

<sup>F1</sup>SCHEDULE 1

Regulation 18

Temporary national measures

**Textual Amendments**

<sup>F1</sup> Sch. 1 omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **13**

**Interpretation**

<sup>F1</sup>1. ....

<sup>F1</sup>**PART 1**

Plants, plant products or other objects from third countries

**Temporary measures applying to the introduction of plants, plant products or other objects from third countries**

<sup>F1</sup>2. ....

<sup>F1</sup>**PART 2**

Plants, plant products or other objects from another part of the Union territory

**Temporary measures applying to the introduction of plants, plant products or other objects from another part of the Union territory**

<sup>F1</sup>3. ....

<sup>F1</sup>4. ....

SCHEDULE 2

Regulation 23

**PART 1**

General interpretation

1. In this Schedule—

<sup>F2</sup> ...

<sup>F2</sup> ...

<sup>F2</sup> ...

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the *The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020*. (See end of Document for details)

[<sup>F3</sup>“EPPO PM 7/21” (“*EPPO PM 7/21*”) means the standard describing a diagnostic protocol for *Ralstonia solanacearum*, *R. pseudosolanacearum* and *R. syzygii* approved by the European and Mediterranean Plant Protection Organization;

“EPPO PM 7/40” (“*EPPO PM 7/40*”) means the standard describing a diagnostic protocol for *Globodera rostochiensis* and *Globodera pallida* approved by the European and Mediterranean Plant Protection Organization;

“EPPO PM 7/59” (“*EPPO PM 7/59*”) means the standard describing a diagnostic protocol for *Clavibacter michiganensis* subsp. *sepedonicus* approved by the European and Mediterranean Plant Protection Organization;

“EPPO PM 7/119” (“*EPPO PM 7/119*”) means the standard describing the procedures for nematode extraction approved by the European and Mediterranean Plant Protection Organization;]

“premises” (“*mangre*”) includes any place, including any land, building, vehicle, vessel, aircraft, hovercraft, freight container, railway wagon, trailer or movable building or structure;

“potato” (“*taten*”) means any tuber or true seed or any other plant of *Solanum tuberosum* L. or other tuber-forming species of the genus *Solanum* L.;

“Potato brown rot” (“*Pydredd coch tatws*”) means either the disease of potatoes caused by *Ralstonia solanacearum* (Smith) Yabuuchi *et al.* or that bacterium, as the context requires;

“Potato ring rot” (“*Pydredd cylch tatws*”) means either the disease of potatoes which is caused by the bacterium *Clavibacter michiganensis* (Smith) Davis *et al.* spp. *Sepedonicus* (Spieckermann and Kotthof) Davis *et al.* or that bacterium, as the context requires;

“Seed Potatoes Regulations” (“*Rheoliadau Tatws Hadyd*”) means the Seed Potatoes (Wales) Regulations 2016 <sup>M1</sup>.

#### Textual Amendments

- F2** Words in Sch. 2 para. 1 omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **15(2)(a)**
- F3** Words in Sch. 2 para. 1 inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **15(2)(b)**

#### Commencement Information

- I1** Sch. 2 para. 1 in force at 27.3.2020, see reg. 1

#### Marginal Citations

- M1** [S.I. 2016/106](#) (W. 52).

## PART 2

### General provisions relating to the planting of certain solanaceous species

#### General restrictions on the planting of potatoes

- 2.—(1) A person must not knowingly plant, or knowingly cause or permit to be planted—
- (a) any potatoes which have been grown in a third country [<sup>F4</sup>to which the prohibition in Article 40(1) of the Plant Health Regulation applies], or
  - (b) any potatoes produced from those potatoes.

(2) A person must not knowingly plant, or knowingly cause or permit to be planted, any potatoes unless—

- (a) they derive in direct line from potato material which has been obtained under [<sup>F5</sup>a programme for the certification of potatoes which has been officially approved by a competent authority or a CD authority],
- (b) they have been found to be free from Potato ring rot in official tests using the methods set out in [<sup>F6</sup>EPPO PM 7/21], and
- (c) they have been found to be free from Potato brown rot in official tests using the methods set out in [<sup>F7</sup>EPPO PM 7/59].

#### Textual Amendments

- F4** Words in Sch. 2 para. 2(1)(a) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **16(2)(a)**
- F5** Words in Sch. 2 para. 2(2)(a) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **16(2)(b)(i)**
- F6** Words in Sch. 2 para. 2(2)(b) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **16(2)(b)(ii)**
- F7** Words in Sch. 2 para. 2(2)(c) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **16(2)(b)(iii)**

#### Commencement Information

- I2** Sch. 2 para. 2 in force at 27.3.2020, see reg. 1

## PART 3

### Measures for the control of Potato wart disease

#### Interpretation

3. In this Part—

- (a) “Potato wart disease” means either the disease of potatoes which is caused by the fungus *Synchytrium endobioticum* (Schilbersky) Percival or that fungus, as the context requires;
- (b) a plot of land is to be regarded as a contaminated plot if Potato wart disease is confirmed by an official test to be present on at least one plant that is growing or was grown on that plot.

#### Commencement Information

- I3** Sch. 2 para. 3 in force at 27.3.2020, see reg. 1

#### Official measures relating to contaminated plots of land

4.—(1) A plant health inspector must demarcate any contaminated plot and a safety zone around that plot which is large enough to ensure the protection of the surrounding area.

(2) A plant health inspector must serve a notice under regulation 15(1) requiring any potato tubers or haulms which are present on the contaminated plot, or which come from the contaminated plot, to be treated in such a way that the Potato wart disease present on them is destroyed.

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

(3) Where a plant health inspector is satisfied that any potato tubers or haulms are contaminated with Potato wart disease and the inspector cannot determine whether those tubers or haulms have been present on a contaminated plot, the inspector may serve a notice under regulation 15(1) which requires the whole batch containing the affected tubers or haulms to be treated in such a way that there is no risk of Potato wart disease spreading.

**Commencement Information**

**I4** Sch. 2 para. 4 in force at 27.3.2020, see reg. 1

**Prohibition on the planting of potatoes on contaminated plots**

5.—(1) Where a contaminated plot is demarcated under paragraph 4(1), no person may—

- (a) grow any potatoes on the plot, or
- (b) grow or store on the plot any plants intended for transplanting.

(2) No person may grow potatoes in a safety zone demarcated under paragraph 4(1) unless a plant health inspector is satisfied that they are of a variety which is resistant to the races of Potato wart disease found on the contaminated plot to which the safety zone relates.

(3) A potato variety is to be considered resistant to a particular race of Potato wart disease for the purposes of sub-paragraph (2) where that variety reacts to contamination by the pathogenic agent of that race in such a way that there is no danger of secondary infection.

**Commencement Information**

**I5** Sch. 2 para. 5 in force at 27.3.2020, see reg. 1

**Revocation of the demarcation of a contaminated plot**

6. Where a plant health inspector is satisfied that Potato wart disease is no longer present on a plot which was demarcated under paragraph 4(1) or on its associated safety zone, the inspector must revoke that demarcation.

**Commencement Information**

**I6** Sch. 2 para. 6 in force at 27.3.2020, see reg. 1

## PART 4

Measures for the control of European populations of Potato cyst nematode

**Interpretation**

7. In this Part—

“field” (“*cae*”) means an area which has been demarcated as a field for the purposes of [F8 this Part];

“host plants” (“*planhigion cynhaliol*”) means plants with roots of *Capsicum* spp., *Solanum lycopersicum* L. or *Solanum melongena* L.;

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

“infested field” (“*cae a heigiwyd*”) means a field which is recorded as infested pursuant to paragraph 9(1);

“notice” (“*hysbysiad*”) means a notice under regulation 15(1);

“Potato cyst nematode” (“*Llyngyr tatws*”) means any cyst-forming nematode of the species *Globodera pallida* (Stone) Behrens or *Globodera rostochiensis* (Wollenweber) Behrens that infests and multiplies on potatoes, including any strain or pathotype of any such nematode;

[<sup>F9</sup>“specified measures” (“*mesurau penodedig*”) means—

- (a) for the purposes of paragraph 9(2), the official re-sampling of the field and official testing of the samples, carried out at least three years after appropriate officially approved control measures have been taken in the field or, in any other case, at least five years after the year in which the Potato cyst nematodes were found or potatoes were last grown in the field;
- (b) for the purposes of paragraphs 11(3) and 15—
  - (i) the disinfection of the bulbs or plants by appropriate methods that ensure that there is no identifiable risk of Potato cyst nematodes spreading;
  - (ii) the removal of soil from the bulbs or plants by washing or brushing them until they are practically free of soil, so as to ensure that there is no identifiable risk of Potato cyst nematodes spreading;]

“susceptible bulbs” (“*bylbiau sy'n dueddol o gael plâu neu glefydau*”) means bulbs, tubers or rhizomes, grown in soil and intended for planting, of *Allium ascalonicum* L., *Allium cepa* L., *Dahlia* spp., *Gladiolus* Tourn. Ex L., *Hyacinthus* spp., *Iris* spp., *Lilium* spp., *Narcissus* L. or *Tulipa* L., other than those for which there is evidence by their packaging or by other means that they are intended for sale to final consumers not involved in professional plant or cut flower production;

“susceptible material” (“*deunydd sy'n dueddol o gael plâu neu glefydau*”) means host plants, susceptible bulbs or susceptible plants;

“susceptible plants” (“*planhigion sy'n dueddol o gael plâu neu glefydau*”) means plants with roots of *Allium porrum* L., *Asparagus officinalis* L., *Beta vulgaris* L., *Brassica* spp. or *Fragaria* L.

#### Textual Amendments

**F8** Words in Sch. 2 para. 7 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **17(2)(a)**

**F9** Words in Sch. 2 para. 7 inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **17(2)(b)**

#### Commencement Information

**I7** Sch. 2 para. 7 in force at 27.3.2020, see reg. 1

#### [<sup>F10</sup> Official testing

**7A.** Any official testing of samples for the purposes of this Part must be carried out in accordance with EPPO PM 7/40 and EPPO PM 7/119.]

#### Textual Amendments

**F10** Sch. 2 para. 7A inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **17(3)**

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)*

## Official investigations and surveys

8.—<sup>[F11]</sup>(1) The Welsh Ministers must ensure that—

- (a) official investigations are carried out in accordance with <sup>[F12]</sup>this Part] for the presence of Potato cyst nematodes in fields in which seed potatoes or susceptible material intended for the production of plants for planting are to be planted or stored, and
- (b) official surveys are carried out in accordance with <sup>[F13]</sup>this Part] for the presence of Potato cyst nematodes in fields used for the production of potatoes, other than those intended for the production of seed potatoes.

<sup>[F14]</sup>(2) An official investigation of a field for the purposes of paragraph 8(1)(a) must be carried out—

- (a) prior to the proposed planting or storing, and
  - (b) unless there is documentary evidence of a previous official investigation confirming that no Potato cyst nematodes were found during the investigation and that potatoes or host plants were not present at the time of that investigation and have not been grown in the field since that investigation, between the harvesting of the last crop in the field and the proposed planting of seed potatoes or other susceptible material.
- (3) In the case of a field in which seed potatoes or host plants intended for the production of plants for planting are to be planted or stored, an official investigation for the purposes of paragraph 8(1)(a) must include soil sampling of the field at the appropriate sampling rate and official testing of the samples.
- (4) In the case of a field in which susceptible bulbs or susceptible plants, intended for the production of plants for planting, are to be planted or stored, an official investigation for the purposes of paragraph 8(1)(a) must include—
- (a) soil sampling of the field at the appropriate sampling rate and official testing of the samples, or
  - (b) verification, based on the results of appropriate officially approved testing, that Potato cyst nematodes have not been present in the field during the previous 12 years or verification, based on the known cropping history of the field, that no potatoes or host plants have been grown in the field in the previous 12 years.
- (5) An official survey for the purposes of paragraph 8(1)(b) must include soil sampling of the field at the appropriate sampling rate on at least 0.5% of the acreage used for the production of potatoes in the relevant year and official testing of the samples.
- (6) Paragraph 8(1)(a) does not apply where the Welsh Ministers have established that there is no risk of Potato cyst nematodes spreading and—
- (a) any susceptible material intended for the production of plants for planting is to be used within the same place of production situated within an officially defined area,
  - (b) seed potatoes are to be used within the same place of production situated within an officially defined area, or
  - (c) in the case of any susceptible bulbs or susceptible plants intended for the production of plants for planting, the harvested plants are to be subject to officially approved measures.
- (7) For the purposes of sub-paragraphs (3) to (5)—
- (a) “the appropriate sampling rate”, in relation to a field, is the minimum sampling rate specified in the following table—

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

<i>Sub-paragraph</i>	<i>Field</i>	<i>Rate</i>
(3) and (4)	Field ≤ 8 hectares	1,500 ml of soil per hectare collected from at least 100 cores/hectare
	Field > 8 hectares	First 8 1,500 ml of soil per hectare
		Each additional 400 ml of soil per hectare
	Field ≤ 4 hectares that meets at least one of the criteria in paragraph (b)	400 ml of soil per hectare
	Field > 4 hectares that meets at least one of the criteria in paragraph (b)	First 4 400 ml of soil per hectare
Each additional 200 ml of soil per hectare		
(5)	Field ≤ 4 hectares	Any of the following:
		—400 ml of soil per hectare
		—targeted sampling of at least 400 ml of soil following the visual examination of roots with visual symptoms, or
		—where the harvested potatoes can be traced to the field in which they were grown, 400 ml of soil associated with the harvested potatoes.

(b) the criteria are—

- (i) documentary evidence exists to show that potatoes or host plants have not been grown or were not present in the field in the six years prior to the official investigation;
- (ii) no Potato cyst nematodes have been found during the last two successive official investigations in samples of 1,500 ml soil/hectare and no potatoes or host plants, other than those for which the official investigation is required, have been grown in the field since the first of those two investigations;
- (iii) no Potato cyst nematodes or Potato cyst nematodes without live content have been found in the last official investigation which consisted of a sample size of at least 1,500 ml soil/hectare and no potatoes or host plants, other than those for which the official investigation is required, have been grown in the field since the last official investigation.]

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

#### Textual Amendments

- F11** Sch. 2 para. 8 renumbered as Sch. 2 para. 8(1) (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **17(5)**
- F12** Words in Sch. 2 para. 8(a) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **17(4)(a)**
- F13** Words in Sch. 2 para. 8(b) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **17(4)(b)**
- F14** Sch. 2 para. 8(2)-(7) inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **17(5)**

#### Commencement Information

- I8** Sch. 2 para. 8 in force at 27.3.2020, see reg. 1

### Official records of investigations and surveys

**9.**—(1) The Welsh Ministers must ensure that the results of each official investigation or official survey carried out pursuant to paragraph 8 are recorded to indicate whether Potato cyst nematodes were found in the fields during the investigation or survey.

(2) Where the [<sup>F15</sup>relevant specified measures] have been taken in a field which has been recorded as infested pursuant to sub-paragraph (1) and, following the completion of those measures, it is officially confirmed that Potato cyst nematodes are no longer present in the field, the Welsh Ministers must ensure that the record is updated accordingly.

#### Textual Amendments

- F15** Words in Sch. 2 para. 9(2) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **17(6)**

#### Commencement Information

- I9** Sch. 2 para. 9 in force at 27.3.2020, see reg. 1

### Notices in relation to infested fields and contaminated susceptible material

**10.**—(1) A plant health inspector must serve a notice in writing on the occupier or other person in charge of an infested field which specifies the boundaries of the infested field.

(2) The notice may not be withdrawn until it is confirmed, in accordance with paragraph 9(2), that Potato cyst nematode is no longer present in the field.

(3) A plant health inspector must by notice designate as contaminated any susceptible material which comes from a field that has been officially recorded as infested under paragraph 9(1) or any susceptible material which has been in contact with soil in which Potato cyst nematodes have been found.

#### Commencement Information

- I10** Sch. 2 para. 10 in force at 27.3.2020, see reg. 1



### Prohibition on the planting of potatoes in infested fields

11.—(1) Unless authorised to do so by an inspector, no person may—

- (a) plant any potatoes that are intended for the production of seed potatoes in an infested field, or
- (b) plant or store any susceptible material which is intended for planting in an infested field.

(2) A plant health inspector may authorise the planting of susceptible bulbs or susceptible plants in an infested field.

(3) An authorisation under sub-paragraph (2) must be by notice and must contain [<sup>F16</sup>one of the relevant specified measures].

#### Textual Amendments

**F16** Words in Sch. 2 para. 11(3) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), 17(7)

#### Commencement Information

**I11** Sch. 2 para. 11 in force at 27.3.2020, see reg. 1

### Suppression of Potato cyst nematodes

12.—(1) No person may plant any potatoes that are not intended for the production of seed potatoes in an infested field unless authorised to do so by a plant health inspector.

(2) An authorisation under sub-paragraph (1) must be by notice and may only be given if the inspector is satisfied that all reasonable steps to suppress Potato cyst nematodes in the field have been taken in accordance with the official control programme adopted by the Welsh Ministers for the suppression of Potato cyst nematodes.

#### Commencement Information

**I12** Sch. 2 para. 12 in force at 27.3.2020, see reg. 1

### Controls on contaminated seed potatoes etc.

13.—(1) No person may plant any seed potatoes or any host plants which have been designated as contaminated pursuant to paragraph 10(3), unless authorised to do so by an inspector.

(2) An authorisation under sub-paragraph (1) must be by notice and must contain the measures which the inspector considers necessary to decontaminate those seed potatoes or host plants.

#### Commencement Information

**I13** Sch. 2 para. 13 in force at 27.3.2020, see reg. 1

### Controls on potatoes for industrial processing or grading

14.—(1) No person may move any potatoes which have been designated as contaminated pursuant to paragraph 10(3) and are intended for industrial processing or grading, unless authorised to do so by an inspector.

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the *The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020*. (See end of Document for details)

(2) An authorisation under sub-paragraph (1) must be by notice and must require the potatoes to be delivered to a processing or grading plant that has appropriate and officially approved waste disposal procedures that ensure that there is no risk of Potato cyst nematodes spreading.

#### Commencement Information

**I14** Sch. 2 para. 14 in force at 27.3.2020, see reg. 1

#### Controls on contaminated bulbs etc.

**15.** No person may plant any susceptible bulbs or susceptible plants which have been designated as contaminated pursuant to paragraph 10(3), unless they have been subject to [F17 one of the relevant specified measures] and an inspector has confirmed by notice that they are no longer contaminated.

#### Textual Amendments

**F17** Words in Sch. 2 para. 15 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), 17(7)

#### Commencement Information

**I15** Sch. 2 para. 15 in force at 27.3.2020, see reg. 1

#### Further investigations for the presence of Potato cyst nematodes

**16.** If any suspected occurrence or confirmed presence of Potato cyst nematodes in Wales results from a breakdown or change in the effectiveness of a resistant potato variety which relates to an exceptional change in the composition of nematode species, pathotype or virulence group, the Welsh Ministers must ensure that the species of Potato cyst nematode and, where applicable, the pathotype and virulence group involved are investigated and confirmed by appropriate methods.

#### Commencement Information

**I16** Sch. 2 para. 16 in force at 27.3.2020, see reg. 1

## PART 5

### Measures for the control of Potato ring rot

#### Interpretation

**17.** In this Part—

“certified seed potatoes” (“*tatws hadyd ardystiedig*”) means pre-basic seed potatoes, basic seed potatoes or certified seed potatoes within the meaning given in regulation 2(1) of the Seed Potatoes Regulations;

“contaminated” (“*halogedig*”) means designated by a plant health inspector as contaminated [F18 pursuant to paragraph 19(1)(a)];

“first growing year” (“*blwyddyn dyfu gyntaf*”), in the case of measures to be taken in relation to a contaminated place of production, means the first growing year following the growing

year in which the place of production is designated as contaminated [<sup>F18</sup>pursuant to paragraph 19(1)(a)];

“notice” (“*hysbysiad*”), in relation to a notice to be given by a plant health inspector, means a notice under regulation 15(1);

“object” (“*gwrthrych*”) means any item of machinery, vehicle, vessel, store or other object, including packaging material;

“possibly contaminated” (“*halogedig o bosibl*”) means determined by a plant health inspector to be possibly contaminated [<sup>F19</sup>pursuant to paragraph 19(1)(b)];

“susceptible material” (“*deunydd sy'n dueddol o gael plâu neu glefydau*”) means tubers or plants of *Solanum tuberosum* L.;

“zone” (“*parth*”) means any area, including any individual premises.

#### Textual Amendments

**F18** Words in Sch. 2 para. 17 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(2)(a)**

**F19** Words in Sch. 2 para. 17 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(2)(b)**

#### Commencement Information

**I17** Sch. 2 para. 17 in force at 27.3.2020, see reg. 1

### Official surveys and testing

**18.**—(1) The Welsh Ministers must ensure that systematic official surveys for Potato ring rot are carried out in Wales on tubers of *Solanum tuberosum* L. and, where appropriate, on plants of *Solanum tuberosum* L.<sup>F20</sup> ....

[<sup>F21</sup>(1A) In the case of tubers of *Solanum tuberosum* L., those surveys must include official testing of samples of seed and other potatoes in accordance with EPPO PM 7/59.

(1B) In the case of plants of *Solanum tuberosum* L., those surveys must be carried out according to appropriate methods and include appropriate official testing of samples.

(1C) The collection of samples for the purposes of sub-paragraphs (1A) and (1B) must be based on sound scientific and statistical principles and the biology of Potato ring rot and take into account relevant potato production systems.]

(2) Where the presence of Potato ring rot in susceptible material is suspected, the Welsh Ministers must ensure that—

- (a) official testing is carried out using the method set out in [<sup>F22</sup>EPPO PM 7/59] to confirm whether or not it is present,
- (b) the following are retained and appropriately conserved pending completion of the official testing—
  - (i) all tubers sampled, and wherever possible, all plants sampled;
  - (ii) any remaining extract and additional preparation material for the screening tests;
  - (iii) all relevant documentation, and
- (c) pending the confirmation of its presence or the refutation of its suspected presence, where suspect diagnostic visual symptoms of Potato ring rot have been seen or symptoms

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**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

of Potato ring rot have been identified by a positive immunofluorescence test or other appropriate positive test—

- (i) the movement of all 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 ring 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 the plant pest.
- (3) A notice may contain measures for the purposes of sub-paragraph (2)(c)(i) to (iii).

#### Textual Amendments

- F20** Words in Sch. 2 para. 18(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(3)(a)**
- F21** Sch. 2 para. 18(1A)-(1C) inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(3)(b)**
- F22** Words in Sch. 2 para. 18(2)(a) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(3)(c)**

#### Commencement Information

- I18** Sch. 2 para. 18 in force at 27.3.2020, see reg. 1

### Measures to be taken following the confirmation of the presence of Potato ring rot

**19.—(1)** If the presence of Potato ring rot is confirmed in a sample of susceptible material following official testing carried out pursuant to paragraph 18(2)(a) or sub-paragraph (2), the Welsh Ministers must ensure that—

- (a) the susceptible material, the consignment or lot and any object from which the sample was taken and, where appropriate, the place of production and field from which the susceptible material was harvested are designated as contaminated by a plant health inspector;
- (b) a plant health inspector determines the extent of the probable contamination through pre- or post-harvest contact or through any production link with anything designated as contaminated under paragraph (a), [F23having regard to the following factors—
  - (i) the susceptible material grown at the contaminated place of production;
  - (ii) places of production with some production link to that susceptible material, including those sharing production equipment and facilities directly or through a common contractor;
  - (iii) the production or presence of other susceptible material at the contaminated place of production;
  - (iv) the premises handling potatoes from the contaminated place of production and the places of production mentioned in sub-paragraph (ii);
  - (v) any object that may have come into contact with the contaminated susceptible material;
  - (vi) any susceptible material stored in, or in contact with, any object prior to its disinfection;
  - (vii) any susceptible material with a sister or parental clonal relationship to the contaminated susceptible material and the places of production of that susceptible material;]

- (c) a zone is demarcated by a plant health inspector on the basis of the designation made under paragraph (a), taking into account the <sup>F24</sup>proximity of other places of production growing potatoes or other host plants and the common production and use of seed potato stocks].

<sup>F25</sup>(1A) When making a designation or determination under sub-paragraph (1), an inspector must have regard to sound scientific principles, the biology of Potato ring rot and relevant production, marketing and processing systems.]

(2) Where susceptible material has been designated as contaminated under sub-paragraph (1)(a), the Welsh Ministers must ensure that testing is carried out on potato stocks which are clonally related to that susceptible material in the manner specified in paragraph 18(2)(a) in order to determine the probable primary source of infection and the extent of the probable contamination.

(3) Any such testing must be carried out on as much susceptible material as is necessary to determine the probable primary source of infection and the extent of the probable contamination.

(4) Any designation by a plant health inspector under this paragraph must be made by notice.

(5) Where any susceptible material or object is determined by a plant health inspector under sub-paragraph (1)(b) to be possibly contaminated, the inspector must by notice designate that material or object as possibly contaminated.

#### Textual Amendments

**F23** Words in Sch. 2 para. 19(1)(b) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(4)(a)**

**F24** Words in Sch. 2 para. 19(1)(c) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(4)(b)**

**F25** Sch. 2 para. 19(1A) inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(4)(c)**

#### Commencement Information

**I19** Sch. 2 para. 19 in force at 27.3.2020, see reg. 1

### Restrictions in relation to susceptible material or objects contaminated or possibly contaminated with Potato ring rot

**20.**—(1) No person may knowingly plant or knowingly cause or permit to be planted—

- (a) any contaminated susceptible material, or
- (b) any possibly contaminated susceptible material.

(2) Where susceptible material or an object has been designated as contaminated or possibly contaminated under paragraph 19(1) or (5), a plant health inspector must serve a notice requiring that—

- (a) in the case of contaminated susceptible material, the material be disposed of by destruction or by <sup>F26</sup>an officially approved disposal method that ensures that there is no identifiable risk of Potato ring rot spreading];
- (b) in the case of possibly contaminated susceptible material, the material be used or disposed of <sup>F27</sup>in a manner that ensures that there is no identifiable risk of Potato ring rot spreading];
- (c) in the case of a contaminated object or a possibly contaminated object, the object be—
  - (i) disposed of by destruction, or
  - (ii) cleansed and disinfected so that there is no identifiable risk of Potato ring rot surviving or spreading.

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the *The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020*. (See end of Document for details)

(3) Anything cleansed and disinfected in accordance with sub-paragraph (2)(c)(ii) may no longer be treated as contaminated for the purposes of [F28this Part].

#### Textual Amendments

- F26** Words in Sch. 2 para. 20(2)(a) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(5)(a)(i)**
- F27** Words in Sch. 2 para. 20(2)(b) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(5)(a)(ii)**
- F28** Words in Sch. 2 para. 20(3) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(5)(b)**

#### Commencement Information

- I20** Sch. 2 para. 20 in force at 27.3.2020, see reg. 1

### Measures in relation to a contaminated place of production

**21.—(1)** A plant health inspector must serve the following notices on any occupier or other person who is in charge of a contaminated place of production—

- (a) in relation to any contaminated field which is part of the place of production, a notice containing the first set of eradication measures or a notice containing the second set of eradication measures;
  - (b) in relation to any field which is part of the place of production but is not contaminated, a notice containing the third set of eradication measures.
- (2) The first set of eradication measures is—
- (a) the measures to be taken in the field from the date of receipt of the notice and for at least three growing years from the start of the first growing year so as to eliminate volunteer potato plants, and other naturally found host plants, of Potato ring rot,
  - (b) a prohibition on the planting of any of the following in the field during that period—
    - (i) potato tubers, plants or true seeds;
    - (ii) naturally found host plants of Potato ring rot;
    - (iii) crops for which there is a risk of Potato ring rot spreading,
  - (c) a requirement that in the first potato cropping season following that period, only potatoes for ware production be planted in the field, that they only be planted if the field has been found free from volunteer potato plants and other naturally found host plants of Potato ring rot for at least two consecutive growing years prior to planting, and that the harvested tubers be subjected to official testing using the method set out in [F29EPPO PM 7/59], and
  - (d) a requirement that in the next potato cropping season only potatoes for seed or ware production be planted in the field following an appropriate rotation cycle (which must be at least two years where the potatoes are to be planted for seed production).
- (3) The second set of eradication measures is—
- (a) the measures to be taken in the field from the date of receipt of the notice and for four growing years from the start of the first growing year so as to eliminate volunteer potato plants, and other naturally found host plants, of Potato ring rot,
  - (b) a requirement that, during that period, the field be maintained in bare fallow or in permanent pasture with frequent close cutting or intensive grazing, and

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the *The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020*. (See end of Document for details)

- (c) a requirement that in the first potato cropping season following that period, only potatoes for seed or ware production be planted, that they only be planted if the field has been found free from volunteer potato plants and other naturally found host plants of Potato ring rot for at least two consecutive growing years prior to planting, and that the harvested tubers be subjected to official testing using the method set out in [F30EPPO PM 7/59].
- (4) The third set of eradication measures is—
- (a) where a plant health inspector is satisfied that the risk of volunteer potato plants and other naturally found host plants of Potato ring rot has been eliminated, a prohibition on the planting of any of the following in the field from the date of receipt of the notice and for the first growing year—
- (i) potato tubers, plants or true seeds,
  - (ii) naturally found host plants of Potato ring rot, and
  - (iii) certified seed potatoes, unless they are for ware production only,
- (b) a requirement that, in the subsequent growing year only the following potatoes be planted for seed or ware production—
- (i) certified seed potatoes, and
  - (ii) seed potatoes officially tested for the absence of Potato ring rot and grown under official control at a place of production which is not a contaminated place of production,
- (c) a requirement that, during at least the third growing year, only certified seed potatoes or seed potatoes grown under official control from certified seed potatoes be planted for seed or ware production, and
- (d) the measures to be taken in the field from the date of receipt of the notice to the end of the third growing year so as to eliminate volunteer potato plants, and naturally found host plants of Potato ring rot and a requirement that official testing be carried out on harvested tubers in each field using the method set out in [F31EPPO PM 7/59].
- (5) A notice served by a plant health inspector under sub-paragraph (1)(a) containing the first set of eradication measures must additionally—
- (a) include a requirement that all machinery and storage facilities at the place of production which are used for potato production be cleansed and disinfected immediately and following the first growing year, and
- (b) specify the appropriate methods for cleansing and disinfecting the machinery and storage facilities.
- (6) The measures which may be specified in a notice under sub-paragraph (1) or (5) may be included in a notice with other appropriate measures.
- (7) The person on whom a notice is served pursuant to sub-paragraph (1) must ensure that the measures specified in the notice are taken in the required manner.
- (8) Where a plant health inspector serves a notice containing the first set of eradication measures, the Welsh Ministers must ensure that an official survey is carried out in relation to the field mentioned in sub-paragraph (2)(d) in accordance with [F32EPPO PM 7/59].

#### Textual Amendments

**F29** Words in Sch. 2 para. 21(2)(c) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(6)(a)**

**F30** Words in Sch. 2 para. 21(3)(c) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(6)(a)**

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

**F31** Words in Sch. 2 para. 21(4)(d) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(6)(a)**

**F32** Words in Sch. 2 para. 21(8) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(6)(b)**

#### Commencement Information

**I21** Sch. 2 para. 21 in force at 27.3.2020, see reg. 1

### Additional measures applicable to a unit of protected crop production

**22.**—(1) This paragraph applies to the planting of any potato tubers, plants or true seeds in a contaminated unit of protected crop production where it is possible to replace all of the growing medium in the unit.

(2) No person may plant any potato tubers, plants or true seeds in the unit without the written authorisation of a plant health inspector.

(3) A plant health inspector may not grant an authorisation under sub-paragraph (2) unless—

- (a) all of the measures to eliminate Potato ring rot 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 Potato ring rot and to remove all host plant material.

(4) Where an authorisation is granted under sub-paragraph (2), the authorisation may specify that only certified seed potatoes, mini-tubers or micro-plants derived from officially tested sources may be used in the production.

#### Commencement Information

**I22** Sch. 2 para. 22 in force at 27.3.2020, see reg. 1

### Measures to be taken in demarcated zones for the control of Potato ring rot

**23.**—(1) This paragraph applies where a plant health inspector has demarcated a zone pursuant to paragraph 19(1)(c).

(2) The Welsh Ministers may, by notice, specify further prohibitions, restrictions and other measures which are to apply in the demarcated zone to prevent the risk of Potato ring rot surviving or spreading.

(3) The Welsh Ministers may, in particular, specify in a notice under sub-paragraph (2) that—

- (a) any machinery or storage facilities at premises within the demarcated zone which are used for potato production must be cleansed and disinfected in an appropriate manner so that there is no identifiable risk of Potato ring rot surviving or spreading;
- (b) only certified seed potatoes or seed potatoes grown under official control may be planted during the specified period;
- (c) any seed potatoes grown in a place of production which is possibly contaminated must be officially tested after harvesting;
- (d) potatoes intended for planting must be handled separately from all other potatoes at premises within the zone or that a system of cleansing and, where appropriate, disinfection



must be carried out between the handling of seed potatoes and the handling of ware potatoes during the specified period.

- (4) A notice under sub-paragraph (2)—
- (a) must be in writing,
  - (b) must describe the extent of the demarcated zone,
  - (c) must specify the date on which each measure is to take effect and for how long,
  - (d) must be published in a manner appropriate to bring it to the attention of the public, and
  - (e) may be amended, suspended or revoked, in whole or in part, by further notice.

(5) Any premises which are partly within and partly outside a demarcated zone must be treated as within that zone for the purposes of this paragraph, except where the part which is outside the demarcated zone is not in Wales.

(6) A notice published in accordance with sub-paragraph (4) is to be treated as having been served on—

- (a) any occupier or other person in charge of any premises within the demarcated zone, and
- (b) any person who operates machinery or carries out any other activity in relation to the production of potatoes within the demarcated zone.

(7) The Welsh Ministers must ensure that—

- (a) premises growing, storing or handling potato tubers, and premises which operate potato machinery under contract, are supervised by plant health inspectors for the duration of the specified period;
- (b) an official survey is carried out during the specified period in accordance with [F33EPPO PM 7/59];
- (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 sub-paragraphs (3) and (7), “the specified period” means the period specified in the notice, which must be at least three growing seasons following the year in which the zone was demarcated.

#### **Textual Amendments**

**F33** Words in Sch. 2 para. 23(7)(b) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **18(7)**

#### **Commencement Information**

**I23** Sch. 2 para. 23 in force at 27.3.2020, see reg. 1

## **PART 6**

### Measures for the control of Potato brown rot

**24.** In this Part—

“certified seed potatoes” (“*tatws hadyd ardystiedig*”) means pre-basic seed potatoes, basic seed potatoes or certified seed potatoes within the meaning given in regulation 2(1) of the Seed Potatoes Regulations;

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

“contaminated” (“*halogedig*”) means designated by a plant health inspector as contaminated [F34]pursuant to paragraph 26(2)(c)];

“first growing year” (“*blwyddyn dyfu gyntaf*”), in the case of measures to be taken in relation to a contaminated place of production, means the first growing year following the growing year in which the contaminated place of production is designated as contaminated [F34]pursuant to paragraph 26(2)(c)];

“notice” (“*hysbysiad*”), in relation to a notice to be given by a plant health inspector, means a notice under regulation 15(1);

“object” (“*gwrthrych*”) means any item of machinery, vehicle, vessel, store or other object, including packaging material;

“possibly contaminated” (“*halogedig o bosibl*”) means determined by a plant health inspector to be possibly contaminated [F35]pursuant to paragraph 26(2)(d)];

“relevant RNQP requirements” (“*gofynion PRHG perthnasol*”), in relation to plants for planting of *Solanum lycopersicum* L., means—

- (a) in the case of plants for planting produced before 14 December 2019, the requirements that applied to those plants for planting under, or by virtue of, Council Directive [2000/29/EC](#);
- (b) in the case of plants for planting produced on or after 14 December 2019, the requirements that apply to those plants for planting under, or by virtue of, the Phytosanitary Conditions Regulation;

“susceptible material” (“*deunydd sy'n dueddol o gael plâu neu glefydau*”) means plants (including tubers), other than true seed, of *Solanum tuberosum* L. or plants, other than fruit or seeds, of *Solanum lycopersicum* L.;

“zone” (“*parth*”) means any area, including any individual premises.

#### Textual Amendments

**F34** Words in Sch. 2 para. 24 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(2)(a)**

**F35** Words in Sch. 2 para. 24 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(2)(b)**

#### Commencement Information

**I24** Sch. 2 para. 24 in force at 27.3.2020, see reg. 1

### Official surveys and testing

**25.**—(1) The Welsh Ministers must ensure that annual systematic official surveys are carried out in Wales to identify the presence of Potato brown rot on susceptible material <sup>F36</sup>....

[F37](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.]

(2) Where the presence of Potato brown rot is suspected, the Welsh Ministers must ensure that—

- (a) official testing is carried out to confirm whether it is present—
  - (i) in the case of susceptible material, using the method set out in [F38EPPO PM 7/21];
  - (ii) in any other case, using any officially approved method;
- (b) pending the confirmation of its presence or the refutation of its suspected 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 [F39referred 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 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.

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

#### Textual Amendments

- F36** Words in Sch. 2 para. 25(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(3)(a)**
- F37** Sch. 2 para. 25(1A)-(1C) inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(3)(b)**
- F38** Words in Sch. 2 para. 25(2)(a)(i) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(3)(c)(i)**
- F39** Words in Sch. 2 para. 25(2)(b) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(3)(c)(ii)**

#### Commencement Information

- I25** Sch. 2 para. 25 in force at 27.3.2020, see reg. 1

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)*

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

**26.**—(1) If the presence of Potato brown rot is confirmed following official testing carried out pursuant to paragraph 25(2)(a), the Welsh Ministers must ensure that the actions specified in subparagraphs (2) to (4) 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.

(2) In the case of susceptible material, the actions are—

- (a) an investigation by a plant health inspector to determine the extent and the primary sources of the contamination [<sup>F40</sup>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;]
- (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 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 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 paragraph (c), the determination made under paragraph (d) and the possible spread of Potato brown rot, [<sup>F41</sup>having regard to the relevant factors].

(3) In the case of host plants, other than susceptible material, where the production of susceptible 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 [<sup>F42</sup>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 paragraph (b), the determination made under paragraph (c) and the possible spread of Potato brown rot, [<sup>F43</sup>having regard to the relevant factors].
- (4) In the case of surface water and associated wild solanaceous host plants where production of susceptible material is identified by a plant health inspector to be at risk through irrigation, spraying or flooding of surface water, the actions are—
- (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 paragraph (a);
  - (c) a determination by a plant health inspector of the probable contamination on the basis of the designation made under paragraph (b);
  - (d) the demarcation of a zone by a plant health inspector on the basis of the designation under paragraph (b), the determination made under paragraph (c) and the possible spread of Potato brown rot, [<sup>F44</sup>having regard to the relevant factors].
- [<sup>F45</sup>(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

- F40** Words in Sch. 2 para. 26(2)(a) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(4)(a)(i)**
- F41** Words in Sch. 2 para. 26(2)(e) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(4)(a)(ii)**
- F42** Words in Sch. 2 para. 26(3)(a) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(4)(b)(i)**
- F43** Words in Sch. 2 para. 26(3)(d) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(4)(b)(ii)**
- F44** Words in Sch. 2 para. 26(4)(d) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(4)(c)**

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the *The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020*. (See end of Document for details)

**F45** Sch. 2 para. 26(5) inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(4)(d)**

#### Commencement Information

**I26** Sch. 2 para. 26 in force at 27.3.2020, see reg. 1

### Restrictions in relation to susceptible material or objects contaminated or possibly contaminated with Potato brown rot

- 27.**—(1) No person may knowingly plant or knowingly cause or permit to be planted—
- (a) any contaminated susceptible material, or
  - (b) any possibly contaminated susceptible material.
- (2) Where susceptible material or an object has been designated as contaminated or possibly contaminated under paragraph 26(2), a plant health inspector must serve a notice requiring that—
- (a) in the case of contaminated susceptible material, the material be subjected to any [<sup>F46</sup>officially approved disposal method that ensures that there is no identifiable risk of Potato brown rot spreading];
  - (b) in the case of possibly contaminated susceptible material, the material be used or disposed of [<sup>F47</sup>by an officially approved disposal method that ensures that there is no identifiable risk of Potato brown rot spreading];
  - (c) in the case of a contaminated object or a possibly contaminated object, the object be—
    - (i) disposed of by destruction, or
    - (ii) cleansed and disinfected so that there is no identifiable risk of Potato brown rot surviving or spreading.
- (3) Anything cleansed and disinfected in accordance with sub-paragraph (2) may no longer be treated as contaminated for the purposes of [<sup>F48</sup>this Part].

#### Textual Amendments

- F46** Words in Sch. 2 para. 27(2)(a) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(5)(a)(i)**
- F47** Words in Sch. 2 para. 27(2)(b) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(5)(a)(ii)**
- F48** Words in Sch. 2 para. 27(3) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(5)(b)**

#### Commencement Information

**I27** Sch. 2 para. 27 in force at 27.3.2020, see reg. 1

### Measures which may be required in relation to a contaminated place of production

- 28.**—(1) A plant health inspector must serve the following notices on any occupier or other person who is in charge of a contaminated place of production which is in a zone demarcated by a plant health inspector under paragraph 26(2)(e)—
- (a) in relation to a contaminated field or a unit of protected crop production which is part of the place of production, a notice containing the first set of eradication measures or a notice containing the second set of eradication measures;

- (b) in relation to a field which is part of the place of production but is not contaminated and, where the inspector is satisfied that the risk of volunteer potato and tomato plants and other naturally found host plants of Potato brown rot has been eliminated, a notice containing the third set of eradication measures.
- (2) The first set of eradication measures is—
- (a) the measures to be taken in the field or the unit from the date of receipt of the notice and for at least four growing years from the start of the first growing year, so as to eliminate any volunteer potato and tomato plants and other host plants, including solanaceous weeds, of Potato brown rot,
- (b) a prohibition on the planting of any of the following in the field or the unit during that period—
- (i) potato tubers, plants or true seeds;
- (ii) tomato plants or seeds;
- (iii) taking into account the biology of Potato brown rot, other host plants or plants of the species *Brassica* in respect of which there is a risk of Potato brown rot surviving;
- (iv) crops in respect of which there is a risk of Potato brown rot spreading,
- (c) a requirement that, in the first potato or tomato cropping season following that period, only potatoes for ware production be planted in the field or the unit, that the potatoes only be planted if 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 [F49EPPO PM 7/21], and
- (d) a requirement that an appropriate rotation cycle be applied in subsequent potato or tomato cropping seasons, which must be at least two years where potatoes are to be planted for seed production.
- (3) The second set of eradication measures is—
- (a) the measures to be taken in the field or the unit from the date of receipt of the notice and for five growing years from the start of the first growing year so as to eliminate volunteer potato and tomato plants and other naturally found host plants, including solanaceous weeds, of Potato brown rot,
- (b) a requirement that—
- (i) during the first three of those growing years, the field or the unit be maintained—
- (aa) in bare fallow,
- (bb) in cereals, if the inspector is satisfied that there is no risk of Potato brown rot spreading,
- (cc) in permanent pasture with frequent close cutting or intensive grazing, or
- (dd) as grass for seed production;
- (ii) during the fourth and fifth growing years, only non-host plants of Potato brown rot in respect of which there is no risk of Potato brown rot surviving or spreading be planted in the field or the unit, and
- (c) a requirement that, in the first potato or tomato cropping season following that period, only potatoes for seed or ware production be planted, that the potatoes only be planted if 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

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

or tomato plants be subjected to official testing using the method set out in [F50EPPO PM 7/21].

- (4) The third set of eradication measures is—
- (a) a requirement that from the date of receipt of the notice and for the first growing year no host plants of Potato brown rot be planted or only the following potatoes and tomato plants be planted in the field—
    - (i) certified seed potatoes for ware production;
    - (ii) tomato plants grown from seed which meets the relevant RNQP requirements for fruit production,
  - (b) a requirement that, if potatoes are to be planted in the first subsequent growing year, only the following potatoes be planted for seed or ware production in that year—
    - (i) certified seed potatoes;
    - (ii) seed potatoes officially tested for the absence of Potato brown rot and grown under official control at a place of production which is not contaminated,
  - (c) a requirement that, if tomato plants are to be planted in the first subsequent growing year, only the following tomato plants be planted for plant or fruit production in that year—
    - (i) tomato plants grown from seed which meets the relevant RNQP requirements;
    - (ii) if vegetatively propagated, tomato plants grown from seed which meets the relevant RNQP requirements and grown under official control at a place of production which is not contaminated,
  - (d) a requirement, in the case of potatoes, that, in the second subsequent growing year and any other subsequent growing year, only certified seed potatoes or seed potatoes grown under official control from certified seed potatoes be planted for seed or ware production in the field,
  - (e) a requirement, in the case of tomatoes, that during the second subsequent growing year and any other subsequent growing year, only tomato plants grown from seed which meets the relevant RNQP requirements or if, vegetatively propagated, tomato plants grown from seed which meets the relevant RNQP requirements and grown under official control be planted for plant or fruit production in the field,
  - (f) the measures to be taken in the field from the date of receipt of the notice to the end of the growing year specified in the notice so as to eliminate volunteer potato plants, and naturally found host plants, of Potato brown rot, and
  - (g) official inspections of growing crops at appropriate times and official testing of harvested potatoes in accordance with the method set out in [F51EPPO PM 7/21].
- (5) A notice served by a plant health inspector under sub-paragraph (1)(a) containing the first set of eradication measures must additionally—
- (a) include a requirement that all machinery and storage facilities at the place of production which are used for potato production be cleansed and disinfected immediately and following the first growing year,
  - (b) specify the appropriate methods for cleansing and disinfecting the machinery and storage facilities, and
  - (c) prohibit any irrigation or spraying programme at the place of production or specify how any irrigation or spraying programme at the place of production must be carried out, for the purpose of preventing the spread of Potato brown rot.
- (6) The measures which may be specified in a notice under sub-paragraph (1) or (5) may be included in a notice with other appropriate measures.



(7) The person on whom a notice is served pursuant to sub-paragraph (1) must ensure that the measures specified in the notice are taken in the required manner.

#### Textual Amendments

- F49** Words in Sch. 2 para. 28(2)(c) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(6)**
- F50** Words in Sch. 2 para. 28(3)(c) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(6)**
- F51** Words in Sch. 2 para. 28(4)(g) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(6)**

#### Commencement Information

- I28** Sch. 2 para. 28 in force at 27.3.2020, see reg. 1

### Additional measures in relation to units of protected crop production

**29.**—(1) This paragraph applies to the planting of any potato tubers, plants or true seeds in a contaminated unit of protected crop production where it is possible to replace all of the growing medium in the unit.

(2) No person may plant any potato tubers, plants or true seeds, tomato plants or seeds or other host plants of Potato brown rot in the unit without the written authorisation of a plant health inspector.

(3) A plant health inspector may not grant an authorisation under sub-paragraph (2) unless—

- (a) all of the measures to eliminate Potato brown rot and to remove all host plants of Potato brown rot 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 of the equipment used on the unit have been cleansed and disinfected to eliminate Potato brown rot and remove all host plant material.

(4) An authorisation under sub-paragraph (2) may—

- (a) in relation to potato production, specify that only certified seed potatoes or mini-tubers or micro-plants derived from officially tested sources may be used in the production;
- (b) in relation to tomato production, specify that only seed which meets the relevant RNQP requirements or, if vegetatively propagated, tomato plants produced from seed which meets the relevant RNQP requirements and grown under official control, may be used in the production;
- (c) prohibit any irrigation or spraying programme at the place of production;
- (d) specify how any irrigation or spraying programme at the place of production must be carried out for the purpose of preventing the spread of Potato brown rot.

#### Commencement Information

- I29** Sch. 2 para. 29 in force at 27.3.2020, see reg. 1

### Measures to be taken in demarcated zones for the control of Potato brown rot

**30.**—(1) This paragraph applies where a plant health inspector has demarcated a zone in relation to a confirmed finding of Potato brown rot under paragraph 26(3)(d) or (4)(d).

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

(2) The Welsh Ministers may, by notice, specify further prohibitions, restrictions and other measures which are to apply in the demarcated zone to prevent the risk of Potato brown rot surviving or spreading.

(3) The Welsh Ministers may, in particular, specify in a notice under sub-paragraph (2) that—

- (a) any machinery or storage facilities at premises within the demarcated zone which are used for growing, storing or handling potato tubers or tomatoes within the zone, or any premises within the zone from which machinery for potato or tomato production is operated under contract, must be cleansed and, where appropriate, disinfected so that there is no identifiable risk of Potato brown rot surviving or spreading;
- (b) in the case of potato crops, only certified seed potatoes or seed potatoes grown under official control may be planted during the specified period;
- (c) potatoes intended for planting must be handled separately from all other potatoes at premises within the zone or that a system of cleansing and, where appropriate, disinfection must be carried out between the handling of seed potatoes and the handling of ware potatoes during the specified period;
- (d) in the case of tomato crops, only tomato plants grown from seed which meets the relevant RNQP requirements or, if vegetatively propagated, tomato plants produced from such seed and grown under official control may be planted during the specified period;
- (e) contaminated surface water must not be used for the irrigation or the spraying of specified plant material and, where appropriate, other host plants of Potato brown rot, without the prior written authorisation of a plant health inspector;
- (f) if liquid waste discharges have been contaminated, any waste from industrial processing or packaging premises in the zone which handle specified plant material must be disposed of under the supervision of a plant health inspector.

(4) A notice under sub-paragraph (2)—

- (a) must be in writing,
- (b) must describe the extent of the demarcated zone,
- (c) must specify in relation to each measure whether it applies generally or to an area of surface water in the demarcated zone,
- (d) must specify the date on which each measure takes effect and for how long,
- (e) must be published in a manner appropriate to bring it to the attention of the public, and
- (f) may be amended, suspended or revoked, in whole or in part, by further notice.

(5) Any premises which are partly within and partly outside a demarcated zone must be treated as within that zone for the purposes of this paragraph, except where the part which is outside the demarcated zone is not in Wales.

(6) A notice published in accordance with sub-paragraph (4) is to be treated as having been served on—

- (a) any occupier or other person in charge of any premises within the demarcated zone;
- (b) any person who—
  - (i) has a right to use any contaminated surface water,
  - (ii) has any contaminated surface water on premises within the demarcated zone which the person occupies or is in charge of, and
  - (iii) operates machinery or carries out any other activity in relation to the production of potatoes or tomatoes within the demarcated zone.

(7) The Welsh Ministers may only specify the measures referred to in sub-paragraph (3) where the zone has been demarcated—

- (a) in relation to measures referred to in paragraphs (a) to (d) of that sub-paragraph for the purposes of [<sup>F52</sup>paragraph 26(3)(d)];
- (b) in relation to the measures referred to in paragraphs (e) and (f) of that sub-paragraph for the purposes of [<sup>F53</sup>paragraph 26(4)(d)].

(8) The Welsh Ministers must ensure that—

- (a) premises growing, storing or handling potato tubers and premises which operate potato machinery under contract are supervised by plant health inspectors during the specified period;
- (b) an official survey is carried out in accordance with [<sup>F54</sup>EPPO PM 7/21] during the specified period;
- (c) a programme is established, where appropriate, for the replacement of all seed potato stocks over an appropriate period of time.

(9) For the purposes of sub-paragraphs (3) and (8), “the specified period”, in relation to a zone demarcated pursuant to paragraph 26(3)(d) or (4)(d), must be at least three growing seasons following the year in which the zone was demarcated.

#### Textual Amendments

- F52** Words in Sch. 2 para. 30(7)(a) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(7)(a)(i)**
- F53** Words in Sch. 2 para. 30(7)(b) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(7)(a)(ii)**
- F54** Words in Sch. 2 para. 30(8)(b) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **19(7)(b)**

#### Commencement Information

- I30** Sch. 2 para. 30 in force at 27.3.2020, see reg. 1

## PART 7

### Measures relating to Egyptian potatoes

#### [<sup>F55</sup>Additional measures relating to Egyptian potatoes]

**31.—**(1) In this Part, “Egyptian potatoes” means any tubers of *Solanum tuberosum* L., originating in Egypt, which are introduced into [<sup>F56</sup>Great Britain] under [<sup>F57</sup>Article 41(1) of the Plant Health Regulation].

(2) No professional operator may—

- (a) move any Egyptian potatoes within Wales unless they are labelled to indicate that they originate in Egypt;
- (b) process, prepare, wash or package any Egyptian potatoes at premises in Wales other than at premises that the Welsh Ministers have approved in writing for that purpose.

(3) Sub-paragraph (2)(b) does not apply to the packing or preparation of any Egyptian potatoes in a shop, restaurant, canteen, club, public house, school, hospital, or similar establishment (including a vehicle or a fixed or mobile stall) for delivery to the final consumer.

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

#### Textual Amendments

- F55** Sch. 2 para. 31 heading substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **20(a)**
- F56** Words in Sch. 2 para. 31(1) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **20(b)(i)**
- F57** Words in Sch. 2 para. 31(1) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **20(b)(ii)**

#### Commencement Information

- I31** Sch. 2 para. 31 in force at 27.3.2020, see reg. 1

### SCHEDULE 3

Regulation 38(1)(d) to (f)

Offences: relevant provisions in [<sup>F58</sup>retained direct EU legislation]

#### Textual Amendments

- F58** Words in Sch. 3 heading substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(2)**

## PART 1

### The <sup>F59</sup>... Plant Health Regulation

#### Textual Amendments

- F59** Word in Sch. 3 Pt. 1 heading omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(a)**

#### Commencement Information

- I32** Sch. 3 Pt. 1 in force at 27.3.2020, see reg. 1

<i>Provision of the</i> <sup>F60</sup>	<i>Subject matter</i>
<i>... Plant Health Regulation</i>	
Article 5(1) (as read with Article 8(1))	Prohibits the introduction of a [ <sup>F61</sup> GB quarantine] pest into [ <sup>F62</sup> Great Britain], the movement of a [ <sup>F61</sup> GB quarantine] pest within [ <sup>F62</sup> Great Britain] or the holding, multiplication or the release of a [ <sup>F61</sup> GB quarantine] pest in [ <sup>F62</sup> Great Britain]
	M2

- Article 9(3) (as read with Article 33(1)) Requires professional operators immediately to notify competent authorities of any evidence they may have concerning an imminent danger of the entry of:
- (a) a [<sup>F63</sup>GB] quarantine pest or a [<sup>F64</sup>provisional GB quarantine pest] into [<sup>F65</sup>Great Britain] or into a part of [<sup>F65</sup>Great Britain] where it is not yet present, or
  - (b) a [<sup>F66</sup>PFA] quarantine pest into the [<sup>F67</sup>GB pest-free area established in respect of that pest].
- Article 14(1) (as read with Articles 16 and 33(1)) Requires a professional operator who suspects or becomes aware that:
- (a) a [<sup>F68</sup>GB quarantine pest or provisional GB quarantine pest] is present in plants, plant products or other objects which are under the operator's control;
  - (b) a [<sup>F69</sup>PFA] quarantine pest is present in plants, plant products or other objects which are under the operator's control in the [<sup>F70</sup>GB pest-free area established in respect of that pest],
- immediately to notify the competent authority and take precautionary measures to prevent the establishment and spread of the pest.
- Article 14(3) Requires a professional operator:
- (a) to consult the competent authority where the professional operator has received an official confirmation concerning the presence of a [<sup>F71</sup>GB] quarantine pest in plants, plant products or other objects which are under the operator's control, and
  - (b) where applicable, proceed with the actions required under Article 14(4) to (7).
- Article 15(1) (as read with Articles 15(2), 16 and 33(1)) Requires a person who is not a professional operator immediately to notify the competent authority where the person becomes aware of, or has reason to suspect:
- (a) the presence of a [<sup>F72</sup>GB] quarantine pest;
  - (b) the presence of a [<sup>F73</sup>PFA] quarantine pest in the [<sup>F74</sup>GB pest-free area established in respect of that pest].
- Article 32(2) Prohibits the introduction of a [<sup>F75</sup>PFA quarantine] pest into the [<sup>F76</sup>GB pest-free area established in respect of that pest], the movement of a [<sup>F75</sup>PFA quarantine] pest within the [<sup>F76</sup>GB pest-free area established in respect of that pest] or the holding, multiplication or the release of a [<sup>F75</sup>PFA quarantine] pest in the [<sup>F76</sup>GB pest-free area established in respect of that pest]

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

M3

Article 37(1) (as read with Article 39, and Article 17 of the Phytosanitary Conditions Regulation) Prohibits the introduction into [<sup>F77</sup>Great Britain] by a professional operator of a [<sup>F78</sup>GB] regulated non-quarantine pest on plants for planting through which it is transmitted, or the movement of a [<sup>F78</sup>GB] regulated non-quarantine pest within [<sup>F77</sup>Great Britain] by a professional operator on plants for planting through which it is transmitted

M4

Article 40(1) (as read with Articles 47 and 48(1)) Prohibits the introduction into [<sup>F79</sup>Great Britain] of certain plants, plant products or other objects if they originate from all or certain third countries or territories

M5

[<sup>F80</sup>Article 41(1) (as read with Articles 47 and 48(1)) Prohibits the introduction into Great Britain of certain plants, plant products or other objects from third countries unless the special requirements in respect of those plants, plant products or other objects are fulfilled.

Article 41(1A) (as read with Article 48(1)) Prohibits the introduction into Great Britain of certain plants, plant products or other objects from CD territories unless the special requirements in respect of those plants, plant products or other objects are fulfilled.

Article 41(1B) (as read with Article 48(1)) Prohibits the movement within Great Britain of certain plants, plant products or other objects unless the special requirements in respect of those plants, plant products or other objects are fulfilled.]

Article 42(2) (as read with Articles 47 and 48(1)) Prohibits the introduction into [<sup>F81</sup>Great Britain] of high-risk plants, plant products or other objects from third countries

M6

Article 43(1) Prohibits the introduction into [<sup>F81</sup>Great Britain] of wood packaging material, whether or not in use in the transport of objects of any kind, unless it fulfils the specified requirements or is subject to the exemptions provided for in ISPM 15.

Article 45(1), third paragraph (as read with Article 55) Requires postal services and professional operators involved in sales through distance contracts to make specified information available to their clients through the internet.

Article 53(1) (as read with Articles 57 and 58) Prohibits:

(a) the introduction of certain plants, plant products or other objects originating from third countries into [<sup>F82</sup>GB pest-free areas];

- (b) the introduction of certain plants, plant products or other objects originating [F83; in Great Britain or a CD territory into GB pest-free areas]<sup>M7</sup>.

Article 54(1) (as read with Articles 57 Prohibits: and 58)

- (a) the introduction of certain plants, plant products or other objects into [F84 GB pest-free areas] unless the special requirements in respect of [F85; those GB pest-free areas] are fulfilled;
- (b) the movement of certain plants, plant products or other objects within [F84 GB pest-free areas] unless the special requirements in respect of [F85; those GB pest-free areas] are fulfilled <sup>M8</sup>.

Article 59

Requires:

- (a) vehicles, machinery or packaging material used for specified plants, plant products or other objects moving into or within [F86 Great Britain], or through [F86 Great Britain], to be free from [F87 GB quarantine pests or provisional GB quarantine pests];
- (b) vehicles, machinery or packaging material used for specified plants, plant products or other objects moving into or within [F88 GB pest-free areas], or through [F89 GB pest-free areas], to be free from the [F90 PFA] quarantine pests [F91 relating to those areas].

Article 62(1)

Requires a person responsible for a quarantine station or confinement facility to monitor the station or facility and its immediate vicinity for the unintended presence of [F92 GB quarantine pests and provisional GB quarantine pests].

Article 62(2)

Requires a person responsible for a quarantine station or confinement facility to take appropriate action based on the contingency plan referred to in point (e) of Article 61(1) and to comply with the obligations of professional operators in Article 14 where the unintended presence of a [F93 GB quarantine pest or a provisional GB quarantine pest] is found or suspected.

Article 64(1) (as read with Article 64(2))

Prohibits the release of plants, plant products and other objects from quarantine stations or confinement facilities unless authorised by the competent authorities.

Article 66(1) (as read with Article 65(3))

Requires certain professional operators to submit an application for registration to the competent authorities.

Article 66(5) (as read with Article 65(3))

Requires registered operators, where relevant:

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the *The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020*. (See end of Document for details)

- (a) to submit an annual update concerning any changes in the data referred to in points (d) and (e) of Article 66(2) or in the statements referred to in points (b) and (c) of Article 66(2);
- (b) to update the data referred to in point (a) of Article 66(2) no later than 30 days after the change in that data.

Article 69(1) (as read with Articles 65(3) and 69(3))	Requires a professional operator to whom plants, plant products or other objects are supplied that are subject to the specified requirements or conditions to keep a record allowing the operator to identify the professional operator who supplied each trade unit.
Article 69(2) (as read with Article 69(3))	Requires a professional operator who is supplying plants, plant products or other objects that are subject to the specified requirements or conditions to keep a record allowing the operator to identify the professional operator to whom each trade unit was supplied.
Article 69(4)	Requires professional operators to keep the records required pursuant to Article 69(1) to (3) for at least three years.
Article 70(1)	Requires professional operators who are supplied with, or supply, the plants, plant products or other objects referred to in Article 69(1) and (2) to have in place traceability systems or procedures to allow identification of the movements of those plants, plant products and other objects within and between their own premises.
Articles 72(1) and 73	Prohibits the introduction into [ <sup>F94</sup> Great Britain] of certain plants, plant products and other objects from third countries unless they are accompanied by a phytosanitary certificate M9
Article 74(1)	Prohibits the introduction of certain plants, plant products and other objects from third countries into certain [ <sup>F95</sup> GB pest-free areas] unless accompanied by a phytosanitary certificate M10
Article 79(1) (as read with Articles 81, 82 [ <sup>F96</sup> , 83 and 92a])	Prohibits the movement of certain plants, plant products and other objects within [ <sup>F97</sup> Great Britain or the introduction of certain plants, plant products and other objects into Great Britain from a CD territory without a UK plant passport] M11
Article 80(1) (as read with Articles 81, 82 [ <sup>F98</sup> , 83 and 92a])	Prohibits the introduction of certain plants, plant products and other objects into [ <sup>F99</sup> GB pest-free areas], or the



	movement of certain plants, plant products and other objects within [F99GB pest-free areas], without a [F100UK] plant passport M12
Article 84(1)	Prohibits professional operators from issuing [F101UK] plant passports unless they are authorised and from issuing [F101UK] plant passports for plants, plant products or other objects for which they are not responsible.
Article 84(3)	Prohibits authorised professional operators from issuing plant passports except at specified premises, collective warehouses or dispatching centres.
Article 85 (as read with Article 87)	Prohibits authorised professional operators from issuing [F102UK] plant passports for plants, plant products or other objects unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.
Article 86(1) (as read with Articles 86(2) and 87)	Prohibits authorised professional operators from issuing [F103UK] plant passports for plants, plant products or other objects to be introduced into, or moved within, a [F104GB pest-free area] unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.
[F105]Article 86a	Prohibits authorised professional operators from issuing UK plant passports for plants, plant products or other objects to be introduced into a CD territory unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.]
Article 88	Requires professional operators to attach [F106UK] plant passports to the trade unit of the plants, plant products or other objects concerned, or where the plants, plant products or other objects are moved in a package, bundle or container, to that package, bundle or container.
Article 90(1)	Requires an authorised operator: (a) to identify and monitor the points in its production process and certain other critical points as regards the movement of plants, plant products and other objects where the authorised operator intends to issue a [F107UK] plant passport in respect of those plants, plant products and other objects, and (b) to keep records concerning the identification and monitoring of those points for at least three years.
Article 90(2)	Requires authorised operators to ensure that appropriate training is given to its personnel involved in the examinations referred to in Article 87.

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the *The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020*. (See end of Document for details)

Article 93(1)	Prohibits authorised operators from issuing replacement [ <sup>F108</sup> UK] plant passports unless certain conditions are fulfilled.
Article 93(5)	Requires authorised operators to retain replacement [ <sup>F108</sup> UK] plant passports or their contents for at least three years.
Article 96(1)	Prohibits the marking of wood packaging material, wood or other objects in [ <sup>F109</sup> Great Britain]: <ul style="list-style-type: none"> <li>(a) by any professional operator who is not authorised in accordance with Article 98, or</li> <li>(b) otherwise than in the manner required.</li> </ul>
Article 97(1)	Prohibits the repairing of wood packaging material: <ul style="list-style-type: none"> <li>(a) by any professional operator who is not authorised in accordance with Article 98, or</li> <li>(b) otherwise than in the manner required.</li> </ul>

#### Textual Amendments

- F60** Word in Sch. 3 Pt. 1 omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(i)**
- F61** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(ii)(aa)**
- F62** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(ii)(bb)**
- F63** Word in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(iii)(aa)**
- F64** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(iii)(bb)**
- F65** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(iii)(cc)**
- F66** Word in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(iii)(dd)**
- F67** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(iii)(ee)**
- F68** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(iv)(aa)**
- F69** Word in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(iv)(bb)**
- F70** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(iv)(cc)**
- F71** Word in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(v)**
- F72** Word in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(vi)(aa)**
- F73** Word in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(vi)(bb)**
- F74** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(3)(b)(vi)(cc)**

- F75** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(vii)(aa)**
- F76** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(vii)(bb)**
- F77** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(viii)(aa)**
- F78** Word in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(viii)(bb)**
- F79** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(ix)**
- F80** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(x)**
- F81** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xi)**
- F82** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xii)(aa)**
- F83** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xii)(bb)**
- F84** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xiii)(aa)**
- F85** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xiii)(bb)**
- F86** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xiv)(aa)**
- F87** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xiv)(bb)**
- F88** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xiv)(cc)**
- F89** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xiv)(dd)**
- F90** Word in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xiv)(ee)**
- F91** Words in Sch. 3 Pt. 1 inserted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xiv)(ff)**
- F92** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xv)**
- F93** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xvi)**
- F94** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xvii)**
- F95** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xviii)**
- F96** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xix)(aa)**
- F97** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xix)(bb)**
- F98** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xx)(aa)**
- F99** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xx)(bb)**
- F100** Word in Sch. 3 Pt. 1 inserted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xx)(bb)**

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

- F101** Word in Sch. 3 Pt. 1 inserted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xxi)**
- F102** Word in Sch. 3 Pt. 1 inserted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xxii)**
- F103** Word in Sch. 3 Pt. 1 inserted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xxiii)(aa)**
- F104** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xxiii)(bb)**
- F105** Words in Sch. 3 Pt. 1 inserted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xxiv)**
- F106** Word in Sch. 3 Pt. 1 inserted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xxv)**
- F107** Word in Sch. 3 Pt. 1 inserted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xxvi)**
- F108** Word in Sch. 3 Pt. 1 inserted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xxvii)**
- F109** Words in Sch. 3 Pt. 1 substituted (31.12.2020) by The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1628), regs. 1(2)(b), **21(3)(b)(xxviii)**

#### Marginal Citations

- M2** The list of Union quarantine pests is set out in Annex 2 to Regulation (EU) 2019/2072 (“Phytosanitary Conditions Regulation”) establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants (OJ No. L 319, 10.12.2019, p. 1) (“EU Plant Health Regulation”).
- M3** The list of protected zones and the respective protected zone pests is set out in Annex 3 to the Phytosanitary Conditions Regulation.
- M4** The list of Union regulated non-quarantine pests and the relevant plants for planting, with categories and thresholds, is set out in Annex 4 to the Phytosanitary Conditions Regulation.
- M5** The list of plants, plant products and other objects and the third countries, groups of third countries or specific areas of third countries to which the prohibition applies is set out in Annex 6 to the Phytosanitary Conditions Regulation.
- M6** The list of high risk plants, plant products and other objects to which the prohibition applies is set out in Annex 1 to Commission Implementing Regulation (EU) 2018/2019 establishing a provisional list of high risk plants, plant products or other objects, within the meaning of Article 42 of Regulation (EU) 2016/2031 and a list of plants for which phytosanitary certificates are not required for introduction into the Union, within the meaning of Article 73 of that Regulation (OJ No. L 323, 19.12.2018, p. 10).
- M7** The list of plants, plant products and other objects for these purposes is set out in Annex 9 to the Phytosanitary Conditions Regulation.
- M8** The list of plants, plant products and other objects for these purposes is set out in Annex 10 to the Phytosanitary Conditions Regulation.
- M9** The list of plants, plant products and other objects for the purposes of Article 72(1) is set out in Part A of Annex 11 to the Phytosanitary Conditions Regulation. The list of plants, plant products and other objects for the purposes of Article 73(1) is set out in Part B of that Annex, but does not include any plants, plant products and other objects in the list set out in Part C of that Annex.
- M10** The list of plants, plant products and other objects for these purposes is set out in Annex 12 to the Phytosanitary Conditions Regulation.
- M11** The list of plants, plant products and other objects for these purposes is set out in Annex 13 to the Phytosanitary Conditions Regulation.
- M12** The list of plants, plant products and other objects for these purposes is set out in Annex 14 to the Phytosanitary Conditions Regulation.

## PART 2

### The Official Controls Regulation

#### Commencement Information

**I33** Sch. 3 Pt. 2 in force at 27.3.2020, see reg. 1

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#### *Provision of the Official Controls Regulation*    *Subject matter*

Article 47(5) (as read with Articles 5 and 7 of Commission Delegated Regulation (EU) 2019/2122 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' personal luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market M13 )	Requires the operator responsible for a relevant consignment entering [F110Great Britain] to ensure that it is presented for official controls at the border control post of first arrival into [F110Great Britain].
Article 50(1)	Requires the operator of a relevant consignment to which Article 47(1) applies to present the original official certificates or documents which are required to accompany the consignment to the competent authorities of the border control post.
Article 50(3)	Prohibits the operator of a relevant consignment from splitting the consignment until official controls have been performed and the Community Health Entry Document ("CHED") has been finalised.
Article 56(1)	Requires the operator of a relevant consignment to complete the relevant part of the CHED.
Article 56(4) (as read with Article 1(1) of Commission Implementing Regulation (EU) 2019/1013 on the prior notification of consignments of certain categories of animals and goods entering [F110Great Britain] M14 and regulation 9)	Requires the operator of a relevant consignment to give prior notification to the competent authorities of the border control post of the arrival of the consignment before the physical arrival of the consignment in [F110Great Britain].

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**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

#### Textual Amendments

**F110** Words in Sch. 3 Pt. 2 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(4)**

#### Marginal Citations

**M13** OJ No. L 321, 12.12.2019, p. 45.

**M14** OJ No. L 165, 21.6.2019, p. 8.

## PART 3

### Other EU legislation

#### Commencement Information

**I34** Sch. 3 Pt. 3 in force at 27.3.2020, see reg. 1

<i>Provision of EU legislation</i>	<i>Subject matter</i>
Commission Delegated Regulation (EU) 2019/1602 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination <b>M15</b>	
Article 3 (as read with Articles 4(a), 5(1) (b) and (d), 5(2)(a) and (c) and 6(a))	Requires the operator responsible for a consignment to ensure that a CHED accompanies the consignment before it is released for free circulation in accordance with Article 57(2)(b) of the Official Controls Regulation.
Commission Delegated Regulation (EU) 2019/2124 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for official controls of consignments of animals and goods in transit, transhipment and onward transportation through the Union <b>M16</b>	
Article 5(a) and (b)	Requires the operator who is responsible for a relevant consignment that has been given authorisation for onward transportation to enter certain details in the CHED and submit the CHED.
Article 6	Requires the operator who is responsible for a relevant consignment that has been given authorisation for onward transportation to comply with the specified conditions relating to its transportation and storage.
Article 16(1) and (3)	Requires the operator who is responsible for a transhipped relevant consignment to notify the specified information to competent authorities.
Article 22(4)	Requires the operator who is responsible for a relevant consignment that is in transit through <sup>F111</sup> Great Britain] to take specific measures relating to the transportation of the consignment.

**[<sup>F112</sup>Commission Delegated Regulation (EU) 2019/2123 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for the cases where and the conditions under which identity checks and physical checks on certain goods may be performed at control points and documentary checks may be performed at distance from border control posts**

Article 2(1)(d), (e), (f), (g)(i) and (h) (as read with Article 2(2) and (3)), Article 5(1) (as read with Article 5(2), Article 6(1) and (4) and Article 8(2)) Requires the operator responsible for a consignment to comply with certain conditions where identity and physical checks on the consignment are to be performed at a control point other than a border control post.]

**Textual Amendments**

**F111** Words in Sch. 3 Pt. 3 substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **21(5)**

**F112** Words in Sch. 3 Pt. 3 inserted (13.11.2020) by [The Official Controls \(Plant Health and Genetically Modified Organisms\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1134\)](#), regs. 1, **2(6)**

**Marginal Citations**

**M15** OJ No. L 250, 30.9.2019, p. 6.

**M16** OJ No. L 321, 12.12.2019, p. 73.

**[<sup>F113</sup>SCHEDULE 4**

**Textual Amendments**

**F113** Sch. 4 omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **22**

**[<sup>F114</sup>SCHEDULE 4A**

Regulation 48A

**Civil sanctions**

**Textual Amendments**

**F114** Sch. 4A inserted (15.12.2020) by [The Official Controls \(Plant Health and Genetically Modified Organisms\) \(Wales\) \(Amendment\) \(No. 2\) Regulations 2020 \(S.I. 2020/1303\)](#), reg. 1, **Sch.**

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)*

## PART 1

### Power to impose civil sanctions

#### **Compliance notice**

1.—(1) This paragraph applies where the appropriate authority is satisfied on the balance of probabilities that a person has committed an offence under Part 11 of these Regulations.

(2) The appropriate authority may by notice (a “compliance notice”) impose on that person a requirement to take such steps as the appropriate authority may specify, within such period as it may specify, to secure that the offence does not continue or recur.

(3) A compliance notice may not be imposed on more than one occasion in relation to the same act or omission.

#### **Restoration notice**

2.—(1) This paragraph applies where the appropriate authority is satisfied on the balance of probabilities that a person has committed an offence under Part 11 of these Regulations.

(2) The appropriate authority may by notice (a “restoration notice”) impose on that person a requirement to take such steps as the appropriate authority may specify, within such period as it may specify, to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed.

(3) A restoration notice may not be imposed on more than one occasion in relation to the same act or omission.

#### **Imposition of a fixed monetary penalty**

3.—(1) This paragraph applies where the appropriate authority is satisfied on the balance of probabilities that a person has committed an offence under Part 11 of these Regulations.

(2) The appropriate authority may by notice impose on that person a requirement to pay a monetary penalty to the appropriate authority of £250 where the person is an individual and £2000 where the person is a body corporate, partnership or unincorporated association (a “fixed monetary penalty”).

(3) A fixed monetary penalty may not be imposed on more than one occasion in relation to the same act or omission.

(4) The appropriate authority may recover any fixed monetary penalty imposed under this paragraph as if payable under an order of the court.

(5) A fixed monetary penalty paid to the appropriate authority under this paragraph must be paid into the Consolidated Fund.

#### **Imposition of a variable monetary penalty**

4.—(1) This paragraph applies where the appropriate authority is satisfied on the balance of probabilities that a person has committed an offence under Part 11 of these Regulations.

(2) The appropriate authority may by notice impose on that person a requirement to pay a monetary penalty to the appropriate authority in such amount as it may determine (a “variable monetary penalty”).

(3) A variable monetary penalty may not be imposed on more than one occasion in relation to the same act or omission.

(4) The amount of a variable monetary penalty must not exceed £250,000.



(5) Before serving a notice relating to a variable monetary penalty, the appropriate authority may require the person on whom it is to be served to provide such information as is reasonable to establish the amount of any financial benefit arising as a result of the offence.

(6) The appropriate authority may recover any variable monetary penalty imposed under this paragraph as if payable under an order of the court.

(7) A variable monetary penalty paid to the appropriate authority under this paragraph must be paid into the Consolidated Fund.

### **Notice of intent**

**5.—**(1) If the appropriate authority proposes to serve on a person a compliance notice, a restoration notice or a notice imposing a fixed or variable monetary penalty under this Part, it must serve on that person a notice of what is proposed (a “notice of intent”).

(2) The notice of intent must include—

- (a) the grounds for serving the proposed notice;
- (b) the requirements of the proposed notice and, in the case of a penalty, the amount to be paid and how payment may be made;
- (c) in the case of a fixed monetary penalty—
  - (i) a statement that liability for the penalty can be discharged by paying 50% of the penalty within 28 days beginning with the day on which the notice was served, and
  - (ii) information as to the effect of discharging the penalty;
- (d) information as to—
  - (i) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was served, and
  - (ii) the circumstances in which the appropriate authority may not serve the proposed notice.

### **Combination of penalties**

**6.—**(1) The appropriate authority may not serve a notice of intent relating to a fixed monetary penalty if, in relation to the same offence—

- (a) a compliance notice, restoration notice or stop notice has been served on that person (see paragraphs 1, 2 and 17),
- (b) a variable monetary penalty has been imposed on that person (see paragraph 4), or
- (c) a third party or enforcement undertaking has been accepted from that person (see paragraphs 9 and 23).

(2) The appropriate authority may not serve a notice of intent relating to a compliance notice, a restoration notice or a variable monetary penalty, or serve a stop notice, on any person if, in relation to the same offence—

- (a) a fixed monetary penalty has been imposed on that person, or
- (b) that person has discharged liability for a fixed monetary penalty following service of a notice of intent to impose that penalty.

### **Discharge of liability – fixed monetary penalties**

**7.** A fixed monetary penalty is discharged if a person on whom a notice of intent is served pays 50% of the amount of the penalty within 28 days beginning with the day on which the notice was served.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)*

### **Making representations and objections**

8. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice is served make written representations and objections to the appropriate authority in relation to the proposed service of a compliance notice, restoration notice or notice imposing a fixed or variable monetary penalty.

### **Third party undertakings**

9.—(1) A person on whom a notice of intent relating to a compliance notice, a restoration notice or a variable monetary penalty is served may offer an undertaking as to action to be taken by that person (including the payment of a sum of money) to benefit any third party affected by the offence (a “third party undertaking”).

(2) The appropriate authority may accept or reject a third party undertaking.

(3) The appropriate authority must take into account any third party undertaking that it accepts in its decision as to whether or not to serve a final notice, and, if it serves a notice imposing a variable monetary penalty, the amount of the penalty.

### **Final notice**

10.—(1) After the end of the period for making representations and objections, the appropriate authority must decide whether to impose the requirements described in the notice of intent, with or without modifications.

(2) Where the appropriate authority decides to impose a requirement, the notice imposing it (the “final notice”) must comply with paragraph 11 (for compliance or restoration notices) or 12 (for fixed or variable monetary penalties).

(3) The appropriate authority may not impose a final notice on a person where it is satisfied that the person would not, by reason of any defence, permit or licence, be liable to be convicted of the offence to which the notice relates.

(4) Where the appropriate authority serves a final notice relating to a fixed monetary penalty in respect of any offence, the appropriate authority may not in relation to that offence serve—

- (a) a compliance notice,
- (b) a restoration notice,
- (c) a notice imposing a variable monetary penalty, or
- (d) a stop notice.

(5) This paragraph does not apply to a person who has discharged a fixed monetary penalty in accordance with paragraph 7.

### **Contents of final notice: compliance and restoration notices**

11. A final notice relating to a compliance notice or a restoration notice must include information as to—

- (a) the grounds for serving the notice,
- (b) what compliance or restoration is required and the period within which it must be completed,
- (c) rights of appeal, and
- (d) the consequences of failing to comply with the notice.

### **Contents of final notice: fixed and variable monetary penalties**

**12.** A final notice relating to a fixed or variable monetary penalty must include information as to—

- (a) the grounds for imposing the penalty,
- (b) the amount to be paid,
- (c) how payment may be made,
- (d) the period within which payment must be made (the “payment period”), which must be not less than 56 days beginning with the day on which the notice is served,
- (e) in the case of a fixed monetary penalty, details of the early payment discount (see paragraph 13) and late payment penalties (see paragraph 15(2) and (3)),
- (f) rights of appeal, and
- (g) the consequences of failing to comply with the notice.

### **Fixed monetary penalty: discount for early payment**

**13.** If a person who was served with a notice of intent relating to a proposed fixed monetary penalty made representations or objections concerning that notice within the time limit specified in paragraph 8, that person may discharge the final notice by paying 50% of the final penalty within 28 days beginning with the day on which the final notice was served.

### **Appeals against a final notice**

**14.—(1)** The person on whom a final notice is served may appeal against it.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) in the case of a variable monetary penalty, that the amount of the penalty is unreasonable;
- (d) in the case of a non-monetary requirement, that the nature of the requirement is unreasonable;
- (e) that the decision was unreasonable for any other reason;
- (f) that the decision was wrong for any other reason.

### **Fixed monetary penalty: non-payment within the stated payment period**

**15.—(1)** This paragraph applies to a final notice relating to a fixed monetary penalty.

(2) If the final penalty is not paid within the stated payment period, the amount payable is increased by 50%.

(3) In the case of an appeal which is unsuccessful, the penalty is payable within 28 days of the determination of the appeal, and if it is not paid within 28 days, the amount of the penalty is increased by 50%.

### **Criminal proceedings**

**16.—(1)** If—

- (a) a compliance notice or restoration notice is served on any person,
- (b) a third party undertaking is accepted from any person,
- (c) a notice imposing a variable monetary penalty is served on any person, or

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

(d) a fixed monetary penalty is served on any person, that person may not at any time be convicted of an offence under Part 11 of these Regulations in respect of the act or omission giving rise to the compliance notice, restoration notice, third party undertaking, variable monetary penalty or fixed monetary penalty except in a case falling within paragraph (a) or (b) (and not also falling within paragraph (c)) where the person fails to comply with a compliance notice, restoration notice or third party undertaking (as the case may be).

(2) Criminal proceedings for offences to which a notice or third party undertaking in sub-paragraph (1) relates may be instituted at any time up to 6 months from the date from when the appropriate authority notifies the person against whom the proceedings are to be taken that the person has failed to comply with that notice or undertaking.

## PART 2

### Stop notices

#### Stop notices

**17.**—(1) The appropriate authority may serve a notice (a “stop notice”) on any person prohibiting that person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.

(2) A stop notice may only be served where—

- (a) the person is carrying on the activity or the appropriate authority reasonably believes that the person is likely to carry on the activity,
- (b) the appropriate authority reasonably believes that the activity is causing, or is likely to cause, economic or environmental harm, or adverse effects to plant health, and
- (c) the appropriate authority reasonably believes that the activity carried on, or likely to be carried on, by that person involves or is likely to involve, the commission of an offence under Part 11 of these Regulations.

(3) The steps referred to in sub-paragraph (1) must be steps to eliminate the risk of the offence being committed.

#### Contents of a stop notice

**18.** A stop notice must include information as to—

- (a) the grounds for serving the stop notice,
- (b) the activity which is prohibited,
- (c) the steps the person must take to comply with the stop notice and the period within which they must be completed,
- (d) rights of appeal, and
- (e) the consequences of failing to comply with the notice.

#### Appeals

**19.**—(1) The person on whom a stop notice is served may appeal against the decision to serve it.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;

- (c) that the decision was unreasonable;
- (d) that any step specified in the notice is unreasonable;
- (e) that the person has not committed the offence and would not have committed it had the stop notice not been served;
- (f) that the person would not, by reason of any defence, permit or licence have been liable to be convicted of the offence had the stop notice not been served;
- (g) that the decision was wrong for any other reason.

### **Completion certificates**

**20.**—(1) The appropriate authority must issue a certificate (a “completion certificate”) if, after service of a stop notice, the appropriate authority is satisfied that the person on whom it was served has taken the steps specified in the notice.

(2) A stop notice ceases to have effect on the issue of a completion certificate.

(3) The appropriate authority may require the person on whom the stop notice was served to provide sufficient information to determine that the steps specified in the notice have been taken.

(4) A person on whom a stop notice is served may at any time apply for a completion certificate.

(5) The appropriate authority must decide whether to issue a completion certificate and give written notice of the decision to the applicant (including information as to the right of appeal) within 14 days of the application.

(6) The applicant may appeal against a decision not to issue a completion certificate on the grounds that the decision—

- (a) was based on an error of fact;
- (b) was wrong in law;
- (c) was unfair or unreasonable;
- (d) was wrong for any other reason.

### **Compensation**

**21.**—(1) The appropriate authority must compensate a person for loss suffered as the result of the service of the stop notice or the refusal of a completion certificate if that person has suffered loss as a result of the notice or refusal and—

- (a) the stop notice is subsequently withdrawn or amended by the appropriate authority because the decision to serve it was unreasonable or any step specified in the notice was unreasonable,
- (b) the appropriate authority is in breach of its statutory obligations,
- (c) the person successfully appeals against the stop notice and the First-tier Tribunal finds that the service of the notice was unreasonable, or
- (d) the person successfully appeals against the refusal of a completion certificate and the First-tier Tribunal finds that the refusal was unreasonable.

(2) A person may appeal against a decision not to award compensation or the amount of compensation on the grounds that—

- (a) the appropriate authority’s decision was unreasonable,
- (b) the amount offered was based on incorrect facts, or
- (c) the decision was wrong for any other reason.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)*

## Offences

22. If a person on whom a stop notice is served does not comply with it within the time limit specified in the notice, the person is guilty of an offence and liable on summary conviction to a fine.

## PART 3

### Enforcement undertakings

#### Enforcement undertakings

23. Where the appropriate authority has reasonable grounds to suspect that a person has committed an offence under Part 11 of these Regulations, the appropriate authority may accept a written undertaking (an “enforcement undertaking”) given by that person to take such action as may be specified in the undertaking within such period as may be specified.

#### Contents of an enforcement undertaking

24.—(1) An enforcement undertaking must specify—

- (a) action to be taken by the person to secure that the offence does not continue or recur,
- (b) action to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed, or
- (c) action (including the payment of a sum of money) to be taken by the person to benefit any person affected by the offence.

(2) It must specify the period within which the action must be completed.

(3) It must include—

- (a) a statement that the undertaking is made in accordance with this Schedule,
- (b) the terms of the undertaking, and
- (c) information as to how and when the person is to be considered to have discharged the undertaking.

(4) The enforcement undertaking may be varied, or the period within which the action must be completed may be extended, if both the appropriate authority and the person who gave the undertaking agree in writing.

#### Acceptance of an enforcement undertaking

25.—(1) If the appropriate authority has accepted an enforcement undertaking from a person—

- (a) that person may not at any time be convicted of the offence in respect of the act or omission to which the undertaking relates, and
- (b) the appropriate authority may not serve on that person a compliance notice, restoration notice or stop notice, or impose a fixed or variable monetary penalty on that person, in respect of that act or omission.

(2) Paragraph (1) does not apply if a person who gave the undertaking has failed to comply with it or any part of it.

#### Discharge of an enforcement undertaking

26.—(1) If the appropriate authority is satisfied that an enforcement undertaking has been complied with, it must issue a certificate (a “discharge certificate”) to that effect.

- (2) An enforcement undertaking ceases to have effect on the issue of a discharge certificate.
- (3) The appropriate authority may require the person who has given the undertaking to provide sufficient information to determine that the undertaking has been complied with.
- (4) The person who gave the undertaking may at any time apply for a discharge certificate.
- (5) The appropriate authority must decide whether to issue a discharge certificate, and give written notice of the decision to the applicant (including information as to the right of appeal), within 14 days of such an application.
- (6) The applicant may appeal against a decision not to issue a discharge certificate on the grounds that the decision—
  - (a) was based on an error of fact;
  - (b) was wrong in law;
  - (c) was unfair or unreasonable;
  - (d) was wrong for any other reason.

#### **Inaccurate, incomplete or misleading information**

**27.**—(1) A person who has given inaccurate, incomplete or misleading information in relation to an enforcement undertaking is to be regarded as not having complied with it.

(2) The appropriate authority may by notice in writing revoke a discharge certificate issued under paragraph 26 if it was issued on the basis of inaccurate, misleading or incomplete information.

#### **Non-compliance with an enforcement undertaking**

**28.**—(1) If a person does not comply with an enforcement undertaking, the appropriate authority may, in the case of an offence committed under Part 11 of these Regulations—

- (a) serve a compliance notice, restoration notice, variable monetary penalty, stop notice or non-compliance penalty, or
- (b) bring criminal proceedings.

(2) If a person has complied partly but not fully with an undertaking, that partial compliance must be taken into account in the imposition of any criminal or other sanction on the person.

(3) Criminal proceedings for offences to which an enforcement undertaking relates may be instituted at any time up to 6 months from the date on which the appropriate authority notifies the person that the person has failed to comply with the undertaking.

## **PART 4**

### **Non-compliance penalties**

#### **Non-compliance penalties**

**29.**—(1) The appropriate authority may serve a notice on a person imposing a monetary penalty (a “non-compliance penalty”) if that person fails to comply with—

- (a) a compliance notice, restoration notice or third party undertaking, irrespective of whether a variable monetary penalty was also imposed, or
- (b) an enforcement undertaking.

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

(2) The amount of the non-compliance penalty must be determined by the appropriate authority, and must be a percentage of the costs of fulfilling the remaining requirements of the compliance notice, restoration notice, third party undertaking or enforcement undertaking.

(3) The percentage must be determined by the appropriate authority having regard to all the circumstances of the case and may, if appropriate, be 100%.

(4) The notice must include information as to—

- (a) the grounds for imposing the non-compliance penalty,
- (b) the amount to be paid,
- (c) how payment must be made,
- (d) the period in which payment must be made, which must not be less than 28 days beginning with the day on which the notice is served,
- (e) rights of appeal,
- (f) the consequences of failure to comply with the notice, and
- (g) any circumstances in which the appropriate authority may reduce the amount of the penalty.

(5) If the requirements of the compliance notice, restoration notice, third party undertaking or enforcement undertaking are fulfilled before the time specified for payment of the non-compliance penalty, the penalty is not payable.

(6) Following expiry of the specified payment period, the appropriate authority may recover the non-compliance penalty as if payable under an order of the court.

(7) A non-compliance penalty paid to the appropriate authority under this paragraph must be paid into the Consolidated Fund.

## Appeals

**30.**—(1) The person on whom the notice imposing the non-compliance penalty is served may appeal against it.

(2) The grounds of appeal are—

- (a) that the decision to serve the notice was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unfair or unreasonable for any reason;
- (d) that the amount of the penalty is unreasonable;
- (e) that the decision was wrong for another reason.

## PART 5

### Withdrawal and amendment of notices

#### Withdrawing or amending a notice

**31.** The appropriate authority may at any time in writing—

- (a) withdraw a compliance notice, restoration notice or stop notice, or amend the steps specified in such a notice in order to reduce the amount of work necessary to comply with it,
- (b) withdraw a notice imposing a fixed monetary penalty, or



- (c) withdraw a notice imposing a variable monetary penalty or a non-compliance penalty, or reduce the amount of the penalty specified in the notice.

## PART 6

### Cost recovery

#### Recovery of enforcement costs

**32.**—(1) The appropriate authority may serve a cost recovery notice if any of the conditions in sub-paragraph (3) are met.

(2) A cost recovery notice is a notice requiring the person to pay the appropriate authority's costs.

(3) The conditions are that the appropriate authority has—

- (a) imposed on the person a compliance notice under paragraph 1,
- (b) imposed on the person a restoration notice under paragraph 2,
- (c) imposed on the person a variable monetary penalty under paragraph 4, or
- (d) served on the person a stop notice under paragraph 17.

(4) In sub-paragraph (2), the reference to costs is a reference to any costs relating to preparing and giving the compliance notice, restoration notice, variable monetary penalty, or stop notice, as the case may be, and includes a reference to the costs of any related investigation or expert advice (including legal advice).

(5) The cost recovery notice must include information as to—

- (a) the amount of the costs which must be paid,
- (b) the period in which payment must be paid, which must not be less than 28 days beginning with the day on which the notice is served,
- (c) how payment must be made,
- (d) the consequences of failing to make payment within the specified payment period, and
- (e) rights of appeal.

(6) Following expiry of the specified payment period, the appropriate authority may recover the costs referred to in the cost recovery notice as if payable under an order of the court.

(7) The person on whom the cost recovery notice is served may appeal against it.

(8) The grounds of appeal are—

- (a) that the decision to serve the notice was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unfair or unreasonable for any reason;
- (d) that the amount of the penalty was unreasonable;
- (e) that the decision was wrong for any other reason.

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

## PART 7

### Appeals

#### Appeals

- 33.**—(1) Any appeal under this Schedule must be made to the First-tier Tribunal.
- (2) In any appeal the Tribunal must determine the standard of proof.
- (3) An appeal against a notice served under this Schedule (other than a stop notice) suspends the effect of the notice appealed against until the appeal is determined or withdrawn.
- (4) The Tribunal may, in relation to the imposition of a requirement or service of a notice—
- (a) withdraw the requirement or notice;
  - (b) confirm the requirement or notice;
  - (c) vary the requirement or notice;
  - (d) take such steps as the appropriate authority could take in relation to the act or omission giving rise to the requirement or notice;
  - (e) remit the decision whether to confirm the requirement or notice, or any other matter relating to that decision, to the appropriate authority.

## PART 8

### Guidance and publicity

#### Guidance as to the use of civil sanctions

- 34.**—(1) The appropriate authority must publish guidance about its use of civil sanctions.
- (2) The appropriate authority must revise and update guidance where appropriate.
- (3) The appropriate authority must have regard to the guidance or revised and updated guidance in exercising its functions.
- (4) In the case of guidance about compliance notices, restoration notices, fixed monetary penalties, variable monetary penalties, stop notices and non-compliance penalties, the guidance must contain information as to—
- (a) the circumstances in which the civil sanction is likely to be imposed,
  - (b) the circumstances in which it is not likely to be imposed,
  - (c) where relevant, rights to make representations and objections,
  - (d) rights of appeal, and
  - (e) in the case of guidance about variable monetary penalties and non-compliance penalties, the matters likely to be taken into account by the appropriate authority in determining the amount of the penalty (including voluntary reporting by a person of their own non-compliance).
- (5) In the case of guidance about enforcement undertakings, the guidance must contain information as to—
- (a) the circumstances in which the appropriate authority is likely to accept an enforcement undertaking, and
  - (b) the circumstances in which the appropriate authority is not likely to accept an enforcement undertaking.

### Consultation on guidance

35. The appropriate authority must consult such persons as it considers appropriate before publishing—

- (a) any guidance, or
- (b) any significant revisions or updates to guidance which has already been published.

### Publication of enforcement action

36.—(1) The appropriate authority must publish annually—

- (a) the cases in which civil sanctions have been imposed;
- (b) where the civil sanction is a compliance notice, a restoration notice or variable monetary penalty, the cases in which a third party undertaking has been accepted;
- (c) the cases in which an enforcement undertaking has been accepted.

(2) In sub-paragraph (1)(a), the reference to cases in which civil sanctions have been imposed does not include cases where a sanction has been imposed but overturned on appeal.

(3) This paragraph does not apply in cases where the appropriate authority considers that publication would be inappropriate.]

## SCHEDULE 5

Regulation 49

Amendments to secondary legislation relating the marketing of seeds and plant propagating material and plant health fees

## PART 1

### The Marketing of Vegetable Plant Material Regulations 1995

1.—(1) The Marketing of Vegetable Plant Material Regulations 1995<sup>M17</sup> are amended as follows.

(2) In regulation 8—

- (a) in paragraph (2), for “Council Directive 2000/29/EC” substitute “ the EU Plant Health Regulation ”;
- (b) after paragraph (4) insert—

“(5) In this regulation, “the EU Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants.”

#### Commencement Information

I35 Sch. 5 para. 1 in force at 27.3.2020, see reg. 1

#### Marginal Citations

M17 S.I. 1995/2652, amended by S.I. 2007/2190 (W. 174); there are other amending instruments but none is relevant.

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

## PART 2

### The Marketing of Ornamental Plant Propagating Material Regulations 1999

2.—(1) The Marketing of Ornamental Plant Propagating Material Regulations 1999 <sup>M18</sup> are amended as follows.

(2) In regulation 2(1)—

(a) in the appropriate place insert—

““the EU Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants;”;

(b) omit the definition of “Directive [2000/29/EC](#)”.

(3) In regulation 6A(4), in the definition of “responsible official body”, for the words from “a body” to the end, substitute “, in relation to Wales, the Welsh Ministers ”.

(4) In regulation 7, for paragraph (4) substitute—

“(4) Registration of a supplier on the register of professional operators for the purposes of the EU Plant Health Regulation is deemed to constitute registration for the purposes of paragraph (1) above.”

(5) In regulation 8(3)—

(a) for the words from “notifiable” to “Order 2018” substitute “ plant pest of a description specified in Annex 2, 3 or 4 to Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, ”;

(b) for “article 42 of that Order (notification of the presence or suspected presence of certain plant pests)” substitute “ the EU Plant Health Regulation ”.

(6) In regulation 9(2), for “Directive [2000/29/EC](#)” substitute “ the EU Plant Health Regulation ”.

(7) In regulation 12(3), for the words from “if he delivers” to the end substitute “, in relation to Wales, if the supplier delivers a phytosanitary certificate for export or a phytosanitary certificate for re-export to the Welsh Ministers ”.

#### Commencement Information

**I36** Sch. 5 para. 2 in force at 27.3.2020, see reg. 1

#### Marginal Citations

**M18** [S.I. 1999/1801](#); relevant amending instruments are [S.I. 2018/974](#), [S.I. 2018/1216](#) (W. 249) and [S.I. 2019/463](#) (W. 111).

## PART 3

### The Forest Reproductive Material (Great Britain) Regulations 2002

3.—(1) The Forest Reproductive Material (Great Britain) Regulations 2002 <sup>M19</sup> are amended as follows.

(2) In regulation 2(2), in the definition of “plant passport”, for “the Plant Health (Forestry) Order 2005” substitute “ Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants ”.

**Commencement Information**

**I37** Sch. 5 para. 3 in force at 27.3.2020, see reg. 1

**Marginal Citations**

**M19** S.I. 2002/3026, amended by S.I. 2019/496 (W. 133); there are other amending instruments but none is relevant.

## PART 4

### The Seed Potatoes (Wales) Regulations 2016

4.—(1) The Seed Potatoes (Wales) Regulations 2016<sup>M20</sup> are amended as follows.

(2) In regulation 2(1), in the appropriate place insert—

““the Official Controls (Plant Health) Regulations” (“*y Rheoliadau Rheolaethau Swyddogol (Iechyd Planhigion)*”) means the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020;”.

(3) In regulation 13(9), after “these Regulations” insert “ , Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants ”.

(4) In Schedule 1—

(a) in paragraph 3(d)—

(i) for “Schedule 14 to the Plant Health (Wales) Order 2006” substitute “ Part 3 of Schedule 2 to the Official Controls (Plant Health) Regulations ”;

(ii) for “that Order” substitute “ those Regulations ”;

(b) in paragraph 4(1)(b), for “Schedule 15 to the Plant Health (Wales) Order 2006” substitute “ Part 4 of Schedule 2 to the Official Controls (Plant Health) Regulations ”;

(c) in paragraph 7(1)(b), for “Schedule 15 to the Plant Health (Wales) Order 2006” substitute “ Part 4 of Schedule 2 to the Official Controls (Plant Health) Regulations ”;

(d) in paragraph 9(1)(b), for “Schedule 15 to the Plant Health (Wales) Order 2006” substitute “ Part 4 of Schedule 2 to the Official Controls (Plant Health) Regulations ”.

(5) In Schedule 2, in paragraph 10(b), omit “or the Plant Health (Wales) Order 2006”.

(6) In Schedule 5, in paragraph 3(b)—

(a) for “Schedule 14 to the Plant Health (Wales) Order 2006” substitute “ Part 3 of Schedule 2 to the Official Controls (Plant Health) Regulations ”;

(b) for “that Order” substitute “ those Regulations ”.

**Commencement Information**

**I38** Sch. 5 para. 4 in force at 27.3.2020, see reg. 1

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

### Marginal Citations

**M20** S.I. 2016/106 (W. 52); there are amending instruments but none is relevant..

## PART 5

### The Plant Health (Fees) (Forestry) (Wales) Regulations 2019

5.—(1) The Plant Health (Fees) (Forestry) (Wales) Regulations 2019<sup>M21</sup> are amended as follows.

(2) In regulation 2(1)—

(a) in the definition of “approved place of inspection” for “article 3 of the Order” substitute “regulation 13(10) of the Official Controls (Plant Health) Regulations 2020”;

(b) in the appropriate place insert—

““forestry remedial notice” (*“hysbysiad adfer coedwigaeth”*) means a notice served by a plant health inspector under regulation 10 or 15(1) or (2) of the Official Controls (Plant Health) Regulations 2020;”;

(c) for the definition of “licence” substitute—

““licence” (*“trwydded”*) means—

(a) a licence referred to in regulation 51(1) of the Official Controls (Plant Health) Regulations 2020 that has been granted by the Welsh Ministers, or

(b) an authorisation described in regulation 20(1)(a) or (b)(i) or 21(1)(a) of the Official Controls (Plant Health) Regulations 2020 granted by the Welsh Ministers;”;

(d) in the appropriate place insert—

““the Official Controls (Plant Health) Regulations 2020” (*“Rheoliadau Rheolaethau Swyddogol (Iechyd Planhigion) 2020”*) means the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020;”;

(e) in the appropriate place insert—

““Phytosanitary Conditions Regulation” (*“Rheoliad Amodau Ffytioiechydol”*) means Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants;”;

(f) in the appropriate place insert—

““plant health inspector” (*“arolygydd iechyd planhigion”*) means an official plant health officer appointed by the Welsh Ministers for the purposes of the Official Controls (Plant Health) Regulations 2020;”;

(g) in the definition of “plant passport authority”, at the end insert “ and granted by the Welsh Ministers ”;

(h) omit the definition of “the Order”;

(i) omit the definition of “remedial notice”;

(j) in the definition of “remedial work”, for “a remedial notice, or by an inspector under article 32(1) of the Order” substitute “ a forestry remedial notice, or by a plant health inspector under regulation 16(1) of the Official Controls (Plant Health) Regulations 2020 ”;

(k) in the definition of “WPM authorisation”, at the end insert “ and granted by the Welsh Ministers ”.

(3) In regulation 3—

(a) omit paragraph (6);

(b) at the end insert—

“(6A) The person on whom a forestry remedial notice is served or who is given notice under regulation 16(1) of the Official Controls (Plant Health) Regulations 2020 must pay the fee specified in Schedule 5 for the carrying out or the monitoring by a plant health inspector of remedial work and associated activities in connection with a controlled consignment.”

**Commencement Information**

**I39** Sch. 5 para. 5 in force at 27.3.2020, see reg. 1

**Marginal Citations**

**M21** [S.I. 2019/497](#) (W. 114), amended by [S.I. 2020/44](#) (W. 5).

## PART 6

### The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017

**6.—**(1) The Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017<sup>M22</sup> are amended as follows.

(2) In regulation 3(1), omit the definition of “Directive [2000/29/EC](#)”.

(3) Omit regulation 10(6).

(4) In regulation 11(7), for the words from “plant trader” to “2018” substitute “ professional operator for the purposes of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants ”.

(5) In regulation 15(1)(g), for paragraph (iii) substitute—

“(iii) a plant pest of a description specified in Annex 2, 3 or 4 to Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants.”

**Commencement Information**

**I40** Sch. 5 para. 6 in force at 27.3.2020, see reg. 1

**Marginal Citations**

**M22** [S.I. 2017/691](#) (W. 163), amended by [S.I. 2019/368](#) (W. 90); there are other amending instruments but none is relevant.

**Status:** Point in time view as at 31/12/2020.**Changes to legislation:** There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. (See end of Document for details)

## SCHEDULE 6

Regulation 50

## Revocation of instruments

**Commencement Information****I41** Sch. 6 in force at 27.3.2020, see reg. 1

<b><i>Instrument</i></b>	<b><i>Reference</i></b>
The Plant Health (Export Certification) (Forestry) (Great Britain) Order 2004	S.I. 2004/1684
The Potatoes Originating in Egypt (Wales) Regulations 2004	S.I. 2004/2245 (W. 209)
The Plant Health (Forestry) Order 2005	S.I. 2005/2517
The Plant Health (Export Certification) (Wales) Order 2006	S.I. 2006/1701 (W. 163)
The Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006	S.I. 2006/2695
The Plant Health (Forestry) (Amendment) Order 2006	S.I. 2006/2696
The Plant Health (Forestry) (Amendment) Order 2008	S.I. 2008/644
The Plant Health (Forestry) (Amendment) Order 2009	S.I. 2009/594
The Plant Health (Forestry) (Amendment) (No. 2) Order 2009	S.I. 2009/3020
The Plant Health (Forestry) (Amendment) Order 2012	S.I. 2012/2707
The Plant Health (Export Certification) (Wales) (Amendment) Order 2013	S.I. 2013/1658 (W. 156)
The Plant Health (Miscellaneous Amendments) (Wales) Regulations 2014	S.I. 2014/1463 (W. 144)
The Plant Health (Export Certification) (Wales) (Amendment) Order 2014	S.I. 2014/1759 (W. 174)
The Plant Health (Forestry) (Amendment) (Wales) Order 2015	S.I. 2015/1723 (W. 235)
The Plant Health (Export Certification) (Wales) (Amendment) Order 2016	S.I. 2016/1084 (W. 259)
The Plant Health (Export Certification) (Wales) (Amendment) Order 2018	S.I. 2018/772 (W. 156)
The Plant Health (Wales) Order 2018	S.I. 2018/1064 (W. 223)
The Plant Health (Wales) (Amendment) Order 2019	S.I. 2019/132 (W. 33)
The Plant Health (Forestry) (Amendment) (Wales) Order 2019	S.I. 2019/498 (W. 115)
The Plant Health (Forestry) (Amendment No. 2) (Wales) Order 2019	S.I. 2019/1153 (W. 202)
The Plant Health (Wales) (Amendment) (No. 2) Order 2019	S.I. 2019/1167 (W. 204)
The Plant Health (Wales) (Amendment) (No. 3) Order 2019	S.I. 2019/1280 (W. 224)



**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020.