

## SCHEDULE 2

### 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

*Status: This is the original version (as it was originally made).*

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](#);
  - (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;

*Status: This is the original version (as it was originally made).*

- (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 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—

*Status: This is the original version (as it was originally made).*

- (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 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.