STATUTORY RULES OF NORTHERN IRELAND

2010 No. 350

SEEDS

The Seed Potatoes Regulations (Northern Ireland) 2010

Made - - - -	*21st October 2010*
Coming into operation-	*1st November 2010*

The Department of Agriculture and Rural Development(**1**) makes the following Regulations, in exercise of the powers conferred by sections 1(1) and (2A), 2 and 12(1) of the Seeds Act (Northern Ireland) 1965(**2**), Article 3(8) of the Agriculture (Miscellaneous Provisions) (Northern Ireland) Order 1984(**3**) and being a Department designated(**4**) for the purposes of section 2(2) of the European Communities Act 1972(**5**) in relation to the common agriculture policy of the European Community, in exercise of the powers conferred on it by the said section 2(2), after consultation, in accordance with section 1(1) of the said Act of 1965, with representatives of such interests as appear to it to be concerned.

Citation and commencement

1. These Regulations may be cited as The Seed Potatoes Regulations (Northern Ireland) 2010 and shall come into operation on 1st November 2010.

Interpretation

2.—(1) In these Regulations—

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

"additional region" means the region for seed production approved by the Department for the purposes of the second paragraph of article 11(1) of Commission Directive 2008/62/EC;

"authorised officer" means an officer authorised for the purposes of these Regulations by the Department of Agriculture and Rural Development;

"authority concerned" means the authority in the country or place where seed potatoes are produced which is concerned with the certification and classification of seed potatoes in that country or place;

"basic seed potatoes" means—

(**1**) Formerly the Department of Agriculture for Northern Ireland; see S.I. 1999/283 (N.I.1), Article 3(4)
(**2**) 1965 c.22 (N.I.) as amended by S.R. & O.(N.I.) 1972 No.351 Art.3 and Schedule 3
(**3**) S.I. 1984/702 (N.I. 2)
(**4**) S.I. 2000/2812
(**5**) 1972 c.68

(a) in relation to seed potatoes produced in Northern Ireland, seed potatoes in relation to which a certificate classifying them as seed potatoes of a basic category has been issued in accordance with Schedule 1;

(b) in relation to seed potatoes produced elsewhere, seed potatoes in a lot or part of a lot imported into Northern Ireland in a package or container, to or in which has been affixed or placed a label or document and which is in accordance with Article 13(1)(a) of Council Directive 2002/56/EC of 13th June 2002 on the marketing of seed potatoes(**6**), approved by the authority concerned which states that on examination of the potatoes they were classified as seed potatoes of a basic category in that country or place where the Department has approved the arrangements applying to basic seed potatoes in that country or place as being equivalent to those applying in Northern Ireland;

"certificate" means a certificate issued by the Department in accordance with the provisions of Schedule 1 stating in respect of the seed potatoes to which it relates the particulars specified in Schedule 3;

"certification" means—

(c) in relation to seed potatoes produced in Northern Ireland, certification in accordance with the provisions of Schedule 1;

(d) in relation to seed potatoes produced elsewhere, the official controls exercised by and the official examination carried out by the authority concerned;

"class" means—

(e) in relation to seed potatoes produced in Northern Ireland the class in which the seed potatoes were placed during the course of classification and specified in the certificate relating to those potatoes, being, in the case of pre-basic seed potatoes, the class or one of the classes specified in order of superiority in Column 1 of Table 1 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 of Schedule 2; and

(f) in relation to seed potatoes produced elsewhere, the class stated in a label or document approved by the authority concerned, being a label attached to or document contained in the package or container in which the seed potatoes are imported into Northern Ireland;

"Commission Decision 2004/3/EC" means Commission Decision 2004/3/EC of 19 December 2003(**7**) authorising, in respect of the marketing of seed potatoes in all or part of the territory of certain member States, more stringent measures against certain diseases than are provided for in Annexes I and II to Directive 2002/56;

"Commission Decision 2004/842/EC" means Commission Decision 2004/842/EC of 1 December 2004(**8**) 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;

"Commission Directive 93/17/EEC" means Commission Directive 93/17/EEC(**9**) of 30 March 1993 determining Community grades of basic seed potatoes, together with the conditions and designations applicable to such grades;

(**6**) 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)
(**7**) O.J. No. L 2, 06.01.2004, p.47
(**8**) O.J. No. L 362, 09.12.2004, p.21
(**9**) O.J. No. L 106, 30.04.1993, p.7. The grades of EEC grade 1, EEC grade 2 and EEC grade 3 stated in Commission Directive 93/17/EEC are now referred to as EC grade 1, EC grade 2 and EC grade 3 respectively; see references in Article 1 of Commission Decision of 19 December 2003 authorising, in respect of the marketing of seed potatoes in all or part of the territory of certain member States, more stringent measures against certain diseases than are provided for in Annexes I and II to Council Directive 2002/56/EC (O.J. L 2, 6.1.2004, p.47)

"Commission Directive 2008/62/EC" means Commission Directive 2008/62/EC(**10**) 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;

"Common Catalogue" means the Common Catalogue of varieties of seed potatoes published in the Official Journal of the European Communities;

"Common Catalogue Directive" means Council Directive 2002/53/EC(**11**) (as amended by Council Directive 2003/61/EC(**12**)) on the common catalogue of varieties of agricultural plant species;

"Community grade" in relation to basic seed potatoes means one of the grades designated by Commission Directive 93/17/EEC(**13**) determining Community grades of basic seed potatoes, together with the conditions and designations applicable to such grades;

"Conservation variety seed potatoes" 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 Commission Directive 2008/62/EC;

"Council Directive 70/457/EEC" means Council Directive 70/457/EEC of 29 September 1970(**14**) on the common catalogue of varieties of agricultural plant species;

"Council Directive 2001/18/EC" means Directive 2001/18/EC(**15**) of the European Parliament and of the Council of 12th March 2001 on the deliberate release into the environment of genetically modified organisms;

"Council Directive 2002/56/EC" means Council Directive 2002/56/EC of 13 June 2002(**16**) on the marketing of seed potatoes;

"Council Directive 2002/53/EC" means Council Directive 2002/53/EC of 13 June 2002(**17**) on the common catalogue of varieties of agricultural species;

"Council Directive 2003/61/EC" means Council Directive 2003/61/EC of 18 June 2003(**18**) on the marketing of seed potatoes, as it amends Article 20 of Council Directive 2002/56/EC;

"damage" means damage arising from the action of extreme temperature or from bruising or in any other way if such damage is likely to impair germination and growth or allow the spread of any disease or pest;

"Department" means the Department of Agriculture and Rural Development;

"disease or pest" means a disease or pest set out in Groups 1 to 3 in Column 1 of Tables 1, 2, 3 and 4 of Schedule 6;

"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 for the purposes of Council Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms;

(**10**) O.J. No. L 162 21.06.2008, p.13

(**11**) 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)

(**12**) O.J. No. L 165 03.07.2003, p.23

(**13**) O.J. No. L 106, 30.04.93, p.7

(**14**) O.J. No. L 225, 29.09.1970, p.1

(**15**) 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 22 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 22 September 2003 (O.J. No. L 268 18.10.2003, p.24)

(**16**) 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)

(**17**) O.J. No. L 193, p.1

(**18**) O.J. No. L 165 03.07.2003, p.23

"grower's number" has the meaning assigned to it in regulation 11(2);

"lot" means 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 18;

"marketing" means—

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

(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" shall not be taken to include the supply of seed potatoes to any person for the purpose of processing or packaging them provided he does not acquire title to the seed potatoes supplied; and "market" and "marketed" shall be construed accordingly;

"member State" means a member State of the Communities;

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

(i) in accordance with regulation 3 of the Seeds (National List of Varieties) Regulations 2001(**19**); or

(j) by a member State other than the United Kingdom pursuant to Article 3 of Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species(**20**), as amended by Regulation (EC) No.1829/2003(**21**);

"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 15(3);

"official document" means a document issued or approved by the Department or where the seed potatoes are produced outside Northern Ireland which meets the requirements of 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—

(k) for seed potatoes produced in Northern Ireland, a label which complies with the requirements set out in Part 1 of Schedule 5 and which is supplied by or on behalf of the Department; and

(l) for seed potatoes produced outside Northern Ireland, a label issued or approved by the authority concerned in the country or place 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 Article 18(f) of Council Directive 2002/56/EC or Article 9 of Commission Decision 2004/842/EC;

"package or container" means—

(m) a bag, or sack, which has been previously unused; or

(n) a box, or crate, which has either been previously unused or has been cleaned and disinfected since its previous use;

"potato" means a tuber or part thereof or any plant or part thereof of *Solanumtuberosum* L or other tuber-forming species or hybrid of *Solanum*;

"pre-basic seed potatoes" means—

(**19**) S.I. 2001/3510, as amended by S.I. 2009/1273, S.S.I. 2004/317, S.S.I. 2005/328 and 329
(**20**) O.J. No. L 193, 20.07.2002, p.1
(**21**) O.J. No. L 268, 18.10.2003, p.1

(o) in relation to seed potatoes produced in Northern Ireland, seed potatoes in relation to which a certificate classifying them as seed potatoes of a pre-basic category has been issued in accordance with Schedule 1;

(p) in relation to seed potatoes produced outside Northern Ireland, seed potatoes being a lot or part of a lot imported into Northern Ireland in a package or container, to or in which a label or document, in accordance with Article 18(f) or Council Directive 2002/56/EC, approved by the authority concerned has been affixed or placed, stating that on examination of the potatoes they were classified as seed potatoes of a pre-basic category in that country or place where the Department has approved the arrangements applying to pre-basic seed potatoes in that country or place as being equivalent to those applying in Northern Ireland; and

(q) pre-basic seed potatoes may be placed on the market in accordance with the provisions of Articles 4 and 18 of Council Directive 2002/56/EC.

"protected region" means Northern Ireland and any of those regions listed in the Annex 1 to Commission Decision 2004/3/EC;

"region of origin" means the region forming a part or the whole of Northern Ireland identified by the Department for the purposes of article 8.1 of Commission Directive 2008/62/EC;

"Regulation (EC) No 1829/2003" means Regulation (EC) 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (**22**);

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

"scientific purposes and selection work seed potatoes" means seed potatoes which—

(r) in relation to seed potatoes produced in Northern Ireland, are seed potatoes which have been authorised by the Department for marketing in accordance with regulations 4 and 5; and

(s) in relation to seed potatoes produced outside Northern Ireland, are seed potatoes which have been authorised by the authority concerned in the country or place where the potatoes were produced for marketing in accordance with Article 6(1)(a) of Council Directive 2002/56/EC;

"sealing device" means a device used to seal a package or a container of seed potatoes which will be broken if it is applied to a package or a container and that package or container is opened in the ordinary way subject to—

(t) such a device not being deemed to include an official label which is machine stitched into the mouth of the bag;

(u) in the case of seed potatoes produced in Northern Ireland such a device being deemed to include an official label which is machine stitched into the mouth of the bag and which is also endorsed with the official stamp of the Department;

"seed potatoes" means 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 any potatoes that are intended to be used for planting and propagation;

"seed potatoes produced elsewhere" means seed potatoes produced outside Northern Ireland and imported into Northern Ireland in compliance with Orders made under the Plant Health Act (Northern Ireland) 1967(**23**) which regulate the landing of potatoes in Northern Ireland;

(**22**) O.J. No. L 125, 11/07/1966 pp. 2320 - 2326
(**23**) 1967 c. 28 (N.I.)