
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

**The Plant Health (EU Exit) (Scotland)
(Amendment etc.) Regulations 2019**

PART 2

Miscellaneous provision

Amendment of the Plant Health (Scotland) Order 2005

15.—(1) In schedule 17 (*Ralstonia solanacearum*), in Part A, (Special measures for the control of *Ralstonia solanacearum*)—

(a) after paragraph 1, insert—

“Official surveys and testing

1A. 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 in accordance with Article 2 of [Directive 98/57/EC](#)(1).

1B. 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 Annex 2 to [Directive 98/57/EC](#) and in accordance with the conditions specified in point 1 of Annex 3 to [Directive 98/57/EC](#);

(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 specified in point 2 of section 1 and section 3 of Annex 2 to [Directive 98/57/EC](#) 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*.

(1) OJ L 235, 21.8.1998, p.1, as amended by Commission [Directive 2006/63/EC](#) (OJ No. L 206, 27.7.2006, p.36).

1C. A notice under article 32 may contain measures for the purposes of paragraph 1B(b)(i) to (iii).

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

1D. If the presence of *R. solanacearum* is confirmed following official testing carried out pursuant to paragraph 1B, the Scottish Ministers must ensure that the actions specified in paragraphs 1E to 1G 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*.

1E. In the case of specified plant material, the actions are—

- (a) an investigation by an inspector to determine the extent and the primary sources of the contamination in accordance with Annex 4 to [Directive 98/57/EC](#);
- (b) further official testing, including on all clonally related seed potato stocks;
- (c) the designation of the following as contaminated by an 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 an 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 an inspector on the basis of the designation under sub-paragraph (c), the determination made under sub-paragraph (d) and the possible spread of *R. solanacearum* in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#).

1F. 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 an inspector, the actions are—

- (a) an investigation by an inspector to determine the extent and the primary sources of the contamination in accordance with Annex 4 to [Directive 98/57/EC](#);
- (b) the designation by an inspector of host plants from which the sample was taken as contaminated;
- (c) a determination of the probable contamination by an inspector;
- (d) the demarcation of a zone by an inspector on the basis of the designation under sub-paragraph (b), the determination under sub-paragraph (c) and the possible spread of *R. solanacearum* in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#).

1G. In the case of surface water and associated wild solanaceous host plants where production of specified plant material is identified by an inspector to be at risk through irrigation, spraying or flooding of surface water, the actions are—

- (a) an investigation by an 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 an inspector, to the extent appropriate and on the basis of the investigation under sub-paragraph (a);
 - (c) a determination by an inspector of the probable contamination on the basis of the designation under sub-paragraph (b);
 - (d) the demarcation of a zone by an inspector on the basis of the designation under sub-paragraph (b), the determination under sub-paragraph (c) and the possible spread of *R. solanacearum* in accordance with point 2(ii) of Annex 5 to [Directive 98/57/EC](#).”
- (b) in paragraph 2—
- (i) in the words before sub-paragraph (a) for “for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#)” substitute “ in accordance with paragraph 1E(c), an inspector must serve a notice under article 32 requiring that”, and
 - (ii) in sub-paragraph (b)—
 - (aa) for “a notice under article 32 may require that material to” substitute “the material must”,
 - (bb) for “paragraph” substitute “point”,
- (c) in paragraph 4—
- (i) in the words before sub-paragraph (a) for “for the purposes of Article 5(1)(a)(iii) and Article 5(1)(c)(iii) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1E(d), an inspector must serve a notice under article 32 requiring that”,
 - (ii) in sub-paragraph (b)—
 - (aa) for “a notice under article 32 may require that material to” substitute “the material must”,
 - (bb) for “paragraph” substitute “point”,
- (d) in paragraph 6—
- (i) for the words before sub-paragraph (a) substitute—

“A notice under article 32 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 inspector to be contaminated in accordance with paragraph 1E(c), or probably contaminated in accordance with paragraph 1E(d) or 1F(c), must either”
 - (ii) in sub-paragraph (b), after “*R. solanacearum*” insert “surviving or”,
- (e) for paragraph 8, substitute—
- “8. Without prejudice to paragraph 6 or to any other measures which may be required by an inspector under this Order, in relation to a place of production which has been designated by an inspector as contaminated in accordance with paragraph 1E(c) and which is in a zone which has been demarcated by an inspector in accordance with paragraph 1E(e), 1F(d) or 1G(d) the inspector must serve a notice under article 32 which complies with the applicable requirements of paragraph 9 to 16.”
- (f) in paragraph 9—
- (i) for “for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1E(c)”,
 - (ii) for “may” substitute “must”,
- (g) in paragraph 10(b)—

- (i) after “potato” where it first occurs, insert “or tomato”,
- (ii) for “free” substitute “found to be free, during official inspections,” and
- (iii) at the end insert “, and that harvested tubers or tomato plants be subjected to official testing using the method set out in Annex 2 to [Directive 98/57/EC](#)”,
- (h) in paragraph 11(b) after “seed or ware production” insert—
 - “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 Annex 2 to [Directive 98/57/EC](#).”
- (i) in paragraph 12—
 - (i) in the words before sub-paragraph (a)—
 - (aa) for “for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1E(c)”,
 - (bb) at the end insert “, the notice referred to in paragraph 8 must require that”,
 - (ii) omit sub-paragraph (b),
- (j) for paragraph 13 substitute—

“13. An inspector may not grant an authorisation under paragraph 12(a) 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.”
- (k) in paragraph 15—
 - (i) for “for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#)” in each place where it occurs, substitute “in accordance with paragraph 1E(c)”,
 - (ii) in the words before sub-paragraph (a) for “may” substitute “must”,
 - (iii) after sub-paragraph (c) omit “and”
 - (iv) after sub-paragraph (d) insert—
 - “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 Annex 2 to [Directive 98/57/EC](#).”
- (l) in paragraph 16, in the words before sub-paragraph (a)—
 - (i) for “Where” substitute “Except where the Scottish Ministers have published a notice under Part B, where”,
 - (ii) for “for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1E(c)”,
 - (iii) for “may” substitute “must”,
- (2) In schedule 17, in Part B (Demarcation of zones for the control of *Ralstonia Solanacearum*)—

- (a) in paragraph 1, for “article 39(7)” substitute “paragraphs 1E(e), 1F(d) or 1G(d) of Part A of this Schedule”,
- (b) in paragraph 6—
 - (i) in the words before sub-paragraph (a)(i), for “for the purposes of Article 5(1)(a)(iv) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1E or 1F of Part A of this Schedule”,
 - (ii) in sub-paragraph (a)(i), for “stores” substitute “storage facilities”,
 - (iii) in sub-paragraph (a)(iii), at the beginning, insert “during the specified period”,
 - (iv) in sub-paragraph (a)(iv), after “in the zone,” insert “during the specified period”, and
 - (v) in sub-paragraph (b) for “for the purposes of Article 5(1)(c)(ii) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1G of Part A of this Schedule”,
- (c) after paragraph 6 insert—
 - “7. 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 inspectors;
 - (b) an official survey is carried out in accordance with Article 2 of [Directive 98/57/EC](#);
 - (c) a programme is established, where appropriate, for the replacement of all seed potato stocks over an appropriate period of time.
 - 8. For the purposes of paragraphs 6 and 7, “the specified period” means the period specified in the notice referred to in paragraph 1, which must be at least three growing seasons following the year in which the relevant zone was demarcated.”