

Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 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

CHAPTER I **U.K.**

Subject matter, scope and definitions

Article 1 **U.K.**

Subject matter and scope

1 This Regulation establishes rules to determine the phytosanitary risks posed by any species, strain or biotype of pathogenic agents, animals or parasitic plants injurious to plants or plant products ('pests') and measures to reduce those risks to an acceptable level.

2 Where there is evidence that non-parasitic plants, other than those regulated under Article 4(1) of Regulation (EU) No 1143/2014, pose phytosanitary risks which would have a severe economic, social and environmental impact on [^{F1}Great Britain], those non-parasitic plants may be considered as pests for the purposes of this Regulation.

^{F2}3

Textual Amendments

- F1** Words in Art. 1(2) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **26(2)(a)** (with regs. 53, 55)
- F2** Art. 1(3) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **26(2)(b)** (with regs. 53, 55)

Article 2 **U.K.**

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'plants' means living plants and the following living parts of plants:
 - (a) seeds, in the botanical sense, other than those not intended for planting;
 - (b) fruits, in the botanical sense;
 - (c) vegetables;
 - (d) tubers, corms, bulbs, rhizomes, roots, rootstocks, stolons;
 - (e) shoots, stems, runners;
 - (f) cut flowers;

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- (g) branches with or without foliage;
 - (h) cut trees retaining foliage;
 - (i) leaves, foliage;
 - (j) plant tissue cultures, including cell cultures, germplasm, meristems, chimaeric clones, micro-propagated material;
 - (k) live pollen and spores;
 - (l) buds, budwood, cuttings, scions, grafts;
- (2) ‘plant products’ means unmanufactured material of plant origin and those manufactured products that, by their nature or that of their processing, may create a risk of the spread of quarantine pests.
- Except where otherwise provided in the [^{F3}Phytosanitary Conditions Regulation, other retained EU law relating to plant health or regulations made under Article 28(1) or 30(1)], wood shall only be considered as a plant product if it fulfils one or more of the following criteria:
- (a) it retains all or part of its natural round surface, with or without bark;
 - (b) it has not retained its natural round surface due to sawing, cutting or cleaving;
 - (c) it is in the form of chips, particles, sawdust, wood waste, shavings or scrap, and has not undergone processing involving the use of glue, heat or pressure or a combination thereof to produce pellet, briquettes, plywood or particle board;
 - (d) it is, or is intended to be, used as packaging material, whether or not it is actually in use for transport of goods;
- (3) ‘planting’ means any operation for the placing of plants in a growing medium, or by grafting or similar operations, to ensure their subsequent growth, reproduction or propagation;
- (4) ‘plants for planting’ means plants intended to remain planted, to be planted or to be replanted;
- (5) ‘other object’ means any material or object, other than plants or plant products, capable of harbouring or spreading pests, including soil or growing medium;
- (6) [^{F4}‘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;]
- (7) ‘lot’ means a number of units of a single commodity, identifiable by its homogeneity of composition, origin and other relevant elements, forming part of a consignment;
- (8) ‘trade unit’ means the smallest commercial or other useable unit applicable to the marketing stage concerned, which may be the subset or the whole of a lot;

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- (9) ‘professional operator’ means any person, governed by public or private law, involved professionally in, and legally responsible for, one or more of the following activities concerning plants, plant products and other objects:
- (a) planting;
 - (b) breeding;
 - (c) production, including growing, multiplying and maintaining;
 - (d) introduction into, and movement within and out of, [^{F5}Great Britain];
 - (e) making available on the market;
 - (f) storage, collection, dispatching and processing;
- (10) ‘registered operator’ means a professional operator registered in accordance with Article 65;
- (11) ‘authorised operator’ means a registered operator authorised by the competent authority to issue [^{F6}UK] plant passports in accordance with Article 89, to apply a mark in accordance with Article 98, or to issue attestations in accordance with Article 99;
- (12) ‘final user’ means any person acting for purposes which are outside that person's trade, business or profession who acquires plants or plant products for personal use;
- (13) ‘test’ means an official examination, other than visual, to determine if pests are present or to identify pests;
- (14) ‘treatment’ means a procedure, whether official or non-official, for the killing, inactivation or removal of pests, or for rendering those pests infertile, or for the devitalisation of plants or plant products;
- (15) ‘incidence’ means the proportion or number of units in which a pest is present in a sample, consignment, field or other defined population;
- (16) ‘establishment’ means the perpetuation, for the foreseeable future, of a pest within an area after entry;
- (17) ‘eradication’ means the application of phytosanitary measures to eliminate a pest from an area;
- (18) ‘containment’ means the application of phytosanitary measures in and around an infested area to prevent the spread of a pest;
- (19) ‘quarantine station’ means any official station for holding pests, plants, plant products or other objects in quarantine;
- (20) ‘confinement facility’ means any facility, other than quarantine stations, where pests, plants, plant products or other objects are kept under confinement conditions;
- (21) ‘traceability code’ means a letter, numerical or alphanumeric code that identifies a consignment, lot or trade unit, used for traceability purposes, including codes referring to a lot, batch, series, date of production or professional operator documents;
- (22) ‘phytosanitary measure’ means any official measure having the purpose to prevent the introduction or spread of quarantine pests or to limit the economic impact of regulated non-quarantine pests.

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- (23) [F7] ‘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 ;
- (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:
- (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;
- (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;
- (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;
- (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;
- (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;

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- (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;
 - (b) in relation to cereal seed, Council Directive 66/402/EEC on the marketing of cereal seed;
 - (c) in relation to propagating material of ornamental plants, Council Directive 98/56/EC on the marketing of propagating material of ornamental plants;
 - (d) in relation to forest reproductive material, Council Directive 1999/105/EC on the marketing of forest reproductive material;
 - (e) in relation to beet seed, Council Directive [2002/54/EC](#) on the marketing of beet seed;
 - (f) in relation to vegetable seed, Council Directive [2002/55/EC](#) on the marketing of vegetable seed;
 - (g) in relation to seed potatoes, Council Directive [2002/56/EC](#) on the marketing of seed potatoes;
 - (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;
 - (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;
 - (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;
- (43) ‘UK NPPO’ means the national plant protection organisation of the United Kingdom;
- (44) ‘UK plant passport’ has the meaning given in Article 78.]

Textual Amendments

- F3** Words in Art. 2(2) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **26(3)(a)** (with regs. 53, 55)
- F4** Art. 2(6) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **26(3)(b)** (with regs. 53, 55)
- F5** Words in Art. 2(9)(d) substituted (20.4.2021) by [The Official Controls, Plant Health, Seeds and Seed Potatoes \(Amendment etc.\) Regulations 2021 \(S.I. 2021/426\)](#), regs. 1(2), **2(2)**
- F6** Word in Art. 2(11) inserted (27.1.2021) by [The Plant Health \(Amendment\) \(EU Exit\) Regulations 2021 \(S.I. 2021/79\)](#), regs. 1(2), **3(2)**

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F7 Art. 2(23)-(44) inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **26(3)(c)** (with regs. 53, 55)

[^{F8} Article 2a **U.K.**

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
 - 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.]

Textual Amendments

F8 Art. 2a inserted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **26(4)** (with regs. 53, 55)

[^{F9} Article 2b **U.K.**

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.
- [
- Any reference in this Regulation (however expressed) to plants, plant products or other objects originating in or from a third country, or dispatched from a third country, does not include:
- a any plants, plant products or other objects in so far as they are part of a relevant NI trade unit; or

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- b any wood packaging material in use in the transport of a relevant NI trade unit.]]

Textual Amendments

- F9** Art. 2b inserted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **26(4)** (with regs. 53, 55)
- F10** Art. 2b(3) inserted (27.1.2021) by [The Plant Health \(Amendment\) \(EU Exit\) Regulations 2021 \(S.I. 2021/79\)](#), regs. 1(2), **3(3)**

[^{F11} Article 2c **U.K.**

Meaning of qualifying Northern Ireland goods and other expressions relating to qualifying Northern Ireland goods

In this Regulation:

- a ‘EU Plant Health Regulation’ means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants, as it applies in Northern Ireland by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;
- b ‘other permitted plant passport’ means a plant passport which has been issued in respect of a relevant NI trade unit before its introduction into Great Britain and by which, pursuant to paragraph 2 of Article 95a, that trade unit is permitted to be accompanied if moved within Great Britain;
- c ‘qualifying Northern Ireland goods’ has the meaning given in the Definition of Qualifying Northern Ireland Goods (EU Exit) Regulations 2020;
- d ‘relevant NI trade unit’ means a trade unit of plants, plant products or other objects listed in Annex 13 or 14 to the Phytosanitary Conditions Regulation which consists entirely of qualifying Northern Ireland goods, other than any such trade unit in respect of which a UK plant passport has been issued in accordance with Articles 83 to 86, 87, 89 and 90.]

Textual Amendments

- F11** Art. 2c inserted (27.1.2021) by [The Plant Health \(Amendment\) \(EU Exit\) Regulations 2021 \(S.I. 2021/79\)](#), regs. 1(2), **3(4)**

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