

## SCHEDULE 2

Regulation 22

### PART 1

#### General interpretation

1. In this Schedule—

“[Directive 93/85/EEC](#)” means Council [Directive 93/85/EEC](#) on the control of potato ring rot;

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

“[Directive 2007/33/EC](#)” means Council [Directive 2007/33/EC](#) on the control of potato cyst nematodes and repealing [Directive 69/465/EEC](#);

“official”, in relation to any testing or other activity described in this Schedule, means carried out by or performed by the Department, and “officially” is to be construed accordingly;

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

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

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

“Seed Potatoes Regulations” means the Seed Potatoes Regulations (Northern Ireland) 2016(1).

### 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, any potatoes which have been grown in a third country, other than Switzerland, or 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 an officially approved programme in the European Union or Switzerland;
- (b) they have been found to be free from Potato ring rot in official tests using the methods set out in Annex 1 to [Directive 93/85/EEC](#);
- (c) they have been found to be free from Potato brown rot in official tests using the methods set out in Annex 2 to [Directive 98/57/EC](#).

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(1) [S.R. 2016 No. 190](#).

### **Restrictions on the planting of potatoes in the protected region**

3.—(1) A person must not knowingly plant, or knowingly cause or permit to be planted, any potatoes in the protected region other than—

- (a) potatoes which may be marketed in the protected region under the Seed Potatoes Regulations;
- (b) one year’s direct progeny of the potatoes referred to in paragraph (a) where that direct progeny has been grown by that person.

(2) Any person who is involved in the planting of potatoes in the protected region must retain and make available to a plant health inspector the following documents in relation to the potatoes—

- (a) their official labels;
- (b) the invoices and delivery notes for the potatoes;
- (c) in the case of potatoes marketed or marketable under the Seed Potatoes Regulations or potatoes which are their direct progeny and have been produced by the certificate holder, the certificate of classification.

(3) Sub-paragraphs (1) and (2) do not apply where—

- (a) the area to be planted is less than 0.1 hectare; or
- (b) the area is intended for the production of early potatoes.

(4) In sub-paragraph (3)(b), “early potatoes” means potatoes which are harvested before they are completely mature and marketed immediately after they have been harvested, and whose skins can be easily removed without peeling.

## **PART 3**

### **Measures for the control of Potato wart disease**

#### **Interpretation**

4.—(1) 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.

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

5.—(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 areas.

(2) A plant health inspector must serve a notice under regulation 17(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.

(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 17(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.

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

6.—(1) Where a contaminated plot is demarcated under paragraph 5(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 5(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.

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

7. Where a plant health inspector is satisfied that Potato wart disease is no longer present on a plot which was demarcated under paragraph 5(1) or on its associated safety zone, the inspector must revoke that demarcation.

## **PART 4**

### **Measures for the control of European populations of Potato cyst nematode**

#### **Interpretation**

8. In this Part—

“field” means an area which has been demarcated as a field for the purposes of Article 3 of [Directive 2007/33/EC](#);

“host plants” means plants with roots of *Capsicum* spp. *Solanum lycopersicum* L. or *Solanum melongra* L.;

“infested field” means a field which is recorded as infested pursuant to paragraph 10(1);

“notice” means a notice under regulation 17(1);

“Potato cyst nematode” 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;

“susceptible bulbs” 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” means host plants, susceptible bulbs or susceptible plants;

“susceptible plants” means plants with roots of *Allium porrum* L., *Asparagus officinalis* L., *Beta vulgaris* L., *Brassica* spp. or *Fragaria* L.

#### **Official investigations and surveys**

9. The Department must ensure that—

- (a) official investigations are carried out in accordance with Articles 4 and 5 of [Directive 2007/33/EC](#) for the presence of Potato cyst nematodes in fields in which seed potatoes or

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susceptible material intended for the production of plants for planting are to be planted or stored;

- (b) official surveys are carried out in accordance with Article 6 of [Directive 2007/33/EC](#) 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.

#### **Official records of investigations and surveys**

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

(2) Where the officially approved measures set out in Section 3(C) of Annex 3 to [Directive 2007/33/EC](#) have been taken in a field which has been recorded as infested pursuant to subparagraph (1) and, following the completion of those measures, it is officially confirmed that Potato cyst nematodes are no longer present in the field, the Department must ensure that the record is updated accordingly.

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

11.—(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 field.

(2) The notice may not be withdrawn until it is confirmed, in accordance with paragraph 10(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 10(1) or any susceptible material which has been in contact with soil in which Potato cyst nematodes have been found.

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

12.—(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 the measures set out in Section 3(A) of Annex 3 to [Directive 2007/33/EC](#).

#### **Controls on contaminated seed potatoes etc.**

13.—(1) No person may plant any seed potatoes or any host plants which have been designated as infested pursuant to paragraph 11(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 plants.

#### **Controls on potatoes for industrial processing or grading**

14.—(1) No person may move any potatoes which have been designated as infested pursuant to paragraph 11(3) and are intended for industrial processing or grading, unless authorised to do so by an inspector.

(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.

#### **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 11(3), unless they have been subject to the measures set out in Section 3(A) of Annex 3 to [Directive 2007/33/EC](#) and an inspector has confirmed by notice that they are no longer contaminated.

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

16. If any suspected occurrence or confirmed presence of Potato cyst nematodes in Northern Ireland 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 Department must ensure that the species of Potato cyst nematode and, where applicable, the pathotype and virulence group involved, is investigated and confirmed by appropriate methods.

## **PART 5**

### **Measures for the control of Potato ring rot**

#### **Interpretation**

17.—(1) In this Part—

“certified seed potatoes” 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” means designated by a plant health inspector as contaminated for the purposes of Article 5(1)(a) of [Directive 93/85/EEC](#);

“first growing year”, 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 for the purposes of Article 5(1)(a) of [Directive 93/85/EEC](#);

“notice” in relation to a notice to be given by a plant health inspector, means a notice under regulation 17(1);

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

“possibly contaminated” means determined by a plant health inspector as possibly contaminated for the purposes of Article 5(1)(b) of [Directive 93/85/EEC](#);

“susceptible material” means tubers or plants of *Solanum tuberosum* L.;

“zone” means any area, including any individual premises.

#### **Official surveys and testing**

18.—(1) The Department must ensure that systematic official surveys for Potato ring rot are carried out in Northern Ireland on tubers of *Solanum tuberosum* L. and, where appropriate, on plants of *Solanum tuberosum* L., in accordance with Article 2(1) of [Directive 93/85/EEC](#).

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- (2) Where the presence of Potato ring rot in susceptible material is suspected, the Department must ensure that—
- (a) official testing is carried out using the method set out in Annex 1 to [Directive 93/85/EEC](#) and in accordance with the conditions specified in point 1 of Annex 2 to [Directive 93/85/EEC](#) 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 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).

**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 19(2)(a) or sub-paragraph (2), the Department 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), taking into account the matters set out in point 1 of Annex 3 to [Directive 93/85/EEC](#);
  - (c) a zone is demarcated by a plant health inspector on the basis of the designation made under paragraph (a), taking into account the matters set out in point 2 of Annex 3 to [Directive 93/85/EEC](#).
- (2) Where susceptible material has been designated as contaminated under sub-paragraph (1)(a), the Department must ensure that testing is carried out on potato stocks which are clonally related to that susceptible material in the manner specified in paragraph 19(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.

### **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 any other measure that complies with point 1 of Annex 4 to [Directive 93/85/EEC](#);
  - (b) in the case of possibly contaminated susceptible material, the material be used or disposed of in accordance with point 2 of Annex 4 to [Directive 93/85/EEC](#);
  - (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.
- (3) Anything cleansed and disinfected in accordance with sub-paragraph (2)(c)(ii) may no longer be treated as contaminated for the purposes of [Directive 93/85/EEC](#).

### **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 and 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 Annex 1 to [Directive 93/85/EEC](#); 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—

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- (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
  - (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 Annex 1 to [Directive 93/85/EEC](#).
- (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 Annex 1 to [Directive 93/85/EEC](#).
- (5) A notice served by a plant health inspector under sub-paragraph (2) must additionally 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 following the first growing year and 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 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 Department must ensure that an official survey is carried out in relation to the field mentioned in sub-paragraph (2)(d) in accordance with Article 2 of [Directive 93/85/EEC](#).

#### **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.

### **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 Department 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 Department may, in particular, specify in a notice under 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 Northern Ireland.

(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 Department must ensure that—

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- (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 Article 2 of [Directive 93/85/EEC](#);
  - (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.

## PART 6

### Measures for the control of Potato brown rot

24. In this Schedule—

“certified seed potatoes” 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” means designated by a plant health inspector as contaminated for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#).

“first growing year”, 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 for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#);

“notice”, in relation to a notice to be given by a plant health inspector, means a notice under regulation 17(1);

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

“possibly contaminated” means determined by a plant health inspector as possibly contaminated for the purposes of Article 5(1)(a)(iii) or (c)(iii) of [Directive 98/57/EC](#);

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

(a) in relation to plants for planting produced before 14<sup>th</sup> December 2019, the requirements specified in respect of those plants for planting in Section 2 of Part A of Annex 2, and Section 2 of Part A of Annex 4, to Council [Directive 2000/29/EC](#);

(b) in relation to plants for planting produced on or after 14<sup>th</sup> December 2019, the requirements specified in respect of those plants for planting in Part F of Annex 4, and Part E of Annex 5, to the Phytosanitary Conditions Regulation;

“susceptible material” means plants (including tubers), other than true seed, of *Solanum tuberosum* L. or plants, other than fruit or seeds, of *Solanum lycopersicum* L.;

“zone” means any area, including any individual premises.

### Official surveys and testing

25.—(1) The Department must ensure that annual systematic official surveys are carried out in Northern Ireland to identify the presence of Potato brown rot on susceptible material in accordance with Article 2 of [Directive 98/57/EC](#).

- (2) Where the presence of Potato brown rot is suspected, the Department 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 Annex 2 to [Directive 98/57/EC](#) and in accordance with the conditions specified in point 1 of Annex 3 to [Directive 98/57/EC](#);
    - (ii) in any other case, using any officially approved method;
  - (b) pending the confirmation 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 specified in point 2 of Section 1 and Section 3 of Annex 2 to [Directive 98/57/EC](#) has been obtained—
    - (i) the movement of all plants and tubers from all crops, lots or consignments from which the samples have been taken, other than those which are under official control, is prohibited, except where it has been established that there is no identifiable risk of Potato brown rot spreading;
    - (ii) steps are taken to trace the origin of the suspected occurrence; and
    - (iii) additional appropriate precautionary measures based on the level of estimated risk are taken to prevent any spread of Potato brown rot.
- (3) A notice may contain measures for the purposes of sub-paragraph (2)(b)(i) to (iii).

#### **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 Department must ensure that the actions specified in sub-paragraphs (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 in accordance with Annex 4 to [Directive 98/57/EC](#);
  - (b) further official testing, including on all clonally related seed potato stocks;
  - (c) the designation of the following as contaminated by 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 in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#);
- (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 in accordance with Annex 4 to [Directive 98/57/EC](#);

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- (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 in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#).
- (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 in accordance with point 2(ii) of Annex 5 to [Directive 98/57/EC](#).

**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 measure that complies with point 1 of Annex 6 to [Directive 98/57/EC](#).
  - (b) in the case of possibly contaminated susceptible material, the material be used or disposed of in accordance with point 2 of Annex 6 to [Directive 98/57/EC](#).
  - (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 [Directive 98/57/EC](#).

**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)(c)—

- (a) in relation to a contaminated field or 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 two consecutive growing years prior to planting, and that harvested tubers or tomato plants be subjected to official testing using the method set out in Annex 2 to [Directive 98/57/EC](#); 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

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field or the unit has been found free from volunteer potato and tomato plants and other host plants, including solanaceous weeds, during official inspections of Potato brown rot, for at least the two consecutive growing years prior to planting, and that harvested tubers or tomato plants be subjected to official testing using the method set out in Annex 2 to [Directive 98/57/EC](#).

- (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 requirements of [[Directive 2000/29/EC](#)], 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 supervision 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; and
  - (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;
  - (g) official inspections of growing crops at appropriate times and official testing of harvested potatoes in accordance with the method set out in Annex 2 to [Directive 98/57/EC](#).
- (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 specify the appropriate methods for cleansing and disinfecting the machinery and storage facilities;
  - (b) 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) may be included in a notice with other appropriate measures.

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

### **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 has been cleansed and disinfected to eliminate Potato brown rot and remove all host plant material.

(4) An authorisation under 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.

### **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).

(2) The Department 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 Department may, in particular, specify in a notice under 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

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- must be carried out between the handling of seed and ware potatoes during the specified period;
- (d) in the case of tomato crops, only tomato plants grown from seed which meets the requirements of [Directive 2000/29/EC] 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 Northern Ireland.
- (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) any person who operates machinery or carries out any other activity in relation to the production of potatoes or tomatoes within the demarcated zone.
- (7) The Department 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 Article 5(1)(a)(iv) of Directive 98/57/EC;
  - (b) in relation to the measures referred to in paragraphs (e) and (f) of that sub-paragraph for the purposes of Article 5(1)(c)(iii) of Directive 98/57/EC.
- (8) The Department 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 Article 2 of Directive 98/57/EC 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.