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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**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 3**

Amendment of Part 3

**39.** Omit articles 19 (prohibitions on landing plant pests and relevant material) and 19B(1) (landing of trees in Scotland).

**40.** For article 20 (prevention of the spread of plant pests) substitute—

**“Prevention of the spread of plant pests**

**20.**—(1) 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 Part A, B or D of the list of prohibited plant pests,
- (b) any relevant material of a description specified in column 2 of Part A, B or D of the list of prohibited infested material which is carrying or infected with a plant pest of a description specified in the corresponding entry in column 3,
- (c) any plant pest which, although not specified in Part A, B or D of the list of prohibited plant pests, or in column 3 of Part A, B or D of the list of prohibited infested material, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain,
- (d) any relevant material originating in a third country which is brought into Scotland 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 Scotland, would have contravened article 5(1)(d) or (e).

(2) Paragraph (3) applies to pest free areas.

(3) 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, or is included within a UK pest free area specified in column 4 of Part C of the list of prohibited infested material, any relevant material of a description specified in the corresponding entry in column 2 of that Part which is carrying or infested with a plant pest of a description specified in the corresponding entry in column 3,
  - (c) any relevant material originating in a third country which is brought into a pest free area in contravention of article 5(1)(h),
  - (d) in the case of any pest free area 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 Scotland, would have contravened article 5(1)(h).
- (4) The prohibitions in paragraphs (1) and (3) do not apply to any plant 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.
- (5) Paragraphs (1)(e) and (3)(d) are subject to article 22.
- (6) In this article, “move” means move or otherwise dispose of, and “moved” is to be construed accordingly.”.

**41.** For article 21 (requirements for plant passports) substitute—

**“Requirements for UK plant passports**

**21.—**(1) No person may move any of the following relevant material into or within Scotland 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 of a description specified in the list of controlled material that has been discharged by the Scottish Ministers 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 Scottish Ministers 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—
- (a) any relevant material of a description, specified in the list of pest free area controlled material in respect of the relevant 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 Scottish Ministers 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 Scottish Ministers 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 Scotland to another UK territory or a CD territory any of the following relevant material originating in Scotland, unless it is accompanied by a UK plant passport—

- (a) 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, Wales or Northern Ireland 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 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 Scotland, 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.

(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 into the United Kingdom.

(6) Paragraphs (1)(a), (2)(a), and 3 are subject to article 22.

(7) Paragraph (2) is subject to article 23.

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

**42.** In article 22 (exceptions from certain prohibitions and requirements)—

- (a) in paragraph (1)—
  - (i) omit “on landing in article 19(1)(e), (f) and (g) and article 19B(1) and”,
  - (ii) for “20(1)(e) and (f)” substitute “20(1)(e) and (3)(d)”,
  - (iii) for “21(1), (2), (5) and (6)” substitute “21(1)(a), (2)(a) and (3)(a) and (c)”,
- (b) in paragraph (2) for “21(1) or (2)” substitute “21(1)(a) or (2)(a), omit paragraph (3).

**43.** In article 23 (validity of plant passports for Scotland)—

- (a) for the heading to article 23, substitute “**Validity of UK plant passports for Scotland**”,
- (b) for paragraphs (1) and (2) substitute—

“(1) Where paragraph (2) applies, a person who moves relevant material of a description specified in the list of pest free area controlled material which relates to a pest free area, through the pest free area to a destination outside the relevant UK pest free area,

is not required to produce a UK plant passport which is valid for the relevant UK pest free area.

(2) This paragraph applies where, in relation to the relevant material referred to in paragraph (1) the material—

- (a) originates outside the relevant UK pest free area, and
- (b) is moved in accordance with the conditions in paragraph (3),

(c) in paragraph (3)—

(i) for the words before sub-paragraph (a) substitute “The conditions are that”,

(ii) in sub-paragraph (a)—

(aa) for “which during transit through Scotland” substitute “the relevant material, during transit through the pest free area,”, and

(bb) for “outside Scotland” in both places where it occurs, substitute “outside the relevant UK pest free area”,

(iii) in sub-paragraph (b)—

(aa) for “whose” substitute “any”,

(bb) for “through Scotland” in both places where it occurs, substitute “through the pest free area”, and

(cc) omit “in relation to which Scotland is a protected zone”,

(d) after paragraph (3), 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.”.

**44.** In article 24 (general provisions relating to plant passports)—

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

(b) in paragraphs (1) to (5) for “plant passport” in each place where it occurs substitute “UK plant passport”,

(c) in paragraph 4(b)(ii), for “a plant pest specified in either Schedule 1 or 2” substitute “a regulated plant pest”, and

(d) in paragraph (5), omit “or the official documentation”.