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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 466**

**EXITING THE EUROPEAN UNION  
FORESTRY  
PLANT HEALTH**

The Plant Health (EU Exit) (Scotland)  
(Amendment etc.) Regulations 2020

*Made - - - - 17th December 2020*

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

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup>, paragraph 1(1) and (3) of schedule 2 and paragraph 21(b) of schedule 7 of the European Union (Withdrawal) Act 2018<sup>(2)</sup>.

In accordance with paragraph 2(2) of schedule 2 of the European Communities Act 1972, and paragraph 1(6) of schedule 7 of the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with paragraph 4 of schedule 2 of the European Union (Withdrawal) Act 2018, the Scottish Ministers have consulted with the Secretary of State.

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- (1) 1972 c.68 (“the 1972 Act”). The 1972 Act was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) (“the 2018 Act”) with effect from exit day (see section 20 of the 2018 Act), but saved, subject to modifications, until IP completion day by section 1A of that Act. Section 1A of the 2018 Act was inserted by the European Union (Withdrawal Agreement) Act 2020 (c.1) (“the 2020 Act”), and defines “IP completion day” by reference to section 39(1) to (5) of the 2020 Act. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(3) and Part 1 of schedule 1 of the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”). The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.
- (2) 2018 c.16.

## PART 1

### Introductory

#### Citation, commencement and extent

1.—(1) These Regulations may be cited as the Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 and come into force as follows—

- (a) as regards this Part and Part 2 on 31 December 2020,
- (b) as regards Part 4, immediately before IP completion day,
- (c) as regards Part 3 on IP completion day.

(2) These Regulations extend to Scotland only.

## PART 2

### Amendments made under section 2(2) of the European Communities Act 1972

#### The Plant Health (Fees) (Scotland) Regulations 2008

2. In the Plant Health (Fees) (Scotland) Regulations 2008<sup>(3)</sup>, in regulation 2 (interpretation) in the definition of “licence”, in paragraph (b), for “21(2)” substitute “21(1)”.

#### The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014

3.—(1) The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014<sup>(4)</sup> are amended in accordance with paragraphs (2) to (8).

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

- (i) omit the definition of “consignment”,
- (ii) omit the definition of “the Directive”,
- (iii) omit the definition of “documentary check”,
- (iv) omit the definition of “identity check”,
- (v) after the definition of “landed in Scotland” insert—  
““lot” means a number of units of a single commodity, identifiable by its homogeneity of composition and origin and forming part of a consignment,”,
- (vi) omit the definition of “plants”,
- (vii) omit the definition of “plant health check”,
- (viii) omit the definition of “plant products”,
- (ix) in the definition of “third country” at the end insert—

“(c) Liechtenstein.”,

(b) after paragraph (2) insert—

“(3) Unless the context otherwise requires, words and expressions which are not defined in these Regulations and which appear in the EU Plant Health Regulation or the

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<sup>(3)</sup> S.S.I. 2008/153, relevantly amended by S.S.I. 2019/421.

<sup>(4)</sup> S.S.I. 2014/338, relevant amending instruments are S.S.I. 2015/392, S.S.I. 2019/421 and S.S.I. 2019/425.

Official Controls Regulation have the same meaning in these Regulations as in the EU Plant Health Regulation or, as the case may be, in the Official Controls Regulation.”.

(3) In regulation 3(2)(b)(ii) (application of the import inspection fee) for “Regulation (EU) 2017/625” to the end substitute “the Official Controls Regulation”.

(4) In regulation 4 (fees)—

(a) for “plant health check” in both places it occurs substitute “physical check”,

(b) in paragraph (2), in the words before sub-paragraph (a) omit “or which, but for” to “required to be carried out”.

(5) In regulation 5 (additional fees in respect of potatoes originating in Egypt and Lebanon), in the heading omit “and Lebanon”.

(6) In schedule 1 (import inspections fees for plant health checks), in the heading, for “plant health checks” substitute “physical checks”.

(7) In schedule 2 (reduced import inspection fees for plant health checks), in the heading, for “plant health checks” substitute “physical checks”.

(8) In schedule 3 (additional fees), in item 1 at column 2 omit “or Lebanon”.

#### **The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015**

4.—(1) The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015(5) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation: Scotland), in the definition of “licence”, in paragraph (b), for “21(1)(a)” substitute “(21)(1)”.

(3) In regulation 3 (fees), for “plant health check” in each place it occurs substitute “physical check”.

(4) In schedule 3 (fees for plant health checks)—

(a) in the heading for “plant health check” substitute “physical check”,

(b) in the title in column 2 of the table for “plant health check” substitute “physical check”.

#### **The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019**

5.—(1) The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019(6) are amended in accordance with paragraphs (2) to (8).

(2) In regulation 2(1) (interpretation: general), in sub-paragraph (c) of the definition of “controlled plant pest”, at the end insert “, including a potential quarantine plant pest within the meaning given in regulation 21(3)”.

(3) In regulation 3(1) (interpretation: EU instruments)—

(a) omit the definitions of—

(i) “Commission Implementing Decision (EU) 2017/198”, and

(ii) “Commission Implementing Decision (EU) 2019/1615”,

(b) at the end insert—

““Commission Implementing Regulation (EU) 2020/885” means Commission Implementing Regulation (EU) 2020/885 as regards measures to prevent the

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(5) [S.I. 2015/350](#), relevantly amended by [S.S.I. 2020/176](#).

(6) [S.S.I. 2019/421](#), amended by [S.S.I. 2020/176](#).

introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto<sup>(7)</sup>,

“Commission Implementing Regulation (EU) 2020/1191” means Commission Implementing Regulation (EU) 2020/1191 establishing measures to prevent the introduction into and the spread within the Union of Tomato brown rugose fruit virus (ToBRFV) and repealing Implementing Decision (EU) 2019/1615 <sup>(8)</sup>.”.

(4) In regulation 21 (authorisations for other purposes)—

(a) for paragraph (1) substitute—

“(1) The Scottish Ministers may grant an authorisation to permit—

- (a) the carrying out of any activity specified in a plant health derogation,
- (b) the introduction into Scotland, the movement within Scotland or the holding or multiplication in Scotland of a potential quarantine plant pest for official testing, scientific or educational purposes, trials, varietal selection or breeding, or
- (c) the carrying out of any other activity which requires the approval of the Scottish Ministers under the EU Plant Health Regulation, the Official Controls Regulation or these Regulations.”,

(b) for paragraph (3) substitute—

“(3) In paragraph (1)—

“plant health derogation” means—

- (a) a derogation from provisions of the EU Plant Health Regulation which is set out in an implementing or delegated act adopted by the European Commission under the EU Plant Health Regulation or the Official Controls Regulation, or
- (b) a derogation in any decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union, which continues to apply for the purposes of the EU Plant Health Regulation on or after the commencement date and allows member States to authorise an activity which would otherwise be prohibited by or under the EU Plant Health Regulation,

“potential quarantine plant pest” means a plant pest which is not a Union quarantine pest, a protected zone quarantine pest or a plant pest subject to any measures adopted pursuant to Article 30(1) of the EU Plant Health Regulation, but which, in the opinion of the Scottish Ministers, fulfils the criteria set out in Subsection 1 of Section 3 of Annex 1 to that Regulation or may fulfil the criteria in Subsection 2 of that Section.”.

(5) In regulation 22 (authorisations granted by the Scottish Ministers)—

(a) number the first un-numbered paragraph as paragraph (1),

(b) in paragraph (1) for “or these Regulations” substitute “, the Official Controls Regulation or for the purposes of, or under, these Regulations”.

(6) In schedule 2 (specific measures relating to certain solanaceous species)—

(a) In Part 1 (general interpretation), in paragraph 1, in the definition of “sampling unit”, for “an area” to the end substitute “a field or Part of a field formed with recognisable boundaries on at least two opposing sides”.

(b) in Part 2 (general provisions relating to the planting of certain solanaceous species), in paragraph 4(3)(a) and (b) (potato cyst nematode), for “Part 5” in each place it occurs substitute “tables B and C of Part 5”.

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(7) OJ L 205, 29.6.2020, p.9.

(8) OJ L 262, 12.8.2020, p.6.

(c) in Part 8 (measures relating to potatoes originating in Egypt), in paragraph 48(2)(a), for “Egyptian potatoes” substitute “potatoes originating in Egypt”.

(7) In schedule 3 (offences: relevant provisions in the EU Regulations), in the table in Part 3 (other EU legislation), at the end insert—

<b>“Commission Delegated Regulation (EU) 2019/2123 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for the cases where and the conditions under which identity checks and physical checks on certain goods may be performed at control points and documentary checks may be performed at distance from border control posts(9)</b>	
Article 2(1)(d), (e), (f), (g)(i) and (h) (as read with Article 2(2) and (3)), Article 5(1) (as read with Article 5(2), Article 6(1) and (4) and Article 8(2))	Requires the operator responsible for a consignment to comply with certain conditions where identity and physical checks on the consignment are to be performed at a control point other than a border control post”.

(8) In the table in schedule 4 (offences: EU decisions relating to plant health)—

(a) omit the entries relating to—

(i) Commission Implementing Decision (EU) 2017/198, and

(ii) Commission Implementing Decision (EU) 2019/1615,

(b) at the end insert—

“Commission Implementing Regulation (EU) 2020/885	Article 2 (prohibition on the introduction of <i>Pseudomonas syringae</i> pv. <i>actinidiae</i> Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto into the Union territory, and its spread within the Union territory)
	Article 3 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries)
	Article 7 (requirements in relation to the movement within the Union territory of specified plants that have spent a part of their lives in the Union)
Commission Implementing Regulation (EU) 2020/1191	Article 2 (prohibition on the introduction of Tomato brown rugose fruit virus into the Union territory and its spread within the Union territory)
	Article 6 (requirements in relation to the movement within the Union territory of specified plants for planting within the Union)
	Article 7 (requirements in relation to the movement within the Union territory of specified seeds)
	Article 8 (requirements in relation to the introduction into the Union territory of specified plants for planting originating in third countries)
	Article 9 (requirements in relation to the introduction into the Union territory of specified seeds originating in third countries)”.

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(9) OJ L 321, 12.12.2019, p.64.

## PART 3

### Amendment of secondary legislation relating to withdrawal from the European Union

#### **The Plant Health Fees (Scotland) Regulations 2008**

6.—(1) The Plant Health (Fees) (Scotland) Regulations 2008 are amended in accordance with paragraphs (2) to (4).

(2) In regulation 2 (interpretation)—

- (a) omit the definition of “the EU Plant Health Regulation”,
- (b) omit “and” at the end of the definition of “the Plant Health Official Controls Regulation”,
- (c) after the definition of “the Plant Health Official Controls Regulations” insert—

““the Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament of the Council on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives [69/464/EEC](#), [74/647/EEC](#), [93/85/EEC](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)(10),”

(d) after the definition of “premises” insert—

““UK plant passport” has the same meaning as in Article 78 of the Plant Health Regulation.”

(3) In regulation 3 (fees for inspections for plant passporting purposes), in the heading, before “plant”, insert “UK”.

(4) In schedule 1 (fees for inspections for plant passporting purposes)—

- (a) in the heading, before “plant” insert “UK”,
- (b) in column 1 of the table—
  - (i) for “plant passports” substitute “UK plant passports”,
  - (ii) omit “EU”.

#### **The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014**

7.—(1) The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014 are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

- (i) omit the definition of “the EU Plant Health Regulation”,
- (ii) in the definition of “European Union” omit “including the Isle of Man and the Channel Islands but”,
- (iii) after the definition of the “Official Controls Regulation” insert—

““Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament of the Council on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing

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(10) EUR 2016/2031.

Council Directives [69/464/EEC](#), [74/647/EEC](#), [93/85/EEC](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)(11).”.

- (b) in paragraph (3) omit “EU” in each place it occurs.
- (3) In regulation 3(2) (application of the import inspection fee)—
  - (a) in sub-paragraph (a)(i), for “Commission Implementing Regulation (EU) 2019/2072” to “Commission Implementing Regulation (EU) 2018/2019” substitute “the Phytosanitary Conditions Regulation”,
  - (b) in sub-paragraph (b)(ii) for “the Union, adopted by the Commission” substitute “Great Britain”.
- (4) In regulation 5(2) (additional fees in respect of Potatoes Originating in Egypt), for “point 5 of the Annex” to “as regards Egypt” substitute “point 26 of Annex 7 of the Phytosanitary Conditions Regulation”.
- (5) In schedule 2 (reduced import inspection fees for plant health checks) delete the entries for “*Citrus*”, “*Mangifera*” and “*Passiflora*”.

### **The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015**

8.—(1) The Plant Health (Forestry) (Fees) (England and Scotland) Regulations 2015(12) are amended as follows.

- (2) In regulation 2 (interpretation: Scotland)—
  - (a) in paragraph (1)—
    - (i) in the definition of “controlled consignment”, for sub-paragraph (b), substitute—

“(b) consists of, or includes, isolated bark, or wood of a type that is described in Part A of Annex 11, or Annex 12, to the Phytosanitary Conditions Regulation, as amended from time to time, other than wood packaging material which is actually in use in the transport of objects of all kinds,”.
    - (ii) omit the definition of “the EU Plant Health Regulation”,
    - (iii) after the definition of “the Official Controls Regulation” insert—

““the Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament of the Council on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives [69/464/EEC](#), [74/647/EEC](#), [93/85/EEC](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)(13).”.
    - (iv) omit the definition of “the Phytosanitary Conditions Regulation”,
    - (v) in the definition of “plant passport authority” omit “EU”,
    - (vi) in the definition of “WPM authorisation” omit “EU”,
  - (b) in paragraph (2), omit “EU” in both places it occurs.

### **The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017**

9.—(1) The Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017(14) are amended in accordance with paragraphs (2) to (4)—

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(11) EUR 2016/2031.

(12) S.I. 2015/350, relevant amending instruments are S.S.I. 2019/421 and S.S.I. 2020/176.

(13) EUR 2016/2031.

(14) S.S.I. 2017/113, prospectively amended by Part 5 of S.S.I. 2019/130 which comes into force on IP completion day.

- (2) In regulation 2 (interpretation) omit paragraph (2).
- (3) In regulation 9 (exemptions)—
  - (a) in paragraph (1) omit “, in accordance with Article 2(4) of the Directive (but without prejudice to Article 7 of the Directive),”
  - (b) in paragraph (4) omit “, in accordance with Article 2(5) of the Directive (but without prejudice to Article 7 of the Directive),”
- (4) In regulation 31 (application to Court of Session by person aggrieved), after paragraph (4) insert—
  - “(4A) For the purpose of paragraph (4), Article 11(1) of the Directive is to be read as if—
    - (a) the reference to “Member States” were to “The Scottish Ministers”,
    - (b) the reference to “a Member State” were to “Scotland”.”

### **The Plant Health (Export Certification) (Scotland) Order 2018**

**10.**—(1) The Plant Health (Export Certification) (Scotland) Order 2018<sup>(15)</sup> is amended in accordance with paragraphs (2) to (4).

- (2) In regulation 2 (interpretation)—
  - (a) omit the definition of “EU Plant Health Regulation”,
  - (b) omit the definition of “IPC document”,
  - (c) in the definition of “phytosanitary certificate” omit “EU”,
  - (d) in the definition of “phytosanitary certificate for re-export” omit “EU”,
  - (e) after the definition of “the Plant Health Official Controls Regulations” insert—
    - ““the Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament of the Council on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives [69/464/EEC](#), [74/647/EEC](#), [93/85/EEC](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)<sup>(16)</sup>,”
  - (f) omit the definition of “third country”.
- (3) In regulation 4(1) and (2) (fees for export certification services) omit “or IPC document” in each place it occurs.
- (4) In the schedule (applications for certificates: tables of fees) omit item 14.

### **The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019**

**11.** The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019<sup>(17)</sup> are amended in accordance with regulations 12 to 30.

#### **Part 1**

- 12.**—(1) In regulation 2 (interpretation: general)—
  - (a) in paragraph (1)—
    - (i) in the definition of “controlled consignment”—

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<sup>(15)</sup> S.S.I. 2018/132, amended by S.S.I. 2019/421.

<sup>(16)</sup> EUR 2016/2031.

<sup>(17)</sup> S.S.I. 2019/421, amended by S.S.I. 2020/176.



- (aa) for the words “the Union territory”, in each place they occur, substitute “Great Britain”,
- (bb) in head (i) of sub-paragraph (a) omit “EU”,
- (cc) at the end of head (i) insert “or”,
- (dd) omit head (ii) of sub-paragraph (a),
- (ee) in head (iii) of sub-paragraph (a) omit “EU” in each place it appears,
- (ii) in the definition of “controlled plant pest”—
  - (aa) in sub-paragraph (a) for “3 or 4 to Regulation (EU) 2019/2072” substitute “2A, 3 or 4 to the Phytosanitary Conditions Regulation”,
  - (bb) at the end of sub-paragraph (a) insert “or”
  - (cc) omit sub-paragraph (b),
  - (dd) in sub-paragraph (c) omit “EU”,
- (iii) omit the definition of “EU emergency decision”,
- (iv) in the definition of “EU Plant Health Regulation”, at the end, insert “as it has effect in EU law”,
- (v) omit the definition of “EU plant health rule”,
- (vi) in the definition of “Official Controls Regulation” omit “EU” where it occurs before “plant health rule”,
- (vii) after the definition of “plant health inspector”, insert—
  - ““Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives [69/464/EEC](#), [74/647/EEC](#), [93/85/EEC](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)(**18**),
  - “plant health rule” means a rule within the meaning given in Article 1(2)(g) of the Official Controls Regulation,”
- (viii) in the definition of “plant pest” omit “EU”,
- (ix) after the definition of “plant pest”, insert—
  - ““the Phytosanitary Conditions Regulation” means Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing [Commission Regulation \(EC\) No 690/2008](#) and amending Commission Implementing Regulations (EU) 2018/2019(**19**)”,
- (x) in the definition of “regulated item”, for “an EU” substitute “a”,
- (xi) omit the definition of “Regulation (EU) 2019/2072”.
- (b) in paragraph (2) omit “EU” in both places it occurs.
- (2) In regulation 3 (interpretation: EU instruments)—
  - (a) omit paragraph (1),
  - (b) for paragraph (2), substitute—

(18) EUR 2016/2031.

(19) EUR 2019/2072.

“(2) References to the Phytosanitary Conditions Regulation are to be construed as references to that instrument as amended from time to time.”.

(3) Omit regulation 3A (measures adopted pursuant to article 30(1) of the EU Plant Health Regulation).

(4) In regulation 4 (Article 82 of the EU Plant Health Regulation: meaning of “close proximity”)

- (a) in the heading omit “EU”,
- (b) in paragraphs (1) and (2) omit “EU” in each place it occurs.

## Part 2

13. In Part 2 (competent authorities), in regulation 5(4) (designation of competent authority)—

- (a) in the definition of “forestry professional operator”—
  - (i) in the words before sub-paragraph (a) omit “EU”,
  - (ii) in sub-paragraph (b), for “the Union territory” in both places it occurs substitute “Great Britain or a CD territory”,
  - (iii) in sub-paragraph (c), at the end insert “or Northern Ireland”,
- (b) omit the definition of “official controls”.

## Part 3

14.—(1) In regulation 7 (derogation to the requirement to give prior notification in accordance with Article 1(1) of Commission Implementing Regulation (EU) 2019/1013)—

- (a) in paragraph (A1), after “into Scotland by air” insert “or a controlled consignment which is to be brought into a RoRo, port in Scotland”,
- (b) in paragraph (3), after the definition of “Commission Implementing Regulation (EU) 2019/1013” insert—

““RoRo” means a RoRo listed location within the meaning of regulation 130 of the Customs (Import Duty) (EU Exit) Regulations 2018(20),”.

(2) In regulation 8 (suspicion of non-compliance)—

- (a) in paragraph (1), for “an EU” in both places it occurs substitute “a”,
- (b) in paragraph (2)(b), for “the Union territory” substitute “Great Britain”.

(3) In regulation 10(1) (official measures in relation to non-compliant consignments or consignments which pose a risk to plant health)—

- (a) in sub-paragraphs (a) and (b), for “an EU” in both places it occurs substitute “a”,
- (b) in sub-paragraph (c) for “the Union territory” substitute “Great Britain”.

(4) In regulation 11(c) (notices under regulation 8, 9 or 10), for “the Union territory” substitute “Great Britain”.

(5) In regulation 12 (border control posts: authorisation of inspection centre and commercial storage facilities)—

- (a) in paragraphs (1)(a) and (b) omit “, consignments which” to “schedule 1” in both places it occurs,
- (b) omit paragraph (1A).

(6) In regulation 13(10) (transitional provision: approved places of inspection), in the definition of “temporary storage facility”, at the end insert “(as it has effect in EU law before IP completion day)”.

#### **Part 4**

**15.—**(1) In regulation 14(2) (introduction), in the definition of “prohibited material”—

- (a) in sub-paragraph (b)—
  - (i) for “the Union territory or Scotland” substitute “Great Britain”,
  - (ii) for “an EU” substitute “a”,
  - (iii) omit “or Part 2 of schedule 1”,
- (b) in sub-paragraph (c)—
  - (i) omit “within the Union territory, or”,
  - (ii) for “an EU” substitute “a”,
  - (iii) omit “or Part 3 of schedule 1”.

(2) In regulation 16(4) (action which may be taken by a plant health inspector) omit “(including representatives of the European Commission)”.

#### **Part 5**

**16.** Part 5 is omitted.

#### **Part 6**

**17.—**(1) In regulation 19 (applications for registration) omit “EU”.

(2) In regulation 20 (other applications)—

- (a) in paragraph (1)—
  - (i) in sub-paragraphs (b), (c) and (d) omit “EU” in each place it occurs,
  - (ii) in sub-paragraph (e), for “, a phytosanitary certificate for re-export or a pre-export certificate” substitute “or a phytosanitary certificate for re-export”,
- (b) in paragraph (2) omit “EU” in both places it occurs.

(3) In regulation 21 (authorisations for other purposes)—

- (a) in paragraph (1)(b)—
  - (i) after “under” insert “, or by virtue of”,
  - (ii) omit “EU”,
  - (iii) after “Regulation” in the second place it occurs insert “, any regulations made under the Plant Health Regulation or the Official Controls Regulation”,
- (b) in paragraph (3)—

(i) for the definition of “plant health derogation” substitute—

““plant health derogation” means a derogation from provisions of the Plant Health Regulation which is set out in retained EU law or regulations made under the Plant Health Regulation or the Official Controls Regulation,”

(ii) in the definition of “potential quarantine pest”, for the words from “Union” to “Regulation”, in the first place where it occurs, substitute “GB quarantine pest or a provisional GB quarantine pest”.

(4) In regulation 22(1) (authorisations granted by the Scottish Ministers) omit “EU”.

## **Part 8**

- 18.**—(1) In regulation 24 (notification requirements in relation to seed potatoes) omit—
- (a) paragraph (1)(b), including the preceding “or”,
  - (b) paragraph (3).
- (2) Omit regulation 25 (notification requirements in relation to citrus fruits).
- (3) In regulation 26 (notification requirements in relation to other plants and plant products)—
- (a) in paragraph (1)—
    - (i) for “of the following plants or plant products” substitute “solid fuel wood from a third country to which Article 47(1) of the Official Controls Regulation does not apply”,
    - (ii) omit sub-paragraphs (a) to (c),
  - (b) in paragraph (2)—
    - (i) in sub-paragraph (c) omit “plants or”,
    - (ii) in sub-paragraph (d) omit “plants or”,
    - (iii) omit sub-paragraph (e),
    - (iv) for sub-paragraph (f) substitute—
      - “(f) the address of the consignor,
      - (g) details of any phytosanitary treatments applied to the wood.”.

## **Part 9**

- 19.**—(1) In regulation 28(1) and (2) (interpretation) omit “EU” in each place it occurs.
- (2) In regulation 29 (powers of entry)—
- (a) in paragraph (1)—
    - (i) in sub-paragraph (a)—
      - (aa) in head (ii) omit “EU”,
      - (bb) in head (iv), for “an EU” to the end substitute “a plant health rule comply with that rule”,
    - (ii) in sub-paragraphs (b), (c) and (e) omit “EU” in each place it occurs.
  - (b) in paragraph (6), for sub-paragraph (a) substitute—
    - “(a) be accompanied by such persons as the inspector considers necessary,”,
  - (c) omit paragraph (6A).
- (3) In regulation 32(5) (failure to comply with a notice)—
- (a) omit “other”,
  - (b) omit “(including representatives of the European Commission)”.
- (4) In regulation 33(1) (disclosure of information held by Revenue and Customs) omit “EU”.

## **Part 11**

- 20.**—(1) In regulation 37(1) (general)—
- (a) omit sub-paragraph (a),

- (b) in sub-paragraph (c) omit “, 25(1)”,
  - (c) in sub-paragraph (e) omit “EU”,
  - (d) in sub-paragraph (g), after “other” insert “retained direct”,
  - (e) omit sub-paragraph (h).
- (2) In regulation 40 (provision of false or misleading information)—
- (a) in sub-paragraph (1) for “plant passport or” substitute “UK plant passport or a”,
  - (b) in sub-paragraph (2)—
    - (i) for “, 101 and 102” substitute “or 101”,
    - (ii) omit “EU”.
- (3) In regulation 41 (improper use of plant passports or certificates)—
- (a) in the heading, after “of” insert “UK”,
  - (b) in paragraph (1), after “a” where it occurs the first time in each of sub-paragraphs (a) to (c), insert “UK”.
- (4) In regulation 42 (obstruction etc.)—
- (a) in paragraph (1)(a) to (c) omit “EU” in each place it occurs;
  - (b) for paragraph (2) substitute—
    - “(2) In paragraph (1)—
      - (a) “authorised person” means a person authorised by the Scottish Ministers,
      - (b) a reference to the Plant Health Regulation or the Official Controls Regulation includes retained EU law adopted, or regulations made, under the Plant Health Regulation or the Official Controls Regulation and any other retained EU law relating to plant health.”.

## Schedule 1

21. Omit schedule 1 (temporary national measures).

## Schedule 2, Part 1

22. In schedule 2 (specific measures relating to certain solanaceous species), Part 1 (general interpretation), in paragraph 1—

- (a) omit the definitions of “[Directive 69/464/EEC](#)”, “[Directive 93/85/EEC](#)”, “[Directive 98/57/EC](#)” and “[Directive 2007/33/EC](#)”,
- (b) before the definition of “holding” 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(21),
  - “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(22),

(21) 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](https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics).

(22) 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](https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics).

“EPPO PM 7/59” means the standard describing a diagnostic protocol for *Clavibacter michiganensis* subsp. *sepedonicus* approved by the European and Mediterranean Plant Protection Organization(23),

“EPPO PM 7/119” means the standard describing the procedures for nematode extraction approved by the European and Mediterranean Plant Protection Organization(24).”.

## Schedule 2, Part 2

23. In schedule 2, Part 2 (general provisions relating to the planting of certain solanaceous species)—

- (a) in paragraph 2 (general restrictions on the planting of potatoes)—
  - (i) in sub-paragraph (1), for “Switzerland” substitute “any third country to which the prohibition in Article 40(1) of the Plant Health Regulation does not apply”,
  - (ii) in sub-paragraph (2)—
    - (aa) for head (a) substitute—
      - “(a) they derive in direct line from potato material which has been obtained under an approved programme for the certification of potatoes which has been officially approved by a competent authority or a CD authority,”,
    - (bb) in head (b), for “Annex 1 to Directive 93/85/EEC” substitute “EPPO PM 7/59”;
    - (cc) in head (c), for “Annex 2 to Directive 98/57/EC” substitute “EPPO PM 7/21”,
- (b) in paragraph 4 (potato cyst nematode), in sub-paragraph (2)—
  - (i) omit “and” before head (b),
  - (ii) at the end of head (b) insert—
    - “, and
    - (c) in accordance with EPPO PM 7/40 and EPPO PM 7/119.”,
- (c) in paragraph 5 (official surveys) for “Article 6 of Directive 2007/33/EC” substitute “Part 4 of this schedule”,
- (d) after paragraph 5 insert—
  - “(5A) An official survey conducted under this Part or Part 4 of this schedule shall be conducted on at least 0.5% of the acreage used in the relevant year for the production of seed potatoes.”,
- (e) omit paragraph 6 (official surveys).

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(23) Approved by the European and Mediterranean Plant Protection Organization in September 2005 and available from its Secretariat at 21 Boulevard Richard Lenoir, 75011, Paris, France and at [https://www.eppo.int/RESOURCES/eppo\\_standards/pm7\\_diagnostics](https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics).

(24) 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](https://www.eppo.int/RESOURCES/eppo_standards/pm7_diagnostics).

### Schedule 2, Part 3

24. In schedule 2, in Part 3 (measures for the control of Potato Wart Disease), in paragraph 8(1) (official measures relating to contaminated plots of land) for “ Article 2 of [Directive 69/464/EEC](#)” substitute “this Part”.

### Schedule 2, Part 4

25. In schedule 2, in Part 4 (measures for the control of European populations of Potato Cyst Nematode), in paragraph 20 (notice authorising planting of potatoes) omit “notified to the European Commission in accordance with Article 9(2) of [Directive 2007/33/EC](#) and”.

### Schedule 2, Part 6

26. In schedule 2, in Part 6 (measures for control of Potato Ring Rot)—

(a) in paragraph 27 (official surveys and testing)—

(i) in sub-paragraph (1) omit “, in accordance with Article 2(1) of [Directive 93/85/EEC](#)”,

(ii) after sub-paragraph (1) insert—

“(1A) 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.

(1B) 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.

(1C) The collection of samples for the purposes of sub-paragraphs (1A) and (1B) must be based on sound scientific and statistical principles and the biology of Potato Ring Rot and take into account relevant potato production systems.”,

(iii) in sub-paragraph (2)(a), for “Annex 1” to “93/85/EEC” in the second place it occurs substitute “EPPO PM 7/59”,

(b) in paragraph 28(1) (measures to be taken following the confirmation of the presence of Potato Ring Rot)—

(i) in head (b), for “taking into account the provisions in point 1 of Annex 3 to [Directive 93/85/EEC](#)” substitute—

“having regard to the following factors—

(i) the susceptible material grown at the contaminated place of production,

(ii) places of production with some production link to that susceptible material, including those sharing production equipment and facilities directly or through a common contractor,

(iii) the production or presence of other susceptible material at the contaminated place of production,

(iv) the premises handling potatoes from the contaminated place of production and the places of production mentioned in sub-head (ii),

(v) any object that may have come into contact with the contaminated susceptible material,

(vi) any susceptible material stored in, or in contact with, any object prior to its disinfection,

- (vii) the susceptible material with a sister or parental clonal relationship to the contaminated susceptible material and the places of production of that susceptible material”,
- (ii) in head (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”,
- (iii) after paragraph (1), insert—
  - “(1A) When making a designation or determination under sub-paragraph (1), an inspector must have regard to sound scientific principles, the biology of Potato Ring Rot and relevant production, marketing and processing systems.”,
- (c) in paragraph 29 (restrictions in relation to specified plant material or objects contaminated or probably contaminated with Potato Ring Rot)—
  - (i) in sub-paragraph (2)(b) for “any other measure that complies with point 1 of Annex 4 to [Directive 93/85/EEC](#)” substitute “an officially approved disposal method that ensures that there is no identifiable risk of Potato Ring Rot spreading”,
  - (ii) in sub-paragraph (3)(b), for “in accordance with point 2 of Annex 4 to [Directive 93/85/EEC](#)” substitute “in a manner that ensures that there is no identifiable risk of Potato Ring Rot spreading”,
  - (iii) in sub-paragraph (5), for “[Directive 93/85/EEC](#)” substitute “this Part”,
- (d) in paragraph 32 (measures in relation to a contaminated place of production)—
  - (i) in sub-paragraph (1)(b), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
  - (ii) in sub-paragraph (2), for “Article 2 of [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
  - (iii) in sub-paragraph (3)(b), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
- (e) in paragraph 33(d) (contaminated place of production – notice in relation to fields other than those referred to in paragraph 31), for “Annex 1 to [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”,
- (f) in paragraph 36(7)(b) (demarcated zone), for “Article 2 of [Directive 93/85/EEC](#)” substitute “EPPO PM 7/59”.

## **Schedule 2, Part 7**

**27.** In schedule 2, Part 7 (measures for the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*)—

- (a) in paragraph 38 (official surveys and testing)—
  - (i) in sub-paragraph (1) omit “in accordance with Article 2 of [Directive 98/57/EC](#)”,
  - (ii) after sub-paragraph (1) insert—
    - “(1A) Those surveys must be based on a risk assessment to identify other possible sources of contamination threatening the production of susceptible material and include targeted official surveys in production areas, based on the relevant risk assessment, to identify the presence of *R. solanacearum* on—
    - (a) relevant material, other than susceptible material,
    - (b) surface water which is used for irrigation or spraying of susceptible material, and



- (c) liquid waste discharged from industrial processing or packaging premises handling susceptible material.
- (1B) Those surveys must also be based on the biology of *R. solanacearum* and the relevant production systems and must include—
  - (a) in the case of susceptible material comprising plants of *Solanum tuberosum* L., visual inspection of the growing crop at appropriate times, or the sampling of both seed and other potatoes in the growing season or in store, which must include official visual inspection by cutting of tubers,
  - (b) in the case of seed potatoes and, where appropriate, other potatoes, official testing of samples using the method set out in EPPO PM 7/21,
  - (c) in the case of susceptible material comprising plants of *Solanum lycopersicum* L., visual inspection at appropriate times of at least the growing crop of plants intended for replanting for professional use,
  - (d) for host plants, other than susceptible material, and for water including liquid waste, official testing.
- (1C) The collection of samples for the purposes of sub-paragraph (1B) must be based on sound scientific and statistical principles and the biology of *R. solanacearum* and take into account relevant potato production systems of susceptible material and other host plants of *R. solanacearum*.”
- (iii) in sub-paragraph (2)—
  - (aa) in head (a)(i), for “Annex” to “98/57/EC” in the second place it occurs substitute “EPPO PM 7/21”,
  - (bb) in head (b), for “specified” to “98/57/EC” substitute “referred to in EPPO PM 7/21”,
- (b) in paragraph 39 (measures to be taken following the confirmation of the presence of *R. solanacearum*)—
  - (i) in sub-paragraph (2)—
    - (aa) in head (a), for “in accordance with Annex 4 to Directive 98/57/EC,” substitute—

“which includes investigation of the following—

      - (i) potatoes which are growing or have been harvested that are clonally related to any contaminated potatoes,
      - (ii) tomatoes which are growing or have been harvested that are from the same source as any contaminated tomatoes,
      - (iii) potatoes or tomatoes which are growing or have been harvested that are under official control and are suspected to be contaminated with *R. solanacearum*,
      - (iv) potatoes which are growing or have been harvested that are clonally related to any potatoes that have been grown at the contaminated place of production,
      - (v) potatoes or tomatoes which are growing nearby the contaminated place of production, including those sharing production equipment and facilities directly or through a common contractor,
      - (vi) surface water used for irrigation and spraying from any source confirmed or suspected to be contaminated with *R. solanacearum*,

- (vii) surface water used for irrigation and spraying from a source used in common with the contaminated and possibly contaminated places of production,
- (viii) places of production which are flooded or have been flooded with contaminated or possibly contaminated surface water,
- (ix) surface water used for irrigation or spraying of the contaminated place of production or flooded fields at the contaminated place of production,”
- (bb) in head (e), for “in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#)” substitute “having regard to the relevant factors”,
- (ii) in sub-paragraph (3)—
  - (aa) in head (a), for “in accordance with Annex 4 to [Directive 98/57/EC](#)” substitute “which includes an investigation of the things referred to in sub-paragraph (2)(a)(i) to (ix)”,
  - (bb) in head (d), for “in accordance with point 2(i) of Annex 5 to [Directive 98/57/EC](#)” substitute “having regard to the relevant factors”,
- (iii) in sub-paragraph (4)(d), for “in accordance with point 2(ii) of Annex 5 to [Directive 98/57/EC](#)” substitute “having regard to the relevant factors”,
- (iv) at the end insert—
  - “(5) The “relevant factors” are—
    - (a) for the purposes of sub-paragraphs (2)(e) and (3)(d)—
      - (i) the proximity of other places of production growing susceptible material,
      - (ii) the common production and use of seed potato stocks,
      - (iii) places of production using surface water for irrigation or spraying of susceptible material where there is or has been a risk of surface water run-off from the contaminated place of production,
    - (b) for the purposes of sub-paragraph (4)(d)—
      - (i) places of production producing susceptible material adjacent to, or which are at risk from flooding by, contaminated surface water,
      - (ii) any discrete irrigation basin associated with the contaminated surface water,
      - (iii) water bodies connected with the contaminated surface water having regard to the direction and rate of flow of the contaminated surface water and the presence of wild solanaceous host plants.”,
- (c) in paragraph 40 (restrictions in relation to specified plant material or objects contaminated or probably contaminated with *R. solanacearum*)—
  - (i) in sub-paragraph (1)(b), for “a provision in point 1 of Annex 6 to [Directive 98/57/EC](#)” substitute “an officially approved disposal method that ensures that there is no identifiable risk of *R. solanacearum* rot spreading”,
  - (ii) in sub-paragraph (2)(b), for “in accordance with point 2 of Annex 6 to [Directive 98/57/EC](#)” substitute “by an officially approved disposal method that ensures that there is no identifiable risk of *R. solanacearum* rot spreading”,
  - (iii) in sub-paragraph (4), for “[Directive 98/57/EC](#)” substitute “this Part”,
- (d) in paragraph 43 (measures in relation to a contaminated place of production)—

- (i) in sub-paragraph (1)(b) for “Annex 2 to [Directive 98/57/EC](#)” substitute “EPPO PM 7/21”,
- (ii) in sub-paragraph (2)(b)(ii), for “Annex 2 to [Directive 98/57/EC](#)” substitute “EPPO PM 7/21”,
- (e) in paragraph 44 (contaminated place of production - notice in relation to fields other than those referred to in paragraph 42)—
  - (i) in sub-paragraph (a)(ii) omit “EU”,
  - (ii) in sub-paragraph (c)(ii) omit “EU”,
  - (iii) in sub-paragraph (e) for “Annex 2 to [Directive 98/57/EC](#)” substitute “EPPO PM 7/21”,
- (f) in paragraph 45(3)(b) (contaminated place of production – notice and authorisation where unit of protected crop production also designated as contaminated) omit “EU”,
- (g) in paragraph 47 (demarcated zones)—
  - (i) in sub-paragraph (5)(a)(iv) omit “EU”,
  - (ii) in sub-paragraph (6)(b) for “Article 2 to [Directive 98/57/EC](#)” substitute “EPPO PM 7/21”.

### Schedule 2, Part 8

- 28.** In schedule 2, Part 8 (measures relating to potatoes originating in Egypt), in paragraph 48(1) (measures relating to potatoes originating in Egypt)—
- (a) for “the Union territory” substitute “Great Britain”,
  - (b) for “Commission Implementing [Decision 2011/787/EU](#)” substitute “Article 41(1) of the Plant Health Regulation”.

### Schedule 3

**29.**—(1) In schedule 3 (offences: relevant provisions in the EU Regulations), in the heading, for “EU Regulations”, substitute “Plant Health Regulation, Official Controls Regulation and other retained direct EU legislation”.

- (2) In Part 1 (the EU Plant Health Regulation)—
- (a) in the heading omit “EU”,
  - (b) in the table—
    - (i) in the heading to the first column omit “EU”,
    - (ii) in the entry relating to Article 5(1), in the second column—
      - (aa) for “Union quarantine” in each place it occurs substitute “GB quarantine”,
      - (bb) for “the Union territory” in each place it occurs substitute “Great Britain”,
    - (iii) in the entry relating to Article 9(3), in the second column—
      - (aa) for “Union” in the first place it occurs substitute “GB”,
      - (bb) for “pest subject to measures adopted pursuant to Article 30(1)” substitute “provisional GB quarantine pest”,
      - (cc) for “the Union territory” in both places it occurs substitute “Great Britain”,
      - (dd) for “protected zone” substitute “PFA”,
      - (ee) for “respective protected zone” substitute “GB pest-free area established in respect of that pest”,

- (iv) in the entry relating to Article 14(1), in the second column—
  - (aa) for “Union” to “Article 30(1)” substitute “GB quarantine pest or provisional GB quarantine pest”,
  - (bb) for “protected zone” substitute “PFA”,
  - (cc) for “respective protected zone” substitute “GB pest-free area established in respect of that pest”,
- (v) in the entry relating to Article 14(3), in the second column for “Union” substitute “GB”;
- (vi) in the entry relating to Article 15(1), in the second column—
  - (aa) for “Union” substitute “GB”,
  - (bb) for “protected zone” in the first place it occurs substitute “PFA”,
  - (cc) for “respective protected zone” substitute “GB pest-free area established in respect of that pest”,
- (vii) in the entry relating to Article 32(2), in the second column—
  - (aa) for “protected zone quarantine” in each place it occurs substitute “PFA quarantine”,
  - (bb) for “respective protected zone” in each place it occurs substitute “GB pest-free area established in respect of that pest”,
- (viii) in the entry relating to Article 37(1),—
  - (aa) for “Regulation 2019/2072” substitute “the Phytosanitary Conditions Regulation”,
  - (bb) for “the Union territory” in both places it occurs substitute “Great Britain”,
  - (cc) for “Union” in the second and third places it occurs substitute “GB”,
- (ix) in the entry relating to Article 40(1), in the second column, for “the Union territory” substitute “Great Britain”,
- (x) for the entry relating to Article 41(1) substitute—

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“Article 41(1) (as read with Articles 47 and 48(1))	Prohibits the introduction into Great Britain of certain plants, plant products or other objects from third countries unless the special requirements in respect of those plants, plant products or other objects are fulfilled.
Article 41(1A) (as read with Article 48(1))	Prohibits the introduction into Great Britain of certain plants, plant products or other objects from CD territories unless the special requirements in respect of those plants, plant products or other objects are fulfilled.
Article 41(1B) (as read with Article 48(1))	Prohibits the movement within Great Britain of certain plants, plant products or other objects unless the special requirements in respect of those plants, plant products or other objects are fulfilled.”

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- (xi) in the entry relating to Article 42(2), in the second column, for “the Union territory” substitute “Great Britain”,

- (xii) in the entry relating to Article 43(1), in the second column, for “the Union territory substitute “Great Britain”,
- (xiii) in the entry relating to Article 45(1), in the first column for “45(1), third paragraph” substitute “45(3)”,
- (xiv) in the entry relating to Article 53(1), in the second column—
  - (aa) for “certain protected zones” in the first place it occurs substitute “GB pest-free areas”,
  - (bb) for “within the Union territory into certain protected zones” substitute “in Great Britain or a CD territory into GB pest-free areas”,
- (xv) in the entry relating to Article 54(1), in the second column—
  - (aa) for “certain protected zones” in both places it occurs substitute “GB pest-free areas”,
  - (bb) for “those protected zones” in both places it occurs substitute “GB pest-free areas”,
- (xvi) in the entry relating to Article 59, in the second column—
  - (aa) for “the Union territory” in both places it occurs substitute “Great Britain”,
  - (bb) for “Union quarantine” to “Article 30(1)” substitute “GB quarantine pests or provisional GB quarantine pests”,
  - (cc) for “the protected zones” substitute “GB pest-free areas”,
  - (dd) for “through protected zones” substitute “through GB pest-free areas”,
  - (ee) for “respective protected zone” substitute “PFA”,
  - (ff) at the end insert “relating to those areas”,
- (xvii) in the entry relating to Article 62(1), in the second column—
  - (aa) for “Union quarantine” to “Article 30(1)” substitute “GB quarantine pests or provisional GB quarantine pests”,
- (xviii) in the entry relating to Articles 72(1) and 73—
  - (aa) in the first column omit “(as read with paragraph 2B(3) of Part 2 of schedule 1)”,
  - (bb) in the second column, for “the Union territory” replace “Great Britain”,
- (xix) in the entry relating to Article 74(1), in the second column, for “protected zones” substitute “GB pest-free areas”,
- (xx) in the entry relating to Article 79(1)—
  - (aa) in the first column, for “and 83” substitute “, 83 and 92a”,
  - (bb) in the second column, for “the Union territory without a plant passport” substitute “Great Britain or the introduction of certain plants, plant products and other objects into Great Britain from a CD territory without a UK plant passport”,
- (xxi) in the entry relating to Article 80(1)—
  - (aa) in the first column, for “and 83” substitute “, 83 and 92a”,
  - (bb) in the second column, for “certain protected zones” in both places it occurs substitute “GB pest-free areas” and after “a” insert “UK”,
- (xxii) in the entry relating to Article 84(1), in the second column, in both places it occurs, after “issuing”, insert “UK”,

- (xxiii) in the entry relating to Article 85, in the second column, after “issuing” insert “UK”,
- (xxiv) in the entry relating to Article 86(1), in the second column—
  - (aa) after “issuing” insert “UK”,
  - (bb) for “protected zone” substitute “GB pest-free area”,
- (xxv) after the entry relating to Article 86(1) insert—

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“Article 86a	Prohibits authorised professional operators from issuing UK plant passports for plants, plant products or other objects to be introduced into a CD territory unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.”,
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- (xxvi) in the entry relating to Article 88, in the second column, after “attach” insert “UK”,
  - (xxvii) in the entry relating to Article 90(1), in the second column, after “a” insert “UK”,
  - (xxviii) in the entry relating to Article 93(1), in the second column, after “replacement” insert “UK”,
  - (xxix) in the entry relating to Article 93(5), in the second column, after “replaced” insert “UK”,
  - (xxx) in the entry relating to Article 96(1), in the second column, for “the Union territory” substitute “Great Britain”.
- (3) In Part 2, (the Official Controls Regulation), in the table—
- (a) in the entry relating to Article 47(5), in the second column, in both places it occurs, for “the Union” substitute “Great Britain”,
  - (b) in the entry relating to Article 56(4), in the second column, for “the Union” substitute “Great Britain”.
- (4) In Part 3, (other EU legislation)—
- (a) in the heading, before “EU” insert the word “retained”,
  - (b) in the heading to the first column of the table, before the word “EU” insert the word “retained”,
  - (c) in the entry in the table for Article 22(4) of Commission Delegated Regulation (EU) 2019/2124, in the second column, for “the Union territory” substitute “Great Britain”.

#### **Schedule 4**

- 30.** Omit schedule 4 (offences: EU decisions relating to plant health).

#### **Savings provisions in relation to plant health fees amendments**

- 31.** Despite the provision made by regulations 6, 7, 8 and 10—
- (a) a person must pay to the Scottish Ministers any fee which prior to the coming into force of regulation 6 was payable by that person under regulations 3, 4, 5 or 5A of the Plant Health Fees (Scotland) Regulations 2008<sup>(25)</sup>,

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(25) S.S.I. 2008/153, relevantly amending instruments are 2010/207 and S.S.I. 2019/421.

- (b) an importer must pay to the Scottish Ministers any fee which prior to the coming into force of regulation 7 was payable by that importer under regulations 3 or 5 of the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014<sup>(26)</sup>,
- (c) a person must pay to the Scottish Ministers any fee which prior to the coming into force of regulation 8 was payable by that person under regulation 3 of the Plant Health (Forestry) (Fees) (England and Scotland) Regulations 2015<sup>(27)</sup>,
- (d) a person must pay to the Scottish Ministers any fee which prior to the coming into force of regulation 10 was payable by that person under article 4 of the Plant Health (Export Certification) (Scotland) Order 2018<sup>(28)</sup>.

### **Transitional provision in relation to plant health import inspection fees**

**32.**—(1) This regulation applies to plants, plant products, other objects and controlled consignments, which originate in, or are dispatched from an EU Member State, Switzerland or Liechtenstein and are introduced into Scotland during the period commencing on IP completion day and ending on 31 March 2021.

(2) In relation to plants, plant products, other objects and controlled consignments to which this regulation applies, the following provisions do not apply—

- (a) regulations 3 and 5 of the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014,
- (b) regulations 3(4) and (5) of the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015.

(3) In this regulation, “controlled consignment” has the same meaning as in regulation 2(1) of the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015.

## **PART 4**

### **Revocations**

#### **Revocations**

**33.** The instruments listed in column 1 of the table in the schedule are revoked to the extent specified in the corresponding entry in column 3 of that table.

St Andrew’s House,  
Edinburgh  
17th December 2020

*FERGUS EWING*  
A member of the Scottish Government

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<sup>(26)</sup> S.S.I. 2014/338, relevant amending instruments are S.S.I. 2015/392, S.S.I. 2019/421 and S.S.I. 2019/425.

<sup>(27)</sup> S.I. 2015/350, relevant amending instruments are S.S.I. 2019/421 and S.S.I. 2020/176.

<sup>(28)</sup> S.S.I. 2018/132, to which there are amendments not relevant to these Regulations.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Regulation 33

## Revocation of instruments

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Instrument revoked</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2019	<a href="#">S.S.I. 2019/124</a>	The whole instrument
The Forestry (EU Exit) (Scotland) (Amendment etc.) Regulations 2019	<a href="#">S.S.I. 2019/130</a>	Parts 2, 4 and 6

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are principally made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 and by paragraph 21 of schedule 7 of the European Union (Withdrawal) Act 2018 (c.16) (“the 2018 Act”) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular, the deficiencies mentioned in section 8(2)(a) to (d) and (g) of the 2018 Act) arising from the withdrawal of the United Kingdom from the European Union.

Part 2 (regulations 2 to 5) is made in exercise of powers under the European Communities Act 1972 (c.68) and makes provision to amend the Plant Health (Fees) (Scotland) Regulations 2008, the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014, the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015 and the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019, for the purpose of implementing and dealing with matters arising out of or related to EU obligations of the United Kingdom.

Part 3 (regulations 6 to 32) is made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 of the 2018 Act.

Part 4 (regulation 33) repeals legislation which is superseded by the amendments in these Regulations.

A business and regulatory impact assessment has not been produced for this instrument as no, or no significant, impact upon business, charities or voluntary bodies is foreseen.