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STATUTORY INSTRUMENTS

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**2015 No. 1953**

**The Seed Potatoes (England) Regulations 2015**

**Interpretation: general**

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—

- (a) in relation to seed potatoes produced in England, seed potatoes intended mainly for the production of certified seed potatoes and which have been certified as basic seed potatoes in accordance with regulation 10;
- (b) in relation to seed potatoes produced outside England, seed potatoes brought into England in a package or container bearing an official label in accordance with Article 13(1)(a) of the Directive stating that the potatoes were certified as basic seed potatoes and graded at a Union grade;

“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” (and “certified” is to be construed accordingly) means—

- (c) in relation to seed potatoes produced in England, certification in accordance with regulation 10; and
- (d) in relation to seed potatoes produced outside England, certification by the Certification Authority in accordance with the Directive;

“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—

- (e) in relation to seed potatoes produced in England, seed potatoes intended mainly for the production of potatoes other than seed potatoes and which have been certified (as certified seed potatoes) in accordance with regulation 10;
- (f) in relation to seed potatoes produced outside England, seed potatoes brought into England in a package or container bearing an official label in accordance with Article 13(1)(a) of the Directive stating that the potatoes were certified as certified seed potatoes and graded at a Union grade;

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

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

“grade” includes the Union grade;

“growing crop certificate” means a growing crop certificate issued by the Secretary of State in accordance with Schedule 1;

“lot” 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 17;

“marketing” means—

- (g) selling, holding with a view to sale or offering for sale, or
- (h) 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” is not to 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 that person does not acquire title to the seed potatoes supplied, and “market” and “marketed” are to be construed accordingly;

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

- (i) in accordance with regulation 3 of the National Lists Regulations; or
- (j) by a member State other than the United Kingdom pursuant to Article 3 of Council [Directive 2002/53/EC](#) on the common catalogue of varieties of agricultural plant species<sup>(1)</sup>;

“National Lists Regulations” means the Seeds (National Lists of Varieties) Regulations 2001<sup>(2)</sup>;

“official document” means—

- (k) for seed potatoes produced in England, a document issued or approved by the Secretary of State which meets the requirements of Part 2 of Schedule 2;
- (l) 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—

- (m) 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 1 of Schedule 2;
- (n) 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 18(f) of the Directive or Article 9 of the Decision;

“package or container” means—

- (o) any package which has not been previously used for any purpose and is capable of being closed and sealed; or
- (p) 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 is subject to the approval of the Secretary of State;

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(1) OJ No L 193, 20.7.2002, p 1, as last amended by Regulation (EC) No 1829/2003 (OJ No L 268, 18.10.2003, p 1).

(2) S.I. 2001/3510; relevant amending instruments are S.I. 2004/2949 and 2011/464.

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

“pre-basic seed potatoes” means—

- (q) in relation to seed potatoes produced in England, seed potatoes intended mainly for the production of basic seed potatoes and which have been certified as pre-basic seed potatoes in accordance with regulation 10;
- (r) in relation to seed potatoes produced outside England, seed potatoes brought into England in a package or container bearing an official label in accordance with Article 18(f) of the Directive stating that the potatoes were certified as pre-basic seed potatoes and graded at a Union grade;

“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—

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

“seed potatoes of a conservation variety” means any variety of seed potatoes accepted by any member State into its national catalogue of varieties of agricultural plant species in accordance with Article 3 of [Directive 2008/62/EC](#);

“seed potatoes produced outside England” means—

- (u) seed potatoes produced in any part of the British Islands other than England;
- (v) seed potatoes produced in any member State other than the United Kingdom; or
- (w) seed potatoes produced in Switzerland;

“test and trial seed potatoes” means—

- (x) in relation to seed potatoes produced in England, seed potatoes which have been authorised by the Secretary of State in accordance with regulation 9;
- (y) in relation to seed potatoes produced outside England, seed potatoes brought into England in a package or container which bears an official label in accordance with Article 9 of the Decision;

“Union grade” means—

- (z) in relation to seed potatoes produced in England, the Union grade determined in accordance with Schedule 4 during certification, this being—
  - (i) in the case of pre-basic seed potatoes, Union grade PBTC or Union grade PB;
  - (ii) in the case of basic seed potatoes, Union grade S, Union grade SE or Union grade E;
  - (iii) in the case of certified seed potatoes, Union grade A or Union grade B;
- (aa) in relation to seed potatoes produced outside England—
  - (i) in the case of pre-basic seed potatoes, Union grade PBTC or Union grade PB, the minimum conditions for which are set out in Articles 2 and 3 of, and the Annex to, Directive 2014/21/EU;
  - (ii) in the case of basic seed potatoes, Union grade S, Union grade SE or Union grade E, the minimum conditions for which are set out in Article 1 of, and Annex I to, Directive 2014/20/EU;

(iii) in the case of certified seed potatoes, Union grade A or Union grade B, the minimum conditions for which are set out in Article 2 of, and Annex II to, Directive 2014/20/EU.

(2) In relation to seed potatoes produced in Switzerland, any reference in these Regulations to the Directive or the Decision or any provision of the Directive or the Decision is to 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 is to be construed—

- (a) in relation to a tolerance for any disease or pest, damage and defect specified in Schedule 3, as a reference to the proportion of the weight of seed potatoes in the sample affected by the disease or pest, damage and defect, or any combination of such disease or pest, damage and defect, 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;
- (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) In this regulation, “Swiss trade agreement” means the Agreement between the European Community and the Swiss Confederation on trade in agricultural products<sup>(3)</sup>.

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(3) OJ No L 114, 30.4.2002, p 13, as amended by Commission Decision 2010/724/EU (OJ No L 312, 27.11.2010, p 31). This Agreement, 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 No L 114, 30.4.2002, p 1).