SCOTTISH STATUTORY INSTRUMENTS

2001 No. 421

PLANT HEALTH

The Potatoes Originating in Egypt (Scotland) Regulations 2001

Made - - - -	*12th November 2001*
Laid before the Scottish Parliament - - - -	*12th November 2001*
Coming into force - -	*3rd December 2001*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Potatoes Originating in Egypt (Scotland) Regulations 2001 and shall come into force on 3rd December 2001.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

"the Decision" means Commission Decision 96/301/EC authorising member States temporarily to take additional measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt(**2**), as amended by the instruments listed in the Schedule to these Regulations;

"inspector" means any person authorised by the Scottish Ministers to be an inspector for the purposes of the Order;

"the Order" means the Plant Health (Great Britain) Order 1993(**3**);

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

(**1**) 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.

(**2**) O.J. No. L 115, 09.05.96, p.47.

(**3**) S.I.1993/1320; relevant amending instruments are S.I. 1995/1358, 1998/2245 and S.S.I. 1999/22.

"phytosanitary certificate" means a certificate duly completed either in the form set out in Schedule 14 to the Order or the equivalent written in a language other than English;

"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 article 22(1) or (2) of the Order, includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(**4**) which has been recorded and is consequently capable of being reproduced.

(3) In these Regulations, references to provisions in the Order shall be interpreted in accordance with article 2(1) of that Order.

Imports of potatoes originating in Egypt

3.—(1) No person shall import into Scotland any potatoes which that person knows or has reasonable cause to suspect originated in Egypt, unless those potatoes are accompanied by a phytosanitary certificate issued in accordance with the requirements of paragraph 1 of the Annex to the Decision.

(2) The requirement imposed by point 25.8 of section 1 of Part A of Schedule 4 to the Order (an official statement that potatoes originate in areas where *Ralstonia solanacearum* (Smith) Yabuuchi et al. is not known to occur) shall not apply to imports of potatoes originating in Egypt.

Approval of plants which process potatoes originating in Egypt

4.—(1) No person shall process any potatoes originating in Egypt other than in a plant which has been approved by the Scottish Ministers for that purpose.

(2) The Scottish Ministers shall approve processing plants in writing and may suspend or revoke the approval in writing.

(3) In this regulation–

"excluded establishment" means a shop, restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where food is packed or prepared for delivery to the final consumer;

"plant" means any premises other than an excluded establishment; and

"process" means the carrying out, in the course of business, of any treatment, including washing.

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 the Order exercise the powers conferred by that Order.

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

(a) the powers conferred by article 22(1) of the Order as read with article 24(1) to (3) of the Order, as if a potato originating in Egypt was a plant landed or likely to be landed in contravention of the Order; and

(**4**) 2000 c. 7.

(b) the powers conferred by article 22(2) of the Order as read with article 24(1) and (3) of the Order, as if a potato originating in Egypt was a plant kept or moved in contravention of the Order.

(3) On having reasonable grounds for suspecting a contravention or likely contravention of regulation 4(1) above, an inspector may, for the purpose of these Regulations, exercise the powers conferred by article 22(2) of the Order as read with article 24(1) and (3) of the Order, as if a potato originating in Egypt was a plant kept or moved in contravention of the Order.

(4) Any notice served by virtue of this regulation in exercise of a power conferred by article 22(1) or (2) of the Order shall have effect as if served under article 22(1) or (2) of the Order, and articles 24(4) to (6), 26 to 28, 32 and 33(1), (2) and (6) of the Order shall apply accordingly.

(5) An inspector may, for the purposes of checking compliance with these Regulations, exercise the powers conferred by article 25 of the Order, as if checking compliance with the Order.

(6) Any power conferred by article 25 of the Order which is exercised by virtue of this regulation shall be treated as if that power had been exercised under the Order, and articles 28 and 33(1)(a) and (c), (2) and (6) of the Order shall apply accordingly.

Charges in respect of the sampling of imports of potatoes

6.—(1) Where the power to take samples conferred by article 25(1)(a) of the Order is exercised by an inspector in respect of potatoes originating in Egypt in order to ascertain whether, for the purpose of paragraph 3 of the Annex to the Decision, those potatoes are infected with *Ralstonia solanacearum* (Smith) Yabuuchi et al., there shall be payable to the Scottish Ministers by the importer a fee of £37.50, unless that power has previously been exercised for that purpose in respect of other potatoes from the same village, in the case of the delta region, or basin, in the case of the desert regions, during the same growing year.

(2) In this regulation–

"delta region", "village", "basin" and "desert regions" have the same meanings as they have in paragraph 1(a) of the Annex to the Decision; and

"growing year" means the period beginning on 1st September in one year and ending on 31st August in the following year.

Offences

7.—(1) A person shall be guilty of an offence if, without reasonable excuse, proof of which shall lie on that person, they contravene or fail to comply with regulation 3(1) or 4(1) above.

(2) A person guilty of an offence under paragraph (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Revocation

8. The following Regulations are hereby revoked–

(a) the Potatoes Originating in Egypt Regulations 1998(**5**);

(b) the Potatoes Originating in Egypt (Amendment) Regulations 1998(**6**);

(c) the Potatoes Originating in Egypt (Amendment) (Scotland) Regulations 2000(**7**); and

(d) the Potatoes Originating in Egypt (Amendment) (No. 2) (Scotland) Regulations 2000(**8**).

(**5**) S.I. 1998/201, amended by S.I. 1998/3167 and S.S.I. 2000/8 and 393.
(**6**) S.I. 1998/3167.
(**7**) S.S.I. 2000/8.
(**8**) S.S.I. 2000/393.