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STATUTORY INSTRUMENTS

2022 No. 1367

ANIMALS

EXITING THE EUROPEAN UNION

PLANT HEALTH

**The Plant Health and Trade in Animals and Related Products
(Amendment) Regulations 2022**

Approved by both Houses of Parliament

Made - - - - 19th December 2022

Coming into force in accordance with regulation 1(1) and (2)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a).

The Secretary of State is of the opinion (as mentioned in paragraph 5(2) of that Schedule) that, by reason of urgency, it is necessary to make these Regulations without a draft of the instrument being laid before, and approved by a resolution of, each House of Parliament.

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Plant Health and Trade in Animals and Related Products (Amendment) Regulations 2022 and, subject to paragraph (2), come into force on the day after the day on which they are made.

(2) Regulations 7 and 8 come into force on 4th February 2023.

(3) These Regulations extend to, and, subject to paragraphs (4) to (7), apply in relation to, England and Wales and Scotland.

(4) Regulation 3 applies in relation to England only.

^(a) 2018 c. 16. Section 8 was amended by section 27 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) and paragraph 21 of Schedule 7 was amended by section 41(4) of, and paragraph 53(2) of Schedule 5 to, that Act.

- (5) Regulation 4 applies in relation to Scotland only.
- (6) Regulations 5 and 6 apply in relation to Wales only.
- (7) Regulation 8 applies in relation to England and Scotland.

PART 2

Amendment of legislation relating to plant health

Amendment of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants

2.—(1) Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants^(a) (“the Plant Health Regulation”) is amended as follows.

(2) In Articles 11(2), 12(1), 14(3), 15(1), 16 and 17^(b), in each place where it occurs, after “GB quarantine pest” insert “or provisional GB quarantine pest”.

(3) After Article 18(4)(c) insert—

“4A. Where, in accordance with paragraph 2 or 3, the competent authority determines that a demarcated area should extend to or be established in another territory of Great Britain, it must immediately inform the competent authority in relation to that other territory of the extent of the proposed demarcated area.

4B. Where, in accordance with paragraph 4A, the competent authority in relation to that other territory is informed that a demarcated area should extend to or be established in the territory for which it is responsible, it may, in accordance with paragraphs 2 to 4, establish an appropriate demarcated area in the territory for which it is responsible.”.

Amendment of the Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019

3.—(1) The Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019^(d) are amended as follows.

(2) In regulation 17—

(a) in paragraph (1), for “This regulation” substitute “Paragraph (2)”;

(b) after paragraph (2) insert—

“(2A) Paragraph (2B) applies where the competent authority in relation to another territory of Great Britain—

(a) has officially confirmed the presence in its territory of a plant pest to which Article 18 of the Plant Health Regulation applies; and

(b) has notified the competent authority in relation to England, in accordance with Article 18(4A) of the Plant Health Regulation, that a demarcated area should extend to or be established in England.

(2B) The competent authority may by notice—

(a) demarcate an area for the purpose of eradicating or containing the plant pest, or for the purpose of preventing the establishment of the pest in England; or

(a) EUR 2016/2031, which was amended by S.I. 2020/1482 and 2021/79 and 426.

(b) Articles 11(2), 12(1) and 14 to 17 were amended by S.I. 2020/1482.

(c) Article 18 was amended by S.I. 2020/1482.

(d) S.I. 2019/1517.

- (b) confirm the proposed demarcation of an area in England previously notified to the competent authority by another competent authority in accordance with Article 18(4A) of the Plant Health Regulation.

(2C) A notice under paragraph (2B) may specify the prohibitions or restrictions which are to apply to the demarcated area for any of the purposes specified in that paragraph.”;

- (c) in paragraph (3), after “paragraph (2)” insert “or (2B)”;

- (d) at the end insert—

“(4) In this regulation, “competent authority” has the meaning given by Article 2(6) of the Plant Health Regulation.”.

Amendment of the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019

4.—(1) The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019(a) are amended as follows.

(2) In regulation 17—

- (a) in paragraph (1), for “This regulation” substitute “Paragraph (2)”;

- (b) after paragraph (2) insert—

“(2A) Paragraph (2B) applies where the competent authority in relation to another territory of Great Britain—

- (a) has officially confirmed the presence in its territory of a plant pest to which Article 18 of the Plant Health Regulation applies; and
- (b) has notified the competent authority in relation to Scotland, in accordance with Article 18(4A) of the Plant Health Regulation, that a demarcated area should extend to or be established in Scotland.

(2B) The competent authority may by notice—

- (a) demarcate an area for the purpose of eradicating or containing the plant pest, or for the purpose of preventing the establishment of the pest in Scotland; or
- (b) confirm the proposed demarcation of an area in Scotland previously notified to the competent authority by another competent authority in accordance with Article 18(4A) of the Plant Health Regulation.

(2C) A notice under paragraph (2B) may specify the prohibitions or restrictions which are to apply to the demarcated area for any of the purposes specified in that paragraph.”;

- (c) in paragraph (3), after “paragraph (2)” insert “or (2B)”;

- (d) at the end insert—

“(4) In this regulation, “competent authority” has the meaning given by Article 2(6) of the Plant Health Regulation.”.

Amendment of the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020: text in English

5.—(1) The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020(b) are amended as follows.

(2) In regulation 17—

- (a) in paragraph (1), for “This regulation” substitute “Paragraph (2)”;

- (b) after paragraph (2) insert—

(a) S.S.I. 2019/421.

(b) S.I. 2020/206 (W. 48).

“(2A) Paragraph (2B) applies where the competent authority in relation to another territory of Great Britain—

- (a) has officially confirmed the presence in its territory of a plant pest to which Article 18 of the Plant Health Regulation applies; and
- (b) has notified the competent authority in relation to Wales, in accordance with Article 18(4A) of the Plant Health Regulation, that a demarcated area should extend to or be established in Wales.

(2B) The competent authority may by notice—

- (a) demarcate an area for the purpose of eradicating or containing the plant pest, or for the purpose of preventing the establishment of the pest in Wales; or
- (b) confirm the proposed demarcation of an area in Wales previously notified to the competent authority by another competent authority in accordance with Article 18(4A) of the Plant Health Regulation.

(2C) A notice under paragraph (2B) may specify the prohibitions or restrictions which are to apply to the demarcated area for any of the purposes specified in that paragraph.”;

- (c) in paragraph (3), after “paragraph (2)” insert “or (2B)”;
- (d) at the end insert—

“(4) In this regulation, “competent authority” has the meaning given by Article 2(6) of the Plant Health Regulation.”.

Amendment of the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020: text in Welsh

6.—(1) The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020(a) are amended in the Welsh text as follows.

(2) In regulation 17—

- (a) in paragraph (1), for “Mae’r rheoliad hwn” substitute “Mae paragraff (2)”;
- (b) after paragraph (2) insert—

“(2A) Mae paragraff (2B) yn gymwys pan fo’r awdurdod cymwys mewn perthynas ag un arall o diriogaethau Prydain Fawr—

- (a) wedi cadarnhau’n swyddogol fod pla planhigion y mae Erthygl 18 o’r Rheoliad Iechyd Planhigion yn gymwys iddo yn bresennol yn ei diriogaeth; a
- (b) wedi hysbysu’r awdurdod cymwys mewn perthynas â Chymru, yn unol ag Erthygl 18(4A) o’r Rheoliad Iechyd Planhigion”, y dylai ardal ddarnodedig ymestyn i Gymru neu gael ei sefydlu yng Nghymru.

(2B) Caiff yr awdurdod cymwys drwy hysbysiad—

- (a) darnodi ardal er mwyn dileu neu gyfyngu’r pla planhigion, neu er mwyn atal y pla rhag ymsefydlu yng Nghymru; neu
- (b) cadarnhau’r bwriad i ddarnodi ardal yng Nghymru a hysbyswyd yn flaenorol i’r awdurdod cymwys gan awdurdod cymwys arall yn unol ag Erthygl 18(4A) o’r Rheoliad Iechyd Planhigion.

(2C) Caiff hysbysiad o dan baragraff (2B) bennu’r gwaharddiadau neu’r cyfyngiadau sydd i fod yn gymwys i’r ardal ddarnodedig at unrhyw un neu ragor o’r dibenion a bennir yn y paragraff hwnnw.”;

- (c) in paragraph (3), after “baragraff (2)” insert “neu (2B)”;
- (d) at the end insert—

(a) S.I. 2020/206 (W. 48).

“(4) Yn y rheoliad hwn, mae i “awdurdod cymwys” yr ystyr a roddir i “competent authority” gan Erthygl 2(6) o’r Rheoliad Iechyd Planhigion.”.

Amendment of Commission Implementing Decision (EU) 2019/1614 authorising Member States to provide for derogations from certain provisions of Council Directive 2000/29/EC in respect of potatoes, other than potatoes intended for planting, originating in the regions of Akkar and Bekaa of Lebanon

7.—(1) Commission Implementing Decision (EU) 2019/1614(a) authorising Member States to provide for derogations from certain provisions of Council Directive 2000/29/EC in respect of potatoes, other than potatoes intended for planting, originating in the regions of Akkar and Bekaa of Lebanon is amended as follows.

(2) In Article 4—

(a) in paragraph 3, after “EPPO PM 7/59” insert a new subparagraph as follows—

“While those tests are carried out, all lots of the consignment concerned, and all other consignments which contain a lot originating in the same pest-free area and which are under the control of the responsible official body concerned, must remain under official control, and must not be moved or used.”;

(b) in paragraph 6, after “this Article” insert “and in Article 5”.

(3) In Article 5—

(a) in paragraph 1, for the words from “the rapid screening test” to the end substitute “a test carried out in accordance with EPPO PM 7/59.”;

(b) in paragraph 2, for the words from “in accordance” to the end substitute “by a test carried out in accordance with EPPO PM 7/59.”.

(4) In Article 6(1), after “a label” insert “which must be in English”.

PART 3

Amendment of legislation relating to trade in animals and related products

Amendment of the Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022

8.—(1) The Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022(b) are amended as follows.

(2) In regulation 21(8), after subparagraph (c) insert—

“(d) in paragraph 4, for “shall be established” to the end there were substituted “, may be established by, or in accordance with a procedure established by, regulations made by the appropriate authority;

(e) in paragraph 5, for “may be adopted” to the end there were substituted “may be established by, or in accordance with a procedure established by, regulations made by the appropriate authority.”.

Mark Spencer
Minister of State

19th December 2022

Department for Environment, Food and Rural Affairs

(a) EUDN 2019/1614, which was amended by S.I. 2022/1090.

(b) S.I. 2022/1322.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(b), (c), (d), (f) and (g) and (3)(a) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

They do so by correcting an amendment that was made to Article 18 of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants (EUR 2016/2031) (“the Plant Health Regulation”) by the Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482), which failed fully to remedy the deficiency.

They also correct amendments made to Commission Implementing Decision (EU) 2019/1614 authorising Member States to provide for derogations from certain provisions of Council Directive 2000/29/EC in respect of potatoes, other than potatoes intended for planting, originating in the regions of Akkar and Bekaa of Lebanon (EUDN 2019/1614) (“Decision 2019/1614”) by the Animals, Food, Plant Health, Plant Propagating Material and Seeds (Miscellaneous Amendments etc.) Regulations 2022 (S.I. 2022/1090), which did not fully remedy the deficiencies in that Decision.

Additionally, they amend the Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022 (S.I. 2022/1322) (“the Trade in Animals etc. Regulations”), replacing references to EU legislation with regulation-making powers.

Regulation 2 amends the Plant Health Regulation to insert references to Annex 2A to 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 (EUR 2019/2072) (“the Phytosanitary Conditions Regulation”). Annex 2A to that Regulation was inserted by the Plant Health (Phytosanitary Conditions) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1527), but S.I. 2020/1482 (which made corresponding amendments to the Plant Health Regulation) failed to make all the amendments to the Plant Health Regulation necessary to reflect the insertion of Annex 2A.

Regulation 2 also makes amendments to Article 18 of the Plant Health Regulation to allow competent authorities in relation to each of the territories of Great Britain to cooperate with one another in demarcating areas affected by plant pests (including diseases). These amendments allow neighbouring authorities to take measures to control the spread of plant pests which are present in, or are likely to spread to, a neighbouring territory.

Regulations 3 to 5 make consequential amendments to EU-derived domestic legislation in relation to, respectively, England, Scotland and Wales to allow the authorities in each of these territories to collaborate in controlling plant pests identified in any territory of Great Britain which have spread, or are liable to spread, to another territory. Regulation 6 makes amendments to the Welsh language version of the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020 (S.I. 2020/206 (W. 48)) parallel to those made by regulation 5 to the version in English.

Regulation 7 makes amendments to Decision 2019/1614 to restore a requirement that consignments originating in specified areas of Lebanon which are, or may be, contaminated with *Clavibacter Michiganensis* subsp. *sepedonicus* should remain under official control and should not be moved. This regulation also provides for labelling of consignments to be in English and replaces references to standards set by EU Directives by references to appropriate international standards.

Regulation 8 amends the Trade in Animals etc. Regulations, which modify functions contained in EU Directives. The amendments made by this regulation replace references to EU procedures

governing the import of equine animals with powers for the appropriate authority to make regulations.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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