

*Regulations laid before Senedd Cymru under paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2020 No. (W. )**

**EXITING THE EUROPEAN  
UNION, WALES**

**PLANT HEALTH, WALES**

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

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular the deficiencies referred to in paragraphs (a), (d) and (g) of section 8(2)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of plant health. Part 2 amends domestic legislation relating to plant health. Part 3 contains a revocation.

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.

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**2020 No. (W.)**

**EXITING THE EUROPEAN  
UNION, WALES**

**PLANT HEALTH, WALES**

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

*Made*

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

The Welsh Ministers make these Regulations in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(1).

A draft of this instrument has been laid before and approved by Senedd Cymru in accordance with paragraph 1(8) of Schedule 7 to that Act(2).

In accordance with paragraph 4(a) of Schedule 2 to that Act, the Welsh Ministers have consulted the Secretary of State with regard to the provisions in these Regulations that come into force before implementation period completion day.

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- (1) 2018 c. 16; see section 20(1) for the definition of “devolved authority”. Paragraph 21 of Schedule 7 was amended by section 41(4) of, and paragraph 53(2) of Schedule 5 to, the European Union (Withdrawal Agreement) Act 2020 (c. 1).
- (2) The reference in the European Union (Withdrawal) Act 2018 to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

## PART 1

### Introductory

#### **Title and commencement**

**1.**—(1) The title of these Regulations is the Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020.

(2) They come into force as follows—

- (a) as regards this Part and Part 3, immediately before implementation period completion day;
- (b) as regards Part 2, on implementation period completion day.

## PART 2

### Amendment of secondary legislation

#### **The Plant Health etc. (Fees) (Wales) Regulations 2018**

**2.**—(1) The Plant Health etc. (Fees) (Wales) Regulations 2018<sup>(1)</sup> are amended as follows.

(2) In regulation 2—

- (a) in paragraph (1), omit “EU”, in the first place where it occurs;
- (b) in paragraph (2), omit “EU”, in the first and third places where it occurs.

(3) In regulation 3—

- (a) in paragraph (1), for the words from “the lists” to “Regulation”, in the second place where it occurs, substitute “Part A of Annex 11, or Annex 12, to Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants”;
- (b) in paragraph (3)—
  - (i) in sub-paragraph (a), for the definition of “controlled plant pest” substitute—

““controlled plant pest” means a GB quarantine pest, a provisional GB quarantine pest, a PFA quarantine pest or a GB regulated non-quarantine pest;”;
  - (ii) omit sub-paragraph (aba).

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<sup>(1)</sup> S.I. 2018/1179 (W. 238), amended by S.I. 2019/1378 (W. 244), S.I. 2020/44 (W. 5) and S.I. 2020/69 (W. 10); there are other amending instruments but none are relevant.

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

(5) In regulation 5A(5), in the definition of “pre-export service”—

(a) omit “to a third country”;

(b) for the “phytosanitary requirements of the third country” substitute “relevant phytosanitary import requirements within the meaning of Article 99a of the Plant Health Regulation”.

(6) In regulation 6—

(a) in paragraph (1), omit the words from “, for” to “Decision,”;

(b) omit paragraph (2).

(7) Omit regulation 6A.

(8) In Schedule 2, in the table, omit the entries in the first, second and third columns relating to *Citrus*, *Mangifera* and *Passiflora*.

### **The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020**

3. The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020(1) are amended in accordance with regulations 4 to 22.

#### **Part 1**

4.—(1) Part 1 is amended as follows.

(2) In regulation 2—

(a) in paragraph (1)—

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

(aa) for “the Union territory”, in each place where it occurs, substitute “Great Britain”;

(bb) in paragraph (a)(i), omit “EU”;

(cc) omit paragraph (a)(ii);

(dd) in paragraph (a)(iii), omit “EU”, in both places where it occurs;

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

(aa) in paragraph (a), after “2,” insert “2A,”;

(bb) omit paragraph (b);

(cc) in paragraph (c), omit “EU”;

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(1) S.I. 2020/206 (W. 48), amended by S.I. 2020/1134 (W. 259), there is another amending instrument but it is not relevant.

- (iii) omit the definition of “EU emergency decision”;
- (iv) in the definition of “EU Plant Health Regulation”, at the end insert “as it has effect in EU law”;
- (v) omit the definition of “EU plant health rule”;
- (vi) in the definition of “Official Controls Regulation”, in the second place where it occurs, omit “EU”;
- (vii) at the appropriate place insert—
  - ““Plant Health Regulation” (*“Rheoliad Iechyd Planhigion”*) means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants<sup>(1)</sup>”;
  - ““plant health rule” (*“rheol iechyd planhigion”*) means a rule of a kind mentioned in Article 1(2)(g) of the Official Controls Regulation”;
- (viii) in the definition of “plant pest”, omit “EU”;
- (ix) in the definition of “regulated item”, for “an EU” substitute “a”;
- (b) in paragraph (2), omit “EU”, in both places where it occurs.
- (3) Omit regulations 3 and 4.
- (4) In regulation 5—
  - (a) in the heading, omit “EU”;
  - (b) in paragraphs (1) and (2), omit “EU”, in each place where it occurs.

## Part 2

5.—(1) Part 2 is amended as follows.

(2) In regulation 6(2), in the definition of “forestry professional operator”—

- (a) in the words before paragraph (a), omit “EU” ;
- (b) in paragraph (b), for “the Union territory”, in both places where it occurs, substitute “Great Britain or a CD territory”;
- (c) after paragraph (c) insert—
  - “(ca) the introduction of forestry material into Northern Ireland from Wales”;

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(1) EUR 2016/2031.

### Part 3

6.—(1) Part 3 is amended as follows.

(2) In regulation 7—

(a) in paragraph (1), after “by air” insert “or into a RoRo port in Wales”;

(b) in paragraph (4)—

(i) in the definition of “responsible operator”, for “the Union” substitute “Great Britain”;

(ii) at the appropriate place insert—

““RoRo port” (“*porthladd RoRo*”) means a RoRo listed location within the meaning of regulation 130 of the Customs (Import Duty) (EU Exit) Regulations 2018(1);”.

(3) In regulation 8—

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

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

(4) In regulation 10(1)—

(a) in sub-paragraphs (a) and (b), for “an EU”, in both places where it occurs, substitute “a”;

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

(5) In regulation 11(1)(c), for “the Union territory” substitute “Great Britain”.

### Part 4

7.—(1) Part 4 is amended as follows.

(2) In regulation 14(2), in the definition of “prohibited material”—

(a) in paragraph (b)—

(i) for “the Union territory or Wales” substitute “Great Britain”;

(ii) for “an EU” substitute “a”;

(b) in paragraph (c)—

(i) omit “within the Union territory, or”;

(ii) for “an EU” substitute “a”.

(3) In regulation 16(4), omit “(including representatives of the European Commission)”.

### Part 5

8. Omit regulation 18.

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(1) S.I. 2018/1248, to which there are amendments not relevant to these Regulations.

## Part 6

- 9.—(1) Part 6 is amended as follows.
- (2) In regulation 19, omit “EU”.
- (3) In regulation 20—
- (a) in paragraph (1)—
    - (i) in sub-paragraph (b), omit “EU”;
    - (ii) in sub-paragraph (c)—
      - (aa) for the comma substitute “or”;
      - (bb) omit “or a pre-export certificate”;
  - (b) in paragraph (2), in the definition of “relevant activity”—
    - (i) omit “EU”, in the first place where it occurs;
    - (ii) omit “, an EU emergency decision”;
    - (iii) omit “EU”, in the last place where it occurs.
- (4) In regulation 21—
- (a) in paragraph (1)(c)—
    - (i) after “under” insert “, or by virtue of,”;
    - (ii) omit “EU”;
    - (iii) after “Regulation”, in the second place where it occurs, insert “, any regulations made under the Plant Health Regulation or the Official Controls Regulation,”;
  - (b) in paragraph (3)—
    - (i) in the definition of “plant health derogation”—
      - (aa) in paragraph (a), omit “EU”, in both places where it occurs;
      - (bb) in paragraph (a), for “an implementing or delegated act adopted by the European Commission” substitute “retained EU law or regulations made”;
      - (cc) omit paragraph (b), and the “or” which precedes it;
    - (ii) in the definition of “potential quarantine plant pest”, for the words from “Union” to “Regulation”, in the first place where it occurs, substitute “GB quarantine pest or a provisional GB quarantine pest”.
- (5) In regulation 22(1)—
- (a) omit “EU”;
  - (b) for the comma substitute “or”;
  - (c) after “Controls Regulation or” insert “for the purposes of, or under,”.

## Part 8

- 10.**—(1) Part 8 is amended as follows.
- (2) Omit regulations 24 and 25.
- (3) In regulation 26—
- (a) in paragraph (1)—
    - (i) omit “any of the following plants or plant products”;
    - (ii) after “into Wales” insert “any solid fuel wood from a third country to which Article 47(1) of the Official Controls Regulation does not apply”;
    - (iii) omit sub-paragraphs (a) to (c);
  - (b) in paragraph (2)—
    - (i) in sub-paragraph (c), omit “plants or”;
    - (ii) in sub-paragraph (d)—
      - (aa) omit “plants or”;
      - (bb) in the English language text, for “have been, or are” substitute “has been, or is”;
    - (iii) omit sub-paragraph (e);
    - (iv) for sub-paragraph (f) substitute—
      - “(f) the address of the consignor, and
      - (g) details of any phytosanitary treatments applied to the wood.”

## Part 9

- 11.**—(1) Part 9 is amended as follows.
- (2) In regulation 27(1) and (2), omit “EU”, in each place where it occurs.
- (3) In regulation 28—
- (a) in paragraph (1)—
    - (i) in sub-paragraph (a)—
      - (aa) in paragraph (ii), omit “EU”;
      - (bb) in paragraph (iv), for the words from “an EU” to the end substitute “a plant health rule comply with that rule”;
    - (ii) in sub-paragraphs (b), (c) and (e), omit “EU”, in each place where it occurs;
  - (b) in paragraph (6), for sub-paragraph (a) substitute—
    - “(a) be accompanied by such persons as the inspector considers necessary; and”;
  - (c) omit paragraph (7);
  - (d) in paragraph (8), in the words before sub-paragraph (a), omit “(ii)”.
- (4) In regulation 31(4)—

- (a) omit “other”;
  - (b) omit “(including representatives of the European Commission)”.
- (5) In regulation 34(1), omit “EU”.
- (6) In regulation 35(1)—
- (a) for “another part of the Union territory” substitute “the United Kingdom or to a CD authority”;
  - (b) omit “EU”.

## **Part 11**

**12.**—(1) Part 11 is amended as follows.

- (2) In regulation 38(1)—
- (a) in sub-paragraph (a), omit “24(1), 25(1) or”;
  - (b) omit sub-paragraph (b);
  - (c) in sub-paragraph (d), omit “EU”;
  - (d) in sub-paragraph (e), for “an EU” substitute “a”;
  - (e) in sub-paragraph (f), after “other” insert “retained direct”;
  - (f) omit sub-paragraph (g).
- (3) In regulation 41, for “plant passport or” substitute “UK plant passport or a”;
- (4) In regulation 42—
- (a) in the heading, after “of” insert “UK”;
  - (b) in paragraph (1), in sub-paragraphs (a) to (c), for “plant passport”, in each place where it occurs, substitute “UK plant passport”.
- (5) In regulation 43—
- (a) in paragraph (1)(a) and (c), omit “EU”, in both places where it occurs;
  - (b) for paragraph (2) substitute—
    - “(2) In paragraph (1)—
    - (a) “authorised person” means a person authorised by an appropriate authority;
    - (b) a reference to the Plant Health Regulation or the Official Controls Regulation includes retained EU law adopted, or regulations made, under the Plant Health Regulation or the Official Controls Regulation and any other retained EU law relating to plant health.”

## **Schedule 1**

**13.** Omit Schedule 1.

## Schedule 2

14. Schedule 2 is amended in accordance with regulations 15 to 20.

### Part 1

15.—(1) Part 1 is amended as follows.

(2) In paragraph 1—

(a) omit the definitions of “Directive 93/85/EEC”, “Directive 98/57/EC” and “Directive 2007/33/EC”;

(b) at the appropriate place insert—

““EPPO PM 7/21” (“*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 7/40” (“*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(2);

“EPPO PM 7/59” (“*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(3);

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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\\_diagnostics](https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics).

(2) First approved by the European and Mediterranean Plant Protection Organization in September 2003 and available from its Secretariat at 21 Boulevard Richard Lenoir, 75011, Paris, France and at [https://www.eppo.int/RESOURCES/eppo\\_standards/pm7\\_diagnostics](https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics).

(3) Approved by the European and Mediterranean Plant Protection Organization in September 2005 and available from its Secretariat at 21 Boulevard Richard Lenoir, 75011, Paris, France and at [https://www.eppo.int/RESOURCES/eppo\\_standards/pm7\\_diagnostics](https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics).

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

## Part 2

16.—(1) Part 2 is amended as follows.

(2) In paragraph 2—

- (a) in sub-paragraph (1)(a), for “, other than Switzerland” substitute “to which the prohibition in Article 40(1) of the Plant Health Regulation applies”;
- (b) in sub-paragraph (2)—
  - (i) in paragraph (a), for “an officially approved programme in the European Union or Switzerland” substitute “a programme for the certification of potatoes which has been officially approved by a competent authority or a CD authority”;
  - (ii) in paragraph (b), for “Annex 1 to Directive 93/85/EEC” substitute “EPPO PM 7/21”;
  - (iii) in paragraph (c), for “Annex 2 to Directive 98/57/EC” substitute “EPPO PM 7/59”.

## Part 4

17.—(1) Part 4 is amended as follows.

(2) In paragraph 7—

- (a) in the definition of “field”, for “Article 3 of Directive 2007/33/EC” substitute “this Part”;
- (b) at the appropriate place insert—
  - ““specified measures” (*mesurau penodedig*) means—
  - (a) for the purposes of paragraph 9(2), 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

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(1) 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](https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics).

nematodes were found or potatoes were last grown in the field;

(b) for the purposes of paragraphs 11(3) and 15—

(i) the disinfection of the bulbs or plants by appropriate methods that ensure 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;”.

(3) After paragraph 7 insert—

#### **“Official testing**

**7A.** Any official testing of samples for the purposes of this Part must be carried out in accordance with EPPO PM 7/40 and EPPO PM 7/119.”

(4) In paragraph 8—

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

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

(5) Paragraph 8 becomes paragraph 8(1) and after that sub-paragraph insert—

“(2) An official investigation of a field for the purposes of paragraph 8(1)(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.

(3) 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 8(1)(a) must include

soil sampling of the field at the appropriate sampling rate and official testing of the samples.

(4) 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 8(1)(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.

(5) An official survey for the purposes of paragraph 8(1)(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.

(6) Paragraph 8(1)(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 situated within an officially defined area,
- (b) seed potatoes are to be used within the same place of production 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.

(7) For the purposes of sub-paragraphs (3) to (5)—

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

| <i>Sub-paragraph</i>    | <i>Field</i>   | <i>Rate</i>   |                              |
|-------------------------|--|---|------------------------------|
| (3) and (4)             | 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 at least one of the criteria in paragraph (b) | 400 ml of soil per hectare  |                              |
|                         | Field $>$ 4 hectares that meets at least one of the criteria in paragraph (b)    | First 4 hectares  | 400 ml of soil per hectare   |
| Each additional hectare |  | 200 ml of soil per hectare  |                              |
| (5)                     | Field $\leq$ 4 hectares  | Any of the following:<br>—400 ml of soil per hectare<br>—targeted sampling of at least 400 ml of soil following the visual examination of roots with visual symptoms, or<br>—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.”

(6) In paragraph 9(2), for the words from “officially” to “2007/33/EC” substitute “relevant specified measures”.

(7) In paragraphs 11(3) and 15, for “the measures set out in Section 3(A) of Annex 3 to Directive 2007/33/EC” substitute “one of the relevant specified measures”.

## **Part 5**

**18.**—(1) Part 5 is amended as follows.

(2) In paragraph 17—

- (a) in the definitions of “contaminated” and “first growing year”, for “for the purposes of Article 5(1)(a) of Directive 93/85/EEC” substitute “pursuant to paragraph 19(1)(a)”;
- (b) in the definition of “possibly contaminated”, for “for the purposes of Article 5(1)(b) of Directive 93/85/EEC” substitute “pursuant to paragraph 19(1)(b)”.

(3) In paragraph 18—

- (a) in sub-paragraph (1), omit “, in accordance with Article 2(1) of Directive 93/85/EEC”;
- (b) after sub-paragraph (1) insert—

“(1A) In the case of tubers of *Solanum tuberosum* L., those surveys must include

official testing of samples of seed and other potatoes in accordance with EPPO PM 7/59.

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

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

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

(4) In paragraph 19(1)—

(a) in paragraph (b), for “taking into account the matters set out in point 1 of Annex 3 to Directive 93/85/EEC” substitute—

“having regard to the following factors—

- (i) the susceptible material grown at the contaminated place of production;
- (ii) places of production with some production link to that susceptible material, including those sharing production equipment and facilities directly or through a common contractor;
- (iii) the production or presence of other susceptible material at the contaminated place of production;
- (iv) the premises handling potatoes from the contaminated place of production and the places of production mentioned in sub-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) any susceptible material with a sister or parental clonal relationship to the contaminated susceptible material and the places of production of that susceptible material;”;

(b) in paragraph (c), for “matters set out 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”;

(c) after paragraph (1) insert—

“(1A) When making a designation or determination under sub-paragraph (1), an inspector must have regard to sound scientific principles, the biology of Potato ring rot and relevant production, marketing and processing systems.”

(5) In paragraph 20—

(a) in sub-paragraph (2)—

(i) in paragraph (a), for “any other measure that complies with point 1 of Annex 4 to Directive 93/85/EEC” substitute “an officially approved disposal method that ensures that there is no identifiable risk of Potato ring rot spreading”;

(ii) in paragraph (b), for “in accordance with point 2 of Annex 4 to Directive 93/85/EEC” substitute “in a manner that ensures that there is no identifiable risk of Potato ring rot spreading”;

(b) in sub-paragraph (3), for “Directive 93/85/EEC” substitute “this Part”.

(6) In paragraph 21—

(a) in sub-paragraphs (2)(c), (3)(c) and (4)(d), for “Annex 1 to Directive 93/85/EEC” substitute “EPPO PM 7/59”;

(b) in sub-paragraph (8), for “Article 2 of Directive 93/85/EEC” substitute “EPPO PM 7/59”.

(7) In paragraph 23(7)(b), for “Article 2 of Directive 93/85/EEC” substitute “EPPO PM 7/59”.

## **Part 6**

**19.**—(1) Part 6 is amended as follows.

(2) In paragraph 24—

(a) in the definitions of “contaminated” and “first growing year”, for “for the purposes of Article 5(1)(a)(ii) of Directive 98/57/EC” substitute “pursuant to paragraph 26(2)(c)”;

(b) in the definition of “possibly contaminated”, for “for the purposes of Article 5(1)(a)(iii) or (c)(iii) of Directive 98/57/EEC” substitute “pursuant to paragraph 26(2)(d)”.

(3) In paragraph 25—

(a) in sub-paragraph (1), omit “in accordance with Article 2 of Directive 98/57/EC”;

(b) after sub-paragraph (1) insert—

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

(1B) 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.

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

(c) in sub-paragraph (2)—

- (i) in paragraph (a)(i), for the words from “Annex”, in the first place where it occurs, to the end substitute “EPPO PM 7/21”;

- (ii) in paragraph (b), for the words from “specified” to “98/57/EC” substitute “referred to in EPPO PM 7/21”.

(4) In paragraph 26—

(a) in sub-paragraph (2)—

- (i) in 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 paragraph (e), for “in accordance with point 2(i) of Annex 5 to Directive 98/57/EC” substitute “having regard to the relevant factors”;
  - (b) in sub-paragraph (3)—
    - (i) in paragraph (a), for “in accordance with Annex 4 to Directive 98/57/EC” substitute “which includes an investigation of the things referred to in sub-paragraph (2)(a)(i) to (ix)”;
    - (ii) in paragraph (d), for “in accordance with point 2(i) of Annex 5 to Directive 98/57/EC” substitute “having regard to the relevant factors”;
  - (c) in sub-paragraph (4)(d), for “in accordance with point 2(ii) of Annex 5 to Directive 98/57/EC” substitute “having regard to the relevant factors”;
  - (d) after sub-paragraph (4) insert—
 

“(5) The “relevant factors” are—

    - (a) for the purposes of sub-paragraphs (2)(e) and (3)(d)—
      - (i) the proximity of other places of production growing susceptible material;
      - (ii) the common production and use of seed potato stocks;
      - (iii) places of production using surface water for irrigation or spraying of susceptible material where there is or has been a risk of surface water run-off from the contaminated place of production;
    - (b) for the purposes of sub-paragraph (4)(d)—
      - (i) places of production producing susceptible material adjacent to, or which are at risk from flooding by, contaminated surface water;
      - (ii) any discrete irrigation basin associated with the contaminated surface water;
      - (iii) water bodies connected with the contaminated surface water having regard to the direction and rate of flow of the contaminated surface water and the presence of wild solanaceous host plants.”
- (5) In paragraph 27—
- (a) in sub-paragraph (2)—
    - (i) in paragraph (a), for “measure that complies with point 1 of Annex 6 to

- Directive 98/57/EC” substitute “officially approved disposal method that ensures that there is no identifiable risk of Potato brown rot spreading”;
- (ii) in paragraph (b), for “in accordance with point 2 of Annex 6 to Directive 98/57/EC” substitute “by an officially approved disposal method that ensures that there is no identifiable risk of Potato brown rot spreading”;
  - (b) in sub-paragraph (3), for “Directive 98/57/EC” substitute “this Part”.
- (6) In paragraph 28, in sub-paragraphs (2)(c), (3)(c) and (4)(g), for “Annex 2 to Directive 98/57/EC”, in each place where it occurs, substitute “EPPO PM 7/21”.
- (7) In paragraph 30—
- (a) in sub-paragraph (7)—
    - (i) in paragraph (a), for “Article 5(1)(a)(iv) of Directive 98/57/EC” substitute “paragraph 26(3)(d)”;
    - (ii) in paragraph (b), for “Article 5(1)(c)(iii) of Directive 98/57/EC” substitute “paragraph 26(4)(d)”;
  - (b) in sub-paragraph (8)(b), for “Article 2 of Directive 98/57/EC” substitute “EPPO PM 7/21”.

**Part 7**

- 20.** In paragraph 31—
- (a) for the heading substitute “**Additional measures relating to Egyptian potatoes**”;
  - (b) in sub-paragraph (1)—
    - (i) for “the Union territory” substitute “Great Britain”;
    - (ii) for “Commission Implementing Decision 2011/787/EC” substitute “Article 41(1) of the Plant Health Regulation”.

**Schedule 3**

- 21.**—(1) Schedule 3 is amended as follows.
- (2) In the heading, for “the EU Regulations” substitute “retained direct EU legislation”.
- (3) In Part 1—
- (a) in the heading, omit “EU”;
  - (b) in the table—
    - (i) in the heading to the first column, omit “EU”;

- (ii) in the entry relating to Article 5(1)—
  - (aa) for “Union quarantine”, in each place where it occurs, substitute “GB quarantine”;
  - (bb) for “the Union territory”, in each place where it occurs, substitute “Great Britain”;
- (iii) in the entry relating to Article 9(3)—
  - (aa) for “Union”, in the first place where it occurs, substitute “GB”;
  - (bb) for “pest subject to measures adopted pursuant to Article 30(1)” substitute “provisional GB quarantine pest”;
  - (cc) for “the Union territory”, in both places where it occurs, substitute “Great Britain”;
  - (dd) for “protected zone”, in the first place where it occurs, substitute “PFA”;
  - (ee) for “respective protected zone” substitute “GB pest-free area established in respect of that pest”;
- (iv) in the entry relating to Article 14(1)—
  - (aa) for the words from “Union” to “Article 30(1)” substitute “GB quarantine pest or provisional GB quarantine pest”;
  - (bb) for “protected zone”, in the first place where it occurs, substitute “PFA”;
  - (cc) for “respective protected zone” substitute “GB pest-free area established in respect of that pest”;
- (v) in the entry relating to Article 14(3), for “Union” substitute “GB”;
- (vi) in the entry relating to Article 15(1)—
  - (aa) for “Union” substitute “GB”;
  - (bb) for “protected zone”, in the first place where it occurs, substitute “PFA”;
  - (cc) for “respective protected zone” substitute “GB pest-free area established in respect of that pest”;
- (vii) in the entry relating to Article 32(2)—
  - (aa) for “protected zone quarantine”, in each place where it occurs, substitute “PFA quarantine”;
  - (bb) for “respective protected zone”, in each place where it occurs,

- substitute “GB pest-free area established in respect of that pest”;
- (viii) in the entry relating to Article 37(1)—
    - (aa) for “the Union territory”, in both places where it occurs, substitute “Great Britain”;
    - (bb) for “Union”, in the second and third places where it occurs, substitute “GB”;
  - (ix) in the entry relating to Article 40(1), for “the Union territory” substitute “Great Britain”;
  - (x) for the entry relating to Article 41(1) substitute—

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

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

- (xi) in the entries relating to Articles 42(2) and 43(1), for “the Union territory”, in both places where it occurs, substitute “Great Britain”;
- (xii) in the entry relating to Article 53(1)—
  - (aa) for “certain protected zones”, in the first place where it occurs, substitute “GB pest-free areas”;
  - (bb) for “within the Union territory into certain protected zones” substitute “in Great Britain or a CD territory into GB pest-free areas”;
- (xiii) in the entry relating to Article 54(1)—
  - (aa) for “certain protected zones”, in both places where it occurs, substitute “GB pest-free areas”;
  - (bb) for “those protected zones”, in both places where it occurs, substitute “those GB pest-free areas”;
- (xiv) in the entry relating to Article 59—
  - (aa) for “the Union territory”, in both places where it occurs, substitute “Great Britain”;
  - (bb) for the words from “Union quarantine” to “Article 30(1)” substitute “GB quarantine pests or provisional GB quarantine pests”;
  - (cc) for “the protected zones” substitute “GB pest-free areas”;
  - (dd) for “protected zones”, in the second place where it occurs, substitute “GB pest-free areas”;
  - (ee) for “respective protected zone” substitute “PFA”;
  - (ff) at the end insert “relating to those areas”;

- (xv) in the entry relating to Article 62(1), for the words from “Union” to the end substitute “GB quarantine pests and provisional GB quarantine pests”;
- (xvi) in the entry relating to Article 62(2), for the words from “Union” to “Article 30(1)” substitute “GB quarantine pest or a provisional GB quarantine pest”;
- (xvii) in the entry relating to Articles 72(1) and 73, for “the Union territory” substitute “Great Britain”;
- (xviii) in the entry relating to Article 74(1), for “protected zones” substitute “GB pest-free areas”;
- (xix) in the entry relating to Article 79(1)—
  - (aa) in the first column, for “and 83” substitute “, 83 and 92a”;
  - (bb) in the second column, for “the Union territory without a plant passport” substitute “Great Britain or the introduction of certain plants, plant products and other objects into Great Britain from a CD territory without a UK plant passport”;
- (xx) in the entry relating to Article 80(1)—
  - (aa) in the first column, for “and 83” substitute “, 83 and 92a”;
  - (bb) in the second column, for “certain protected zones”, in both places where it occurs, substitute “GB pest-free areas”, and after “a” insert “UK”;
- (xxi) in the entries relating to Article 84(1) and Article 84(3), after “issuing”, in each place where it occurs, insert “UK”;
- (xxii) in the entry relating to Article 85, after “issuing” insert “UK”;
- (xxiii) in the entry relating to Article 86(1)—
  - (aa) after “issuing” insert “UK”;
  - (bb) for “protected zone” substitute “GB pest-free area”;
- (xxiv) after the entry relating to Article 86(1) insert—

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

(xxv) in the entry relating to Article 88, after “attach” insert “UK”;

(xxvi) in the entry relating to Article 90(1), after “a” insert “UK”;

(xxvii) in the entries relating to Article 93(1) and Article 93(5), after “replacement” insert “UK”;

(xxviii) in the entry relating to Article 96(1), for “the Union territory” substitute “Great Britain”.

(4) In Part 2, in the entries relating to Articles 47(5) and 56(4), for “the Union”, in each place where it occurs, substitute “Great Britain”.

(5) In Part 3, in the entry relating to Article 22(4) of Commission Delegation Regulation (EU) 2019/2124, for “the Union territory” substitute “Great Britain”.

#### **Schedule 4**

**22.** Omit Schedule 4.

## **PART 3**

### **Revocation**

#### **Revocation**

**23.** The Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019(1) are revoked.

*Name*

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

Date