

2005 No. 280

SEEDS

The Seed Potatoes (Scotland) Amendment Regulations 2005

Made - - - - 25th May 2005

Laid before the Scottish Parliament 26th May 2005

Coming into force - - 17th June 2005

The Scottish Ministers acting in exercise of the powers conferred by sections 16(1), (1A), (2), (3), (4), (5) and 36 of the Plant Varieties and Seeds Act 1964(a) and of all other powers enabling them in that behalf, after consultation in accordance with section 16(1) of that Act with representatives of such interests as appear to them to be concerned, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Seed Potatoes (Scotland) Amendment Regulations 2005 and shall come into force on 17th June 2005.

Interpretation

2. In these Regulations—

“classified”, for the purposes of regulation 23, means—

- (a) in the case of seed potatoes produced in Scotland the class in which the seed potatoes were placed as disclosed on a certificate of classification issued prior to 1st January 2005 under the principal Regulations; and
- (b) in the case of seed potatoes produced outside Scotland, the class specified on a label or in a document issued prior to 1st January 2005 by a relevant authority, being a label attached to or a document contained in the package or container in which the seed potatoes are moved into Scotland;

“the principal Regulations” means the Seed Potatoes (Scotland) Regulations 2000(b);

“relevant authority” means the authority in the country or place where seed potatoes are produced which is concerned with the classification of seed potatoes in that country or place for the purposes of Council Directive 2002/56/EC”(c) and

“VTSC” means basic seed potatoes classified in the Virus Tested Stem Cutting class.

(a) 1964 (c.14): section 16 was amended by the European Communities Act 1972 (c.68), section 4(1) and paragraphs 5(1), (2) and (3) of Schedule 4 and by S.I. 1977/1112; section 16 is applied to seed potatoes by section 29(1); section 29 was amended by the European Communities Act 1972, section 4(1) and paragraph 5(4) of Schedule 4 and by S.I. 1977/1112. See section 38(1) for the definition of “the Minister”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2000/201.

(c) O.J. No. L 193 20.07.2002, p.60. as amended by Commission Decision 2003/66/EC (O.J. No. L 025 30.01.2003 p.42) and Council Directive 2003/61/EC (O.J. No. L 165 18.06.2003, p.23).

Amendment of the Seed Potatoes (Scotland) Regulations 2000

3. The principal Regulations are amended in accordance with regulations 4 to 22.

Amendment of regulation 2

4. In regulation 2 (interpretation) in paragraph (1)–

- (a) in the definition of “basic seed potatoes” for sub-paragraph (a) substitute–
- “(a) in the case of seed potatoes produced in Scotland, seed potatoes in relation to which a crop inspection report as basic seed potatoes has been issued in accordance with Schedule 1 and not withdrawn or being a lot or part of a lot in a package or container to or in which an official label has been attached; and”;
- (b) omit the definitions of “certificate of classification” and “Council Directive 66/403(a)”;
- (c) in the definition of “class” for sub-paragraph (a) substitute–
- “(a) in the case of seed potatoes produced in Scotland the class specified on the official label attached to the package or container relating to those potatoes, being in the case of pre-basic seed potatoes any one of the classes specified in order of superiority in column 1 of Table I in Schedule 2 and in the case of basic seed potatoes any one of the classes specified in order of superiority in column 1 of Table II in Schedule 2; and”;
- (d) after the definition of “class” insert–
- ““class generation” means the number of years for which a stock has been entered for inspection at a specified class as designated by the number assigned to the various class generations of pre-basic and basic seed potatoes specified in Schedule 2, paragraph 2, Tables I and II;
- “Commission Directive 93/17” means Commission Directive 93/17/EEC**(b)** of 30th March 1993 determining Community grades of basic seed potatoes, together with the conditions and designations applicable to such grades”;
- (e) for the definition of “the Common Catalogue Directive” substitute–
- ““the Common Catalogue Directive” means Council Directive 2002/53/EC**(c)** on the common catalogue of varieties of agricultural plant species;”;
- (f) in the definition of “Community grade” for “EEC1, EEC2 or EEC3” substitute “EC1, EC2 or EC3”;
- (g) after the definition of “Council Directive 90/220” insert–
- ““Council Directive 2002/56” means Council Directive 2002/56/EC of 13th June 2002 on the marketing of seed potatoes;
- “crop inspection report” means a crop inspection report issued under Schedule 1 of these Regulations stating the particulars specified in Schedule 3;

(a) Council Directive 66/403/EEC of 14th June 1966 on the marketing of seed potatoes O.J. No. L 125, 11.7.66, p.2320 was repealed by Council Directive 2002/56/EC of 13th June 2002 on the marketing of seed potatoes which replaced Directive 66/403/EEC as the principal seed potato marketing directive.

(b) O.J. No. L 106, 30.04.1993, p.7. Commission Directive 93/17/EEC refers to Community grades of basic seed potatoes using the acronym “EEC”, e.g. “EEC grade 1”. That Directive has not been amended but following the Maastricht Treaty (provisions amending the Treaty establishing the European Economic Community with a view to establishing the European Community) of 7th February 1992, the naming convention now adopted by the Commission uses the acronym “EC”. See Commission Decision 2004/3/EC (O.J. No. L 002, 06.1.2004, p.47) for an example of the use of “EC grade 1”, “EC grade 2” and “EC grade 3”.

(c) O.J. No. L 193 20.07.2002, p.1. as amended by Regulation 1829/2003/EC of the European Parliament and the Council of 22nd September 2003 (O.J. No. L 268, 18.10.2003, p.1).

“Directive 2001/18” means Directive 2001/18/EC(a) of the European Parliament and of the Council of 12th March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220(b);

“declared net weight” means the net weight of seed potatoes contained in a package or container as declared at the time of an application for an official label under regulation 9(2);

“field generation” means the number of growing cycles since the first introduction in the field after micro-propagation or selection;”;

- (h) in the definition of “genetically modified” for “Council Directive 90/220 EEC” substitute “Directive 2001/18”;
- (i) after the definition of “lot” insert–
 - ““lower class” means any class below the class of seed potatoes specified in a crop inspection report according to the hierarchy in Schedule 2, Tables I and II, where Pre-basic TC is the highest class of pre-basic seed potato and Super Elite 1 is the highest class of basic seed potato;”;
- (j) for the definition of “official document” substitute–
 - ““official document” means the document required by Article 13.1(b) of Council Directive 2002/56;”;
- (k) in the definition of “official label” for “Council Directive 66/403” substitute “Council Directive 2002/56”;
- (l) in the definition of “pre-basic seed potatoes”–
 - (i) for sub-paragraph (a) substitute–
 - “(a) in the case of seed potatoes produced in Scotland, seed potatoes in relation to which a crop inspection report as pre-basic seed potatoes has been issued in accordance with Schedule 1 and not withdrawn or being a lot or part of a lot in a package or container to or in which an official label has been attached; and”;
 - and
 - (ii) in sub-paragraph (b)(i) after “by” insert “the”; and
- (m) in the definition of “relevant authority” for “Council Directive 66/403” substitute “Council Directive 2002/56”.

Amendment of regulation 3

5. For regulation 3 (application) substitute–

“(1) Subject to paragraphs (1A), (2), (4) and (5), these Regulations apply to–

- (a) the production of seed potatoes on or after 7th July 2000 with a view to marketing;
- (b) the classification and Community grading on or after that date of seed potatoes produced in Scotland; and
- (c) the marketing on or after that date of seed potatoes.

(1A) Schedule 1, paragraph 3(b) and Schedule 4, paragraphs 3(2)(c) and 4(2)(c) shall not apply to seed potatoes shown to be intended for export to countries outside the European Community.

(2) In the case of regulation 6, for the reference in paragraph (1) to 7th July 2000 there is substituted reference to 1 April 2001.

(3) In paragraph (1), “marketing” means–

- (a) selling, holding with a view to sale and offering for sale; and

(a) O.J. No. L 106 17.04.2001, p.1. as amended by Commission Decision 2002/623/EC (O.J. No. L 200 30.07.2002, p.22), Regulation 1829/2003/EC of the European Parliament and the Council of 22nd September 2003 (O.J. No. L 268 18.10.2003, p.1) and Regulation 1830/2003/EC of the European Parliament and the Council of 22nd September 2003 (O.J. No. L 268 18.10.2003, p.24).

(b) O.J. No. L 117, 08.05.1990, p.15.

- (b) any disposal, supply or transfer,

for the purpose of commercial exploitation of seed potatoes to third parties, whether or not for consideration; and “market” and “marketed” shall be construed accordingly.

(4) The supply of seed potatoes, not aimed at commercial exploitation of the variety, such as the following operations, shall not be treated as marketing of seed potatoes of that variety–

- (a) the supply of seed potatoes to official testing and inspection bodies; or
- (b) the supply of seed potatoes to any person for the purpose of processing or packaging the seed potatoes provided he does not acquire title to the seed potatoes supplied.

(5) Subject to paragraphs (6), (7) and (8), nothing in these Regulations shall apply to the marketing by a producer under the authority of the Scottish Ministers of small quantities of seed potatoes used or to be used for the purposes of scientific investigation or in the course of a process of selection by or under the supervision of an authorised officer.

(6) In respect of genetically modified material, an authorisation may be granted under paragraph (5) only if–

- (a) the deliberate release of the genetically modified material has been authorised under a Part B consent, or the genetically modified material has been accepted for marketing in accordance with a Part C consent, issued for the purposes of Council Directive 90/220 or Council Directive 2001/18;
- (b) it is to be a condition of the authorisation that the seed potatoes are accompanied during marketing by a copy of the Part B or Part C consent;
- (c) all appropriate measures, in accordance with an environmental risk assessment in respect of the material carried out in accordance with Article 7(4) of the Common Catalogue Directive and Article 4(2) and Annex II of Council Directive 2001/18, have been taken by the producer of the seed potatoes to avoid adverse effects on human health and the environment; and
- (d) in the case of genetically modified material issued with a Part C consent, the requirements mentioned in paragraph (7) have been met.

(7) The requirements referred to in paragraph (6)(d) are–

- (a) the producer intending to market the small quantity of seed potatoes for scientific purposes or selection work has made a written application for authorisation under paragraph (5) to the Scottish Ministers giving–
 - (i) notice of intention to market a small quantity of seed potatoes for scientific purposes or selection work; and
 - (ii) such information relating to the acceptance for marketing of the variety of the seed potatoes concerned under Council Directive 90/220 or Council Directive 2001/18, and the scientific purposes or selection work in respect of which the marketing is to be carried out, as the Scottish Ministers may require for the purposes of identifying the marketing and determining whether or not to grant the authorisation; and
- (b) the Scottish Ministers are satisfied that an authorisation would be in accordance with the purpose of Article 6.1(a) of Council Directive 2002/56.

(8) In the event that a condition specified in an authorisation granted under paragraph (5) is not complied with in the course of marketing seed potatoes, the marketing of those seed potatoes shall be deemed to be unauthorised.”.

Amendment of regulation 4

6. For regulation 4 (classification of seed potatoes) substitute—

“4.—(1) Seed potatoes produced in Scotland shall be specified in a crop inspection report completed by an authorised officer as—

- (a) pre-basic seed potatoes of one of the classes and, where appropriate, class generations specified in column 1 of Table I in Schedule 2; or
- (b) basic seed potatoes of one of the classes and, where appropriate, class generations specified in column 1 of Table II in Schedule 2.

(2) Application for a crop inspection report for seed potatoes produced in Scotland shall be made to the Scottish Ministers with such information and in such form and manner as they may require.

(3) A crop inspection report shall confirm that the seed potatoes satisfy the requirements of Schedules 1 and 2 of these Regulations for the class specified in the report and for all lower classes.”.

Amendment of regulations 6 and 7

7. In regulations 6(2) (production measures in the interests of plant health) and 7(2) (separation in the interests of varietal purity) for “certificate of classification” substitute “crop inspection report” and for “certificate”, where later appearing, substitute “report”.

Amendment of regulation 8

8. In regulation 8(2)(a) (marketing of seed potatoes) after “classified” insert “or that specified by a crop inspection report”.

Amendment of regulation 9

9. In regulation 9 (labelling of seed potatoes)—

- (a) in paragraph (1)(c) for “Article 10.1(b) of Council Directive 66/403” substitute “Article 13.1(b) of Council Directive 2002/56”;
- (b) for paragraphs (4), (5) and (6) substitute—

“(4) No person shall market seed potatoes that have been treated with any chemical product unless the type and function or the proprietary name of that product is stated on a label attached to the package or container and on a document contained in the package or container.

(5) No person shall market a genetically modified variety of seed potatoes unless all labels, whether official or otherwise, attached to any lot of that variety and any document contained in the package or container, clearly indicate that the variety has been genetically modified.

(6) No person shall market seed potatoes contained in a package or container that has been re-sealed in accordance with regulation 10(2) unless the official label states—

- (a) that the package or container has been so re-sealed;
- (b) the date of re-sealing; and
- (c) the authority responsible for re-sealing.”; and

- (c) in paragraph (7) after “such” insert “seed”.

Amendment of regulation 10

10. In regulation 10 (sealing of packages)–

(a) in paragraph (1) after “device” insert “which has been applied by or under the supervision of an authorised officer or the application of which has been inspected by an authorised officer and found to be satisfactory”; and

(b) for paragraph (2) substitute–

“(2) Where a sealing device on a package or container is broken, no person shall re-seal the package or container with a sealing device unless that person is, or the re-sealing takes place under the supervision of, an authorised officer.”

Amendment of regulation 11

11. For regulation 11 (official examination prior to marketing) substitute–

“11. No person shall market any quantity of seed potatoes which has been prepared for marketing until–

(a) it has been subjected to an official examination; or

(b) that person has been notified in writing by an authorised officer that an official examination is not required by virtue of the seed potatoes having previously been subjected to official examination.”.

Amendment of regulation 15

12. In regulation 15(2) (retail sales of seed potatoes) at the end of sub-paragraph (b) insert “and”, and omit sub-paragraph (c).

Amendment of regulation 16

13. In regulation 16(2) (sampling of seed potatoes) for “classification” substitute “official examination”.

Amendment of regulation 17

14. In regulation 17(3) (information regarding seed potatoes), for “declarations, certificates, labels, records or invoices” substitute “declarations, certificates, reports, labels, records, invoices or other documents”.

Amendment of Schedule 1

15. In Schedule 1 (classification: certification conditions)–

(a) in paragraph 1 after “by” insert “the” and for “classification of any” substitute “a crop inspection report in respect of”;

(b) for paragraph 1(c) substitute–

“(c) undertake official examination of the crop and of lots of seed potatoes derived from the crop for the purposes of issuing a crop inspection report.”;

(c) for paragraph 2(a) substitute–

“(a) issue a crop inspection report in accordance with Schedule 2 stating the particulars specified in Schedule 3; or”;

(d) in paragraph 3, in the opening words, for “certificate of classification” substitute “crop inspection report”;

- (e) in paragraph 3(b) for “Seeds (National Lists of Varieties) Regulations 1982” substitute “Seeds (National Lists of Varieties) Regulations 2001”(a);
- (f) in paragraph 3(i)(iv) for “classified Pre-basic 1, Pre-basic 2 or VTSC” substitute “for which an application for inspection as Pre-basic, class generation 1, 2, 3 or 4 seed potatoes has been made”;
- (g) in paragraph 3(k)(i) for “E2” substitute “Elite, class generation 2”;
- (h) in paragraph 3(k)(ii) for “EEC1 or EEC2” substitute “EC1 or EC2”;
- (i) in paragraphs 3(k)(iii) and (iv) after “to” insert “the”;
- (j) in paragraph 4(b) for “Pre-basic 1 or Pre-basic 2” substitute “Pre-basic, class generation 1, 2, 3 or 4”; and
- (k) in paragraph 4(b)(ii) for “0.01%” substitute “0.5%”.

Amendment of Schedule 2

16. In Schedule 2 (classification: source material, other requirements and tolerances)–

- (a) in paragraph 1–
 - (i) for “classify” substitute “issue a crop inspection report for”;
 - (ii) in the opening words and in sub-paragraphs (a), (b) and (c) after “class” insert “and, where appropriate, class generation”;
- (b) in paragraph 2 for Tables I and II, substitute–

(a) S.I. 2001/3510.

“TABLE I
PRE-BASIC SEED POTATOES

<i>Column 1</i> <i>Class and class generation</i>	<i>Column 2</i> <i>Source Material</i>	<i>Column 3</i> <i>Other Requirements</i>	<i>Column 4</i> <i>Tolerances</i>
Class Pre-basic Tissue Culture (PBTC)	Nuclear stock or a crop which meets the requirements set out in Schedule 1, paragraph 3(k)(iii).	The seed potatoes are— (a) grown in a unit officially approved for production of PBTC; and (b) kept free, as far as practicable from diseases and aphids by appropriate husbandry measures.	(i) deviations from variety - nil; (ii) severe mosaic - nil; (iii) leafroll - nil; (iv) mild mosaic - nil; (v) blackleg - nil.
Class Pre-basic, class generation 1 (PB 1)	(a) Stock being PBTC produced in the immediately preceding growing season which was either— (i) classified; or (ii) not classified and retained by the grower and for which a crop inspection report was issued; or (b) a crop which meets the requirements set out in Schedule 1, paragraph 3(k)(iii).	The seed potatoes are— (a) grown and entered for classification by a person whose facilities, test methods, planting arrangements and manner of keeping appropriate records in relation to production of seed potatoes are acceptable to the Scottish Ministers; and	(i) deviations from a variety and type and groundkeepers - nil; (ii) severe mosaic - nil; (iii) leafroll - nil; (iv) mild mosaic - nil; (v) blackleg - nil.

<i>Column 1 Class and class generation</i>	<i>Column 2 Source Material</i>	<i>Column 3 Other Requirements</i>	<i>Column 4 Tolerances</i>
		(b) grown in the year in which they are entered for classification on an agricultural unit on which all potato crops planted were seed potatoes of the class Super Elite, class generation 1 (SE1) or higher.	
Class Pre-basic, class generation 2 (PB2)	Stock being PB1 produced in the immediately preceding growing season which was either— (a) classified; or (b) not classified and retained by the grower and for which a crop inspection report was issued.	As for PB1.	As for PB1.
Class Pre-basic, class generation 3 (PB3)	Stock being PB2 produced in the immediately preceding growing season which was either— (a) classified; or (b) not classified and retained by the grower and for which a crop inspection report was issued.	As for PB1.	As for PB1.

<i>Column 1 Class and class generation</i>	<i>Column 2 Source Material</i>	<i>Column 3 Other Requirements</i>	<i>Column 4 Tolerances</i>
Class Pre-basic, class generation 4 (PB4)	Stock being PB3 produced in the immediately preceding growing season which was either— (a) classified; or (b) not classified and retained by the grower and for which a crop inspection report was issued.	As for PB1.	As for PB1.

TABLE II
BASIC SEED POTATOES

<i>Column 1 Class and class generation</i>	<i>Column 2 Source Material</i>	<i>Column 3 Other Requirements</i>	<i>Column 4 Tolerances</i>
Class Super Elite, class generation 1 (SE1)	(a) Stock being PBTC, PB1, PB2, PB3 or PB4 produced in the immediately preceding growing season which was either— (i) classified; or (ii) not classified and retained by the grower and for which a crop inspection report was issued; or (b) a crop which meets the requirements set out in Schedule 1, paragraph 3(k)(ii).		(i) deviations from variety and type and groundkeepers-0.05%. (ii) severe mosaic-nil. (iii) leafroll-0.01%. (iv) mild mosaic-0.05%. (v) blackleg-0.25%.

<i>Column 1</i> <i>Class and class generation</i>	<i>Column 2</i> <i>Source Material</i>	<i>Column 3</i> <i>Other Requirements</i>	<i>Column 4</i> <i>Tolerances</i>
Class Super Elite, class generation 2 (SE2)	<p>(a) Stock being SE1 produced in the immediately preceding growing season which was either—</p> <p>(i) classified; or</p> <p>(ii) not classified and retained by the grower and for which a crop inspection report was issued; or</p> <p>(b) seed potatoes produced outwith the European Community which meet the requirements set out in Schedule 1, paragraph 3(k)(iv).</p>		As for SE1.
Class Super Elite, class generation 3 (SE3)	<p>Stock being SE2 produced in the immediately preceding growing season which was either—</p> <p>(i) classified; or</p> <p>(ii) not classified and retained by the grower and for which a crop inspection report was issued.</p>		As for SE1.
Class Elite, class generation 1 (E1)	<p>(a) Stock being PBTC, PB1, PB2, PB3, PB4, SE1, SE2 or SE3 produced in the immediately preceding growing season which was either—</p> <p>(i) classified; or</p>		<p>(i) deviations from variety and type and groundkeepers-0.05%;</p> <p>(ii) total virus disease (leafroll, severe mosaic and mild mosaic)-0.5% of which not more than 0.1% (in total) shall be of leafroll and severe mosaic;</p>

<i>Column 1 Class and class generation</i>	<i>Column 2 Source Material</i>	<i>Column 3 Other Requirements</i>	<i>Column 4 Tolerances</i>
	<ul style="list-style-type: none"> (ii) not classified and retained by the grower and for which a crop inspection report was issued; or (b) a crop which meets the requirements set out in Schedule 1, paragraphs 3(k)(iii) or (iv). 		(iii) blackleg-0.5%.
Class Elite, class generation 2 (E2)	Stock—	<ul style="list-style-type: none"> (a) being E1 produced in the immediately preceding growing season which was either— <ul style="list-style-type: none"> (i) classified; or (ii) not classified and retained by the grower and for which a crop inspection report was issued; or (b) which meets the requirements of Commission Directive 93/17/EEC(a) and which has been designated by the relevant authority as Community grade EC1 or EC2; or 	As for E1.

(a) O.J. No. L 106, 30.04.93, p.7.

<i>Column 1 Class and class generation</i>	<i>Column 2 Source Material</i>	<i>Column 3 Other Requirements</i>	<i>Column 4 Tolerances</i>
	(c) seed potatoes produced outwith the Community which meet the requirements set out in Schedule 1 paragraph 3(k)(iv).		
Class Elite, class generation 3 (E3)	Stock being E2 produced in the immediately preceding growing season which was either—		As for E1.
Class A	Stock— (a) being PBTC, PB1, PB2, PB3, PB4, SE1, SE2, SE3, E1 or E2 produced in the immediately preceding growing season which was either— (i) classified; or (ii) not classified and retained by the grower and for which a crop inspection report was issued. (i) classified; or (ii) not classified and retained by the grower and for which a crop inspection report was issued; or (i) classified; or (ii) not classified and retained by the grower and for which a crop inspection report was issued; or		(i) deviations from variety and type and groundkeepers-0.1%; (ii) total virus disease-0.8% of which not more than 0.4% (in total) shall be leafroll and severe mosaic; (iii) blackleg-1%.

<i>Column 1 Class and class generation</i>	<i>Column 2 Source Material</i>	<i>Column 3 Other Requirements</i>	<i>Column 4 Tolerances</i>
	<p>(b) which meets the requirements of Commission Directive 93/17/EEC and which has been designated by the relevant authority as Community grade EC1 or EC2; or</p> <p>(c) seed potatoes produced outwith the Community which meet the requirements set out in Schedule 1 paragraphs 3(k)(iii) or (iv).</p>		

”

Amendment of Schedule 3

17. For Schedule 3 (particulars to be specified in certificate) substitute Schedule 3 as contained in the Schedule to these Regulations.

Amendment of Schedule 4

18. In Schedule 4 (requirements as to varietal purity and size)–

- (a) in paragraphs 2(1)(b) and 3(1)(b) after “by” insert “the”;
- (b) in paragraph 3(1)(a) for “Pre-basic 1 or Pre-basic 2” substitute “Pre-basic, class generation 1, 2, 3 or 4”;
- (c) in paragraph 3(3) after “whether” omit “any”; and
- (d) for paragraph 4(1) substitute–
 - “(1) This paragraph applies–
 - (a) to seed potatoes classified under these Regulations as basic seed potatoes; or
 - (b) to seed potatoes produced outside Scotland which are approved by the Scottish Ministers as being equivalent to that category.”.

Amendment of Schedule 6

19. In Schedule 6 (official labels) in paragraphs 1(2)(c) and 2(2)(c)–

- (a) after “Class” insert–
 - “Class generation (unless otherwise requested by the applicant)”;
- (b) after “Size” insert–
 - “Field generation (only if requested by the applicant)”;
- (c) for “Net weight” substitute “Declared net weight”.

Amendment of Schedule 7

20. In Schedule 7 (tolerances for diseases, pests, damage and defects)–

- (a) for paragraph 1(1) substitute–
 - “(1) For the purposes of regulation 13(1)(b)–
 - (a) Table I applies–
 - (i) to seed potatoes classified under these Regulations as being of the class Pre-basic TC; and
 - (ii) to pre-basic seed potatoes produced outside Scotland which are approved by the Scottish Ministers as being equivalent to that class.
 - (b) Table II applies–
 - (i) to seed potatoes classified under these Regulations as being of the class Pre-basic, class generations 1, 2, 3 and 4; and
 - (ii) to pre-basic seed potatoes produced outside Scotland which are approved by the Scottish Ministers as being equivalent to that class;
 - (c) Table III applies to basic seed potatoes produced in the United Kingdom–
 - (i) classified under these Regulations as being basic seed potatoes; or
 - (ii) approved by the Scottish Ministers as being equivalent to that class.
 - (d) Table IV applies to basic seed potatoes not produced in the United Kingdom–
 - (i) classified under these Regulations as being basic seed potatoes; or
 - (ii) approved by the Scottish Ministers as being equivalent to that class.

- (e) Table V applies to basic seed potatoes intended for markets outside the European Community.”; and
 (b) For Tables I to V, substitute–

TABLE I
 PRE-BASIC TC CLASS AND EQUIVALENT

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>
GROUP I	
Wart Disease (<i>Synchytrium endobioticum</i> (Schilb) Perc.)	NIL
Potato Tuber Eelworm (<i>Ditylenchus destructor</i> Thorne)	NIL
Potato Cyst Nematode (<i>Globodera</i> species infesting potatoes)	NIL
Ring Rot (<i>Clavibacter michiganensis</i> (Smith) Davis <i>et al</i> ssp. <i>Sepedonicus</i> (Spieck Kotth) Davis <i>et al.</i>)	NIL
Brown Rot (<i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i>)	NIL
Potato Tuber Moth (<i>Phthorimaea operculella</i> (Zell)	NIL
Potato Spindle Tuber Viroid	NIL
Colorado Beetle (<i>Leptinotarsa decemlineata</i> (Say))	NIL
GROUP II	
Blight (<i>Phytophthora infestans</i> (Mont) de Bary)	NIL
Blackleg (<i>Erwinia carotovora</i> (Jones) Bergey <i>et al.</i> ssp <i>atroseptica</i> (Hellmers & Dowson) Dye) or <i>Erwinia chrysanthemi</i> Burkholder <i>et al.</i> or both	NIL
Gangrene/Dry Rot/Wet Rot	NIL
Frost damaged tubers	NIL
GROUP III	
Skin spot (<i>Polyscytalum pustulans</i> (Owen & Wakefield) M. B. Ellis)	NIL
Black scurf (<i>Rhizoctonia solani</i> Kuhn)	NIL
Common scab (<i>Streptomyces</i> species)	NIL
Powdery scab (<i>Spongospora subterranea</i> (Wallr) Lagerh)	NIL
GROUP IV	
External blemishes or tubers other than diseased tubers whose shape is atypical for the variety	3%
Superficial necrosis caused by strains of potato virus Y	NIL
GROUP V	
Dirt or other extraneous matter	1%

TABLE II
 PRE-BASIC CLASS GENERATIONS 1 TO 4 AND EQUIVALENT

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>	<i>Column 3</i> <i>Group Tolerances</i>	<i>Column 4</i> <i>Collective Group Tolerances</i>	<i>Column 5</i> <i>Allowable % surface area cover</i>
GROUP I				
Wart Disease (<i>Synchytrium endobioticum</i> (Schilb) Perc.)	NIL	-	-	
Potato Tuber Eelworm (<i>Ditylenchus destructor</i> Thorne)	NIL	-	-	
Potato Cyst Nematode (<i>Globodera</i> species infesting potatoes)	NIL	-	-	

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>	<i>Column 3</i> <i>Group Tolerances</i>	<i>Column 4</i> <i>Collective Group Tolerances</i>	<i>Column 5</i> <i>Allowable % surface area cover</i>
Ring Rot (<i>Clavibacter michiganensis</i> (Smith) Davis <i>et al.</i> ssp. <i>Sepedonicus</i> (Spieck Kotth) Davis <i>et al.</i>)	NIL	-	-	
Brown Rot (<i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i>)	NIL	-	-	
Potato Tuber Moth (<i>Phthorimaea operculella</i> (Zell)	NIL	-	-	
Potato Spindle Tuber Viroid	NIL	-	-	
Colorado Beetle (<i>Leptinotarsa decemlineata</i> (Say))	NIL	-	-	
GROUP II				
Blight (<i>Phytophthora infestans</i> (Mont) de Bary)	0.2%	} 0.2%	}	
Blackleg (<i>Erwinia carotovora</i> (Jones) Bergey <i>et al.</i> ssp. <i>atroseptica</i> (Hellmers & Dowson) Dye) or <i>Erwinia chrysanthemi</i> Burkholder <i>et al.</i> or both	NIL			
Gangrene/Dry Rot/Wet Rot	0.2%			
Frost damaged tubers	0.2%			
GROUP III				
Skin spot (<i>Polyscytalum pustulans</i> (Owen & Wakefield) M. B. Ellis)	0.2%	} 3.0%	} 4.0%	
Black scurf (<i>Rhizoctonia solani</i> Kuhn)	1.0%			
Common scab (<i>Streptomyces</i> species)	3.0%			
Powdery scab (<i>Spongospora subterranea</i> (Wallr) Lagerh)	1.0%			
GROUP IV				
External blemishes or tubers other than diseased tubers whose shape is atypical for the variety	1.0%			
Superficial necrosis caused by strains of potato virus Y	NIL			
GROUP V				
Dirt or other extraneous matter	1.0%			

TABLE III
BASIC SEED POTATOES AND EQUIVALENT PRODUCED IN THE UK

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>	<i>Column 3</i> <i>Group Tolerances</i>	<i>Column 4</i> <i>Collective Group Tolerances</i>	<i>Column 5</i> <i>Allowable % surface area cover</i>
GROUP I				
Wart Disease (<i>Synchytrium endobioticum</i> (Schilb) Perc.)	NIL	-	-	

Column 1 Diseases, pests, damage and defects	Column 2 Individual Tolerances	Column 3 Group Tolerances	Column 4 Collective Group Tolerances	Column 5 Allowable % surface area cover
Potato Tuber Eelworm (<i>Ditylenchus destructor</i> Thorne)	NIL	-	-	
Potato Cyst Nematode (<i>Globodera</i> species infesting potatoes)	NIL	-	-	
Ring Rot (<i>Clavibacter michiganensis</i> (Smith) Davis <i>et al</i> ssp <i>sepedonicus</i> (Spieck.& Kotth) Davis <i>et al.</i>)	NIL	-	-	
Brown Rot (<i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i>)	NIL	-	-	
Potato Tuber Moth (<i>Phthorimaea operculella</i> (Zell)	NIL	-	-	
Potato Spindle Tuber Viroid	NIL	-	-	
Colorado Beetle (<i>Leptinotarsa decemlineata</i> (Say))	NIL	-	-	
GROUP II				
Blight (<i>Phytophthora infestans</i> (Mont) de Bary)	0.5%	} 0.5%	} 4.0%	
Blackleg (<i>Erwinia carotovora</i> (Jones) Bergey <i>et al.</i> ssp <i>atroseptica</i> (Hellmers & Dowson) Dye) or <i>Erwinia chrysanthemi</i> Burkholder <i>et al.</i> or both	0.5%			
Gangrene/Dry Rot/Wet Rot	0.5%			
Frost damaged tubers	0.5%			
GROUP III				
Skin spot (<i>Polyscytalum pustulans</i> (Owen & Wakefield) M. B. Ellis)	0.5% (2%*)	} 4.0%	} 12.5%	12.5%
Black scurf (<i>Rhizoctonia solani</i> Kuhn)	3.0%			
Common scab (<i>Streptomyces</i> species)	4.0%			
Powdery Scab (<i>Spongospora subterranea</i> (Wallr) Lagerh)	3.0%			
GROUP IV				
External blemishes or tubers other than diseased tubers whose shape is atypical for the variety	2.0%	} 2.0%	}	
Superficial necrosis caused by strains of potato virus Y	0.1%			
GROUP V				
Dirt or other extraneous matter	1.0%			

* Tolerances to be applied in the case of class A seed potatoes.

TABLE IV
BASIC SEED POTATOES AND EQUIVALENT NOT PRODUCED IN THE UK

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>	<i>Column 3</i> <i>Group Tolerances</i>	<i>Column 4</i> <i>Collective Group Tolerances</i>	<i>Column 5</i> <i>Allowable % surface area cover</i>
GROUP I				
Wart Disease (<i>Synchytrium endobioticum</i> (Schilb) Perc.)	NIL		-	
Potato Tuber Eelworm (<i>Ditylenchus destructor</i> Thorne)	NIL		-	
Potato Cyst Nematode (<i>Globodera</i> species infesting potatoes)	NIL		-	
Ring Rot (<i>Clavibacter michiganensis</i> (Smith) Davis <i>et al</i> ssp. <i>Sepedonicus</i> (Spieck Kotth) Davis <i>et al.</i>)	NIL		-	
Brown Rot (<i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i>)	NIL		-	
Potato Tuber Moth (<i>Phthorimaea operculella</i> (Zell)	NIL		-	
Potato Spindle Tuber Viroid	NIL		-	
Colorado Beetle (<i>Leptinotarsa decemlineata</i> (Say))	NIL		-	
GROUP II				
Dry and Wet Rot	0.5%			
GROUP III				
Common scab (<i>Streptomyces</i> species)	5.0%			33.0%
GROUP IV			6.0%	
External blemishes or tubers other than diseased tubers whose shape is atypical for the variety	3.0%			
Superficial necrosis caused by strains of potato virus Y	NIL			
GROUP V				
Dirt or other extraneous matter	2.0%			

TABLE V
BASIC SEED POTATOES INTENDED FOR MARKETS OUTSIDE THE EUROPEAN COMMUNITY

<i>Column 1</i> <i>Diseases, pests, damage and defects</i>	<i>Column 2</i> <i>Individual Tolerances</i>	<i>Column 3</i> <i>Group Tolerances</i>	<i>Column 4</i> <i>Collective Group Tolerances</i>	<i>Column 5</i> <i>Allowable % surface area cover</i>
GROUP I				
Wart Disease (<i>Synchytrium endobioticum</i> (Schilb) Perc.)	NIL	-	-	
Potato Tuber Eelworm (<i>Ditylenchus destructor</i> Thorne)	NIL	-	-	

Column 1 Diseases, pests, damage and defects	Column 2 Individual Tolerances	Column 3 Group Tolerances	Column 4 Collective Group Tolerances	Column 5 Allowable % surface area cover
Potato Cyst Nematode (<i>Globodera</i> species infesting potatoes)	NIL	-	-	
Ring Rot (<i>Clavibacter michiganensis</i> (Smith) Davis <i>et al</i> ssp <i>sepedonicus</i> (Spieck.& Kotth) Davis <i>et al.</i>)	NIL	-	-	
Brown Rot (<i>Ralstonia solanacearum</i> (Smith) Yabuuchi <i>et al.</i>)	NIL	-	-	
Potato Tuber Moth (<i>Phthorimaea operculella</i> (Zell)	NIL	-	-	
Potato Spindle Tuber Viroid	NIL	-	-	
Colorado Beetle (<i>Leptinotarsa decemlineata</i> (Say))	NIL	-	-	
GROUP II				
Rots including: Blight (<i>Phytophthora infestans</i> (Mont) de Bart)	0.2%	} 0.2%	}	
Blackleg (<i>Erwinia carotovora</i> (Jones) Bergey <i>et al.</i> ssp <i>atroseptica</i> (Hellmers & Dowson) Dye) or <i>Erwinia chrysanthemi</i> Burkholder <i>et al.</i> or both	0.2%			
Gangrene/Dry Rot/Wet Rot	0.2%			
GROUP III				
Skin spot (<i>Polyscytalum pustulans</i> (Owen & Wakefield) M. B. Ellis)	0.5%	} 1.5%	} 4.7%	12.5%
Black scurf (<i>Rhizoctonia solani</i> Kuhn)	1.5%			
Common scab (<i>Streptomyces</i> species)	1.5%			
Powdery Scab (<i>Spongospora subterranea</i> (Wallr) Lagerh)	1.5%			
GROUP IV				
External blemishes or tubers other than diseased tubers whose shape is atypical for the variety	1.0%	} 3.0%	}	
Superficial necrosis caused by strains of potato virus Y	0.1%			
External necrosis caused by other viruses	2.0%			
GROUP V				
Dirt or other extraneous matter	0.5%			

Amendment of Schedule 8

21. In Schedule 8 (particulars to be specified in a sale note etc.) in paragraphs 1 and 2–

- (a) after “Class” insert–
“Class generation (if shown on official label)”;
- (b) after “Size” insert–

“Field generation (if shown on official label)”; and
(c) for “Net weight” substitute “Declared net weight”.

Amendment of Schedule 9

22. In Schedule 9 (sampling) in paragraph (1) for “certificate of classification” substitute “crop inspection report” and for “certificate” where it later appears substitute “report”.

Transitional Provisions

23.—(1) An application for inspection of seed potatoes derived from source material classified prior to 1st January 2005 as being of a class, class generation and field generation shown in column 1 of the following Table may be made under regulation 4(2) of the principal Regulations at a class and class generation specified in the corresponding entry in column 2.

(2) On any application referred to in paragraph (1), seed potatoes derived from source material of a kind shown in column 1 of the following Table and to be inspected at a class and class generation shown in the corresponding entry in column 2, shall be treated for the purposes of the application as having satisfied the requirement of paragraph 1(a) of Schedule 2 to the principal Regulations.

TABLE
TRANSITIONAL PROVISIONS FOR VTSC CLASSIFIED SEED
POTATOES

<i>Column 1</i>	<i>Column 2</i>
VTSC 1 (one field generation)	Pre-basic 2, Super Elite 1, Elite 1
VTSC 1 (two field generations)	Pre-basic 3, Super Elite 1, Elite 1
VTSC 1 (three field generations)	Pre-basic 4, Super Elite 1, Elite 1
VTSC 2 (two field generations)	Pre-basic 3, Super Elite 1, Elite 1
VTSC 2 (three field generations)	Pre-basic 4, Super Elite 1, Elite 1
VTSC 2 (four field generations)	Super Elite 1, Elite 1

ROSS FINNIE
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
25th May 2005

SCHEDULE

“Regulations 2(1) and 4 and
Schedule 1, paragraph 2

SCHEDULE 3

PARTICULARS TO BE SPECIFIED IN A CROP INSPECTION REPORT

1. Name and address of the applicant
2. Name of the agricultural unit on which the crop was grown
3. Producer’s Identification Number
4. Crop Identification Number
5. “Pre-basic seed potatoes” or “Basic seed potatoes” (as appropriate)
6. Class and class generation
7. Community grade, where appropriate
8. Date on which crop inspection report was issued
9. Variety of the crop inspected
10. Area of the crop inspected
11. Location (O.S. No. or F.I.D. No.) of the field on which the crop was grown.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Seed Potatoes (Scotland) Regulations 2000 (S.S.I. 2000/201) (“the principal Regulations”), which have not previously been amended. The principal Regulations regulate the production, classification and marketing of seed potatoes in line with EC requirements. These Regulations amend the principal Regulations to implement Council Directive 2002/56/EC on the Marketing of Seed Potatoes (“the Directive”) (O.J. No. L193 20.07.2002, p.60., as last amended by Council Directive 2003/61/EC 18.06.2003 O.J. No L165, p.23), and which consolidated the much amended Directive 66/403/EEC (O.J. No L125, 11.7.66, p.154).

These Regulations–

- (a) make provision for the classification of seed potatoes by way of crop inspection report followed by labelling to permit producers to meet market demand in a manner that is compliant with the overall requirements of the Directive by marketing at the class stated in the report and all lower classes, thereby removing the restriction imposed by classification at a single class (regulations 4(g) and (i), 15(c) and the Schedule);
- (b) provide for the requirement for official sealing or sealing under official supervision in regulation 10 of the principal Regulations in accordance with Article 12 of the Directive (regulation 10);
- (c) remove the derogation in respect of official examination found under regulation 15 of the principal Regulations in accordance with Article 11(2) of the Directive (regulation 12);
- (d) remove the Virus Tested Stem Cutting (VTSC) class from the Seed Potato Classification Scheme and introduce two additional generations of class Pre-basic with an amended set of tolerances for the class (regulations 6, 16(b), 20 and 23);
- (e) introduce a number of revised tolerances for Super Elite and Elite seed potatoes and rename the Basic seed potato class “AA” to “A” (regulation 16(b));
- (f) introduce discretionary field generation markers to labels confirming the number of years that a stock has been grown in the field for the assistance of seed potato producers and buyers (regulations 4(d) and (g), 17, 19(b) and 21(b));
- (g) correct a technical omission from the principal Regulations by applying requirements as to varietal purity and size to seed potatoes produced outside Scotland which are approved by the Scottish Ministers as equivalent to basic seed potatoes (regulation 18(d)); and
- (h) apply the standards of the principal Regulations to seed potatoes produced in Scotland but shown to be intended for export to countries outside the European Community and introduce certain specific tuber tolerances in relation to such seed potatoes, without applying the requirement that a variety appear on the National List and the tolerance for variation in tuber size (regulations 5 and 20).

2005 No. 280

SEEDS

The Seed Potatoes (Scotland) Amendment Regulations 2005

£4.00

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Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
150 05/05 19593

ISBN 0-11-069585-2



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