
STATUTORY RULES OF NORTHERN IRELAND

2020 No. 293

The Plant Health (Official Controls and Miscellaneous Provisions) Regulations (Northern Ireland) 2020

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Plant Health (Official Controls and Miscellaneous Provisions) Regulations (Northern Ireland) 2020 and come into operation on 23rd December 2020.

Interpretation: general

2.—(1) The Interpretation Act (Northern Ireland) 1954(1) applies to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

“controlled consignment” means a consignment containing any plant, plant product or other object—

- (a) which may not be brought into the Union territory without a phytosanitary certificate for export or a phytosanitary certificate for re-export pursuant to—
 - (i) Article 72 or 74 of the EU Plant Health Regulation;
 - (ii) an EU emergency decision; or
 - (iii) any other EU plant health rule, other than Article 73 of the EU Plant Health Regulation; or
- (b) which was exported from the Union territory to a third country and is returning to the Union territory following the refusal by that third country to allow its entry into the country;

“controlled plant pest” means—

- (a) a plant pest of a description specified in Annexes 2, 3 or 4 to the Phytosanitary Conditions Regulation;
- (b) a plant pest of a description specified in an EU emergency decision; or
- (c) a plant pest subject to any other EU plant health rule, including a potential quarantine plant pest within the meaning given in regulation 21(3);

“the Department” means the Department of Agriculture, Environment and Rural Affairs;

“Directive 2000/29/EC” means Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community(2);

“EU emergency decision” means an instrument referred to in regulation 3(1);

“EU Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament of the Council 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, 98/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC(3);

“EU plant health rule” means a rule within the meaning given in Article 1(2)(g) of the Official Controls Regulation;

“ISPM 15” 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 International Plant Protection Convention established by the Food and Agriculture Organisation of the United Nations, as last revised by the Commission on Phytosanitary Measures in April 2013(4)

“Official Controls Regulation” 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, 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 insofar as it applies to EU plant health rules(5);

“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 of the Council, as regards protective measures against pests of plants and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019(6);

“plant health inspector” means an official plant health officer appointed by the Department;

“plant pest” means a pest within the meaning given in Article 1(1) and (2) of the EU Plant Health Regulation;

“regulated item” means—

- (a) any plant, plant product or other object to which an EU plant health rule applies, other than any plant, plant product or other object which is part of a controlled consignment; or
- (b) a controlled plant pest.

(3) Unless the context otherwise requires, words and expressions which are not defined in these Regulations but appear in both these Regulations and in the EU Plant Health Regulation or the

(2) O.J. No. L 169, 10.7.2000, p. 1, as last amended by Commission Implementing Directive (EU) 2019/523 (O.J. No. L 86, 28.3.2019, p. 41).

(3) O.J. No. L 317, 23.11.2016, p. 4, amended by Regulation (EU) 2017/625 of the European Parliament and of the Council (O.J. No. L 95, 7.4.2017, p. 1).

(4) Available from the Secretariat of the International Plant Protection Convention, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

(5) O.J. No. L 95, 7.4.2017, p. 1, as amended by Commission Delegated Regulation (EU) 2019/478 (O.J. No. L 82, 25.3.2019, p. 4).

(6) O.J. No. L 319, 10.12.2019, p. 1.

Official Controls Regulation have the same meaning in these Regulations as they have in the EU Plant Health Regulation or, as the case may be, in the Official Controls Regulation.

Interpretation: EU Decisions

3.—(1) In these Regulations—

“Commission [Decision 98/109/EC](#)” means Commission [Decision 98/109/EC](#) authorising member States temporarily to take emergency measures against the dissemination of *Thrips palmi* Karny as regards Thailand(7);

“Commission [Decision 2002/757/EC](#)” means Commission [Decision 2002/757/EC](#) on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in't Veld sp. Nov.(8);

“Commission [Decision 2004/200/EC](#)” means Commission [Decision 2004/200/EC](#) on measures to prevent the introduction into and the spread within the Community of Pepino mosaic virus(9);

“Commission Implementing [Decision 2011/787/EU](#)” means Commission Implementing [Decision 2011/787/EU](#) authorising member States temporarily to take emergency measures against the dissemination of *Ralstonia solanacearum* (Smith) Yabuuchi et al. as regards Egypt(10);

“Commission Implementing [Decision 2012/138/EU](#)” means Commission Implementing [Decision 2012/138/EU](#) as regards emergency measures to prevent the introduction into and the spread within the Union of *Anoplophora chinensis* (Forster)(11);

“Commission Implementing [Decision 2012/270/EU](#)” means Commission Implementing [Decision 2012/270/EU](#) as regards emergency measures to prevent the introduction into and the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix papa* sp. n., *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner)(12);

“Commission Implementing [Decision 2012/535/EU](#)” means Commission Implementing [Decision 2012/535/EU](#) on emergency measures to prevent the spread within the Union of *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al. (the pine wood nematode)(13);

“Commission Implementing [Decision 2012/697/EU](#)” means Commission Implementing [Decision 2012/697/EU](#) as regards measures to prevent the introduction into and the spread within the Union of the genus *Pomacea* (Perry)(14);

“Commission Implementing Decision (EU) 2015/789” means Commission Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.)(15);

(7) O.J. No. L 27, 3.2.1998, p. 47.

(8) O.J. No. L 252, 20.9.2002, p. 37, as last amended by Commission Implementing Decision (EU) 2014/356/EU (O.J. No. L 175, 14.6.2014, p. 38).

(9) O.J. No. L 64, 2.3.2004, p. 43.

(10) O.J. No. L 319, 2.12.2011, p. 112.

(11) O.J. No. L 64, 3.3.2012, p. 38, as amended by Commission Implementing Decision (EU) 2014/356/EU (O.J. No. L 175, 14.6.2014, p. 38).

(12) O.J. No. L 132, 23.5.2012, p. 18, as last amended by Commission Implementing Decision (EU) 2018/5 (O.J. No. L 2, 5.1.2018, p. 11).

(13) O.J. No. L 266, 2.10.2012, p. 42, as last amended by Commission Implementing Decision (EU) 2018/618 (O.J. No. L 102, 23.4.2018, p. 17).

(14) O.J. No. L 697, 10.11.2012, p. 14.

(15) O.J. No. L 125, 21.5.2015, p. 36, as last amended by Commission Implementing Decision (EU) 2018/1511 (O.J. No. L 255, 11.10.2018, p. 16).

“Commission Implementing Decision (EU) 2015/893” means Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulksy)(16);

“Commission Implementing Decision (EU) 2016/715” means Commission Implementing Decision (EU) 2016/715 setting out measures in respect of certain fruits originating in certain third countries to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (McAlpine) Van der Aa.(17);

“Commission Implementing Decision (EU) 2018/638” means Commission Implementing Decision (EU) 2018/638 establishing emergency measures to prevent the introduction into and the spread within the Union of the harmful organism *Spodoptera frugiperda* (Smith)(18);

“Commission Implementing Decision (EU) 2018/1503” means Commission Implementing Decision (EU) 2018/1503 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann)(19);

“Commission Implementing Decision (EU) 2019/1739” means Commission Implementing Decision (EU) 2019/1739 establishing emergency measures to prevent the introduction into and the spread within the Union of Rose Rosette virus(20);

“Commission Implementing Decision (EU) 2019/2032” means Commission Implementing Decision (EU) 2019/2032 establishing measures to prevent the introduction into and the spread within the Union of *Fusarium circinatum* Nirenberg & O’Donnell (formerly *Gibberella circinata*) and repealing Decision 2007/433/EC(21);

“Commission Implementing Regulation (EU) 2020/885” means Commission Implementing Regulation (EU) 2020/885 as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto(22);

“Commission Implementing Regulation (EU) 2020/1191” means Commission Implementing Regulation (EU) 2020/1191 establishing measures to prevent the introduction into and the spread within the Union of Tomato brown rugose fruit virus (ToBRFV)(23).

(2) In these Regulations, references to the Phytosanitary Conditions Regulation and to the European Union instruments referred to in paragraph (1) are to be construed as references to those instruments as amended from time to time.

Measures adopted pursuant to Article 30(1) of the EU Plant Health Regulation

4. Any reference in the EU Plant Health Regulation to a pest that is subject to the measures adopted pursuant to Article 30(1) includes the following plant pests—

- (a) *Epitrix cumeris* (Harris), *Epitrix papa*. (Orlova-Bienkowskaja), *Epitrix subcrinita* (Lec.) or *Epitrix tuberis* (Gentner);
- (b) *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyuma & Goto;
- (c) Rose rosette virus;
- (d) Tomato brown rugose fruit virus.

(16) O.J. No. L 146, 11.6.2015, p. 16.

(17) O.J. No. L 125, 13.5.2016, p. 16, as amended by Commission Implementing Decision (EU) 2018/85 (O.J. No. L 15, 20.1.2018, p. 11).

(18) O.J. No. L 105, 25.4.2018, p. 31, as amended by Commission Implementing Decision (EU) 2019/1598 (O.J. No. L 248, 27.9.2019, p. 86).

(19) O.J. No. L 254, 10.10.2018, p. 9.

(20) O.J. No. L 265, 18.10.2019, p. 12.

(21) O.J. No. L 313, 4.12.2019, p. 94.

(22) O.J. No. L 205, 29.6.2020, p. 9.

(23) O.J. No. L 262, 12.8.2020, p. 6.

Article 82 of the EU Plant Health Regulation: meaning of “close proximity”

5.—(1) For the purposes of Article 82 of the EU Plant Health Regulation, the premises of a registered operator are to be regarded as being in “close proximity” to other premises of that operator if any point on the boundary of its operative area, or of any of its operative areas, is within ten miles of any point on the boundary of the operative area, or of any of the operative areas, of the other premises.

(2) In paragraph (1), “operative area”, in relation to the premises of a registered operator means—

- (a) in the case of premises which are used entirely by the registered operator to carry out one or more of the activities mentioned in Article 65(1) of the EU Plant Health Regulation, the area comprising those premises;
- (b) in the case of any other premises used by the registered operator to carry out one or more of the activities mentioned in Article 65(1) of the EU Plant Health Regulation, an area within the premises which is used by the registered operator to carry out any of those activities.