

## POLICY NOTE

### THE SEED POTATOES (SCOTLAND) REGULATIONS 2015

#### SSI 2015/395

#### Introduction

1. The above instrument is made in exercise of the powers conferred by sections 16(1), (1A) (e) and (5A) and 36 of the Plant Varieties and Seeds Act 1964 (c.14) (the 1964 Act) and by section 2(2) of the European Communities Act 1972 (c.68). As required by section 16(1) of the 1964 Act a consultation exercise was undertaken prior to the making of the instrument. The instrument is subject to negative procedure.

2. In this Policy Note –

“the Implementing Directives” means-

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

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

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

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

#### Policy Objective

3. This instrument revokes and replaces the Seed Potatoes (Scotland) Regulations 2000 (S.S.I 2000/201)<sup>1</sup>, which had transposed the requirements of the Principal Directive and had provided for the certification and marketing of Scottish seed potatoes by reference to a national classification scheme. The purpose of this instrument is to transpose the requirements of the Principal Directive and the Implementing Directives and to introduce a new certification and grading scheme for Scottish seed potatoes by reference to the Union grades. The instrument also implements the provisions of Commission Decision 2004/3/EC (OJ L 2, 6.1.2004, p.47) as amended by Commission Decision 2014/105/EU (OJ L 56, 26.2.2014).

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<sup>1</sup>Amended by S.S.I. 2005/280, S.S.I. 2007/41, S.S.I. 2009/226, S.S.I 2010/71 and S.I. 2011/1043

## **Background**

4. Scotland has for many years had a reputation as a major producer of quality seed potatoes. Scotland has many advantages when it comes to potato production including the climate. Cool summer weather is a key factor in limiting virus pressures on the crops and we also have freedom from serious potato quarantine pests. Within the European Union, Scotland is recognised as a high health area. Stricter health standards are applied than elsewhere in the EU and Scotland produces and markets only pre-basic and basic seed potatoes.

5. The Implementing Directives were the result of a EU review of the provisions on the minimum conditions to be satisfied by seed potatoes contained in Annexes I and II of the Principal Directive. In addition to changes to the Annexes, the Implementing Directives also establish mandatory minimum conditions for the marketing of pre-basic seed potatoes and basic seed potatoes in the EU and a voluntary system of Union grades to cover pre-basic and basic seed potatoes. The minimum conditions for pre-basic seed potatoes and the new Union grades take effect from 1 January 2016.

6. The written consultation with the industry on the options available for the implementation of the provisions was held between 24 November 2014 and 12 January 2015. The Scottish Government's preferred option (which is the option implemented in the instrument) was the adoption of the "Union Grades" together with the following additional and stricter statutory controls (or "tolerances") in the production process:- the nil tolerance for *Dickeya* spp. (in crops and lots); stricter field tolerances for Potato Virus Y, Potato Virus A and Potato Leafroll Virus and maintenance of the existing tolerance for Potato Tuber Necrotic Ringspot Disease (PVY<sup>ntn</sup>) in respect of tubers. The Principal Directive permits member States to derogate from the minimum conditions prescribed in Annexes I and II, providing that the additional or stricter tolerances are applied to domestic production only. The Scottish Government's view was that the harmonisation of seed potatoes grades across the EU was the way forward as it would make marketing more straightforward in the long term across all member States.

7. The Implementing Directives did not make the use of the Union grades mandatory but Scotland together with the other Administrations in the UK concluded that this was still the most sensible way forward. Following the consultation process and analysis of the 19 responses received from stakeholders the decision reached was to adopt the Union grades in respect of Scottish seed potatoes but to make use of the derogation within the Principal Directive to apply the additional and stricter tolerances. These additional and stricter tolerances only apply to Scottish seed potatoes. Similar decisions (as appropriate) were reached by the other Devolved Administrations.

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

8. The Seed Potatoes (Scotland) Regulations 2015 consolidate the Seed Potatoes (Scotland) Regulations 2000 (as amended). They control the production, certification and marketing of seed potatoes in Scotland and give effect to Council Directive 2002/56/EC, as amended by Commission Implementing Directive 2013/63/EU. They also give effect to Commission Implementing Directive 2014/20/EU determining Union grades of basic seed potatoes and the conditions and designations applicable to such grades and Commission Implementing Directive 2014/21/EU determining minimum conditions and Union grades for

pre-basic seed potatoes. Finally they also give effect to Commission Decision 2004/3/EC 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 a than provided for in Annexes I and II to Council Directive 2002/56/EC, as amended by Council Implementing Decision 2014/105/EU. By virtue of this Decision, as amended, the Scottish Ministers may restrict the marketing of seed potatoes in Scotland to those seed potatoes meeting the standards of the Union grades for basic seed potatoes.

9. The additional and stricter tolerances for Scottish seed potatoes gave rise to a number of technical standards and accordingly a draft of the instrument was notified to the European Commission as required by Directive 98/34/EC (OJ L. 204, 21.7.1998, p.37)<sup>2</sup>. No comments were received from the Commission or other EU Member States in the light of the notification.

### **Consultation**

10. In terms of section 16(1) of the 1964 Act a consultation exercise was undertaken in 2014/2015 in relation to implementation of the Implementing Directives. Stakeholders were advised on the outcome of this consultation process in early March 2015. These are the provisions which are now being implemented. 19 responses were received from Stakeholders: the vast majority of whom, who expressed a view, supported the adoption of the “Union Grades” and their respective tolerances together with some stricter tolerances for certain diseases. A number of the respondents commented that in addition to the tolerances listed in the consultation they would like to see further stricter tolerances for viruses implemented. Stakeholders were advised that we intend to keep the position under review and will revisit the position for all viruses on a regular basis.

11. No business and regulatory impact assessment has been produced. Potato crops are planted in the spring/summer, harvested in the autumn and marketed over the winter and following spring. In terms of the provisions in the instrument seed potato crops can now only be further multiplied in Scotland for a maximum of 7 Field Generations. Because of the nature of the seed potato cycle of production the limited number of growers whose seed potato crops would be in this position in the 2016 growing season needed to notified of the situation during the 2015 growing season. This gave the limited numbers of such growers adequate time to make decisions relating to these crops before the implementation of the provisions of the Instrument.

### **Timing**

12. This instrument will come into force on 1 January 2016.

Rural and Environment Directorate – Agriculture and Rural Development Division  
Plant Health, Horticulture and Potatoes  
19 November 2015

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<sup>2</sup> Now repealed and replaced by Directive (EU) 2015/1535