

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

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure<sup>(2)</sup>,

Whereas:

- (1) Council Directive 2000/29/EC<sup>(3)</sup> sets out a plant health regime.
- (2) On 21 November 2008, the Council invited the Commission to proceed to an evaluation of that plant health regime.
- (3) In the light of the outcome of that evaluation and the experience gained from the application of Directive 2000/29/EC, that Directive should be replaced. In order to ensure uniform application of the new rules, the act replacing that Directive should take the form of a Regulation.
- (4) Plant health is very important for plant production, forests, natural and planted areas, natural ecosystems, ecosystem services and biodiversity in the Union. Plant health is threatened by species injurious to plants and plant products which now present a greater risk of being introduced into the Union territory owing to globalisation of trade and climate change. In order to fight that threat, it is necessary to adopt measures concerning the determination of the phytosanitary risks posed by those pests and the reduction of those risks to an acceptable level.

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- (5) The need for such measures has long been recognised. They have formed the subject of international agreements and international conventions, including the International Plant Protection Convention (IPPC) of 6 December 1951 concluded at the United Nations Food and Agricultural Organisation (FAO) and its new, revised text approved by the FAO Conference in November 1997 at its 29th session. The Union and all its Member States are contracting parties to the IPPC.
- (6) It has become apparent that for the determination of the scope of this Regulation it is important to take into account bio-geographical factors to avoid the introduction into and spread within the territory of the European Union of pests not present in that territory. Consequently, Ceuta, Melilla and, with the exception of Madeira and the Azores, the outermost regions of Member States referred to in Article 355(1) of the Treaty on the Functioning of the European Union (TFEU) should be excluded from the territorial scope of this Regulation. References to third countries should be read as references also to those excluded territories.
- (7) Directive 2000/29/EC sets out rules concerning official controls to be carried out by the competent authorities as regards protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community. It requires the Member States to carry out adequate and efficient control measures. Such adequate and efficient official controls measures should also be continued in the future. As part of the ‘Smarter Rules for Safer Food’ package, this Regulation should only provide for a limited number of provisions on official controls since those rules should be provided for in the framework of the horizontal legislation on official controls.
- (8) Criteria should be set out for the identification of pests for which the adoption of measures is necessary to prevent their introduction into and spread within the entire Union territory. Such pests are referred to as ‘Union quarantine pests’. Criteria should also be set out for the identification of pests for which it is necessary to adopt measures of control only as regards one or more parts of that territory. Such pests are referred to as ‘protected zone quarantine pests’. Where those pests are plants, the implementation of this Regulation should focus in particular on plants which are parasitic to other plants, when they are most injurious to plant health.
- (9) In order to allow efforts for the control of Union quarantine pests to concentrate on those pests whose potential economic, environmental or social impact is the most severe for the Union territory a restricted list of such pests (‘priority pests’) should be established.
- (10) In order to ensure that effective and timely action is taken where a Union quarantine pest is found to be present or suspected of being present, notification obligations should apply to the Member States, professional operators and the public.
- (11) Where those notification obligations imply that personal data of natural or legal persons should be disclosed to the competent authorities, this may constitute a limitation of Article 8 (Protection of Personal Data) of the Charter on Fundamental Rights of the European Union (‘the Charter’). However such a limitation would be necessary and proportionate to the achievement of the public interest objective of this Regulation.

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- (12) A professional operator or other person suspecting or becoming aware of the presence of a Union quarantine pest in a plant, plant product or other object which is or was under its control should be under an obligation to notify the competent authority of that suspicion or awareness, to take all measures that may be appropriate as regards the elimination of the pest and the withdrawal or recall of the plants, plant products or other objects concerned, and to provide to the competent authority, other persons in the trade chain and the public with information.
- (13) Member States should take all necessary phytosanitary measures to eradicate Union quarantine pests, when found to be present in their territories. It is appropriate to set out measures which may be taken by Member States in such a case. It is also appropriate to set out the principles which the Member States should follow when deciding which measures should be taken. Those measures should include the establishment of demarcated areas, consisting of an infested zone and a buffer zone and, when applicable, the determination of actions which should be taken by a professional operator or other person in order to eliminate the quarantine pest or in order to prevent the spread of that pest.
- (14) In certain cases, Member States should impose measures for the eradication of quarantine pests on plants in private premises, because eradication of pests can only be successful if all sources of infestation are removed. For that purpose, the competent authorities of Member States should have legal access to those premises. This may constitute a limitation of Article 7 (Respect for Private and Family Life) and Article 17 (Right to Property) of the Charter. That limitation should be necessary and proportionate to the achievement of the public interest objective of this Regulation.
- (15) Prevention and early detection of the presence of pests is extremely important for timely and effective eradication. Member States should therefore carry out surveys for the presence of Union quarantine pests in the areas where those pests were not known to be present. In view of the number of Union quarantine pests and the time and resources required to carry out those surveys, Member States should establish multiannual survey programmes.
- (16) The Commission should be empowered to adopt measures where there is a suspected or confirmed presence of specific Union quarantine pests, in particular concerning their eradication and containment and the establishment of demarcated areas, surveys, contingency plans, simulation exercises and action plans.
- (17) Where a Union quarantine pest has become established in a demarcated area and cannot be eradicated, the Commission should adopt Union measures as regards the containment of that pest in that area.
- (18) In order to ensure swift and effective action against pests which are not Union quarantine pests, but which Member States consider may fulfil the conditions for inclusion in the list of Union quarantine pests, provision should be made for measures to be taken by Member States in the event that they become aware of the presence of such a pest. Similar provisions should be set out for the Commission.

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- (19) Under certain conditions Member States should be allowed to adopt more stringent measures than those required by Union legislation.
- (20) Special provisions should apply to priority pests as regards, in particular, the provision of information to the public, surveys, contingency plans, simulation exercises, action plans for eradication and co-financing of measures by the Union.
- (21) Quarantine pests which are present in the Union territory but which are absent from specific parts of that territory designated as ‘protected zones’, and whose presence would have an unacceptable economic, social or environmental impact only within those protected zones, should be specifically identified and listed as ‘protected zone quarantine pests’. The introduction into, movement within, and release into the respective protected zones of protected zone quarantine pests should be prohibited.
- (22) Rules should be established concerning the recognition, modification or revocation of recognition of protected zones, survey obligations for protected zones, action to be taken in the event that protected zone quarantine pests are found to be present in the respective protected zones, as well as the establishment of temporary protected zones. Strict rules should apply for the amendment of the extent, and for the revocation of recognition, of protected zones where a protected zone quarantine pest is found to be present within the respective protected zone.
- (23) A pest, which is not a Union quarantine pest, should be referred to as a ‘Union regulated non-quarantine pest’ if that pest is mainly transmitted through specific plants for planting, its presence on those plants for planting has an unacceptable economic impact as regards the intended use of those plants and it is listed as a Union regulated non-quarantine pest. In order to limit the presence of such pests, their introduction into, or movement within, the Union territory on the plants for planting concerned should be prohibited where those pests are present at an incidence above a certain threshold.
- (24) Certain plants, plant products and other objects pose an unacceptable risk due to their likelihood of hosting a Union quarantine pest. For some of those, acceptable risk-mitigation measures are available, while not for others. Depending on the availability of acceptable risk-mitigation measures, their introduction into, or movement within, the Union territory should be either prohibited or subject to special requirements. Those plants, plant products and other objects should be listed.
- (25) In addition to the measures taken to manage the unacceptable risk of the plants, plant products and other objects thereof, this Regulation should provide risk-based and preventive measures to protect the Union territory from pests that a plant, plant product or other object originating from a third country might introduce, on the basis of a preliminary assessment of that high risk. That preliminary assessment should take into account specific criteria appropriate for the plant, plant product or other object concerned. For that purpose scientific opinions or studies of the IPPC, the European and Mediterranean Plant Protection Organisation (EPPO), the European Food Safety Authority (EFSA) or Member State authorities should be taken into account. On the basis of that preliminary assessment, a list of those high-risk plants, plant products or other objects should be established and their introduction into the Union territory

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- should be prohibited, pending a risk assessment carried out in accordance with IPPC standards. Those plants, plant products or other objects should not include those whose introduction in the Union territory is prohibited or subject to special and equivalent requirements, on the basis of a pest risk analysis, or which are subject to the temporary prohibitions set out in this Regulation.
- (26) Provision should be made for derogations from the prohibitions or special requirements as regards the introduction of plants, plant products and other objects into the Union territory. The Commission should be empowered to recognise certain measures of third countries as equivalent to the requirements for the movement within the Union territory of plants, plant products and other objects concerned.
- (27) Those prohibitions or requirements should neither apply to small quantities of certain plants, plant products and other objects, other than plants for planting, for non-commercial and non-professional purposes, nor, in certain cases, to the introduction into, and movement within, frontier zones of plants, plant products and other objects.
- (28) It is appropriate to provide for exemptions from the prohibition of introduction into, and movement within, the Union territory of pests, plants, plant products and other objects which are subject to those prohibitions and which are intended for certain purposes such as official testing, scientific or educational purposes, trials, varietal selection or breeding. Proper safeguards should be set and information should be provided to those concerned.
- (29) Plants moving into the Union from third countries and moving through postal services are in many cases non-compliant with the phytosanitary requirements of the Union. In order to raise awareness, specific rules concerning the information to be provided to travellers and clients of postal services should be set out.
- (30) A derogation from the Union rules for the introduction into, and movement within, the Union territory should be provided for plants, plant products and other objects in phytosanitary transit, subject to specific conditions.
- (31) The international trade of plants, plant products and other objects with which there is limited phytosanitary experience can potentially involve unacceptable risks of the establishment of quarantine pests which are not yet listed as Union quarantine pests and for which no measures have been adopted pursuant to this Regulation. In order to ensure swift and effective action against those newly identified or suspected pest risks associated with plants, plant products and other objects which are not subject to permanent requirements or prohibitions, but may qualify for such permanent measures, the Commission should have the possibility to adopt temporary measures in accordance with the precautionary principle and identify those plants, plant products and other objects taking into account objective and established elements.
- (32) It is necessary to set out prohibitions and special requirements, similar to those set out for the Union territory, in respect of the introduction into, and movement within, protected zones of plants, plant products and other objects that would pose a risk of an unacceptable level due to their likelihood of hosting the respective protected zone quarantine pest.

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- (33) General requirements should be adopted concerning vehicles, machinery and packaging material used for plants, plant products and other objects to ensure that they are free from quarantine pests.
- (34) Member States should designate confinement facilities and quarantine stations. Requirements concerning the designation, authorisation, operation and supervision of those confinement facilities and quarantine stations and concerning the release of plants, plant products or other objects from those facilities or stations should be set out. Where those requirements include the maintenance of lists of staff and visitors entering the facilities and stations, this may constitute a limitation of Article 8 (Protection of Personal Data) of the Charter. However that limitation would be necessary and proportionate to the achievement of the public interest objective of this Regulation.
- (35) The Commission should keep a publicly available, updated list of all notifications it has received concerning emerging pests in third countries which may pose a risk to plant health in the Union territory.
- (36) In order to ensure effective implementation of this Regulation, certain professional operators subject to obligations under this Regulation should be registered in registers set up by the Member States. Requirements for registration, as well as exemptions from those requirements, should be set out.
- (37) In order to facilitate the detection of the source of an infestation by a quarantine pest, it is appropriate to require professional operators to keep records in respect of the plants, plant products and other objects supplied to them by professional operators and supplied by them to other professional operators. In view of the latency periods of some quarantine pests, and the time required for the detection of the source of infestation, records should be kept for at least three years.
- (38) Professional operators should also have in place systems and procedures to allow identification of the movements of plants, plant products and other objects within and between their own premises.
- (39) A phytosanitary certificate should be required for the introduction from third countries into the Union territory, and into protected zones, of certain plants, plant products and other objects. Those plants, plant products and other objects should be listed in the interest of transparency.
- (40) Phytosanitary certificates should also be required for the introduction of other plants from third countries into the Union territory. This is important in order to ensure an appropriate level of phytosanitary safety as well as effective overview of the import of those plants into the Union and the risks thereof. Those plants should, however, not be subject to the provisions on official controls at border control posts laid down in the relevant Union legislation.
- (41) Those phytosanitary certificates should comply with the requirements of the IPPC and should attest compliance with the requirements and measures established pursuant to this Regulation. In order to ensure the credibility of the phytosanitary certificates, rules should be established concerning the conditions of their validity and invalidation.

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- (42) The movement within the Union territory, and into and within protected zones, of certain plants, plant products and other objects should only be permitted if accompanied by a plant passport, attesting compliance with the requirements and measures established pursuant to the provisions of this Regulation. Those plants, plant products and other objects should be listed in the interest of transparency.
- (43) Plant passports should not be required for plants, plant products and other objects supplied directly to final users, including home gardeners. However, certain exceptions should be set out.
- (44) In order to ensure the credibility of the plant passports, rules should be established concerning their content and form.
- (45) Plant passports should generally be issued by the authorised professional operator. It should be possible for competent authorities to decide to issue plant passports.
- (46) Rules should be set out for the issuance of plant passports, the examinations required for issuance, the attaching of plant passports, the authorisation and supervision of professional operators issuing plant passports, the obligations of authorised operators and the withdrawal of that authorisation.
- (47) In order to reduce the burden of authorised operators, examinations for issuing plant passports should, where appropriate, be combined with the examinations required under Council Directives 66/401/EEC<sup>(4)</sup>, 66/402/EEC<sup>(5)</sup>, 68/193/EEC<sup>(6)</sup>, 2002/54/EC<sup>(7)</sup>, 2002/55/EC<sup>(8)</sup>, 2002/56/EC<sup>(9)</sup>, 2002/57/EC<sup>(10)</sup>, 2008/72/EC<sup>(11)</sup> and 2008/90/EC<sup>(12)</sup>.
- (48) Authorised operators should possess the necessary knowledge concerning pests.
- (49) Certain authorised operators may wish to establish a pest risk management plan, ensuring and demonstrating a high level of competence and awareness as regards pest risks as regards critical points in their professional activities and justifying special control arrangements with the competent authorities. Union rules should be established concerning the contents of those plans.
- (50) It is appropriate to provide for the replacement of plant passports and of phytosanitary certificates.
- (51) In cases of non-compliance with the Union rules, plant passports should be removed, invalidated and, for reasons of traceability, kept.
- (52) International Standard for Phytosanitary Measures No 15 *Regulation of Wood Packaging Material in International Trade* (ISPM15) requires wood packaging material to be marked with a specific mark, applied by duly authorised and supervised professional operators. This Regulation should set out requirements concerning the treatment, marking and repairing of wood packaging material in line with that standard. This Regulation should also set out rules for the authorisation and supervision of professional operators in the Union territory applying that mark.
- (53) Where so required by a third country, the respective plants, plant products or other objects should be moved from the Union territory to that third country with a phytosanitary certificate for export or re-export. In respect of the relevant provisions of

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the IPPC, those certificates should be issued by the competent authorities, respecting the contents of the model certificates for export and re-export set out by the IPPC. Protection should be offered to third countries against Union quarantine pests because of their acknowledged harmful nature, except where a Union quarantine pest is officially known to be present in the third country concerned and not under official control, or where it can be reasonably assumed that that Union quarantine pest does not meet the criteria to qualify as a quarantine pest for the third country concerned.

- (54) Where a plant, plant product or other object is moved through more than one Member States before it is exported to a third country, it is important that the Member State in which the plants, plant product or other objects were produced or processed exchanges information with the Member State which issues the phytosanitary certificate for export. That exchange of information is important in order to enable compliance with the requirements of the third country to be attested. Therefore, a harmonised ‘pre-export certificate’ should be established in order to ensure that the exchange of that information takes place in a uniform manner.
- (55) The Commission should establish an electronic system for the notifications required in accordance with this Regulation.
- (56) In order to take into account the most severe economic, social or environmental impact on the Union territory of certain Union quarantine pests, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of listing priority pests.
- (57) In order to ensure that the exceptions for Union quarantine pests and for plants, plant products and other objects originating from third countries or territories which are prohibited from being introduced into the Union territory, used for official testing, scientific or educational purposes, trials, varietal selection or breeding are implemented in a manner that does not pose any pest risk to the Union territory or parts of it, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules concerning the exchange of information between Member States and the Commission as regards the introduction into, movement within, and holding, multiplication and use in, the Union territory of the pests and plants, plant products and other objects concerned, the procedure and conditions for granting the corresponding authorisation, and the monitoring of compliance as well as the actions to be taken in the event of non-compliance.
- (58) In order to ensure the correct application of the derogations from the obligation to carry out annual surveys of demarcated areas, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of further specifying the pests concerned by those derogations and conditions for the application of those derogations.
- (59) In order to ensure that protected zones are established and function in a reliable manner, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of detailed rules for the surveys to be carried out for purposes of the recognition of protected zones and for the preparation and the content of surveys on protected zone quarantine pests.



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- (60) In order to ensure a proportionate and restricted application of the exemptions concerning the movement of plants, plant products or other objects into or within frontier zones, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules concerning the maximum width of third country frontier zones and Member State frontier zones, the maximum distance of the movement of the plants, plant products and other objects concerned within the third country frontier zones and Member State frontier zones and the procedures concerning the authorisation of the introduction into, and movement within, the Member State frontier zones of plants, plant products and other objects.
- (61) In order to ensure that the registration of professional operators is proportionate to the objective of controlling pest risk, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules setting out further categories of professional operators to be exempted from the obligation to register, particular requirements for the registration of certain categories of professional operators and the maximum figures for small quantities that the professional operators may supply to final users in order to be exempted from the obligation to register.
- (62) In order to ensure the credibility of phytosanitary certificates of third countries which are not contracting parties to the IPPC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules supplementing the conditions for acceptance of phytosanitary certificates from those third countries.
- (63) In order to minimise the pest risks of plants, plant products or other objects moved within the Union territory, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules setting out the cases where, for particular plants, plant products or other objects, the exemption from the requirement to issue plant passports only applies for small quantities.
- (64) In order to ensure the reliability of examinations of plants, plant products and other objects carried out for the issuance of plant passports, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules on visual examination, sampling and testing and the frequency and timing of the examinations.
- (65) In order to enhance the credibility of plant passports, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules setting out criteria to be fulfilled by the professional operators in order for them to be authorised to issue plant passports and procedures ensuring that those criteria are met.
- (66) In order to ensure correct marking of wood packaging material and to take into account the development of international standards, and in particular of ISPM15, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending and supplementing the requirements concerning wood packaging material, including its introduction into the Union territory, and of

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specifying the requirements for authorisation of registered operators to apply the mark of wood packaging material in the Union territory.

- (67) In order to take into account the development of international standards, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules concerning attestations for plants, plant products and other objects, other than wood packaging material, which would require the application of a specific attestation of compliance with the rules of this Regulation.
- (68) In order to ensure the utility and reliability of official attestations, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules setting out the contents of official attestations, the authorisation and supervision of professional operators issuing those attestations, as well as the elements of the export, re-export and pre-export certificate.
- (69) In order to adapt to the development of scientific and technical knowledge and of international standards, in particular the standards of the IPPC and the EPPO, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules amending the Annexes to this Regulation.
- (70) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>(13)</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (71) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission with respect to listing Union quarantine pests; setting out the format of reports on surveys, as well as instructions on how to fill in that format; establishing the format of the multiannual survey programmes and related practical arrangements; setting out measures against specific Union quarantine pests; and adopting measures for a limited time as regards the risks posed by pests not listed as Union quarantine pests.
- (72) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to establishing a list of protected zones and of the respective protected zone quarantine pests; and amending the extent of, or revoking the recognition of, protected zones.
- (73) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to listing of Union regulated non-quarantine pests and the plants for planting concerned; and setting out measures to prevent the presence of Union regulated non-quarantine pests on the respective plants for planting.
- (74) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to: listing

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the plants, plant products and other objects which are prohibited from being introduced into the Union territory, and the third countries concerned; listing the plants, plant products and other objects subject to special requirements, and the special requirements concerned for their introduction into, and movement within, the Union territory; the provisional listing of the high-risk plants, plant products and other objects whose introduction into the Union territory is to be prohibited, and the third countries concerned; the procedure for risk assessment in connection with that listing; setting out, for third countries, requirements that are equivalent to the requirements for movement within the Union territory of plants, plant products or other objects; setting out arrangements for the presentation and use of posters and brochures concerning the introduction of plants, plant products and other objects into the Union territory; setting out specific conditions or measures concerning the introduction of particular plants, plant products and other objects into frontier zones of Member States; adoption of temporary measures concerning plants, plant products and other objects likely to pose newly identified pest risks or other suspected phytosanitary risks; adopting decisions on temporary measures taken by Member States concerning imminent danger; listing of plants, plant products and other objects which are prohibited from being introduced into certain protected zones; listing the plants, plant products and other objects subject to special requirements, and the special requirements concerned for their introduction into, and movement within, certain protected zones; and laying down rules concerning the requirements for quarantine stations and confinement facilities, and the release of plants, plant products and other objects from those stations and facilities.

- (75) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to setting out shorter or longer minimum periods for keeping the records concerning traceability by the professional operators, and requirements as to the accessibility of those records.
- (76) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to: listing of the plants, plant products and other objects, and the respective third countries of origin or dispatch, for which a phytosanitary certificate is to be required for their introduction into the Union territory; listing of the plants, plant products and other objects, and the respective third countries of origin or dispatch, for which a phytosanitary certificate is to be required for their introduction into certain protected zones from those third countries; listing of the plants, plant products and other objects, the third countries concerned, and the maximum quantity subject to be exempted from the requirement for a phytosanitary certificate when introduced in the Union territory; and setting out technical arrangements concerning the invalidation of the electronic phytosanitary certificates.
- (77) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to listing of the plants, plant products and other objects, for which a plant passport is to be required for their movement within the Union territory; listing of the plants, plant products and other objects for which a plant passport is to be required for their introduction, and movement within, certain protected zones; and specifying the protected zone pests,

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plants, plant products or other objects for which a plant passport for protected zones is required in the case of direct supply to a final user.

- (78) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to setting out the format specifications of the plant passport; identifying types and species of plants for planting for which exemptions from the indication of traceability code in the format of the plant passport should not apply; and setting out technical arrangements for the issuance of electronic plant passports.
- (79) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to setting out specific arrangements concerning the material, treatment and marking as regards repairing of wood packaging material; laying down the format specifications of attestations other than the mark of wood packaging material; laying down the procedures for the issuance of the pre-export certificate; and laying down specific rules concerning the submission of notifications.
- (80) The implementing powers conferred on the Commission should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(14)</sup>.
- (81) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to measures to be adopted against specific Union quarantine pests or pests not listed as Union quarantine pests, to the prohibition of introduction of certain plants, plant products and other objects into the Union territory or a protected zone or to subjecting such introduction to specific requirements and to temporary measures concerning plants, plant products and other objects likely to pose newly identified pest risks or other suspected phytosanitary risks, imperative grounds of urgency so require.
- (82) Council Directives 74/647/EEC<sup>(15)</sup> and 2006/91/EC<sup>(16)</sup> set out measures on the control of carnation leaf-rollers and San José Scale. Following the entry into force of those Directives, the pests concerned have become widespread throughout the Union territory, and their containment is thus no longer feasible. Those Directives should therefore be repealed.
- (83) Council Directives 69/464/EEC<sup>(17)</sup>, 93/85/EEC<sup>(18)</sup>, 98/57/EC<sup>(19)</sup> and 2007/33/EC<sup>(20)</sup> should be repealed, as new measures on the pests which they concern should be adopted in accordance with this Regulation. In view of the time and resources required to adopt those new measures, those Directives should be repealed with effect from 1 January 2022.
- (84) Regulation (EU) No 652/2014 of the European Parliament and of the Council<sup>(21)</sup> provides that grants for measures against pests are to concern certain pests listed in the Annexes to Directive 2000/29/EC, and certain pests not listed in those Annexes but subject to temporary Union measures adopted with regard to them. In addition to the provisions of that Regulation, this Regulation establishes the category of priority pests and it is essential that certain measures taken by the Member States as regards,

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in particular, priority pests are to be eligible for Union grants, including compensation paid to professional operators for the value of plants, plant products and other objects subject to destruction pursuant to the eradication measures set out in this Regulation. Regulation (EU) No 652/2014 should therefore be amended.

- (85) Technical amendments should also be made in Regulations (EU) No 228/2013<sup>(22)</sup> and (EU) No 1143/2014<sup>(23)</sup> of the European Parliament and of the Council.
- (86) Since the objective of this Regulation, namely to ensure a harmonised approach with regard to protective measures against pests of plants, cannot be sufficiently achieved by the Member States but can rather, by reason of its effect, complexity, and trans-border and international character, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not exceed what is necessary in order to achieve that objective.
- (87) For small and medium-sized enterprises (SMEs), this Regulation does not create a disproportionate administrative burden or economic impact. Under this Regulation, based on consultation with stakeholders, the special situation of SMEs has been taken into account where possible. A potential universal exemption for micro-enterprises, which make up the majority of companies, has not been considered, in view of the public policy objective of protecting plant health.
- (88) This Regulation takes into account the IPPC, the Agreement on the Application of Sanitary and Phytosanitary Measures and the guidelines set out under them.
- (89) In accordance with the principle of ‘smart’ regulation, the implementation of this Regulation should be coordinated with that of Regulation (EU) No 1143/2014 in order to ensure that Union plant health legislation applies fully and in its entirety.
- (90) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter and notably respect for private and family life, the right to property, the protection of personal data, freedom to conduct business and the freedom of art and science. This Regulation should be applied by the Member States in accordance with those rights and principles,

HAVE ADOPTED THIS REGULATION:

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- (1) [OJ C 170, 5.6.2014, p. 104.](#)
- (2) Position of the European Parliament of 15 April 2014 (not yet published in the Official Journal) and position of the Council at first reading of 18 July 2016 (not yet published in the Official Journal). Position of the European Parliament of 26 October 2016 (not yet published in the Official Journal).
- (3) Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ([OJ L 169, 10.7.2000, p. 1](#)).
- (4) Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed ([OJ 125, 11.7.1966, p. 2298/66](#)).
- (5) Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed ([OJ 125, 11.7.1966, p. 2309/66](#)).
- (6) Council Directive 68/193/EEC of 9 April 1968 on the marketing of material for the vegetative propagation of the vine ([OJ L 93, 17.4.1968, p. 15](#)).
- (7) Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed ([OJ L 193, 20.7.2002, p. 12](#)).
- (8) Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed ([OJ L 193, 20.7.2002, p. 33](#)).
- (9) Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes ([OJ L 193, 20.7.2002, p. 60](#)).
- (10) Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants ([OJ L 193, 20.7.2002, p. 74](#)).
- (11) Council Directive 2008/72/EC of 15 July 2008 on the marketing of vegetable propagating and planting material, other than seed ([OJ L 205, 1.8.2008, p. 28](#)).
- (12) Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production ([OJ L 267, 8.10.2008, p. 8](#)).
- (13) [OJ L 123, 12.5.2016, p. 1.](#)
- (14) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers ([OJ L 55, 28.2.2011, p. 13](#)).
- (15) Council Directive 74/647/EEC of 9 December 1974 on control of carnation leaf-rollers ([OJ L 352, 28.12.1974, p. 41](#)).
- (16) Council Directive 2006/91/EC of 7 November 2006 on control of San José Scale ([OJ L 312, 11.11.2006, p. 42](#)).
- (17) Council Directive 69/464/EEC of 8 December 1969 on control of Potato Wart Disease ([OJ L 323, 24.12.1969, p. 1](#)).
- (18) Council Directive 93/85/EEC of 4 October 1993 on control of Potato Ring Rot ([OJ L 259, 18.10.1993, p. 1](#)).
- (19) Council Directive 98/57/EC of 20 July 1998 on control of *Ralstonia solanacearum* (Smith) *Yabuuchi et al.* ([OJ L 235, 21.8.1998, p. 1](#)).
- (20) Council Directive 2007/33/EC of 11 June 2007 on the control of potato cyst nematodes and repealing Directive 69/465/EEC ([OJ L 156, 16.6.2007, p. 12](#)).
- (21) 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](#)).

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- (22) Regulation (EU) No 228/2013 of the European Parliament and the Council of the 13 March 2013 laying down specific measures for agriculture in the outermost regions of the Union and repealing Council Regulation (EC) No 247/2006 ([OJ L 78, 20.3.2013, p. 23](#)).
- (23) Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species ([OJ L 317, 4.11.2014, p. 35](#)).

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