

Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No. 000

**EXITING THE EUROPEAN UNION
PLANT HEALTH**

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

*Made - - - - - ***
Coming into force in accordance with regulation 1(2)
to (4)*

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(1).

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament in accordance with paragraph 1(3) of Schedule 7 to that Act.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Plant Health (Amendment etc.) (EU Exit) Regulations 2019.

(2) This Part, regulation 4(6)(d)(ii), (e), (7)(c)(i) and (8)(b) and Part 4 come into force on the day after the day on which these Regulations are made.

(3) Part 2 comes into force on exit day.

(4) Part 3, other than regulation 4(6)(d)(ii), (e), (7)(c)(i) and (8)(b), comes into force immediately before exit day.

PART 2

Amendment of primary legislation relating to plant health

The Plant Health Act 1967

2. In sections 2(1) and 3(1) of the Plant Health Act 1967(2), omit “or called for by any EU obligation”.

The Plant Health Act (Northern Ireland) 1967

3. In sections 2(1) and 3(1) of the Plant Health Act (Northern Ireland) 1967(3), omit “or called for by any Community obligation”.

PART 3

Amendment of the Plant Health (EU Exit) Regulations 2019

4.—(1) The Plant Health (EU Exit) Regulations 2019(4) are amended as follows.

(2) In regulation 2(1), in the definition of “relevant material”, at the end insert “or any used machinery or vehicle which has been operated for agricultural or forestry purposes”.

(3) In Schedule 1—

(a) in the table in Part A—

(i) under the heading “Insects, mites and nematodes”—

(aa) after item 8 insert—

“8A. *Aromia bungii* (Faldermann)”;

(bb) after item 22 insert—

“22A. *Grapholita packardi* Zeller”;

(cc) after item 33 insert—

“33A. *Neoleucinodes elegantalis* (Guenée)

33B. *Oemonia hirta* (Fabricius)

33C. *Pityophthorus juglandis* Blackman”;

(ii) under the heading “Fungi”—

(aa) after item 1 insert—

“1A. *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr.”;

(bb) after item 3 insert—

(2) 1967 c. 8; section 2(1) was amended by paragraph 8(2)(a) of Schedule 4 to the European Communities Act 1972 (c. 68) and S.I. 2011/1043. Section 3(1) was amended by paragraph 8(2)(a) and (b) of Schedule 4 to the European Communities Act 1972 and S.I. 2011/1043.

(3) 1967 c. 28 (N.I.); sections 2(1) and 3(1) were amended by S.R. & O (N.I.) 1972 No. 351.

(4) S.I. 2019/787, amended by S.I. 2019/809.

“3A. *Elsinoë australis* Bitanc. & Jenk.

3B. *Elsinoë citricola* X.L. Fan, R.W. Barreto & Crous

3C. *Elsinoë fawcettii* Bitanc. & Jenk.”;

(cc) after item 4 insert—

“4A. *Fusarium circinatum* Nirenberg & O’Donnell

4B. *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat”;

(b) in Part D—

(i) after item 3 insert—

“3A. *Phyllocoptes fructiphilus* (Keifer 1940)”;

(ii) for items 4 and 5 substitute—

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

5. *Pomacea* (Perry)”;

(iii) after item 6 insert—

“7. Rose rosette virus”.

(4) In Schedule 2—

(a) in the table in Part A—

(i) under the heading “Insects, mites and nematodes”—

(aa) omit item 10;

(bb) in item 37, in column 2, after “seeds, of” insert “*Cedrus* Trew or”;

(ii) under the heading “Fungi”, omit item 10.

(5) In Schedule 3, in the table in Part A, for item 14 substitute—

“14.	Soil consisting in part of solid organic substances or other growing medium consisting in whole or in part of solid organic substances, other than any growing medium that is composed entirely of peat or fibre of <i>Cocos nucifera</i> L. and has not been previously used for growing plants or for any agricultural purposes	Any third country, other than the European Union or Switzerland”.
------	---	---

(6) In Schedule 4—

(a) in the definition of “associated controlled dunnage”, for “9 or 12 to 14” substitute “8A, 9, 11 or 12 to 14A”;

(b) in the table in Part A—

(i) in item 8, in the entry in column 3, in paragraph (a), at the beginning insert “except in the case of wood originating in Canada or the USA,”;

(ii) after item 8 insert—

<p>“8A. Wood of <i>Juglans</i> L. or <i>Pterocarya</i> Kunth, other than wood in the form of:</p> <p>—chips, particles, sawdust, shavings, wood waste or scrap, or</p> <p>—wood packaging material which is not associated controlled dunnage,</p> <p>but including wood which has not kept its natural round surface, originating in the USA or the European Union</p>	<p>The wood must be accompanied by:</p> <p>(a) an official statement that it originates in:</p> <p>(i) an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from <i>Geosmithia morbida</i> Kolarik, Freeland, Utley & Tisserat and its vector <i>Pityophthorus juglandis</i> Blackman, or</p> <p>(ii) in the case of wood originating in the European Union, an area known to be free from <i>Geosmithia morbida</i> Kolarik, Freeland, Utley & Tisserat and its vector <i>Pityophthorus juglandis</i> Blackman,</p> <p>(b) an official statement that it has undergone an appropriate heat treatment to achieve a minimum temperature of 56°C for a minimum duration of 40 continuous minutes throughout the entire profile of the wood, or</p> <p>(c) an official statement that it has been squared to entirely remove the natural rounded surface.</p>
---	--

Where the phytosanitary certificate includes the official statement referred to in paragraph (b), there must also be evidence of that heat treatment by a mark “HT” put on the wood or on any wrapping in accordance with current usage and on the phytosanitary certificate.

*The name of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration””;

(iii) for item 11 substitute—

<p>“11. Wood of <i>Platanus</i> L., other than wood packaging material that is not associated controlled dunnage, but including wood which has not kept its natural round surface and wood in the form of chips, particles, sawdust, shavings, wood waste or scrap, originating in Albania,</p>	<p>The wood must be accompanied by:</p> <p>(a) an official statement that it originates in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from <i>Ceratocystis platani</i> (J.M. Walter) Engelbr. & T.C. Harr.,</p> <p>(b) in the case of wood originating in the European Union, an official statement</p>
---	---

Armenia, the European Union,
Switzerland, Turkey or the USA

that it originates in a part of the
European Union which is recognised
as an EU protected zone in relation
to *Ceratocystis platani* (J.M. Walter)
Engelbr. & T.C. Harr., or

- (c) an official statement that it has
undergone kiln-drying to below 20%
moisture content, expressed as a
percentage of dry matter, achieved
through an appropriate time/temperature
schedule.

Where the phytosanitary certificate
includes the official statement referred to in
paragraph (c), there must also be evidence
of that kiln-drying by a mark “kiln-dried” or
“KD” or another internationally recognised
mark put on the wood or on any wrapping in
accordance with current usage.

*The name of the area(s) must be included in
the phytosanitary certificate under the heading
“Additional declaration”;

(iv) after item 14 insert—

“14A. Wood of *Prunus* L., other than
in the form of:

—chips, particles, sawdust,
shavings, wood waste or scrap,
or

—wood packaging material
which is not associated
controlled dunnage,

but including wood which
has not kept its natural round
surface, originating in China,
Democratic People’s Republic
of Korea, Mongolia, Japan,
Republic of Korea or Vietnam

The wood must be accompanied by:

- (a) an official statement that it originates
in an area* established by the national
plant protection organisation in
accordance with ISPM No. 4 as an
area that is free from *Aromia bungii*
(Faldermann),
- (b) an official statement that it has
undergone an appropriate heat treatment
to achieve a minimum temperature of
56°C for a minimum duration of 30
continuous minutes throughout the
entire profile of the wood, or
- (c) an official statement that it has
undergone appropriate ionising radiation
to achieve a minimum absorbed dose of
1kGy throughout the wood.

Where the phytosanitary certificate
includes the official statement referred to in
paragraph (b), there must also be evidence
of that heat treatment by a mark “HT” on the
phytosanitary certificate.

*The name of the area(s) must be included in
the phytosanitary certificate under the heading
“Additional declaration”;

- (v) omit item 18;
 (vi) after item 22 insert—

<p>“22A. Wood of <i>Prunus</i> L. in the form of chips, particles, sawdust, shavings, wood waste or scrap, originating in China, Democratic People’s Republic of Korea, Mongolia, Japan, Republic of Korea or Vietnam</p>	<p>The wood must be accompanied by:</p> <p>(a) an official statement that it originates in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from <i>Aromia bungii</i> (Faldermann),</p> <p>(b) an official statement that it has been processed into pieces of not more than 2.5 cm thickness and width, or</p> <p>(c) an official statement that it has undergone an appropriate heat treatment to achieve a minimum temperature of 56°C for a minimum duration of 30 continuous minutes throughout the entire profile of the wood.</p>
---	--

Where the phytosanitary certificate includes the official statement referred to in paragraph (c), there must also be evidence of that heat treatment by a mark “HT” on the phytosanitary certificate.

*The name of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”;

-
- (vii) after item 24 insert—

<p>“24A. Isolated bark of <i>Juglans</i> L. or <i>Pterocarya Kunth</i> or wood of <i>Juglans</i> L. or <i>Pterocarya Kunth</i> in the form of chips, particles, sawdust, shavings, wood waste or scrap, originating in the USA or the European Union</p>	<p>The bark or wood must be accompanied by:</p> <p>(a) an official statement that it originates in an area* established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from <i>Geosmithia morbida</i> Kolarik, Freeland, Utley & Tisserat and its vector <i>Pityophthorus juglandis</i> Blackman, or</p> <p>(b) an official statement that it has undergone an appropriate heat treatment to achieve a minimum temperature of 56°C for a minimum duration of 40 continuous minutes throughout the entire profile of the bark or the wood.</p>
--	---

Where the phytosanitary certificate includes the official statement referred to in paragraph (b), there must also be evidence

of that heat treatment by a mark “HT” on the phytosanitary certificate.

*The name of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”;

(viii) in item 35, in column 2, after “seeds, of” insert “*Cedrus Trew* or”;

(ix) after item 43 insert—

-
- “43A. Plants, other than seeds, of *Juglans* L. or *Pterocarya* Kunth, intended for planting, originating in the USA
- The plants must be accompanied by:
- (a) an official statement that they have been grown throughout their life in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat and its vector *Pityophthorus juglandis* Blackman,
 - (b) an official statement that they:
 - (i) originate in a place of production where neither symptoms of *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat nor its vector *Pityophthorus juglandis* Blackman, or the presence of the vector, have been observed during official inspections of the place of production and its vicinity (which, as a minimum, must include the area lying within a radius of 5 km of the place of production) carried out in the period of two years prior to their export,
 - (ii) have been inspected immediately prior to export, and
 - (iii) have been handled and packaged in ways to prevent their infestation once they have left the place of production, or
 - (c) an official statement that they:
 - (i) originate in a place of production with complete physical isolation,
 - (ii) have been inspected immediately prior to export, and
 - (iii) have been handled and packaged in ways to prevent their infestation once they have left the place of production.

*The name of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”

- 43B. Plants, other than seeds, of *Juglans* L. or *Pterocarya* Kunth, intended for planting, originating in the European Union
- The plants must be accompanied by:
- (a) an official statement that they have been grown throughout their life, or since their introduction into the European Union, in a place of production in an area* established in accordance with ISPM No. 4 as an area that is free from *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat and its vector *Pityophthorus juglandis* Blackman,
 - (b) an official statement that they:
 - (i) originate in a place of production where neither symptoms of *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat nor its vector *Pityophthorus juglandis* Blackman, or the presence of the vector, have been observed during official inspections of the place of production and its vicinity (which, as a minimum, must include the area lying within a radius of 5 km of the place of production) carried out in the period of two years prior to their movement,
 - (ii) have been visually inspected prior to their movement from the place of production, and
 - (iii) have been handled and packaged in ways to prevent their infestation once they have left the place of production, or
 - (c) an official statement that they:
 - (i) originate in a place of production with complete physical isolation,
 - (ii) have been visually inspected prior to their movement from the place of production, and
 - (iii) have been handled and packaged in ways to prevent their infestation once they have left the place of production.

*The name of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”;

(x) in item 45, in column 2, for “Armenia, the European Union, Switzerland or the USA” substitute “Albania, Armenia, the European Union, Switzerland, Turkey or the USA”;

(xi) after item 49 insert—

-
- “49A. Plants, other than plants in tissue culture or seeds, of *Crataegus* L., *Cydonia* Mill., *Malus* Mill., *Prunus* L., *Pyrus* L. or *Vaccinium* L., intended for planting, originating in Canada, Mexico or the USA
- The plants must be accompanied by:
- (a) an official statement that they have been grown throughout their life in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Grapholita packardi* Zeller,
 - (b) an official statement that they have been:
 - (i) grown throughout their life in a place of production established in accordance with ISPM No. 10 as a place of production that is free from *Grapholita packardi* Zeller, which is registered and supervised by the national plant protection organisation in the country of origin and has been subjected annually to inspections for any signs of *Grapholita packardi* Zeller carried out at appropriate times, and
 - (ii) grown in a site with the application of appropriate preventive treatments, where the absence of *Grapholita packardi* Zeller has been confirmed by official surveys carried out annually at appropriate times, and
 - (iii) subjected to a meticulous inspection for the presence of *Grapholita packardi* Zeller immediately prior to export, or
 - (c) an official statement that they have been grown in a site with complete physical protection against the introduction of *Grapholita packardi* Zeller.

A phytosanitary certificate may not include the official statement referred to in paragraph (a) unless the national plant protection organisation of the country of origin has previously notified the national plant protection organisation of the United Kingdom with written details of the area or areas.

* The name of the area(s) must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”;

(xii) for items 55 and 56 substitute—

“55.	Fruits of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf., <i>Mangifera</i> L. or <i>Prunus</i> L., originating in any third country, other than the European Union	The fruits must be accompanied by: <ul style="list-style-type: none"> (a) an official statement that they originate in a country which, in accordance with the measures specified in ISPM No. 4, is known to be free from <i>Tephritidae</i> (non-European), (b) an official statement that they originate in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from <i>Tephritidae</i> (non-European), (c) an official statement that no signs of <i>Tephritidae</i> (non-European) have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation, on official inspections carried out at least monthly during the three months prior to harvesting, and none of the fruits harvested at the place of production have shown, in appropriate official examinations, signs of <i>Tephritidae</i> (non-European), or (d) an official statement that they have been subjected to an effective treatment† to ensure freedom from <i>Tephritidae</i> (non-European).
------	---	--

A phytosanitary certificate may not include: —the official statement referred to in paragraph (a) unless the national plant protection organisation of the country of origin has previously notified the national plant protection organisation of the United Kingdom of this information in writing,

—the official statement referred to in paragraph (b) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of the area or areas,

—the official statement referred to in paragraph (d) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of treatment method.

Where the phytosanitary certificate includes the official statement referred to in paragraph (c), information on traceability must also be included in the phytosanitary certificate.

* The name of the area(s) must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

† Details of the treatment data must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

56. Fruits of *Capsicum* (L.), *Citrus* L., other than *Citrus limon* (L.) Osbeck. or *Citrus aurantiifolia* (Christm.) Swingle, *Prunus persica* (L.) Batsch or *Punica granatum* L., originating in any country of the African continent, Cape Verde, Saint Helena, Madagascar, La Reunion, Mauritius or Israel
- The fruits must be accompanied by:
- (a) an official statement that they originate in a country which, in accordance with the measures specified in ISPM No. 4, is known to be free from *Thaumatotibia leucotreta* (Meyrick),
 - (b) an official statement that they originate in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Thaumatotibia leucotreta* (Meyrick),
 - (c) an official statement that they:
 - (i) originate in a place of production established by the national plant production organisation in the country of origin in accordance with ISPM No. 10 as a place of production that is free from *Thaumatotibia leucotreta* (Meyrick), and
 - (ii) are free from *Thaumatotibia leucotreta* (Meyrick) as shown from official inspections carried out at the place of production at appropriate times during the growing season, which included at least one visual examination on representative samples of fruit, or

- (d) an official statement that they have been subjected to an effective cold or other treatment[†] to ensure freedom from *Thaumatotibia leucotreta* (Meyrick).

A phytosanitary certificate may not include: —the official statement referred to in paragraph (a) unless the national plant protection organisation of the country of origin has previously notified the national plant protection organisation of the United Kingdom of this information in writing,

—the official statement referred to in paragraph (b) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of the area or areas,

—the official statement referred to in paragraph (d) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of treatment method and documentary evidence of its effectiveness.

Where the phytosanitary certificate includes the official statement referred to in paragraph (c), information on traceability must also be included in the phytosanitary certificate.

* The name of the area(s) must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

† Details of the treatment data must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”;

(xiii) after item 56 insert—

- | | |
|---|---|
| “56A. Fruits of <i>Malus</i> Mill., originating in any third country, other than the European Union | The fruits must be accompanied by: |
| | (a) an official statement that they originate in a country which, in accordance with the measures specified in ISPM No. 4, is known to be free from <i>Enarmonia prunivora</i> Walsh, <i>Grapholita inopinata</i> |

- Heinrich and *Rhagoletis pomonella* (Walsch),
- (b) an official statement that they originate in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Enarmonia prunivora* Walsh, *Grapholita inopinata* Heinrich and *Rhagoletis pomonella* (Walsch),
 - (c) an official statement that they originate in a place of production where official inspections and surveys for the presence of *Enarmonia prunivora* Walsh, *Grapholita inopinata* Heinrich and *Rhagoletis pomonella* (Walsch) are carried out at appropriate times during the growing season, including at least one visual examination on representative samples of fruits, and have shown the fruits to be free from those plant pests, or
 - (d) an official statement that they have been subjected to an effective treatment† to ensure freedom from *Enarmonia prunivora* Walsh, *Grapholita inopinata* Heinrich and *Rhagoletis pomonella* (Walsch).

A phytosanitary certificate may not include: —the official statement referred to in paragraph (a) unless the national plant protection organisation of the country of origin has previously notified the national plant protection organisation of the United Kingdom of this information in writing,

—the official statement referred to in paragraph (b) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of the area or areas,

—the official statement referred to in paragraph (d) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of treatment method.

Where the phytosanitary certificate includes the official statement referred to in paragraph (c), information on traceability must also be included in the phytosanitary certificate.

* The name of the area(s) must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

† Details of the treatment data must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

- 56B. Fruits of *Malus* Mill. or *Pyrus* L., originating in any third country, other than the European Union
- The fruits must be accompanied by:
- (a) an official statement that they originate in a country which, in accordance with the measures specified in ISPM No. 4, is known to be free from *Guignardia piricola* (Nosa) Yamamoto,
 - (b) an official statement that they originate in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Guignardia piricola* (Nosa) Yamamoto,
 - (c) an official statement that they originate in a place of production where official inspections and surveys for the presence of *Guignardia piricola* (Nosa) Yamamoto are carried out at appropriate times during the growing season, including at least one visual examination on representative samples of fruits, and have shown the fruits to be free from that plant pest, or
 - (d) an official statement that they have been subjected to an effective treatment† to ensure freedom from *Guignardia piricola* (Nosa) Yamamoto.

A phytosanitary certificate may not include: —the official statement referred to in paragraph (a) unless the national plant protection organisation of the country of origin has previously notified the national plant protection organisation of the United Kingdom of this information in writing,

—the official statement referred to in paragraph (b) unless the national plant protection organisation of the country of

origin has previously provided the national plant protection organisation of the United Kingdom with written details of the area or areas,

—the official statement referred to in paragraph (d) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of treatment method.

Where the phytosanitary certificate includes the official statement referred to in paragraph (c), information on traceability must also be included in the phytosanitary certificate.

* The name of the area(s) must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

† Details of the treatment data must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

- 56C. Fruits of *Malus* Mill. or *Pyrus* L., originating in any third country, other than the European Union
- The fruits must be accompanied by:
- (a) an official statement that they originate in a country which, in accordance with the measures specified in ISPM No. 4, is known to be free from *Tachypterellus quadrigibbus* Say,
 - (b) an official statement that they originate in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Tachypterellus quadrigibbus* Say,
 - (c) an official statement that they originate in a place of production where official inspections and surveys for the presence of *Tachypterellus quadrigibbus* Say are carried out at appropriate times during the growing season, including at least one visual examination on representative samples of fruits, and have shown the fruits to be free from that plant pest, or
 - (d) an official statement that they have been subjected to an effective treatment† to ensure freedom from *Tachypterellus quadrigibbus* Say.

A phytosanitary certificate may not include: —the official statement referred to in paragraph (a) unless the national plant protection organisation of the country of origin has previously notified the national plant protection organisation of the United Kingdom of this information in writing,

—the official statement referred to in paragraph (b) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of the area or areas,

—the official statement referred to in paragraph (d) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of treatment method.

Where the phytosanitary certificate includes the official statement referred to in paragraph (c), information on traceability must also be included in the phytosanitary certificate.

* The name of the area(s) must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

† The treatment data must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

- 56D. Fruits of *Malus* Mill., *Prunus* L., *Pyrus* L. or *Vaccinium* L., originating in Canada, Mexico or the USA
- The fruits must be accompanied by:
- (a) an official statement that they originate in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Grapholita packardii* Zeller,
 - (b) an official statement that they originate in a place of production where official inspections and surveys for the presence of *Grapholita packardii* Zeller are carried out at appropriate times during the growing season, including at least one visual examination on

- representative samples of fruits, and have shown the fruits to be free from that plant pest, or
- (c) an official statement that they have been subjected to an effective treatment[†] to ensure freedom from *Grapholita packardii* Zeller.

A phytosanitary certificate may not include:

—the official statement referred to in paragraph (a) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of the area or areas,

—the official statement referred to in paragraph (c) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of treatment method.

Where the phytosanitary certificate includes the official statement referred to in paragraph (b), information on traceability must also be included in the phytosanitary certificate.

* The name of the area must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

[†] Details of the treatment data must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”;

(xiv) after item 89 insert—

“89A. Tubers of <i>Solanum tuberosum</i> originating in any third country, other than the European Union or Switzerland	The tubers must be accompanied by an official statement that the consignment or lot does not contain more than 1% by net weight of soil and growing medium”;
---	--

(xv) after item 97 insert—

“97A. Fruits of <i>Capsicum annuum</i> L., <i>Solanum aethiopicum</i> L., <i>Solanum lycopersicum</i> L. or <i>Solanum melongena</i> L.	The fruits must be accompanied by: (a) an official statement that they originate in a country which, in accordance with the measures specified in ISPM No. 4,
---	--

- originating in any third country, other than the European Union
- is known to be free from *Neoleucinodes elegantalis* (Guenée),
- (b) an official statement that they originate in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Neoleucinodes elegantalis* (Guenée),
 - (c) an official statement that they:
 - (i) originate in a place of production established by the national plant production organisation in accordance with ISPM No. 10 as a place of production that is free from *Neoleucinodes elegantalis* (Guenée), and
 - (ii) are free from that plant pest as shown from official inspections carried out at the place of production at appropriate times during the growing season, which included at least one visual examination on representative samples of fruit, or
 - (d) an official statement that they originate in an insect-proof site of production, established by the national plant production organisation in the country of origin as a site of production that is free from *Neoleucinodes elegantalis* (Guenée) on the basis of official inspections and surveys carried out during the three months prior to export.

A phytosanitary certificate may not include: —the official statement referred to in paragraph (a) unless the national plant protection organisation of the country of origin has previously notified the national plant protection organisation of the United Kingdom of this information in writing,

—the official statement referred to in paragraph (b) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of the area or areas.

Where the phytosanitary certificate includes the official statement referred to in paragraph (c) or (d), information on

traceability must also be included in the phytosanitary certificate.

* The name of the area(s) must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

- 97B. Fruits of *Solanaceae* originating in Australia, the Americas or New Zealand
- The fruits must be accompanied by:
- (a) an official statement that they originate in a country which, in accordance with the measures specified in ISPM No. 4, is known to be free from *Bactericera cockerelli* (Sulc.),
 - (b) an official statement that they originate in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Bactericera cockerelli* (Sulc.),
 - (c) an official statement that:
 - (i) they originate in a place of production where official inspections and surveys for the presence of *Bactericera cockerelli* (Sulc.) were carried out at the place of production and in its immediate vicinity during the three months prior to export,
 - (ii) they have been subjected to effective treatments to ensure freedom from the plant pest, and
 - (iii) representative samples of the fruit have been inspected prior to export, or
 - (d) an official statement that that they originate in an insect-proof site of production, established by the national plant production organisation in the country of origin as a site of production that is free from *Bactericera cockerelli* (Sulc.) on the basis of official inspections and surveys carried out during the three months prior to export.

A phytosanitary certificate may not include: —the official statement referred to in paragraph (a) unless the national plant protection organisation of the country of origin has previously notified the national plant protection organisation of the United Kingdom of this information in writing,

—the official statement referred to in paragraph (b) unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of the area or areas.

Where the phytosanitary certificate includes the official statement referred to in paragraph (c) or (d), information on traceability must also be included in the phytosanitary certificate.

* The name of the area(s) must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”;

(xvi) for item 114 substitute—

“114.	Growing medium, attached to or associated with plants, intended to sustain the vitality of the plants, other than any sterile medium of <i>in-vitro</i> plants, originating in any third country, other than the European Union or Switzerland	<p>The associated plants must be accompanied by an official statement that:</p> <ul style="list-style-type: none"> (a) at the time of planting, the growing medium: <ul style="list-style-type: none"> (i) was free from soil and organic matter and had not been previously used for growing plants or for any agricultural purposes, (ii) was composed entirely of peat or fibre of <i>Cocos nucifera</i> L. and had not been previously used for growing plants or for any agricultural purposes, or (iii) was subjected to an effective treatment† to ensure freedom from harmful plant pests, (b) the growing medium was stored and maintained under appropriate conditions to keep it free from harmful plant pests, and (c) either: <ul style="list-style-type: none"> (i) appropriate measures have been taken since planting to ensure that the growing medium has been kept free from harmful plant pests, including at least the physical isolation of the growing medium from soil
-------	--	---

and other possible sources of contamination, the use of water that is free from harmful plant pests and hygiene measures, or

- (ii) in the period of two weeks prior to export:
 - (aa) the growing medium (including, where appropriate, any soil) has been completely removed by washing with water that is free from harmful plant pests, and
 - (bb) where the associated plants have been replanted, the growing medium met the requirements specified in paragraph (a) at the time of replanting and appropriate measures since replanting have been taken to ensure that the growing medium has been kept free from harmful plant pests in accordance with subparagraph (i).

† Details of the treatment data must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”;

(xvii) after item 114 insert—

“114A.	Bulbs, corms, rhizomes or tubers, intended for planting, other than tubers of <i>Solanum tuberosum</i> , originating in any third country, other than the European Union or Switzerland	The bulbs, corms, rhizomes or tubers must be accompanied by an official statement that the consignment or lot does not contain more than 1% by net weight of soil and growing medium
114B.	Root or tubercle vegetables originating in any third country, other than the European Union or Switzerland	The vegetables must be accompanied by an official statement that the consignment or lot does not contain more than 1% by net weight of soil and growing medium
114C.	Used machinery or vehicles which have been operated	The machinery or vehicles must be accompanied by an official statement that they

for agricultural or forestry purposes, imported from any third country, other than the European Union or Switzerland have been cleaned and are free from soil and plant debris

- 114D. Used machinery or vehicles which have been operated for agricultural or forestry purposes, imported from the European Union or Switzerland
- The machinery or vehicles must be accompanied by an official statement that:
- (a) they have been exported from:
 - (i) an area established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr., or
 - (ii) in the case of any machinery or vehicles exported from the European Union, any part of the European Union which is recognised as an EU protected zone in relation to *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr.), or
 - (b) in the case of any machinery or vehicles exported from an area infested with *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr., they have been cleaned and are free from soil and plant debris prior to being moved out of the area”;

(xviii) after item 124 insert—

- “124A. Plants of *Euphorbia pulcherrima* Willd., intended for planting, other than seeds or uprooted cuttings, for which there is evidence from their packing or their flower development or from other means that they are intended for direct sale to final consumers not involved in professional plant production
- The plants must be accompanied by an official statement that they have been officially inspected and found free from *Bemisia tabaci* Genn. (European populations) immediately prior to their movement”;

(xix) in item 125, in the entry in column 2, after “seeds, of” insert “*Ajuga* L., *Crossandra* Salisb.”;

(c) in the table in Part C, after item 11 insert—

- | | | |
|--|--|--------------------------|
| “11A. Plants, other than fruit or seeds, of <i>Quercus</i> L., other than <i>Quercus suber</i> , intended for planting, that have a girth at 1.2 m above the root collar | The plants must be accompanied by: | The OPM pest free area”; |
| | (a) an official statement that they have been grown throughout | |

of 8 cm or more, other than any such plants:

—which originate in a third country, enter England via a point of entry in the OPM excluded zone and are not in the course of consignment to the OPM pest free area,

—which originate in, or have been introduced into, the OPM excluded zone and remain in that zone

their life in places of production in any country in which *Thaumetopoea processionea* L. is not known to occur,

- (b) an official statement that they have been grown throughout their life in an area established by the national plant protection organisation in accordance with ISPM No. 4, or where the plants originate in the European Union, in any part of the European Union which is recognised as an EU protected zone in relation to *Thaumetopoea processionea* L., or
- (c) an official statement that they have been grown throughout their life in a site with complete physical protection against the introduction of *Thaumetopoea processionea* L. and have been inspected at appropriate times and found to be free from *Thaumetopoea processionea* L.

(d) in the table in Part D—

(i) in item 30, in column 3—

(aa) omit paragraph (b);

(bb) in paragraph (c), omit “in the case of fruits originating in Argentina, South Africa or Uruguay,”;

(ii) omit item 32;

(iii) at the end insert—

-
- “38. Plants, other than seeds, of *Rosa* sp., originating in Canada, India, Mexico or the USA The plants must be accompanied by an official statement that:
- (a) they have been grown throughout their life in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from Rose rosette virus and *Phyllocoptes fructiphilus* (Keifer 1940), and

- (b) they have been packaged in a manner to prevent infestation by *Phyllocoptes fructiphilus* (Keifer 1940) during their transport.

* The name of the area(s) must also be mentioned on the phytosanitary certificate under the heading “Additional declaration”

39. Plants in tissue culture of *Rosa* sp., originating in Canada, India, Mexico or the USA
The plants must be accompanied by an official statement that they have been produced from mother plants tested and found to be free from Rose rosette virus”;

(e) in the table in Part E, omit item 17.

(7) In Schedule 5—

(a) in Part A—

(i) in paragraph 3—

(aa) in sub-paragraph (i), for the words from “*Juglans ailantifolia* Carr.” to “*Pterocarya rhoifolia* Siebold & Zucc.” substitute “*Juglans* L., *Ulmus davidiana* Planch. or *Pterocarya* L.” and at the end omit “or”;

(bb) after sub-paragraph (i) insert—

“(ia) *Convolvulus* L., *Ipomoea* L. (other than tubers), *Micromeria* Benth or *Solanaceae* originating in Australia, the Americas or New Zealand; or”;

(ii) in paragraph 5—

(aa) in sub-paragraph (a), for “, *Solanum lycopersicum* L. or *Solanum melongena* L.” substitute “or *Solanaceae*”;

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

“(b) *Actinidia* Lindl., *Annona* L., *Carica papaya* L., *Cydonia* Mill., *Diospyros* L., *Fragaria* L., *Malus* L., *Mangifera* L., *Passiflora* L., *Persea americana* Mill., *Prunus* L., *Psidium* L., *Pyrus* L., *Ribes* L., *Rubus* L., *Syzygium* Gaertn., *Vaccinium* L. or *Vitis* L.”;

(cc) omit sub-paragraph (c);

(iii) omit paragraph 7;

(iv) for paragraph 8 substitute—

“8. Growing medium, attached to or associated with plants, intended to sustain the vitality of the plants, originating in any third country, other than the European Union or Switzerland.”;

(v) after paragraph 8 insert—

“8A. Used machinery or any used vehicle, imported from any third country, which has been operated for agricultural or forestry purposes and meets one of the following descriptions—

CN code	Description
ex 8432	Agricultural, horticultural or forestry machinery for soil preparation or cultivation, lawn or sports-ground rollers

<i>CN code</i>	<i>Description</i>
ex 8433 53	Root or tuber harvesting machines
ex 8436 80 10	Forestry machinery
ex 8701 20 90	Tractors (other than tractors of heading 8709): Road tractors for semi-trailers used
ex 8701 91 10	Agricultural tractors and forestry tractors, wheeled, of an engine power not exceeding 18 kW.”;

(vi) in paragraph 12(c), for the words from “*Juglans ailantifolia* Carr.” to “*Pterocarya rhoifolia* Siebold & Zucc.” substitute “*Juglans* L., *Ulmus davidiana* Planch. or *Pterocarya* L.”;

(vii) in paragraph 13(a)—

(aa) in paragraph (ii) for “Armenia, Switzerland or the USA” substitute “Albania, Armenia, Switzerland, Turkey or the USA”;

(bb) in paragraph (vi), for the words from “*Juglans ailantifolia* Carr.” to “*Pterocarya rhoifolia* Siebold & Zucc.” substitute “*Juglans* L., *Ulmus davidiana* Planch. or *Pterocarya* L.”;

(cc) in paragraph (viii), omit “*Prunus* L.,” and the “and” at the end;

(dd) after paragraph (viii) insert—

“(ix) *Prunus* L., including wood which has not kept its natural round surface, originating in Canada, China, Democratic People’s Republic of Korea, Mongolia, Japan, Republic of Korea, the USA or Vietnam; and”;

(b) in Part B—

(i) in paragraph 17, after “seeds, of” insert “*Cedrus* Trew.”;

(ii) in paragraph 27(a)—

(aa) after “*Impatiens* L.,” insert “*Juglans* L.”;

(bb) after “*Pseudotsuga* Carr.,” insert “*Pterocarya* L.”;

(iii) in paragraph 28(a)(i), for “*Platanus* L.” substitute “*Juglans* L., *Platanus* L. or *Pterocarya* L.”;

(c) in Part C—

(i) omit paragraph 49;

(ii) at the end insert—

“52. Plants, other than seeds, of *Rosa* sp., originating in Canada, India, Mexico or the USA.”.

(8) In Schedule 6—

(a) in Part A—

(i) in paragraph 2, after “seeds, of” insert “*Cedrus* Trew.”;

(ii) in paragraph 12(a)—

(aa) after “*Impatiens* L.,” insert “*Juglans* L.”;

(bb) after “*Pseudotsuga* Carr.,” insert “*Pterocarya* L.”;

(iii) in paragraph 13(a)(i), for “*Platanus* L.” substitute “*Juglans* L., *Platanus* L. or *Pterocarya* L.”;

(b) in Part B, omit paragraph 29.

(9) In Schedule 17—

(a) after paragraph 17 insert—

“**17A.** Commission [Decision 2007/433/EC](#) on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O’Donnell.”;

(b) after paragraph 18 insert—

“**18A.** 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).

18B. 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).

18C. Commission Implementing [Decision 2012/535/EU](#) on emergency measures to prevent the spread within the Union of *Bursaphelenchus xylophilus* (Steiner et Buhrer) Nickle et al. (the pine wood nematode).

18D. 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).”;

(c) after paragraph 21 insert—

“**21A.** 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.).

21B. Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky).”;

(d) after paragraph 22 insert—

“**22A.** Commission Implementing Decision (EU) 2016/412 authorising Member States to provide for a temporary derogation from certain provisions of Council [Directive 2000/29/EC](#) in respect of ash wood originating or processed in Canada.

22B. Commission Implementing Decision (EU) 2016/715 setting out measures in respect of certain fruits originating in certain third countries to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (McAlpine) Van der Aa.”;

(e) after paragraph 24 insert—

“**25.** Commission Implementing Decision (EU) 2018/1203 authorising Member States to provide for a temporary derogation from certain provisions of Council [Directive 2000/29/EC](#) in respect of ash wood originating or processed in the United States of America and repealing Commission Implementing Decision (EU) 2017/204.

26. Commission Implementing Decision (EU) 2018/1503 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann).

27. Commission Implementing Decision (EU) 2018/1553 on conditions for the recognition of electronic phytosanitary certificates issued by the national plant protection organisations of third countries.

28. Commission Implementing Decision (EU) 2018/1959 derogating from Council Directive 2000/29/EC as regards measures to prevent the introduction into and the spread within the Union of the harmful organism *Agilus planipennis* (Fairmaire) through wood originating in Canada and in the United States of America.

29. Commission Implementing Decision (EU) 2019/1449 amending Commission Implementing Decision (EU) 2016/715 setting out measures in respect of certain fruits originating in certain third countries to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (McAlpine) Van der Aa.”.

PART 4

Amendment of the Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019

5. In regulation 5 of the Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019(5)—

- (a) omit paragraph (5);
- (b) in paragraph (7)—
 - (i) in sub-paragraph (b)(xiii), for “after item 32” substitute “at the appropriate place (in numerical sequence)”;
 - (ii) in sub-paragraph (c)(xiv), for “after item 17” substitute “at the end”;
- (c) in paragraph (8), for “after paragraph 49” substitute “at the appropriate place (in numerical sequence)”;
- (d) in paragraph (9)—
 - (i) omit sub-paragraph (o);
 - (ii) in sub-paragraph (p), for “after paragraph 29” substitute “at the end”.

Date

Name
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

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)(a) to (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

Part 2 makes amendments to the Plant Health Act 1967 (c. 8) and the Plant Health (Northern Ireland) Act 1967 (c. 28).

Part 3 amends the Plant Health (EU Exit) Regulations 2019 (S.I. 2019/787) and Part 4 amends the Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/809).

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