

SCHEDULE 2

Regulation 23

Specific measures relating to certain solanaceous species

PART 1

General interpretation

1. In this schedule—

“basic seed potatoes” has the meaning given by regulation 2(1) of the Seed Potatoes Regulations,

“[Directive 69/464/EEC](#)” means Council [Directive 69/464/EEC](#) on control of Potato Wart Disease⁽¹⁾,

“[Directive 93/85/EEC](#)” means Council [Directive 93/85/EEC](#) on the control of potato ring rot⁽²⁾,

“[Directive 98/57/EC](#)” means Council [Directive 98/57/EC](#) on the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*⁽³⁾,

“[Directive 2007/33/EC](#)” means Council [Directive 2007/33/EC](#) on the control of potato cyst nematodes and repealing [Directive 69/465/EEC](#)⁽⁴⁾,

“holding” means all the agricultural land owned by one business that is situated within one parish, or, if the land is contiguous, in a neighbouring parish,

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

“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 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,

“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,

“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,

“pre-basic seed potatoes” has the meaning given by regulation 2(1) of the Seed Potatoes Regulations,

“premises” includes any land, building, vehicle, vessel, aircraft, hovercraft, freight container or railway wagon,

“sampling unit” means an area of not less than 2 hectares, forming a field or part of a field with recognisable boundaries on at least two opposing sides,

(1) OJ L 323, 24.12.1969, p.1.

(2) OJ L 259, 18.10.1993, p.1, as last amended by Commission [Directive 2006/56/EC](#) (OJ L 182, 4.7.2006, p.1). Council [Directive 93/85/EEC](#) is prospectively repealed by Regulation (EU) 2016/2031 (OJ L 317, 23.11.2016, p.4) with effect from 1 January 2022.

(3) OJ L 235, 21.8.1998, p.1, as last amended by Commission [Directive 2006/63/CE](#) (OJ L 206, 27.7.2006, p.36). Council [Directive 98/57/EC](#) is prospectively repealed by Regulation (EU) 2016/2031 (OJ L 317, 23.11.2016, p.4) with effect from 1 January 2022.

(4) OJ L 156, 16.06.2007, p.12. Council [Directive 2007/33/EC](#) is prospectively repealed by Regulation (EU) 2016/2031 (OJ L 317, 23.11.2016, p.4) with effect from 1 January 2022.

- “seed” means seed in the botanical sense other than seed not intended for planting,
“seed potato” means any potato intended for planting,
“Seed Potatoes Regulations” means the Seed Potatoes (Scotland) Regulations 2015⁽⁵⁾.

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 or any potatoes produced from potatoes, which have been grown in a third country other than Switzerland.

(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 *Ralstonia solanacearum* (Smith) Yabuuchi *et al.* in official tests using the methods set out in Annex 2 to [Directive 98/57/EC](#).

(3) A person must not knowingly plant, or knowingly cause or permit to be planted, any potatoes other than—

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

(4) Any person who is involved in the planting of potatoes 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 or delivery notes for the potatoes,
- (c) the crop inspection report issued under the Seed Potatoes Regulations, where potatoes, or their direct progeny, marketed or marketable under those Regulations were produced by the report holder.

(5) Sub-paragraphs (3) and (4) 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.

(6) In sub-paragraph (5)(b), “early potatoes” means potatoes—

- (a) which are harvested before they are completely mature,
- (b) which are marketed immediately after they have been harvested, and
- (c) whose skins can be easily removed without peeling.

(5) [S.S.I. 2015/395](#), as last amended by [S.S.I. 2019/59](#).

Special Measures

3.—(1) The special measures in sub-paragraph (2) apply to suppress or control the spread of the plant pests referred to in that sub-paragraph.

- (2) The special measures are—
- (a) in respect of Potato Wart Disease, those set out in Part 3 of this schedule,
 - (b) in respect of Potato Cyst Nematode, those set out in Parts 4 and 5 of this schedule,
 - (c) in respect of Potato Ring Rot, those set out in Part 6 of this schedule,
 - (d) in respect of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*, those set out in Part 7 of this schedule.
- (3) This paragraph is subject to any additional or stricter measures which a plant health inspector considers necessary under regulation 15 or 16.

Potato Cyst Nematode

4.—(1) Seed potatoes and the plants listed in Part 5 of this schedule must not be planted unless they were grown in a sampling unit which has undergone an official soil test carried out in accordance with Part 4 of this schedule and no Potato Cyst Nematode was found.

- (2) The official soil test referred to in sub-paragraph (1) must be carried out—
- (a) in the period between the harvesting of the last crop in the sampling unit and the planting of the crop that requires the official soil test, and
 - (b) no more than four years prior to the planting of the crop that requires the official soil test, provided that evidence is available to show that no Potato Cyst Nematode was found and that potatoes or the plants listed in Part 5 of this schedule were not present at the time of the official soil test and have not been grown in the sampling unit since that official soil test.
- (3) Sub-paragraph (1) does not apply where—
- (a) in the case of seed potatoes and the plants listed in Part 5 of this schedule, they were—
 - (i) planted on the same holding where they were harvested, or
 - (ii) not grown in soil,
 - (b) in the case of plants listed in Part 5 of this schedule, they have been washed or brushed until practically free of soil so that there is, to the satisfaction of a plant health inspector, no identifiable risk of Potato Cyst Nematode spreading, or
 - (c) in the case of plants listed in Part 5 of this schedule, official tests show that the sampling unit in which they were grown has been free of Potato Cyst Nematode for 12 years before they were planted, or there is evidence that no potatoes or plants listed Part 5 of this schedule have been grown in that sampling unit in the previous 12 years.

Official surveys

5. A plant health inspector must perform an official survey on sampling units used for the production of potatoes, other than those intended for the production of seed potatoes, in accordance with Article 6 of [Directive 2007/33/EC](#).

6. A plant health inspector may perform an official survey for the purposes of Article 4 of Commission Implementing [Decision 2012/270/EU](#).

PART 3

Measures for the control of Potato Wart Disease

Interpretation

7.—(1) For the purposes of this Part of this schedule, 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.

(2) In this Part of this schedule, “*Synchytrium endobioticum*” means *Synchytrium endobioticum* (Schilbersky) Percival.

Official measures relating to contaminated plots of land

8.—(1) A plant health inspector must in accordance with Article 2 of [Directive 69/464/EEC](#) demarcate any—

- (a) contaminated plot, and
- (b) 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 15 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 plant health inspector cannot determine whether those tubers or haulms have been present on a contaminated plot, the plant health inspector may serve a notice under regulation 15 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

9.—(1) Where a contaminated plot is demarcated under paragraph 8(1) of this schedule—

- (a) no potatoes may be grown on it, and
- (b) no plants intended for transplanting may be grown, stored or moved on it.

(2) No person may grow potatoes in a safety zone demarcated under paragraph 8(1) of this schedule unless a plant health inspector is satisfied that they are of a variety which is resistant to the races of *Synchytrium endobioticum* 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 *Synchytrium endobioticum* 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

10. Where a plant health inspector is satisfied that *Synchytrium endobioticum* is no longer present on a plot which was demarcated under paragraph 8(1) of this schedule or on its associated safety zone, the plant health inspector must revoke that demarcation.

PART 4

Measures for the control of European populations of Potato Cyst Nematode

Standard sampling rate for official soil test

11. The official soil test referred to in paragraph 4(1) of this schedule must involve a soil sample of at least 1500 ml of soil per hectare (the “standard sampling rate”).

Lower sampling rate for official soil test

12. The standard sampling rate referred to in paragraph 11 of this schedule may be reduced to the lower sampling rate of 400 ml of soil per hectare (the “lower sampling rate”) if—

- (a) neither potatoes nor the plants listed in table A in Part 5 of this schedule have been grown or been present in the sampling unit in the six years prior to the official soil test,
- (b) no Potato Cyst Nematode has been found during the last two successive official soil tests carried out at the standard sampling rate and no potatoes or plants listed in table A in Part 5 of this schedule, other than those for which an official soil test is required, have been grown in the sampling unit after the first official soil test, or
- (c) no Potato Cyst Nematode or dead cysts of Potato Cyst Nematode have been found in the most recent official soil test carried out at the standard sampling rate and no potatoes or plants listed in table A in Part 5 of this schedule, other than those for which an official soil test is required, have been grown in the sampling unit since the last official soil test.

Official tests carried out before 1 July 2010

13. The results of other official tests carried out before 1 July 2010 may be considered as official soil tests as referred to in paragraph 12(b) and (c) of this schedule.

Further reduction of standard and lower sampling rates

14. The standard sampling rate and the lower sampling rate may be further reduced as follows—

- (a) in the case of the standard sampling rate, the first 8 hectares must be sampled at 1500 ml of soil per hectare, but may be reduced for each additional hectare to a minimum of 400 ml of soil per hectare, or
- (b) in the case of the lower sampling rate, the first 4 hectares must be sampled at 400 ml of soil per hectare, but may be further reduced for each additional hectare to a minimum of 200 ml of soil per hectare.

Continued use of lower and reduced sampling rates

15. The use of the lower and reduced sampling rates referred to in paragraphs 12 and 14 of this schedule may be continued in subsequent official soil tests until Potato Cyst Nematode is found in the sampling unit concerned.

Minimum size of soil sample

16. The minimum size of the soil sample in all cases is 100 ml of soil per sampling unit.

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

Action following official soil test or official survey

17. Following the official soil test referred to in paragraph 4(1) of this schedule, or an official survey referred to in paragraph 5 of this schedule, a plant health inspector must—

- (a) serve a notice on the occupier or other person in charge of the premises officially recording that the sampling unit is infested with Potato Cyst Nematode, or
- (b) officially record that no Potato Cyst Nematode was found in the sampling unit.

Notice that sampling unit is infested with Potato Cyst Nematode

18. Subject to paragraph 19 of this schedule, a notice under paragraph 17(a) of this schedule officially recording that the sampling unit is infested with Potato Cyst Nematode must contain the following restrictions—

- (a) no potatoes may be planted in the sampling unit,
- (b) no plants listed in table A in Part 5 of this schedule, intended for replanting, may be planted or stored in the sampling unit,
- (c) no plants listed in table B in Part 5 of this schedule, intended for replanting, may be planted in the sampling unit unless they have been washed or brushed until practically free of soil so that there is, to the satisfaction of a plant health inspector, no identifiable risk of Potato Cyst Nematode spreading, and
- (d) no plants listed in table C in Part 5 of this schedule may be planted in the sampling unit.

Sampling units infested with Potato Cyst Nematode: planting of potatoes not intended for production of seed potatoes

19. In the case of sampling units that are officially recorded as infested with Potato Cyst Nematode, the planting of potatoes, not intended for the production of seed potatoes, may be authorised by a plant health inspector by a notice in writing served on the occupier or other person in charge of the premises.

Notice authorising planting of potatoes not intended for production of seed potatoes in sampling units infested with Potato Cyst Nematode

20. Any notice served under paragraph 19 of this schedule must be in accordance with the terms of the official control programme aimed at the suppression of Potato Cyst Nematode notified to the European Commission in accordance with Article 9(2) of [Directive 2007/33/EC](#) and published from time to time by the Division of the Scottish Government Agriculture and Rural Economy Directorate known as SASA (formerly known as Science and Advice for Scottish Agriculture).

Notice of contamination

21. A plant health inspector must by notice in writing designate as contaminated any potatoes or plants listed in Part 5 of this schedule which—

- (a) have come from a sampling unit officially recorded under paragraph 17 of this schedule as infested with Potato Cyst Nematode, or
- (b) have come into contact with soil in which Potato Cyst Nematode was found.

Prohibitions following issue of notice of contamination

22. Where any potatoes or plants listed in Part 5 of this schedule have been designated as contaminated under paragraph 21 of this schedule—

- (a) in the case of seed potatoes and the plants listed in table A in Part 5 of this schedule, these must not be planted unless they have been disinfested to the satisfaction of a plant health inspector so that there is no risk of Potato Cyst Nematode spreading,
- (b) in the case of plants listed in table B in Part 5 of this schedule, these must not be planted unless they have been washed or brushed until practically free of soil so that there is no identifiable risk of Potato Cyst Nematode spreading,
- (c) in the case of plants listed in table C in Part 5 of this schedule, these must not be planted, and
- (d) in the case of potatoes intended for industrial processing or grading, these must not be moved except in accordance with an authorisation given under paragraph 23 of this schedule.

Notice of contamination: authorisation for movement of potatoes for industrial processing or grading

23. A plant health inspector may authorise the movement of potatoes designated as contaminated under paragraph 21 of this schedule for the purposes of industrial processing or grading providing that such authorisation—

- (a) is given by notice in writing, and
- (b) requires 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 Nematode spreading.

Notices of infestation or contamination: revocation

24. A notice under paragraph 17(a) or 19 of this schedule may be revoked if, following a further official soil test, no Potato Cyst Nematode is found in the sampling unit after 6 years from —

- (a) the date of the last official soil test confirming the presence of Potato Cyst Nematode, or
- (b) the harvesting of the last potato crop in the sampling unit.

Further investigations

25. If any suspected occurrence or confirmed presence of Potato Cyst Nematode in Scotland 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 Scottish Ministers must ensure that this occurrence is investigated and, where applicable, the pathotype and virulence group of the Potato Cyst Nematode involved is confirmed by appropriate methods.

PART 5

Potato Cyst Nematode - species to which controls apply

Table A

Host plants with roots:	<i>Capsicum spp.</i> , <i>Lycopersicon lycopersicum</i> (L.) Karsten ex Farw.,
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Status: This is the original version (as it was originally made).

Solanum melongena L.

Table B

Other plants with roots:	<i>Allium porrum</i> L., <i>Beta vulgaris</i> L., <i>Brassica</i> spp., <i>Fragaria</i> L., <i>Asparagus officinalis</i> L.
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Table C

Bulbs, tubers and rhizomes, not washed or brushed until practically free of soil so that there is no identifiable risk of Potato Cyst Nematode spreading, grown in soil and intended for planting, other than those for which there must be 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:	<i>Allium ascalonicum</i> L., <i>Allium cepa</i> L., <i>Dahlia</i> spp., <i>Gladiolus</i> Tourn. Ex L., <i>Hyacinthus</i> spp., <i>Iris</i> spp., <i>Lilium</i> spp., Narcissus L., Tulipa L.
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PART 6

Measures for the control of Potato Ring Rot

Interpretation

26. In this Part of this schedule “specified plant material” means tubers or plants of *Solanum tuberosum* L.

Official surveys and testing

27.—(1) The Scottish Ministers must ensure that systematic official surveys for Potato Ring Rot are carried out in Scotland 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](#).

(2) Where the presence of Potato Ring Rot in specified plant material is suspected, the Scottish Ministers 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 or refute its presence,
- (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 or refutation of its 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 to prevent any spread of the plant pest are taken.
- (3) A notice under regulation 15 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

28.—(1) If the presence of Potato Ring Rot is confirmed in a sample of specified plant material following official testing carried out pursuant to paragraph 27(2)(a) of this schedule or sub-paragraph (2), the Scottish Ministers must ensure that—

- (a) the specified plant 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 specified plant 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 head (a), taking into account the provisions 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 head (a), taking into account the provisions in point 2 of Annex 3 to [Directive 93/85/EEC](#).

(2) Where specified plant material has been designated as contaminated under sub-paragraph (1) (a), the Scottish Ministers must ensure that testing is carried out on potato stocks which are clonally related to that specified plant material in the manner specified in paragraph 27(2) of this schedule 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 specified plant material as is necessary to determine the probable primary source of infection and the extent of the probable contamination.

(4) Where any specified plant material or object is determined by a plant health inspector under sub-paragraph (1)(b) to be probably contaminated, the plant health inspector must designate that material or object as probably contaminated.

(5) Any designation by a plant health inspector under sub-paragraph (1)(a) or (4) must be made by notice served under regulation 15.

Restrictions in relation to specified plant material or objects contaminated or probably contaminated with Potato Ring Rot

29.—(1) Where specified plant material is designated by a plant health inspector to be contaminated with Potato Ring Rot in accordance with paragraph 28(1)(a) of this schedule—

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

- (a) no person may—
 - (i) knowingly plant that material, or
 - (ii) knowingly cause or permit that plant material to be planted, and
- (b) a notice under regulation 15 must require that material to be disposed of in accordance with sub-paragraph (2).
- (2) Material can be required to be disposed of—
 - (a) by destruction, or
 - (b) by any other measure that complies with point 1 of Annex 4 to [Directive 93/85/EEC](#).
- (3) Where specified plant material is designated by a plant health inspector to be probably contaminated in accordance with paragraph 28(4) of this schedule, a plant health inspector must serve a notice under regulation 15 requiring that—
 - (a) no person may—
 - (i) knowingly plant that material, or
 - (ii) knowingly cause or permit that material to be planted, and
 - (b) the material must be used or disposed of in accordance with point 2 of Annex 4 to [Directive 93/85/EEC](#).
- (4) Where any machinery, vehicle, vessel, store or any part of such machinery, vehicle, vessel or store, or any object (including packaging material) has been designated by a plant health inspector as contaminated in accordance with paragraph 28(1)(a) of this schedule or as probably contaminated in accordance with paragraph 28(4) of this schedule, a plant health inspector must serve a notice under regulation 15 requiring that it is—
 - (a) disposed of by destruction, or
 - (b) cleansed and disinfected, such that there is no identifiable risk of Potato Ring Rot spreading.
- (5) Anything cleansed and disinfected in accordance with sub-paragraph (4)(b) is no longer to be treated as contaminated for the purposes of [Directive 93/85/EEC](#).

Contaminated place of production – notice (general)

30. Where a place of production has been designated as contaminated by a plant health inspector in accordance with paragraph 28(1)(a) of this schedule, the plant health inspector must serve a notice under regulation 15 which complies with the applicable requirements of paragraphs 31 to 35 of this schedule.

Contaminated place of production – notice in relation to any field also designated as contaminated

31. Subject to paragraph 34(1) of this schedule, where a place of production is designated by a plant health inspector as contaminated in accordance with paragraph 28(1)(a) of this schedule, the notice referred to in paragraph 30 of this schedule must require that, with regard to any field at that place, which has also been so designated, the measures referred to in paragraph 32(1) or (3) of this schedule apply.

Measures in relation to a contaminated place of production

- 32.—**(1) The measures referred to in paragraph 31 of this schedule are—
 - (a) from the date of the receipt of the notice and for at least three growing years from the start of the next growing year—

- (i) such measures as may be required to eliminate volunteer potato plants and other naturally found host plants of Potato Ring Rot, and
 - (ii) that the following must not be planted—
 - (aa) tubers, plants or true seeds of potato,
 - (bb) naturally found host plants of Potato Ring Rot, and
 - (cc) crops for which there is a risk of Potato Ring Rot surviving or spreading,
 - (b) in the first potato cropping season following the period referred to in head (a), that basic seed potatoes or pre-basic seed potatoes may be planted, for ware production only, provided that the field has been free from volunteer potato plants and other naturally found host plants of Potato Ring Rot for at least the two consecutive growing years prior to planting, and that the harvested tubers are subjected to official testing using the method set out in Annex 1 to [Directive 93/85/EEC](#), and
 - (c) in the potato cropping season which follows that referred to in head (b) and following an appropriate rotation cycle (which must be at least two years where potatoes are planted for seed production), that basic seed potatoes or pre-basic seed potatoes may be planted, for seed or ware production.
- (2) Where a plant health inspector serves a notice requiring the measures specified in sub-paragraph (1), the Scottish Ministers must ensure that an official survey is carried out in relation to the field in which potatoes mentioned in sub-paragraph (1)(c) are planted, in accordance with Article 2 of [Directive 93/85/EEC](#).
- (3) The measures referred to in paragraph 31 of this schedule are—
- (a) from the date of receipt of the notice and for four growing years from the start of the next growing year—
 - (i) such measures as may be required to eliminate volunteer potato plants and other naturally found host plants of Potato Ring Rot, and
 - (ii) that the field must be maintained in bare fallow, permanent pasture with frequent close cutting or intensive grazing, and
 - (b) in the first potato cropping season following the period referred to in head (a), that basic seed potatoes or pre-basic seed potatoes may be planted, for seed or ware production, provided that the field has been free from volunteer potato plants and other naturally found host plants of Potato Ring Rot for at least the two consecutive growing years prior to planting, and that the harvested tubers are subjected to official testing using the method set out in Annex 1 to [Directive 93/85/EEC](#).

Contaminated place of production – notice in relation to fields other than those referred to in paragraph 31

33. Where a plant health inspector has designated a place of production as contaminated in accordance with paragraph 28(1)(a) of this schedule, the notice referred to in paragraph 30 of this schedule must require that with regard to any fields at that place other than those referred to in paragraph 31 of this schedule—

- (a) in the cases 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, that from the date of receipt of the notice until the end of the next consecutive growing year, the following must not be planted—
 - (i) tubers, plants or true seed of potato,
 - (ii) naturally found host plants of Potato Ring Rot, or

- (iii) pre-basic seed potatoes or basic seed potatoes, except for the production of ware potatoes only,
- (b) in the second growing year following the period referred to in sub-paragraph (a) that basic seed potatoes or pre-basic seed potatoes officially tested for the absence of Potato Ring Rot and grown under official control at a place of production which is not designated by a plant health inspector as contaminated in accordance with paragraph 28(1)(a) of this schedule, may be planted, for seed or ware production,
- (c) for at least the third growing year following the period referred to in sub-paragraph (a), that basic seed potatoes or pre-basic seed potatoes grown under official control may be planted, for seed or ware production, and
- (d) from the date of receipt of the notice for the growing years referred to in sub-paragraphs (a), (b) and (c), measures must be taken to eliminate volunteer potato plants and naturally found host plants of Potato Ring Rot and 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](#).

Contaminated place of production – notice and authorisation where unit of protected crop production also designated as contaminated

34.—(1) Where a plant health inspector has designated a place of production as contaminated in accordance with paragraph 28(1)(a) of this schedule and a unit of protected crop production at that place has also been so designated and complete replacement of the growing medium is possible in that unit, the plant health inspector must serve a notice requiring that no person may plant in the unit any potato tubers, plants or true seeds without the written authority of a plant health inspector.

- (2) A plant health inspector may not grant an authorisation under sub-paragraph (1) 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 of protected crop production 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.

(3) The authorisation referred to in sub-paragraph (1) may require that where an authorisation is granted for potato production, production must be from basic seed potatoes and pre-basic seed potatoes or from mini-tubers or micro-plants derived from officially tested sources.

Contaminated place of production – notice under paragraph 30 requiring cleansing and disinfecting

35. Except where the Scottish Ministers have served a notice under paragraph 36(2) of this schedule, in cases where a place of production is designated by a plant health inspector to be contaminated in accordance with paragraph 28(1)(a) of this schedule, the notice referred to in paragraph 30 of this schedule may require that upon receipt of the notice and throughout the subsequent growing years up to and including the first potato cropping season permitted by paragraph 32(1)(b) or (3)(b) of this schedule, all machinery and storage facilities at the place of production which are used for potato production must be cleansed and disinfected as appropriate in accordance with paragraph 29(4)(b) of this schedule.

Demarcated zone

36.—(1) This paragraph applies where a plant health inspector has demarcated a zone pursuant to paragraph 28(1)(c) of this schedule.

- (2) The plant health inspector may, by notice, specify—
 - (a) how long the zone is to remain demarcated, and
 - (b) the measures which apply in the demarcated zone.
- (3) 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 takes effect,
 - (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.
- (4) Any premises which are partly within and partly outside a demarcated zone must be treated as within that zone for the purposes of this Part of this schedule, except where the part which is outside the demarcated zone is not in Scotland.
- (5) A notice published in accordance with sub-paragraph (3)(d) 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.
- (6) A notice under sub-paragraph (2) must specify 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) during the specified period—
 - (i) only pre-basic seed potatoes or basic seed potatoes or seed potatoes grown under official control may be planted, and
 - (ii) any seed potatoes grown in a place of production which is possibly contaminated must be officially tested after harvesting, and
 - (c) during the specified period—
 - (i) potatoes intended for planting must be handled separately from all other potatoes at premises within the zone, or
 - (ii) a system of cleansing and, where appropriate, disinfection must be carried out between the handling of seed and ware potatoes.
- (7) The plant health inspector must ensure that during the specified period—
 - (a) premises growing, storing or handling potato tubers and premises which operate potato machinery under contract are supervised by a plant health inspector,
 - (b) an official survey is carried out 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 (6) 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 relevant zone was demarcated.

PART 7

Measures for the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*

Interpretation

37. In this Part of this schedule—

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

“*R. solanacearum*” means *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*, the cause of Potato brown rot.

Official surveys and testing

38.—(1) The Scottish Ministers must ensure that annual systematic official surveys are carried out to identify the presence of *R. solanacearum* on specified plant material originating in Scotland in accordance with Article 2 of [Directive 98/57/EC](#).

(2) Where the presence of *R. solanacearum* is suspected, the Scottish Ministers must ensure that—

(a) official testing is carried out to confirm or refute its presence—

(i) in the case of specified plant 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 or refutation of its presence, where suspect diagnostic visual symptoms of *R. solanacearum* 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 in 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 *R. solanacearum* 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 *R. solanacearum*.

(3) A notice under regulation 15 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 *R. solanacearum*

39.—(1) If the presence of *R. solanacearum* is confirmed following official testing carried out pursuant to paragraph 38(2) of this schedule, the Scottish Ministers must ensure that the actions specified in sub-paragraphs (2) to (4) are taken in accordance with sound scientific principles, the biology of *R. solanacearum* and the relevant production, marketing and processing systems of host plants of *R. solanacearum*.

(2) In the case of specified plant 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 specified plant 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 specified plant 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 head (c), the determination made under head (d) and the possible spread of *R. solanacearum* in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#).
- (3) In the case of host plants, other than specified plant material, where the production of specified plant 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 head (b), the determination made under head (c) and the possible spread of *R. solanacearum* 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 specified plant 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 head (a),
 - (c) a determination by a plant health inspector of the probable contamination on the basis of the designation made under head (b),
 - (d) the demarcation of a zone by a plant health inspector on the basis of the designation under head (b), the determination made under head (c) and the possible spread of *R. solanacearum* in accordance with point 2(ii) of Annex 5 to [Directive 98/57/EC](#).

Restrictions in relation to specified plant material or objects contaminated or probably contaminated with *R. solanacearum*

- 40.**—(1) Where specified plant material is designated by a plant health inspector to be contaminated with *R. solanacearum* in accordance with paragraph 39(2)(c) of this schedule—
- (a) no person may—
 - (i) knowingly plant that material, or
 - (ii) knowingly cause or permit that plant material to be planted, and
 - (b) the material must be subjected to a provision in point 1 of Annex 6 to [Directive 98/57/EC](#).

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(2) Where specified plant material is determined by a plant health inspector to be probably contaminated in accordance with paragraph 39(2)(d) of this schedule, a plant health inspector must serve a notice under regulation 15 requiring that—

- (a) no person may—
 - (i) knowingly plant that material, or
 - (ii) knowingly cause or permit that material to be planted, and
- (b) the material must be used or disposed of in accordance with point 2 of Annex 6 to [Directive 98/57/EC](#).

(3) A notice under regulation 15 must require that any machinery, vehicle, vessel, store, or any part of such machinery, vehicle, vessel or store and any other object, including packaging material designated by any plant health inspector to be contaminated in accordance with paragraph 39(2)(c) of this schedule, or probably contaminated in accordance with paragraph 39(2)(d) or (3)(c) of this schedule, must either be—

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

(4) Anything cleansed and, where appropriate, disinfected in accordance with sub-paragraph (3) (b) is no longer to be treated as contaminated for the purposes of [Directive 98/57/EC](#).

Contaminated place of production – notice (general)

41. In relation to a place of production which has been designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule and which is in a zone which has been demarcated by a plant health inspector in accordance with paragraph 39(2)(e), (3)(d) or (4)(d) of this schedule, the plant health inspector must serve a notice under regulation 15 which complies with the applicable requirements of paragraphs 42 to 46 of this schedule.

Contaminated place of production – notice in relation to any field also designated as contaminated

42. Subject to paragraph 45(1) of this schedule, where a place of production is designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule, the notice referred to in paragraph 41 of this schedule must require that, with regard to any field at that place, which has also been so designated, the measures referred to in paragraph 43(1) or (2) of this schedule apply.

Measures in relation to contaminated place of production

43.—(1) The measures referred to in paragraph 42 of this schedule are—

- (a) from the date of the receipt of the notice and for at least four growing years from the start of the next growing year—
 - (i) such measures as may be required to eliminate volunteer potato or tomato plants as well as other host plants of *R. solanacearum* including solanaceous weeds as appropriate, and
 - (ii) that the following must not be planted—
 - (aa) potato tubers, plants and true seeds,
 - (bb) tomato plants and seeds,

- (cc) taking account of the biology of *R. solanacearum*, other host plants and plants of species of *Brassica* for which there is a risk of *R. solanacearum* surviving, or
 - (dd) crops for which there is a risk of *R. solanacearum* spreading,
 - (b) in the first potato or tomato cropping season following the period referred to in head (a), that basic seed potatoes or pre-basic seed potatoes may be planted, for ware production only, provided that the field or unit of production has been found to be free, during official inspections, from volunteer potato and tomato plants and other host plants including solanaceous weeds for at least the two consecutive growing years prior to planting, and that harvested tubers or tomato plants are subjected to official testing using the method set out in Annex 2 to [Directive 98/57/EC](#), and
 - (c) in the potato or tomato cropping season which follows that referred to in head (b), that there must be an appropriate rotation cycle which must be at least two years where basic seed potatoes or pre-basic seed potatoes are planted.
- (2) The measures referred to in paragraph 42 of this schedule are—
 - (a) from the date of receipt of the notice and for five growing years from the start of the next growing year—
 - (i) such measures as may be required to eliminate volunteer potato and tomato plants as well as other naturally found host plants of *R. solanacearum* including solanaceous weeds as appropriate, and
 - (ii) that the field or unit of production must be maintained during the first three growing years—
 - (aa) in bare fallow,
 - (bb) in cereals if the plant health inspector is satisfied that there is no identifiable risk of *R. solanacearum* spreading,
 - (cc) in permanent pasture with frequent close cutting or intensive grazing, or
 - (dd) as grass for seed production,
 - followed by planting in the succeeding two growing years with non-host plants of *R. solanacearum* for which there is no identified risk of that organism surviving or spreading, and
 - (b) in the first potato or tomato cropping season which follows the period referred to in head (a), if potatoes are to be planted, that only basic seed potatoes and pre-basic seed potatoes may be planted, and only for seed or ware production in circumstances where—
 - (i) 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 *R. solanacearum*, for at least the two consecutive growing years prior to planting, and
 - (ii) that harvested tubers or tomato plants have been subjected to official testing using the method set out in Annex 2 to [Directive 98/57/EC](#).

Contaminated place of production – notice in relation to fields other than those referred to in paragraph 42

44. Where a place of production is designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule and with regard to any fields at that place other than those referred to in paragraph 42 of this schedule the plant health inspector is satisfied that the risk of volunteer potato and tomato plants and other naturally found host plants of *R. solanacearum* has been eliminated, the notice referred to in paragraph 41 of this schedule must require that with regard to such fields—

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- (a) from the date of receipt of the notice and for one growing year following the start of the next growing year—
 - (i) potato tubers, potato plants and true seeds and other host plants of *R. solanacearum* must not be planted save that potato tubers, basic seed potatoes or pre-basic seed potatoes may be planted for ware production only,
 - (ii) tomato plants grown from seed which meets the requirements of the EU Plant Health Regulation may be planted, for fruit production only,
- (b) in the first growing year following that specified in sub-paragraph (a)—
 - (i) if potatoes are to be planted, only basic seed potatoes or pre-basic seed potatoes officially tested for the absence of *R. solanacearum* and grown under official control at a place of production which is not designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule may be planted, for seed or ware production,
 - (ii) in the case of tomatoes, only tomato plants grown from seed which meets the requirements of the EU Plant Health Regulation or, if vegetatively propagated, from tomato plants produced from such seed and grown under official control at a place of production which is not designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule may be planted, for plant or fruit production,
- (c) in the second growing year following that specified in sub-paragraph (a) and, where appropriate, in any subsequent growing year which may be specified in the notice—
 - (i) if potatoes are to be planted, only basic seed potatoes or pre-basic seed potatoes grown under official control from certified seed potatoes may be planted, for seed or ware production,
 - (ii) if tomatoes are to be planted, only tomato plants grown from seed which meets the requirements of the EU Plant Health Regulation or tomato plants grown from such plants under official control may be planted, for plant or fruit production,
- (d) from the date of the receipt of the notice and in each of the growing years referred to in this paragraph, measures must be taken to eliminate volunteer potato plants and other naturally found host plants of *R. solanacearum* as appropriate, and
- (e) official inspections of growing crops at appropriate times and official testing of harvested potatoes are carried out in accordance with the method set out in Annex 2 to [Directive 98/57/EC](#).

Contaminated place of production – notice and authorisation where unit of protected crop production also designated as contaminated

45.—(1) Where a place of production is designated by a plant health inspector to be contaminated in accordance with paragraph 39(2)(c) of this schedule and a unit of protected crop production at that place has also been so designated and complete replacement of the growing medium is possible in that unit, the notice referred to in paragraph 41 of this schedule must require that no person may plant in the unit any potato tubers, potato plants or true seeds or other host plants of *R. solanacearum* including tomato plants and seeds without the written authorisation of a plant health inspector.

- (2) A plant health inspector may not grant an authorisation under sub-paragraph (1) unless—
 - (a) all of the measures to eliminate *R. solanacearum* 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 *R. solanacearum* and to remove all host plant material.
- (3) The authorisation referred to in sub-paragraph (1) may require that—
 - (a) where the authorisation is granted for potato production, production must be from basic seed potatoes and pre-basic seed potatoes or from mini-tubers or micro-plants derived from officially tested sources,
 - (b) where the authorisation is granted for tomato production, production must be from seed which meets the requirements of the EU Plant Health Regulation or, if vegetatively propagated, from tomato plants produced from such seed and grown under official control, and
 - (c) controls on irrigation and spraying programmes, which may include a prohibition on such programmes, must be introduced as appropriate to prevent the spread of *R. solanacearum*.

Contaminated place of production – notice under paragraph 41

46. Except where the Scottish Ministers have published a notice under paragraph 47(1) of this schedule, where a place of production is designated by a plant health inspector to be contaminated in accordance with paragraph 39(2)(c) of this schedule, the notice referred to in paragraph 41 of this schedule must require that upon receipt of the notice and after the first subsequent growing year—

- (a) all machinery and storage facilities at the place of production which are used for potato or tomato production must be cleansed and, where appropriate, disinfected in accordance with paragraph 40(3)(b) of this schedule, and
- (b) such controls on irrigation and spraying programmes, which may include a prohibition on such programmes, must be introduced as the plant health inspector considers appropriate for the prevention of the spread of *R. solanacearum*.

Demarcated zones

47.—(1) The Scottish Ministers must, where it is considered necessary to ensure that any provision of sub-paragraph (5) is complied with, make notice available to the public, by such measures as they consider appropriate, of the demarcation under paragraphs 39(2)(e), (3)(d) or (4) (d) of this schedule of any zone and such notice must—

- (a) subject to head (b), include a declaration that the provisions of sub-paragraph (5) apply in the demarcated zone with effect from the date which is specified in the notice, and
- (b) where appropriate, specify those areas of surface water within the zone to which the prohibition on irrigation and spraying in sub-paragraph (5) is to apply.

(2) The zone remains demarcated for the purposes of this Part of this schedule until such date as may be specified in the notice referred to in sub-paragraph (1) or in any further notice relating to the demarcated zone which a plant health inspector may issue varying the controls in the demarcated zone or its extent or ending it.

(3) For the purposes of this Part of this schedule, a notice made available to the public in accordance with sub-paragraph (1) is deemed to have been served on—

- (a) any occupier or other person in charge of any premises within the demarcated zone,
- (b) any person—
 - (i) with a right to use any surface water, or
 - (ii) who has on premises in their occupation or of which they have charge any surface water, designated as contaminated pursuant to sub-paragraph (5)(b), and

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- (c) any person who operates machinery or carries out any other activity in relation to the production of potatoes or tomatoes within the demarcated zone.
- (4) Any premises which are partly inside and partly outside a demarcated zone are deemed to be wholly inside that zone for the purposes of this Part of this schedule, except where the part which is outside the demarcated zone is not in Scotland.
- (5) When a declaration has been made pursuant to sub-paragraph (1) that the provisions of this paragraph apply—
 - (a) where the zone has been demarcated in accordance with paragraph 39(2)(e) or 39(3)(d) of this schedule—
 - (i) machinery and storage facilities at premises within the zone which are used for growing, storing or handling potato tubers or tomatoes within the zone and premises within the zone from which machinery for potato and tomato production is operated under contract, must be cleansed and, where appropriate, disinfected in accordance with paragraph 40(3)(b) of this schedule,
 - (ii) with regard to potato crops in the zone, only basic seed potatoes and pre-basic seed potatoes grown under official control may be planted,
 - (iii) during the specified period seed potatoes must be handled separately from all other potatoes at all premises within the zone, or a system of cleansing and, where appropriate, disinfection must be carried out between the handling of seed and ware potatoes, and
 - (iv) with regard to tomato crops in the zone, during the specified period only tomato plants grown from seed which meets the requirements of the EU Plant Health Regulation or, if vegetatively propagated, tomato plants produced from such seed and grown under official control may be planted,
 - (b) where surface water has been designated by a plant health inspector as contaminated in accordance with paragraph 39(4)(b) of this schedule—
 - (i) the use of water designated as contaminated for the irrigation and spraying of specified plant material and where appropriate, other host plants, is prohibited without the written authorisation of a plant health inspector, and
 - (ii) if liquid waste discharges have been contaminated, the disposal of waste from industrial processing or packaging premises which handle specified plant material must be carried out under the supervision of a plant health inspector.
- (6) The Scottish Ministers must ensure that during the specified period—
 - (a) premises growing, storing or handling potato tubers and premises which operate potato machinery under contract are supervised by plant health inspectors,
 - (b) an official survey is carried out in accordance with Article 2 of [Directive 98/57/EC](#),
 - (c) a programme is established, where appropriate, for the replacement of all seed potato stocks over an appropriate period of time.
- (7) For the purposes of sub-paragraphs (5) and (6), “the specified period” means the period specified in the notice referred to in sub-paragraph (1), which must be at least three growing seasons following the year in which the relevant zone was demarcated.