



STATUTORY INSTRUMENTS.

S.I. No. 577 of 2010



SEED POTATOES (MISCELLANEOUS PROVISIONS) ORDER 2010

(Prn. A10/1796)

SEED POTATOES (MISCELLANEOUS PROVISIONS) ORDER 2010

I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by sections 2 and 3 of Destructive Insects and Pests Acts, 1958 and 1991 as adapted by the Agriculture and Food (Alteration of Name of Department and Title of Minister) Order 2007 (S.I. No. 705 of 2007), hereby make the following order:

Citation

1. This Order may be cited as the Seed Potatoes (Miscellaneous Provisions) Order 2010.

Interpretation

2. (1) In this Order—

“crop inspection report” means a crop inspection report issued under the Seed Potato Regulations;

“Decision 2004/842/EC” means Commission Decision 2004/842/EC¹ of 1 December 2004 concerning implementing rules whereby Member States may authorise the placing on the market of seed belonging to varieties for which an application for entry in the national catalogue of varieties of agricultural plant species or vegetable species has been submitted;

“Directive 2002/56/EC” means Council Directive 2002/56/EC² of 13 June 2002 on the marketing of seed potatoes, as amended by Commission Decision 2003/66/EC³ of 28 January 2003, Council Directive 2003/61/EC⁴ of 18 June 2003, Commission Decision 2005/908/EC⁵ of 14 December 2005 and Commission Decision 2008/973/EC⁶ of 15 December 2008;

“examination” includes examination by way of a sample and “examine” shall be construed accordingly;

“inspector” means an inspector authorised by the Minister for the purposes of the Destructive Insects and Pests Acts, 1958 and 1991;

“introduce” means move or cause to be moved into the State by any means including transfer by post, and “introduction” shall be construed accordingly;

“Minister” means Minister for Agriculture, Fisheries and Food;

¹OJ L 362, 9.12.2004, p. 21

²OJ L 193, 20.7.2002, p. 60

³OJ L 25, 30.1.2003, p. 42

⁴OJ L 165, 3.7.2003, p. 23

⁵OJ L 329, 16.12.2005, p. 37

⁶OJ L 345, 23.12.2008, p. 90

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 10th December, 2010.*

“official label” means a label which complies with the Seed Potato Regulations and which is supplied by or on behalf of the Minister or, in the case of seed potatoes produced outside the State, a label approved by the relevant authority which meets, as appropriate to the seed potatoes concerned, the requirements of Article 13(1)(a) or Article 18(f) of Directive 2002/56/EC or Article 9 of Decision 2004/842/EC;

“relevant authority” means the authority in the country or place where seed potatoes are produced which is concerned with the certification of seed potatoes in that country or place for the purposes of Directive 2002/56/EC;

“potato” means any tuber or part thereof or any plant or part thereof of *Solanum tuberosum* L. or other tuber-forming species or hybrids of the genus *Solanum* L.;

“seed potatoes” means potatoes which bear that description or any description indicating their suitability for planting and propagation and which are capable of being used for planting and propagation or any potatoes that are intended to be used for planting and propagation;

“Seed Potato Regulations” means the European Communities (Seed Potatoes) Regulations 2010 (S.I. No. 492 of 2010).

Notification of introductions

3. (1) A person shall not introduce into the State any consignment of seed potatoes exceeding 10 kilograms in weight unless that person has given written notification to the Minister of his or her intention to introduce such seed potatoes at least 72 hours prior to the intended time of introduction.

(2) The written notification mentioned in paragraph (1) shall be accompanied by such information as the Minister may require.

(3) An inspector may examine a consignment of seed potatoes of any weight before or after removal from the place of introduction and if any potatoes in the consignment are found on examination to be infected or infested with any pathogen which, in the opinion of the inspector, is considered to be harmful, the inspector may—

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

(b) attach a condition to the release of the consignment, or part thereof, prohibiting the use for planting of any potatoes so released.

Restrictions on planting

4. (1) A person shall not knowingly plant or knowingly cause or permit to be planted any potatoes or any potatoes which have been produced from those potatoes, which have been grown in any country outside the European Community other than Switzerland.

(2) Without prejudice to paragraph (1), a person shall not knowingly plant or knowingly cause or permit to be planted any potatoes unless—

- (a) they derive in direct line from potato material which has been obtained under an officially approved programme in the European Community or Switzerland,
- (b) they have been found to be free from *Ralstonia solanacearum* (Smith) Yabuuchi et al. in official tests using the methods set out in Annex II to Council Directive 98/57/EC⁷ as amended by Commission Directive 2006/63/EC⁸ and
- (c) they have been found to be free from Potato Ring Rot in official tests using the methods set out in Annex I to Council Directive 93/85/EC⁹ as amended by Commission Directive 2006/56/EC¹⁰.

(3) A person shall not knowingly plant or knowingly cause or permit to be planted potatoes other than—

- (a) potatoes which may be marketed in the State in accordance with the Seed Potato Regulations,
- (b) one year's direct progeny of the potatoes referred to in subparagraph (a), when that direct progeny has been grown by that person, or
- (c) potatoes notified in writing by the Minister as being acceptable for planting.

(4) A person involved in the planting of potatoes referred to in paragraph (3)(a) or (b) must retain and make available to an inspector the following documentation—

- (a) official label or labels together with sale note, delivery note, invoice or similar document, or
- (b) in cases where a person is involved in planting—
 - (i) potatoes, marketed or marketable under the Seed Potato Regulations, which were grown by that person, or
 - (ii) the direct progeny of potatoes referred to in subparagraph (b)(i),

the crop inspection report for the potatoes referred to in subparagraph (b)(i).

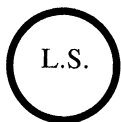
(5) Paragraphs (3) and (4) shall not apply in the case of areas intended for planting of less than 0.1 hectare.

⁷OJ L 235, 21.8.1998, p. 1

⁸OJ L 206, 27.7.2006, p. 36

⁹OJ L 259, 18.10.1993, p. 1

¹⁰OJ L 182, 4.7.2006, p. 1



GIVEN under my Official Seal,
26 November 2010.

BRENDAN SMITH,
Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE.

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This Order provides for prior notification of all introductions of seed potatoes into the State and for certain restrictions in regard to the planting of seed potatoes. It replaces similar provisions in the European Communities (Seed Potatoes) Regulations 1980 (S.I. No. 343 of 1980) that have been revoked.

BAILE ÁTHA CLIATH
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