

*Regulations made by the Secretary of State, laid before Parliament under paragraph 5(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament within twenty-eight days beginning with the day on which the Regulations were made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.*

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STATUTORY INSTRUMENTS

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**2019 No. 820**

**EXITING THE EUROPEAN UNION, NORTHERN  
IRELAND**

**PLANT HEALTH, NORTHERN IRELAND**

**The Plant Health (Amendment) (Northern Ireland) (EU Exit)  
Regulations 2019**

*Made - - - - 4th April 2019*

*Laid before Parliament 8th April 2019*

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

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018<sup>(a)</sup>.

The Secretary of State is of the opinion that, by reason of urgency, it is necessary to make these Regulations without a draft of the instrument being laid, before, and approved by a resolution of, each House of Parliament.

**PART 1**

**Introductory**

**Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Plant Health (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 and come into force on exit day.

(2) These Regulations extend to Northern Ireland only.

## PART 2

### Amendment of the Plant Health (Wood and Bark) (*Phytophthora ramorum*) Order (Northern Ireland) 2005

**2.**—(1) The Plant Health (Wood and Bark) (*Phytophthora ramorum*) Order (Northern Ireland) 2005**(a)** is amended as follows.

(2) In Article 4—

- (a) in paragraph (1) omit the words “to paragraph (3) and”;
- (b) in paragraph (2) omit the words “Subject to paragraph (3),”;
- (c) omit paragraph (3).

(3) In Article 9—

- (a) in paragraph (7) omit “including, but not limited to, representatives of the European Commission”.

## PART 3

### Amendment of the Plant Health (Wood and Bark) Order (Northern Ireland) 2006

**3.**—(1) The Plant Health (Wood and Bark) Order (Northern Ireland) 2006**(b)** is amended as follows.

(2) In Article 2—

(a) in paragraph (1)—

(i) before the definition of “approved place of inspection” insert—

“”appropriate checks”, in relation to a consignment of notifiable 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;

“appropriate UK plant health authority” means—

- (a) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
- (b) in relation to forest and timber pests in England, the Forestry Commissioners;
- (c) otherwise in relation to England, the Secretary of State;
- (d) in relation to Wales, the Welsh Ministers;
- (e) in relation to Scotland, the Scottish Ministers;
- (f) in relation to the Bailiwick of Guernsey, the States of Guernsey;
- (g) in relation to the Bailiwick of Jersey, the Department of Environment of the Bailiwick of Jersey;
- (h) in relation to the Isle of Man, the Department of Environment, Food and Agriculture of the Isle of Man;”;

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**(a)** S.R. 2005 No. 252.

**(b)** S.R. 2006 No. 66, as amended by S.R. 2012 No. 400 and S.R. 2015 No. 129.

- (ii) for “approved place of inspection” substitute—
  - ““approved place of inspection”, as regards Northern Ireland, means a place which has been approved by the Department under Article 16A or, in relation to other UK territories, by the appropriate UK plant health authority under equivalent provisions of the relevant Plant Health Order;”;
- (iii) omit the definition of “area of plant health control” and “associated controlled dunnage”;
- (iv) in the definition of “authorised officer”, for paragraphs (a) to (c) substitute—
  - “(a) in relation to a UK plant passport, an inspector appointed for the purposes of a relevant Plant Health Order, 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;”;
- (v) omit the definition of “bark-free”;
- (vi) after the definition of “Commissioners” insert—
  - ““CD territory” means the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man;”;
- (vii) for the definition of “consignment” substitute—
  - ““consignment” means a quantity of goods covered by a single document required for customs formalities or for other formalities;”;
- (viii) after the definition of “consignment” insert—
  - ““correct phytosanitary certificate”, in relation to notifiable relevant material, means a phytosanitary certificate or phytosanitary certificate for re-export required by Article 6;”;
- (ix) omit the definition of “Customs Code”;
- (x) in the definition of “customs document”, for the words from “one of” to the end substitute “a customs procedure within the meaning of the Taxation (Cross-border Trade) Act 2018(a);
- (xi) omit the definition of “debarked”;
- (xii) after the definition of “the Department” insert—
  - ““designated area of plant health control”, in relation to notifiable relevant material means a place close to a point of entry which has been designated as an area of plant health control by the Department and the Commissioners for Her Majesty’s Revenue and Customs;”;
- (xiii) omit the definition of “the Directive”;
- (xiv) omit the definitions of “dunnage”, “European Union” and “Europe”;
- (xv) after the definition of “electronic communications” insert—
  - ““EU transit material” 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 was not, on its entry into the European Union, 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(b);”;

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(a) 2018 c.22.

(b) OJ No. L 095, 7.4.2017, p. 1.

- (xvi) in the definition of “importer”, for “landing” substitute “consignment”;
- (xvii) omit the definitions of “identity check” and “industry certificate”;
- (xviii) omit the definition of “landed”;
- (xix) in the appropriate place insert—
  - ““the list of controlled material” means Schedule 6 to the Plant Health Regulations;
  - “the list of PFA controlled material” means Schedule 7 to the Plant Health Regulations;
  - “the list of prohibited infested material” means Schedule 2 to the Plant Health Regulations”;
  - “the list of prohibited material” means Schedule 3 to the Plant Health Regulations;
  - “the list of prohibited plant pests” means Schedule 1 to the Plant Health Regulations;
  - “the list of regulated material” means Schedule 4 to the Plant Health Regulations;”;
- (xx) for the definition of “lot” substitute—
  - ““lot” means a number of units of a single commodity, identifiable by its homogeneity of composition and origin, which form part of a consignment;”;
- (xxi) in the definition of “national plant protection organisation”, for “European Commission”, substitute “national plant protection organisation of the United Kingdom”;
- (xxii) after the definition of “North America” insert—
  - ““NI Order” means the Plant Health Order (Northern Ireland) 2018(a);
  - “NI Wood and Bark Orders” means the Plant Health (Wood and Bark) Order (Northern Ireland) 2006(b) and the Plant Health (Wood and Bark) (*Phytophthora ramorum*) Order (Northern Ireland) 2005(c);
  - “notifiable relevant material” means any relevant material—
    - (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;
  - “notified EU material” 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 Northern Ireland and whose arrival in Northern Ireland has been notified to the Department in accordance with Article 5(A1);
  - “point of entry” means—
    - (a) in the case of relevant material which arrives by air, the airport at which the material first arrives in the United Kingdom;
    - (b) in the case of relevant material which arrives by maritime or fluvial transport, the port at which the material first arrives in the United Kingdom;
    - (c) in the case of relevant material which arrives by rail, the rail freight terminal at which the material first arrives in the United Kingdom;
    - (d) in the case of relevant material which arrives by road, the initial destination of the material after its arrival in the United Kingdom;
  - “prescribed requirements”, in relation to any notifiable relevant material, means—
    - (a) the requirements specified in respect of the material in Article 4; or

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(a) S.R. 2018 No. 184.

(b) S.R. 2006 No. 66, as amended by S.R. 2012 No. 400 and S.R. 2015 No. 129.

(c) S.R. 2005 No. 252.

- (b) in the case of any material which is destined for a UK pest free area which includes Northern Ireland but not England, the requirements specified in respect of that material in Article 4 of this Order or Article 5 of the NI Order;

“relevant Plant Health Order” means—

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

“trade documents” in relation to a consignment of notifiable relevant material, means the invoice, delivery note, consignment note or other similar document;”;

- (xxiii) in the definition of “official”, for “responsible official body” substitute “appropriate UK plant health authority”;
- (xxiv) in the definition of “official label”, for the words from “responsible” to the end substitute “appropriate UK plant health authority”;
- (xxv) in the definition of “official statement”, for “plant passport” substitute “UK plant passport”;
- (xxvi) in the appropriate place insert—
  - ““pest free area” means that part of a UK pest free area that is in Northern Ireland or, where the UK pest free area includes two or more separate parts of Northern Ireland, each such part;”;
- (xxvii) omit the definitions of “plant health check”, “plant health movement document” and “plant passport”;
- (xxviii) in the appropriate place insert—
  - ““the Plant Health Regulations” means the Plant Health (Amendment) (Northern Ireland) (EU Exit) Regulations 2019(e);”;
- (xxix) omit the definition of “protected zone”;
- (xxx) after the definition of “registered” insert—
  - ““regulated pest” means—
  - (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 relate to a pest free area;
  - (c) a plant pest of a description specified in Column 3 of Part A, B or D of the list of prohibited infested material;
  - (d) a plant pest of a description specified in column 3 of Part C of the list of prohibited infested material which relates to a pest free area;”;
- (xxx) omit the definition of “Regulation (EC) No 690/2008”;
- (xxxii) omit the definition of “responsible official body” and “round wood”;

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(a) S.I. 2015/610.  
(b) S.I. 2018/1064 (W. 223).  
(c) S.I. 2005/613 as amended by 2019/XXXX.  
(d) S.I. 2005/2517 as amended by 2019/XXXX.  
(e) S.I. 2019/XXXX.

- (xxxiii) omit the definition of “Swiss plant passport”;
- (xxxiv) for the definition of “third country” substitute—
  - “third country” means—
    - (a) a country or territory outside the European Union, other than a territory or country within the British Islands; or
    - (b) the European Union;”;
- (xxxv) after the definition of “third country” insert—
  - ““UK pest free area” 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” means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in 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” means England, Northern Ireland, Scotland or Wales;”;
- (b) omit paragraph (2);
- (c) in paragraph (3), for “any” substitute “Unless expressly provided otherwise, any”;
- (d) at the end insert—
  - “(4) For the purpose of the definition of “appropriate UK plant health authority”, “forest pests” and “timber pests” have the same meaning as in the Plant Health Act 1967(a).”.
- (3) Omit Article 3.
- (4) Before Article 4 insert—

**“Application of Part 2: Northern Ireland**

**3A.** This Part applies to plant pests and relevant material which are brought into Northern Ireland from a third country, whether directly or via another UK territory.”.

- (5) In Article 4—
  - (a) in the heading for “landing” substitute “bringing in”;
  - (b) at the beginning insert—
    - “(A1) No person may bring any of the following into Northern Ireland—
      - (a) any 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 pest of a description specified in the corresponding entry in respect of that description of relevant material in column 3;
      - (c) any 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 Northern Ireland and which is likely to be injurious to trees in Northern Ireland;
      - (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;

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(a) 1967 c.8.

- (f) in the case of any relevant material which is destined for a UK pest free area, any pest of a description specified in column 2 of Part C of the list of prohibited plant pests which relates to that UK pest free area;
  - (g) in the case of any relevant material which is destined for 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 Part C of that list which is carrying or infested with a 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 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, unless the requirements specified in the corresponding entries in respect of that relevant material in column 3 are complied with.”;
- (c) omit paragraphs (1) and (1A);
  - (d) in paragraph (2), after “paragraph” insert “(A1)(d) or”;
  - (e) after paragraph (2) insert—
    - “(3) The prohibitions in paragraph (A1)(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 11 of this Order, Article 3 of the Plant Health (Wood and Bark) (*Phytophthora ramorum*) Order (Northern Ireland) 2005 or Article 12 of any other relevant Plant Health Order.”.
- (6) In Article 5—
    - (a) in the heading, for “landing” substitute “arrival”;
    - (b) at the beginning insert—
      - “(A1) No person may bring any notifiable relevant material into a point of entry that is located in Northern Ireland, unless notice is given in accordance with this Article.”;
    - (c) omit paragraphs (1) and (2);
    - (d) in paragraph (3)—
      - (i) in the words before sub-paragraph (a), for “paragraph (1)” substitute “paragraph (A1)”;
      - (ii) in the words after sub-paragraph (b), for “the relevant material is landed” substitute “its arrival”;
    - (e) in paragraph (4), for “paragraph (1)” substitute “paragraph (A1)”;
    - (f) in paragraph (5)—
      - (i) for “paragraph (1)” substitute “paragraph (A1)”;
      - (ii) for “landing” substitute “arrival”.
  - (7) After Article 5 insert—

**“EU transit material: Northern Ireland**

**5A.**—(1) No person may bring any EU transit material into Northern Ireland unless that material is destined for a single approved place of inspection.

(2) Paragraph (1) is subject to Article 7(A1).”.

- (8) In Article 6—
  - (a) at the beginning insert—
    - “(A1) Subject to Article 7 and to paragraph (6), no person may bring any notifiable relevant material into a point of entry that is located in Northern Ireland unless the material is accompanied by one of the following certificates which certifies that the material meets the prescribed requirements—

- (a) a phytosanitary certificate issued in the country in which that material originates or in the country from which it was consigned;
  - (b) where paragraph (2) applies, by a phytosanitary certificate for re-export.”;
  - (b) omit paragraphs (1) and (4);
  - (c) in paragraph (6)—
    - (i) in the words before sub-paragraph (a), for “paragraph (1) does” substitute “paragraph (A1) and paragraph (1) do”;
    - (ii) in sub-paragraph (a), for “landed in” substitute “brought into”;
    - (iii) in sub-paragraph (b)—
      - (aa) for “landed in” substitute “brought into”;
      - (bb) for “European Union” substitute “United Kingdom”.
  - (d) omit paragraph (7).
- (9) In Article 7—
- (a) at the beginning insert—
 

“(A1) The provisions referred to in paragraph (A2) do not apply to—

    - (a) any wood described in paragraph (2) originating in any third country, other than the European Union or Switzerland, which is brought into Northern Ireland in the baggage of a passenger or other traveller coming from any such third country and meets the conditions in paragraph (A3); or
    - (b) any small quantity of relevant material originating in the European Union or Switzerland which is brought into Northern Ireland in the baggage of a passenger or other traveller coming from the European Union or Switzerland and meets the conditions in paragraph (A3).

(A2) the provisions are—

    - (a) Article 4(A1)(e) and (h);
    - (b) Article 5(A1);
    - (c) Article 5A(1);
    - (d) Article 6(A1);
    - (e) Article 9A;
    - (f) Article 11A.

(A3) The conditions are that the relevant material—

    - (a) does not show any signs of the presence of a pest;
    - (b) is not intended for use in the course of a trade or business;
    - (c) is intended for household use; and
    - (d) in the case of any wood originating in a third country, other than the European Union or Switzerland, has been consigned from the Euro-Mediterranean area.”.
  - (b) omit paragraph (1);
  - (c) in paragraph (2), for “paragraph (1)” substitute “paragraph (A1)”.
- (10) In Article 8—
- (a) at the beginning insert—
 

“(A1) 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 entry of the consignment into Northern Ireland—

    - (a) any phytosanitary certificate or phytosanitary certificate for re-export which is required under Article 6(A1) to accompany a consignment of notifiable relevant material; and

(b) in the case of notified EU material, the trade documents which accompany the consignment.

(B1) The importer of a consignment of notifiable relevant material must include in a customs document relating to the consignment—

- (a) a statement that “this consignment contains produce of phytosanitary relevance”;
- (b) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export which is required under Article 6(A1) to accompany the consignment; and
- (c) the registration number of the importer.”;

(b) omit paragraphs (1) and (2);

(c) after paragraph (3) insert—

“(4) Paragraph (A1) 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.”.

(11) Omit Article 9.

(12) Before Article 10 insert—

**“Prohibitions applying to notifiable relevant material on entry: Northern Ireland**

**9A.**—(1) This Article applies to notifiable relevant material, other than notified EU material, which is brought into a point of entry that is located in Northern Ireland.

(2) 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.

(3) No person may remove or cause any notifiable relevant material to be removed from its point of entry, or where the material is moved to a designated area of plant health control or an approved place of inspection in Northern Ireland, the designated area of plant health control or approved place of inspection, unless an inspector has discharged the material under Article 11 or the removal of the material is permitted under Part 7.

(4) Any notifiable relevant material which is being held at a point of entry or a designated area of plant health control under paragraph (3) must be stored by the importer under the supervision and in accordance with the instructions of an inspector.

(5) The importer is liable for the costs of storing the notifiable relevant material pending its release.”.

(13) In Article 10—

- (a) in the words before sub-paragraph (a), for “Article 9(1)” substitute “Article 9A(3)”;
- (b) in sub-paragraph (c), for “European Union” substitute “United Kingdom”.

(14) In Article 11—

(a) at the beginning insert—

“(A1) Paragraph B1 applies to any notifiable relevant material, other than notified EU material, which is brought into a point of entry that is located in Northern Ireland and is not in the course of its consignment to an approved place of inspection in another UK territory.

(B1) An inspector may discharge notifiable relevant material from its point of entry, designated area of plant health control or approved place of inspection in Northern Ireland if the inspector is satisfied that—

- (a) the material meets the prescribed requirements;
- (b) the relevant material corresponds with the description given to it in the phytosanitary certificate or phytosanitary certificate for re-export which accompanied the material on entry; and
- (c) the relevant material is accompanied by the correct phytosanitary certificate.”;

- (b) omit paragraphs (1) and (2);
  - (c) in paragraph (3), after “the matters” insert “in paragraph (B1)(a) (in its application to Northern Ireland)”;
  - (d) omit paragraph (4);
  - (e) after paragraph (4) insert—
    - “(4A) An inspector may, for the purpose of being satisfied as to matters in paragraph (B1)(b), carry out an examination of a consignment of relevant material to determine whether it corresponds to its description in the documents that accompany it.”.
  - (f) omit paragraphs (5) and (6);
  - (g) in paragraph (8)—
    - (i) in the words before sub-paragraph (a), after “referred to” insert “in paragraph (B1)(c) or “;
    - (ii) in sub-paragraph (a), after “Article” insert “8(A1) or”;
    - (iii) omit sub-paragraph (b) (together with the preceding “and”);
  - (h) in paragraph (9)—
    - (i) for “a plant health check” substitute “an examination under paragraph (3)”;
    - (ii) for “checks” substitute “examination”.
- (15) After Article 11 insert—

**“Requirements applicable to notified EU material: Northern Ireland**

**11A.**—(1) This Article applies to notified EU material which is brought into a point of entry that is located in Northern Ireland.

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

- (a) the phytosanitary certificate or phytosanitary certificate for re-export accompanying 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.”.

(16) In Article 13(1), for the words from “under” to the end 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(a)”.

(17) In Article 14—

- (a) omit paragraph (2);
- (b) in paragraph (3)—
  - (i) in sub-paragraph (a), omit “the responsible official body”;
  - (ii) in sub-paragraph (b), for “one of the official languages of the European Union” substitute “English”;
  - (iii) omit sub-paragraph (c);
  - (iv) in sub-paragraph (d), for “Plant Protection Organisations of the Member States of the European Union” substitute “the Plant Protection Organisation of the United Kingdom”;
- (c) omit paragraph (4);
- (d) after paragraph (4) insert—

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(a) 2018 c. 22.

“(4A) Where in relation to any relevant material of a description specified in column 2 of Part A, 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, the phytosanitary certificate or phytosanitary certificate for re-export issued in respect of any relevant material of that description must specify under the heading “Additional declaration” which particular requirement has been complied with.”.

(18) After Article 14 insert—

**“Requirements to be met by relevant material destined for an approved place of inspection: Northern Ireland**

**15A.**—(1) This Article applies to notifiable relevant material, other than notified EU material, which is destined for an approved place of inspection.

(2) Any relevant material to which this Article applies may not be moved within Northern Ireland unless—

- (a) 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;
- (b) its packaging and the vehicle in which it is transported is sealed in such a way that there is no risk of the relevant material causing infestation, infection or contamination or a change occurring in the identity of the material or, where the material is destined for an approved place of inspection in Northern Ireland, its movement has been otherwise authorised by the Department.

(3) The importer of any relevant material which is destined for an approved place of inspection in Northern Ireland must give the Department notice of the following particulars no later than three working days before the material is brought into the United Kingdom—

- (a) the name, address and location of the approved place of inspection to which the relevant material is destined;
- (b) the scheduled date and time of arrival of the relevant material at the approved place of inspection;
- (c) the name, address and registration number of the importer;
- (d) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export required under Article 6 to accompany the relevant material.

(4) The importer must notify the Department immediately of any changes to the particulars which the importer has given under paragraph (3).

(5) The notice must be given to the Department at the address given by the Department for the purposes of this Article.”.

(19) Omit Articles 15 and 16.

(20) Before Article 17 insert—

**“Approved places of inspection: Northern Ireland**

**16A.**—(1) The Department may approve 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.

(2) An application for approval under paragraph (1) may be made to the Department by an importer or other person responsible for those premises in such form and containing such information as the Department may specify.

(3) An approval may be granted subject to conditions, including conditions relating to the storage of the relevant material and may be withdrawn at any time if the Department no

longer considers that the premises to which the approval relates are suitable for the purpose for which the approval was given.

(4) The Department may only approve premises as an approved place of inspection in respect of notifiable relevant material, other than EU transit material, if the premises have been designated or approved by the Commissioners for Her Majesty's Revenue and Customs for that purpose.

(5) In the case of any other premises, the Department 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.”.

(21) In Part 3, in the heading, omit “Community”.

(22) Omit Articles 17, 18 and 19.

(23) Before Article 20 insert—

#### **“Prevention of the spread of pests: Northern Ireland**

**18A.**—(1) No person may knowingly keep, store, sell, plant or move or knowingly cause or permit to be kept, stored, sold, planted, moved—

- (a) any 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 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 Northern Ireland and which is likely to be injurious to plants in Northern Ireland;
- (d) any relevant material of a description specified in column 2 of Part E of the list of regulated material which originates in the United Kingdom or a CD territory unless the requirements specified in the corresponding entries in respect of that description of relevant material in column 3 are complied with;
- (e) any relevant material originating in a third country which is brought into Northern Ireland in contravention of Article 4(A1)(d) or (e).

(2) No person may knowingly keep, store, plant, sell or move within a pest free area or knowingly cause or permit to be kept, stored, planted, sold or moved within such an area—

- (a) any 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 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 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 4(A1)(g);
- (d) in the case of any 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 or a CD territory, unless the requirements specified in the corresponding entries in respect of that relevant material in column 3 are complied with.

(3) The prohibitions in paragraphs (1) and (2) do not apply to any pest or relevant material which is required to be kept, stored or moved in compliance with a requirement imposed by an inspector under Part 6 or 7.

(4) In this Article, “move” means “move or otherwise dispose of” and “moved” is to be construed accordingly.

## **Requirements for UK plant passports: Northern Ireland**

**19A.**—(1) No person may move any of the following relevant material into or within Northern Ireland 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 or a CD territory;
- (b) any relevant material that has been discharged by an inspector under Article 11 or by another appropriate UK plant health authority in an equivalent manner.
- (c) in the case of any notifiable relevant material originating in the European Union or Switzerland which was brought into a point of entry in the United Kingdom, any relevant material specified in the list of controlled material which originates in the European Union or Switzerland and was notified to the Department in accordance with Article 5, or to the appropriate UK plant health authority in accordance with equivalent requirements under the relevant Plant Health Order;

(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 a part—

- (a) any relevant material of a description, specified in the list of PFA controlled material in respect of the relevant UK pest free area, which originates in the United Kingdom or a CD territory;
- (b) any relevant material of a description specified in the list of PFA controlled material in respect of the relevant UK pest free area that has been discharged by an inspector under Article 11 or by another appropriate UK plant health authority in an equivalent manner;
- (c) in the case of any notifiable relevant material originating in the European Union or Switzerland which was brought into a point of entry in the United Kingdom, any relevant material specified in the list of PFA controlled material in respect of the relevant UK pest free area which was notified to the Department in accordance with Article 5, or to the appropriate UK plant health authority in accordance with equivalent requirements under the relevant Plant Health Order.

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

- (a) in the case of relevant material destined for England or Wales, 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 England or Wales which is within a UK pest free area, any relevant material of a description specified in the list of PFA 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;
- (e) in the case of relevant material destined for a CD territory, any relevant material of a description specified for the purposes of this paragraph in the applicable plant health legislation of the CD territory.

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

(5) 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 to the United Kingdom.

(6) in paragraphs (1) and (2), “relevant Plant Health Order” has the same meaning as in Part 2.”.

(24) In Article 20(1)—

- (a) omit “prohibitions on landing in Article 17(1)(e), (f) and (g) and the”;
- (b) after “plant passport” insert “or, as regards Northern Ireland, Article 19A(1)(a), (2)(a) and (3)”;

(25) Omit Article 21.

(26) Before Article 22 insert—

#### **“Validity of UK plant passports: Northern Ireland**

**21A.**—(1) This Article applies to relevant material of a description specified in the list of pest free area controlled material which relates to a pest free area and which is moved through a pest free area to a destination outside the relevant UK pest free area.

(2) The requirements in Article 19A(2) do not apply if the relevant material—

- (a) originates outside the relevant UK pest free area;
- (b) is accompanied during its transit through the pest free area by a document of a type normally used for trade purposes which certifies that the material originates outside the relevant UK pest free area and is in transit to a final destination outside the relevant UK pest free area and the conditions in paragraph (3) are met.

(3) The conditions are that—

- (a) the packaging in which the relevant material is transported and any vehicle which is used to transport the material is free from soil and plant debris and any relevant pest;
- (b) the material was sealed immediately after packaging or, where appropriate, after loading, and remains sealed during its journey through the relevant UK pest free area;
- (c) the nature or construction of the packaging in which the material is transported and any vehicle which is used to transport the material are sufficient to ensure that there is no risk of any relevant pest which may be present in or on the relevant material escaping.

(4) In this Article—

- (a) “relevant UK pest free area”, 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”, in relation to a UK pest free area, means the plant pest in respect of which the UK pest free area has been designated.”.

(27) In Article 22—

- (a) in the heading, for “plant passports” substitute “UK plant passports”;
- (b) in paragraphs (1) to (4), for “plant passport”, in each place it occurs, substitute “UK plant passport”;
- (c) in paragraph (4)(b)(ii) at the end insert “to the Plant Health Regulations”.

(28) In Part 4, in the heading, for “PLANT PASSPORTS” substitute “UK PLANT PASSPORTS”;

(29) In Article 23 omit paragraph (2).

(30) In Article 26—

- (a) in the heading and paragraphs (1), (4), (5) and (6), for “plant passports”, in each place it occurs, substitute “UK plant passports”;
- (b) in paragraph (7)—at the end insert—  
“;
- (c) as regards Northern Ireland, a regulated plant pest.”.

(31) Omit Part 5.

(32) In Article 28—

- (a) in paragraph (1)(b), for “plant passport” substitute “UK plant passport”;
- (b) in paragraph (7) omit “, including representatives of the European Commission,”.

(33) After Article 28 insert—

**“Emergency measures: Northern Ireland**

**28A.**—(1) Where a regulated plant pest is found to be present in Northern Ireland the Department 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) must be amended or revoked, in whole or in part, by further notice.”.

(34) In Article 29—

- (a) in paragraph (1), for “landed” substitute “brought into a point of entry located”;
- (b) in paragraph (2), for “landed” substitute “brought into the point of entry”;
- (c) in paragraph (3)—
  - (i) in sub-paragraph (a), for “landing” substitute “bringing in”;
  - (ii) in sub-paragraph (b)—
    - (aa) for “the landing is to be carried out” substitute “any pest or relevant material is to be brought in”;
    - (bb) for “to the landing” substitute “to its entry”;
- (d) in paragraph (5)—
  - (i) in sub-paragraph (a) at the end insert “or, as regards Northern Ireland, a regulated plant pest”;
  - (ii) omit sub-paragraph (c) and the preceding “and”;
- (e) in paragraph (6)(b)—
  - (i) omit “or 17”;
  - (ii) at the end insert “or, as regards Northern Ireland, Article 18A”;
- (f) after paragraph (6) insert—

“(6A) Subject to this Article, in the case of relevant material imported from the EU which did not require a plant passport immediately before exit day, such material will not be subject to checks under Articles 11A and 28 of this Order.”.

(35) In Article 30—

- (a) in paragraph (2)(a), at the end insert “or, as regards Northern Ireland, a regulated pest”;
- (b) in paragraph (4), omit “, including representatives of the European Commission”.

(36) In Article 34(2), omit “, including representatives of the European Commission”.

(37) In Article 35—

- (a) in paragraph (1)—
  - (i) for “landed” substitute “imported into or”;
  - (ii) before sub-paragraphs (a) insert—
    - “(za) in the case of any licence granted by the Department, in exercise of any derogation permitted by Schedule 8 to the Plant Health Regulations”;
  - (iii) omit sub-paragraph (a) and (b);
- (b) in paragraph (2), for “(1)(b)” substitute “(1)”;
- (c) omit paragraph (3).

(38) In Article 36—

- (a) in the heading, omit the words “permitted by Directive 2008/61/EC”;
- (b) at the beginning insert—

“(A1) The Department must by licence authorise the importation, movement or keeping of any pest or relevant material for any activity for trial or scientific purposes or for work on varietal selections in Northern Ireland, where the importation, movement or keeping of the pest or relevant material for any such purpose would otherwise be prohibited by this Order, if the Department—

- (a) have received an application for a licence containing the information set out in Part A of Schedule 13A; and
- (b) are satisfied that the general conditions set out in Part B of Schedule 13A are met in relation to the application.

(B1) A licence granted under paragraph (A1) must be in writing and include—

- (a) the conditions specified in Part C of Schedule 13A which are relevant to any pest or relevant material that is the subject of the activities to which the licence relates;
- (b) any other conditions as the Department may determine in relation to licence quarantine measures that are appropriate in respect of those activities.”;

- (c) omit paragraphs (1) and (2);
- (d) in paragraph (3), for “under sub-paragraph (b) or (c) of paragraph (2)” substitute “paragraph (B1)(b).”;
- (e) in paragraph (4), for “(1)” substitute “(A1)”;
- (f) in paragraph (5), after “this Order” insert “or, as regards Northern Ireland, any regulated pest”;
- (g) omit paragraph (6);
- (h) in paragraph (7)—
  - (i) after sub-paragraph (a) insert—
    - “(aa) “licence quarantine measures”, as regards Northern Ireland, means the measures specified in Part D of Schedule 13A.”;
  - (ii) omit sub-paragraph (b).

(39) In Article 37—

- (a) omit paragraph (2);
- (b) after paragraph (2) insert—

“(2A) In paragraph (1), “notifiable pest”, as regards Northern Ireland, means any regulated pest or any other pest, is not normally present in Northern Ireland and which is likely to be injurious to trees in Northern Ireland.”.

(40) Omit Article 38.

(41) Before Article 39 insert—

**“Notification of the likely entry into, or presence in, a free zone of pests or relevant material: Northern Ireland**

**38A.**—(1) The responsible authority for a free zone in Northern Ireland who knows or suspects that any of the following is likely to be brought into the free zone, or is present in the free zone and has not been cleared out of charge, must immediately give notice of that fact to the Department or an inspector—

- (a) any regulated pest;
- (b) any other pest which is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain;
- (c) 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.

(2) Where a person gives notice in accordance with paragraph (1) orally, the person must confirm it in writing as soon as is reasonably practicable.

(3) In this Article, “responsible authority” and “free zone” have the same meaning as in the Customs Act.”.

(42) In Article 39—

(a) in paragraph (2)—

(i) in sub-paragraph (b)(i), from “Schedule” to the end, substitute “Schedule 1 or 2 to the Plant Health Regulations;”;

(ii) for sub-paragraph (b)(ii) substitute—

“(ii) any pest other than a regulated pest which, although not specified in Schedule 1 or 2 to the Plant Health Regulations, is not normally present in Northern Ireland and is likely to be injurious to trees in Northern Ireland;”;

(iii) in paragraph (4), after “certificates,” insert “UK”.

(43) In Article 40(1)—

(a) in sub-paragraph (a), for paragraphs (i) to (vi) substitute—

“(i) Article 5(A1);

(ia) Article 5A(1);

(ii) Article 8(1);

(iii) Article 9A(2) or (3);

(iv) Article 15A(2), (3) or (4);

(v) Article 18A(1) or (2);

(vi) Article 19A(1), (2) or (3);”;

(b) after paragraph (b) insert—

“(bb) contravenes or fails to comply with any prohibition or restriction in a notice issued under Article 28A;”.

(44) After Article 42 insert—

**“Transitional provision: UK plant passports**

**42A.**—(1) An authorisation to issue plant passports which has been granted and has effect immediately before exit day continues to apply on and 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, on or 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.”.

(45) Omit Schedules 1 to 8.

(46) In Schedule 9—

- (a) in the heading, for “plant passports” substitute “UK plant passports”;
- (b) in paragraphs 1 and 2, for “plant passport”, in each place it occurs, substitute “UK plant passport”;
- (c) in paragraph 3, for “plant passports”, in both places it occurs, substitute “UK plant passports”;
- (d) in paragraph 4—
  - (i) in the words before sub-paragraph (a), for “plant passport” substitute “UK plant passport”;
  - (ii) for the words in sub-paragraph (a), substitute “English”;
- (e) in paragraphs 5 and 6, for “plant passport”, in both places it occurs, substitute “UK plant passport”;
- (f) in paragraph 7—
  - (i) for the words in sub-paragraph (a) substitute “the title ‘UK plant passport’”;
  - (ii) omit sub-paragraph (b);
  - (iii) in sub-paragraph (c), for the words from “responsible” to the end substitute “appropriate UK plant health authority”;
  - (iv) in sub-paragraphs (d) to (g), for “plant passport”, in each place it occurs, substitute “UK plant passport”;
  - (v) in sub-paragraph (h)—
    - (aa) for “protected zone”, in the first place it occurs, substitute “UK pest free area”;
    - (bb) for “ZP” substitute “PFA”;
  - (vi) in sub-paragraph (i), for “plant passport”, in each place it occurs, substitute “UK plant passport”;
  - (vii) in sub-paragraph (j), for “Northern Ireland” substitute “United Kingdom or a CD territory”;

(47) In Schedule 12, in Part A omit paragraph 2;

(48) Omit Schedule 13.

(49) Before Schedule 14 insert—

**“SCHEDULE 13A**

Article 36

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

**1.** In this Schedule, “specified activity” means any activity for trial or scientific purposes or for work on varietal selections.

## PART A

### Information to be included in an application for a scientific licence

1. The name and address of the person responsible for the specified activity.
2. 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 pests which is to be imported from a third country, their proposed point of entry into the United Kingdom.
3. Appropriate documentary evidence for the material to be imported from a third country.
4. The duration, nature and objectives of the specified activity, including a resume and a specification of the work to be conducted.
5. The address and description of the specific site or sites at which the specified activity is to be carried out.

## PART B

### General conditions to be met on application for a scientific licence

6. The nature and objectives of the specified activity comply with the concept of trial or scientific purposes or for work on varietal selections.
7. The premises and the facilities at the site or sites at which the specified activity is to be carried out meet any conditions relating to their quarantine.
8. 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

9. For the purposes of Article 36(B1)(a), the conditions are that—
  - (a) in the case of any relevant material, the 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 material is, wherever possible, accompanied on its entry into the United Kingdom, 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 36 of the Plant Health(Wood and Bark) Order (Northern Ireland) 2006’; and
- (iii) includes the name of any authorised plant pest.

**10.** The relevant material must be held under quarantine containment conditions and on arrival is directly and immediately moved to the site 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 procedure which relate to the specified activity:
  - (i) their physical isolation from all other material which may provide a pathway for a regulated pest, including 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 and to the surrounding area, as appropriate, 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 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 within the premises of plant pests;
    - (bb) controlled procedures for sampling and for transfer between premises and facilities, of the material;
    - (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 disposal of experimental material;
    - (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 with separate chamber ‘double door’ access to personnel;
  - (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 interbreeding of the plant pests with indigenous strains or species;
- (vii) the implementation of controls on the continuous culture of plant pests;
- (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 for 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;
- (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 Order (Northern Ireland) 2018

4.—(1) The Plant Health Order (Northern Ireland) 2018<sup>(a)</sup> is amended as follows.

(2) In Article 2—

(a) in paragraph (1)—

(i) at the appropriate places insert—

““appropriate UK plant health authority” means—

- (a) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
- (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 Wales, the Welsh Ministers;
- (e) in relation to Scotland, the Scottish Ministers;
- (f) in relation to the Bailiwick of Guernsey, the States of Guernsey;
- (g) in relation to the Bailiwick of Jersey, the Department of Environment of the Bailiwick of Jersey;
- (h) in relation to the Isle of Man, the Department of Environment, Food and Agriculture of the Isle of Man;

“CD territory” means the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man;

“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<sup>(b)</sup>;

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<sup>(a)</sup> S.R. 2018 No. 184.

<sup>(b)</sup> Approved by the European and Mediterranean Plant Protection Organization in September 2003 and revised in February 2018 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 7/40” means the standard describing a diagnostic protocol for *Globodera rostochiensis* and *Globodera pallida* approved by the European and Mediterranean Plant Protection Organization(a);

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

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

“the list of controlled material” means Schedule 6 to the Plant Health Regulations;

“the list of PFA controlled material” means Schedule 7 to the Plant Health Regulations;

“the list of prohibited infested material” means Schedule 2 to the Plant Health Regulations;

“the list of prohibited material” means Schedule 3 to the Plant Health Regulations;

“the list of prohibited plant pests” means Schedule 1 to the Plant Health Regulations;

“the list of regulated material” means Schedule 4 to the Plant Health Regulations;

“pest free area” means that part of a UK pest free area that is in Northern Ireland or, where the UK pest free area includes two or more separate parts of Northern Ireland, each such part;

“the Plant Health Regulations” means the Plant Health (EU Exit) Regulations 2019”;

“regulated plant pest” means—

- (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” 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” 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” means England, Wales, 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” 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

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(a) Approved by the European and Mediterranean Plant Protection Organization in September 2003 and revised in February 2017 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).

(b) 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).

(c) 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).

- (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” 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) 2018/638/EU”;
- (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”, omit “including the Isle of Man and the Channel Islands.”;
- (xi) omit the definition of “fruit”;
- (xii) in the definition of “importer”, for “landing” substitute “consignment”;
- (xiii) omit the definition of “landed”;
- (xiv) in the definition of “national plant protection organisation”, for “European Commission”, substitute “national plant protection organisation of the United Kingdom”;
- (xv) in the definition of “official”, for “responsible official body” substitute “appropriate UK plant health authority”;
- (xvi) omit the definition of “official documentation”;
- (xvii) in the definition of “official label”, for the words from “responsible” to the end substitute “appropriate UK plant health authority”;
- (xviii) in the definition of “official statement”, after “in a” insert “UK”;
- (xix) omit the definitions of “plant health check” and “plant health movement document”;
- (xx) for the definition of “planting” substitute—
  - ““planting” means any operation for the placing of plants to ensure their subsequent growth, reproduction or propagation;”;
- (xxi) omit the definitions of “plant or shrub in tissue culture” and “plant passport”;
- (xxii) for the definition of “plant product” substitute—
  - ““plant product” means a product of plant origin, unprocessed or having undergone simple preparation, in so far as it is not a plant;”;
- (xxiii) omit the definition of “protected zone”;
- (xxiv) omit the definition of “Regulation (EC) No 690/2008”;
- (xxv) omit the definition of “responsible official body”;
- (xxvi) omit the definition of “Swiss plant passport”;
- (xxvii) for the definition of “third country” substitute—
  - ““third country” means—
    - (a) a country or territory outside the European Union, other than a territory or country within the British Islands; or
    - (b) the European Union;”;
- (b) in paragraph (3), for “Any” substitute “Unless expressly provided otherwise, any”;

(c) omit paragraph (4).

(d) at the end insert—

“(5) 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.”.

(3) In Article 3—

(a) at the appropriate places insert—

““appropriate checks”, in relation to a consignment of notifiable 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;

“correct phytosanitary certificate”, in relation to notifiable relevant material, means the phytosanitary certificate or phytosanitary certificate for re-export required by Article 7;

“EU transit material” 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(a); or

(b) to other similar official controls under Regulation (EU) 2017/625 of the European Parliament and of the Council(b), as it has effect in EU law;

“notified EU material” 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 Northern Ireland and whose arrival in Northern Ireland has been notified to the Department in accordance with Article 6(1);

“prescribed requirements”, in relation to any notifiable relevant material, means the requirements specified in respect of the material in Article 5;

“relevant Plant Health Order” means—

(a) in relation to relevant material destined for Northern Ireland, this Order and the Plant Health (Wood and Bark) Order (Northern Ireland) 2006(c);

(b) in relation to relevant material destined for England, the Plant Health (England) Order 2015(d) and the Plant Health (Forestry) Order 2005(e) in its application to England;

(c) in relation to relevant material destined for Wales, the Plant Health (Wales) Order 2018(f) and the Plant Health (Forestry) Order 2005 in its application to Wales;

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(a) OJ No. L 169, 10.7.2000, p. 1, as last amended by Commission Implementing Directive (EU) 2017/1920 (OJ No. L 271, 20.10.2017, p. 34).

(b) OJ No. L 095, 7.4.2017, p. 1.

(c) S.R. 2006 No. 66, as amended by S.R. 2012 No. 400 and S.R. 2015 No. 129.

(d) S.I. 2015/610, as amended by S.I. 2019/XXXX.

(e) S.I. 2005/2517, as amended by S.I. 2019/XXXX.

(f) S.I. 2018/1064, as amended by S.I. 2019/XXXX.

(d) in relation to relevant material destined for Scotland, the Plant Health (Scotland) Order 2005<sup>(a)</sup> and the Plant Health (Forestry) Order 2005<sup>(b)</sup> in its application to Scotland;

“trade documents” 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”, 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”;

(d) omit the definition of the “Customs Code”;

(e) in the definition of “notifiable relevant material”, 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”—

(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—

“or

(d) in the case of relevant material which arrives by road, the initial destination of the material after its arrival in the United Kingdom;”;

(4) For Article 4 substitute—

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

(5) In Article 5—

(a) for paragraph (1) substitute—

“(1) No person may bring any of the following into Northern Ireland—

(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 Northern Ireland and which is likely to be injurious to plants in Northern Ireland;

(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

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(a) S.S.I. 2005/613, as amended by S.S.I. 2019/XXXX.

(b) S.I. 2005/2517 as amended by 2019/XXXX.

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) omit paragraph (2);

(c) in paragraph (4), for “and (f)” substitute “(g) and (h)”.

(d) 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.”.

(6) 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 Northern Ireland, 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 31(3)” substitute “and 16”.

(7) After Article 6, insert—

#### “EU transit material

**6A.**—(1) No person may bring any EU transit material into Northern Ireland unless that material is destined for a single approved place of inspection.

- (2) Paragraph (1) is subject to Article 8(1).”.
- (8) 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 Northern Ireland”;
    - (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 31(1) and (2)” substitute “Article 8(1)”.
- (9) In Article 8—
- (a) in paragraph (1)—
    - (i) for the words from “introduced into Northern Ireland in the baggage of a passenger or other traveller” substitute “brought into Northern Ireland in the baggage of a passenger or other traveller coming from any third country, other than the European Union or Switzerland, or to any exempt material which is brought into Northern Ireland in the baggage of a passenger or other traveller coming from the European Union or Switzerland”;
    - (ii) in sub-paragraph (a), for “(f)” substitute “(h)”;
    - (iii) after sub-paragraph (b) insert—
      - “(ba) Article 6A(1);”;
    - (iv) after sub-paragraph (d) insert—
      - “(e) Article 12A.”;
  - (b) in paragraph (3)—
    - (i) in sub-paragraph (a), after “means” insert “any of the following relevant material originating in a third country, other than the European Union or Switzerland”;
    - (ii) after paragraph (a) insert—
      - “(aa) “exempt material” means a small quantity of relevant material originating in the European Union or Switzerland, other than plants of *Castanea* Mill. intended for planting, plants of *Fraxinus* L. intended for planting or plants, other than seeds, of *Platanus* L. intended for planting;”.
- (10) 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 Northern Ireland—
      - (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(a)”;
  - (c) after paragraph (5) insert—

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(a) 2018 c.22.

“(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.”.

(11) 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 Northern Ireland.

(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 Northern Ireland, the designated area of plant health control or approved place of inspection,”.

(12) In Article 11—

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

(b) omit sub-paragraph (d).

(13) 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 Northern Ireland 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 Northern Ireland”;

(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 words “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”.

(14) 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 Northern Ireland.

(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.”.

(15) 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”.

(16) 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 Member States of the European Union” substitute “the National Plant Protection Organisation of the United Kingdom”;

(b) in paragraph (2)—

- (i) for the words from “or C” 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 “with” to the end.

(17) 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 Northern Ireland.”;

(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 Northern Ireland”;
- (bb) for the words from “five” to the end substitute “three working days before the material is brought into Northern Ireland”;

(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).
- (18) 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 EU notified 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 EU notified 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 Department 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.”;
  - (e) omit paragraph (5).
- (19) Omit Article 18.
- (20) In Part 3, in the heading, omit “EU”.
- (21) Omit Articles 19 and 20.
- (22) In Article 21—
- (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 Northern Ireland and which is likely to be injurious to plants in Northern Ireland;
    - (d) any relevant material originating in a third country which is brought into Northern Ireland 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 or a CD territory 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 or a CD territory which, if it had been brought into a point of entry located in Northern Ireland would have contravened Article 5(1)(d), (e) or (h).”;
  - (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 2;
- (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 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 or a CD territory, 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 or a CD territory which, if it had been brought into a point of entry located in Northern Ireland, would have contravened Article 5(1)(h).  
”;

(c) in paragraph (2), for “(1)” substitute “(1B)”;

(d) in paragraph (3), for “(f)” substitute “(1B)(d)”.

(23) In Article 22—

(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 Northern Ireland 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 or a CD territory;
- (b) any relevant material that has been discharged by the Department under Article 12(1) or by another appropriate UK plant health authority in an equivalent manner;
- (c) in the case of any notifiable relevant material originating in the European Union or Switzerland which was brought into a point of entry in the United Kingdom, any relevant material specified in the list of controlled material which originates in the European Union or Switzerland and was notified to the Department in accordance with Article 6(1), or to the appropriate UK plant health authority in accordance with equivalent requirements under the relevant Plant Health Order.

(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 or a CD territory;
- (b) 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 that has been discharged by the Department under Article 12(1) or by another appropriate UK plant health authority in an equivalent manner;
- (c) in the case of any notifiable relevant material originating in the European Union or Switzerland which was brought into a point of entry in the United Kingdom, any relevant material specified in the list of pest free area controlled material in respect of the relevant UK pest free area which—
  - (i) originates in the European Union or Switzerland; and

- (ii) was notified to the Department in accordance with Article 6(1), or to the appropriate UK plant health authority in accordance with equivalent requirements under the relevant Plant Health Order.

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

- (a) in the case of relevant material destined for England or Wales, 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 England or Wales 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;
- (e) in the case of relevant material destined for a CD territory, any relevant material of a description specified for the purposes of this paragraph in the applicable plant health legislation of that CD territory.

(4) In the case of any relevant material originating in a place of production in Northern Ireland, 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 paragraph (7);

(d) before paragraph (8) insert—

“(7A) 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 (8), for “(1), (2), (5) and (6)” substitute “(1)(a), (2)(a) and (3)”;

(f) in paragraph (9), for “Paragraphs (2) and (4) are” substitute “Paragraph (2) is”;

(g) after paragraph (9) insert—

“(10) In paragraphs (1) and (2), “relevant Plant Health Order” has the same meaning as in Part 2 (see Article 3).”.

(24) In Article 23—

(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)”;

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

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

(25) In Article 24—

(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 “Northern Ireland” in the first place it occurs, substitute “the pest free area”;
    - (bb) for “Northern Ireland” in the second and third place it occurs, substitute “the relevant UK pest free area”;
  - (c) in paragraph (3)—
    - (i) in sub-paragraph (a), omit “in relation to which Northern Ireland is a protected zone”;
    - (ii) in sub-paragraph (b), for “Northern Ireland” substitute “the pest free area”;
  - (d) at the end insert—
    - “(4) In this Article—
      - (a) “relevant UK pest free area”, 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”, in relation to a UK pest free area, means the plant pest in respect of which the UK pest free area has been designated.”.
- (26) In Article 25—
- (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.
- (27) In Part 4, in the heading, for “plant passports” substitute “UK plant passports”;
- (28) Omit Article 26(2).
- (29) In Article 29—
- (a) in paragraph (4) in sub-paragraph (c), for “details specified in Article 10(4) of Decision (EU) 2015/789” substitute “specified details”;
  - (b) in paragraph (5)—
    - (i) 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”;
    - (ii) after sub-paragraph (a) insert—
      - “(ba) “specified details”, 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;”;
    - (iii) in sub-paragraph (b)—
      - (aa) for the words in paragraph (i) substitute “plants specified in paragraph 26 of Part B 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), omit the words from “established” to the end.
  - (c) after paragraph (5) insert—

- “(6) In paragraph (5)(b) “demarcated area” means—
- (a) 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(a); or
  - (b) a CD territory in which *Xylella fastidiosa* (Wells et al.) has been confirmed to be present;”;
- (30) In Article 30—
- (a) in the heading and in paragraphs (1), (4), (5), (6) and (7), for “plant passports”, in each place it occurs, substitute “UK plant passports”;
  - (b) in paragraphs (4)(a) and (6)(a), for “relevant plant pests” substitute “regulated plant pests”;
  - (c) omit paragraph (8).
- (31) Omit Part 5.
- (32) In Article 32(1)(c), after “issue” insert “UK”.
- (33) After Article 32, insert—

**“Emergency measures**

**32A.**—(1) Where a regulated plant pest is found to be present in Northern Ireland, the Department 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.”.
- (34) In Article 33—
- (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) after paragraph (6) insert—
 

“(6A) Subject to this Article, in the case of relevant material imported from the EU which did not require a plant passport immediately before exit day, such material will not be subject to checks under Articles 12A and 32 of this Order.”;

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(a) S.S.I. 2005/613.

- (e) in paragraph (7)—
    - (i) in sub-paragraph (a)—
      - (aa) for paragraph (i) substitute “a regulated plant pest”;
      - (bb) omit paragraph (iii) (together with the preceding “or”);
    - (ii) in sub-paragraph (b)(ii), for “, 19 or 20” substitute “or 19”.
- (35) For Article 34(8)(a)(i) (not including the final “or”) substitute—
- “(i) a regulated plant pest;”.
- (36) In Article 40—
- (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, a CD territory,”;
    - (ii) in sub-paragraph (b), for Annex II to Directive 98/57/EC” substitute “EPPO PM 7/21(2)”;
    - (iii) in sub-paragraph (c), for Annex I to Directive 93/85/EEC” substitute “EPPO PM 7/59(1)”;
  - (c) omit paragraph (6).
- (37) In Article 42—
- (a) in paragraph (1)—
    - (i) for “introduced” substitute “imported”;
    - (ii) for the words from “Department” to the end substitute “Department 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).
- (38) In Article 43—
- (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 Department 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” 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<sup>(a)</sup>;
        - (ii) in any other case, any quarantine measures, including testing, as may be specified by the Department;
      - (b) “licence quarantine measures” means the measures specified in Part D of Schedule 16A;
      - (c) “licensed activity” means any activity for trial or scientific purposes or for work on varietal selections which is authorised by a single licence under paragraph (1).”.
- (39) In Article 44(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”.
- (40) In Article 45(3)(b)—
- (a) for the words in paragraph (i) substitute “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”.
- (41) In Article 46—
- (a) in paragraph (3), after “certificate,” insert “UK”;
  - (b) in paragraph (4)(b)—
    - (i) for paragraph (i) substitute—
      - “(i) “a regulated plant pest;”;
    - (ii) in paragraph (ii), for “specified in Schedule 1 or 2” substitute “a regulated plant pest”.
- (42) In Article 48—

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

- (a) in paragraph (1)—
    - (i) after sub-paragraph (a)(i), insert—
      - “(ia) Article 6A;”;
  - (b) in sub-paragraph (b), after “person” where it occurs for the second time, insert “, a prohibition or restriction in a notice issued by the Department;”;
  - (c) in paragraphs (2) and (3), for “plant passport”, in each place it occurs, substitute “UK plant passport”.
- (43) After Article 51 insert—

**“Transitional provision: UK plant passports**

**51A.**—(1) An authorisation to issue plant passports which has been granted and has effect immediately before exit day continues to apply on and 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, on or 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.”.

- (44) Omit Schedules 1 to 8.
- (45) In Schedule 9—
- (a) in the heading, for “plant passports” substitute “UK plant passports”;
  - (b) for the heading of Part A, substitute “Requirements for UK plant passports for any 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) 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-paragraphs (d), (e), (f) and (g), for “plant passport”, in each place it occurs, substitute “UK plant passport”;
    - (vi) in sub-paragraph (h)—
      - (aa) for “protected zone”, in both places it occurs, substitute “UK pest free area”;
      - (bb) for “ZP” substitute “PFA”;
    - (vii) in sub-paragraph (j), for “Northern Ireland” substitute “United Kingdom or a CD territory”;
  - (e) in paragraph 5(c)—
    - (i) in sub-paragraph (i), for “plant passports” substitute “UK plant passports”;
    - (ii) in sub-paragraph (ii)—
      - (aa) for “plant passports”, in the first place it occurs, substitute “UK plant passports”;
      - (bb) for “elsewhere in the European Union” substitute “in another UK territory or a CD territory”;
      - (cc) for the words “responsible” to the end substitute “appropriate UK plant health authority”;
  - (f) in paragraph 6(1)—

- (i) in the words before sub-paragraph (a), for “plant passport” substitute “UK plant passport”;
- (ii) in sub-paragraph (a), for the words from “at” to the end substitute “English”;
- (g) in paragraph 7, for “plant passport” substitute “UK plant passport”;
- (h) in paragraph 8—
  - (i) after the word “in” insert “relation to”;
  - (ii) for sub-paragraphs (a) to (c) substitute—
    - “(a) vegetable plant material—
      - (i) produced in Northern Ireland, in Part B of Schedule 2 to the Marketing of Vegetable Plant Material Regulations (Northern Ireland) 1995(a);
      - (ii) produced in Great Britain, in Part B of Schedule 2 to the Marketing of Vegetable Plant Material Regulations 1995(b);
    - (aa) fruit plant propagating material—
      - (i) produced in Northern Ireland, in Part 2 of Schedule 2 to the Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017(c);
      - (ii) produced in England, in Part 2 of Schedule 2 to the Fruit Plant and Propagating Material (England) Regulations 2017(d);
      - (iii) produced in Wales, in Part 2 of Schedule 2 to the Fruit Plant and Propagating Material (Wales) Regulations 2017(e);
      - (iv) produced in Scotland, in Part 2 of Schedule 5 to the Fruit Plant and Propagating Material (Scotland) Regulations 2017(f);
    - (b) ornamental plant propagating material—
      - (i) produced in Northern Ireland, in the Schedule to the Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999(g)
      - (ii) produced in England or Wales, in the Schedule to the Marketing of Ornamental Plant Propagating Material Regulations 1999(h);
      - (iii) produced in Scotland, in Schedule 1 to the Marketing of Ornamental Plant Propagating Material Regulations 1999;”
- (i) in Part B, in the heading, for “plant passports” substitute “UK plant passports”;
- (j) in paragraph 1, for “plant passport”, in both places it occurs, substitute “UK plant passports”;
- (k) in paragraph 2—
  - (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 Northern Ireland, in Part 1 of Schedule 2 to the Seed Potatoes Regulations (Northern Ireland) 2016(i)
      - (ii) in the case of seed potatoes produced in Northern Ireland, in Part 1 of Schedule 2 to the Seed Potatoes (England) Regulations 2015(j) ;

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(a) S.R. 1995 No. 415, as amended by S.I. 2019/211.

(b) S.I. 1995/2652, as amended by S.I. 2019/162.

(c) S.R. 2017 No. 119.

(d) S.I. 2017/595, as amended by S.I. 2019/131.

(e) S.I. 2017/691 (W.163), to which there are amendments not relevant to these Regulations.

(f) S.S.I. 2017/177, to which there are amendments not relevant to these Regulations.

(g) S.R. 1999 No. 502, as amended by S.I. 2019/211.

(h) S.I. 1999/1801, as amended by S.I. 2019/162.

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

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

- (iii) in the case of seed potatoes produced in Wales, in Part 1 of Schedule 2 to the Seed Potatoes (Wales) Regulations 2015(a);
  - (iv) in the case of seed potatoes produced in Scotland, in Part 1 of Schedule 5 to the Seed Potatoes (Scotland) Regulations 2015(b);”;
  - (ii) in sub-paragraph (b), for “EU” substitute “UK”;
  - (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 3 and 4;
  - (m) in paragraph 5—
    - (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 Northern Ireland, in Parts 2 and 3 of Schedule 2 to the Seed Marketing Regulations (Northern Ireland) 2016(c)
      - (ii) in the case of seeds produced in England, in Parts 2 and 3 of Schedule 2 to the Seed Marketing Regulations 2011(d);
      - (iii) in the case of seeds produced in Wales, in Parts 2 and 3 of Schedule 2 to the Seed Marketing (Wales) Regulations 2012(e);
      - (iv) in the case of seeds produced in Scotland, in Part 2 of Schedule 6 to the Oil and Fibre Plant Seed (Scotland) Regulations 2004(f);”;
    - (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”.
- (46) Omit Schedule 12.
- (47) In Schedule 14—
- (a) in paragraph 2—
    - (i) in the definition of “field”, for “Directive 2007/33/EC” substitute “this Schedule”;
    - (ii) after the definition of “infested field” insert—
      - ““officially approved measures” 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 in the field or potatoes were last grown;
      - (b) for the purposes of paragraph 7—
        - (i) the disinfection of the bulbs or plants by appropriate methods that ensures that there is no identifiable risk of Potato cyst nematodes spreading;

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

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

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

(d) S.I. 2011/463.

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

(f) S.S.I. 2004/317; relevant amending instruments are S.S.I. 2009/233, 2016/434, 2016/68.

- (ii) the removal of soil from the bulbs or plants by washing or brushing until they are practically free of soil so as to ensure that there is no identifiable risk of Potato cyst nematodes spreading;”;
- (b) after paragraph 2 insert—
  - “**2ZA.** Any official testing of samples for the purposes of this Schedule must be carried out in accordance with EPPO 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 “in accordance with this Part”;
  - (ii) in sub-paragraph (b), for “Article 6 of Directive 2007/33/EC” substitute “in accordance with 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 Department has 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 in an area specified in a notice;
    - (b) seed potatoes are to be used within the same place of production situated in an area specified in a notice; 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 < 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 (any size) that meets one criterion in paragraph (b)	400 ml of soil per hectare
2AD	Field (any size)	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 after 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 since the last official investigation.”;

- (e) in paragraph 2C—

- (i) after “Where the” insert “relevant”;
- (ii) omit “set out in Section 3(A) of Annex 3 to Directive 2007/33/EC”;

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

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

- (48) 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”;
  - (i) 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.”;
- (c) in paragraph 1B(a), for the words from “Annex 1” to “Directive 93/85/EEC” substitute “EPPO PM 7/59”;
- (d) 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 “the proximity of other places of production growing potatoes or other host plants and the common production and use of seed potato stocks”;
- (e) 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.”;
- (f) 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 “by 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”;
- (g) in paragraph 4, for “Directive 93/85/EEC” substitute “this Schedule”;

- (h) in paragraphs 6(c), 7(c) and 8(d), for “Annex 1 to Directive 93/85/EEC” substitute “EPPO PM 7/59”;
- (i) in paragraphs 10A and 20(b), for “Article 2 of Directive 93/85/EEC” substitute “EPPO PM 7/59”.

(49) 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—

“**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 the 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 Directive 98/57/EEC” to the end substitute “EPPO PM 7/21”;
- (e) in paragraph 1E—
  - (i) in sub-paragraph (a), for the words “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 on 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”;
- (f) 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”;
- (g) 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”;
- (h) 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 water surface;
    - (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.”;
- (i) 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”;

- (j) in paragraph 4, for “Directive 98/57/EC” substitute “this Schedule”;
  - (k) in paragraphs 6(c), 7(b)(iii) and 8(g), for “Annex 2 to Directive 98/57/EC” substitute “EPPO PM 7/21”;
  - (l) 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)(ii) of Directive 98/57/EC” substitute “paragraph 1G(d)”;
  - (m) in paragraph 22(b), for “Article 2 of Directive 93/85/EC” substitute “EPPO PM 7/21”.
- (50) After Schedule 16, insert—

## “SCHEDULE 16A

Article 43

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

**1.** In this Schedule, “specified activity” 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 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, their 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 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 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 complies 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 conditions relating to their quarantine.
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 43(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 43 of the Plant Health Order (Northern Ireland) 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 procedure 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 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 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 within the premises of plant pests;
  - (bb) controlled procedures for sampling and for transfer between premises and facilities, of the material;
  - (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 disposal of experimental material;
  - (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 interbreeding of plant pests with indigenous strains or species;
  - (vii) the implementation of controls on the continuous culture of the plant pests;
  - (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 plant pests for freedom from parasites and other plant pests;
  - (x) the implementation of appropriate control programmes for 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 the activities are done during periods of low plant health risk.”.

## PART 5

### Amendment of the Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019

#### **The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019**

5.—(1) The Marketing of Seeds and Plant Propagating Material (Amendment) (Northern Ireland) (EU Exit) Regulations 2019<sup>(a)</sup> are amended as follows.

(2) In regulation 9(c), for “from the United Kingdom” substitute “into the United Kingdom”.

(3) In regulation 27—

(a) omit paragraph (b);

(b) for paragraph (c) substitute—

“(c) for “required by article 14 of the Directive”, substitute “setting out the particulars required under regulation 19 of these Regulations or regulation 19 of the GB Regulations”.”.

(4) In regulation 29, after “a member State,” insert “or”.

(5) In regulation 43(a)—

(a) in the inserted text of sub-paragraph (b), for “an EEA State or Switzerland”, substitute “a European Single Market State”;

(b) in the inserted text of sub-paragraph (b)(i), at the end, insert “except the vegetable seed of the species listed in Council Directive 2002/55/EC produced in Switzerland”;

(6) For regulation 52(g) substitute—

“(g) in paragraph 11(1), for “for entry into the National List of at least one European Single Market State”, substitute “, before the end of the period of two years beginning with the day after the day on which exit day falls, for entry into a national list maintained in accordance with Council Directive 2002/55/EC on the marketing of vegetable seed of at least one European Single Market State””.

(7) In regulation 54(d), in the definition of “certified material”, for the inserted text of paragraph (c), substitute—

“(c) in relation to propagating material and fruit plants produced in a member State, certified as certified material, in accordance with Article 20 of Directive 2014/98/EU, by the responsible authority in the member State concerned;

(d) in relation to propagating material and fruit plants produced in a Crown Dependency, certified as certified material, in accordance with legislation recognised by the Department as having equivalent effect to regulation 9(1) and (2);”.

4th April 2019

*Gardiner of Kimble*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

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(a) S.I. 2019/211.

## 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 under section 8(2)(a), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

Part 2 amends the Plant Health (Wood and Bark) (*Phytophthora ramorum*) Order (Northern Ireland) 2005 (S.R. 2005 No. 252). Part 3 amends the Plant Health (Wood and Bark) Order (Northern Ireland) 2006 (S.R. 2006 No. 66). Part 4 amends the Plant Health Order (Northern Ireland) 2018.

Part 5 makes minor amendments to provisions of the Regulations made under section 8(1) of the European Union (Withdrawal) Act 2018 relating to the marketing of seeds and plant propagating material.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

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