
S T A T U T O R Y I N S T R U M E N T S

2000 No. 1788**SEEDS****ENGLAND****The Seed Potatoes (Amendment)
(England) Regulations 2000**

<i>Made - - - - -</i>	<i>7th July 2000</i>
<i>Laid before Parliament</i>	<i>10th July 2000</i>
<i>Coming into force - -</i>	<i>1st August 2000</i>

The Minister of Agriculture, Fisheries and Food, in relation to England, in exercise of the powers conferred on him by sections 16(1), (1A), (2), (3), (4) and (5) and 36 of the Plant Varieties and Seeds Act 1964(a) after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to him to be concerned, hereby makes the following Regulations:

Title, extent and commencement

1. These Regulations may be cited as the Seed Potatoes (Amendment) (England) Regulations 2000, shall extend to England and shall come into force on 1st August 2000.

Amendment of the Seed Potatoes Regulations 1991

2.—(1) The Seed Potatoes Regulations 1991(b), in so far as they extend to England, shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1)—

(a) in the definition of “class” for paragraph (a) there shall be substituted—

“(a) in relation to seed potatoes produced in England, 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 established pursuant to paragraph 3A of Part IA of Schedule 1, in the case of basic seed potatoes any one of the classes specified in order of superiority in column 1 of paragraph 2 of Schedule 3 and, in the case of certified seed potatoes, CC class; and”.

(a) 1964 c. 14; section 16 was amended by section 4(1) of and paragraph 5(1), (2) and (3) of Schedule 4 to the European Communities Act 1972 (c. 68); see section 38(1) for a definition of “the Minister”. Under the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State.

(b) S.I. 1991/2206, as amended by S.I. 1992/1031, 1993/1878, 1994/2592, 1997/1474 and, as respects Scotland, S.S.I. 2000/201.

- (b) after the definition of “Community grade” there shall be inserted the following definition—

““genetically modified” has the same meaning as for the purposes of Council Directive 90/220/EEC(a) on the deliberate release into the environment of genetically modified organisms;”;

- (c) the definition of “marketing” shall be deleted;

- (d) after the definition of “potato” there shall be inserted the following definitions—

““pre-basic seed potatoes” means—

- (a) in relation to seed potatoes produced in England, seed potatoes in relation to which a pre-basic seed potatoes certificate has been issued in accordance with Parts I, IA and IV of Schedule 1; and

- (b) in relation to seed potatoes produced outside England, seed potatoes being a lot or part of a lot imported into England in a package or container, to or in which a label or document, approved by the authority concerned with classification of seed potatoes in the country or place where the potatoes were produced, 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 Minister has approved the arrangements applying to pre-basic seed potatoes in that country or place as being equivalent to those applying in England;

“pre-basic seed potatoes certificate” means a certificate issued in accordance with Parts I, IA and IV of Schedule 1;”;

- (e) for the definition of “seed potatoes” there shall be substituted the following definition—

““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;”;

- (f) in the definition of “seed potatoes produced outside Great Britain” for the words—
“Belgium, Denmark, Federal Republic of Germany, France, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain,”

there shall be substituted the words—

“Austria, Belgium, Denmark, Germany, Finland, France, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden,”.

- (3) At the end of regulation 2 (interpretation) there shall be added the following paragraphs—

“(4) In these Regulations “marketing” means—

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

whether or not for consideration; and “market” and “marketed” shall be construed accordingly.

- (5) Trade in seed potatoes not aimed at commercial exploitation of the variety, such as the following operations—

- (a) the supply of seed potatoes to official testing and inspection bodies; or
(b) the supply of seed potatoes to any person for the purpose of processing or packaging the seed potatoes provided he does not acquire title to the seed potatoes supplied,

shall not be treated as marketing of seed potatoes of that variety.”.

- (4) Regulation 5 (potatoes to which the Regulations do not apply) shall be revoked.

- (5) In regulation 6(1) for the words “basic seed potatoes or certified seed potatoes” there shall be substituted the words “pre-basic seed potatoes, basic seed potatoes or certified seed potatoes”.

(a) OJ No. L117, 8.5.90, p.15; as last amended by Commission Decision 98/294/EC, OJ No. L131, 5.5.98, p.33.

(6) For paragraphs (2) and (3) of regulation 6 there shall be substituted the following paragraphs—

“(2) Subject to the provisions of regulation 21, no person shall market—

- (a) any pre-basic seed potatoes, basic seed potatoes or certified seed potatoes—
 - (i) which have been treated with a product which is produced primarily as an application for inhibiting germination; or
 - (ii) as being of a class superior to that in which those potatoes were classified; or
- (b) any basic seed potatoes or certified seed potatoes—
 - (i) which are of a size less than 25 millimetres; or
 - (ii) in a lot where the variation in size of the seed potatoes exceeds 25 millimetres.

(3) Subject to the provisions of regulation 21, no person shall market any seed potatoes within the protected region other than—

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

(4) The prohibitions in paragraph (1) above shall not apply to the marketing by producers of small quantities of seed potatoes, other than seed potatoes which contain any genetically modified material, for scientific purposes or selection work.

(5) If the conditions specified in paragraph (6) below are satisfied the prohibitions in paragraph (1) above shall not apply to the marketing by producers, for scientific purposes or selection work, of small quantities of seed potatoes which contain any genetically modified material.

(6) The conditions referred to in paragraph (5) above 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 Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms;
- (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^(a), 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 in accordance with a Part C consent, an authorisation has been granted by the Minister in accordance with paragraph (7) below to the person marketing the seed potatoes.

(7) An authorisation may be granted by the Minister for the purpose of paragraph (6)(d) above if—

- (a) the person intending to market the seed potatoes has applied to the Minister no later than 15 working days before the seed potatoes are marketed—
 - (i) giving the Minister notice of his intention to market the seed potatoes and a description of the proposed marketing in respect of which the authorisation is sought; and
 - (ii) giving the Minister such information relating to the acceptance for marketing of the variety of the seed potatoes concerned under Council Directive 90/220/EEC and the proposed marketing in respect of which the authorisation is sought, as the Minister may require for the purposes of determining whether or not to grant the authorisation;

(a) OJ No. L225, 12.10.1970, p.1 (English Special Edition Supplement Series 1 (66–70) p.36); as last amended by Council Directive 98/96/EC (OJ No. L25, 1.2.1999, p.27).

(b) the Minister is satisfied that an authorisation should be granted.”.

(7) In regulation 7(2) before the words “Certified seed potatoes” there shall be inserted the words “Pre-basic seed potatoes and”.

(8) In regulation 8 for the words “basic or certified seed potatoes” there shall be substituted the words “pre-basic, basic or certified seed potatoes”.

(9) In regulation 9 for the words—

“Subject to the provisions of regulation 21, no person shall market basic seed potatoes or certified seed potatoes otherwise than in a lot consisting wholly of either basic seed potatoes or certified seed potatoes of one variety and of one class:”

there shall be substituted the words—

“Subject to the provisions of regulation 21, no person shall market seed potatoes other than in a lot consisting wholly of—

- (a) pre-basic seed potatoes, basic seed potatoes or certified seed potatoes;
- (b) one variety; and
- (c) one class:”.

(10) After regulation 10 (packages and containers for seed potatoes) there shall be inserted the following regulation—

“Genetically modified seed potatoes

10A. No person shall 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; and
- (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 11, 12 or 15, shall clearly indicate that the seed potatoes have been genetically modified.”.

(11) In regulation 11(1) for the words “basic seed potatoes or certified seed potatoes” there shall be substituted the words “pre-basic seed potatoes, basic seed potatoes or certified seed potatoes”.

(12) In regulation 11(6) for the words “basic seed potatoes or certified seed potatoes” there shall be substituted the words “pre-basic seed potatoes, basic seed potatoes or certified seed potatoes”.

(13) In regulation 12(1) for the words “basic seed potatoes or certified seed potatoes” there shall be substituted the words “pre-basic seed potatoes, basic seed potatoes or certified seed potatoes”.

(14) In regulation 12(3) for the words “basic seed potatoes or certified seed potatoes” there shall be substituted the words “pre-basic seed potatoes, basic seed potatoes or certified seed potatoes”.

(15) After regulation 12 (basic and certified seed potatoes produced outside Great Britain: labelling of packages) there shall be inserted—

“Basic and certified seed potatoes from third countries: information

12A. 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 make available to the Minister, in such manner and at such time as the Minister may require, the information in respect of the seed potatoes specified in Part III of Schedule 4.”.

(16) In regulation 14(1) for the words “basic seed potatoes or certified seed potatoes” there shall be substituted the words “pre-basic seed potatoes, basic seed potatoes or certified seed potatoes”.

(17) In regulation 15 for the words “basic seed potatoes or certified seed potatoes” there shall be substituted the words “pre-basic seed potatoes, basic seed potatoes or certified seed potatoes”.

(18) In regulation 20 for the words “basic seed potatoes or certified seed potatoes” wherever they occur there shall be substituted the words “pre-basic seed potatoes, basic seed potatoes or certified seed potatoes”.

(19) In Schedule 1 Part I for paragraph 3(b) there shall be substituted—

“the seed potatoes are or were grown, stored, transported and handled so as to minimise the risk of contamination by such harmful diseases or pests as notified in writing by the Minister from time to time;”.

(20) In Schedule 1 after Part I there shall be inserted the following Part—

“PART IA

3A. No pre-basic seed potatoes certificate shall be issued by an authorised officer unless he is satisfied that the seed potatoes satisfy the minimum conditions established by the Minister for pre-basic seed potatoes and for classes of pre-basic seed potatoes.”.

(21) In Schedule 1 Part II paragraph 4(b) immediately before the words “basic seed potatoes” there shall be inserted the words “pre-basic seed potatoes and”.

(22) In Schedule 1 Part II paragraph 4(e) for the words “Brown Rot (*Pseudomonas solanacearum* (E. F. Smith) Jensen)” there shall be substituted the words “Brown Rot (*Ralstonia solanacearum* (Smith) Yabuuchi et al.)”.

(23) In Schedule 1 Part III for paragraph 6(2)(b) there shall be substituted the following paragraph—

“(b) the seed potatoes have been produced—

- (i) directly from pre-basic seed potatoes, basic seed potatoes or certified seed potatoes;
- (ii) from a crop grown with the authority of or in circumstances notified in writing as being acceptable to the Minister; or
- (iii) from seed potatoes grown elsewhere than in Great Britain and in respect of which an examination notified in writing as being acceptable to the Minister has been carried out.”.

(24) In Schedule 1 Part III paragraph 6(2)(d) for the words “Brown Rot (*Pseudomonas solanacearum* (E. F. Smith) Jensen) there shall be substituted the words “Brown Rot (*Ralstonia solanacearum* (Smith) Yabuuchi et al.)”.

(25) In paragraph 2 of Schedule 3 in column 2 opposite the entry for VTSC 1 for paragraph (b) there shall be substituted the following paragraph—

“(b) be seed potatoes derived from a stock which was classified as pre-basic seed potatoes in the year preceding the planting of the crop or from officially selected and tested clones propagated under the supervision of an authorised officer;”.

(26) In paragraph 2 of Schedule 3—

- (a) in column 2 opposite the entry for VTSC 2 for the words “The seed potatoes shall be grown . . . preceding the planting of the crop.” there shall be substituted the words “The seed potatoes shall be seed potatoes derived from a stock which was classified as VTSC 1 in the year preceding the planting of the crop.”;
- (b) in column 2 opposite the entry for Super Elite 1 (SE1) for the words “The seed potatoes shall be seed potatoes derived from a stock which was classified as VTSC 1 or VTSC 2 in the year preceding the planting of the crop.” there shall be substituted the words “The seed potatoes shall be seed potatoes derived from a stock which was classified as pre-basic seed potatoes, VTSC 1 or VTSC 2 in the year preceding the planting of the crop.”;
- (c) in column 2 opposite the entry for Elite 1 (E1) for the words “The seed potatoes shall be seed potatoes derived from a stock of basic seed potatoes” there shall be substituted the words “The seed potatoes shall be seed potatoes derived from a stock of pre-basic seed potatoes or basic seed potatoes”; and

(d) in column 2 opposite the entry for AA for the words “The seed potatoes shall be seed potatoes derived from a stock of basic seed potatoes” there shall be substituted the words “The seed potatoes shall be seed potatoes derived from a stock of pre-basic seed potatoes or basic seed potatoes”.

(27) In Schedule 4 Part I before paragraph 1 there shall be inserted the following paragraph—

“A. An official label affixed or to be affixed to a package or container of pre-basic seed potatoes shall be white with a diagonal violet line.”.

(28) For Schedule 4 Part I paragraph 4 there shall be substituted the following paragraph—

“4. An official label shall state the following particulars—

Member State
Country of production
Producer’s identification number
Species (except basic and certified seed potatoes)
Variety
Pre-basic, basic or certified seed potatoes
Class
Community grade (as appropriate)
Size (except pre-basic seed potatoes)
Net weight
Month and year of closing”.

(29) In Schedule 4 Part II before paragraph 5 there shall be inserted the following paragraph—

“4A. An official document inserted or to be inserted in a package or container of pre-basic seed potatoes shall be white with a diagonal violet line.”.

(30) For Schedule 4 Part II paragraph 7 there shall be substituted the following paragraph—

“7. An official document shall state the following particulars—

Producer’s identification number
Species (except basic and certified seed potatoes)
Variety
Pre-basic, basic or certified seed potatoes
Class
Community grade (as appropriate)”.

(31) In Schedule 4, after Part II there shall be inserted the following part—

“PART III

INFORMATION IN RESPECT OF SEED POTATOES PRODUCED IN A COUNTRY OTHER THAN A MEMBER STATE MORE THAN 2 KILOGRAMS IN NET WEIGHT

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

(32) In Schedule 5 Part I, Part II and Part III for the words “Brown Rot (*Pseudomonas solanacearum* (E. F. Smith) Jensen) there shall be substituted the words “Brown Rot (*Ralstonia solanacearum* (Smith) Yabuuchi et al.)”.

(33) For Schedule 6 there shall be substituted the following Schedule—

“SCHEDULE 6 Regulations 15, 16(a) and (b)

PARTICULARS TO BE SPECIFIED IN A SALE NOTE, ETC.

Name and address of the seller

Net weight

Species (except basic and certified seed potatoes)

Variety

Pre-basic, basic or certified seed potatoes

Class

Community grade (as appropriate)

Size (except pre-basic seed potatoes)

Producer's identification number

Particulars of any chemical treatment”.

7 July 2000

Hayman
Minister of State,
Ministry of Agriculture, Fisheries and Food

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Seed Potatoes Regulations 1991, S.I. 1991/2206, as amended by S.I. 1992/1031, 1993/1878, 1994/2592 and 1997/1474 (the 1991 Regulations) in so far as they extend to England. Similar Regulations to amend the 1991 Regulations in so far as they extend to Wales and Northern Ireland are being considered by the competent authorities in Wales and Northern Ireland and in Scotland new Regulations to replace the 1991 Regulations as respects Scotland have recently been made (S.S.I. 2000/201).

The amendments to the 1991 Regulations give effect in England to Council Directive 98/95/EC (OJ No. L25, 1.2.1999, p.1) amending, in respect of the consolidation of the internal market, genetically modified plant resources and plant genetic resources, directives in respect of the marketing of seeds and the common catalogue of varieties of agricultural plant species. The directives in respect of the marketing of seeds amended by Council Directive 98/95/EC include Council Directive 66/403/EEC (OJ No. L125, 11.7.66, p.2320)(OJ/SE 1965–66, p.154) on the marketing of seed potatoes (last amended by Commission Directive 98/111/EC (OJ No. L28, 4.2.1998, p.42). Council Directive 98/96/EC (OJ No. L25, 1.2.1999, p.27) also amends Council Directive 66/403/EEC but the amendments do not require amendment to the 1991 Regulations.

The amendments made by these Regulations include—

- (a) amendments to definitions in the 1991 Regulations, including the definitions of “marketing” and “seed potatoes”;
- (b) provision for the marketing of pre-basic seed potatoes;
- (c) new provision in regulation 6 in relation to marketing for scientific purposes or selection work and as a consequence revocation of regulation 5;
- (d) a new regulation 10A about genetically modified seed potatoes;
- (e) a new regulation 12A about the import of seed potatoes from third countries; and
- (f) amendments to Schedule 1 Part III in relation to the certification of seed potatoes.

These Regulations also make minor and consequential amendments to the 1991 Regulations.

£2.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1403 8/2000 534057 19585

ISBN 0-11-099773-5



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