STATUTORY RULES OF NORTHERN IRELAND

2007 No. 401

SEEDS

The Seed Potatoes (Amendment) Regulations (Northern Ireland) 2007

Made - - - -	*13th September 2007*
Coming into operation	*1st November 2007*

The Department of Agriculture and Rural Development(**1**), in exercise of the powers conferred on it by sections 2(2), 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 Agricultural 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, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as The Seed Potatoes (Amendment) Regulations (Northern Ireland) 2006 and shall come into operation on 1st November 2007.

(2) In these Regulations "the principal Regulations" means the Seed Potatoes Regulations (Northern Ireland) 2001(**6**).

(3) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the Seed Potatoes Regulations (Northern Ireland) 2001

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

3.—(1) Regulation 2 (interpretation) is amended as follows.

(**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 1970 C.20 (N.I.) S.10; S.R. & O.(N.I.) 1972 No 351 Art.3 and Schedule 3 and S.R. 1977 No.295
(**3**) S.I. 1984/702 (N.I.2)
(**4**) S.I. 2000/2812
(**5**) 1972 c.68
(**6**) S.R. 2001 No.188
(**7**) 1954 c. 33 (N.I.)

(2) In paragraph (1)—

(a) in sub-paragraph (*b*) of the definition of "basic seed potatoes", after "label or document" insert—

"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,(**8**)

(b) after the definition of "class" insert—

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

(c) after the definition of "Common Catalogue" insert—

""Common Catalogue Directive" means Council Directive 2002/53/EC(**10**) (as amended by Council Directive 2003/61/EC(**11**) on the common catalogue of varieties of agricultural plant species);".

(d) after the definition of "Community grade" insert—

""Council Directive 90/220" means Council Directive 90/220/EEC(**12**) on the deliberate release into the environment of genetically modified organisms;";

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

""Council Directive 2003/61" means Council Directive 2003/61/EC of 18th June 2003(**14**) on the marketing of seed potatoes, as it amends Article 20 of 2002/56;"

""Commission Decision 2004/3" means Commission Decision 2004/3/EC 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 Directive 2002/56;";

""Commission Decision 2004/842" means Commission Decision 2004/842/EC of 1 December 2004(**15**) 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;".

(e) after the definition of "damage" insert—

""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 12(3);";

(f) after the definition of "Department" insert—

(**8**) 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)

(**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 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)

(**10**) 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)

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

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

(**13**) 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)

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

(**15**) O.J. No. L 362 09.12.2004, p.21

""Directive 2001/18" means Directive 2001/18/EC(**16**) 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(**17**);".

(g) in the definition of "disease or pest" for "Tables I, II, III, IV and V of Schedule 6" substitute "Tables I, II, III and IV of Schedule 6";

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

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

""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" 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;"

(j) after the definition of "member State" insert—

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

(a) in accordance with regulation 3 of the Seeds (National List of Varieties) Regulations 2001(**18**); or

(b) 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(**19**) as amended by the Food and Feed Regulation(**20**);

"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(**21**);".

(k) replace the definition of "official label" with the following—

""official label" means—

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

(b) for 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, as appropriate to the seed potatoes

(**16**) 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)
(**17**) O.J. No. L 117, 08.05.1990, p.15
(**18**) S.I. 2001/3510
(**19**) O.J. No. L. 193, 20.7.2002, p.1
(**20**) O.J. No. L. 268, 18.10.2003, p.1; i.e. Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed
(**21**) O.J. No. L 193, 20.07.2002, p.60

to which the label relates, the requirements of Article 13(1)(a) or Article 18(f) of Directive 2002/56 or Article 9 of Commission Decision 2004/842;"

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

(i) delete "and" from the end of sub-paragraph (*a*);

(ii) after "label or document," and before "approved by the authority" in sub-paragraph (*b*) insert "in accordance with Article 18(f) of Council Directive 2002/56,";

(iii) after "Northern Ireland;" at the end of paragraph (*b*) insert "and";

(iv) insert the following new sub-paragraph—

"(c) 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.".

(m) after the definition "protected region" insert—

""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.

"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 (i.e. the "Food and Feed Regulation")(**22**);".

(n) after the definition of "size" insert—

""test and trial seed potatoes" means seed potatoes which—

(a) in relation to seed potatoes produced in Northern Ireland, are seed potatoes which have been authorised by the Department for marketing for test and trial purposes in accordance with regulations 4 and 4A and Schedule 11 of the principal Regulations (as amended by regulations 5 and 21 of these Regulations); and

(b) in relation to seed potatoes produced outside Northern Ireland, are seed potatoes brought into Northern Ireland in a package or container which bears an official label in accordance with Article 9 of Commission Decision 2004/842.".

(3) In paragraph (2) after "the Plant Health Order (Northern Ireland)" for "1993" substitute "2006"(**23**).

(4) After paragraph (6), insert—

"(7) In relation to seed potatoes produced in Switzerland, any reference in these Regulations to Council Directive 2002/56 or Commission Decision 2004/842 or any provision thereof shall be construed as a reference to the legislation of the Swiss Confederation having equivalent effect in accordance with the Swiss trade agreement on trade in agricultural products(**24**), as amended by amendments up to and including Commission Decision 2004/660/EC(**25**);

(8) Expressions in these Regulations which are not defined in this regulation or elsewhere in these Regulations and which appear in Directive 2002/56 or Commission Decision 2004/842 have the same meaning in these Regulations as they have in Directive 2002/56 or Decision 2004/842.".

(**22**) O.J. No. L 268, 18.10.2003, p.1
(**23**) S.R. 2006/82
(**24**) O.J. No. L 114, 30.4.2002, p.166. This, together with six other Agreements with the Swiss Confederation, was approved by the Council and the Commission by way of Council and Commission Decision 2002/309/EC, Euratom, OJ L 114, 30.4.2002, p.1.
(**25**) O.J. No. L 301, 28.9.2004, p.55.

4. For regulation 3 (exemptions) substitute—

"**Exemptions**

3.—(1) These Regulations shall not apply to seed potatoes produced in the Republic of Ireland consigned through Northern Ireland to a destination outside Northern Ireland if, without being unloaded in Northern Ireland, they are moved direct from the point of entry to the point of exit.

(2) The provisions of Council Directive 2002/56 do not apply to seed potatoes intended for export to any 'third' country, i.e. any country outside the European Community, in accordance with Article 1 of Council Directive 2002/56."

5.—(1) Regulation 4 (marketing of seed potatoes) is amended as follows.

(2) For paragraph (1) substitute—

"Subject to the provisions of regulation 21, a person shall not market any potatoes as seed potatoes other than pre-basic seed potatoes, seed potatoes for test and trial purposes or for scientific purposes or selection work, or basic seed potatoes which have been graded at a Community Grade and which meet the requirements of Commission Decision 2004/3/EC 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.";

(3) In paragraph (2), for "or basic seed potatoes" substitute ", scientific purposes and selection work seed potatoes and test and trial seed potatoes or basic seed potatoes—";

(4) In paragraph (3), for sub-paragraphs (*a*) and (*b*) substitute—

"(a) pre-basic seed potatoes;

(b) basic seed potatoes of a Community grade;

(c) scientific purposes and selection work seed potatoes; or

(d) test and trial seed potatoes.";

(5) Delete paragraph (4);

(6) For paragraph (5) substitute—

"(5) If the conditions specified in paragraph (6) are satisfied small quantities of seed potatoes which contain any genetically modified material may be marketed for scientific or selection work or for test and trial purposes.";

(7) In sub-paragraph (6)(*a*) and head (7)(*a*)(ii) for "90/220/EEC" substitute "2001/18 and/or Commission Decision 2004/842";

(8) In paragraphs (7)(*a*)(i) and 7(*a*)(ii) for "scientific purposes or selection work" substitute "for scientific purposes or selection work or for test and trial purposes.";

(9) For paragraph (7)(*b*)(ii) substitute the following—

"an authorisation would be in accordance with the purpose of Articles 6(1) and 18 of Council Directive 2002/56/EC on the marketing of seed potatoes, as last amended by Council Directive 2003/61/EC, and/or Commission Decision 2004/842";

(10) After paragraph (7) insert—

"(8) In this regulation, "scientific and selection seed potatoes" means seed potatoes which—