
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 22

PLANT HEALTH

The Plant Health (Amendment) (Scotland) Order 1999

Made - - - - - *6th August 1999*
Laid before the Scottish
Parliament - - - - - *11th August 1999*
Coming into force - - - - - *21st August 1999*

The Scottish Ministers in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972⁽¹⁾ and of all other powers enabling them in that behalf hereby make the following Order: Title, commencement, interpretation and extent

1.—(1) This Order may be cited as the Plant Health (Amendment) (Scotland) Order 1999 and shall come into force on 21st August 1999.

(2) In this Order, “the principal Order” means the Plant Health (Great Britain) Order 1993⁽²⁾.

(3) This Order extends to Scotland only.

Amendment of the principal Order

2. Article 18 of the principal Order (miscellaneous potato provisions) shall be amended as follows—

(a) for the heading there shall be substituted “Miscellaneous provisions for certain solanaceous species”;

(b) after paragraph (2) there shall be substituted—

“(2A) Without prejudice to paragraph (1) of this article, no person shall plant or cause or permit to be planted any potatoes unless they derive in direct line from potato material which has been obtained under an officially approved programme within the European Community or Switzerland and which has been found to be free from *Ralstonia solanacearum* (Smith) Yabuuchi et al. in official tests using the method set out in Annex II of Directive 98/57/EC of 20th July 1998 on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.⁽³⁾.”; and

(1) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(2) S.I.1993/1320 to which there are amendments not relevant to this order.

(3) O.J. L235, 21.8.98.

(c) for paragraph (7) there shall be substituted—

“(7) “Without prejudice to articles 22 or 23, the special measures in respect of Potato Wart Disease, Potato Cyst Nematode, Potato Ring Rot and *Ralstonia solanacearum* (Smith) Yabuuchi et al. set out in Schedules 11, 12, 13 and 13A respectively shall be adopted to control the spread of those plant pests.””.

3. After article 23 of the principal Order (actions which may be taken by an inspector) there shall be inserted—

“Demarcation of zones for the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.

23A.—(1) Upon confirmation of the presence of *Ralstonia solanacearum* (Smith) Yabuuchi et al. in a sample taken pursuant to article 2 or article 5 of Directive 98/57/EC of 20th July 1998 on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al., an inspector may demarcate a zone as described in article 5(1)(a)(iv) or article 5(1)(c)(iii) of that Directive, to prevent the spread of that organism.

(2) The inspector shall publish notice of the demarcation under paragraph (1) of any zone and such notice shall—

- (a) include a declaration that the provisions of paragraph 11 of Schedule 13A shall apply in the demarcated zone with effect from the date specified in the notice; and
- (b) where appropriate, specify those areas of surface water within the zone to which the prohibition on irrigation and spraying in paragraph 11 of Schedule 13A shall apply.

(3) The demarcation of a zone under paragraph (1) shall apply until such date as may be specified in the notice referred to in paragraph (2) or in any further notice issued by an inspector varying the controls in the demarcated zone or the extent of the zone or ending the demarcation.

(4) An inspector shall publish notice pursuant to paragraphs (2) or (3) by means of—

- (a) a notice in the Edinburgh and London Gazettes; and
- (b) one or more newspapers circulating in the locality of the demarcated zone.

(5) For the purposes of the exercise, in relation to any person, of any power contained in articles 26, 27, 28 or 32, and for the purposes of the application to him of article 33, a notice published in accordance with paragraph (4) shall be deemed to have been served upon him.

(6) The declaration referred to in paragraph (2) shall not prejudice the requirements of any notice which may be served under articles 22 or 23 on any premises within the demarcated zone and any other special measures set out in Schedule 13A for the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.

(7) Any premises which are partly inside and partly outside a zone demarcated under paragraph (1) shall be deemed to be wholly inside that zone.”.

4.—(1) In—

- (a) section 2(b) in Part A of Schedule 1;
- (b) the items numbered 25.4, 25.7 and 25.8 in section 1 of Part A of Schedule 4; and
- (c) the items number 19.1, 19.3, 19.5 and 19.7 in section 2 of Part A of Schedule 4,

to the principal Order, for “*Pseudomonas solanacearum* (Smith) Smith” wherever they occur, there shall be substituted “*Ralstonia solanacearum* (Smith) Yabuuchi et al.”(4).

(4) *Ralstonia solanacearum* (Smith) Yabuuchi et al. was formerly known as *Pseudomonas solanacearum* (Smith) Smith.

5. After Schedule 13 to the principal Order (special measures for the control of potato ring rot) there shall be inserted Schedule 13A set out in the Schedule to this Order.

6. In Schedule 16 (instruments amending and supplementing Council Directive [77/93/EEC](#)) there shall be inserted at the end—

“Council Directive [98/57/EC](#)

O.J. No. L235, 21.8.98, p.1.”

St Andrew’s House,
Edinburgh
6th August 1999

ROSS FINNIE
A member of the Scottish Executive

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SCHEDULE

Article 3

New Schedule 13A to the Plant Health (Great Britain) Order 1993

“SCHEDULE 13A

Article 18(7)

SPECIAL MEASURES FOR THE CONTROL OF RALSTONIA
SOLANACEARUM (SMITH) YABUUCHI ET AL.

1.—(1) In this Schedule—

“agricultural land” means land used or capable of use for the purposes of a trade or business in connection with agriculture;

“appropriate waste disposal facilities” means waste disposal facilities such that, in the opinion of an inspector, there is no identifiable risk of the organism spreading;

“classified seed potatoes” means classified seed as defined by regulation 2(1) of the Seed Potatoes Regulations 1991;

“the Directive” means Council Directive [98/57/EC](#) of 20th July 1998 on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.;

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

“the organism” means *Ralstonia solanacearum* (Smith) Yabuuchi et al.

(2) Any reference in this Schedule to a numbered paragraph is a reference to the paragraph so numbered in this Schedule.

2.—(1) This paragraph applies to specified plant material designated by an inspector as contaminated with the organism for the purposes of article 5(1)(a)(ii) of the Directive and to such material designated in any other part of the United Kingdom or in any other Member State as contaminated for those purposes.

(2) Without prejudice to article 4, no person shall plant or cause or permit to be planted any specified plant material to which this paragraph applies.

(3) A notice under article 22 may require that specified plant material to which this paragraph applies be used or disposed of—

(a) by incineration;

(b) as animal feed after heat treatment such that there is no risk of the organism surviving;

(c) by deep burial at a disposal site at which there is no risk of seepage to agricultural land or contact with water sources which are or could be used for irrigation of agricultural land;

(d) by industrial processing at a plant—

(i) to which the specified plant material is to be directly delivered within such time as may be specified in the notice; and

(ii) in respect of which the inspector is satisfied that the waste disposal facilities conform to the provisions laid down in Annex VII of the Directive; or

(e) in any way not referred to in paragraphs (a) to (d) in regard to which it has been established to the satisfaction of the inspector that there is no identifiable risk of the organism spreading.

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3.—(1) This paragraph applies to specified plant material which has been determined by an inspector to be probably contaminated for the purposes of article 5(1)(a)(iii) and article 5(1)(c)(iii) of the Directive and to such material determined in any other part of the United Kingdom or in any other Member State to be probably contaminated for those purposes.

(2) Without prejudice to article 4, no person shall plant or cause or permit to be planted any specified plant material to which this paragraph applies.

(3) A notice under article 22 may require that the specified plant material to which this paragraph applies be used or disposed of—

(a) in the case of potato tubers—

(i) as ware potatoes intended for consumption and packed at sites with appropriate waste disposal facilities, ready for direct delivery and use without re-packing and intended for such direct delivery and use;

(ii) as ware potatoes intended for industrial processing at a plant which has appropriate waste disposal facilities to which the potatoes are directly delivered within such time as may be specified in the notice; or

(iii) in any way not referred to in paragraphs (i) or (ii) in regard to which it has been established to the satisfaction of the inspector that there is no identifiable risk of the organism spreading;

(b) in the case of plants other than potato tubers, including stem and foliage debris, by destruction or in any other way in regard to which it is established to the satisfaction of the inspector that there is no identifiable risk of the organism spreading.

4.—(1) A notice under article 22 may require that any machinery, vehicle, vessel, store, or any part of such machinery, vehicle, vessel or store and any other object including packaging material designated by an inspector as contaminated for the purposes of article 5(1)(a)(ii), or determined by him to be probably contaminated for the purposes of article 5(1)(a)(iii) and article 5(1)(c)(iii), of the Directive shall be—

(a) destroyed; or

(b) cleansed and, where appropriate, disinfected, such that there is no identifiable risk of the organism spreading.

(2) Anything cleansed and, where appropriate, disinfected in accordance with sub-paragraph (1) shall no longer be treated as contaminated for the purposes of the Directive.

5. Without prejudice to articles 4 or 30A, no person shall, otherwise than in compliance with the provisions of this Schedule, hold or handle or cause or permit to be held or handled the organism, any specified plant material or any other object or material contaminated by the organism.

6. Without prejudice to paragraphs 2 to 4 of this Schedule, a notice under article 22 may require the measures referred to in paragraphs 7 to 10 (as appropriate) to be implemented in a zone demarcated under article 23A by an inspector.

7.—(1) Subject to paragraph 8, where a place of production has been designated by an inspector as contaminated for the purposes of article 5(1)(a)(ii) of the Directive, the notice referred to in paragraph 6 may require, with regard to any field or unit of protected crop production at that place, that the measures referred to in either sub-paragraph (2) or (3) shall be implemented.

(2) The measures referred to in this sub-paragraph are—

(a) from the date of receipt of the notice and for at least four growing years from the start of the next growing year following the designated contamination—

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- (i) measures to eliminate volunteer potato and tomato plants as well as other host plants of the organism including solanaceous weeds;
 - (ii) the following shall not be planted—
 - potato tubers or plants;
 - tomato plants and seeds;
 - taking into account the biology of the organism, other host plants and plants of species of Brassica for which there is an identified risk of the organism surviving;
 - crops for which there is an identified risk of the organism spreading;
 - (b) in the first potato or tomato cropping season following the period referred to in paragraph (a) and provided that the field or unit of production has been free from volunteer potato and tomato plants and other host plants including solanaceous weeds for at least the two consecutive growing years prior to planting, in the case of potatoes, only classified seed potatoes may be planted, and only for ware production;
 - (c) in the potato or tomato cropping season which follows that referred to in paragraph (b) and following an appropriate rotation cycle, in the case of potatoes, only classified seed potatoes may be planted and only for seed or ware production.
- (3) The measures referred to in this sub-paragraph are—
- (a) from the date of receipt of the notice and for five years from the start of the next growing year following the designated contamination;
 - (i) measures to eliminate volunteer potato and tomato plants as well as other host plants of the organism including solanaceous weeds;
 - (ii) the field or unit of production shall be maintained during the first three growing years—
 - in bare fallow;
 - in cereals if the inspector is satisfied that there is no identified risk of the organism spreading;
 - in permanent pasture with frequent close cutting or intensive grazing; or
 - as grass for seed production,
 - followed by planting in the succeeding two growing years with non-host plants of the organism for which there is no identified risk of the organism surviving or spreading;
 - (b) in the first potato or tomato cropping season which follows the period referred to in paragraph (a), in the case of potatoes, only classified seed potatoes may be planted, and only for seed or ware production.

8.—(1) Where a unit of protected crop production lies within a place of production designated by an inspector as contaminated for the purposes of article 5(1)(a)(ii) of the Directive and complete replacement of the growing medium is possible in that unit—

- (a) no person shall plant or cause or permit the planting in the unit of potato tubers or plants or other host plants of the organism including tomato plants and seeds without the written authorisation of an inspector;
 - (b) such authorisation shall not be granted unless the measures specified in the notice referred to in paragraph 6, which shall include at least those specified in sub-paragraph (2) below, have been implemented.
- (2) The measures referred to in sub-paragraph (1)(b) above shall include—

- (a) a complete change of growing medium in the unit; and
 - (b) cleansing and, where appropriate, disinfection of the unit and all equipment which is used in it,
for the purpose of eliminating the organism and removing all host plant material.
- (3) The authorisation referred to in paragraph (1)(a) may require that—
- (a) where the authorisation is granted for potato production, production shall be from classified seed potatoes or from mini-tubers or micro-plants derived from officially tested sources;
 - (b) controls on, or prohibitions of, irrigation and spraying programmes shall be introduced as appropriate to prevent the spread of the organism.
- 9.** Where a place of production has been designated by an inspector as contaminated for the purposes of article 5(1)(a)(ii) of the Directive, the notice referred to in paragraph 6 may require with regard to any field at that place not referred to in paragraph 7 that—
- (a) from the date of receipt of the notice and in the growing year following the designated contamination—
 - (i) subject to sub-paragraph (ii) below, no potato tubers or plants or other host plants of the organism shall be planted;
 - (ii) where an inspector is satisfied that any risk of the occurrence of volunteer potato plants and tomato plants and other host plants of the organism including solanaceous weeds has been eliminated, classified seed potatoes may be planted for ware production only;
 - (b) if potatoes are to be planted, in the first growing year following that specified in paragraph (a) above, only classified seed potatoes may be planted and only for either seed or ware production;
 - (c) if potatoes are to be planted, in the second growing year following that specified in paragraph (a) above and, where appropriate, in any subsequent growing year which may be specified in the notice, only classified seed potatoes may be planted and only for either seed or ware production;
 - (d) from the date of receipt of the notice and in each of the growing years referred to in this paragraph, measures shall be taken to eliminate volunteer potato and tomato plants and other host plants of the organism including solanaceous weeds.
- 10.** Where a place of production has been designated by an inspector as contaminated for the purposes of article 5(1)(a)(ii) of the Directive, the notice referred to in paragraph 6 may require that from the date of receipt of the notice and throughout the subsequent growing years up to and including the first potato or tomato cropping season referred to in paragraph 7(2)(b) or, as the case may be, 7(3)(b)—
- (a) all machinery and storage facilities on the place of production which are used for potato or tomato production shall be cleansed and, where appropriate, disinfected in accordance with paragraph 4(1)(b);
 - (b) such controls on, or prohibition of, irrigation and spraying programmes shall be introduced as are considered appropriate by an inspector for the prevention of the spread of the organism.
- 11.** Where a declaration has been made pursuant to article 23A(2) that the provisions of this paragraph shall apply—
- (a) where the zone has been demarcated for the purposes of article 5(1)(a)(iv) of the Directive—

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- (i) machinery and stores on premises within the zone growing, storing or handling potato tubers or tomatoes or on premises which operate machinery for potato or tomato production under contract within the zone shall be cleansed and, where appropriate, disinfected in accordance with paragraph 4(1)(b);
 - (ii) in the case of potato crops in the zone, only classified seed potatoes may be planted;
 - (iii) potatoes intended for planting shall be handled separately from all other potatoes on all premises within the zone;
- (b) where surface water has been designated by an inspector as contaminated for the purposes of article 5(1)(c)(ii) of the Directive—
- (i) the use of water designated as contaminated for the irrigation and spraying of—
 - (aa) specified plant material; and
 - (bb) where appropriate, other host plants,shall be prohibited without the written authorisation of an inspector;
 - (ii) the authorisation referred to in sub-paragraph (i) above shall be granted where it has been established to the satisfaction of the inspector on the basis of the results obtained in the survey which is required to be conducted under paragraph 4.2(a)(ab) of Annex VI of the Directive that there is no identifiable risk of the organism spreading;
 - (iii) if liquid waste discharges have been contaminated, the disposal of waste from industrial processing or packaging premises which handle specified plant material shall be carried out under the supervision of an inspector.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order implements Council Directive [98/57/EC](#) on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al., (previously known as *Pseudomonas solanacearum* (Smith) Smith) (“the organism”) by amending the Plant Health (Great Britain) Order 1993 (S.I. [1993/1320](#)) (“the principal Order”). The Order extends to Scotland only.

This Order—

- (a) introduces controls on planting seed potatoes and inserts a new Schedule 13A in the principal Order containing special measures for the control of the organism (articles 2 and 5);
- (b) provides for the demarcation of a zone for the control of the organism (article 3);
- (c) substitutes “*Ralstonia solanacearum* (Smith) Yabuuchi et al.” for references in the principal Order to “*Pseudomonas solanacearum* (Smith) Smith” (article 4); and
- (d) introduces reference to Council Directive [98/57/EC](#) among the instruments referred to in the principal Order as amending or supplementing Council Directive [77/93/EEC](#) of 21st December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (article 6).

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