

Draft Regulations laid before the National Assembly for Wales under paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2019 No. (W.)

**EXITING THE EUROPEAN
UNION, WALES**

PLANT HEALTH, WALES

**The Plant Health (Amendment)
(Wales) (EU Exit) Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made, in part, in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

Part 2 makes amendments to the Plant Health (Wales) Order 2018 to transpose certain provisions in Council Directive 69/464/EEC on control of Potato Wart Disease (OJ No. L 323, 24.12.1969, p.1), Council Directive 93/85/EEC on the control of potato ring rot (OJ No. L 259, 18.10.1993, p.1), Council Directive 98/57/EC on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al. (OJ No. L 235, 21.8.1998, p.1), and Council Directive 2007/33/EC on the control of potato cyst nematodes and repealing Directive 69/465/EEC (OJ No. L 156, 16.6.2007, p.12).

Parts 3 to 5 make amendments to subordinate legislation relating to plant health in order to address failures of retained EU law to operate effectively and other deficiencies (in particular the deficiencies referred to in paragraphs (a) to (d) and (g) of section 8(2) of the European Union (Withdrawal) Act 2018) arising from the withdrawal of the United Kingdom from the European Union.

Part 3 amends the Plant Health (Wales) Order 2018 (S.I. 2015/610). Part 4 amends the Plant Health etc. (Fees) (Wales) Regulations 2018.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

Draft Regulations laid before the National Assembly for Wales under paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales.

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2019 No. (W.)

**EXITING THE EUROPEAN
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PLANT HEALTH, WALES

**The Plant Health (Amendment)
(Wales) (EU Exit) Regulations 2019**

Made ***

*Coming into force in accordance with
regulation 1(2)*

The Welsh Ministers make these Regulations in exercise of the powers conferred by—

- (a) in relation to Part 1, the powers mentioned in paragraphs (b) and (c);
- (b) in relation to Part 2, section 2(2) of the European Communities Act 1972⁽¹⁾;
- (c) in relation to Parts 3 to 5, paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽²⁾.

The Welsh Ministers are designated⁽³⁾ for the purposes of section 2(2) of the European Communities

(1) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a) and the European Union (Amendment) Act 2008 (c. 7), the Schedule, Part 1. It is prospectively repealed by the European Union (Withdrawal) Act 2018 (c. 16), section 1 from exit day (see section 20 of that Act).

(2) 2018 c. 16. *See* section 20(1) of that Act for the definition of “devolved authority”.

(3) S.I. 2010/2690.

Act 1972 in relation to the common agricultural policy of the European Union.

A draft of this instrument has been laid before and approved by the National Assembly for Wales in accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018.

PART 1

Introductory

Title, commencement and application

1.—(1) The title of these Regulations is the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019.

(2) They come into force as follows—

- (a) as regards this Part and Part 2, on the day after the day on which they are made;
- (b) as regards the remainder, on exit day.

(3) They apply in relation to Wales.

PART 2

Amendment of the Plant Health (Wales) Order 2018

2. The Plant Health (Wales) Order 2018⁽¹⁾ is amended as follows.

3. In Schedule 13, in paragraph 3, for “A notice under article 32 may require” substitute “An inspector must serve a notice under article 32 requiring”.

4. In Schedule 14—

- (a) omit paragraph 1;
- (b) for paragraph 2 substitute—

“In this Schedule—

“field” (“*cae*”) means an area which has been demarcated as a field for the purposes of Article 3 of Directive 2007/33/EC⁽²⁾;

“host plants” (“*planhigion cynhaliol*”) means plants with roots of *Capsicum* spp., *Solanum lycopersicum* L. or *Solanum melongena* L.;

(1) S.I. 2018/1064 (W.223).

(2) OJ No. L 156, 16.6.2007, p. 12.

“infested field” (“*cae wedi ei heigio*”) means a field which is recorded as infested pursuant to paragraph 2B;

“notice” (“*hysbysiad*”) means a notice under article 32;

“susceptible bulbs” (“*bylbiau sy’n dueddol o gael plâu neu glefydau*”) means bulbs, tubers or rhizomes, grown in soil and intended for planting, other than those for which there is evidence by their packaging or by other means that they are intended for sale to final consumers not involved in professional plant or cut flower production, of *Allium ascalonicum* L., *Allium cepa* L., *Dahlia* spp., *Gladiolus* Tourn. Ex L., *Hyacinthus* spp., *Iris* spp., *Lilium* spp., *Narcissus* L. or *Tulipa* L.;

“susceptible material” (“*deunydd sy’n dueddol o gael plâu neu glefydau*”) means host plants, susceptible bulbs or susceptible plants;

“susceptible plants” (“*planhigion sy’n dueddol o gael plâu neu glefydau*”) means plants with roots of *Allium porrum* L., *Asparagus officinalis* L., *Beta vulgaris* L., *Brassica* spp. or *Fragaria* L.”;

(c) after paragraph 2, insert—

“Official investigations and surveys

2A. The Welsh Ministers must ensure that—

- (a) official investigations are carried out in accordance with Articles 4 and 5 of Directive 2007/33/EC for the presence of Potato cyst nematodes in fields in which seed potatoes or susceptible material intended for the production of plants for planting are to be planted or stored;
- (b) official surveys are carried out in accordance with Article 6 of Directive 2007/33/EC for the presence of Potato cyst nematodes in fields used for the production of potatoes, other than those intended for the production of seed potatoes.

Official records

2B. The Welsh Ministers must ensure that the results of each official investigation or official survey carried out pursuant to paragraph 2A are recorded to indicate whether Potato cyst nematodes were found in the field during the investigation or survey.

2C. Where the officially approved measures set out in Section 3(C) of Annex 3 to Directive 2007/33/EC have been taken in a field which has been recorded as infested pursuant to paragraph 2B and, following the completion of those measures, the presence of Potato cyst nematodes is not confirmed, the Welsh Ministers must ensure that the record is updated accordingly.”;

- (d) in paragraph 3—
 - (i) omit the heading;
 - (ii) for the words from “the field”, in the first place it occurs, to the end, substitute “an infested field which specifies the boundaries of the field”;
- (e) in paragraph 4, for the words from “pursuant” to “Directive 2007/33/EC,” substitute “in accordance with paragraph 2C”;
- (f) after paragraph 4, insert—

“Official designation

4A. An inspector must by notice designate as contaminated any potatoes or susceptible material which comes from a field that has been officially recorded as infested under paragraph 2B or any susceptible material which has been in contact with soil in which Potato cyst nematodes have been found.”;

- (g) in paragraph 5—
 - (i) in sub-paragraph (a)—
 - (aa) omit “in a demarcated field”;
 - (bb) after “seed potatoes” insert “in an infested field”;
 - (ii) in sub-paragraph (b), for the words from “in a” to the end substitute “any susceptible material which is intended for planting in an infested field”;
- (h) in paragraph 6, for the words from “in a” to the end substitute “of susceptible bulbs or susceptible plants in an infested field”;
- (i) in paragraph 8—
 - (i) omit “in a demarcated field”;
 - (ii) for the words from “unless” to the end substitute “in an infested field unless authorised to do so by an inspector”;
- (j) after paragraph 8 insert—

“8A. An authorisation under paragraph 8 must be by notice and may only be given if the inspector is satisfied that all reasonable steps to suppress Potato cyst nematodes in the field have been taken in accordance with the official

control programme adopted for the suppression of Potato cyst nematodes.”;

- (k) in paragraph 9, for the words from “plants” to “field”, in the second place it occurs, substitute “host plants which have been designated as contaminated pursuant to paragraph 4A”;
- (l) after paragraph 10 insert—

“Controls on potatoes for industrial processing or grading

10A. No person may move any potatoes which have been designated as contaminated pursuant to paragraph 4A and are intended for industrial processing or grading, unless authorised to do so by an inspector.

10B. An authorisation under paragraph 10A must be by notice and must require the potatoes to be delivered to a processing or grading plant that has appropriate and officially approved waste disposal procedures that ensure that there is no risk of Potato cyst nematodes spreading.”;

- (m) in paragraph 11, for the words from “plants” to the end substitute “susceptible bulbs or susceptible plants which have been designated as contaminated pursuant to paragraph 4A, unless they have been subject to the measures set out in Section 3(A) of Annex 3 to Directive 2007/33/EC and an inspector has confirmed by notice that they are no longer contaminated”;
- (n) omit paragraph 12;
- (o) at the end insert—

“Further investigations

13. If any suspected occurrence or confirmed presence of Potato cyst nematodes in Wales 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 Welsh Ministers must ensure that the species of Potato cyst nematode and, where applicable, the pathotype and virulence group involved, is investigated and confirmed by appropriate methods.”.

5. In Schedule 15—

- (a) in paragraph 1—
 - (i) at the appropriate place insert—

“official testing” (“*profion swyddogol*”) means testing in an official laboratory or an officially supervised laboratory;”;

(ii) in the definition of “notice” (“*hysbysiad*”), after “means” insert “in Part A to C”;

(b) after paragraph 1 insert—

“PART A

Official surveys and testing

1A. The Welsh Ministers must ensure that systematic official surveys for Potato ring rot are carried out on tubers of *Solanum tuberosum* L. and, where appropriate, on plants of *Solanum tuberosum* L., originating in Wales in accordance with Article 2(1) of Directive 93/85/EEC⁽¹⁾.

1B. Where the presence of Potato ring rot in susceptible material is suspected, the Welsh 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

(1) OJ No. L 259, 18.10.1993, as amended by Commission Directive 2006/56/EC (OJ No. L 182, 4.7.2006, p. 1).

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.

1C. A notice may contain measures for the purposes of paragraph 1B(c)(i) to (iii).

PART B

Measures to be taken following the confirmation of the presence of Potato ring rot

1D. If the presence of Potato ring rot is confirmed in a sample of susceptible material following official testing carried out pursuant to paragraph 1B(a) or 1E, the Welsh Ministers must ensure that—

- (a) the susceptible material, the consignment or lot and any object from which the sample was taken and, where appropriate, the place of production and field from which the susceptible material was harvested is designated as contaminated by an inspector;
- (b) an 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 sub-paragraph (a), taking into account the provisions in point 1 of Annex 3 to Directive 93/85/EEC;
- (c) a zone is demarcated by an inspector on the basis of the designation made under sub-paragraph (a), taking into account the provisions in point 2 of Annex 3 to Directive 93/85/EEC.

1E. Where susceptible material has been designated as contaminated under paragraph 1D(a), the Welsh Ministers must ensure that testing is carried out on potato stocks which are clonally related to that susceptible material in the manner specified in paragraph 1B in order to determine the probable primary source of infection and the extent of the probable contamination.

1F. Any such testing must be carried out on as much susceptible material as is necessary to determine the probable primary source of infection and the extent of the probable contamination.

1G. Any designation by an inspector under this Part must be made by notice.

1H. Where any susceptible material or object is determined by an inspector under paragraph 1D(b) to be possibly contaminated, the inspector must by notice designate that material or object as possibly contaminated.

PART C”;

- (c) in paragraph 3—
 - (i) for the words before sub-paragraph (a) substitute “Where susceptible material or an object has been designated as contaminated or possibly contaminated under Part B, an inspector must serve a notice requiring that”;
 - (ii) in sub-paragraph (a)—
 - (aa) at the beginning insert “in the case of”;
 - (bb) after “material” insert “, the material”;
 - (iii) in sub-paragraph (b)—
 - (aa) at the beginning insert “in the case of”;
 - (bb) after “material” insert “, the material”;
 - (iv) in sub-paragraph (c)—
 - (aa) in the words before paragraph (i), at the beginning insert “in the case of” and after “object”, in the second place it occurs, insert “, the object”;
 - (bb) in paragraph (ii), after “Potato ring rot” insert “surviving or”;
- (d) in paragraph 5—
 - (i) in the heading, omit “which may be required”;
 - (ii) in the words before sub-paragraph (a), for “may” substitute “must”;
- (e) in paragraph 6(c), at the end insert “, and that the harvested tubers be subjected to official testing using the method set out in Annex 1 to Directive 93/85/EEC”;
- (f) in paragraph 7(c)—

- (i) after “potatoes for” insert “seed or”;
- (ii) at the end insert “, and that the harvested tubers be subjected to official testing using the method set out in Annex 1 to Directive 93/85/EEC”;
- (g) in paragraph 8—
 - (i) in sub-paragraph (a)—
 - (aa) at the beginning, insert “where an inspector is satisfied that the risk of volunteer potato plants and other naturally-found host plants of Potato ring rot has been eliminated,”;
 - (bb) in paragraph (iii), omit the words from “and an” to the end;
 - (ii) in sub-paragraph (d), at the end, insert “and a requirement that official testing be carried out on harvested tubers in each field using the method set out in Annex 1 to Directive 93/85/EEC”;
- (h) in paragraph 9, for “A notice may” substitute “Except where the Welsh Ministers have published a notice under Part D, a notice must”;
- (i) after paragraph 10 insert—

“**10A.** Where an inspector serves a notice containing the first set of eradication measures, the Welsh Ministers must ensure that an official survey is carried out in relation to the field mentioned in paragraph 6(d) in accordance with Article 2 of Directive 93/85/EEC.”;
- (j) in paragraph 12(a), after “Potato ring rot” insert “and to remove all host plants”;
- (k) after paragraph 13 insert—

“PART D

Demarcation of zones for the control of Potato ring rot

14. This Part applies where an inspector has demarcated a zone pursuant to paragraph 1D(c).

15. The Welsh Ministers may, by notice, specify—

- (a) how long the zone is to remain demarcated; and
- (b) the measures which apply in the demarcated zone.

16. A notice under paragraph 15—

- (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.

17. Any premises which are partly within and partly outside a demarcated zone must be treated as within that zone for the purposes of this Schedule, except where the part which is outside the demarcated zone is not in Wales.

18. A notice published in accordance with paragraph 16 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.

19. A notice under paragraph 15 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, only certified seed potatoes or seed potatoes grown under official control may be planted and any seed potatoes grown in a place of production which is possibly contaminated must be officially tested after harvesting;
- (c) during the specified period, potatoes intended for planting must be handled separately from all other potatoes at premises within the zone or that a system of cleansing and, where appropriate, disinfection must be carried out between the handling of seed and ware potatoes.

20. The Welsh 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 an 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.

21. For the purposes of paragraphs 19 and 20, 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.”.

6. In Schedule 16—

- (a) in paragraph 1, in the definition of “notice” for “Part A” substitute “Parts A to C”;
- (b) after the heading to Part A insert—

“Official surveys and testing

1A. The Welsh Ministers must ensure that annual systematic official surveys are carried out to identify the presence of Potato brown rot on susceptible material originating in Wales in accordance with Article 2 of Directive 98/57/EC(1).

1B. Where the presence of Potato brown rot is suspected, the Welsh Ministers must ensure that—

- (a) official testing is carried out to confirm or refute its presence—
 - (i) in the case of susceptible material, using the method set out in Annex 2 to Directive 98/57/EC and in accordance with the conditions specified in point 1 of Annex 3 to Directive 98/57/EC;
 - (ii) in any other case, using any officially approved method;
- (b) pending the confirmation or refutation of its presence, where suspect diagnostic visual symptoms of Potato brown rot have been seen and a positive result in a rapid screening test has been obtained or a positive result in the screening tests specified in point 2

(1) OJ No. L 235, 21.8.1998, p. 1, as amended by Commission Directive 2006/63/EC (OJ No. L 206, 27.7.2006, p. 36).

of section 1 and section 3 of Annex 2 to Directive 98/57/EC has been obtained—

- (i) the movement of all plants and tubers from all crops, lots or consignments from which the samples have been taken, other than those which are under official control, is prohibited, except where it has been established that there is no identifiable risk of Potato brown rot spreading;
- (ii) steps are taken to trace the origin of the suspected occurrence; and
- (iii) additional appropriate precautionary measures based on the level of estimated risk are taken to prevent any spread of Potato brown rot.

1C. A notice may contain measures for the purposes of paragraph 1B(b)(i) to (iii).

PART B

Measures to be taken following confirmation of the presence of Potato brown rot

1D. If the presence of Potato brown rot is confirmed following official testing carried out pursuant to paragraph 1B, the Welsh Ministers must ensure that the actions specified in paragraphs 1E to 1G are taken in accordance with sound scientific principles, the biology of Potato brown rot and the relevant production, marketing and processing systems of host plants of Potato brown rot.

1E. In the case of susceptible material, the actions are—

- (a) an investigation by an 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 an inspector—
 - (i) the susceptible material and consignment or lot from which the sample was taken;
 - (ii) any objects which have been in contact with that sample;

- (iii) any unit or field of protected crop production and any place of production of the susceptible material from which the sample was taken;
- (d) a determination by an 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 an inspector on the basis of the designation under sub-paragraph (c), the determination made under sub-paragraph (d) and the possible spread of Potato brown rot in accordance with point 2(i) of Annex 5 to Directive 98/57/EC.

1F. In the case of host plants, other than susceptible material, where the production of susceptible material is identified to be at risk by an inspector, the actions are—

- (a) an investigation by an 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 an inspector of host plants from which the sample was taken as contaminated;
- (c) a determination of the probable contamination by an inspector;
- (d) the demarcation of a zone by an inspector on the basis of the designation under sub-paragraph (b), the determination made under sub-paragraph (c) and the possible spread of Potato brown rot in accordance with point 2(i) of Annex 5 to Directive 98/57/EC.

1G. In the case of surface water and associated wild solanaceous host plants where production of susceptible material is identified by an inspector to be at risk through irrigation, spraying or flooding of surface water, the actions are—

- (a) an investigation by an 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 an inspector, to the extent appropriate and on the basis of the investigation under sub-paragraph (a);
- (c) a determination by an inspector of the probable contamination on the basis of the designation made under sub-paragraph (b);
- (d) the demarcation of a zone by an inspector on the basis of the designation under sub-paragraph (b), the determination made under sub-paragraph (c) and the possible spread of Potato brown rot in accordance with point 2(ii) of Annex 5 to Directive 98/57/EC.

PART C”;

- (c) in paragraph 3—
 - (i) for the words before sub-paragraph (a) substitute “Where susceptible material or any object has been designated as contaminated or possibly contaminated under Part B, an inspector must serve a notice requiring that”;
 - (ii) in sub-paragraph (a)—
 - (aa) at the beginning insert “in the case of”;
 - (bb) after “material” insert “, the material”;
 - (iii) in sub-paragraph (b)—
 - (aa) at the beginning insert “in the case of”;
 - (bb) after “material” insert “, the material”;
 - (iv) in sub-paragraph (c)—
 - (aa) in the words before paragraph (i), at the beginning insert “in the case of” and after “object”, in the second place it occurs, insert “, the object”;
 - (bb) in paragraph (ii), after “Potato brown rot” insert “surviving or”;
- (d) in paragraph 5—
 - (i) for “may” substitute “must”;
 - (ii) for “article 39(4)” substitute “Part B”;
- (e) in paragraph 6(c)—
 - (i) after “potato”, in the first place it occurs, insert “or tomato”;

- (ii) after “weeds,” insert “during official inspections”;
 - (iii) at the end insert “, and that harvested tubers or tomato plants be subjected to official testing using the method set out in Annex 2 to Directive 98/57/EC”;
- (f) in paragraph 7(b)—
- (i) in paragraph (ii), at the beginning insert “during the fourth and fifth growing years,”;
 - (ii) in paragraph (iii), at the end insert “, provided that the field or the unit has been found free from volunteer potato and tomato plants and other host plants, including solanaceous weeds, during official inspections of Potato brown rot, for at least the two consecutive growing years prior to planting, and that harvested tubers or tomato plants be subjected to official testing using the method set out in Annex 2 to Directive 98/57/EC”;
- (g) in paragraph 8—
- (i) in sub-paragraph (a), after “year” insert “no host plants of Potato brown rot be planted or”;
 - (ii) in sub-paragraph (f), at the end, insert—
 - “;
 - (g) official inspections of growing crops at appropriate times and official testing of harvested potatoes in accordance with the method set out in Annex 2 to Directive 98/57/EC”;
- (h) in paragraph 9, for the words before sub-paragraph (a) substitute “Except where the Welsh Ministers have published a notice under Part D, a notice in relation to a contaminated place of production must”;
- (i) in paragraph 12(a) after “Potato brown rot” insert “and to remove all host plants of Potato brown rot”;
- (j) after paragraph 13, for “PART B” substitute “PART D”;
- (k) in paragraph 14, for “article 39(4)” substitute “Part B”;
- (l) in paragraph 19—
- (i) for the words before sub-paragraph (a) substitute “A notice under paragraph 15 must specify that”;
 - (ii) in sub-paragraph (a), for “stores” insert “storage facilities”;
 - (iii) in sub-paragraph (b), after “crops,” insert “during the specified period”;

- (iv) in sub-paragraph (c), at the beginning, insert “during the specified period”;
- (v) in sub-paragraph (d), after “crops,” insert “during the specified period”;
- (m) after paragraph 20 insert—

“**21.** The Welsh 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 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.

22. For the purposes of paragraphs 19 and 21, 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 3

Further amendment of the Plant Health (Wales) Order 2018: exiting the European Union

7. The Plant Health (Wales) Order 2018 is amended as follows.

8. In article 2—

- (a) in paragraph (1)—
 - (i) at the appropriate places insert—
 - ““appropriate UK plant health authority” (“*awdurdod iechyd planhigion priodol y DU*”) means—
 - (a) in relation to Wales, the Welsh Ministers;
 - (b) in relation to timber and forest pests in England, the Forestry Commissioners;
 - (c) otherwise in relation to England, the Secretary of State;
 - (d) in relation to Scotland, the Scottish Ministers;
 - (e) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
 - “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(1);

“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(2);

“the list of controlled material” (“*y rhestr o ddeunydd a reolir*”) means Schedule 6 to the Plant Health Regulations;

“the list of pest free area controlled material” (“*y rhestr o ddeunydd a reolir mewn ardaloedd sy’n rhydd rhag plâu*”) means Schedule 7 to the Plant Health Regulations;

“the list of prohibited infested material” (“*y rhestr o ddeunydd wedi ei heigio gwaharddedig*”) means Schedule 2 to the Plant Health Regulations;

“the list of prohibited material” (“*y rhestr o ddeunydd gwaharddedig*”) means Schedule 3 to the Plant Health Regulations;

“the list of prohibited plant pests” (“*y rhestr o blâu planhigion gwaharddedig*”) means Schedule 1 to the Plant Health Regulations;

“the list of regulated material” (“*y rhestr o ddeunydd a reoleiddir*”) means Schedule 4 to the Plant Health Regulations;

“pest free area” (“*ardal sy’n rhydd rhag plâu*”) means that part of a UK pest free area that is in Wales or, where the UK pest free area includes two or more separate parts of Wales, each such part;

“the Plant Health Regulations” (“*y Rheoliadau Iechyd Planhigion*”) means the Plant Health (EU Exit) Regulations 2019;

“regulated plant pest” (“*pla planhigion a reoleiddir*”) means—

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- (1) 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_diagnosics.
- (2) 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_diagnosics.

- (a) a plant pest of a description specified in Part A, B or D of the list of prohibited plant pests;
- (b) a plant pest of a description specified in Part C of the list of prohibited plant pests which relates to a pest free area;
- (c) a plant pest of a description specified in column 2 of Part A, B or D of the list of prohibited infested material;
- (d) a plant pest of a description specified in column 2 of Part C of the list of prohibited infested material which relates to a pest free area;

“UK pest free area” (“*ardal yn y DU sy’n rhydd rhag plâu*”) means an area in the United Kingdom which has been established as a pest free area in accordance with ISPM No. 4;

“UK plant passport” (“*pasbort planhigion y DU*”) means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in Part A or B of Schedule 9, issued by or with the authority of the appropriate UK plant health authority, and includes any replacement of such a passport;

“UK territory” (“*tiriogaeth y DU*”) means Wales, England, Scotland or Northern Ireland;”;

- (ii) omit the definitions from “Annex II Part B” to “Annex IV Part B”;
- (iii) in the definition of “authorised officer” (“*swyddog awdurdodedig*”) for paragraphs (a) and (b) substitute—
 - “(a) in relation to a UK plant passport, an inspector acting under the authority of the appropriate UK plant health authority; or
 - (b) in relation to a phytosanitary certificate or phytosanitary certificate for re-export, an authorised representative of, or a public officer acting under, the national plant protection organisation of the country in which a phytosanitary certificate or phytosanitary certificate for re-export or a translation of a phytosanitary certificate or phytosanitary certificate for re-export is issued”;
- (iv) omit the definition of “citrus fruits for processing”;
- (v) for the definition of “consignment” substitute—

- ““consignment” (*“llwyth”*) means a quantity of goods covered by a single document required for customs or other formalities”;
- (vi) omit the definitions from “Decision 2002/757/EC” to “Decision (EU) 2017/198”;
 - (vii) omit the definition of “Directive 2000/29/EC”;
 - (viii) omit the definition of “Directive 2008/61/EC”;
 - (ix) omit the definitions of “EU transit agreement”, “EU transit goods”, “Euro-Mediterranean area” and “Europe”;
 - (x) in the definition of “European Union” (*“yr Undeb Ewropeaidd”*), omit “including the Isle of Man and the Channel Islands,”;
 - (xi) omit the definition of “fruit”;
 - (xii) in the definition of “importer” (*“mewnforiwr”*), for “landing” substitute “consignment”;
 - (xiii) omit the definition of “landed”;
 - (xiv) in the definition of “national plant protection organisation” (*“sefydliad gwarchod planhigion cenedlaethol”*), for “European Commission”, substitute “national plant protection organisation of the United Kingdom”;
 - (xv) omit the definitions of “North America” and “nursery”;
 - (xvi) in the definition of “official” (*“swyddogol”*), for “responsible official body” substitute “appropriate UK plant health authority”;
 - (xvii) omit the definition of “official documentation”;
 - (xviii) in the definition of “official label” (*“label swyddogol”*), for the words from “responsible” to the end substitute “appropriate UK plant health authority”;
 - (xix) in the definition of “official statement” (*“datganiad swyddogol”*), after “in a” insert “UK”;
 - (xx) omit the definitions of “plant health check” and “plant health movement document”;
 - (xxi) for the definition of “planting” substitute—

““planting” (*“plannu”*) means any operation for the placing of plants to ensure

their subsequent growth, reproduction or propagation;”;

(xxii) omit the definitions of “plant or shrub in tissue culture” and “plant passport”;

(xxiii) for the definition of “plant product” substitute—

““plant product” (*“cynnyrch planhigion”*) means a product of plant origin, unprocessed or having undergone simple preparation, in so far as it is not a plant;”;

(xxiv) omit the definition of “protected zone”;

(xxv) omit the definition of “Regulation (EC) No 690/2008”;

(xxvi) omit the definition of “responsible official body”;

(xxvii) omit the definitions of “South America” and “Swiss plant passport”;

(xxviii) in the definition of “third country” (*“trydedd wlad”*), for “European Union”, substitute “United Kingdom”;

(xxix) omit the definition of “the USA”;

(b) in paragraph (3), for “Any” substitute “Unless expressly provided otherwise, any”;

(c) omit paragraph (5);

(d) at the end insert—

“(6) Words and expressions which are not defined in this Order and which appear in the Plant Health Regulations have the same meaning in this Order as they have in the Plant Health Regulations.”.

9. In article 3—

(a) at the appropriate places insert—

““correct phytosanitary certificate” (*“tystysgrif ffytoiechydol gywir”*), in relation to notifiable relevant material, means the phytosanitary certificate or phytosanitary certificate for re-export which has been issued—

(a) in the manner specified in article 7(2) to (6); and

(b) in respect of the prescribed requirements;

“EU transit material” (*“deunydd tramwy yr UE”*) means any notifiable relevant material from a third country, other than a country or territory in the European Union, which is consigned to the United Kingdom via the European Union and which, on its entry into the European Union, was not subject to—

- (a) the formalities described in Article 13a of Directive 2000/29/EC; or
- (b) to other similar official controls under Regulation (EU) 2017/625 of the European Parliament and of the Council, as it has effect in EU law;

“notified EU material” (*“deunydd hysbysedig yr UE”*) means any notifiable relevant material originating in the European Union or Switzerland which is intended to be, or has been, consigned to the United Kingdom from the European Union or Switzerland via a point of entry in Wales and whose arrival in Wales has been notified to the Welsh Ministers in accordance with article 6(1);

“prescribed requirements” (*“gofynion rhagnodedig”*), in relation to any notifiable relevant material, means the requirements specified in respect of the material in article 5;

“relevant Plant Health Order” (*“Gorchymyn Iechyd Planhigion perthnasol”*) means—

- (a) in relation to relevant material destined for Wales, the Plant Health (Wales) Order 2018 or the Plant Health (Forestry) Order 2005 in its application to Wales;
- (b) in relation to relevant material destined for England, the Plant Health (England) Order 2015 or the Plant Health (Forestry) Order 2005 in its application to England;
- (c) in relation to relevant material destined for Scotland, the Plant Health (Scotland) Order 2005 or the Plant Health (Forestry) Order 2005 in its application to Scotland;
- (d) in relation to relevant material destined for Northern Ireland, the Plant Health Order (Northern Ireland) 2018;

“trade documents” (*“dogfennau masnach”*) in relation to a consignment of notifiable relevant material, means the invoice, delivery note, consignment note or similar document which accompanies the consignment;”;

- (b) in the definition of “approved place of inspection” (*“man arolygu cymeradwy”*), at the end insert “or, in relation to other UK territories, by the appropriate UK plant health authority under equivalent provisions of the relevant Plant Health Order”;

- (c) omit the definition of “area of plant health control” (“*ardal rheolaeth iechyd planhigion*”);
- (d) omit the definition of “the Customs Code” (“*y Cod Tollau*”);
- (e) in the definition of “notifiable relevant material” (“*deunydd perthnasol hysbysadwy*”), for paragraphs (a) and (b) substitute—
 - “(a) of a description specified in Schedule 5 to the Plant Health Regulations;
 - (b) of a description specified in Schedule 7 to the Plant Health Regulations, originating in a third country;”;
- (f) omit the definition of “official body of destination”;
- (g) in the definition of “point of entry” (“*man cyrraedd*”)—
 - (i) at the end of paragraph (a) insert “in the United Kingdom”;
 - (ii) in paragraph (b), for “; or” substitute “in the United Kingdom;”;
 - (iii) at the end of paragraph (c) insert “in the United Kingdom”;
 - (iv) after paragraph (c) insert—
 - “(d) in the case of relevant material which arrives by road, the initial destination of the material after its arrival in the United Kingdom;”.

10. For article 4 substitute—

“**4.** This Part applies to plant pests and relevant material which are brought into Wales from a third country, whether directly or via another UK territory.”.

11. In article 5—

- (a) for paragraph (1) substitute—
 - “(1) No person may bring any of the following into Wales—
 - (a) any plant pest of a description specified in Part A, B or D of the list of prohibited plant pests;
 - (b) any relevant material of a description specified in column 2 of Part A, B or D of the list of prohibited infested material which is carrying or infected with a plant pest of a description specified in the corresponding entry in respect of that description of relevant material in column 3;

- (c) any plant pest which, although not specified in Part A, B or D of the list of prohibited plant pests, or in column 3 of Part A, B or D of the list of prohibited infested material, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain;
 - (d) any relevant material of a description specified in column 2 of Part A or B of the list of prohibited material which originates in a third country specified in the corresponding entry in respect of that description of relevant material in column 3;
 - (e) any relevant material of a description specified in column 2 of Part A or D of the list of regulated material, unless the requirements specified in the corresponding entries in respect of that description of relevant material in column 3 are complied with;
 - (f) in the case of any relevant material which is destined for a pest free area, any plant pest of a description specified in column 2 of Part C of the list of prohibited plant pests which relates to that pest free area;
 - (g) in the case of any relevant material which is destined for a pest free area specified in column 4 of Part C of the list of prohibited infested material, any relevant material of a description specified in the corresponding entry in column 2 of Part C of that list which is carrying or infested with a plant pest of a description specified in the corresponding entry in column 3;
 - (h) in the case of any relevant material which is destined for a pest free area specified in column 4 of Part C of the list of regulated material, any relevant material of a description specified in the corresponding entry in column 2 of that Part, unless the requirements specified in the corresponding entries in respect of that relevant material in column 3 are complied with.”;
- (b) in paragraph (4), for “and (f)” substitute “, (g) and (h)”;
 - (c) after paragraph (4) insert—
 - “(5) The prohibitions in paragraph (1)(b) to (h) do not apply to relevant material which enters a point of entry that is located in another UK territory and is discharged in that territory

in accordance with article 12 of the relevant Plant Health Order.”.

12. In article 6—

(a) for paragraph (1) substitute—

“(1) No person may bring any notifiable relevant material into a point of entry that is located in Wales, unless notice is given in accordance with this article.”;

(b) in paragraph (2)(c), for “the relevant material is landed”, in both places it occurs, substitute “its arrival”;

(c) for paragraph (3) substitute—

“(3) In the case of seed potatoes originating in the European Union or Switzerland, the following information must be included under item 13 of the notice set out in Schedule 11—

- (a) their intended use;
- (b) their intended destination;
- (c) their variety and quantity;
- (d) the identification number of the producer of the potatoes.

(3A) In the case of plants of *Castanea* Mill, *Fraxinus* L., *Olea europaea* L., *Pinus* L., *Platanus* L., *Prunus* L., *Quercus* L. or *Ulmus* L., intended for planting, originating in the European Union or Switzerland, the following information must be included under item 13 of the notice set out in Schedule 11—

- (a) their intended destination;
 - (b) their genus, species and quantity;
 - (c) the identification number of the supplier of the plants.”;
- (d) in paragraph (5), for “, 16 and 30(3)” substitute “and 16”.

13. After article 6 insert—

“EU transit material

6A.—(1) No person may bring any EU transit material into a RoRo port that is located in Wales unless that material is destined for a single approved place of inspection.

(2) Paragraph (1) is subject to article 8(1).

(3) In this paragraph, “RoRo port” means—

- (a) a RoRo listed location within the meaning of regulation 130 of the Customs (Import Duty) (EU Exit) Regulations 2018; or

- (b) if a notice has not been published pursuant to regulation 130(1) of those Regulations, a point of entry that—
 - (i) predominantly services roll-on/roll-off ferries operating between Wales and a member State; and
 - (ii) is listed in a notice published by the Welsh Ministers from time to time.”.

14. In article 7—

- (a) in paragraph (1)—
 - (i) for “land any notifiable relevant material” substitute “bring any notifiable relevant material into a point of entry that is located in Wales”;
 - (ii) for “, as specified” substitute “which certifies that the material meets the prescribed requirements and meets the requirements”;
- (b) omit paragraph (4);
- (c) in paragraph (7)(a), for “European Union”, substitute “United Kingdom”;
- (d) in paragraph (8), for “articles 8(1) and 30(1) and (2)” substitute “article 8(1)”.

15. In article 8(1)—

- (a) in the words before sub-paragraph (a)—
 - (i) for “introduced” substitute “brought”;
 - (ii) after “traveller” insert “coming from any third country, other than any country or territory in the European Union or Switzerland,”;
- (b) in sub-paragraph (a), for “(f)” substitute “(h)”;
- (c) after sub-paragraph (b) insert—

“(ba) article 6A(1);”.

16. In article 9—

- (a) for paragraph (1) substitute—

“(1) The following documents must be delivered to an inspector by the importer of a consignment of notifiable relevant material within three days of the date of its arrival in Wales—

 - (a) any phytosanitary certificate or phytosanitary certificate for re-export which is required under article 7 to accompany the consignment of notifiable relevant material; and

- (b) in the case of notified EU material, the trade documents which accompany the consignment.”;
- (b) in paragraph (5), for the words from “one” to the end, substitute “a Customs procedure within the meaning of section 3(3) of the Taxation (Cross-border Trade) Act 2018”;
- (c) after paragraph (5) insert—

“(6) Paragraph (1) does not apply to any notifiable relevant material which is in the course of its consignment to an approved place of inspection in another UK territory.”.

17. In article 10—

- (a) at the beginning, insert—

“(A1) This article applies to notifiable relevant material, other than notified EU material, which is brought into a point of entry that is located in Wales.

(A2) No person may move any notifiable relevant material or cause any notifiable relevant material to be moved from its point of entry unless the material is being moved to a designated area of plant health control or an approved place of inspection.”;
- (b) in paragraph (1), for “area of plant health control” substitute “point of entry, or where the material is moved to a designated area of plant health control or an approved place of inspection in Wales, the designated area of plant health control or approved place of inspection,”.

18. In article 11—

- (a) in sub-paragraph (b), for “European Union”, substitute “United Kingdom”;
- (b) omit sub-paragraph (d).

19. In article 12—

- (a) at the beginning insert—

“(A1) This article applies to any notifiable relevant material, other than notified EU material, which is brought into a point of entry that is located in Wales and is not in the course of its consignment to an approved place of inspection in another UK territory.”;
- (b) in paragraph (1)—
 - (i) in the words before sub-paragraph (a), for “area of plant health control” substitute “point of entry, designated area of plant health control or approved place of inspection in Wales”;
 - (ii) for sub-paragraph (a) substitute—

- “(a) the material meets the prescribed requirements;”;
- (iii) omit sub-paragraphs (b) to (g);
- (iv) in sub-paragraph (h), at the end insert “which accompanied the material on entry”;
- (v) in sub-paragraph (i), for the words from “phytosanitary”, in the first place it occurs, to the end substitute “correct phytosanitary certificate”;
- (c) in paragraph (2), omit “to (g)”;
- (d) omit paragraphs (4) and (5);
- (e) in paragraph (6)—
 - (i) in the words before sub-paragraph (a), for “area of plant health control” substitute “point of entry, designated area of plant health control or approved place of inspection”;
 - (ii) in sub-paragraph (a), for “the date on which the certificate was delivered in accordance with article 9(1)” substitute “date it.”;
 - (iii) omit sub-paragraph (b) and the preceding “; and”;
- (f) in paragraph (7), for “a plant health check” substitute “an examination under paragraph (2)”;
- (g) in paragraph (8)(b), for “has the same meaning as in Article 2(1)(o) of Directive 2000/29/EC” substitute “means a number of units of a single commodity, identifiable by its homogeneity of composition and origin, which form part of a consignment”.

20. After article 12 insert—

“Requirements applicable to notified EU material

12A.—(1) This article applies to notified EU material which is brought into a point of entry that is located in Wales.

(2) An inspector must carry out an examination of—

- (a) the phytosanitary certificate or phytosanitary certificate for re-export which accompanies a consignment of notified EU material to confirm that the consignment is accompanied by the correct phytosanitary certificate; and
- (b) the trade documents that accompany the consignment to confirm that those documents correspond to the

description of the relevant material in the phytosanitary certificate or phytosanitary certificate for re-export.”

21. In article 14(1), for “under customs supervision pursuant to Article 134 of the Customs Code” substitute “subject to the control of an officer of Revenue and Customs within the meaning of Schedule 1 to the Taxation (Cross-border Trade) Act 2018”.

22. In article 15—

(a) in paragraph (1)—

(i) in sub-paragraph (b), omit “the responsible official body or”;

(ii) in sub-paragraph (d), for “one of the official languages of the European Union”, substitute “English”;

(iii) omit sub-paragraph (e);

(iv) in sub-paragraph (f), for “Plant Protection Organisations of the Member States of the European Union”, substitute “Plant Protection Organisation of the United Kingdom”;

(b) in paragraph (2)—

(i) for the words from “or C of Schedule 4” to “Schedule”, in the second place it occurs, substitute “, C or D of the list of regulated material, more than one set of entry requirements is specified in the corresponding entry in column 3 of Part A, C or D of that list”;

(ii) for “requirement”, in the second place it occurs, substitute “set of requirements”;

(iii) omit the words from “by reference” to the end.

23. In article 16—

(a) in the heading, omit “EU transit goods or”.

(b) for paragraph (1), substitute—

“(1) This article applies to notifiable relevant material, other than notified EU material, which is destined for an approved place of inspection.”
;

(c) in paragraph (2)—

(i) in the words before sub-paragraph (a), for “any other place within the European Union, unless” substitute “an approved place of inspection in another UK territory unless it is accompanied by a copy of the phytosanitary certificate or phytosanitary certificate for re-export which accompanied the material on its entry into the United Kingdom and”;

- (ii) in sub-paragraph (b), at the beginning insert “where the material is destined for an approved place of inspection in Wales,”;
- (d) in paragraph (3)—
 - (i) in the words before sub-paragraph (a)—
 - (aa) for the words from “to which” to “Union,” substitute “which is destined for an approved place of inspection in Wales”;
 - (bb) for “five” substitute “three”;
 - (ii) in sub-paragraph (a)—
 - (aa) omit “or designated area of plant health control”;
 - (bb) omit the words from “or, if not” to the end;
 - (iii) in sub-paragraph (b), for the words “place referred to in sub-paragraph (a)” substitute “approved place of inspection”;
 - (iv) omit sub-paragraphs (c) and (d);
 - (v) in sub-paragraph (f), for “article 7” substitute “the relevant Plant Health Order”.

24. In article 17—

- (a) in paragraph (1), for the words from “a place”, in the first place it occurs, to the end, substitute “premises which are not located at a point of entry or are not part of a designated area of plant health control as a place at which appropriate checks may be carried out by an inspector in respect of notifiable relevant material, other than notified EU material”;
- (b) in paragraph (3), omit “or to EU transit goods,”;
- (c) in paragraph (4), for the words from “a place” to the end substitute “premises as an approved place of inspection in respect of notifiable relevant material, other than notified EU material, if the premises have been designated or approved by the Commissioners for Her Majesty’s Revenue and Customs for that purpose”;
- (d) after paragraph (4) insert—

“(4A) In the case of any other premises, the Welsh Ministers may only approve those premises as an approved place of inspection for the purpose of carrying out appropriate checks in respect of EU transit material.

(4B) In this article, “appropriate checks”, in relation to a consignment of relevant material, means—

- (a) an examination of the phytosanitary certificate or phytosanitary certificate for re-export accompanying the consignment to determine whether it is the correct phytosanitary certificate;
- (b) an examination of the consignment to determine whether it corresponds to its description in the trade documents that accompany it;
- (c) an examination of the consignment and its packaging, and where necessary, the vehicle transporting the consignment to determine whether it meets the prescribed requirements.”;
- (e) omit paragraph (5), the heading to paragraph (6) and paragraph (6).

25. In Part 3, in the heading, omit “EU”.

26. Omit articles 18 and 19.

27. In article 20—

- (a) in paragraph 1, for sub-paragraphs (a) to (g), substitute—
 - “(a) any plant pest of a description specified in Part A, B or D of the list of prohibited plant pests;
 - (b) any relevant material of a description specified in column 2 of Part A, B or D of the list of prohibited infested material which is carrying or infected with a plant pest of a description specified in the corresponding entry in column 3;
 - (c) any plant pest which, although not specified in Part A, B or D of the list of prohibited plant pests, or in column 3 of Part A, B or D of the list of prohibited infested material, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain;
 - (d) any relevant material originating in a third country which is brought into Wales in contravention of article 5(1)(d) or (e);
 - (e) any relevant material of a description specified in column 2 of Part B or E of the list of regulated material which originates in the United Kingdom unless the requirements specified in the corresponding entries in respect of that

description of relevant material in column 3 are complied with;

- (f) any relevant material originating in a third country and consigned from another part of the United Kingdom which, if it had been brought into a point of entry located in Wales, would have contravened article 5(1)(d) or (e)”
;

(b) after paragraph (1) insert—

“(1A) Paragraph 1B applies to pest free areas.

(1B) No person may knowingly keep, store, plant, sell or move or knowingly cause or permit to be kept, stored, planted, sold or moved—

- (a) any plant pest of a description specified in column 2 of Part C of the list of prohibited plant pests which relates to a pest free area;
 - (b) in the case of any pest free area which is, or is included in, a UK pest free area specified in column 4 of Part C of the list of prohibited infested material, any relevant material of a description specified in the corresponding entry in column 2 of that Part which is carrying or infested with a plant pest of a description specified in the corresponding entry in column 3;
 - (c) any relevant material originating in a third country which is brought into a pest free area in contravention of article 5(1)(h);
 - (d) in the case of any pest free area which is, or is included in, a UK pest free area specified in column 4 of Part C of the list of regulated material, any relevant material of a description specified in the corresponding entry in column 2 of that Part which originates in the United Kingdom, unless the requirements specified in the corresponding entries in respect of that relevant material in column 3 are complied with;
 - (e) any relevant material originating in a third country and consigned from another part of the United Kingdom which, if it had been brought into a point of entry located in Wales, would have contravened article 5(1)(h).”;
- (c) in paragraph (2), for “paragraph (1)” substitute “paragraphs (1) and (1B)”;
- (d) in paragraph (3), for “(f)” substitute “(1B)(d)”.

28. In article 21—

(a) in the heading, for “plant passports” substitute “UK plant passports”;

(b) for paragraphs (1) to (6) substitute—

“(1) No person may move any of the following relevant material into or within Wales unless it is accompanied by a UK plant passport—

(a) any relevant material of a description specified in the list of controlled material which originates in the United Kingdom;

(b) any relevant material that has been discharged under article 12 and is of a description specified in the list of controlled material.

(2) No person may move any of the following relevant material into or within a pest free area unless it is accompanied by a UK plant passport which is valid for that pest free area or the UK pest free area of which it is part—

(a) any relevant material of a description, specified in the list of pest free area controlled material in respect of the relevant UK pest free area, which originates in the United Kingdom;

(b) any relevant material that has been discharged under article 12 and is of a description specified in the list of pest free area controlled material in respect of the relevant UK pest free area.

(3) No person may consign from Wales to another UK territory any of the following relevant material originating in Wales, unless it is accompanied by a UK plant passport—

(a) in the case of relevant material destined for Northern Ireland or England, any relevant material of a description specified in the list of controlled material;

(b) in the case of relevant material destined for a place in Northern Ireland or England which is within a UK pest free area, any relevant material of a description specified in the list of pest free area controlled material in respect of that UK pest free area;

(c) in the case of relevant material destined for Scotland, any relevant material of a description specified in Part A of Schedule 6 to the Plant Health (Scotland) Order 2005;

(d) in the case of relevant material destined for a place in Scotland which is within a UK pest free area, any relevant material of a description specified in Part B of Schedule 6 to the Plant Health (Scotland) Order 2005 in respect of that UK pest free area.

(4) In the case of any relevant material originating in a place of production in Wales, a UK plant passport may only be issued in respect of that material if the material has been subject to a satisfactory inspection at the place of production.”;

(c) omit paragraphs (7) and (8);

(d) after paragraph (8) insert—

“(8A) The requirements in paragraphs (1)(b) and (2)(b) do not apply to any notified EU material moving from its point of entry to its first destination in the United Kingdom if it is accompanied by a copy of the phytosanitary certificate or phytosanitary certificate for re-export which accompanied the material on its entry into the United Kingdom.”;

(e) in paragraph (9), for “(1), (2), (5) and (6)” substitute “(1)(a), (2)(a) and (3)”;

(f) in paragraph (10), for “Paragraphs (2) and (4) are” substitute “Paragraph (2) is”.

29. In article 22—

(a) in paragraph (1)—

(i) omit sub-paragraphs (a) and (b);

(ii) in sub-paragraph (c) for “(f)” substitute “(1B)(d)”;

(iii) in sub-paragraph (d) for “(1), (2), (5) and (6)” substitute “(1)(a), (2)(a) and (3)(a) or (c)”;

(b) omit paragraphs (3) and (4);

(c) in paragraph (5), for “(1) or (2)” substitute “(1)(a) or (2)(a)”.

30. In article 23—

(a) in paragraph (1), for the words from “Part B” to the end substitute “the list of pest free area controlled material which relates to a pest free area and which is moved through the pest free area to a destination outside the relevant UK pest free area”;

(b) in paragraph (2)—

(i) in the words before sub-paragraph (a), omit “and (4)”;

(ii) in sub-paragraph (a) for “in Great Britain” substitute “outside the relevant UK pest free area”;

- (iii) at the end of sub-paragraph (a), for “or” substitute “and”;
- (iv) in sub-paragraph (b)—
 - (aa) for “Wales”, in the first place it occurs, substitute “the pest free area”;
 - (bb) for “Wales”, in the second and third places it occurs, substitute “the relevant UK pest free area”;
- (c) in paragraph (3)—
 - (i) in sub-paragraph (a), omit “in relation to which Wales is a protected zone”;
 - (ii) in sub-paragraph (b), for “Wales” substitute “the pest free area”;
- (d) at the end insert—
 - “(4) In this article—
 - (a) “relevant UK pest free area” (*“ardal berthnasol yn y DU sy’n rhydd rhag plâu”*), in relation to any relevant material of a description specified in the list of pest free area controlled material, means the pest free area which is, or is part of, the UK pest free area that has been designated in respect of that material;
 - (b) “relevant plant pest” (*“pla planhigion perthnasol”*), in relation to a UK pest free area, means the plant pest in respect of which the UK pest free area has been designated.”.

31. In article 24—

- (a) in the heading, for “plant passports” substitute “UK plant passports”;
- (b) in paragraphs (1) to (5), for “plant passport”, in each place it occurs, substitute “UK plant passport”;
- (c) in paragraph (4)(b)—
 - (i) after “by a” insert “regulated”;
 - (ii) omit the words from “of” to the end.

32. In Part 4, in the heading, for “plant passports” substitute “UK plant passports”.

33. In article 25, omit paragraph (2).

34. In article 28—

- (a) in paragraph (3)(c), for “details specified in Article 10(4) of Decision (EU) 2015/789” substitute “specified details”;
- (b) in paragraph (4)—
 - (i) before sub-paragraph (a) insert—

“(za) “demarcated area” (“*ardal sydd wedi ei darnodi*”) means an area demarcated under paragraph 5 of Schedule 15 to the Plant Health Regulations or, in relation to Scotland, under equivalent provisions in the Plant Health (Scotland) Order 2005 or the Plant Health (Forestry) Order 2005;”;

(ii) in sub-paragraph (a), for “has the meaning given in Article 1(d) of Decision (EU) 2015/789” substitute “means any person who, in the course of a trade, business or profession, is involved in planting, breeding, producing, importing, marketing or distributing plants”;

(iii) after sub-paragraph (a) insert—

“(ab) “specified details” (“*manylion a bennir*”), in relation to a lot, means its origin, consignor, consignee, place of destination, individual serial, week or batch number of the UK plant passport, identity and quantity;”;

(iv) in sub-paragraph (b)—

(aa) for the words in paragraph (i) substitute “plants specified in paragraph 13 of Part E of the list of controlled material which have been grown for at least part of their life in, or have been moved through, a demarcated area”;

(bb) in paragraph (ii), for the words from “an area” to the end substitute “a demarcated area”.

35. In article 29—

- (a) in the heading and paragraphs (1), (4), (5), (6) and (7), for “plant passports”, in each place it occurs, substitute “UK plant passports”;
- (b) in paragraph (4)(a), for “relevant plant pests” substitute “regulated plant pests”;
- (c) in paragraph (6)(a), for “relevant plant pests” substitute “regulated plant pests”;
- (d) omit paragraph (8).

36. Omit Part 5.

37. In article 31—

- (a) in paragraph (1)(c), after “issue” insert “UK”;
- (b) in paragraph (10), omit the words “, including representatives of the European Commission,”.

38. After article 31 insert—

“Emergency measures

31A.—(1) Where a regulated plant pest is found to be present in Wales, the Welsh Ministers may by notice—

- (a) demarcate an area in relation to that infestation for the purpose of eradicating or containing that plant pest; and
- (b) specify the prohibitions and restrictions which are to apply in the demarcated area for that purpose.

(2) A notice under paragraph (1)—

- (a) must be in writing;
- (b) must describe the extent of the demarcated area;
- (c) must specify the date on which any such prohibitions or restrictions are to commence;
- (d) must be published in a manner appropriate to bring it to the attention of the public; and
- (e) may be amended or revoked, in whole or in part, by further notice.”.

39. In article 32—

- (a) in paragraph (1), for “introduced” substitute “brought”;
- (b) in paragraph (2)(b), for “landing” substitute “arrival”;
- (c) in paragraph (3)—
 - (i) in sub-paragraph (a), for “landing” substitute “bringing in”;
 - (ii) in sub-paragraph (b)—
 - (aa) for “the landing of any plant pest or relevant material is to be carried out” substitute “any plant pest or relevant material is to be brought in”;
 - (bb) for “to landing” substitute “to its entry”;
- (d) in paragraph (7)—
 - (i) in sub-paragraph (a)—
 - (aa) for the words in paragraph (i) substitute “a regulated plant pest”;
 - (bb) omit paragraph (ii) and the preceding “or”;
 - (ii) in sub-paragraph (b)(ii), omit “or 18”.

40. In article 33—

- (a) in paragraph (5), omit “, including representatives of the European Commission,”;
- (b) for the words in paragraph (8)(a)(i), substitute “a regulated plant pest”.

41. In article 37(5), omit “, including representatives of the European Commission,”.

42. In article 39—

- (a) in paragraph (1), after “other than” insert “a country or territory in the European Union or”;
- (b) in paragraph (2)—
 - (i) in sub-paragraph (a), after “programme in” insert “the United Kingdom,”;
 - (ii) in sub-paragraph (b), for “Annex II to Directive 98/57/EC” substitute “EPPO PM 7/21”;
 - (iii) in sub-paragraph (c), for “Annex I to Directive 93/85/EEC” substitute “EPPO PM 7/59”;
- (c) omit paragraph (4).

43. In article 40—

- (a) in paragraph (1)—
 - (i) for “introduced” substitute “imported”;
 - (ii) for the words from “Welsh Ministers—” to the end substitute “Welsh Ministers in exercise of any derogation permitted by Schedule 8 to the Plant Health Regulations”;
- (b) in paragraph (2), for “(1)(b)” substitute “(1)”;
- (c) omit paragraph (3).

44. In article 41—

- (a) in the heading, omit the words “permitted by Directive 2008/61/EC”;
- (b) in paragraph (1)—
 - (i) in the words before sub-paragraph (a), for “introduction”, in both places it occurs, substitute “importation”;
 - (ii) in sub-paragraph (a), for “Article 1(2) of Directive 2008/61/EC”, substitute “Part A of Schedule 16A”;
 - (iii) in sub-paragraph (b), for “Annex I to that Directive”, substitute “Part B of Schedule 16A”;
- (c) in paragraph (2)—
 - (i) in sub-paragraph (a), for “laid down in Article 2(2) of Directive 2008/61/EC”,

- substitute “specified in Part C of Schedule 16A”;
- (ii) in sub-paragraph (b), for the words from “specifying” to the end, substitute “as the Welsh Ministers may determine in relation to the licence quarantine measures that are appropriate in respect of those activities”;
- (d) in paragraph (4)—
- (i) in the words before sub-paragraph (a), for “activities to which a licence granted under paragraph (1) relates” substitute “licensed activity”;
 - (ii) in sub-paragraph (a), for “activities” substitute “licensed activity”;
 - (iii) in sub-paragraph (b), for “the activities were” substitute “licensed activity was”;
- (e) in paragraph (5), for “the plant pests specified in Schedule 1 and in column 3 of Schedule 2” substitute “regulated plant pests”;
- (f) omit paragraph (6);
- (g) for paragraph (7) substitute—
- “(7) In this article—
- (a) “appropriate quarantine measures” (*“mesurau cwarantin priodol”*) means—
 - (i) where applicable, quarantine measures which are equivalent to those specified in Part A of Annex 3 to Commission Directive 2008/61/EC establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes or for work on varietal selections⁽¹⁾;
 - (ii) in any other case, any quarantine measures, including testing, as may be specified by the Welsh Ministers;
 - (b) “licence quarantine measures” (*“mesurau cwarantin y drwydded”*) means the measures specified in Part D of Schedule 16A;

(1) OJ No. L 158, 18.6.2008, p. 41.

- (c) “licensed activity” (*“gweithgaredd trwyddedig”*) means any activity for trial or scientific purposes or for work on varietal selections which is authorised by a single licence under paragraph (1).”.

45. In article 42, in paragraph (3)—

- (a) in sub-paragraph (a)—
 - (i) for the words in paragraph (i), substitute “is a regulated plant pest”;
 - (ii) omit paragraph (ii);
 - (iii) in paragraph (iii), for “Schedule 2”, in both places it occurs, substitute “the list of prohibited infested material”;
 - (iv) in paragraph (iv), for “of a description specified in Schedule 1 or 2” substitute “a regulated plant pest”;
- (b) in sub-paragraph (b)(iii)—
 - (i) for “Schedule 2”, in the first place it occurs, substitute “the list of prohibited infested material”;
 - (ii) for “Schedule 2”, in the second place it occurs, substitute “that list”.

46. In article 43(3)(b)—

- (a) for the words in paragraph (i) substitute “a regulated plant pest”;
- (b) in paragraph (ii), for “specified in Schedule 1 or 2” substitute “a regulated plant pest”;
- (c) in paragraph (iii)—
 - (i) for “Schedule 3” substitute “the list of prohibited material”;
 - (ii) for “that Schedule” substitute “that list”.

47. In article 44—

- (a) in paragraph (3), after “certificate,” insert “UK”;
- (b) in paragraph (4)(b)—
 - (i) for the words in paragraph (i) substitute “a regulated plant pest”;
 - (ii) in paragraph (ii) for “specified in Schedule 1 or 2” substitute “a regulated plant pest”.

48. In article 46—

- (a) in paragraph (1)—
 - (i) after sub-paragraph (a)(i), insert—
“(ia)article 6A;”;
 - (ii) in sub-paragraph (b), after “person” insert “, a prohibition or restriction in a notice issued by the Welsh Ministers”;

- (b) in paragraph (2), for “plant passport”, in both places it occurs, substitute “UK plant passport”;
- (c) in paragraph (3), for “plant passport”, in each place it occurs, substitute “UK plant passport”.

49. After article 49 insert—

“Transitional provision: UK plant passports

49A.—(1) An authorisation to issue plant passports which has been granted and has effect immediately before exit day continues to apply after exit day as if it were an authorisation to issue UK plant passports.

(2) In the case of any plant passport that has been issued in respect of any relevant material before exit day for the purposes of the movement of that material which takes place before and after exit day, the plant passport is to be treated as if it were a UK plant passport and references to a UK plant passport are to be construed accordingly.”.

50. Omit Schedules 1 to 8.

51. In Schedule 9—

- (a) in the heading to Schedule 9, for “plant passports” substitute “UK plant passports”;
- (b) in Part A, in the heading—
 - (i) for “plant passports” substitute “UK plant passports”;
 - (ii) for “for any relevant material in Schedule 6 or 7” substitute “in relation to relevant material”;
- (c) in paragraphs 1 to 3, for “plant passport”, in each place it occurs, substitute “UK plant passport”;
- (d) in paragraph 4—
 - (i) in the words before sub-paragraph (a), for “plant passport” substitute “UK plant passport”;
 - (ii) in sub-paragraph (a), for “EU-plant” substitute “UK plant”;
 - (iii) omit sub-paragraph (b);
 - (iv) in sub-paragraph (c), for the words from “responsible” to the end substitute “appropriate UK plant health authority”;
 - (v) in sub-paragraph (d) for “plant passport”, in both places it occurs, substitute “UK plant passport”;

- (vi) in sub-paragraphs (e), (f), and (g), for “plant passport”, in each place it occurs, substitute “UK plant passport”;
- (vii) in sub-paragraph (h)—
 - (aa) for “protected zone”, in both places it occurs, substitute “UK pest free area”;
 - (bb) for “ZP” substitute “PFA”;
- (viii) in sub-paragraph (j), for “Wales” substitute “the United Kingdom”;
- (e) in paragraph 5(c)(ii)—
 - (i) for “European Union”, in the first place it occurs, substitute “United Kingdom”;
 - (ii) for the words “responsible” to the end substitute “appropriate UK plant health authority”;
- (f) in paragraph 6(1)(a), for the words from “at” to the end substitute “English and may also be given in Welsh”;
- (g) in paragraph 7, for “plant passport” substitute “UK plant passport”;
- (h) in paragraph 8, for sub-paragraphs (a) to (c) substitute—
 - “(a) in relation to vegetable plant material—
 - (i) produced in Great Britain, in Part B of Schedule 2 to the Marketing of Vegetable Plant Material Regulations 1995(1);
 - (ii) produced in Northern Ireland, in Part B of Schedule 2 to the Marketing of Vegetable Plant Material Regulations (Northern Ireland) 1995(2);
 - (b) in relation to ornamental plant propagating material—
 - (i) produced in England or Wales, in the Schedule to the Marketing of Ornamental Plant Propagating Material Regulations 1999(3);
 - (ii) produced in Scotland, in Schedule 1 to the Marketing of Ornamental Plant Propagating Material Regulations 1999(4);

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- (1) S.I. 1995/2652, to which there are amendments not relevant to these Regulations.
 - (2) S.R. 1995 No. 415, to which there are amendments not relevant to these Regulations.
 - (3) S.I. 1999/1801, to which there are amendments not relevant to these Regulations.
 - (4) S.I. 1999/1801, amended by S.S.I. 2018/284; there are other amending instruments but none is relevant.

- (iii) produced in Northern Ireland, in the Schedule to the Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999(1);”
- (i) in Part B, in the heading—
 - (i) for “plant passports” substitute “UK plant passports”;
 - (ii) omit “in Schedule 6 or 7”;
- (j) in paragraph 9, for “plant passport”, in both places it occurs, substitute “UK plant passport”;
- (k) in paragraph 10—
 - (i) in sub-paragraph (a), for “in Article 13(1)(a) of Council Directive 2002/56/EC on the marketing of seed potatoes” substitute—
 - “—
 - (i) in the case of seed potatoes produced in Wales, in Part 1 of Schedule 2 to the Seed Potatoes (Wales) Regulations 2016(2);
 - (ii) in the case of seed potatoes produced in England, in Part 1 of Schedule 2 to the Seed Potatoes (England) Regulations 2015(3);
 - (iii) in the case of seed potatoes produced in Scotland, in Part 1 of Schedule 5 to the Seed Potatoes (Scotland) Regulations 2015(4);
 - (iv) in the case of seed potatoes produced in Northern Ireland, in Part 1 of Schedule 2 to the Seed Potatoes Regulations (Northern Ireland) 2016(5)”;
 - (ii) in sub-paragraph (b), for “EU-plant” substitute “UK plant”;
 - (iii) in sub-paragraph (c)—
 - (aa) for “European Union” substitute “United Kingdom”;
 - (bb) for “in item 18.1 of Section II of Annex IV Part A” substitute “specified in item 5 of Part B of the list of regulated material”;
- (l) omit paragraphs 11 and 12;

(1) S.R. 1999 No. 502, to which there are amendments not relevant to these Regulations.

(2) S.I. 2016/106 (W.52), amended by S.I. 2017/596 (W.139).

(3) S.I. 2015/1953, amended by S.I. 2017/288.

(4) S.S.I. 2015/395, as amended by S.S.I. 2016/434.

(5) S.R. 2016 No. 190, as amended by S.R. 2017 No. 155.

(m) in paragraph 13—

(i) in sub-paragraph (a), for “in Article 10(1)(a) of Council Directive 66/401/EEC on the marketing of fodder plant seed” substitute—

“—

(i) in the case of seeds produced in Wales, in Parts 2 and 3 of Schedule 3 to the Seed Marketing (Wales) Regulations 2012⁽¹⁾;

(ii) in the case of seeds produced in England, in Parts 2 and 3 of Schedule 3 to the Seed Marketing Regulations 2011⁽²⁾;

(iii) in the case of seeds produced in Scotland, in Part 2 of Schedule 6 to the Oil and Fibre Plant Seed (Scotland) Regulations 2004⁽³⁾;

(iv) in the case of seeds produced in Northern Ireland, in Parts 2 and 3 of Schedule 3 to the Seed Marketing Regulations (Northern Ireland) 2016⁽⁴⁾”;

(ii) in sub-paragraph (b), for “EU-plant” substitute “UK plant”;

(iii) in sub-paragraph (c)—

(aa) for “European Union” substitute “United Kingdom”;

(bb) for “in items 28.1 and 28.2 of Section II of Annex IV Part A” substitute “specified in items 21 and 22 of Part B of the list of regulated material”.

52. Omit Schedule 12.

53. In Schedule 14⁽⁵⁾—

(a) in paragraph 2—

(i) at the appropriate places insert—

““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⁽⁶⁾;

(1) S.I. 2012/245 (W.39).

(2) S.I. 2011/463; relevant amending instruments are S.I. 2011/2992, 2012/3055.

(3) S.S.I. 2004/317; relevant amending instruments are S.S.I. 2009/223, 2016/434, 2016/68.

(4) S.R. 2016 No. 244.

(5) As amended by Part 2 of these Regulations.

(6) First approved by the European and Mediterranean Plant Protection Organization in September 2003 and available

“EPPO PM 7/119” means the standard describing the procedures for nematode extraction approved by the European and Mediterranean Plant Protection Organization(1);

“specified measures” (*“mesurau penodedig”*) means—

(a) for the purposes of paragraph 2C, the official re-sampling of the field and official testing of the samples, carried out at least three years after appropriate officially approved control measures have been taken in the field or, in any other case, at least five years after the year in which the Potato cyst nematodes were found or potatoes were last grown in the field;

(b) for the purposes of paragraph 7 and 11—

(i) the disinfestation of the bulbs or plants by appropriate methods that ensures that there is no identifiable risk of Potato cyst nematodes spreading;

(ii) the removal of soil from the bulbs or plants by washing or brushing them until they are practically free of soil, so as to ensure that there is no identifiable risk of Potato cyst nematodes spreading;”

(ii) in the definition of “field”, for “Article 3 of Directive 2007/33/EC” substitute “this Schedule”;

(b) after paragraph 2 insert—

“**2ZA.** Any official testing of samples for the purposes of this Schedule must be carried out in accordance with EPP0 PM 7/40 and EPPO PM 7/119.”.

(c) in paragraph 2A—

(i) in sub-paragraph (a), for “Articles 4 and 5 of Directive 2007/33/EC” substitute “this Part”;

from its Secretariat at 21 Boulevard Richard Lenoir, 75011, Paris, France and at https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics.

(1) 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.

(ii) in sub-paragraph (b), for “Article 6 of Directive 2007/33/EC” substitute “this Part”;

(d) after paragraph 2A insert—

“2AA. An official investigation of a field for the purposes of paragraph 2A(a) must be carried out—

- (a) prior to the proposed planting or storing; and
- (b) unless there is documentary evidence of a previous official investigation confirming that no Potato cyst nematodes were found during the investigation and that potatoes or host plants were not present at the time of that investigation and have not been grown in the field since that investigation, between the harvesting of the last crop in the field and the proposed planting of seed potatoes or other susceptible material.

2AB. In the case of a field in which seed potatoes or host plants intended for the production of plants for planting are to be planted or stored, an official investigation for the purposes of paragraph 2A(a) must include soil sampling of the field at the appropriate soil sampling rate and official testing of the samples.

2AC. In the case of a field in which susceptible bulbs or susceptible plants, intended for the production of plants for planting, are to be planted or stored, an official investigation for the purposes of paragraph 2A(a) must include—

- (a) soil sampling of the field at the appropriate sampling rate and official testing of the samples; or
- (b) verification, based on the results of appropriate officially approved testing, that Potato cyst nematodes have not been present in the field during the previous 12 years or verification, based on the known cropping history of the field, that no potatoes or host plants have been grown in the field in the previous 12 years.

2AD. An official survey for the purposes of paragraph 2A(b) must include soil sampling of the field at the appropriate sampling rate on at least 0.5% of the acreage used for the production of potatoes in the relevant year and official testing of the samples.

2AE. Paragraph 2A(a) does not apply where the Welsh Ministers have established that there is no risk of Potato cyst nematodes spreading and—

- (a) any susceptible material intended for the production of plants for planting is to be used within the same place of production which is situated within an officially defined area;
- (b) seed potatoes are to be used within the same place of production which is situated within an officially defined area; or
- (c) in the case of any susceptible bulbs or susceptible plants intended for the production of plants for planting, the harvested plants are to be subject to officially approved measures.

2AF. For the purposes of paragraphs 2AB to 2AD—

- (a) “the appropriate sampling rate”, in relation to a field, is the minimum sampling rate specified in the following table—

<i>Paragraph</i>	<i>Field</i>	<i>Rate</i>	
2AB and 2AC	Field \leq 8 hectares	1,500 ml of soil per hectare collected from at least 100 cores/hectare	
	Field > 8 hectares	First 8 hectares	1,500 ml of soil per hectare
		Each additional hectare	400 ml of soil per hectare
	Field \leq 4 hectares that meets one criterion in paragraph (b)	400 ml of soil per hectare	
	Field > 4 hectares that meets one criterion in paragraph (b)	First 4 hectares	400 ml of soil per hectare
Each additional hectare		200 ml of soil per hectare	
2AD	Field \leq 4 hectares	Any of the following: —400 ml of soil per hectare —targeted sampling of at least 400 ml of soil following the visual examination of roots with visual symptoms; or —where the harvested potatoes can be traced to the field in which they were grown, 400 ml of soil associated with the harvested potatoes	

(b) the criteria are—

- (i) documentary evidence exists to show that potatoes or host plants have not been grown or were not present in the field in the six years prior to the official investigation;
- (ii) no Potato cyst nematodes have been found during the last two successive official investigations in samples of 1,500 ml soil/hectare and no potatoes or host plants, other than those for which the official investigation is required, have been grown in the field since the first of those two investigations;
- (iii) no Potato cyst nematodes or Potato cyst nematodes without live content have been found in the last official investigation which consisted of a sample size of at least 1,500 ml soil/hectare and no potatoes or host plants, other than those for which the official investigation is required, have been grown in the field since the last official investigation.”;

(e) in paragraph 2C—

- (i) for “officially approved” substitute “relevant specified”;
- (ii) omit “set out in Section 3(C) of Annex 3 to Directive 2007/33/EC”;

(f) in paragraph 7, for “the measures set out in Section III(A) of Annex III to Directive 2007/33/EC” substitute “one of the relevant specified measures”;

(g) in paragraph 11, for “the measures set out in Section 3(A) of Annex 3 to Directive 2007/33/EC” substitute “one of the relevant specified measures”.

54. In Schedule 15—

(a) in paragraph 1—

- (i) in the definition of “contaminated”, for “for the purposes of Article 5(1)(a) of Directive 93/85/EEC” substitute “pursuant to paragraph 1D(a)”;
- (ii) in the definition of “first growing year”, for “for the purposes of Article 5(1)(a) of Directive 93/85/EEC” substitute “pursuant to paragraph 1D(a)”;
- (iii) in the definition of “possibly contaminated”, for “for the purposes of

- Article 5(1)(b) of Directive 93/85/EEC”
substitute “pursuant to paragraph 1D(b)”;
- (b) in paragraph 1A, omit “in accordance with Article 2(1) of Directive 93/85/EEC”;
 - (c) after paragraph 1A insert—

“**1AA.** In the case of tubers of *Solanum tuberosum* L., those surveys must include official testing of samples of seed and other potatoes in accordance with EPPO PM 7/59.

1AB. In the case of plants of *Solanum tuberosum* L., those surveys must be carried out according to appropriate methods and include appropriate official testing of samples.

1AC. The collection of samples for the purposes of paragraphs 1AA and 1AB must be based on sound scientific and statistical principles and the biology of Potato ring rot and take into account relevant potato production systems.”;

- (d) in paragraph 1B(a), for the words from “Annex 1” to “Directive 93/85/EEC”, in the second place it occurs, substitute “EPPO PM 7/59”;
- (e) in paragraph 1D—
 - (i) in sub-paragraph (b), for “taking into account the provisions in point 1 of Annex 3 to Directive 93/85/EEC” substitute—

“having regard to the following factors—

 - (i) the susceptible material grown at the contaminated place of production;
 - (ii) the 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 paragraph (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 sub-paragraph (c), for “provisions in point 2 of Annex 3 to Directive 93/85/EEC” substitute “proximity of other places of production growing potatoes or other host plants and the common production and use of seed potato stocks”;
- (f) after paragraph 1D insert—

“**1DA.** When making a designation or determination under paragraph 1D, an inspector must have regard to sound scientific principles, the biology of Potato ring rot and relevant production, marketing and processing systems.”;
- (g) in paragraph 3—
 - (i) in sub-paragraph (a), for “any other measure that complies with point 1 of Annex IV 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 (b), for “in accordance with point 2 of Annex IV to Directive 93/85/EEC” substitute “in a manner that ensures that there is no identifiable risk of Potato ring rot spreading”;
- (h) in paragraph 4, for “Directive 93/85/EEC” substitute “this Schedule”;
- (i) in paragraph 6(c), for “Annex 1 to Directive 93/85/EEC” substitute “EPPO PM 7/59”;
- (j) in paragraph 7(c), for “Annex 1 to Directive 93/85/EEC” substitute “EPPO PM 7/59”;
- (k) in paragraph 8(d), for “Annex 1 to Directive 93/85/EEC” substitute “EPPO PM 7/59”;
- (l) in paragraph 10A, for “Article 2 of Directive 93/85/EEC” substitute “EPPO PM 7/59”;
- (m) in paragraph 20(b), for “Article 2 of Directive 93/85/EEC” substitute “EPPO PM 7/59”.

55. In Schedule 16—

- (a) in paragraph 1—
 - (i) in the definition of “contaminated”, for “for the purposes of Article 5(1)(a)(ii) of

- Directive 98/57/EC” substitute “pursuant to paragraph 1E(c)”;
- (ii) in the definition of “first growing year”, for “for the purposes of Article 5(1)(a)(ii) of Directive 98/57/EC” substitute “pursuant to paragraph 1E(c)”;
 - (iii) in the definition of “possibly contaminated” for “for the purposes of Article 5(1)(a)(iii) or (c)(iii) of Directive 98/57/EC” substitute “pursuant to paragraph 1E(d)”;
- (b) in paragraph 1A, omit “in accordance with Article 2 of Directive 98/57/EC”;
 - (c) after paragraph 1A insert—

“**1AA.** 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 Potato brown rot 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.

1AB. Those surveys must also be based on the biology of Potato brown rot 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.

1AC. The collection of samples for the purposes of paragraph 1AB must be based on sound scientific and statistical principles and the biology of Potato brown rot and take into account relevant potato production systems of susceptible material and other host plants of Potato brown rot.”;

- (d) in paragraph 1B(a)(i), for the words from “Annex 2” to the end substitute “EPPO PM 7/21”;
- (e) in paragraph 1B(b), for the words from “specified” to “Directive 98/57/EC” substitute “referred to in EPPO PM 7/21”;
- (f) in paragraph 1E—
 - (i) in sub-paragraph (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 Potato brown rot;
 - (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 Potato brown rot;
 - (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”;
 - (ii) in sub-paragraph (e), for “in accordance with point 2(i) of Annex 5 to Directive 98/57/EC” substitute “having regard to the relevant factors”;
- (g) in paragraph 1F—
- (i) in sub-paragraph (a), for “in accordance with Annex 4 to Directive 98/57/EC” substitute “which includes investigation of the things referred to in paragraph 1E(a)(i) to (ix)”;
 - (ii) in sub-paragraph (d), for “in accordance with point 2(i) of Annex 5 to Directive 98/57/EC” substitute “having regard to the relevant factors”;
- (h) in paragraph 1G(d), for “in accordance with point 2(ii) of Annex 5 to Directive 98/57/EC” substitute “having regard to the relevant factors”;
- (i) after paragraph 1G insert—
- “1H.** The “relevant factors” are—
- (a) for the purposes of paragraphs 1E and 1F—
 - (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 paragraph 1G—
 - (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.”;
- (j) in paragraph 3—
- (i) in sub-paragraph (a), for “any measure that complies with point 1 of Annex VI to Directive 98/57/EC” substitute “an officially approved disposal method that ensures that there is no identifiable risk of Potato Brown rot spreading”;
 - (ii) in sub-paragraph (b), for “in accordance with point 2 of Annex VI to Directive 98/57/EC” substitute “by an officially approved disposal method that ensures that there is no identifiable risk of Potato Brown rot spreading”;
- (k) in paragraph 4, for “Directive 98/57/EC” substitute “this Schedule”;
- (l) in paragraph 6(c), for “Annex 2 to Directive 98/57/EC” substitute “EPPO PM 7/21”;
- (m) in paragraph 7(b)(iii), for “Annex 2 to Directive 98/57/EC” substitute “EPPO PM 7/21”;
- (n) in paragraph 8(g), for “Annex 2 to Directive 98/57/EC” substitute “EPPO PM 7/21”;
- (o) in paragraph 20—
- (i) in sub-paragraph (a), for “Article 5(1)(a)(iv) of Directive 98/57/EC” substitute “paragraph 1E(e)”;
 - (ii) in sub-paragraph (b), for “Article 5(1)(c)(iii) of Directive 98/57/EC” substitute “paragraph 1G(d)”;
- (p) in paragraph 21(b), for “Article 2 of Directive 98/57/EC” substitute “EPPO PM 7/21”.

56. After Schedule 16, insert—

“SCHEDULE 16A Article 41

Licences for trial or scientific purposes or for work on varietal selections

1. In this Schedule, “specified activity” (“*gweithgaredd penodedig*”) means any activity

for trial or scientific purposes or for work on varietal selection.

PART A

Information to be included in an application for a scientific licence

2. The name and address of the person responsible for the proposed specified activity.

3. The following details in relation to the relevant material and plant pests to be used in the specified activity—

- (a) their scientific name or names;
- (b) the type of relevant material;
- (c) the quantity of relevant material;
- (d) the place of origin of the relevant material;
- (e) the place at which the relevant material is to be first stored or planted after its official release (where relevant);
- (f) the proposed method of destruction or treatment of the relevant material on completion of the specified activity (where relevant);
- (g) in the case of any relevant material or plant pest which is to be imported from a third country, its proposed point of entry into the United Kingdom.

4. In the case of any relevant material to be used in the specified activity, appropriate documentary evidence to confirm its place of origin.

5. The duration, nature and objectives of the proposed specified activity, including a summary and a specification of the work to be conducted.

6. The address and description of the specific site or sites at which the proposed specified activity is to be carried out.

PART B

General conditions to be met in relation to an application for a scientific licence

7. The nature and objectives of the specified activity comply with the concept of trial or scientific purposes or for work on varietal selections.

8. The premises and the facilities at the site or sites at which the specified activity is to be carried out meet any relevant quarantine containment conditions.

9. The personnel carrying out the specified activity have appropriate scientific and technical qualifications.

PART C

Licence conditions relating to any plant pest or relevant material to be used in a specified activity

10. For the purposes of article 41(2)(a), the conditions are—

- (a) in the case of any relevant material, the relevant material is accompanied on its entry into the United Kingdom by a letter of authority which has been issued by the relevant national plant protection organisation on the basis of appropriate documentary evidence as regards the place of origin of the material;
- (b) in the case of any relevant material of a description specified in Schedule 5 to the Plant Health Regulations, the relevant material is accompanied, wherever possible, by a phytosanitary certificate issued in the country of origin which—
 - (i) confirms that the material is free from any regulated plant pest, other than any plant pest whose importation is authorised by the licence;
 - (ii) includes the statement under the heading ‘Additional declaration’, ‘This material is imported under Article 41 of the Plant Health (Wales) Order 2018’; and
 - (iii) includes the name of any authorised plant pest;
- (c) the relevant material is held under quarantine containment conditions and on arrival is directly and immediately moved to the site or sites specified in the licence.

PART D

Licence quarantine measures

11. The licence quarantine measures are—

- (a) in the case of the premises, facilities and working procedures which relate to the specified activity:
 - (i) the physical isolation of any plant pests or relevant material being used in the specified activity from all other plant pests and relevant material, including the control of vegetation in surrounding areas, where appropriate;
 - (ii) the designation of a contact person responsible for the specified activity;
 - (iii) the implementation of restrictions on access to the premises and facilities being used in relation to the specified activity and, where appropriate, to the area surrounding those premises and facilities, to named personnel only;
 - (iv) the appropriate identification of the premises and facilities being used, indicating the type of activities and the personnel responsible;
 - (v) the maintenance of a register of the activities performed and a manual of operating procedures, including procedures in the event of an escape of plant pests from containment;
 - (vi) the maintenance of appropriate security and alarm systems;
 - (vii) the implementation of—
 - (aa) appropriate control measures to prevent the introduction into and the spread of plant pests within the premises being used;
 - (bb) controlled procedures for sampling, and for the transfer of the material between the premises and facilities being used;
 - (cc) controls for the disposal of waste, soil and water, as appropriate;
 - (dd) appropriate hygiene and disinfection procedures and

- facilities for personnel, structures and equipment;
 - (ee) appropriate measures and facilities for the disposal of experimental material; and
 - (ff) appropriate indexing (including testing) facilities and procedures; and
- (b) other appropriate quarantine measures according to the specific biology and epidemiology of the type of material involved and the activities approved, including—
- (i) the maintenance of facilities accessible to authorised personnel via a separate room with two interlocking doors;
 - (ii) the maintenance of facilities under negative air pressure,
 - (iii) the use of escape-proof containers with appropriate mesh size and other barriers;
 - (iv) the maintenance of the material in isolation from other plant pests and material;
 - (v) the maintenance of any material for breeding in breeding cages with manipulation devices;
 - (vi) the prohibition on any interbreeding of the plant pest with indigenous strains or species;
 - (vii) the implementation of controls on the continuous culture of the plant pest;
 - (viii) the maintenance of the plant pest under conditions that strictly control the multiplication of the plant pest;
 - (ix) the implementation of procedures to check the purity of cultures of the plant pest for freedom from parasites and other plant pests;
 - (x) the implementation of appropriate control programmes in respect of the material to eliminate possible vectors;
 - (xi) in the case of *in vitro* activities, the implementation of controls on the handling of the material under sterile conditions;

- (xii) the maintenance of the plant pest in conditions to ensure that it cannot spread via any vector; and
- (xiii) the seasonal isolation of the material to ensure that the activities are done during periods of low plant health risk.”.

PART 4

Amendment of the Plant Health etc. (Fees) (Wales) Regulations 2018: exiting the European Union

57. The Plant Health etc. (Fees) (Wales) Regulations 2018⁽¹⁾ are amended as follows.

58. In regulation 3—

- (a) in paragraph (1), for “to the 2018 Order” substitute “or Schedule 7 to the Plant Health (EU Exit) Regulations 2019”;
- (b) after paragraph (2) insert—

“(2A) Paragraph 2(b) to (d) do not apply to a consignment originating in the European Union or Switzerland.”.
- (c) in paragraph (3)(b), for “introduced into Wales from a third country” substitute—

“—

 - (i) brought into a point of entry that is located in Wales and is not destined for an approved place of inspection in another UK territory; or
 - (ii) brought into a point of entry that is located in another UK territory and is destined for an approved place of inspection in Wales”;
- (d) after paragraph (3), insert—

“(4) Words and expressions which are not defined in this regulation and appear in the 2018 Order have the same meaning in this regulation as they have in the 2018 Order.”;

59. In regulation 4(6)(a), after “issue” insert “UK”.

60. In regulation 6—

- (a) in paragraph (1), for “paragraph 5 of the Annex to the Decision” substitute “item 7 of Part D of Schedule 4 to the Plant Health (EU Exit) Regulations 2019”;

(1) S.I. 2018/1179 (W. 238).

(b) omit paragraph (2).

61. Omit regulation 7.

62. In regulation 8, in paragraphs (3) and (6), for “Union” substitute “UK”.

63. In Schedule 5, in column 1 of the table, for “Union”, in each place it occurs, substitute “UK”.

PART 5

Revocation

64. The Potatoes Originating in Egypt (Wales) Regulations 2004⁽¹⁾ are revoked.

Name

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers

Date

(1) S.I. 2004/2245 (W. 209) as amended by S.I. 2014/1463 (W. 144).