

EXECUTIVE NOTE

THE PLANT HEALTH (POTATOES) (SCOTLAND) ORDER 2006 S.S.I. 2006/319

Introduction

1. The above instrument is made in exercise of powers conferred by sections 3 and 4(1) of the Plant Health Act 1967 as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972. The instrument is subject to negative resolution procedure.

Policy Objective

2. Scotland enjoys an enviable reputation as a producer of quality seed and ware potatoes and the proposed new provisions introduced by the above instrument will help maintain Scotland's high plant health status in this area by strengthening SEERAD's ability to respond to threats which could undermine it. Representative organisations and Scottish businesses which trade in potatoes have been consulted on the measures proposed and have indicated their support.

The Order gives SEERAD new powers to require:

- Notification of all potatoes for planting
- Compulsory burning down of the haulm of virus affected potato crops; and
- Treatment of potato dumps for Potato blight.

Further information about each of these provisions is given below as are details of the extension of the application of provisions in Regulation 6 of the Seed Potatoes (Scotland) Regulations 2000 to farm-saved seed potatoes. This latter provision will regulate the contact between farm-saved seed potatoes and any non-related ware potatoes.

Notification of potatoes for planting

3. At present SEERAD does not have access to current information on potato crops planted in Scotland. While information is collected on seed potatoes planted for the production of further seed potatoes under the Scottish Seed Potato Classification Scheme (SPCS) there are no means of gathering current data for basic seed potatoes planted for ware production or in respect of farm-saved seed potatoes planted for ware. We are therefore introducing, from 1 January 2007 (to coincide with 2007 planting), a statutory requirement for anyone in Scotland who plants a crop of potatoes (basic seed and farm-saved seed), measuring 0.1 hectare or greater in size, to notify Scottish Ministers within 28 days of planting along with a list of prescribed information.

Compulsory burning down of the haulm of virus affected potato crops

4. Article 39 of the Plant Health (Scotland) Order 2005 prohibits the planting in Scotland of potatoes other than those that may be marketed in Scotland under the Seed Potatoes (Scotland) Regulations 2000 or one year's direct progeny of such potatoes. This statutory requirement is enforced by SEERAD inspectors carrying out random checks on ware crops for documentary evidence (*ie*, official labels or certificate of classification/crop inspection report). Inspectors occasionally encounter potato crops which exhibit substantial virus infection which pose a serious threat to neighbouring crops and for which the grower is able to produce apparently valid documentation. Where such documentation is missing and

where the crop exhibits virus in excess of what is expected from crops derived from legally planted material and presents a plant health risk to other potato crops, an inspector has power in the 2005 Order to require the destruction of the haulm of the affected crop. It has been concluded, however, that this power is in itself insufficient to safeguard the virus health of Scottish potato crops.

5. It is therefore intended to take an explicit power, with effect from 1 July 2006, to require by statutory notice served upon the grower of a potato crop that they take immediate action (within 72 hours of the service of a notice) to ensure the destruction of the haulm of the potato crop which in the opinion of a SEERAD inspector is affected by potato aphid-borne virus at a level greater than 4% and which in the opinion of the inspector presents a risk of the virus spreading to other potato crops.

6. We have also taken a power, should the grower fail to take such action within the period of time prescribed in the notice, for an inspector to appoint someone to effect destruction of the haulm and to recover the cost of this from the grower.

7. A reasonable opportunity would be given to the grower to bring the crop into compliance with the legislation, including where appropriate the effective “rogueing” of the crop, *ie* removal of virus-affected plants. Any decision to require the destruction of the haulm of the crop would be taken only after laboratory confirmation that the crop was affected by an aphid-borne virus and a review of the merits of the case by SEERAD’s Assistant Chief Agricultural Officer.

Treatment of potato dumps for Potato blight

8. Potato blight remains a major scourge of the potato. The British Potato Council (BPC) regards tackling blight as a major objective. The evidence suggests that potato dumps are still the main source of inoculum for late blight in Great Britain. The BPC further recognises that it is vital, if the industry is to reduce the burden of blight on potato crops in this country, that steps are taken to reduce the amount of inoculum that is present. Better control of blight on potato dumps would be a major step to achieving this.

9. We have therefore taken powers to require potato growers and occupiers of land on which waste potato material is kept to take action on potato dumps in order to help prevent the spread of blight. Hitherto, SEERAD inspectors could only advise growers to take action in the interests of protecting their own and neighbouring crops.

10. The Order will provide SEERAD inspectors with new powers with effect from 1 July 2006 which will allow them to require action to prevent the spread of potato blight from potato dumps. Such action would include, but would not be restricted to, removal, chemical treatment or cover with an appropriate form of impermeable material.

11. We have also taken a power, should the grower or occupier of land fail to take such action within the period of time prescribed in the notice, for an inspector to appoint someone to take the required action and to recover the costs of this from the grower or occupier of the land.

The Seed Potato (Scotland) Regulations 2000 – Regulation 6

12. Since 1 April 2001 Scottish Ministers have exercised powers under Regulation 6 of the Seed Potatoes (Scotland) Regulations 2000 to regulate the contact between seed potatoes

and ware potatoes either directly or indirectly through the shared use of plant, machinery, equipment, container, store or vehicle. The regulation exempts:

- potatoes produced on the same agricultural unit, or
- the production of seed potatoes conducted in accordance with arrangements approved in writing by Scottish Ministers

13. SEERAD's intention was to extend this provision to cover all potatoes for planting, *ie* to include farm-saved seed potatoes. OSSE have advised that the existing provision in Regulation 6 of the Seed Potatoes (Scotland) Regulations 2000 already extends to farm-saved seed potatoes. Therefore, the Department simply needs to announce its intention to apply this provision to farm-saved seed potatoes in the future. We intend to operate this provision in respect of farm saved seed potatoes with effect from 1 August 2006.

14. The purpose of this provision is to protect Scotland's potato plant health. Few imports of seed potatoes take place and therefore any outbreak of a potato quarantine disease is most likely to be caused by cross-contamination by, inadvertent substitution of, or admixture with imported ware potatoes. The provision is designed to regulate this potential contact and also provide for situations where in the future parts of Scotland might be affected while others are free of these pests and diseases.

15. The provision will affect principally those packers and processors who handle both imported and Scottish ware potatoes and who also provide a grading service to growers by removing 'smalls' for return to growers as farm saved seed potatoes. It will also affect growers who share grading and storage facilities or those who rent land and move potatoes from unit to unit. However, growers who operate entirely within a single agricultural unit need take no action. Given the current potato plant health situation in Scotland we envisage that all applications by growers who handle only Scottish grown material will, on application, receive an exemption under Regulation 6(3)(b) of the 2000 Regulations.

Financial Effect

16. Compliance costs would arise from notifying SEERAD/SASA of prescribed information on potatoes by post, fax or e-mail. We expect that these costs would be negligible. In regard to the provisions for compulsory burning down of the haulm of virus affected potato crops and the treatment of dumps for Potato blight, articles 4 and 5 of the Order are intended to deter growers from following practices which could spread potato plant health diseases to neighbouring potato crops. Growers who nevertheless present such a plant health risk will be required to destroy the haulm of virus affected potato crops or treat blight affected potato dumps, and will incur the costs of doing so. In certain circumstances they may also suffer a consequential reduction in the value of the crop. However, this will be more than offset overall by the protection from virus and blight afforded to neighbouring crops including others owned by the grower of the affected crop or dump. In light of this we have determined that a Regulatory Impact Assessment is unnecessary.

Bob King
AF: EPHAS-1

June 2006

