

2009 No. 306

SEEDS

The Seed Potatoes (Fees) (Scotland) Regulations 2009

Made - - - - *2nd September 2009*

Laid before the Scottish Parliament *3rd September 2009*

Coming into force - - *25th September 2009*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 16(1), (1A)(e) and (5)(a) of the Plant Varieties and Seeds Act 1964(a) and all other powers enabling them to do so.

In accordance with section 16(1) of that Act, they have consulted with representatives of such interests as appear to them to be concerned.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Seed Potatoes (Fees) (Scotland) Regulations 2009 and come into force on 25th September 2009.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations “Approved Stock” means seed potatoes that are to be subjected to crop inspection or official examination for the purposes of regulation 3(5) of the Seed Potatoes (Scotland) Regulations 2000(b).

Payment of Fees

3. Fees must be paid to the Scottish Ministers in respect of the matters arising under the Seed Potatoes (Scotland) Regulations 2000 and specified in relation to an entry in column 1 of the Schedule to these Regulations, calculated on the basis corresponding to that entry specified in column 2 of that Schedule.

Withdrawal of application

4.—(1) If an application for crop inspection referred to in paragraph 2 of the Schedule is withdrawn before the arrival of an inspector for the purpose of inspecting the crop for the first

(a) 1964 (c.14); section 16 was amended by the European Communities Act 1972 (c.68), section 4(1) and paragraph 5(1) and (2) of Schedule 4 and by the Agriculture Act 1986 (c.49), section 2: section 16 is applied to seed potatoes by section 29(1); section 29 was amended by the European Communities Act 1972, section 4(1) and paragraph 5(4) of Schedule 4. See section 38 for the definition of “the Ministers”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2000/201 as amended by S.S.I. 2005/280, SSI 2007/418 and S.S.I. 2009/226.

time the fee paid will be refunded to an applicant, subject to the charging of an administration fee of £1.50 per half-hectare.

(2) If the labels and seals referred to in paragraph 4 of the Schedule are returned unused within 2 months of issue, the fee paid will be refunded to an applicant, subject to the charging of an administration fee of £1.00 per tonne.

Cancellation of an official examination

5. If an arrangement has been made with an applicant for the carrying out of an official examination (referred to in paragraph 5 of the Schedule) on a particular day, but, on that day, the applicant cancels the arrangement, the applicant will be subject to the charging of an administration fee of £25.00.

Exemptions

6. The Scottish Ministers may exempt any person, class of person, or persons generally, from compliance in whole or in part, with the provisions of these Regulations in relation to the payment of fees and any exemption so made may be made subject to conditions.

Revocation

7. The Seed Potatoes (Fees) (Scotland) Regulations 2005(a) and the Seed Potatoes (Fees) (Scotland) Amendment Regulations 2007(b) are hereby revoked.

RICHARD LOCHHEAD
A member of the Scottish Executive

St Andrew's House,
Edinburgh
2nd September 2009

(a) S.S.I. 2005/279.
(b) S.S.I. 2007/520.

SCHEDULE

Regulations 3, 4 and 5

<i>Column 1</i> <i>Matter</i>	<i>Column 2</i> <i>Fee</i>
1. Crop inspection in respect of crops for which an application has been made for inspection as Pre-basic TC, Approved Stock or test and trial seed potatoes.	£25.00 per half hour or part thereof
2. Crop inspection in respect of crops for which an application has been made for inspection as Pre-basic class generations 1 to 4, Super Elite or Elite.	£29.00 per half-hectare or part thereof
3. Scientific testing of a sample taken from a crop in respect of which an application has been made for inspection.	£165.00 per sample
4. Provision of any number of official labels and seals reasonably required in respect of crops classified as Pre-basic class generations 1 to 4, Super Elite, Elite or A, which fee shall include an official examination of tubers.	£3.00 per tonne or part thereof of crop duly classified
5. Official examination of tubers in respect of crops for which an application has been made for inspection as Pre-basic TC, Approved Stock or test and trial seed potatoes which fee shall include the provision of any number of official labels and seals reasonably required.	£25 per half hour or part thereof
6. Fees for nuclear stock—	
(a) initiation of new nuclear stock;	£176.00 (6 microplants)
(b) provision of in vitro maintained nuclear stock; and	£50.00 (6 microplants)
(c) in vitro maintenance of nuclear stock.	£72.00 annual fee (per variety)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which extend to Scotland only prescribe the fees payable in respect of certain matters arising under the Seed Potatoes (Scotland) Regulations 2000 (regulation 3 and the Schedule). They consolidate, with amendments, provisions relating to fees previously contained in the Seed Potatoes (Fees) (Scotland) Regulations 2005 (“the 2005 Regulations”) as amended by the Seed Potatoes (Fees) (Scotland) Amendment Regulations 2007 (“the 2007 Regulations”). Amendments to the 2005 Regulations in this consolidation are largely of a minor or consequential drafting nature, or provide for an increase in the rate of fees payable.

These Regulations prescribe the fees payable—

- (a) for the carrying out of crop inspections, tuber inspections and the provision of official labels and seals as regards the classes of seed potatoes known as the Pre-basic TC, Pre-basic 1 to 4, Super Elite, Elite and test and trial seed potatoes and as regards Approved Stock (regulation 3 and the Schedule);
- (b) for the initiation, provision and maintenance of nuclear stock (regulation 3 and the Schedule);
- (c) for administration where an application for inspection as Pre-basic class generations 1 to 4, Super Elite or Elite is withdrawn before the arrival of an inspector due to inspect the crop for the first time (regulation 4 and the Schedule);
- (d) for administration where labels and seals are returned unused in respect of Pre-basic 1 to 4, Super Elite, Elite or A (regulation 4 and the Schedule); and
- (e) for administration where an arrangement has been made by an applicant for an official examination of tubers to take place on a particular day but the applicant cancels the arrangement on that day (regulation 5 and the Schedule).

The Scottish Ministers may exempt any person, class of persons, or persons generally from compliance, in whole or in part, with the provisions of these Regulations (regulation 6).

Table of Destination and Derivation

The Table of Destination and Derivation below is intended to act as an aide for those familiar with the previous regulatory regime, and indicates the link between previous legislative provisions and those in the 2009 Regulations.

<i>Derivation</i>	<i>Destination</i>	<i>Note of Amendment</i>
<i>The Seed Potatoes (Fees) (Scotland) Regulations 2005, as amended</i>	<i>The Seed Potatoes (Fees) (Scotland) Regulations 2009</i>	
Preamble	Preamble	Changes in wording to reflect changes in drafting practice.
Regulation 1	Regulation 1	“Shall” has been deleted to reflect changes in drafting practice in the two places it appeared.
Regulation 2	Regulation 2	
Regulation 3	Regulation 3	“shall” has been replaced with “must” to reflect changes in drafting practice.
Regulation 4	Regulation 4	

<i>Derivation</i>	<i>Destination</i>	<i>Note of Amendment</i>
<i>The Seed Potatoes (Fees) (Scotland) Regulations 2005, as amended</i>	<i>The Seed Potatoes (Fees) (Scotland) Regulations 2009</i>	
Regulation 4A	Regulation 5	Regulation 4A inserted by S.S.I 2007/520. As a result of consolidation, re-numbered to be Regulation 5. Insertion of parentheses.
Regulation 5	Regulation 6	Re-numbered in consolidation process
Regulation 6	Regulation 7	(Revocations)
Schedule – paragraph 1	Schedule – paragraph 1	Omission of “or Approved Stock” and insertion of “, Approved Stock or test and trial seed potatoes” by S.S.I 2007/520.
Schedule – paragraph 2	Schedule – paragraph 2	
Schedule – paragraph 3	Schedule – paragraph 3	
Schedule – paragraph 4	Schedule – paragraph 4	
Schedule – paragraph 5	Schedule – paragraph 5	Omission of “and Approved Stock” and insertion of “, Approved Stock or test and trial seed potatoes” by S.S.I. 2007/520.
Schedule – paragraph 6	Schedule – paragraph 6	Amendment of fees for nuclear stock to reflect 2009 fee amounts.

These Regulations revoke the Seed Potatoes (Fees) (Scotland) Regulations 2005 and the Seed Potatoes (Fees) (Scotland) Amendment Regulations 2007.

A Regulatory Impact Assessment has been prepared in respect of these Regulations and has been placed in the Scottish Parliament Information Centre. Copies can be obtained from The Scottish Government Rural Directorate, Pentland House, Robb’s Loan, Edinburgh, EH14 1TY.

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