STATUTORY RULES OF NORTHERN IRELAND

2016 No. 190

SEEDS

The Seed Potatoes Regulations (Northern Ireland) 2016

Made - - - -	*22nd March 2016*
Coming into operation	*14th April 2016*

The Department of Agriculture and Rural Development is a Northern Ireland department designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to the common agricultural policy of the European Union.

The Department of Agriculture and Rural Development makes the following regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and sections 1(1) and (2A) and 2 of the Seeds Act (Northern Ireland) 1965 [F3].

In accordance with section 1(1) of the Seeds Act (Northern Ireland) 1965, the Department of Agriculture and Rural Development has consulted with representatives of such interests as appear to it to be concerned.

F1 S.I. 2000/2812. By virtue of section 2(5), references to a Government department in section 2(2) of the European Communities Act 1972 include a department of the Government of Northern Ireland.

F2 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006, (c.51), section 27(1)(a), and the European Union (Amendment) Act 2008, (c.7), section 3(3) and Schedule, Part 1.

F3 1965 c.22 (NI). ("the 1965 Act") Section 1 was amended by 1970 c.20 (N.I.), **section 10(1)** and S.R. & O.(N.I.) 1972 No. 351, **article 3** and Schedule 3. Section 2 was amended by 1970 c.20 (N.I.), **section 10(2)** and S.R. 1977 No. 295, **regulation 2**. The 1965 Act applies to seed potatoes by virtue of section 12(1). See section 14(1) for the definition of the "Ministry". The Ministry of Agriculture became known as the Department of Agriculture by virtue of section 7(5) of the Northern Ireland Constitution Act 1973 (c.36), and was renamed the Department of Agriculture and Rural Development by Article 3(4) of the Departments (Northern Ireland) Order 1999, (S.I. 1999/283 (N.I. 1)).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Seed Potatoes Regulations (Northern Ireland) 2016 and come into operation on 14th April 2016.

(2) These Regulations do not apply to seed potatoes intended for export to any country outside the **[**[F4]United Kingdom**]**.

F4 Words in reg. 1(2) substituted (31.12.2020) by The Animal Health, Seed Potatoes and Food (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/962), regs. 1(2), **7**; 2020 c. 1, Sch. 5 para. 1(1)

Interpretation: general

2.—(1) In these Regulations—

"the Act" means the Seeds Act (Northern Ireland) 1965;

"basic seed potatoes" means—

(a) in relation to seed potatoes produced in Northern Ireland, seed potatoes which have been certified as basic seed potatoes in accordance with regulation 10;

(b) **[**F5in relation to seed potatoes produced outside Northern Ireland, seed potatoes imported into Northern Ireland in a package or container to which has been affixed an official label, stating that the potatoes were certified as basic seed potatoes and the grade, in accordance with—

(i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;

(ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to paragraphs 1(1), (2), (3), 2 and 3 of Schedule 2;

(iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(a) of Council Directive 2002/56/EC;**]**

"category" means the category of pre-basic seed potatoes or basic seed potatoes (or, in relation to seed potatoes produced in Switzerland, the categories having equivalent effect under the legislation of the Swiss Confederation F6...);

"certificate" means a certificate issued by the Department under regulation 10(2);

"certification" means —

(a) in relation to seed potatoes produced in Northern Ireland, certification in accordance with regulation 10;

(b) **[**F7in relation to seed potatoes produced outside Northern Ireland, certification by the certification authority, in accordance with—

(i) in the case of seed potatoes where produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;

(ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to regulation 10(2), (3) and (5);

(iii) in the case of seed potatoes produced in a member State or Switzerland, Article 3(1)(a) of Council Directive 2002/56/EC;

and "certified" is to be construed accordingly;**]**

"certification authority" means the authority concerned with the certification of seed potatoes F8... in the country or territory where the seed potatoes are produced;

"Commission Decision 2004/842/EC" means Commission Decision 2004/842/EC of 1 December 2004 concerning implementing rules whereby member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in

the national catalogue of varieties of agricultural plant species or vegetable species has been submitted **[**F9as amended from time to time**]**F10;

"Commission Directive 2008/62/EC" means Commission Directive 2008/62/EC of 20 June 2008 providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties **[**F11as amended from time to time**]**F12;

"Common Catalogue" means the common catalogue of varieties of agricultural plant species published in the Official Journal of the European Union;

"conservation variety" has the meaning given by regulation 2(1) of the **[**F13NI Variety Lists Regulations**]**;

"Council Directive 2002/56/EC" means Council Directive 2002/56/EC on the marketing of seed potatoes **[**F14as amended from time to time**]**F15;

"Council Directive 2002/53/EC" means Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural species **[**F16as amended from time to time**]**F17;

[F18"Crown Dependency" means the Isle of Man or any of the Channel Islands;**]**

"declared net weight" means the net weight of seed potatoes contained in a package or container, as declared by the person applying for an official label under regulation 11;

"Directive 2001/18/EC" means Directive 2001/18/EC of the European Parliament and of the Council of 12th March 2001 on the deliberate release into the environment of genetically modified organisms **[**F19as last amended by Commission Directive (EU) 2018/350**]**F20;

"Directive 2014/20/EU" means Commission Implementing Directive 2014/20/EU determining Union grades of basic and certified seed potatoes, and the conditions and designations applicable to such grades **[**F21as amended from time to time**]**F22;

[F23Directive 2014/21/EU" means Commission Implementing Directive 2014/21/EU determining minimum conditions and Union Grades for pre-basic seed potatoes as last amended by Commission Implementing Directive (EU) 2020/177 and any reference to the Annex to Directive 2014/21/EU is a reference to that Annex as amended from time to time;**]**

[F24"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/EC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC;**]**

"export" and "import" respectively mean the sending out of Northern Ireland to any other place and the bringing into Northern Ireland from any other place;

"genetically modified" has the same meaning as in Directive 2001/18/EC;

"grade" includes **[**F25the UK grade and the**]** Union grade;

"growing crop report" means a growing crop report issued by an authorised officer 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 15;

"marketing" means—

(a) selling, holding with a view to sale or 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 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;

[F26the "NI Variety List" means the list of agricultural crop varieties prepared an published in accordance with the Seeds (Variety Lists) Regulations (Northern Ireland) 2020;**]**

[F27"NI Variety Lists Regulations" means the Seeds (Variety Lists) Regulations (Northern Ireland) 2020;**]**

"notice" means notice in writing;

"official document" means—

(a) in relation to seed potatoes produced in Northern Ireland, a document issued or approved by the Department which meets the requirements of Part 2 of Schedule 2;

(b) **[**F28in relation to seed potatoes produced outside Northern Ireland, 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—

(i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;

(ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to Part 2 of Schedule 2;

(iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(b) of Council Directive 2002/56/EC;**]**

"official examination" means an examination carried out by, or on behalf of, the Department;

"official label" means—

(a) in relation to seed potatoes produced in Northern Ireland, a label issued or approved by the Department, which has not previously been used and which meets the requirements of Part 1 of Schedule 2;

(b) **[**F29in relation to seed potatoes produced outside Northern Ireland, a label issued or approved by the certification authority in the country or territory where the seed potatoes were produced which meets the requirements of—

(i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;

(ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to regulation 11 and Part 1 of Schedule 2;

(iii) in the case of seed potatoes produced in a member State or Switzerland, Article 13(1)(a) or 18(f), as appropriate to the seed potatoes to which the label relates, of Council Directive 2002/56/EC, or Article 9 of Commission Decision 2004/842/EC;**]**

"package or container" means—

(a) a bag or sack which has not been previously used for any purpose; or

(b) a box or crate which has not been previously used for any purpose or which has been previously used but has since been cleaned and disinfected;

[F24“the Plant Health Official Controls Regulations” means the Plant Health (Official Controls and Miscellaneous Provisions) Regulations (Northern Ireland) **[**F30**]**2020**]**;

“the Plant Health Order” means the Plant Health Order (Northern Ireland) 2006 F31;

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

“pre-basic seed potatoes” means—

(a) in relation to seed potatoes produced in Northern Ireland, seed potatoes, intended mainly for the production of basic seed potatoes, certified as pre-basic seed potatoes in accordance with regulation10; and;

(b) **[**F32in relation to seed potatoes produced outside Northern Ireland, seed potatoes imported into Northern Ireland in a package or container to which has been affixed an official label, stating that the seed potatoes were certified as pre-basic seed potatoes and the grade, in accordance with—

(i) in the case of seed potatoes produced elsewhere in the United Kingdom, the relevant seed potatoes regulations;

(ii) in the case of seed potatoes produced in a Crown Dependency, legislation recognised by the Department as having equivalent effect to paragraphs 1(1), (2), (4), 2 and 3 of Schedule 2;

(iii) in the case of seed potatoes produced in a member State or Switzerland, Article 18(f) of, and point A7 of Annex III to, Council Directive 2002/56/EC;**]**

“Regulation 1829/2003” means Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed **[**F33as amended from time to time**]**F34;

“seed potatoes” means—

(a) 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

(b) any potatoes that are intended to be used for planting and propagation;

“seed potatoes produced outside Northern Ireland” means seed potatoes produced—

(a) in any part of the British Islands, other than Northern Ireland F35...;

(b) in any member State F36...; or

(c) in Switzerland;

[F37“the relevant seed potatoes regulations” means—

(a) in the case of Scotland, the Seed Potatoes (Scotland) Regulations 2015;

(b) in the case of Wales, the Seed Potatoes (Wales) Regulations 2016;

(c) in the case of England, the Seed Potatoes (England) Regulations 2015;**]**

“test and trial seed potatoes” means—

(a) in relation to seed potatoes produced in Northern Ireland, seed potatoes which have been authorised by the Department for marketing for test and trial purposes in accordance with regulation 7; and

(b) **[**F38in relation to seed potatoes produced outside Northern Ireland, seed potatoes imported into Northern Ireland in a package or container which bears an official label in accordance with—