

SCHEDULE 2

Specific measures relating to certain solanaceous species

PART 7

Measures for the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*

Interpretation

37. In this Part of this schedule—

“specified plant material” means plants (including tubers), other than true seed, of *Solanacearum tuberosum* L., and plants, other than fruit or seeds, of *Lycopersicon lycopersicum* (L) Karsten ex Farw., and

“*R. solanacearum*” means *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*, the cause of Potato brown rot.

Commencement Information

II Sch. 2 para. 37 in force at 14.12.2019, see reg. 1(1)

Official surveys and testing

38.—(1) The Scottish Ministers must ensure that annual systematic official surveys are carried out to identify the presence of *R. solanacearum* on specified plant material originating in Scotland
F1

[F2(1A) Those surveys must be based on a risk assessment to identify other possible sources of contamination threatening the production of susceptible material and include targeted official surveys in production areas, based on the relevant risk assessment, to identify the presence of *R. solanacearum* on—

- (a) relevant material, other than susceptible material,
- (b) surface water which is used for irrigation or spraying of susceptible material, and
- (c) liquid waste discharged from industrial processing or packaging premises handling susceptible material.

(1B) Those surveys must also be based on the biology of *R. solanacearum* and the relevant production systems and must include—

- (a) in the case of susceptible material comprising plants of *Solanum tuberosum* L., visual inspection of the growing crop at appropriate times, or the sampling of both seed and other potatoes in the growing season or in store, which must include official visual inspection by cutting of tubers,
- (b) in the case of seed potatoes and, where appropriate, other potatoes, official testing of samples using the method set out in EPPO PM 7/21,
- (c) in the case of susceptible material comprising plants of *Solanum lycopersicum* L., visual inspection at appropriate times of at least the growing crop of plants intended for replanting for professional use,
- (d) for host plants, other than susceptible material, and for water including liquid waste, official testing.

(1C) The collection of samples for the purposes of sub-paragraph (1B) must be based on sound scientific and statistical principles and the biology of *R. solanacearum* and take into account relevant potato production systems of susceptible material and other host plants of *R. solanacearum*.]

(2) Where the presence of *R. solanacearum* is suspected, the Scottish Ministers must ensure that—

- (a) official testing is carried out to confirm or refute its presence—
 - (i) in the case of specified plant material, using the method set out in [F³EPPO PM 7/21],
 - (ii) in any other case, using any officially approved method,
- (b) pending the confirmation or refutation of its presence, where suspect diagnostic visual symptoms of *R. solanacearum* have been seen and a positive result in a rapid screening test has been obtained or a positive result in the screening tests [F⁴referred to in EPPO PM 7/21] has been obtained—
 - (i) the movement of all plants and tubers from all crops, lots or consignments from which the samples have been taken, other than those which are under official control, is prohibited, except where it has been established that there is no identifiable risk of *R. solanacearum* spreading,
 - (ii) steps are taken to trace the origin of the suspected occurrence, and
 - (iii) additional appropriate precautionary measures based on the level of estimated risk are taken to prevent any spread of *R. solanacearum*.

(3) A notice under regulation 15 may contain measures for the purposes of sub-paragraph (2) (b)(i) to (iii).

Textual Amendments

- F1** Words in sch. 2 para. 38(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(a)(i) (with reg. 32)
- F2** Sch. 2 para. 38(1A)-(1C) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(a)(ii) (with reg. 32)
- F3** Words in sch. 2 para. 38(2)(a)(i) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(a)(iii)(aa) (with reg. 32)
- F4** Words in sch. 2 para. 38(2)(b) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(a)(iii)(bb) (with reg. 32)

Commencement Information

- I2** Sch. 2 para. 38 in force at 14.12.2019, see reg. 1(1)

Measures to be taken following the confirmation of the presence of *R. solanacearum*

39.—(1) If the presence of *R. solanacearum* is confirmed following official testing carried out pursuant to paragraph 38(2) of this schedule, the Scottish Ministers must ensure that the actions specified in sub-paragraphs (2) to (4) are taken in accordance with sound scientific principles, the biology of *R. solanacearum* and the relevant production, marketing and processing systems of host plants of *R. solanacearum*.

- (2) In the case of specified plant material, the actions are—
 - (a) an investigation by a plant health inspector to determine the extent and the primary sources of the contamination [F⁵which includes investigation of the following—
 - (i) potatoes which are growing or have been harvested that are clonally related to any contaminated potatoes,

- (ii) tomatoes which are growing or have been harvested that are from the same source as any contaminated tomatoes,
 - (iii) potatoes or tomatoes which are growing or have been harvested that are under official control and are suspected to be contaminated with *R. solanacearum*,
 - (iv) potatoes which are growing or have been harvested that are clonally related to any potatoes that have been grown at the contaminated place of production,
 - (v) potatoes or tomatoes which are growing nearby the contaminated place of production, including those sharing production equipment and facilities directly or through a common contractor,
 - (vi) surface water used for irrigation and spraying from any source confirmed or suspected to be contaminated with *R. solanacearum*,
 - (vii) surface water used for irrigation and spraying from a source used in common with the contaminated and possibly contaminated places of production,
 - (viii) places of production which are flooded or have been flooded with contaminated or possibly contaminated surface water,
 - (ix) surface water used for irrigation or spraying of the contaminated place of production or flooded fields at the contaminated place of production,]
- (b) further official testing, including on all clonally related seed potato stocks,
- (c) the designation of the following as contaminated by a plant health inspector—
- (i) the specified plant material and consignment or lot from which the sample was taken,
 - (ii) any objects which have been in contact with that sample,
 - (iii) any unit or field of protected crop production and any place of production of the specified plant material from which the sample was taken,
- (d) a determination by a plant health inspector of the extent of probable contamination through pre- or post-harvest contact, through production, irrigation or spraying links or through clonal relationship,
- (e) the demarcation of a zone by a plant health inspector on the basis of the designation under head (c), the determination made under head (d) and the possible spread of *R. solanacearum*[^{F6}having regard to the relevant factors].
- (3) In the case of host plants, other than specified plant material, where the production of specified plant material is identified to be at risk by a plant health inspector, the actions are—
- (a) an investigation by a plant health inspector to determine the extent and the primary sources of the contamination [^{F7}which includes an investigation of the things referred to in subparagraph (2)(a)(i) to (ix)],
 - (b) the designation by a plant health inspector of host plants from which the sample was taken as contaminated,
 - (c) a determination of the probable contamination by a plant health inspector,
 - (d) the demarcation of a zone by a plant health inspector on the basis of the designation under head (b), the determination made under head (c) and the possible spread of *R. solanacearum*[^{F8}having regard to the relevant factors].
- (4) In the case of surface water and associated wild solanaceous host plants where production of specified plant material is identified by a plant health inspector to be at risk through irrigation, spraying or flooding of surface water, the actions are—

Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019, PART 7. (See end of Document for details)

- (a) an investigation by a plant health inspector to establish the extent of the contamination, which includes an official survey at appropriate times on samples of surface water and, if present, wild solanaceous host plants,
- (b) the designation of surface water from which the sample was taken by a plant health inspector, to the extent appropriate and on the basis of the investigation under head (a),
- (c) a determination by a plant health inspector of the probable contamination on the basis of the designation made under head (b),
- (d) the demarcation of a zone by a plant health inspector on the basis of the designation under head (b), the determination made under head (c) and the possible spread of *R. solanacearum*^[F9] having regard to the relevant factors].

[^{F10}(5) The “relevant factors” are—

- (a) for the purposes of sub-paragraphs (2)(e) and (3)(d)—
 - (i) the proximity of other places of production growing susceptible material,
 - (ii) the common production and use of seed potato stocks,
 - (iii) places of production using surface water for irrigation or spraying of susceptible material where there is or has been a risk of surface water run-off from the contaminated place of production,
- (b) for the purposes of sub-paragraph (4)(d)—
 - (i) places of production producing susceptible material adjacent to, or which are at risk from flooding by, contaminated surface water,
 - (ii) any discrete irrigation basin associated with the contaminated surface water,
 - (iii) water bodies connected with the contaminated surface water having regard to the direction and rate of flow of the contaminated surface water and the presence of wild solanaceous host plants.]

Textual Amendments

- F5** Words in sch. 2 para. 39(2)(a) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **27(b)(i)(aa)** (with reg. 32)
- F6** Words in sch. 2 para. 39(2)(e) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **27(b)(i)(bb)** (with reg. 32)
- F7** Words in sch. 2 para. 39(3)(a) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **27(b)(ii)(aa)** (with reg. 32)
- F8** Words in sch. 2 para. 39(3)(d) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **27(b)(ii)(bb)** (with reg. 32)
- F9** Words in sch. 2 para. 39(4)(d) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **27(b)(iii)** (with reg. 32)
- F10** Sch. 2 para. 39(5) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **27(b)(iv)** (with reg. 32)

Commencement Information

- I3** Sch. 2 para. 39 in force at 14.12.2019, see reg. 1(1)

Restrictions in relation to specified plant material or objects contaminated or probably contaminated with *R. solanacearum*

40.—(1) Where specified plant material is designated by a plant health inspector to be contaminated with *R. solanacearum* in accordance with paragraph 39(2)(c) of this schedule [^{F11}the plant health inspector must serve a notice under regulation 15 requiring that]—

- (a) no person may—
 - (i) knowingly plant that material, or
 - (ii) knowingly cause or permit that plant material to be planted, and
- (b) the material must be subjected to [^{F12}an officially approved disposal method that ensures that there is no identifiable risk of *R. solanacearum* rot spreading].

(2) Where specified plant material is determined by a plant health inspector to be probably contaminated in accordance with paragraph 39(2)(d) of this schedule, a plant health inspector must serve a notice under regulation 15 requiring that—

- (a) no person may—
 - (i) knowingly plant that material, or
 - (ii) knowingly cause or permit that material to be planted, and
- (b) the material must be used or disposed of [^{F13}by an officially approved disposal method that ensures that there is no identifiable risk of *R. solanacearum* rot spreading].

(3) A notice under regulation 15 must require that any machinery, vehicle, vessel, store, or any part of such machinery, vehicle, vessel or store and any other object, including packaging material designated by any plant health inspector to be contaminated in accordance with paragraph 39(2)(c) of this schedule, or probably contaminated in accordance with paragraph 39(2)(d) or (3)(c) of this schedule, must either be—

- (a) disposed of by destruction, or
- (b) cleansed and, where appropriate, disinfected, such that there is no identifiable risk of *R. solanacearum* surviving or spreading.

(4) Anything cleansed and, where appropriate, disinfected in accordance with sub-paragraph (3) (b) is no longer to be treated as contaminated for the purposes of [^{F14}this Part].

Textual Amendments

- F11** Words in sch. 2 para. 40(1) inserted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), **21(4)**
- F12** Words in sch. 2 para. 40(1)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **27(c)(i)** (with reg. 32)
- F13** Words in sch. 2 para. 40(2)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **27(c)(ii)** (with reg. 32)
- F14** Words in sch. 2 para. 40(4) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **27(c)(iii)** (with reg. 32)

Commencement Information

- I4** Sch. 2 para. 40 in force at 14.12.2019, see reg. 1(1)

Contaminated place of production – notice (general)

41. In relation to a place of production which has been designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule and which is in a zone which has been demarcated by a plant health inspector in accordance with paragraph 39(2)(e), (3)(d) or (4)(d) of this schedule, the plant health inspector must serve a notice under regulation 15 which complies with the applicable requirements of paragraphs 42 to 46 of this schedule.

Commencement Information

I5 Sch. 2 para. 41 in force at 14.12.2019, see reg. 1(1)

Contaminated place of production – notice in relation to any field also designated as contaminated

42. Subject to paragraph 45(1) of this schedule, where a place of production is designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule, the notice referred to in paragraph 41 of this schedule must require that, with regard to any field at that place, which has also been so designated, the measures referred to in paragraph 43(1) or (2) of this schedule apply.

Commencement Information

I6 Sch. 2 para. 42 in force at 14.12.2019, see reg. 1(1)

Measures in relation to contaminated place of production

- 43.—**(1) The measures referred to in paragraph 42 of this schedule are—
- (a) from the date of the receipt of the notice and for at least four growing years from the start of the next growing year—
 - (i) such measures as may be required to eliminate volunteer potato or tomato plants as well as other host plants of *R. solanacearum* including solanaceous weeds as appropriate, and
 - (ii) that the following must not be planted—
 - (aa) potato tubers, plants and true seeds,
 - (bb) tomato plants and seeds,
 - (cc) taking account of the biology of *R. solanacearum*, other host plants and plants of species of *Brassica* for which there is a risk of *R. solanacearum* surviving, or
 - (dd) crops for which there is a risk of *R. solanacearum* spreading,
 - (b) in the first potato or tomato cropping season following the period referred to in head (a), that basic seed potatoes or pre-basic seed potatoes may be planted, for ware production only, provided that the field or unit of production has been found to be free, during official inspections, from volunteer potato and tomato plants and other host plants including solanaceous weeds for at least the two consecutive growing years prior to planting, and that harvested tubers or tomato plants are subjected to official testing using the method set out in [F15]EPPO PM 7/21], and

- (c) in the potato or tomato cropping season which follows that referred to in head (b), that there must be an appropriate rotation cycle which must be at least two years where basic seed potatoes or pre-basic seed potatoes are planted.
- (2) The measures referred to in paragraph 42 of this schedule are—
- (a) from the date of receipt of the notice and for five growing years from the start of the next growing year—
- (i) such measures as may be required to eliminate volunteer potato and tomato plants as well as other naturally found host plants of *R. solanacearum* including solanaceous weeds as appropriate, and
- (ii) that the field or unit of production must be maintained during the first three growing years—
- (aa) in bare fallow,
- (bb) in cereals if the plant health inspector is satisfied that there is no identifiable risk of *R. solanacearum* spreading,
- (cc) in permanent pasture with frequent close cutting or intensive grazing, or
- (dd) as grass for seed production,
- followed by planting in the succeeding two growing years with non-host plants of *R. solanacearum* for which there is no identified risk of that organism surviving or spreading, and
- (b) in the first potato or tomato cropping season which follows the period referred to in head (a), if potatoes are to be planted, that only basic seed potatoes and pre-basic seed potatoes may be planted, and only for seed or ware production in circumstances where—
- (i) the field or the unit has been found free from volunteer potato and tomato plants and other host plants, including solanaceous weeds, during official inspections of *R. solanacearum*, for at least the two consecutive growing years prior to planting, and
- (ii) that harvested tubers or tomato plants have been subjected to official testing using the method set out in [F16]EPPO PM 7/21].

Textual Amendments

F15 Words in sch. 2 para. 43(1)(b) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(d)(i) (with reg. 32)

F16 Words in sch. 2 para. 43(2)(b)(ii) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(d)(ii) (with reg. 32)

Commencement Information

I7 Sch. 2 para. 43 in force at 14.12.2019, see reg. 1(1)

Contaminated place of production – notice in relation to fields other than those referred to in paragraph 42

44. Where a place of production is designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule and with regard to any fields at that place other than those referred to in paragraph 42 of this schedule the plant health inspector is satisfied that the risk of volunteer potato and tomato plants and other naturally found host plants of *R. solanacearum* has been eliminated, the notice referred to in paragraph 41 of this schedule must require that with regard to such fields—

Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019, PART 7. (See end of Document for details)

- (a) from the date of receipt of the notice and for one growing year following the start of the next growing year—
 - (i) potato tubers, potato plants and true seeds and other host plants of *R. solanacearum* must not be planted save that potato tubers, basic seed potatoes or pre-basic seed potatoes may be planted for ware production only,
 - (ii) tomato plants grown from seed which meets the requirements of the ^{F17}... Plant Health Regulation may be planted, for fruit production only,
- (b) in the first growing year following that specified in sub-paragraph (a)—
 - (i) if potatoes are to be planted, only basic seed potatoes or pre-basic seed potatoes officially tested for the absence of *R. solanacearum* and grown under official control at a place of production which is not designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule may be planted, for seed or ware production,
 - (ii) in the case of tomatoes, only tomato plants grown from seed which meets the requirements of the EU Plant Health Regulation or, if vegetatively propagated, from tomato plants produced from such seed and grown under official control at a place of production which is not designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule may be planted, for plant or fruit production,
- (c) in the second growing year following that specified in sub-paragraph (a) and, where appropriate, in any subsequent growing year which may be specified in the notice—
 - (i) if potatoes are to be planted, only basic seed potatoes or pre-basic seed potatoes grown under official control from certified seed potatoes may be planted, for seed or ware production,
 - (ii) if tomatoes are to be planted, only tomato plants grown from seed which meets the requirements of the ^{F18}... Plant Health Regulation or tomato plants grown from such plants under official control may be planted, for plant or fruit production,
- (d) from the date of the receipt of the notice and in each of the growing years referred to in this paragraph, measures must be taken to eliminate volunteer potato plants and other naturally found host plants of *R. solanacearum* as appropriate, and
- (e) official inspections of growing crops at appropriate times and official testing of harvested potatoes are carried out in accordance with the method set out in [^{F19}EPPO PM 7/21].

Textual Amendments

- F17** Word in sch. 2 para. 44(a)(ii) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(e)(i) (with reg. 32)
- F18** Word in sch. 2 para. 44(c)(ii) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(e)(ii) (with reg. 32)
- F19** Words in sch. 2 para. 44(e) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(e)(iii) (with reg. 32)

Commencement Information

- I8** Sch. 2 para. 44 in force at 14.12.2019, see reg. 1(1)

Contaminated place of production – notice and authorisation where unit of protected crop production also designated as contaminated

45.—(1) Where a place of production is designated by a plant health inspector to be contaminated in accordance with paragraph 39(2)(c) of this schedule and a unit of protected crop production at that place has also been so designated and complete replacement of the growing medium is possible in that unit, the notice referred to in paragraph 41 of this schedule must require that no person may plant in the unit any potato tubers, potato plants or true seeds or other host plants of *R. solanacearum* including tomato plants and seeds without the written authorisation of a plant health inspector.

- (2) A plant health inspector may not grant an authorisation under sub-paragraph (1) unless—
- (a) all of the measures to eliminate *R. solanacearum* and to remove all host plants which are specified in a notice in relation to the place of production in which the unit is situated have been complied with,
 - (b) the growing medium in the unit has been completely changed, and
 - (c) the unit and all equipment used on the unit has been cleansed and disinfected to eliminate *R. solanacearum* and to remove all host plant material.
- (3) The authorisation referred to in sub-paragraph (1) may require that—
- (a) where the authorisation is granted for potato production, production must be from basic seed potatoes and pre-basic seed potatoes or from mini-tubers or micro-plants derived from officially tested sources,
 - (b) where the authorisation is granted for tomato production, production must be from seed which meets the requirements of the ^{F20}... Plant Health Regulation or, if vegetatively propagated, from tomato plants produced from such seed and grown under official control, and
 - (c) controls on irrigation and spraying programmes, which may include a prohibition on such programmes, must be introduced as appropriate to prevent the spread of *R. solanacearum*.

Textual Amendments

F20 Word in sch. 2 para. 45(3)(b) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **27(f)** (with reg. 32)

Commencement Information

I9 Sch. 2 para. 45 in force at 14.12.2019, see reg. 1(1)

Contaminated place of production – notice under paragraph 41

46. Except where the Scottish Ministers have published a notice under paragraph 47(1) of this schedule, where a place of production is designated by a plant health inspector to be contaminated in accordance with paragraph 39(2)(c) of this schedule, the notice referred to in paragraph 41 of this schedule must require that upon receipt of the notice and after the first subsequent growing year—

- (a) all machinery and storage facilities at the place of production which are used for potato or tomato production must be cleansed and, where appropriate, disinfected in accordance with paragraph 40(3)(b) of this schedule, and
- (b) such controls on irrigation and spraying programmes, which may include a prohibition on such programmes, must be introduced as the plant health inspector considers appropriate for the prevention of the spread of *R. solanacearum*.

Commencement Information

I10 Sch. 2 para. 46 in force at 14.12.2019, see reg. 1(1)

Demarcated zones

47.—(1) The Scottish Ministers must, where it is considered necessary to ensure that any provision of sub-paragraph (5) is complied with, make notice available to the public, by such measures as they consider appropriate, of the demarcation under paragraphs 39(2)(e), (3)(d) or (4) (d) of this schedule of any zone and such notice must—

- (a) subject to head (b), include a declaration that the provisions of sub-paragraph (5) apply in the demarcated zone with effect from the date which is specified in the notice, and
- (b) where appropriate, specify those areas of surface water within the zone to which the prohibition on irrigation and spraying in sub-paragraph (5) is to apply.

(2) The zone remains demarcated for the purposes of this Part of this schedule until such date as may be specified in the notice referred to in sub-paragraph (1) or in any further notice relating to the demarcated zone which a plant health inspector may issue varying the controls in the demarcated zone or its extent or ending it.

(3) For the purposes of this Part of this schedule, a notice made available to the public in accordance with sub-paragraph (1) is deemed to have been served on—

- (a) any occupier or other person in charge of any premises within the demarcated zone,
- (b) any person—
 - (i) with a right to use any surface water, or
 - (ii) who has on premises in their occupation or of which they have charge any surface water, designated as contaminated pursuant to sub-paragraph (5)(b), and
- (c) any person who operates machinery or carries out any other activity in relation to the production of potatoes or tomatoes within the demarcated zone.

(4) Any premises which are partly inside and partly outside a demarcated zone are deemed to be wholly inside that zone for the purposes of this Part of this schedule, except where the part which is outside the demarcated zone is not in Scotland.

(5) When a declaration has been made pursuant to sub-paragraph (1) that the provisions of this paragraph apply—

- (a) where the zone has been demarcated in accordance with paragraph 39(2)(e) or 39(3)(d) of this schedule—
 - (i) machinery and storage facilities at premises within the zone which are used for growing, storing or handling potato tubers or tomatoes within the zone and premises within the zone from which machinery for potato and tomato production is operated under contract, must be cleansed and, where appropriate, disinfected in accordance with paragraph 40(3)(b) of this schedule,
 - (ii) with regard to potato crops in the zone, only basic seed potatoes and pre-basic seed potatoes grown under official control may be planted,
 - (iii) during the specified period seed potatoes must be handled separately from all other potatoes at all premises within the zone, or a system of cleansing and, where appropriate, disinfection must be carried out between the handling of seed and ware potatoes, and

- (iv) with regard to tomato crops in the zone, during the specified period only tomato plants grown from seed which meets the requirements of the ^{F21}... Plant Health Regulation or, if vegetatively propagated, tomato plants produced from such seed and grown under official control may be planted,
- (b) where surface water has been designated by a plant health inspector as contaminated in accordance with paragraph 39(4)(b) of this schedule—
 - (i) the use of water designated as contaminated for the irrigation and spraying of specified plant material and where appropriate, other host plants, is prohibited without the written authorisation of a plant health inspector, and
 - (ii) if liquid waste discharges have been contaminated, the disposal of waste from industrial processing or packaging premises which handle specified plant material must be carried out under the supervision of a plant health inspector.
- (6) The Scottish Ministers must ensure that during the specified period—
 - (a) premises growing, storing or handling potato tubers and premises which operate potato machinery under contract are supervised by plant health inspectors,
 - (b) an official survey is carried out in accordance with [^{F22}EPPO PM 7/21],
 - (c) a programme is established, where appropriate, for the replacement of all seed potato stocks over an appropriate period of time.
- (7) For the purposes of sub-paragraphs (5) and (6), “the specified period” means the period specified in the notice referred to in sub-paragraph (1), which must be at least three growing seasons following the year in which the relevant zone was demarcated.

Textual Amendments

- F21** Word in sch. 2 para. 47(5)(a)(iv) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), [27\(g\)\(i\)](#) (with reg. 32)
- F22** Words in sch. 2 para. 47(6)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), [27\(g\)\(ii\)](#) (with reg. 32)

Commencement Information

- I11** Sch. 2 para. 47 in force at 14.12.2019, see reg. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019, PART 7.