Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Potatoes Originating in Egypt (Scotland) Regulations 2004. 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

2004 No. 111

PLANT HEALTH

The Potatoes Originating in Egypt (Scotland) Regulations 2004

Made - - - -	*10th March 2004*
Laid before the Scottish Parliament - - - -	*10th March 2004*
Coming into force - -	*31st March 2004*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 [F1] and of all other powers enabling them in that behalf, hereby make the following Regulations:

F1 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Potatoes Originating in Egypt (Scotland) Regulations 2004 and shall come into force on 31st March 2004.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

[[F2]"the Decision" means Commission Implementing Decision (EU) No 2011/787 authorising Member States temporarily to take emergency measures against the dissemination of *Ralstonia solanacearum* (Smith) Yabuuchi et al. as regards Egypt, as amended from time to time;**]**

[[F3]"the EU Plant Health Regulation" means Regulation (EU) 2016/2031 of the European Parliament of the Council on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC;**]**

"inspector" means any person authorised by the Scottish Ministers to be **[**[F4]a plant health inspector for the purposes of the Plant Health Official Controls Regulations**]**;

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Potatoes Originating in Egypt (Scotland) Regulations 2004. 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*

F5 …

"originating in Egypt" means grown in Egypt and "originated in Egypt" shall be construed accordingly;

[F6"pest-free area" means an area of Egypt which, at the time of import, is included on the list of pest-free areas conveyed by the European Commission to Member States of the European Union for the purposes of Article 1.2 or 1.3 of the Decision;**]**

[F7"phytosanitary certificate" means a **[**F8phytosanitary certificate for the introduction of plants, plant products and other objects into the Union territory within the meaning of article 71 of the EU Plant Health Regulation**]**;**]**

[F9"the Plant Health Official Controls Regulations" means the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019;**]**

"potato" means any tuber or true seed of or any other plant of *Solanum tuberosum* L. or other tuber forming species or hybrid of the genus *Solanum* L.

(2) Unless the context otherwise requires, a reference in these Regulations to anything done in writing, including the service of a notice by virtue of regulation 5 below in exercise of a power conferred by **[**F10regulation 15 (notices to prevent the establishment or spread of plant pests) of the Plant Health Official Controls Regulations**]**, includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000 F11 which has been recorded and is consequently capable of being reproduced.

(3) In these Regulations, references to provisions in **[**F12the Plant Health Official Controls Regulations are to be interpreted in accordance with regulation 2 (interpretation) of those Regulations.**]**

F2 Words in reg. 2(1) substituted (21.3.2012) by The Potatoes Originating in Egypt (Scotland) Amendment Regulations 2012 (S.S.I. 2012/37), regs. 1, **2(2)(a)**

F3 Words in reg. 2(1) inserted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(2)(a)(i)**

F4 Words in reg. 2(1) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(2)(a)(ii)**

F5 Words in reg. 2(1) omitted (14.12.2019) by virtue of The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(2)(a)(iii)**

F6 Words in reg. 2(1) inserted (21.3.2012) by The Potatoes Originating in Egypt (Scotland) Amendment Regulations 2012 (S.S.I. 2012/37), regs. 1, **2(2)(b)**

F7 Words in reg. 2(1) substituted (21.3.2012) by The Potatoes Originating in Egypt (Scotland) Amendment Regulations 2012 (S.S.I. 2012/37), regs. 1, **2(2)(c)**

F8 Words in reg. 2(1) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(2)(a)(iv)**

F9 Words in reg. 2(1) inserted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(2)(a)(v)**

F10 Words in reg. 2(2) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(2)(b)**

F11 2000 c. 7.

F12 Words in reg. 2(3) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(2)(c)**

[F13Imports of potatoes originating in Egypt

3.—(1) No person may import into Scotland any potatoes which that person knows or has reasonable cause to suspect originated in Egypt in an area other than a pest-free area.

(2) No person may import into Scotland any potatoes which were grown in a pest-free area unless those potatoes are accompanied by a phytosanitary certificate.

(3) The requirement **[**F14that tubers of *Solanum tuberosum* L., other than those for planting, be accompanied by an official statement that the tubers originate in areas in which *Ralstonia solanacearum* (Smith) Yabuuchi *et al*. are known not to occur, as imposed by item 21 of Annex 7 to Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019,**]** does not apply to imports of potatoes originating in Egypt.**]**

F13 Reg. 3 substituted (21.3.2012) by The Potatoes Originating in Egypt (Scotland) Amendment Regulations 2012 (S.S.I. 2012/37), regs. 1, **2(3)**

F14 Words in reg. 3(3) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(3)**

Approval of premises which process potatoes originating in Egypt

4.—(1) Subject to paragraph (4), no person shall carry out in the course of business any treatment, including washing, of potatoes originating in Egypt other than in premises that the Scottish Ministers have approved in writing for that purpose.

(2) Applications for the approval required by paragraph (1) may be made in writing to the Scottish Ministers.

[F15(2A) It is a condition of any approval granted pursuant to paragraph (1) that potatoes originating in Egypt must, following treatment, be labelled to indicate their origin.**]**

(3) The Scottish Ministers may suspend or revoke in writing any approval granted pursuant to paragraph (1).

(4) Paragraph (1) does not apply to the packing or preparation of potatoes in a shop, restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) for delivery to the final consumer.

F15 Reg. 4(2A) inserted (21.3.2012) by The Potatoes Originating in Egypt (Scotland) Amendment Regulations 2012 (S.S.I. 2012/37), regs. 1, **2(4)**

Powers of an inspector

5.—(1) The provisions of this regulation are without prejudice to the circumstances in which an inspector may by virtue of **[**F16the Plant Health Official Controls Regulations exercise the powers conferred by those Regulations**]**.

(2) On having reasonable grounds for suspecting a contravention or likely contravention of regulation 3(1) **[**F17or (2)**]** above, an inspector may, for the purpose of these Regulations, exercise–

F18(a) . . . . . .

(b) the powers conferred by **[**F19regulation 15 (notices to prevent the establishment or spread of plant pests) of the Plant Health Official Controls Regulations**]**, as if a potato originating

in Egypt was **[**F20, within the meaning of regulation 14 of those Regulations, prohibited material which an inspector suspects to be present or likely to be present, or which the inspector has become aware is present, on any premises for the purposes of that regulation.**]**

(3) On having reasonable grounds for suspecting a contravention or likely contravention of regulation 4(1) **[**F21or (2A)**]** above, an inspector may, for the purpose of these Regulations, exercise the powers conferred by **[**F22regulation 15 of the Plant Health Official Controls Regulations**]**, as if a potato originating in Egypt was **[**F23, within the meaning of regulation 14 of those Regulations, prohibited material which an inspector suspects to be present or likely to be present, or which the inspector has become aware is present, on any premises for the purposes of that regulation.**]**

(4) Any notice served by virtue of this regulation in exercise of a power conferred by **[**F24regulation 15 of the Plant Health Official Controls Regulations has effect as if served under that regulation**]**, and **[**F25regulations 31 (information notices), 32 (failure to comply with a notice), 35(2)(c), (4) and (5) (miscellaneous provisions as to notices), 36 (service of notices), 38 (failure to comply with requirements of notices), 39 (defence: reasonable excuse for failure to comply with requirements of notices etc.), 42 (obstruction etc.), 43 (defence: reasonable excuse for obstruction etc.), 46 (offences by bodies corporate, etc.) and 47 (penalties) of the Plant Health Official Controls Regulations**]** shall apply accordingly.

(5) An inspector may, for the purposes of checking compliance with these Regulations, exercise the powers conferred by **[**F26regulation 29 (powers of entry) of the Plant Health Official Controls Regulations, as if enforcing those Regulations**]**.

(6) Any power conferred by **[**F27regulation 29 (powers of entry) of the Plant Health Official Controls Regulations**]** which is exercised by virtue of this regulation shall be treated as if that power had been exercised under **[**F28the Plant Health Official Controls Regulations, and regulations 38, 42, 43, 46 and 47 (penalties) of those Regulations apply accordingly**]**.

F16 Words in reg. 5(1) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(4)(a)**

F17 Words in reg. 5(2) inserted (21.3.2012) by The Potatoes Originating in Egypt (Scotland) Amendment Regulations 2012 (S.S.I. 2012/37), regs. 1, **2(5)(a)**

F18 Reg. 5(2)(a) omitted (14.12.2019) by virtue of The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(4)(b)(i)**

F19 Words in reg. 5(2)(b) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(4)(b)(ii)(aa)**

F20 Words in reg. 5(2)(b) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(4)(b)(ii)(bb)**

F21 Words in reg. 5(3) inserted (21.3.2012) by The Potatoes Originating in Egypt (Scotland) Amendment Regulations 2012 (S.S.I. 2012/37), regs. 1, **2(5)(b)**

F22 Words in reg. 5(3) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(4)(c)(i)**

F23 Words in reg. 5(3) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(4)(c)(ii)**

F24 Words in reg. 5(4) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(4)(d)(i)**

F25 Words in reg. 5(4) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(4)(d)(ii)**

F26 Words in reg. 5(5) substituted (14.12.2019) by The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (S.S.I. 2019/421), reg. 1(1), **sch. 5 para. 4(4)(e)**