

2019 No. 290

PLANT HEALTH

The Plant Health (Scotland) Amendment Order 2019

Made - - - - *10th September 2019*

Laid before the Scottish Parliament *12th September 2019*

Coming into force - - *31st October 2019*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 2 and 3 of the Plant Health Act 1967(a) and paragraph 1A of schedule 2 of the European Communities Act 1972(b) and all other powers enabling them to do so.

This Order makes provision for preventing the introduction and spread of pests in Scotland and is, in part, called for by EU obligations in 98/109/EC: Commission Decision of 2 February 1998 authorising Member States temporarily to take emergency measures against the dissemination of *Thrips palmi* Karny as regards Thailand; 2004/200/EC: Commission Decision of 27 February 2004 on measures to prevent the introduction into and the spread within the Community of Pepino mosaic virus; Commission Implementing Decision (EU) 2017/2374 of 15 December 2017 setting out conditions for movement, storage and processing of certain fruits and their hybrids originating in third countries to prevent the introduction into the Union of certain harmful organisms; Commission Implementing Decision (EU) 2018/490 of 21 March 2018 repealing Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier); Commission Implementing Decision (EU) 2018/638 of 23 April 2018 establishing emergency measures to prevent the introduction into and the spread within the Union of the harmful organism *Spodoptera frugiperda* (Smith); Commission Implementing Decision (EU) 2018/1503 of 8 October 2018 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann); Commission Implementing Decision (EU) 2019/449 of 18 March 2019 amending 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; and Commission Implementing Directive (EU) 2019/523 of 21 March 2019 amending Annexes I to V to 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.

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- (a) 1967 c.8. Section 2 was amended by paragraph 8(2)(a) of schedule 4 of the European Communities Act 1972 (c.68), Part 1 of the table in paragraph 12 of schedule 4 of the Customs and Excise Management Act 1979 (c.2) and S.I. 1990/2371 and 2011/1043. Section 3 was amended by paragraph 8(2) and (3) of schedule 4 of the European Communities Act 1972, section 42 of the Criminal Justice Act 1982 (c.48), group 2 of the table in paragraph 1 of part 14 of schedule 1 of the Statute Law (Repeals) Act 1993 (c.50) and S.I. 2011/1043. The powers conferred by sections 2 and 3 are conferred on a “competent authority”, which is defined in section 1(2). Section 1(2) provides that the Scottish Ministers are the competent authority for Scotland for the purposes of the Act.
- (b) 1972 c.68. Paragraph 1A of schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and amended by Part 1 of the schedule of the European Union (Amendment) Act 2008 (c.7) and S.I. 2007/1388.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(a) and it appears to the Scottish Ministers that it is expedient for the references to 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) and Commission Implementing Decision (EU) 2018/1503 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann) to be construed as references to those instruments as amended from time to time.

Citation and commencement

1. This Order may be cited as the Plant Health (Scotland) Amendment Order 2019 and comes into force on 31 October 2019.

Amendment of the Plant Health (Scotland) Order 2005

2. The Plant Health (Scotland) Order 2005(b) is amended in accordance with articles 3 to 13.

Amendment of article 2

3. In article 2(1) (general interpretation)—

(a) after the definition of “authorised officer”, insert—

““citrus fruits for processing” means fruits of *Citrus* L., *Fortunella Swingle*, *Poncirus Raf.*, *Microcitrus Swingle*, *Naringi Adans.*, or *Swinglea Merr.*, which originate in a third country and are destined for industrial processing into juice in the European Union;”,

(b) omit the definition of “citrus fruits for processing under Decision (EU) 2016/715”,

(c) after the definition of “Decision (EU) 2016/715”, insert—

““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)(c), as amended from time to time;

“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)(d), as amended from time to time;”,

(d) in the definition of “Directive 2000/29/EC”, at the end insert “, as last amended by Commission Implementing Directive (EU) 2019/523”, and

(e) in the definition of “relevant material”, at the end insert “or any machinery or vehicle which has been operated for agricultural or forestry purposes”.

Amendment of article 6

4. In article 6 (advance notification of landing), in paragraph (3A), omit “under Decision (EU) 2016/715”.

(a) Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(3) and Part 1 of schedule 1 of the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) S.S.I. 2005/613, as last amended by S.S.I. 2019/242. S.S.I. 2005/613 is also prospectively amended by S.S.I. 2019/124, from “exit day” within the meaning of section 20 of the European Union (Withdrawal) Act 2018 (c.16) (see Part 3 of S.S.I. 2019/124; Part 2 of S.S.I. 2019/124, which came into force on 29 March 2019, also amended S.S.I. 2005/613).

(c) OJ L 105, 25.4.2018, p.31.

(d) OJ L 254, 10.10.2018, p.9.

Amendment of article 19

5. In article 19 (prohibitions on landing plant pests and relevant material), in paragraph (4), omit “under Decision (EU) 2016/715”.

Amendment of article 19B

6. In article 19B(2) (landing of trees in Scotland), in sub-paragraphs (a) and (b), after “*Fraxinus L.*” insert “*Olea europaea*”.

Amendment of schedule 1

7. In schedule 1 (plant pests which shall not be landed in or spread within Scotland)—

(a) in Part A (plant pests not known to occur in any part of the European Union)—

(i) under the heading “Insects, mites and nematodes”—

(aa) after item 5a insert—

“5b. *Aromia bungii* (Faldermann)”,

(bb) after the second item numbered 15a insert—

“15b. *Grapholita packardi* Zeller”,

(cc) after item 23 insert—

“23a. *Neoleucinodes elegantalis* (Guenée)

23b. *Oemona hirta* (Fabricius)

23c. *Phyllocoptes fructiphilus* (Keifer 1940)”,

(ii) under the heading “Fungi”, after item 3 insert—

“3a. *Elsinoë australis* Bitanc. & Jenk.;

3b. *Elsinoë citricola* X.L. Fan, R.W. Barreto & Crous;

3c. *Elsinoë fawcetti* Bitanc. & Jenk.”,

(iii) under the heading “Viruses and virus-like organisms”, after item 2 insert—

“2a. Rose rosette virus”,

(b) in Part B (plant pests known to occur in the European Union)—

(i) under the heading “Insects, mites and nematodes”—

(aa) after item 8 insert—

“8a. *Pityophthorus juglandis* Blackman”,

(bb) after item 10 insert—

“10a. *Rhynchophorus ferrugineus* (Olivier)”,

(ii) under the heading “Fungi”—

(aa) before item 1 insert—

“A1. *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr”,

(bb) after item 1 insert—

“1a. *Fusarium circinatum* Nirenberg & O’Donnell

1b. *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat”.

Amendment of schedule 2

8. In schedule 2 (relevant material which may not be landed in or moved within Scotland if that material is carrying or infected with plant pests)—

(a) in Part A (plant pests not known to occur in the European Union)—

(i) under the heading “Insects, mites and nematodes”, omit item 11,

(ii) under the heading “Fungi”, omit item 10,

(b) in Part B (plant pests known to occur in the European Union)—

(i) under the heading “Insects, mites and nematodes”, in the second column of item 14, after “seeds, of” insert “*Cedrus Trew* or”,

(ii) under the heading “Viruses and virus-like organisms”, after item 6 insert—

“6a. Seeds of *Solanum lycopersicum* L. Pepino mosaic virus”.

Amendment of schedule 3

9. In schedule 3 (relevant material which may not be landed in Scotland if that material originates in certain third countries)—

(a) for item 10 substitute—

“10. Soil consisting in part of solid organic substances or other growing medium consisting in whole or in part of solid organic substances, other than any growing medium that is composed entirely of peat or fibre of <i>Cocos nucifera</i> L. and has not been previously used for growing plants or for any agricultural purposes.	Any third country, other than Switzerland”.
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(b) omit item 18.

Amendment of schedule 4

10. In schedule 4 (restrictions on the landing in and movement within Scotland of relevant material)—

(a) in Part A (relevant material, from third countries, which may only be landed in Scotland if special requirements are satisfied)—

(i) after item 7c insert—

“7d. Plants, other than seeds, of <i>Juglans</i> L. or <i>Pterocarya</i> Kunth, intended for planting, originating in the USA	The plants must be accompanied by an official statement that: (a) they have been grown
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throughout their life in an area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat and its vector *Pityophthorus juglandis* Blackman;

- (b) they:
 - (i) originate in a place of production where neither symptoms of *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat nor its vector *Pityophthorus juglandis* Blackman, or the presence of the vector, have been observed during official inspections of the place of production and its vicinity (which, as a minimum, must include the area lying within a radius of 5 km of the place of production) carried out in the period of two years prior to their export;
 - (ii) have been inspected immediately prior to export; and
 - (iii) have been handled and packaged in ways to prevent their infestation once they have left the place of production; or
- (c) they:
 - (i) originate in a place of production with complete physical isolation;

- (ii) have been inspected immediately prior to export; and
- (iii) have been handled and packaged in ways to prevent their infestation once they have left the place of production.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a), the name of the area must also be mentioned on the certificate under the heading “Additional declaration”.”

(ii) for item 8 substitute—

“8. Plants, other than seeds, of *Platanus* L., intended for planting, originating in Albania, Armenia, Switzerland, Turkey or the USA

The plants must be accompanied by an official statement that:

- (a) they originate in an area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr.; or
- (b) no symptoms of *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr. have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a), the name of the area must also be mentioned on the certificate under the heading “Additional declaration”.”

(iii) after item 1 1a insert—

“1 1b. Plants, other than plants in tissue culture or seeds, of <i>Crataegus</i> L., <i>Cydonia</i> Mill., <i>Malus</i> Mill., <i>Prunus</i> L., <i>Pyrus</i> L. or <i>Vaccinium</i> L., intended for planting, originating in Canada, Mexico or the USA	The plants must be accompanied by an official statement that: (a) they have been grown throughout their life in an area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from <i>Grapholita packardi</i> Zeller; (b) they have been: (i) grown throughout their life in a place of production established in accordance with ISPM No. 10 as a place of production that is free from <i>Grapholita packardi</i> Zeller, which is registered and supervised by the national plant protection organisation in the country of origin and has been subjected annually to inspections for any signs of <i>Grapholita packardi</i> Zeller carried out at appropriate times; (ii) grown in a site with the application of appropriate preventive treatments, where the absence of <i>Grapholita packardi</i> Zeller has been confirmed by official surveys carried out annually at appropriate times; and (iii) subjected to a meticulous inspection for the presence of
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*Grapholita
packardi* Zeller
immediately prior
to export; or

- (b) they have been grown in a site with complete physical protection against the introduction of *Grapholita packardi* Zeller.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a), the name of the area must also be mentioned on the certificate under the heading “Additional declaration” and must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.”,

- (iv) in item 15, in the third column, for paragraph (f) substitute—

“(f) in the case of fruits destined for industrial processing into juice in the European Union—

- (i) they have been found free of symptoms of *Xanthomonas citri* pv. *citri* and *Xanthomonas citri* pv. *aurantifolii* during official inspections carried out prior to export;
- (ii) they originate in a site of production which, along with the immediate vicinity, was subject to appropriate treatments and cultural practices against *Xanthomonas citri* pv. *citri* and *Xanthomonas citri* pv. *aurantifolii*;
- (iii) they are subject to a licence granted under article 40(1) of this Order authorising their movement within Scotland and, where applicable, their processing and storage in Scotland;
- (iv) they are transported in individual packages bearing a label which contains a traceability code and indicates that the fruits are destined for industrial processing; and
- (v) includes information on traceability.”,

- (v) in item 17, in the third column, in paragraph (e)—

(aa) omit the “and” before sub-paragraph (ii),

(bb) after sub-paragraph (ii) insert—

“(iii) they are subject to a licence granted under article 40(1) of this Order authorising their movement within Scotland and, where applicable, their processing and storage in Scotland; and

(iv) includes information on traceability.”,

- (vi) in item 17a, in the third column, in paragraph (b)—

(aa) in sub-paragraph (i), after “Argentina” insert “or Brazil”,

(bb) omit sub-paragraph (ii),

(vii) for items 18 and 18a substitute—

“18. Fruits of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf., <i>Mangifera</i> L. or <i>Prunus</i> L., originating in any third country	The fruits must be accompanied by an official statement that: (a) they originate in a country which is recognised as being free from <i>Tephritidae</i> (non-European) in accordance with the measures specified in ISPM No. 4; (b) they originate in an area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from <i>Tephritidae</i> (non-European); (c) no signs of <i>Tephritidae</i> (non-European) have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation on official inspections carried out at least monthly during the three months prior to harvesting, and none of the fruits harvested at the place of production have shown, in appropriate official examinations, signs of <i>Tephritidae</i> (non-European); or (d) they have been subjected to an effective treatment to ensure freedom from <i>Tephritidae</i> (non-European).
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Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a), the freedom status of the country must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (b), the name of the area must also be mentioned on the certificate under the heading “Additional declaration” and must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (c), information on traceability must also be included in the certificate.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (d), details of the treatment data must also be mentioned on the certificate and the treatment method must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

- 18a. Fruits of *Capsicum* (L.), *Citrus* L., other than *Citrus limon* (L.) Osbeck. or *Citrus aurantiifolia* (Christm.) Swingle, *Prunus persica* (L.) Batsch or *Punica granatum* L., originating in any country of the African continent, Cape Verde, Saint Helena, Madagascar, La Reunion, Mauritius or Israel
- The fruits must be accompanied by an official statement that:
- (a) they originate in a country which is recognised as being free from *Thaumatotibia leucotreta* (Meyrick) in accordance with the measures specified in ISPM No. 4;
 - (b) they originate in an area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from *Thaumatotibia leucotreta* (Meyrick);
 - (c) they:

- (i) originate in a place of production established by the national plant protection organisation in the country of origin in accordance with ISPM No. 10 as a place of production that is free from *Thaumatotibia leucotreta* (Meyrick); and
- (ii) are free from *Thaumatotibia leucotreta* (Meyrick) as shown from official inspections carried out at the place of production at appropriate times during the growing season, which included at least one visual examination on representative samples of fruit; or
- (iii) they have been subjected to an effective cold or other treatment to ensure freedom from *Thaumatotibia leucotreta* (Meyrick).

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a), the freedom status of the country must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (b), the name of the area must also be mentioned on the certificate under the heading “Additional declaration” and must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (c), information on traceability must also be included in the certificate.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (d), details of the treatment data must also be mentioned on the certificate and the treatment method, together with documentary evidence of its effectiveness, must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.”,

(viii) after item 18a insert—

“18b. Fruits of <i>Malus</i> Mill. originating in any third country	The fruits must be accompanied by an official statement that: (a) they originate in a country which is recognised as being free from <i>Enarmonia prunivora</i> Walsh, <i>Grapholita inopinata</i> Heinrich and <i>Rhagoletis pomonella</i> (Walsch) in accordance with the measures specified in ISPM No. 4; (b) they originate in an area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from
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- Enarmonia prunivora*
Walsh, *Grapholita inopinata*
Heinrich and *Rhagoletis*
pomonella (Walsch);
- (c) they originate in a place of production where official inspections and surveys for the presence of *Enarmonia prunivora* Walsh, *Grapholita inopinata* Heinrich and *Rhagoletis pomonella* (Walsch) are carried out at appropriate times during the growing season, including at least one visual examination on representative samples of fruits, and have shown the fruits to be free from those plant pests; or
- (d) they have been subjected to an effective treatment to ensure freedom from *Enarmonia prunivora* Walsh, *Grapholita inopinata* Heinrich and *Rhagoletis pomonella* (Walsch).

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a), the freedom status of the country must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (b), the name of the area must also be mentioned on the certificate under the heading “Additional declaration” and have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (c), information on traceability must also be included in the certificate.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (d), details of the treatment data must also be included in the certificate and the treatment method must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

18c. Fruits of *Malus* Mill. or *Pyrus* L., originating in any third country

The fruits must be accompanied by an official statement that:

- (a) they originate in a country which is recognised as being free from *Guignardia piricola* (Nosa) Yamamoto in accordance with the measures specified in ISPM No. 4;
- (b) they originate in an area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from *Guignardia piricola* (Nosa) Yamamoto;
- (c) they originate in a place of production where official inspections and surveys for the presence of *Guignardia piricola* (Nosa) Yamamoto are carried out at appropriate times during the growing season, including at least one visual examination on representative samples of fruits, and have shown the fruits to be free from that plant pest; or
- (d) they have been subjected to an effective treatment to ensure freedom from *Guignardia piricola* (Nosa) Yamamoto.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a), the freedom status of the country must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (b), the name of the area must also be mentioned on the certificate under the heading “Additional declaration” and must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (c), information on traceability must also be included in the certificate.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (d), details of the treatment data must also be included in the certificate and the treatment method must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

18d. Fruits of *Malus* Mill. or *Pyrus* L., originating in any third country

The fruits must be accompanied by an official statement that:

- (a) they originate in a country which is recognised as being free from *Tachypterellus quadrigibbus* Say in accordance with the measures specified in ISPM No. 4;
- (b) they originate in an area established by the national plant protection organisation in the country of origin in

- accordance with ISPM No. 4 as an area that is free from *Tachypterellus quadrigibbus* Say;
- (c) they originate in a place of production where official inspections and surveys for the presence of *Tachypterellus quadrigibbus* Say are carried out at appropriate times during the growing season, including at least one visual examination on representative samples of fruits, and have shown the fruits to be free from that plant pest; or
 - (d) they have been subjected to an effective treatment to ensure freedom from *Tachypterellus quadrigibbus* Say.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a), the freedom status of the country must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (b), the name of the area must also be mentioned on the certificate under the heading “Additional declaration” and must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (c), information on traceability must also be included in the certificate.

- Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (d), details of the treatment data must also be included in the certificate and the treatment method must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.
- 18e. Fruits of *Malus* Mill., *Prunus* L., *Pyrus* L. or *Vaccinium* L., originating in Canada, Mexico or the USA
- The fruits must be accompanied by an official statement that:
- (a) they originate in an area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from *Grapholita packardi* Zeller;
 - (b) they originate in a place of production where official inspections and surveys for the presence of *Grapholita packardi* Zeller are carried out at appropriate times during the growing season, including at least one visual examination on representative samples of fruits, and have shown the fruits to be free from that plant pest; or
 - (c) they have been subjected to an effective treatment to ensure freedom from *Grapholita packardi* Zeller.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a), the name of the area must also be mentioned on the certificate under the heading “Additional declaration” and must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (b), information on traceability must also be included in the certificate.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (c), details of the treatment data must also be included in the certificate and the treatment method must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.”

(ix) after item 35b insert—

“35c. Tubers of <i>Solanum tuberosum</i> originating in any third country other than Switzerland	The tubers must be accompanied by an official statement that the consignment or lot does not contain more than 1% by net weight of soil and growing medium.”
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(x) after item 38b insert—

“38c. Fruits of <i>Capsicum annuum</i> L., <i>Solanum aethiopicum</i> L., <i>Solanum lycopersicum</i> L. or <i>Solanum melongena</i> L. originating in any third country	The fruits must be accompanied by an official statement that: (a) they originate in a country which is recognised as being free from <i>Neoleucinodes elegantalis</i> (Guenée) in accordance with the measures specified in ISPM No. 4; (b) they originate in an area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from <i>Neoleucinodes elegantalis</i> (Guenée); (c) they: (i) originate in a place of production established by the national plant protection
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- organisation in the country of origin in accordance with ISPM No. 10 as a place of production that is free from *Neoleucinodes elegantalis* (Guenée); and
- (ii) are free from that plant pest as shown from official inspections carried out at the place of production at appropriate times during the growing season, which included at least one visual examination on representative samples of fruit; or
 - (d) they originate in an insect-proof site of production, established by the national plant protection organisation in the country of origin as a site of production that is free from *Neoleucinodes elegantalis* (Guenée) on the basis of official inspections and surveys carried out during the three months prior to export.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a), the freedom status of the country must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (b), the name of the area must also be mentioned on the phytosanitary certificate or phytosanitary certificate for re-export under the heading "Additional declaration" and must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (c) or (d), information on traceability must also be included in the certificate.

38d Fruits of *Solanaceae* originating in Australia, the Americas or New Zealand

The fruits must be accompanied by an official statement that:

- (a) they originate in a country which is recognised as being free from *Bactericera cockerelli* (Sulc.) in accordance with the measures specified in ISPM No. 4;
- (b) they originate in an area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from *Bactericera cockerelli* (Sulc.);
- (c) they:
 - (i) originate in a place of production where official inspections and surveys for the presence of *Bactericera cockerelli* (Sulc.) were carried out at the place of production and in its immediate vicinity during the three months prior to export;
 - (ii) have been subjected to effective treatments

- to ensure freedom from the plant pest; and
- (iii) representative samples of the fruit have been inspected prior to export; or
- (d) they originate in an insect-proof site of production, established by the national plant protection organisation in the country of origin as a site of production that is free from *Bactericera cockerelli* (Sulc.) on the basis of official inspections and surveys carried out during the three months prior to export.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a), the freedom status of the country must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (b), the name of the area must also be mentioned on the certificate under the heading “Additional declaration” and must have been previously notified in writing to the European Commission by the relevant national plant protection organisation.

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (c) or (d), information on traceability must also be included in the certificate.”.

(xi) for item 52 substitute—

“52. Growing medium, attached to or associated with plants, intended to sustain the vitality of the plants,

The associated plants must be accompanied by an official statement that:

other than any sterile medium of *in-vitro* plants, originating in any third country other than Switzerland

- (a) at the time of their planting, the growing medium:
 - (i) was free from soil and organic matter and had not been previously used for growing plants or for any agricultural purposes;
 - (ii) was composed entirely of peat or fibre of *Cocos nucifera* L. and had not been previously used for growing plants or for any agricultural purposes; or
 - (iii) was subjected to an effective treatment to ensure freedom from harmful plant pests;
 - (iv) the growing medium was stored and maintained under appropriate conditions to keep it free from harmful plant pests; and
- (b) either:
 - (i) appropriate measures have been taken since planting to ensure that the growing medium has been kept free from harmful plant pests, including at least the physical isolation of the growing medium from soil and other possible sources of contamination, the use of water that is free from harmful plant pests and hygiene measures; or
 - (ii) in the period of two weeks prior to export:
 - (aa) the growing medium (including, where appropriate, any soil) has been

completely removed by washing with water that is free from harmful plant pests; and
 (bb) where the associated plants have been replanted, the growing medium met the requirements specified in paragraph (a) at the time of replanting and appropriate measures since replanting have been taken to ensure that the growing medium has been kept free from harmful plant pests in accordance with sub-paragraph (i).

Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph (a)(iii), details of the treatment data must also be mentioned on the certificate under the heading “Additional declaration”.

(xii) after item 52 insert—

“52a.	Bulbs, corms, rhizomes or tubers intended for planting, other than tubers of <i>Solanum tuberosum</i> , originating in any third country other than Switzerland	The bulbs, corms, rhizomes and or tubers must be accompanied by an official statement that the consignment or lot does not contain more than 1% by net weight of soil and growing medium.
52b.	Root or tubercle vegetables originating in any third country other than Switzerland	The vegetables must be accompanied by an official statement that the consignment or lot does not contain more than 1%

52c.	Machinery or vehicles which have been operated for agricultural or forestry purposes, imported from any third country other than Switzerland	by net weight of soil and growing medium. The machinery or vehicles must be accompanied by an official statement that they have been cleaned and are free from soil and plant debris.
52d.	Machinery or vehicles which have been operated for agricultural or forestry purposes, imported from Switzerland	The machinery or vehicles must be accompanied by an official statement that: (a) they have been exported from an area established by the national plant protection organisation for Switzerland in accordance with ISPM No. 4 as an area that is free from <i>Ceratocystis platani</i> (J.M. Walter) Engelbr. & T.C. Harr.; or (b) in the case of any machinery or vehicles exported from an area infested with <i>Ceratocystis platani</i> (J.M. Walter) Engelbr. & T.C. Harr., they have been cleaned and are free from soil and plant debris prior to export.”

(xiii) in the second column of item 56, after “Orchidaceae” insert “originating in any third country other than Thailand”,

(xiv) after item 56 insert—

“56za.	Cut flowers of Orchidaceae originating in Thailand	The cut flowers must be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which includes an official statement under the heading “Additional declaration” that they have been: (a) produced at a place of production which has been found to be free from <i>Thrips palmi</i> Karny in official inspections carried out at least monthly during the three months prior to export; or (b) subjected, as a consignment prior to export, to an appropriate fumigation treatment to ensure freedom from thysanoptera.
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Where paragraph (b) applies, the specification of the fumigation treatment must also be included under the heading “Disinfestation and/or disinfection treatment” of the certificate.”

(xv) omit item 89 and insert as the subsequent items—

“90.	Specified plants within the meaning of Article 1(b) of Decision (EU) 2018/638	The fruits must be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which includes an official statement in accordance with Article 3(b) of Decision (EU) 2018/638.
91.	Specified plants within the meaning of Article 1(b) of Decision (EU) 2018/1503 originating in any third country where <i>Aromia bungii</i> (Faldermann) is known to be present	<p>The plants must be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which includes:</p> <ul style="list-style-type: none"> (a) an official statement under the heading “Additional declaration” that they meet the requirements specified in point (a), (b) or (c) of Article 11 of Decision (EU) 2018/1503; and (b) where point (a) of that Article applies, the name of the pest-free area under the heading “place of origin”.
92.	Plants, other than seeds, of <i>Rosa</i> sp., originating in Canada, India, Mexico or the USA	<p>The plants must be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which includes an official statement that:</p> <ul style="list-style-type: none"> (a) they have been grown throughout their life in an area established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 as an area that is free from Rose rosette virus and <i>Phyllocoptes fructiphilus</i> (Keifer 1940); and (b) they have been packaged in a manner to prevent infestation by <i>Phyllocoptes fructiphilus</i> (Keifer 1940) during their transport. <p>Where the phytosanitary certificate or phytosanitary certificate for re-export includes the official statement referred to in paragraph</p>

93.	Plants in tissue culture of <i>Rosa</i> sp., originating in Canada, India, Mexico or the USA	<p>(a), the name of the area must also be mentioned on the certificate under the heading “Additional declaration”.</p> <p>The plants must be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which includes an official statement that they have been produced from mother plants tested and found to be free from Rose rosette virus.”,</p>
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(b) in Part B (relevant material, from another part of the European Union, which may only be landed in or moved within Scotland if special requirements are satisfied)—

(i) after item 4 insert—

“4a.	Plants, other than seeds, of <i>Juglans</i> L. or <i>Pterocarya</i> Kunth, intended for planting	<p>The plants must be accompanied by an official statement that:</p> <p>(a) they have been grown throughout their life, or since their introduction into the European Union, in a place of production in an area established in accordance with ISPM No. 4 as an area that is free from <i>Geosmithia morbida</i> Kolarik, Freeland, Utley & Tisserat and its vector <i>Pityophthorus juglandis</i> Blackman;</p> <p>(b) they:</p> <p>(i) originate in a place of production where neither symptoms of <i>Geosmithia morbida</i> Kolarik, Freeland, Utley & Tisserat nor its vector <i>Pityophthorus juglandis</i> Blackman, or the presence of the vector, have been observed during official inspections of the place of production and its vicinity (which, as a minimum, must include the area lying within a radius of 5 km of the place of production) carried out in the period of</p>
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		two years prior to their movement;
	(ii)	have been visually inspected immediately prior to their movement from the place of production; and
	(iii)	have been handled and packaged in ways to prevent their infestation once they have left the place of production; or
	(b)	they:
	(i)	originate in a place of production with complete physical isolation;
	(ii)	have been visually inspected immediately prior to their movement from the place of production; and
	(iii)	have been handled and packaged in ways to prevent their infestation once they have left the place of production.”,

(ii) after item 7b insert—

“7c.	Fruits of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf., <i>Microcitrus</i> Swingle, <i>Naringi</i> Adans. or <i>Swinglea</i> Merr. which: —originate in any third country; —are destined for industrial processing into juice; and —have been introduced into another part of the European Union in accordance with Article 3 of Commission Implementing Decision (EU) 2017/2374	The fruits must be subject to a licence granted under Article 40(1) of this Order authorising their introduction into, and their movement within, Scotland and, where applicable, their processing and storage in Scotland.
7d.	Specified plants within the meaning of Article 1(b) of Decision (EU) 2018/1503 which originate, or have been introduced into a place of production, in an area established in accordance with Article 5 of Decision (EU) 2018/1503	The plants must be accompanied by an official statement that: (a) in the case of plants which originate in an area established in accordance with Article 5 of Decision (EU) 2018/1503, they have been grown during a period of at least two years prior to

	their movement, or in the case of plants which are younger than two years, throughout their life, in a place of production which meets the requirements specified in Article 7(2) to (5) of that Decision;
(b)	in the case of plants which have been introduced into a place of production in an area established in accordance with Article 5 of Decision (EU) 2018/1503, the place of production meets the requirements specified in Article 7(2) to (4) of that Decision.”,

(iii) after item 36 insert—

“36a.	Machinery or vehicles which have been operated for agricultural or forestry purposes	The machinery or vehicles must:
		(a) have been moved from an area established in accordance with ISPM No. 4 as an area that is free from <i>Ceratocystis platani</i> (J.M. Walter) Engelbr. & T.C. Harr. or a protected zone which is recognised as a protected zone for <i>Ceratocystis platani</i> (J.M. Walter) Engelbr. & T.C. Harr.; or
		(b) in the case of any machinery or vehicles being moved out of an area infested with <i>Ceratocystis platani</i> (J.M. Walter) Engelbr. & T.C. Harr., have been cleaned and be free from soil and plant debris prior to being moved out of the area.”,

(c) in Part C (relevant material which may only be landed in or moved within Scotland (as a protected zone) if special requirements are satisfied)—

(i) after item 2 insert—

“2a.	Plants of <i>Euphorbia pulcherrima</i> Willd., intended for planting, for which there is evidence from their packing or their flower development or from other means that they are intended for direct sale to final consumers not involved in	The plants must be accompanied by an official statement that they have been officially inspected and found free from <i>Bemisia tabaci</i> Genn. (European populations) immediately prior to their movement.”,
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professional plant production, other than:
—seeds, or
—uprooted cuttings.

- (ii) in item 3—
 - (aa) in the second column, after “seeds of” insert “*Ajuga* L., *Crossandra* Salisb.”,
 - (bb) in the third column, in paragraph (c), after “production”, in the last place where it occurs, insert “(the last of which must have been carried out immediately prior to their movement)”,
- (iii) in item 7, in the second column, after “Plants of” insert “*Cedrus* Trew and”.

Amendment of schedule 5

11. In schedule 5 (relevant material from a third country for which a phytosanitary certificate may be required), in Part A (relevant material which may only be landed in Scotland if accompanied by a phytosanitary certificate)—

- (a) in paragraph 2—
 - (i) for sub-paragraph (i) substitute—

“(i) cut branches of *Fraxinus* L., *Juglans* L., *Ulmus davidiana* Planch. or *Pterocarya* L., with or without foliage, originating in Canada, China, Democratic People’s Republic of Korea, Japan, Mongolia, Republic of Korea, Russia, Taiwan or the USA;”,
 - (ii) after sub-paragraph (i) insert—

“(ia) *Convolvulus* L., *Ipomoea* L. (other than tubers), *Micromeria* Benth or *Solanaceae* originating in Australia, the Americas or New Zealand; or”,
- (b) in paragraph 3—
 - (i) in sub-paragraph (a), for “, *Solanum lycopersicum* L. or *Solanum melongena* L.” substitute “or *Solanaceae*”,
 - (ii) for sub-paragraph (b) substitute—

“(b) *Actinidia* Lindl., *Annona* L., *Carica papaya* L., *Cydonia* Mill., *Diospyros* L., *Fragaria* L., *Malus* L., *Mangifera* L., *Passiflora* L., *Persea americana* Mill., *Prunus* L., *Psidium* L., *Pyrus* L., *Ribes* L., *Rubus* L., *Syzygium* Gaertn., *Vaccinium* L. or *Vitis* L.;”,
 - (iii) omit sub-paragraph (c),
- (c) omit paragraph 5,
- (d) for paragraph 6 substitute—

“**6.** Growing medium, attached to or associated with plants, intended to sustain the vitality of the plants, originating in any third country, other than Switzerland.”,
- (e) after paragraph 6, insert—

“**6A.** Machinery or any vehicle, imported from any third country, which has been operated for agricultural or forestry purposes and meets one of the descriptions specified in point 7.1 of Annex 5, Part B, Section 1 to Directive 2000/29/EC.”,
- (f) omit paragraph 9 and insert (as the subsequent entry)—

“**9A.** Specified plants within the meaning of Article 1(b) of Decision (EU) 2018/638.

“**9B.** Plants, other than seeds, of *Rosa* sp., originating in Canada, India, Mexico or the USA.”.

Amendment of schedule 6

12. In schedule 6 (prohibitions on the landing in and movement within Scotland of relevant material without a plant passport)—

- (a) in Part A (relevant material, from Scotland or elsewhere in the European Union, which may only be landed in or moved within Scotland if accompanied by a plant passport)—
 - (i) in paragraph 7(a)—
 - (aa) after “*Impatiens* L.,” insert “*Juglans* L.”,
 - (bb) after “*Pseudotsuga* Carr.,” insert “*Pterocarya* L.”.
 - (ii) after paragraph 15 insert—

“16. Specified plants within the meaning of Article 1(b) of Decision (EU) 2018/1503 which—

- (a) originate in a third country where *Aromia bungii* (Faldermann) is known to be present; or
 - (b) originate in, or have been introduced into, a place of production in an area established in accordance with Article 5 of Decision (EU) 2018/1503.”,
- (b) in Part B (relevant material, from Scotland or elsewhere in the European Union, which may only be landed in or moved within Scotland if accompanied by a plant passport which is valid for Scotland (as a protected zone)), in paragraph 3, after “seeds, of” insert “*Cedrus* Trew.”.

Amendment of schedule 7

13. In schedule 7 (prohibitions on the consignment of relevant material to another part of the European Union without a plant passport)—

- (a) in Part A (relevant material which may only be consigned to another part of the European Union if accompanied by a plant passport)—
 - (i) in paragraph 7(a)—
 - (aa) after “*Impatiens* L.,” insert “*Juglans* L.”,
 - (bb) after “*Pseudotsuga* Carr.,” insert “*Pterocarya* L.”,
 - (ii) after paragraph 15 insert—

“16. Specified plants within the meaning of Article 1(b) of Decision (EU) 2018/1503 which—

- (a) originate in a third country where *Aromia bungii* (Faldermann) is known to be present; or
 - (b) originate in, or have been introduced into, a place of production in an area established in accordance with Article 5 of Decision (EU) 2018/1503.”,
- (b) in Part B (relevant material which may only be consigned to a protected zone in another part of the European Union if accompanied by a plant passport which is valid for that protected zone), in paragraph 2, after “*Beta vulgaris* L.,” insert “*Cedrus* Trew.”.

MAIRI GOUGEON

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
10th September 2019

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Plant Health (Scotland) Order 2005 to implement—

- (a) 98/109/EC: Commission Decision of 2 February 1998 authorising Member States temporarily to take emergency measures against the dissemination of *Thrips palmi* Karny as regards Thailand,
- (b) 2004/200/EC: Commission Decision of 27 February 2004 on measures to prevent the introduction into and the spread within the Community of Pepino mosaic virus,
- (c) Commission Implementing Decision (EU) 2017/2374 of 15 December 2017 setting out conditions for movement, storage and processing of certain fruits and their hybrids originating in third countries to prevent the introduction into the Union of certain harmful organisms,
- (d) Commission Implementing Decision (EU) 2018/490 of 21 March 2018 repealing Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier);
- (e) Commission Implementing Decision (EU) 2018/638 of 23 April 2018 establishing emergency measures to prevent the introduction into and the spread within the Union of the harmful organism *Spodoptera frugiperda* (Smith),
- (f) Commission Implementing Decision (EU) 2018/1503 of 8 October 2018 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann),
- (g) Commission Implementing Decision (EU) 2019/449 of 18 March 2019 amending 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, and
- (h) Commission Implementing Directive (EU) 2019/523 of 21 March 2019 amending Annexes I to V to 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,

It also introduces emergency measures to prevent the introduction of Rose rosette virus and its vector *Phyllocoptes fructiphilus* (Keifer 1940).

A business and regulatory impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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