Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Seed Potatoes (Scotland) Amendment Regulations 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2005 No. 280

SEEDS

The Seed Potatoes (Scotland) Amendment Regulations 2005

Made - - - -	*25th May 2005*
Laid before the Scottish Parliament - - - -	*26th May 2005*
Coming into force - -	*17th June 2005*

The Scottish Ministers acting in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4), (5) and 36 of the Plant Varieties and Seeds Act 1964(**1**) and of all other powers enabling them in that behalf, after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to them to be concerned, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Seed Potatoes (Scotland) Amendment Regulations 2005 and shall come into force on 17th June 2005.

Commencement Information

I1 Reg. 1 in force at 17.6.2005, see **reg. 1**

Interpretation

2. In these Regulations–

"classified", for the purposes of regulation 23, means–

(a) in the case of seed potatoes produced in Scotland the class in which the seed potatoes were placed as disclosed on a certificate of classification issued prior to 1st January 2005 under the principal Regulations; and

(b) in the case of seed potatoes produced outside Scotland, the class specified on a label or in a document issued prior to 1st January 2005 by a relevant authority, being a label attached

(**1**) 1964 (c. 14): section 16 was amended by the European Communities Act 1972 (c. 68), section 4(1) and paragraphs 5(1), (2) and (3) of Schedule 4 and by S.I.1977/1112; section 16 is applied to seed potatoes by section 29(1); section 29 was amended by the European Communities Act 1972, section 4(1) and paragraph 5(4) of Schedule 4 and by S.I. 1977/1112. See section 38(1) for the definition of "the Minister". The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

to or a document contained in the package or container in which the seed potatoes are moved into Scotland;

"the principal Regulations" means the Seed Potatoes (Scotland) Regulations 2000(**2**);

"relevant authority" means the authority in the country or place where seed potatoes are produced which is concerned with the classification of seed potatoes in that country or place for the purposes of Council Directive 2002/56/EC"(**3**) and

"VTSC" means basic seed potatoes classified in the Virus Tested Stem Cutting class.

Commencement Information

I2 Reg. 2 in force at 17.6.2005, see **reg. 1**

Amendment of the Seed Potatoes (Scotland) Regulations 2000

3. The principal Regulations are amended in accordance with regulations 4 to 22.

Commencement Information

I3 Reg. 3 in force at 17.6.2005, see **reg. 1**

Amendment of regulation 2

4. In regulation 2 (interpretation) in paragraph (1)–

(a) in the definition of "basic seed potatoes" for sub-paragraph (a) substitute–

"(a) in the case of seed potatoes produced in Scotland, seed potatoes in relation to which a crop inspection report as basic seed potatoes has been issued in accordance with Schedule 1 and not withdrawn or being a lot or part of a lot in a package or container to or in which an official label has been attached; and";

(b) omit the definitions of "certificate of classification" and "Council Directive 66/403(**4**)";

(c) in the definition of "class" for sub-paragraph (a) substitute–

"(a) in the case of seed potatoes produced in Scotland the class specified on the official label attached to the package or container relating to those potatoes, being in the case of pre-basic seed potatoes any one of the classes specified in order of superiority in column 1 of Table I in Schedule 2 and in the case of basic seed potatoes any one of the classes specified in order of superiority in column 1 of Table II in Schedule 2; and";

(d) after the definition of "class" insert–

""class generation" means the number of years for which a stock has been entered for inspection at a specified class as designated by the number assigned to the various class generations of pre-basic and basic seed potatoes specified in Schedule 2, paragraph 2, Tables I and II;

(**2**) S.S.I. 2000/201.

(**3**) O.J. No. L 193 20.07.2002, p.60. as amended by Commission Decision 2003/66/EC (O.J. No. L 025 30.01.2003 p.42) and Council Directive 2003/61/EC (O.J. No. L 165 18.06.2003, p.23).

(**4**) Council Directive 66/403/EEC of 14th June 1966 on the marketing of seed potatoes O.J. No. L 125, 11.7.66, p.2320 was repealed by Council Directive 2002/56/EC of 13th June 2002 on the marketing of seed potatoes which replaced Directive 66/403/EEC as the principal seed potato marketing directive.

"Commission Directive 93/17" means Commission Directive 93/17/EEC(**5**) of 30th March 1993 determining Community grades of basic seed potatoes, together with the conditions and designations applicable to such grades";

(e) for the definition of "the Common Catalogue Directive" substitute–

""the Common Catalogue Directive" means Council Directive 2002/53/EC(**6**) on the common catalogue of varieties of agricultural plant species;";

(f) in the definition of "Community grade" for "EEC1, EEC2 or EEC3" substitute "EC1, EC2 or EC3";

(g) after the definition of "Council Directive 90/220" insert–

""Council Directive 2002/56" means Council Directive 2002/56/EC of 13th June 2002 on the marketing of seed potatoes;

"crop inspection report" means a crop inspection report issued under Schedule 1 of these Regulations stating the particulars specified in Schedule 3;

"Directive 2001/18" means Directive 2001/18/EC(**7**) of the European Parliament and of the Council of 12th March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220(**8**);

"declared net weight" means the net weight of seed potatoes contained in a package or container as declared at the time of an application for an official label under regulation 9(2);

"field generation" means the number of growing cycles since the first introduction in the field after micro-propagation or selection;";

(h) in the definition of "genetically modified" for "Council Directive 90/220 EEC" substitute "Directive 2001/18";

(i) after the definition of "lot" insert–

""lower class" means any class below the class of seed potatoes specified in a crop inspection report according to the hierarchy in Schedule 2, Tables I and II, where Pre-basic TC is the highest class of pre-basic seed potato and Super Elite 1 is the highest class of basic seed potato;";

(j) for the definition of "official document" substitute–

""official document" means the document required by Article 13.1(b) of Council Directive 2002/56;";

(k) in the definition of "official label" for "Council Directive 66/403" substitute "Council Directive 2002/56";

(l) in the definition of "pre-basic seed potatoes"–

(i) for sub-paragraph (a) substitute–

(**5**) O.J. No. L 106, 30.04.1993, p.7. Commission Directive 93/17/EEC refers to Community grades of basic seed potatoes using the acronym "EEC", e.g. "EEC grade 1". That Directive has not been amended but following the Maastricht Treaty (provisions amending the Treaty establishing the European Economic Community with a view to establishing the European Community) of 7th February 1992, the naming convention now adopted by the Commission uses the acronym "EC". See Commission Decision 2004/3/EC (O.J. No. L 002, 06.1.2004, p.47) for an example of the use of "EC grade 1", "EC grade 2" and "EC grade 3".

(**6**) O.J. No. L 193 20.07.2002, p.1. as amended by Regulation 1829/2003/EC of the European Parliament and the Council of 22nd September 2003 (O.J. No. L 268, 18.10.2003, p.1).

(**7**) O.J. No. L 106 17.04.2001, p.1. as amended by Commission Decision 2002/623/EC (O.J. No. L 200 30.07.2002, p.22), Regulation 1829/2003/EC of the European Parliament and the Council of 22nd September 2003 (O.J. No. L 268 18.10.2003, p.1) and Regulation 1830/2003/EC of the European Parliament and the Council of 22nd September 2003 (O.J. No. L 268 18.10.2003, p.24).

(**8**) O.J. No. L 117, 08.05.1990, p.15.

"(a) in the case of seed potatoes produced in Scotland, seed potatoes in relation to which a crop inspection report as pre-basic seed potatoes has been issued in accordance with Schedule 1 and not withdrawn or being a lot or part of a lot in a package or container to or in which an official label has been attached; and"; and

(ii) in sub-paragraph (b)(i) after "by" insert "the"; and

(m) in the definition of "relevant authority" for "Council Directive 66/403" substitute "Council Directive 2002/56".

Commencement Information

I4 Reg. 4 in force at 17.6.2005, see **reg. 1**

Amendment of regulation 3

5. For regulation 3 (application) substitute–

"(1) Subject to paragraphs (1A), (2), (4) and (5), these Regulations apply to–

(a) the production of seed potatoes on or after 7th July 2000 with a view to marketing;

(b) the classification and Community grading on or after that date of seed potatoes produced in Scotland; and

(c) the marketing on or after that date of seed potatoes.

(1A) Schedule 1, paragraph 3(b) and Schedule 4, paragraphs 3(2)(c) and 4(2)(c) shall not apply to seed potatoes shown to be intended for export to countries outside the European Community.

(2) In the case of regulation 6, for the reference in paragraph (1) to 7th July 2000 there is substituted reference to 1 April 2001.

(3) In paragraph (1), "marketing" means–

(a) selling, holding with a view to sale and offering for sale; and

(b) any disposal, supply or transfer,

for the purpose of commercial exploitation of seed potatoes to third parties, whether or not for consideration; and "market" and "marketed" shall be construed accordingly.

(4) The supply of seed potatoes, not aimed at commercial exploitation of the variety, such as the following operations, shall not be treated as marketing of seed potatoes of that variety–

(a) the supply of seed potatoes to official testing and inspection bodies; or

(b) the supply of seed potatoes to any person for the purpose of processing or packaging the seed potatoes provided he does not acquire title to the seed potatoes supplied.

(5) Subject to paragraphs (6), (7) and (8), nothing in these Regulations shall apply to the marketing by a producer under the authority of the Scottish Ministers of small quantities of seed potatoes used or to be used for the purposes of scientific investigation or in the course of a process of selection by or under the supervision of an authorised officer.

(6) In respect of genetically modified material, an authorisation may be granted under paragraph (5) only if–

(a) the deliberate release of the genetically modified material has been authorised under a Part B consent, or the genetically modified material has been accepted for

marketing in accordance with a Part C consent, issued for the purposes of Council Directive 90/220 or Council Directive 2001/18;

(b) it is to be a condition of the authorisation that the seed potatoes are accompanied during marketing by a copy of the Part B or Part C consent;

(c) all appropriate measures, in accordance with an environmental risk assessment in respect of the material carried out in accordance with Article 7(4) of the Common Catalogue Directive and Article 4(2) and Annex II of Council Directive 2001/18, have been taken by the producer of the seed potatoes to avoid adverse effects on human health and the environment; and

(d) in the case of genetically modified material issued with a Part C consent, the requirements mentioned in paragraph (7) have been met.

(7) The requirements referred to in paragraph (6)(d) are–

(a) the producer intending to market the small quantity of seed potatoes for scientific purposes or selection work has made a written application for authorisation under paragraph (5) to the Scottish Ministers giving–

(i) notice of intention to market a small quantity of seed potatoes for scientific purposes or selection work; and

(ii) such information relating to the acceptance for marketing of the variety of the seed potatoes concerned under Council Directive 90/220 or Council Directive 2001/18, and the scientific purposes or selection work in respect of which the marketing is to be carried out, as the Scottish Ministers may require for the purposes of identifying the marketing and determining whether or not to grant the authorisation; and

(b) the Scottish Ministers are satisfied that an authorisation would be in accordance with the purpose of Article 6.1(a) of Council Directive 2002/56.

(8) In the event that a condition specified in an authorisation granted under paragraph (5) is not complied with in the course of marketing seed potatoes, the marketing of those seed potatoes shall be deemed to be unauthorised.".

Commencement Information

I5 Reg. 5 in force at 17.6.2005, see **reg. 1**

Amendment of regulation 4

6. For regulation 4 (classification of seed potatoes) substitute–

"**4.**—(1) Seed potatoes produced in Scotland shall be specified in a crop inspection report completed by an authorised officer as–

(a) pre-basic seed potatoes of one of the classes and, where appropriate, class generations specified in column 1 of Table I in Schedule 2; or

(b) basic seed potatoes of one of the classes and, where appropriate, class generations specified in column 1 of Table II in Schedule 2.

(2) Application for a crop inspection report for seed potatoes produced in Scotland shall be made to the Scottish Ministers with such information and in such form and manner as they may require.