

EXPLANATORY MEMORANDUM TO
THE SEED POTATOES (ENGLAND) REGULATIONS 2015
2015 No. 1953

1. Introduction

- 1.1 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.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the Instrument

- 2.1 This instrument amends and consolidates the Seed Potatoes (England) Regulations 2006 (S.I. 2006 No. 1161) (“the principal Regulations”) which 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 EU. They implement various EU instruments, particularly Council Directive 2002/56/EC on the marketing of seed potatoes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This SI has been signed by Lord Gardiner of Kimble, who is a Minister of the Crown and the Lords Spokesman for Defra. He has policy responsibility under the Secretary of State for Environment, Food and Rural Affairs for the matters covered in this SI. Although for machinery of government purposes, Lord Gardiner is not regarded as a Defra Minister, the Department’s view is that for administrative law purposes (including the ability to make SIs on behalf of the Secretary of State) Lord Gardiner is properly so regarded.

Other matters of interest to the House Of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Council Directive 2002/56/EC on the marketing of seed potatoes establishes an uniform certification scheme to ensure that seed potatoes produced and marketed within the EU meet certain quality standards. The Directive is implemented in England through the Seed Potatoes (England) Regulations 2006. Similar legislation applies in Scotland, Wales and Northern Ireland. The Regulations are applied through the Seed Potato Classification Scheme (SPCS), which aims to ensure that seed potatoes are healthy, true to variety and free from mixtures.
- 4.2 Commission Implementing Directives 2013/63/EU (of 17 December 2013), 2014/20/EU and 2014/21/EU (of 6 February 2014) and Commission Implementing

Decision 2014/105/EU (of 24 February 2014) modify the annexes of Council Directive 2002/56/EC as a result of technical changes in the assessment of risks presented by particular pests and diseases and introduce new measures to address risks presented by other pests and diseases. These amendments are to be implemented through this instrument, which comes into force on 1 January 2016, and which also consolidates the previous amendments to the principal Regulations.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England only.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 Over the past few years the EU has been working towards a harmonised approach to nomenclature and meaningful minimum quality standards for seed potatoes, reflecting technical changes in methods of potato breeding and improvements in diagnostic techniques and agronomic practices to fight the spread of harmful organisms. These technical developments now allow the production of seed potatoes fulfilling stricter requirements than those currently set out in Council Directive 2002/56/EC on the marketing of seed potatoes. At the same time new disease agents have become known and knowledge about existing diseases has evolved, showing that some diseases require stricter measures. The UK has played a lead role in negotiations, consulting stakeholders in order to determine the key requirements for UK potato production. Commission Implementing Directives 2013/63/EU, 2014/20/EU and 2014/21/EU and Commission Implementing Decision 2014/105/EU are the culmination of those discussions and update the minimum conditions and disease tolerances set out in Council Directive 2002/56/EC.
- 7.2 Following publication of the Commission legislation we have been working with industry and the Devolved Administrations on implementation options. While each part of the UK has its own classification scheme (and legislation) seed potatoes are commonly traded within the UK and currently the schemes are closely aligned. The trade's preference is for that alignment to continue. This was confirmed by all fifteen responses received from stakeholders in England to a formal consultation held in Autumn 2014 on how the changes to Council Directive 2002/56/EC should be implemented.
- 7.3 In line with provisions in Council Directive 2002/56/EC (and with agreement of stakeholders), stricter standards than the minimum standards required under the Directive are applied in England (and in the other parts of the UK). This helps to maintain the quality of UK seed potato stocks, with growers achieving a marketing advantage with customers desiring a premium product. Given we are retaining these stricter tolerances, we were obliged under the Technical Standards and Regulations Directive (Directive 98/34/EC) to inform the Commission (and other Member States), of our approach by submitting our draft national implementing measures before they

are adopted in national law. We have received clearance from the Commission that we can proceed with our implementation plans.

Consolidation

- 7.4 This instrument revokes and consolidates the Seed Potatoes (England) Regulations 2006 and the various amendments made to those Regulations.

8. Consultation outcome

- 8.1 A formal consultation on how the changes to Council Directive 2002/56/EC should be implemented ran from 24 November 2014 to 12 January 2015, involving participants of the seed potato certification scheme and trade associations responsible for this sector. All fifteen respondents agreed that the existing harmonised standards in place across the UK should continue to be applied and that the stricter requirements than the minimum standards under the Directive currently applied in the UK should be retained.

9. Guidance

- 9.1 The main stakeholders likely to be affected have been informed of the transposition of these EU changes and a summary of the measures will be placed on the Defra website.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An impact assessment has not been prepared as the Regulations have no impact on the costs for business.

11. Regulating small business

- 11.1 The legislation applies equally to activities that are undertaken by all businesses importing controlled plant health material, including small businesses.

12. Monitoring and review

- 12.1 The Directive (and therefore the Regulations) are updated as required to take account of technical changes in the assessment of risks presented by particular pests and diseases and new measures to address risks presented by other pests and diseases.

13. Contact

- 13.1 Iain Johnstone, Defra, Second Floor, Lancaster House, Hampshire Court, Newcastle Business Park, Newcastle Upon Tyne, NE4 7YH; Telephone: 0300 060 3806; e-mail: iain.johnstone@defra.gsi.gov.uk can answer any queries regarding this instrument.