
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

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

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2019 and come into force—

- (a) as regards this Part and Part 2, on 29 March 2019, and
- (b) as regards Parts 3 to 6, on exit day.

(2) Subject to paragraph (3), these Regulations extend to Scotland only.

(3) In so far as regulations 20, 24, 40, 42, 43, 51, 59 and 60 extend beyond Scotland, they do so only as a matter of Scots law.

PART 2

Miscellaneous provision

Amendment of the Plant Health (Scotland) Order 2005

2. The Plant Health (Scotland) Order 2005(1) is amended in accordance with regulations 3 to 15.

3. In article 2(1) (general interpretation)—

- (a) for the definition of “[Directive 98/57/EC](#)” substitute—

““[Directive 98/57/EC](#)” means Council [Directive 98/57/EC](#) on the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*(2), as last amended by Commission [Directive 2006/63/EC](#)(3);”

- (b) after the definition of “official statement” insert—

““*Phytophthora ramorum*” means *Phytophthora ramorum* Werres, De Cock & Man in’t Veld sp. nov.”;

- (c) for the definition of “Potato Cyst Nematode” substitute—

““Potato Cyst Nematode means” means any cyst-forming nematode of the species *Globodera pallida* Stone Behrens or *Globodera rostochiensis* (Wollenweber)

(1) [S.S.I. 2005/613](#), as last amended by [S.S.I. 2018/283](#). The Order is further amended by Part 3 of these Regulations.

(2) OJ L 235, 21.8.1998, p.1.

(3) OJ L 206, 27.7.2006, p.36.

Behrens that infests and multiplies on potatoes or virulents group or pathotypes of such nematode;”

(d) after the definition of “third country” omit “and”, and

(e) after the definition of “USA” insert—

“and

“ware potato” means a potato, other than a seed potato”.

4. After article 31, insert—

“Duty to perform official surveys (*Phytophthora ramorum*).

31A. An inspector must perform an official survey for *Phytophthora ramorum*, including of both cultivated plants and uncultivated, or unmanaged, plants, to determine whether there is evidence of infestation by *Phytophthora ramorum*.”.

5. In article 39 (Miscellaneous provisions for certain solanaceous species)—

(a) in paragraph (6) omit “Part A of”,

(b) omit paragraph (7),

(c) in paragraph (9)—

(i) in the words before sub-paragraph (a), omit “either”, and

(ii) after sub-paragraph (a), for “or” substitute “and”,

(d) in paragraph (10)—

(i) at the end of sub-paragraph (a)(i), insert “or”,

(ii) at the end of sub-paragraph (a)(ii) omit “or”,

(iii) omit paragraph (a)(iii),

(e) in paragraph (11), for—

(i) “an inspector may” substitute “an inspector must”, and

(ii) “for the purposes of” substitute “in accordance with”.

6. In schedule 1 (Plant pests which shall not be landed in or spread within Scotland)(4), in Part B (Plant pests known to occur in the European Union), under the heading “**Fungi**” after item 2, insert—

“2a. *Phytophthora ramorum*”.

7.—(1) In schedule 4 (Restrictions on the landing in and movement within Scotland of relevant material)(5), in Part A (relevant material, from third countries, which may only be landed in Scotland if special requirements are satisfied), after item 3 insert—

“3a.	Plants, other than fruit and seeds, of the following genera and species originating in the USA—	The plants must be accompanied by an official statement:
	<i>Acer macrophyllum</i> Pursh, <i>Acer pseudoplatanus</i> L., <i>Adiantum aleuticum</i> (Rupr.) Paris,	(a) either—
	<i>Adiantum jordanii</i> C. Muell., <i>Aesculus californica</i> (Spach) Nutt.,	(i) under the heading “Additional declaration” that the material originates in an area recognised by the official plant health

(4) Schedule 1 is substituted by Part 3 of these Regulations.

(5) Schedule 4 is substituted by Part 3 of these Regulations.

Aesculus hippocastanum L., *Arbutus menziesii* Pursch., *Arbutus unedo* L., *Arctostaphylos* spp. Adans, *Calluna vulgaris* (L.) Hull, *Camellia* spp. L.,

Castanea sativa Mill.,

Fagus sylvatica L., *Frangula californica* (Eschsch.) Gray, *Frangula purshiana* (DC.) Cooper,

Fraxinus excelsior L., *Griselinia littoralis* (Raoul), *Hamamelis virginiana* L., *Heteromeles arbutifolia* (Lindley) M. Roemer,

Kalmia latifolia L., *Laurus nobilis* L.,

Leucothoe spp. D. Don, *Lithocarpus densiflorus* (Hook. & Arn.) Rehd., *Lonicera hispidula* (Lindl.) Dougl. ex Torr. & Gray, *Magnolia* spp. L.,

Michelia doltsopa Buch.-Ham. ex DC,

Nothofagus obliqua (Mirbel) Blume,

Osmanthus heterophyllus (G. Don) P. S. Green,

Parrotia persica (DC) C.A. Meyer,

Photinia x fraseri Dress, *Pieris* spp. D. Don, *Pseudotsuga menziesii* (Mirbel) Franco,

Quercus spp. L., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch.,

Rosa gymnocarpa Nutt.,

Salix caprea L.,

Sequoia sempervirens (Lamb. ex D. Don) Endl., *Syringa vulgaris* L.,

Taxus spp. L.,

Trientalis latifolia (Hook), *Umbellularia californica* (Hook. & Arn.) Nutt., *Vaccinium ovatum* Pursh and *Viburnum* spp. L. (for the purposes of column 3 of this item, “susceptible material”)

service of the country from which the material originates (“the relevant plant health service”) as being free from non-European isolates of *Phytophthora ramorum*, in which case the name of the area from where the material originates must be specified under the heading “place of origin”; or

(ii) that the phytosanitary certificate was issued only after official verification by the relevant plant health service that no signs of non-European isolates of *Phytophthora ramorum* have been observed on any susceptible material, (except fruit and seeds), at the place of production during official inspections, including during laboratory testing of any suspicious symptoms carried out since the beginning of the last complete cycle of vegetation, and

(b) the phytosanitary certificate must be issued only after representative samples of the plants have been taken before shipment, and have been tested and found free from non-European isolates of *Phytophthora ramorum* in these tests, in which case the phytosanitary certificate must be endorsed by the relevant plant health service under the heading “additional declaration” with the statement “tested and found free from non-European isolates of *Phytophthora ramorum* Werres, De Cock & Man in’t Veld sp. nov.”.”

(2) In schedule 4, in Part B (Relevant material, from another part of the European Union, which may only be landed in or moved within Scotland if special requirements are satisfied), after item 41 insert—

-
- “42. Plants, other than seeds, of *Viburnum* spp. L, *Camellia* spp. or *Rhododendron* spp. L., other than *Rhododendron simsii* Planch, intended for planting (for the purposes of column 3, “susceptible material”).
- The plants must be accompanied by an official statement either that:
- (a) they originate in areas in which *Phytophthora ramorum* is known not to occur,
 - (b) upon official inspection at the place of production, carried out at least twice at an appropriate time when the susceptible material is in active growth, or upon laboratory testing of apparent symptoms of *Phytophthora ramorum*, no signs of *Phytophthora ramorum* have been found on the material during the last complete cycle of vegetation, or
 - (c) where signs of *Phytophthora ramorum* have been found on the susceptible material at the place of production, appropriate procedures aimed at eradicating *Phytophthora ramorum* have been implemented which include at least the following measures:
 - (i) the destruction of susceptible material found to be infected by *Phytophthora ramorum* (“infected material”) and any other susceptible material, including associated growing media and plant debris, within a radius of two metres of the infected material,
 - (ii) susceptible material within a radius of ten metres of the infected material and all other susceptible material from the same lot as the infected material have been retained at the place of production and, in the three months following the finding of infection referred to in sub- paragraph (i), have not been subject to any treatments that may suppress symptoms of *Phytophthora ramorum* and

- have been found free from *Phytophthora ramorum* after additional inspections carried out at least twice,
- (iii) all other susceptible material at the place of production has been inspected frequently following the finding of infection referred to in subparagraph (i) and found on such inspection to be free from *Phytophthora ramorum*, and
 - (iv) appropriate phytosanitary measures have been taken within a radius of two metres from where infected plants have been standing.”.

8. In schedule 5 (Relevant material from a third country for which a phytosanitary certificate may be required)(6), in Part A (relevant material which may only be landed in Scotland if accompanied by a phytosanitary certificate), after paragraph 9 insert—

“10. Plants of *Acer macrophyllum* Pursh, *Acer pseudoplatanus* L., *Adiantum aleuticum* (Rupr.) Paris, *Adiantum jordanii* C. Muell., *Aesculus californica* (Spach) Nutt., *Aesculus hippocastanum* L., *Arbutus menziesii* Pursch., *Arbutus unedo* L., *Arctostaphylos* spp. Adans, *Calluna vulgaris* (L.) Hull, *Camellia* spp. L., *Castanea sativa* Mill., *Fagus sylvatica* L., *Frangula californica* (Eschsch.) Gray, *Frangula purshiana* (DC.) Cooper, *Fraxinus excelsior* L., *Griselinia littoralis* (Raoul), *Hamamelis virginiana* L., *Heteromeles arbutifolia* (Lindley) M. Roemer, *Kalmia latifolia* L., *Laurus nobilis* L., *Leucothoe* spp. D. Don, *Lithocarpus densiflorus* (Hook. & Arn.) Rehd., *Lonicera hispidula* (Lindl.) Dougl. ex Torr.&Gray, *Magnolia* spp. L., *Michelia doltsopa* Buch.-Ham. ex DC, *Nothofagus obliqua* (Mirbel) Blume, *Osmanthus heterophyllus* (G. Don) P. S. Green, *Parrotia persica* (DC) C.A. Meyer, *Photinia x fraseri* Dress, *Pieris* spp. D. Don, *Pseudotsuga menziesii* (Mirbel) Franco, *Quercus* spp. L., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., *Rosa gymnocarpa* Nutt., *Salix caprea* L., *Sequoia sempervirens* (Lamb. ex D. Don) Endl., *Syringa vulgaris* L., *Taxus* spp. L., *Trientalis latifolia* (Hook), *Umbellularia californica* (Hook. & Arn.) Nutt., *Vaccinium ovatum* Pursh and *Viburnum* spp. L., originating in the USA.”.

9. In schedule 6 (Prohibitions on landing in and movement within Scotland of relevant material without a plant passport)(7), in Part A (Relevant material, from Scotland or elsewhere in the European Union, which may only be landed in or moved within Scotland if accompanied by a plant passport), after paragraph 13 insert—

“14. Plants of *Acer macrophyllum* Pursh, *Acer pseudoplatanus* L., *Adiantum aleuticum* (Rupr.) Paris, *Adiantum jordanii* C. Muell., *Aesculus californica* (Spach) Nutt., *Aesculus hippocastanum* L., *Arbutus menziesii* Pursch., *Arbutus unedo* L., *Arctostaphylos* spp. Adans, *Calluna vulgaris* (L.) Hull, *Camellia* spp. L., *Castanea sativa* Mill., *Fagus sylvatica* L., *Frangula californica* (Eschsch.) Gray, *Frangula purshiana* (DC.) Cooper, *Fraxinus excelsior* L., *Griselinia littoralis* (Raoul), *Hamamelis virginiana* L., *Heteromeles arbutifolia* (Lindley) M. Roemer, *Kalmia latifolia* L., *Laurus nobilis* L., *Leucothoe* spp. D. Don,

(6) Schedule 5 is substituted by Part 3.

(7) Schedule 6 is substituted by Part 3.

Lithocarpus densiflorus (Hook. & Arn.) Rehd., *Lonicera hispidula* (Lindl.) Dougl. ex Torr.&Gray, *Magnolia* spp. L., *Michelia doltsopa* Buch.-Ham. ex DC, *Nothofagus obliqua* (Mirbel) Blume, *Osmanthus heterophyllus* (G. Don) P. S. Green, *Parrotia persica* (DC) C.A. Meyer, *Photinia x fraseri* Dress, *Pieris* spp. D. Don, *Pseudotsuga menziesii* (Mirbel) Franco, *Quercus* spp. L., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., *Rosa gymnocarpa* Nutt., *Salix caprea* L., *Sequoia sempervirens* (Lamb. ex D. Don) Endl., *Syringa vulgaris* L., *Taxus* spp. L., *Trientalis latifolia* (Hook), *Umbellularia californica* (Hook. & Arn.) Nutt., *Vaccinium ovatum* Pursh and *Viburnum* spp. L., originating in the USA.

15. Plants, other than seeds, intended for planting, of *Camellia* spp., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch, and *Viburnum* spp. originating in any third country, other than the USA, or in the European Union.”

10. In schedule 7 (Prohibitions on the consignment of relevant material to another part of the European Union without a plant passport)(8), in Part A (Relevant material which may only be consigned to another part of the European Union if accompanied by a plant passport), after paragraph 13 insert—

“14. Plants of *Acer macrophyllum* Pursh, *Acer pseudoplatanus* L., *Adiantum aleuticum* (Rupr.) Paris, *Adiantum jordanii* C. Muell., *Aesculus californica* (Spach) Nutt., *Aesculus hippocastanum* L., *Arbutus menziesii* Pursch., *Arbutus unedo* L., *Arctostaphylos* spp. Adans, *Calluna vulgaris* (L.) Hull, *Camellia* spp. L., *Castanea sativa* Mill., *Fagus sylvatica* L., *Frangula californica* (Eschsch.) Gray, *Frangula purshiana* (DC.) Cooper, *Fraxinus excelsior* L., *Griselinia littoralis* (Raoul), *Hamamelis virginiana* L., *Heteromeles arbutifolia* (Lindley) M. Roemer, *Kalmia latifolia* L., *Laurus nobilis* L., *Leucothoe* spp. D. Don, *Lithocarpus densiflorus* (Hook. & Arn.) Rehd., *Lonicera hispidula* (Lindl.) Dougl. ex Torr.&Gray, *Magnolia* spp. L., *Michelia doltsopa* Buch.-Ham. ex DC, *Nothofagus obliqua* (Mirbel) Blume, *Osmanthus heterophyllus* (G. Don) P. S. Green, *Parrotia persica* (DC) C.A. Meyer, *Photinia x fraseri* Dress, *Pieris* spp. D. Don, *Pseudotsuga menziesii* (Mirbel) Franco, *Quercus* spp. L., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., *Rosa gymnocarpa* Nutt., *Salix caprea* L., *Sequoia sempervirens* (Lamb. ex D. Don) Endl., *Syringa vulgaris* L., *Taxus* spp. L., *Trientalis latifolia* (Hook), *Umbellularia californica* (Hook. & Arn.) Nutt., *Vaccinium ovatum* Pursh and *Viburnum* spp. L., originating in the USA.

15. Plants, other than seeds, intended for planting, of *Camellia* spp., *Rhododendron* spp., other than *Rhododendron simsii* Planch, and *Viburnum* spp. originating in any third country, other than the USA, or in the European Union.”

11. In schedule 8 (Swiss plant passports)(9), in Part A (Relevant material originating in Switzerland which may be landed in or moved within Scotland if accompanied by a Swiss plant passport), after paragraph 4A, insert—

“4B. Plants, other than seeds, intended for planting, of *Camellia* spp., *Rhododendron* spp., other than *Rhododendron simsii* Planch, and *Viburnum* spp.”

12. In schedule 14 (Special measures for the control of Potato Wart Disease)—

- (a) in paragraph 1, after “*Synchytrium endobioticum* (Schilb.) Perc.” insert “(for the remainder of this schedule referred to as “*Synchytrium endobioticum*)”, and
- (b) in paragraph 3, for “may” substitute “must”.

13. In schedule 15(10) (Special measures for the control of Potato Cyst Nematode)—

(8) Schedule 7 is substituted by Part 3 of these Regulations.

(9) Schedule 8 is substituted by Part 3 of these Regulations.

(10) Schedule 15 is substituted by Part 3 of these Regulations.

- (a) after paragraph 10 insert—
- “**10A.** An inspector must by notice in writing designate as contaminated any potatoes or plants listed in schedule 15A which—
- (a) have come from a sampling unit officially recorded under paragraph 7 as infested with Potato Cyst Nematode; or
- (b) have come into contact with soil in which Potato Cyst Nematode was found.”,
- (b) in paragraph 11—
- (i) for the words before sub-paragraph (a) substitute “Where any potatoes or plants listed in Schedule 15A have been designated as contaminated under paragraph 10A”,
- (ii) at the end of sub-paragraph (b) omit “and”,
- (iii) after sub-paragraph (c) omit the full stop and insert—
- “and
- (d) in the case of potatoes intended for industrial processing or grading, these must not be moved except in accordance with an authorisation given under paragraph 11A.”,
- (c) after paragraph 11, insert—
- “**11A.** An inspector may authorise the movement of potatoes designated as contaminated under paragraph 10A for the purposes of industrial processing or grading providing that such authorisation—
- (a) is given by notice in writing; and
- (b) requires the potatoes to be delivered to a processing or grading plant that has appropriate and officially approved waste disposal procedures that ensure that there is no risk of Potato Cyst Nematode spreading.”, and
- (d) after paragraph 12, insert—

“Further investigations

13. If any suspected occurrence or confirmed presence of Potato Cyst Nematode in Scotland results from a breakdown or change in the effectiveness of a resistant potato variety which relates to an exceptional change in the composition of nematode species, pathotype or virulence group, the Scottish Ministers must ensure that this occurrence is investigated and, where applicable, the pathotype and virulence group of the Potato Cyst Nematode involved is confirmed by appropriate methods.”.

- 14.** In schedule 16 (Special measures for the control of Potato Ring Rot)—
- (a) in paragraph 1, at the end of the definition of “basic seed potatoes”—
- (i) omit “and”, and
- (ii) insert—
- ““official testing” means testing in an official laboratory or an officially supervised laboratory; and”,
- (b) after paragraph 1, insert—

“Official surveys and testing

1A. The Scottish Ministers must ensure that systematic official surveys for Potato Ring Rot are carried out on tubers of *Solanum tuberosum* L. and, where appropriate, on plants of

Solanum tuberosum L., originating in Scotland in accordance with Article 2(1) of [Directive 93/85/EEC](#)(11).

1B. Where the presence of Potato Ring Rot in specified plant material is suspected, the Scottish Ministers must ensure that—

- (a) official testing is carried out using the method set out in Annex 1 to [Directive 93/85/EEC](#) and in accordance with the conditions specified in point 1 of Annex 2 to [Directive 93/85/EEC](#) to confirm or refute its presence;
- (b) the following are retained and appropriately conserved pending completion of the official testing—
 - (i) all tubers samples, and wherever possible, all plants sampled;
 - (ii) any remaining extract and additional preparation material for the screening tests;
 - (iii) all relevant documentation; and
- (c) pending the confirmation or refutation of its presence, where suspect diagnostic visual symptoms of Potato Ring Rot have been seen or symptoms of Potato Ring Rot have been identified by a positive immunofluorescence test or other appropriate positive test—
 - (i) the movement of all lots or consignments from which the samples have been taken, other than those which are under official control, is prohibited, except where it has been established that there is no identifiable risk of Potato Ring Rot spreading;
 - (ii) steps are taken to trace the origin of the suspected occurrence; and
 - (iii) additional appropriate precautionary measures based on the level of estimated risk to prevent any spread of the plant pest are taken.

1C. A notice under article 32 may contain measures for the purposes of paragraph 1B(c)(i) to (iii).

Measures to be taken following the confirmation of the presence of Potato Ring Rot

1D. If the presence of Potato Ring Rot is confirmed in a sample of specified plant material following official testing carried out pursuant to paragraph 1B(a) or 1E, the Scottish Ministers must ensure that—

- (a) the specified plant material, the consignment or lot and any object from which the sample was taken and, where appropriate, the place of production and field from which the specified plant material was harvested is designated as contaminated by an inspector;
- (b) an inspector determines the extent of the probable contamination through pre- or post-harvest contact or through any production link with anything designated as contaminated under sub-paragraph (a), taking into account the provisions in point 1 of Annex 3 to [Directive 93/85/EEC](#);
- (c) a zone is demarcated by an inspector on the basis of the designation made under sub-paragraph (a), taking into account the provisions in point 2 of Annex 3 to [Directive 93/85/EEC](#).

1E. Where specified plant material has been designated as contaminated under paragraph 1D(a), the Scottish Ministers must ensure that testing is carried out on potato

(11) OJ L 259, 18.10.1993, p.1, as amended by Commission [Directive 2006/56/EC](#) (OJ L 182, 4.7.2006, p.1).

stocks which are clonally related to that specified plant material in the manner specified in paragraph 1B in order to determine the probable primary source of infection and the extent of the probable contamination.

1F. Any such testing must be carried out on as much specified plant material as is necessary to determine the probable primary source of infection and the extent of the probable contamination.

1G. Where any specified plant material or object is determined by an inspector under paragraph 1D(b) to be probably contaminated, the inspector must designate that material or object as probably contaminated.

1H. Any designation by an inspector under paragraph 1D(a) or 1G must be by notice served under article 32.”.

- (c) in paragraph 2—
 - (i) in the words before sub-paragraph (a) for “for the purposes of Article 5(1)(a) of [Directive 93/85/EEC](#)” substitute “in accordance with paragraph 1D(a)”, and
 - (ii) in sub-paragraph (b) for “may” substitute “must”,
- (d) in paragraph 3(b) for “paragraph” substitute “point”.
- (e) in paragraph 4—
 - (i) in the words before sub-paragraph (a) for “for the purposes of Article 5(1)(b) of [Directive 93/85/EEC](#)” substitute “in accordance with paragraph 1G, an inspector must serve a notice under article 32 requiring that”, and
 - (ii) in sub-paragraph (b)—
 - (aa) for “a notice under article 32 may require the material to” substitute “the material must”
 - (bb) for “paragraph” substitute “point”,
- (f) in paragraph 6—
 - (i) for the words before sub-paragraph (a) substitute “Where any machinery, vehicle, vessel, store or any part of such machinery, vehicle, vessel or store, or any object (including packaging material) has been designated by an inspector as contaminated in accordance with paragraph 1D(a) or as probably contaminated in accordance with paragraph 1G, an inspector must serve a notice requiring that it is—”, and
 - (ii) in sub-paragraphs (a) and (b) omit “be”
- (g) for paragraph 8 substitute—

“**8.** Without prejudice to paragraph 6 or to any other measures which may be required by an inspector under this Order, where a place of production has been designated as contaminated by an inspector in accordance with paragraph 1D(a), the inspector must serve a notice under article 32 which complies with the applicable requirements of paragraph 9 to 16.”
- (h) in paragraph 9—
 - (i) for “for the purposes of Article 5(1)(a) of [Directive 93/85/EEC](#)” substitute “in accordance with paragraph 1D(a)”, and
 - (ii) for “may” substitute “must”,
- (i) in paragraph 10, at the end of sub-paragraph (b) insert “, and that the harvested tubers be subjected to official testing using the method set out in Annex 1 to [Directive 93/85/EEC](#)”,
- (j) after paragraph 10, insert—

- “**10A.** Where an inspector serves a notice requiring the measures specified in paragraph 10, the Scottish Ministers must ensure that an official survey is carried out in relation to the field in which potatoes mentioned in paragraph 10(c) are planted, in accordance with Article 2 of [Directive 93/85/EEC](#).”;
- (k) in paragraph 11, at the end of sub-paragraph (b) insert “, and that the harvested tubers be subjected to official testing using the method set out in Annex 1 to [Directive 93/85/EEC](#)”,
- (l) in paragraph 12—
- (i) in the words before sub-paragraph (a)—
- (aa) for “is satisfied” to “[Directive 93/85/EEC](#)”, substitute “has designated a place of production as contaminated in accordance with paragraph 1D(a)”, and
- (bb) for “may” substitute “must”,
- (ii) for sub-paragraph (a) substitute—
- “(a) in the cases where an inspector is satisfied that the risk of volunteer potato plants and other naturally-found host plants of Potato Ring Rot has been eliminated, that from the date of receipt of the notice until the end of the next consecutive growing year, the following shall not be planted—
- (i) tubers, plants or true seed of potato;
- (ii) naturally found host plants of Potato Ring Rot; or
- (iii) pre-basic seed potatoes or basic seed potatoes, except for the production of ware potatoes only;”
- (iii) in sub-paragraph (b) for “for the purposes of Article 5(1)(a) of [Directive 93/85/EEC](#)” substitute “in accordance with paragraph 1D(a)”,
- (iv) in sub-paragraph (d) at the end, insert “ and that official testing be carried out on harvested tubers in each field using the method set out in Annex 1 to [Directive 93/85/EEC](#)”,
- (m) in paragraph 13—
- (i) in the words before sub-paragraph (a)—
- (aa) for “is satisfied” to “[Directive 93/85/EEC](#)” substitute “has designated a place of production as contaminated in accordance with paragraph 1D(a)”,
- (bb) after “in that unit” insert “the inspector must serve a notice requiring that”,
- (ii) omit sub-paragraph (b) and the preceding “and”,
- (n) for paragraph 14 substitute—
- “**14.** An inspector may not grant an authorisation under paragraph 13 unless—
- (a) all of the measures to eliminate Potato Ring Rot and to remove all host plants which are specified in a notice in relation to the place of production in which the unit of protected crop production is situated have been complied with;
- (b) the growing medium in the unit has been completely changed; and
- (c) the unit and all equipment used on the unit has been cleansed and disinfected to eliminate Potato Ring Rot and to remove all host plant material.”,
- (o) in paragraph 16—
- (i) for “Where” substitute “Except where the Scottish Ministers have served a notice under paragraph 18, in cases where”, and

- (ii) for “for the purposes of Article 5(1)(a) of [Directive 93/85/EEC](#)” substitute “in accordance with paragraph 1D(a)”,
- (p) after paragraph 16 insert—
- “17. Paragraphs 18 to 24 apply where an inspector has demarcated a zone pursuant to paragraph 1D(c).
18. The inspector may, by notice, specify—
- (a) how long the zone is to remain demarcated; and
 - (b) the measures which apply in the demarcated zone.
19. A notice under paragraph 18—
- (a) must be in writing;
 - (b) must describe the extent of the demarcated zone;
 - (c) must specify the date on which each measure takes effect;
 - (d) must be published in a manner appropriate to bring it to the attention of the public; and
 - (e) may be amended, suspended or revoked, in whole or in part, by further notice.
20. Any premises which are partly within and partly outside a demarcated zone must be treated as within that zone for the purposes of this schedule, except where the part which is outside the demarcated zone is not in Scotland.
21. A notice published in accordance with paragraph 19 is to be treated as having been served on—
- (a) any occupier or other person in charge of any premises within the demarcated zone; and
 - (b) any person who operates machinery or carries out any other activity in relation to the production of potatoes within the demarcated zone.
22. A notice under paragraph 18 must specify that—
- (a) any machinery or storage facilities at premises within the demarcated zone which are used for potato production must be cleansed and disinfected in an appropriate manner so that there is no identifiable risk of Potato Ring Rot surviving or spreading;
 - (b) during the specified period, only pre-basic seed potatoes or basic seed potatoes or seed potatoes grown under official control may be planted and any seed potatoes grown in a place of production which is possibly contaminated must be officially tested after harvesting; and
 - (c) during the specified period, potatoes intended for planting must be handled separately from all other potatoes at premises within the zone or that a system of cleansing and, where appropriate, disinfection must be carried out between the handling of seed and ware potatoes.
23. The inspector must ensure that during the specified period—
- (a) premises growing, storing or handling potato tubers and premises which operate potato machinery under contract are supervised by an inspector;
 - (b) an official survey is carried out in accordance with Article 2 of [Directive 93/85/EEC](#);
 - (c) a programme is established, where appropriate, for the replacement of all seed potato stocks over an appropriate period of time.

24. For the purposes of paragraphs 22 and 23, the “specified period” means the period specified in the notice, which must be at least three growing seasons following the year in which the relevant zone was demarcated.”.

15.—(1) In schedule 17 (*Ralstonia solanacearum*), in Part A, (Special measures for the control of *Ralstonia solanacearum*)—

(a) after paragraph 1, insert—

“Official surveys and testing

1A. The Scottish Ministers must ensure that annual systematic official surveys are carried out to identify the presence of *R. solanacearum* on specified plant material originating in Scotland in accordance with Article 2 of [Directive 98/57/EC](#) (12).

1B. Where the presence of *R. solanacearum* is suspected, the Scottish Ministers must ensure that—

(a) official testing is carried out to confirm or refute its presence—

(i) in the case of specified plant material, using the method set out in Annex 2 to [Directive 98/57/EC](#) and in accordance with the conditions specified in point 1 of Annex 3 to [Directive 98/57/EC](#);

(ii) in any other case, using any officially approved method;

(b) pending the confirmation or refutation of its presence, where suspect diagnostic visual symptoms of *R. solanacearum* have been seen and a positive result in a rapid screening test has been obtained or a positive result in the screening tests specified in point 2 of section 1 and section 3 of Annex 2 to [Directive 98/57/EC](#) has been obtained—

(i) the movement of all plants and tubers from all crops, lots or consignments from which the samples have been taken, other than those which are under official control, is prohibited, except where it has been established that there is no identifiable risk of *R. solanacearum* spreading;

(ii) steps are taken to trace the origin of the suspected occurrence; and

(iii) additional appropriate precautionary measures based on the level of estimated risk are taken to prevent any spread of *R. solanacearum*.

1C. A notice under article 32 may contain measures for the purposes of paragraph 1B(b)(i) to (iii).

Measures to be taken following confirmation of the presence of *R. solanacearum*

1D. If the presence of *R. solanacearum* is confirmed following official testing carried out pursuant to paragraph 1B, the Scottish Ministers must ensure that the actions specified in paragraphs 1E to 1G are taken in accordance with sound scientific principles, the biology of *R. solanacearum* and the relevant production, marketing and processing systems of host plants of *R. solanacearum*.

1E. In the case of specified plant material, the actions are—

(a) an investigation by an inspector to determine the extent and the primary sources of the contamination in accordance with Annex 4 to [Directive 98/57/EC](#);

- (b) further official testing, including on all clonally related seed potato stocks;
- (c) the designation of the following as contaminated by an inspector—
 - (i) the specified plant material and consignment or lot from which the sample was taken;
 - (ii) any objects which have been in contact with that sample;
 - (iii) any unit or field of protected crop production and any place of production of the specified plant material from which the sample was taken;
- (d) a determination by an inspector of the extent of probable contamination through pre- or post-harvest contact, through production, irrigation or spraying links or through clonal relationship;
- (e) the demarcation of a zone by an inspector on the basis of the designation under sub-paragraph (c), the determination made under sub-paragraph (d) and the possible spread of *R. solanacearum* in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#).

1F. In the case of host plants, other than specified plant material, where the production of specified plant material is identified to be at risk by an inspector, the actions are—

- (a) an investigation by an inspector to determine the extent and the primary sources of the contamination in accordance with Annex 4 to [Directive 98/57/EC](#);
- (b) the designation by an inspector of host plants from which the sample was taken as contaminated;
- (c) a determination of the probable contamination by an inspector;
- (d) the demarcation of a zone by an inspector on the basis of the designation under sub-paragraph (b), the determination under sub-paragraph (c) and the possible spread of *R. solanacearum* in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#).

1G. In the case of surface water and associated wild solanaceous host plants where production of specified plant material is identified by an inspector to be at risk through irrigation, spraying or flooding of surface water, the actions are—

- (a) an investigation by an inspector to establish the extent of the contamination, which includes an official survey at appropriate times on samples of surface water and, if present, wild solanaceous host plants;
- (b) the designation of surface water from which the sample was taken by an inspector, to the extent appropriate and on the basis of the investigation under sub-paragraph (a);
- (c) a determination by an inspector of the probable contamination on the basis of the designation under sub-paragraph (b);
- (d) the demarcation of a zone by an inspector on the basis of the designation under sub-paragraph (b), the determination under sub-paragraph (c) and the possible spread of *R. solanacearum* in accordance with point 2(ii) of Annex 5 to [Directive 98/57/EC](#).”,

(b) in paragraph 2—

- (i) in the words before sub-paragraph (a) for “for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#)” substitute “ in accordance with paragraph 1E(c), an inspector must serve a notice under article 32 requiring that”, and
- (ii) in sub-paragraph (b)—

- (aa) for “a notice under article 32 may require that material to” substitute “the material must”,
- (bb) for “paragraph” substitute “point”,
- (c) in paragraph 4—
 - (i) in the words before sub-paragraph (a) for “for the purposes of Article 5(1)(a)(iii) and Article 5(1)(c)(iii) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1E(d), an inspector must serve a notice under article 32 requiring that”,
 - (ii) in sub-paragraph (b)—
 - (aa) for “a notice under article 32 may require that material to” substitute “the material must”,
 - (bb) for “paragraph” substitute “point”,
- (d) in paragraph 6—
 - (i) for the words before sub-paragraph (a) substitute—

“A notice under article 32 must require that any machinery, vehicle, vessel, store, or any part of such machinery, vehicle, vessel or store and any other object, including packaging material designated by any inspector to be contaminated in accordance with paragraph 1E(c), or probably contaminated in accordance with paragraph 1E(d) or 1F(c), must either”,
 - (ii) in sub-paragraph (b), after “*R. solanacearum*” insert “surviving or”,
- (e) for paragraph 8, substitute—

“8. Without prejudice to paragraph 6 or to any other measures which may be required by an inspector under this Order, in relation to a place of production which has been designated by an inspector as contaminated in accordance with paragraph 1E(c) and which is in a zone which has been demarcated by an inspector in accordance with paragraph 1E(e), 1F(d) or 1G(d) the inspector must serve a notice under article 32 which complies with the applicable requirements of paragraph 9 to 16.”,
- (f) in paragraph 9—
 - (i) for “for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1E(c)”,
 - (ii) for “may” substitute “must”,
- (g) in paragraph 10(b)—
 - (i) after “potato” where it first occurs, insert “or tomato”,
 - (ii) for “free” substitute “found to be free, during official inspections,” and
 - (iii) at the end insert “, and that harvested tubers or tomato plants be subjected to official testing using the method set out in Annex 2 to [Directive 98/57/EC](#)”,
- (h) in paragraph 11(b) after “seed or ware production” insert—

“in circumstances where—

 - (i) the field or the unit has been found free from volunteer potato and tomato plants and other host plants, including solanaceous weeds, during official inspections of *R. solanacearum*, for at least the two consecutive growing years prior to planting; and
 - (ii) that harvested tubers or tomato plants have been subjected to official testing using the method set out in Annex 2 to [Directive 98/57/EC](#).”,
- (i) in paragraph 12—

- (i) in the words before sub-paragraph (a)—
 - (aa) for “for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1E(c)”,
 - (bb) at the end insert “, the notice referred to in paragraph 8 must require that”,
- (ii) omit sub-paragraph (b),
- (j) for paragraph 13 substitute—
 - “13. An inspector may not grant an authorisation under paragraph 12(a) unless—
 - (a) all of the measures to eliminate *R. solanacearum* and to remove all host plants which are specified in a notice in relation to the place of production in which the unit is situated have been complied with;
 - (b) the growing medium in the unit has been completely changed; and
 - (c) the unit and all equipment used on the unit has been cleansed and disinfected to eliminate *R. solanacearum* and to remove all host plant material.”
- (k) in paragraph 15—
 - (i) for “for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#)” in each place where it occurs, substitute “in accordance with paragraph 1E(c)”,
 - (ii) in the words before sub-paragraph (a) for “may” substitute “must”,
 - (iii) after sub-paragraph (c) omit “and”
 - (iv) after sub-paragraph (d) insert—
 - “and
 - (e) official inspections of growing crops at appropriate times and official testing of harvested potatoes are carried out in accordance with the method set out in Annex 2 to [Directive 98/57/EC](#).”,
- (l) in paragraph 16, in the words before sub-paragraph (a)—
 - (i) for “Where” substitute “Except where the Scottish Ministers have published a notice under Part B, where”,
 - (ii) for “for the purposes of Article 5(1)(a)(ii) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1E(c)”,
 - (iii) for “may” substitute “must”,
- (2) In schedule 17, in Part B (Demarcation of zones for the control of *Ralstonia Solanacearum*)—
 - (a) in paragraph 1, for “article 39(7)” substitute “paragraphs 1E(e), 1F(d) or 1G(d) of Part A of this Schedule”,
 - (b) in paragraph 6—
 - (i) in the words before sub-paragraph (a)(i), for “for the purposes of Article 5(1)(a)(iv) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1E or 1F of Part A of this Schedule”,
 - (ii) in sub-paragraph (a)(i), for “stores” substitute “storage facilities”,
 - (iii) in sub-paragraph (a)(iii), at the beginning, insert “during the specified period”,
 - (iv) in sub-paragraph (a)(iv), after “in the zone,” insert “during the specified period”, and
 - (v) in sub-paragraph (b) for “for the purposes of Article 5(1)(c)(ii) of [Directive 98/57/EC](#)” substitute “in accordance with paragraph 1G of Part A of this Schedule”,
 - (c) after paragraph 6 insert—

- “7. The Scottish Ministers must ensure that during the specified period—
- (a) premises growing, storing or handling potato tubers and premises which operate potato machinery under contract are supervised by inspectors;
 - (b) an official survey is carried out in accordance with Article 2 of [Directive 98/57/EC](#);
 - (c) a programme is established, where appropriate, for the replacement of all seed potato stocks over an appropriate period of time.

8. For the purposes of paragraphs 6 and 7, “the specified period” means the period specified in the notice referred to in paragraph 1, which must be at least three growing seasons following the year in which the relevant zone was demarcated.”

Revocation of the Plant Health (*Phytophthora ramorum*) (Scotland) Order 2004

16. The Plant Health (*Phytophthora ramorum*) (Scotland) Order 2004(13) is revoked.

Consequential amendment to the Plant Health Fees (Scotland) Regulations 2008

17. In the Plant Health Fees (Scotland) Regulations 2008(14), in regulation 2 (interpretation)—
- (a) in the definition of “authority”, omit “article 8 of the 2004 Order or, as the case may be, under”, and
 - (b) omit the definition of “the 2004 Order”.

PART 3

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

18. The Plant Health (Scotland) Order 2005(15) is amended in accordance with regulations 19 to 71.

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](#)”(16),
 - (iii) “Decision (EU) 2016/715”(17),
 - (iv) “[Directive 92/90/EEC](#)”(18),

(13) [S.S.I. 2004/488](#), as amended by [S.S.I. 2007/416](#) and [S.I. 2011/1043](#).

(14) [S.S.I. 2008/153](#), as amended by [S.S.I. 2010/207](#). These amendments are made in consequence of the revocation of [S.S.I. 2004/488](#). [S.S.I. 2008/153](#) is further amended by Part 4.

(15) [S.S.I. 2005/613](#), as last amended by [S.S.I. 2018/283](#). Part 2 of these Regulations amend [S.S.I. 2005/613](#) with effect on 29 March 2019. The amendments made by this Part come into force on exit day (see section 20(1) of the European Union (Withdrawal) Act 2018 (c.16)).

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

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

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

- (v) “[Directive 93/85/EEC](#)”(19),
 - (vi) “[Directive 98/57/EC](#)”(20),
 - (vii) “EU transit goods”(21),
 - (viii) “landed”,
 - (ix) “official body of destination”,
 - (x) “official body of point of entry”,
 - (xi) “official documentation”(22),
 - (xii) “*Phytophthora ramorum*”(23)
 - (xiii) “plant health check”, and
 - (xiv) “plant health movement document”,
 - (xv) “plant passport”,
 - (xvi) “plants specified in relation to *Xylella fastidiosa* (Wells et al.)”(24),
 - (xvii) “protected zone”(25),
 - (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—

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

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

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

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

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

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

(25) The definition of “protected zone” was last substituted by [S.S.I. 2018/112](#).

““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”(26) 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)(27), as amended from time to time, before and after exit day;”(28),

(g) for the definition of “Decision 2012/270/EU”(29) 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* (Lec.) and *Epitrix tuberis* (Gentner)(30), 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)(31), 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)(32), as amended from time to time, before and after exit day;”(33),

(h) for the definitions of “Decision (EU) 2015/789”(34) and “Decision (EU) 2015/893”(35) 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.)(36), 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)(37), as amended from time to time, before and after exit day;

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

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

(28) 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.

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

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

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

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

(33) 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.

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

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

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

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

“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)(38), as amended from time to time, before and after exit day;”(39),

- (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(40),

“EPPO PM 7/40” means the standard describing a diagnostic protocol for *Globodera rostochiensis* and *Globodera pallida* approved by the European and Mediterranean Plant Protection Organization(41),

“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(42), and

“EPPO PM 7/119” means the standard describing the procedures for nematode extraction approved by the European and Mediterranean Plant Protection Organization(43),”,

- (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”(44),

- (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 of “ISPM No.5”(45),

- (o) before the definition of “ISPM No.10”(46) 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

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

(39) 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.

(40) 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.

(41) 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.

(42) 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.

(43) 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.

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

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

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

Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(47);”,

(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(48);”,

(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(49);

“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,

“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

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

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

(49) 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.

- (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(50);”,
- (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(51);
- (b) in relation to Wales, the Plant Health (Wales) Order 2018(52);
- (c) in relation to Northern Ireland, the Plant Health Order (Northern Ireland) 2018(53);”,
- (dd) for the definition of “Seed Potatoes Regulations” substitute—
- ““Seed Potatoes Regulations” means the Seed Potatoes (Scotland) Regulations 2015(54);”,
- (ee) for the definition of “third country” substitute—
- ““third country” means—

(50) S.I. 2019/XX.

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

(52) S.I. 2018/1064 (W.223).

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

(54) S.S.I. 2015/395.

(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—

“Emergency measures

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

CHAPTER 2

Amendment of Part 2

22. In article 3 (interpretation of part 2)—

(a) omit the definitions of “approved place of inspection”, “Customs Code” and “customs document” and substitute—

““approved place of inspection means a place of destination of relevant material approved by the Scottish Ministers under article 17 or, in relation to other UK territories, by the appropriate UK plant health authority under equivalent provisions of the relevant Plant Health Order,

“correct phytosanitary certificate”, in relation to notifiable relevant material, means the phytosanitary certificate or phytosanitary certificate for re-export which has been issued—

(a) in the manner specified in article 7(2) to (5), and

(b) in respect of the requirements prescribed by article 5,

“designated area of plant health control” means a place close to a point of entry which has been designated as an area of plant health control by the Scottish Ministers and the Commissioners for Her Majesty’s Revenue and Customs,

“EU transit material” means any notifiable relevant material from a third country, other than country or territory within the European Union, which is brought 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](#), or

(b) other similar official controls under Regulation (EU) 2017/625 of the European Parliament and of the Council([55](#)), 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 Scotland and the arrival of which in Scotland has been notified to the Scottish Ministers in accordance with article 6(1),”

(b) after the definition of “identity check” insert—

““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, or
- (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,

“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,”

(c) in the definition of “working day” for “6(3)(b)” substitute “6(2)(c)(ii)”.

23. For article 4 (application of Part 2) substitute—

“Application of Part 2

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

24. In article 5 (prohibitions and restrictions on landing plant pests and relevant material)—

(a) for paragraph (1) substitute—

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

- (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 Great Britain and which is likely to be injurious to plants in Great Britain;
- (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;

- (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 that Part 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) after paragraph (2) insert—
- “(3) Paragraph (1)(e) does not apply to any relevant material which is prohibited from being brought into Scotland under paragraph (1)(d).
- (4) Paragraph (1)(e), (g) and (h) are subject to article 8(1).
- (5) The prohibitions or restrictions 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.”

25. For article 6 (advance notification of landing) substitute—

“Advance notification of the bringing of relevant material into Scotland

6.—(1) Subject to articles 8(1) and 16 and to paragraph (4), no person may bring any notifiable relevant material into a point of entry that is located in Scotland, unless notice is given in accordance with this article.

(2) A notice must be given—

- (a) in accordance with the requirements of schedule 12,
- (b) to the Scottish Ministers at the specified address, and
- (c) in time to arrive at the specified address—

- (i) in the case of any relevant material brought by air, at least four working hours before the relevant material arrives in Scotland,
- (ii) in any other case, at least two working days before the relevant material arrives in Scotland.

(3) 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 12—

- (a) their intended destination,
- (b) their genus, species and quantity,
- (c) the identification number of the supplier of the plants.

(4) If a person can reasonably show that it was not possible to give notice on accordance with paragraph (2)(c) because the person was not aware that the material had been consigned, the person must give notice as soon as is reasonably practicable.

(5) In this article “specified address” means the address given by the Scottish Ministers from time to time for the purposes of this article, which may include an address for electronic communications.”.

26. After article 6, insert—

“EU transit material

6A.—(1) No person may bring any EU transit material into a RoRo port that is located in Scotland unless that material is destined for a single approved place of inspection.

(2) Paragraph (1) is subject to article 8(1).

(3) In this paragraph, “RoRo port” means—

(a) a RoRo listed location within the meaning of regulation 130 of the Customs (Import Duty) (EU Exit) Regulations 2018(**56**), or

(b) if a notice has not been published pursuant to regulation 130(1) of those Regulations, a point of entry that—

(i) predominantly services roll-on/roll-off ferries operating between Scotland and a member State, and

(ii) is listed in a notice published by the Scottish Ministers from time to time.”.

27. For article 7 (requirements for certificates) substitute—

“Requirements for phytosanitary certificate or phytosanitary certificate for re-export

7.—(1) No person may bring any notifiable relevant material into a point of entry located in Scotland unless the material is accompanied by a phytosanitary certificate or a phytosanitary certificate for re-export, which—

(a) certifies that the material meets the applicable requirements prescribed by article 5, and

(b) complies with the applicable requirements of paragraphs (2) to (5).

(2) In the case of transit material which has been split up, combined with other consignments or repackaged, the relevant material must be accompanied by a phytosanitary certificate for re-export which was issued in the country of transit.

(3) In the case of transit material which has or may have been exposed to infection or contamination by any plant pest, is not the same material as in the original consignment or which has been processed so as to change its nature, the relevant material must be accompanied by a phytosanitary certificate which was issued in the country of transit.

(4) Where paragraph (2) or (3) does not apply, the notifiable relevant material must be accompanied by a phytosanitary certificate which was issued in the country in which that material originates or from which it was consigned.

(5) A phytosanitary certificate must be the original certificate and the phytosanitary certificate for re-export must be the original certificate or a copy of the original certificate certified by an authorised officer.

(6) Paragraph (1) does not apply to any relevant material which—

(a) is in the course of its consignment between two third countries under appropriate customs procedures or has been consigned to Scotland from another part of the United Kingdom via a third country,

- (b) does not undergo any change in customs status, and
- (c) is transported in such a way as to prevent the accidental escape of plant pests.

(7) Paragraph (1) is subject to article 8.

(8) In paragraphs (2) and (3), “transit material” means relevant material consigned to Scotland via a third country by way of transit.”

28. In article 8 (exceptions from certain prohibitions and requirements)—

(a) for paragraph (1) substitute—

“(1) The prohibitions relating to relevant material in articles 5(1)(e) and (h), 6(1), 6A(1) and 10(1) do not apply to relevant material of a description in paragraph (2) and which is brought into Scotland in the baggage of a passenger or other traveller coming from any third country, other than any country or territory in the European Union or Switzerland or to exempt material of a description in paragraph (3A) and which is brought into Scotland in the baggage of a passenger or other traveller coming from the European Union or Switzerland providing that the relevant material or, as the case may be, the exempt material—

- (a) does not show any signs of the presence of a plant pest,
- (b) is not intended for use in the course of a trade or business, and
- (c) is intended for household use.”,

(b) in paragraph (2), in the words before sub-paragraph (a) after “which” insert “originates in a third country other than the European Union or Switzerland and”, and

(c) after paragraph (3) insert—

“(3A) The exempt material referred to in paragraph (1) is 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;”.

29. In article 9 (presentation and display of documents)—

(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 Scotland—

- (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 (2)—

- (i) for “Subject to article 30(4), importers” substitute “Importers”, and
- (ii) for “relevant material referred to in sub-paragraph (a) or (b) of article 6(2)” substitute “notifiable relevant material”.

(c) after paragraph (3), insert—

“(4) In paragraph (2), “customs document” means a document required by the Commissioners for Her Majesty’s Revenue and Customs for placing relevant material

under a Customs procedure within the meaning of section 3(3) of the Taxation (Cross-Border Trade) Act 2018(57).

(5) Paragraph (1) does not apply—

- (a) in the case of a consignment referred to in paragraph (3), or
- (b) to any notifiable relevant material which is in the course of consignment to an approved place of inspection in another UK territory.”.

30. For article 10 (prohibition on removal of relevant material from an area of plant health control) substitute—

“Prohibitions on removal of notifiable relevant material

10.—(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 Scotland.

(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) Subject to article 11, no person may remove any notifiable relevant material 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 Scotland, from the designated area of plant health control or from the approved place of inspection, unless an inspector has discharged the material under article 12 or the removal of the material is permitted under Part 6.

(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 responsible for the costs of storing the notifiable relevant material pending its release.”.

31. In article 11 (exceptions from prohibition on removal of relevant material from an area of plant health control)—

- (a) for the words before sub-paragraph (a) substitute “Article 10(3) does not apply to”, and
- (b) in paragraph (c) for “European Union” substitute “United Kingdom”.

32. In article 12 (plant health discharge)—

(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 Scotland and is not in the course of its consignment to an approved place of inspection in another UK territory.”,

(b) in paragraph(1), for “article 10(1)” substitute “article 10(3)”.

(c) in paragraph (2)—

(i) for “Subject to paragraphs (5) and (6), an inspector” substitute “An inspector”,

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

“(a) that the relevant material meets the applicable requirements prescribed by article 5.”,

(iii) omit sub-paragraphs (b) to (e),

- (iv) in sub-paragraph (f), after “re-export” insert “which accompanied the relevant material on entry”,
- (v) in sub-paragraph (g), for the words “certificate” in the first place it occurs, to the end, substitute “correct phytosanitary certificate”,
- (d) in paragraph (3), omit “to (e)”,
- (e) omit paragraphs (5) and (6),
- (f) in paragraph (7)—
 - (i) after “paragraph (2)” omit “(g)”,
 - (ii) in sub-paragraph (a) for “the date the certificate was delivered in accordance with article 9(1)” substitute “date it”,
 - (iii) omit sub-paragraph (b) and the preceding “and”,
- (g) in paragraph (8), for “a plant health check” substitute “an examination under paragraph (3)”.

33. 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 Scotland.

(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.”.

34. In article 14(1) (power of an officer for Revenue and Customs), for “under customs supervision pursuant to Article 37 of the Customs Code” 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”.

35. In article 15 (general provisions relating to certificates)—

- (a) in paragraph (1)—
 - (i) from “article and—” to the end substitute “article and must be in the form set out in Part A or B, respectively, of Schedule 11.”,
- (b) in paragraph (2)—
 - (i) in sub-paragraph (a), omit “the responsible official body or”,
 - (ii) in sub-paragraph (b)(58), for “one of the official languages of the European Union” substitute “English”,
 - (iii) omit sub-paragraph (c), and
 - (iv) in sub-paragraph (d)(59) for “Organisations of the Member States of the European Union” substitute “Organisation of the United Kingdom”,
- (c) for paragraph (3) substitute—

(58) Article 15(2)(b) was amended by [S.I. 2011/1043](#).

(59) Article 15(2)(d) was amended by [S.I. 2011/1043](#).

“(3) A phytosanitary certificate or phytosanitary certificate for re-export in respect of any relevant material of a description specified in column 2 of Part A, C or D of the list of regulated material, for which 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, must specify under the heading “Additional declaration” the particular set of requirements with which the relevant material complies.”.

36. In article 16 (requirements to be met by relevant material prior to inspection at its place of country of destination)—

(a) for the heading to the article and for paragraphs (1) and (2)(**60**) substitute—

“Requirements to be met by relevant material destined for an approved place of inspection

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

(2) No person may, in relation to any relevant material to which this article applies move such relevant material within Scotland, or where applicable, from Scotland to 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 Scotland and—

- (a) 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
- (b) where the material is destined for an approved place of inspection in Scotland, its movement has been authorised by the Scottish Ministers.”.

(b) in paragraph (3)—

(i) in the words before sub-paragraph (a)—

(aa) for “to which this article applies” to “European Union” substitute “which is destined for an approved place of inspection in Scotland”, and

(bb) for “five” substitute “three”,

(ii) in sub-paragraph (a) omit “or other area of plant health control”,

(iii) in sub-paragraph (b) for “place referred to in paragraph (a)” substitute “approved place of inspection”,

(iv) omit sub-paragraphs (c) and (d).

37. In article 17 (approved places of inspection) —

(a) for paragraph (1) substitute—

“(1) The Scottish Ministers 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.”.

(b) in paragraph (2) for “a place of destination” to “inspection” substitute “approval under paragraph (1)”,

(c) for paragraphs (4) and (5) substitute—

“(4) The Scottish Ministers may only approve premises as an approved place of inspection in respect of notifiable relevant material, other than notified EU 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 Scottish Ministers 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.

(6) In this article, “appropriate checks”, in relation to a consignment of 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 applicable requirements prescribed in article 5.”.

38. Omit article 18 (requirement for plant health movement document).

CHAPTER 3

Amendment of Part 3

39. Omit articles 19 (prohibitions on landing plant pests and relevant material) and 19B(61) (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,

(61) Article 19B was inserted by [S.S.I. 2013/187](#) and amended by [S.S.I. 2014/140](#) and [S.S.I. 2016/83](#).

- (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”.

CHAPTER 4

Amendment of Part 4

- 45.** In article 25 (register of plant traders), omit paragraph (2).

46. In article 28A (duties of professional operators in relation to *Xylella fastidiosa* (Wells et al.))(62)—

- (a) in paragraph (1)(63) in sub-paragraph (a) for “an area demarcated” to the end of that sub-paragraph substitute “a demarcated area”,
- (b) in paragraph (4)(e) for “plant passport” substitute “UK plant passport”, and
- (c) for paragraph (5) substitute—

“(5) In this article—

- (a) “demarcated area” means—
 - (i) an area demarcated under paragraph 5 of schedule 8G or, in relation to England, Wales and Northern Ireland under paragraph 5 of schedule 15 of the Plant Health Regulations; or
 - (ii) a CD territory in which *Xylella fastidiosa* (Wells et al.) has been confirmed to be present;
- (b) “plants specified in relation to *Xylella fastidiosa* (Wells et al.)” means plants specified in items 11 and 12 of Part E of the list of regulated material,
- (c) “professional operator” means any person who, in the course of a trade, business or profession, is involved in planting, breeding, producing, importing, marketing or distributing plants.”.

47. In article 29 (authority to issue plant passports)—

- (a) in the heading and in paragraphs (1)(64), (4), (5) and (6) for “plant passports” in each place where it occurs, substitute “UK plant passports”,
- (b) in paragraphs (3)(a) and (5)(a) for “relevant organisms” substitute “regulated plant pests”, and
- (c) omit paragraph (7).

CHAPTER 5

Revocation of Part 5

48. Omit Part 5 (Swiss trade and Swiss plant passports).

CHAPTER 6

Amendment of Part 6

49. In article 31 (examination, sampling and marking)—

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

50. For article 31A (duty to perform official surveys (Phytophthora ramorum))(65) substitute—

“Emergency measures

31A.—(1) Where a regulated plant pest is found to be present in Scotland, the Scottish Ministers may by notice—

(62) Article 28A was inserted by [S.S.I. 2016/83](#).

(63) Paragraph 1 was substituted by [S.S.I. 2018/112](#).

(64) Paragraph (1) was amended by [S.S.I. 2006/474](#).

(65) Article 31A was inserted by Part 2 of these Regulations. See schedule 8A (emergency measures: miscellaneous), which is inserted by regulation 64 of these Regulations, which makes provision for official surveys.

- (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.”.
- 51.** In article 32 (actions which may be required by an inspector)—
- (a) in paragraph (1) for “landed in” substitute “brought into”,
 - (b) in paragraphs 2(a) and (b) for “landed” substitute “brought”,
 - (c) in paragraph 3—
 - (i) in sub-paragraph (a) for “landing” substitute “bringing into Scotland”,
 - (ii) for sub-paragraph (b) substitute—
 - “(b) specify the manner in which any plant pest or relevant material is to be brought into Scotland and the precautions which are to be taken during and subsequent to its entry;”.
 - (d) in paragraph (5)—
 - (i) for sub-paragraph (a) substitute—
 - “(a) a regulated plant pest;”,
 - (ii) omit sub-paragraph (c) and the preceding “and”,
 - (e) in paragraph (6)(b) omit “or 19”.
- 52.** In article 33 (actions which may be taken by an inspector)—
- (a) in paragraph (2) for sub-paragraph (a) substitute—
 - “(a) a regulated plant pest;”, and
 - (b) in paragraph (4) omit “including representatives of the European Commission;”.
- 53.** In article 37 (failure to comply with a notice), in paragraph (2) omit “including representatives of the European Commission;”.

CHAPTER 7

Amendment of Part 7

- 54.** In article 39 (miscellaneous provisions for certain solanaceous species)(**66**)—
- (a) in paragraph (1)(**67**) for “country outside the European Union other than” substitute “third country, other than a country or territory in the European Union or”,
 - (b) in paragraph (2)—

(66) Article 39 is amended by Part 2 of these Regulations.

(67) Paragraph (1) was amended by S.I. 2011/1043.

- (i) in sub-paragraph (a) after “programme in” insert “the United Kingdom, a CD territory,”,
- (ii) in sub-paragraph (b)—
 - (aa) for “*Ralstonia solanacearum* (Smith) Yabuuchi *et al.*” substitute “Potato brown rot”,
 - (bb) for “Annex II to [Directive 98/57/EC](#)” substitute “EPPO PM 7/21”,
- (iii) in sub-paragraph (c) for “Annex I to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
- (c) in paragraph (6) for “*Ralstonia solanacearum* (Smith) Yabuuchi *et al.*” substitute “Potato brown rot”,
- (d) for paragraph 39(8)(**68**) substitute —
 - “(8) Subject to paragraph (10), seed potatoes and the plants listed in Schedule 15A must not be planted unless they were grown in a sampling unit which has undergone an official investigation pursuant to paragraph 3(a) of schedule 15 and no Potato Cyst Nematode was found”,
- (e) omit paragraphs (11) and (12).

CHAPTER 8

Amendment of Part 8

- 55.** In article 40 (licences to carry out activities prohibited by this Order)(**69**)—
- (a) for “landed” substitute “brought into”,
 - (b) for “licence” substitute “written licence”,
 - (c) for the words “Scottish Ministers” to the end of the article, substitute “Scottish Ministers in exercise of any derogation permitted by schedule 8.”.
- 56.** In article 41 (licences for trial or scientific purposes and for work on varietal selections)—
- (a) in paragraph (1)(**70**)—
 - (i) for “Article 1(2) of [Directive 2008/61/EC](#) of 17 June 2008” substitute “Part A of schedule 17A”,
 - (ii) for “Annex I to that Directive” substitute “Part B of that schedule”,
 - (iii) for “landing” in both places it occurs, substitute “importation”,
 - (b) in paragraph (2)(**71**)—
 - (i) in sub-paragraph (a) for “laid down in Article 2(2) of [Directive 2008/61/EC](#)” substitute “specified in Part C of schedule 17A”, and
 - (ii) for sub-paragraphs (b) and (c) substitute—
 - “(b) any other conditions as the Scottish Ministers may determine in relation to the licence quarantine measures that are appropriate in respect of those activities.”,
 - (c) in paragraph (3), for “under sub-paragraph (b) or (c) of paragraph (2) imposed on a licence” substitute “imposed on a licence under paragraph (2)”,
 - (d) in paragraph (4)—

(68) Paragraph (8) was inserted by [S.S.I. 2010/206](#)

(69) Article 40 was substituted by [S.S.I. 2012/266](#) and words in article 40(b) were further substituted by [S.S.I. 2013/187](#).

(70) Words in paragraph (1) were substituted by [S.S.I. 2008/300](#).

(71) Words in paragraph (2) were substituted by [S.S.I. 2008/300](#).

- (i) for “activities to which a licence granted under paragraph (1) relates” substitute “licensed activity”,
- (ii) in sub-paragraph (a) for “activities” substitute “licensed activity”, and
- (iii) in sub-paragraph (b) for “activities were” substitute “licensed activity was”,
- (e) in paragraph (5) for “the plant pests listed in this Order” substitute “regulated plant pests”,
- (f) omit paragraph (6), and
- (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⁽⁷²⁾,
 - (ii) in any other case, any quarantine measures, including testing, as may be specified by the Scottish Ministers,
 - (b) “licence quarantine measures” means the measures specified in Part D of schedule 17A,
 - (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).”.

CHAPTER 9

Amendment of Part 9

- 57.** In article 42 (notification of the presence or suspected presence of certain plant pests)—
- (a) in paragraph (1)⁽⁷³⁾—
 - (i) for “plant pest to which this article applies” substitute “notifiable plant pest”,
 - (ii) for “such plant pest” in both places it occurs, substitute “such notifiable plant pest”, and
 - (b) for paragraphs (2), (3)⁽⁷⁴⁾ and (4) substitute—
 - “(2) In this article, “notifiable plant pest” means—
 - (a) a plant pest, other than a plant pest of a description specified in Schedule 18, which—
 - (i) is a regulated plant pest,
 - (ii) is of a description specified in column 3 of Part B of the list of prohibited infested material and which is present on, or appears to an inspector to have been in contact with, relevant material of a description specified in the entry in respect of that plant pest in column 2 of Part B of the list of prohibited infested material, or

⁽⁷²⁾ OJ L 158, 18.6.2008, p.41.

⁽⁷³⁾ Paragraph (1) was partially revoked by [S.S.I. 2006/474](#).

⁽⁷⁴⁾ Paragraph (3) was substituted by [S.S.I. 2007/415](#).

- (iii) although not a regulated plant pest, is a plant pest not normally present in Great Britain and is likely to be injurious to plants in Great Britain,
- (b) a plant pest of a description specified in schedule 18 which—
 - (i) is a regulated plant pest,
 - (ii) is a sub-species or strain not normally present in Great Britain and which has been found on any premises, or
 - (iii) is also specified in column 3 of Part A of the list of prohibited infested material and which is present on, or appears to an inspector to have been in contact with, relevant material of a description specified in the entry in respect of that plant pest in column 2 of Part A of that list.”.

58. Omit article 42A (additional requirements on professional operators in respect of *Pseudomonas syringae* pv *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto)(75).

59. In article 43(2) (notification of the likely entry into, or presence in, a free zone of plant pests or relevant material)—

- (a) for sub-paragraph (a) substitute—
 - “(a) a regulated plant pest;”,
- (b) in sub-paragraph (b) for “specified in Schedule 1 or 2” substitute “a regulated plant pest”, and
- (c) in sub-paragraph (c)(76)—
 - (i) for “Schedule 3” substitute “the list of prohibited material”,
 - (ii) for “that Schedule” substitute “that list”.

60. In article 44 (information to be given)—

- (a) in paragraph (2)(b)—
 - (i) for sub-paragraph (i) substitute—
 - “(i) a regulated plant pest”, and
 - (ii) in sub-paragraph (ii) for “specified in Schedule 1 or 2” substitute “a regulated plant pest”, and
- (b) in paragraph (4) before “plant passports” insert “UK”.

CHAPTER 10

Amendment of Part 10

61. In article 45 (offences)—

- (a) in paragraph (1)(a)(77)—
 - (i) after sub-paragraph (i) insert—
 - “(ia) article 6A,”,
 - (ii) in sub-paragraph (iii) for “10(1)” substitute “10(3)”,
 - (iii) omit sub-paragraphs (v) and (vB),
 - (iv) in sub-paragraph (vii) for “21” substitute “21(1) or (3)”,

(75) Article 42A was inserted by [S.S.I. 2018/112](#).

(76) Sub-paragraph (c) was amended by [S.S.I. 2010/342](#).

(77) Sub-paragraph (a) has been amended by [S.S.I. 2006/474](#), [S.S.I. 2008/300](#), [S.S.I. 2010/206](#), [S.S.I. 2012/266](#), [S.S.I. 2013/187](#) and [S.S.I. 2016/83](#).

- (b) in paragraph (1)(b), after “on that person” insert “, a prohibition or restriction in a notice issued by the Scottish Ministers”,
- (c) in paragraph (2)(78)—
 - (i) for “landed in” substitute “imported into”, and
 - (ii) for “6(1), 19A or 19B” substitute “6(1), 6A(1) or 19A”,
- (d) in paragraph (3) for “plant passport” in both places where it occurs substitute “UK plant passport”,
- (e) in paragraph (4) for “plant passport” in each place where it occurs substitute “UK plant passport”.

CHAPTER 11

Amendment of Part 11

62. In the heading to Part 11 (The Customs Act and Revocation) for “and Revocation” insert “Revocation and Transitional Provisions”.

63. After article 48 (revocation), insert—

“Transitional provision: UK plant passports

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

(3) In this article, “exit day” has the meaning given to in the European Union (Withdrawal) Act 2018(79).”.

CHAPTER 12

Amendment of the schedules

SECTION 1

The Plant Health Lists

64. For schedules 1 to 8 substitute the schedules set out in schedule 1 of these Regulations.

SECTION 2

Emergency measures

65. After schedule 8, insert the schedules set out in schedule 2 of these Regulations.

SECTION 3

UK plant passports

66.—(1) Schedule 9 (requirements for plant passports) is amended in accordance with this article.

(78) Paragraph (2) was amended by S.S.I. 2013/187.

(79) 2018 c.16.

- (2) In the heading, for “plant passports” substitute “UK plant passports”.
- (3) In Part A (requirements for plants passports for any relevant material in Schedule 6 or 7)—
- (a) for the heading substitute “Requirements for UK plant passports”,
 - (b) in paragraphs 1 and 2, for “plant passport” substitute “UK plant passport”,
 - (c) in paragraph 3(b) for “authority with responsibility” to the end of the sub-paragraph substitute “appropriate UK plant health authority”,
 - (d) for paragraph 4(1)(a)(80) substitute—
 - “(a) given in English; and”,
 - (e) in paragraph 5 for “plant passport” substitute “UK plant passport”,
 - (f) in paragraph 6 in sub-paragraph (b) for “any other information relevant” to the end of the sub-paragraph, substitute “the additional information specified in paragraph 6A,”,
 - (g) after paragraph 6, insert—

“6A. The additional information is any information relevant for the purposes of labelling the relevant material to which it relates—

 - (a) in relation to vegetable plant material—
 - (i) produced in Great Britain, which is set out in Part B of schedule 2 to the Marketing of Vegetable Plant Material Regulations 1995(81),
 - (ii) produced in Northern Ireland, which is set out in Part B of schedule 2 to the Marketing of Vegetable Plant Material Regulations (Northern Ireland) 1995(82),
 - (b) in relation to ornamental plant propagating material—
 - (i) produced in Scotland, which is set out in schedule 1 to the Marketing of Ornamental Plant Propagating Material Regulations 1999(83),
 - (ii) produced in England or Wales, which is set out in the schedule to the Marketing of Ornamental Plant Propagating Material Regulations 1999(84),
 - (iii) produced in Northern Ireland, which is set out in the schedule to the Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999(85);
 - (c) in relation to fruit plant propagating material and fruit plants—
 - (i) produced in England, which is set out in Part 2 of schedule 2 to the Fruit Plant and Propagating Material (England) Regulations 2017(86);
 - (ii) produced in Wales, which is set out in Part 2 of schedule 2 to the Fruit Plant and Propagating Material (Wales) Regulations 2017(87);
 - (iii) produced in Scotland, which is set out in Part 2 of schedule 5 to the Fruit Plant and Propagating Material (Scotland) Regulations 2017(88);

(80) Paragraph 4(1)(a) was amended by S.I. 2011/1043.

(81) S.I. 1995/2652, to which there are amendments not relevant to these Regulations.

(82) S.R. 1995 No. 415, to which there are amendments not relevant to these Regulations.

(83) S.I. 1999/1801, amended by S.S.I. 2018/284; there are other amending instruments but none are relevant.

(84) S.I. 1999/1801.

(85) S.R. 1999 No. 502.

(86) S.I. 2017/595.

(87) S.I. 2017/691 (W.163).

(88) S.S.I. 2017/177.

- (iv) produced in Northern Ireland, which is set out in Part 2 of schedule 2 to the Fruit Plant and Propagating Material Regulations (Northern Ireland) 2017⁽⁸⁹⁾,”
- (h) in paragraph 7—
 - (i) in sub-paragraph (a) for “EU plant passport”⁽⁹⁰⁾ to the end substitute “UK plant passport”,
 - (ii) omit sub-paragraph (b),
 - (iii) in sub-paragraph (c) for “responsible official body” to the end substitute “appropriate UK plant health authority”,
 - (iv) in sub-paragraphs (e), (f) and (g) for “plant passport” substitute “UK plant passport”,
 - (v) in sub-paragraph (h)—
 - (aa) for “protected zone” in both places where it occurs, substitute “UK pest free area”, and
 - (bb) for “ZP” substitute “PFA”,
 - (i) in sub-paragraph (i) for “plant passport” in both places where it occurs, substitute “UK plant passport”, and
 - (j) in sub-paragraph (j) for “Scotland” substitute “United Kingdom or a CD territory”,
- (4) In Part B (requirements for plant passports permitted for certain material in Schedule 6 or 7)—
 - (a) for the heading, substitute “Requirements for UK plant passports permitted for certain material”,
 - (b) in paragraph 1, for “plant passport” substitute “UK plant passport”,
 - (c) 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 Scotland, in schedule 5 of the Seed Potatoes (Scotland) Regulations 2015⁽⁹¹⁾,
 - (ii) in the case of seed potatoes produced in England, in Part 1 of schedule 2 of the Seed Potatoes (England) Regulations 2015⁽⁹²⁾,
 - (iii) in the case of seed potatoes produced in Wales, in Part 1 of schedule 2 of the Seed Potatoes (Wales) Regulations 2016⁽⁹³⁾,
 - (iv) in the case of seed potatoes produced in Northern Ireland, in Part 1 of schedule 2 of the Seed Potatoes Regulations (Northern Ireland) 2016⁽⁹⁴⁾,”
 - (ii) in sub-paragraph (b) for “EU plant passport”⁽⁹⁵⁾ substitute “UK plant passport”,
 - (iii) in sub-paragraph (c)—
 - (aa) for “European Union” substitute “United Kingdom”,
 - (bb) for “item 18.1 of Section II of Part A of Annex IV to [Directive 2000/29/EC](#)” substitute “specified in item 5 of Part B of the list of regulated material”,

⁽⁸⁹⁾ S.R. 2017 No. 119.

⁽⁹⁰⁾ The words “EU plant passport” were substituted by S.S.I. 2013/366.

⁽⁹¹⁾ S.S.I. 2015/395.

⁽⁹²⁾ S.I. 2015/1953.

⁽⁹³⁾ S.I. 2016/106 (W.52).

⁽⁹⁴⁾ S.R. 2016 No. 190.

⁽⁹⁵⁾ These words were substituted in sub-paragraph (b) by S.S.I. 2013/366.

- (d) omit paragraphs 3 and 4,
- (e) 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 Scotland, in Parts 2 and 3 of schedule 6 of the Oil and Fibre Plant Seed (Scotland) Regulations 2004⁽⁹⁶⁾,
 - (ii) in the case of seeds produced in England, in Parts 2 and 3 of schedule 3 of the Seed Marketing Regulations 2011⁽⁹⁷⁾,
 - (iii) in the case of seeds produced in Wales, in Parts 2 and 3 of schedule 3 of the Seed Marketing (Wales) Regulations 2012⁽⁹⁸⁾,
 - (iv) in the case of seeds produced in Northern Ireland, in Parts 2 and 3 of schedule 3 of the Seed Marketing Regulations (Northern Ireland) 2016⁽⁹⁹⁾,”
 - (ii) in sub-paragraph (b) for “EU plant passport”⁽¹⁰⁰⁾ substitute “UK plant passport”,
 - (iii) in sub-paragraph (c)—
 - (aa) for “EC” substitute “United Kingdom”,
 - (bb) for “items 28.1 and 28.1 of Section II of Part A of Annex IV to [Directive 2000/29/EC](#)” substitute “specified in items 21 and 22 of Part B of the list of regulated material”.

SECTION 4

Plant health movement document

- 67.** Omit schedule 13 (plant health movement document).

SECTION 5

Potato Cyst Nematode

- 68.** For schedule 15 (special measures for the control of Potato Cyst Nematode) substitute the schedule set out in schedule 3.

SECTION 6

Potato Ring Rot

- 69.** In schedule 16 (special measures for the control of Potato Ring Rot)⁽¹⁰¹⁾—
- (a) in paragraph 1A, omit “in accordance with Article 2(1) of [Directive 93/85/EEC](#)”,
 - (b) 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.

⁽⁹⁶⁾ S.S.I. 2004/317.

⁽⁹⁷⁾ S.I. 2011/463.

⁽⁹⁸⁾ S.I. 2012/245 (W.39).

⁽⁹⁹⁾ S.R. 2016 No. 244.

⁽¹⁰⁰⁾ These words were substituted in sub-paragraph (b) by S.S.I. 2013/366.

⁽¹⁰¹⁾ Schedule 16 is amended by Part 2 of these Regulations.

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](#)”, in the second place it occurs, 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 specified plant material grown at the contaminated place of production;
 - (ii) the places of production with some production link to that specified plant material, including those sharing production equipment and facilities directly or through a common contractor;
 - (iii) the production or presence of other specified plant 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 head (ii);
 - (v) any object that may have come into contact with the contaminated specified plant material;
 - (vi) any specified plant material stored in, or in contact with, any object prior to its disinfection;
 - (vii) the specified plant material with a sister or parental clonal relationship to the contaminated specified plant material and the places of production of that specified plant material”, and
 - (ii) in sub-paragraph (c), for “provisions in point 2 of Annex 3 to [Directive 93/85/EEC](#)” substitute “proximity of other places of production growing potatoes or other host plants and the common production and use of seed potato stocks”,
- (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) for paragraph 3(b) substitute—

“(b) by an officially approved disposal method that ensures that there is no identifiable risk of Potato Ring Rot spreading”,
- (g) in paragraph 4(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”,
- (h) in paragraph 7, for “[Directive 93/85/EEC](#)” substitute “this Schedule”,
- (i) in paragraph 10(b), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
- (j) in paragraph 10A, for “Article 2 of [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
- (k) in paragraph 11(b), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,

- (l) in paragraph 12(d), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”, and
- (m) in paragraph 23(b), for “Article 2 of [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”.

SECTION 7

Potato Brown Rot

70. For schedule 17 (*Ralstonia solanacearum*) substitute the schedule set out in schedule 4 of these Regulations.

SECTION 8

Licences for trial or scientific purposes or for work on varietal selection

71. After schedule 17, insert the schedule set out in schedule 5 of these Regulations.

PART 4

Fees: EU withdrawal

Amendment of the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014

72. In the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014(**102**)—

(a) for regulation 2(1)(interpretation) substitute—

“(1) In these Regulations—

“applicable checks” means the documentary check, identity check and plant health check which may be performed on a consignment;

“brought into Scotland” means introduced into Scotland by any means, including by post;

“consignment” means a quantity of goods covered by a single document required for customs or other formalities;

“documentary check” means an inspection to determine whether the consignment or lot is accompanied by the required documents;

“identity check” means an inspection to determine whether in its entirety or on one or more representative samples, the consignment or lot consists of or contains the plants, plant products or other objects, as declared on the required documents;

“intended for planting” means plants which are—

(a) already planted and which are intended to remain planted or to be replanted after they are brought into Scotland; or

(b) not planted at the time they are brought into Scotland but which are intended to be planted thereafter;

“lot” means a number of units of a single commodity, identifiable by its homogeneity of composition and origin and forming part of a consignment;

“normal working hours” means any time between the hours of 6 a.m. to 5 p.m. on any day except—

- (a) a Saturday;
- (b) a Sunday;
- (c) Easter Monday;
- (d) 26th December, if it is not a Saturday or Sunday;
- (e) 27th December, in a year in which 25th or 26th December is a Sunday; or
- (f) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971**(103)**;

“plants” has the same meaning as in the principal Order;

“plant health check” means an inspection to determine whether in its entirety or on one more representative samples, including the packaging and, where appropriate, the transport vehicles, the consignment or lot comply with the requirements laid down in the principal Order;

“plant products” has the same meaning as in the principal Order;

“Potato brown rot” has the same meaning as in the principal Order;

“principal Order” means the Plant Health (Scotland) Order 2005**(104)**;

“required documents” means the phytosanitary certificate or, as the case may be, the phytosanitary certificate for re-export, required by article 7 of the principal Order; and

“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;”

(b) in regulation 3(2) (application of the import inspection fee)—

(i) in sub-paragraph (a)(i) for “the second column of Schedule 1” to the end, substitute “schedule 5 or schedule 7 of the principal Order”,

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

“(b) is brought into Scotland from a third country.”,

(c) in regulation 4(2) (fees), in the words before sub-paragraph (a) omit “, or which, but for Article 13a(2) of the Directive (providing for checks to be carried out at reduced frequency), would have been required to be carried out”,

(d) in regulation 5 (additional fees in respect of Potatoes Originating in Egypt and Lebanon)—

(i) in the heading, omit “and Lebanon”,

(ii) in paragraph (1), omit “or (3)”,

(iii) for paragraph (2) substitute—

“(2) This paragraph applies where potatoes originating in Egypt are brought into Scotland and a sample of those potatoes is taken in order to ascertain whether, for the purposes of item 6 of Part D of schedule 4 of the principal Order those potatoes are infected with Potato brown rot.”,

(iv) omit paragraph (3),

(e) in schedule 3 (additional fees)**(105)** in column 2, omit “or Lebanon”.

(103) 1971 c.80.

(104) S.S.I. 2005/613, as last amended by S.S.I. 2019/XX.

(105) Schedule 3 was substituted by S.S.I. 2015/392.

Amendment of the Plant Health (Export Certification) (Scotland) Order 2018

73. In the Plant Health (Export Certification) (Scotland) Order 2018(**106**)—

- (a) in article 2 (interpretation)—
 - (i) omit the definition of “IPC document”,
 - (ii) for the definition of “principal plant health Order” substitute—
 - ““principal plant health Order” means the Plant Health (Scotland) Order 2005(**107**);”
 - (iii) 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;”
- (b) in article 4(1) and (2) (fees for export certification services) omit “or IPC document” in each place where it occurs,
- (c) in article 5(1) (offences and penalties), omit “or IPC document”,
- (d) in the schedule (applications for certificates: table of fees), omit item 14.

Amendment of the Plant Health Fees (Scotland) Regulations 2008

74. In the Plant Health Fees (Scotland) Regulations 2008(**108**)—

- (a) in regulation 2(1) (interpretation)—
 - (i) in the definition of “authority” for “plant passports” substitute “UK plant passports”,
 - (ii) for the definition of “the 2005 Order” substitute—
 - ““the 2005 Order” means the Plant Health (Scotland) Order 2005(**109**);”
 - (iii) omit the definition of “plant passport”,
 - (iv) after the definition of “premises” insert—
 - ““UK plant passport” has the meaning given to it in article 2(1) of the 2005 Order;”
- (b) in the heading of regulation 3 (fees for inspections for plant passporting purposes), before “plant”, insert “UK”,
- (c) in regulation 5A (fees for Potato Cyst Nematode testing) for “under article 39(8) (official soil tests for potato cyst nematode)” substitute “pursuant to paragraph 3(a) of schedule 15 of the 2005 Order (official investigations for potato cyst nematode)”, and
- (d) in schedule 1 (fees for inspections for plant passporting purposes)—
 - (i) in the heading, before “plant” insert “UK”,
 - (ii) in column 1 of the table, for “plant passports” substitute “UK plant passports”.

Savings provision in relation to fees amendments

75. Despite the provision made by regulations 72, 73 and 74—

(**106**) S.S.I. 2018/132.

(**107**) S.S.I. 2005/613, as last amended by S.S.I. 2019/XX.

(**108**) S.S.I. 2008/153, as last amended by Part 2 of these Regulations.

(**109**) S.S.I. 2005/613.

- (a) an importer must pay to the Scottish Ministers any fee which, prior to the coming into force of regulation 72, was payable by that importer under regulation 3 or 5 of the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014,
- (b) a person must pay to the Scottish Ministers any fee which, prior to the coming into force of regulation 73, was payable by that person under article 4 of the Plant Health (Export Certification) (Scotland) Order 2018, and
- (c) any fee which, prior to the coming into force of regulation 74, required to be paid to the Scottish Ministers under regulation 3, 4, 5 or 5A of the Plant Health Fees (Scotland) Regulations 2008, must be paid to the Scottish Ministers.

PART 5

Revocation of secondary legislation: EU withdrawal

76. The Potatoes Originating in Egypt (Scotland) Regulations 2004(**110**) are revoked.

PART 6

Revocation of retained direct EU legislation

77. The retained direct EU legislation listed in schedule 6 is revoked.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers