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STATUTORY INSTRUMENTS

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**2009 No. 2342**

**SEEDS, ENGLAND**

**The Seed Potatoes (England) (Amendment) Regulations 2009**

*Made* - - - - 27th August 2009  
*Laid before Parliament* 3rd September 2009  
*Coming into force* - - 1st October 2009

The Secretary of State, in whom the powers conferred by sections 16(1), (1A), (2), (3) and 36 of the Plant Varieties and Seeds Act 1964(1) are now vested(2), makes the following Regulations in exercise of those powers.

The Secretary of State has carried out a consultation in accordance with section 16(1) of that Act.

**Citation and commencement**

1. These Regulations may be cited as the Seed Potatoes (England) (Amendment) Regulations 2009 and come into force on 1st October 2009.

**Amendment**

2. The Seed Potatoes (England) Regulations 2006(3) are amended as follows.

**Regulation 2 (interpretation)**

3. In regulation 2(1), after the definition of “seed potatoes”, insert—

““seed potatoes of a conservation variety” means any variety of seed potatoes accepted by any member State into its national catalogue of varieties of agricultural plant species in accordance with Article 3 of 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 the marketing of seed and seed potatoes of those landraces and varieties;”.

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(1) 1964 c. 14. Section 16 has been amended by the [European Communities Act 1972 \(c. 68\)](#), section 4 and Schedule 4, paragraph 5, [S.I. 1977/1112](#) and the [Agriculture Act 1986 \(c. 49\)](#), section 2.  
(2) See section 38(1) for the definition of “the Minister”. Under [S.I. 2002/794](#) the functions of the Minister of Agriculture, Fisheries and Food under the Plant Varieties and Seeds Act 1964 which remained vested in that Minister at the date of that instrument were transferred to the Secretary of State.  
(3) [S.I. 2006/1161](#), to which there is an amendment not relevant to these Regulations.

#### **Insertion of new regulation 4A**

4. After regulation 4, insert—

##### **“Marketing of conservation varieties**

**4A.—**(1) No person shall market seed potatoes of a conservation variety unless—

(a) the variety is listed in the National List of varieties of potato species prepared and published in accordance with regulation 3 of the Seeds (National Lists of Varieties) Regulations 2001; and

(b) those seed potatoes have been produced in the United Kingdom.

(2) A person proposing to produce seed potatoes of a conservation variety shall, before doing so, supply the Secretary of State, in such manner and form as the Secretary of State requires, with details in writing of the size and location of the area to be used to produce that seed.

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

(4) The amount of seed potatoes of a conservation variety marketed by a person shall not exceed any maximum amount specified under paragraph (3) in relation to that person.

(5) Any person marketing seed potatoes of a conservation variety shall supply the Secretary of State, on written demand, with details in writing of the amount and variety of the seed potatoes placed on the market during each production season.”.

#### **Schedule 2 (official label)**

5. In Part 1 of Schedule 2, after paragraph 8, insert—

“**8A.** In the case of seed potatoes of a conservation variety, in addition to the requirements of paragraphs 1 to 8, an official label shall contain the further information required by Article 18 of Commission Directive [2008/62/EC](#).”.

*Jim Fitzpatrick*  
Minister of State

Department for Environment, Food and Rural  
Affairs

27th August 2009

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## EXPLANATORY NOTE

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

These Regulations amend the Seed Potatoes (England) Regulations 2006 ([S.I. 2006/1161](#)) to implement, in England, 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, in so far as it relates to seed production and marketing (OJ No L 162, 21.6.08, p 13).

Regulation 4 inserts a new provision specifying certain requirements in relation to the marketing of seed potatoes of a conservation variety (as defined in regulation 3) and regulation 5 makes provision for the labelling requirements in Article 18 of Commission Directive [2008/62/EC](#).

Contravention of any of the provisions introduced by these Regulations is an offence under section 16(7)(b) of the [Plant Varieties and Seeds Act 1964 \(c. 14\)](#).

A transposition note is available from the Food and Environment Agency, Plant Health Policy Office, Sand Hutton, York, YO41 1LZ and is annexed to the Explanatory Memorandum which is available alongside the instrument on the Office of Public Sector Information website.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.