

EXPLANATORY MEMORANDUM TO

THE SEED POTATOES (ENGLAND) REGULATIONS 2006 2006 No. 1161

THE SEED POTATOES (FEES) (ENGLAND) REGULATIONS 2006 2006 No. 1160

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 The Seed Potatoes (England) Regulations 2006 are mainly a consolidation of the Seed Potatoes Regulations 1991 (which apply to Great Britain) and subsequent amendments. The Regulations also incorporate the implementation of Commission Decision 2004/842/EC on the marketing of seed potatoes for test and trial purposes belonging to varieties for which an application for national listing has been submitted and some minor changes to the certification arrangements.

2.2 The Seed Potatoes (Fees) (England) Regulations 2006 replace the Seed Potatoes (Fees) (England) Regulations 2004 to reflect changes to the terminology of certain categories of seed potatoes introduced by the Seed Potatoes (England) Regulations 2006. There are no changes to the level of fees payable.

3. **Matters of special interest to the Joint Committee on Statutory Instruments/
Select Committee on Statutory Instruments**

None

4. **Legislative Background**

4.1 The Seed Potatoes (England) Regulations 2006 implement Council Directive 2002/56/EC on the marketing of seed potatoes and Commission Decision 2004/842/EC on the marketing of seed potatoes for test and trial purposes belonging to varieties for which an application for national listing has been submitted. The Regulations will replace the Seed Potatoes Regulations 1991 (as amended) as regards England. Scotland introduced their own consolidated Regulations in 2000 and will implement Commission Decision 2004/842/EC in due course. Wales are expected to introduce their own consolidated Regulations including Commission Decision 2004/842/EC at a later date.

4.2 The Seed Potatoes (Fees) (England) Regulations 2004 prescribe the fees payable for official inspections in connection with the certification of seed

potatoes. The new Regulations reflect changes to the terminology of certain categories of seed potatoes arising from the Seed Potatoes (England) Regulations 2006 and do not make any changes to the fees payable. Wales are expected to introduce amendments to their Fees Regulations following the introduction of their consolidated Regulations. Scotland will consider if any amendments to their Regulations are necessary following the implementation of Commission Decision 2004/842/EC.

5. Extent

5.1 These instruments apply to England only.

6. European Convention on Human Rights

6.1 As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 The Seed Potatoes (England) Regulations support the policy objectives of the Plant Varieties and Seeds Act 1964 by providing assurance that seed potatoes produced and marketed within England meet the requirements of the Seed Potatoes Directive (2002/56/EC) and the Commission Decision on the marketing of unlisted varieties (2004/842/EC). Other changes to the Regulations reflect the views of stakeholders on the importance of maintaining harmonised conditions within Great Britain for marketing purposes and will therefore bring the Regulations into line with the Scottish Seed Potatoes Regulations.

7.2 The Seed Potatoes Regulations 1991 have been amended a number of times since their introduction. Consolidated Regulations are therefore needed to improve the clarity and ease of reference of the legislation.

7.3 In addition, the Regulations will implement the provisions of the Commission Decision. This Decision allows member states to authorise the marketing of new varieties (those that have been entered into the National Listing procedure) of seed potatoes for test and trial purposes. Under existing arrangements (the 'Approved Stocks' scheme), producers are able to undertake tests and trials of new varieties of seed potatoes but these are not permitted to be marketed. Once the varieties have completed the national listing process, the stocks concerned can be entered in the Seed Potato Classification Scheme, where they will be eligible for certification and marketing. The new arrangements will introduce additional flexibility for producers by allowing them to market stocks for the limited purposes permitted, in advance of national listing being completed. On completion of national listing, there will remain the opportunity to enter the stocks in the Seed Potato Classification Scheme. The Commission Decision requires that official examinations are undertaken to ensure compliance with the

requirements laid down. Under the current arrangements, official examinations are already required and the prescribed fees are laid down in the Seed Potatoes (Fees) (England) Regulations 2004. The level of these fees remains unchanged in the new Seed Potatoes (Fees) (England) Regulations 2006 and therefore there will not be any additional costs for producers.

7.4 A consultation exercise involving seed potato growers and representative organisations was carried out on proposals for the Seed Potatoes (England) Regulations 2006 between 18 November and 11 February. Six responses were received and the Regulations reflect some changes requested by stakeholders to tuber tolerances and classification nomenclature which will bring the requirements applying in England into line with those applying in Scotland, which stakeholders consider is important for marketing purposes.

8. **Impact**

8.1 As the Regulations do not present any additional burdens, a Regulatory Impact Assessment has not been prepared.

9. **Contact**

9.1 Kim Chadwick, Defra, Room 346, Foss House, Kings Pool, 1-2 Peasholme Green, York YO1 7PX. Tel: 01904 455186 Fax 01904 455199 email kim.chadwick@defra.gsi.gov.uk or Richard McIntosh, Room 344, Foss House, Kings Pool, 1-2 Peasholme Green, York YO1 7PX. Tel: 01904 455177 Fax 01904 455199 e mail: richard.mcintosh@defra.gsi.gov.uk can answer any queries regarding the instrument.

Department for Environment, Food and Rural Affairs
April 2006