
DRAFT STATUTORY INSTRUMENTS

2020 No.

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

PART 3

Amendment of retained direct EU legislation

Chapter 1

27.—(1) Chapter 1 is amended as follows.

(2) In Article 1—

- (a) in paragraph 2, for “the Union territory” substitute “Great Britain”;
- (b) omit paragraph 3.

(3) In Article 2—

- (a) in the definition of ‘plant products’ in point (2), for the words from “implementing” to “41” substitute “Phytosanitary Conditions Regulation, other retained EU law relating to plant health or regulations made under Article 28(1) or 30(1)”;

(b) for point (6) substitute—

“(6) ‘competent authority’ means:

- (a) in relation to England, the Secretary of State or the Forestry Commissioners;
- (b) in relation to Scotland, the Scottish Ministers; and
- (c) in relation to Wales, the Welsh Ministers;”;

(c) at the end insert—

“(23) ‘Regulation (EU) 2017/625’ means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products⁽¹⁾;

(24) ‘appropriate authority’ has the meaning given in Article 2a;

(25) ‘appropriate computerised information management system’ means the computerised information management system for official controls referred to in Article 131 of Regulation (EU) 2017/625;

(26) ‘CD authority’, in relation to a CD territory, means the authority that is officially responsible in that territory for the implementation of rules in relation to protective measures against pests of plants;

(27) ‘CD pest-free area’ means a CD territory or an area in that territory which has been established as a pest-free area in accordance with ISPM4 in respect of a CD quarantine pest;

(28) ‘CD quarantine pest’ means a pest which:

(1) EUR 2017/625.

- (i) is present in Great Britain, but not in a CD territory that is recognised as free from that pest in accordance with ISPM4; and
 - (ii) may not, under the relevant CD legislation, be introduced into the CD territory;
- (29) ‘CD territory’ means the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man;
- (30) ‘Commission Delegated Regulation (EU) 2019/1702’ means Commission Delegated Regulation (EU) 2019/1702 establishing a list of priority pests(2);
- (31) ‘GB pest-free area’ means an area in Great Britain which has been established as a pest-free area in accordance with ISPM4 in respect of a PFA quarantine pest;
- (32) ‘GB quarantine pest’ has the meaning given in Article 4;
- (33) ‘GB regulated non-quarantine pest’ has the meaning given in Article 36;
- (34) ‘IPPC’ means the International Plant Protection Convention 1951(3);
- (35) ‘ISPM4’ means International Standard for Phytosanitary Measures No. 4 of November 1995 on the requirements for the establishment of pest free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(4);
- (36) ‘ISPM15’ means International Standard for Phytosanitary Measures No. 15 of March 2002 on guidelines for regulating wood packaging material in international trade, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(5);
- (37) ‘PFA quarantine pest’ has the meaning given in Article 32(1);
- (38) ‘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(6);
- (39) ‘priority pest’ has the meaning given in Article 6(1);
- (40) ‘provisional GB quarantine pest’ has the meaning given in Article 30(A1);
- (41) ‘relevant CD legislation’, in relation to a CD territory, means legislation on protective measures against pests of plants that is in force in that CD territory;
- (42) ‘relevant legislation on the marketing of seeds and other propagating material’ means retained EU law that implemented:
- (a) in relation to fodder plant seed, Council [Directive 66/401/EEC](#) on the marketing of fodder plant seed(7);
 - (b) in relation to cereal seed, Council [Directive 66/402/EEC](#) on the marketing of cereal seed(8);

(2) EUR 2019/1702.

(3) Adopted in 1951 (Treaty Series No.16 (1954), Cmd 9077) and last revised in 1997 (Miscellaneous Series No.15 (2003), Cmd 5945).

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

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

(6) EUR 2019/2072.

(7) OJ No 125, 11.7.1966, p.2298, as last amended by Commission Implementing Directive (EU) 2020/177 (OJ No. L 41, 13.2.2020, p.1).

(8) OJ No 125, 11.7.1966, p.2309, as last amended by Commission Implementing Directive (EU) 2020/177.

- (c) in relation to propagating material of ornamental plants, Council [Directive 98/56/EC](#) on the marketing of propagating material of ornamental plants(**9**);
 - (d) in relation to forest reproductive material, Council [Directive 1999/105/EC](#) on the marketing of forest reproductive material(**10**);
 - (e) in relation to beet seed, Council [Directive 2002/54/EC](#) on the marketing of beet seed(**11**);
 - (f) in relation to vegetable seed, Council [Directive 2002/55/EC](#) on the marketing of vegetable seed(**12**);
 - (g) in relation to seed potatoes, Council [Directive 2002/56/EC](#) on the marketing of seed potatoes(**13**);
 - (h) in relation to seed of oil and fibre plants, Council [Directive 2002/57/EC](#) on the marketing of seed of oil and fibre plants(**14**);
 - (i) in relation to vegetable propagating and plant material, other than seed, Council [Directive 2008/72/EC](#) on the marketing of vegetable propagating and plant material, other than seed(**15**);
 - (j) in relation to fruit plant propagating material and fruit plants intended for fruit production, Council [Directive 2008/90/EC](#) on the marketing of fruit plant propagating material and fruit plants intended for fruit production(**16**);
- (43) ‘UK NPPO’ means the national plant protection organisation of the United Kingdom;
- (44) ‘UK plant passport’ has the meaning given in Article 78.”
- (4) After Article 2 insert—

“Article 2a

Meaning of appropriate authority

1. In this Regulation, ‘the appropriate authority’ means:
 - (a) in the case of regulations applying in relation to England, the Secretary of State;
 - (b) in the case of regulations applying in relation to Wales, the Welsh Ministers;
 - (c) in the case of regulations applying in relation to Scotland, the Scottish Ministers.
2. But ‘the appropriate authority’ is the Secretary of State:
 - (a) if consent is given:
 - (i) in the case of regulations applying in relation to Wales, by the Welsh Ministers;
 - (ii) in the case of regulations applying in relation to Scotland, by the Scottish Ministers; or

(9) OJ No. L 226, 13.8.1998, p.16, as last amended by Regulation (EU) No 652/2014 (OJ No. L 189, 27.6.2014, p.1).

(10) OJ No. L 11, 15.1.2000, p.17.

(11) OJ No. L 226, 13.8.1998, p.16, as last amended by Regulation (EU) No 652/2014 (OJ No. L 189, 27.6.2014, p.).

(12) OJ No. L 193, 20.7.2002, p.33, as last amended by Commission Implementing Directive (EU) 2020/432 (OJ No. L 88, 24.3.2020, p.3).

(13) OJ No. L 193, 20.7.2002, p.60, as last amended by Commission Implementing Directive (EU) 2020/177.

(14) OJ No. L 193, 20.7.2002, p.74, as last amended by Commission Implementing Directive (EU) 2020/177.

(15) OJ No. L 205, 1.8.2008, p.28, as last amended by Commission Implementing Directive (EU) 2019/990 (OJ No. L 160, 18.6.2019, p.14).

(16) OJ No. L 267, 8.10.2008, p.8, as last amended by Commission Implementing Decision (EU) 2019/120 (OJ No L 24, 28.1.2019, p.27).

- (b) in relation to any provision in regulations applying in relation to Great Britain which is outside devolved competence.
- 3. For the purposes of paragraph 2, a provision is “outside devolved competence”:
 - (a) in relation to Wales, if it would not be within the legislative competence of the Senedd Cymru if it were contained in an Act of the Senedd Cymru (assuming, in the case of provision that could only be made with the consent of a Minister of the Crown within the meaning of the Ministers of the Crown Act 1975, that such consent were given);
 - (b) in relation to Scotland, if it would not be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.

Article 2b

Meaning of third country and related expressions

- 1. In this Regulation:
 - ‘third country’ means any country or territory outside the British Islands;
 - ‘EU Member State’ means a member State.
- 2. For the purposes of this Regulation, any reference to the territory of an EU Member State or the European Union is not to be treated as including the Canary Islands, Ceuta, Melilla or the French Overseas Departments.”.