
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

**The Plant Health (EU Exit) (Scotland)
(Amendment etc.) Regulations 2019**

PART 3

Amendment of the Plant Health (Scotland) Order 2005: exiting the European Union

CHAPTER 1

Amendment of Part 1

19. In article 1 (title, commencement and extent), in paragraph (3), omit “19(1)”.

20.—(1) In article 2 (general interpretation), paragraph (1)—

(a) omit the definitions of—

- (i) “area of plant health control”,
- (ii) “[Decision 2007/433/EC](#)”(1),
- (iii) “Decision (EU) 2016/715”(2),
- (iv) “[Directive 92/90/ECC](#)”(3),
- (v) “[Directive 93/85/EEC](#)”(4),
- (vi) “[Directive 98/57/EC](#)”(5),
- (vii) “EU transit goods”(6),
- (viii) “landed”,
- (ix) “official body of destination”,
- (x) “official body of point of entry”,
- (xi) “official documentation”(7),
- (xii) “*Phytophthora ramorum*”(8)
- (xiii) “plant health check”, and
- (xiv) “plant health movement document”,
- (xv) “plant passport”,
- (xvi) “plants specified in relation to *Xylella fastidiosa* (Wells et al.)”(9),

(1) The definition of “[Decision 2007/433/EC](#)” was inserted by [S.S.I. 2007/498](#).

(2) The definition of “Decision (EU) 2016/715” was inserted by [S.S.I. 2018/112](#).

(3) The definition of “[Directive 92/90/ECC](#)” was inserted by [S.S.I. 2012/266](#).

(4) The definition of “[Directive 93/85/EEC](#)” was substituted by [S.S.I. 2007/415](#).

(5) The definition of “[Directive 98/57/EC](#)” was substituted by regulation 3(a) of Part 2 of these Regulations.

(6) The definition of “EU transit goods” was inserted by [S.S.I. 2013/366](#).

(7) The definition of “official documentation” was inserted by [S.S.I. 2013/366](#).

(8) The definition of “*Phytophthora ramorum*” was inserted by regulation 3(b) of Part 2 of these Regulations.

(9) The definition of “plants specified in relation to *Xylella fastidiosa* (Wells et al.)” was inserted by [S.S.I. 2016/83](#)

- (xvii) “protected zone”(10),
- (xviii) “Swiss plant passport”,
- (b) after “In this Order—” insert—
- ““appropriate UK plant health authority” means—
- (a) in relation to Scotland, the Scottish Ministers;
- (b) in relation to England, the Secretary of State;
- (c) in relation to Wales, the Welsh Ministers;
- (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
- (e) in relation to the Bailiwick of Guernsey, the States of Guernsey;
- (f) in relation to the Bailiwick of Jersey, the Department of Environment of the Bailiwick of Jersey;
- (g) in relation to the Isle of Man, the Department of Environment, Food and Agriculture of the Isle of Man;”,
- (c) for the definition of “authorised officer” substitute—
- ““authorised officer” means, as the context requires,
- (a) in relation to a UK plant passport, an inspector acting under the authority of the appropriate UK plant health authority, or
- (b) in relation to a phytosanitary certificate or phytosanitary certificate for re-export, an authorised representative of, or a public officer acting under, the national plant protection organisation of the country in which the phytosanitary certificate or phytosanitary certificate for re-export or a translation of the phytosanitary certificate or phytosanitary certificate for re-export is issued”,
- (d) after the definition of “authorised officer” insert—
- ““CD territory” means the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man;”,
- (e) for the definition of “consignment” substitute—
- ““consignment”, unless the context requires otherwise, means a quantity of goods covered by a single document required for customs or other formalities;”,
- (f) for the definition of “Decision 2012/138/EU”(11) substitute—
- ““Decision 2012/138/EU” means Commission Implementing Decision 2012/138/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Anoplophora chinensis* (Forster)(12), as amended from time to time, before and after exit day;”(13),
- (g) for the definition of “Decision 2012/270/EU”(14) substitute—
- ““Decision 2012/270/EU” means Commission Implementing Decision 2012/270/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix papa* sp. n, *Epitrix subcrinita*

(10) The definition of “protected zone” was last substituted by S.S.I. 2018/112.

(11) The definition of “Decision 2012/138/EU” was inserted by S.S.I. 2012/266.

(12) OJ L 64, 3.3.2012, p.38.

(13) The term “Decision 2012/138/EU” is used in schedules 4, 5 and 6 of the Plant Health (Scotland) Order 2005 which are substituted by regulation 64 of these Regulations. References in these new schedules to the Decision, as it may be modified after exit day and as it has effect in EU law, are required in order to ensure the correct phytosanitary measures are applied to imports of the relevant material concerned.

(14) The definition of “Decision 2012/270/EU” was inserted by S.S.I. 2018/112.

(Lec.) and *Epitrix tuberis* (Gentner)(15), as amended from time to time, before and after exit day;

“Decision 2012/535/EU” means Commission Implementing Decision 2012/535/EU on emergency measures to prevent the spread within the Union *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al. (the pinewood nematode)(16), as amended from time to time, before and after exit day;

“Decision 2012/697/EU” means Commission Implementing Decision 2012/697/EU as regards measures to prevent the introduction into and the spread within the Union of the genus *Pomacea* (Perry)(17), as amended from time to time, before and after exit day;”(18),

- (h) for the definitions of “Decision (EU) 2015/789”(19) and “Decision (EU) 2015/893”(20) substitute—

““Decision (EU) 2015/789” means Commission Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.)(21), as amended from time to time, before and after exit day;

“Decision (EU) 2015/893” means Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky)(22), as amended from time to time, before and after exit day;

“Decision (EU) 2018/1503” means Commission Implementing Decision (EU) 2018/1503 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann)(23), as amended from time to time, before and after exit day;”(24),

- (i) after the definition of “early potatoes” insert—

““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(25),

“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(26),

(15) OJ L 132, 23.5.2012, p.18.

(16) OJ L 266, 2.10.2012, p.42.

(17) OJ L 311, 10.11.2012, p.14.

(18) The terms “Decision 2012/270/EU”, “Decision 2012/535/EU” and “Decision 2012/697/EU” are used in schedules 4, 5 and 6 of the Plant Health (Scotland) Order 2005 which are substituted by regulation 64 of these Regulations. References in these new schedules to the Decision, as it may be modified after exit day and as it has effect in EU law, are required in order to ensure the correct phytosanitary measures are applied to imports of the relevant material concerned.

(19) The definition of “Decision (EU) 2015/789” was inserted by S.S.I. 2016/83.

(20) The definition of “Decision (EU) 2015/893” was inserted by S.S.I. 2016/83.

(21) OJ L 125, 21.5.2015, p.36.

(22) OJ No. L 146, 11.6.2015, p.16.

(23) OJ L 254, 10.10.2018, p.9.

(24) The terms “Decision (EU) 2015/789”, “Decision (EU) 2015/893” and “Decision (EU) 2018/1503” are used in schedules 4, 5 and 6 of the Plant Health (Scotland) Order 2005, which are substituted by regulation 64 of these Regulations. References in these new schedules to the Decision, as it may be modified after exit day and as it has effect in EU law, are required in order to ensure the correct phytosanitary measures are applied to imports of the relevant material concerned.

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

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

“EPPO PM 7/59” means the standard describing a diagnostic protocol for *Clavibacter michiganensis* subsp. *sepedonicus* approved by the European and Mediterranean Plant Protection Organization(27), and

“EPPO PM 7/119” means the standard describing the procedures for nematode extraction approved by the European and Mediterranean Plant Protection Organization(28),”

- (j) for the definition of “Euro-Mediterranean area”, substitute—
 - ““Euro-Mediterranean area” means the geographical area comprising Europe, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and the area of Turkey east of the Bosphorus Strait known as Anatolia;”
- (k) in the definition of “European Union” omit “including the Isle of Man and the Channel Islands”(29),
- (l) in the definition of “importer” for “landing” substitute “consignment”,
- (m) in the definition of “inspector”, at the end, insert “or in the case of a UK plant health authority other than the Scottish Ministers, an inspector authorised to act by that authority”,
- (n) omit the definition of “ISPM No.5”(30),
- (o) before the definition of “ISPM No.10”(31) insert—
 - ““ISPM No. 9” means International Standard for Phytosanitary Measures No. 9 of November 1998 on the guidelines for pest eradication programmes, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(32);”
- (p) after the definition of “ISPM No.10” insert—
 - ““ISPM No. 14” means International Standard for Phytosanitary Measures No. 14 of March 2002 on the use of integrated measures in a systems approach for pest risk management, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(33);”
- (q) for the definition of “lot” substitute—
 - ““list of *Xylella* host plants” means the list of relevant material contained in the database maintained by the European Commission of host plants found to be susceptible to *Xylella fastidiosa* in the EU, as amended from time to time(34);
 - “the list of controlled material” means the list in schedule 6,
 - “the list of pest free area controlled material” means the list in schedule 7,

(27) First 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.

(28) First approved by the European and Mediterranean Plant Protection Organization in September 2013 and available from its Secretariat at 21 Boulevard Richard Lenoir, 75011, Paris, France and at https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics.

(29) The definition of “European Union” was amended by S.I. 2011/1043.

(30) The definition of “ISPM No.5” was inserted by S.S.I. 2013/187.

(31) The definition of “ISPM No.10” was substituted by S.S.I. 2013/187.

(32) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

(33) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

(34) This term is used in schedules 4, 5, 6 and 8G of the Plant Health (Scotland) Order 2005 which are substituted and inserted by regulation 64 and 65 (respectively) of these Regulations. References in these new schedules to the Decision, as it may be modified after exit day and as it has effect in EU law, are required in order to ensure the correct phytosanitary measures are applied to imports of the relevant material concerned. A copy of the list is available at [plant health team] and at https://ec.europa.eu/food/plant/plant_health_biosecurity/legislation/emergency_measures/xylella-fastidiosa/susceptible_en.

- “the list of prohibited infested material” means the list in schedule 2,
“the list of prohibited material” means the list in schedule 3,
“the list of prohibited plant pests” means the list in schedule 1,
“the list of regulated material” means the list in schedule 4,
“lot” means a number of units of a single commodity, identifiable by its homogeneity of composition and origin, and forming part of a consignment,”
- (r) in the definition of “national plant protection organisation”, in sub-paragraph (b), for “European Commission” substitute “national plant protection organisation of the United Kingdom”,
- (s) after the definition of “North America” insert—
““notifiable relevant material” means any relevant material—
(a) of a description specified in schedule 5,
(b) of a description specified in schedule 7 originating in a third country;”,
- (t) in the definition of “official”, for “responsible official body” substitute “appropriate UK plant health authority”,
- (u) in the definition of official label, for the words from “responsible” to the end substitute “appropriate UK plant health authority”,
- (v) for the definition of “official statement” substitute—
““ official statement” means—
(a) in relation to a phytosanitary certificate or phytosanitary certificate for re-export, a statement issued by an authorised representative of, or a public officer acting, under the authority of the national plant protection organisation of the country in which the phytosanitary certificate or phytosanitary certificate for re-export or a translation of the phytosanitary certificate or phytosanitary certificate for re-export is issued; or
(b) a statement included in a UK plant passport;”,
- (w) after the definition of “official statement”, insert—
““OPM pest free area” means the area described in column 3 of item 5 of Part C of schedule 1;
“pest free area” means that part of a UK pest free area that is in Scotland or, where the UK pest free area includes two or more separate parts of Scotland, each such part;”,
- (x) after the definition of “plant” insert—
““Plant Health Regulations” means the Plant Health (EU Exit) Regulations 2019(35),”,
- (y) for the definition of “planting”, substitute—
““planting” means any operation for the placing of plants to ensure their subsequent growth, reproduction or propagation;”,
- (z) 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;”,
- (aa) after the definition of “potato” insert—

““Potato brown rot” means either the disease of potatoes caused by *Ralstonia solanacearum* (Smith) Yabuuchi *et al.* or that bacterium, as the context requires;”

(bb) after the definition of “registered” insert—

““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 column 2 of 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;”

(cc) after the definition of “relevant material” insert—

““relevant Plant Health Order” means—

- (a) in relation to England, the Plant Health (England) Order 2015⁽³⁶⁾;
- (b) in relation to Wales, the Plant Health (Wales) Order 2018⁽³⁷⁾;
- (c) in relation to Northern Ireland, the Plant Health Order (Northern Ireland) 2018⁽³⁸⁾;”

(dd) for the definition of “Seed Potatoes Regulations” substitute—

““Seed Potatoes Regulations” means the Seed Potatoes (Scotland) Regulations 2015⁽³⁹⁾;”

(ee) for the definition of “third country” substitute—

““third country” means—

- (a) a country or territory outside the European Union, other than a territory within the British Islands; or
- (b) the European Union;

“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, Wales, Scotland or Northern Ireland;”

(2) Omit article 2(2).

(3) In article 2(4), for “Any” substitute “Unless expressly provided otherwise, any”.

(4) Omit article 2 (6).

21. After article 2 insert—

⁽³⁶⁾ S.I. 2015/610, as amended by S.I. 2015/1827, 2016/104, 2017/8, 2017/1220, 2018/71, 320, 910, 1051.

⁽³⁷⁾ S.I. 2018/1064 (W.223).

⁽³⁸⁾ S.R. 2018 No. 184.

⁽³⁹⁾ S.S.I. 2015/395.

“Emergency measures

2A. Schedules 8A to 8I have effect and make provision for emergency measures.”.