STATUTORY INSTRUMENTS

1970 No. 1287 (S.106)

PLANT HEALTH

The Examination of Seed Potatoes (Scotland) Order 1970

Made - - -	*27th August* 1970
Laid before Parliament	*9th September* 1970
Coming into Operation	*14th September* 1970

In exercise of the powers conferred upon me by section 3 of the Plant Health Act 1967(**a**) as read with section 92(2) of, and Part II of Schedule 3 to, the Criminal Justice Act 1967(**b**), and of all other powers enabling me in that behalf, I hereby make the following order :—

Citation, extent and commencement

1. This order may be cited as the Examination of Seed Potatoes (Scotland) Order 1970, shall apply to Scotland only and shall come into operation on 14th September 1970.

Interpretation

2.—(1) In this order, unless the context otherwise requires—

"damage" in relation to seed potatoes, means damage as a result of frost, pit rot or bruising, or arising in any other way likely to cause or allow the spread of any specified pest ;

"inspector" means an inspector authorised in writing by the Secretary of State for the purposes of this order ;

"premises" means any land or building, other than a private dwelling-house, and includes any railway station, harbour, dock, airport, vehicle, vessel or aircraft ;

"specified pests" means the pests specified in Column 1 of Schedule 1 to this order.

(2) Any reference in this order to seed potatoes to which this order applies shall be construed as a reference to seed potatoes obtained from crops grown in Scotland.

(3) Any reference in this order to harmful matter shall be construed as a reference to soil or other extraneous matter by which any specified pest may be spread and for the purposes of this order potatoes shall be taken to be affected by harmful matter when the container in which they are packed contains harmful matter, whether or not adhering to the potatoes.

(4) Any reference in this order to a tolerance in relation to potatoes comprised in a sample shall be construed—

(*a*) in relation to potatoes in the sample affected by a specified pest, damage or any combination of such pests or damage, as a reference to

(**a**) 1967 c. 8. (**b**) 1967 c. 80.

the proportion of a weight of potatoes so affected to the total weight of the sample, expressed as a percentage ;

(*b*) in relation to potatoes in the sample affected by harmful matter, as a reference to the proportion of a weight of such matter to the total weight of the sample, expressed as a percentage ;

(*c*) in relation to potatoes in the sample affected by a specified pest, damage, or any combination of such pests or damage and by harmful matter, as a reference to the proportion of an aggregate weight of potatoes so affected and of such matter to the total weight of the sample, expressed as a percentage.

(5) The Interpretation Act 1889(**a**) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament and as if this order and the order hereby revoked were Acts of Parliament.

Revocation

3. The Examination of Seed Potatoes (Scotland) Order 1963(**b**) is hereby revoked.

Information regarding seed potatoes

4. Every person who has or has had in his possession or under his charge any seed potatoes to which this order applies and every person who as auctioneer, salesman or otherwise has sold or offered for sale any such potatoes shall, if so required by notice served upon him by the Secretary of State or by an inspector, give to the Secretary of State or inspector, as the case may be, within the time specified in such notice, being not less than 7 days beginning with the date of service of the notice, such information as he possesses as to the persons who have or have had the said potatoes in their possession or under their charge :

Provided that any information given by virtue of the provisions of this article shall not be available as evidence against the person giving the same in any proceedings under this order, except in respect of an alleged failure to comply with this article.

Action to prevent and control the spread of pests in seed potato stocks

5.—(1) An inspector, upon production if so required, of his authority, may for the purposes of this order, enter any premises on which he has reason to believe that seed potatoes to which this order applies are to be found and examine and take samples, in accordance with Schedule 2 to this order, of any such potatoes ; and the inspector may also for such purposes examine any containers of the seed potatoes in such a sample and take samples of any harmful matter in any such containers or on such seed potatoes.

(2) For the purposes of paragraph (1) of this article the power to take samples shall be deemed to include the power to remove examples for scientific examination.

6.—(1) Where, following an examination under this order, an inspector is satisfied that any seed potatoes to which this order applies are not substantially free from the specified pests, damage, or harmful matter, or from any combination thereof, the inspector may serve a notice on the person who has the said potatoes in his possession or charge informing him accordingly and requiring him—

(**a**) 1889 c. 63. (**b**) S.I. 1963/1547 (1963 III, p. 2922).

(*a*) not to move the said potatoes from the premises specified in the notice except in accordance with the written consent of an inspector, or

(*b*) to move the said potatoes within the time specified in the notice to such premises as may be so specified and thereafter not to move the said potatoes from those premises except as aforesaid.

(2) A notice served on a person by an inspector under paragraph (1) of this article, or a further notice served by an inspector under this paragraph on a person on whom a notice has been served under the said paragraph (1), may require that person to carry out on the premises and within the time specified in the notice such measures as the inspector considers appropriate and as are so specified to prevent the spread of the specified pests from the seed potatoes to which the notice served under paragraph (1) of this article relates.

(3) Without prejudice to the provisions of the immediately preceding paragraph the measures specified in any notice under paragraph (1) or (2) of this article may include one or more of the following, that is to say—

(*a*) the dressing or redressing of the seed potatoes to which it relates ;

(*b*) the repacking of the said potatoes in new or different bags or other containers ;

(*c*) the destruction of any bags or other containers which have been in contact with the said potatoes ;

(*d*) the destruction of all of the said potatoes or such of them as are specified in the notice ;

(*e*) the disinfection of such premises as are specified in the notice ;

(*f*) the disinfection of such seed potatoes as are specified in the notice and as are on such premises as may be so specified ;

(4) The measures specified in any notice under this article shall—

(*a*) not be departed from in any way, except in accordance with the written consent of an inspector ;

(*b*) be completed within the time specified in the notice ; and

(*c*) be carried out to the satisfaction of an inspector and by and at the expense of the person on whom the notice has been served.

(5) For the purposes of paragraph (1) of this article the expression "substantially free" means that on a sample of such potatoes, taken in accordance with Schedule 2 to this order, it is ascertained that the potatoes are not affected by—

(*a*) any of the specified pests in excess of the tolerances respectively set out opposite each of the said pests in Column 2 of Schedule 1 to this order ;

(*b*) a combination of any of the specified pests set out in Group II of Column 1 of said Schedule 1 in excess of the tolerance set out opposite that Group in Column 3 of that Schedule.

(*c*) a combination of any of the specified pests set out in Group IV of Column 1 of said Schedule 1 in excess of the tolerance set out opposite that Group in Column 3 of that Schedule ;

(*d*) a combination of any of the specified pests set out in Group II of Column 1 of said Schedule 1 with any of the specified pests set out in Group III or IV of Column 1 of that Schedule in excess of the tolerance set out opposite those Groups in Column 4 of such Schedule ;

(*e*) any damage in excess of a tolerance of 3 per centum ;

(*f*) any harmful matter in excess of a tolerance of 3 per centum ;

(*g*) any combination of damage and harmful matter in excess of a tolerance of 5 per centum ;

(*h*) a combination of any of the specified pests set out in Column 1 of said Schedule 1 with any damage or harmful matter in excess of a tolerance of 5 per centum.

(6) For the purposes of paragraph (5) of this article and in relation to any of the following specified pests, that is to say, Black Scurf, Common Scab, Powdery Scab and Skin Spot, a potato shall not be deemed to be affected by any of the said pests unless (i) one quarter or more of its surface area has been affected by that pest, or (ii) notwithstanding that less than one quarter of its surface area has been so affected, it does not have at least 2 eyes at the rose end wholly unaffected by the pest.

7. Where, following an examination under this order, an inspector is not satisfied that any seed potatoes to which this order applies are not substantially free from the specified pests or damage but has reason to believe that the said potatoes may be, or may within a period of 14 days beginning with the date of such examination become, so affected, the inspector may serve on the person who has the said potatoes in his possession or charge such a notice as is referred to in article 6(1) hereof but there shall be specified in the notice a period not exceeding 14 days beginning with the date of service of the notice during which the said potatoes may not be moved from the premises specified in such notice except in accordance with the written consent of an inspector.

Evidence and form of service of notices

8.—(1) In any proceedings under this order, no proof shall be required of the appointment or handwriting of an inspector.

(2) Every notice under this order shall be in writing.

(3) Any notice authorised or required by or under this order to be served on any person shall be duly served if it is delivered to him or left at his proper address or sent to him by post.

Offences and penalties

9.—(1) Every person who wilfully obstructs or impedes an inspector in the exercise of his powers under this order or who does any act in contravention of this order or of any notice served thereunder, or who fails to do any act which he is required to do by this order or by any such notice or who fails to give information as required by article 4 of this order shall be guilty of an offence against this order.

(2) A person guilty of an offence against this order shall be liable on conviction to a penalty not exceeding £100 or in respect of a second or subsequent offence to a penalty not exceeding £200.

Gordon Campbell,
One of Her Majesty's Principal
Secretaries of State.

St. Andrew's House,
Edinburgh.
27th August 1970.

Articles 2(1) and 6(5) SCHEDULE 1

SPECIFIED PESTS AND TOLERANCES

Column 1	Column 2	Column 3	Column 4
Specified Pests	Individual Tolerances	Group Tolerances	Collective Group Tolerances
Group I:			
Wart Disease (Synchytrium endobioticum)	Nil	—	—
Tuber Rot Eelworm (Ditylenchus destructor)... ...	Nil	—	—
Potato Cyst Eelworm (Heterodera rostochiensis) ...	Nil	—	—
any of the other pests referred to in article 6 of the Importation of Potatoes (Health) (Great Britain) Order 1964(a)	Nil	—	—
Group II:			
Blight (Phytophthora infestans)	2%	2%	3%
Blackleg (Erwinia carotovora var. atroseptica)	2%		
Soft Rots (including (i) Watery Wound Rot (Pythium ultimum) (ii) Pink Rot (Phytophthora erythroseptica))	2%		
Dry Rot (Fusarium species)	2%		
Gangrene (Phoma foveata and species)	2%		
Group III:			
Skin Spot (Oospora pustulans)	2%		
Group IV:			
Black Scurf (Rhizoctonia solani)	3%	3%	
Common Scab (Streptomyces species)	3%		
Powdery Scab (Spongospora subterranea)...	3%		

(a) S.I. 1964/409 (1964 I, p. 674).

SCHEDULE 2 Articles 5(1) and 6(5)

SAMPLING

1. If the bulk consists of seed potatoes (*a*) comprising more than one consignment, or (*b*) associated with more than one certificate issued under a scheme for the inspection of growing crops of potatoes authorised by the Secretary of State for Scotland, it shall be divided so that each consignment or, as the case may be, the quantity of potatoes associated with each such certificate constitutes a separate lot and each lot shall be separately sampled.

2. Where the total quantity of the seed potatoes being sampled separately does not exceed 25 kilogrammes all the potatoes shall be examined.

3. Where the said total quantity exceeds 25 kilogrammes there shall be examined all the seed potatoes in a sample, the said sample being selected as follows:—

(*a*) *Seed potatoes packed in containers (other than bags) of 50 kilogrammes or less or in bags*

From lots not exceeding 5 metric tons, at least one bag or container in twenty shall be selected at random, the sample so selected being not less than 25 kilogrammes. From lots exceeding 5 metric tons, a sample of at least 250 kilogrammes shall be selected at random.

(*b*) *Seed potatoes packed in containers (other than bags) of more than 50 kilogrammes or unpacked*

From lots not exceeding 5 metric tons at least one-twentieth of the weight of the lot shall be selected at random, the sample so selected being not less than 25 kilogrammes. From lots exceeding 5 metric tons, a sample of at least 250 kilogrammes shall be selected at random.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order revokes and re-enacts with modifications the Examination of Seed Potatoes (Scotland) Order 1963. It provides for check inspections of seed potatoes to be made on farms and other premises in Scotland and for control of the movement and treatment of potatoes found to be unsatisfactory on inspection. Like its predecessor, the Order specifies the pests from which the potatoes should be substantially free and inspection standards and sampling procedure are prescribed in schedules to the Order. Additionally, the Order provides for the control of potatoes which are affected by damage or packed in containers containing more than a specified tolerance of soil or other matter by which pests may be spread.

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