

1999 No. 2126

PLANT HEALTH, ENGLAND

The Plant Health (Amendment) (England) Order 1999

<i>Made</i> - - - -	<i>27th July 1999</i>
<i>Laid before Parliament</i>	<i>28th July 1999</i>
<i>Coming into force</i>	<i>21st August 1999</i>

The Minister of Agriculture, Fisheries and Food, in relation to England, in exercise of the powers conferred on him by sections 3(1) and (2) and 4(1) of the Plant Health Act 1967^(a), hereby makes the following Order:

Title, extent and commencement

1. This Order may be cited as the Plant Health (Amendment) (England) Order 1999, shall apply only to England and shall come into force on 21st August 1999.

Amendment of the Plant Health (Great Britain) Order 1993

2.—(1) The Plant Health (Great Britain) Order 1993^(b) shall be amended in its application to England in accordance with the following paragraphs of this article.

(2) The heading of article 18 shall be changed from “Miscellaneous potato provisions” to “Miscellaneous provisions for certain solanaceous species” and—

(a) after paragraph (2) of that article there shall be inserted the following—

“(2A) Without prejudice to paragraph (1) of this article, no person shall knowingly plant or knowingly 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 20 July 1998 on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.^(c).”; and

(b) for paragraph (7) of that article there shall be substituted the following—

“(7) Without prejudice to article 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.”.

^(a) 1967 c. 8; section 3(1) and (2) was amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 8. Under the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State.

^(b) S.I. 1993/1320; amended by S.I. 1993/3213, 1995/1358 and 2929, 1996/25, 1165 and 3242, 1997/1145 and 2907 and 1998/349, 1121 and 2245.

^(c) O.J. L235, 21.8.98, p. 1.

(3) After article 23 (actions which may be taken by an inspector) there shall be inserted the following article—

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

23A.—(1) Upon the 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 20 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) above of any zone and such notice shall—

- (a) subject to sub-paragraph (b) below, include a declaration that the provisions of paragraph 11 of Schedule 13A shall apply in the demarcated zone with effect from the date which is 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 zone shall remain demarcated for the purposes of this Order until such date as may be specified in the notice referred to in paragraph (2) above or in any further notice relating to the demarcated zone which an inspector may issue varying the controls in the demarcated zone or its extent or ending it.

(4) An inspector shall publish notice pursuant to sub-paragraph (2) or (3) above by means of—

- (a) a notice in the London and Edinburgh 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 article 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) above shall be taken to have been served on him.

(6) The declaration referred to in paragraph (2) above shall not prejudice the requirements of any notice which may be served under article 22 or article 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) Subject to paragraph (8), any premises which are partly inside and partly outside a demarcated zone shall be deemed to be wholly inside that zone for the purposes of this article.

(8) Paragraph (7) shall not apply in respect of any part of any premises which is situated outside England.”.

(4) In the following provisions—

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

for the words “*Pseudomonas solanacearum* (Smith) Smith” wherever they occur, there shall be substituted “*Ralstonia solanacearum* (Smith) Yabuuchi et al.(a)”.

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

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

(6) In Schedule 16 there shall be inserted at the end the following—
“Council Directive 98/57/EC OJ No. L235, 21.8.98, p. 1.”.

27th July 1999

Jeff Rooker
Minister of State,
Ministry of Agriculture, Fisheries and Food

THE SCHEDULE

Article 2(5)

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;

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

“*R. solanacearum*” means *Ralstonia solanacearum* (Smith) Yabuuchi et al.;

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

(2) Notwithstanding the limitation of the application of this Schedule to England, in this Schedule “inspector”, in relation to any designation or determination, includes any person authorised by the appropriate Minister to be an inspector in any part of Great Britain.

2.—(1) This paragraph applies to specified plant material which has been designated by an inspector to be contaminated with *R. solanacearum* for the purposes of article 5(1)(a)(ii) of the Directive.

(2) Without prejudice to article 4, no person shall knowingly plant or knowingly cause or permit to be planted any specified plant material which has been designated as described in sub-paragraph (1) above.

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

(a) by incineration;

(b) as animal feed after heat treatment such that there is no risk of *R. solanacearum* 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 delivered direct 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 to the Directive; or

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

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.

(2) Without prejudice to article 4, no person shall knowingly plant or knowingly cause or permit to be planted any specified plant material which has been determined as described in sub-paragraph (1) above.

(3) A notice under article 22 may require the specified plant material to be used or disposed of as follows—

- (a) in the case of potato tubers:
 - (i) used as ware potatoes which are intended for consumption and are–
 - (aa) packed at sites which the inspector is satisfied have appropriate waste disposal facilities such that there is no identifiable risk of *R. solanacearum* spreading; and
 - (bb) intended and ready for direct delivery and use without re-packing;
 - (ii) used as ware potatoes which are intended for industrial processing at a plant–
 - (aa) to which the potatoes are delivered direct within such time as may be specified in the notice; and
 - (bb) which the inspector is satisfied has appropriate waste disposal facilities such that there is no identifiable risk of *R. solanacearum* spreading; or
 - (iii) in any way not referred to in paragraphs (i) and (ii) above in regard to which it has been established to the satisfaction of the inspector that there is no identifiable risk of *R. solanacearum* spreading;
- (b) in the case of plants other than potato tubers, including stem and foliage debris, disposed of by destruction or used or disposed of in any other way in regard to which it has been established to the satisfaction of the inspector that there is no identifiable risk of *R. solanacearum* 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) of the Directive 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 either–

- (a) be disposed of by destruction; or
- (b) be cleansed and, where appropriate, disinfected, such that there is no identifiable risk of *R. solanacearum* spreading.

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

5. Without prejudice to article 4 or article 30A, no person shall knowingly hold or handle *R. solanacearum* or any specified plant material or other object or material contaminated with that organism otherwise than in compliance with the provisions of this Schedule.

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 below (as appropriate) to be implemented in a zone demarcated by an inspector under article 23A.

7.—(1) Subject to paragraph 8 below, 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, with regard to any field or with regard to any unit of protected crop production at that place, which has also been so designated, the measures referred to in either sub-paragraph (2) or sub-paragraph (3) below shall apply.

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

- (a) from the date of the receipt of the notice and for at least four growing years from the start of the next growing year:

- (i) measures to eliminate volunteer potato and tomato plants as well as other host plants of *R. solanacearum* including solanaceous weeds as appropriate;
 - (ii) the following shall not be planted—
 - potato tubers and plants;
 - tomato plants and seeds;
 - taking into account the biology of *R. solanacearum*, other host plants and plants of species of *Brassica* for which there is an identified risk of *R. solanacearum* surviving;
 - crops for which there is an identified risk of *R. solanacearum* spreading;
- (b) in the first potato or tomato cropping season following the period referred to in paragraph (a) above, if potatoes are to be planted, only classified seed potatoes as defined by regulation 2(1) of the Seed Potatoes Regulations 1991 (a) may be planted, for ware production only, 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;
- (c) in the potato or tomato cropping season which follows that referred to in paragraph (b) above and following an appropriate rotation cycle, if potatoes are to be planted, only classified seed potatoes as defined by regulation 2(1) of the Seed Potatoes Regulations 1991 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 growing years from the start of the next growing year:
 - (i) measures to eliminate volunteer potato and tomato plants as well as other host plants of *R. solanacearum* including solanaceous weeds as appropriate;
 - (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 *R. solanacearum* 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 *R. solanacearum* for which there is no identified risk of that organism surviving or spreading;
 - (b) in the first potato or tomato cropping season which follows the period referred to in sub-paragraph (3)(a) of this paragraph, if potatoes are to be planted, only classified seed potatoes as defined by regulation 2(1) of the Seed Potatoes Regulations 1991 may be planted, and only for seed or ware production.

8.—(1) 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 and a unit of protected crop production at that place has also been so designated and complete replacement of the growing medium is possible in that unit—

- (a) no person shall plant in the unit any potato tubers or potato plants or other host plants of *R. solanacearum* including tomato plants and seeds without the written authorisation of an inspector;

(a) S.I. 1991/2206; amended by S.I. 1992/1031, 1993/1878, 1994/2592, 1997/1474.

- (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 complied with.
- (2) The measures referred to in sub-paragraph (1)(b) above are–
 - (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 *R. solanacearum* and removing all host plant material.

- (3) The authorisation referred to in paragraph (1)(a) above may require that–
 - (a) where the authorisation is granted for potato production, production shall be from classified seed potatoes as defined by regulation 2(1) of the Seed Potatoes Regulations 1991 or from mini-tubers or micro-plants derived from officially tested sources;
 - (b) controls on irrigation and spraying programmes, which may include a prohibition on such programmes, shall be introduced as appropriate to prevent the spread of *R. solanacearum*.

9. Where a place of production has been designated by an inspector as contaminated under article 5(1)(a)(ii) of the Directive, the notice referred to in paragraph 6 may require that with regard to any fields at that place other than those referred to in paragraph 7 above–

- (a) from the date of receipt of the notice and for one growing year following the start of the next growing year no potato tubers or potato plants or other host plants of *R. solanacearum* shall be planted, save that if an inspector is satisfied that any risk of the occurrence of volunteer potato plants and tomato plants and other host plants of *R. solanacearum* including solanaceous weeds has been eliminated classified seed potatoes as defined by regulation 2(1) of the Seed Potatoes Regulations 1991 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 as defined by regulation 2(1) of the Seed Potatoes Regulations 1991 may be planted, and only for 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 as defined by regulation 2(1) of the Seed Potatoes Regulations 1991 may be planted, and only for seed or ware production;
- (d) from the date of the 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 *R. solanacearum* including solanaceous weeds as appropriate.

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 upon receipt of the notice and throughout the subsequent growing years up to and including the first potato or tomato cropping season permitted by paragraph 7(2)(b) or 7(3)(b) above–

- (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) of this Schedule;
- (b) controls on irrigation and spraying programmes, which may include a prohibition on such programmes, shall be introduced as the inspector considers appropriate for the prevention of the spread of *R. solanacearum*.

11. When 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:
 - (i) machinery and stores at–
 - (aa) premises growing, storing or handling potato tubers or tomatoes within the zone; and

- (bb) premises within the zone from which machinery for potato or tomato production is operated under contract
shall be cleansed and, where appropriate, disinfected in accordance with paragraph 4(1)(b) of this Schedule;
 - (ii) with regard to potato crops in the zone, only classified seed potatoes as defined by regulation 2(1) of the Seed Potatoes Regulations 1991 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 plantsshall be prohibited without the written authorisation of an inspector, in order to prevent the spread of *R. solanacearum*;
 - (ii) the authorisation referred to in 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 to the Directive that there is no identifiable risk of *R. solanacearum* spreading; and
 - (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. (O.J. No. L235, 21.8.98, p. 1) by amending the Plant Health (Great Britain) Order 1993 in its application to England. This Order—

- (a) introduces further controls on planting seed potatoes (article 2(2));
- (b) inserts a new Schedule into the principal Order containing special measures for controlling the spread of *Ralstonia solanacearum* (Smith) Yabuuchi et al. (article 2(2) and 2(5));
- (c) provides for the demarcation of zones to prevent the spread of *Ralstonia solanacearum* (Smith) Yabuuchi et al. (article 2(3));
- (d) substitutes all references to “*Pseudomonas solanacearum* (Smith) Smith” in the principal Order with the term “*Ralstonia solanacearum* (Smith) Yabuuchi et al.” (article 2(4)).

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