1981 No. 243

SEEDS

Seed Potatoes Regulations (Northern Ireland) 1981

Made . . . . . *17th July 1981*

Coming into operation . . . . *1st September 1981*

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The Department(**a**) of Agriculture, in exercise of the powers conferred on it by sections 1(1)(**b**), and (2A)(**c**), 2 and 12(1)(**b**) of the Seeds Act (Northern Ireland) 1965(**d**) and of every other power enabling it in that behalf, after consultation with representatives of such interests as appear to it to be concerned, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Seed Potatoes Regulations (Northern Ireland) 1981 and shall come into operation on 1st September 1981.

Interpretation

2.—(1) In these regulations—

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

"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—

(*a*) in relation to seed potatoes produced from a crop grown in Northern Ireland in 1981, those potatoes which were entered for the Department's Growing Crop Scheme and received from the Department a certificate indicating that they were classified as being equal to or superior to the requirements and tolerances of Class A as set out in Schedule 2;

(*b*) in relation to seed potatoes produced in Northern Ireland other than from a crop grown in 1981, those potatoes for which a certificate giving the particulars set out in Schedule 3 has been issued in accordance with the provisions of Schedules 1 and 2;

(*c*) in relation to seed potatoes produced elsewhere, those potatoes in a lot or part of a lot brought into Northern Ireland in a package or container to or on which there has been affixed or placed a label approved by the authority concerned which states that requirements at least equivalent to sub-paragraphs 2(*a*), 2(*c*), 2(*f*), 3(*a*), 3(*d*) and 4 in Schedule 1 were met and on examination of those potatoes they were classified as being equal to or superior to the requirements and tolerances of Class A as set out in Schedule 2;

"certificate" means a certificate issued by the Department in accordance with the provisions of Schedule 1 stating in respect of basic seed potatoes particulars as set out in Schedule 3;

"certification" means—

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

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

"class" means—

(*a*) in relation to seed potatoes produced in Northern Ireland, the class (being one of those set out in Schedule 2) into which those potatoes were placed during the course of certification and which is stated in the certificate relating to those potatoes;

(**a**) Formerly Ministry: *see* Northern Ireland Constitution Act 1973 (c. 36) s.40 and Sch. 5 para. 8(1)
(**b**) As amended by S.R. & O. (N.I.) 1972 No. 351 Art. 3 and Sch. 3
(**c**) As inserted by S.R. & O. (N.I.) 1972 No. 351 Art. 3 and Sch. 3 para. 1
(**d**) 1965 c. 22 (N.I.)

(*b*) in relation to seed potatoes produced elsewhere, the class stated in a label approved by the authority concerned;

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

"damage" means damage arising from the action of frost or from bruising or in any other way if such damage is likely to cause or allow the spread of any disease or pest;

"disease or pest" means a disease or pest set out in Groups I to III in Column 1 of Part I of Schedule 5 and Groups I to IV in Column 1 of Part II of Schedule 5;

"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;

"grower's number" has the meaning assigned to it in Regulation 5(2);

"lot" means a quantity of basic seed potatoes prepared either for delivery in the course of marketing in or for exportation from Northern Ireland, which—

(*a*) subject to Regulation 13(2), is of one variety;

(*b*) is of one class;

(*c*) consists of potatoes of the same size; and

(*d*) has the same grower's number;

"marketing" includes—

(*a*) the sale, offering for sale, exposing for sale and possession with a view to sale of basic seed potatoes;

(*b*) the importation or attempted importation of seed potatoes into, or the exportation or attempted exportation of seed potatoes out of, Northern Ireland;

(*c*) the delivery of seed potatoes to a grower who has a grower's number which is different from that of the grower who produced such potatoes; and

(*d*) any transaction in the course of business—

(i) under which the property in seed potatoes is transferred from one person to another; or

(ii) under which seed potatoes are made over by one person to another in pursuance of a contract under which such potatoes will be used for producing further potatoes;

"Member State" means a Member State, other than the United Kingdom, of the European Community;

"official document" means a document which complies with the requirements set out in Part II of Schedule 4 and which is supplied by or on behalf of either the Department or the authority concerned;

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

"official label" means a label which complies with the requirements set out in Part I of Schedule 4 and which is supplied by or on behalf of either the Department or the authority concerned;

"package or container" means—

(*a*) a bag, or sack, which has been previously unused and which does not exceed 50 kg in capacity; or

(*b*) 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 *Solanum tuberosum* L. or other tuber-forming species or hybrid of *Solanum*;

"scheme" means a scheme for the inspection of crops of growing potatoes which is administered by the Department;

"sealing device" means—

(*a*) a device which will necessarily be broken if it is applied to a package or container and the package or container is opened in the ordinary way, but does not include an official label with a punch tie hole which is machine stitched into the mouth of a bag;

(*b*) in the case of basic seed potatoes produced in Northern Ireland, a machine stitched official label which is endorsed with the official stamp of the Department;

"seed potatoes" means potatoes used, or intended to be used, or accompanied by any description which could indicate intention for use, for producing further potatoes;

"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(**a**) which regulate the landing of potatoes in Northern Ireland;

"size" means the size of the square of the mesh of the riddle or gauge through, or by means of which, basic seed potatoes are passed or retained.

(2) These regulations are without prejudice to the provisions of the Import and Export (Potatoes) (Plant Health) Order (Northern Ireland) 1981(**b**).

(3) In these regulations a reference to a tolerance in a sample shall be construed in relation to basic seed potatoes in the sample affected by—

(*a*) disease, damage, external blemish, pest or any combination thereof as a reference to the proportion, expressed as a percentage, of the weight of potatoes so affected in relation to the total weight of potatoes in the sample;

(*b*) earth or other extraneous matter as a reference to the proportion, expressed as a percentage, of the weight of such matter in relation to the total weight of potatoes in the sample.

Scope of regulations

3.—(1) Subject to paragraphs (2) and (3), these regulations shall apply to seed potatoes marketed in Northern Ireland.

(2) These regulations shall not apply to seed potatoes used or to be used for the purposes of scientific investigation under the authority of the Department or in the course of a process of selection by or under the supervision of an authorised officer.

(3) 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.

Marketing of Seed Potatoes

4.—(1) A person shall not market any potatoes as seed potatoes other than basic seed potatoes.

(2) A person shall not market basic seed potatoes:

(*a*) as belonging to a class superior to that into which such potatoes were classified; or

(**a**) 1967 c. 28 (N.I.)
(**b**) S.R. 1981 No. 36

(*b*) which have been treated with a product primarily to inhibit germination; or

(*c*) which are of a size less than 25 mm; or

(*d*) all of which are too large to pass through a square mesh of 35 mm by 35 mm, unless the upper and lower size limits of such lot are expressed in multiples of 5 mm; or

(*e*) some of which are too large to pass through a square mesh of 35 mm by 35 mm, unless the upper size limit of such lot is expressed in a multiple of 5 mm; or

(*f*) unless—

(i) in the case of a lot which passes through a square mesh of 60 mm by 60 mm but does not pass through a square mesh of 35 mm by 35 mm, the maximum variation between the upper and lower size limits is 25 mm;

(ii) in the case of a lot some or all of which are too large to pass through a square mesh of 60 mm by 60 mm, the maximum variation between the upper and lower size limits is 20 mm;

(iii) in the case of a lot some or all of which are small enough to pass through a square mesh of 35 mm by 35 mm, the maximum variation between the upper and lower size limits is 20 mm.

(3) A person shall not market basic seed potatoes which exceed any of the tolerances for disease, pest, damage, external blemish or impurity set out in Columns 2, 3 and 4 of Parts I and II of Schedule 5.

Certification and Classification

5.—(1) Application for certification of seed potato crops shall be made in writing to the Department with such information, in such form and in such manner as it may require.

(2) On receipt of an application under paragraph (1) the Department shall allocate to the grower who produces the seed potatoes in respect of which such application has been made a number to be hereinafter called a "grower's number".

(3) Certification and classification shall be carried out by an authorised officer in accordance with the provisions of Schedule 1 and Schedule 2.

(4) A certificate shall not be issued in respect of seed potatoes which fail to meet the requirements and tolerances set out in Schedule 2 in respect of Class A.

(5) The Department may withdraw a certificate after it has been issued where an authorised officer is satisfied that the basic seed potatoes in respect of which that certificate has been issued have not been so harvested, stored or prepared for marketing as to ensure that basic seed potatoes of each class or variety have been or are kept separate from all other potatoes.

Packages and containers

6.—(1) Subject to paragraph (2) and Regulation 12, a person shall not, in the course of marketing, deliver or cause to be delivered a lot otherwise than in a package or container.

(2) A person shall not export, attempt to export or cause the export from Northern Ireland of a lot produced in Northern Ireland otherwise than in a package or container marked with the information and complying with the requirements set out in Part III of Schedule 4.

(3) Each lot delivered, or intended for delivery, in the course of marketing shall be homogeneous to the extent that the contents of each package or container in the lot is fairly and truly representative of the contents of all packages or containers in the lot.