

EUROPEAN COMMUNITIES (SEED POTATOES) REGULATIONS 1980

I, RAY MacSHARRY, Minister for Agriculture, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive No. 66/403/EEC of 14 June, 1966(a), as amended by the Acts referred to in Regulation 2 (2) of the following regulations, hereby make the following regulations:

(a)O.J. No. L125 11.7.1966

REG 1

1. These Regulations may be cited as the European Communities (Seed Potatoes) Regulations, 1980.

REG 2

2. (1) In these Regulations—

"Annex I" means Annex I of the Directive;

"Annex II" means Annex II of the Directive;

"Annex III" means Annex III of the Directive;

"authorised officer" means a person who is authorised in writing by the Minister to be an authorised officer for the purpose of these Regulations;

"basic seed potatoes" means seed potatoes which comply with each of the standards set out in column (3) of the Table in Part I of the Schedule to these Regulations opposite the mention in column (1) of that Table of basic seed potatoes and in relation to which each of the requirements set out in Part II of the said Schedule have been complied with;

"certifying authority" means the certifying authority for the purposes of these Regulations;

"the Directive" means Council Directive No, 66/403/EEC of 14 June, 1966, as amended by the acts mentioned in paragraph (2) of this Regulation;

"home-produced seed potatoes" means seed potatoes produced in the State;

"Member State" means a Member State of the European Economic Communities;

"official label" means a label provided by the Minister or the certifying authority;

"potatoes" means tubers or parts of tubers or plants or parts of plants of *Solanum tuberosum* L or any other species or hybrid of *Solanum*;

"pre-basic seed potatoes" means seed potatoes in relation to which each of the requirements set out in Part I and Part II of the Schedule to these Regulations have been complied with and—

(a) in case the seed potatoes are produced from virus tested stem cuttings, seed potatoes which comply with each of the requirements set out in column (3) of the Table in Part I of the said Schedule opposite the mention in column (2) of that Table of virus tested stem cuttings ("VTSC")

(b) in case the seed potatoes are produced from foundation seed, seed potatoes which comply with each of the requirements set out in the said column (3) opposite the mention in the said column (2) of

foundation seed ("FS");

"the register" has the meaning assigned to it by Regulation 13 of these Regulations;

"registered person" means a person whose name is for the time being registered in the register;

"seed potatoes" means potatoes for planting

"third country" means a country or territory other than a Member State of the European Economic Communities.

(2) The acts referred to in the definition of "the Directive" contained in paragraph (1) of this Regulation are Council Directive No. 69/62/EEC of 18 February 1969(a), Council Directive No. 71/162/EEC of 30 March 1971(b), Council Directive No. 72/274/EEC of 20 July 1972(c), Council Directive No.

(a) O.J. No. L48 26.2.1969

(b) O.J. No. L87 17.4.1971

(c) O.J. No. L171 29.7.1972

72/418/EEC of 6 December 1972(d), The Act of Accession of 22 January 1972(e), Council Decision of 1st January, 1973 adjusting the documents concerning the accession of new member States to the European Communities(f), Council Directive No. 73/438/EEC of 11 December 1973(g), Council Directive No. 75/444/EEC of 26 June 1975(h), Council Directive No. 76/307/EEC of 15 March 1976(i), Council Directive No. 77/648/EEC of 11 October 1977(j), Council Directive No. 78/692/EEC of 25 July 1978(k), and Council directive No. 78/816/EEC of 26 September 1978(l).

(d) O.J. No. L287 26.12.1972

(e) O.J. Special Edition 27.3.1972

(f) O.J. No. L2 1.1.1973

(g) O.J. No. L356 27.12.1973

(h) O.J. No. L196 26.7.1975

(i) O.J. No. L72 18.3.1976

(j) O.J. No. L261 14.10.1977

(k) O.J. No. L236 26.8.1978

(l) O.J. No. L281 6.10.1978

REG 3

3. (1) Nothing in these Regulations shall be construed as—

(a) applying in relation to seed potatoes which are—

(i) shown to the satisfaction of the Minister to be intended for export to a third country,

(ii) used or intended for use in scientific investigation or research or for selection or breeding work,

(b) preventing lots of seed potatoes which during marketing do not comply with the minimum quality conditions specified in Annex II from being sorted; provided that the tubers which are not rejected shall undergo a further examination by the certifying authority to ensure that the lots remaining after sorting meet each of the said conditions.

(2) The requirements of these Regulations as to packaging, sealing and marking or labelling shall not apply to seed potatoes which are sold at the retail stage to the final consumer in quantities of less than 25 kilogrammes, if, but only if the seed potatoes are taken, in the presence of the purchaser, from the package or container in which they were originally packed and which is marked

and labelled in accordance with these Regulations.

REG 4

4. The Minister, or any person or body authorised by the Minister for the purpose, shall be the certifying authority for the State for the purpose of these Regulations.

REG 5

5. (1) The Minister may from time to time make a seed potato certification scheme for the purposes of these Regulations.
(2) The seed potato scheme made by the Minister and in force on the commencement of this Regulation shall be deemed to have been made for the purposes of these Regulations by the Minister.

REG 6

6. (1) Subject to paragraph (2) of this Regulation, the Minister may grant licences for the purposes of these Regulations and a licence granted for the purposes of these Regulations shall have attached thereto a condition that the seed potatoes to which the licence relates shall comply with each of the minimum quality conditions specified in Annex II and such other conditions (if any) as the Minister considers appropriate.
(2) Where, having regard to a document which he is satisfied has been issued by an authority in a country or territory other than the State which corresponds to the certifying authority, the Minister is satisfied that seed potatoes to which an application for a licence for the purposes of these Regulations relates comply with each of the requirements specified in column (3) of the Table in Part I of the Schedule to these Regulations opposite the mention in column (2) of foundation seed "FS"), he shall grant a licence described in paragraph (1) of this Regulation in relation to them.

REG 7

7. (1) Subject to Regulation 3 (1) of these Regulations, a person who is not a registered person shall not place on the market seed potatoes which have been packed by him.
(2) A person who contravenes paragraph (1) of this Regulation shall be guilty of an offence.
(3) This Regulation shall come into operation on the 1st day of June, 1981.

REG 8

8. (1) A person shall not place on the market any seed potatoes unless the seed potatoes—
(a) comply with the provisions of Article 7 of the directive regarding minimum size and maximum variation in size, and
(b) they are either home-produced seed potatoes or potatoes which have been imported under and in accordance with a licence granted under these Regulations, and
(c) they are marketed in a lot which complies with the

requirements of the said Article 7.

(2) A person who contravenes paragraph (1) of this Regulation shall be guilty of an offence.

(3) This Regulation shall come into force on 14 November, 1980.

REG 9

9. (1) A person shall not place seed potatoes on the market as being basic seed potatoes or pre-basic seed potatoes unless they comply with each of the following requirements, namely:

(a) they are marketed in sufficiently homogenous lots,

(b) they satisfy the minimum conditions specified in Annex I,

(c) the lot complies with each of the minimum quality conditions specified in Annex II,

(d) they are seed potatoes of a variety which is—

(i) registered in the common catalogue and there is not in that catalogue an entry indicating that a prohibition on the marketing of the variety in the State has been authorised by the Commission of the European Economic Communities, or

(ii) registered in the national catalogue, or

(iii) registered in the catalogue of another Member State which corresponds to the national catalogue and as regards which registration the Minister has determined that it is equivalent to acceptance for registration in the national catalogue,

(e) the packages and containers containing the seed potatoes shall—

(i) be sealed by or on behalf of the Minister or under the supervision of an officer of the Minister in such a manner that they cannot be opened without damaging the system of closing or leaving evidence of tampering on either the official label provided pursuant to clause (ii) of this paragraph or the package, and where a non-reusable sealing system is not used, in addition to complying with the foregoing provisions of this subparagraph, the sealing system used on such packages or containers shall comprise at least either the above-mentioned official label or the affixing of an official seal,

(ii) (I) be labelled on the outside with an official label (which may be adhesive) which has not previously been used, which gives the information and complies with the minimum dimensions specified in Annex III and such information shall be stated on such label in at least the Irish language or the English language (where a label with a string-hole is used, its attachment shall be ensured by means of an official seal), or

(II) have indelibly printed thereon, in accordance with a label model approved of by the certifying authority, the information so specified,

(iii) within contain an official document, in the same colour as the label referred to in subparagraph (ii) (I) of this paragraph, providing at least the particulars specified in subparagraph 3 and 6 of paragraph A of Annex III,

(f) in case the lot is comprised of seed potatoes which are basic seed potatoes and such seed potatoes have been chemically treated, such treatment shall be noted on the said label, on the supplier's label and also on, or on a document inside, such package or container,

- (g) the lot shall consist of one variety only and one grade only of seed potatoes,
- (h) the name or identity of the supplier (and of the importer in case the seed potatoes are imported) of the seed potatoes shall be indicated, separately from the official label, either by a label or by printing on such package or container.
- (2) (a) The document referred to in paragraph (1) (e) (iii) of this Regulation shall be drawn up in a manner so that it cannot be confused with the official label referred to in paragraph (1) (e) (ii) (I) of this Regulation.
- (b) The document referred to in paragraph (1) (e) (iii) of this Regulation shall not be necessary if the particulars mentioned in that paragraph are printed indelibly on the package or container containing the seed potatoes or if, in accordance with paragraph (1) (e) (ii) (I), an adhesive label is used, or if a label of tear resistant material is used.
- (3) A person shall not place on the market seed potatoes in packages or containers which have been sealed officially or under official supervision and subsequently have been re-sealed, unless such re-sealing has been carried out officially or under official supervision. If such packages or containers are so re-sealed, the fact of re-sealing, the date of re-sealing (or in case they have been re-sealed more than once the date of the most recent re-sealing) and the authority responsible therefor shall be stated on the official label referred to in paragraph (1) (e) (ii) (I) of this Regulation.
- (4) A person shall not place on the market seed potatoes which have been treated with a sprout (or germination) inhibitor.
- (5) In addition to complying with the requirements of paragraph (3) of this Regulation, on and after the 1st day of June, 1981, a person shall not place on the market home-produced seed potatoes unless the certifying authority has issued a certificate in respect of them certifying that the potatoes—
- (a) were produced under and in accordance with a seed potato certification scheme made or deemed to have been made by the Minister pursuant to Regulation 5 of these Regulations,
- (b) are of one of the categories specified in column (1) of the Table in Part I of the Schedule to these Regulations,
- (c) are of one of the grades specified in column (2) of the said Table opposite the mention in the said column (1) of such category, and
- (d) conform to the requirements specified in column (3) of the said Table opposite both such mention in the said column (1) and the mention in the said column (2) of such grade.
- (6) A person who contravenes a requirement of this Regulation shall be guilty of an offence.

REG 10

10. (1) A person shall not import seed potatoes except under and in accordance with a licence granted in that behalf by the Minister.
- (2) The Minister may, if he thinks fit, grant a licence to import seed potatoes when he is satisfied that, on the basis of a document furnished by the certifying authority in the country or

place where they were produced, the seed potatoes comply with each of the minimum standards specified in column (3) of the Table in Part I of the Schedule to these Regulations opposite the mention in column (2) of the said Table of foundation seed ("FS").

(3) An officer of customs and excise may detain and seize any seed potatoes being imported or attempted to be imported in contravention of this Regulation and may for that purpose open any package containing or suspected by him to contain potatoes, and the provisions of the Customs Acts relating to the condemnation and disposal of goods seized under those Acts shall apply and have effect in relation to all seed potatoes seized under this Regulation as if they had been seized under those Acts.

(4) Every consignment of imported seed potatoes will be subject to examination by an authorised officer before removal from the place of importation and, if the consignment is found on examination to be infected or infested with any virus or organism which in the opinion of the Minister is considered to be harmful, the Minister may—

(a) cause of the consignment to be destroyed or otherwise disposed of in such manner as he shall direct, or

(b) attach a condition to the relevant licence prohibiting the use for planting of any potatoes comprised in the consignment.

(5) The direct produce of imported seed potatoes shall be subject to inspection by an authorised officer both as a growing crop and as tubers therefrom, and in case on such an inspection the produce is found to be infected or infested with any virus or organism which such an officer considers to be harmful, he may require the person who for the time being is in charge of the produce to dispose of or destroy, or cause to be disposed of or destroyed, the produce in such manner as such officer shall direct.

(6) (a) A person who contravenes paragraph (1) of this Regulation shall be guilty of an offence.

(b) In case a condition described in paragraph (4) (b) of this Regulation is attached to a licence granted under Regulation 6 of these Regulations and the condition is not complied with, the person to whom the licence was issued shall be guilty of an offence.

(c) In case a requirement is made of a person under paragraph (5) of this Regulation and the person of whom the requirement is made fails to comply with the requirement, he shall be guilty of an offence.

REG 11

11. (1) A person who imports seed potatoes shall, at the time of importation, furnish to the Minister in writing such particulars in respect of seed potatoes as the Minister may require, including all or any of the following, namely, the variety, category, quantity, country of production, name of relevant official authority and the country of dispatch.

(2) A person who contravenes paragraph (1) of this Regulation shall be guilty of an offence.

REG 12

12. (1) A person shall not plant or cause to be planted in the

State any imported potatoes other than seed potatoes which have been duly imported under and in accordance with a licence granted under these Regulations.

(2) A person who contravenes paragraph (1) of this Regulation shall be guilty of an offence.

REG 13

13. (1) As soon as may be after the commencement of these Regulations, the Minister shall for the purposes of these Regulations set up and maintain a register to be known as the Seed Potato Register (which register is in these Regulations referred to as "the register").

(2) There shall be entered in the register the following particulars, namely:

(a) the full name, address and description of the person registered as a registered person,

(b) a description of the premises in which such person carries on the business of packing seed potatoes which description shall be sufficient to identify those premises and the limits and extent thereof, and

(c) such other particulars as the Minister, in the circumstances of any particular case, considers relevant.

(3) Any change in the name or address of a registered person shall be notified by him to the Minister.

(4) The Minister shall permit the register to be inspected during office hours by any person.

REG 14

14. (1) On the application, in such form and containing such particulars as the Minister may direct, by or on behalf of a person who—

(a) immediately before the commencement of this Regulation, carried on the business of packing home produced potatoes, or

(b) proposes to carry on the business of packing seed potatoes, the Minister may, at his discretion, register the person in the register.

(2) Before the Minister registers any person under paragraph (1) of this Regulation the Minister shall be satisfied—

(a) that the premises together with any plant or machinery therein to be used by the person for the weighing, grading, packing or storage of seed potatoes are suitable for each of these purposes having regard to the maximum quantity of seed potatoes likely to be handled in the premises at any time, and

(b) that the person is competent to weigh, grade and pack seed potatoes or will have in his employment persons who are so competent and that the number of persons so weighing, grading and packing in the said premises will be sufficient to properly weigh, grade and pack the quantity of seed potatoes likely to be handled therein at any time.

(3) Whenever the Minister proposes to refuse an application for registration in the register he shall, before doing so, notify in writing the applicant for registration of his intention and of the reasons therefor, and, if any representations are made to the

Minister by the applicant within seven days after the giving of the notification, the Minister shall consider them.

(4) Notwithstanding anything contained in these Regulations, a person who, immediately before the making of these regulations, both carried on the business of packing seed potatoes and was either a licensed (general) exporter within the meaning of the Agricultural Produce (Potatoes) Act, 1931 (No. 26 of 1931), or a licensed (grower) exporter within such meaning shall be entitled to be registered in the register.

REG 15

15. (1) A person shall not carry on the business of packing seed potatoes unless he is a registered person.

(2) A person who contravenes paragraph (1) of this Regulation shall be guilty of an offence.

(3) This Regulation shall come into operation on the 1st day of June, 1981.

REG 16

16. (1) Every registered person shall, in accordance with such direction (if any) as may be given by the Minister, keep full and true records of all transactions relating to the marketing, or importation of seed potatoes.

(2) A record or other document kept by a person pursuant to the requirements of paragraph (1) of this Regulation which is in the power, possession or procurement of the person and in the case of any such record or other document which has been issued by the person to another person, any copy thereof which is in the power, possession or procurement of the person, shall be retained in his power, possession or procurement for a period of two years from the date of the latest transaction to which the record or other document relates; provided that this paragraph shall not require the retention of records or invoices or any other documents in respect of which the Minister notifies the person concerned that retention is not required, nor shall it apply to the books and papers of a company which have been disposed of in accordance with section 305 (1) of the Companies Act, 1963 (No. 33 of 1963).

(3) Any person who fails to comply with a requirement of paragraph (1) or (2) of this Regulation shall be guilty of an offence.

REG 17

17. (1) An authorised officer may—

(a) at all reasonable times enter any premises in which he has reasonable grounds for believing that there are any books, documents or records relating to any business whose activities consist of or include the marketing, importation or exportation of seed potatoes;

(b) require the owner, or the person who appears to be the officer to be in charge or control, of any such premises to produce to him any books, documents or records which are in the person's control, possession or procurement and which the officer has reasonable grounds for believing to be records, books or documents relating to the marketing, importation or exportation of seed

potatoes, and to give him such information as he may reasonably require in regard to any entries in any such records, books or documents, and

(c) inspect any copy or take extracts from any such records, books or documents.

(2) A person who fails to comply with a requirement under paragraph (1) (b) of this Regulation or who obstructs or interferes with an authorised officer when he is exercising a power conferred by this Regulation shall be guilty of an offence.

REG 18

18. (1) An authorised officer may at all reasonable times enter, inspect and search any premises, railway wagon, vehicle, ship, vessel or aircraft, or other thing (e.g. a container) used to store or transport anything and which he has reasonable grounds for believing to be used in connection with the marketing, importation or exportation of seed potatoes, and may examine and take (with or without payment) samples of any seed potatoes which he finds in the course of his inspection.

(2) An authorised officer may in the course of exercising a power conferred on him by paragraph (1) of this Regulation require the owner, or the person who appears to the officer to be in apparent charge or control, of the relevant premises, railway wagon, vehicle, ship, vessel, aircraft or other thing to render, or cause to be rendered, for or in connection with the making of an examination, inspection or search or the taking of a sample under these Regulations, such reasonable facilities and personal assistance as the officer shall specify.

(3) Any person who—

(a) fails to comply with a requirement made under paragraph (2) of this Regulation, or

(b) obstructs or interferes with an authorised officer in the course of exercising a power conferred on him under this Regulation, shall be guilty of an offence.

(4) The Minister shall furnish an authorised officer with a certificate of his appointment and, when exercising any powers conferred by these Regulations, the officer shall, if requested by a person affected, produce the certificate to that person.

REG 19

19. (1) Where an authorised officer has reason to believe that seed potatoes have been planted or brought into the State in contravention of these Regulations or that there are on or planted in any land any potatoes derived from such seed potatoes, he may by a notice in writing given to the person who he believes to be in possession of such potatoes or in whose land he believes them to have been planted—

(a) require their removal to a place specified in the notice,

(b) if they are not already planted, prohibit the planting of such potatoes,

and in addition to the foregoing the Minister may by such notice require such potatoes to be treated, destroyed or otherwise disposed of in such manner as may be specified in the notice.

(2) A notice under this section shall specify the name of the person to whom it is addressed and the land on or in which the inspector by whom the notice is given believes the potatoes to which the notice relates happen to be.

(3) If any person specified in a notice given under this Regulation fails to comply with the requirements of the notice an authorised officer may enter on any premises to which the notice relates and take such measures for the treatment, destruction or removal of the potatoes to which the notice relates as he considers necessary.

(4) Any person who—

(a) fails to comply with the requirements of a notice given under this Regulation,

(b) obstructs or interferes with an authorised officer in the course of exercising a power conferred on him under this Regulation, shall be guilty of an offence.

(5) In case a person fails to comply with the requirements of a notice given under this Regulation an authorised officer may do anything required to be done by the notice and any expenses which are incurred in the exercise of the powers conferred on an authorised officer by this paragraph shall be a simple contract debt due to the Minister by the person to whom the relevant notice under this Regulation was given and shall be recoverable by the Minister from such person in any court of competent jurisdiction.

REG 20

20. (1) An offence under these Regulations may be prosecuted by the Minister.

(2) A person guilty of an offence under these Regulations shall on summary conviction be liable to a fine not exceeding—

(a) in case the offence is an offence under Regulation 17 (2), £200,

(b) in case the offence is an offence under any of these Regulations other than Regulation 17 (2), £500.

(3) In proceedings for an offence under these Regulations unless there is sufficient other evidence to raise an issue to the contrary, it shall not be necessary for the prosecutor to prove that the seed potatoes to which the alleged offence relates were not intended for or were not, at the time of the alleged offence, being used for a purpose described in Regulation 3 (1) (a) (ii) of these Regulations or were not of a variety registered in a manner specified in Regulation 9 (1) (d) of these Regulations, and the said seed potatoes shall be treated as having been neither so intended, so used nor of a variety so registered, as may be appropriate.

REG 21

21. The European Communities (Seeds) (Amendment) Regulations, 1973 (S.I. No. 174 of 1973), and the European Communities (Seeds) Regulations, 1974 (S.I. No. 200 of 1974), shall, in so far as they apply to seed potatoes, each cease to have effect.

SCHEDULE

Minimum standards to which seed potatoes must conform:—

PART I

(1)

Category(2)

Grade(3)

Minimum standardsPre-basic seed potatoes.Virus tested stem cuttings ("VTSC")(a)The seed potatoes shall, within the preceding six years, be derived from virus tested stem cuttings from selected clones;(b)The seed potatoes shall be propagated under the supervision of an authorised officer;(c)The purity and trueness to type shall be not less than 100 per cent;(d)The growing crop shall be free from leaf roll, virus Y, mosaic diseases and blackleg;(e)The crop shall be adequately isolated from crops below VTSC standard.Foundation seed ("FS")(a)The seed potatoes shall be derived from a stock which was not more than 3 generations removed from VTSC and which had never been graded lower than FS Category;(b)The purity and trueness to type shall be not less than 100 per cent—(c)On official inspection of the growing plants not more than 0.05 per cent. mild mosaic, 0.25 per cent. blackleg shall be present, and be free from leaf roll, severe mosaic and virus Y;(d)Any blackleg plants present and all tubers under these plants must be removed from crop prior to haulm destruction;(e)The crop shall be adequately isolated from crops below FS standard.Basic seed potatoesA(a)The seed potatoes shall be derived from a stock which was certified as any of the categories VTSC "FS" or "A" in the preceding year;(b)The purity and trueness to type shall be not less than 99.95 per cent. (i.e. containing not more than 0.05 per cent. in all of rogues, wildings and other undesirable variations, bolters and semi-bolters);(c)On official inspection of the growing plants, all rogues and bolters must have been dug out and all tubers under these plants removed;(d)On official inspection of the growing plants not more than 1.00 per cent. mild mosaic, 1.00 per cent. blackleg, 0.10 per cent. leaf roll and severe mosaic shall be present but excluding tobacco veinal necrosis. All blackleg plants and all tubers under these plants must be removed prior to haulm destruction.

PART II

The production ground of each crop of seed potatoes must be systematically sampled and found free from *Heterodera rostechiensis* Woll or *Heterodera pallida* Stone.

Each crop of seed potatoes must be free from *Synchytrium endobioticum* (Schilb) and must be grown on land which is at least 15 kilometres distant from any known site of such infection.

GIVEN under my Official Seal this 14th day of November 1980.

RAY MacSHARRY,

Minister for Agriculture.

EXPLANATORY NOTE.

The Regulations—

- (1) provide that seed potatoes may be marketed only if they are basic or pre-basic seed potatoes as defined in the Regulations and, with certain exceptions, sold in sealed packages or containers labelled with the prescribed particulars;
- (2) provide that seed potatoes may be imported under licence only if they meet the prescribed conditions;
- (3) provide for the registration by the Minister for Agriculture of persons who carry on the business of packing seed potatoes.