

**EXPLANATORY MEMORANDUM TO  
THE SEED POTATOES REGULATIONS (NORTHERN IRELAND) 2016**

**SR No. 190**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture and Rural Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred on it by sections 1(1), (2A) and 2 of the Seeds Act (Northern Ireland) 1965 and in exercise of the powers in section 2(2) of the European Communities Act and is subject to the negative resolution procedure.
- 1.3 The Rule will come into operation on 14<sup>th</sup> April 2016.
- 1.4 In this Explanatory Memorandum—

“the Implementing Directives” means—

Commission Implementing Directive 2013/63/EU amending Annexes I and II to Council Directive 2002/56/EC as regards minimum conditions to be satisfied by seed potatoes and lots of seed potatoes (OJ L 341, 18.12.2013, p.52);

Commission Implementing Directive 2014/20/EU determining Union grades of basic and certified seed potatoes, and the conditions and designations applicable to such grades (OJ L 38, 7.2.2014, p.32); and

Commission Implementing Directive 2014/21/EU determining minimum conditions and Union grades for pre-basic seed potatoes (OJ L 38, 7.2.2014, p.39).

“the Principle Directive” means Council Directive 2002/56/EC on the marketing of seed potatoes (OJ L 193, 20.7.2002, p.60).

**2. Purpose**

- 2.1 These Regulations revoke and replaces the Seed Potatoes Regulations (Northern Ireland) 2010 (S.R. 2010 No. 350), which had transposed the requirements of the Principle Directive and had provided for certification and marketing of seed potatoes in Northern Ireland, by reference to a national classification scheme. These Regulations transpose the requirements of the Principle Directive and the Implementing Directives and introduces a new grading scheme for seed potatoes produced in Northern Ireland by reference to the Union Grades. The Regulations also implement the provisions of Commission Decision 2004/3/EC (OJ L 2, 6.1.2004, p.47) as amended by Commission Implementing Decision 2014/105/EU (OJ L 56, 26.2.2014, p.16).

### 3. Background

- 3.1 Northern Ireland has a reputation for producing of quality seed potatoes and has freedom from serious potato quarantine pests. Within the European Union, Northern Ireland is recognised as a high health area. Stricter health standards are applied than elsewhere in the EU and Northern Ireland produces and markets only pre-basic and basic seed potatoes.
- 3.2 The Implementing Directives were the result of an EU review of the provisions on the minimum conditions to be satisfied by seed potatoes contained in Annexes I and II of the Principal Directive. In addition to changes to the Annexes, the Implementing Directives also establish mandatory minimum conditions for the marketing of pre-basic seed potatoes and basic seed potatoes in the EU and a voluntary system of Union grades to cover pre-basic and basic seed potatoes.
- 3.3 The written consultation with industry on the options available for the implementation of the provisions was held between 24 November 2014 and 12 January 2015. The Department's preferred option (which is the option implemented in the Regulations) was the adoption of the "Union Grades" together with the following additional and stricter statutory controls (or "tolerances") in the production process:- a nil tolerance for *Dickeya* spp. (in crops and lots); stricter field tolerances for Potato Virus Y, Potato Virus A and Potato Leafroll Virus. The Principal Directive permits member States to derogate from the minimum conditions prescribed in Annexes I and II, providing that the additional or stricter tolerances are applied to domestic production only. The Department's view was that the harmonisation of seed potatoes grades across the EU was the way forward as it would make marketing more straightforward in the long term across all member States.
- 3.4 The Implementing Directives did not make the use of Union grades mandatory but the Department, together with the other Administrations in the UK, concluded that this was still the most sensible way forward. Following the consultation process and analysis of the responses received from stakeholders the decision reached was to adopt the Union grades in respect of seed potatoes produced in Northern Ireland, but to make use of the derogation within the Principal Directive to apply the additional and stricter tolerances. These additional and stricter tolerances only apply to seed potatoes produced in Northern Ireland. Similar decisions (as appropriate) were reached by the other Devolved Administrations.

### 4. The Seed Potatoes Regulations (Northern Ireland) 2016

- 4.1 The Seed Potatoes Regulations (Northern Ireland) 2016 consolidate the Seed Potatoes Regulations (Northern Ireland) 2010 (as amended). They control the production, certification and marketing of seed potatoes in Northern Ireland and give effect to Council Directive 2002/56/EC, as amended by Commission Implementing Directive 2013/63/EU. They also give effect to Commission Implementing Directive 2014/20/EU, determining Union grades of basic seed potatoes and the conditions and designations applicable to such grades, and Commission Implementing Directive 2014/21/EU, determining minimum

conditions and Union grades for pre-basic seed potatoes. Finally they also give effect to Commission Decision 2004/3/EC, as amended by Commission Implementing Decision 2014/105/EU, 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 provided for in Annexes I and II to Council Directive 2002/56/EC. By virtue of this Decision, as amended, the Department may restrict the marketing of seed potatoes in Northern Ireland to seed potatoes which, as a minimum meet the standards for Union grades for basic seed potatoes.

4.2 The additional and stricter tolerances for seed potatoes produced in Northern Ireland gave rise to a number of technical standards and accordingly a draft of the Regulations was notified to the European Commission as required by Directive 98/34/EC (OJ L. 204, 21.7.1998, p.37). No comments were received from the Commission or other EU Member States in light of the notification

## **5. Consultation**

5.1 In terms of section 1(1) of the Seeds Act (Northern Ireland) 1965 a consultation exercise was undertaken in 2014/2015 in relation to implementation of the Implementing Directives. These are the provisions which are now being implemented. A total of 3 responses were received from Stakeholders, all of whom supported the adoption of the “Union Grades” and their respective tolerances together with some stricter tolerances for certain diseases.

## **6. Equality Impact**

6.1 In accordance with DARD’s obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations have been assessed. No adverse equality impacts have been identified under the Equality and Human Rights screening procedures. The Department considers the Regulations will not result in any equality differentials amongst Section 75 groups.

## **7. Regulatory Impact**

7.1 The Department did not prepare a Regulatory Impact Assessment for the Regulations as it results in only negligible costs for business and none for charities or voluntary bodies.

7.2 Potato crops are planted in the spring/summer, harvested in the autumn and marketed over the winter and following spring. In terms of the provisions in the Regulations, seed potato crops can now only be further multiplied in Northern Ireland for a maximum of 7 Field Generations. Due to the nature of the seed potato cycle of production, producers, whose seed potato crops would be in this position in the 2016 growing season, needed to be notified of the situation during the 2015 growing season. This ensured that producers had adequate time to make decisions relating to these crops before the Regulations came into force.

## **8. Financial Implications**

8.1 At present all seed potatoes produced, for marketing, in Northern Ireland are certified and classified; as such there will be no additional costs to industry in this regard.

## **9. Section 24 of the Northern Ireland Act 1998**

9.1 The Regulations ensure the Department complies fully with its obligations under European law. The Regulations do not have any human rights implications, nor are they incompatible with EU law.

9.2 The Regulations are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

## **10. EU Implications**

10.1 The Regulations transpose the requirements of the Principle Directive and the Implementing Directives and introduces a new grading scheme for seed potatoes produced in Northern Ireland by reference to the Union Grades. They also implement the provisions of Commission Decision 2004/3/EC (OJ L 2, 6.1.2004, p.47) as amended by Commission Implementing Decision 2014/105/EU (OJ L 56, 26.2.2014). The Regulations will ensure that the requirements of European law are implemented through domestic legislation.

## **11. Additional Information**

11.1 The DSO has examined the Regulations and confirmed it is content with the draft SR.

## **12. Contact**

12.1 Jim Crummie at the Department of Agriculture and Rural Development, Tel: 028 9052 4426 or email: [jim.crummie@dardni.gov.uk](mailto:jim.crummie@dardni.gov.uk) can answer any queries regarding the Regulations.