
STATUTORY INSTRUMENTS

2019 No. 786

**The Plant Health (Amendment)
(England) (EU Exit) Regulations 2019**

PART 2

Amendment of the Plant Health (England) Order 2015

6. In Schedule 16—

- (a) in paragraph 1, in the definition of “notice” for “Part A” substitute “Parts A to C”;
- (b) after the heading to Part A insert—

“Official surveys and testing

1A. The Secretary of State must ensure that annual systematic official surveys are carried out to identify the presence of Potato brown rot on susceptible material originating in England in accordance with Article 2 of [Directive 98/57/EC](#)(1).

1B. Where the presence of Potato brown rot is suspected, the Secretary of State must ensure that—

- (a) official testing is carried out to confirm or refute its presence—
 - (i) in the case of susceptible 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 Potato brown rot 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 Potato brown rot 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 Potato brown rot.

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

PART B

Measures to be taken following confirmation of the presence of Potato brown rot

1D. If the presence of Potato brown rot is confirmed following official testing carried out pursuant to paragraph 1B, the Secretary of State must ensure that the actions specified in paragraphs 1E to 1G are taken in accordance with sound scientific principles, the biology of Potato brown rot and the relevant production, marketing and processing systems of host plants of Potato brown rot.

1E. In the case of susceptible 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 susceptible 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 susceptible 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 Potato brown rot in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#).

1F. In the case of host plants, other than susceptible material, where the production of susceptible 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 made under sub-paragraph (c) and the possible spread of Potato brown rot 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 susceptible 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 made 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 made under sub-paragraph (c) and the possible spread of Potato brown rot in accordance with point 2(ii) of Annex 5 to [Directive 98/57/EC](#).

PART C”;

- (c) in paragraph 3—
 - (i) for the words before sub-paragraph (a) substitute “Where susceptible material or any object has been designated as contaminated or possibly contaminated under Part B, an inspector must serve a notice requiring that”;
 - (ii) in sub-paragraph (a)—
 - (aa) at the beginning insert “in the case of”;
 - (bb) after “material” insert “, the material”;
 - (iii) in sub-paragraph (b)—
 - (aa) at the beginning insert “in the case of”;
 - (bb) after “material” insert “, the material”;
 - (iv) in sub-paragraph (c)—
 - (aa) in the words before paragraph (i), at the beginning insert “in the case of” and after “object”, in the second place it occurs, insert “, the object”;
 - (bb) in paragraph (ii), after “Potato brown rot” insert “surviving or”;
- (d) in paragraph 5—
 - (i) for “may” substitute “must”;
 - (ii) for “article 39(7)” substitute “Part B”;
- (e) in paragraph 6(c)—
 - (i) after “potato”, in the first place it occurs, insert “or tomato”;
 - (ii) after “weeds,” insert “during official inspections”;
 - (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](#)”;
- (f) in paragraph 7(b)—
 - (i) in paragraph (ii), at the beginning insert “during the fourth and fifth growing years,”;
 - (ii) in paragraph (iii), at the end insert “, provided that 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 Potato brown rot, for at least the two consecutive growing years prior to planting, 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](#)”;
- (g) in paragraph 8—
 - (i) in sub-paragraph (a), after “year” insert “no host plants of Potato brown rot be planted or”;
 - (ii) in sub-paragraph (f), at the end, insert—

“;

- (g) official inspections of growing crops at appropriate times and official testing of harvested potatoes in accordance with the method set out in Annex 2 to [Directive 98/57/EC](#)”;
- (h) in paragraph 9, for the words before sub-paragraph (a) substitute “Except where the Secretary of State has published a notice under Part D, a notice in relation to a contaminated place of production must”;
- (i) in paragraph 12(a) after “Potato brown rot” insert “and to remove all host plants of Potato brown rot”;
- (j) after paragraph 13, for “PART B” substitute “PART D”;
- (k) in paragraph 14, for “article 39(7)” substitute “Part B”;
- (l) in paragraph 19—
 - (i) for the words before sub-paragraph (a) substitute “A notice under paragraph 15 must specify that”;
 - (ii) in sub-paragraph (a), for “stores” insert “storage facilities”;
 - (iii) in sub-paragraph (b), after “crops,” insert “during the specified period”;
 - (iv) in sub-paragraph (c), at the beginning, insert “during the specified period”;
 - (v) in sub-paragraph (d), after “crops,” insert “during the specified period”;
- (m) after paragraph 20 insert—
 - “**21.** The Secretary of State 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.
 - 22.** For the purposes of paragraphs 19 and 21, the “specified period” means the period specified in the notice, which must be at least three growing seasons following the year in which the relevant zone was demarcated.”.