

**2015 No. 395**

**SEEDS**

**The Seed Potatoes (Scotland) Regulations 2015**

*Made* - - - - - *19th November 2015*

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*Coming into force* - - - *1st January 2016*

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The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4), (5), (5A) and 36 of the Plant Varieties and Seeds Act 1964<sup>(a)</sup>

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(a) 1964 c.14. (“the 1964 Act”). Section 16 was amended by the European Communities Act 1972 (c.68) (“the 1972 Act”), section 4(1) and Schedule 4, paragraph 5(1) and (2); by the Agriculture Act 1986 (c.49), section 2; and by S.I. 1977/1112. Section 16 is applied to seed potatoes by section 29(1) of the 1964 Act. Section 29 was amended by the 1972 Act, section 4(1) and Schedule 4, paragraph 5(4). The powers conferred by section 16 are exercisable by “the Minister”. See section 38 of the 1964 Act for definition of “the Minister”. The functions of the Secretary of State, insofar as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

and by section 2(2) of the European Communities Act 1972<sup>(a)</sup> and all other powers enabling them to do so.

In accordance with section 16(1) of the Plant Varieties and Seeds Act 1964, the Scottish Ministers have consulted with representatives of such interests as appear to them to be concerned.

## PART I

### PRELIMINARY

#### **Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Seed Potatoes (Scotland) Regulations 2015 and come into force on 1st January 2016.

(2) These Regulations extend to Scotland only.

#### **Interpretation**

**2.**—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Plant Varieties and Seeds Act 1964<sup>(b)</sup>;

“agricultural unit” has the meaning given to it by section 86(2) of the Agriculture (Scotland) Act 1948<sup>(c)</sup>;

“applicable Union grade”—

(a) in relation to seed potatoes produced in Scotland, means the Union grade determined in respect of those seed potatoes under regulation 8(2)(a) or, as the case may be, under regulation 15(2); and

(b) in relation to seed potatoes produced outside Scotland, means—

(i) in the case of pre-basic seed potatoes, either Union grade PBTC or PB, the minimum conditions for which are set out in Articles 2 and 3 of, and the Annex to, Commission Implementing Directive 2014/21/EU; or

(ii) in the case of basic seed potatoes, either Union grade S, SE or E, the minimum conditions for which are set out in Article 1 of and Annex I to, Commission Implementing Directive 2014/20/EU,

and in relation to both cases as mentioned in paragraph (a) and (b), references in these Regulations to “Union grade PBTC”, “Union grade PB”, “Union grade S”, “Union grade SE” and “Union grade E” are to be construed accordingly;

“authorised officer” means an officer of the Scottish Ministers or a person authorised by the Scottish Ministers for the purposes of Part II of the Act;

“basic seed potatoes”—

(a) in relation to seed potatoes produced in Scotland, means seed potatoes which have satisfied the applicable conditions for the issue of an official label or an official document specified in regulation 10(3), in respect of seed potatoes intended to be marketed as basic seed potatoes; and

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<sup>(a)</sup> 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), section 3(3) and Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. Section 2(2) is used for the purposes of the consequential amendments in regulation 22 and the revocations in regulation 24 of and Schedule 9, paragraph 2 to these Regulations.

<sup>(b)</sup> 1964 c.14.

<sup>(c)</sup> 1948 c.45.

(b) in relation to seed potatoes produced outside Scotland, means seed potatoes, being a lot or part of a lot in a package or container to, or in, which a label or document approved by the relevant authority has been attached or placed in accordance with Article 13(1) of Council Directive 2002/56/EC, stating that on examination of the potatoes they were certified as basic seed potatoes and that they have fulfilled the conditions of an applicable Union grade;

“Commission Decision 2004/842/EC” means Commission Decision 2004/842/EC concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted(a);

“Commission Implementing Directive 2014/20/EU” means Commission Implementing Directive 2014/20/EU determining Union grades of basic and certified seed potatoes, and the conditions and designations applicable to such grades(b);

“Commission Implementing Directive 2014/21/EU” means Commission Implementing Directive 2014/21/EU determining minimum conditions and Union grades for pre-basic seed potatoes(c);

“Common Catalogue” means the catalogue provided for in Council Directive 2002/53/EC on the common catalogue of varieties of agricultural plant species(d);

“conservation variety” has the meaning given to it by regulation 2(1) of the National Lists Regulations;

“container” includes a chitting tray, box or crate;

“Council Directive 2002/56/EC” means Council Directive 2002/56/EC on the marketing of seed potatoes(e);

“crop inspection report” means the crop inspection report issued in accordance with regulation 8 and Schedules 1 and 2;

“declared net weight” means the net weight of seed potatoes contained in a package or container, as declared by the person applying for an official label or official document under regulation 10;

“Directive 2001/18/EC” means Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC(f);

“field generation” means the number of growing cycles since the first introduction of the seed potatoes in the field after micro-propagation or selection;

“genetically modified” means a genetically modified organism as defined in Article 2(2) of Directive 2001/18/EC;

“grade” includes the applicable Union grade;

“higher grade” means any grade above the grade determined in respect of the seed potatoes by or on behalf of the relevant authority, according to the hierarchy of grades used by that authority;

“lot” means an identifiable part of a consignment which is recorded and listed as a separate item in an invoice, delivery note or other document provided in accordance with regulation 12;

“lower grade” means any grade below the grade determined in respect of the seed potatoes by or on behalf of the relevant authority, according to the hierarchy of grades used by that authority;

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(a) OJ L 362, 9.12.2004, p.21.

(b) OJ L 38, 7.2.2014, p.32.

(c) OJ L 38, 7.2.2014, p.39.

(d) OJ L 193, 20.7.2002, p.1, as last amended by Regulation (EC) No 1829/2003 (OJ L 268, 18.10.2003, p.1).

(e) OJ L 193, 20.7.2002, p.60, as last amended by Commission Implementing Decision 2014/367/EU (OJ L 178, 18.6.2014, p.26).

(f) OJ L 106, 17.4.2001, p.1, as last amended by Directive (EU) 2015/412 (OJ L 68, 12.3.2015, p.1).

“marketing” means—

- (a) selling, holding with a view to sale or offering for sale; and
- (b) any disposal, supply or transfer to third parties for the purpose of commercial exploitation of seed potatoes,

whether or not for consideration; and for these purposes “commercial exploitation” does not include the supply of seed potatoes to official testing and inspection bodies, or the supply of seed potatoes to any person for the purpose of processing or packaging them provided that the person does not acquire title to the seed potatoes supplied; and “market” and “marketed” are to be construed accordingly;

“National List” means the list of agricultural crop varieties prepared and published in accordance with regulation 3 of, and paragraph 1 of Part I of Schedule 1 to, the National Lists Regulations;

“National Lists Regulations” means the Seeds (National Lists of Varieties) Regulations 2001(a);

“nuclear stock” means the initial propagating material which is tested and found free from pathogens in a manner approved in writing by the Scottish Ministers;

“official document” means the document which is required for the purposes of Article 13(1)(b) of Council Directive 2002/56/EC;

“official examination” means an examination carried out by or on behalf of the Scottish Ministers;

“official label”—

- (a) in the case of seed potatoes produced in Scotland, means a wear and tear resistant label supplied by or on behalf of the Scottish Ministers and which meets the applicable requirements referred to in regulation 10 and Schedule 5; and
- (b) in the case of seed potatoes produced outside Scotland, a label approved by the relevant authority and which meets, as appropriate to the seed potatoes to which the label relates, the requirements of Article 13(1)(a) or Article 18(f) of Council Directive 2002/56/EC, or of Article 9 of Commission Decision 2004/842/EC;

“outside Scotland”, in relation to the place of production of seed potatoes means—

- (a) any part of the British Islands other than Scotland;
- (b) any member State other than the United Kingdom; and
- (c) Switzerland;

“package” includes a bag, box, or sack;

“potato” means any tuber, or part thereof, and any plant, or part thereof, of—

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

“pre-basic seed potatoes”—

- (a) in relation to seed potatoes produced in Scotland, means seed potatoes which have satisfied the applicable conditions for the issue of an official label or an official document specified in regulation 10(3) in respect of seed potatoes intended to be marketed as pre-basic seed potatoes; and
- (b) in relation to seed potatoes produced outside Scotland, means seed potatoes brought into Scotland in a package or container which bears an official label for pre-basic seed potatoes in accordance with Article 18(f) of Council Directive 2002/56/EC;

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(a) S.I. 2001/3510. Regulation 2(1) of S.I. 2001/3510 was amended by S.I. 2011/464, regulation 2(2)(b). Regulation 3 was amended by S.I. 2004/2949, regulation 2(3)(b) and (c) and by S.I. 2011/464, regulation 2(3). Schedule 1, Part 1, paragraph 1 was substituted by S.I. 2010/1195.

“premises” includes any land or building, vehicle, vessel, aircraft, hovercraft or freight container but does not include a private dwellinghouse;

“Regulation 1829/2003” means Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed<sup>(a)</sup>;

“relevant authority” means the authority concerned with the certification of seed potatoes for the purposes of Council Directive 2002/56/EC in the country or place where the seed potatoes are produced;

“scientific and selection seed potatoes”—

- (a) in relation to seed potatoes produced in Scotland, means seed potatoes used or 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 and which are authorised for such use or selection by the Scottish Ministers in accordance with regulation 6; and
- (b) in relation to seed potatoes produced outside Scotland, means seed potatoes which have been authorised for marketing by the relevant authority in accordance with Article 6(1)(a) of Council Directive 2002/56/EC;

“seed potatoes” means—

- (a) potatoes which bear that description or any description indicating their suitability for planting and propagation and which are capable of being used for planting and propagation; or
- (b) any potatoes that are intended to be used for planting and propagation.

“size” in relation to seed potatoes means the size of the square mesh of the riddle or gauge through or by which the seed potatoes may be passed or retained; and

“test and trial seed potatoes”—

- (a) in relation to seed potatoes produced in Scotland, means seed potatoes which have been authorised for use as test and trial seed potatoes by the Scottish Ministers in accordance with regulation 5 and which have satisfied the applicable conditions for the issue of an official label or an official document specified in regulation 10(3), in respect of seed potatoes intended to be marketed as test and trial seed potatoes; and
- (b) in relation to seed potatoes produced outside Scotland, seed potatoes which have been brought into Scotland in a closed package or container, which bears an official label meeting the requirements of Article 9 of Commission Decision 2004/842/EC.

(2) Unless the context otherwise requires, any reference in any Schedule to a numbered paragraph or Table is a reference to the paragraph or Table so numbered in that Schedule.

(3) In the case of seed potatoes produced in Switzerland any requirement in these Regulations which is expressed by reference to any provision of Council Directive 2002/56/EC or Commission Decision 2004/842/EC is to be construed as a reference to the requirement of the legislation of the Swiss Confederation having equivalent effect, in accordance with the Agreement between the European Community and the Swiss Confederation on trade in agricultural products<sup>(b)</sup>, as amended by Commission Decision 2010/724/EU<sup>(c)</sup>.

(4) In these Regulations, references to “writing” and “written” include electronic communications within the meaning of section 15 (general interpretation) of the Electronic Communications Act 2000<sup>(d)</sup>.

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(a) OJ L 268, 18.10.2003, p.1, as last amended by Regulation (EC) No 298/2008 (OJ L 97, 9.4.2008, p.64).

(b) OJ L 114, 30.4.2002, p.132. This Agreement was one of 7 agreements with the Swiss Confederation, approved in Council and Commission Decision 2002/309/EC, Euratom, (OJ L 114, 30.4.2002, p.1).

(c) OJ L 312, 27.11.2010, p.31.

(d) 2000 c.7, as amended by the Communications Act 2003, Schedule 17, paragraph 158.

## 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(a).

## **PART III**

### **CERTIFICATION AND GRADING**

#### **Certification and grading**

8.—(1) In relation to seed potatoes produced in Scotland, an authorised officer may issue a crop inspection report to certify seed potatoes as being—

- (a) pre-basic seed potatoes;
- (b) basic seed potatoes; or
- (c) test and trial seed potatoes.

(2) When issuing a crop inspection report to certify seed potatoes as either pre-basic seed potatoes or basic seed potatoes, the authorised officer must also determine—

- (a) the applicable Union grade for the seed potatoes, having regard to the list of grades set out in order in Tables I and II in Schedule 2, where Union grade PBTC is the highest

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

grade which may be determined for pre-basic seed potatoes and Union grade S is the highest grade which may be determined for basic seed potatoes; and

(b) where appropriate, the field generation of the seed potatoes.

(3) An application for certification under paragraph (1) must be made to the Scottish Ministers in such form and manner and must include such information as they may require.

(4) Schedules 1 and 2 apply to the issue of a crop inspection report and to the determination of the applicable Union grade.

#### **Official examinations to be performed prior to marketing**

9. For crops of seed potatoes which have been certified under regulation 8(1), an authorised officer must undertake an official examination of lots of seed potatoes derived from that crop to determine whether the seed potatoes exceed any of the applicable tolerances for diseases, pests, damage or defects specified in Schedule 6.

## **PART IV**

### **LABELLING OF SEED POTATOES**

#### **Labelling of seed potatoes**

10.—(1) Subject to regulation 13, no person may market a package or container of seed potatoes unless there is attached to the outside of the package or container—

(a) in the case of pre-basic seed potatoes, an official label meeting the requirements set out in Schedule 5, paragraphs 1 and 4;

(b) in the case of basic seed potatoes, an official label meeting the requirements set out in Schedule 5, paragraphs 2 and 4;

(c) in the case of test and trial seed potatoes, an official label meeting the requirements set out in Schedule 5, paragraphs 3 and 4,

and in each case, where the label particulars are not indelibly printed on the package or container or on a wear and tear resistant or adhesive label attached to it, it contains an official document.

(2) An application for an official label or an official document in respect of seed potatoes produced in Scotland must be made to the Scottish Ministers in such form and manner and must include such information as they may require.

(3) The Scottish Ministers may only issue an official label or an official document in respect of seed potatoes produced in Scotland where the following conditions are satisfied—

(a) a crop inspection report has been issued under regulation 8(1) and not withdrawn;

(b) in relation to seed potatoes certified as pre-basic seed potatoes or basic seed potatoes, an applicable Union grade has been determined under regulation 8(2)(a) or, as the case may be, under regulation 15(2); and

(c) the seed potatoes have undergone an official examination under regulation 9 and have been found not to exceed any of the applicable tolerances for diseases, pests, damage or defects specified in Schedule 6.

(4) No person may, in connection with the issue of an official label or an official document supply any information which is false in a material particular.

(5) No person may market seed potatoes that have been treated with any chemical product unless the type and function or the proprietary name of that product is stated—

(a) on a label attached to the package or container; and

(b) on a document contained in the package or container or indelibly printed on the package or container.

(6) No person may market a genetically modified variety of seed potatoes unless all labels, whether official or otherwise, attached to any lot of that variety and any document contained in the package or container of any lot of that variety, clearly indicate that the variety has been genetically modified.

(7) No person may market seed potatoes contained in a package or container that has been re-sealed in accordance with regulation 11(2) unless the official label states—

- (a) that the package or container has been re-sealed;
- (b) the date of re-sealing; and
- (c) the authority responsible for re-sealing.

(8) No person may, in marketing or preparing for marketing any seed potatoes, wilfully reproduce, remove, alter, deface, conceal or misuse in any way, any official label, or official document which has been attached to or contained within the package or container of such seed potatoes in accordance with this regulation, unless such action is in accordance with the requirements of—

- (a) the Act;
- (b) these Regulations; or
- (c) an Order made under the Plant Health Act 1967(a).

(9) For the purposes of paragraph (4) and section 16(7)(a) of the Act any statement made on an official label pursuant to paragraph 1, 2 or 3 of Schedule 5 is not false in a material particular—

- (a) in respect of the particulars as to variety, provided that the variety of the potatoes is deemed, pursuant to paragraph 3(3) or 4(3) of Schedule 3, to be as stated on the label;
- (b) in respect of the particulars as to size, provided that the size of those potatoes is deemed, pursuant to paragraph 3(4) or 4(4) of Schedule 3, to be as stated on the label.

### **Sealing of packages**

**11.**—(1) No person may market a package or container of pre-basic seed potatoes, basic seed potatoes or test and trial seed potatoes unless—

- (a) in the case of seed potatoes produced in Scotland, it is sealed with an unbroken sealing device which has been applied by, or under the supervision of, an authorised officer or the application of which has been inspected by an authorised officer and found to be satisfactory; or
- (b) in the case of seed potatoes produced outside Scotland, it is sealed in accordance with Article 12(1) of Council Directive 2002/56/EC.

(2) Where a sealing device on a package or container is broken, no person may re-seal the package or container with a sealing device unless that person is, or the re-sealing is performed under the supervision of, an authorised officer.

(3) In this regulation, “a sealing device” means a device applied in such a manner to a package or container that when the package or container is opened, the device will be broken but it does not include an official label with a punched tie hole which is machine stitched into the mouth of a bag.

### **Particulars of sale**

**12.** A person who sells, consigns or delivers pre-basic seed potatoes or basic seed potatoes must issue to the purchaser a sale note, delivery note, invoice or similar document specifying, in relation to those seed potatoes the particulars specified in Schedule 7—

- (a) no later than 14 days after the sale; or

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(a) 1967 c.8.

- (b) if the seed potatoes are not delivered at the time of sale, no later than 14 days after delivery.

### **Retail sales of seed potatoes**

**13.** Regulations 10, 11 and 12 do not apply to a sale by retail of less than 50 kilograms of pre-basic seed potatoes or basic seed potatoes—

- (a) where, at the time of sale, there is displayed conspicuously on or in close proximity to the seed potatoes, a statement of the particulars specified in Schedule 7; or
- (b) in a package or container upon which is printed, or otherwise legibly and indelibly marked, or to which is attached or in which is inserted a label marked with, the particulars specified in Schedule 7.

## **PART V**

### **ENFORCEMENT**

#### **Enforcement – powers of examination and production**

**14.**—(1) Subject to regulation 17, an authorised officer may conduct an official examination and take samples of seed potatoes and inspect and take copies of a relevant document for the purpose of ensuring compliance with any provision of these Regulations.

(2) For the purposes of this regulation a person must permit, at any reasonable time, an authorised officer to—

- (a) examine and take samples of seed potatoes in that person’s possession or control; and
- (b) inspect and take copies of any relevant document in that person’s possession or control.

(3) For the purposes of this regulation an authorised officer may serve a notice on a person requiring that person to—

- (a) produce or make available for examination any seed potatoes or relevant document; or
- (b) provide information within that person’s knowledge or belief relating to the planting production, certification, grading or marketing of the seed potatoes.

(4) A person on whom a notice is served in accordance with paragraph (3) must comply with the requirements of that notice within 7 days of such service or such longer period of time as may be specified in the notice.

(5) For the purposes of this regulation “relevant document” means any crop inspection report, official label, official document, other document or label, record or invoice relating to the planting, production, certification, grading or marketing of seed potatoes.

#### **Enforcement – crop inspection report, applicable Union grade and official label**

**15.**—(1) The Scottish Ministers may withdraw any crop inspection report where they are satisfied that—

- (a) the seed potatoes have not been produced in accordance with the requirements mentioned at paragraph 5(1)(a) and (b) of Schedule 1; or
- (b) there has been a failure to comply with any other requirement of these Regulations.

(2) The Scottish Ministers may, in relation to an applicable Union grade determined under regulation 8(2)(a), determine a lower grade in respect of the seed potatoes where—

- (a) following an official examination for the purposes of regulation 9, the authorised officer determines that a lower grade should apply; or
- (b) they are satisfied that there has been a failure to comply with any other requirement of these Regulations.

(3) The Scottish Ministers may withhold or withdraw an official label or official document where, in respect of the seed potatoes to which the official label or official document relates—

- (a) they have withdrawn a crop inspection report;
- (b) they have determined a lower grade under paragraph (2);
- (c) any official label or official document already issued contains information which is false in a material particular; or
- (d) they are satisfied that there has been a failure to comply with any other requirement of these Regulations.

#### **Enforcement –disease control measures and compliance**

**16.**—(1) An authorised officer may serve a notice on the relevant person if, during the course of an official examination, the authorised officer is of the opinion that any seed potatoes are affected by any disease or pest specified in column 1 of the applicable Table set out in Schedule 6.

(2) The notice referred to in paragraph (1)—

- (a) must inform the relevant person of the reason for service of the notice;
- (b) may specify a period, not exceeding 14 days beginning with the date of service of the notice, during which the seed potatoes may not be moved from the premises without the written consent of an authorised officer; and
- (c) may require the relevant person to carry out such measures to prevent the spread of any of the diseases or pests specified in the notice.

(3) An authorised officer may serve a notice on the relevant person if, during the course of, or following, an official examination, the authorised officer is satisfied that—

- (a) in relation to seed potatoes produced in Scotland, any of the tolerances for diseases, pests, damage or defects specified in column 2, 3 or 4 of the applicable Table set out in Schedule 6 are exceeded; or
- (b) there has been a failure to comply with any other requirement of these Regulations.

(4) The notice referred to in paragraph (3)—

- (a) must inform the relevant person of the reason for service of the notice; and
- (b) may require the relevant person—
  - (i) not to move, or permit or cause to be moved, the seed potatoes without the written consent of an authorised officer;
  - (ii) to move, or permit or cause to be moved, such seed potatoes within such period as may be specified in the notice; or
  - (iii) to carry out such measures as may be specified in the notice to ensure that the requirements of these Regulations are met or as the case may be to prevent the spread of any of the diseases or pests specified in the notice.

(5) Where a notice has been served under paragraph (1) or (3)—

- (a) an authorised officer may remove and retain, or direct the relevant person to remove and deliver to the authorised officer, any official label or official document; and

- (b) a relevant person on whom any notice under paragraph (1) or (3) has been served—
- (i) must comply with the requirements of that notice or any direction given under paragraph (5)(a);
  - (ii) must not carry out measures in relation to the seed potatoes other than those specified in the notice pursuant to paragraph (2) or (4) without the written consent of an authorised officer; and
  - (iii) is liable for the cost of carrying out any measures specified in the notice or in the written consent of an authorised officer given under sub-paragraph (b)(ii).
- (6) For the purposes of this Regulation, the “relevant person” is the person in possession, or in charge, of the seed potatoes which are undergoing official examination.

## PART VI

### MISCELLANEOUS PROVISIONS

#### **Sampling of seed potatoes**

**17.**—(1) Paragraphs (2) and (3) apply where a sample of seed potatoes is required for the purposes of these Regulations.

(2) Where a sample is required for the purposes of regulation 8 or 9, an authorised officer may take a sample of seed potatoes of such quantity or number and from such part, or parts, of the growing or harvested crop as the authorised officer considers appropriate.

(3) Where a sample is required otherwise than as described in paragraph (2), an authorised officer may take a sample only in accordance with Schedule 8.

#### **Information regarding seed potatoes**

**18.**—(1) Any person who produces pre-basic seed potatoes, basic seed potatoes or test and trial seed potatoes must maintain for a period of not less than 2 years records of any purchase of seed potatoes for planting and particulars of the crops grown or relating to and of the marketing of the produce of those crops.

(2) Any person who markets pre-basic, basic or test and trial seed potatoes must maintain for a period of not less than 2 years a record of the marketing of those seed potatoes.

#### **Service of notices**

**19.**—(1) Any notice served under these Regulations must be in writing and may be amended, suspended or revoked in writing at any time.

(2) A notice may be served on a person by—

- (a) personal delivery;
- (b) leaving it at the person’s proper address; or
- (c) sending it by post or by electronic means to the person’s proper address.

(3) In the case of a body corporate, a notice may be served on or given to an officer of that body.

(4) In the case of a partnership, a notice may be served on or given to a partner or a person having control or management of the partnership business.

(5) In the case of an unincorporated association, a notice may be served on or given to an officer of the association.

(6) For the purposes of this regulation and section 7 of the Interpretation Act 1978<sup>(a)</sup> (service of documents by post) in its application to this regulation, “proper address” means—

- (a) in the case of a body corporate or an officer of that body—
  - (i) the registered or principal office of that body; or
  - (ii) the email address of the officer;
- (b) in the case of a partnership or a partner or person having control or management of the partnership business—
  - (i) the principal office of the partnership; or
  - (ii) the email address of the partner or person having that control or management;
- (c) in the case of an unincorporated association or an officer of the association—
  - (i) the office of the association; or
  - (ii) the email address of the officer;
- (d) in any other case, a person’s last known address, which includes an email address.

(7) For the purposes of paragraph (6), the principal office of a body corporate registered outside the United Kingdom or of a partnership established outside the United Kingdom is its principal office in the United Kingdom.

(8) If the name or address of any occupier of premises on whom a notice is to be served or given under these Regulations cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.

(9) A notice may specify that a person in receipt of it must immediately inform an authorised officer of its safe receipt.

(10) In this regulation—

“body corporate” includes a limited liability partnership;

“director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate;

“officer”, in relation to a body corporate, means any director, manager, secretary or other similar officer of the body corporate; and

“partnership” includes a Scottish partnership, but does not include a limited liability partnership.

### **Imports from outside EU**

**20.** A person who imports any quantity of seed potatoes exceeding 2 kilograms from outside the European Union must provide the Scottish Ministers with the particulars specified in Schedule 4 in respect of the seed potatoes.

### **Exemptions**

**21.** Despite any provision of these Regulations, the Scottish Ministers may exempt any person or class of person, or persons generally, from compliance with any of the requirements of these Regulations in respect of seed potatoes, subject to such conditions as the Scottish Ministers may require.

### **Consequential amendments**

**22.—**(1) In regulation 2(1) of the National Lists Regulations, in the definition of “the Seeds Marketing Regulations”, in sub-paragraph (c)(vi), for “Seed Potatoes (Scotland) Regulations 2000<sup>(b)</sup>”, substitute “Seed Potatoes (Scotland) Regulations 2015”.

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(a) 1978 c.30.

(b) The definition was substituted by S.I. 2011/464.

(2) In article 2(1) of the Plant Health (Scotland) Order 2005<sup>(a)</sup> (general interpretation), for the definition of “Seed Potatoes Regulations” substitute—

““Seed Potatoes Regulations” means the Seed Potatoes (Scotland) Regulations 2015;”.

### **Extension and modification of provisions of the Act**

**23.**—(1) For the purposes of these Regulations the operation of the provisions of sections 25 and 26 of the Act are modified or, as the case may be, excluded in accordance with this regulation.

(2) Section 25 of the Act (powers of entry) is modified with the effect that for the purposes of that section any reference to “premises” is a reference to premises as defined in these Regulations relating to seed potatoes and any reference to a subsection containing a reference to premises is a reference to that subsection as so modified.

(3) Section 25(1) of the Act is modified with the effect that the reference to subsection (4) of that section is a reference to that subsection as modified by paragraph (4) of this regulation.

(4) In section 25(4) of the Act the words after “potatoes” (where it first occurs) to the end are omitted.

(5) In section 26 of the Act (use of samples in criminal proceedings) subsections (2), (4), (5), (6), (7), (8) and (9) are omitted.

### **Revocations**

**24.** The Regulations specified in column 1 of the Table in Schedule 9 are revoked to the extent specified in column 3 of that Table.

*RICHARD LOCHHEAD*  
A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
19th November 2015

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(a) S.S.I. 2005/613, as amended by S.S.I. 2006/474, S.S.I. 2007/415, S.S.I. 2007/498, S.S.I. 2008/300, S.S.I. 2008/350, S.S.I. 2009/153, S.S.I. 2010/206, S.S.I. 2010/342, S.I. 2011/1043, S.S.I. 2012/266, S.S.I. 2012/326, S.S.I. 2013/5, S.S.I. 2013/187, S.S.I. 2013/366, S.S.I. 2014/140 and S.S.I. 2015/10.

## CONDITIONS FOR CERTIFICATION AND GRADING OF SCOTTISH SEED POTATOES

### PART I

#### General

- 1.** On receipt of an application for certification of any crop of seed potatoes under regulation 8(1), an authorised officer must—
  - (a) allocate to the applicant the producer’s identification number (“producer’s identification number”);
  - (b) allocate an identification number to the crop to which the application relates (“crop identification number”);
  - (c) conduct an official examination of the crop in order to determine—
    - (i) whether the seed potatoes may be certified as pre-basic seed potatoes, basic seed potatoes or test and trial seed potatoes; and
    - (ii) in respect of pre-basic seed potatoes and basic seed potatoes, the applicable Union grade; and
  - (d) subject to paragraphs 3 to 15, issue a crop inspection report complying with paragraph 2.
- 2.** A crop inspection report must contain the following particulars—
  - (a) the name and address of the applicant;
  - (b) the name of the agricultural unit on which the crop was grown;
  - (c) the producer’s identification number;
  - (d) the crop identification number;
  - (e) whether the seed potatoes are certified as pre-basic seed potatoes, basic seed potatoes or, as the case may be, test and trial seed potatoes;
  - (f) the applicable Union grade and field generation;
  - (g) the date on which the crop inspection report was issued;
  - (h) the variety of the crop inspected;
  - (i) the area of the crop inspected; and
  - (j) the location (O.S. No. or F.I.D. No.) of the field on which the crop was grown.
- 3.** An authorised officer may only issue a crop inspection report if the seed potatoes are of a variety—
  - (a) for the time being listed in the National List or in the Common Catalogue; or
  - (b) for which an application has been submitted, but not withdrawn or finally determined, for acceptance on to the National List.
- 4.** An authorised officer may only issue a crop inspection report if satisfied that the seed potatoes are or were grown on land which has not been demarcated as a contaminated plot or part of a safety zone for the purposes of paragraph 1 of Schedule 14 to the Plant Health (Scotland) Order 2005 (special measures for the control of Potato Wart Disease)(a).

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(a) S.S.I. 2005/613, to which there are no relevant amendments.

- 5.—(1) An authorised officer may only issue a crop inspection report if satisfied that—
- (a) except where sub-paragraph (2) applies, the seed potatoes have not at any stage of their production come into contact with—
    - (i) potatoes other than seed potatoes; or
    - (ii) any plant, machinery, equipment, container, store or vehicle previously used in the production of potatoes other than seed potatoes;
  - (b) the seed potatoes have, at all stages of production, been kept separate from seed potatoes of any other grade or variety;
  - (c) the propagation, growing and storage of the seed potatoes, has been carried out effectively in accordance with any notice given, or guidance published, from time to time by the Scottish Ministers for the purposes of the prevention of the occurrence, development or spread of pests and diseases;
  - (d) the seed potatoes are or were grown on an agricultural unit on which only pre-basic seed potatoes or basic seed potatoes permitted to be planted in accordance with article 39(3) of the Plant Health (Scotland) Order 2005(a), are or were grown in the same year;
  - (e) blanking in any of the growing crop of the seed potatoes is not or was not excessive;
  - (f) roguing of the growing crop of the seed potatoes has been carried out and the growing crop has not been over-rogued;
  - (g) the seed potatoes in any one crop are of a single variety; and
  - (h) the seed potatoes are taken from a crop which is free from all of the following diseases or pests—
    - (i) Potato Wart Disease (*Synchytrium endobioticum* (Schilb) Perc.);
    - (ii) Potato Cyst Nematode (*Globodera* spp. infesting potatoes);
    - (iii) Ring Rot (*Clavibacter michiganensis* subsp. *sepedonicus* (Spieck & Kotth) Davis *et al.*);
    - (iv) Brown Rot (*Ralstonia solanacearum* (Smith) Yabuuchi *et al.*);
    - (v) Potato Tuber Moth (*Phthorimaea operculella* (Zell);
    - (vi) Potato Spindle Tuber Viroid;
    - (vii) Colorado Beetle (*Leptinotarsa decemlineata* (Say); and
    - (viii) Potato Tuber Eelworm (*Ditylenchus destructor* Thorne).
- (2) This sub-paragraph applies where—
- (a) the seed potatoes and potatoes other than seed potatoes were produced on the same agricultural unit; or
  - (b) the production of the seed potatoes was in accordance with arrangements approved in writing by the Scottish Ministers, prior to the use of the relevant plant, machinery, equipment, container, store or vehicle.

## PART II

### Pre-basic seed potatoes

6. An authorised officer may only certify seed potatoes as pre-basic seed potatoes if, following an official examination, the officer is satisfied that the seed potatoes meet the requirements specified in columns 2, 3 and 4 of Table I in Schedule 2 corresponding to at least one of the Union grades specified in column 1 of that Table.

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(a) S.S.I. 2005/613. Regulation 22 of these Regulations makes an amendment to the Plant Health (Scotland) Order 2005, which affects the interpretation of article 39(3).

**7.** An authorised officer may not certify seed potatoes as pre-basic seed potatoes unless the officer is satisfied that the land on which the seed potatoes are or were grown—

- (a) has, following an official examination performed prior to the planting of the crop, been found not to be contaminated with Potato Cyst Nematode (*Globodera* spp. infesting potatoes);
- (b) is not land notified as infested with Potato Cyst Nematode (*Globodera* spp. infesting potatoes) under paragraph 7 of Schedule 15 to the Plant Health (Scotland) Order 2005;
- (c) has not been found to have been contaminated with Potato Cyst Nematode (*Globodera* spp. infesting potatoes) for at least 6 years prior to the planting of the crop; and
- (d) has not been used for growing potatoes at any time during the 7 years immediately preceding the planting of the crop.

**8.** An authorised officer may not determine the seed potatoes as meeting the requirements of Union grade PBTC, if the immediately succeeding crop produced from those potatoes is likely to contain—

- (a) plants of another variety; or
- (b) plants infected by virus.

**9.** An authorised officer may not determine the seed potatoes as meeting the requirements of Union grade PB, if, in relation to the immediately succeeding crop produced from those potatoes, the number of growing plants which—

- (a) deviate from variety and type, is likely to exceed 0.01% of the total number of plants in that crop; or
- (b) show symptoms of any virus attributable to infection in the mother crop, is likely to exceed 0.5% of that total number.

## PART III

### Basic seed potatoes

**10.** An authorised officer may only certify seed potatoes as basic seed potatoes if, following an official examination, the officer is satisfied that the seed potatoes meet the requirements specified in columns 2, 3 and 4 of Table II in Schedule 2 corresponding to at least one of the grades specified in column 1 of that Table.

**11.** An authorised officer may not certify seed potatoes as basic seed potatoes unless the officer is satisfied that the land on which the seed potatoes are or were grown—

- (a) has, following an official examination performed prior to the planting of the crop, been found not to be contaminated with Potato Cyst Nematode (*Globodera* spp. infesting potatoes);
- (b) is not land notified as infested with Potato Cyst Nematode (*Globodera* spp. infesting potatoes) under paragraph 7 of Schedule 15 to the Plant Health (Scotland) Order 2005;
- (c) has not been found to have been contaminated with Potato Cyst Nematode (*Globodera* spp. infesting potatoes) for at least 6 years prior to the planting of the crop; and
- (d) has not been used for growing potatoes at any time during the 5 years immediately preceding the planting of the crop.

**12.** An authorised officer may not determine the seed potatoes as meeting the requirements of Union grade S, SE or, as the case may be, E if, in relation to the immediately succeeding crop produced from those potatoes, the number of growing plants which—

- (a) deviate from variety, is likely to exceed 0.1% of the total number of plants in that crop;
- (b) deviate from variety and type, is likely to exceed 0.25% of that total number; or

- (c) show symptoms of any virus attributable to infection in the mother crop, is likely to exceed 4% of that total number.

## PART IV

### Test and trial seed potatoes

**13.** An authorised officer may only certify seed potatoes as test and trial seed potatoes if, following an official examination, the officer is satisfied that the seed potatoes meet the requirements specified in columns 2, 3 and 4 of Table II in Schedule 2 corresponding to at least one of the Union grades specified in column 1 of that Table.

**14.** An authorised officer may not certify seed potatoes as test and trial seed potatoes unless the officer is satisfied that the land on which the seed potatoes are or were grown—

- (a) has, following an official examination performed prior to the planting of the crop, been found not to be contaminated with Potato Cyst Nematode (*Globodera* spp. infesting potatoes);
- (b) is not land notified as infested with Potato Cyst Nematode (*Globodera* spp. infesting potatoes) under paragraph 7 of Schedule 15 to the Plant Health (Scotland) Order 2005;
- (c) has not been found to have been contaminated with Potato Cyst Nematode (*Globodera* spp. infesting potatoes) for at least 6 years prior to the planting of the crop; and
- (d) has not been used for growing potatoes at any time during the 5 years immediately preceding the planting of the crop.

**15.** An authorised officer may not certify any seed potatoes as test and trial seed potatoes if, in relation to the immediately succeeding crop produced from those potatoes, the number of growing plants which—

- (a) deviate from variety, is likely to exceed 0.1% of the total number of plants in that crop;
- (b) deviate from variety and type, is likely to exceed 0.25% of that total number; or
- (c) show symptoms of any virus attributable to infection in the mother crop, is likely to exceed 4% of that total number.

## SCHEDULE 2

Regulations 2(1) and  
8(2) and (4)

### CERTIFICATION AND GRADING: SOURCE MATERIAL REQUIREMENTS, OTHER REQUIREMENTS AND TOLERANCES

1. In this Schedule.—

- (a) Table I sets out the applicable requirements as regards source material, other requirements and tolerances in respect of the certification and grading of pre-basic seed potatoes; and
- (b) Table II sets out the applicable requirements as regards source material, other requirements and tolerances in respect of—
  - (i) the certification and grading of basic seed potatoes; and
  - (ii) the certification of test and trial seed potatoes.

2. The percentages specified in column 4 of Tables I and II reflect the maximum permitted proportion, expressed as a percentage, which the number of growing plants affected by the disease or varietal impurity may bear against the total number of plants in the sample.

**TABLE I**

**PRE-BASIC SEED POTATOES**

<i>Column 1</i> <i>Union</i> <i>Grade</i>	<i>Column 2</i> <i>Source Material</i>	<i>Column 3</i> <i>Other Requirements</i>	<i>Column 4</i> <i>Tolerances</i>
PBTC	Nuclear stock or a crop which has been approved in writing by the Scottish Ministers.	The seed potatoes are— <ul style="list-style-type: none"> <li>(a) grown in a unit officially approved for production of seed potatoes of the Union grade PBTC;</li> <li>(b) kept free, as far as practicable, from diseases and aphids by appropriate husbandry measures; and</li> <li>(c) the first generation of this stock.</li> </ul>	A sample of the seed potatoes taken during an official examination must not exceed the following tolerances— <ul style="list-style-type: none"> <li>(a) deviations from variety and type – nil;</li> <li>(b) Blackleg (<i>Pectobacterium</i> spp.) – nil;</li> <li>(c) Potato Virus Y, Potato Virus A and Potato Leafroll Virus – nil;</li> <li>(d) total virus (including those mentioned in paragraph (c)) – nil;</li> <li>(e) <i>Dickeya</i> spp. – nil; and</li> <li>(f) virus in direct progeny – nil.</li> </ul>

PB	<p>(a) Stock of seed potatoes of the Union grade PBTC produced in the immediately preceding growing season which was either—</p> <p>(i) certified and determined to meet the requirements of that grade; or</p> <p>(ii) inspected by an authorised officer and found to have met the requirements of that grade and retained by the grower; or</p> <p>(b) a crop which has been approved in writing by the Scottish Ministers.</p>	<p>The seed potatoes—</p> <p>(a) are grown by a person whose facilities, test methods, planting arrangements and procedure for keeping records in relation to production of seed potatoes are acceptable to the Scottish Ministers;</p> <p>(b) are grown in the year of application for certification on an agricultural unit on which are grown only—</p> <p>(i) pre-basic seed potatoes; or</p> <p>(ii) basic seed potatoes of Union grade S which are grown directly from pre-basic seed potatoes; and</p> <p>(c) must not exceed the fourth field generation of the particular stock.</p>	<p>A sample of the seed potatoes taken during an official examination must not exceed the following tolerances—</p> <p>(a) deviations from variety and type – 0.01%;</p> <p>(b) Blackleg (<i>Pectobacterium</i> spp.) – nil;</p> <p>(c) Potato Virus Y, Potato Virus A and Potato Leafroll Virus – 0.1%;</p> <p>(d) total virus (including those mentioned in paragraph (c)) – 0.1%;</p> <p>(e) <i>Dickeya</i> spp. – nil; and</p> <p>(f) virus in direct progeny – 0.5%.</p>
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**TABLE II**

**BASIC SEED POTATOES AND TEST AND TRIAL SEED POTATOES**

<i>Column 1 Union Grade</i>	<i>Column 2 Source Material</i>	<i>Column 3 Other requirements</i>	<i>Column 4 Tolerances</i>
S	<p>(a) Stock of seed potatoes of the Union grade PBTC or PB produced in the immediately</p>	<p>The seed potatoes must not exceed the fifth field generation of the particular stock.</p>	<p>A sample of the seed potatoes taken during an official examination must not exceed the following tolerances—</p> <p>(a) deviations from</p>

	<p>preceding growing season which was either—</p> <p>(i) certified and determined to be of the relevant grade; or</p> <p>(ii) inspected by an authorised officer and found to have met the requirements of the relevant grade and retained by the grower; or</p> <p>(b) a crop which has been approved in writing by the Scottish Ministers.</p>		<p>variety and type - 0.1%;</p> <p>(b) Blackleg (<i>Pectobacterium</i> spp.) - 0.1%;</p> <p>(c) Potato Virus Y, Potato Virus A and Potato Leafroll Virus - 0.02%;</p> <p>(d) total virus (including those mentioned in paragraph (c)) - 0.2%;</p> <p>(e) <i>Dickeya</i> spp. - nil; and</p> <p>(f) virus in direct progeny - 1.0%.</p>
SE	<p>(a) Stock of seed potatoes of the Union grade PBTC, PB, or S produced in the immediately preceding growing season which was either—</p> <p>(i) certified and determined to be of the relevant grade; or</p> <p>(ii) inspected by an authorised officer and found to have met the requirements of the relevant grade and retained by the grower; or</p> <p>(b) a crop which has been approved in writing by the Scottish Ministers.</p>	The seed potatoes must not exceed the sixth field generation of the particular stock.	<p>A sample of the seed potatoes taken during an official examination must not exceed the following tolerances—</p> <p>(a) deviations from variety and type - 0.1%;</p> <p>(b) Blackleg (<i>Pectobacterium</i> spp.) - 0.5%;</p> <p>(c) Potato Virus Y, Potato Virus A and Potato Leafroll Virus - 0.1%;</p> <p>(d) total virus (including those mentioned in paragraph (c)) - 0.5%;</p> <p>(e) <i>Dickeya</i> spp. - nil; and</p> <p>(f) virus in direct progeny - 2.0%.</p>
E	<p>(a) Stock of seed potatoes of the</p>	The seed potatoes must not exceed the seventh field generation of the	A sample of the seed potatoes taking during an official examination must

	<p>Union grade PBTC, PB, S or SE produced in the immediately preceding growing season which was either—</p> <p>(i) certified and determined to be of the relevant grade; or</p> <p>(ii) inspected by an authorised officer and found to have met the requirements of the relevant grade and retained by the grower; or</p> <p>(b) a crop which has been approved in writing by the Scottish Ministers.</p>	<p>particular stock.</p>	<p>not exceed the following tolerances—</p> <p>(a) deviations from variety and type - 0.1%;</p> <p>(b) Blackleg (<i>Pectobacterium</i> spp.) - 1.0%;</p> <p>(c) Potato Virus Y, Potato Virus A and Potato Leafroll Virus - 0.4%;</p> <p>(d) total virus (including those mentioned in paragraph (c)) - 0.8%;</p> <p>(e) <i>Dickeya</i> spp.- nil; and</p> <p>(f) virus in direct progeny - 4.0%.</p>
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## SCHEDULE 3

Regulation 4(2)(b) and  
10(9)(a) and (b)

### REQUIREMENTS AS TO VARIETAL PURITY AND SIZE

#### **Requirements as to varietal purity and size**

1. For the purposes of regulation 4(2)(b), the applicable requirements as regards varietal purity and size are as specified in paragraphs 2, 3, 4 and 5.

#### **Union grade PBTC**

2.—(1) This paragraph applies to seed potatoes produced in Scotland where the applicable Union grade determined under regulation 8(2)(a) is Union grade PBTC.

(2) In the case of seed potatoes to which this paragraph applies, there must be no deviation from variety.

#### **Union grade PB**

3.—(1) This paragraph applies to seed potatoes produced in Scotland where the applicable Union grade determined under regulation 8(2)(a) or, as the case may be, under regulation 15(2), is Union grade PB.

(2) Subject to sub-paragraphs (3) and (4), in the case of seed potatoes to which this paragraph applies—

- (a) there must be no deviation from variety;
- (b) the minimum size must be such that the seed potatoes do not pass through a square mesh of 25 millimetres by 25 millimetres; and
- (c) the maximum variation in size between tubers in a lot must not exceed 25 millimetres.

(3) For the purposes of determining whether a lot of seed potatoes to which this paragraph applies meets the requirements specified in sub-paragraph (2)(a), the variety of any seed potatoes is deemed to be as stated on the official label or official document in respect of the lot, if on a sample taken in accordance with regulation 17(3) and Schedule 8, the proportion of the weight of potatoes which deviate from the variety does not exceed 0.01% of the total weight of the sample.

(4) For the purposes of determining whether a lot of seed potatoes to which this paragraph applies meets the requirements specified in sub-paragraph (2)(b) or (c), the size of any seed potatoes is deemed to be as stated on the official label or official document in respect of the lot, if on a sample taken in accordance with regulation 17(3) and Schedule 8, the proportion of the weight of the potatoes which are smaller than the minimum size stated on the official label or official document and larger than the maximum size stated on the official label or official document does not exceed 3% of the total weight of the sample.

#### **Union grade S, SE, E and test and trial seed potatoes**

4.—(1) This paragraph applies to seed potatoes produced in Scotland—

- (a) where the applicable Union grade determined under regulation 8(2)(a) or, as the case may be, regulation 15(2), is Union grade S, SE, or E; or
- (b) which have been certified under these Regulations as test and trial seed potatoes.

(2) Subject to sub-paragraphs (3) and (4), in the case of seed potatoes to which this paragraph applies—

- (a) there must be no deviation from variety;

- (b) the minimum size must be such that the seed potatoes do not pass through a square mesh of 25 millimetres by 25 millimetres; and
- (c) the maximum variation in size between tubers in a lot must not exceed 25 millimetres.

(3) For the purposes of determining whether a lot of seed potatoes to which this paragraph applies meets the requirements specified in sub-paragraph (2)(a), the variety of any seed potatoes is deemed to be as stated on the official label or official document in respect of the lot, if on a sample taken in accordance with regulation 17(3) and Schedule 8, the proportion of the weight of potatoes which deviate from the variety does not exceed 0.1% of the total weight of the sample.

(4) For the purposes of determining whether a lot of seed potatoes to which this paragraph applies meets the requirements specified in sub-paragraph (2)(b) or (c), the size of any seed potatoes is deemed to be as stated on the official label or official document in respect of the lot, if on a sample taken in accordance with regulation 17(3) and Schedule 8, the proportion of the weight of potatoes which are smaller than the minimum size stated on the official label or official document and larger than the maximum size stated on the official label or official document does not exceed 3% of the total weight of the sample.

### **Seed potatoes produced outside Scotland**

5.—(1) This paragraph applies to seed potatoes produced outside Scotland.

(2) In the case of seed potatoes to which this paragraph applies, the lot must—

- (a) comply with the requirements relating to size in Article 10 of Council Directive 2002/56/EC; and
- (b) be sufficiently homogeneous in accordance with the standards imposed by the relevant authority.

(3) For the purposes of determining whether a lot of seed potatoes to which this paragraph applies meets the requirements specified in sub-paragraph (2)(a), the size of any seed potatoes is deemed to be as stated on the official label or official document in respect of the lot, if on a sample taken in accordance with regulation 17(3) and Schedule 8, the proportion of the weight of potatoes which are smaller than the minimum size stated on the official label or official document and larger than the maximum size stated on the official label or official document does not exceed 3% of the total weight of the sample.

## SCHEDULE 4

Regulation 20

### PARTICULARS TO BE PROVIDED IN RESPECT OF SEED POTATOES PRODUCED OUTSIDE THE EUROPEAN UNION

1. Species
2. Variety
3. Category
4. Country of production and inspection authority
5. Country of despatch
6. Importer
7. Quantity of seed potatoes

## SCHEDULE 5

Regulations 2(1) and 10(1)  
and (9)

### OFFICIAL LABELS

#### **Pre-basic seed potatoes**

1.—(1) The requirements set out in this paragraph apply to an official label attached to a package or container of pre-basic seed potatoes.

(2) An official label to which this paragraph applies must—

- (a) be white with a diagonal violet line;
- (b) measure not less than 110 millimetres by 67 millimetres;
- (c) state the following particulars—

Certification authority and member State or their initials;

Country of production;

Pre-basic seed potatoes;

Species indicated at least in Roman characters, under its botanical name which may be given in abridged form and without the authors' names or under its common name or both;

Crop identification number including producer's identification number<sup>(a)</sup> (or equivalent);

Variety indicated at least in Roman characters;

Genetically modified (if appropriate);

Grade;

Field generation (unless otherwise requested by the applicant);

Size;

Month and year when officially sealed;

Declared net weight;

Conservation Variety (if appropriate); and

Region of origin (if appropriate).

#### **Basic seed potatoes**

2.—(1) The requirements set out in this paragraph apply to an official label attached to a package or container of basic seed potatoes.

(2) An official label to which this paragraph applies must—

- (a) be predominately white;
- (b) measure not less than 110 millimetres by 67 millimetres and unless the package or container is intended for export to countries outside the European Union, have printed on it the words "EU Rules and Standards"; and
- (c) state the following particulars—

Certification authority and member State or their initials;

Country of production;

Basic seed potatoes;

---

(a) These terms are referred to in Schedule 1, Part I, paragraphs 1(a) and (b).

Species indicated at least in Roman characters, under its botanical name which may be given in abridged form and without the authors' names or under its common name or both;

Crop identification number including producer's identification number(**a**) (or equivalent);

Variety indicated at least in Roman characters;

Genetically modified (if appropriate);

Grade;

Field generation (unless otherwise requested by the applicant);

Size;

Month and year when officially sealed;

Declared net weight;

Conservation Variety (if appropriate); and

Region of origin (if appropriate).

### **Test and trial seed potatoes**

**3.**—(1) The requirements set out in this paragraph apply to an official label attached to a package or container of test and trial seed potatoes.

(2) An official label to which this paragraph applies must—

(a) be orange;

(b) measure not less than 110 millimetres by 67 millimetres and, unless the package or container is intended for export to countries outside the European Union, have printed on it the words “EU Rules and Standards”;

(c) contain the words “variety not yet officially listed” and “for tests and trials only”; and

(d) state the following particulars—

Certification authority and member State or their initials;

Country of production;

Species indicated at least in Roman characters, under its botanical name which may be given in abridged form and without the authors names or under its common name or both;

Crop identification number including producer's identification number(**b**) (or equivalent);

Variety and official application number, indicated at least in Roman characters;

Genetically modified (if appropriate);

Size;

Month and year when officially sealed; and

Declared net weight.

**4.** The size stated in accordance with paragraphs 1(2)(c), 2(2)(c) and 3(2)(d) must, in the case of sizes over 35 millimetres, be stated in multiples of 5 millimetres.

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(a) These terms are referred to in Schedule 1, Part I, paragraphs 1(a) and (b).

(b) These terms are referred to in Schedule 1, Part I, paragraphs 1(a) and (b).

## SCHEDULE 6

Regulations 9, 10(3)(c) and  
16(1) and (3)(a)

### TOLERANCES FOR DISEASES, PESTS, DAMAGE AND DEFECTS

#### Tolerances

1.—(1) For the purposes of regulations 9 and 16—

- (a) Table I applies to seed potatoes produced in Scotland where the applicable Union grade determined under regulation 8(2)(a) or, as the case may be, under regulation 15(2), is Union grade PBTC;
- (b) Table II applies to seed potatoes produced in Scotland where the applicable Union grade determined under regulation 8(2)(a) or, as the case may be, under regulation 15(2), is Union grade PB; and
- (c) Table III (a) applies to seed potatoes produced in Scotland where the applicable Union grade determined under regulation 8(2)(a) or, as the case may be, under regulation 15(2), is Union grade S;
- (d) Table III (b) applies to seed potatoes produced in Scotland where the applicable Union grade determined under regulation 8(2)(a) or, as the case may be, under regulation 15(2), is Union grade SE; and
- (e) Table III (c) applies to—
  - (i) seed potatoes produced in Scotland where the applicable Union grade determined under regulation 8(2)(a) or, as the case may be, under regulation 15(2), is Union grade E; and
  - (ii) seed potatoes produced in Scotland and certified under these Regulations as being of test and trial seed potatoes; and
- (f) Table IV applies to seed potatoes produced in Scotland, certified as basic seed potatoes and intended for markets outside the European Union.

(2) Subject to sub-paragraph (3), any tolerance in column 2, or, as the case may be, column 3 or 4 of any of the Tables in this Schedule which is expressed as a percentage, is a reference to the maximum proportion which the weight of potatoes affected by the disease, pest, damage or defect may bear to the total weight of the sample taken, expressed as a percentage.

(3) In the case of dirt or other extraneous matter, any tolerance in column 2 or, as the case may be, column 3 or 4 of any of the Tables in this Schedule which is expressed as a percentage is a reference to the maximum proportion which the weight of such matter may bear to the total weight of the sample taken, expressed as a percentage.

#### Individual tolerances

2. The individual tolerance set out in the entry in column 2 of Table I, II, III (a), (b) or (c), or IV is specified, in relation to the disease, pest, damage or defect specified in column 1 of the Table to which the entry corresponds.

#### Group tolerances

3. The group tolerance set out in the entry in column 3 of Table II, III (a), (b) or (c) or IV is specified, in relation to the Group of diseases, pests, damage or defects specified in column 1 of the Table to which the entry corresponds.

### Collective group tolerances

4. The collective group tolerance set out in the entry in column 4 of Table II, III (a), (b) or (c) or IV is specified, in relation to the diseases, pests, damage or defects specified in Groups II, III and IV specified in column 1 of those Tables.

### Allowable surface area cover

5.—(1) This paragraph applies, for the purposes of regulation 16(1) and (3), to seed potatoes to which Table II, III (a), (b) or (c) or IV applies.

(2) Subject to sub-paragraph (3), an authorised officer may deem a potato in any sample of seed potatoes to which this paragraph applies not to be affected by a disease in Group III, specified in column 1 of the Table in relation to a potato of that grade when, in the officer's opinion—

- (a) the surface area of the potato affected by the disease is less than the percentage surface area in the entry corresponding to the disease in column 5 of the Table; and
- (b) the potato has at least two eyes at the rose end wholly unaffected by the disease.

(3) Sub-paragraph (2) does not apply when the disease Powdery Scab (*Spongospora subterranea* (Wallr.) Lagerh) takes its cankerous form.

**TABLE I**  
**UNION GRADE PBTC PRODUCED IN SCOTLAND**

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>
Group I	
Potato Wart Disease ( <i>Synchytrium endobioticum</i> (Schilb) Perc.)	Nil
Potato Tuber Eelworm ( <i>Ditylenchus destructor</i> Thorne)	Nil
Potato Cyst Nematode ( <i>Globodera</i> spp. infesting potatoes)	Nil
Ring Rot ( <i>Clavibacter michiganensis</i> subsp. <i>sepedonicus</i> (Spieck & Kotth) Davis <i>et al.</i> )	Nil
Brown Rot ( <i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i> )	Nil
Potato Tuber Moth ( <i>Phthorimaea operculella</i> (Zell))	Nil
Potato Spindle Tuber Viroid	Nil
Colorado Beetle ( <i>Leptinotarsa decemlineata</i> (Say))	Nil
Group II	
Blackleg ( <i>Pectobacterium</i> spp.)	Nil
<i>Dickeya</i> spp.	Nil
Rots including Wet Rot but other than rots specified in Group I	Nil
Frost damaged tubers	Nil
Group III	
Skin spot ( <i>Polyscytalum pustulans</i> (Owen & Wakefield) Ellis)	Nil
Black scurf ( <i>Rhizoctonia solani</i> Kühn)	Nil
Common scab ( <i>Streptomyces</i> spp.)	Nil

Powdery scab ( <i>Spongospora subterranea</i> ) (Wallr) Lagerh.f.sp. <i>subterranea</i> )	Nil
Group IV	
External blemishes or tubers other than diseased tubers whose shape is atypical for the variety	Nil
Superficial necrosis caused by strains of Potato Virus Y	Nil
Shrivelled tubers	Nil
Group V	
Dirt or extraneous matter	1.0%

**TABLE II**

**UNION GRADE PB PRODUCED IN SCOTLAND**

<i>Column 1</i> Diseases, pests, damage and defects	<i>Column 2</i> Individual Tolerances	<i>Column 3</i> Group Tolerances	<i>Column 4</i> Collective Group Tolerances	<i>Column 5</i> Allowable % surface area cover
Group I				
Potato Wart Disease ( <i>Synchytrium endobioticum</i> (Schilb) Perc.)	Nil			
Potato Tuber Eelworm ( <i>Ditylenchus destructor</i> Thorne)	Nil			
Potato Cyst Nematode ( <i>Globodera</i> spp. infesting potatoes)	Nil			
Ring Rot ( <i>Clavibacter michiganensis</i> subsp. <i>sepedonicus</i> (Spieck & Kotth) Davis <i>et al.</i> )	Nil			
Brown Rot ( <i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i> )	Nil			
Potato Tuber Moth ( <i>Phthorimaea operculella</i> (Zell))	Nil			
Potato Spindle Tuber Viroid	Nil			
Colorado Beetle ( <i>Leptinotarsa decemlineata</i> (Say))	Nil			

Group II				
Blackleg ( <i>Pectobacterium</i> spp.)	Nil	0.2%	}	
<i>Dickeya</i> spp.	Nil		}	
Rots, other than rots specified in Group I	0.2%		}	
Frost damaged tubers	0.2%		}	
Group III				
Skin spot ( <i>Polyscytalum pustulans</i> (Owen & Wakefield) Ellis)	0.2%	5.0%	}	
Black scurf ( <i>Rhizoctonia solani</i> Kühn)	1.0%		}	6.0%
Common scab ( <i>Streptomyces</i> spp.)	5.0%		}	33.3%
Powdery scab ( <i>Spongospora subterranea</i> (Wallr) Lagerh.f.sp. <i>subterranea</i> )	1.0%		}	10.0%
Group IV				
External blemishes or tubers other than diseased tubers whose shape is atypical for the variety	3.0%	3.0%	}	
Superficial necrosis caused by strains of Potato Virus Y	Nil		}	
Shrivelled tubers	0.5%		}	
Group V				
Dirt or extraneous matter	1%	1%		

**TABLE III**

**UNION GRADE S, SE AND E AND TEST AND TRIAL SEED POTATOES**

a) UNION GRADE S PRODUCED IN SCOTLAND

<i>Column 1 Diseases, pests, damage and defects</i>	<i>Column 2 Individual Tolerances</i>	<i>Column 3 Group Tolerances</i>	<i>Column 4 Collective Group Tolerances</i>	<i>Column 5 Allowable % surface area cover</i>
Group I				
Potato Wart Disease ( <i>Synchytrium endobioticum</i> (Schilb) Perc.)	Nil			
Potato Tuber Eelworm ( <i>Ditylenchus destructor</i> Thorne)	Nil			
Potato Cyst Nematode ( <i>Globodera</i> spp. infesting potatoes)	Nil			
Ring Rot ( <i>Clavibacter michiganensis</i> subsp. <i>sepedonicus</i> (Spieck & Kotth) Davis <i>et al.</i> )	Nil			
Brown Rot ( <i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i> )	Nil			
Potato Tuber Moth ( <i>Phthorimaea operculella</i> (Zell))	Nil			
Potato Spindle Tuber Viroid	Nil			
Colorado Beetle ( <i>Leptinotarsa decemlineata</i> (Say))	Nil			
Group II				
<i>Dickeya</i> spp.	Nil		}	
Rots, other than rots specified in Group I (of which Wet Rot)	0.5%  (0.2%)	0.5%	}	
Frost damaged tubers	0.5%		}	
Group III				
Skin spot ( <i>Polyscytalum pustulans</i> (Owen & Wakefield) Ellis)	0.5%	5.0%	}	12.5%
Black scurf ( <i>Rhizoctonia solani</i> Kühn)	5.0%		}	6.0%
Common scab ( <i>Streptomyces</i> spp.)	5.0%		}	33.3%
Powdery scab ( <i>Spongospora subterranea</i> (Wallr) <i>Lagerh.f.sp.subterranea</i> )	3.0%		}	10.0%

Group IV				
External blemishes or tubers other than diseased tubers whose shape is atypical for the variety	3.0%	3.0%	}	
Superficial necrosis caused by strains of Potato Virus Y	0.1%		}	
Shrivelled tubers	1.0%		}	
Group V				
Dirt or extraneous matter	1.0%	1.0%		

b) UNION GRADE SE PRODUCED IN SCOTLAND

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>	<i>Column 3</i> <i>Group Tolerances</i>	<i>Column 4</i> <i>Collective Group Tolerances</i>	<i>Column 5</i> <i>Allowable surface cover</i> <i>% area</i>
Group I				
Potato Wart Disease ( <i>Synchytrium endobioticum</i> (Schilb) Perc.)	Nil			
Potato Tuber Eelworm ( <i>Ditylenchus destructor</i> Thorne)	Nil			
Potato Cyst Nematode ( <i>Globodera</i> spp. infesting potatoes)	Nil			
Ring Rot ( <i>Clavibacter michiganensis</i> subsp. <i>sepedonicus</i> (Spieck & Kotth) Davis <i>et al.</i> )	Nil			
Brown Rot ( <i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i> )	Nil			
Potato Tuber Moth ( <i>Phthorimaea operculella</i> (Zell))	Nil			
Potato Spindle Tuber Viroid	Nil			
Colorado Beetle ( <i>Leptinotarsa decemlineata</i> (Say))	Nil			

Group II				
<i>Dickeya</i> spp.	Nil		}	
Rots, other than rots specified in Group I (of which Wet Rot)	0.5% (0.2%)		}	
Frost damaged tubers	0.5%		}	
Group III				
Skin spot ( <i>Polyscytalum pustulans</i> (Owen & Wakefield) Ellis)	0.5%	5.0%	}	12.5%
Black scurf ( <i>Rhizoctonia solani</i> Kühn)	5.0%		}	6.0%
Common scab ( <i>Streptomyces</i> spp.)	5.0%		}	33.3%
Powdery scab ( <i>Spongospora subterranea</i> (Wallr) Lagerh.f.sp. <i>subterranea</i> )	3.0%		}	10.0%
Group IV				
External blemishes or tubers other than diseased tubers whose shape is atypical for the variety	3.0%	3.0%	}	
Superficial necrosis caused by strains of Potato Virus Y	0.1%		}	
Shrivelled tubers	1.0%		}	
Group V				
Dirt or extraneous matter	1.0%	1.0%		

c) UNION GRADE E AND TEST AND TRIAL SEED POTATOES PRODUCED IN SCOTLAND

<i>Column 1</i> Diseases, pests, damage and defects	<i>Column 2</i> Individual Tolerances	<i>Column 3</i> Group Tolerances	<i>Column 4</i> Collective Group Tolerances	<i>Column 5</i> Allowable surface area cover
Group I				
Potato Wart Disease ( <i>Synchytrium endobioticum</i> (Schilb) Perc.)	Nil			
Potato Tuber Eelworm ( <i>Ditylenchus destructor</i> Thorne)	Nil			
Potato Cyst Nematode ( <i>Globodera</i> spp. infesting potatoes)	Nil			
Ring Rot ( <i>Clavibacter</i>	Nil			

<i>michiganensis</i> subsp. <i>sepedonicus</i> (Spieck & Kotth) Davis <i>et al.</i> ) Brown Rot ( <i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i> )	Nil			
Potato Tuber Moth ( <i>Phthorimaea operculella</i> (Zell))	Nil			
Potato Spindle Tuber Viroid	Nil			
Colorado Beetle ( <i>Leptinotarsa decemlineata</i> (Say))	Nil			
Group II				
<i>Dickeya</i> spp.	Nil		}	
Rots, other than rots specified in Group I (of which Wet Rot)	0.5% (0.2%)	0.5%	}	
Frost damaged tubers	0.5%		}	
Group III				
Skin spot ( <i>Polyscytalum pustulans</i> (Owen & Wakefield) Ellis)	0.5%	5.0%	}	12.5%
Black scurf ( <i>Rhizoctonia solani</i> Kühn)	5.0%		}	10.0%
Common scab ( <i>Streptomyces</i> spp.)	5.0%		}	33.3%
Powdery scab ( <i>Spongospora subterranea</i> (Wallr) Lagerh.f.sp. <i>subterranea</i> )	3.0%		}	10.0%
Group IV				
External blemishes or tubers other than diseased tubers whose shape is atypical for the variety	3.0%	3.0%	}	
Superficial necrosis caused by strains of Potato Virus Y	0.1%		}	
Shrivelled tubers	1.0%		}	
Group V				
Dirt or extraneous matter	1.0%			

**TABLE IV**

**BASIC SEED POTATOES INTENDED FOR MARKETS OUTSIDE THE EU**

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>	<i>Column 3</i> <i>Group Tolerances</i>	<i>Column 4</i> <i>Collective Tolerances</i>	<i>Group</i>	<i>Column 5</i> <i>Allowable % surface area cover</i>
Group I					
Potato Wart Disease ( <i>Synchytrium endobioticum</i> (Schilb) Perc.)	Nil				
Potato Tuber Eelworm ( <i>Ditylenchus destructor</i> Thorne)	Nil				
Potato Cyst Nematode ( <i>Globodera</i> spp. infesting potatoes)	Nil				
Ring Rot ( <i>Clavibacter michiganensis</i> subsp. <i>sepedonicus</i> (Spieck & Kotth) Davis <i>et al.</i> )	Nil				
Brown Rot ( <i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i> )	Nil				
Potato Tuber Moth ( <i>Phthorimaea operculella</i> (Zell))	Nil				
Potato Spindle Tuber Viroid	Nil				
Colorado Beetle ( <i>Leptinotarsa decemlineata</i> (Say))	Nil				
Group II					
<i>Dickeya</i> spp.	Nil		}		
Rots including Wet Rot but other than rots specified in Group I	0.2%	0.2%	}		
Frost damaged tubers	0.2%		}		
Group III					
Skin spot ( <i>Polyscytalum pustulans</i> (Owen & Wakefield) Ellis)	0.5%	1.5%	}		12.5%
Black scurf ( <i>Rhizoctonia solani</i> Kühn)	1.5%		}	4.7%	12.5%
Common scab ( <i>Streptomyces</i> spp.)	1.5%		}		12.5%
Powdery scab ( <i>Spongospora subterranea</i> (Wallr) Lagerh.f.sp. <i>subterranea</i> )	1.5%		}		12.5%

Group IV				
External blemishes or tubers other than diseased tubers whose shape is atypical for the variety	1.0%	3.0%	}	
Superficial necrosis caused by strains of Potato Virus Y	0.1%		}	
External necrosis (caused by viruses other than Potato Virus Y)	2.0%		}	
Shrivelled tubers	2.0%		}	
Group V				
Dirt or extraneous matter	0.5%			

## SCHEDULE 7

Regulations 12 and 13

### PARTICULARS TO BE SPECIFIED IN A SALE NOTE, DELIVERY NOTE, INVOICE, ETC.

#### **Pre basic seed potatoes**

Name and address of the seller

Declared net weight

Variety

Genetically modified (if appropriate)

Pre basic seed potatoes

Grade

Field generation (if shown on official label)

Size

Crop identification number including producer's identification number

Particulars of any chemical treatment

#### **Basic Seed potatoes**

Name and address of the seller

Declared net weight

Variety

Genetically modified (if appropriate)

Basic seed potatoes

Grade

Field generation (if shown on official label)

Size

Crop identification number including producer's identification number

Particulars of any chemical treatment

## SCHEDULE 8

Regulation 17(3)

### SAMPLING

**1.** Where the bulk consists of seed potatoes comprising more than one consignment, or associated with more than one crop inspection report, the bulk must be divided so that each consignment or, as the case may be, the quantity of potatoes associated with each report, constitutes a separate lot and a separate sample of seed potatoes must be taken from each lot.

**2.** Where the total quantity of seed potatoes being sampled separately does not exceed 50 kilograms, all the seed potatoes must be examined.

**3.** Where the total quantity of seed potatoes being sampled separately exceeds 50 kilograms, but does not exceed 5 tonnes, a sample of the greater of at least 5 per cent of the weight of the quantity or 50 kilograms must be selected at random.

**4.** Where the total quantity of seed potatoes being sampled separately exceeds 5 tonnes, a sample of at least 250 kilograms must be selected at random.

**SCHEDULE 9  
REVOCATIONS**

Regulation 24

**Table**

<i>Column 1 Regulations</i>	<i>Column 2 Citation</i>	<i>Column 3 Extent to which revoked</i>
The Seed Potatoes (Scotland) Regulations 2000	S.S.I. 2000/201	The whole Regulations
The Seeds (National Lists of Varieties) Regulations 2001	S.S.I. 2001/3510	Regulation 25(6)(b)
The Seed Potatoes (Scotland) Amendment Regulations 2005	S.S.I. 2005/280	The whole Regulations
The Seed Potatoes (Scotland) Amendment Regulations 2007	S.S.I. 2007/418	The whole Regulations
The Seed Potatoes (Scotland) Amendment Regulations 2009	S.S.I. 2009/226	The whole Regulations
The Seed Potatoes (Scotland) Amendment Regulations 2010	S.S.I. 2010/71	The whole Regulations

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace the Seed Potatoes (Scotland) Regulations 2000. The Regulations transpose and give effect to the requirements of Council Directive 2002/56/EC on the marketing of seed potatoes (“the Directive”) as last amended by Commission Implementing Decision 2014/367/EU.

The Regulations also transpose and give effect to 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 and to other Commission Implementing Directives and Decisions.

Part I of the Regulations deals with preliminary matters, including the interpretation of the Regulations (regulation 2).

Part II of the Regulations sets out the general prohibitions and controls on the marketing of seed potatoes in Scotland. Regulation 3 restricts the marketing of seed potatoes in Scotland to those seed potatoes meeting the requirements of the defined terms “pre-basic seed potatoes”, “basic seed potatoes”, “test and trial seed potatoes” and “scientific and selection seed potatoes” as defined in regulation 2. In relation to the first 3 of these defined terms, these requirements include the requirement that the seed potatoes have satisfied the applicable conditions for the issue of an official label or an official document specified in regulation 10(3) (see below in relation to Part III). The Directive permits the marketing of a further category of “certified seed potatoes” within the European Union but the Scottish Government is authorised to prohibit the marketing of this category by virtue of Commission Decision 2004/3/EC 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 are provided for in Annexes I and II to Council Directive 2002/56/EC (OJ L 49, 19.2.2004, p.36, as amended by Commission Implementing Decision 2014/105/EU (OJ L 56, 26.2.2014)). Regulation 4 sets out further general provisions on the marketing of seed potatoes, including requirements relating to packaging and to uniform composition of lots, to which Schedule 3 also applies. In relation to field generations where no field generation is indicated, regulation 4(6) transposes the requirements of Commission Implementing Directive 2013/63/EU.

Regulations 5 and 6 respectively set out the specific requirements for the marketing in Scotland of test and trial seed potatoes and scientific and selection seed potatoes, in transposition of the requirements pertaining to Articles 6(1)(b) (test and trial) and 6(1)(a) (scientific and selection) of the Directive. Regulation 7 sets out the requirements relating to the marketing of conservation varieties, giving effect to the conditions which apply to such varieties by virtue of Article 27(1)(b) and (2) of the Directive.

Part III relates to the certification and grading of seed potatoes produced in Scotland. Regulation 8 relates to the requirements of certification and grading in relation to a growing crop of seed potatoes. Regulation 9 relates to an official examination of lots of seed potatoes (i.e. examination of the harvested tubers from the growing crop). Certification, grading and inspection of the resultant lots of the Scottish seed potatoes are, in substance, the applicable conditions for the issue of an official label or an official document which are specified in regulation 10(3) and which are made an essential pre-requisite of the lawful marketing of Scottish seed potatoes by virtue of the defined terms used in regulation 3. In relation to the requirement for certification, this transposes the requirements of Article 3(1) of the Directive. Following an application, an authorised officer may, under regulation 8(1) issue a crop inspection report to certify seed potatoes as being “pre-basic seed potatoes”, “basic seed potatoes” or “test and trial seed potatoes”. When issuing a crop inspection report to certify seed potatoes as either pre-basic seed potatoes or basic seed potatoes, the authorised officer must also determine the applicable Union grade (regulation 8(2)). A crop inspection report may only be issued following an official examination of the growing crop (regulation 8(4) and Schedule 1, paragraph 1(c)) and where all other requirements of Schedule 1 have been met. Schedule 2 contains the hierarchy of applicable Union grades and their applicable

requirements, which include percentage thresholds (or 'tolerances') for the presence of certain defects or diseases in the growing crop.

Schedules 1 and 2 together transpose and give effect to the EU requirements relating to growing crops of pre-basic and basic seed potatoes which are to be marketed in the Union. They also implement additional and more stringent national requirements for the production of Scottish pre-basic and basic seed potatoes, intended to be marketed in the Union. These additional and more stringent requirements are applied in exercise of the derogation provided for at Article 5 of the Directive and relate to domestic production only.

In relation to pre-basic seed potatoes, Schedules 1 and 2 implement the EU minimum conditions which apply to growing crops by virtue of Commission Implementing Directive 2014/21/EU determining minimum conditions and Union grades for pre-basic seed potatoes, and also the minimum requirements relating to the application of the Union grade PBTC or PB, which are contained in that Implementing Directive.

In relation to basic seed potatoes, Schedules 1 and 2 implement the EU minimum conditions which are contained in Annex 1 of the Directive and the minimum requirements relating to the application of the Union grades S, SE and E which are contained in Commission Implementing Directive 2014/20/EU determining Union grades of basic and certified seed potatoes, and the conditions and designations applicable to such grades.

In relation to test and trial seed potatoes, Article 5(4) of Commission Decision 2004/842/EC applies the same minimum conditions for the growing crop of test and trial seed potatoes as those for the certified seed potato category in Annex 1 of the Directive. In these Regulations, Schedule 1, Part IV places the same requirements on test and trial seed potatoes that are placed on basic seed potatoes. This reflects the effective prohibition on the marketing of the certified category within Scotland, which is permitted by Commission Decision 2004/3/EC, as amended.

Regulation 9 requires an authorised officer to perform an inspection of lots of seed potatoes which have been derived from a crop certified under regulation 8(1). Regulation 9 introduces Schedule 6 which contains Tables of the permissible tolerances in respect of diseases, pests, damage and defects in respect of lots of seed potatoes at each applicable Union grade (and also in relation to seed potatoes intended to be marketed outside the EU). The Tables of tolerances contained in Schedule 6 transpose the minimum requirements relating to tuber inspections in Commission Implementing Directive 2014/21/EU (pre-basic seed potatoes), Annex II of the Directive and Commission Implementing Directive 2014/20/EU (basic seed potatoes). In relation to test and trial seed potatoes, Table III(c) imposes the requirements relating to basic seed potatoes of the Union grade E, in reliance of Commission Decision 2004/3/EC.

Part IV of the Regulations contains provisions relevant to the labelling (regulation 10) and sealing (regulation 11) of seed potatoes. Regulation 10(1) prohibits the marketing of seed potatoes unless an official label is attached to the package of container which meets the requirements of the relevant paragraphs of Schedule 5. Regulation 10(3) sets out the conditions under which the Scottish Ministers may issue an official label or an official document (regulation 10(3)). Regulation 11(2) contains a prohibition against the re-sealing of packages of seed potatoes otherwise than by or under supervision of an authorised officer.

Part V relates to enforcement of the Regulations. Regulation 14(1) provides an authorised officer with the power, among other things, to perform official examinations for the purposes of the Regulations and to take samples of seed potatoes. This power to take samples is subject to the provision made by regulation 17 in Part VI and to Schedule 8 of the Regulations. Regulation 15 sets out the circumstances under which the Scottish Ministers may withdraw a crop inspection report (regulation 15(1)), determine a lower grade (regulation 15(2)) or withhold or withdraw an official label (regulation 15(3)) in order to ensure compliance with the Regulations. Regulation 16 provides an authorised officer with the power to serve notices where, during an official examination, the officer is of the opinion that seed potatoes are affected by a disease or pest specified in column 1 of the applicable Table in Schedule 6. The notice can be used to restrict the movement of the seed potatoes (to allow for example, for the presence of the disease or pest to be confirmed). A notice may also be served where the authorised officer is satisfied that one of the

tolerances prescribed in the Tables in Schedule 6 has been exceeded or that there has been a failure to comply with another requirement of the Regulations (regulation 16(3)).

Part VI contains miscellaneous provisions, including consequential amendments (regulation 22) and the revocation of the Seed Potatoes (Scotland) Regulations 2000 and the provisions which amended it (regulation 24 and Schedule 9).

These Regulations have been notified in draft to the European Commission in accordance with Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society Services (OJ L 204, 21.7.1998, p.37), as past amended by Regulation (EU) No 1025/2012 (OJ L 316, 14.11.2012, p.12) and as repealed, subject to savings, by Directive (EU) 2015/1535 (OJ L 241, 17.9.2015, p.1).

No business and regulatory impact assessment has been prepared for these Regulations.

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