

**EXPLANATORY MEMORANDUM TO**  
**THE SEED POTATOES (ENGLAND)(AMENDMENT) REGULATIONS 2008**

**2008 No. 560**

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

- 2. Description**

These Regulations amend the Seed Potatoes (England) Regulations 2006 ('the principal Regulations') which control the production with a view to the certification and marketing of seed potatoes in England.

- 3. Matters of special interest to the Joint Committee on Statutory Instruments**

None.

- 4. Legislative Background**

Council Directive 2002/56/EC establishes requirements covering the production and marketing of seed potatoes in the Community. The Directive is implemented in England by the Seed Potatoes (England) Regulations 2006. Similar but separate legislation operates in Scotland, Wales and Northern Ireland.

The current Regulations are made using powers under s. 16(1) of the Plant Varieties and Seeds Act and have been the subject of consultation with representatives of interests which appear to the Secretary of State to be concerned, as required under that sub-section.

- 5. Extent**

This instrument applies to England only.

- 6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

- 7. Policy background**

- 7.1 Council Directive 2002/56/EC ("the Directive") includes a minimum tolerance (5% by weight of tubers affected over more than one-third of their surface) for common scab in harvested seed potatoes of the basic and certified categories.

Common scab is a soil-borne disease which is caused by the bacteria-like organism *Streptomyces scabies* which attacks young tubers stimulating the growth of unsightly corky tissue. A severe infection can reduce the marketable yield and can damage the eyes of seed potatoes. It can also greatly reduce the market value of the crop.

- 7.2 Under Article 5 of the Directive, Member States may introduce stricter tolerances beyond the minimum laid down in Directive 2002/56/EC. In England a tolerance of 3% by weight of tubers affected over more than one-quarter of their surface applies for pre-basic seed potatoes and 4% for basic and certified seed potatoes. These tolerances can be found in Part II and Part III of Schedule 3 of the Seed Potatoes (England) Regulations 2006 under the list of Group IV organisms.
- 7.3 The tighter tolerances were included in the Regulations with the support of stakeholders, who saw them as a means of retaining high quality standards and offering a marketing advantage. However, in some years growing conditions have been such that it has not been possible for a number of crops to meet the tighter tolerances. In such circumstances a derogation has been issued, either for specific varieties or all crops, permitting the EC minimum tolerance to be applied for that particular season, providing customers are informed and are content to receive seed potatoes on that basis. This has never been a particularly satisfactory arrangement, as stakeholders in different parts of the UK have often taken different views on the scope of proposed derogations, and it has often been the case that derogations have been introduced only after the marketing season has started.
- 7.4 Given these difficulties, a consultation exercise was carried out to seek stakeholders' views on future arrangements. A number of options were presented, but the outcome indicated support to amend the tolerances in line with Directive 2002/56. This would avoid the need for derogations in future and would provide greater clarity and consistency for growers and their customers.

## **8. Impact**

An impact assessment has not been prepared as the Regulations have no impact on the costs for business.

## **9. Contact**

Iain Johnstone (Defra, Plant Health, 1st Floor, The Quadrant, Newburn Riverside, Newcastle Upon Tyne, NE15 8NZ. Tel: 0191 229 5482, e-mail: [iain.johnstone@defra.gsi.gov.uk](mailto:iain.johnstone@defra.gsi.gov.uk)) can answer any queries regarding the instrument.