

---

DRAFT STATUTORY INSTRUMENTS

---

**2020 No.**

The Plant Health (Amendment etc.) (EU Exit) Regulations 2020

PART 2

Amendment of primary and secondary legislation

**Part 6**

21.—(1) Part 6 is amended as follows.

(2) In paragraph 25—

- (a) in the definitions of “contaminated” and “first growing year”, for “for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#)” substitute “pursuant to paragraph 27(2)(c)”;
- (b) in the definition of “possibly contaminated”, for “for the purposes of Article 5(1)(a)(iii) or (c)(iii) of [Directive 98/57/EEC](#)” substitute “pursuant to paragraph 27(2)(d)”.

(3) In paragraph 26—

- (a) in sub-paragraph (1), omit “in accordance with Article 2 of [Directive 98/57/EC](#)”;
- (b) after sub-paragraph (1) insert—

“(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 Potato brown rot 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 Potato brown rot 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 Potato brown rot and take into account relevant potato production systems of susceptible material and other host plants of Potato brown rot.”;

(c) in sub-paragraph (2)—

- (i) in paragraph (a)(i), for the words from “Annex”, in the first place where it occurs, to the end substitute “EPPO PM 7/21”;
- (ii) in paragraph (b), for the words from “specified” to “98/57/EC” substitute “referred to in EPPO PM 7/21”.

(4) In paragraph 27—

(a) in sub-paragraph (2)—

- (i) in paragraph (a), for “in accordance with Annex 4 to [Directive 98/57/EC](#)” substitute—

“which 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 Potato brown rot;
- (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 Potato brown rot;
- (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;”;

- (ii) in paragraph (e), for “in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#)” substitute “having regard to the relevant factors”;

(b) in sub-paragraph (3)—

- (i) in paragraph (a), for “in accordance with Annex 4 to [Directive 98/57/EC](#)” substitute “which includes an investigation of the things referred to in sub-paragraph (2)(a)(i) to (ix)”;
- (ii) in paragraph (d), for “in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#)” substitute “having regard to the relevant factors”;

(c) in sub-paragraph (4)(d), for “in accordance with point 2(ii) of Annex 5 to [Directive 98/57/EC](#)” substitute “having regard to the relevant factors”;

(d) at the end insert—

“(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.”.
- (5) In paragraph 28—
- (a) in sub-paragraph (2)—
    - (i) in paragraph (a), for “measure that complies with point 1 of Annex 6 to [Directive 98/57/EC](#)” substitute “officially approved disposal method that ensures that there is no identifiable risk of Potato brown rot spreading”;
    - (ii) in paragraph (b), for “in accordance with point 2 of Annex 6 to [Directive 98/57/EC](#)” substitute “by an officially approved disposal method that ensures that there is no identifiable risk of Potato brown rot spreading”;
  - (b) in sub-paragraph (3), for “[Directive 98/57/EC](#)” substitute “this Part”.
- (6) In paragraph 29, in sub-paragraphs (2)(c), (3)(c) and (4)(g), for “Annex 2 to [Directive 98/57/EC](#)”, in each place where it occurs, substitute “EPPO PM 7/21”.
- (7) In paragraph 31—
- (a) in sub-paragraph (7)—
    - (i) in paragraph (a), for “Article 5(1)(a)(iv) of [Directive 98/57/EC](#)” substitute “paragraph 27(3)(d)”;
    - (ii) in paragraph (b), for “Article 5(1)(c)(iii) of [Directive 98/57/EC](#)” substitute “paragraph 27(4)(d)”;
  - (b) in sub-paragraph (8)(b), for “Article 2 to [Directive 98/57/EC](#)” substitute “EPPO PM 7/21”.