

EXECUTIVE NOTE

THE POTATOES ORIGINATING IN EGYPT (SCOTLAND) AMENDMENT REGULATIONS 2012

SSI 2012/37

Introduction

1. The above instrument is made in exercise of powers conferred by section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972. The instrument is subject to negative resolution procedure.

Policy Objective

2. Egypt supplies potatoes to the European market to cover the seasonal gap between maincrop and the harvest of the first 'earlies' crop. Unfortunately, Egypt has a potato brown rot problem, which, with the assistance of the EU, it is trying to control. The EU introduced a ban on imports of Egyptian potatoes but a policy of derogation is operated in respect of potatoes grown in certain areas of that country which, following internationally-accepted protocols, have been declared 'pest-free'. The derogation is withdrawn should brown rot interceptions at point of entry into the EU exceed 5 in number in any season.

Egypt has been trying to persuade the EU to allow imports without the need for the derogation for a number of years and to remove the threshold for suspending exports in the event of repeated EU interceptions. However, the EU never had the confidence in Egypt to sort out their domestic potato production to combat brown rot until now.

In recognition of the efforts Egyptian authorities have made to tighten and strengthen their legislation for this disease, the EU has repealed the current Commission Decision 2004/4/EC (which allowed imports by means of a derogation) and has replaced it with Commission Implementing Decision 2011/787/EU, which permits imports subject to certain requirements, including the requirement that the potatoes originated in one of the 'pest-free' areas of Egypt. The requirements do not include the internal Egyptian requirements, as they are now covered by Egyptian law. The aim would still be to take action on the basis of six interceptions, but this would be described in correspondence rather than included in the legislation.

Potato brown rot disease

3. Potato brown rot is a bacterial disease of potatoes and tomatoes caused by *Ralstonia solanacearum*. The disease can render a crop unusable and the finding of brown rot will make the land on which the potatoes were grown and surrounding area subject to restriction, resulting in considerable economic loss. It has no implications for human health. **It has never been found in Scottish potatoes** but it has been found in some parts of the EU, including England. In response to the spread of brown rot the EU adopted Council Directive 98/57/EC of 20 July 1998 on the control of *Ralstonia solanacearum*. This was translated into Scottish legislation by the Plant Health (Amendment) (Scotland) Order 1999 on 21 August 1999, now superseded by The Plant Health (Scotland) Order 2005.

The Potatoes Originating in Egypt (Scotland) Amendment Regulations 2012

4. Commission Decision 2004/4/EC was implemented in Scotland by The Potatoes Originating in Egypt (Scotland) Regulations 2004 (SSI 2004/111) (“the 2004 regulations”). The Potatoes Originating in Egypt (Scotland) Amendment Regulations 2012 (“the 2012 Regulations”) implement Commission Decision 2011/787 (“the Decision”), which repealed and replaced Commission Decision 2004/4/EC. The 2012 Regulations leave the 2004 Regulations mostly intact but update the references in the 2004 Regulations to refer to the relevant parts of the Decision.

5. The 2012 Regulations have been drafted to incorporate an ambulatory reference to the Decision, which should alleviate the need for further legislation if the Decision is amended. An ambulatory reference to Commission Decision 2004/4/EC was inserted into the 2004 Regulations in 2007 and this (together with the fact that the fee for testing of imported potatoes did not change) allowed the amendments brought by Commission Decisions 2008/857, 2009/839 and 2010/714 to enter into force without any amendment of our domestic regulations. The repeal of Commission Decision 2004/4/EC however means that further domestic legislation is now required.

6. Under the Regulations processors and packers require authorisation to handle Egyptian potatoes and this requirement extends across the EU. Over the last few seasons no Egyptian potatoes were handled by Scottish processors, therefore none required Scottish Government authorisation. This was largely due to the availability of domestic material. However, we should not be complacent that this trend will continue. Scottish processors/packers, who have previously handled Egyptian potatoes, and possibly others, may be interested in authorisation under the 2004 Regulations. In deciding whether to issue an authorisation the Scottish Ministers have to balance the potential economic loss to growers, particularly for exports, should the disease become established in Scotland with the assessment of plant health risk and the commercial requirement for Egyptian potatoes.

Financial effects

7. There are no significant economic implications for Scottish businesses resulting from this legislation. In such circumstance it was unnecessary to prepare a Regulatory Impact Assessment.

Scottish Government
Rural and Environment Directorate