

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 VIII

Final provisions

[^{F1}Article 105

Regulations

- 1 Regulations made by the Secretary of State or the Welsh Ministers under this Regulation are to be made by statutory instrument.
- 2 For regulations made under this Regulation by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010.
- 3 A statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.
- 4 A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the Senedd Cymru.
- 5 Regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- 6 Such regulations may—
 - a contain supplementary, incidental, consequential, transitional, transitory or saving provision, including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018);
 - b make different provision for different cases or descriptions of case, different circumstances, different purposes or different areas.]

Textual Amendments

- F1** [Art. 105](#) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1482), [regs. 1\(2\)\(b\), 33\(1\)](#) (with [regs. 53, 55](#))

[^{F2}Article 105A

Penalties

- 1 The appropriate authority may, by regulations, lay down the rules on penalties applicable to infringements of this Regulation or of any EU tertiary legislation, or regulations, made under it. The penalties provided for must be effective, proportionate and dissuasive.

Changes to legislation: This version of this Regulation was derived from EUR-Lex on IP completion day (31 December 2020 11:00 p.m.). It has not been amended by the UK since then. Find out more about legislation originating from the EU as published on legislation.gov.uk. (See end of Document for details)

- 2 Regulations under this Article may create offences.
- 3 Regulations may provide for an offence under the regulations to be triable—
- a summarily, or
 - b either summarily or on indictment.
- 4 Regulations may provide for an offence under the regulations that is triable either way to be punishable—
- a on summary conviction in England and Wales, with imprisonment for a term not exceeding three months or a fine (or both);
 - b on summary conviction in Scotland, with imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum (or both);
 - c on conviction on indictment, with imprisonment for a term not exceeding two years or a fine (or both).
- 5 Regulations may provide for a summary offence under the regulations to be punishable—
- a in England and Wales, with imprisonment for a term not exceeding three months or a fine (or both);
 - b in Scotland, with imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale (or both).]

Textual Amendments

- F2** Art. 105A inserted (13.12.2022) by [The Animals and Animal Health, Feed and Food, Plants and Plant Health \(Amendment\) Regulations 2022 \(S.I. 2022/1315\)](#), regs. 1(1), 2

^{F3}Article 106

Urgency procedure

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Textual Amendments

- F3** Arts. 106-108 omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **33(2)** (with regs. 53, 55)

^{F3}Article 107

Committee procedure

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Textual Amendments

- F3** Arts. 106-108 omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **33(2)** (with regs. 53, 55)

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Article 108

Penalties

F3

The Member States shall notify those provisions to the Commission by 14 December 2019 and shall notify it without delay of any subsequent amendments affecting them.

Textual Amendments

F3 Arts. 106-108 omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **33(2)** (with regs. 53, 55)

Article 109

Repeals

[^{F41} Directive 2000/29/EC is repealed, without prejudice to Article 165(2), (3) and (4) of Regulation [^{X1}(EU) 2017/625].]

2 The following Directives are repealed:

- a Directive 69/464/EEC;
- b Directive 74/647/EEC;
- c Directive 93/85/EEC;
- d Directive 98/57/EC;
- e Directive 2006/91/EC;
- f Directive 2007/33/EC.

3 References to the acts repealed in accordance with paragraphs 1 and 2 shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex IX.

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) 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

F4 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

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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 110

Amendment of Regulation (EU) No 228/2013

In Article 24(2) of Regulation (EU) No 228/2013, the following subparagraph is added:

Union financing of the programmes for the control of pests in the outermost regions of the Union shall be implemented in accordance with Regulation (EU) No 652/2014 of the European Parliament and of the Council⁽¹⁾.

Article 111

Amendment of Regulation (EU) 652/2014

Regulation (EU) No 652/2014 is amended as follows:

- (1) in Article 1, point (e) is replaced by the following:
 - (e) on protective measures against pests of plants;;
- (2) in Article 5(2), the following point is added:
 - (c) the programmes for the control of pests in the outermost regions of the Union as referred to in Article 25;;
- (3) in Article 16(1), points (a), (b) and (c) are replaced by the following:
 - (a) measures to eradicate a pest from an infested area, taken by the competent authorities pursuant to Article 17(1), Article 28(1), Article 29(1) or Article 30(1) of Regulation (EU) 2016/2031 of the European Parliament and of the Council⁽²⁾;
 - (b) measures to contain a priority pest, listed pursuant to Article 6(2) of Regulation (EU) 2016/2031, against which Union containment measures have been adopted pursuant to Article 28(2) of that Regulation, in an infested area from which that priority pest cannot be eradicated, where those measures are essential to protect the Union territory against further spread of that priority pest. Those measures shall concern the eradication of that pest from the buffer zone surrounding that infested area if it is found to be present in that buffer zone; and
 - (c) prevention measures taken against the spread of a priority pest, listed pursuant to Article 6(2) of Regulation (EU) 2016/2031, against which Union measures have been adopted pursuant to Article 28(3) of that Regulation,

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where those measures are essential to protect the Union territory against further spread of that priority pest.;

- (4) Article 17 is replaced by the following:

Article 17

Conditions

The measures referred to in Article 16 may qualify for grants provided that they have been applied immediately and the applicable provisions laid down in the relevant Union law have been complied with, and provided that one or more of the following conditions are fulfilled:

- (a) they concern Union quarantine pests, listed pursuant to Article 5(2) of Regulation (EU) 2016/2031 as not known to occur in the Union territory;
- (b) they concern pests, not listed as Union quarantine pests, which are subject to a measure adopted by the competent authority of a Member State pursuant to Article 29(1) of Regulation (EU) 2016/2031;
- (c) they concern pests, not listed as Union quarantine pests, which are covered by a measure adopted by the Commission pursuant to Article 30(1) of Regulation (EU) 2016/2031;
- (d) they concern priority pests listed pursuant to Article 6(2) of Regulation (EU) 2016/2031.

For measures fulfilling the condition laid down in point (b) of the first paragraph, the grant shall not cover costs incurred later than two years after the entry into force of the measure adopted by the competent authority of the Member State concerned pursuant to Article 29 of Regulation (EU) 2016/2031, or incurred after the expiry of that measure. For measures fulfilling the condition laid down in point (c) of the first paragraph, the grant shall not cover costs incurred after the expiry of the measure adopted by the Commission pursuant to Article 30(1) of Regulation (EU) 2016/2031.;

- (5) in paragraph 1 of Article 18, point (d) is replaced by the following:

- (d) costs of compensation to the owners concerned for the value of the destroyed plants, plant products or other objects subject to the measures referred to in Article 16, limited to the market value of such plants, plant products and other objects as if they were not affected by those measures; the salvage value, if any, shall be deducted from the compensation; and;

- (6) Article 19 is amended as follows:

- (a) the first paragraph is replaced by the following:

Grants may be awarded to Member States for annual and multiannual survey programmes that they carry out concerning the presence of pests (“survey programmes”), provided that those survey programmes comply with at least one of the following three conditions:

- (a) they concern Union quarantine pests listed pursuant to Article 5(2) of Regulation (EU) 2016/2031 as not known to occur in the Union territory;

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- (b) they concern priority pests listed pursuant to Article 6(2) of Regulation (EU) 2016/2031; and
 - (c) they concern pests not listed as Union quarantine pests which are covered by a measure adopted by the Commission pursuant to Article 30(1) of Regulation (EU) 2016/2031.;
- (b) the third paragraph is replaced by the following:
- For measures fulfilling the condition laid down in point (c) of the first paragraph, the grant shall not cover costs incurred after the expiry of the measure adopted by the Commission pursuant to Article 30(1) of Regulation (EU) 2016/2031.;
- (7) in Article 20, a new point is inserted before point (a):
- (-a) costs for visual examinations;;
- (8) in Article 47, point 2 is replaced by the following:
- (2) The following Article is inserted:
- Article 15a*

Member States shall provide that anyone who becomes aware of the presence of a pest listed in Annex I or Annex II or a pest covered by a measure pursuant to Article 16(2) or 16(3), or has reason to suspect such a presence, shall immediately notify the competent authority, and, if so requested by that competent authority, shall provide the information concerning that presence which is in its possession. Where the notification is not submitted in writing, the competent authority shall officially record it.'...

Article 112

Amendment of Regulation (EU) No 1143/2014

In Article 2(2) of Regulation (EU) No 1143/2014, point (d) is replaced by the following:

- (d) pests of plants listed pursuant to Article 5(2) or Article 32(3), or subject to measures pursuant to Article 30(1), of Regulation (EU) 2016/2031 of the European Parliament and of the Council⁽³⁾;

F5 Article 113

Entry into force and application

Textual Amendments

- F5** Words in Signature omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **33(3)** (with regs. 53, 55)

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- (1) Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, amending Council Directives 98/56/EC, 2000/29/EC and 2008/90/EC, Regulations (EC) No 178/2002, (EC) No 882/2004 and (EC) No 396/2005 of the European Parliament and of the Council, Directive 2009/128/EC of the European Parliament and of the Council and Regulation (EC) No 1107/2009 of the European Parliament and of the Council and repealing Council Decisions 66/399/EEC, 76/894/EEC and 2009/470/EC ([OJ L 189, 27.6.2014, p. 1](#)).[?]
- (2) Regulation (EU) 2016/2031 of the European Parliament and 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 ([OJ L 317, 23.11.2016, p. 4](#)).[?]
- (3) Regulation (EU) 2016/2031 of the European Parliament and 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 ([OJ L 317, 23.11.2016, p. 4](#)).[?]

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