

---

STATUTORY INSTRUMENTS

---

**2010 No. 1511**

**SEEDS, ENGLAND**

**The Seed Potatoes (England) (Amendment) Regulations 2010**

*Made* - - - - 28th May 2010  
*Laid before Parliament* 4th June 2010  
*Coming into force* - - 1st July 2010

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

In accordance with section 16(1) of that Act the Secretary of State has consulted with representatives of such interests as appear to the Secretary of State to be concerned with the following Regulations.

**Title and commencement**

1. These Regulations may be cited as the Seed Potatoes (England) (Amendment) Regulations 2010 and come into force on 1st July 2010.

**Amendments to the Seed Potatoes (England) Regulations 2006**

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

(2) For paragraph 4 of Schedule 1, substitute—

“4.—(1) No growing crop certificate shall be issued containing a statement that seed potatoes are capable of being marketed as pre-basic seed potatoes of any class unless the authorised officer is satisfied that the land on which the seed potatoes are growing or were grown—

---

(1) 1964 c. 14; section 16(1) was amended, and section 16(1A) was inserted, by section 4 of, and paragraph 5 of Schedule 4 to, the European Communities Act 1972 (c. 68). See section 38(1) for a definition of “the Minister”.

(2) The functions of the Minister, so far as exercisable in relation to Wales, transferred to the Secretary of State by article 2 of, and Schedule 1 to, the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272). Those functions then transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32). Under the Ministry of Agriculture, Fisheries and Food (Dissolution) Order (S.I. 2002/794), the functions of the Minister of Agriculture, Fisheries and Food that remained vested in that Minister at the date of the Order were transferred to the Secretary of State.

(3) S.I. 2006/1161 as amended by S.I. 2008/560 and 2009/2342.

- (a) is land which, as a result of a soil test carried out by the Secretary of State prior to the planting of the crop, has been found not to be contaminated with Potato Cyst Nematode (*Globodera* species infesting potatoes);
  - (b) is not demarcated under Schedule 15 to the Plant Health (England) Order 2005 as infested with a European population of Potato Cyst Nematode; and
  - (c) has not been used for growing potatoes at any time during the 7 years immediately preceding the planting of the crop.
- (2) But sub-paragraph (1)(a) does not apply in the case of seed potatoes grown in a soil-free medium.”
- (3) For paragraph 7 of Schedule 1, substitute—
- “7.—(1) No growing crop certificate shall be issued containing a statement that seed potatoes are capable of being marketed as basic seed potatoes of any class unless the authorised officer is satisfied that the land on which the seed potatoes are growing or were grown—
- (a) is land which, as a result of a soil test carried out by the Secretary of State prior to the planting of the crop, has been found not to be contaminated with Potato Cyst Nematode (*Globodera* species infesting potatoes);
  - (b) is not demarcated under Schedule 15 to the Plant Health (England) Order 2005 as infested with a European population of Potato Cyst Nematode; and
  - (c) has not been used for growing potatoes at any time during the 5 years immediately preceding the planting of the crop.
- (2) But sub-paragraph (1)(a) does not apply in the case of seed potatoes grown in a soil-free medium.”
- (4) For paragraph 10 of Schedule 1, substitute—
- “10.—(1) No growing crop certificate shall be issued containing a statement that seed potatoes are capable of being marketed as certified seed potatoes unless the authorised officer is satisfied that the land on which the seed potatoes are growing or were grown—
- (a) is land which, as a result of a soil test carried out by the Secretary of State prior to the planting of the crop, has been found not to be contaminated with Potato Cyst Nematode (*Globodera* species infesting potatoes);
  - (b) is not demarcated under Schedule 15 to the Plant Health (England) Order 2005 as infested with a European population of Potato Cyst Nematode; and
  - (c) has not been used for growing potatoes at any time during the 4 years immediately preceding the planting of the crop.
- (2) But sub-paragraph (1)(a) does not apply in the case of seed potatoes grown in a soil-free medium.”
- (5) In Schedule 3, Part II—
- (a) in columns 3 and 4, for the symbol “—” opposite “Blight (*Phytophthora infestans* (Mont.) de Bary)”, substitute the symbol “)”;
  - (b) in column 3, for “3.0%” in relation to Groups III, IV and V in column 1, substitute “5.0%”; and
  - (c) in column 4, for “4.0%” in relation to Groups II, III, IV and V in column 1, substitute “5.0%”.
- (6) In Schedule 3, Part III—

- (a) in column 3, for “4.0%” in relation to Groups III and IV in column 1, substitute “5.0%”;  
and
- (b) in column 4, for “4.0%” in relation to Groups II, III, IV and V in column 1, substitute  
“5.0%”.

28th May 2010

*Henley*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

---

## EXPLANATORY NOTE

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

These Regulations amend the Seed Potatoes (England) Regulations 2006 (S.I. 2006/1161) by substituting paragraphs 4, 7 and 10 of Schedule 1. They provide that a growing crop certificate cannot be issued with a statement that seed potatoes are capable of being marketed as pre-basic, basic or certified seed potatoes unless the land in which they are grown is free from Potato Cyst Nematode and has not been demarcated under Schedule 15 to the Plant Health (England) Order 2005 or used for growing potatoes for a specified period.

These Regulations also make minor amendments to the tables in Parts II and III of Schedule 3.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at [www.defra.gov.uk/corporate/consult/pcn/impact-assessment-pcn.pdf](http://www.defra.gov.uk/corporate/consult/pcn/impact-assessment-pcn.pdf) or from the Food and Environment Research Agency, Plant Health Policy Team, Room 10GA07, Sand Hutton, York YO41 1LZ and is annexed to the Explanatory Memorandum that is available alongside the instrument on the OPSI website.