatoes shall be predominantly white;
  - (b) a package or container of pre-basic seed potatoes shall be white with a diagonal violet line;
  - (c) a package or container of test and trial seed potatoes shall be orange.
- (2) An official label shall not measure less than 110mm by 67mm in size.
- (3) An official label shall state the following particulars—
- EC Rules and Standards
  - Member State
  - Country of production
  - Grower's number
  - Species indicated at least in Roman characters, under its botanical name which may be given in abridged form and without the authors' names or under its common name or both
  - Variety or denomination of the variety indicated at least in Roman characters
  - Genetically modified (*if appropriate*)
  - Pre-basic or basic seed potatoes
  - Class
  - Community grade (*as appropriate*)
  - Size
  - Net weight
  - Month and year of closing or sealing
  - Sampled...(year) (if appropriate)
  - Conservation Variety (if appropriate)
  - Region of Origin (if appropriate)
  - Region of production (if appropriate).
2. The size stated in accordance with paragraph (3) must, in the case of sizes over 35mm, be stated in multiples of 5mm.
3. An official label or official 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.

## PART 2

### Marking of packages and containers for pre-basic seed potatoes or basic seed potatoes exported from Northern Ireland

4. A package or container used for pre-basic seed potatoes or basic seed potatoes produced in Northern Ireland which is exported or intended to be exported from Northern Ireland shall be marked in letters and figures not less than 50mm high and with the following particulars—

- (a) the name, or initials, or trade brand or other symbols identifying the person who is exporting the pre-basic seed potatoes or basic seed potatoes;
- (b) Northern Ireland pre-basic seed potatoes or basic seed potatoes;
- (c) the net weight of the contents in kilogrammes.

5. Where it is impracticable given the size or shape of a package or container, or inappropriate given the nature of the consignment being exported, the Department may on an application as mentioned in Regulation 13(2) disapply the requirements in paragraph 1.

## PART 3

### Information in respect of seed potatoes more than 2 kilograms in net weight produced in a country other than a member State

1. Species.
2. Variety.
3. Category.
4. Country of production and authority concerned.
5. Country of despatch.
6. Importer.
7. Quantity of seed potatoes.

## SCHEDULE 6 regulations 2(1), 16(1)(e) and 20(3)

### Tolerances for diseases, pests, damage and defects in seed potato tubers

#### **Tolerances**

1.—(1) For the purposes of these Regulations—

(a) Table 1 applies—

- (i) to seed potatoes classified under these Regulations as being of the class Pre-basic TC; and
- (ii) to pre-basic seed potatoes produced outside Northern Ireland which are approved by the Department as being equivalent to that class;

(b) Table 2 applies—

- (i) to seed potatoes classified under these Regulations as being of the class Pre-basic 1, Pre-basic 2, Pre-basic 3 or Pre-basic 4; and
- (ii) to pre-basic seed potatoes produced outside Northern Ireland which are approved by the Department as being equivalent to these classes;

(c) Table 3 applies to basic seed potatoes, conservation varieties and equivalent, and test and trial seed potatoes, produced in Northern Ireland or any other part of the United Kingdom which are approved by the Department as being equivalent to either of these classes; and

(d) Table 4 applies in the case of basic seed potatoes produced outside the United Kingdom.

(2) Subject to paragraph (3), any tolerance in a Column of any of the Tables in this Schedule expressed as a percentage is a reference to the proportion which the weight of potatoes affected by the disease, pest, damage or defect bears to the total weight of the sample taken in accordance with regulation 21(3) and Schedule 8, expressed as a percentage.

(3) In the case of dirt or other extraneous matter, any tolerance in a Column of any the Tables in this Schedule expressed as a percentage is a reference to the proportion which the weight of such matter bears to the total weight of the sample taken in accordance with regulation 21(3) and Schedule 8, expressed as a percentage.

#### **Individual tolerances**

2. The individual tolerances set out in the entry in Column 2 of Table 1, 2, 3 or, as the case may be, 4 corresponding to the disease, pest, damage or defect set out in Column 1 of these Tables is specified in the case of seed potatoes to which the Table applies in relation to the disease, pest, damage or defect to which the entry corresponds.

#### **Group tolerances**

3. The group tolerances set out in the entry in Column 3 of Table 2, 3, or, as the case may be, 4 corresponding to the diseases, pests, damage, or defects within Group 2 or 3 set out in Column 1 of those Tables is specified in the case of seed potatoes to which the Table applies in relation to the Group to which the entry corresponds.

#### **Collective group tolerances**

4. The collective group tolerances set out in the entry in Column 4 of Table 1, 2, 3, or, as the case may be, 4 corresponding to the diseases, pests, damage or defects within Group 2, 3 and 4 set out in Column 1 of those Tables is specified in the case of seed potatoes to which the Table applies in relation to those Groups.

**Allowable surface area cover**

5.—(1) This paragraph applies, for the purposes of these Regulations, to seed potatoes to which Table 2, 3, or 4 applies.

(2) Subject to paragraph (3), an authorised officer may deem a potato in any sample of seed potatoes to which this paragraph applies not to be affected by a disease in Group 3, set out in Column 1 of the Table applicable to a potato of that class when, in the officer's opinion—

- (a) the surface area of the potato affected by the disease is less than the percentage surface area in the entry corresponding to the disease in Column 5 of the Table; and
- (b) the potato has at least two eyes at the rose end wholly unaffected by the disease.

(3) Paragraph (2) shall not apply when the disease Powdery Scab (*Spongospora subterranea* (Wallr.) Lagerh) takes its cankerous form.

**Table 1**

## PRE-BASIC TISSUE CULTURE CLASS

<i>Column 1</i> <i>Diseases, pests damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>
<b>Group 1</b>	
Wart Disease ( <i>Synchytrium endobioticum</i> (Schilb.))	NIL
Potato Tuber Eelworm ( <i>Ditylenchus destructor</i> Thorne)	NIL
Potato Cyst Nematode ( <i>Globodera</i> species infesting potatoes)	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
Brown Rot ( <i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i> )	NIL
Potato Tuber Moth ( <i>Phthorimaea operculella</i> (Zeller))	NIL
Potato Spindle Tuber Viroid	NIL
Colorado Beetle ( <i>Leptinotarsa decemlineata</i> (Say))	NIL
<b>Group 2</b>	
Blight ( <i>Phyto pthora infestatans</i> (Mont. (de Bary)	NIL
Blackleg ( <i>Pectobacterium</i> spp)	NIL
Gangrene ( <i>Phoma</i> species)/Dry Rot ( <i>Fusarium</i> species)/Wet Rot	NIL
Frost damaged tubers	NIL
<b>Group 3</b>	
Skin Spot ( <i>Polyscytalum pustulans</i> (Owen & Wakefield) M.B. Ellis)	NIL
Black Scurf ( <i>Rhizoctonia solani</i> Kuhn)	NIL
Common Scab ( <i>Streptomyces</i> species)	NIL
Powdery Scab ( <i>Spongospora subterranea</i> (Wallr) Lagerh)	NIL
<b>Group 4</b>	
External blemishes	3%
<b>Group 5</b>	
Dirt or other extraneous matter	1%

**Table 2**

PRE-BASIC 1 TO PRE-BASIC 4 CLASS AND EQUIVALENT (NORTHERN IRELAND AND OTHER PARTS OF THE UK)

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>	<i>Column 3</i> <i>Group Tolerances</i>	<i>Column 4</i> <i>Collective Group Tolerances</i>	<i>Column 5</i> <i>Allowable % surface area cover</i>
<b>Group 1</b>				
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. ssp. sepidonicus</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> Zeller))	NIL	NIL	NIL	NIL
Potato Spindle Tuber Viroid	NIL	NIL	NIL	NIL
Colorado Beetle ( <i>Leptinotarsa decemlineata</i> (Say))	NIL	NIL	NIL	NIL
<b>Group 2</b>				
Blight ( <i>Phytophthora infestans</i> (Mont.) de Bary)	0.2%	0.2%	4.0%	NIL
Blackleg ( <i>Pectobacterium spp.</i> )	0.05%	0.02%	NIL	NIL
Gangrene ( <i>Phoma species</i> )/Dry Rot ( <i>Fusarium species</i> )/ Wet Rot	0.2%	0.2%	4.0%	NIL
Frost damaged	0.2%	0.2%	4.0%	NIL



tubers

---

**Group 3**

Skin Spot ( <i>Polyscytalum pustalans</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</i> species)	3.0%	3.0%	4.0%	25.0%

---

**Group 4**

Blemishes such as damaged or misshapen tubers	1.0%	NIL	4.0%	NIL
---	------	-----	------	-----

---

**Group 5**

Dirt or other extraneous matter	1.0%	NIL	NIL	NIL
---------------------------------	------	-----	-----	-----

---

Note: The collective group tolerance in Column 4 applies to Groups 2, 3, and 4 in Column 1.

**Table 3**

BASIC SEED POTATO CLASSES AND EQUIVALENT, INCLUDING TEST AND TRIAL SEED POTATOES AND CONSERVATION VARIETY SEED POTATOES (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>
<i>Diseases, pests, damage and defects</i>	<i>Individual Tolerances</i>	<i>Group Tolerances</i>	<i>Collective Group Tolerances</i>	<i>Allowable % surface area cover</i>
<b>Group 1</b>				
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> <i>ssp.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> (Zeller))	NIL	NIL	NIL	NIL
Potato Spindle Tuber Viroid	NIL	NIL	NIL	NIL
Colorado Beetle ( <i>Leptinotarsa decemlineata</i> (Say))	NIL	NIL	NIL	NIL

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>	<i>Column 3</i> <i>Group Tolerances</i>	<i>Column 4</i> <i>Collective Group Tolerances</i>	<i>Column 5</i> <i>Allowable % surface area cover</i>
<b>Group 2</b>				
Blight ( <i>Phytophthora infestans</i> (Mont.) de Bary)	0.2%	0.5%	4.0%	NIL
Blackleg ( <i>Erwinia carotovora</i> (Jones)) Bergey et al. ssp. <i>atroseptica</i> (Hellmers & Dowson) Dye) or <i>Dickeya dadantii</i> ( <i>Erwinia chrysanthemi</i> )	0.2%	0.5%	5.0%	NIL
Soft/Wet Rot	0.2%	0.5%	5.0%	NIL
Dry Rot ( <i>Fusarium</i> species)	0.4%	0.5%	5.0%	NIL
Gangrene ( <i>Phoma</i> species)	0.4%	0.5%	5.0%	NIL
Frost damaged tubers	0.2%	0.5%	5.0%	NIL
<b>Group 3</b>				
Skin Spot ( <i>Polyscytalum pustulans</i> (Owen & Wakefield) M.B. Ellis)	2.0%	5.0%	5.0%	12.5%
Black Scurf ( <i>Rhizoctania solani</i> Kuhn)	3.0%	4.0%	4.0%	25.0%
Common Scab ( <i>Streptomyces</i> species)	5.0%	5.0%	5.0%	33.3%
Powdery Scab ( <i>Spongospora subterranea</i> (Wallr) Lagerh)	3.0%	5.0%	5.0%	12.5%
<b>Group 4</b>				
Blemishes such as damaged or misshapen tubers	2.0%	NIL	5.0%	NIL
<b>Group 5</b>				
Dirt or other extraneous matter	1.0%	NIL	NIL	NIL

**Table 4**

## BASIC SEED POTATOES PRODUCED OUTSIDE THE UK

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>	<i>Column 3</i> <i>Group Tolerances</i>	<i>Column 4</i> <i>Collective Group Tolerances</i>	<i>Column 5</i> <i>Allowable % surface area cover</i>
<b>Group 1</b>				
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>Globadera species infesting potatoes</i> )	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> (Zeller))	NIL	NIL	NIL	NIL
Potato Spindle Tuber Viroid	NIL	NIL	NIL	NIL
Colorado Beetle ( <i>Leptinotarsa decemlineata</i> (Say))	NIL	NIL	NIL	NIL
<b>Group 2</b>				
Dry Rot ( <i>Fusarium species</i> ) and Wet Rot	0.5%	NIL	6.0%	NIL
<b>Group 3</b>				
Common Scab ( <i>Streptomyces</i>	5.0%	5.0%	6.0%	33.3%

species)

---

**Group 4**

Blemishes such as damaged or misshapen tubers	3.0%	NIL	6.0%	NIL
---	------	-----	------	-----

---

**Group 5**

Dirt or other extraneous matter	2.0%	NIL	NIL	NIL
---------------------------------	------	-----	-----	-----

## SCHEDULE 7

regulations 18, 19(a) and (b)

### Particulars to be specified in a sale note, etc.

#### **Pre-basic seed potatoes**

1. Name and address of the seller

Net weight

Variety

Genetically modified (*if appropriate*)

Pre-basic seed potatoes

Class

Size

Grower's number

Particulars of any chemical treatment

#### **Basic seed potatoes, test and trial seed potatoes, scientific purposes and selection work seed potatoes and conservation variety seed potatoes**

2. Name and address of the seller

Net weight

Variety

Genetically modified (*if appropriate*)

Category

Class

Community Grade

Size

Grower's number

Particulars of any chemical treatment

## SCHEDULE 8

regulation 21(3)

### Sampling Procedures

1. If the bulk consists of seed potatoes—

- (a) comprising more than one consignment, or
- (b) associated with more than one certificate issued by the Department in accordance with these Regulations,

it shall be so divided that each consignment or, as the case may be, the quantity of seed potatoes associated with each such certificate, constitutes a separate lot and each lot shall be separately sampled.

2. Where the total quantity of seed potatoes being sampled separately does not exceed 50 kg all the seed potatoes shall be examined.

3.—(1) Where the total quantity exceeds 50 kg all the seed potatoes in a sample selected as set out in paragraphs (2) and (3) shall be examined.

(2) Where seed potatoes are packed in packages or containers (other than sacks or bags) of 50 kg or less or in sacks and bags—

- (i) from lots not exceeding 5 tonnes at least one package or container in twenty shall be selected at random, the sample so selected being not less than 50 kg;
- (ii) from lots exceeding 5 tonnes a sample of at least 250 kg shall be selected at random.

(3) Where seed potatoes are packed in packages or containers (other than sacks or bags) of more than 50 kg or unpacked—

- (i) from lots not exceeding 5 tonnes at least one-twentieth of the weight of the lot shall be selected at random, the sample so selected being not less than 50 kg;
- (ii) from lots exceeding 5 tonnes a sample of at least 250 kg shall be selected at random.

## SCHEDULE 9

regulation 22(3)(b)

### Measures to prevent spread, by means of seed potatoes, of disease or pests

1. The dressing or re-dressing of seed potatoes;
2. The replacing of seed potatoes in a different package or container;
3. The destruction of any packages or containers which appear to have been in contact with seed potatoes affected by disease;
4. The disposal, as set out in the notice, of the seed potatoes for a use other than as seed potatoes;
5. The destruction of seed potatoes as set out in the notice;
6. The cleaning and disinfection of premises and equipment as set out in the notice;
7. The disinfection of seed potatoes as set out in the notice on premises set out therein.



### Authorisation for marketing seed potatoes for test and trial purposes

1. On receipt of an application made in accordance with regulation 5, 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 3 of Schedule 6 have been met; and
- (c) subject to paragraph 3 and regulation 4, 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 the officer 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<sup>(a)</sup> 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 2 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 3 of Schedule 6.

4. Notwithstanding an authorisation, the Department may prohibit the use of a 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/EC and Council Directive 2002/56/EC.

---

(a) S.R. 2006 No. 82

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/EC.

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/EC and in accordance with the provisions of Directive 2001/18/EC and the Food and Feed Regulation.

## SCHEDULE 11

regulation 26

### PART 1

#### Revocations

<i>Title</i>	<i>Reference</i>	<i>Extent</i>
Seed Potatoes Regulations (Northern Ireland) 2001	S.R. 2001 No. 188	The whole Regulations
Seed Potatoes (Amendment) Regulations (Northern Ireland) 2007	S.R. 2007 No. 401	The whole Regulations
The Seed Potatoes (Amendment) Regulations (Northern Ireland) 2010	S.R. 2010 No. 7	The whole Regulations

### PART 2

#### Consequential Amendments

<i>Title</i>	<i>Reference</i>	<i>Extent</i>
The Plant Health Order (Northern Ireland) 2006	S.R. 2006 No. 82	In article 2(1), in the definition of “Seed Potatoes Regulations” for “2001” there shall be substituted “2010”.
The Seed Potatoes (Tuber Inspection Fees) Regulations (Northern Ireland) 2006	S.R. 2006 No. 187	In regulation 1(2), in the definitions of “official label” and “the Seed Potatoes Regulations” for “2001” there shall be substituted “2010”. In regulation 3(a)(i), for “regulation 10(2)” there shall be substituted “regulation 13(2)”. In paragraph 1 of the Schedule, for regulation 14(2) of the Seed Potatoes Regulations (Northern Ireland) 2001” there shall be substituted “regulation 17 of the Seed Potatoes Regulations (Northern Ireland) 2010”.
The Seed Potatoes (Crop Fees) Regulations (Northern Ireland) 2009	S.R. 2009 No. 59	In regulation 1(3), for “Schedule 2 of the Seed Potatoes Regulations (Northern Ireland) 2001” there shall be substituted “Schedule 2 to the Seed Potatoes

Regulations (Northern Ireland) 2010”.

In regulation 2, for “regulation 8(1) of the Seed Potatoes Regulations (Northern Ireland) 2001” there shall be substituted “regulation 11(1) of the Seed Potatoes Regulations (Northern Ireland) 2010”.

In regulation 3, for “regulation 8 of the Seed Potatoes Regulations (Northern Ireland) 2001” there shall be substituted “regulation 11 of the Seed Potatoes Regulations (Northern Ireland) 2010”.

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations consolidate The Seed Potatoes Regulations (Northern Ireland) 2001 (S.R. 2001 No. 188) as amended by the Seed Potatoes (Amendment) Regulations (Northern Ireland) 2007 (S.R. 2007 No.401), the Seed Potatoes (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010 No. 7), and include some other minor amendments (listed below).

They regulate the production with a view to the classification and marketing of seed potatoes and give effect to Council Directive 2001/18/EC (O.J. No. L106, p.1) as amended by Directives and Decisions—

- (a) 69/62/EEC (O.J. No L48, p.7);
- (b) 71/162/EEC (O.J. No. L87, p.24);
- (c) 72/274/EEC (O.J. No. L 171, p.37);
- (d) 72/418/EEC (O.J. No. L287, p.22);
- (e) 73/438/EEC (O.J. No. L356, p.79);
- (f) 75/444/EEC (O.J. No. L196, p.6);
- (g) 78/692/EEC (O.J. No. L236, p.13);
- (h) 88/380/EEC (O.J. No. L187, p.31);
- (i) 98/95/EC (O.J. No. L25, p.1);
- (j) 98/96/EC (O.J. No. L25, p.27);
- (k) 2001/18/EC (O.J. No. L106, p.1);
- (l) 2002/53/EC (O.J. No. L193, p.1);
- (m) 2002/56/EC (O.J. No. L193, p. 60);
- (n) 2003/61/EC (O.J. No. L165, p.23);
- (o) 2003/90/EC (O.J. No. L254, p.7);
- (p) 2004/3/EC (O.J. No. L2, p.47);
- (q) 2004/297/EC (O.J. No. L97, p.66);
- (r) 2004/842/EC (O.J. No. L362, p.21);
- (s) 2005/5/EC (O.J. No. L2, p.12);
- (t) 2007/328/EC (O.J. No. L122, p.57); and
- (u) 2008/62/EC (O.J. No. L162, p.13).

They also implement aspects of Council Directive 2007/33/EC on the control of potato cyst nematodes and repealing Directive 69/465/EEC (O.J. No. L 156, 06.06.2007, p12). Directive 2007/33/EC introduces measures to detect and control European populations of Potato Cyst Nematode.

They also give effect to Commission Decision 93/231/EEC (O.J.No.L106, 30.4.93, p.13) 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 Directive 2001/18/EC.

The Regulations make provision—

- (a) for the classification and grading of seed potatoes including provision relating to production measures in the interests of plant health and for separation in the interests of varietal purity (regulations 8, 9, 10, 11, 12 and Schedules 1, 2 and 3);
- (b) for the marketing and labelling of seed potatoes including requirements as to the seed potatoes that may be marketed in Northern Ireland and in respect of labelling and sealing

- of lots of seed potatoes, for official examination prior to marketing, enforcement and disease control measures (regulations 4, 5, 6, 7, 13 to 20, 22 and Schedules 4 to 7 and 9);
- (c) provisions for a conservation varieties derogation, in accordance with Commission Directive 2008/62/EC (regulations 4 and 7 and Schedule 5);
  - (d) for sampling of lots, the provision of information, service of notices and exemptions (regulations 21, 23 and 24 and Schedule 8);
  - (e) for recognising generations of seed potatoes earlier than basic seed potatoes referred to as pre-basic seed potatoes (regulations 2(1) and 4(8) and Schedule 2);
  - (f) for the marketing of small quantities for scientific purposes and selection work of seed potatoes which contain genetically modified material (regulation 5);
  - (g) for genetically modified seed potatoes requiring that official labels and marketing information clearly indicate that the seed potatoes have been genetically modified and to allow for the introduction of Commission Decision 2004/842/EC, Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003, and Part C of Directive 2001/18/EC (regulation 14 and Schedules 5 and 7);
  - (h) for production methods in the interests of plant health (regulation 9);
  - (i) for the updating of references from the Plant Health Order (Northern Ireland) 1993 to The Plant Health Order (Northern Ireland) 2006 (regulation 2(2));
  - (j) for the Swiss trade agreement in accordance with Commission Decision 2004/660/EC, giving Swiss produce equivalence to that of member States (regulation 2(4));
  - (k) for details of the exemptions that are in operation (regulation 3);
  - (l) for the regulation of the composition of lots of pre-basic, basic and test and trial seed potatoes (regulation 10);
  - (m) for the inclusion of authorisation and regulation of the marketing of seed potatoes for test and trial purposes (throughout, especially in regulations 4, 6, 13(5), 14, 15 and 17 and Schedule 5 Part 1 and Schedule 6 Tables 2 and 10);
  - (n) for the implementation of 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 4 and Schedules 1 and 10);
  - (o) to 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 4 to 7 and Schedule 6 Table 2 and Schedule 10);
  - (p) to 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 13(5) to (7));
  - (q) for labelling and sealing requirements to take account of test and trial seed potatoes (regulations 15, 17 and 18);
  - (r) for the updating of references from the Seeds National List of Varieties Regulations 1982 to the Seeds National List of Varieties Regulations 2001 (Schedule 2 Table 2);
  - (s) for 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 to be set at 0.05% (Schedule 1(5)(c));
  - (t) to allow for a crop being downgraded to the next lower grade where burn-off has not occurred by the specified date (Schedule 2, Table 1, Column 3 and Schedule 2, Table 2 Column 3);
  - (u) for the tolerance for Class A Seed A for total viral disease to be 0.8%, in compliance with international certification standards (Schedule 2 Table 2, Column 4);
  - (v) to permit the requirement to print details of the produce, such as country of origin, on packages and containers to be discretionary (except where separate provisions apply) (Schedule 5 Part 2(2));

- (w) to include the new classes Pre-basic 3 and Pre-basic 4 and include the tolerances in Schedule 6, Table 2 to cover these Classes (Schedules 2 and 6); and
- (x) to include details on Authorisation for Marketing Seed Potatoes for Test and Trial Purposes (Schedule 10).

The Regulations introduce—

- (a) the amendment of the tolerances for Common scab in all basic seed potatoes to the EC minimum (5% by weight and 33.3% of the surface covered) (Schedule 6, Tables 3 and 4);
- (b) new Latin nomenclature for some pests and diseases, now currently in use internationally;
- (c) updated tolerances for various pests and diseases in accordance with recent agreements within the UK administrations and due to recent derogations (Schedule 6); and
- (d) some minor drafting amendments to previous Regulations, at regulations 2(1)(r), 3(2), 6(2), 13(2) and Schedule 5 Part 2 paragraph 2 and Schedules 10 and 11.

A contravention of, or failure to comply with, these Regulations is an offence under section 3 of the Seeds Act (Northern Ireland) 1965, as amended, for which the penalty on summary conviction, is a fine not exceeding level 5 on the standard scale (currently £5000).

---

© Crown Copyright 2010

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.

