

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 VI

Certification of plants, plant products and other objects

Section 1

Phytosanitary certificates required for the introduction of plants, plant products and other objects into the Union territory

Article 71

Phytosanitary certificate for introduction into the Union territory

1 A phytosanitary certificate for introduction of plants, plant products and other objects into the Union territory shall be a document, issued by a third country, which fulfils the conditions of Article 76, has the contents set out in Part A of Annex V, or, where applicable, Part B of Annex V, and certifies that the plant, plant product or other object concerned complies with all of the following requirements:

- a it is free from Union quarantine pests and pests subject to measures adopted pursuant to Article 30(1);
- b it complies with the provisions of Article 37(1) concerning the presence of Union regulated non-quarantine pests on plants for planting;
- c it complies with the requirements referred to in Article 41(2) and (3) or, where applicable, Article 54(2) and (3);
- d where applicable, it complies with rules adopted in accordance with the provisions adopted pursuant to point (d) of the first subparagraph of Article 28(1), Article 28(2) and Article 30(1).

2 The phytosanitary certificate shall specify under the heading ‘Additional Declaration’ which specific requirement is fulfilled, whenever the respective implementing act, adopted pursuant to Article 28(1) and (2), Article 30(1) and (3), Article 37(2), Article 41(2) and (3) and Article 54(2) and (3), allows for several different options for such requirements. That specification shall include the full wording of the relevant requirement.

3 Where applicable, the phytosanitary certificate shall state that the plants, plant products or other objects concerned comply with phytosanitary measures recognised as equivalent, pursuant to Article 44, to the requirements of the implementing act adopted pursuant to Article 41(3).

4 The Commission is empowered to adopt delegated acts in accordance with Article 105 amending Parts A and B of Annex V to adapt them to the development of the relevant international standards.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2016/2031 of the European Parliament of the Council, Section 1. (See end of Document for details)

Article 72

Plants, plant products and other objects for which phytosanitary certificates are required

1 The Commission shall, by means of an implementing act, establish a list of the plants, plant products and other objects, and the respective third countries of origin or dispatch, for which a phytosanitary certificate is required for introduction into the Union territory.

That list shall include:

- a all plants for planting, other than seeds;
- b the plants, plant products and other objects listed in Point I of Part B of Annex V to Directive 2000/29/EC;
- c plants, plant products and other objects for which requirements have been adopted pursuant to point (d) of the first subparagraph of Article 28(1) and Article 30(1) concerning their introduction into the Union territory;
- d seeds or, as applicable, seed potatoes listed in the implementing act provided for in Article 37(2) of this Regulation and subject to equivalence decisions adopted pursuant to Directives 66/401/EEC, 66/402/EEC, 98/56/EC, 1999/105/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC and 2002/57/EC;
- e plants, plant products and other objects listed in the implementing acts provided for in Article 41(2) and (3); and
- f plants, plant products and other objects subject to points (a) and (b) of the second subparagraph of Article 49(2).

Points (a) to (e) of the first subparagraph shall not apply and a phytosanitary certificate shall not be required where an implementing act adopted pursuant to point (d) of the first subparagraph of Article 28(1), Article 30(1) or Article 41(2) and (3) requires proof of compliance in the form of an official mark, as referred to in Article 96(1), or another official attestation, as referred to in Article 99(1).

In the list established by that implementing act, the plants, plant products and other objects shall also be identified by their respective CN code, where that code is available. Other codes laid down by Union legislation shall, in addition, be referred to where they specify further the applicable CN code for a specific plant, plant product or other object.

2 The Commission shall, by means of an implementing act, amend the implementing act referred to in paragraph 1 in any of the following cases:

- a where a plant, plant product or other object listed in that act does not fulfil point (c), (d) or (e) of the first subparagraph of paragraph 1;
- b where a plant, plant product or other object not listed in that act fulfils point (c), (d) or (e) of the first subparagraph of paragraph 1.

3 In addition to the cases referred to in paragraph 2, the Commission may, by means of implementing acts, amend the implementing act referred to in paragraph 1, in accordance with the principles set out in Section 2 of Annex II, where there is a risk that a plant, plant product or other object not listed in that act hosts a Union quarantine pest or pest subject to measures adopted pursuant to Article 30(1), or where, for a plant, plant product or other object listed in that act, that risk no longer exists.

4 The implementing acts referred to in paragraphs 1, 2 and 3 shall be adopted in accordance with the examination procedure referred to in Article 107(2).

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Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2016/2031 of the European Parliament of the Council, Section 1. (See end of Document for details)

5 By way of derogation from paragraphs 1, 2 and 3, no phytosanitary certificate shall be required for the plants, plant products or other objects which are subject to Articles 46, 47 and 48 and Article 75(1).

Article 73

Other plants for which phytosanitary certificates are required

The Commission shall, by means of implementing acts, provide that for plants, other than the plants included in the list referred to in Article 72(1), a phytosanitary certificate is required for introduction into the Union territory.

However, those implementing acts shall provide that a phytosanitary certificate is not required for those plants where an assessment, based on evidence about pest risks and experience with trade, demonstrates that such a certificate is not necessary. That assessment shall take into account the criteria set out in Annex VI. Where appropriate, that assessment may only concern plants of a particular third country of origin or dispatch, or a group of third countries of origin or dispatch.

In the list established by those implementing acts, the plants shall also be identified by their respective CN code, where that code is available.

Other codes laid down by Union legislation shall, in addition, be referred to where they specify further the applicable CN code for a specific plant, plant product or other object.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2). The first of those acts shall be adopted by 14 December 2018.

Article 74

Plants, plant products and other objects for which phytosanitary certificates are required for introduction into a protected zone

1 Phytosanitary certificates are required, in addition to the cases referred to in Article 72(1), (2) and (3), for the introduction of some plants, plant products and other objects into certain protected zones from certain third countries of origin or dispatch.

The Commission shall, by means of implementing acts, establish a list of those plants, plant products and other objects, and the respective third countries of origin or dispatch referred to in the first subparagraph.

That list shall include:

- a in the first of those implementing acts, the plants, plant products and other objects listed in Point II of Part B of Annex V to Directive 2000/29/EC;
- b plants, plant products and other objects listed in the implementing acts provided for in Article 54(2) or (3) of this Regulation.

In the list established by those implementing acts, the plants, plant products and other objects shall also be identified by their respective CN code where that code is available. Other codes laid down by Union legislation shall, in addition, be referred to where they specify further the applicable CN code for a specific plant, plant product or other object.

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2016/2031 of the European Parliament of the Council, Section 1. (See end of Document for details)

A phytosanitary certificate shall not be required for plants, plant products and other objects on that list where an implementing act adopted pursuant to Article 54(2) or (3) requires proof of compliance in the form of an official mark, as referred to in Article 96(1), or another official attestation, as referred to in Article 99(1).

2 The Commission shall, by means of implementing acts, amend the implementing act referred to in paragraph 1 in the following cases:

- a where a plant, plant product or other object listed in that act does not fulfil point (b) of the third subparagraph of paragraph 1;
- b where a plant, plant product or other object not listed in that act fulfils point (b) of the third subparagraph of paragraph 1.

3 In addition to the cases referred to in paragraph 2, the Commission may, by means of implementing acts, amend the implementing act referred to in paragraph 1, in accordance with the principles set out in Section 2 of Annex II, where there is a risk that a plant, plant product or other object not listed in that act hosts the respective protected zone quarantine pest, or where, for a plant, plant product or other object listed in that act, that risk no longer exists.

4 The implementing acts referred to in paragraphs 1, 2 and 3 shall be adopted in accordance with the examination procedure referred to in Article 107(2).

5 By way of derogation from paragraphs 1, 2 and 3, no phytosanitary certificate shall be required for the plants, plant products or other objects which are subject to Articles 56, 57 and 58 and Article 75(1).

Article 75

Exceptions for travellers' luggage

1 Small quantities of particular plants, other than plants for planting, and of plant products and other objects from a third country may be exempted from the requirement for a phytosanitary certificate set out in accordance with Article 72(1), Article 73 or Article 74(1), if they comply with all of the following conditions:

- a they are introduced into the Union territory as part of travellers' personal luggage;
- b they are not to be used for professional or commercial purposes;
- c they are listed in an implementing act provided for in paragraph 2 of this Article.

2 The Commission shall, by means of implementing acts, list the plants, plant products and other objects referred to in paragraph 1 and the third countries concerned, and set out the maximum quantity, as appropriate, of the plants, plant products and other objects concerned that are to be subject to the exemption of that paragraph and, where appropriate, one or more of the risk management measures set out in Section 1 of Annex II.

That listing and the setting out of the maximum quantity concerned and, where appropriate, the risk management measures shall be decided on the basis of the pest risk posed by small quantities of those plants, plant products and other objects, in accordance with the criteria set out in Section 2 of Annex II.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).

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Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2016/2031 of the European Parliament of the Council, Section 1. (See end of Document for details)

Article 76

Conditions to be fulfilled by a phytosanitary certificate

1 Without prejudice to obligations under the International Plant Protection Convention (IPPC) and taking into account relevant international standards, the competent authority shall only accept a phytosanitary certificate accompanying plants, plant products or other objects to be introduced from a third country, if the content of that certificate complies with Part A of Annex V. Where the plants, plant products or other objects are to be introduced from a third country from which they do not originate, the competent authority shall only accept a phytosanitary certificate complying either with Part A or Part B of Annex V.

It shall not accept that phytosanitary certificate where the additional declaration referred to in Article 71(2), where applicable, is not present or not correct, and where the statement referred to in Article 71(3), where applicable, is not present.

It shall not accept a phytosanitary certificate for re-export if that phytosanitary certificate is not accompanied by the original phytosanitary certificate for export, or a certified copy of the original phytosanitary certificate for export.

2 The competent authority shall only accept a phytosanitary certificate if it fulfils the following requirements:

- a it is issued in at least one of the official languages of the Union;
- b it is addressed to the national plant protection organisation of a Member State; and
- c it has been issued no more than 14 days before the date on which the plants, plant products or other objects covered by it have left the third country in which it was issued.

3 In the case of a third country which is a contracting party to the IPPC, the competent authority shall only accept the phytosanitary certificates issued by the official national plant protection organisation of that third country or, under its responsibility, by a public officer who is technically qualified and duly authorised by that official national plant protection organisation.

^[F14] In the case of a third country which is not a contracting party to the IPPC, the competent authority shall only accept the phytosanitary certificates issued by the authorities which are competent in accordance with the national rules of that third country and notified to the Commission. The Commission shall inform the Member States and the operators, through the electronic notification system referred to in Article 103, in accordance with point (a) of Article 132 of Regulation ^[X1(EU) 2017/625], of the notifications received.

The Commission is empowered to adopt delegated acts, in accordance with Article 105, to supplement this Regulation concerning the conditions for acceptance referred to in the first subparagraph of this paragraph, to ensure the reliability of those certificates.

5 Electronic phytosanitary certificates shall only be accepted when provided through, or in electronic exchange with, the IMSOC referred to in Article 131(1) of Regulation ^[X1(EU) 2017/625].

Editorial Information

- X1** Substituted by [Corrigendum to Regulation \(EU\) 2017/625 of the European Parliament and of the Council of 15 March 2017 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, amending Regulations \(EC\) No 999/2001, \(EC\) No 396/2005, \(EC\) No 1069/2009, \(EC\)](#)

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Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2016/2031 of the European Parliament of the Council, Section 1. (See end of Document for details)

No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (Official Journal of the European Union L 95 of 7 April 2017).

Textual Amendments

- F1** Substituted by Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 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, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (Text with EEA relevance).

Article 77

Invalidation of phytosanitary certificate

[^{F1} Where a phytosanitary certificate has been issued in accordance with Article 71(1), (2) and (3), and the competent authority concerned concludes that the conditions referred to in Article 76 are not fulfilled, it shall invalidate that phytosanitary certificate and ensure that it does not accompany any longer those plants, plant products or other objects concerned. In that case, and in respect of the plants, plant products or other objects concerned, the competent authority shall take one of the measures set out in Article 66(3) of Regulation [^{X1}(EU) 2017/625].]

Upon invalidation, the certificate concerned shall bear on its face and in a prominent position a triangular stamp in red, marked ‘certificate cancelled’ from the respective competent authority, together with its denomination and the date of invalidation. It shall be in capital letters, and in at least one of the official languages of the Union.

2 Member States shall notify, through the electronic notification system referred to in Article 103, the Commission and other Member States where a phytosanitary certificate was invalidated pursuant to paragraph 1 of this Article.

The third country which had issued that phytosanitary certificate shall also be notified by the Member State concerned.

3 The Commission may, by means of implementing acts, set out technical arrangements concerning the invalidation of the electronic phytosanitary certificates, as referred to in Article 76(5). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).

Editorial Information

- X1** Substituted by Corrigendum to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the

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application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (Official Journal of the European Union L 95 of 7 April 2017).

Textual Amendments

- F1** Substituted by Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 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, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) (Text with EEA relevance).

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Regulation (EU) 2016/2031 of the European Parliament of the Council, Section 1.