
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

**The Plant Health (EU Exit) (Scotland)
(Amendment etc.) Regulations 2020**

PART 3

Amendment of secondary legislation relating to withdrawal from the European Union

The Plant Health Fees (Scotland) Regulations 2008

6.—(1) The Plant Health (Fees) (Scotland) Regulations 2008 are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation)—

- (a) omit the definition of “the EU Plant Health Regulation”,
- (b) omit “and” at the end of the definition of “the Plant Health Official Controls Regulation”,
- (c) after the definition of “the Plant Health Official Controls Regulations” insert—

““the Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament of the Council on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives [69/464/EEC](#), [74/647/EEC](#), [93/85/EEC](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC\(1\)](#),”

(d) after the definition of “premises” insert—

““UK plant passport” has the same meaning as in Article 78 of the Plant Health Regulation.”

(3) In regulation 3 (fees for inspections for plant passporting purposes), in the heading, before “plant”, insert “UK”.

(4) In schedule 1 (fees for inspections for plant passporting purposes)—

- (a) in the heading, before “plant” insert “UK”,
- (b) in column 1 of the table—
 - (i) for “plant passports” substitute “UK plant passports”,
 - (ii) omit “EU”.

The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014

7.—(1) The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014 are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (interpretation)—

(1) EUR 2016/2031.

- (a) in paragraph (1)—
 - (i) omit the definition of “the EU Plant Health Regulation”,
 - (ii) in the definition of “European Union” omit “including the Isle of Man and the Channel Islands but”,
 - (iii) after the definition of the “Official Controls Regulation” insert—
 - ““Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament of the Council on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC(2).”
- (b) in paragraph (3) omit “EU” in each place it occurs.
- (3) In regulation 3(2) (application of the import inspection fee)—
 - (a) in sub-paragraph (a)(i), for “Commission Implementing Regulation (EU) 2019/2072” to “Commission Implementing Regulation (EU) 2018/2019” substitute “the Phytosanitary Conditions Regulation”,
 - (b) in sub-paragraph (b)(ii) for “the Union, adopted by the Commission” substitute “Great Britain”.
- (4) In regulation 5(2) (additional fees in respect of Potatoes Originating in Egypt), for “point 5 of the Annex” to “as regards Egypt” substitute “point 26 of Annex 7 of the Phytosanitary Conditions Regulation”.
- (5) In schedule 2 (reduced import inspection fees for plant health checks) delete the entries for “*Citrus*”, “*Mangifera*” and “*Passiflora*”.

The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015

8.—(1) The Plant Health (Forestry) (Fees) (England and Scotland) Regulations 2015(3) are amended as follows.

- (2) In regulation 2 (interpretation: Scotland)—
 - (a) in paragraph (1)—
 - (i) in the definition of “controlled consignment”, for sub-paragraph (b), substitute—
 - “(b) consists of, or includes, isolated bark, or wood of a type that is described in Part A of Annex 11, or Annex 12, to the Phytosanitary Conditions Regulation, as amended from time to time, other than wood packaging material which is actually in use in the transport of objects of all kinds,”
 - (ii) omit the definition of “the EU Plant Health Regulation”,
 - (iii) after the definition of “the Official Controls Regulation” insert—
 - ““the Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament of the Council on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC(4).”
 - (iv) omit the definition of “the Phytosanitary Conditions Regulation”,

(2) EUR 2016/2031.

(3) S.I. 2015/350, relevant amending instruments are S.S.I. 2019/421 and S.S.I. 2020/176.

(4) EUR 2016/2031.

- (v) in the definition of “plant passport authority” omit “EU”,
- (vi) in the definition of “WPM authorisation” omit “EU”,
- (b) in paragraph (2), omit “EU” in both places it occurs.

The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017

9.—(1) The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017⁽⁵⁾ are amended in accordance with paragraphs (2) to (4)—

- (2) In regulation 2 (interpretation) omit paragraph (2).
- (3) In regulation 9 (exemptions)—
 - (a) in paragraph (1) omit “, in accordance with Article 2(4) of the Directive (but without prejudice to Article 7 of the Directive),”,
 - (b) in paragraph (4) omit “, in accordance with Article 2(5) of the Directive (but without prejudice to Article 7 of the Directive),”.
- (4) In regulation 31 (application to Court of Session by person aggrieved), after paragraph (4) insert—
 - “(4A) For the purpose of paragraph (4), Article 11(1) of the Directive is to be read as if—
 - (a) the reference to “Member States” were to “The Scottish Ministers”,
 - (b) the reference to “a Member State” were to “Scotland”.”.

The Plant Health (Export Certification) (Scotland) Order 2018

10.—(1) The Plant Health (Export Certification) (Scotland) Order 2018⁽⁶⁾ is amended in accordance with paragraphs (2) to (4).

- (2) In regulation 2 (interpretation)—
 - (a) omit the definition of “EU Plant Health Regulation”,
 - (b) omit the definition of “IPC document”,
 - (c) in the definition of “phytosanitary certificate” omit “EU”,
 - (d) in the definition of “phytosanitary certificate for re-export” omit “EU”,
 - (e) after the definition of “the Plant Health Official Controls Regulations” insert—
 - ““the Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament of the Council on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives [69/464/EEC](#), [74/647/EEC](#), [93/85/EEC](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)(7)”,
 - (f) omit the definition of “third country”.
- (3) In regulation 4(1) and (2) (fees for export certification services) omit “or IPC document” in each place it occurs.
- (4) In the schedule (applications for certificates: tables of fees) omit item 14.

⁽⁵⁾ [S.S.I. 2017/113](#), prospectively amended by Part 5 of [S.S.I. 2019/130](#) which comes into force on IP completion day.

⁽⁶⁾ [S.S.I. 2018/132](#), amended by [S.S.I. 2019/421](#).

⁽⁷⁾ [EUR 2016/2031](#).

The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019

11. The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019⁽⁸⁾ are amended in accordance with regulations 12 to 30.

Part 1

12.—(1) In regulation 2 (interpretation: general)—

(a) in paragraph (1)—

(i) in the definition of “controlled consignment”—

(aa) for the words “the Union territory”, in each place they occur, substitute “Great Britain”,

(bb) in head (i) of sub-paragraph (a) omit “EU”,

(cc) at the end of head (i) insert “or”,

(dd) omit head (ii) of sub-paragraph (a),

(ee) in head (iii) of sub-paragraph (a) omit “EU” in each place it appears,

(ii) in the definition of “controlled plant pest”—

(aa) in sub-paragraph (a) for “3 or 4 to Regulation (EU) 2019/2072” substitute “2A, 3 or 4 to the Phytosanitary Conditions Regulation”,

(bb) at the end of sub-paragraph (a) insert “or”

(cc) omit sub-paragraph (b),

(dd) in sub-paragraph (c) omit “EU”,

(iii) omit the definition of “EU emergency decision”,

(iv) in the definition of “EU Plant Health Regulation”, at the end, insert “as it has effect in EU law”,

(v) omit the definition of “EU plant health rule”,

(vi) in the definition of “Official Controls Regulation” omit “EU” where it occurs before “plant health rule”,

(vii) after the definition of “plant health inspector”, insert—

““Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives [69/464/EEC](#), [74/647/EEC](#), [93/85/EEC](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)⁽⁹⁾,

“plant health rule” means a rule within the meaning given in Article 1(2)(g) of the Official Controls Regulation,”

(viii) in the definition of “plant pest” omit “EU”,

(ix) after the definition of “plant pest”, insert—

““the Phytosanitary Conditions Regulation” means Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament

⁽⁸⁾ S.S.I. 2019/421, amended by S.S.I. 2020/176.

⁽⁹⁾ EUR 2016/2031.

and the Council, as regards protective measures against pests of plants, and repealing [Commission Regulation \(EC\) No 690/2008](#) and amending Commission Implementing Regulations (EU) 2018/2019(10),”

(x) in the definition of “regulated item”, for “an EU” substitute “a”,

(xi) omit the definition of “Regulation (EU) 2019/2072”.

(b) in paragraph (2) omit “EU” in both places it occurs.

(2) In regulation 3 (interpretation: EU instruments)—

(a) omit paragraph (1),

(b) for paragraph (2), substitute—

“(2) References to the Phytosanitary Conditions Regulation are to be construed as references to that instrument as amended from time to time.”.

(3) Omit regulation 3A (measures adopted pursuant to article 30(1) of the EU Plant Health Regulation).

(4) In regulation 4 (Article 82 of the EU Plant Health Regulation: meaning of “close proximity”)

—
(a) in the heading omit “EU”,

(b) in paragraphs (1) and (2) omit “EU” in each place it occurs.

Part 2

13. In Part 2 (competent authorities), in regulation 5(4) (designation of competent authority)—

(a) in the definition of “forestry professional operator”—

(i) in the words before sub-paragraph (a) omit “EU”,

(ii) in sub-paragraph (b), for “the Union territory” in both places it occurs substitute “Great Britain or a CD territory”,

(iii) in sub-paragraph (c), at the end insert “or Northern Ireland”,

(b) omit the definition of “official controls”.

Part 3

14.—(1) In regulation 7 (derogation to the requirement to give prior notification in accordance with Article 1(1) of Commission Implementing Regulation (EU) 2019/1013)—

(a) in paragraph (A1), after “into Scotland by air” insert “or a controlled consignment which is to be brought into a RoRo, port in Scotland”,

(b) in paragraph (3), after the definition of “Commission Implementing Regulation (EU) 2019/1013” insert—

““RoRo” means a RoRo listed location within the meaning of regulation 130 of the Customs (Import Duty) (EU Exit) Regulations 2018(11),”.

(2) In regulation 8 (suspicion of non-compliance)—

(a) in paragraph (1), for “an EU” in both places it occurs substitute “a”,

(b) in paragraph (2)(b), for “the Union territory” substitute “Great Britain”.

(3) In regulation 10(1) (official measures in relation to non-compliant consignments or consignments which pose a risk to plant health)—

(10) EUR 2019/2072.

(11) [S.I. 2018/1248](#) to which there are amendments not relevant to these Regulations.

- (a) in sub-paragraphs (a) and (b), for “an EU” in both places it occurs substitute “a”,
 - (b) in sub-paragraph (c) for “the Union territory” substitute “Great Britain”.
- (4) In regulation 11(c) (notices under regulation 8, 9 or 10), for “the Union territory” substitute “Great Britain”.
- (5) In regulation 12 (border control posts: authorisation of inspection centre and commercial storage facilities)—
- (a) in paragraphs (1)(a) and (b) omit “, consignments which” to “schedule 1” in both places it occurs,
 - (b) omit paragraph (1A).
- (6) In regulation 13(10) (transitional provision: approved places of inspection), in the definition of “temporary storage facility”, at the end insert “(as it has effect in EU law before IP completion day)”.

Part 4

- 15.—(1) In regulation 14(2) (introduction), in the definition of “prohibited material”—
- (a) in sub-paragraph (b)—
 - (i) for “the Union territory or Scotland” substitute “Great Britain”,
 - (ii) for “an EU” substitute “a”,
 - (iii) omit “or Part 2 of schedule 1”,
 - (b) in sub-paragraph (c)—
 - (i) omit “within the Union territory, or”,
 - (ii) for “an EU” substitute “a”,
 - (iii) omit “or Part 3 of schedule 1”.
- (2) In regulation 16(4) (action which may be taken by a plant health inspector) omit “(including representatives of the European Commission)”.

Part 5

16. Part 5 is omitted.

Part 6

- 17.—(1) In regulation 19 (applications for registration) omit “EU”.
- (2) In regulation 20 (other applications)—
- (a) in paragraph (1)—
 - (i) in sub-paragraphs (b), (c) and (d) omit “EU” in each place it occurs,
 - (ii) in sub-paragraph (e), for “, a phytosanitary certificate for re-export or a pre-export certificate” substitute “or a phytosanitary certificate for re-export”,
 - (b) in paragraph (2) omit “EU” in both places it occurs.
- (3) In regulation 21 (authorisations for other purposes)—
- (a) in paragraph (1)(b)—
 - (i) after “under” insert “, or by virtue of”,
 - (ii) omit “EU”,

- (iii) after “Regulation” in the second place it occurs insert “, any regulations made under the Plant Health Regulation or the Official Controls Regulation”,
- (b) in paragraph (3)—
 - (i) for the definition of “plant health derogation” substitute—
 - ““plant health derogation” means a derogation from provisions of the Plant Health Regulation which is set out in retained EU law or regulations made under the Plant Health Regulation or the Official Controls Regulation,”
 - (ii) in the definition of “potential quarantine pest”, for the words from “Union” to “Regulation”, in the first place where it occurs, substitute “GB quarantine pest or a provisional GB quarantine pest”.
- (4) In regulation 22(1) (authorisations granted by the Scottish Ministers) omit “EU”.

Part 8

- 18.**—(1) In regulation 24 (notification requirements in relation to seed potatoes) omit—
- (a) paragraph (1)(b), including the preceding “or”,
 - (b) paragraph (3).
- (2) Omit regulation 25 (notification requirements in relation to citrus fruits).
- (3) In regulation 26 (notification requirements in relation to other plants and plant products)—
- (a) in paragraph (1)—
 - (i) for “of the following plants or plant products” substitute “solid fuel wood from a third country to which Article 47(1) of the Official Controls Regulation does not apply”,
 - (ii) omit sub-paragraphs (a) to (c),
 - (b) in paragraph (2)—
 - (i) in sub-paragraph (c) omit “plants or”,
 - (ii) in sub-paragraph (d) omit “plants or”,
 - (iii) omit sub-paragraph (e),
 - (iv) for sub-paragraph (f) substitute—
 - “(f) the address of the consignor,
 - (g) details of any phytosanitary treatments applied to the wood.”.

Part 9

- 19.**—(1) In regulation 28(1) and (2) (interpretation) omit “EU” in each place it occurs.
- (2) In regulation 29 (powers of entry)—
- (a) in paragraph (1)—
 - (i) in sub-paragraph (a)—
 - (aa) in head (ii) omit “EU”,
 - (bb) in head (iv), for “an EU” to the end substitute “a plant health rule comply with that rule”,
 - (ii) in sub-paragraphs (b), (c) and (e) omit “EU” in each place it occurs.
 - (b) in paragraph (6), for sub-paragraph (a) substitute—
 - “(a) be accompanied by such persons as the inspector considers necessary”,

- (c) omit paragraph (6A).
- (3) In regulation 32(5) (failure to comply with a notice)—
 - (a) omit “other”,
 - (b) omit “(including representatives of the European Commission)”.
- (4) In regulation 33(1) (disclosure of information held by Revenue and Customs) omit “EU”.

Part 11

- 20.**—(1) In regulation 37(1) (general)—
- (a) omit sub-paragraph (a),
 - (b) in sub-paragraph (c) omit “, 25(1)”,
 - (c) in sub-paragraph (e) omit “EU”,
 - (d) in sub-paragraph (g), after “other” insert “retained direct”,
 - (e) omit sub-paragraph (h).
- (2) In regulation 40 (provision of false or misleading information)—
- (a) in sub-paragraph (1) for “plant passport or” substitute “UK plant passport or a”,
 - (b) in sub-paragraph (2)—
 - (i) for “, 101 and 102” substitute “or 101”,
 - (ii) omit “EU”.
- (3) In regulation 41 (improper use of plant passports or certificates)—
- (a) in the heading, after “of” insert “UK”,
 - (b) in paragraph (1), after “a” where it occurs the first time in each of sub-paragraphs (a) to (c), insert “UK”.
- (4) In regulation 42 (obstruction etc.)—
- (a) in paragraph (1)(a) to (c) omit “EU” in each place it occurs;
 - (b) for paragraph (2) substitute—
 - “(2) In paragraph (1)—
 - (a) “authorised person” means a person authorised by the Scottish Ministers,
 - (b) a reference to the Plant Health Regulation or the Official Controls Regulation includes retained EU law adopted, or regulations made, under the Plant Health Regulation or the Official Controls Regulation and any other retained EU law relating to plant health.”.

Schedule 1

- 21.** Omit schedule 1 (temporary national measures).

Schedule 2, Part 1

- 22.** In schedule 2 (specific measures relating to certain solanaceous species), Part 1 (general interpretation), in paragraph 1—
- (a) omit the definitions of “[Directive 69/464/EEC](#)”, “[Directive 93/85/EEC](#)”, “[Directive 98/57/EC](#)” and “[Directive 2007/33/EC](#)”,
 - (b) before the definition of “holding” insert—

“EPPO PM 7/21” means the standard describing a diagnostic protocol for *Ralstonia solanacearum*, *R. pseudosolanacearum* and *R. syzygii* approved by the European and Mediterranean Plant Protection Organization(12),

“EPPO PM 7/40” means the standard describing a diagnostic protocol for *Globodera rostochiensis* and *Globodera pallida* approved by the European and Mediterranean Plant Protection Organization(13),

“EPPO PM 7/59” means the standard describing a diagnostic protocol for *Clavibacter michiganensis* subsp. *sepedonicus* approved by the European and Mediterranean Plant Protection Organization(14),

“EPPO PM 7/119” means the standard describing the procedures for nematode extraction approved by the European and Mediterranean Plant Protection Organization(15).”.

Schedule 2, Part 2

23. In schedule 2, Part 2 (general provisions relating to the planting of certain solanaceous species)—

- (a) in paragraph 2 (general restrictions on the planting of potatoes)—
 - (i) in sub-paragraph (1), for “Switzerland” substitute “any third country to which the prohibition in Article 40(1) of the Plant Health Regulation does not apply”,
 - (ii) in sub-paragraph (2)—
 - (aa) for head (a) substitute—

“(a) they derive in direct line from potato material which has been obtained under an approved programme for the certification of potatoes which has been officially approved by a competent authority or a CD authority,”,
 - (bb) in head (b), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”;
 - (cc) in head (c), for “Annex 2 to [Directive 98/57/EC](#)” substitute “EPPO PM 7/21”,
- (b) in paragraph 4 (potato cyst nematode), in sub-paragraph (2)—
 - (i) omit “and” before head (b),
 - (ii) at the end of head (b) insert—

“, and
 - (c) in accordance with EPPO PM 7/40 and EPPO PM 7/119.”,
- (c) in paragraph 5 (official surveys) for “Article 6 of [Directive 2007/33/EC](#)” substitute “Part 4 of this schedule”,

(12) First approved by the European and Mediterranean Plant Protection Organization in September 2003 and available from its Secretariat at 21 Boulevard Richard Lenoir, 75011, Paris, France and at https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics.

(13) First approved by the European and Mediterranean Plant Protection Organization in September 2003 and available from its Secretariat at 21 Boulevard Richard Lenoir, 75011, Paris, France and at https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics.

(14) Approved by the European and Mediterranean Plant Protection Organization in September 2005 and available from its Secretariat at 21 Boulevard Richard Lenoir, 75011, Paris, France and at https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics.

(15) First approved by the European and Mediterranean Plant Protection Organization in September 2013 and available from its Secretariat at 21 Boulevard Richard Lenoir, 75011, Paris, France and at https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics.

(d) after paragraph 5 insert—

“(5A) An official survey conducted under this Part or Part 4 of this schedule shall be conducted on at least 0.5% of the acreage used in the relevant year for the production of seed potatoes.”,

(e) omit paragraph 6 (official surveys).

Schedule 2, Part 3

24. In schedule 2, in Part 3 (measures for the control of Potato Wart Disease), in paragraph 8(1) (official measures relating to contaminated plots of land) for “ Article 2 of [Directive 69/464/EEC](#)” substitute “this Part”.

Schedule 2, Part 4

25. In schedule 2, in Part 4 (measures for the control of European populations of Potato Cyst Nematode), in paragraph 20 (notice authorising planting of potatoes) omit “notified to the European Commission in accordance with Article 9(2) of [Directive 2007/33/EC](#) and”.

Schedule 2, Part 6

26. In schedule 2, in Part 6 (measures for control of Potato Ring Rot)—

(a) in paragraph 27 (official surveys and testing)—

(i) in sub-paragraph (1) omit “, in accordance with Article 2(1) of [Directive 93/85/EEC](#)”,

(ii) after sub-paragraph (1) insert—

“(1A) 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.

(1B) 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.

(1C) The collection of samples for the purposes of sub-paragraphs (1A) and (1B) must be based on sound scientific and statistical principles and the biology of Potato Ring Rot and take into account relevant potato production systems.”,

(iii) in sub-paragraph (2)(a), for “Annex 1” to “93/85/EEC” in the second place it occurs substitute “EPPO PM 7/59”,

(b) in paragraph 28(1) (measures to be taken following the confirmation of the presence of Potato Ring Rot)—

(i) in head (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 susceptible material grown at the contaminated place of production,

(ii) places of production with some production link to that susceptible material, including those sharing production equipment and facilities directly or through a common contractor,

(iii) the production or presence of other susceptible 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 sub-head (ii),
- (v) any object that may have come into contact with the contaminated susceptible material,
- (vi) any susceptible material stored in, or in contact with, any object prior to its disinfection,
- (vii) the susceptible material with a sister or parental clonal relationship to the contaminated susceptible material and the places of production of that susceptible material”,
- (ii) in head (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”,
- (iii) after paragraph (1), insert—
 - “(1A) When making a designation or determination under sub-paragraph (1), an inspector must have regard to sound scientific principles, the biology of Potato Ring Rot and relevant production, marketing and processing systems.”,
- (c) in paragraph 29 (restrictions in relation to specified plant material or objects contaminated or probably contaminated with Potato Ring Rot)—
 - (i) in sub-paragraph (2)(b) for “any other measure that complies with point 1 of Annex 4 to [Directive 93/85/EEC](#)” substitute “an officially approved disposal method that ensures that there is no identifiable risk of Potato Ring Rot spreading”,
 - (ii) in sub-paragraph (3)(b), for “in accordance with point 2 of Annex 4 to [Directive 93/85/EEC](#)” substitute “in a manner that ensures that there is no identifiable risk of Potato Ring Rot spreading”,
 - (iii) in sub-paragraph (5), for “[Directive 93/85/EEC](#)” substitute “this Part”,
- (d) in paragraph 32 (measures in relation to a contaminated place of production)—
 - (i) in sub-paragraph (1)(b), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
 - (ii) in sub-paragraph (2), for “Article 2 of [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
 - (iii) in sub-paragraph (3)(b), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
- (e) in paragraph 33(d) (contaminated place of production – notice in relation to fields other than those referred to in paragraph 31), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
- (f) in paragraph 36(7)(b) (demarcated zone), for “Article 2 of [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”.

Schedule 2, Part 7

27. In schedule 2, Part 7 (measures for the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*)—

- (a) in paragraph 38 (official surveys and testing)—
 - (i) in sub-paragraph (1) omit “in accordance with Article 2 of [Directive 98/57/EC](#)”,
 - (ii) after sub-paragraph (1) insert—

“(1A) Those surveys must be based on a risk assessment to identify other possible sources of contamination threatening the production of susceptible material and include targeted official surveys in production areas, based on the relevant risk assessment, to identify the presence of *R. solanacearum* on—

- (a) relevant material, other than susceptible material,
- (b) surface water which is used for irrigation or spraying of susceptible material, and
- (c) liquid waste discharged from industrial processing or packaging premises handling susceptible material.

(1B) Those surveys must also be based on the biology of *R. solanacearum* and the relevant production systems and must include—

- (a) in the case of susceptible material comprising plants of *Solanum tuberosum* L., visual inspection of the growing crop at appropriate times, or the sampling of both seed and other potatoes in the growing season or in store, which must include official visual inspection by cutting of tubers,
- (b) in the case of seed potatoes and, where appropriate, other potatoes, official testing of samples using the method set out in EPPO PM 7/21,
- (c) in the case of susceptible material comprising plants of *Solanum lycopersicum* L., visual inspection at appropriate times of at least the growing crop of plants intended for replanting for professional use,
- (d) for host plants, other than susceptible material, and for water including liquid waste, official testing.

(1C) The collection of samples for the purposes of sub-paragraph (1B) must be based on sound scientific and statistical principles and the biology of *R. solanacearum* and take into account relevant potato production systems of susceptible material and other host plants of *R. solanacearum*.”,

(iii) in sub-paragraph (2)—

- (aa) in head (a)(i), for “Annex” to “98/57/EC” in the second place it occurs substitute “EPPO PM 7/21”,
- (bb) in head (b), for “specified” to “98/57/EC” substitute “referred to in EPPO PM 7/21”,

(b) in paragraph 39 (measures to be taken following the confirmation of the presence of *R. solanacearum*)—

(i) in sub-paragraph (2)—

- (aa) in head (a), for “in accordance with Annex 4 to Directive 98/57/EC,” substitute—

“which includes investigation of the following—

- (i) potatoes which are growing or have been harvested that are clonally related to any contaminated potatoes,
- (ii) tomatoes which are growing or have been harvested that are from the same source as any contaminated tomatoes,
- (iii) potatoes or tomatoes which are growing or have been harvested that are under official control and are suspected to be contaminated with *R. solanacearum*,

- (iv) potatoes which are growing or have been harvested that are clonally related to any potatoes that have been grown at the contaminated place of production,
 - (v) potatoes or tomatoes which are growing nearby the contaminated place of production, including those sharing production equipment and facilities directly or through a common contractor,
 - (vi) surface water used for irrigation and spraying from any source confirmed or suspected to be contaminated with *R. solanacearum*,
 - (vii) surface water used for irrigation and spraying from a source used in common with the contaminated and possibly contaminated places of production,
 - (viii) places of production which are flooded or have been flooded with contaminated or possibly contaminated surface water,
 - (ix) surface water used for irrigation or spraying of the contaminated place of production or flooded fields at the contaminated place of production,”
- (bb) in head (e), for “in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#)” substitute “having regard to the relevant factors”,
- (ii) in sub-paragraph (3)—
- (aa) in head (a), for “in accordance with Annex 4 to [Directive 98/57/EC](#)” substitute “which includes an investigation of the things referred to in sub-paragraph (2)(a)(i) to (ix)”,
 - (bb) in head (d), for “in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#)” substitute “having regard to the relevant factors”,
- (iii) in sub-paragraph (4)(d), for “in accordance with point 2(ii) of Annex 5 to [Directive 98/57/EC](#)” substitute “having regard to the relevant factors”,
- (iv) at the end insert—
- “(5) The “relevant factors” are—
- (a) for the purposes of sub-paragraphs (2)(e) and (3)(d)—
 - (i) the proximity of other places of production growing susceptible material,
 - (ii) the common production and use of seed potato stocks,
 - (iii) places of production using surface water for irrigation or spraying of susceptible material where there is or has been a risk of surface water run-off from the contaminated place of production,
 - (b) for the purposes of sub-paragraph (4)(d)—
 - (i) places of production producing susceptible material adjacent to, or which are at risk from flooding by, contaminated surface water,
 - (ii) any discrete irrigation basin associated with the contaminated surface water,
 - (iii) water bodies connected with the contaminated surface water having regard to the direction and rate of flow of the contaminated surface water and the presence of wild solanaceous host plants.”,
- (c) in paragraph 40 (restrictions in relation to specified plant material or objects contaminated or probably contaminated with *R. solanacearum*)—

- (i) in sub-paragraph (1)(b), for “a provision in point 1 of Annex 6 to [Directive 98/57/EC](#)” substitute “an officially approved disposal method that ensures that there is no identifiable risk of *R. solanacearum* rot spreading”,
- (ii) in sub-paragraph (2)(b), for “in accordance with point 2 of Annex 6 to [Directive 98/57/EC](#)” substitute “by an officially approved disposal method that ensures that there is no identifiable risk of *R. solanacearum* rot spreading”,
- (iii) in sub-paragraph (4), for “[Directive 98/57/EC](#)” substitute “this Part”,
- (d) in paragraph 43 (measures in relation to a contaminated place of production)—
 - (i) in sub-paragraph (1)(b) for “Annex 2 to [Directive 98/57/EC](#)” substitute “EPPO PM 7/21”,
 - (ii) in sub-paragraph (2)(b)(ii), for “Annex 2 to [Directive 98/57/EC](#)” substitute “EPPO PM 7/21”,
- (e) in paragraph 44 (contaminated place of production - notice in relation to fields other than those referred to in paragraph 42)—
 - (i) in sub-paragraph (a)(ii) omit “EU”,
 - (ii) in sub-paragraph (c)(ii) omit “EU”,
 - (iii) in sub-paragraph (e) for “Annex 2 to [Directive 98/57/EC](#)” substitute “EPPO PM 7/21”,
- (f) in paragraph 45(3)(b) (contaminated place of production – notice and authorisation where unit of protected crop production also designated as contaminated) omit “EU”,
- (g) in paragraph 47 (demarcated zones)—
 - (i) in sub-paragraph (5)(a)(iv) omit “EU”,
 - (ii) in sub-paragraph (6)(b) for “Article 2 to [Directive 98/57/EC](#)” substitute “EPPO PM 7/21”.

Schedule 2, Part 8

- 28.** In schedule 2, Part 8 (measures relating to potatoes originating in Egypt), in paragraph 48(1) (measures relating to potatoes originating in Egypt)—
- (a) for “the Union territory” substitute “Great Britain”,
 - (b) for “Commission Implementing [Decision 2011/787/EU](#)” substitute “Article 41(1) of the Plant Health Regulation”.

Schedule 3

29.—(1) In schedule 3 (offences: relevant provisions in the EU Regulations), in the heading, for “EU Regulations”, substitute “Plant Health Regulation, Official Controls Regulation and other retained direct EU legislation”.

- (2) In Part 1 (the EU Plant Health Regulation)—
 - (a) in the heading omit “EU”,
 - (b) in the table—
 - (i) in the heading to the first column omit “EU”,
 - (ii) in the entry relating to Article 5(1), in the second column—
 - (aa) for “Union quarantine” in each place it occurs substitute “GB quarantine”,
 - (bb) for “the Union territory” in each place it occurs substitute “Great Britain”,

- (iii) in the entry relating to Article 9(3), in the second column—
 - (aa) for “Union” in the first place it occurs substitute “GB”,
 - (bb) for “pest subject to measures adopted pursuant to Article 30(1)” substitute “provisional GB quarantine pest”,
 - (cc) for “the Union territory” in both places it occurs substitute “Great Britain”,
 - (dd) for “protected zone” substitute “PFA”,
 - (ee) for “respective protected zone” substitute “GB pest-free area established in respect of that pest”,
- (iv) in the entry relating to Article 14(1), in the second column—
 - (aa) for “Union” to “Article 30(1)” substitute “GB quarantine pest or provisional GB quarantine pest”,
 - (bb) for “protected zone” substitute “PFA”,
 - (cc) for “respective protected zone” substitute “GB pest-free area established in respect of that pest”,
- (v) in the entry relating to Article 14(3), in the second column for “Union” substitute “GB”;
- (vi) in the entry relating to Article 15(1), in the second column—
 - (aa) for “Union” substitute “GB”,
 - (bb) for “protected zone” in the first place it occurs substitute “PFA”,
 - (cc) for “respective protected zone” substitute “GB pest-free area established in respect of that pest”,
- (vii) in the entry relating to Article 32(2), in the second column—
 - (aa) for “protected zone quarantine” in each place it occurs substitute “PFA quarantine”,
 - (bb) for “respective protected zone” in each place it occurs substitute “GB pest-free area established in respect of that pest”,
- (viii) in the entry relating to Article 37(1),—
 - (aa) for “Regulation 2019/2072” substitute “the Phytosanitary Conditions Regulation”,
 - (bb) for “the Union territory” in both places it occurs substitute “Great Britain”,
 - (cc) for “Union” in the second and third places it occurs substitute “GB”,
- (ix) in the entry relating to Article 40(1), in the second column, for “the Union territory” substitute “Great Britain”,
- (x) for the entry relating to Article 41(1) substitute—

“Article 41(1) (as read with Articles 47 and 48(1)) Prohibits the introduction into Great Britain of certain plants, plant products or other objects from third countries unless the special requirements in respect of those plants, plant products or other objects are fulfilled.

Article 41(1A) (as read with Article 48(1)) Prohibits the introduction into Great Britain of certain plants, plant products or other objects from CD territories unless the special

requirements in respect of those plants, plant products or other objects are fulfilled.

Article 41(1B) (as read with Article 48(1)) Prohibits the movement within Great Britain of certain plants, plant products or other objects unless the special requirements in respect of those plants, plant products or other objects are fulfilled.”,

-
- (xi) in the entry relating to Article 42(2), in the second column, for “the Union territory” substitute “Great Britain”,
 - (xii) in the entry relating to Article 43(1), in the second column, for “the Union territory” substitute “Great Britain”,
 - (xiii) in the entry relating to Article 45(1), in the first column for “45(1), third paragraph” substitute “45(3)”,
 - (xiv) in the entry relating to Article 53(1), in the second column—
 - (aa) for “certain protected zones” in the first place it occurs substitute “GB pest-free areas”,
 - (bb) for “within the Union territory into certain protected zones” substitute “in Great Britain or a CD territory into GB pest-free areas”,
 - (xv) in the entry relating to Article 54(1), in the second column—
 - (aa) for “certain protected zones” in both places it occurs substitute “GB pest-free areas”,
 - (bb) for “those protected zones” in both places it occurs substitute “GB pest-free areas”,
 - (xvi) in the entry relating to Article 59, in the second column—
 - (aa) for “the Union territory” in both places it occurs substitute “Great Britain”,
 - (bb) for “Union quarantine” to “Article 30(1)” substitute “GB quarantine pests or provisional GB quarantine pests”,
 - (cc) for “the protected zones” substitute “GB pest-free areas”,
 - (dd) for “through protected zones” substitute “through GB pest-free areas”,
 - (ee) for “respective protected zone” substitute “PFA”;
 - (ff) at the end insert “relating to those areas”,
 - (xvii) in the entry relating to Article 62(1), in the second column—
 - (aa) for “Union quarantine” to “Article 30(1)” substitute “GB quarantine pests or provisional GB quarantine pests”,
 - (xviii) in the entry relating to Articles 72(1) and 73—
 - (aa) in the first column omit “(as read with paragraph 2B(3) of Part 2 of schedule 1)”,
 - (bb) in the second column, for “the Union territory” replace “Great Britain”,
 - (xix) in the entry relating to Article 74(1), in the second column, for “protected zones” substitute “GB pest-free areas”,
 - (xx) in the entry relating to Article 79(1)—
 - (aa) in the first column, for “and 83” substitute “, 83 and 92a”,
 - (bb) in the second column, for “the Union territory without a plant passport” substitute “Great Britain or the introduction of certain plants, plant products

and other objects into Great Britain from a CD territory without a UK plant passport”,

- (xxi) in the entry relating to Article 80(1)—
 - (aa) in the first column, for “and 83” substitute “, 83 and 92a”,
 - (bb) in the second column, for “certain protected zones” in both places it occurs substitute “GB pest-free areas” and after “a” insert “UK”,
- (xxii) in the entry relating to Article 84(1), in the second column, in both places it occurs, after “issuing”, insert “UK”,
- (xxiii) in the entry relating to Article 85, in the second column, after “issuing” insert “UK”,
- (xxiv) in the entry relating to Article 86(1), in the second column—
 - (aa) after “issuing” insert “UK”,
 - (bb) for “protected zone” substitute “GB pest-free area”,
- (xxv) after the entry relating to Article 86(1) insert—

“Article 86a	Prohibits authorised professional operators from issuing UK plant passports for plants, plant products or other objects to be introduced into a CD territory unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.”
--------------	--

- (xxvi) in the entry relating to Article 88, in the second column, after “attach” insert “UK”,
 - (xxvii) in the entry relating to Article 90(1), in the second column, after “a” insert “UK”,
 - (xxviii) in the entry relating to Article 93(1), in the second column, after “replacement” insert “UK”,
 - (xxix) in the entry relating to Article 93(5), in the second column, after “replaced” insert “UK”,
 - (xxx) in the entry relating to Article 96(1), in the second column, for “the Union territory” substitute “Great Britain”.
- (3) In Part 2, (the Official Controls Regulation), in the table—
- (a) in the entry relating to Article 47(5), in the second column, in both places it occurs, for “the Union” substitute “Great Britain”,
 - (b) in the entry relating to Article 56(4), in the second column, for “the Union” substitute “Great Britain”.
- (4) In Part 3, (other EU legislation)—
- (a) in the heading, before “EU” insert the word “retained”,
 - (b) in the heading to the first column of the table, before the word “EU” insert the word “retained”,
 - (c) in the entry in the table for Article 22(4) of Commission Delegated Regulation (EU) 2019/2124, in the second column, for “the Union territory” substitute “Great Britain”.

Schedule 4

30. Omit schedule 4 (offences: EU decisions relating to plant health).

Savings provisions in relation to plant health fees amendments

- 31.** Despite the provision made by regulations 6, 7, 8 and 10—
- (a) a person must pay to the Scottish Ministers any fee which prior to the coming into force of regulation 6 was payable by that person under regulations 3, 4, 5 or 5A of the Plant Health Fees (Scotland) Regulations 2008⁽¹⁶⁾,
 - (b) an importer must pay to the Scottish Ministers any fee which prior to the coming into force of regulation 7 was payable by that importer under regulations 3 or 5 of the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014⁽¹⁷⁾,
 - (c) a person must pay to the Scottish Ministers any fee which prior to the coming into force of regulation 8 was payable by that person under regulation 3 of the Plant Health (Forestry) (Fees) (England and Scotland) Regulations 2015⁽¹⁸⁾,
 - (d) a person must pay to the Scottish Ministers any fee which prior to the coming into force of regulation 10 was payable by that person under article 4 of the Plant Health (Export Certification) (Scotland) Order 2018⁽¹⁹⁾.

Transitional provision in relation to plant health import inspection fees

32.—(1) This regulation applies to plants, plant products, other objects and controlled consignments, which originate in, or are dispatched from an EU Member State, Switzerland or Liechtenstein and are introduced into Scotland during the period commencing on IP completion day and ending on 31 March 2021.

(2) In relation to plants, plant products, other objects and controlled consignments to which this regulation applies, the following provisions do not apply—

- (a) regulations 3 and 5 of the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014,
- (b) regulations 3(4) and (5) of the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015.

(3) In this regulation, “controlled consignment” has the same meaning as in regulation 2(1) of the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015.

⁽¹⁶⁾ S.S.I. 2008/153, relevantly amending instruments are 2010/207 and S.S.I. 2019/421.

⁽¹⁷⁾ S.S.I. 2014/338, relevant amending instruments are S.S.I. 2015/392, S.S.I. 2019/421 and S.S.I. 2019/425.

⁽¹⁸⁾ S.I. 2015/350, relevant amending instruments are S.S.I. 2019/421 and S.S.I. 2020/176.

⁽¹⁹⁾ S.S.I. 2018/132, to which there are amendments not relevant to these Regulations.