EXECUTIVE NOTE TO

THE SEED POTATOES (SCOTLAND) AMENDMENT REGULATIONS 2007
SSI 2007 No.418

Introduction

1. The above instrument is made in exercise of the powers conferred by sections 16(1) to (5) and 36 of the Plant Varieties and Seeds Act 1964. As required by section 16(1) of the 1964 Act a consultation exercise was undertaken in 2006. The instrument is subject to negative resolution procedure.

Policy Objective

2. The purpose of this instrument is to make further amendments to the Seed Potatoes (Scotland) Regulations 2000 ("the principal Regulations") which provide for the marketing of seed potatoes in Scotland.

3. This instrument provides for the introduction of provisions allowing the marketing of seed potatoes for test and trial purposes. Commission Decision 2004/842/EC lays down the rules which allow a Member State the opportunity to grant an authorisation to place on the market seed of varieties of agricultural plant and vegetable species for test and trial purposes[1]. An application for National Listing of the variety must have been made before an application to market for this purpose may be submitted.

4. This instrument also provides for a change in the way the derogations for common scab will be dealt with from the seed potato marketing season 2007-2008 onwards. During the seed potato marketing season of 2005-2006 the way in which derogation requests for common scab were considered by Scottish Ministers attracted some comment. Following this it was agreed with the industry that the procedures should be reviewed and consideration given to the way in which such requests were handled in future seasons. Stakeholder organisations were offered a choice of 4 options in the consultation paper. Following the consultation process no consensus view emerged from the industry. Scottish Ministers then agreed that a hybrid solution consisting of 2 of the options in the paper offered the best solution.

5. The hybrid solution involves the common scab tolerance for Basic grade seed potatoes of Classes Super Elite and Elite being maintained at the current level (4% of the tubers with more than 25% of the surface area affected) and with the lowest Class A tolerance relaxed to the EU minimum standard of 5% of the tubers with more than 33% surface area affected. The relaxation of the Class A common scab tolerance would permit growers to

[1] Article 5(4) of the 2004 Commission Decision provides that test and trial seed potatoes must comply with the conditions laid down in Annexes I and II to Directive 2002/56/EC for certified seed potatoes. However, under Commission Decision 2004/3/EC of 19th December 2003 (O.J. No. L 2, 6.1.2004 p. 47) ("the 2003 Commission Decision"), the United Kingdom is authorised to restrict the marketing of seed potatoes in Scotland to basic seed potatoes (of the Community Grades specified in Article 1 of the 2003 Commission Decision). Test and trial seed potatoes marketed in Scotland must therefore satisfy the minimum source, tolerance, purity and size requirements for basic seed potatoes.

market their Basic grade seed provided it met the EU standard even in a season where the common scab levels are elevated. This approach avoids the need for Scottish Ministers to exercise their discretion under the principal Regulations to grant derogations. Class A has long operated as a "fall grade" and such seed potatoes cannot be entered for classification but can be marketed for ware production.

6. This is not being applied to the much smaller Pre-basic stage of seed potato production. There is no applicable EU standard for such potatoes. The principal Regulations introduced national Pre-basic standards including one for common scab at a tighter tolerance than for Basic grade of 3% with more than 25% of the surface affected. This reflects the view that as Pre-basic are higher up the multiplication chain that quality standards should generally be higher. However with common scab this need not be so as it does not transfer from mother to daughter tubers and it would make little sense to preclude otherwise healthy tubers at these early stages in the multiplication chain when numbers are generally low. To allow the further multiplication of Pre-basic seed potatoes the tolerance for common scab is being relaxed to the EU minimum of 5% of tubers with more than 33% surface area affected.

7. This instrument makes 4 minor corrections to the principal Regulations. A change is being made to the percentage of seed potatoes which are under/over sized in a lot. Schedule 4(4)(a) of the principal Regulations currently specifies 2% but as the Directive 2002/56/EC specifies 3% the figure in the principal Regulation is being amended. The term "EC Rules and Standards" is to be deleted from Schedule 6, paragraph 1 (2)(b) for pre-basic seed potatoes and a derogation including in Schedule 6, paragraph 2(2)(b) introduced to remove the same requirement from crops of basic seed potatoes destined for third countries. The tolerance for dirt or other extraneous matter in Schedule 7, Table IV, Group V of the principal Regulations is to be changed from 2% to 1% to be in line with the requirement in Commission Directive 1993/17/EEC.

Timing

8. The Regulations will come into force on 30 September 2007.

Financial effects

9. The financial effect of these Regulations on the seed potato industry is difficult to quantify as it will depend on the number of growing seasons when common scab levels are high. We will be monitoring the situation closely. In the circumstances no Regulatory Impact Assessment has been prepared.

Agriculture Division - Rural Directorate
5 September 2007