

2006 No. 1161

SEEDS, ENGLAND

The Seed Potatoes (England) Regulations 2006

Made - - - - - 21st April 2006

Laid before Parliament 25th April 2006

Coming into force - - 16th May 2006



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The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4) and (5) and 36 of the Plant Varieties and Seeds Act 1964(a) and now vested in her(b).

In accordance with section 16(1) of that Act she has consulted with representatives of such interests as appear to her to be concerned by the following Regulations:

Title, commencement, extent and application

1.—(1) These Regulations may be cited as the Seed Potatoes (England) Regulations 2006 and come into force on 16th May 2006.

(2) These Regulations extend to England and Wales but apply only to England.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Plant Varieties and Seeds Act 1964;

“authorised officer” means an officer of the Secretary of State or a person authorised by the Secretary of State for any purpose in connection with these Regulations;

“basic seed potatoes” means seed potatoes which—

- (a) in relation to seed potatoes produced in England, are seed potatoes intended mainly for the production of certified seed potatoes and which have been certified as basic seed potatoes in accordance with regulation 9; and
- (b) in relation to seed potatoes produced outside England, are seed potatoes brought into England in a package or container which bears an official label for basic seed potatoes in accordance with Article 13(1)(a) of the Directive;

“category” means the category of pre-basic seed potatoes, basic seed potatoes, or certified seed potatoes (or, in relation to seed potatoes produced in Switzerland, the categories having equivalent effect under the legislation of the Swiss Confederation in accordance with the Swiss trade agreement);

“certification” means—

- (a) in relation to seed potatoes produced in England, certification in accordance with regulation 9; and
- (b) in relation to seed potatoes produced outside England, certification by the Certification Authority in accordance with the Directive;

(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), S.I. 1977/1112, and section 2 of the Agriculture Act 1986 (c.49); see section 38(1) for a definition of “the Minister”.

(b) Under the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794) the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 which remained vested in that Minister at the date of the Order were transferred to the Secretary of State.

and “certified” shall be construed accordingly;

“Certification Authority” means the authority concerned with the certification of seed potatoes in the country or territory where the seed potatoes were produced;

“certified seed potatoes” means seed potatoes which—

- (a) in relation to seed potatoes produced in England, are intended mainly for the production of potatoes other than seed potatoes and which have been certified as certified seed potatoes in accordance with regulation 9; and
- (b) in relation to seed potatoes produced outside England, are seed potatoes brought into England in a package or container which bears an official label for certified seed potatoes in accordance with Article 13(1)(a) of the Directive;

“class” means—

- (a) in relation to seed potatoes produced in England, the class or Community Grade determined—

- (i) in the course of certification, or
 - (ii) under the Seed Potatoes Regulations 1991(a),

and “classification”, “classify” and “classified” shall be construed accordingly; and

- (b) in relation to seed potatoes produced outside England, the class or grade, if any, specified in the official label affixed to the package or container in which the seed potatoes are brought into England or in any official document contained in that package or container;

“Common Catalogue” means the common catalogue of varieties of species of agricultural plants published in the Official Journal of the European Communities;

“Community Grade” means one of the grades of basic seed potatoes (EC grade 1, EC grade 2 or EC grade 3) determined by Commission Directive 93/17/EEC of 30 March 1993 determining Community grades of basic seed potatoes, together with the conditions and designations applicable to such grades(b);

“Deliberate Release Directive” means Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms(c), as amended by amendments up to and including those effected by Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and traceability of food and feed products produced from genetically modified organisms(d);

“the Directive” means Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes(e), as amended by Commission Decision 2003/66/EC of 28 January 2003(f) and Council Directive 2003/61/EC of 18 June 2003(g);

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

“genetically modified” has the same meaning as in the Deliberate Release Directive;

“grade” includes Community Grade;

“growing crop certificate” means—

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- (a) S.I. 1991/2206; relevant amending instruments are S.I. 1992/1031, S.I. 1993/1878, S.I. 1994/2592, S.I. 1997/1474 and S.I. 2000/1788.
 - (b) OJ L106, 30.4.1993, p7. 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 (OJ L2, 6.1.2004, p47).
 - (c) OJ L 106, 17.4.2001, p1.
 - (d) OJ L 268, 18.10.2003, p24.
 - (e) OJ L 193, 20.7.2002, p60.
 - (f) OJ L 25, 30.1.2003, p42.
 - (g) OJ L 165, 3.7.2003, p23.
 - (h) OJ L 268, 18.10.2003, p1.

- (a) a growing crop certificate issued by the Secretary of State in accordance with Schedule 1;
- (b) a pre-basic seed potatoes certificate issued by the Secretary of State in accordance with the Seed Potatoes Regulations 1991;
- (c) a basic seed potatoes certificate issued by the Secretary of State in accordance with the Seed Potatoes Regulations 1991; or
- (d) a certified seed potatoes certificate issued by the Secretary of State in accordance with the Seed Potatoes Regulations 1991;

“lot” for the purposes of regulations 6(2) and (3) and 10 means a consignment or 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 16;

“marketing” means—

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

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

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

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

“official document” means—

- (a) for seed potatoes produced in England, a document issued or approved by the Secretary of State which meets the requirements of Part II of Schedule 2; and
- (b) for seed potatoes produced outside England, a document issued or approved by the Certification Authority in the country or territory where the seed potatoes were produced which meets the requirements of Article 13(1)(b) of the Directive;

“official examination” means an examination or inspection conducted by an authorised officer, including one conducted by way of sample;

“official label” means—

- (a) for seed potatoes produced in England, a label issued or approved by the Secretary of State which has not been previously used and which meets the requirements of Part I of Schedule 2; and
- (b) for seed potatoes produced outside England, a label issued or approved by the Certification Authority in the country or territory where the seed potatoes were produced which meets, as appropriate to the seed potatoes to which the label relates, the requirements of Article 13(1)(a) or Article 18(f) of the Directive or Article 9 of Commission Decision 2004/842/EC of 1 December 2004 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(c);

“package or container” means—

(a) S.I. 2001/3510.

(b) OJ L 193, 20.7.2002, p1.

(c) OJ L 362, 9.12.2004, p21.

- (a) any package which has not been previously used for any purpose and is capable of being closed and sealed; or
- (b) any container which has not been previously used for any purpose or which, since having been previously used, has been cleaned and disinfected provided that the use of any container in respect of seed potatoes produced in England shall be subject to the approval of the Secretary of State;

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

“pre-basic seed potatoes” means seed potatoes which—

- (a) in relation to seed potatoes produced in England, are intended mainly for the production of basic seed potatoes and which have been certified as pre-basic seed potatoes in accordance with regulation 9; and
- (b) in relation to seed potatoes produced outside England, are seed potatoes brought into England in a package or container which bears an official label for pre-basic seed potatoes in accordance with Article 18(f) of the Directive;

“premises” includes any land or building, other than a private dwellinghouse, and any fixed or moveable structure, vehicle, vessel, aircraft, hovercraft or freight container;

“protected region” means the county of Cumbria, excluding the districts of Barrow-in-Furness and South Lakeland, and the county of Northumberland, excluding the districts of Blyth Valley and Wansbeck;

“seed potatoes” means—

- (a) 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
- (b) any potatoes that are intended to be used for planting and propagation;

“seed potatoes produced outside England” means—

- (a) seed potatoes produced in any part of the British Islands other than England;
- (b) seed potatoes produced in any member State other than the United Kingdom; or
- (c) seed potatoes produced in Switzerland;

“Swiss trade agreement” means the Agreement between the European Community and the Swiss Confederation on trade in agricultural products(a), as amended by amendments up to and including Commission Decision 2004/660/EC(b);

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

- (a) in relation to seed potatoes produced in England, are seed potatoes which have been authorised by the Secretary of State for marketing for test and trial purposes in accordance with regulation 8; and
- (b) in relation to seed potatoes produced outside England, are seed potatoes brought into England in a package or container which bears an official label in accordance with Article 9 of Commission Decision 2004/842/EC.

(2) In relation to seed potatoes produced in Switzerland, any reference in these Regulations to the Directive 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.

(3) Any reference in these Regulations to a tolerance in relation to seed potatoes comprised in a sample shall be construed—

(a) OJ L 114, 30.4.2002, p166. This, together with six other Agreements with the Swiss Confederation, was approved by the Council and the Commission by way of Council and Commission Decision 2002/309/EC, Euratom, OJ L 114, 30.4.2002, p1.
 (b) OJ L 301, 28.9.2004, p55.

- (a) in relation to a tolerance for any disease, pest or damage specified in Schedule 3, as a reference to the proportion of the weight of seed potatoes in the sample affected by the disease, pest or damage, or any combination of such disease, pest or damage, in relation to the total weight of the sample, expressed as a percentage;
- (b) in relation to a tolerance for dirt or other extraneous matter specified in Schedule 3, as a reference to the proportion of the weight of such matter in relation to the total weight of the sample, expressed as a percentage; and
- (c) in relation to a tolerance for a deviation or disease specified in the tables in Schedule 4, as a reference to the number of plants of seed potatoes affected by the deviation or disease in relation to the total number of plants in the sample, expressed as a percentage.

(4) For the purposes of Schedule 1, “agricultural unit” shall have the meaning assigned to that expression in section 109(2) of the Agriculture Act 1947(a).

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

Seed potatoes to which these Regulations do not apply

3. These Regulations do not apply to seed potatoes intended for export to any country outside the European Community.

Marketing of seed potatoes

4.—(1) No person shall market any seed potatoes other than—

- (a) pre-basic seed potatoes;
- (b) basic seed potatoes;
- (c) certified seed potatoes;
- (d) scientific and selection seed potatoes; or
- (e) test and trial seed potatoes.

(2) No person shall market any seed potatoes treated with a product which is produced primarily as an application for inhibiting germination.

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

- (a) in relation to seed potatoes produced in England, are seed potatoes which have been authorised by the Secretary of State for marketing in accordance with regulation 7; and
- (b) in relation to seed potatoes produced outside England, are seed potatoes which have been authorised by the Certification Authority in the country or territory where the potatoes were produced for marketing in accordance with Article 6(1)(a) of the Directive.

Marketing in the protected region

5. No person shall market any seed potatoes within the protected region other than—

- (a) pre-basic seed potatoes; or
- (b) basic seed potatoes which have been graded at a Community Grade and which meet the requirements of Commission Decision 2004/3/EC of 19 December 2003 authorising, in respect of the marketing of seed potatoes in all or part of the territory of certain Member States, more stringent measures against certain diseases than are provided for in Annexes I and II to Council Directive 2002/56/EC(b).

(a) 1947 c.48.

(b) OJ L 2, 6.1.2004, p47.

Size of seed potatoes

6.—(1) No person shall market any seed potatoes other than seed potatoes of pre-basic TC class unless they have a minimum size such that they do not pass through a square mesh of 25 millimetres x 25 millimetres.

(2) No person shall market any seed potatoes in a lot in which the maximum variation in size between tubers is such that the difference between the lower size limit and the upper size limit exceeds 25 millimetres.

(3) The requirements of paragraph (2) shall be treated as being met provided that no more than three per cent of the total weight of tubers in the lot shall consist of—

- (a) tubers which are smaller than the lower size limit; or
- (b) tubers which are larger than the upper size limit.

(4) For the purposes of this regulation—

- (a) “the lower size limit” means the dimensions of the largest square mesh through which the smallest tuber does not pass; and
- (b) “the upper size limit” means the dimensions of the largest square mesh through which the largest tuber does not pass.

(5) Where the size of seed potatoes is required to be stated in accordance with these Regulations, there shall be stated—

- (a) the dimensions of the square mesh through which the tubers do not pass, where the lower size limit and the upper size limit are the same; or
- (b) the lower size limit and the upper size limit, where these are not the same.

(6) For the purposes of paragraph (5), dimensions of more than 35 millimetres shall be stated to the nearest five millimetres.

Marketing of seed potatoes for scientific purposes or selection work

7.—(1) The Secretary of State may authorise marketing of small quantities of seed potatoes for scientific purposes or selection work in accordance with this regulation.

(2) The Secretary of State shall not authorise marketing of seed potatoes which 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 Secretary of State and shall be accompanied by such information as she may require.

Marketing of seed potatoes for test and trial purposes

8.—(1) The Secretary of State 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 5.

(2) Application for authorisation or renewal of authorisation to market seed potatoes in accordance with paragraph (1) shall be made in writing to the Secretary of State and shall be accompanied by such information as she may require.

(3) The Secretary of State shall not authorise marketing—

- (a) of an amount of 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 the Food and Feed Regulation or Part C of the Deliberate Release Directive.

(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 Secretary of State may specify.

(5) In authorising marketing in accordance with paragraph (1), the Secretary of State may impose such conditions as she 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 5 is withdrawn or rejected in accordance with the Seeds (National Lists of Varieties) Regulations 2001; or
- (b) the variety of potato species to which the seed potatoes to which the authorisation relates belong is entered in a National List or the Common Catalogue.

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

(8) The Secretary of State may require the person to whom authorisation has been given in accordance with paragraph (1) to provide her with information about—

- (a) the results of the tests or trials to which the authorisation relates; or
- (b) the quantities of seed potatoes marketed during the authorised period and the name of the member State in which the seed potatoes are intended to be marketed.

Certification of seed potatoes

9.—(1) Certification of seed potatoes produced in England shall be in accordance with this regulation.

(2) An authorised officer shall certify seed potatoes produced in England as being—

- (a) pre-basic seed potatoes,
- (b) basic seed potatoes, or
- (c) certified seed potatoes,

if the requirements of paragraph (3) are satisfied.

(3) The requirements mentioned in paragraph (2) are that—

- (a) a growing crop certificate has been issued in relation to the seed potatoes; and
- (b) on official examination the seed potatoes have been found not to exceed any of the tolerances for diseases or pests, damage or defects specified in the appropriate provisions of Schedule 3.

(4) Application for certification of seed potatoes produced in England shall be made in writing to the Secretary of State and shall be accompanied by such information as she may require.

(5) For the purposes of paragraph (2), an official label issued in accordance with these Regulations in relation to pre-basic seed potatoes, basic seed potatoes or certified seed potatoes shall be sufficient evidence that an authorised officer has certified the seed potatoes to which the official label relates as being pre-basic seed potatoes, basic seed potatoes or certified seed potatoes, as the case may be.

Composition of lots of seed potatoes

10.—(1) No person shall market pre-basic seed potatoes, basic seed potatoes or certified seed potatoes otherwise than in a lot consisting wholly of seed potatoes of—

- (a) one category;
- (b) one variety; and
- (c) one class.

(2) No person shall market test and trial seed potatoes otherwise than in a lot consisting wholly of seed potatoes of one variety.

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

- (a) in relation to seed potatoes produced in England, the number of seed potatoes in the lot which is not true to variety in relation to the total number of seed potatoes in the lot—
 - (i) in the case of pre-basic seed potatoes is no more than 0.01 per cent;
 - (ii) in the case of basic seed potatoes is no more than 0.1 per cent; and
 - (iii) in the case of certified seed potatoes or test and trial seed potatoes is no more than 0.2 per cent; and
- (b) in relation to seed potatoes produced outside England, the lot is sufficiently homogeneous in accordance with the standards imposed by the Certification Authority pursuant to the Directive in respect of the marketing of those potatoes.

Packages and containers for seed potatoes

11. Subject to regulation 17, no person shall market any seed potatoes otherwise than in a package or container.

Labelling of packages and containers of seed potatoes

12.—(1) Subject to regulation 17, no person shall market—

- (a) pre-basic seed potatoes,
- (b) basic seed potatoes,
- (c) certified seed potatoes, or
- (d) test and trial seed potatoes,

other than in a properly labelled package or container in accordance with this regulation.

(2) For the purposes of this regulation, a properly labelled package or container means a package or container that—

- (a) has affixed to the outside an official label; and
- (b) subject to paragraph (3), contains an official document.

(3) Paragraph (2)(b) shall not apply where—

- (a) the particulars specified in paragraph 14 of Schedule 2 are indelibly printed on the package or container; or
- (b) the official label is of an adhesive or wear and tear resistant material.

(4) Applications to the Secretary of State for official labels and official documents shall be made in writing and shall be accompanied by such information as she may require.

(5) The Secretary of State shall only issue an official label or an official document where she is satisfied that—

- (a) the seed potatoes are pre-basic seed potatoes, basic seed potatoes, certified seed potatoes or test and trial seed potatoes;
- (b) the seed potatoes comply with the minimum size requirements specified in regulation 6(1) and that the maximum variation in size between tubers does not exceed that specified in regulation 6(2);
- (c) the seed potatoes are contained in a package or container;
- (d) the seed potatoes have not been treated with a product which is produced primarily as an application for inhibiting germination;
- (e) the seed potatoes have been harvested, stored, transported and handled so as to minimise the risk of contamination by any of the diseases or pests specified in Schedule 3;
- (f) on a sample taken in accordance with regulation 18, the seed potatoes do not exceed any of the tolerances for diseases, pests, damage or defects specified in the appropriate part of Schedule 3; and

(g) there has been no other failure to comply with these Regulations in respect of any of the seed potatoes.

(6) If a package or container has been re-sealed by an authorised officer in accordance with regulation 13(4) the official label shall state—

- (a) that the package or container has been so re-sealed;
- (b) the date of re-sealing; and
- (c) the name of the authorised officer responsible for re-sealing.

(7) Where any pre-basic seed potatoes, basic seed potatoes, certified seed potatoes or test and trial seed potatoes have been treated with any chemical product, the type and function or the proprietary name of that product shall be—

- (a) stated on a label affixed to the package or container; and
- (b) either—
 - (i) stated on a document contained in the package or container; or
 - (ii) indelibly printed on the package or container.

(8) For the purposes of section 16(7)(a) of the Act, information relating to a variety of seed potatoes contained in a statutory statement shall not be held to be false in a material particular by reason only that it is false—

- (a) in the case of pre-basic seed potatoes, in respect of no more than 0.01 per cent of the seed potatoes;
- (b) in the case of basic seed potatoes, in respect of no more than 0.1 per cent of the seed potatoes; and
- (c) in the case of certified seed potatoes and test and trial seed potatoes, in respect of no more than 0.2 per cent of the seed potatoes.

(9) Except in accordance with the requirements of the Act, these Regulations or Orders made under the Plant Health Act 1967(a), no person shall, in connection with the marketing or the preparation for the marketing of any seed potatoes, wilfully reproduce, remove, alter, deface, conceal or misuse in any way any official label or official document, or any label affixed or document supplied in accordance with paragraph (2).

Sealing of packages and containers

13.—(1) Subject to regulation 17, no person shall market—

- (a) pre-basic seed potatoes,
- (b) basic seed potatoes,
- (c) certified seed potatoes, or
- (d) test and trial seed potatoes,

other than in a properly sealed package or container.

(2) For the purposes of this regulation, a properly sealed package or container means—

- (a) for seed potatoes produced in England, a closed package or container that has been sealed with an unbroken sealing device by or under the supervision of an authorised officer; and
- (b) for seed potatoes produced outside England, a closed package or container that has been sealed in accordance with Article 11(1) of the Directive.

(3) For the purposes of this regulation a “sealing device” means a device applied in such a manner to a package or container that when the package or container is opened the device will be broken.

(a) 1967 c.8.

(4) Where a sealing device on a package or container is broken, the package or container shall not be re-sealed with a sealing device otherwise than by or under the supervision of an authorised officer.

Identification of genetically modified seed potatoes

14. No person shall market genetically modified seed potatoes unless—

- (a) it is clearly indicated in any marketing information, including any sales catalogue or other marketing representations provided by the person marketing the seed potatoes, that the seed potatoes have been genetically modified; and
- (b) any official label or official document, or other label or document, affixed to, accompanying or relating to the seed potatoes clearly indicates that they have been genetically modified.

Seed potatoes from outside the European Community: information

15. Any person marketing more than two kilograms of seed potatoes that have been imported into England from a country outside the European Community shall supply the Secretary of State, in writing and within one month of the first marketing of the seed potatoes, with the particulars specified in Schedule 6.

Separate particulars

16. Subject to regulation 17, a person who sells pre-basic seed potatoes, basic seed potatoes, certified seed potatoes or test and trial seed potatoes shall issue to the buyer not later than 14 days after the sale, or, if the seed potatoes are not delivered at the time of sale, not later than 14 days after delivery thereof, a sale note, delivery note, invoice or similar document specifying in relation to the seed potatoes the particulars specified in Schedule 7.

Retail sales of seed potatoes

17. Regulations 11, 12, 13 and 16 shall not apply to a sale by retail of less than 50 kilograms of seed potatoes—

- (a) in circumstances where at the time of sale there is displayed conspicuously on a label affixed to a package containing the seed potatoes or on a document or notice placed in close proximity to the seed potatoes a statement of the particulars specified in Schedule 7; or
- (b) in containers that have not been previously used for any purpose upon each of which has been printed or otherwise legibly and indelibly marked the particulars specified in Schedule 7 or attached to or inserted in each of which is a label marked with those particulars.

Sampling of seed potatoes

18.—(1) A sample of seed potatoes taken for any purpose in connection with these Regulations shall be taken in accordance with this regulation.

(2) A sample required—

- (a) for any purpose in connection with certification of seed potatoes produced in England, or
- (b) for any other purpose,

shall be taken by an authorised officer and, subject to paragraph (3), shall be of such quantity or number and from such part or parts of the growing or harvested crop as he shall consider appropriate.

(3) Where a sample is required under paragraph (2)(b) and the bulk of seed potatoes in respect of which a growing crop certificate has been issued consists of seed potatoes—

- (a) comprising more than one consignment, or
- (b) associated with more than one growing crop certificate,

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

Keeping of records

19.—(1) A person who produces seed potatoes which are intended for marketing shall maintain for a period of not less than two years records of purchase of the seed potatoes from which those seed potatoes were produced and particulars of the crops grown.

(2) A person who markets seed potatoes shall maintain for a period of not less than two years a record of his marketing of such seed potatoes.

Enforcement – powers of examination and production

20.—(1) An authorised officer may conduct an examination and take samples of seed potatoes and inspect and take copies of a relevant document for the purpose of ensuring compliance with any provision of these Regulations.

(2) For the purposes of this regulation a person shall permit, at any reasonable time, an authorised officer to—

- (a) examine and take samples of seed potatoes in his possession or control; and
- (b) inspect and take copies of any relevant document in his possession or control.

(3) For the purposes of this regulation an authorised officer may by written notice served on a person require him to—

- (a) produce or make available for examination any seed potatoes or relevant document; or
- (b) provide information within his knowledge or belief relating to the production, certification or marketing of the seed potatoes.

(4) A person on whom a notice is served in accordance with paragraph (3) shall comply with the requirements of that notice within seven days of such service or such longer time as may be specified in the notice.

(5) For the purposes of this regulation “relevant document” means any growing crop certificate, official label, official document, other document or label, record or invoice relating to the planting, production, certification or marketing of seed potatoes.

Enforcement – power to withdraw official labels, official documents and growing crop certificates

21.—(1) The Secretary of State may withdraw an official label or official document—

- (a) where she is satisfied that the seed potatoes to which the official label or official document relates—
 - (i) have not been harvested, stored, transported or handled so as to minimise the risk of contamination by any of the diseases or pests specified in Schedule 3;
 - (ii) on a sample taken in accordance with regulation 18, exceed any of the tolerances for diseases, pests, damage or defects specified in the appropriate part of Schedule 3; or
 - (iii) otherwise fail to comply with these Regulations; or
- (b) where she is satisfied that the official label or official document contains any particular which is false in a material respect.

(2) The Secretary of State may withdraw a growing crop certificate where she is satisfied that—

- (a) the requirements of Schedule 1 are not, or are no longer, complied with; or
- (b) the growing crop certificate contains any particular which is false in a material respect.

(3) Where an official label or official document is withdrawn in accordance with paragraph (1)(a)(ii), the seed potatoes from which the sample was taken may be the subject of an official examination in order to determine whether any of them do not exceed the tolerances specified in Schedule 3.

(4) Where an official examination is conducted in accordance with paragraph (3), the Secretary of State may issue an official label or official document in relation to such seed potatoes as are found not to exceed the tolerances in Schedule 3.

(5) Where an official label, official document or growing crop certificate is withdrawn in accordance with this regulation, an authorised officer may—

- (a) remove and retain the official label, official document or growing crop certificate; or
- (b) require any person in possession or charge of the official label, official document or growing crop certificate to deliver it to the authorised officer within such time as he may specify.

(6) A person in possession or charge of an official label, official document or growing crop certificate that has been withdrawn in accordance with this regulation shall—

- (a) permit an authorised officer to remove the official label, official document or growing crop certificate in accordance with paragraph (5)(a); and
- (b) comply with any requirement made in accordance with paragraph (5)(b).

Service of notices

22.—(1) For the purposes of regulation 20(3), a notice shall be deemed to have been served on any person if it is delivered to him personally or left for him at his last known place of abode or business or sent through the post in a letter addressed to him there.

(2) A notice may—

- (a) in the case of a body corporate (other than a limited liability partnership), be served on the secretary or clerk of that body at the address of the registered or principal office of that body;
- (b) in the case of a partnership including a Scottish partnership (other than a limited liability partnership), be served on a partner or person having the control or management of the partnership business at the address of the principal office of the partnership; or
- (c) in the case of a limited liability partnership, be served on a member of the partnership at the address of the registered or principal office of that partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be its principal office within the United Kingdom.

Modification of provisions of the Act

23.—(1) In connection with the provisions of these Regulations the operation of the following provisions of the Act is modified or excluded in accordance with the provisions of this regulation.

(2) Section 25(a) is modified as if for the purposes of the section any reference to “premises” were a reference to premises as defined in these Regulations and any reference to a subsection containing a reference to premises were a reference to that subsection as so modified.

(3) Section 25(1) is modified as if the reference to subsection (4) of that section were a reference to that subsection as modified by the provision of paragraph (4).

(4) In section 25(4) the words from “potatoes” (where it first occurs) to the end are omitted.

(5) In section 26, subsections (2), (4), (5), (6), (7), (8) and (9) are omitted.

(a) Section 25 was amended by the European Communities Act 1972 (c. 68), Schedule 3, Part III and Schedule 4, paragraph 5(2) and by the Criminal Justice Act 1982 (c. 48), Schedule 6, paragraph 16.

Revocations

24. The regulations in Schedule 8 are revoked.

Date 21st April 2006

Bach
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

GROWING CROP CERTIFICATES

PART I

General

1. On receipt of an application for certification of any seed potatoes, an authorised officer shall—
 - (a) allocate to the person making such application a number to be known as a “producer’s identification number” (where one does not already exist for that person);
 - (b) following an official examination, determine in accordance with this Schedule and Schedule 4 the categories and classes at which the seed potatoes are capable of being marketed; and
 - (c) subject to paragraphs 3 to 11, issue a growing crop certificate in accordance with paragraph 2.
2. A growing crop certificate shall state—
 - (a) the name and address of the applicant;
 - (b) the categories and classes at which the authorised officer has determined the seed potatoes are capable of being marketed in accordance with paragraph 1(b);
 - (c) the name of the agricultural unit on which the crop was grown;
 - (d) the producer’s identification number;
 - (e) the date on which the growing crop was inspected;
 - (f) the variety of the seed potatoes;
 - (g) the area of the seed potatoes;
 - (h) the location of the field on which the seed potatoes were grown.
3. A growing crop certificate may only be issued where an authorised officer is satisfied that in relation to the seed potatoes examined by him—
 - (a) the seed potatoes are of a variety of potato species entered in a National List or the Common Catalogue;
 - (b) the seed potatoes in any one crop are of a single variety;
 - (c) the seed potatoes are taken from a crop which is free from the following diseases or pests—
 - (i) Wart Disease (*Synchytrium endobioticum* (Schilb.) Perc.);
 - (ii) Potato Cyst Nematode (*Globodera* species infesting potatoes);
 - (iii) Ring Rot (*Clavibacter michiganensis* (Smith) Davis et al. ssp. *Sepedonicus* (Spieck. & Kotth.) Davis et al.);
 - (iv) Brown Rot (*Ralstonia solanacearum* (Smith) Yabuuchi et al);
 - (v) Potato Spindle Tuber Viroid;
 - (vi) Colorado Beetle (*Leptinotarsa decemlineata* (Say)); and
 - (vii) Potato Tuber Eelworm (*Ditylenchus destructor* (Thorne));

- (d) 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 (England) Order 2005^(a) as contaminated with Wart Disease (*Synchytrium endobioticum* (Schilb.) Perc.) or is within a safety zone demarcated under that Order;
- (e) blanking in any of the growing crop of the seed potatoes is not or was not excessive;
- (f) the growing crop has not been over-rogued; and
- (g) all reasonable husbandry practices for the prevention of the occurrence, development or spread of pests and diseases have been effectively carried out.

PART II

Pre-basic seed potatoes

4. No growing crop certificate shall be issued containing a statement that seed potatoes are capable of being marketed as pre-basic seed potatoes of any class unless the authorised officer is satisfied that—

- (a) unless grown in a soil-free medium, the land on which the seed potatoes are growing or were grown is land which as a result of an official soil test carried out prior to the planting of the crop has been found not to be contaminated with potato cyst nematode (*Globodera* species infecting potatoes); and if potato cyst nematode has been found on that land at any time during the period of 12 years immediately preceding the planting of the crop that—
 - (i) the land is no longer demarcated under Schedule 15 to the Plant Health (England) Order 2005 as infected with potato cyst nematode;
 - (ii) six years have elapsed since the last positive finding of infection by potato cyst nematode on the land;
 - (iii) except as authorised under paragraph 5 of Schedule 15 to the Plant Health (England) Order 2005, the land has not been used for growing potatoes at any time during the period of 11 years immediately preceding the planting of the crop; and
- (b) the land on which the seed potatoes are growing or were grown is land which has not been used for growing potatoes at any time during the seven years immediately preceding the planting of the crop.

5. No growing crop certificate shall be issued containing a statement that seed potatoes are capable of being marketed as pre-basic seed potatoes of pre-basic TC class unless the authorised officer is satisfied that the immediately succeeding crop produced from the seed potatoes is not likely to contain—

- (a) plants of a different variety; or
- (b) plants affected by mild or severe virus.

6. No growing crop certificate shall be issued containing a statement that seed potatoes are capable of being marketed as pre-basic seed potatoes of pre-basic 1, pre-basic 2, pre-basic 3 or pre-basic 4 class unless, in the opinion of the authorised officer, the immediately succeeding crop produced from the seed potatoes is not likely to contain—

- (a) more than 0.01 per cent by number of growing plants which deviate from variety and type; or
- (b) more than 0.01 per cent by number of growing plants which show symptoms of either mild or severe virus diseases where those symptoms are attributable to infection in the mother crop.

(a) S.I. 2005/2530.

PART III

Basic seed potatoes

7. No growing crop certificate shall be issued containing a statement that seed potatoes are capable of being marketed as basic seed potatoes of any class unless the authorised officer is satisfied that—

- (a) the land on which the seed potatoes are growing or were grown is land which as a result of an official soil test carried out prior to the planting of the crop has been found not to be contaminated with potato cyst nematode (*Globodera* species infecting potatoes); and if potato cyst nematode has been found on that land at any time during the period of 12 years immediately preceding the planting of the crop that—
 - (i) the land is no longer demarcated under Schedule 15 to the Plant Health (England) Order 2005 as infected with potato cyst nematode;
 - (ii) six years have elapsed since the last positive finding of infection by potato cyst nematode on the land; and
 - (iii) except as authorised under paragraph 5 of Schedule 15 to the Plant Health (England) Order 2005, the land has not been used for growing potatoes at any time during the period of 11 years immediately preceding the planting of the crop; and
- (b) the land on which the seed potatoes are growing or were grown is land which has not been used for growing potatoes at any time during the five years immediately preceding the planting of the crop.

8. No growing crop certificate shall be issued containing a statement that seed potatoes are capable of being marketed as basic seed potatoes of any class unless, in the opinion of the authorised officer, the immediately succeeding crop produced from the seed potatoes is likely to contain—

- (a) not more than 0.25 per cent by number of growing plants which do not breed true to variety and not more than 0.1 per cent by number of plants which are of a different variety; and
- (b) not more than 4 per cent by number of growing plants which show symptoms, other than slight symptoms, of either mild or severe virus diseases prevalent in Europe where those symptoms are attributable to infection in the mother crop.

PART IV

Certified seed potatoes

9. No growing crop certificate shall be issued containing a statement that seed potatoes are capable of being marketed as certified seed potatoes in the case of seed potatoes growing or grown in the protected region.

10. No growing crop certificate shall be issued containing a statement that seed potatoes are capable of being marketed as certified seed potatoes unless the authorised officer is satisfied that—

- (a) the land on which the seed potatoes are growing or were grown is land which as a result of an official soil test carried out prior to the planting of the crop has been found not to be contaminated with potato cyst nematode; and
- (b) the land on which the seed potatoes are growing or were grown is land which has not at any time during the period of four years immediately preceding the planting of that crop been used for growing potatoes.

11. No growing crop certificate shall be issued containing a statement that seed potatoes are capable of being marketed as certified seed potatoes unless, in the opinion of the authorised officer, the immediately succeeding crop produced from the seed potatoes is likely to contain—

- (a) not more than 0.5 per cent by number of growing plants which do not breed true to variety and not more than 0.2 per cent by number of plants which are of a different variety; and
- (b) not more than 10 per cent by number of growing plants which show symptoms, other than slight symptoms, of severe virus diseases prevalent in Europe where those symptoms are attributable to infection in the mother crop (provided that light mosaics causing discoloration but not leaf deformation shall be ignored).

OFFICIAL LABEL AND OFFICIAL DOCUMENT

PART I

Official Label

1. An official label used in relation to pre-basic seed potatoes shall be coloured white with a diagonal violet line.
2. An official label used in relation to basic seed potatoes shall be coloured white.
3. An official label used in relation to certified seed potatoes shall be coloured blue.
4. An official label used in relation to test and trial seed potatoes shall be coloured orange.
5. An official label shall measure not less than 110 millimetres x 67 millimetres.
6. An official label for pre-basic seed potatoes shall, in relation to the seed potatoes to which it relates, state the following particulars—
 - (a) the Certification Authority and member State or their distinguishing abbreviation;
 - (b) the producer's identification number or a lot reference number;
 - (c) the month and year of sealing;
 - (d) the 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;
 - (e) the variety, indicated at least in roman characters; and
 - (f) the description "pre-basic seed potatoes".
7. An official label for basic seed potatoes or certified seed potatoes shall—
 - (a) contain the statement "EC Rules and Standards"; and
 - (b) in relation to the seed potatoes to which it relates, state the following particulars—
 - (i) the Certification Authority and member State or their initials;
 - (ii) the producer's identification number or a lot reference number;
 - (iii) the month and year of sealing;
 - (iv) the variety, indicated at least in roman characters;
 - (v) the country of production;
 - (vi) the category;
 - (vii) for basic seed potatoes, the Community Grade (if appropriate);
 - (viii) the size; and
 - (ix) the net weight.
8. An official label for test and trial seed potatoes shall—
 - (a) contain the statements "variety not yet officially listed" and "for tests and trials only"; and
 - (b) in relation to the seed potatoes to which it relates, shall state the following particulars—
 - (i) the Certification Authority and member State or their distinguishing abbreviations;
 - (ii) the producer's identification number or a lot reference number;

- (iii) the month and year of sealing;
- (iv) the species;
- (v) the denomination of the variety under which the seed potatoes are to be marketed (which may be the breeder's reference, the proposed denomination or the approved denomination);
- (vi) the reference number in respect of the application submitted in accordance with regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001 for acceptance of the variety concerned on to a National List;
- (vii) the size; and
- (viii) the net weight.

9. Without prejudice to paragraphs 1 to 8, an official label may contain such further statements—

- (a) as are required or permitted to be included in an official label in accordance with any provision of these Regulations or the Plant Health (England) Order 2005; or
- (b) as the Secretary of State considers appropriate.

PART II

Official document

10. An official document used in relation to pre-basic seed potatoes shall be coloured white with a diagonal violet line.

11. An official document used in relation to test and trial seed potatoes shall be coloured orange.

12. An official document in relation to basic seed potatoes shall be predominantly white.

13. An official document in relation to certified seed potatoes shall be predominantly blue.

14. An official document shall, in relation to the seed potatoes to which it relates, state—

- (a) the producer's identification number or a lot reference number;
- (b) the month and year of sealing; and
- (c) the country of production.

SCHEDULE 3

Regulation 2(3)

SPECIFIED DISEASES OR PESTS, DAMAGE AND DEFECTS AND TOLERANCES

PART I

Pre-basic seed potatoes of pre-basic TC class produced in England

| <i>Column 1</i> <i>Specified diseases or pests, damage and defects</i> | <i>Column 2</i> <i>Individual tolerances</i> |
|--|--|
| <p>GROUP I</p> <p>Wart Disease (<i>Synchytrium endobioticum</i> (Schlib.) Perc.)</p> <p>Potato Tuber Eelworm (<i>Ditylenchus destructor</i> Thorne)</p> <p>Potato Cyst Nematode (<i>Globodera</i> species infesting potatoes)</p> <p>Ring Rot (<i>Clavibacter michiganensis</i> (Smith) Davis et al. spp. <i>sepedonicus</i> (Spieck. & Kotth.) Davis et al.)</p> <p>Brown Rot (<i>Ralstonia solanacearum</i> (Smith) Yabuuchi et al)</p> <p>Potato Spindle Tuber Viroid</p> <p>Colorado Beetle (<i>Lepinotarsa decemlineata</i> (Say))</p> | <p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p> |
| <p>GROUP II</p> <p>Blight (<i>Phytophthora infestans</i> (Mont.) de Bary)</p> <p>Blackleg (<i>Erwinia carotovora</i> (Jones) Bergey et al.spp) <i>atroseptica</i> (Hellmers & Dowson) Dye or <i>Erwinia chrysanthemi</i> Burkholder et al. or both</p> <p>Soft Rots including: Watery Wound Rot (<i>Pythium ultimum</i> Trow)</p> <p>Pink Rot (<i>Phytophthora erythroseptica</i> Pethybridge) and Pit Rot</p> <p>Dry Rot (<i>Fusarium</i> species)</p> <p>Gangrene (<i>Phoma</i> species)</p> <p>Frost damaged tubers</p> | <p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p> <p>Nil</p> |
| <p>GROUP III</p> <p>Skin spot (<i>Polyscytalum pustulans</i> (Owen & Wakefield) M. B. Ellis)</p> | <p>Nil</p> |
| <p>GROUP IV</p> <p>Black Scurf (<i>Rhizoctonia solani</i> Kuhn)</p> | <p>Nil</p> |

| <i>Column 1</i> <i>Specified diseases or pests, damage and defects</i> | <i>Column 2</i> <i>Individual tolerances</i> |
|--|---|
| Common Scab (<i>Streptomyces</i> species) | Nil |
| GROUP V Powdery scab (<i>Spongospora subterranea</i> (Wallr.) Legerh.) | Nil |
| GROUP VI External blemishes or tubers other than diseased tubers whose shape is atypical for the variety | 3.0% |
| GROUP VII Dirt or other extraneous matter | 1.0% |

PART II

Pre-basic seed potatoes of pre-basic 1, pre-basic 2, pre-basic 3 or pre-basic 4 class produced in England

| <i>Column 1</i> <i>Specified diseases or 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> |
|---|---|--|---|
| GROUP I Wart Disease (<i>Synchytrium endobioticum</i> (Schlib.) Perc.) | 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 et al. spp. <i>sepedonicus</i> (Spieck. & Kotth.) Davis et al.) | Nil | - | - |
| Brown Rot (<i>Ralstonia solanacearum</i> (Smith) Yabuuchi et al) | Nil | - | - |
| Potato Spindle Tuber Viroid | Nil | - | - |
| Colorado Beetle (<i>Lepinotarsa decemlineata</i> (Say)) | Nil | - | - |
| GROUP II Blight (<i>Phytophthora infestans</i> (Mont.) de Bary) | 0.2% | - | - |
| Blackleg (<i>Erwinia carotovora</i> (Jones) Bergey et al. spp) <i>atroseptica</i> (Hellmers & Dowson) Dye or <i>Erwinia chrysanthemi</i> Burkholder et al. or both | Nil |) |) |
| Soft Rots including: Watery Wound Rot (<i>Pythium ultimum</i> Trow) | 0.2% |) |) |

| <i>Column 1</i> <i>Specified diseases or 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> |
|---|---|--|---|
| Pink Rot (<i>Phytophthora erythroseptica</i> Pethybridge) and Pit Rot | 0.2% |) 0.2% |) |
| Dry Rot (<i>Fusarium</i> species) | 0.2% |) |) |
| Gangrene (<i>Phoma</i> species) | 0.2% |) |) |
| Frost damaged tubers | 0.2% |) |) |
| GROUP III Skin spot (<i>Polyscytalum pustulans</i> (Owen & Wakefield)) M. B. Ellis | 0.2% |) |) 4.0% |
| GROUP IV Black Scurf (<i>Rhizoctonia solani</i> Kuhn) Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-eighth of whose surface area has been affected shall be deemed to be unaffected by the disease. Common Scab (<i>Streptomyces</i> species) Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-quarter of whose surface area has been affected shall be deemed to be unaffected by the disease. | 1.0% 3.0% |) 3.0%) |) |
| GROUP V Powdery scab (<i>Spongospora subterranea</i> (Wallr.) Legerh.) Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-eighth of whose surface area has been affected shall be deemed to be unaffected by the disease. | 1.0% |) |) |
| GROUP VI External blemishes or tubers other than diseased tubers whose shape is atypical for the variety Superficial necrosis caused by potato virus Y | 1.0% Nil | - | - |
| GROUP VII Dirt or other extraneous matter | 1.0% | - | - |

PART III

Basic seed potatoes and certified seed potatoes produced in England

| <i>Column 1</i> <i>Specified diseases or 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> |
|--|---|--|---|
| GROUP I | | | |
| Wart Disease (<i>Synchytrium endobioticum</i> (Schlib.) Perc.) | 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 et al. spp. <i>sepedonicus</i> (Spieck. & Kotth.) Davis et al.) | Nil | - | - |
| Brown Rot (<i>Ralstonia solanacearum</i> (Smith) Yabuuchi et al) | Nil | - | - |
| Potato Spindle Tuber Viroid | Nil | - | - |
| Colorado Beetle (<i>Lepinotarsa decemlineata</i> (Say)) | Nil | - | - |
| GROUP II | | | |
| Blight (<i>Phytophthora infestans</i> (Mont.) de Bary) | 1.0% |) |) |
| Blackleg (<i>Erwinia carotovora</i> (Jones) Bergey et al.spp) <i>atroseptica</i> (Hellmers & Dowson) Dye or <i>Erwinia chrysanthemi</i> Burkholder et al. or both | 1.0% |) |) |
| Soft Rots including Watery Wound Rot (<i>Pythium ultimum</i> Trow) | 1.0% |) 1.0% |) |
| Pink Rot (<i>Phytophthora erythroseptica</i> Pethybridge) and Pit Rot | 1.0% |) |) |
| Dry Rot (<i>Fusarium</i> species) | 1.0% |) |) |
| Gangrene (<i>Phoma</i> species) | 1.0% |) |) |
| Frost damaged tubers | 1.0% |) |) |
| Provided that in respect of seed potatoes of a Community Grade the individual tolerances listed in column 2 and the group tolerances listed in column 3 shall not exceed 0.5%. | | | |
| GROUP III | | | |
| Skin spot (<i>Polyscytalum pustulans</i> (Owen & Wakefield) M. B. Ellis) | 0.5% except for A and CC classes; |) |) |

| <i>Column 1</i> <i>Specified diseases or 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> |
|---|---|--|---|
| <p>Powdery scab (<i>Spongospora subterranea</i> (Wallr.) Legerh.)</p> <p>Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-eighth of whose surface area has been affected shall be deemed to be unaffected by the disease (except where powdery scab takes its cankerous form).</p> | <p>2.0% for A and CC classes only</p> <p>3.0%</p> |) 4.0% |) 4.0% |
| <p>GROUP IV Black Scurf (<i>Rhizoctonia solani</i> Kuhn)</p> <p>Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-quarter of whose surface area has been affected in respect of class A and class CC and one-eighth unaffected in respect of all other classes shall be deemed to be unaffected by the disease.</p> <p>Common Scab (<i>Streptomyces</i> species)</p> <p>Provided that seed potatoes which have at least two eyes at the rose end that are wholly unaffected and less than one-quarter of whose surface area has been affected shall be deemed to be unaffected by the disease.</p> | <p>3.0%</p> <p>4.0%</p> |) |) |
| <p>GROUP V External blemishes or tubers other than diseased tubers whose shape is atypical for the variety</p> <p>Superficial necrosis caused by strains of potato virus Y</p> | <p>2.0%</p> <p>0.1%</p> | 2.0% |) |
| <p>GROUP VI Dirt or other extraneous matter</p> | 1.0% | - | - |

PART IV

Test and trial seed potatoes

| <i>Column 1</i> <i>Specified diseases or pests, damage and defects</i> | <i>Column 2</i> <i>Individual tolerances</i> | <i>Column 3</i> <i>Collective tolerances</i> |
|---|---|---|
| Potato Tuber Eelworm (<i>Ditylenchus destructor</i> Thorne) | Nil | - |

| Column 1 Specified diseases or pests, damage and defects | Column 2 Individual tolerances | Column 3 Collective tolerances |
|--|-----------------------------------|-----------------------------------|
| Potato Cyst Nematode (<i>Globodera</i> species infesting potatoes) | Nil | - |
| Ring Rot (<i>Clavibacter michiganensis</i> (Smith) Davis et al. spp. <i>sepedonicus</i> (Spieck. & Kotth.) Davis et al.) | Nil | - |
| Brown Rot (<i>Ralstonia solanacearum</i> (Smith) Yabuuchi et al) | Nil | - |
| Potato Spindle Tuber Viroid | Nil | - |
| Colorado Beetle (<i>Lepinotarsa decemlineata</i> (Say)) | Nil | - |
| Wart Disease (<i>Synchytrium endobioticum</i> (Schlib.) Perc.) | Nil | - |
| Potato Cyst Nematode (<i>Globodera</i> species infesting potatoes) | Nil | - |
| Ring Rot (<i>Clavibacter michiganensis</i> (Smith) Davis et al. spp. <i>sepedonicus</i> (Spieck. & Kotth.) Davis et al.) | Nil | - |
| Brown Rot (<i>Ralstonia solanacearum</i> (Smith) Yabuuchi et al) | Nil | - |
| Earth or other extraneous matter | 2.0% | - |
| Dry and wet rot, except if caused by <i>Synchytrium endobioticum</i> , <i>Clavibacter michiganensis</i> (Smith) Davis et al. spp. <i>Sepedonicus</i> (Spieck. & Kotth.) Davis et al.) or <i>Ralstonia solanacearum</i> (Smith) Yabuuchi et al) | 1.0% |) |
| External blemishes or tubers other than diseased tubers whose shape is atypical for the variety | 3.0% |) 6.0% |
| Common scab: tubers affected over more than one-third of their surface | 5.0% |) |

CLASSIFICATION OF SEED POTATOES

PART I

Seed potatoes capable of being marketed as pre-basic seed potatoes

In the course of making a determination for the purposes of Schedule 1, paragraph 1(b), where an authorised officer determines that seed potatoes are capable of being marketed as pre-basic seed potatoes, he may classify them as being seed potatoes of any of the classes specified in column 1 of table 1 where he is satisfied following inspection that the requirements specified in column 2 in relation to that class have been met.

Table 1

| <i>Column 1</i> <i>Class</i> | <i>Column 2</i> <i>Requirements</i> |
|---------------------------------|---|
| Pre-basic TC | <p>(1) The seed potatoes shall—</p> <ul style="list-style-type: none"> (a) be derived from nuclear stock or tested tubers supplied by a source acceptable to the Secretary of State which have been grown on a unit where no material of the species <i>Solanaceae</i> or other material, other than that derived from nuclear stock or tested tubers from a source acceptable to the Secretary of State, has been grown; and (b) have been kept free from— <ul style="list-style-type: none"> (i) potato viruses A, M, S, X, Y, leafroll, potato mop top virus, tobacco rattle virus and tobacco veinal necrosis or any other significant virus, (ii) witches' broom and blackleg, (iii) deviations of variety and type, and (iv) groundkeepers. |
| Pre-basic 1 | <p>(2) The seed potatoes shall—</p> <ul style="list-style-type: none"> (a) be derived from— <ul style="list-style-type: none"> (i) nuclear stock or tested tubers supplied by a source acceptable to the Secretary of State which have been grown on a unit where no material of the species <i>Solanaceae</i> or other material, other than that derived from nuclear stock or tested tubers from a source acceptable to the Secretary of State, has been grown; (ii) a stock which was classified as pre-basic TC in the year preceding the planting of the crop; or (iii) such other seed potatoes as shall have been notified in writing by the Secretary of State as being acceptable to her; and (b) have been kept free from— <ul style="list-style-type: none"> (i) potato viruses A, M, S, X, Y, leafroll, potato mop top virus, tobacco rattle virus and tobacco veinal necrosis or any other significant virus, (ii) witches' broom and blackleg, (iii) deviations of variety and type, and (iv) groundkeepers. |

| <i>Column 1 Class</i> | <i>Column 2 Requirements</i> |
|---------------------------|--|
| Pre-basic 2 | <p>(3) The seed potatoes shall—</p> <ul style="list-style-type: none"> (a) be derived from— <ul style="list-style-type: none"> (i) a stock which was classified as pre-basic 1 in the year preceding the planting of the crop; or (ii) such other seed potatoes as shall have been notified in writing by the Secretary of State as being acceptable to her; and (b) have been kept free from— <ul style="list-style-type: none"> (i) potato viruses A, M, S, X, Y, leafroll, potato mop top virus, tobacco rattle virus and tobacco veinal necrosis or any other significant virus, (ii) witches' broom and blackleg, (iii) deviations of variety and type, and (iv) groundkeepers. |
| Pre-basic 3 | <p>(4) The seed potatoes shall—</p> <ul style="list-style-type: none"> (a) be derived from— <ul style="list-style-type: none"> (i) a stock which was classified as pre-basic 2 in the year preceding the planting of the crop; or (ii) such other seed potatoes as shall have been notified in writing by the Secretary of State as being acceptable to her; and (b) have been kept free from— <ul style="list-style-type: none"> (i) potato viruses A, M, S, X, Y, leafroll, potato mop top virus, tobacco rattle virus and tobacco veinal necrosis or any other significant virus, (ii) witches' broom and blackleg, (iii) deviations of variety and type, and (iv) groundkeepers. |
| Pre-basic 4 | <p>(5) The seed potatoes shall—</p> <ul style="list-style-type: none"> (a) be derived from— <ul style="list-style-type: none"> (i) a stock which was classified as pre-basic 3 in the year preceding the planting of the crop; or (ii) such other seed potatoes as shall have been notified in writing by the Secretary of State as being acceptable to her; and (b) have been kept free from— <ul style="list-style-type: none"> (i) potato viruses A, M, S, X, Y, leafroll, potato mop top virus, tobacco rattle virus and tobacco veinal necrosis or any other significant virus, (ii) witches' broom and blackleg, (iii) deviations of variety and type, and (iv) groundkeepers. |

PART II

Seed potatoes capable of being marketed as basic seed potatoes

In the course of making a determination for the purposes of Schedule 1, paragraph 1(b), where an authorised officer determines that seed potatoes are capable of being marketed as basic seed potatoes, he may classify them as being seed potatoes of—

- (a) any of the classes specified in column 1 of table 2 where he is satisfied following inspection that the requirements specified in column 2 in relation to that class have been met and that the tolerances specified in column 3 have not been exceeded in respect of those seed potatoes; or
- (b) a Community Grade where he is satisfied following inspection that the requirements of Commission Directive 93/17/EEC of 30 March 1993 determining Community Grades of basic seed potatoes, together with the conditions and designations applicable to such grades^(a) have been met.

Table 2

| <i>Column 1</i> <i>Class</i> | <i>Column 2</i> <i>Requirements</i> | <i>Column 3</i> <i>Tolerances</i> |
|---------------------------------|---|---|
| Super Elite 1 (SE1) | <p>(1) The seed potatoes shall be derived from—</p> <ul style="list-style-type: none"> (a) a stock of pre-basic seed potatoes or a stock classified under the Seed Potatoes Regulations 1991 as VTSC 1 or VTSC 2 in the year preceding the planting of the crop; or (b) such other seed potatoes as shall have been notified in writing by the Secretary of State as being acceptable to her. | <ul style="list-style-type: none"> (i) deviations from variety and type and groundkeepers – 0.05%. (ii) severe mosaic – nil. (iii) leafroll – 0.01%. (iv) mild mosaic – 0.05%. (v) blackleg – 0.25%. |
| Super Elite 2 (SE2) | <p>(2) The seed potatoes shall be derived from—</p> <ul style="list-style-type: none"> (a) a stock which was classified as SE1 in the year preceding the planting of the crop; or (b) such other seed potatoes as shall have been notified in writing by the Secretary of State as being acceptable to her. | As for class SE1 potatoes. |
| Super Elite 3 (SE3) | <p>(3) The seed potatoes shall be derived from—</p> <ul style="list-style-type: none"> (a) a stock which was classified as SE2 in the year preceding the planting of the crop; or (b) such other seed potatoes as shall have been notified in writing by the Secretary of State as being acceptable to her. | As for class SE1 potatoes. |

(a) OJ L106, 30.4.1993, p7.

| <i>Column 1 Class</i> | <i>Column 2 Requirements</i> | <i>Column 3 Tolerances</i> |
|---------------------------|--|---|
| Elite 1 (E1) | <p>(4) The seed potatoes shall be derived from—</p> <p>(a) a stock which was certified as pre-basic seed potatoes or basic seed potatoes (other than E1, E2, E3 or A class) in the year preceding the planting of the crop; or</p> <p>(b) such other seed potatoes as shall have been notified in writing by the Secretary of State as being acceptable to her.</p> | <p>(i) deviations from variety and type and groundkeepers – 0.05%.</p> <p>(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.</p> <p>(iii) blackleg – 0.5%.</p> |
| Elite 2 (E2) | <p>(5) The seed potatoes shall be derived from—</p> <p>(a) a stock which was classified as E1 in the year preceding the planting of the crop;</p> <p>(b) basic seed potatoes of Community Grade EC grade 1 or EC grade 2; or</p> <p>(c) such other seed potatoes as shall have been notified in writing by the Secretary of State as being acceptable to her.</p> | As for class E1 potatoes. |
| Elite 3 (E3) | <p>(6) The seed potatoes shall be derived from—</p> <p>(a) a stock which was classified as E2 in the year preceding the planting of the crop; or</p> <p>(b) such other seed potatoes as shall have been notified in writing by the Secretary of State as being acceptable to her.</p> | As for class E1 potatoes. |
| A | <p>(7) The seed potatoes shall be derived from—</p> <p>(a) inside the protected region, a stock which was certified as pre-basic seed potatoes or basic seed potatoes (other than A class) in the year preceding the planting of the crop;</p> <p>(b) outside the protected region, a stock of pre-basic seed potatoes or basic seed potatoes of Community Grade EC grade 3; or</p> <p>(c) such other seed potatoes as shall have been notified in writing by the Secretary of State as being acceptable to her.</p> | <p>(i) deviations from variety and type and groundkeepers – 0.1%.</p> <p>(ii) total virus disease – 0.8% of which not more than 0.4% in total shall be leafroll and severe mosaic.</p> <p>(iii) blackleg – 1.0%.</p> |

| <i>Column 1 Class</i> | <i>Column 2 Requirements</i> | <i>Column 3 Tolerances</i> |
|---------------------------|----------------------------------|--------------------------------|
| | | |

PART III

Seed potatoes capable of being marketed as certified seed potatoes

In the course of making a determination for the purposes of Schedule 1, paragraph 1(b), where an authorised officer determines that seed potatoes are capable of being marketed as certified seed potatoes, he shall classify them as seed potatoes of a class known as CC class where he is satisfied on a sample that the requirements specified in column 2 of table 3 in relation to that class have been met and that the tolerances specified in column 3 have not been exceeded in respect of those potatoes.

Table 3

| <i>Column 1 Class</i> | <i>Column 2 Requirements</i> | <i>Column 3 Tolerances</i> |
|---------------------------|---|---|
| CC | The seed potatoes shall be produced— <ul style="list-style-type: none"> (a) directly from pre-basic seed potatoes, basic seed potatoes or certified seed potatoes; or (b) from a crop grown with the authority of or in circumstances notified in writing as being acceptable to the Secretary of State. | (i) leafroll and severe mosaic – 2.0%; (ii) mild mosaic – 5.0%, providing that the total of leafroll and mild mosaic shall not exceed 5%; (iii) blackleg – 2.0%; (iv) deviations from variety and type and groundkeepers – 0.5%, of which deviation from variety – 0.2%. |

AUTHORISATION FOR MARKETING SEED POTATOES FOR TEST
AND TRIAL PURPOSES

1. On receipt of an application for authorisation made in accordance with regulation 8, an authorised officer shall—

- (a) allocate to the person making such application a number to be known as a “producer’s identification 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 Part IV of Schedule 3 have been met; and
- (c) subject to paragraph 3 and regulation 8, 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 producer’s identification 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; and
- (f) the proposed name of the variety of the seed potatoes.

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

- (a) the seed potatoes are of a variety for which an application has been made under regulation 4(1)(a) of the Seeds (National Lists of Varieties) Regulations 2001 for acceptance of the variety concerned on to a National List and which application has not been withdrawn or finally determined;
- (b) the land on which the seed potatoes are growing or were grown is not land which is demarcated under Schedule 14 to the Plant Health (England) Order 2005 as contaminated with Wart Disease (*Synchytrium endobioticum* (Schilb.) Perc.) or is within a safety zone demarcated under that Order;
- (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 number of growing plants affected by blackleg does not exceed 4 per cent;
- (f) the immediately succeeding crop produced from the seed potatoes is, in the opinion of the authorised officer, likely to contain—
 - (i) not more than 0.5 per cent by number of growing plants which do not breed true to variety and not more than 0.2 per cent by number of growing plants which are of a different variety; and
 - (ii) not more than 10 per cent by number of growing plants which show symptoms, other than slight symptoms, of severe virus diseases prevalent in Europe (light mosaics causing discoloration and not leaf deformation shall be ignored);
- (g) the seed potatoes are ascertained not to be affected by any of the tolerances for diseases, pests, damage or defects specified in Part IV of Schedule 3.

SCHEDULE 6

Regulation 15

INFORMATION IN RESPECT OF SEED POTATOES OF MORE THAN TWO KILOGRAMS PRODUCED IN A COUNTRY OTHER THAN A MEMBER STATE

Species

Variety

Category

Country of production and Certification Authority

Country of despatch

Importer

Quantity of seed potatoes

SCHEDULE 7

Regulation 16

PARTICULARS TO BE SPECIFIED IN A SALE NOTE, ETC

Name and address of the seller

Net weight (except pre-basic seed potatoes)

Species (except basic seed potatoes and certified seed potatoes)

Variety

Category

Class (as appropriate)

Community Grade (if applicable)

Size (except pre-basic seed potatoes)

Producer's identification number or (except for seed potatoes produced in England) seed lot reference number

Particulars of any chemical treatment

SCHEDULE 8

Regulation 24

REVOCATIONS

| <i>(1)</i> | <i>(2)</i> |
|--|-------------------|
| <i>Regulations revoked</i> | <i>References</i> |
| The Seed Potatoes Regulations 1991 | SI 1991/2206 |
| The Seed Potatoes (Amendment) Regulations 1992 | SI 1992/1031 |
| The Seed Potatoes (Amendment) Regulations 1993 | SI 1993/1878 |
| The Seed Potatoes (Amendment) Regulations 1994 | SI 1994/2592 |
| The Seed Potatoes (Amendment) Regulations 1997 | SI 1997/1474 |
| The Seed Potatoes (Amendment) (England) Regulations 2000 | SI 2000/1788 |

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to England and Wales but apply only to England, consolidate with amendments the Seed Potatoes Regulations 1991 (S.I. 1991/2206), the Seed Potatoes (Amendment) Regulations 1992 (S.I. 1992/1031), the Seed Potatoes (Amendment) Regulations 1993 (S.I. 1993/1878), the Seed Potatoes (Amendment) Regulations 1994 (S.I. 1994/2592), the Seed Potatoes (Amendment) Regulations 1997 (S.I. 1997/1474) and the Seed Potatoes (Amendment) (England) Regulations 2000 (S.I. 2000/1788).

The Regulations control the production with a view to marketing, the certification and the marketing of seed potatoes in England, other than those intended for export outside the European Community, and give effect to Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes (OJ L 193, 20.7.2002, p60), as amended, which codifies the previous Community law. They also give effect to Commission Decision 2004/842/EC of 1 December 2004 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 (OJ L 362, 9.12.2004, p21), which sets out the conditions on which seed potatoes which have not yet been added to a National List may be marketed for test and trial purposes.

Regulation 4 prohibits the marketing of any seed potatoes unless they have been certified as either pre-basic, basic or certified seed potatoes, or unless they have been authorised for marketing for scientific purposes or selection work or for test and trial purposes. For seed potatoes produced in England, certification, including the determination of the category and class at which the potatoes should be marketed, must take place in accordance with the requirements of regulation 9.

Regulation 5 applies more stringent requirements to seed potatoes to be marketed in the “protected region” (defined in regulation 2(1)). Regulation 6 provides that seed potatoes cannot be marketed unless they comply with the size requirements laid down by the regulation.

Regulations 7 and 8 allow the Secretary of State to authorise the marketing of small quantities of seed potatoes for scientific purposes or selection work and seed potatoes for test and trial purposes.

Regulation 11 provides that seed potatoes (other than retail sales of small quantities of seed potatoes meeting the conditions of regulation 17) may only be marketed in packages or containers. Seed potatoes in packages or containers (other than those authorised to be marketed for scientific purposes or selection work) can only be marketed if labelled and sealed (regulations 12 and 13), the labels bearing the particulars specified in Schedule 2. Documents accompanying seed potatoes that have been genetically modified must include reference to this fact (regulation 14).

Regulation 18 provides for the taking of samples as part of the certification process or to ensure compliance with the provisions of the Regulations.

Regulation 20 provides the Secretary of State with powers of examination and production of seed potatoes and relevant documents.

Regulation 21 allows the Secretary of State to withdraw official labels or official documents relating to seed potatoes which are found not to comply with the requirements imposed by the Regulations.

Contravention of any provision in the Regulations is an offence under section 16(7)(b) of the Plant Varieties and Seeds Act 1964 (c.14) incurring liability on summary conviction to a fine not exceeding level 5 on the standard scale.

The Regulations include drafting and other amendments including those consequential on devolution of functions to Scottish Ministers, in relation to Scotland, and to the National Assembly for Wales, in relation to Wales.

A regulatory impact assessment has not been prepared for this instrument, as it has no impact on the costs of businesses, charities or voluntary bodies.

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