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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2019 No.**

**The Plant Health (EU Exit) (Scotland)  
(Amendment etc.) Regulations 2019**

**PART 3**

Amendment of the Plant Health (Scotland) Order 2005: exiting the European Union

CHAPTER 12

Amendment of the schedules

*SECTION 1*

*The Plant Health Lists*

**64.** For schedules 1 to 8 substitute the schedules set out in schedule 1 of these Regulations.

*SECTION 2*

*Emergency measures*

**65.** After schedule 8, insert the schedules set out in schedule 2 of these Regulations.

*SECTION 3*

*UK plant passports*

**66.**—(1) Schedule 9 (requirements for plant passports) is amended in accordance with this article.

(2) In the heading, for “plant passports” substitute “UK plant passports”.

(3) In Part A (requirements for plants passports for any relevant material in Schedule 6 or 7)—

- (a) for the heading substitute “Requirements for UK plant passports”,
- (b) in paragraphs 1 and 2, for “plant passport” substitute “UK plant passport”,
- (c) in paragraph 3(b) for “authority with responsibility” to the end of the sub-paragraph substitute “appropriate UK plant health authority”,
- (d) for paragraph 4(1)(a)(1) substitute—
  - “(a) given in English; and”,
- (e) in paragraph 5 for “plant passport” substitute “UK plant passport”,
- (f) in paragraph 6 in sub-paragraph (b) for “any other information relevant” to the end of the sub-paragraph, substitute “the additional information specified in paragraph 6A,”,
- (g) after paragraph 6, insert—

“6A. The additional information is any information relevant for the purposes of labelling the relevant material to which it relates—

- (a) in relation to vegetable plant material—
  - (i) produced in Great Britain, which is set out in Part B of schedule 2 to the Marketing of Vegetable Plant Material Regulations 1995(2),
  - (ii) produced in Northern Ireland, which is set out in Part B of schedule 2 to the Marketing of Vegetable Plant Material Regulations (Northern Ireland) 1995(3),
- (b) in relation to ornamental plant propagating material—
  - (i) produced in Scotland, which is set out in schedule 1 to the Marketing of Ornamental Plant Propagating Material Regulations 1999(4),
  - (ii) produced in England or Wales, which is set out in the schedule to the Marketing of Ornamental Plant Propagating Material Regulations 1999(5),
  - (iii) produced in Northern Ireland, which is set out in the schedule to the Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999(6);
- (c) in relation to fruit plant propagating material and fruit plants—
  - (i) produced in England, which is set out in Part 2 of schedule 2 to the Fruit Plant and Propagating Material (England) Regulations 2017(7);
  - (ii) produced in Wales, which is set out in Part 2 of schedule 2 to the Fruit Plant and Propagating Material (Wales) Regulations 2017(8);
  - (iii) produced in Scotland, which is set out in Part 2 of schedule 5 to the Fruit Plant and Propagating Material (Scotland) Regulations 2017(9);
  - (iv) produced in Northern Ireland, which is set out in Part 2 of schedule 2 to the Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017(10);”
- (h) in paragraph 7—
  - (i) in sub-paragraph (a) for “EU plant passport”(11) to the end substitute “UK plant passport”,
  - (ii) omit sub-paragraph (b),
  - (iii) in sub-paragraph (c) for “responsible official body” to the end substitute “appropriate UK plant health authority”,
  - (iv) in sub-paragraphs (e), (f) and (g) for “plant passport” substitute “UK plant passport”,
  - (v) in sub-paragraph (h)—
    - (aa) for “protected zone” in both places where it occurs, substitute “UK pest free area”, and

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(2) S.I. 1995/2652, to which there are amendments not relevant to these Regulations.

(3) S.R. 1995 No. 415, to which there are amendments not relevant to these Regulations.

(4) S.I. 1999/1801, amended by S.S.I. 2018/284; there are other amending instruments but none are relevant.

(5) S.I. 1999/1801.

(6) S.R. 1999 No. 502.

(7) S.I. 2017/595.

(8) S.I. 2017/691 (W.163).

(9) S.S.I. 2017/177.

(10) S.R. 2017 No. 119.

(11) The words “EU plant passport” were substituted by S.S.I. 2013/366.

- (bb) for “ZP” substitute “PFA”,
- (i) in sub-paragraph (i) for “plant passport” in both places where it occurs, substitute “UK plant passport”, and
- (j) in sub-paragraph (j) for “Scotland” substitute “United Kingdom or a CD territory”,
- (4) In Part B (requirements for plant passports permitted for certain material in Schedule 6 or 7)—
  - (a) for the heading, substitute “Requirements for UK plant passports permitted for certain material”,
  - (b) in paragraph 1, for “plant passport” substitute “UK plant passport”,
  - (c) in paragraph 2—
    - (i) in sub-paragraph (a) for “in Article 13(1)(a) of Council [Directive 2002/56/EC](#) on the marketing of seed potatoes” substitute—  
“—
      - (i) in the case of seed potatoes produced in Scotland, in schedule 5 of the Seed Potatoes (Scotland) Regulations 2015<sup>(12)</sup>,
      - (ii) in the case of seed potatoes produced in England, in Part 1 of schedule 2 of the Seed Potatoes (England) Regulations 2015<sup>(13)</sup>,
      - (iii) in the case of seed potatoes produced in Wales, in Part 1 of schedule 2 of the Seed Potatoes (Wales) Regulations 2016<sup>(14)</sup>,
      - (iv) in the case of seed potatoes produced in Northern Ireland, in Part 1 of schedule 2 of the Seed Potatoes Regulations (Northern Ireland) 2016<sup>(15)</sup>,”
    - (ii) in sub-paragraph (b) for “EU plant passport”<sup>(16)</sup> substitute “UK plant passport”,
    - (iii) in sub-paragraph (c)—
      - (aa) for “European Union” substitute “United Kingdom”,
      - (bb) for “item 18.1 of Section II of Part A of Annex IV to [Directive 2000/29/EC](#)” substitute “specified in item 5 of Part B of the list of regulated material”,
  - (d) omit paragraphs 3 and 4,
  - (e) in paragraph 5—
    - (i) in sub-paragraph (a) for “in Article 10(1)(a) of Council [Directive 66/401/EEC](#) on the marketing of fodder plant seed” substitute—  
“—
      - (i) in the case of seeds produced in Scotland, in Parts 2 and 3 of schedule 6 of the Oil and Fibre Plant Seed (Scotland) Regulations 2004<sup>(17)</sup>,
      - (ii) in the case of seeds produced in England, in Parts 2 and 3 of schedule 3 of the Seed Marketing Regulations 2011<sup>(18)</sup>,
      - (iii) in the case of seeds produced in Wales, in Parts 2 and 3 of schedule 3 of the Seed Marketing (Wales) Regulations 2012<sup>(19)</sup>,

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<sup>(12)</sup> S.S.I. 2015/395.

<sup>(13)</sup> S.I. 2015/1953.

<sup>(14)</sup> S.I. 2016/106 (W.52).

<sup>(15)</sup> S.R. 2016 No. 190.

<sup>(16)</sup> These words were substituted in sub-paragraph (b) by S.S.I. 2013/366.

<sup>(17)</sup> S.S.I. 2004/317.

<sup>(18)</sup> S.I. 2011/463.

<sup>(19)</sup> S.I. 2012/245 (W.39).

- (iv) in the case of seeds produced in Northern Ireland, in Parts 2 and 3 of schedule 3 of the Seed Marketing Regulations (Northern Ireland) 2016<sup>(20)</sup>,
- (ii) in sub-paragraph (b) for “EU plant passport”<sup>(21)</sup> substitute “UK plant passport”,
- (iii) in sub-paragraph (c)—
  - (aa) for “EC” substitute “United Kingdom”,
  - (bb) for “items 28.1 and 28.1 of Section II of Part A of Annex IV to [Directive 2000/29/EC](#)” substitute “specified in items 21 and 22 of Part B of the list of regulated material”.

#### SECTION 4

##### *Plant health movement document*

67. Omit schedule 13 (plant health movement document).

#### SECTION 5

##### *Potato Cyst Nematode*

68. For schedule 15 (special measures for the control of Potato Cyst Nematode) substitute the schedule set out in schedule 3.

#### SECTION 6

##### *Potato Ring Rot*

69. In schedule 16 (special measures for the control of Potato Ring Rot)<sup>(22)</sup>—
- (a) in paragraph 1A, omit “in accordance with Article 2(1) of [Directive 93/85/EEC](#)”,
  - (b) after paragraph 1A insert—
    - “**1AA.** In the case of tubers of *Solanum tuberosum* L., those surveys must include official testing of samples of seed and other potatoes in accordance with EPPO PM 7/59.
    - “**1AB.** In the case of plants of *Solanum tuberosum* L., those surveys must be carried out according to appropriate methods and include appropriate official testing of samples.
    - “**1AC.** The collection of samples for the purposes of paragraphs 1AA and 1AB must be based on sound scientific and statistical principles and the biology of Potato Ring Rot and take into account relevant potato production systems.”,
  - (c) in paragraph 1B(a), for the words from “Annex 1” to “[Directive 93/85/EEC](#)”, in the second place it occurs, substitute “EPPO PM 7/59”
  - (d) in paragraph 1D—
    - (i) in sub-paragraph (b), for “taking into account the provisions in point 1 of Annex 3 to [Directive 93/85/EEC](#)” substitute—
      - “having regard to the following factors—
      - (i) the specified plant material grown at the contaminated place of production;

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<sup>(20)</sup> S.R. 2016 No. 244.

<sup>(21)</sup> These words were substituted in sub-paragraph (b) by S.S.I. 2013/366.

<sup>(22)</sup> Schedule 16 is amended by Part 2 of these Regulations.

- (ii) the places of production with some production link to that specified plant material, including those sharing production equipment and facilities directly or through a common contractor;
  - (iii) the production or presence of other specified plant material at the contaminated place of production;
  - (iv) the premises handling potatoes from the contaminated place of production and the places of production mentioned in head (ii);
  - (v) any object that may have come into contact with the contaminated specified plant material;
  - (vi) any specified plant material stored in, or in contact with, any object prior to its disinfection;
  - (vii) the specified plant material with a sister or parental clonal relationship to the contaminated specified plant material and the places of production of that specified plant material”, and
- (ii) in sub-paragraph (c), for “provisions in point 2 of Annex 3 to [Directive 93/85/EEC](#)” substitute “proximity of other places of production growing potatoes or other host plants and the common production and use of seed potato stocks”,
- (e) after paragraph 1D insert—
- “**1DA.** When making a designation or determination under paragraph 1D, an inspector must have regard to sound scientific principles, the biology of Potato Ring Rot and relevant production, marketing and processing systems.”,
- (f) for paragraph 3(b) substitute—
- “(b) by an officially approved disposal method that ensures that there is no identifiable risk of Potato Ring Rot spreading”,
- (g) in paragraph 4(b), for “in accordance with point 2 of Annex IV to [Directive 93/85/EEC](#)” substitute “in a manner that ensures that there is no identifiable risk of Potato Ring Rot spreading”,
- (h) in paragraph 7, for “[Directive 93/85/EEC](#)” substitute “this Schedule”,
- (i) in paragraph 10(b), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
- (j) in paragraph 10A, for “Article 2 of [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
- (k) in paragraph 11(b), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
- (l) in paragraph 12(d), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”, and
- (m) in paragraph 23(b), for “Article 2 of [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”.

## SECTION 7

### *Potato Brown Rot*

**70.** For schedule 17 (*Ralstonia solanacearum*) substitute the schedule set out in schedule 4 of these Regulations.

## SECTION 8

### *Licences for trial or scientific purposes or for work on varietal selection*

**71.** After schedule 17, insert the schedule set out in schedule 5 of these Regulations.

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**Draft Legislation:** This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 ISBN 978-0-11-104137-6

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