SCOTTISH STATUTORY INSTRUMENTS

1999 No. 22

PLANT HEALTH

The Plant Health (Amendment) (Scotland) Order 1999

Made - - - -	*6th August 1999*
Laid before the Scottish Parliament - - - -	*11th August 1999*
Coming into force - -	*21st August 1999*

The Scottish Ministers in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972(**1**) and of all other powers enabling them in that behalf hereby make the following Order: Title, commencement, interpretation and extent

1.—(1) This Order may be cited as the Plant Health (Amendment) (Scotland) Order 1999 and shall come into force on 21st August 1999.

(2) In this Order, "the principal Order" means the Plant Health (Great Britain) Order 1993(**2**).

(3) This Order extends to Scotland only.

Amendment of the principal Order

2. Article 18 of the principal Order (miscellaneous potato provisions) shall be amended as follows–

(a) for the heading there shall be substituted"Miscellaneous provisions for certain solanaceous species";

(b) after paragraph (2) there shall be substituted–

"(2A) Without prejudice to paragraph (1) of this article, no person shall plant or cause or permit to be planted any potatoes unless they derive in direct line from potato material which has been obtained under an officially approved programme within the European Community or Switzerland and which has been found to be free from Ralstonia solanacearum (Smith) Yabuuchi et al. in official tests using the method set out in Annex II of Directive 98/57/EC of 20th July 1998 on the control of Ralstonia solanacearum (Smith) Yabuuchi et al.(**3**).''; and

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(**2**) S.I.1993/1320 to which there are amendments not relevant to this order.

(**3**) O.J. L235, 21.8.98.

(c) for paragraph (7) there shall be substituted–

"(7) "Without prejudice to articles 22 or 23, the special measures in respect of Potato Wart Disease, Potato Cyst Nematode, Potato Ring Rot and Ralstonia solanacearum (Smith) Yabuuchi et al. set out in Schedules 11, 12, 13 and 13A respectively shall be adopted to control the spread of those plant pests.".".

3. After article 23 of the principal Order (actions which may be taken by an inspector) there shall be inserted–

"**Demarcation of zones for the control of Ralstonia solanacearum (Smith) Yabuuchi et al.**

23A.—(1) Upon confirmation of the presence of Ralstonia solanacearum (Smith) Yabuuchi et al. in a sample taken pursuant to article 2 or article 5 of Directive 98/57/EC of 20th July 1998 on the control of Ralstonia solanacearum (Smith) Yabuuchi et al., an inspector may demarcate a zone as described in article 5(1)(a)(iv) or article 5(1)(c)(iii) of that Directive, to prevent the spread of that organism.

(2) The inspector shall publish notice of the demarcation under paragraph (1) of any zone and such notice shall–

(a) include a declaration that the provisions of paragraph 11 of Schedule 13A shall apply in the demarcated zone with effect from the date specified in the notice; and

(b) where appropriate, specify those areas of surface water within the zone to which the prohibition on irrigation and spraying in paragraph 11 of Schedule 13A shall apply.

(3) The demarcation of a zone under paragraph (1) shall apply until such date as may be specified in the notice referred to in paragraph (2) or in any further notice issued by an inspector varying the controls in the demarcated zone or the extent of the zone or ending the demarcation.

(4) An inspector shall publish notice pursuant to paragraphs (2) or (3) by means of–

(a) a notice in the Edinburgh and London Gazettes; and

(b) one or more newspapers circulating in the locality of the demarcated zone.

(5) For the purposes of the exercise, in relation to any person, of any power contained in articles 26, 27, 28 or 32, and for the purposes of the application to him of article 33, a notice published in accordance with paragraph (4) shall be deemed to have been served upon him.

(6) The declaration referred to in paragraph (2) shall not prejudice the requirements of any notice which may be served under articles 22 or 23 on any premises within the demarcated zone and any other special measures set out in Schedule 13A for the control of Ralstonia solanacearum (Smith) Yabuuchi et al.

(7) Any premises which are partly inside and partly outside a zone demarcated under paragraph (1) shall be deemed to be wholly inside that zone.".

4.—(1) In–

(a) section 2(b) in Part A of Schedule 1;

(b) the items numbered 25.4, 25.7 and 25.8 in section 1 of Part A of Schedule 4; and

(c) the items number 19.1, 19.3, 19.5 and 19.7 in section 2 of Part A of Schedule 4,

to the principal Order, for "Pseudomonas solanacearum (Smith) Smith" wherever they occur, there shall be substituted "Ralstonia solanacearum (Smith) Yabuuchi et al."(**4**).

(**4**) Ralstonia solanacearum (Smith) Yabuuchi et al. was formerly known as Pseudomonas solanacearum (Smith) Smith.

5. After Schedule 13 to the principal Order (special measures for the control of potato ring rot) there shall be inserted Schedule 13A set out in the Schedule to this Order.

6. In Schedule 16 (instruments amending and supplementing Council Directive 77/93/EEC) there shall be inserted at the end–

"Council Directive 98/57/EC	O.J. No. L235, 21.8.98, p.1.".

St Andrew's House,Edinburgh
6th August 1999

ROSS FINNIE
A member of the Scottish Executive

SCHEDULE Article 3

New Schedule 13A to the Plant Health (Great Britain) Order 1993

"SCHEDULE 13A Article 18(7)

SPECIAL MEASURES FOR THE CONTROL OF RALSTONIA SOLANACEARUM (SMITH) YABUUCHI ET AL.

1.—(1) In this Schedule–

"agricultural land" means land used or capable of use for the purposes of a trade or business in connection with agriculture;

"appropriate waste disposal facilities" means waste disposal facilities such that, in the opinion of an inspector, there is no identifiable risk of the organism spreading;

"classified seed potatoes" means classified seed as defined by regulation 2(1) of the Seed Potatoes Regulations 1991;

"the Directive" means Council Directive 98/57/EC of 20th July 1998 on the control of Ralstonia solanacearum (Smith) Yabuuchi et al.;

"specified plant material" means plants (including tubers), other than true seed, of Solanum tuberosum L., or plants, other than fruits and seeds, of Lycopersicon lycopersicum (L.) Karsten ex Farw; and

"the organism" means Ralstonia solanacearum (Smith) Yabuuchi et al.

(2) Any reference in this Schedule to a numbered paragraph is a reference to the paragraph so numbered in this Schedule.

2.—(1) This paragraph applies to specified plant material designated by an inspector as contaminated with the organism for the purposes of article 5(1)(a)(ii) of the Directive and to such material designated in any other part of the United Kingdom or in any other Member State as contaminated for those purposes.

(2) Without prejudice to article 4, no person shall plant or cause or permit to be plantedany specified plant material to which this paragraph applies.

(3) A notice under article 22 may require that specified plant material to which this paragraph applies be used or disposed of–

(a) by incineration;

(b) as animal feed after heat treatment such that there is no risk of the organism surviving;

(c) by deep burial at a disposal site at which there is no risk of seepage to agricultural land or contact with water sources which are or could be used for irrigation of agricultural land;

(d) by industrial processing at a plant–

(i) to which the specified plant material is to be directly delivered within such time as may be specified in the notice; and

(ii) in respect of which the inspector is satisfied that the waste disposal facilities conform to the provisions laid down in Annex VII of the Directive; or

(e) in any way not referred to in paragraphs (a) to (d) in regard to which it has been established to the satisfaction of the inspector that there is no identifiable risk of the organism spreading.