



STATUTORY INSTRUMENTS.

S.I. No. 532 of 2011



EUROPEAN COMMUNITIES (SEED POTATOES) REGULATIONS 2011

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EUROPEAN COMMUNITIES (SEED POTATOES) REGULATIONS 2011

I, SIMON COVENEY, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of giving effect to Commission Directive 93/17/EEC of 30 March 1993¹, Council Directive 2002/56/EC of 13 June 2002² (as amended by Commission Decision 2003/66/EC of 28 January 2003³, Council Directive 2003/61/EC of 18 June 2003⁴, Commission Decision 2005/908/EC of 14 December 2005⁵ and Commission Decision 2008/973/EC of 15 December 2008⁶), Commission Decision 2004/3/EC of 19 December 2003⁷ and Commission Decision 2004/842/EC of 1 December 2004⁸, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Seed Potatoes) Regulations 2011.

Interpretation

2. (1) In these Regulations—

“authorised officer” means—

- (a) a person appointed under Regulation 14;
- (b) an officer of Customs and Excise, or
- (c) a member of an Garda Síochána;

“class” means—

- (a) in the case of seed potatoes produced in the State, the class specified on the official label attached to the container associated with those potatoes, being one of the classes entered in column 1 of Tables 1 and 2 in Schedule 1 for pre-basic and basic seed potatoes respectively, or
- (b) in relation to seed potatoes produced outside the State, the class specified on a label or document approved by the relevant authority in the country or place of origin, being a label attached to or document

¹O.J. L106, 30.4.1993, p. 7

²O.J. L193, 20.7.2002, p. 60

³O.J. L25, 30.1.2003, p. 42

⁴O.J. L165, 3.7.2003, p. 23

⁵O.J. L329, 16.12.2005, p. 37

⁶O.J. L345, 23.12.2008, p. 90

⁷O.J. L2, 6.1.2004, p. 47

⁸O.J. L362, 9.12.2004, p. 21

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 21st October, 2011.*

contained in the container in which pre-basic or basic seed potatoes are moved into the State;

“Common Catalogue” means the common catalogue of varieties of species of agricultural plants published in the Official Journal of the European Union in accordance with Council Directive 2002/53/EC of 13 June 2002⁹;

“Community grade” means one of the grades of basic seed potatoes (EC1, EC2 or EC3) established in accordance with Commission Directive 93/17/EEC of 30 March 1993;

“container” includes a sprouting tray, bag, box, crate or sack;

“crop inspection report” means a crop inspection report issued under Schedule 1;

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

“Directive 2001/18/EC” means Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001¹⁰ on the deliberate release into the environment of genetically modified organisms (as amended by Regulation 1829/2003/EC of the European Parliament and of the Council of 22 September 2003¹¹, Regulation 1830/2003/EC of the European Parliament and of the Council of 22 September 2003¹² and Directive 2008/27/EC of the European Parliament and of the Council of 11 March 2008¹³);

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

“national catalogue” means the National Catalogue of Agricultural Plant Varieties of species of agricultural plants established by the Minister in accordance with the European Communities (National Catalogue of Agricultural Plant Varieties) Regulations 2002 (S.I. No. 525 of 2002);

“official label” means a label which complies with Schedule 3 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 in the country or place of origin which meets the requirements of Article 13(1)(a) or 18(f) of the Directive or Article 9 of Commission Decision 2004/842/EC of 1 December 2004;

“potato” means any tuber or part of a tuber or any plant or part of a plant of *Solanum Tuberosum* L or any other tuber-forming species or hybrid of the genus *Solanum*;

⁹O.J. L193, 20.7.2002, p. 1

¹⁰O.J. L106, 17.4.2001, p. 1

¹¹O.J. L268, 18.10.2003, p. 1

¹²O.J. L268, 18.10.2003, p. 24

¹³O.J. L81, 20.3.2008, p. 45

“pre-basic seed potatoes” means—

- (a) in the case of seed potatoes produced in the State, seed potatoes for which a crop inspection report as test and trial seed potatoes has been issued, and not withdrawn or being a lot or part of a lot in a container which bears an official label for test and trial seed potatoes in accordance with Regulation 8, or
- (b) in the case of seed potatoes produced outside the State, seed potatoes moved into the State in a container which bears an official label stating that the potatoes therein were classified as seed potatoes of pre-basic category in the country or place of origin, if the arrangements applying to pre-basic seed potatoes in that country or place have been approved by the Minister as being equivalent to those applying in the State;

“pre-basic TC” (pre-basic tissue culture class seed potatoes) means—

- (a) in the case of seed potatoes produced in the State, seed potatoes directly derived by micropropagation and may be tissue culture plantlets or tubers of the first generation (mini-tubers),

and
- (b) in the case of seed potatoes produced outside the State, seed potatoes approved by the Minister as being equivalent to pre-basic TC seed potatoes produced in the State;

“premises” includes land (including land under water) with or without buildings, a vehicle (including a boat, ship, hovercraft, aircraft or offshore installation (being an offshore installation within the meaning of the Safety, Health and Welfare (Offshore Installations) Act 1987 (No. 18 of 1987)), railway wagon, container or other thing used in connection with, or ancillary to, such a thing;

“Regulation 1829/2003/EC” means Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003;

“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;

“sell” includes offer, expose or keep for sale, invite an offer to buy, or distribute for reward or otherwise (whether directly or through another person);

“supply” means to give without reward but does not include supply of seed potatoes to an official testing and inspection body or temporary supply for the purpose of processing or packaging seed potatoes on behalf of the supplier;

“test and trial seed potatoes” means—

- (a) in the case of seed potatoes produced in the State, seed potatoes for which a crop inspection report as test and trial seed potatoes has been issued, and not withdrawn or being a lot or part of a lot in a container which bears an official label for test and trial seed potatoes in accordance with Regulation 8, or
 - (b) in the case of seed potatoes produced outside the State, seed potatoes which have been moved into the State in a container which bears an official label in accordance with Article 9 of Commission Decision 2004/842/EC and to or in which a label or document, approved by the relevant authority in the country or place of origin, has been attached or placed stating that, on examination, the potatoes satisfied the minimum conditions for basic seed potatoes of a Community grade;
- (2) A word or expression used in these Regulations and also used in an act of the institutions of the European Union cited in the preamble or paragraph (1) has, unless the contrary intention appears, the meaning in these Regulations that it has in the act of the institutions of the European Union in which it occurs.

Exemptions

3. (1) These Regulations do not apply to seed potatoes which are shown to the satisfaction of the Minister to be intended for export to a third country.

(2) Nothing in these Regulations prevents lots of seed potatoes which do not comply with Schedule 4 being sorted, if the tubers which are not rejected undergo a further examination by an authorised officer to ensure that the lots remaining after sorting comply with that Schedule.

Sale or supply of seed potatoes

4. (1) A person shall not sell or supply seed potatoes other than—

- (a) pre-basic seed potatoes,
- (b) basic seed potatoes of a Community grade, or
- (c) test and trial seed potatoes.

(2) A person shall not sell or supply seed potatoes—

- (a) as being of a class superior to the class stated in the crop inspection report relating to those potatoes,
- (b) other than in a lot consisting wholly of seed potatoes of one class,
- (c) other than in a lot which meets the requirements as to varietal purity and size specified in Schedule 2 in relation to a lot of that class,
- (d) which have been treated with a product which is primarily for inhibiting germination, or

(e) other than in—

- (i) a new container, or
- (ii) subject to the approval of the Minister, a previously used container, which has been cleaned and disinfected since it was last used.

(3) A person shall not sell or supply genetically modified seed potatoes unless it is clearly indicated in the sales catalogue, information or representations provided by the seller or supplier, that the seed potatoes are genetically modified.

(4) A person who imports a container containing a net weight of more than 2 kilograms of seed potatoes produced in a country other than a Member State shall not sell or supply the seed potatoes unless that person provides the Minister with the information specified in Schedule 5.

Certification

5. (1) The Minister may make a seed potato certification scheme and may amend or replace a scheme.

(2) Certification of seed potatoes within the State shall be carried out in accordance with a seed potato certification scheme.

(3) Following inspection by an authorised officer, the Minister may certify seed potatoes as pre-basic seed potatoes, basic seed potatoes or test and trial seed potatoes, if

- (a) a crop inspection report has been issued for the seed potatoes in accordance with Schedule 1 and has not been withdrawn, and
- (b) the seed potatoes do not exceed tolerances for diseases or pests, damage or defects specified in Schedule 4.

(4) An official label is sufficient evidence that the seed potatoes to which the official label relates are certified.

(5) An application for certification of seed potatoes shall be made in accordance with a seed potato certification scheme.

(6) The Minister may refuse an application if the application is not accompanied by the fee (if any) set in accordance with Regulation 13.

Community grading of basic seed potatoes

6. (1) An authorised officer shall grade basic seed potatoes produced and sold or supplied for use in the State into Community grades.

(2) An authorised officer may grade basic seed potatoes produced in the State and sold or supplied for use outside the State, which fulfil the requirements of a Community grade, into that Community grade.

Sale or supply of seed potatoes for scientific, test and trial purposes

7. (1) A person shall not sell or supply—
- (a) seed potatoes for tests or trials carried out at agricultural enterprises to gather information on the cultivation or use of a variety of potato species, or
 - (b) small quantities of seed potatoes for scientific purposes or selection work, except in accordance with an authorisation (“scientific authorisation”).
- (2) The Minister may grant a scientific authorisation, attach conditions to the authorisation, revoke an authorisation or refuse an application.
- (3) An application for a scientific authorisation shall be in a form and be accompanied by such information as the Minister may require.
- (4) The Minister shall not grant a scientific authorisation in respect of an application to which paragraph (1)(a) applies unless the seed potatoes subject to the application—
- (a) are of a variety for which an application has been made for entry in to the national catalogue and which application has not been withdrawn or determined, and
 - (b) satisfy the minimum conditions set out for a Community grade.
- (5) The holder of a scientific authorisation shall make returns to the Minister regarding—
- (a) the results of the tests or trials to which the authorisation relates, or
 - (b) the quantities of seed potatoes sold or supplied during the currency of the scientific authorisation and the Member State for which the seed potatoes were intended.
- (6) The holder of a scientific authorisation shall not sell or supply seed potatoes—
- (a) in excess of the amount permitted by Article 7 of Commission Decision 2004/842/EC,
 - (b) which contain genetically modified material unless an authorisation is in force for the purposes of Part C of Directive 2001/18/EC or Regulation 1829/2003/EC, or
 - (c) if sale or supply would contravene a prohibition or condition issued by the Minister in accordance with Article 14 of Decision 2004/842/EC.
- (7) A scientific authorisation is valid for a period not exceeding one year.

(8) A scientific authorisation to which paragraph (1)(a) applies ceases to have effect if the variety of seed potato to which the authorisation relates is entered in the national catalogue or the Common Catalogue.

(9) The Minister may refuse an application or revoke a scientific authorisation if, in the opinion of the Minister—

- (a) a condition attached to an authorisation has not been complied with,
- (b) it is necessary for the protection of plant health or the environment, or
- (c) it is necessary, ancillary or supplementary for an act of the institutions of the European Union to have full effect.

(10) If the Minister proposes to revoke a scientific authorisation, or to refuse an application, he or she shall—

- (a) notify the applicant or holder of the scientific authorisation in writing of the proposal and of the reasons for the proposal, and that he or she may make representations to the Minister in relation to the proposal within 14 days of the notification,
- (b) consider a representation made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the applicant or holder of the scientific authorisation of the decision and the reasons for the decision.

Labelling of seed potatoes

8. (1) A person shall not sell or supply a container of seed potatoes unless—

- (a) there is attached to the outside an official label meeting the requirements of Schedule 3, issued in relation to those potatoes, and
- (b) the official label referred to in subparagraph (a) is of wear and tear resistant or adhesive material or the label particulars are indelibly printed on the container, or the container contains the official document required by Article 13(1)(b) of the Directive.

(2) An application for an official label or an official document shall be made to the Minister with such information in such form and in such manner as he or she may require.

(3) A person shall not, in connection with the issue of an official label or official document, supply any information that is false in a material respect.

(4) A person shall not sell or supply seed potatoes that have been treated with a chemical product unless the type and function or the proprietary name of that product is stated on a label attached to the container and on a document contained in the container.

(5) A person shall not sell or supply a genetically modified variety of seed potatoes unless all labels, whether official or otherwise, attached to each lot of that variety and a document contained in the container, clearly indicate that the variety has been genetically modified.

(6) A person shall not sell or supply seed potatoes contained in a container that has been re-sealed in accordance with Regulation 9(2) unless the official label states—

- (a) that the container has been re-sealed,
- (b) the date of re-sealing, and
- (c) the authority responsible for re-sealing.

(7) A person shall not wilfully remove, deface, conceal or misuse an official label or another label attached to, or document contained in, a container of seed potatoes.

(8) This Regulation and Regulations 4(2)(e), 9 and 11 do not apply to a sale by retail of less than 50 kg of pre-basic or basic seed potatoes—

- (a) if at the time of sale there is displayed conspicuously on or in close proximity to the seed potatoes a statement of the particulars specified in Regulation 11, or
- (b) in a new container upon which is printed, or otherwise legibly and indelibly marked, or attached to or inserted therein a label marked with the particulars specified in Regulation 11.

Sealing of containers

9. (1) A person shall not sell or supply a container of pre-basic, basic or test and trial seed potatoes unless it is sealed with an unbroken sealing device, 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.

(2) If a sealing device on a container is broken, a person shall not re-seal the container unless under the supervision of an authorised officer.

(3) For the purposes of this Regulation a “sealing device” means a device applied in a manner that the container cannot be opened without damaging the system of closing or leaving evidence of tampering either on the container or on the official label.

Withholding or withdrawal of official label

10. The Minister may withhold or withdraw an official label in respect of a lot or a part of a lot if he or she is satisfied that—

- (a) the lot does not comply with Schedule 2 in relation to a lot of seed potatoes of the class stated on the label,

- (b) the seed potatoes in the lot exceed a tolerance for disease, pest, damage or defect specified in the table applicable to those potatoes set out in Schedule 4,
- (c) an official label contains a particular which is false in a material respect, or
- (d) there has been any other failure to comply with these Regulations in respect of the seed potatoes.

Particulars of sale

11. A person who sells or supplies seed potatoes shall issue to the purchaser not later than 14 days after delivery thereof, a sale note, delivery note, invoice or similar document specifying in relation to the seed potatoes sold or supplied the following particulars:

- (a) name and address of the seller,
- (b) declared Net weight (except for pre-basic TC seed potatoes),
- (c) variety,
- (d) category,
- (e) genetically modified (if appropriate),
- (f) class (for pre-basic and basic seed potatoes),
- (g) class generation — if shown on official label (for pre-basic and basic seed potatoes),
- (h) Community Grade (if applicable),
- (i) size (except for pre-basic TC seed potatoes),
- (j) crop identification number, and
- (k) particulars of any chemical treatment.

Records and information

12. (1) A person who produces seed potatoes shall maintain for a period of 2 years records of purchase of seed potatoes for planting and particulars of the crops grown and of the sale or supply of the produce of those crops.

(2) A person who sells or supplies seed potatoes produced by another person shall maintain for a period of 2 years, records of the sale or supply of such seed potatoes.

(3) A person who produces or sells or supplies seed potatoes or otherwise has or had seed potatoes in his or her possession or in his or her charge shall, if so required in writing by an authorised officer, give within 7 days any information he or she may possess as to the person in whose possession or under

whose charge they are or have been and shall produce for examination by an authorised officer any declarations, certificates, reports, labels, records, invoices or other documents relating to the planting, examination, inspection or sale or supply of seed potatoes.

Fees

13. (1) The Minister may set fees for examination, inspection, certification and carrying out tests and different fees may be set for different examinations, inspections, certificates or tests.

(2) A fee payable under this Regulation may be recovered by the Minister as a simple contract debt in a court of competent jurisdiction or by deducting the costs from any sum due by the Minister to a person to whom the fee is payable.

(3) A fee payable under this Regulation shall not exceed an amount equal to the cost, estimated by the Minister, of performing the function to which the fee relates.

(4) A fee under this Regulation shall be disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

Appointment of authorised officer

14. (1) The Minister may, by instrument in writing, appoint such and so many persons or a class of persons as he or she thinks fit to be authorised officers for the purposes of some or all of the functions of an authorised officer as may be specified in the instrument.

(2) The Minister may terminate the appointment of an authorised officer appointed by him or her and the Minister may terminate an appointment under paragraph (1), whether or not the appointment was for a fixed period.

(3) An appointment as an authorised officer ceases-

(a) if it is terminated pursuant to paragraph (2),

(b) if it is for a fixed period, on the expiry of that period, or

(c) if the person appointed is an officer of the Minister upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom paragraph (3) relates.

(5) An officer of the Minister shall furnish an authorised officer (other than an officer of Customs and Excise or member of an Garda Síochána) with a warrant of his or her appointment as an authorised officer and, when exercising a power conferred on him or her, the officer, officer of Customs and Excise or member of an Garda Síochána shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer or member to the person.

Functions of authorised officer

15. (1) If an authorised officer has reasonable cause to suspect that—
- (a) seed potatoes or a vessel, vehicle or trailer used in connection with seed potatoes is present, has been present or may be present on a premises,
 - (b) seed potatoes are or have been kept, processed, stored or otherwise dealt with on a premises,
 - (c) seed potatoes or a vessel, vehicle or trailer, equipment, plant or machinery used in connection with seed potatoes has been held in possession or control, imported, exported, processed, stored or otherwise dealt with in contravention of an act of an institution of the European Union,
 - (d) a document relating to seed potatoes referred to in subparagraph (a), (b) or (c) is present, was present or may be present on a premises,

the authorised officer may enter the premises and he or she may—

- (i) search the premises,
- (ii) stop a vehicle, vessel or container,
- (iii) board and search a vehicle, vessel or container,
- (iv) examine seed potatoes, a vehicle, vessel, container, equipment, machinery or other thing,
- (v) take, without payment, samples of seed potatoes or an article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (vi) require the production of a document (including a document in non-legible form in a legible form) or thing relating to these Regulations, vehicle, vessel, container, equipment, machinery or other thing,
- (vii) retain a document or thing (for so long as is necessary),
- (viii) make a record using any means including writing, photography or video,
- (ix) give a direction to, or request information of, a person regarding seed potatoes, a vessel, vehicle, container, machinery, equipment, premises or other thing as he or she considers necessary,

- (x) require the name and address of a person and the name and address of any other person including the owner of, or person to whom seed potatoes or other thing is being delivered or who is causing it to be delivered,
- (xi) require of a person the ownership, identity and origin of seed potatoes, a vessel, vehicle, container, equipment, machinery or other thing,
- (xii) require a person in charge or control of a vessel, vehicle or container to refrain from moving it,
- (xiii) carry out surveys or programmes as may be required by an act of the institutions of the European Union,
- (xiv) mark or otherwise identify seed potatoes, a vessel, vehicle, machinery, equipment or other thing or a sample taken under subparagraph (d)(v).

(2) If an authorised officer has reasonable cause to suspect that—

- (a) an offence is being or has been committed under these Regulations,
- (b) a contravention of an act of the institutions of the European Union is being or has been committed, or
- (c) evidence of an offence or contravention to which subparagraph (a) or (b) relates may be, is or has been on a premises,

the authorised officer may, in addition to the powers exercisable by him or her under paragraph (1)—

- (i) seize and detain seed potatoes, a vessel, vehicle, container, equipment, machinery or other thing, or
- (ii) dispose of, or require the owner or person in charge of or in possession of seed potatoes to deal with or dispose of it (or any equipment, machinery, plant or other thing used in connection with, or that may have been in contact with a thing) in a manner that the authorised officer sees fit.

(3) An authorised officer may use reasonable force, if necessary, in the exercise of his or her powers under this Regulation.

(4) An authorised officer, when exercising a power under this Regulation may be accompanied by other persons and may take with him or her any equipment or materials to assist the officer in the exercise of the power.

(5) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under this Regulation if the court

is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(6) Without prejudice to the generality of paragraph (1), a direction or requirement of an authorised officer may include conditions prohibiting, restricting or otherwise controlling the use, processing or movement of seed potatoes, a vessel, vehicle, container, equipment, machinery or other thing as may be specified by the authorised officer.

(7) If a member of an Garda Síochána has reasonable grounds to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

(8) If, in the course of exercising any powers under these Regulations, an authorised officer finds or comes into possession of any thing that the officer believes to be evidence of an offence or suspected offence, it may be seized and retained for use in evidence in criminal proceedings.

(9) Nothing in these Regulations operates to prejudice a power conferred by another enactment to search, or to seize or detain property, which may be exercised by a member of an Garda Síochána or an officer of Customs and Excise.

Search warrant

16. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting—

- (a) an offence is being or has been committed under Regulations made under the European Communities Act 1972 to which these Regulations apply,
- (b) a contravention of an act of the institutions of the European Union is being or has been committed,
- (c) evidence of an offence or contravention or intended contravention to which subparagraph (a) or (b) relates may be, is or has been on a premises,
- (d) there is or was a thing to which these Regulations relates or equipment or other thing made, used or adapted for use (including manufacture and transport) in connection with seed potatoes, or
- (e) a document or other record related to a thing to which subparagraph (a), (b), (c) or (d) refers is or may be on the premises,

the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so

requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle, vessel or aircraft named in the warrant.

(3) If a premises is entered under a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Obstruction

17. A person who—

- (a) obstructs or impedes an authorised officer in the exercise of his or her powers under Regulation 15,
- (b) fails, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulation 15, or
- (c) in purporting to give information to an authorised officer for the performance of the officer's powers under Regulation 15—
 - (i) makes a statement that he or she knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or
 - (ii) fails to disclose a material particular,

commits an offence.

Forgery

18. (1) A person shall not forge or alter, or utter, knowing it to be forged or altered with intent to defraud or deceive, an official label or other document issued for the purposes of these Regulations, a record purporting to be kept and maintained under these Regulations or a document purporting to be an extract from such a document (hereafter in this Regulation referred to as “a forged or altered document”).

(2) A person shall not have, without lawful authority, in his or her possession or control a forged or altered document.

Compliance notice

19. (1) If an authorised officer has reasonable grounds to suspect that—

- (a) seed potatoes do not conform to these Regulations,
- (b) an offence is or has been committed under these Regulations,
- (c) an act of the institutions of the European Union is not being or has not been complied with or there are reasons to believe that an act of the institutions of the European Union will not be complied with,
- (d) it is necessary for the protection of human health or the environment including the prevention, control or eradication of a disease, or

- (e) it is necessary, ancillary or supplementary for an act of the institutions of the European Union to have full effect,

he or she may serve or cause to be served on the owner or person who appears to be in charge, possession or control of potatoes or a premises a notice, (“compliance notice”) stating that opinion and directing that—

- (i) seed potatoes, or any potatoes derived from such seed potatoes, be dealt with in a manner specified in the compliance notice,
- (ii) such alterations be made to a premises or operations at a premises as the officer specifies in the compliance notice,
- (iii) seed potatoes, or any potatoes derived from such seed potatoes, be disposed of in such manner as the officer specifies in the compliance notice,
- (iv) a specified operation or activity cease on a premises,
- (v) a specified operation or activity takes place only in a manner specified in the compliance notice,
- (vi) a specified type or level of sampling and analysis be undertaken for a period specified in the compliance notice, or
- (vii) a specified operation or activity may only be carried out under and in accordance with such terms and conditions as are specified in the compliance notice.

(2) A person shall comply with a compliance notice or a requirement of a compliance notice unless and until the compliance notice is annulled under Regulation 20.

(3) A requirement contained in a compliance notice shall specify a time limit within which the compliance notice is to be complied with.

(4) A requirement specified in a compliance notice (in this paragraph referred to as “the earlier compliance notice”) may be amended or withdrawn by a further compliance notice in writing and the earlier compliance notice has effect subject to such amendment or withdrawal.

(5) A compliance notice, whether amended under paragraph (4) or not, may require the owner or person in charge of potatoes to choose between one or more of the requirements specified in the compliance notice and that person shall comply with the alternative requirement that he or she chooses.

Appeal against compliance notice

20. (1) A person affected by a compliance notice may, within 7 days of service of the compliance notice, apply to the Judge of the District Court having jurisdiction in the District Court District where the potatoes are located or to the Judge of the District Court having jurisdiction in the District Court District

where the person ordinarily resides on the grounds that the compliance notice or any term of the compliance notice is not reasonable, having regard to the objectives of the Directive, or these Regulations (in this Regulation referred to as “an appeal”).

(2) An appeal may be heard at any sitting of the District Court within the appropriate District Court Area.

(3) A person making an appeal shall serve notice of the appeal, which shall contain a statement of the grounds upon which it is alleged that the compliance notice or any term of the compliance notice is unreasonable having regard to the objectives of the Directive, or these Regulations, on the Minister at least 48 hours prior to the hearing of the appeal and a copy of the notice of appeal shall be lodged with the appropriate District Court Clerk.

(4) On the hearing of an appeal, a Judge of the District Court may confirm, with or without modification, or annul a compliance notice.

(5) A person, including a person on whom a compliance notice is served, shall not—

- (a) pending the determination of an appeal, deal with potatoes to which a compliance notice relates other than under and in accordance with the compliance notice, or
- (b) after the appeal, deal with potatoes to which a compliance notice relates other than under and in accordance with the compliance notice or compliance notice as modified.

Emergency measures

21. (1) If—

- (a) a person, by act or omission, fails to comply, whether within the time specified or otherwise, with a compliance notice (including a compliance notice modified in accordance with Regulation 20(4)), or
- (b) an authorised officer has reasonable cause to suspect that—
 - (i) a compliance notice (including a compliance notice modified in accordance with Regulation 20(4)) is not or will not be complied with, or
 - (ii) pending the determination of an appeal, a premises or potatoes to which the compliance notice relates is not or will not be dealt with in accordance with Regulation 20(5),

an authorised officer may seize and detain potatoes in a manner that he or she thinks fit and sell or dispose of the potatoes in a manner that the authorised officer considers appropriate.

(2) Subject to paragraph (4), the proceeds of the sale or disposal of potatoes under paragraph (1) shall be paid to the owner of the potatoes as soon as may be after such sale or disposal and after a person has satisfied the Minister that he or she is the owner or otherwise entitled to the proceeds of the sale or disposal of the potatoes.

(3) The costs of seizure, sale or disposal of potatoes under this Regulation is recoverable by the Minister—

- (a) as a simple contract debt in a court of competent jurisdiction, or
- (b) by deducting the costs from any sum due by the Minister to a person on whom a compliance notice has been served.

(4) The costs of any action required by a compliance notice shall be borne by the owner of a premises or potatoes to which the compliance notice relates.

Service

22. (1) A compliance notice or a direction or requirement of an authorised officer (if in written form) shall, subject to paragraph (2), be addressed to the person concerned by name and may be served on a person—

- (a) by giving it to the person,
- (b) by leaving it at the address at which the person ordinarily resides or, if an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, where an address for service has been furnished, at that address,
- (d) by electronic communication,
- (e) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the compliance notice relates to a premises, by delivering a copy to the premises or by affixing a copy in a conspicuous position on or near the premises, or
- (f) if the Minister or an authorised officer considers that the immediate giving of the compliance notice, direction or requirement of an authorised officer (if in written form) is required, by sending a copy, by means of a facsimile machine, to a device or facility for the reception of facsimiles located at the address at which the person ordinarily resides or carries on business or, if an address for the service of compliance notices has been furnished by the person, that address, provided that the sender's facsimile machine generates a message confirming successful transmission of the total number of pages of the compliance notice.

(2) If a compliance notice is to be served on or given to a person who is the owner or occupier of a premises and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words “the owner” or “the occupier”.

(3) A person shall not, at any time within 6 months after a compliance notice is affixed under paragraph (1)(e), remove, damage or deface the compliance notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Acts is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

Offences

23. (1) A person who contravenes Regulation 4, 7(1), 7(5), 7(6), 8, 9(1), 9(2), 11, 12, 18, 19, 20(5) or 22(3) commits an offence and is liable on summary conviction, to a class A fine.

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

(3) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of, or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purported to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she was guilty of the offence.

(4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

Evidence on certificate etc

24. (1) In proceedings for an offence under these Regulations, a certificate purported to be signed by a person employed at a laboratory, if a sample taken under these Regulations is analysed, stating the capacity in which the person is employed and stating—

- (a) that the person received a sample,
- (b) that, for the period specified in the certificate, the person had the sample in his or her possession,
- (c) that the person gave the sample to another person named in the certificate, or
- (d) the person carried out a procedure for the purpose of detecting in the sample, a substance or contamination or that the sample contained a substance as is, or was contaminated in a manner specified in the certificate,

is (without proof of the signature of the person or that he or she is employed at the laboratory), unless the contrary is proved, evidence of the matters stated in the certificate.

(2) A certificate purporting to be signed by an officer of the Minister and to certify that on a specific day or days or during the whole of a specified period—

- (a) a person was or was not the holder of an approval granted under Regulation 7, or
- (b) that a particular approval, referred to in this paragraph, was subject to a particular condition or conditions,

is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Minister, evidence, unless the contrary is shown, of the matters stated in the certificate.

(3) In proceedings for an offence under these Regulations the court may, if it considers that the interests of justice so require, direct that oral evidence of any matter stated in a certificate under paragraphs (1) or (2) be given, and the court may for the purpose of receiving oral evidence adjourn the matter.

(4) In proceedings, evidence of an act of the institutions of the European Union may be given by production of a copy of the act certified by an officer of the Minister to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.

(5) Paragraph (4) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Fixed penalty notice

25. (1) If an officer of the Minister, authorised by the Minister in that behalf, has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations, he or she may serve a notice in writing on that person stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days from the date of the notice make to the Minister a payment of €250 accompanied by the notice, and
- (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) If notice is given under paragraph (1)—

- (a) a person to whom the notice applies may make the payment as specified in the notice,
- (b) the Minister may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under these Regulations, the onus of proving that a payment pursuant to a notice under this Regulation has been made lies on the defendant.

Revocation and saver

26. (1) The European Communities (Seed Potatoes) Regulations 2010 (S.I. No. 492 of 2010) are revoked.

(2) Any reference to the European Communities (Seed Potatoes) Regulations 2010 (S.I. No. 492 of 2010) shall be construed as a reference to these Regulations.

SCHEDULE 1

*Regulations 2(1)
and 5(3)*GROWING CROP REQUIREMENTS AND SOURCE MATERIAL FOR
PLANTING

1. Following examination of the crop, an authorised officer may issue a crop inspection report for the potatoes—

- (a) as being pre-basic or basic seed potatoes of a class and, where appropriate, class generation specified in column 1 of Table 1 (pre-basic seed potatoes) or Table 2 (basic seed potatoes) of this Schedule where that officer is satisfied that—
 - (i) the seed potatoes are derived from source material of the kind specified in the entry in column 2 corresponding to that class and, where appropriate, class generation,
 - (ii) the other requirements specified in the entry in column 3 corresponding to that class and, where appropriate, class generation have been met,
 - (iii) on a sample, any of the tolerances specified in the entry in column 4 corresponding to that class and, where appropriate, class generation have not been exceeded, and
 - (iv) the seed potatoes are of a variety—
 - (I) listed in the national catalogue or in the Common Catalogue and which has not been notified in writing by the Minister as being unacceptable for certification, or
 - (II) registered in a catalogue maintained by another Member State which corresponds to the national catalogue and the Minister is satisfied that such variety of seed potatoes is equivalent to a variety which would be accepted for registration in the national catalogue, or
- (b) as being test and trial seed potatoes where that officer is satisfied that—
 - (i) the seed potatoes meet the requirements set out in paragraph 1(a)(i) to (iii), and
 - (ii) the seed potatoes are of a variety for which an application has been submitted, but not withdrawn or finally determined, for acceptance in to the national catalogue.

A crop inspection report shall assign an identification number to the crop and shall state the highest class at which the seed potatoes may be sold or supplied.

A crop inspection report may be withdrawn by the Minister if an authorised officer is satisfied that seed potatoes to which the report relates do not comply with these Regulations.

2. Any tolerance in column 4 of Table 1 or Table 2 expressed as a percentage is a reference to the number of growing plants affected by the disease or varietal impurity calculated as a percentage of the total number of plants in the sample.

TABLE 1
PRE-BASIC SEED POTATOES

Column 1	Column 2	Column 3	Column 4
Class	Source Material	Other Requirements	Tolerances
Pre-basic TC (PBTC)	Nuclear stock (initial propagating material tested and maintained free from pathogens in a manner acceptable to the Minister) or other source material notified in writing by the Minister as being acceptable source material for this class	The seed potatoes shall— (a) be grown in a unit officially approved for production of Pre-basic TC, and (b) be 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; (vi) <i>Dickeya</i> spp.— nil.
Class Pre-basic; Class generation 1 (PB1)	(a) Stock produced in the preceding growing season that was classified as PBTC, (b) stock produced in the preceding growing season which was eligible for classification as PBTC but was not classified and was retained by the grower and for which a crop inspection report was issued and not withdrawn, or (c) seed potatoes notified in writing by the Minister as being acceptable source material for this class.	The seed potatoes shall— (a) be grown and entered for certification by a person whose facilities, planting arrangements and record keeping procedures are acceptable to the Minister, (b) be sufficiently isolated from potato crops of a lower health status in order to prevent the transmission of disease from such crops, and (c) have had the foliage destroyed by a date notified to the owner or the owner's agent by an authorised officer.	(i) Deviations from variety and type and groundkeepers — nil; (ii) severe mosaic — nil; (iii) leafroll— nil; (iv) mild mosaic— nil; (v) blackleg— nil; (vi) <i>Dickeya</i> spp.— nil.

Column 1	Column 2	Column 3	Column 4
Class	Source Material	Other Requirements	Tolerances
Class Pre-basic; Class generation 2 (PB2)	(a) Stock produced in the preceding growing season that was classified as PB1, or (b) stock produced in the preceding growing season which was eligible for classification as PB1 but was not classified and was retained by the grower and for which a crop inspection report was issued and not withdrawn.	As for PB1	As for PB1
Class Pre-basic; Class generation 3 (PB3)	(a) Stock produced in the preceding growing season that was classified as PB2, or (b) stock produced in the preceding growing season which was eligible for classification as PB2 but was not classified and was retained by the grower and for which a crop inspection report was issued and not withdrawn.	As for PB1	As for PB1
Class Pre-basic; Class generation 4 (PB4)	(a) Stock produced in the preceding growing season that was classified as PB3, (b) stock produced in the preceding growing season which was classified under the European Communities (Seed Potatoes) Regulations 1980 (S.I. No. 343 of 1980) as Foundation Seed 1 (FS1), or (c) stock produced in the preceding growing season which was eligible for classification as PB3 but was not classified and was retained by the grower and for which a crop inspection report was issued and not withdrawn.	As for PB1	As for PB1

TABLE 2

BASIC SEED POTATOES

Column 1	Column 2	Column 3	Column 4
Class	Source Material	Other Requirements	Tolerances
Class Super Elite; Class generation 1 (SE1); Community grade EC2	(a) Stock produced in the preceding growing season that was classified as PB4 or higher, (b) stock produced in the preceding growing season which was classified under the European Communities (Seed Potatoes) Regulations 1980 (S.I. No. 343 of 1980) as Foundation Seed 1 (FS1) or Foundation Seed 2 (FS2), (c) stock produced in the preceding growing season which was eligible for classification as PB4 or higher but was not classified and was retained by the grower and for which a crop inspection report was issued and not withdrawn, or (d) Seed potatoes notified in writing by the Minister as being acceptable source material for this class.	The seed potatoes shall— (a) be sufficiently isolated from potato crops below the standard of Super Elite in order to prevent the transmission of disease from such crops, and (b) have had the foliage of the plants destroyed by the date notified to the owner of the crop or the owner's agent by an authorised officer.	(i) Deviations from variety and type and groundkeepers — 0.05%; (ii) leafroll and severe mosaic — 0.01%; (iii) mild mosaic — 0.05%; (iv) blackleg— 0.25% (v) <i>Dickeya</i> spp.— nil.
Class Super Elite; Class generation 2 (SE2); Community grade EC2	(a) Stock produced in the preceding growing season that was classified as SE1, or (b) stock produced in the preceding growing season which was eligible for classification as SE1 but was not classified and was retained by the grower and for which a crop inspection report was issued and not withdrawn.	As for SE1.	As for SE1.

Column 1	Column 2	Column 3	Column 4
Class	Source Material	Other Requirements	Tolerances
Class Super Elite; Class generation 3 (SE3); Community grade EC2	(a) Stock produced in the preceding growing season that was classified as SE2, or (b) stock produced in the preceding growing season which was eligible for classification as SE2 but was not classified and was retained by the grower and for which a crop inspection report was issued and not withdrawn.	As for SE1.	As for SE1.
Class Elite; Class generation 1 (E1); Community grade EC2	(a) Stock produced in the preceding growing season that was classified as SE3 or higher, including stock classified under the European Communities (Seed Potatoes) Regulations 1980 (S.I. No. 343 of 1980) as FS1 or FS2, or (b) stock produced in the preceding growing season which was eligible for classification as SE3 or higher but was not classified and was retained by the grower and for which a crop inspection report was issued and not withdrawn, or (c) Seed potatoes notified in writing by the Minister as being acceptable source material for this class.	The seed potatoes shall— (a) be sufficiently isolated from potato crops below the standard of Elite in order to prevent the transmission of disease from such crops, and (b) have had the foliage of the plants destroyed by the date notified to the owner of the crop or the owner's agent by an authorised officer.	(i) Deviations from variety and type and groundkeepers— 0.05%; (ii) total virus disease (leafroll, severe mosaic and mild mosaic) — 0.5% of which not more than 0.1% (in total) shall be leafroll and severe mosaic; (iii) blackleg — 0.5%; (iv) <i>Dickeya</i> spp.— nil.

Column 1	Column 2	Column 3	Column 4
Class	Source Material	Other Requirements	Tolerances
Class Elite; Class generation 2 (E2); Community grade EC2	(a) Stock produced in the preceding growing season that was classified as E1, or (b) stock produced in the preceding growing season that was classified under the European Communities (Seed Potatoes) Regulations 1980 (S.I. No. 343 of 1980) as E and had been classified as SE3 or higher in the season prior to that, or (c) stock produced in the preceding growing season which was eligible for classification as E1 but was not classified and was retained by the grower and for which a crop inspection report was issued and not withdrawn.	As for E1	As for E1
Class Elite; Class generation 3 (E3); Community grade EC2	(a) Stock produced in the preceding growing season that was classified as E2, or (b) stock produced in the preceding growing season that was classified under the European Communities (Seed Potatoes) Regulations 1980 (S.I. No. 343 of 1980) as E and had been classified as SE3 or higher two seasons prior to that, or (c) stock produced in the preceding growing season which was eligible for classification as E2 but was not classified and was retained by the grower and for which a crop inspection report was issued and not withdrawn.	As for E1	As for E1

Column 1	Column 2	Column 3	Column 4
Class	Source Material	Other Requirements	Tolerances
Class H; Community grade EC3	(a) Stock produced in the preceding growing season that was classified as E or higher, (b) stock produced in the preceding growing season which was eligible for classification as E or higher but was not classified and was retained by the grower and for which a crop inspection report was issued and not withdrawn, (c) seed potatoes notified in writing by the Minister as being acceptable source material for this class, or (d) seed potatoes which have been found to meet the requirements of Commission Directive 93/17/EEC and which have been designated by the relevant authority in the country or place of origin as Community grade EC 1 or EC 2.	The seed potatoes shall— (a) be sufficiently isolated from potato crops below the standard of Class H in order to prevent the transmission of disease from such crops; and (b) have had the foliage of the plants destroyed by the date notified to the grower of the crop or the owner's agent by an authorised officer.	(i) Deviations from variety and type and groundkeepers-0.1%; (ii) total virus disease — 0.8% of which not more than 0.4% shall be leafroll and severe mosaic; (iii) blackleg—1.0%; (iv) <i>Dickeya</i> spp.—nil.

SCHEDULE 2

VARIETAL PURITY AND SIZE REQUIREMENTS

1. For the purpose of these Regulations, size requirements are expressed in terms of upper and lower size limits, which are defined as follows:

“lower size limit” means the dimensions of the largest square mesh through which the smallest tuber does not pass, and

“upper size limit” means the dimensions of the largest square mesh through which the largest tuber does not pass.

2. The size of seed potatoes must be stated as—

- (a) the dimensions of the square mesh through which the tubers do not pass, where the lower size limit and the upper size limit are the same, or
- (b) the lower size limit and the upper size limit, where these are not the same.

3. Seed potatoes other than seed potatoes of pre-basic TC class, or seed potatoes grown in a glasshouse and identified as such on the official label, must have a minimum size such that they do not pass through a square mesh of 25 millimetres x 25 millimetres.

4. The maximum variation in size between tubers must be such that the difference between the lower size limit and the upper size limit is 25 millimetres.

5. Dimensions of more than 35 millimetres must be stated to the nearest five millimetres.

6. A lot of seed potatoes is deemed to have met the requirements of a class specified in column 1 of Table 1—

- (a) for varietal purity, if official examination of a sample or samples taken by an authorised officer found that the tolerance for varietal purity in column 2 of Table 1 was not exceeded, and
- (b) for size, if official examination of a sample or samples taken in accordance by an authorised officer found that the tolerance for size in column 3 of Table 1 was not exceeded.

TABLE 1
TOLERANCES

Column 1	Column 2	Column 3
Class	Tolerance for varietal purity	Tolerance for Size
Pre-basic TC	No tubers of a variety or varieties other than the variety stated on the official label	Size limits are not set for this class
Pre-basic	Not more than 0.01% by weight of tubers of a variety or varieties other than the variety stated on the official label	Not more than 3% by weight of tubers smaller than the lower size limit or larger than the upper size limit stated on the official label
Basic classes — Super Elite, Elite and Class H	Not more than 0.1% by weight of tubers of a variety or varieties other than the variety stated on the official label	

SCHEDULE 3

OFFICIAL LABELS

1. An official label affixed or to be affixed to—
 - (a) a container of basic seed potatoes of classes Super Elite, Elite or Class H shall be predominantly white,
 - (b) a container of pre-basic seed potatoes of classes Pre-basic tissue culture or Pre-basic shall be white with a diagonal violet line, and
 - (c) a container of test and trial seed potatoes shall be orange.
2. An official label shall not measure less than 110mm by 67mm in size.
3. An official label shall state the following particulars—
 - The words “EC Rules and Standards” (for basic and test and trial seed potatoes);
 - Official authority and Member State, or their initials;
 - Country of production;
 - Category (for pre-basic and basic seed potatoes);
 - Crop identification number;
 - Species indicated at least in Roman characters under its botanical name, which may be given in abridged form and without the authors’ names or under its common name or both;
 - Variety or denomination of the variety indicated in at least Roman characters;
 - Genetically modified (if appropriate);
 - Class (for pre-basic and basic seed potatoes);
 - Class generation (for pre-basic and basic seed potatoes — unless otherwise requested by the applicant);
 - Community grade (as appropriate) (for basic seed potatoes);
 - Size;
 - Month and year when the container was officially sealed;
 - Declared Net Weight.
4. An official label or document for test and trial seed potatoes shall also have the markings—
 - (a) “variety not yet officially listed”, and
 - (b) “for test and trials only”.

SCHEDULE 4

*Regulations 3(2),
5(3)(b) and 10(b)*TOLERANCES FOR DISEASES, PESTS, DAMAGE AND DEFECTS IN
SEED POTATO TUBERS

1. For the purposes of these Regulations—

(a) Table 1 applies—

- (i) to seed potatoes classified under these Regulations as being of the class Pre-basic TC, or
- (ii) to seed potatoes produced outside the State which are approved by the Minister as being equivalent to that class;

(b) Table 2 applies—

- (i) to seed potatoes classified under these Regulations as being of the classes Pre-basic 1, 2, 3 or 4, or
- (ii) to seed potatoes produced outside the State which are approved by the Minister as being equivalent to those classes;

(c) Table 3 applies to basic seed potatoes produced in the State—

- (i) classified under these Regulations as being of the classes Super Elite, Elite or Class H,
- (ii) approved by the Minister as being equivalent to those classes, or
- (iii) classified under these Regulations as test and trial seed potatoes;

(d) Table 4 applies to basic seed potatoes produced outside the State—

- (i) classified under these Regulations as being of the classes Super Elite, Elite or Class H,
- (ii) approved by the Minister as being equivalent to those classes, or
- (iii) classified under these Regulations as test and trial seed potatoes.

2. Subject to paragraph (3), any tolerance in a column of any of the tables in this schedule expressed as a percentage is a reference to the weight of potatoes affected by the disease, pest, damage or defect calculated as a percentage of the total weight of the sample taken by an authorised officer.

3. In the case of dirt or other extraneous matter, any tolerance in a column of any of the tables in this schedule expressed as a percentage is a reference to the weight of such matter calculated as a percentage of the total weight of the sample taken by an authorised officer.

4. Individual tolerances entered in Column 2 of Tables 1, 2, 3 and 4 relate to the disease, pest, damage or defect entered in Column 1 on the same row of the same table. Group tolerances entered in Column 3 of Tables 2 and 3 relate to the diseases, pests, damage or defects entered in Column 1 of the same table under the corresponding Group heading. Collective group tolerances entered in Column 4 of Tables 2, 3 and 4 relate to the diseases, pests, damage or defects entered in Column 1 of the same table under the corresponding Group headings.

5. (1) Subject to paragraph (2), an authorised officer may deem a potato in any sample of seed potatoes not to be affected by a disease in Group 3 applicable to a potato of that class, set out in Column 1 of Tables 2, 3 or 4 when, in the officer's opinion—

- (a) the surface area of the potato affected by the disease is less than the percentage surface area in the entry corresponding to the disease in Column 5 of the table, and
- (b) the potato has at least two eyes at the rose end wholly unaffected by the disease.

(2) Paragraph (1) shall not apply when the disease Powdery Scab (*Spongiospora subterranea* (Wallr.) Lagerh.) takes its cankerous form.

TABLE 1

PRE-BASIC TC CLASS AND EQUIVALENT

Column 1	Column 2
Diseases, pests, damage and defects	Individual Tolerances
Group 1	
Wart Disease (<i>Synchytrium endobioticum</i> (Schilb.))	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 2	
<i>Dickeya</i> spp.	NIL
Blight (<i>Phytophthora infestans</i> (Mont.) de Bary)	NIL
Blackleg (<i>Pectobacterium</i> spp.)	NIL
Gangrene (<i>Phoma</i> species)/Dry Rot (<i>Fusarium</i> species)/Wet Rot	NIL
Frost damaged tubers	NIL

Column 1	Column 2
Diseases, pests, damage and defects	Individual Tolerances
Group 3	
Skin Spot (<i>Polyscytalum pustulans</i> (Owen & Wakefield) M.B. Ellis)	NIL
Black Scurf (<i>Rhizoctonia solani</i> Kuhn)	NIL
Powdery Scab (<i>Spongospora subterranea</i> (Wallr) Lagerh)	NIL
Common Scab (<i>Streptomyces</i> species)	NIL
Group 4	
Blemishes such as damaged or misshapen tubers	3%
Group 5	
Dirt or other extraneous matter	1%

TABLE 2

PRE-BASIC CLASSES AND EQUIVALENT

Column 1	Column 2	Column 3	Column 4	Column 5
Diseases, Pests, Damage and Defects	Individual Tolerances	Group Tolerances	Collective Group Tolerances	Allowable % surface area cover
Group 1				
Wart Disease (<i>Synchytrium endobioticum</i> (Schilb.))	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			

Column 1	Column 2	Column 3	Column 4	Column 5	
Diseases, Pests, Damage and Defects	Individual Tolerances	Group Tolerances	Collective Group Tolerances	Allowable % surface area cover	
Group 2					
<i>Dickeya</i> spp.	NIL	} 0.2%	} 5.0%		
Blight (<i>Phytophthora infestans</i> (Mont.) de Bary)	0.2%				
Blackleg (<i>Pectobacterium</i> spp.)	NIL				
Gangrene (<i>Phoma</i> species)/ Dry Rot (<i>Fusarium</i> species)/ Wet Rot	0.2%				
Frost damaged tubers	0.2%				
Group 3					
Skin Spot (<i>Polyscytalum pustulans</i> (Owen & Wakefield) M. B. Ellis)	0.2%	} 5.0%			
Black Scurf (<i>Rhizoctonia solani</i> Kuhn)	1.0%				12.5%
Powdery Scab (<i>Spongospora subterranea</i> (Wallr.) Lagerh.)	1.0%				12.5%
Common Scab (<i>Streptomyces</i> species)	5.0%			33.0%	
Group 4					
Blemishes such as damaged or misshapen tubers	3.0%				
Group 5					
Dirt or other extraneous matter	1.0%				

Note: The collective group tolerance in Column 4 applies to Groups 2, 3 and 4 in Column 1.

TABLE 3

BASIC SEED POTATO CLASSES AND EQUIVALENT, INCLUDING
TEST AND TRIAL SEED POTATOES, PRODUCED IN THE STATE

Column 1	Column 2	Column 3	Column 4	Column 5
Diseases, Pests, Damage and Defects	Individual Tolerances	Group Tolerances	Collective Group Tolerances	Allowable % surface area cover
Group 1				
Wart Disease (<i>Synchytrium endobioticum</i> (Schilb.))	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			

Column 1	Column 2	Column 3	Column 4	Column 5	
Diseases, Pests, Damage and Defects	Individual Tolerances	Group Tolerances	Collective Group Tolerances	Allowable % surface area cover	
Group 2					
<i>Dickeya</i> spp.	NIL	} 0.5%	} 5.0%		
Blight (<i>Phytophthora infestans</i> (Mont.) de Bary)	0.5%				
Blackleg (<i>Pectobacterium</i> spp.)	0.5%				
Gangrene (<i>Phoma</i> species)/ Dry Rot (<i>Fusarium</i> species)/ Wet Rot	0.5%				
Frost damaged tubers	0.5%				
Group 3					
Skin Spot (<i>Polyscytalum pustulans</i> (Owen & Wakefield) M. B. Ellis)	2.0%	} 5.0%			12.5%
Black Scurf (<i>Rhizoctonia solani</i> Kuhn)	3.0%				12.5%
Powdery Scab (<i>Spongospora subterranea</i> (Wallr.) Lagerh.)	3.0%				12.5%
Common Scab (<i>Streptomyces</i> species)	5.0%			33.0%	
Group 4					
Blemishes such as damaged or misshapen tubers	3.0%				
Group 5					
Dirt or other extraneous matter	1.0%				

Note: The collective group tolerance in Column 4 applies to Groups 2, 3 and 4 in Column 1.

TABLE 4

BASIC SEED POTATO CLASSES AND EQUIVALENT, INCLUDING
TEST AND TRIAL SEED POTATOES PRODUCED OUTSIDE THE
STATE

Column 1	Column 2	Column 3	Column 4	Column 5
<i>Diseases, pests, damage and defects</i>	Individual Tolerances	Group Tolerances	Collective Group Tolerances	Allowable % surface area cover
Group 1				
Wart Disease (<i>Synchytrium endobioticum</i> (Schilb.))	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 2				
<i>Dickeya</i> spp.	NIL		} 6.0%	
Dry Rot (<i>Fusarium</i> species) and Wet Rot	0.5%			
Group 3				
Common Scab (<i>Streptomyces</i> species)	5.0%			33.3%
Group 4				
Blemishes such as damaged or misshapen tubers	3.0%			
Group 5				
Dirt or other extraneous matter	2.0%			

SCHEDULE 5

Regulation 4(4)

PARTICULARS TO BE PROVIDED IN RESPECT OF SEED POTATOES
PRODUCED OUTSIDE THE EUROPEAN COMMUNITY

1. Species
2. Variety
3. Category
4. Country of production and inspection authority
5. Country of dispatch
6. Importer
7. Quantity of seed potatoes



Given under my Official Seal,
13 October 2011.

SIMON COVENEY,
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).

These Regulations replace S.I. No. 492/2010 — European Communities (Seed Potatoes) Regulations 2010, which concern the production, certification and marketing of seed potatoes.

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