
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 59

**The Seed and Propagating Material (EU Exit)
(Scotland) (Amendment) Regulations 2019**

PART 3

**AMENDMENT OF SECONDARY LEGISLATION RELATING
TO WITHDRAWAL FROM THE EUROPEAN UNION**

The Seed Potatoes (Scotland) Regulations 2015

- 16.—**(1) The Seed Potatoes (Scotland) Regulations 2015(1) are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) in the definition of “applicable Union grade”—
- (i) omit sub-paragraph (a),
- (ii) in sub-paragraph (b), for “outside Scotland” substitute “in a member State or Switzerland”,
- (iii) omit “in relation to both cases as mentioned in paragraph (a) and (b)”,
- (b) after the definition of “applicable Union grade” insert—
- ““applicable United Kingdom grade” means—
- (a) in relation to seed potatoes produced in Scotland, the United Kingdom grade determined in respect of those seed potatoes under regulation 8(2)(a) or, as the case may be, under regulation 15(2), and—
- (i) in the case of pre-basic seed potatoes, means UK grade PBTC or UK grade PB;
- (ii) in the case of basic seed potatoes, means UK grade S, UK grade SE, or UK grade E;
- (b) in relation to seed potatoes produced in the United Kingdom other than Scotland, the United Kingdom grade determined in accordance with the relevant seed potatoes regulations,
- and references in these Regulations to “UK grade PBTC”, “UK grade PB”, “UK grade S”, “UK grade SE” and “UK grade E” are to be construed accordingly;”
- (c) in the definition of “basic seed potatoes”, in sub-paragraph (b), for the words from “in accordance” to the end substitute—
- “, stating that on examination of the potatoes they were certified as basic seed potatoes and that they have fulfilled the applicable requirements for the grade, in accordance with—

- (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to regulation 10(1)(b) and paragraphs 2 and 4 of Schedule 5;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1) of Council [Directive 2002/56/EC](#);
- (d) after the definition of “crop inspection report” insert—
- ““Crown Dependency” means the Isle of Man and any of the Channel Islands;”
- (e) after the definition of “[Directive 2001/18/EC](#)” insert—
- ““equivalent Union grade” means—
- (a) for “UK grade PBTC”, “Union grade PBTC”;
 - (b) for “UK grade PB”, “Union grade PB”;
 - (c) for “UK grade S”, “Union grade S”;
 - (d) for “UK grade SE”, “Union grade SE”;
 - (e) for “UK grade E”, “Union grade E”;
- (f) after the definition of “genetically modified” insert—
- “the GMO Regulations” means—
- (a) in relation to Scotland, the Genetically Modified Organisms (Deliberate Release) (Scotland) Regulations 2002(2),
 - (b) in relation to England, the Genetically Modified Organisms (Deliberate Release) Regulations 2002(3),
 - (c) in relation to Wales, the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(4),
 - (d) in relation to Northern Ireland, the Genetically Modified Organisms (Deliberate Release) Regulations (Northern Ireland) 2003(5);”
- (g) for the definition of “grade” substitute—
- ““grade” includes the United Kingdom grade;”
- (h) for the definition of “official document” substitute—
- ““official document” means—
- (a) in the case of seed potatoes produced in Scotland, a document issued or approved by the Scottish Ministers, which meet the requirements of schedule 5A;
 - (b) in the case of seed potatoes produced outside Scotland, a document issued or approved by the relevant authority in the country or territory where the seed potatoes were produced, which meets the requirements of—
 - (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;

(2) S.S.I. 2002/541, amended by S.I. 2005/2759 and S.I. 2011/1043; and by S.S.I. 2004/439 and S.S.I. 2015/100.

(3) S.I. 2002/2443, as amended by S.I. 2004/2411, S.I. 2005/2759, S.I. 2009/1892 and S.I. 2018/575.

(4) S.I. 2002/3188 (W. 304), amended by S.I. 2005/2759 and S.I. 2013/755 (W. 90).

(5) S.R. 2003 No. 167.

- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to the requirements of schedule 5A;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(b) of Council [Directive 2002/56/EC](#);
- (i) in the definition of “official label”, for sub-paragraph (b) substitute—
 - “(b) in the case of seed potatoes produced outside Scotland, a label approved by the relevant authority in the country or territory where the seed potatoes were produced and which meets, as appropriate to the seed potatoes to which the label relates, the requirements of—
 - (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to the requirements of regulation 10 and schedule 5;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(a) or Article 18(f) of Council [Directive 2002/56/EC](#) or of Article 9 of Commission [Decision 2004/842/EC](#);
- (j) for the definition of “outside Scotland” substitute—
 - ““outside Scotland”, in relation to the place of production of seed potatoes means—
 - (a) any part of the British Islands other than Scotland; and
 - (b) a member State or Switzerland;
- (k) in the definition of “pre-basic seed potatoes”, in sub-paragraph (b), for the words “Article 18(f)” to the end substitute—
 - “the requirements of—
 - (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to the requirements of regulation 10(1)(a) and paragraphs 1 and 4 of Schedule 5;
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 18(f) of Council [Directive 2002/56/EC](#);
- (l) in the definition of “relevant authority”, omit “for the purposes of Council [Directive 2002/56/EC](#)”,
- (m) after the definition of “relevant authority”, insert—
 - ““the seed potatoes regulations” means—
 - (a) in relation to England, the Seed Potatoes (England) Regulations 2015⁽⁶⁾;
 - (b) in relation to Wales, the Seed Potatoes (Wales) Regulations 2016⁽⁷⁾;
 - (c) in relation to Northern Ireland, the Seed Potatoes Regulations (Northern Ireland) 2016⁽⁸⁾,

⁽⁶⁾ [S.I. 2015/1953](#), amended by [S.I. 2017/288](#).

⁽⁷⁾ [S.I. 2016/106 \(W.52\)](#), amended by [S.I. 2017/596 \(W.139\)](#) and [S.I. 2017/1095 \(W.276\)](#).

⁽⁸⁾ [S.R. 2016 No. 190](#), amended by [S.R. 2017 No. 155](#).

- and “the relevant seed potatoes regulations”, in relation to any constituent part of the United Kingdom, means the seed potatoes regulations applicable in relation to that part.”,
- (n) in the definition of “scientific and selection seed potatoes”, in sub-paragraph (b), for the words “Article 6(1)(a)” to the end substitute—
- “the requirements of—
- (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to the requirements of regulation 6;
- (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 6(1)(a) of Council [Directive 2002/56/EC](#);”,
- (o) in the definition of “test and trial seed potatoes”, in sub-paragraph (b), for the words “the requirements” to the end substitute—
- “the requirements of—
- (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
- (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to the requirements of regulations 5 and 10(1)(c) and paragraphs 3 and 4 of Schedule 5;
- (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 9 of Commission [Decision 2004/842/EC](#).”.
- (3) In regulation 2(3), omit from “, in accordance with” to the end.
- (4) In regulation 4 (general provisions on the marketing of seed potatoes)—
- (a) in paragraph (5), before “the applicable Union grade” insert “the applicable United Kingdom grade,”,
- (b) for paragraph (6)(b) substitute—
- “(b) in the case of basic seed potatoes in respect of which the applicable United Kingdom grade or, as the case may be, the applicable Union grade is—
- (i) UK grade S or Union grade S, the fifth field generation,
- (ii) UK grade SE or Union grade SE, the sixth field generation,
- (iii) UK grade E or Union grade E, the seventh field generation.”.
- (5) In regulation 5 (marketing requirements – test and trial seed potatoes)—
- (a) for paragraph (4) substitute—
- “(4) The Scottish Ministers may not grant or renew an authorisation under paragraph (1) unless they are satisfied that—
- (a) the seed potatoes which are the subject of the authorisation or renewal are of a variety of seed potato for which an application for acceptance onto the National List has been made;
- (b) in relation to seed potatoes containing genetically modified material, the marketing and release of the material by the applicant has been authorised under—

- (i) before the day on which exit day falls, Part C of [Directive 2001/18/EC](#);
 - (ii) Regulation 1829/2003; or
 - (iii) the GMO Regulations;
 - (c) the marketing of the seed potatoes would not contravene any prohibition on the use of that variety which has been imposed in accordance with Article 14 of Commission [Decision 2004/842/EC](#) and which has been published in the Plant Varieties and Seeds Gazette in accordance with section 34(1) of the Act; and
 - (d) the quantity of the variety of seed potato to be marketed does not exceed the greater of 0.1% of the annual number of seed potatoes used in the United Kingdom and such quantity as the Scottish Ministers consider is sufficient to sow 10 hectares.”,
 - (b) in paragraph (8)(b), omit “or the Common Catalogue”.
- (6) For regulation 6(3) (marketing requirements – scientific and selection seed potatoes) substitute—
 - “(3) In relation to seed potatoes containing genetically modified material, the Scottish Ministers may not grant or renew an authorisation under paragraph (1) unless they are satisfied that the marketing and release of the material by the applicant has been authorised under—
 - (a) before the day on which exit day falls, Part C of [Directive 2001/18/EC](#);
 - (b) Regulation 1829/2003; or
 - (c) the GMO Regulations.”.
- (7) In regulation 7 (marketing requirements – conservation varieties)—
 - (a) in paragraph (2), for the words from the beginning to “Commission [Directive 2008/62/EC](#)” substitute “Where the quantities laid down in Article 14 of [Directive 2008/62/EC](#) would otherwise be likely to be exceeded”,
 - (b) after paragraph (2) insert—
 - “(2A) For the purposes of paragraph (2), Article 14 of Commission [Directive 2008/62/EC](#) is to be read as if—
 - (a) in the first paragraph—
 - (i) “Each Member State shall ensure that” was omitted;
 - (ii) for “does not exceed”, there were substituted “may not exceed”;
 - (ii) for “that Member State”, there were substituted “the United Kingdom”;
 - (b) in the second paragraph—
 - (i) for “each Member State”, there were substituted “the United Kingdom”;
 - (ii) for “the Member State” in both places where it occurs, there were substituted “the United Kingdom”.”.
- (8) In regulation 8 (certification and grading)—
 - (a) in paragraph (2)(a)—
 - (i) for “applicable Union grade” substitute “applicable United Kingdom grade”,
 - (ii) for “Union grade PBTC” substitute “UK grade PBTC”; and
 - (iii) for “Union grade S” substitute “UK grade S”,
 - (b) in paragraph (4), for “Union” substitute “United Kingdom”.
- (9) In regulation 10(3)(b) (labelling of seed potatoes), for “Union” substitute “United Kingdom”.

- (10) For regulation 11(1)(b) (sealing of packages) substitute—
- “(b) in the case of seed potatoes produced outside Scotland, it is sealed in accordance with—
- (i) in the case of seed potatoes produced in the United Kingdom, the relevant seed potatoes regulations;
 - (ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Scottish Ministers as having equivalent effect to paragraph (a);
 - (iii) in the case of seed potatoes produced in a member State or Switzerland, Article 12(1) of Council [Directive 2002/56/EC](#).”.
- (11) In regulation 15 (enforcement – crop inspection report, applicable Union grade and official label)—
- (a) in the heading, for “Union” substitute “United Kingdom”,
 - (b) in paragraph (2), for “Union” substitute “United Kingdom”.
- (12) In regulation 20 (imports from outside EU)—
- (a) in the heading, for “EU” substitute “British Islands”,
 - (b) for “European Union” substitute “British Islands”.
- (13) After regulation 23 (extension and modification of provisions of the Act) insert—
- “Transitional provision for official labels on exit day**
- 23A.** A label pre-printed before exit day which at the date on which it was printed was an official label for the purposes of these Regulations is to be treated as an official label for basic seed potatoes or, as the case may be, test and trial seed potatoes produced in Scotland, for the purposes of any use of that label before the end of the period of one year beginning with the day after the day on which exit day falls.”.
- (14) In schedule 1 (conditions for certification and grading of Scottish seed potatoes)—
- (a) in paragraph 1(c)(ii), for “Union” substitute “United Kingdom”,
 - (b) in paragraph 2(f), for “Union” substitute “United Kingdom”,
 - (c) in paragraph 3(a), omit “or in the Common Catalogue”,
 - (d) in paragraphs 6, 8, 9, 12 and 13, in each place it occurs, for “Union” substitute “UK”.
- (15) In schedule 2 (certification and grading: source material requirements, other requirements and tolerances)—
- (a) in Table I (pre-basic seed potatoes)—
 - (i) in the heading of column 1 (Union grade), for “Union” substitute “UK”,
 - (ii) in the entry for grade “PBTC”, in column 3 (other requirements), for “Union” substitute “UK”,
 - (iii) in the entry for grade “PB”—
 - (aa) in column 2 (source material), for “Union grade PBTC” substitute “UK grade PBTC or the equivalent Union grade”,
 - (bb) in column 3 (other requirements), for “Union grade S” substitute “UK grade S or the equivalent Union grade”,
 - (b) in Table II (basic seed potatoes and test and trial seed potatoes)—
 - (i) in the heading of column 1 (Union grade), for “Union” substitute “UK”,

- (ii) in the entry for grade “S”, in column 2 (source material), for “Union grade PBTC or PB” substitute “UK grade PBTC or PB or the equivalent Union grade”,
 - (iii) in the entry for grade “SE”, in column 2, for “Union grade PBTC, PB, or S” substitute “UK grade PBTC, PB or S or the equivalent Union grade”,
 - (iv) in the entry for grade “E”, in column 2, for “Union grade PBTC, PB, S or SE” substitute “UK grade PBTC, PB, S or SE or the equivalent Union grade”.
- (16) In schedule 3 (requirements as to varietal purity and size)—
- (a) in paragraph 2 (Union grade PBTC)—
 - (i) in the heading, for “Union” substitute “UK”,
 - (ii) in sub-paragraph (1)—
 - (aa) for “applicable Union grade”, substitute “applicable United Kingdom grade”, and
 - (bb) for “Union grade PBTC” substitute “UK grade PBTC”,
 - (b) in paragraph 3 (Union grade PB)—
 - (i) in the heading, for “Union”, substitute “UK”,
 - (ii) in sub-paragraph (1)—
 - (aa) for “applicable Union grade”, substitute “applicable United Kingdom grade”, and
 - (bb) for “Union grade PB”, substitute “UK grade PB”,
 - (c) in paragraph 4 (Union grade S, SE, E and test and trial seed potatoes)—
 - (i) in the heading, for “Union” substitute “UK”,
 - (ii) in sub-paragraph (1)(a)—
 - (aa) for “applicable Union grade”, substitute “applicable United Kingdom grade”, and
 - (bb) for “Union grade S, SE, or E”, substitute “UK grade S, SE or E”,
 - (d) for paragraph 5(2)(a) (seed potatoes produced outside Scotland), substitute—
 - “(a) comply with the following requirements relating to size—
 - (i) the minimum size must be such that the seed potatoes do not pass through a square mesh of 25 millimetres by 25 millimetres;
 - (ii) the maximum variation in size between tubers in a lot must not exceed 25 millimetres;
 - (iii) in the case of tubers which are too large to pass through a square mesh of 35 millimetres by 35 millimetres, the upper and lower size limits shall be expressed in multiples of 5 millimetres; and”.
- (17) In the heading to schedule 4 (particulars to be provided in respect of seed potatoes produced outside the European Union), for “European Union” substitute “British Islands”.
- (18) In schedule 5 (official labels)—
- (a) in paragraph 1(2)(c) (pre-basic seed potatoes), for “member State” substitute “country”,
 - (b) in paragraph 2 (basic seed potatoes)—
 - (i) in sub-paragraph (2)(b)—
 - (aa) for “European Union”, substitute “British Islands”,
 - (bb) for “EU”, substitute “UK”,

- (ii) in sub-paragraph (c), for “member State” substitute “country”,
- (c) in paragraph 3 (test and trial seed potatoes)—
 - (i) in sub-paragraph (2)(b)—
 - (aa) for “European Union”, substitute “British Islands”,
 - (bb) for “EU”, substitute “UK”,
 - (ii) in sub-paragraph (2)(d), for “member State” substitute “country”.
- (19) After schedule 5 (official labels) insert—

“SCHEDULE 5A

Regulation 2(1)

OFFICIAL DOCUMENTS

1. An official document used in relation to pre-basic seed potatoes must be white with a diagonal violet line.
2. An official document used in relation to basic seed potatoes must be predominantly white.
3. An official document used in relation to test and trial seed potatoes must be orange.
4. An official document must, in relation to the seed potatoes to which it relates, state—
 - (a) the crop identification number, including the producer’s identification number (or equivalent);
 - (b) the month and year when officially sealed;
 - (c) the country of production.”
- (20) In schedule 6 (tolerances for diseases, pests, damages and defects)—
 - (a) in paragraph 1 (tolerances)—
 - (i) for “applicable Union grade” in each place where it occurs, substitute “applicable United Kingdom grade”,
 - (ii) in sub-paragraph (1)(a), for “Union grade PBTC, substitute “UK grade PBTC”,
 - (iii) in sub-paragraph (1)(b), for “Union grade PB”, substitute “UK grade PB”,
 - (iv) in sub-paragraph (1)(c), for “Union grade S”, substitute “UK grade S”,
 - (v) in sub-paragraph (1)(d), for “Union grade SE”, substitute “UK grade SE”,
 - (vi) in sub-paragraph (1)(e)(i), for “Union grade E”, substitute “UK grade E”,
 - (vii) in sub-paragraph (1)(f), for “European Union” substitute “British Islands”,
 - (b) in the headings for Tables I (Union grade PBTC produced in Scotland) and II (Union grade PB produced in Scotland), for “Union” substitute “UK”,
 - (c) in Table III (Union grade S, SE and E and test and trial seed potatoes)—
 - (i) in the heading, for “Union” substitute “UK”,
 - (ii) in sub-headings (a) (Union grade S produced in Scotland), (b) (Union grade SE produced in Scotland) and (c) (Union grade E and test and trial seed potatoes produced in Scotland), for “Union” in each place where it occurs substitute “UK”,
 - (d) in the heading for Table IV (basic seed potatoes intended for markets outside the EU), for “EU” substitute “British Islands”.