
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 395

The Seed Potatoes (Scotland) Regulations 2015

PART II

MARKETING OF SEED POTATOES

Seed potatoes which may be marketed

3. No person may market any seed potatoes other than—
- (a) pre-basic seed potatoes;
 - (b) basic seed potatoes;
 - (c) scientific and selection seed potatoes; or
 - (d) test and trial seed potatoes.

General provisions on the marketing of seed potatoes

- 4.—(1) No person may market seed potatoes—
- (a) as being of a higher grade;
 - (b) which have been treated with a product which is produced primarily as an application for inhibiting germination; or
 - (c) otherwise than in a closed—
 - (i) package or container which has not previously been used for any purpose; or
 - (ii) container which, having been previously used for any purpose, has been cleaned and disinfected since that previous use in accordance with the requirements of an authorised officer.
- (2) No person may market seed potatoes otherwise than in a lot which—
- (a) consists wholly of seed potatoes of the same grade; and
 - (b) meets the applicable requirements as to varietal purity and size specified in Schedule 3.
- (3) No person may market seed potatoes of a conservation variety unless—
- (a) the seed potatoes were produced in the United Kingdom;
 - (b) the variety is listed in the National List; and
 - (c) the person complies with the requirements of regulation 7.
- (4) No person may market any genetically modified seed potatoes unless it is clearly indicated in the sales catalogue of the person marketing those seed potatoes, and in any other marketing information or marketing representations provided by that person, that the seed potatoes have been genetically modified.
- (5) A person may market seed potatoes at the applicable Union grade or, as the case may be, at a lower grade.

(6) Where a person markets seed potatoes and no field generation is indicated on the official label or on an official document, the field generation is deemed to be—

- (a) in the case of pre-basic seed potatoes, the fourth field generation; and
- (b) in the case of basic seed potatoes in respect of which the applicable Union grade is—
 - (i) Union grade S, the fifth field generation;
 - (ii) Union grade SE, the sixth field generation; and
 - (iii) Union grade E, the seventh field generation.

Marketing requirements – test and trial seed potatoes

5.—(1) The Scottish Ministers may authorise a producer to market seed potatoes produced in Scotland for tests or trials to be carried out at an agricultural enterprise for the purposes of gathering information on the cultivation or use of the variety.

(2) Where the Scottish Ministers grant an authorisation under paragraph (1) the producer may not market the seed potatoes otherwise than in accordance with the authorisation.

(3) An application for an authorisation or renewal of an authorisation under paragraph (1) must be made in such form and manner and must include such information as the Scottish Ministers may require.

(4) The Scottish Ministers may not grant or renew an authorisation under paragraph (1) unless they are satisfied that—

- (a) the seed potatoes which are the subject of the authorisation or renewal are of a variety of seed potato for which an application for acceptance onto the National List has been made;
- (b) in relation to seed potatoes containing genetically modified material—
 - (i) an authorisation is in force under Regulation 1829/2003 or Part C of [Directive 2001/18/EC](#); and
 - (ii) the producer has taken all appropriate measures to avoid adverse effects on human health and the environment in accordance with an environmental risk assessment carried out in accordance with Article 4(2) and Annex III of [Directive 2001/18/EC](#);
- (c) the marketing of the seed potatoes would not contravene any prohibition on the use of the variety which has been imposed in accordance with Article 14 of [Commission Decision 2004/842/EC](#) and which has been published in the Plant Varieties and Seeds Gazette, published in accordance with section 34(1) of the Act; and
- (d) the authorisation or renewal would not result in a breach of Article 7 of [Commission Decision 2004/842/EC](#).

(5) The Scottish Ministers may grant an authorisation or renewal under paragraph (1) for a period of one year, or for such shorter period as they may specify.

(6) When granting or renewing an authorisation under paragraph (1), the Scottish Ministers may—

- (a) require, as a condition of that authorisation or renewal, that the producer provides on request in writing the following information—
 - (i) the results of the tests or trials to which the authorisation relates; and
 - (ii) the quantity of seed potatoes marketed during the authorised period and the names of the member States to which the seed potatoes are intended to be marketed; and
- (b) impose such additional conditions as they consider appropriate, having regard to the nature of the tests or trials and the nature of the seed potatoes to which the authorisation relates.

(7) The Scottish Ministers may withdraw an authorisation or renewal given under paragraph (1) if—

- (a) they are no longer satisfied in relation to the matters listed at paragraph (4); or
- (b) they are satisfied that there has been a breach of any condition imposed under paragraph (6).

(8) An authorisation or renewal under paragraph (1) ceases to have effect where—

- (a) an application made under regulation 4(1)(a) of the National Lists Regulations for acceptance of the relevant variety of seed potato into a National List is withdrawn or refused; or
- (b) the variety of seed potato to which the authorisation relates is entered in the National List or the Common Catalogue.

Marketing requirements – scientific and selection seed potatoes

6.—(1) The Scottish Ministers may, subject to such conditions as they may determine, authorise a producer to market small quantities of seed potatoes produced in Scotland to be used for the purposes of scientific investigation or in the course of a process of selection by, or under the supervision of, an authorised officer.

(2) Where the Scottish Ministers grant an authorisation under paragraph (1) the producer may not market the scientific and selection seed potatoes otherwise than in accordance with the authorisation.

(3) In relation to seed potatoes containing genetically modified material, the Scottish Ministers may not grant or renew an authorisation under paragraph (1) unless they are satisfied that—

- (a) an authorisation is in force under Regulation 1829/2003 or Part C of [Directive 2001/18/EC](#); and
- (b) the producer has taken all appropriate measures to avoid adverse effects on human health and the environment, in accordance with an environmental risk assessment carried out in accordance with Article 4(2) and Annex III of [Directive 2001/18/EC](#).

(4) An application for an authorisation or renewal of an authorisation under paragraph (1) must be made in such form and manner and must include such information as the Scottish Ministers may require.

Marketing requirements – conservation varieties

7.—(1) A person intending to produce seed potatoes of a conservation variety in Scotland must give prior notice of this to the Scottish Ministers, in such form and manner and including such information as the Scottish Ministers may require.

(2) For the purposes of Articles 14 and 15(2) of Commission [Directive 2008/62/EC](#), the Scottish Ministers may specify the maximum amount of seed potatoes of a conservation variety which may be marketed in any given production season and may also specify different maxima for different persons or classes of persons.

(3) A person may not market seed potatoes of a conservation variety in excess of any applicable maximum amount of seed potatoes specified by the Scottish Ministers under paragraph (2).

(4) A person who markets seed potatoes of a conservation variety must, on request in writing, supply to the Scottish Ministers, information relating to the amount and the variety of the seed potatoes which that person has placed on the market during each production season.

(5) In paragraph (2), “Commission [Directive 2008/62/EC](#)” means Commission [Directive 2008/62/EC](#) providing for certain derogations for acceptance of agricultural landraces and varieties which

are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties⁽¹⁾.

(1) OJ L 162, 21.6.2008, p.13.