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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No. 421**

**PLANT HEALTH**

**The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019**

	<i>at 11.15 a.m. on 11th</i>
<i>Made</i> - - - -	<i>December 2019</i>
<i>Laid before the Scottish</i>	<i>at 3.30 p.m. on 11th</i>
<i>Parliament</i> - - - -	<i>December 2019</i>
<i>Coming into force</i> - -	<i>14th December 2019</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) and paragraph 1A of schedule 2 of the European Communities Act 1972<sup>M1</sup> and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for the references to Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and 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 and to the European Union instruments mentioned in regulation 3(1) to be references to those instruments as amended from time to time.

**Marginal Citations**

**M1** 1972 c.68 (“the 1972 Act”). Section 2(2) was amended by the [Scotland Act 1998 \(c.46\)](#) (“the 1998 Act”), schedule 8, paragraph 15(3) (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 the [European Union \(Amendment\) Act 2008 \(c.7\)](#) (“the 2008 Act”), section 3(3) and schedule 1, Part 1. 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. Paragraph 1A of schedule 2 was inserted by section 28 of the 2006 Act and was amended by the 2008 Act, schedule 1, Part 1. The 1972 Act is prospectively repealed by section 1 of the [European Union \(Withdrawal\) Act 2018 \(c.16\)](#) from exit day (see [section 20](#) of that Act).

## PART 1 **S**

### Introduction

#### Citation, commencement and extent **S**

1.—(1) These Regulations may be cited as the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 and come into force on 14 December 2019.

(2) These Regulations extend to Scotland only.

#### Commencement Information

II Reg. 1 in force at 14.12.2019, see reg. 1(1)

#### Interpretation: general **S**

2.—(1) In these Regulations—

“the 2005 Order” means the Plant Health (Scotland) Order 2005 <sup>M2</sup>,

“commencement date” means the date on which these Regulations come into force,

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

(a) which may not be brought into [<sup>F1</sup>Great Britain] without a phytosanitary certificate pursuant to—

(i) Article 72 or 74 of the <sup>F2</sup>... Plant Health Regulation, [<sup>F3</sup>or]

(ii) <sup>F4</sup>...

(iii) any other <sup>F5</sup>... plant health rule, other than Article 73 of the <sup>F5</sup>... Plant Health Regulation,

(b) which was exported from [<sup>F1</sup>Great Britain] to a third country and is returning to [<sup>F1</sup>Great Britain] 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, [<sup>F6</sup>2A, 3 or 4 to the Phytosanitary Conditions Regulation], [<sup>F7</sup>or]

(b) <sup>F8</sup>...

(c) a plant pest subject to any other <sup>F9</sup>... plant health rule [<sup>F10</sup>, including a potential quarantine plant pest within the meaning given in regulation 21(3)],

<sup>F11</sup>...

“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](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)<sup>M3</sup> [<sup>F12</sup> as it has effect in EU law],

<sup>F13</sup>...

[<sup>F14</sup>“forestry material” means—

(a) wood which retains part or all of its natural round surface, with or without bark,

- (b) wood in the form of chips, particles, shavings, sawdust, wood waste or scrap,
- (c) conifer trees over 3m in height,
- (d) bark which has been removed or become detached from a living, felled or fallen tree or from part of a living, felled or fallen tree.]

“the Forestry Order” means the Plant Health (Forestry) Order 2005 <sup>M4</sup>,

[<sup>F15</sup>“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]

[<sup>F16</sup>“Northern Ireland plant health label” has the meaning given in regulation 2 of the Windsor Framework (Plant Health) Regulations 2023;]

“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 <sup>F17</sup>... plant health rules <sup>M5</sup>,

“plant health inspector” means an official plant health officer appointed by the Scottish Ministers,

[<sup>F18</sup>“Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and 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, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC,

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

[<sup>F19</sup>“plant passport” means a passport which is a UK plant passport or other permitted plant passport,]

“plant pest” means a pest within the meaning given in Article 1(1) and (2) of the <sup>F20</sup>... Plant Health Regulation,

[<sup>F21</sup>“the 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 the Council, as regards protective measures against pests of plants, and repealing [Commission Regulation \(EC\) No 690/2008](#) and amending Commission Implementing Regulations (EU) 2018/2019,]

“regulated item” means—

- (a) any plant, plant product or other object to which [<sup>F22</sup>a] 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,

<sup>F23</sup> ... <sup>M6</sup>

“working day” means any day, other than—

- (a) a Saturday or a Sunday,
- (b) Easter Monday,
- (c) 26 December if it is not a Saturday or a Sunday,
- (d) 27 December in a year in which 25 or 26 December is a Sunday, or
- (e) a bank holiday in Scotland under the Banking and Financial Dealings Act 1971 <sup>M7</sup>,

“working hour” means a period of one hour during a working day.

(2) Unless the context otherwise requires, words and expressions which are not defined in these Regulations and which appear in both these Regulations and in the <sup>F24</sup> ... Plant Health Regulation or the Official Controls Regulation have the same meaning in these Regulations as in the <sup>F24</sup> ... Plant Health Regulation or, as the case may be, in the Official Controls Regulation.

### Textual Amendments

- F1** Words in reg. 2(1) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(i)(aa)** (with reg. 32)
- F2** Word in reg. 2(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(i)(bb)** (with reg. 32)
- F3** Word in reg. 2(1) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(i)(cc)** (with reg. 32)
- F4** Words in reg. 2(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(i)(dd)** (with reg. 32)
- F5** Word in reg. 2(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(i)(ee)** (with reg. 32)
- F6** Words in reg. 2(1) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(ii)(aa)** (with reg. 32)
- F7** Word in reg. 2(1) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(ii)(bb)** (with reg. 32)
- F8** Words in reg. 2(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(ii)(cc)** (with reg. 32)
- F9** Word in reg. 2(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(ii)(dd)** (with reg. 32)
- F10** Words in reg. 2(1) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(a), **5(2)** (with reg. 32)
- F11** Words in reg. 2(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(iii)** (with reg. 32)
- F12** Words in reg. 2(1) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(iv)** (with reg. 32)
- F13** Words in reg. 2(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(v)** (with reg. 32)
- F14** Words in reg. 2 inserted (27.6.2020) by The Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/176), regs. 1(1), **3(a)**
- F15** Words in reg. 2 inserted (27.6.2020) by The Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/176), regs. 1(1), **3(b)**
- F16** Words in reg. 2 inserted (1.10.2023) by The Windsor Framework (Enforcement etc.) Regulations 2023 (S.I. 2023/1056), regs. 1(2), **4(2)**
- F17** Word in reg. 2(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(vi)** (with reg. 32)

- F18** Words in reg. 2(1) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(vii)** (with reg. 32)
- F19** Words in reg. 2(1) inserted (1.4.2021) by The Plant Health (EU Exit) (Scotland) (Amendment) Regulations 2021 (S.S.I. 2021/159), regs. 1(1)(b), **4(2)**
- F20** Word in reg. 2(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(viii)** (with reg. 32)
- F21** Words in reg. 2(1) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(ix)** (with reg. 32)
- F22** Word in reg. 2(1) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(x)** (with reg. 32)
- F23** Words in reg. 2(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(a)(xi)** (with reg. 32)
- F24** Word in reg. 2(2) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(1)(b)** (with reg. 32)

**Modifications etc. (not altering text)**

- C1** Reg. 2 modified (1.4.2021) by The Plant Health and Plant Propagating Material (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/87), regs. 1(1), **4(2)**

**Commencement Information**

- I2** Reg. 2 in force at 14.12.2019, see reg. 1(1)

**Marginal Citations**

- M2** [S.S.I. 2005/613](#), as last amended by [S.S.I. 2019/290](#). [S.S.I. 2005/613](#) is revoked by these Regulations.
- M3** OJ L 317, 23.11.2016, p.4, as last amended by Regulation (EU) 2017/625 (OJ L 95, 7.4.2017, p.1) with effect from 14 December 2019.
- M4** [S.I. 2005/2517](#), as last amended by [S.S.I. 2019/278](#). [S.S.I. 2005/2517](#) is revoked by these Regulations.
- M5** OJ L 95, 7.4.2017, p.1, as last amended by Commission Delegated Regulation (EU) 2019/478 (OJ L 82, 25.3.2019, p.4) with effect from 14 December 2019.
- M6** OJ L 319, 10.12.2019, p.1.
- M7** [1971 c.80](#). Schedule 1, paragraph 2 sets out the Scottish bank holidays; it is amended by the [St Andrew's Day Bank Holiday \(Scotland\) Act 2007](#) (asp 2), **section 1**.

**Interpretation: EU instruments** S

3.—<sup>F25</sup>(1) .....

[<sup>F26</sup>(2) References to the Phytosanitary Conditions Regulation are to be construed as references to that instrument as amended from time to time.]

**Textual Amendments**

- F25** Reg. 3(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(2)(a)** (with reg. 32)
- F26** Reg. 3(2) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **12(2)(b)** (with reg. 32)

**Commencement Information**

- I3** Reg. 3 in force at 14.12.2019, see reg. 1(1)

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

<sup>F27</sup>3A. ....

### Textual Amendments

**F27** Reg. 3A omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **12(3)** (with reg. 32)

## Article 82 of the <sup>F28</sup>... Plant Health Regulation: meaning of “close proximity” **S**

4.—(1) For the purposes of Article 82 of the <sup>F29</sup>... 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 <sup>F30</sup>... 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 <sup>F30</sup>... Plant Health Regulation applies, an area within the premises which is used by the registered operator to carry out any of those activities.

### Textual Amendments

- F28** Word in reg. 4 heading omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **12(4)(a)** (with reg. 32)
- F29** Word in reg. 4(1) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **12(4)(b)** (with reg. 32)
- F30** Word in reg. 4(2) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **12(4)(b)** (with reg. 32)

### Commencement Information

**I4** Reg. 4 in force at 14.12.2019, see reg. 1(1)

## PART 2 **S**

### Competent authorities

#### Designation of competent authority **S**

5.—(1) The Scottish Ministers are designated as the competent authority responsible for the organisation and performance of official controls and other official activities in Scotland insofar as they relate to—

- (a) plant pests, plants, plant products or other objects, and
- (b) professional operators.

(2) For the purpose of carrying out those of their functions described in paragraph (3), Scottish Ministers may enter into arrangements with the Forestry Commissioners for those functions to be exercised by the Forestry Commissioners on behalf of the Scottish Ministers and in such manner as the Ministers may determine.

(3) The functions are functions under—

- (a) paragraph (1)(a) so far as exercisable in relation to tree pests, trees or forestry material,
- (b) paragraph (1)(b) so far as they relate to forestry professional operators.

(4) In this regulation—

<sup>F31</sup> ...

“forestry professional operator” means a professional operator who carries out one or more of the following activities, but no other activities in relation to plants or plant products described in Article 2(9) of the <sup>F32</sup>... Plant Health Regulation—

- (a) the introduction of forestry material into Scotland,
- (b) the storage, aggregation or movement of forestry material within Scotland, the movement of forestry material into Scotland from another part of [<sup>F33</sup>Great Britain or a CD territory] or the movement of forestry material from Scotland to another part of [<sup>F33</sup>Great Britain or a CD territory],
- (c) the export of forestry material from Scotland to a third country [<sup>F34</sup>or Northern Ireland],
- (d) the treatment and marking of wood packaging material or forestry material in accordance with Annex 1 to ISPM 15 or the repair of wood packaging material in Scotland,
- (e) the introduction of tree pests into Scotland, the movement of tree pests within Scotland or the holding or multiplication of tree pests in Scotland for official testing, scientific or educational purposes, trials, varietal selection or breeding,
- (f) the introduction of trees or forestry material into Scotland or the movement of trees or forestry material within Scotland for use in official testing, scientific or educational purposes, trials, varietal selection or breeding,

<sup>F35</sup> ...

<sup>F36</sup> ...

<sup>F37</sup> ...

“tree” means a living tree or shrub, or a living part of a tree or shrub, at any stage of its growth,

“tree pest” means a plant pest which is injurious to trees or wood,

“wood packaging material” means wood or wood products (excluding paper products) used, or intended to be used, for supporting, protecting or carrying a commodity of any kind, including dunnage.

#### Textual Amendments

**F31** Words in reg. 5(4) omitted (27.6.2020) by virtue of [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), **5(a)**

**F32** Word in reg. 5(4) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **13(a)(i)** (with reg. 32)

**F33** Words in reg. 5(4) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **13(a)(ii)** (with reg. 32)

- F34** Words in reg. 5(4) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **13(a)(iii)** (with reg. 32)
- F35** Words in reg. 5(4) omitted (27.6.2020) by virtue of The Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/176), regs. 1(1), **5(b)**
- F36** Words in reg. 5(4) omitted (27.6.2020) by virtue of The Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/176), regs. 1(1), **5(c)**
- F37** Words in reg. 5(4) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **13(b)** (with reg. 32)

#### Commencement Information

- I5** Reg. 5 in force at 14.12.2019, see reg. 1(1)

### Disclosure of information **S**

[<sup>F38</sup>6.—(1) The Scottish Ministers may disclose information to any other competent authority in another part of the [<sup>F39</sup>United Kingdom or to a CD authority] for the purposes of the <sup>F40</sup>... Plant Health Regulation [<sup>F41</sup>, the Windsor Framework (Plant Health) Regulations 2023] or the Official Controls Regulation.

(2) Nothing in paragraph (1) affects any other power or requirement of the Scottish Ministers to disclose information.]

#### Textual Amendments

- F38** Reg. 6 substituted (27.6.2020) by The Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/176), regs. 1(1), **6**
- F39** Words in reg. 6(1) substituted (22.12.2021) by The Plant Health (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2021 (S.S.I. 2021/490), regs. 1(1), **4(2)(a)**
- F40** Word in reg. 6(1) omitted (22.12.2021) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2021 (S.S.I. 2021/490), regs. 1(1), **4(2)(b)**
- F41** Words in reg. 6(1) inserted (1.10.2023) by The Windsor Framework (Enforcement etc.) Regulations 2023 (S.I. 2023/1056), regs. 1(2), **4(3)**

## PART 3 **S**

### Official Controls on controlled consignments from third countries and other official controls on goods from third countries

#### Derogation to the requirement to give prior notification in accordance with Article 1(1) of Commission Implementing Regulation (EU) 2019/1013 **S**

7.—[<sup>F42</sup>(A1) The operator who is responsible for a controlled consignment of forestry material which is to be brought into Scotland by air [<sup>F43</sup> or a controlled consignment which is to be brought into a RoRo, port in Scotland] must have notified the Scottish Ministers of the consignment's expected arrival at least four working hours before its expected arrival in Scotland.]

(1) In the case of any controlled consignment which consists, in whole or in part, of unprocessed logs or sawn or chipped wood and is to be brought into Scotland at a point of entry which only has a temporary border control post, the operator who is responsible for the controlled consignment



must notify the Scottish Ministers of the consignment's arrival at least three working days before its expected arrival in Scotland.

(2) Article 1(1) of Commission Implementing Regulation (EU) 2019/1013 does not apply to any operator who is responsible for a controlled consignment referred to in paragraph (1).

(3) In this regulation—

“Commission Implementing Regulation (EU) 2019/1013” means Commission Implementing Regulation (EU) 2019/1013 on prior notification of consignments of certain categories of animals and goods entering the Union <sup>M8</sup>,

[<sup>F44</sup>“RoRo” means a RoRo listed location within the meaning of regulation 130 of the Customs (Import Duty) (EU Exit) Regulations 2018,]

“temporary border control post” means a border control post in Scotland which has been exempted from the obligations in Article 64(3)(a), (c) and (f) of the Official Controls Regulation pursuant to Article 4 of Commission Delegated Regulation (EU) 2019/1012 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by derogating from the rules on the designation of control points and from the minimum requirements for border control posts <sup>M9</sup>.

#### Textual Amendments

- F42** Reg. 7(A1) inserted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), 7
- F43** Words in reg. 7(A1) inserted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **14(1)(a)** (with reg. 32)
- F44** Words in reg. 7(3) inserted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **14(1)(b)** (with reg. 32)

#### Commencement Information

- I6** Reg. 7 in force at 14.12.2019, see reg. 1(1)

#### Marginal Citations

- M8** OJ L 165, 21.6.2019, p.8.
- M9** OJ L 165, 21.6.2019, p.4.

### Suspicion of non-compliance **S**

**8.—**(1) This regulation applies where a plant health inspector suspects that a controlled consignment or a regulated item is likely to be, or has been, brought into Scotland from a third country in contravention of [<sup>F45</sup>a] plant health rule or that any such consignment or item may not otherwise comply with [<sup>F45</sup>a] plant health rule.

(2) A plant health inspector must serve a notice on the operator who is responsible for the controlled consignment or regulated item—

- (a) placing the consignment or item under official detention, and
- (b) prohibiting the entry of the consignment or item into [<sup>F46</sup>Great Britain],

pending the outcome of official controls to confirm or eliminate the suspicion referred to in paragraph (1).

(3) This regulation applies to any controlled consignment or regulated item whether or not its ultimate destination is in Scotland.

#### Textual Amendments

- F45** Word in [reg. 8\(1\)](#) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), **14(2)(a)** (with [reg. 32](#))
- F46** Words in [reg. 8\(2\)\(b\)](#) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), **14(2)(b)** (with [reg. 32](#))

#### Commencement Information

- I7** Reg. 8 in force at 14.12.2019, see [reg. 1\(1\)](#)

### Consignments not correctly presented for official controls **S**

**9.** Where a plant health inspector suspects or is aware that a controlled consignment has not been presented for official controls in accordance with Article 47(1) of the Official Controls Regulation, or in accordance with the other requirements referred to in Article 66(6) of that Regulation, the plant health inspector must serve a notice on the operator who is responsible for the controlled consignment recalling the consignment and placing the consignment under official detention.

#### Commencement Information

- I8** Reg. 9 in force at 14.12.2019, see [reg. 1\(1\)](#)

### Official measures in relation to non-compliant consignments or consignments which pose a risk to plant health **S**

**10.**—(1) This regulation applies to—

- (a) any controlled consignment or regulated item which, in the opinion of a plant health inspector, has been brought into Scotland from a third country in contravention of [<sup>F47</sup>a] plant health rule,
- (b) any controlled consignment or regulated item which has been brought into Scotland from a third country and which does not otherwise comply with [<sup>F48</sup>a] plant health rule, or
- (c) any consignment which has been brought into Scotland from a third country and which, in the opinion of a plant health inspector, poses a risk to plant health in Scotland or to any other part of [<sup>F49</sup>Great Britain].

(2) A plant health inspector must serve a notice on the operator who is responsible for the controlled consignment or regulated item—

- (a) placing the consignment or item under official detention, and
- (b) setting out the measures which the operator must take in relation to the consignment or item.

#### Textual Amendments

- F47** Word in [reg. 10\(1\)\(a\)](#) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), **14(3)(a)** (with [reg. 32](#))
- F48** Word in [reg. 10\(1\)\(b\)](#) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), **14(3)(a)** (with [reg. 32](#))
- F49** Words in [reg. 10\(1\)\(c\)](#) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), **14(3)(b)** (with [reg. 32](#))

**Commencement Information**

**I9** Reg. 10 in force at 14.12.2019, see reg. 1(1)

**Notices under regulation 8, 9 or 10** **S**

- 11.** A notice under regulation 8, 9 or 10 may include any of the following—
- (a) the measures that the operator who is responsible for the controlled consignment or regulated item must take in relation to the consignment or item to isolate or quarantine the consignment or item or otherwise deal with the risk to plant health arising from the consignment or item,
  - (b) where a plant health inspector requires the consignment or item to be destroyed or otherwise disposed of, re-exported or treated, the measures that the operator who is responsible for the controlled consignment or regulated item must take to destroy or otherwise dispose of, re-export or treat the consignment or item,
  - (c) any other measures which the plant health inspector considers are appropriate in light of the suspected or known contravention or the risk to plant health in Scotland or to any other part of [<sup>F50</sup>Great Britain] arising from the consignment or item.

**Textual Amendments**

**F50** Words in reg. 11(c) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **14(4)** (with reg. 32)

**Commencement Information**

**I10** Reg. 11 in force at 14.12.2019, see reg. 1(1)

**Border control posts: authorisation of inspection centre and commercial storage facilities** **S**

- 12.—(1)** The Scottish Ministers may grant a permit which authorises—
- (a) the use of a facility which is located within a border control post as an inspection centre for the purposes of carrying out official controls and other official activities on controlled consignments <sup>F51</sup>... and other regulated items on their arrival at the border control post,
  - (b) the use of commercial storage facilities within the close vicinity of a border control post as a place at which identity checks and physical checks may be performed on controlled consignments <sup>F52</sup>... and other regulated items on their arrival at the border control post.

<sup>F53</sup>(1A) .....

(2) An application for a permit must be made to the Scottish Ministers by the operator of the facility or commercial storage facilities in the manner and form required by the Scottish Ministers.

(3) A permit may only be granted under paragraph (1)(a) if the Scottish Ministers are satisfied that the facility complies with the requirements specified in respect of inspection centres in Article 8 of Regulation (EU) 2019/1014.

(4) A permit may only be granted under paragraph (1)(b) if the Scottish Ministers are satisfied that the commercial storage facilities comply with the requirements specified in respect of commercial storage facilities in Article 3(11) of Regulation (EU) 2019/1014.

- (5) A permit granted under paragraph (1)(a) or (b) must be in writing and may be granted—
- (a) subject to conditions,

(b) for an indefinite period or a specified period.

(6) A permit granted under paragraph (1)(a) or (b) may be modified, suspended or revoked at any time by the Scottish Ministers by notice in writing.

(7) In this regulation, “Regulation (EU) 2019/1014” means Commission Implementing Regulation (EU) 2019/1014 to lay down detailed rules on minimum requirements for border control posts, including inspection centres, and for the format, categories and abbreviations to use for listing border control posts and control points <sup>M10</sup>.

#### Textual Amendments

- F51** Words in [reg. 12\(1\)\(a\)](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), [14\(5\)\(a\)](#) (with [reg. 32](#))
- F52** Words in [reg. 12\(1\)\(b\)](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), [14\(5\)\(a\)](#) (with [reg. 32](#))
- F53** [Reg. 12\(1A\)](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), [14\(5\)\(b\)](#) (with [reg. 32](#))

#### Commencement Information

- I11** [Reg. 12](#) in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Marginal Citations

- M10** [OJ L 165](#), 21.6.2019, p.10.

### Transitional provision: approved places of inspection **S**

**13.—(1)** The Scottish Ministers may during the relevant period authorise—

- (a) the transportation of a controlled consignment to an approved place of inspection, and
- (b) the performance of identity checks and plant health checks by a plant health inspector at an approved place of inspection.

(2) The operator who is responsible for a controlled consignment that is destined for an approved place of inspection must—

- (a) by notice in writing give the Scottish Ministers the particulars set out in paragraph (3) no later than three working days before the consignment arrives in Scotland,
- (b) ensure that the consignment, its packaging and the vehicle in which it is transported are closed or sealed in such a way that there is no risk of the plants, plant products or objects in the consignment causing infestation, infection or contamination or a change occurring in the contents of the consignment, and
- (c) ensure that the consignment is accompanied by a plant health movement document.

(3) The particulars are—

- (a) the name, address and location of the approved place of inspection to which the consignment is destined,
- (b) the scheduled date and time of arrival of the consignment at the place referred to in subparagraph (a),
- (c) if available, the individual serial number of the plant health movement document in relation to that consignment,
- (d) if available, the date and place at which that plant health movement document was drawn up,

- (e) the name, address and registration number of the operator, and
- (f) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export required in relation to the consignment pursuant to Article 72(1) or 74(1) of the EU Plant Health Regulation.
- (4) The operator must notify the Scottish Ministers immediately in writing of any changes to the particulars which the operator has given under paragraph (2)(a).
- (5) The notice must be given to the Scottish Ministers at the address given by the Scottish Ministers from time to time for the purposes of this regulation.
- (6) The Scottish Ministers may for the purposes of paragraph (1) approve a place to which a controlled consignment may be destined as a place at which identity checks and plant health checks may be performed by a plant health inspector during the relevant period.
- (7) An application for approval under paragraph (6) must be made to the Scottish Ministers in the manner and form required by the Scottish Ministers.
- (8) An approval may be granted subject to conditions, including conditions relating to the storage of controlled consignments, and may be withdrawn at any time if the Scottish Ministers no longer consider that the place to which the approval relates is suitable for the purpose for which the approval was given.
- (9) The Scottish Ministers may only approve a place as an approved place of inspection if the place has been approved by the Commissioners for Her Majesty's Revenue and Customs for use as a temporary storage facility.
- (10) In this regulation—
- “approved place of inspection” means a place which was approved as a place of inspection by the Scottish Ministers under article 17(1) of the Forestry Order or the 2005 Order before the commencement date and which remains approved by virtue of regulation 53(1) or a place approved under paragraph (6),
- “plant health movement document” means a document in the form set out in the Annex to Commission Directive 2004/103/EC on identity and plant health checks of plants, plant products or other objects, listed in Part B of Annex V to Council Directive 2000/29/EC, which may be carried out at a place other than the point of entry into the Community or at a place close by and specifying the conditions related to these checks <sup>M11</sup>,
- “relevant period” means the period beginning on the commencement date and ending on 13th December 2020,
- “temporary storage facility” means a temporary storage facility within the meaning of Article 148 of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code <sup>M12</sup>[<sup>F54</sup>(as it has effect in EU law before IP completion day)].

#### Textual Amendments

**F54** Words in reg. 13(10) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 14(6) (with reg. 32)

#### Commencement Information

**I12** Reg. 13 in force at 14.12.2019, see reg. 1(1)

#### Marginal Citations

**M11** OJ L 313, 12.10.2004, p.16.

**M12** OJ L 269, 10.10.2013, p.1, as last amended by Regulation (EU) 2019/632 of the European Parliament and of the Council (OJ L 111, 25.4.2019, p.54).

## PART 4 **S**

### Official activities to prevent the establishment or spread of plant pests

#### Introduction **S**

**14.**—(1) This Part applies if a plant health inspector suspects that a controlled plant pest or prohibited material is present or likely to be present, or becomes aware that a controlled plant pest or prohibited material is present, on any premises in Scotland.

(2) In this Part—

“premises” includes any place, including land, building, vehicle, vessel, aircraft, hovercraft, freight container, railway wagon, trailer or movable building or structure,

“prohibited material” means—

- (a) a plant, plant product or other object which is carrying or is infested by or infected with a controlled plant pest or which may be carrying or may be infested by or infected with a controlled plant pest,
- (b) a plant, plant product or other object the entry of which into [<sup>F55</sup>Great Britain] is prohibited under [<sup>F56</sup>a] plant health rule <sup>F57</sup> ...,
- (c) a plant, plant product or other object the movement of which <sup>F58</sup> ... into, within or from Scotland is prohibited under [<sup>F59</sup>a] plant health rule <sup>F60</sup> ....

#### Textual Amendments

- F55** Words in reg. 14(2) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **15(1)(a)(i)** (with reg. 32)
- F56** Word in reg. 14(2) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **15(1)(a)(ii)** (with reg. 32)
- F57** Words in reg. 14(2) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **15(1)(a)(iii)** (with reg. 32)
- F58** Words in reg. 14(2) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **15(1)(b)(i)** (with reg. 32)
- F59** Word in reg. 14(2) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **15(1)(b)(ii)** (with reg. 32)
- F60** Words in reg. 14(2) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **15(1)(b)(iii)** (with reg. 32)

#### Commencement Information

- I13** Reg. 14 in force at 14.12.2019, see reg. 1(1)

#### Notices in relation to controlled plant pests or prohibited material **S**

**15.**—(1) A plant health inspector may serve a notice on the appropriate person—

- (a) requiring the appropriate person to treat, destroy or otherwise dispose of the controlled plant pest or prohibited material,
- (b) prohibiting for the period specified in the notice—
  - (i) the removal of any controlled plant pest or prohibited material from the premises, or
  - (ii) any activity which the inspector considers necessary to prohibit in order to prevent the establishment or spread of a controlled plant pest,

- (c) requiring the removal of any controlled plant pest or prohibited material from the premises, or
- (d) requiring the taking of any other steps, as specified in the notice, which the inspector considers necessary to eradicate the controlled plant pest or prevent its establishment or spread.

(2) If a plant health inspector has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of, or ensuring the eradication of, any controlled plant pest from any premises, the inspector may serve a notice on the occupier imposing any prohibition or requiring any reasonable step to be taken for that purpose.

(3) In paragraph (1), “appropriate person” means—

- (a) in the case of premises used by a professional operator, the professional operator,
- (b) in the case of any other premises—
  - (i) the occupier or any other person in charge of the premises,
  - (ii) any other person who is charge of the controlled plant pest or the prohibited material at those premises.

#### Commencement Information

**I14** Reg. 15 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Action which may be taken by a plant health inspector **S**

**16.**—(1) A plant health inspector may, on giving reasonable notice, enter any premises and any adjacent premises for the purpose of taking steps to—

- (a) eradicate, destroy or otherwise deal with any controlled plant pest,
- (b) prevent the spread of any controlled plant pest,
- (c) destroy, treat or otherwise deal with any infected material.

(2) A plant health inspector must, if requested to do so, produce evidence of the inspector's authority before entering any premises for the purposes specified in paragraph (1).

(3) Paragraph (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier.

(4) A plant health inspector may be accompanied by such other persons <sup>F61</sup>... and may bring onto the premises such equipment and vehicles as the inspector considers necessary.

(5) A person accompanying a plant health inspector under paragraph (4) may—

- (a) remain on the premises and from time to time re-enter the premises without a plant health inspector,
- (b) bring onto the premises any equipment or vehicles that the person considers necessary,
- (c) carry out work on the premises in a manner directed by a plant health inspector.

(6) In paragraph (1)(c), “infected material” means—

- (a) a plant, plant product or other object which is carrying, or is infested by or infected with, a controlled plant pest or may be carrying or infected with a controlled plant pest,
- (b) a plant, plant product or other object which is not carrying or is not infested by or infected with, a controlled plant pest but the presence or existence of which may, in the opinion of a plant health inspector, cause a controlled plant pest to spread or be spread.

### Textual Amendments

- F61** Words in [reg. 16\(4\)](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), [15\(2\)](#) (with [reg. 32](#))

### Commencement Information

- I15** Reg. 16 in force at 14.12.2019, see [reg. 1\(1\)](#)

## Establishment of demarcated areas and measures to be taken in those areas **S**

**17.—(1)** [<sup>F62</sup>Paragraph (2)] applies where the Scottish Ministers have officially confirmed the presence of a controlled plant pest which is not known to be present in Scotland or the presence of a controlled plant pest in an area of Scotland where it was not previously present.

(2) The Scottish Ministers may by notice—

- (a) demarcate an area in relation to the presence of the controlled plant pest for the purpose of eradicating or containing the plant pest,
- (b) specify the prohibitions or restrictions which are to apply to the demarcated area for that purpose.

[<sup>F63</sup>(2A) Paragraph (2B) applies where the competent authority in relation to another territory of Great Britain—

- (a) has officially confirmed the presence in its territory of a plant pest to which Article 18 of the Plant Health Regulation applies; and
- (b) has notified the competent authority in relation to Scotland, in accordance with Article 18(4A) of the Plant Health Regulation, that a demarcated area should extend to or be established in Scotland.

(2B) The competent authority may by notice—

- (a) demarcate an area for the purpose of eradicating or containing the plant pest, or for the purpose of preventing the establishment of the pest in Scotland; or
- (b) confirm the proposed demarcation of an area in Scotland previously notified to the competent authority by another competent authority in accordance with Article 18(4A) of the Plant Health Regulation.

(2C) A notice under paragraph (2B) may specify the prohibitions or restrictions which are to apply to the demarcated area for any of the purposes specified in that paragraph.]

(3) A notice under paragraph (2) [<sup>F64</sup>or (2B)]—

- (a) must be in writing,
- (b) must describe the extent of the demarcated area,
- (c) must specify the date on which any such prohibitions or restrictions are to commence,
- (d) must be published in a manner appropriate to bring it to the attention of the public,
- (e) may be amended or revoked, in whole or in part, by further notice.

[<sup>F65</sup>(4) In this regulation, “competent authority” has the meaning given by Article 2(6) of the Plant Health Regulation.]



**Textual Amendments**

- F62** Words in [reg. 17\(1\)](#) substituted (20.12.2022) by [The Plant Health and Trade in Animals and Related Products \(Amendment\) Regulations 2022 \(S.I. 2022/1367\)](#), regs. 1(1), **4(2)(a)**
- F63** [Reg. 17\(2A\)-\(2C\)](#) inserted (20.12.2022) by [The Plant Health and Trade in Animals and Related Products \(Amendment\) Regulations 2022 \(S.I. 2022/1367\)](#), regs. 1(1), **4(2)(b)**
- F64** Words in [reg. 17\(3\)](#) inserted (20.12.2022) by [The Plant Health and Trade in Animals and Related Products \(Amendment\) Regulations 2022 \(S.I. 2022/1367\)](#), regs. 1(1), **4(2)(c)**
- F65** [Reg. 17\(4\)](#) inserted (20.12.2022) by [The Plant Health and Trade in Animals and Related Products \(Amendment\) Regulations 2022 \(S.I. 2022/1367\)](#), regs. 1(1), **4(2)(d)**

**Commencement Information**

- I16** [Reg. 17](#) in force at 14.12.2019, see [reg. 1\(1\)](#)

**F66** **PART 5** **S**

Temporary national measures

**Textual Amendments**

- F66** [Pt. 5](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **16** (with [reg. 32](#))

**Temporary national measures** **S**

**18.** .....

**PART 6** **S**

Registration, authorisations and certificates

**Applications for registration** **S**

**19.** An application for registration pursuant to Article 66(1) of the <sup>F67</sup>... Plant Health Regulation which is to be submitted to the Scottish Ministers must be submitted in the manner and form required by the Scottish Ministers.

**Textual Amendments**

- F67** Word in [reg. 19](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **17(1)** (with [reg. 32](#))

**Commencement Information**

- I17** [Reg. 19](#) in force at 14.12.2019, see [reg. 1\(1\)](#)

## Other applications **S**

20.—(1) The following applications must be made to the Scottish Ministers in the manner and form required by the Scottish Ministers—

- (a) an application for a temporary authorisation to permit a relevant activity for official testing, scientific or educational purposes, trials, varietal selection or breeding,
- (b) an application for an authorisation referred to in Article 64(2) of the <sup>F68</sup>... Plant Health Regulation,
- (c) an application for an authorisation referred to in Article 89(1) of the <sup>F69</sup>... Plant Health Regulation,
- (d) an application for an authorisation referred to in Article 98(1) of the <sup>F70</sup>... Plant Health Regulation,
- (e) an application for the issue of a phytosanitary certificate for export [<sup>F71</sup>or a phytosanitary certificate for re-export].

(2) In this regulation—

“relevant activity” means an activity which would otherwise be prohibited under the <sup>F72</sup>... Plant Health Regulation or any other <sup>F72</sup>... plant health rule involving—

- (a) the introduction of a plant pest or a plant, plant product or other object into Scotland,
- (b) the movement of a plant pest or a plant, plant product or other object within Scotland,
- (c) the holding of a controlled plant pest or a plant, plant product or other object at premises in Scotland,
- (d) the multiplication of a plant pest at premises in Scotland.

### Textual Amendments

- F68** Word in reg. 20(1)(b) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **17(2)(a)(i)** (with reg. 32)
- F69** Word in reg. 20(1)(c) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **17(2)(a)(i)** (with reg. 32)
- F70** Word in reg. 20(1)(d) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **17(2)(a)(i)** (with reg. 32)
- F71** Words in reg. 20(1)(e) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **17(2)(a)(ii)** (with reg. 32)
- F72** Word in reg. 20(2) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **17(2)(b)** (with reg. 32)

### Commencement Information

- I18** Reg. 20 in force at 14.12.2019, see reg. 1(1)

## Authorisations for other purposes **S**

[<sup>F73</sup>21.—(1) [<sup>F74</sup>The Scottish Ministers may grant an authorisation to permit—

- (a) the carrying out of any activity specified in a plant health derogation,
- (b) the introduction into Scotland, the movement within Scotland or the holding or multiplication in Scotland of a potential quarantine plant pest for official testing, scientific or educational purposes, trials, varietal selection or breeding, or

- (c) the carrying out of any other activity which requires the approval of the Scottish Ministers under [<sup>F75</sup>, or by virtue of,] the <sup>F76</sup>... Plant Health Regulation, the Official Controls Regulation [<sup>F77</sup>, any regulations made under the Plant Health Regulation or the Official Controls Regulation] or these Regulations.]
- (2) An application for any such authorisation must be made to the Scottish Ministers in the manner and form required by the Scottish Ministers.
- (3) [<sup>F78</sup>In paragraph (1)—
- <sup>F79</sup>“plant health derogation” means a derogation from provisions of the Plant Health Regulation which is set out in [<sup>F80</sup>assimilated] law or regulations made under the Plant Health Regulation or the Official Controls Regulation,]
- “potential quarantine plant pest” means a plant pest which is not a [<sup>F81</sup>GB quarantine pest or a provisional GB quarantine pest], but which, in the opinion of the Scottish Ministers, fulfils the criteria set out in Subsection 1 of Section 3 of Annex 1 to that Regulation or may fulfil the criteria in Subsection 2 of that Section.]]

#### Textual Amendments

- F73** Reg. 21 substituted (27.6.2020) by The Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/176), regs. 1(1), **10**
- F74** Reg. 21(1) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(a), **5(4)(a)** (with reg. 32)
- F75** Words in reg. 21(1)(c) inserted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **17(3)(a)(i)** (with reg. 32)
- F76** Word in reg. 21(1)(c) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **17(3)(a)(ii)** (with reg. 32)
- F77** Words in reg. 21(1)(c) inserted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **17(3)(a)(iii)** (with reg. 32)
- F78** Reg. 21(3) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(a), **5(4)(b)** (with reg. 32)
- F79** Words in reg. 21(3) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **17(3)(b)(i)** (with reg. 32)
- F80** Word in reg. 21(3) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), **sch. 2 para. 35(2)**
- F81** Words in reg. 21(3) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **17(3)(b)(ii)** (with reg. 32)

#### Authorisations granted by the Scottish Ministers **S**

**22.**—[<sup>F82</sup>(1)] An authorisation granted by the Scottish Ministers for the purposes of the <sup>F83</sup>... Plant Health Regulation [<sup>F84</sup>, the Official Controls Regulation or for the purposes of, or under, these Regulations] must be in writing and may be granted—

- (a) subject to conditions,
- (b) for an indefinite period or a specified period.
- (2) An authorisation granted by the Scottish Ministers may be modified, suspended or revoked at any time by the Scottish Ministers by notice in writing.

*Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)*

**Textual Amendments**

- F82** Words in [reg. 22\(1\)](#) renumbered as [reg. 22\(1\)](#) (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(a\)](#), **5(5)(a)** (with [reg. 32](#))
- F83** Word in [reg. 22\(1\)](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), **17(4)** (with [reg. 32](#))
- F84** Words in [reg. 22\(1\)](#) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(a\)](#), **5(5)(b)** (with [reg. 32](#))

**Commencement Information**

- I19** [Reg. 22](#) in force at 14.12.2019, see [reg. 1\(1\)](#)

**PART 7 S**

Measures relating to certain solanaceous species

**Specific measures relating to certain solanaceous species S**

**23.** Schedule 2 has effect and makes provision for specific measures relating to certain solanaceous species.

**Commencement Information**

- I20** [Reg. 23](#) in force at 14.12.2019, see [reg. 1\(1\)](#)

**PART 8 S**

Notification requirements

**Notification requirements in relation to seed potatoes S**

**24.—(1)** A professional operator who is bringing any of the following potatoes into Scotland must, at least two days before the expected date of their arrival in Scotland, provide written notification to a plant health inspector of the matters referred to in paragraph (2)—

- (a) seed potatoes grown outside Scotland, <sup>F85</sup>...
- <sup>F85</sup>(b) .....
- (2) The matters are—
  - (a) the proposed time, date and means of landing,
  - (b) the proposed place of landing,
  - (c) their proposed destination and use,
  - (d) their variety and quantity, and
  - (e) the identification number of the producer of the potatoes or the reference number of the lot.
- <sup>F86</sup>(3) .....

**Textual Amendments**

- F85** Reg. 24(1)(b) and preceding word omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **18(1)(a)** (with reg. 32)
- F86** Reg. 24(3) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **18(1)(b)** (with reg. 32)

**Commencement Information**

- I21** Reg. 24 in force at 14.12.2019, see reg. 1(1)

**Notification requirements in relation to citrus fruits** **S**

<sup>F87</sup>25. ....

**Textual Amendments**

- F87** Reg. 25 omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **18(2)** (with reg. 32)

**Notification requirements in relation to other plants and plant products** **S**

26.—(1) A professional operator who is bringing any [<sup>F88</sup>solid fuel wood from a third country to which Article 47(1) of the Official Controls Regulation does not apply] into Scotland must, before or no later than five days after the date of their arrival in Scotland, provide written notification to a plant health inspector of the matters referred to in paragraph (2)—

- <sup>F89</sup>(a) .....
- <sup>F89</sup>(b) .....
- <sup>F89</sup>(c) .....

(2) The matters are—

- (a) the expected date of the arrival of the consignment or, if the consignment has arrived in Scotland, the date on which it first arrived in Scotland,
- (b) the intended destination of the consignment, or if the consignment has arrived at its intended destination in Scotland, its current location,
- (c) the genus, species and quantity of the <sup>F90</sup>... wood in the consignment,
- (d) the country from which the <sup>F91</sup>... wood have been [<sup>F92</sup>, or are to be,] consigned,
- <sup>F93</sup>(e) .....
- <sup>F94</sup>(f) the address of the consignor,
- (g) details of any phytosanitary treatments applied to the wood.]

(3) In this regulation “solid fuel wood” means fuel wood in the form of logs, billets, twigs, faggots or other similar forms.

**Textual Amendments**

- F88** Words in [reg. 26\(1\)](#) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **18(3)(a)(i)** (with reg. 32)

- F89** Reg. 26(1)(a)-(c) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **18(3)(a)(ii)** (with reg. 32)
- F90** Words in reg. 26(2)(c) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **18(3)(b)(i)** (with reg. 32)
- F91** Words in reg. 26(2)(d) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **18(3)(b)(ii)** (with reg. 32)
- F92** Words in reg. 26(2)(d) inserted (27.6.2020) by The Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/176), regs. 1(1), **11(b)**
- F93** Reg. 26(2)(e) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **18(3)(b)(iii)** (with reg. 32)
- F94** Reg. 26(2)(f)(g) substituted for reg. 26(2)(f) (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **18(3)(b)(iv)** (with reg. 32)

#### Commencement Information

- I22** Reg. 26 in force at 14.12.2019, see reg. 1(1)

### Notification requirements in relation to Tomato brown rugose fruit virus and Rose Rosette virus **S**

<sup>F95</sup>27. ....

#### Textual Amendments

- F95** Reg. 27 omitted (27.6.2020) by virtue of The Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/176), regs. 1(1), **12**

## PART 9 **S**

### General powers of inspectors and enforcement

#### Interpretation **S**

[<sup>F96</sup>28.—(1) In this Part—

“ISPM 15 mark” means the mark referred to in Article 96(1) of the <sup>F97</sup>... Plant Health Regulation, which may be applied to wood packaging material to attest that it has been treated in accordance with Annex 1 to ISPM 15,

“premises” includes any place, including any land, building, vehicle, vessel, aircraft, hovercraft, freight container, railway wagon, trailer or movable building or structure,

“wood packaging material” includes any wood or other object which is required to be treated and marked in accordance with Annex 1 to ISPM 15.

(2) For the purposes of regulations 32A and 32B, a person “incorrectly” applies the ISPM 15 mark to wood packaging material if they apply the mark otherwise than in the manner specified in Article 96(1) of the <sup>F98</sup>... Plant Health Regulation, as read with Article 97(1) of the <sup>F98</sup>... Plant Health Regulation.]

### Textual Amendments

- F96** Reg. 28 substituted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), **13**
- F97** Word in reg. 28(1) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **19(1)** (with reg. 32)
- F98** Word in reg. 28(2) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **19(1)** (with reg. 32)

### Commencement Information

- I23** Reg. 28 in force at 14.12.2019, see reg. 1(1)

## Powers of entry **S**

**29.**—(1) A plant health inspector may enter any premises at a reasonable time for the purpose of—

- [<sup>F99</sup>(a) performing official controls to verify that—
- (i) an operator is complying with the Official Controls Regulation,
  - (ii) a professional operator is complying with the <sup>F100</sup>... Plant Health Regulation,
  - (iii) a person is complying with these Regulations, <sup>F101</sup>...
  - (iv) any plants, plant products or other objects which are subject to [<sup>F102</sup>a plant health rule comply with that rule]], [<sup>F103</sup>or]
  - [<sup>F104</sup>(v) an authorised operator, professional operator or registered operator is complying with the Windsor Framework (Plant Health) Regulations 2023,]
- (b) carrying out other official activities which are to be performed by the Scottish Ministers pursuant to the Official Controls Regulation, the <sup>F105</sup>... Plant Health Regulation [<sup>F106</sup>, the Windsor Framework (Plant Health) Regulations 2023] or these Regulations,
- (c) enforcing the Official Controls Regulation, the <sup>F107</sup>... Plant Health Regulation [<sup>F108</sup>, the Windsor Framework (Plant Health) Regulations 2023] or these Regulations,
- (d) verifying information supplied by a person in connection with an application for registration or for an authorisation or permit granted, or to be granted, under these Regulations,
- (e) ascertaining whether a condition of an authorisation or permit granted by the Scottish Ministers for the purpose of the <sup>F109</sup>... Plant Health Regulation or the Official Controls Regulation is being or has been complied with.

(2) A plant health inspector must, if requested to do so, produce evidence of the inspector's authority before entering any premises for the purposes specified in paragraph (1).

(3) Paragraph (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier.

(4) A plant health inspector who enters premises for a purpose specified in paragraph (1) or under a warrant issued by a sheriff, a summary sheriff or a justice of the peace may—

- (a) examine, photograph or mark any part of the premises, any object on the premises or anything that is attached to or otherwise forms part of the premises,
- (b) in the case of premises being used to manufacture wood packaging material, examine or test any treatment facility, machinery, tools or other equipment used for the manufacture

of wood packaging material or observe and monitor the manufacture of wood packaging material,

- (c) take samples of or from any plant pest or any plant, plant product or other object or any container, package or item which has been or may have been in contact with a plant pest or plant, plant product or other object,
- (d) open any container or package or require the owner or person in charge of any container or package to open the container or package,
- (e) inspect or make copies of any documents or records (in whatever form they may be held) relating to the production of, or any activities relating to, any plant, plant product or other object.

(5) A plant health inspector may destroy or otherwise dispose of any sample taken under this regulation when the sample is no longer required.

[<sup>F110</sup>(6) A plant health inspector may—

- (a) [<sup>F111</sup>be accompanied by such persons as the inspector considers necessary,]
- (b) bring onto the premises such equipment and vehicles as the inspector considers necessary.

<sup>F112</sup>(6A) . . . . .]

(7) A person accompanying a plant health inspector under paragraph (6) may—

- (a) remain on the premises and from time to time re-enter the premises without a plant health inspector,
- (b) bring onto the premises any equipment or vehicles that the person considers necessary,
- (c) carry out work on the premises in a manner directed by a plant health inspector.

#### Textual Amendments

- F99** Reg. 29(1)(a) substituted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), **14(a)**
- F100** Word in reg. 29(1)(a)(ii) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **19(2)(a)(i)(aa)** (with reg. 32)
- F101** Word in reg. 29(1)(a)(iii) omitted (1.10.2023) by virtue of [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), **4(4)(a)(i)**
- F102** Words in reg. 29(1)(a)(iv) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **19(2)(a)(i)(bb)** (with reg. 32)
- F103** Word in reg. 29(1)(a)(iv) inserted (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), **4(4)(a)(ii)**
- F104** Reg. 29(1)(a)(v) inserted (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), **4(4)(a)(iii)**
- F105** Word in reg. 29(1)(b) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **19(2)(a)(ii)** (with reg. 32)
- F106** Words in reg. 29(1)(b) inserted (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), **4(4)(b)**
- F107** Word in reg. 29(1)(c) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **19(2)(a)(ii)** (with reg. 32)
- F108** Words in reg. 29(1)(c) inserted (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), **4(4)(c)**
- F109** Word in reg. 29(1)(e) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **19(2)(a)(ii)** (with reg. 32)



- F110** Reg. 29(6)(6A) substituted for reg. 29(6) (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), **14(b)**
- F111** Reg. 29(6)(a) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **19(2)(b)** (with reg. 32)
- F112** Reg. 29(6A) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **19(2)(c)** (with reg. 32)

#### Commencement Information

- I24** Reg. 29 in force at 14.12.2019, see [reg. 1\(1\)](#)

### Right of entry conferred by a warrant issued by a sheriff, a summary sheriff or a justice of the peace **S**

**30.**—(1) A sheriff, a summary sheriff or a justice of the peace may by signed warrant permit a plant health inspector to enter premises under regulation [<sup>F113</sup>16, 29 or 32(1)] if necessary by reasonable force, if the sheriff, the summary sheriff or the justice of the peace, on sworn information in writing, is satisfied that—

- (a) there are reasonable grounds to enter those premises, and
  - (b) any of the conditions in paragraph (2) are met.
- (2) The conditions are that—
- (a) entry to the premises has been, or is likely to be, refused and notice of the intention to apply for a warrant has been given to the occupier,
  - (b) asking for admission to the premises, or giving notice of the intention to apply for a warrant, would defeat the object of the entry,
  - (c) entry is required urgently,
  - (d) the premises are unoccupied or the occupier is temporarily absent.
- (3) A warrant is valid for one month.
- (4) A plant health inspector who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before entry.

#### Textual Amendments

- F113** Words in reg. 30(1) substituted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), **15**

#### Commencement Information

- I25** Reg. 30 in force at 14.12.2019, see [reg. 1\(1\)](#)

### Information notices **S**

**31.**—(1) A plant health inspector or any other officer of the Scottish Ministers may by notice in writing require an appropriate person to give to the inspector or officer, within the time specified in the notice, any information which the person may possess as to—

- (a) the plants grown or products stored at any time on the premises specified in the notice,
- (b) any plant pest or plant, plant product or other object referred to in paragraph (4)(b),

- (c) the persons who have had, or are likely to have had, any plant pest or plant, plant product or other object referred to in paragraph (4)(b) in their possession or under their charge.
- (2) The time within which the information is required to be given to the plant health inspector or other officer must be reasonable.
- (3) An appropriate person must produce for examination by the plant health inspector or other officer any authorisation, official statement, certificate, plant passport, [<sup>F114</sup>Northern Ireland plant health label,] record, invoice or other document relating to a plant pest or any plant, plant product or other object specified in the notice.
- (4) In this regulation, “appropriate person” means—
- (a) in relation to any premises to be specified in a notice under paragraph (1), a person who is the owner, occupier or other person in charge of the premises,
  - (b) a person who has, has had, or is reasonably suspected by the plant health inspector or officer to have or have had, possession or charge of—
    - (i) a controlled plant pest,
    - (ii) any plant, plant product or other object which was carrying a controlled plant pest or which was infested by or infected with a controlled plant pest,
    - (iii) any plant, plant product or other object which the inspector or officer knows or suspects to have been imported into or exported from Scotland,
  - (c) a person who, as auctioneer, salesman or otherwise, has sold, offered for sale or otherwise disposed of a controlled plant pest.

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**Textual Amendments**

**F114** Words in reg. 31(3) inserted (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), 4(5)

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**Commencement Information**

**I26** Reg. 31 in force at 14.12.2019, see reg. 1(1)

**Failure to comply with a notice** **S**

**32.**—(1) If a person fails to comply with a notice served on that person under these Regulations, a plant health inspector may enter any affected premises at all reasonable times to take or cause to be taken any steps that the plant health inspector considers necessary to ensure compliance with the notice or to remedy the consequences of the failure to carry them out.

(2) A plant health inspector acting under paragraph (1) must, if requested to do so, show evidence of the inspector's authority to act.

(3) Paragraph (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier.

(4) Paragraph (1) does not affect any right of entry conferred by a warrant issued by a sheriff, a summary sheriff or a justice of the peace.

(5) A plant health inspector may be accompanied by such <sup>F115</sup>... persons <sup>F116</sup>... and bring onto the premises such equipment and vehicles as the inspector considers necessary.

(6) A person accompanying a plant health inspector under paragraph (5) may—

- (a) remain on the premises and from time to time re-enter the premises without a plant health inspector,

- (b) bring onto the premises any equipment or vehicles that the person considers necessary,
- (c) carry out work on the premises in a manner directed by a plant health inspector.

#### Textual Amendments

- F115** Word in [reg. 32\(5\)](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), [19\(3\)\(a\)](#) (with [reg. 32](#))
- F116** Words in [reg. 32\(5\)](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), [19\(3\)\(b\)](#) (with [reg. 32](#))

#### Commencement Information

- I27** Reg. 32 in force at 14.12.2019, see [reg. 1\(1\)](#)

### [<sup>F117</sup> Removal of ISPM 15 mark from wood packaging material **S**

**32A.** Where an inspector knows, or has reasonable grounds for suspecting, that the ISPM 15 mark has been incorrectly applied to wood packaging material, a plant health inspector may remove the mark or, by notice in writing, require another person to remove it.

#### Textual Amendments

- F117** [Regs. 32A, 32B](#) inserted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), [regs. 1\(1\)](#), [16](#)

### Marking of wood packaging material: power of seizure **S**

**32B.—(1)** This regulation applies where a plant health inspector knows, or has reasonable grounds for suspecting, that a person has incorrectly applied, or intends to incorrectly apply, the ISPM 15 mark to wood packaging material at any premises in Scotland.

(2) The plant health inspector may seize and detain from that person or from those premises any stencil, template or other item of equipment that appears to the inspector to be capable of being used to apply the ISPM 15 mark.

(3) If, in the opinion of the plant health inspector, it is not for the time being practicable for the inspector to seize and remove any item, the inspector may require any person on the premises to secure that the item is not removed or otherwise interfered with until such time as the inspector may seize and remove it.

(4) The plant health inspector must make reasonable efforts to give written notice to the appropriate person—

- (a) stating what has been seized and the reason for its seizure,
- (b) explaining the effect of paragraphs (5) to (12).

(5) Any item seized under paragraph (2) may be retained by the Scottish Ministers for as long as is necessary in all the circumstances, and in particular for the purposes of proceedings in relation to an offence specified in regulation 37(1).

(6) The Scottish Ministers may apply to the court for the forfeiture of any item retained under paragraph (5).

(7) Where an application is made under paragraph (6), the court may order the item to be forfeited if the court is satisfied that—

- (a) an offence specified in regulation 37(1) has been committed in respect of it, or
- (b) it was used in the commission of such an offence.

(8) If the court orders the item to be forfeited, the Scottish Ministers may dispose of it in whatever way they think appropriate.

(9) If the court does not order the item to be forfeited, it must order the item to be returned to the appropriate person.

(10) The Scottish Ministers may recover from the appropriate person all reasonable costs incurred by the Scottish Ministers for the purposes of securing the forfeiture of an item under paragraphs (6) to (8).

(11) Where the retention of the item has been, but is no longer, authorised under this regulation—

- (a) the item must be returned to the appropriate person,
- (b) the appropriate person may apply to the court for an order that the item be returned.

(12) Where the item is required to be returned to the appropriate person and reasonable efforts have been made, without success, to return the item to that person, the Scottish Ministers may dispose of the item in whatever way they think appropriate.

(13) In this regulation—

“appropriate person” means—

- (a) in the case of an item seized from a person, the person from whom the item was seized,
- (b) in the case of an item seized from premises, the occupier or any other person having control of the premises,
- (c) in the case of an item seized from a person or premises which does not belong to a person falling within paragraph (a) or (b), the person to whom it belongs and who asserts ownership over it.

“the court” means a sheriff, summary sheriff or justice of the peace.

(14) Nothing in this regulation affects the powers of a plant health inspector under regulation 32A]

#### Textual Amendments

**F117** Regs. 32A, 32B inserted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), 16

#### Disclosure of information held by Revenue and Customs **S**

**33.**—(1) The Commissioners for Her Majesty's Revenue and Customs may disclose any information in their possession to the Scottish Ministers for the purposes of enabling or assisting the Scottish Ministers to carry out any function conferred on them under or by virtue of the <sup>F118</sup>... Plant Health Regulation, the Official Controls Regulation or these Regulations.

(2) Nothing in paragraph (1) affects any other power or requirement of the Commissioners to disclose information.

#### Textual Amendments

**F118** Word in [reg. 33\(1\)](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **19(4)** (with [reg. 32](#))

#### Commencement Information

**I28** Reg. 33 in force at 14.12.2019, see reg. 1(1)

## PART 10 **S**

### General and supplemental provisions relating to notices

#### Interpretation **S**

**34.** In this Part, “premises” includes any place, including land, building, vehicle, vessel, aircraft, hovercraft, freight container, railway wagon, trailer or movable building or structure.

#### Commencement Information

**I29** Reg. 34 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Miscellaneous provisions as to notices **S**

**35.—(1)** This regulation applies to any notice given by a plant health inspector under these Regulations [<sup>F119</sup>other than a notice given under regulation 32B(4)].

(2) The notice may—

(a) specify—

(i) one or more requirements or alternative requirements,

(ii) the manner in which and the period in which any requirement or condition specified in the notice must be carried out or fulfilled,

(b) require the owner or any other person who appears to be in charge of the premises to which the notice relates to—

(i) notify the Scottish Ministers of any change in occupation of the premises, the date of the change and the name of the new occupier, and

(ii) inform the new occupier of the premises of the contents of the notice.

(3) Any destruction, disposal, re-export or treatment of a plant, plant product or other object or a plant pest which is required to be carried out under the notice must be carried out, or arranged to be carried out, to the satisfaction of a plant health inspector by the person on whom the notice has been served from or at the place specified in the notice.

(4) A plant health inspector may amend or withdraw the notice by a further notice.

(5) The notice may define by reference to a map or plan or otherwise the extent of the premises referred to in the notice.

#### Textual Amendments

**F119** Words in [reg. 35\(1\)](#) inserted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), [regs. 1\(1\), 17](#)

#### Commencement Information

**I30** Reg. 35 in force at 14.12.2019, see reg. 1(1)

## Service of notices **S**

36.—(1) A notice may be served on a registered operator by—

- (a) delivering it personally,
- (b) leaving it at, or sending it by post to, the contact address of the registered operator,
- (c) sending it to the email address that the operator has given to the Scottish Ministers for the service of notices.

(2) A notice may be served on any other person by—

- (a) delivering it personally,
- (b) leaving it at, or sending it by post to, the person's last known place of abode or business, or
- (c) sending it to any email address that the person has given to the Scottish Ministers for the service of notices.

(3) If a notice is to be given by a plant health inspector to an occupier or other person in charge of premises and the last known place of abode or address of that person cannot be ascertained after reasonable enquiry, the notice may be served on that person by addressing it to “the occupier” and leaving it conspicuously affixed to an object on the premises for a period of seven days.

(4) A notice may—

- (a) in the case of a body corporate (other than a limited liability partnership), be served on the secretary or clerk of that body at the address of the registered or principal office of that body,
- (b) in the case of a partnership (other than a limited liability partnership), be served on a partner or a person having the control or management of the partnership business at the address of the principal office of the partnership,
- (c) in the case of a limited liability partnership, be served on a member of the partnership at the address of the registered or principal office of the partnership.

(5) For the purposes of paragraph (4), the principal office of a company registered outside the United Kingdom or a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

(6) In this regulation—

“notice” means a notice to be given by a plant health inspector under these Regulations,

“contact address”, in relation to a registered operator, means—

- (a) the address of the operator's principal place of business in the United Kingdom, or
- (b) any other postal address in Scotland that the operator has given to the Scottish Ministers as a contact address for the service of notices.

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### Commencement Information

**I31** Reg. 36 in force at 14.12.2019, see [reg. 1\(1\)](#)

## PART 11 **S**

### Offences

#### General **S**

37.—(1) A person commits an offence if the person contravenes or fails to comply with—

- <sup>F120</sup>(a) . . . . .
- (b) paragraphs 2(1), (2), (3) or (4) [<sup>F121</sup>, 4(1) or 48(2)] of schedule 2,
- (c) regulations 24(1)<sup>F122</sup>... or 26(1),
- <sup>F123</sup>(d) . . . . .
- (e) a provision of the <sup>F124</sup>... Plant Health Regulation specified in Part 1 of schedule 3,
- (f) a provision of the Official Controls Regulation specified in Part 2 of schedule 3 in so far as it applies to plants, plant products or other objects which are subject to an EU plant health rule,
- (g) a provision in other [<sup>F125</sup>assimilated direct] legislation specified in Part 3 of schedule 3.
- [<sup>F126</sup>(ga) a provision of the Windsor Framework (Plant Health) Regulations 2023 specified in Schedule 3A]
- <sup>F127</sup>(h) . . . . .
- (2) But paragraph (1) does not apply to anything done under, or in accordance with—
- (a) an authorisation or permit which is granted under these Regulations or has effect under or by virtue of these Regulations,
- (b) an approval granted under regulation 13(6) or an approval referred to in regulation 53(1),
- (c) a notice which is given by a plant health inspector or the Scottish Ministers under these Regulations, or has effect under or by virtue of these Regulations.

#### Textual Amendments

- F120** Reg. 37(1)(a) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **20(1)(a)** (with reg. 32)
- F121** Words in reg. 37(1)(b) substituted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), **18(b)**
- F122** Word in reg. 37(1)(c) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **20(1)(b)** (with reg. 32)
- F123** Reg. 37(1)(d) omitted (27.6.2020) by virtue of [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), **18(c)**
- F124** Word in reg. 37(1)(e) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **20(1)(c)** (with reg. 32)
- F125** Words in reg. 37(1)(g) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), **sch. 2 para. 35(3)**
- F126** Reg. 37(1)(ga) inserted (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), **4(6)**
- F127** Reg. 37(1)(h) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **20(1)(e)** (with reg. 32)

#### Commencement Information

- I32** Reg. 37 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Failure to comply with requirements of notices etc. **S**

- 38.** A person commits an offence if the person fails to comply with—

- (a) a provision or condition of a notice which has been served on the person under these Regulations or has effect under or by virtue of these Regulations,
- (b) a provision or condition of an authorisation or permit which has been granted to the person under these Regulations or has effect under or by virtue of these Regulations,
- (c) a provision or condition of a direction given under these Regulations.

#### Commencement Information

**I33** Reg. 38 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Defence: reasonable excuse for failure to comply with requirements of notices etc. **S**

**39.** It is a defence for a person charged with an offence under regulation 37 or 38 to show that the person had a reasonable excuse for contravening or failing to comply with the prohibition or requirement in question.

#### Commencement Information

**I34** Reg. 39 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Provision of false or misleading information **S**

**40.—(1)** A person commits an offence if, for the purposes of obtaining an authorisation or a permit or procuring the issue of a [<sup>F128</sup>UK plant passport [<sup>F129</sup>, a Northern Ireland plant health label] or a] certificate, the person—

- (a) knowingly or recklessly makes a statement or representation which is false in a material particular,
- (b) knowingly or recklessly furnishes a document or information which is false in a material particular,
- (c) intentionally fails to disclose any material information.

(2) In this regulation “certificate” means a certificate referred to in Articles 100 [<sup>F130</sup>or 101] of the <sup>F131</sup>... Plant Health Regulation.

#### Textual Amendments

**F128** Words in [reg. 40\(1\)](#) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\), 20\(2\)\(a\)](#) (with [reg. 32](#))

**F129** Words in [reg. 40\(1\)](#) inserted (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), [regs. 1\(2\), 4\(7\)](#)

**F130** Words in [reg. 40\(2\)](#) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\), 20\(2\)\(b\)\(i\)](#) (with [reg. 32](#))

**F131** Word in [reg. 40\(2\)](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\), 20\(2\)\(b\)\(ii\)](#) (with [reg. 32](#))

#### Commencement Information

**I35** Reg. 40 in force at 14.12.2019, see [reg. 1\(1\)](#)



## Improper use of <sup>F132</sup>... plant passports [<sup>F133</sup>, Northern Ireland plant health labels] or certificates **S**

- 41.—(1) A person commits an offence if the person—
- dishonestly issues a [<sup>F134</sup>UK] plant passport [<sup>F135</sup>, a Northern Ireland plant health label] or a certificate,
  - dishonestly alters a <sup>F136</sup>... plant passport [<sup>F135</sup>, a Northern Ireland plant health label] or a certificate,
  - dishonestly re-uses a <sup>F137</sup>... plant passport [<sup>F135</sup>, a Northern Ireland plant health label] or a certificate.
- (2) In this regulation, “certificate” has the same meaning as in regulation 40.

### Textual Amendments

- F132** Word in reg. 41 heading omitted (1.4.2021) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2021 \(S.S.I. 2021/159\)](#), regs. 1(1)(b), **4(3)(a)**
- F133** Words in reg. 41 heading inserted (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), **4(8)(a)**
- F134** Word in reg. 41(1)(a)-(c) inserted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **20(3)(b)** (with reg. 32)
- F135** Words in reg. 41(1) inserted (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), **4(8)(b)**
- F136** Word in reg. 41(1)(b) omitted (1.4.2021) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2021 \(S.S.I. 2021/159\)](#), regs. 1(1)(b), **4(3)(b)**
- F137** Word in reg. 41(1)(c) omitted (1.4.2021) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2021 \(S.S.I. 2021/159\)](#), regs. 1(1)(b), **4(3)(b)**

### Commencement Information

- I36** Reg. 41 in force at 14.12.2019, see [reg. 1\(1\)](#)

## Obstruction etc. **S**

- 42.—(1) A person commits an offence if the person—
- intentionally obstructs a plant health inspector or an authorised person acting in the execution or enforcement of the <sup>F138</sup>... Plant Health Regulation, the Official Controls Regulation or these Regulations,
  - fails to give to a plant health inspector or an authorised person acting in the execution or enforcement of the <sup>F138</sup>... Plant Health Regulation, the Official Controls Regulation or these Regulations any assistance or information which the inspector or authorised person may reasonably require for those purposes,
  - fails to produce a document or record when required to do so by a plant health inspector or authorised person acting in the execution or enforcement of the <sup>F138</sup>... Plant Health Regulation, the Official Controls Regulation or these Regulations.
- [<sup>F139</sup>(2) In paragraph (1)—
- “authorised person” means a person authorised by the Scottish Ministers,
  - a reference to the Plant Health Regulation or the Official Controls Regulation includes [<sup>F140</sup>assimilated] law adopted, or regulations made, under the Plant Health Regulation

or the Official Controls Regulation and any other [<sup>F140</sup>assimilated] law relating to plant health.]

#### Textual Amendments

- F138** Word in reg. 42(1)(a)-(c) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **20(4)(a)** (with reg. 32)
- F139** Reg. 42(2) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **20(4)(b)** (with reg. 32)
- F140** Word in reg. 42(2)(b) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), **sch. 2 para. 35(4)**

#### Commencement Information

- I37** Reg. 42 in force at 14.12.2019, see reg. 1(1)

#### Defence: reasonable excuse for obstruction etc. **S**

**43.** It is a defence for a person charged with an offence under regulation 42 to show that the person had a reasonable excuse for the obstruction or failure in question.

#### Commencement Information

- I38** Reg. 43 in force at 14.12.2019, see **reg. 1(1)**

#### Offence relating to the disclosure of information held by Revenue and Customs **S**

**44.** A person commits an offence if the person discloses any information received from the Commissioners for Her Majesty's Revenue and Customs under regulation 33(1) and—

- (a) the information relates to a person whose identity is specified in the disclosure or can be deduced from the disclosure,
- (b) the disclosure is for a purpose other than specified in regulation 33(1), and
- (c) the Commissioners have not given their prior consent to the disclosure.

#### Commencement Information

- I39** Reg. 44 in force at 14.12.2019, see **reg. 1(1)**

#### Defence: lawful disclosure of information held by Revenue and Customs **S**

**45.** It is a defence for a person charged with an offence under regulation 44 to prove that the person reasonably believed that—

- (a) the disclosure was lawful, or
- (b) the information had previously been made available lawfully.

#### Commencement Information

- I40** Reg. 45 in force at 14.12.2019, see **reg. 1(1)**

## Offences by bodies corporate, etc. **S**

46.—(1) Where—

- (a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
  - (i) a relevant individual, or
  - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
  - (i) a director, manager, secretary or other similar officer of the body,
  - (ii) where the affairs of the body are managed by its members, a member,
- (b) in relation to a Scottish partnership, a partner, or
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

### Commencement Information

**I41** Reg. 46 in force at 14.12.2019, see [reg. 1\(1\)](#)

## Penalties **S**

47.—(1) A person guilty of an offence under regulation 37(1), 38, 40(1), 41(1) or 42(1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person guilty of an offence under regulation 44 is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 3 months or a fine not exceeding the statutory maximum (or both),
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

### Commencement Information

**I42** Reg. 47 in force at 14.12.2019, see [reg. 1\(1\)](#)

## PART 12 **S**

### Miscellaneous

## Minor and consequential amendments **S**

48. Schedule 5 has effect and makes provision for minor and consequential amendments to secondary legislation.

### Commencement Information

**I43** Reg. 48 in force at 14.12.2019, see [reg. 1\(1\)](#)

### Revocation **S**

**49.** The instruments listed in column 1 of the table in schedule 6 are revoked to the extent specified in the corresponding entry in column 3 of that schedule.

### Commencement Information

**I44** Reg. 49 in force at 14.12.2019, see [reg. 1\(1\)](#)

### Transitional provisions: licences under article 39(1) of the Forestry Order or article 41(1) of the 2005 Order **S**

**50.**—(1) Any licence granted by the Forestry Commissioners or by the Scottish Ministers under article 39(1) of the Forestry Order or by the Scottish Ministers under article 41(1) of the 2005 Order, which is in force immediately before the commencement date, has effect during the relevant period as if it had been an authorisation granted by the Scottish Ministers in accordance with Article 5 of Commission Delegated Regulation (EU) 2019/829 on the date on which it was granted under the Forestry Order or the 2005 Order.

(2) Nothing in paragraph (1) affects anything carried out prior to the commencement date under, or for the purposes of, the licence.

(3) Any reference in the licence to the Forestry Order, the 2005 Order, Council Directive [2000/29/EC](#) or Commission Directive [2008/61/EC](#) is to be read as a reference to the corresponding provision in or under the EU Plant Health Regulation or these Regulations.

(4) In this regulation—

“Commission Delegated Regulation (EU) 2019/829” means Commission Delegated Regulation (EU) supplementing Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants, authorising Member States to provide for temporary derogations in view of official testing, scientific or educational purposes, trials, varietal selections, or breeding <sup>M13</sup>,

“Council 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 <sup>M14</sup>,

“Commission Directive [2008/61/EC](#)” means Commission Directive [2008/61/EC](#) establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes 1 to 5 to Council Directive [2000/29/EC](#) may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections <sup>M15</sup>,

“relevant period”, in relation to a licence, means—

- (a) if the licence expires on or after 31 December 2020, the period beginning on the commencement date and ending on 31 December 2020, or
- (b) if the licence expires before 31 December 2020, the period beginning with the commencement date and ending on the date of expiry of the licence specified in the licence.

#### Commencement Information

**I45** Reg. 50 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Marginal Citations

**M13** OJ L 137, 23.5.2019, p.15.

**M14** OJ L 169, 10.7.2000, p.1, as last amended by Commission Implementing Directive (EU) 2019/523 (OJ L 86, 28.3.2019, p.41). Council Directive 2000/29/EC is partially repealed by Regulation (EU) 2016/2031 (OJ L 317, 23.11.2016, p.4) with effect from 14 December 2019.

**M15** OJ L 158, 18.6.2008, p.41, repealed by Commission Delegated Regulation (EU) 2019/829 (OJ L 137, 23.5.2019, p.15) with effect from 14 December 2019.

#### Transitional provisions: other licences under the Forestry Order or the 2005 Order **S**

**51.**—(1) Any licence granted by the Forestry Commissioners or by the Scottish Ministers under article 38(1)(a) of the Forestry Order or by the Scottish Ministers under article 40(a) of the 2005 Order and which has effect on the commencement date remains in force as if it had been an authorisation granted by the Scottish Ministers under regulation [<sup>F141</sup>21(1)(a)] on the date on which the licence was granted under the Forestry Order or the 2005 Order.

(2) Nothing in paragraph (1) affects anything carried out before the commencement date under, or for the purposes of, the licence.

(3) Any reference in the licence to the Forestry Order, the 2005 Order or Council Directive [2000/29/EC](#) is to be read as a reference to the corresponding provision in or under the EU Plant Health Regulation or these Regulations.

(4) In paragraph (3), “Council Directive [2000/29/EC](#)” has the same meaning as in regulation 50.

#### Textual Amendments

**F141** Word in [reg. 51\(1\)](#) substituted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), [regs. 1\(1\), 19](#)

#### Commencement Information

**I46** Reg. 51 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Transitional provisions: notices **S**

**52.**—(1) Any notice given under the Forestry Order, the Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006 <sup>M16</sup> or the 2005 Order and which has effect on the commencement date—

(a) remains in force and continues to have effect as if it were given under these Regulations for an equivalent purpose on the date on which it was given under the Forestry Order or the 2005 Order, and

(b) is to be read with such modifications as are necessary for it to do so.

(2) In paragraph (1), the reference to any notice under the Forestry Order or the 2005 Order includes any official approval given for the purposes of the notice.

**Commencement Information**

**I47** Reg. 52 in force at 14.12.2019, see [reg. 1\(1\)](#)

**Marginal Citations**

**M16** [S.I. 2006/2695](#), amended by [S.I. 2013/755](#) (W. 90) and [S.I. 2019/734](#).

**Transitional provisions: approvals granted under article 17(1) of the Forestry Order or article 17(1) of the 2005 Order** **S**

**53.**—(1) Any approval granted by the Forestry Commissioners or by the Scottish Ministers under article 17(1) of the Forestry Order or by the Scottish Ministers under article 17(1) of the 2005 Order, which is in force immediately before the commencement date, remains in force and continues to have effect during the relevant period.

(2) In paragraph (1), “relevant period”, in relation to an approval granted under article 17(1) of the Forestry Order or the 2005 Order, means—

- (a) if the approval expires on or after 13 December 2020, the period beginning on the commencement date and ending on 13 December 2020, or
- (b) if the approval expires before 13 December 2020, the period beginning on the commencement date and ending on the date of expiry of the approval specified in the approval.

**Commencement Information**

**I48** Reg. 53 in force at 14.12.2019, see [reg. 1\(1\)](#)

St Andrew's House,  
Edinburgh

*FERGUS EWING*  
A member of the Scottish Government

F142 SCHEDULE 1 S

Regulation 18

**Textual Amendments**

F142 Sch. 1 omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 21 (with reg. 32)

SCHEDULE 2 S

Regulation 23

Specific measures relating to certain solanaceous species

**PART 1 S**

General interpretation

1. In this schedule—

“basic seed potatoes” has the meaning given by regulation 2(1) of the Seed Potatoes Regulations,

F143 ...

F143 ...

F143 ...

F143 ...

[<sup>F144</sup>“EPPO PM 7/21” means the standard describing a diagnostic protocol for *Ralstonia solanacearum*, *R. pseudosolanacearum* and *R. syzygii* approved by the European and Mediterranean Plant Protection Organization,

“EPPO PM 7/40” means the standard describing a diagnostic protocol for *Globodera rostochiensis* and *Globodera pallida* approved by the European and Mediterranean Plant Protection Organization,

“EPPO PM 7/59” means the standard describing a diagnostic protocol for *Clavibacter michiganensis* subsp. *sepedonicus* approved by the European and Mediterranean Plant Protection Organization,

“EPPO PM 7/119” means the standard describing the procedures for nematode extraction approved by the European and Mediterranean Plant Protection Organization,]

“holding” means all the agricultural land owned by one business that is situated within one parish, or, if the land is contiguous, in a neighbouring parish,

“official”, in relation to any testing or other activity described in this schedule, means carried out by or performed by the Scottish Ministers, and “officially” is to be construed accordingly,

“potato” means any tuber or true seed or any other plant of *Solanum tuberosum* L. or other tuber-forming species of the genus *Solanum* L.,

“Potato Cyst Nematode” means any cyst-forming nematode of the species *Globodera pallida* Stone Behrens or *Globodera rostochiensis* (Wollenweber) Behrens that infests and multiplies on potatoes, including any strain or pathotype of any such nematode,

“Potato Ring Rot” means either the disease of potatoes which is caused by the bacterium *Clavibacter michiganensis* (Smith) Davis *et al.* spp. *Sepdonicus* (Spieckermann and Kotthof) Davis *et al.* or that bacterium, as the context requires,

“Potato Wart Disease” means either the disease of potatoes which is caused by the fungus *Synchytrium endobioticum* (Schilbersky) Percival or that fungus, as the context requires,

“pre-basic seed potatoes” has the meaning given by regulation 2(1) of the Seed Potatoes Regulations,

“premises” includes any land, building, vehicle, vessel, aircraft, hovercraft, freight container or railway wagon,

“sampling unit” means [<sup>F145</sup>a field or Part of a field formed with recognisable boundaries on at least two opposing sides],

“seed” means seed in the botanical sense other than seed not intended for planting,

“seed potato” means any potato intended for planting,

“Seed Potatoes Regulations” means the Seed Potatoes (Scotland) Regulations 2015 <sup>M17</sup>.

#### Textual Amendments

**F143** Words in sch. 2 para. 1 omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **22(a)** (with reg. 32)

**F144** Words in sch. 2 para. 1 inserted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **22(b)** (with reg. 32)

**F145** Words in sch. 2 para. 1 substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(a), **5(6)(a)** (with reg. 32)

#### Commencement Information

**I49** Sch. 2 para. 1 in force at 14.12.2019, see reg. 1(1)

#### Marginal Citations

**M17** [S.S.I. 2015/395](#), as last amended by [S.S.I. 2019/59](#).

## PART 2 **S**

### General provisions relating to the planting of certain solanaceous species

#### General restrictions on the planting of potatoes **S**

2.—(1) A person must not knowingly plant, or knowingly cause or permit to be planted, any potatoes or any potatoes produced from potatoes, which have been grown in a third country other than [<sup>F146</sup>any third country to which the prohibition in Article 40(1) of the Plant Health Regulation does not apply].

(2) A person must not knowingly plant, or knowingly cause or permit to be planted, any potatoes unless—

[<sup>F147</sup>(a) they derive in direct line from potato material which has been obtained under an approved programme for the certification of potatoes which has been officially approved by a competent authority or a CD authority,]

(b) they have been found to be free from Potato Ring Rot in official tests using the methods set out in [<sup>F148</sup>EPPO PM 7/59],



- (c) they have been found to be free from *Ralstonia solanacearum* (Smith) Yabuuchi *et al.* in official tests using the methods set out in [F149EPPO PM 7/21].
- (3) A person must not knowingly plant, or knowingly cause or permit to be planted, any potatoes other than—
  - (a) potatoes which may be marketed in Scotland under the Seed Potatoes Regulations,
  - (b) one year's direct progeny of the potatoes referred to in head (a) where that direct progeny has been grown by that person.
- (4) Any person who is involved in the planting of potatoes must retain and make available to a plant health inspector the following documents in relation to the potatoes—
  - (a) their official labels,
  - (b) the invoices or delivery notes for the potatoes,
  - (c) the crop inspection report issued under the Seed Potatoes Regulations, where potatoes, or their direct progeny, marketed or marketable under those Regulations were produced by the report holder.
- (5) Sub-paragraphs (3) and (4) do not apply where—
  - (a) the area to be planted is less than 0.1 hectare, or
  - (b) the area is intended for the production of early potatoes.
- (6) In sub-paragraph (5)(b), “early potatoes” means potatoes—
  - (a) which are harvested before they are completely mature,
  - (b) which are marketed immediately after they have been harvested, and
  - (c) whose skins can be easily removed without peeling.

#### Textual Amendments

- F146** Words in sch. 2 para. 2(1) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **23(a)(i)** (with reg. 32)
- F147** Sch. 2 para. 2(2)(a) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **23(a)(ii)(aa)** (with reg. 32)
- F148** Words in sch. 2 para. 2(2)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **23(a)(ii)(bb)** (with reg. 32)
- F149** Words in sch. 2 para. 2(2)(c) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **23(a)(ii)(cc)** (with reg. 32)

#### Commencement Information

- I50** Sch. 2 para. 2 in force at 14.12.2019, see reg. 1(1)

### Special Measures **S**

3.—(1) The special measures in sub-paragraph (2) apply to suppress or control the spread of the plant pests referred to in that sub-paragraph.

- (2) The special measures are—
  - (a) in respect of Potato Wart Disease, those set out in Part 3 of this schedule,
  - (b) in respect of Potato Cyst Nematode, those set out in Parts 4 and 5 of this schedule,
  - (c) in respect of Potato Ring Rot, those set out in Part 6 of this schedule,
  - (d) in respect of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*, those set out in Part 7 of this schedule.

(3) This paragraph is subject to any additional or stricter measures which a plant health inspector considers necessary under regulation 15 or 16.

#### Commencement Information

**I51** Sch. 2 para. 3 in force at 14.12.2019, see reg. 1(1)

### Potato Cyst Nematode **S**

4.—(1) Seed potatoes and the plants listed in Part 5 of this schedule must not be planted unless they were grown in a sampling unit which has undergone an official soil test carried out in accordance with Part 4 of this schedule and no Potato Cyst Nematode was found.

(2) The official soil test referred to in sub-paragraph (1) must be carried out—

- (a) in the period between the harvesting of the last crop in the sampling unit and the planting of the crop that requires the official soil test, <sup>F150</sup> ...
- (b) no more than four years prior to the planting of the crop that requires the official soil test, provided that evidence is available to show that no Potato Cyst Nematode was found and that potatoes or the plants listed in Part 5 of this schedule were not present at the time of the official soil test and have not been grown in the sampling unit since that official soil test <sup>F151</sup>, and
- (c) in accordance with EPPO PM 7/40 and EPPO PM 7/119.]

(3) Sub-paragraph (1) does not apply where—

- (a) in the case of seed potatoes and the plants listed in [<sup>F152</sup>tables B and C of Part 5] of this schedule, they were—
  - (i) planted on the same holding where they were harvested, or
  - (ii) not grown in soil,
- (b) in the case of plants listed in [<sup>F152</sup>tables B and C of Part 5] of this schedule, they have been washed or brushed until practically free of soil so that there is, to the satisfaction of a plant health inspector, no identifiable risk of Potato Cyst Nematode spreading, or
- (c) in the case of plants listed in Part 5 of this schedule, official tests show that the sampling unit in which they were grown has been free of Potato Cyst Nematode for 12 years before they were planted, or there is evidence that no potatoes or plants listed Part 5 of this schedule have been grown in that sampling unit in the previous 12 years.

#### Textual Amendments

**F150** Word in sch. 2 para. 4(2) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **23(b)(i)** (with reg. 32)

**F151** Sch. 2 para. 4(2)(c) and preceding word inserted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **23(b)(ii)** (with reg. 32)

**F152** Words in sch. 2 para. 4(3)(a)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(a), **5(6)(b)** (with reg. 32)

#### Commencement Information

**I52** Sch. 2 para. 4 in force at 14.12.2019, see reg. 1(1)

## Official surveys **S**

5. A plant health inspector must perform an official survey on sampling units used for the production of potatoes, other than those intended for the production of seed potatoes, in accordance with [<sup>F153</sup>Part 4 of this schedule].

### Textual Amendments

**F153** Words in sch. 2 para. 5 substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **23(c)** (with reg. 32)

### Commencement Information

**I53** Sch. 2 para. 5 in force at 14.12.2019, see reg. 1(1)

[<sup>F154</sup>**5A.** An official survey conducted under this Part or Part 4 of this schedule shall be conducted on at least 0.5% of the acreage used in the relevant year for the production of seed potatoes.]

### Textual Amendments

**F154** Sch. 2 para. 5A inserted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **23(d)** (with reg. 32)

### Textual Amendments

**F153** Words in sch. 2 para. 5 substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **23(c)** (with reg. 32)

**F154** Sch. 2 para. 5A inserted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **23(d)** (with reg. 32)

### Commencement Information

**I53** Sch. 2 para. 5 in force at 14.12.2019, see reg. 1(1)

<sup>F155</sup>**6.** .....

### Textual Amendments

**F155** Sch. 2 para. 6 omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **23(e)** (with reg. 32)

## PART 3 **S**

### Measures for the control of Potato Wart Disease

## Interpretation **S**

7.—(1) For the purposes of this Part of this schedule, a plot of land is to be regarded as a contaminated plot if Potato Wart Disease is confirmed by an official test to be present on at least one plant that is growing or was grown on that plot.

(2) In this Part of this schedule, “*Synchytrium endobioticum*” means *Synchytrium endobioticum* (Schilbersky) Percival.

#### Commencement Information

**I54** Sch. 2 para. 7 in force at 14.12.2019, see reg. 1(1)

### Official measures relating to contaminated plots of land **S**

**8.—(1)** A plant health inspector must in accordance with [<sup>F156</sup>this Part] demarcate any—

- (a) contaminated plot, and
- (b) a safety zone around that plot which is large enough to ensure the protection of the surrounding areas.

(2) A plant health inspector must serve a notice under regulation 15 requiring any potato tubers or haulms which are present on the contaminated plot, or which come from the contaminated plot, to be treated in such a way that the Potato Wart Disease present on them is destroyed.

(3) Where a plant health inspector is satisfied that any potato tubers or haulms are contaminated with Potato Wart Disease and the plant health inspector cannot determine whether those tubers or haulms have been present on a contaminated plot, the plant health inspector may serve a notice under regulation 15 which requires the whole batch containing the affected tubers or haulms to be treated in such a way that there is no risk of Potato Wart Disease spreading.

#### Textual Amendments

**F156** Words in sch. 2 para. 8(1) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **24** (with reg. 32)

#### Commencement Information

**I55** Sch. 2 para. 8 in force at 14.12.2019, see reg. 1(1)

### Prohibition on the planting of potatoes on contaminated plots **S**

**9.—(1)** Where a contaminated plot is demarcated under paragraph 8(1) of this schedule [<sup>F157</sup>a plant health inspector must serve a notice under regulation 15 requiring that] —

- (a) no potatoes may be grown on it, and
- (b) no plants intended for transplanting may be grown, stored or moved on it.

(2) No person may grow potatoes in a safety zone demarcated under paragraph 8(1) of this schedule unless a plant health inspector is satisfied that they are of a variety which is resistant to the races of *Synchytrium endobioticum* found on the contaminated plot to which the safety zone relates.

(3) A potato variety is to be considered resistant to a particular race of *Synchytrium endobioticum* for the purposes of sub-paragraph (2) where that variety reacts to contamination by the pathogenic agent of that race in such a way that there is no danger of secondary infection.

#### Textual Amendments

**F157** Words in sch. 2 para. 9(1) inserted (27.6.2020) by The Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/176), regs. 1(1), **21(2)**

**Commencement Information**

**I56** Sch. 2 para. 9 in force at 14.12.2019, see reg. 1(1)

**Revocation of the demarcation of a contaminated plot** **S**

**10.** Where a plant health inspector is satisfied that *Synchytrium endobioticum* is no longer present on a plot which was demarcated under paragraph 8(1) of this schedule or on its associated safety zone, the plant health inspector must revoke that demarcation.

**Commencement Information**

**I57** Sch. 2 para. 10 in force at 14.12.2019, see reg. 1(1)

**PART 4** **S**

Measures for the control of European populations of Potato Cyst Nematode

**Standard sampling rate for official soil test** **S**

**11.** The official soil test referred to in paragraph 4(1) of this schedule must involve a soil sample of at least 1500 ml of soil per hectare (the “standard sampling rate”).

**Commencement Information**

**I58** Sch. 2 para. 11 in force at 14.12.2019, see reg. 1(1)

**Lower sampling rate for official soil test** **S**

**12.** The standard sampling rate referred to in paragraph 11 of this schedule may be reduced to the lower sampling rate of 400 ml of soil per hectare (the “lower sampling rate”) if—

- (a) neither potatoes nor the plants listed in table A in Part 5 of this schedule have been grown or been present in the sampling unit in the six years prior to the official soil test,
- (b) no Potato Cyst Nematode has been found during the last two successive official soil tests carried out at the standard sampling rate and no potatoes or plants listed in table A in Part 5 of this schedule, other than those for which an official soil test is required, have been grown in the sampling unit after the first official soil test, or
- (c) no Potato Cyst Nematode or dead cysts of Potato Cyst Nematode have been found in the most recent official soil test carried out at the standard sampling rate and no potatoes or plants listed in table A in Part 5 of this schedule, other than those for which an official soil test is required, have been grown in the sampling unit since the last official soil test.

**Commencement Information**

**I59** Sch. 2 para. 12 in force at 14.12.2019, see reg. 1(1)

**Official tests carried out before 1 July 2010** **S**

13. The results of other official tests carried out before 1 July 2010 may be considered as official soil tests as referred to in paragraph 12(b) and (c) of this schedule.

**Commencement Information**

**I60** Sch. 2 para. 13 in force at 14.12.2019, see reg. 1(1)

**Further reduction of standard and lower sampling rates** **S**

14. The standard sampling rate and the lower sampling rate may be further reduced as follows—

- (a) in the case of the standard sampling rate, the first 8 hectares must be sampled at 1500 ml of soil per hectare, but may be reduced for each additional hectare to a minimum of 400 ml of soil per hectare, or
- (b) in the case of the lower sampling rate, the first 4 hectares must be sampled at 400 ml of soil per hectare, but may be further reduced for each additional hectare to a minimum of 200 ml of soil per hectare.

**Commencement Information**

**I61** Sch. 2 para. 14 in force at 14.12.2019, see reg. 1(1)

**Continued use of lower and reduced sampling rates** **S**

15. The use of the lower and reduced sampling rates referred to in paragraphs 12 and 14 of this schedule may be continued in subsequent official soil tests until Potato Cyst Nematode is found in the sampling unit concerned.

**Commencement Information**

**I62** Sch. 2 para. 15 in force at 14.12.2019, see reg. 1(1)

**Minimum size of soil sample** **S**

16. The minimum size of the soil sample in all cases is 100 ml of soil per sampling unit.

**Commencement Information**

**I63** Sch. 2 para. 16 in force at 14.12.2019, see reg. 1(1)

**Action following official soil test or official survey** **S**

17. Following the official soil test referred to in paragraph 4(1) of this schedule, or an official survey referred to in paragraph 5 of this schedule, a plant health inspector must—

- (a) serve a notice on the occupier or other person in charge of the premises officially recording that the sampling unit is infested with Potato Cyst Nematode, or
- (b) officially record that no Potato Cyst Nematode was found in the sampling unit.

**Commencement Information**

**I64** Sch. 2 para. 17 in force at 14.12.2019, see reg. 1(1)

**Notice that sampling unit is infested with Potato Cyst Nematode** **S**

**18.** Subject to paragraph 19 of this schedule, a notice under paragraph 17(a) of this schedule officially recording that the sampling unit is infested with Potato Cyst Nematode must contain the following restrictions—

- (a) no potatoes may be planted in the sampling unit,
- (b) no plants listed in table A in Part 5 of this schedule, intended for replanting, may be planted or stored in the sampling unit,
- (c) no plants listed in table B in Part 5 of this schedule, intended for replanting, may be planted in the sampling unit unless they have been washed or brushed until practically free of soil so that there is, to the satisfaction of a plant health inspector, no identifiable risk of Potato Cyst Nematode spreading, and
- (d) no plants listed in table C in Part 5 of this schedule may be planted in the sampling unit.

**Commencement Information**

**I65** Sch. 2 para. 18 in force at 14.12.2019, see reg. 1(1)

**Sampling units infested with Potato Cyst Nematode: planting of potatoes not intended for production of seed potatoes** **S**

**19.** In the case of sampling units that are officially recorded as infested with Potato Cyst Nematode, the planting of potatoes, not intended for the production of seed potatoes, may be authorised by a plant health inspector by a notice in writing served on the occupier or other person in charge of the premises.

**Commencement Information**

**I66** Sch. 2 para. 19 in force at 14.12.2019, see reg. 1(1)

**Notice authorising planting of potatoes not intended for production of seed potatoes in sampling units infested with Potato Cyst Nematode** **S**

**20.** Any notice served under paragraph 19 of this schedule must be in accordance with the terms of the official control programme aimed at the suppression of Potato Cyst Nematode<sup>F158</sup> ... published from time to time by the Division of the Scottish Government Agriculture and Rural Economy Directorate known as SASA (formerly known as Science and Advice for Scottish Agriculture).

**Textual Amendments**

**F158** Words in [sch. 2 para. 20](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), [25](#) (with [reg. 32](#))

**Commencement Information****I67** Sch. 2 para. 20 in force at 14.12.2019, see reg. 1(1)**Notice of contamination** **S****21.** A plant health inspector must by notice in writing designate as contaminated any potatoes or plants listed in Part 5 of this schedule which—

- (a) have come from a sampling unit officially recorded under paragraph 17 of this schedule as infested with Potato Cyst Nematode, or
- (b) have come into contact with soil in which Potato Cyst Nematode was found.

**Commencement Information****I68** Sch. 2 para. 21 in force at 14.12.2019, see reg. 1(1)**Prohibitions following issue of notice of contamination** **S****22.** Where any potatoes or plants listed in Part 5 of this schedule have been designated as contaminated under paragraph 21 of this schedule—

- (a) in the case of seed potatoes and the plants listed in table A in Part 5 of this schedule, these must not be planted unless they have been disinfested to the satisfaction of a plant health inspector so that there is no risk of Potato Cyst Nematode spreading,
- (b) in the case of plants listed in table B in Part 5 of this schedule, these must not be planted unless they have been washed or brushed until practically free of soil so that there is no identifiable risk of Potato Cyst Nematode spreading,
- (c) in the case of plants listed in table C in Part 5 of this schedule, these must not be planted, and
- (d) in the case of potatoes intended for industrial processing or grading, these must not be moved except in accordance with an authorisation given under paragraph 23 of this schedule.

**Commencement Information****I69** Sch. 2 para. 22 in force at 14.12.2019, see reg. 1(1)**Notice of contamination: authorisation for movement of potatoes for industrial processing or grading** **S****23.** A plant health inspector may authorise the movement of potatoes designated as contaminated under paragraph 21 of this schedule for the purposes of industrial processing or grading providing that such authorisation—

- (a) is given by notice in writing, and
- (b) requires the potatoes to be delivered to a processing or grading plant that has appropriate and officially approved waste disposal procedures that ensure that there is no risk of Potato Cyst Nematode spreading.



**Commencement Information**

**I70** Sch. 2 para. 23 in force at 14.12.2019, see reg. 1(1)

**Notices of infestation or contamination: revocation** **S**

**24.** A notice under paragraph 17(a) or 19 of this schedule may be revoked if, following a further official soil test, no Potato Cyst Nematode is found in the sampling unit after 6 years from —

- (a) the date of the last official soil test confirming the presence of Potato Cyst Nematode, or
- (b) the harvesting of the last potato crop in the sampling unit.

**Commencement Information**

**I71** Sch. 2 para. 24 in force at 14.12.2019, see reg. 1(1)

**Further investigations** **S**

**25.** If any suspected occurrence or confirmed presence of Potato Cyst Nematode in Scotland results from a breakdown or change in the effectiveness of a resistant potato variety which relates to an exceptional change in the composition of nematode species, pathotype or virulence group, the Scottish Ministers must ensure that this occurrence is investigated and, where applicable, the pathotype and virulence group of the Potato Cyst Nematode involved is confirmed by appropriate methods.

**Commencement Information**

**I72** Sch. 2 para. 25 in force at 14.12.2019, see reg. 1(1)

**PART 5** **S**

Potato Cyst Nematode - species to which controls apply

**Commencement Information**

**I73** Sch. 2 Pt. 5 in force at 14.12.2019, see reg. 1(1)

**Table A**

Host plants with roots:	<i>Capsicum spp.</i> , <i>Lycopersicon lycopersicum</i> (L.) Karsten ex Farw., <i>Solanum melongena</i> L.
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**Table B**

Other plants with roots:	<i>Allium porrum</i> L.,
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**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

*Beta vulgaris* L.,  
*Brassica* spp.,  
*Fragaria* L.,  
*Asparagus officinalis* L.

**Table C**

Bulbs, tubers and rhizomes, not washed or brushed until practically free of soil so that there is no identifiable risk of Potato Cyst Nematode spreading, grown in soil and intended for planting, other than those for which there must be evidence by their packaging or by other means that they are intended for sale to final consumers not involved in professional plant or cut flower production:	<i>Allium ascalonicum</i> L.,
	<i>Allium cepa</i> L.,
	<i>Dahlia</i> spp.,
	<i>Gladiolus</i> Tourn. Ex L.,
	<i>Hyacinthus</i> spp.,
	<i>Iris</i> spp.,
	<i>Lilium</i> spp.,
	Narcissus L., Tulipa L.

## PART 6 **S**

### Measures for the control of Potato Ring Rot

#### Interpretation **S**

**26.** In this Part of this schedule “specified plant material” means tubers or plants of *Solanum tuberosum* L.

#### Commencement Information

**I74** Sch. 2 para. 26 in force at 14.12.2019, see reg. 1(1)

#### Official surveys and testing **S**

**27.—(1)** The Scottish Ministers must ensure that systematic official surveys for Potato Ring Rot are carried out in Scotland on tubers of *Solanum tuberosum* L. and, where appropriate, on plants of *Solanum tuberosum* L.<sup>F159</sup> ....

[<sup>F160</sup>(1A) In the case of tubers of *Solanum tuberosum* L., those surveys must include official testing of samples of seed and other potatoes in accordance with EPPO PM 7/59.

(1B) In the case of plants of *Solanum tuberosum* L., those surveys must be carried out according to appropriate methods and include appropriate official testing of samples.

(1C) The collection of samples for the purposes of sub-paragraphs (1A) and (1B) must be based on sound scientific and statistical principles and the biology of Potato Ring Rot and take into account relevant potato production systems.]

(2) Where the presence of Potato Ring Rot in specified plant material is suspected, the Scottish Ministers must ensure that—

- (a) official testing is carried out using the method set out in [F161EPPO PM 7/59] to confirm or refute its presence,
- (b) the following are retained and appropriately conserved pending completion of the official testing—
  - (i) all tubers sampled, and wherever possible, all plants sampled,
  - (ii) any remaining extract and additional preparation material for the screening tests,
  - (iii) all relevant documentation, and
- (c) pending the confirmation or refutation of its presence, where suspect diagnostic visual symptoms of Potato Ring Rot have been seen or symptoms of Potato Ring Rot have been identified by a positive immunofluorescence test or other appropriate positive test—
  - (i) the movement of all lots or consignments from which the samples have been taken, other than those which are under official control, is prohibited, except where it has been established that there is no identifiable risk of Potato Ring Rot spreading,
  - (ii) steps are taken to trace the origin of the suspected occurrence, and
  - (iii) additional appropriate precautionary measures based on the level of estimated risk to prevent any spread of the plant pest are taken.

(3) A notice under regulation 15 may contain measures for the purposes of sub-paragraph (2) (c)(i) to (iii).

#### Textual Amendments

**F159** Words in sch. 2 para. 27(1) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **26(a)(i)** (with reg. 32)

**F160** Sch. 2 para. 27(1A)-(1C) inserted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **26(a)(ii)** (with reg. 32)

**F161** Words in sch. 2 para. 27(2)(a) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **26(a)(iii)** (with reg. 32)

#### Commencement Information

**I75** Sch. 2 para. 27 in force at 14.12.2019, see reg. 1(1)

### Measures to be taken following the confirmation of the presence of Potato Ring Rot **S**

**28.**—(1) If the presence of Potato Ring Rot is confirmed in a sample of specified plant material following official testing carried out pursuant to paragraph 27(2)(a) of this schedule or sub-paragraph (2), the Scottish Ministers must ensure that—

- (a) the specified plant material, the consignment or lot and any object from which the sample was taken and, where appropriate, the place of production and field from which the specified plant material was harvested are designated as contaminated by a plant health inspector,
- (b) a plant health inspector determines the extent of the probable contamination through pre- or post-harvest contact or through any production link with anything designated as contaminated under head (a), [F162]having regard to the following factors—
  - (i) the susceptible material grown at the contaminated place of production,

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

- (ii) places of production with some production link to that susceptible material, including those sharing production equipment and facilities directly or through a common contractor,
  - (iii) the production or presence of other susceptible material at the contaminated place of production,
  - (iv) the premises handling potatoes from the contaminated place of production and the places of production mentioned in sub-head (ii),
  - (v) any object that may have come into contact with the contaminated susceptible material,
  - (vi) any susceptible material stored in, or in contact with, any object prior to its disinfection,
  - (vii) the susceptible material with a sister or parental clonal relationship to the contaminated susceptible material and the places of production of that susceptible material],
- (c) a zone is demarcated by a plant health inspector on the basis of the designation made under head (a), taking into account the <sup>F163</sup>proximity of other places of production growing potatoes or other host plants and the common production and use of seed potato stocks].

<sup>F164</sup>(1A) When making a designation or determination under sub-paragraph (1), an inspector must have regard to sound scientific principles, the biology of Potato Ring Rot and relevant production, marketing and processing systems.]

(2) Where specified plant material has been designated as contaminated under sub-paragraph (1) (a), the Scottish Ministers must ensure that testing is carried out on potato stocks which are clonally related to that specified plant material in the manner specified in paragraph 27(2) of this schedule in order to determine the probable primary source of infection and the extent of the probable contamination.

(3) Any such testing must be carried out on as much specified plant material as is necessary to determine the probable primary source of infection and the extent of the probable contamination.

(4) Where any specified plant material or object is determined by a plant health inspector under sub-paragraph (1)(b) to be probably contaminated, the plant health inspector must designate that material or object as probably contaminated.

(5) Any designation by a plant health inspector under sub-paragraph (1)(a) or (4) must be made by notice served under regulation 15.

#### Textual Amendments

**F162** Words in sch. 2 para. 28(1)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **26(b)(i)** (with reg. 32)

**F163** Words in sch. 2 para. 28(1)(c) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **26(b)(ii)** (with reg. 32)

**F164** Sch. 2 para. 28(1A) inserted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **26(b)(iii)** (with reg. 32)

#### Commencement Information

**I76** Sch. 2 para. 28 in force at 14.12.2019, see reg. 1(1)

## Restrictions in relation to specified plant material or objects contaminated or probably contaminated with Potato Ring Rot **S**

**29.**—(1) Where specified plant material is designated by a plant health inspector to be contaminated with Potato Ring Rot in accordance with paragraph 28(1)(a) of this schedule—

[<sup>F165</sup>(a) a plant health inspector must serve a notice under regulation 15 requiring that no person may—

- (i) knowingly plant that material, or
  - (ii) knowingly cause or permit that plant material to be planted, and
- (b) the notice under regulation 15 must require that material to be disposed of in accordance with sub-paragraph (2)].

(2) Material can be required to be disposed of—

- (a) by destruction, or
- (b) by [<sup>F166</sup>an officially approved disposal method that ensures that there is no identifiable risk of Potato Ring Rot spreading].

(3) Where specified plant material is designated by a plant health inspector to be probably contaminated in accordance with paragraph 28(4) of this schedule, a plant health inspector must serve a notice under regulation 15 requiring that—

- (a) no person may—
  - (i) knowingly plant that material, or
  - (ii) knowingly cause or permit that material to be planted, and
- (b) the material must be used or disposed of [<sup>F167</sup>in a manner that ensures that there is no identifiable risk of Potato Ring Rot spreading].

(4) Where any machinery, vehicle, vessel, store or any part of such machinery, vehicle, vessel or store, or any object (including packaging material) has been designated by a plant health inspector as contaminated in accordance with paragraph 28(1)(a) of this schedule or as probably contaminated in accordance with paragraph 28(4) of this schedule, a plant health inspector must serve a notice under regulation 15 requiring that it is—

- (a) disposed of by destruction, or
- (b) cleansed and disinfected, such that there is no identifiable risk of Potato Ring Rot spreading.

(5) Anything cleansed and disinfected in accordance with sub-paragraph (4)(b) is no longer to be treated as contaminated for the purposes of [<sup>F168</sup>this Part].

### Textual Amendments

**F165** Sch. 2 para. 29(1)(a)(b) substituted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), **21(3)**

**F166** Words in sch. 2 para. 29(2)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **26(c)(i)** (with reg. 32)

**F167** Words in sch. 2 para. 29(3)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **26(c)(ii)** (with reg. 32)

**F168** Words in sch. 2 para. 29(5) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **26(c)(iii)** (with reg. 32)

**Commencement Information**

**I77** Sch. 2 para. 29 in force at 14.12.2019, see reg. 1(1)

**Contaminated place of production – notice (general) S**

**30.** Where a place of production has been designated as contaminated by a plant health inspector in accordance with paragraph 28(1)(a) of this schedule, the plant health inspector must serve a notice under regulation 15 which complies with the applicable requirements of paragraphs 31 to 35 of this schedule.

**Commencement Information**

**I78** Sch. 2 para. 30 in force at 14.12.2019, see reg. 1(1)

**Contaminated place of production – notice in relation to any field also designated as contaminated S**

**31.** Subject to paragraph 34(1) of this schedule, where a place of production is designated by a plant health inspector as contaminated in accordance with paragraph 28(1)(a) of this schedule, the notice referred to in paragraph 30 of this schedule must require that, with regard to any field at that place, which has also been so designated, the measures referred to in paragraph 32(1) or (3) of this schedule apply.

**Commencement Information**

**I79** Sch. 2 para. 31 in force at 14.12.2019, see reg. 1(1)

**Measures in relation to a contaminated place of production S**

- 32.—**(1) The measures referred to in paragraph 31 of this schedule are—
- (a) from the date of the receipt of the notice and for at least three growing years from the start of the next growing year—
    - (i) such measures as may be required to eliminate volunteer potato plants and other naturally found host plants of Potato Ring Rot, and
    - (ii) that the following must not be planted—
      - (aa) tubers, plants or true seeds of potato,
      - (bb) naturally found host plants of Potato Ring Rot, and
      - (cc) crops for which there is a risk of Potato Ring Rot surviving or spreading,
  - (b) in the first potato cropping season following the period referred to in head (a), that basic seed potatoes or pre-basic seed potatoes may be planted, for ware production only, provided that the field has been free from volunteer potato plants and other naturally found host plants of Potato Ring Rot for at least the two consecutive growing years prior to planting, and that the harvested tubers are subjected to official testing using the method set out in [F169]EPPO PM 7/59], and
  - (c) in the potato cropping season which follows that referred to in head (b) and following an appropriate rotation cycle (which must be at least two years where potatoes are planted for seed production), that basic seed potatoes or pre-basic seed potatoes may be planted, for seed or ware production.

(2) Where a plant health inspector serves a notice requiring the measures specified in sub-paragraph (1), the Scottish Ministers must ensure that an official survey is carried out in relation to the field in which potatoes mentioned in sub-paragraph (1)(c) are planted, in accordance with [F170]EPPO PM 7/59].

(3) The measures referred to in paragraph 31 of this schedule are—

- (a) from the date of receipt of the notice and for four growing years from the start of the next growing year—
  - (i) such measures as may be required to eliminate volunteer potato plants and other naturally found host plants of Potato Ring Rot, and
  - (ii) that the field must be maintained in bare fallow, permanent pasture with frequent close cutting or intensive grazing, and
- (b) in the first potato cropping season following the period referred to in head (a), that basic seed potatoes or pre-basic seed potatoes may be planted, for seed or ware production, provided that the field has been free from volunteer potato plants and other naturally found host plants of Potato Ring Rot for at least the two consecutive growing years prior to planting, and that the harvested tubers are subjected to official testing using the method set out in [F171]EPPO PM 7/59].

#### Textual Amendments

- F169** Words in sch. 2 para. 32(1)(b) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 26(d)(i) (with reg. 32)
- F170** Words in sch. 2 para. 32(2) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 26(d)(ii) (with reg. 32)
- F171** Words in sch. 2 para. 32(3)(b) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 26(d)(iii) (with reg. 32)

#### Commencement Information

- I80** Sch. 2 para. 32 in force at 14.12.2019, see reg. 1(1)

### Contaminated place of production – notice in relation to fields other than those referred to in paragraph 31 **S**

**33.** Where a plant health inspector has designated a place of production as contaminated in accordance with paragraph 28(1)(a) of this schedule, the notice referred to in paragraph 30 of this schedule must require that with regard to any fields at that place other than those referred to in paragraph 31 of this schedule—

- (a) in the cases where a plant health inspector is satisfied that the risk of volunteer potato plants and other naturally-found host plants of Potato Ring Rot has been eliminated, that from the date of receipt of the notice until the end of the next consecutive growing year, the following must not be planted—
  - (i) tubers, plants or true seed of potato,
  - (ii) naturally found host plants of Potato Ring Rot, or
  - (iii) pre-basic seed potatoes or basic seed potatoes, except for the production of ware potatoes only,
- (b) in the second growing year following the period referred to in sub-paragraph (a) that basic seed potatoes or pre-basic seed potatoes officially tested for the absence of Potato Ring Rot and grown under official control at a place of production which is not designated by

a plant health inspector as contaminated in accordance with paragraph 28(1)(a) of this schedule, may be planted, for seed or ware production,

- (c) for at least the third growing year following the period referred to in sub-paragraph (a), that basic seed potatoes or pre-basic seed potatoes grown under official control may be planted, for seed or ware production, and
- (d) from the date of receipt of the notice for the growing years referred to in sub-paragraphs (a), (b) and (c), measures must be taken to eliminate volunteer potato plants and naturally found host plants of Potato Ring Rot and that official testing be carried out on harvested tubers in each field using the method set out in [F172EPPO PM 7/59].

#### Textual Amendments

**F172** Words in sch. 2 para. 33(d) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **26(e)** (with reg. 32)

#### Commencement Information

**I81** Sch. 2 para. 33 in force at 14.12.2019, see reg. 1(1)

### Contaminated place of production – notice and authorisation where unit of protected crop production also designated as contaminated **S**

**34.**—(1) Where a plant health inspector has designated a place of production as contaminated in accordance with paragraph 28(1)(a) of this schedule and a unit of protected crop production at that place has also been so designated and complete replacement of the growing medium is possible in that unit, the plant health inspector must serve a notice requiring that no person may plant in the unit any potato tubers, plants or true seeds without the written authority of a plant health inspector.

- (2) A plant health inspector may not grant an authorisation under sub-paragraph (1) unless—
  - (a) all of the measures to eliminate Potato Ring Rot and to remove all host plants which are specified in a notice in relation to the place of production in which the unit of protected crop production is situated have been complied with,
  - (b) the growing medium in the unit has been completely changed, and
  - (c) the unit and all equipment used on the unit has been cleansed and disinfected to eliminate Potato Ring Rot and to remove all host plant material.

(3) The authorisation referred to in sub-paragraph (1) may require that where an authorisation is granted for potato production, production must be from basic seed potatoes and pre-basic seed potatoes or from mini-tubers or micro-plants derived from officially tested sources.

#### Commencement Information

**I82** Sch. 2 para. 34 in force at 14.12.2019, see reg. 1(1)

### Contaminated place of production – notice under paragraph 30 requiring cleansing and disinfecting **S**

**35.** Except where the Scottish Ministers have served a notice under paragraph 36(2) of this schedule, in cases where a place of production is designated by a plant health inspector to be contaminated in accordance with paragraph 28(1)(a) of this schedule, the notice referred to in paragraph 30 of this schedule may require that upon receipt of the notice and throughout the subsequent growing years up to and including the first potato cropping season permitted by



paragraph 32(1)(b) or (3)(b) of this schedule, all machinery and storage facilities at the place of production which are used for potato production must be cleansed and disinfected as appropriate in accordance with paragraph 29(4)(b) of this schedule.

**Commencement Information**

**I83** Sch. 2 para. 35 in force at 14.12.2019, see reg. 1(1)

**Demarcated zone** **S**

**36.**—(1) This paragraph applies where a plant health inspector has demarcated a zone pursuant to paragraph 28(1)(c) of this schedule.

(2) The plant health inspector may, by notice, specify—

- (a) how long the zone is to remain demarcated, and
- (b) the measures which apply in the demarcated zone.

(3) A notice under sub-paragraph (2)—

- (a) must be in writing,
- (b) must describe the extent of the demarcated zone,
- (c) must specify the date on which each measure takes effect,
- (d) must be published in a manner appropriate to bring it to the attention of the public, and
- (e) may be amended, suspended or revoked, in whole or in part, by further notice.

(4) Any premises which are partly within and partly outside a demarcated zone must be treated as within that zone for the purposes of this Part of this schedule, except where the part which is outside the demarcated zone is not in Scotland.

(5) A notice published in accordance with sub-paragraph (3)(d) is to be treated as having been served on—

- (a) any occupier or other person in charge of any premises within the demarcated zone, and
- (b) any person who operates machinery or carries out any other activity in relation to the production of potatoes within the demarcated zone.

(6) A notice under sub-paragraph (2) must specify that—

- (a) any machinery or storage facilities at premises within the demarcated zone which are used for potato production must be cleansed and disinfected in an appropriate manner so that there is no identifiable risk of Potato Ring Rot surviving or spreading,

(b) during the specified period—

- (i) only pre-basic seed potatoes or basic seed potatoes or seed potatoes grown under official control may be planted, and
- (ii) any seed potatoes grown in a place of production which is possibly contaminated must be officially tested after harvesting, and

(c) during the specified period—

- (i) potatoes intended for planting must be handled separately from all other potatoes at premises within the zone, or
- (ii) a system of cleansing and, where appropriate, disinfection must be carried out between the handling of seed and ware potatoes.

(7) The plant health inspector must ensure that during the specified period—

- (a) premises growing, storing or handling potato tubers and premises which operate potato machinery under contract are supervised by a plant health inspector,
- (b) an official survey is carried out in accordance with [<sup>F173</sup>EPPO PM 7/59],
- (c) a programme is established, where appropriate, for the replacement of all seed potato stocks over an appropriate period of time.

(8) For the purposes of sub-paragraphs (6) and (7), the “specified period” means the period specified in the notice, which must be at least three growing seasons following the year in which the relevant zone was demarcated.

#### Textual Amendments

**F173** Words in sch. 2 para. 36(7)(b) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **26(f)** (with reg. 32)

#### Commencement Information

**I84** Sch. 2 para. 36 in force at 14.12.2019, see reg. 1(1)

## PART 7 **S**

Measures for the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*

### Interpretation **S**

**37.** In this Part of this schedule—

“specified plant material” means plants (including tubers), other than true seed, of *Solanacearum tuberosum* L., and plants, other than fruit or seeds, of *Lycopersicon lycopersicum* (L) Karsten ex Farw., and

“*R. solanacearum*” means *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*, the cause of Potato brown rot.

#### Commencement Information

**I85** Sch. 2 para. 37 in force at 14.12.2019, see reg. 1(1)

### Official surveys and testing **S**

**38.—(1)** The Scottish Ministers must ensure that annual systematic official surveys are carried out to identify the presence of *R. solanacearum* on specified plant material originating in Scotland

<sup>F174</sup> ....

[<sup>F175</sup>(1A) Those surveys must be based on a risk assessment to identify other possible sources of contamination threatening the production of susceptible material and include targeted official surveys in production areas, based on the relevant risk assessment, to identify the presence of *R. solanacearum* on—

- (a) relevant material, other than susceptible material,
- (b) surface water which is used for irrigation or spraying of susceptible material, and
- (c) liquid waste discharged from industrial processing or packaging premises handling susceptible material.

(1B) Those surveys must also be based on the biology of *R. solanacearum* and the relevant production systems and must include—

- (a) in the case of susceptible material comprising plants of *Solanum tuberosum* L., visual inspection of the growing crop at appropriate times, or the sampling of both seed and other potatoes in the growing season or in store, which must include official visual inspection by cutting of tubers,
- (b) in the case of seed potatoes and, where appropriate, other potatoes, official testing of samples using the method set out in EPPO PM 7/21,
- (c) in the case of susceptible material comprising plants of *Solanum lycopersicum* L., visual inspection at appropriate times of at least the growing crop of plants intended for replanting for professional use,
- (d) for host plants, other than susceptible material, and for water including liquid waste, official testing.

(1C) The collection of samples for the purposes of sub-paragraph (1B) must be based on sound scientific and statistical principles and the biology of *R. solanacearum* and take into account relevant potato production systems of susceptible material and other host plants of *R. solanacearum*.]

(2) Where the presence of *R. solanacearum* is suspected, the Scottish Ministers must ensure that—

- (a) official testing is carried out to confirm or refute its presence—
  - (i) in the case of specified plant material, using the method set out in [F176EPPO PM 7/21],
  - (ii) in any other case, using any officially approved method,
- (b) pending the confirmation or refutation of its presence, where suspect diagnostic visual symptoms of *R. solanacearum* have been seen and a positive result in a rapid screening test has been obtained or a positive result in the screening tests [F177referred to in EPPO PM 7/21] has been obtained—
  - (i) the movement of all plants and tubers from all crops, lots or consignments from which the samples have been taken, other than those which are under official control, is prohibited, except where it has been established that there is no identifiable risk of *R. solanacearum* spreading,
  - (ii) steps are taken to trace the origin of the suspected occurrence, and
  - (iii) additional appropriate precautionary measures based on the level of estimated risk are taken to prevent any spread of *R. solanacearum*.

(3) A notice under regulation 15 may contain measures for the purposes of sub-paragraph (2) (b)(i) to (iii).

#### Textual Amendments

**F174** Words in sch. 2 para. 38(1) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(a)(i) (with reg. 32)

**F175** Sch. 2 para. 38(1A)-(1C) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(a)(ii) (with reg. 32)

**F176** Words in sch. 2 para. 38(2)(a)(i) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(a)(iii)(aa) (with reg. 32)

**F177** Words in sch. 2 para. 38(2)(b) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(a)(iii)(bb) (with reg. 32)

### Commencement Information

**186** Sch. 2 para. 38 in force at 14.12.2019, see reg. 1(1)

### Measures to be taken following the confirmation of the presence of *R. solanacearum* **S**

**39.**—(1) If the presence of *R. solanacearum* is confirmed following official testing carried out pursuant to paragraph 38(2) of this schedule, the Scottish Ministers must ensure that the actions specified in sub-paragraphs (2) to (4) are taken in accordance with sound scientific principles, the biology of *R. solanacearum* and the relevant production, marketing and processing systems of host plants of *R. solanacearum*.

(2) In the case of specified plant material, the actions are—

- (a) an investigation by a plant health inspector to determine the extent and the primary sources of the contamination [<sup>F178</sup>which includes investigation of the following—
  - (i) potatoes which are growing or have been harvested that are clonally related to any contaminated potatoes,
  - (ii) tomatoes which are growing or have been harvested that are from the same source as any contaminated tomatoes,
  - (iii) potatoes or tomatoes which are growing or have been harvested that are under official control and are suspected to be contaminated with *R. solanacearum*,
  - (iv) potatoes which are growing or have been harvested that are clonally related to any potatoes that have been grown at the contaminated place of production,
  - (v) potatoes or tomatoes which are growing nearby the contaminated place of production, including those sharing production equipment and facilities directly or through a common contractor,
  - (vi) surface water used for irrigation and spraying from any source confirmed or suspected to be contaminated with *R. solanacearum*,
  - (vii) surface water used for irrigation and spraying from a source used in common with the contaminated and possibly contaminated places of production,
  - (viii) places of production which are flooded or have been flooded with contaminated or possibly contaminated surface water,
  - (ix) surface water used for irrigation or spraying of the contaminated place of production or flooded fields at the contaminated place of production,]
- (b) further official testing, including on all clonally related seed potato stocks,
- (c) the designation of the following as contaminated by a plant health inspector—
  - (i) the specified plant material and consignment or lot from which the sample was taken,
  - (ii) any objects which have been in contact with that sample,
  - (iii) any unit or field of protected crop production and any place of production of the specified plant material from which the sample was taken,
- (d) a determination by a plant health inspector of the extent of probable contamination through pre- or post-harvest contact, through production, irrigation or spraying links or through clonal relationship,
- (e) the demarcation of a zone by a plant health inspector on the basis of the designation under head (c), the determination made under head (d) and the possible spread of *R. solanacearum* [<sup>F179</sup>having regard to the relevant factors].

(3) In the case of host plants, other than specified plant material, where the production of specified plant material is identified to be at risk by a plant health inspector, the actions are—

- (a) an investigation by a plant health inspector to determine the extent and the primary sources of the contamination [<sup>F180</sup>which includes an investigation of the things referred to in sub-paragraph (2)(a)(i) to (ix)],
- (b) the designation by a plant health inspector of host plants from which the sample was taken as contaminated,
- (c) a determination of the probable contamination by a plant health inspector,
- (d) the demarcation of a zone by a plant health inspector on the basis of the designation under head (b), the determination made under head (c) and the possible spread of *R. solanacearum* [<sup>F181</sup>having regard to the relevant factors].

(4) In the case of surface water and associated wild solanaceous host plants where production of specified plant material is identified by a plant health inspector to be at risk through irrigation, spraying or flooding of surface water, the actions are—

- (a) an investigation by a plant health inspector to establish the extent of the contamination, which includes an official survey at appropriate times on samples of surface water and, if present, wild solanaceous host plants,
- (b) the designation of surface water from which the sample was taken by a plant health inspector, to the extent appropriate and on the basis of the investigation under head (a),
- (c) a determination by a plant health inspector of the probable contamination on the basis of the designation made under head (b),
- (d) the demarcation of a zone by a plant health inspector on the basis of the designation under head (b), the determination made under head (c) and the possible spread of *R. solanacearum* [<sup>F182</sup>having regard to the relevant factors].

[<sup>F183</sup>(5) The “relevant factors” are—

- (a) for the purposes of sub-paragraphs (2)(e) and (3)(d)—
  - (i) the proximity of other places of production growing susceptible material,
  - (ii) the common production and use of seed potato stocks,
  - (iii) places of production using surface water for irrigation or spraying of susceptible material where there is or has been a risk of surface water run-off from the contaminated place of production,
- (b) for the purposes of sub-paragraph (4)(d)—
  - (i) places of production producing susceptible material adjacent to, or which are at risk from flooding by, contaminated surface water,
  - (ii) any discrete irrigation basin associated with the contaminated surface water,
  - (iii) water bodies connected with the contaminated surface water having regard to the direction and rate of flow of the contaminated surface water and the presence of wild solanaceous host plants.]

#### Textual Amendments

**F178** Words in sch. 2 para. 39(2)(a) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(b)(i)(aa) (with reg. 32)

**F179** Words in sch. 2 para. 39(2)(e) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(b)(i)(bb) (with reg. 32)

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

- F180** Words in sch. 2 para. 39(3)(a) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **27(b)(ii)(aa)** (with reg. 32)
- F181** Words in sch. 2 para. 39(3)(d) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **27(b)(ii)(bb)** (with reg. 32)
- F182** Words in sch. 2 para. 39(4)(d) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **27(b)(iii)** (with reg. 32)
- F183** Sch. 2 para. 39(5) inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **27(b)(iv)** (with reg. 32)

#### Commencement Information

- I87** Sch. 2 para. 39 in force at 14.12.2019, see reg. 1(1)

### Restrictions in relation to specified plant material or objects contaminated or probably contaminated with *R. solanacearum* **S**

**40.**—(1) Where specified plant material is designated by a plant health inspector to be contaminated with *R. solanacearum* in accordance with paragraph 39(2)(c) of this schedule [<sup>F184</sup>the plant health inspector must serve a notice under regulation 15 requiring that]—

- (a) no person may—
  - (i) knowingly plant that material, or
  - (ii) knowingly cause or permit that plant material to be planted, and
- (b) the material must be subjected to [<sup>F185</sup>an officially approved disposal method that ensures that there is no identifiable risk of *R. solanacearum* rot spreading].

(2) Where specified plant material is determined by a plant health inspector to be probably contaminated in accordance with paragraph 39(2)(d) of this schedule, a plant health inspector must serve a notice under regulation 15 requiring that—

- (a) no person may—
  - (i) knowingly plant that material, or
  - (ii) knowingly cause or permit that material to be planted, and
- (b) the material must be used or disposed of [<sup>F186</sup>by an officially approved disposal method that ensures that there is no identifiable risk of *R. solanacearum* rot spreading].

(3) A notice under regulation 15 must require that any machinery, vehicle, vessel, store, or any part of such machinery, vehicle, vessel or store and any other object, including packaging material designated by any plant health inspector to be contaminated in accordance with paragraph 39(2)(c) of this schedule, or probably contaminated in accordance with paragraph 39(2)(d) or (3)(c) of this schedule, must either be—

- (a) disposed of by destruction, or
- (b) cleansed and, where appropriate, disinfected, such that there is no identifiable risk of *R. solanacearum* surviving or spreading.

(4) Anything cleansed and, where appropriate, disinfected in accordance with sub-paragraph (3) (b) is no longer to be treated as contaminated for the purposes of [<sup>F187</sup>this Part].

#### Textual Amendments

- F184** Words in sch. 2 para. 40(1) inserted (27.6.2020) by The Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/176), regs. 1(1), **21(4)**

**F185** Words in sch. 2 para. 40(1)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **27(c)(i)** (with reg. 32)

**F186** Words in sch. 2 para. 40(2)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **27(c)(ii)** (with reg. 32)

**F187** Words in sch. 2 para. 40(4) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **27(c)(iii)** (with reg. 32)

#### Commencement Information

**I88** Sch. 2 para. 40 in force at 14.12.2019, see reg. 1(1)

### Contaminated place of production – notice (general) **S**

**41.** In relation to a place of production which has been designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule and which is in a zone which has been demarcated by a plant health inspector in accordance with paragraph 39(2)(e), (3)(d) or (4)(d) of this schedule, the plant health inspector must serve a notice under regulation 15 which complies with the applicable requirements of paragraphs 42 to 46 of this schedule.

#### Commencement Information

**I89** Sch. 2 para. 41 in force at 14.12.2019, see reg. 1(1)

### Contaminated place of production – notice in relation to any field also designated as contaminated **S**

**42.** Subject to paragraph 45(1) of this schedule, where a place of production is designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule, the notice referred to in paragraph 41 of this schedule must require that, with regard to any field at that place, which has also been so designated, the measures referred to in paragraph 43(1) or (2) of this schedule apply.

#### Commencement Information

**I90** Sch. 2 para. 42 in force at 14.12.2019, see reg. 1(1)

### Measures in relation to contaminated place of production **S**

**43.—(1)** The measures referred to in paragraph 42 of this schedule are—

- (a) from the date of the receipt of the notice and for at least four growing years from the start of the next growing year—
  - (i) such measures as may be required to eliminate volunteer potato or tomato plants as well as other host plants of *R. solanacearum* including solanaceous weeds as appropriate, and
  - (ii) that the following must not be planted—
    - (aa) potato tubers, plants and true seeds,
    - (bb) tomato plants and seeds,
    - (cc) taking account of the biology of *R. solanacearum*, other host plants and plants of species of *Brassica* for which there is a risk of *R. solanacearum* surviving, or

- (dd) crops for which there is a risk of *R. solanacearum* spreading,
- (b) in the first potato or tomato cropping season following the period referred to in head (a), that basic seed potatoes or pre-basic seed potatoes may be planted, for ware production only, provided that the field or unit of production has been found to be free, during official inspections, from volunteer potato and tomato plants and other host plants including solanaceous weeds for at least the two consecutive growing years prior to planting, and that harvested tubers or tomato plants are subjected to official testing using the method set out in [F188EPPO PM 7/21], and
- (c) in the potato or tomato cropping season which follows that referred to in head (b), that there must be an appropriate rotation cycle which must be at least two years where basic seed potatoes or pre-basic seed potatoes are planted.
- (2) The measures referred to in paragraph 42 of this schedule are—
- (a) from the date of receipt of the notice and for five growing years from the start of the next growing year—
- (i) such measures as may be required to eliminate volunteer potato and tomato plants as well as other naturally found host plants of *R. solanacearum* including solanaceous weeds as appropriate, and
- (ii) that the field or unit of production must be maintained during the first three growing years—
- (aa) in bare fallow,
- (bb) in cereals if the plant health inspector is satisfied that there is no identifiable risk of *R. solanacearum* spreading,
- (cc) in permanent pasture with frequent close cutting or intensive grazing, or
- (dd) as grass for seed production,
- followed by planting in the succeeding two growing years with non-host plants of *R. solanacearum* for which there is no identified risk of that organism surviving or spreading, and
- (b) in the first potato or tomato cropping season which follows the period referred to in head (a), if potatoes are to be planted, that only basic seed potatoes and pre-basic seed potatoes may be planted, and only for seed or ware production in circumstances where—
- (i) the field or the unit has been found free from volunteer potato and tomato plants and other host plants, including solanaceous weeds, during official inspections of *R. solanacearum*, for at least the two consecutive growing years prior to planting, and
- (ii) that harvested tubers or tomato plants have been subjected to official testing using the method set out in [F189EPPO PM 7/21].

**Textual Amendments**

**F188** Words in sch. 2 para. 43(1)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **27(d)(i)** (with reg. 32)

**F189** Words in sch. 2 para. 43(2)(b)(ii) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **27(d)(ii)** (with reg. 32)

**Commencement Information**

**I91** Sch. 2 para. 43 in force at 14.12.2019, see reg. 1(1)



## Contaminated place of production – notice in relation to fields other than those referred to in paragraph 42 **S**

44. Where a place of production is designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule and with regard to any fields at that place other than those referred to in paragraph 42 of this schedule the plant health inspector is satisfied that the risk of volunteer potato and tomato plants and other naturally found host plants of *R. solanacearum* has been eliminated, the notice referred to in paragraph 41 of this schedule must require that with regard to such fields—

- (a) from the date of receipt of the notice and for one growing year following the start of the next growing year—
  - (i) potato tubers, potato plants and true seeds and other host plants of *R. solanacearum* must not be planted save that potato tubers, basic seed potatoes or pre-basic seed potatoes may be planted for ware production only,
  - (ii) tomato plants grown from seed which meets the requirements of the <sup>F190</sup> ... Plant Health Regulation may be planted, for fruit production only,
- (b) in the first growing year following that specified in sub-paragraph (a)—
  - (i) if potatoes are to be planted, only basic seed potatoes or pre-basic seed potatoes officially tested for the absence of *R. solanacearum* and grown under official control at a place of production which is not designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule may be planted, for seed or ware production,
  - (ii) in the case of tomatoes, only tomato plants grown from seed which meets the requirements of the EU Plant Health Regulation or, if vegetatively propagated, from tomato plants produced from such seed and grown under official control at a place of production which is not designated by a plant health inspector as contaminated in accordance with paragraph 39(2)(c) of this schedule may be planted, for plant or fruit production,
- (c) in the second growing year following that specified in sub-paragraph (a) and, where appropriate, in any subsequent growing year which may be specified in the notice—
  - (i) if potatoes are to be planted, only basic seed potatoes or pre-basic seed potatoes grown under official control from certified seed potatoes may be planted, for seed or ware production,
  - (ii) if tomatoes are to be planted, only tomato plants grown from seed which meets the requirements of the <sup>F191</sup> ... Plant Health Regulation or tomato plants grown from such plants under official control may be planted, for plant or fruit production,
- (d) from the date of the receipt of the notice and in each of the growing years referred to in this paragraph, measures must be taken to eliminate volunteer potato plants and other naturally found host plants of *R. solanacearum* as appropriate, and
- (e) official inspections of growing crops at appropriate times and official testing of harvested potatoes are carried out in accordance with the method set out in [<sup>F192</sup>EPPO PM 7/21].

### Textual Amendments

**F190** Word in sch. 2 para. 44(a)(ii) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(e)(i) (with reg. 32)

**F191** Word in sch. 2 para. 44(c)(ii) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(e)(ii) (with reg. 32)

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

**F192** Words in sch. 2 para. 44(e) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(e)(iii) (with reg. 32)

#### Commencement Information

**I92** Sch. 2 para. 44 in force at 14.12.2019, see reg. 1(1)

### Contaminated place of production – notice and authorisation where unit of protected crop production also designated as contaminated **S**

**45.**—(1) Where a place of production is designated by a plant health inspector to be contaminated in accordance with paragraph 39(2)(c) of this schedule and a unit of protected crop production at that place has also been so designated and complete replacement of the growing medium is possible in that unit, the notice referred to in paragraph 41 of this schedule must require that no person may plant in the unit any potato tubers, potato plants or true seeds or other host plants of *R. solanacearum* including tomato plants and seeds without the written authorisation of a plant health inspector.

- (2) A plant health inspector may not grant an authorisation under sub-paragraph (1) unless—
- (a) all of the measures to eliminate *R. solanacearum* and to remove all host plants which are specified in a notice in relation to the place of production in which the unit is situated have been complied with,
  - (b) the growing medium in the unit has been completely changed, and
  - (c) the unit and all equipment used on the unit has been cleansed and disinfected to eliminate *R. solanacearum* and to remove all host plant material.
- (3) The authorisation referred to in sub-paragraph (1) may require that—
- (a) where the authorisation is granted for potato production, production must be from basic seed potatoes and pre-basic seed potatoes or from mini-tubers or micro-plants derived from officially tested sources,
  - (b) where the authorisation is granted for tomato production, production must be from seed which meets the requirements of the <sup>F193</sup>... Plant Health Regulation or, if vegetatively propagated, from tomato plants produced from such seed and grown under official control, and
  - (c) controls on irrigation and spraying programmes, which may include a prohibition on such programmes, must be introduced as appropriate to prevent the spread of *R. solanacearum*.

#### Textual Amendments

**F193** Word in sch. 2 para. 45(3)(b) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 27(f) (with reg. 32)

#### Commencement Information

**I93** Sch. 2 para. 45 in force at 14.12.2019, see reg. 1(1)

### Contaminated place of production – notice under paragraph 41 **S**

**46.** Except where the Scottish Ministers have published a notice under paragraph 47(1) of this schedule, where a place of production is designated by a plant health inspector to be contaminated in accordance with paragraph 39(2)(c) of this schedule, the notice referred to in paragraph 41 of this schedule must require that upon receipt of the notice and after the first subsequent growing year—

- (a) all machinery and storage facilities at the place of production which are used for potato or tomato production must be cleansed and, where appropriate, disinfected in accordance with paragraph 40(3)(b) of this schedule, and
- (b) such controls on irrigation and spraying programmes, which may include a prohibition on such programmes, must be introduced as the plant health inspector considers appropriate for the prevention of the spread of *R. solanacearum*.

**Commencement Information**

**194** Sch. 2 para. 46 in force at 14.12.2019, see reg. 1(1)

**Demarcated zones** **S**

**47.**—(1) The Scottish Ministers must, where it is considered necessary to ensure that any provision of sub-paragraph (5) is complied with, make notice available to the public, by such measures as they consider appropriate, of the demarcation under paragraphs 39(2)(e), (3)(d) or (4) (d) of this schedule of any zone and such notice must—

- (a) subject to head (b), include a declaration that the provisions of sub-paragraph (5) apply in the demarcated zone with effect from the date which is specified in the notice, and
- (b) where appropriate, specify those areas of surface water within the zone to which the prohibition on irrigation and spraying in sub-paragraph (5) is to apply.

(2) The zone remains demarcated for the purposes of this Part of this schedule until such date as may be specified in the notice referred to in sub-paragraph (1) or in any further notice relating to the demarcated zone which a plant health inspector may issue varying the controls in the demarcated zone or its extent or ending it.

(3) For the purposes of this Part of this schedule, a notice made available to the public in accordance with sub-paragraph (1) is deemed to have been served on—

- (a) any occupier or other person in charge of any premises within the demarcated zone,
- (b) any person—
  - (i) with a right to use any surface water, or
  - (ii) who has on premises in their occupation or of which they have charge any surface water, designated as contaminated pursuant to sub-paragraph (5)(b), and
- (c) any person who operates machinery or carries out any other activity in relation to the production of potatoes or tomatoes within the demarcated zone.

(4) Any premises which are partly inside and partly outside a demarcated zone are deemed to be wholly inside that zone for the purposes of this Part of this schedule, except where the part which is outside the demarcated zone is not in Scotland.

(5) When a declaration has been made pursuant to sub-paragraph (1) that the provisions of this paragraph apply—

- (a) where the zone has been demarcated in accordance with paragraph 39(2)(e) or 39(3)(d) of this schedule—
  - (i) machinery and storage facilities at premises within the zone which are used for growing, storing or handling potato tubers or tomatoes within the zone and premises within the zone from which machinery for potato and tomato production is operated under contract, must be cleansed and, where appropriate, disinfected in accordance with paragraph 40(3)(b) of this schedule,

**Changes to legislation:** There are currently no known outstanding effects for the *The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019*. (See end of Document for details)

- (ii) with regard to potato crops in the zone, only basic seed potatoes and pre-basic seed potatoes grown under official control may be planted,
  - (iii) during the specified period seed potatoes must be handled separately from all other potatoes at all premises within the zone, or a system of cleansing and, where appropriate, disinfection must be carried out between the handling of seed and ware potatoes, and
  - (iv) with regard to tomato crops in the zone, during the specified period only tomato plants grown from seed which meets the requirements of the <sup>F194</sup>... Plant Health Regulation or, if vegetatively propagated, tomato plants produced from such seed and grown under official control may be planted,
- (b) where surface water has been designated by a plant health inspector as contaminated in accordance with paragraph 39(4)(b) of this schedule—
- (i) the use of water designated as contaminated for the irrigation and spraying of specified plant material and where appropriate, other host plants, is prohibited without the written authorisation of a plant health inspector, and
  - (ii) if liquid waste discharges have been contaminated, the disposal of waste from industrial processing or packaging premises which handle specified plant material must be carried out under the supervision of a plant health inspector.
- (6) The Scottish Ministers must ensure that during the specified period—
- (a) premises growing, storing or handling potato tubers and premises which operate potato machinery under contract are supervised by plant health inspectors,
  - (b) an official survey is carried out in accordance with [<sup>F195</sup>EPPO PM 7/21],
  - (c) a programme is established, where appropriate, for the replacement of all seed potato stocks over an appropriate period of time.
- (7) For the purposes of sub-paragraphs (5) and (6), “the specified period” means the period specified in the notice referred to in sub-paragraph (1), which must be at least three growing seasons following the year in which the relevant zone was demarcated.

#### Textual Amendments

**F194** Word in sch. 2 para. 47(5)(a)(iv) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **27(g)(i)** (with reg. 32)

**F195** Words in sch. 2 para. 47(6)(b) substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **27(g)(ii)** (with reg. 32)

#### Commencement Information

**I95** Sch. 2 para. 47 in force at 14.12.2019, see reg. 1(1)

## [<sup>F196</sup>PART 8 S

### Measures relating to potatoes originating in Egypt

#### Textual Amendments

**F196** Sch. 2 Pt. 8 inserted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), **21(5)**

**48.—**(1) In this paragraph, “potatoes originating in Egypt” means any tubers of *Solanum tuberosum* L., grown in Egypt, which are introduced into [<sup>F197</sup>Great Britain] under [<sup>F198</sup>Article 41(1) of the Plant Health Regulation].

(2) Subject to sub-paragraph (3), no professional operator may—

- (a) move any [<sup>F199</sup>potatoes originating in Egypt] within Scotland unless they are labelled to indicate that they originate in Egypt,
- (b) carry out in the course of business any treatment, including washing, of potatoes originating in Egypt other than in premises that the Scottish Ministers have approved in writing for that purpose.

(3) Sub-paragraph (2) does not apply to the packing or preparation of potatoes in a shop, restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) for delivery to the final consumer.

(4) On having reasonable grounds for suspecting a contravention or likely contravention of sub-paragraph (2), a plant health inspector may exercise the powers conferred by regulation 15 as if a potato originating in Egypt was, within the meaning of regulation 14, prohibited material which the inspector suspects to be present or likely to be present, or which the inspector has become aware is present, on any premises for the purposes of that regulation.]

#### Textual Amendments

- F197** Words in *sch. 2 para. 48(1)* substituted (31.12.2020) by *The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466)*, regs. 1(1)(c), **28(a)** (with reg. 32)
- F198** Words in *sch. 2 para. 48(1)* substituted (31.12.2020) by *The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466)*, regs. 1(1)(c), **28(b)** (with reg. 32)
- F199** Words in *sch. 2 para. 48(2)(a)* substituted (31.12.2020) by *The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466)*, regs. 1(1)(a), **5(6)(c)** (with reg. 32)

## SCHEDULE 3 **S**

Regulation 37(1)(e) to (g)

Offences: relevant provisions in the [<sup>F200</sup>Plant Health Regulation, Official Controls Regulation and other [<sup>F201</sup>assimilated] legislation]

#### Textual Amendments

- F200** Words in *sch. 3 heading* substituted (31.12.2020) by *The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466)*, regs. 1(1)(c), **29(1)** (with reg. 32)
- F201** Word in *sch. 3 heading* substituted (1.1.2024) by *The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374)*, reg. 1(1), **sch. 2 para. 35(5)**

## PART 1 **S**

### The <sup>F202</sup> ... Plant Health Regulation

#### Textual Amendments

**F202** Word in sch. 3 Pt. 1 heading omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(a)** (with reg. 32)

#### Commencement Information

**I96** Sch. 3 Pt. 1 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### *Provision of the*

*F203*

#### *... Plant Health Regulation*

Article 5(1) (as read with Article 8(1))

Article 9(3) (as read with Article 33(1))

Article 14(1) (as read with Articles 16 and 33(1))

Article 14(3) (as read with Article 33(1))

#### *Subject matter*

Prohibits the introduction of a [<sup>F204</sup>GB quarantine] pest into [<sup>F205</sup>Great Britain], the movement of a [<sup>F204</sup>GB quarantine] pest within [<sup>F205</sup>Great Britain] or the holding, multiplication or the release of [<sup>F204</sup>GB quarantine] pest in [<sup>F205</sup>Great Britain]

<sup>M18</sup>

.

Requires professional operators immediately to notify competent authorities of any evidence they may have concerning an imminent danger of the entry of:

–a [<sup>F206</sup>GB] quarantine pest or a [<sup>F207</sup>provisional GB quarantine pest] into [<sup>F208</sup>Great Britain] or into a part of [<sup>F208</sup>Great Britain] where it is not yet present, or

–a [<sup>F209</sup>PFA] quarantine pest into the [<sup>F210</sup>GB pest-free area established in respect of that pest]<sup>M19</sup>.

Requires a professional operator who suspects or becomes aware that:

–a [<sup>F211</sup>GB quarantine pest or provisional GB quarantine pest] is present in plants, plant products or other objects which are under the operator's control,

–a [<sup>F212</sup>PFA] quarantine pest is present in plants, plant products or other objects which are under the operator's control in the [<sup>F213</sup>GB pest-free area established in respect of that pest], immediately to notify the competent authority and take precautionary measures to prevent the establishment and spread of the pest.

Requires a professional operator:

	<ul style="list-style-type: none"><li>–to consult the competent authority where the professional operator has received an official confirmation concerning the presence of a [F214GB] quarantine pest in plants, plant products or other objects which are under the operator's control, and</li><li>–where applicable, proceed with the actions required under Article 14(4) to (7).</li></ul>
Article 15(1) (as read with Articles 15(2), 16 and 33(1))	Requires a person who is not a professional operator immediately to notify the competent authority where the person becomes aware of, or has reason to suspect: <ul style="list-style-type: none"><li>–the presence of a [F215GB] quarantine pest,</li><li>–the presence of a [F216PFA] quarantine pest in the [F217GB] pest-free area established in respect of that pest].</li></ul>
Article 32(2)	Prohibits the introduction of a [F218PFA quarantine] pest into the [F219GB] pest-free area established in respect of that pest], the movement of a [F218PFA quarantine] pest within the [F219GB] pest-free area established in respect of that pest] or the holding, multiplication or the release of a [F218PFA quarantine] pest in the [F219GB] pest-free area established in respect of that pest].
Article 37(1) (as read with Article 39 and Article 17 of [F220the Phytosanitary Conditions Regulation])	Prohibits the introduction into [F221Great Britain] by a professional operator of a [F222GB] regulated non-quarantine pest on plants for planting through which it is transmitted, or the movement of a [F222GB] regulated non-quarantine pest within [F221Great Britain] by a professional operator on plants for planting through which it is transmitted
[F223Article 41(1) (as read with Articles 47 and 48(1))	Prohibits the introduction into Great Britain of certain plants, plant products or other objects from third countries unless the special requirements in respect of those plants, plant products or other objects are fulfilled.
Article 41(1A) (as read with Article 48(1))	Prohibits the introduction into Great Britain of certain plants, plant products or other objects from CD territories unless the special requirements in respect of those plants, plant products or other objects are fulfilled.
Article 41(1B) (as read with Article 48(1))	Prohibits the movement within Great Britain of certain plants, plant products or other objects unless the special requirements in respect of

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

- those plants, plant products or other objects are fulfilled.]
- Article 41(1) (as read with Articles 47 and 48(1) Prohibits:  
 [F224and paragraphs 2B(3), and 4 (read with entry  
 2 in Table 1) of schedule 1]) –the introduction into the Union territory of certain plants, plant products or other objects from third countries unless the special requirements in respect of those plants, plant products or other objects are fulfilled M21,  
 –the movement within the Union territory of certain plants, plant products or other objects from third countries or within the Union territory unless the special requirements in respect of those plants, plant products or other objects are fulfilled.
- Article 42(2) (as read with Articles 47 and 48(1)) Prohibits the introduction into [F225Great Britain] of high-risk plants, plant products or other objects from third countries  
 M22  
 .
- Article 43(1) Prohibits the introduction into [F226Great Britain] of wood packaging material, whether or not actually in use in the transport of objects of all kinds, unless it fulfils the specified requirements or is subject to the exemptions provided for in ISPM 15.
- Article [F22745(3)] (as read with Article 55) Requires postal services and professional operators involved in sales through distance contracts to make specified information available to their clients through the internet.
- Article 53(1) (as read with Articles 57 and 58) Prohibits:  
 –the introduction of certain plants, plant products or other objects originating from third countries into [F228GB pest-free areas],  
 –the introduction of certain plants, plant products or other objects originating [F229in Great Britain or a CD territory into GB pest-free areas]M23.
- Article 54(1) (as read with Articles 57 and 58) Prohibits:  
 –the introduction of certain plants, plant products or other objects into [F230GB pest-free areas] unless the special requirements in respect of [F231GB pest-free areas] are fulfilled,  
 –the movement of certain plants, plant products or other objects within [F230GB pest-free areas] unless the special requirements in respect of [F231GB pest-free areas] are fulfilled M24.
- Article 59 Requires vehicles, machinery or packaging material used for:



	<p>–specified plants, plant products or other objects moving into or within [<sup>F232</sup>Great Britain], or through [<sup>F232</sup>Great Britain], to be free from [<sup>F233</sup>GB quarantine pests or provisional GB quarantine pests],</p> <p>–specified plants, plant products or other objects moving into or within [<sup>F234</sup>GB pest-free areas], or [<sup>F235</sup>through GB pest-free areas], to be free from the [<sup>F236</sup>PFA] quarantine pests [<sup>F237</sup>relating to those areas].</p>
Article 62(1)	Requires a person responsible for a quarantine station or confinement facility to monitor the station or facility and its immediate vicinity for the unintended presence of [ <sup>F238</sup> GB quarantine pests or provisional GB quarantine pests].
Article 62(2)	Requires a person responsible for a quarantine station or confinement facility to, when an unintended presence of a pest referred to in Article 62(1) is found or suspected, take appropriate action based on the contingency plan referred to in point (e) of Article 61(1) and to comply with the obligations of professional operators in Article 14.
Article 64(1) (as read with Article 64(2))	Prohibits the release of plants, plant products and other objects from quarantine stations or confinement facilities unless authorised by the competent authorities.
Article 66(1) [ <sup>F224</sup> (as read with Article 65(3))]	Requires certain professional operators to submit an application for registration to the competent authorities.
Article 66(5) [ <sup>F224</sup> (as read with Article 65(3))]	Requires registered operators, where relevant: –to submit an annual update concerning any changes in the data referred to in points (d) and (e) of Article 66(2) or in the statements referred to in points (b) and (c) of Article 66(2), –to submit an application to update the data referred to in point (a) of Article 66(2) no later than 30 days after the change in that data.
Article 69(1) [ <sup>F224</sup> (as read with Articles 65(3) and 69(3))]	Requires a professional operator to whom plants, plant products or other objects are supplied that are subject to the specified requirements or conditions to keep a record allowing the operator to identify the professional operator who supplied each trade unit.
Article 69(2) [ <sup>F224</sup> (as read with Article 69(3))]	Requires a professional operator who is supplying plants, plant products or other objects that are subject to the specified requirements or conditions to keep a record allowing the operator

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

	to identify the professional operator to whom each trade unit was supplied.
Article 69(4)	Requires professional operators to keep the records required pursuant to Article 69(1) to (3) for at least three years.
Article 70(1)	Requires professional operators who are supplied with, or supply, the plants, plant products or other objects referred to in Article 69(1) and (2) to have in place traceability systems or procedures to allow identification of the movements of those plants, plant products and other objects within and between their own premises.
Articles 72(1) and 73 F239 ...	Prohibits the introduction into [F240Great Britain] of certain plants, plant products and other objects from third countries unless they are accompanied by a phytosanitary certificate M25
Article 74(1)	. Prohibits the introduction of certain plants, plant products and other objects from certain third countries into certain [F241GB pest-free areas] unless accompanied by a phytosanitary certificate M26
Article 79(1) (as read with Articles 81, 82 [F242, 83 [F243, 92a and 95a(2)]])	. Prohibits the movement of certain plants, plant products and other objects within [F244Great Britain or the introduction of certain plants, plant products and other objects into Great Britain from a CD territory without a UK plant passport] M27
Article 80(1) (as read with Articles 81, 82 [F245, 83 [F246, 92a and 95a(2)]])	. Prohibits the introduction of certain plants, plant products and other objects into [F247GB pest-free areas], or the movement of certain plants, plant products and other objects within [F247GB pest-free areas], without a [F248UK] plant passport M28
Article 84(1)	. Prohibits professional operators from issuing [F249UK] plant passports unless they are authorised and from issuing [F249UK] plant passports for plants, plant products or other objects for which they are not responsible.
Article 84(3)	Prohibits authorised professional operators from issuing plant passports except at specified

	premises, collective warehouses or dispatching centres, unless Article 94(1) applies.
Article 85 (as read with Article 87 [ <sup>F224</sup> and paragraph 4 (read with entry 2 in Table 1) of schedule 1])	Prohibits authorised professional operators from issuing [ <sup>F250</sup> UK] plant passports for the movement within the Union of plants, plant products or other objects unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.
Article 86(1) (as read with Articles 86(2) and 87)	Prohibits authorised professional operators from issuing [ <sup>F251</sup> UK] plant passports for plants, plant products or other objects to be introduced into, or moved within, a [ <sup>F252</sup> GB pest-free area] unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.
[ <sup>F253</sup> Article 86a	Prohibits authorised professional operators from issuing UK plant passports for plants, plant products or other objects to be introduced into a CD territory unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.]
Article 88	Requires professional operators to attach [ <sup>F254</sup> UK] plant passports to the trade unit of the plants, plant products or other objects concerned, or where the plants, plant products or other objects are moved in a package, bundle or container, to that package, bundle or container.
Article 90(1)	Requires an authorised operator to: –identify and monitor the points in its production process and certain other points concerning the movement of plants, plant products and other objects where the authorised operator intends to issue a [ <sup>F255</sup> UK] plant passport in respect of those plants, plant products and other objects, and –keep records concerning the identification and monitoring of those points for at least three years.
Article 90(2)	Requires authorised operators to ensure that appropriate training is given to its personnel involved in the examinations referred to in Article 87.
Article 93(1)	Prohibits authorised operators from issuing replacement [ <sup>F256</sup> UK] plant passports unless certain conditions are fulfilled.
Article 93(5)	Requires professional operators to retain [ <sup>F257</sup> certain] plant passports or their contents for at least three years.

[ <sup>F258</sup> Article 95a(1)	Prohibits the introduction of a relevant NI trade unit into Great Britain from Northern Ireland unless it is accompanied by the plant passport which was required for its movement within Northern Ireland.]
Article 96(1)	Prohibits the marking of wood packaging material, wood or other objects in [ <sup>F259</sup> Great Britain] by any person who is not authorised in accordance with Article 98 or in any manner other than the manner required.
Article 97(1)	Prohibits the repairing of wood packaging material by any person who is not authorised in accordance with Article 98 or in any manner other than the manner required.

### Textual Amendments

- F203** Word in sch. 3 Pt. 1 Table omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(i)** (with reg. 32)
- F204** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(ii)(aa)** (with reg. 32)
- F205** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(ii)(bb)** (with reg. 32)
- F206** Word in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(iii)(aa)** (with reg. 32)
- F207** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(iii)(bb)** (with reg. 32)
- F208** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(iii)(cc)** (with reg. 32)
- F209** Word in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(iii)(dd)** (with reg. 32)
- F210** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(iii)(ee)** (with reg. 32)
- F211** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(iv)(aa)** (with reg. 32)
- F212** Word in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(iv)(bb)** (with reg. 32)
- F213** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(iv)(cc)** (with reg. 32)
- F214** Word in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(v)** (with reg. 32)
- F215** Word in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(vi)(aa)** (with reg. 32)
- F216** Word in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(vi)(bb)** (with reg. 32)
- F217** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(vi)(cc)** (with reg. 32)
- F218** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(vii)(aa)** (with reg. 32)
- F219** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(2)(b)(vii)(bb)** (with reg. 32)

- F220** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(viii)(aa)** (with reg. 32)
- F221** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(viii)(bb)** (with reg. 32)
- F222** Word in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(viii)(cc)** (with reg. 32)
- F223** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(x)** (with reg. 32)
- F224** Words in sch. 3 Pt. 1 inserted (27.6.2020) by The Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (S.S.I. 2020/176), regs. 1(1), **22(2)**
- F225** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xi)** (with reg. 32)
- F226** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xii)** (with reg. 32)
- F227** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xiii)** (with reg. 32)
- F228** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xiv)(aa)** (with reg. 32)
- F229** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xiv)(bb)** (with reg. 32)
- F230** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xv)(aa)** (with reg. 32)
- F231** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xv)(bb)** (with reg. 32)
- F232** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xvi)(aa)** (with reg. 32)
- F233** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xvi)(bb)** (with reg. 32)
- F234** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xvi)(cc)** (with reg. 32)
- F235** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xvi)(dd)** (with reg. 32)
- F236** Word in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xvi)(ee)** (with reg. 32)
- F237** Words in sch. 3 Pt. 1 Table inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xvi)(ff)** (with reg. 32)
- F238** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xvii)(aa)** (with reg. 32)
- F239** Words in sch. 3 Pt. 1 Table omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xviii)(aa)** (with reg. 32)
- F240** Words in sch. 3 Pt. 1 Table replaced (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xviii)(bb)** (with reg. 32)
- F241** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xix)** (with reg. 32)
- F242** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xx)(aa)** (with reg. 32)
- F243** Words in sch. 3 Pt. 1 Table substituted (1.4.2021) by The Plant Health (EU Exit) (Scotland) (Amendment) Regulations 2021 (S.S.I. 2021/159), regs. 1(1)(b), **4(4)(a)**
- F244** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xx)(bb)** (with reg. 32)
- F245** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxi)(aa)** (with reg. 32)

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

- F246** Words in sch. 3 Pt. 1 Table substituted (1.4.2021) by The Plant Health (EU Exit) (Scotland) (Amendment) Regulations 2021 (S.S.I. 2021/159), regs. 1(1)(b), **4(4)(b)**
- F247** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxi)(bb)** (with reg. 32)
- F248** Word in sch. 3 Pt. 1 Table inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxi)(bb)** (with reg. 32)
- F249** Word in sch. 3 Pt. 1 Table inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxii)** (with reg. 32)
- F250** Word in sch. 3 Pt. 1 Table inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxiii)** (with reg. 32)
- F251** Word in sch. 3 Pt. 1 Table inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxiv)(aa)** (with reg. 32)
- F252** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxiv)(bb)** (with reg. 32)
- F253** Words in sch. 3 Pt. 1 Table inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxv)** (with reg. 32)
- F254** Word in sch. 3 Pt. 1 Table inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxvi)** (with reg. 32)
- F255** Word in sch. 3 Pt. 1 Table inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxvii)** (with reg. 32)
- F256** Word in sch. 3 Pt. 1 Table inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxviii)** (with reg. 32)
- F257** Words in sch. 3 Pt. 1 Table substituted (1.4.2021) by The Plant Health (EU Exit) (Scotland) (Amendment) Regulations 2021 (S.S.I. 2021/159), regs. 1(1)(b), **4(4)(c)**
- F258** Words in sch. 3 Pt. 1 Table inserted (1.4.2021) by The Plant Health (EU Exit) (Scotland) (Amendment) Regulations 2021 (S.S.I. 2021/159), regs. 1(1)(b), **4(4)(d)**
- F259** Words in sch. 3 Pt. 1 Table substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **29(2)(b)(xxx)** (with reg. 32)

### Marginal Citations

- M18** Article 5(2), first subparagraph, of 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, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (“the EU Plant Health Regulation”) provides that the Commission shall, by means of an implementing act, establish a list of pests which fulfil the conditions listed in Article 3 of the EU Plant Health Regulation in respect of the Union territory (‘list of Union quarantine pests’). The relevant implementing act is Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and 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 (“Commission Implementing Regulation (EU) 2019/2072”).
- M19** Article 32(3) of the EU Plant Health Regulation provides that the Commission shall, by means of an implementing act, establish a list of protected zones and the respective protected zone quarantine pests. The relevant implementing act is Commission Implementing Regulation (EU) 2019/2072.
- M20** Article 37(2) of the EU Plant Health Regulation provides that the Commission shall, by means of an implementing act, establish a list setting out the Union regulated non-quarantine pests and the specific plants for planting, as referred to in point (d) of Article 36 of the EU Plant Health Regulation. The relevant implementing act is Commission Implementing Regulation (EU) 2019/2072.
- M21** Article 41(2), first subparagraph, of the EU Plant Health Regulation provides that the Commission shall, by means of implementing acts, adopt a list containing the plants, plant products and other objects and the corresponding special requirements as referred to in Article 41(1) of the EU Plant Health Regulation. That list shall, where applicable, include the third countries, groups of third countries or specific areas within

third countries concerned. The relevant implementing act is Commission Implementing Regulation (EU) 2019/2072.

- M22** The list of high risk plants, plant products and other objects to which the prohibition applies is set out in Annex 1 to Commission Implementing Regulation (EU) 2018/2019 of 18 December 2018 establishing a provisional list of high risk plants, plant products or other objects, within the meaning of Article 42 of Regulation (EU) 2016/2031 and a list of plants for which phytosanitary certificates are not required for introduction into the Union, within the meaning of Article 73 of that Regulation.
- M23** Article 53(2), first subparagraph, of the EU Plant Health Regulation provides that the Commission shall, by means of implementing acts, adopt a list containing the plants, plant products and other objects as referred to in Article 53(1) of the EU Plant Health Regulation which are prohibited from being introduced into certain protected zones. The relevant implementing act is Commission Implementing Regulation (EU) 2019/2072.
- M24** Article 54(2), first subparagraph, of the EU Plant Health Regulation provides that the Commission shall, by means of implementing acts, adopt a list containing the plants, plant products and other objects, their respective protected zones and the corresponding special requirements for protected zones. The relevant implementing act is Commission Implementing Regulation (EU) 2019/2072.
- M25** Article 72(1), first subparagraph, of the EU Plant Health Regulation provides that the Commission shall, by means of an implementing act, establish a list of the plants, plant products and other objects, and their respective third countries of origin or dispatch, for which a phytosanitary certificate is required for introduction into the Union territory. Article 73 of the EU Plant Health Regulation provides that the Commission shall, by means of an implementing act, provide that for plants, other than plants included in the list referred to in Article 72(1) of the EU Plant Health Regulation, a phytosanitary certificate is required for introduction into the Union territory, and that a phytosanitary certificate is not required for those plants where an assessment, based on evidence about pest risks and experience with trade, demonstrates that such a certificate is not necessary. The relevant implementing act is Commission Implementing Regulation (EU) 2019/2072.
- M26** Article 74(1), second subparagraph, of the EU Plant Health Regulation provides that the Commission shall, by means of implementing acts, establish a list of those plants, plant products and other objects, and the respective third countries of origin or dispatch, referred to in the first subparagraph of Article 74(1) of the EU Plant Health Regulation. The relevant implementing act is Commission Implementing Regulation (EU) 2019/2072.
- M27** Article 79(1), first subparagraph, of the EU Plant Health Regulation provides that the Commission shall, by means of implementing acts, establish a list of those plants, plant products and other objects, for which a plant passport is required for their movement within the Union territory. The relevant implementing act is Commission Implementing Regulation (EU) 2019/2072.
- M28** Article 80(1), second subparagraph, of the EU Plant Health Regulation provides that the Commission shall, by means of implementing acts establish a list of those plants, plant products and other objects for which a plant passport is required for their introduction into, and movement within, certain protected zones. The relevant implementing act is Commission Implementing Regulation (EU) 2019/2072.

## PART 2 **S**

### The Official Controls Regulation

#### Modifications etc. (not altering text)

- C2** Sch. 3 Pt. 2 modified (1.4.2021) by [The Plant Health and Plant Propagating Material \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/87\)](#), regs. 1(1), **4(3)**

**Commencement Information**

**I97** Sch. 3 Pt. 2 in force at 14.12.2019, see [reg. 1\(1\)](#)

<i>Provision of the Official Controls Regulation</i>	<i>Subject matter</i>
[ <sup>F260</sup> Article 47(5) as read with Articles 5 and 7 of Commission Delegation Regulation (EU) 2019/2122 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of animals and good exempted from official controls at border control posts, specific controls on passengers' personal luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending <a href="#">Commission Regulation (EU) No 142/2011</a> ]	Requires the operator responsible for a relevant consignment entering [ <sup>F262</sup> Great Britain] to ensure that it is presented for official controls at the border control post of first arrival into [ <sup>F262</sup> Great Britain].
Article 50(1)	Requires the operator of a relevant consignment to which Article 47(1) applies to present the original official certificates or documents which are required to accompany the consignment to the competent authorities of the border control post.
Article 50(3)	Prohibits the operator of a relevant consignment from splitting the consignment until official controls have been performed and the Common Health Entry Document has been finalised.
Article 56(1)	Requires the operator of a relevant consignment to complete the relevant part of the Common Health Entry Document.
Article 56(4) (as read with Article 1(1) of Commission Implementing Regulation (EU) 2019/1013 on the prior notification of consignments of certain categories of animals and goods entering the Union	Requires the operator of a relevant consignment to give prior notification to the competent authorities of the border control post of arrival of the consignment before the physical arrival of the consignment in [ <sup>F263</sup> Great Britain].
<sup>M29</sup> and regulation 7 of these Regulations	

**Textual Amendments**

**F260** Words in sch. 3 Pt. 2 substituted (27.6.2020) by virtue of [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), [regs. 1\(1\)](#), [22\(3\)](#)

**F261** OJ No. L 321, 12,12,2019, p.45.

**F262** Words in sch. 3 Pt. 2 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), [29\(3\)\(a\)](#) (with [reg. 32](#))

**F263** Words in sch. 3 Pt. 2 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), [29\(3\)\(b\)](#) (with [reg. 32](#))



### Marginal Citations

M29 OJ L 165, 21.6.2019, p.8.

## PART 3 **S**

### Other [<sup>F264</sup>retained] EU legislation

#### Textual Amendments

F264 Word in sch. 3 Pt. 3 heading inserted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), 29(4)(a) (with reg. 32)

#### Commencement Information

I98 Sch. 3 Pt. 3 in force at 14.12.2019, see reg. 1(1)

<i>Provision of [<sup>F265</sup>retained] EU legislation</i>	<i>Subject matter</i>
<b>Commission Delegated Regulation (EU) 2019/1602 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination</b>	
M30 Article 3 (as read with Articles 4(a), 5(1)(b) and (d), 5(2)(a) and (c) and 6(a))	Requires the operator responsible for a consignment to ensure that a Common Health Entry Document accompanies the consignment, irrespective of whether or not it is split, until it is released for free circulation in accordance with Article 57(2)(b) of the Official Controls Regulation.
<b>[<sup>F266</sup>Commission Delegated Regulation (EU) 2019/2124 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for official controls of consignments of animals and goods in transit, transshipment and onward transportation through the Union</b>	
Article 5(a) and (b)	Requires the operator who is responsible for a relevant consignment that has been given authorisation for onward transportation to enter certain details in the common health entry document and submit the common health entry document.
Article 6	Requires the operator who is responsible for a relevant consignment that has been given authorisation for onward transportation to comply with the specified conditions relating to its transportation and storage.
Article 16(1) and (3)	Requires the operator who is responsible for a transhipped relevant consignment to notify the specified information to competent authorities.
Article 22(4)	Requires the operator who is responsible for a relevant consignment that is in transit

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

through [<sup>F267</sup>Great Britain] to take specific measures relating to the transportation of the consignment.]

[<sup>F268</sup>Commission Delegated Regulation (EU) 2019/2123 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for the cases where and the conditions under which identity checks and physical checks on certain goods may be performed at control points and documentary checks may be performed at distance from border control posts]

[<sup>F268</sup>Article 2(1)(d), (e), (f), (g)(i) and (h) (as read with Article 2(2) and (3)), Article 5(1) (as read with Article 5(2), Article 6(1) and (4) and Article 8(2)) Requires the operator responsible for a consignment to comply with certain conditions where identity and physical checks on the consignment are to be performed at a control point other than a border control post]

#### Textual Amendments

- F265** Word in sch. 3 Pt. 3 Table inserted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(4)(b)** (with reg. 32)
- F266** Words in sch. 3 Pt. 3 inserted (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), regs. 1(1), **22(4)**
- F267** Words in sch. 3 Pt. 3 Table substituted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **29(4)(c)** (with reg. 32)
- F268** Words in sch. 3 Pt. 3 Table inserted (31.12.2020) by [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(a), **5(7)** (with reg. 32)

#### Marginal Citations

**M30** OJ L 250, 30.9.2019, p.6.

## [<sup>F269</sup>SCHEDULE 3A **S**

Regulation 37

Offences: relevant offences in the Windsor Framework (Plant Health) Regulations 2023

#### Textual Amendments

- F269** [Sch. 3A](#) inserted (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), **4(9)**

*Provision of the Windsor Framework (Plant Health) Regulations 2023*      *Subject matter*

Regulation 9(3)

Imposes requirements on authorised operators for the issuance of a Northern Ireland plant health label

Regulation 11(1) and (2)

Requires authorised operators:

(a) to identify and monitor the points in their production process and the points

<i>Provision of the Windsor Framework (Plant Health) Regulations 2023</i>	<i>Subject matter</i>
	concerning the movement of the relevant goods which are critical as regards compliance with regulation 12 and regulation 13 of the Windsor Framework (Plant Health) Regulations 2023, where they intend to issue a Northern Ireland plant health label; and
	(b) to keep records concerning the identification and monitoring of those points for at least three years.
Regulation 11(3)	Requires authorised operators to ensure that appropriate training is provided to its personnel involved in examinations.
Regulation 12	Prohibits issuance of a Northern Ireland plant health label unless specified conditions are fulfilled, but breach of regulation 12 is only an offence where that label is issued by an authorised operator.
Regulation 14(1)	Imposes requirements on authorised operators in relation to attaching a Northern Ireland plant health label.
Regulation 14(2)	Imposes requirements on professional operators in relation to attaching a Northern Ireland plant health label.
Regulation 18(1) to 18(4)	Imposes requirements on authorised operators and professional operators in relation to record keeping.
Regulation 18(5)	Imposes requirements on professional operators to communicate information to the competent authority, on request.
Regulation 19(4)	Imposes conditions in relation to issuance of a replacement Northern Ireland plant health label, but breach of regulation 19(4) is only an offence where that label is issued by an authorised operator.
Regulation 19(6) and (7)	Imposes requirements on authorised operators in relation to retention of a replaced Northern Ireland plant health label or its content.
Regulation 20(2), (3), (5) and (7)	Imposes requirements on professional operators in relation to invalidation and removal of a Northern Ireland plant health label.
Regulation 21	Prohibits the despatch of consignments with a Northern Ireland plant health label to Northern Ireland by persons other than authorised operators and registered operators, and by

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

*Provision of the Windsor Framework (Plant Health) Regulations 2023* Subject matter

authorised operators and registered operators unless specified conditions are fulfilled.]

<sup>F270</sup>SCHEDULE 4 **S**

Regulation 37(1)(h)

Offences: EU decisions relating to plant health

**Textual Amendments**

**F270** Sch. 4 omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), regs. 1(1)(c), **30** (with reg. 32)

SCHEDULE 5 **S**

Regulation 48

Amendments to secondary legislation

**PART 1** **S**

The Marketing of Vegetable Plant Material Regulations 1995

1.—(1) The Marketing of Vegetable Plant Material Regulations 1995 <sup>M31</sup> are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1), after the definition of “Directive [2008/72/EC](#)” insert—

““the 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](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)<sup>M32</sup>.”

(3) In regulation 8 (information to accompany plant material)—

- (a) in paragraph (2), for “Council Directive [2000/29/EC](#)” substitute “ the EU Plant Health Regulation ”,
- (b) omit paragraph (5).

**Commencement Information**

**I99** Sch. 5 para. 1 in force at 14.12.2019, see [reg. 1\(1\)](#)

**Marginal Citations**

**M31** [S.I. 1995/2652](#); relevant amending instruments are [S.S.I. 2007/133](#), [S.S.I. 2014/111](#) and [S.S.I. 2018/391](#).

**M32** OJ L 317, 23.11.2016, p.4, as last amended by Regulation (EU) 2017/625 (OJ L 95, 7.4.2017, p.1) with effect from 14 December 2019.

## PART 2 **S**

### The Marketing of Ornamental Plant Propagating Material Regulations 1999

2.—(1) The Marketing of Ornamental Plant Propagating Materials Regulations 1999 <sup>M33</sup> are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1)—

(a) omit the definition of “Directive [2000/29/EC](#)”,

(b) before the definition of “inspector”, insert—

““the 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](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#),”

(c) after the definition of “the Minister”, insert—

““the Plant Health Official Controls Regulations” means the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 <sup>M34</sup>,”.

(3) In regulation 6A (further provisions relating to propagating material of Palmae), in paragraph (4), in the definition of “responsible official body”, for the words from “either the” to the end substitute “ the Scottish Ministers ”.

(4) In regulation 7 (registration), for paragraph (4) substitute—

“(4) Registration of a supplier on the register of professional operators for the purposes of the EU Plant Health Regulation is deemed to constitute registration for the purposes of paragraph (1).”.

(5) In regulation 8 (measures to be taken by suppliers), in paragraph (3)—

(a) for the words from “plant pest” to “Order 2005” substitute “ controlled plant pest as defined in regulation 2(1) of the Plant Health Official Controls Regulations ”,

(b) for the words from “article 42” to “plant pests)” substitute “ the EU Plant Health Regulation ”.

(6) In regulation 9 (information on propagating material), in paragraph (2), for “Directive [2000/29/EC](#)” substitute “ the EU Plant Health Regulation ”.

(7) In regulation 12 (propagating material produced in third countries), in paragraph (3), for the words from “article 9(1)” to the end substitute “ the EU Plant Health Regulation ”.

#### Commencement Information

**I100** Sch. 5 para. 2 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Marginal Citations

**M33** [S.I. 1999/1801](#); relevant amending instrument is [S.S.I. 2018/284](#).

**M34** [S.S.I. 2019/\[ \]](#).

*Changes to legislation:* There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

## PART 3 **S**

### The Forest Reproductive Material (Great Britain) Regulations 2002

3.—(1) The Forest Reproductive Material (Great Britain) Regulations 2002 <sup>M35</sup> are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (2)—

(a) at the appropriate place insert—

““the 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](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#),”

(b) in the definition of “plant passport”, for “Plant Health (Forestry) Order 2005” substitute “ EU Plant Health Regulation ”.

#### Commencement Information

**I101** Sch. 5 para. 3 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Marginal Citations

**M35** [S.I. 2002/3026](#); relevant amending instrument is [S.I. 2014/1833](#).

## PART 4 **S**

### The Potatoes Originating in Egypt (Scotland) Regulations 2004

<sup>F271</sup>4. ....

#### Textual Amendments

**F271** Sch. 5 para. 4 revoked (27.6.2020) by [The Plant Health \(Official Controls and Miscellaneous Provisions\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/176\)](#), [reg. 1\(1\)](#), [sch.](#)

## PART 5 **S**

### The Plant Health (Potatoes) (Scotland) Order 2006

5. In the Plant Health (Potatoes) (Scotland) Order 2006 <sup>M36</sup>, in article 2 (interpretation), in paragraph (1), in the definition of “inspector”, for the words from “a person” to the end substitute “ a plant health inspector for the purposes of the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 ”.

#### Commencement Information

**I102** Sch. 5 para. 5 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Marginal Citations

**M36** [S.S.I. 2006/319](#), to which there are amendments not relevant to these Regulations.

## PART 6 **S**

### The Plant Health (Fees) (Scotland) Regulations 2008

6.—(1) The Plant Health (Fees) (Scotland) Regulations 2008 <sup>M37</sup> are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) omit the definition of “authority”,
- (b) before the definition of “licence” insert—

““the 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](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#) <sup>M38</sup>,”

(c) in the definition of “licence”, for the words from “a licence” to the end substitute—

- “(a) a licence that was granted by the Scottish Ministers under article 40 or, as the case may be, article 41 of the Plant Health (Scotland) Order 2005 <sup>M39</sup>; or
- (b) an authorisation described in regulations 20(1)(a) and (b) and 21(2) of the Plant Health Official Controls Regulations;”

(d) omit the definition of “the 2005 Order”,

(e) omit the definition of “plant passport”,

(f) before the definition of “premises” insert—

““the Plant Health Official Controls Regulations” means the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 <sup>M40</sup>.”

(3) In regulation 5A (fees for potato cyst nematode testing), for the words from “article 39(8)” to “2005 Order” substitute “ paragraph 4 of schedule 2 (specific measures relating certain solanaceous species) of the Plant Health Official Controls Regulations ”.

(4) In schedule 1 (fees for inspections for plant passporting purposes), in column 1 of the table for “authority to issue plant passports” substitute “ authorisation to issue plant passports under Article 89 of the EU Plant Health Regulation ”.

#### Commencement Information

**I103** Sch. 5 para. 6 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Marginal Citations

**M37** [S.S.I. 2008/153](#), as amended by [S.S.I. 2010/207](#) and [S.S.I. 2019/124](#).

**M38** O.J. L 317, 23.11.2016, p.4, as last amended by Regulation (EU) 2017/625 (OJ L 95, 7.4.2017, p.1) with effect from 14 December 2019.

**M39** [S.S.I. 2005/613](#), as relevantly amended by [S.S.I. 2008/300](#), [S.S.I. 2011/1043](#), [S.S.I. 2012/266](#) and [S.S.I. 2013/187](#). [S.S.I. 2005/613](#) is revoked by these Regulations, but transitional provisions at regulations 50(1) and 51(1) of these Regulations that licences granted under articles 40 and 41 of [S.S.I. 2005/613](#) continue to have effect temporarily.

**M40** S.S.I. 2019/[ ].

## PART 7 **S**

### The Waste Management Licensing (Scotland) Regulations 2011

7.—(1) The Waste Management Licensing (Scotland) Regulations 2011 <sup>M41</sup> are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1), after the definition of “operational land” insert—

““the Plant Health Official Controls Regulations” means the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019;”.

(3) In schedule 1 (activities exempt from waste management licensing)—

(a) in paragraph 30, in sub-paragraph (3), for the words from “article 32” to the end substitute “ regulation 10 (official measures in relation to non-compliant consignments or consignments which pose a risk to plant health) or 15 (notices to prevent the establishment or spread of plant pests) of the Plant Health Official Controls Regulations ”,

(b) in paragraph 46, in sub-paragraph (1)—

(i) in head (a), for the words from “article 32” to “Order 2005” substitute “ regulation 10 (official measures in relation to non-compliant consignments or consignments which pose a risk to plant health) or 15 (notices to prevent the establishment or spread of plant pests) of the Plant Health Official Controls Regulations ”,

(ii) in head (b), for the words from “article 31” to “Order 2005” substitute “ regulation 10 (official measures in relation to non-compliant consignments or consignments which pose a risk to plant health) or 15 (notices to prevent the establishment or spread of plant pests) of the Plant Health Official Controls Regulations ”.

#### Commencement Information

**I104** Sch. 5 para. 7 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Marginal Citations

**M41** [S.S.I. 2011/228](#), to which there are amendments not relevant to these Regulations.

## PART 8 **S**

### The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014

8.—(1) The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014 <sup>M42</sup> are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1)—

(a) after the definition of “the Directive” insert—

““the 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](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#),”
- (b) omit the definition “intended for planting”,
- (c) after the definition of “normal working hours” insert—
- ““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 rules referred to Article 1(2)(g) of that Regulation <sup>M43</sup>,”
- (d) in the definition of “plants”, for the words from “Article 2(1)(a)” to the end substitute “ Article 2 (definitions), point (1) of the EU Plant Health Regulation ”,
- (e) in the definition of “plant products”, for the words from “Article 2(1)(b)” to the end substitute “ Article 2 (definitions), point (2), first sub-paragraph of the EU Plant Health Regulation ”.
- (3) In regulation 3 (application of the import inspection fee), in paragraph (2)—
- (a) in sub-paragraph (a), in head (i), for the words from “in Annex” to the end substitute “ in Part A of Annex 11 or in Annex 12 to Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and 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 <sup>M44</sup>, as amended from time to time; ”,
- (b) for sub-paragraph (b) substitute—
- “(b) is subject to—
- (i) official controls at a border control post in Scotland pursuant to Article 47(1) of the Official Controls Regulation; or
- (ii) any agreement made under the provisions of any delegated act that establishes the cases where, and the conditions under which, identity checks and physical checks of transhipped consignments and of animals arriving by air or sea and staying on the same means of transport for onward travel may be performed at a border control post other than the one of first arrival into the Union, adopted by the Commission under Article 51(1) (specific rules for official controls at border inspection posts) of 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

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

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.”.

- (4) In regulation 5 (additional fees in respect of potatoes originating in Egypt and Lebanon)—
- (a) in paragraph (1), omit “or (3)”,
  - (b) omit paragraph (3).

#### Commencement Information

**I105** Sch. 5 para. 8 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Marginal Citations

**M42** [S.S.I. 2014/338](#), to which there are amendments not relevant to these Regulations.

**M43** OJ L 95, 7.4.2017, p.1, as last amended by Commission Delegated Regulation (EU) 2019/478 (OJ L 82, 25.3.2019, p.4) with effect from 14 December 2019.

**M44** OJ L 319, 10.12.2019, p.1.

## PART 9 S

### The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015

9.—(1) The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015 <sup>M45</sup> are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) at the appropriate place insert—

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

“the 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 rules referred to Article 1(2)(g) of that Regulation;”;

“WPM authorisation” means an authorisation referred to in Article 98(1) of the EU Plant Health Regulation;”

- (ii) in the definition of “approved place of inspection” for “article 3 of the Order” substitute “ regulation 13 of Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 <sup>M46</sup> ”,
  - (iii) for the definition of “controlled consignment” substitute—
    - ““controlled consignment” means a consignment which—
    - (a) is introduced into Scotland from a third country; and
    - (b) consists of, or includes isolated bark or isolated wood of a type listed in Part A of Annex 11 or in Annex 12 to Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and 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 <sup>M47</sup>, as amended from time to time, other than wood packaging material which is actually in use in the transport of objects of all kinds;”
  - (iv) omit the definitions of “the Directive”, “documentary check” and “identity check”,
  - (v) for the definition of “licence” substitute—
    - ““licence” means—
    - (a) a licence which was granted by the Forestry Commissioners or by the Scottish Ministers under article 38 or 39 of the Plant Health (Forestry) Order 2005 <sup>M48</sup>; or
    - (b) an authorisation described in regulation 20(1)(a) or (b) or 21 of the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019;”
  - (vi) omit the definitions of “the Order” and “plant health check”,
  - (vii) in the definition of “plant passport authority”—
    - (aa) for “authority”, in the second place where it occurs substitute “ authorisation ”,
    - (bb) at the end omit “granted by the Forestry Commissioners or the Scottish Ministers under article 28 of the Order”,
  - (viii) in the definition of “remedial notice”, for “served under article 31(1) or (4) or 33(3) of the Order” substitute “ served under regulations 8 or 15 of the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 ”,
  - (ix) in the definition of “remedial work”, for “article 32(1) of the Order” substitute regulation 16 of the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019”,
  - (b) in paragraph (2), for “Order”, in both places where it occurs, substitute “ EU Plant Health Regulation or the Official Controls Regulation ”.
- (3) In regulation 3 (fees)—
- (a) in paragraph (2), after “activities” insert “ carried out by, or on behalf of Scottish Ministers ”,
  - (b) after paragraph (5) insert—
    - “(5A) The fee payable in connection with an application to the Scottish Ministers for a phytosanitary certificate or phytosanitary certificate for re-export is the fee specified in schedule 5A.

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

- (5B) The fee payable in connection with an application to the Scottish Ministers for an authorisation referred to in Article 98(1) of the EU Plant Health Regulation is the fee specified in schedule 5B.”
- (c) in paragraph (6), for “article 32(1) of the Order” substitute “ regulation 16 of the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 ”.
- (4) After schedule 5 (fees for the carrying out or monitoring of remedial work) insert—

“SCHEDULE 5A **S**

Regulation 3(5A)

Fees in connection with an application for a phytosanitary certificate or phytosanitary certificate for re-export

<i>Service</i>	<i>Fee</i>
The consideration of an application, including the issue, where appropriate, of a phytosanitary certificate or a phytosanitary certificate for re-export	£15.00
The examination or testing of plants, plant products or other objects and associated activities (including travelling and office time):	
(a) up to and including the first hour;	£27.00
(b) thereafter, for each additional 15 minutes or part thereof	£7.50.

SCHEDULE 5B **S**

Regulation 3(5B)

Fees in connection with an application for a WPM authorisation

<i>Type of application</i>	<i>Fee</i>
Application for a WPM authorisation, other than a renewal of an existing WPM authorisation	£400.00
Application for a renewal of an existing WPM authorisation	£120.00
Application for a re-assessment for the purposes a WPM authorisation	£120.00”.

**Commencement Information**

**I106** Sch. 5 para. 9 in force at 14.12.2019, see [reg. 1\(1\)](#)

**Marginal Citations**

**M45** [S.I. 2015/350](#), to which there are amendments not relevant to these Regulations. [S.I. 2015/350](#) is also prospectively amended by [S.S.I. 2019/130](#), from “exit day” within the meaning of section 20 of the [European Union \(Withdrawal\) Act 2018 \(c.16\)](#).

**M46** [S.S.I. 2019/\[ \]](#)

**M47** [OJ L 319](#), 10.12.2019, p. 1.

**M48** [S.I. 2005/2517](#), as last relevantly amended by [S.I. 2013/755](#). [S.I. 2005/2517](#) is revoked by these Regulations, but transitional provisions at regulations 50(1) and 51(1) of these Regulations stipulate that licences granted under articles 38 and 39 of [S.I. 2005/2517](#) continue to have effect temporarily.

## PART 10 **S**

### The Seed Potatoes (Scotland) Regulations 2015

- 10.**—(1) The Seed Potatoes (Scotland) Regulations 2015 <sup>M49</sup> are amended as follows.
- (2) In regulation 2 (interpretation), in paragraph (1)—
- (a) after the definition of “Directive 2001/18/EC” insert—
- ““the 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, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC;”
- (b) after the definition of “package” insert—
- ““the Plant Health Official Controls Regulations” means the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 <sup>M50</sup>;”
- (3) In regulation 10 (labelling of seed potatoes), for paragraph (8), substitute—
- “(8) No person may, in marketing or preparing for marketing any seed potatoes, wilfully reproduce, remove, alter, deface, conceal or misuse in any way, any official label, or official document which has been attached to or contained within the package or container of such seed potatoes in accordance with this regulation, unless such action is in accordance with the requirements of—
- (a) the Act;
- (b) these Regulations;
- (c) the EU Plant Health Regulation; or
- (d) an Order made under the Plant Health Act 1967.”
- (4) In regulation 22 (consequential amendments), omit paragraph (2).
- (5) In schedule 1 (conditions for certification and grading of Scottish seed potatoes)—
- (a) in paragraph 4, for the words from “paragraph 1” to the end substitute “ paragraph 8 in Part 3 (measures for the control of Potato Wart Disease) of schedule 2 (specific measures relating to certain solanaceous species) of the Plant Health Official Controls Regulations ”,
- (b) in paragraph 5, in sub-paragraph (1), in head (d), for the words from “article 39(3)” to “Order 2005” substitute “ paragraph 2(3) (general restrictions on the planting of potatoes) in Part 2 (general provisions relating to the planting of certain solanaceous species) of schedule 2 (specific measures relating to certain solanaceous species) of the Plant Health Official Controls Regulations ”,
- (c) in paragraph 7, in sub-paragraph (b), for the words from “paragraph 7” to the end substitute “ paragraph 18 (notice that sampling unit is infested with Potato Cyst Nematode) in Part 4 (measures for the control of European populations of Potato Cyst Nematode) of schedule 2 (specific measures relating to certain solanaceous species) of the Plant Health Official Controls Regulations ”,
- (d) in paragraph 11, in sub-paragraph (b), for the words from “paragraph 7” to the end substitute “ paragraph 18 (notice that sampling unit is infested with Potato Cyst Nematode) in Part 4 (measures for the control of European populations of Potato Cyst Nematode) of schedule 2 (specific measures relating to certain solanaceous species) of the Plant Health Official Controls Regulations ”,

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

- (e) in paragraph 14, in sub-paragraph (b), for the words from “paragraph 7” to the end substitute “ paragraph 18 (notice that sampling unit is infested with Potato Cyst Nematode) in Part 4 (measures for the control of European populations of Potato Cyst Nematode) of schedule 2 (specific measures relating to certain solanaceous species) of the Plant Health Official Controls Regulations ”.

#### Commencement Information

**I107** Sch. 5 para. 10 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Marginal Citations

**M49** [S.S.I. 2015/395](#), to which there are amendments not relevant to these Regulations.

**M50** [S.S.I. 2019/\[ \]](#).

## PART 11 S

### The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017

**11.**—(1) The Marketing of Fruit Plant and Propagating Material (Scotland) Regulations 2017<sup>M51</sup> are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1), after the definition of “Directive [2001/18/EC](#)” insert—

““the 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](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)”.

(3) In regulation 8 (labelling, sealing and packaging), omit paragraph (5).

(4) In regulation 10 (registration of suppliers), in paragraph (6), for the words from “plant trader” to “2005” substitute “ professional operator for the purposes of the EU Plant Health Regulation ”.

#### Commencement Information

**I108** Sch. 5 para. 11 in force at 14.12.2019, see [reg. 1\(1\)](#)

#### Marginal Citations

**M51** [S.S.I. 2017/177](#), to which there are amendments not relevant to these Regulations.

## PART 12 S

### The Plant Health (Export Certification) (Scotland) Order 2018

**12.**—(1) The Plant Health (Export Certification) (Scotland) Order 2018<sup>M52</sup> is amended as follows.

(2) In article 2 (interpretation)—

(a) after the definition of “consignment” insert—

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

“the 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, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC<sup>M53</sup>.”

- (b) in the definition of “inspector”, for the words from “any person” to the end substitute “ a plant health inspector for the purposes of the Plant Health Official Controls Regulations; ”,
  - (c) in the definition of “phytosanitary certificate”, for the words from “articles 7” to the end substitute “ Article 100 of the EU Plant Health Regulation; ”,
  - (d) in the definition of “phytosanitary certificate for re-export”, for the words from “articles 7” to the end substitute “ Article 101 of the EU Plant Health Regulation; ”,
  - (e) after the definition of “phytosanitary certificate for re-export” insert—  
 “the Plant Health Official Controls Regulations” means the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019;”,
  - (f) omit the definition of “principal plant health Order”.
- (3) Omit article 3.  
 (4) Omit article 5.  
 (5) Omit article 6.

**Commencement Information**

**I109** Sch. 5 para. 12 in force at 14.12.2019, see [reg. 1\(1\)](#)

**Marginal Citations**

**M52** [S.S.I. 2018/132](#).

**M53** O.J. L 317, 23.11.2016, p.4, as last amended by Regulation (EU) 2017/625 (OJ L 95, 7.4.2017, p.1) with effect from 14 December 2019.

SCHEDULE 6 **S**

Regulation 49

Revocation of instruments

**Commencement Information**

**I110** Sch. 6 in force at 14.12.2019, see [reg. 1\(1\)](#)

<i>Column 1 Instrument revoked</i>	<i>Column 2 Reference</i>	<i>Column 3 Extent of revocation</i>
The Plant Health (Export Certification) (Forestry) (Great Britain) Order 2004	S.I. 2004/1684	The whole instrument
The Plant Health (Scotland) Order 2005	S.S.I. 2005/613	The whole instrument
The Plant Health (Forestry) Order 2005	S.I. 2005/2517	The whole instrument
The Plant Health (Scotland) Amendment Order 2006	S.S.I. 2006/474	The whole instrument

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. (See end of Document for details)

The Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006	S.I. 2006/2695	The whole instrument
The Plant Health (Forestry) (Amendment) Order 2006	S.I. 2006/2696	The whole instrument
The Plant Health (Scotland) Amendment Order 2007	S.S.I. 2007/415	The whole instrument
The Plant Health (Scotland) Amendment (No. 2) Order 2007	S.S.I. 2007/498	The whole instrument
The Plant Health (Scotland) Amendment Order 2008	S.S.I. 2008/300	The whole instrument
The Plant Health (Scotland) Amendment (No. 2) Order 2008	S.S.I. 2008/350	The whole instrument
The Plant Health (Forestry) (Amendment) Order 2008	S.I. 2008/644	The whole instrument
The Plant Health (Scotland) Amendment Order 2009	S.S.I. 2009/153	The whole instrument
The Plant Health (Forestry) (Amendment) Order 2009	S.I. 2009/594	The whole instrument
The Plant Health (Forestry) (Amendment) (No. 2) Order 2009	S.I. 2009/3020	The whole instrument
The Plant Health (Scotland) Amendment Order 2010	S.S.I. 2010/206	The whole instrument
The Plant Health (Scotland) Amendment (No. 2) Order 2010	S.S.I. 2010/342	The whole instrument
The Plant Health (Scotland) Amendment Order 2012	S.S.I. 2012/266	The whole instrument
The Plant Health (Scotland) Amendment (No. 2) Order 2012	S.S.I. 2012/326	The whole instrument
The Plant Health (Forestry) (Amendment) Order 2012	S.I. 2012/2707	The whole instrument
The Plant Health (Scotland) Amendment Order 2013	S.S.I. 2013/5	The whole instrument
The Plant Health (Scotland) Amendment (No. 2) Order 2013	S.S.I. 2013/187	The whole instrument
The Plant Health (Scotland) Amendment (No. 3) Order 2013	S.S.I. 2013/366	The whole instrument
The Plant Health (Forestry) (Amendment) (England and Scotland) Order 2013	S.I. 2013/2691	The whole instrument
The Plant Health (Scotland) Amendment Order 2014	S.S.I. 2014/140	The whole instrument
The Plant Health (Forestry) (Amendment) (England and Scotland) Order 2014	S.I. 2014/2420	The whole instrument
The Plant Health (Scotland) Amendment Order 2015	S.S.I. 2015/10	The whole instrument
The Plant Health (Scotland) Amendment Order 2016	S.S.I. 2016/83	The whole instrument
The Plant Health (Forestry) (Amendment) (England and Scotland) Order 2016	S.I. 2016/1167	The whole instrument



The Plant Health (Forestry) (Amendment) (England and Scotland) Order 2017	S.I. 2017/1178	The whole instrument
The Plant Health (Scotland) Amendment Order 2018	S.S.I. 2018/112	The whole instrument
The Plant Health (Scotland) Amendment (No. 2) Order 2018	S.S.I. 2018/283	The whole instrument
The Plant Health (Forestry) (Amendment) (England and Scotland) Order 2018	S.I. 2018/1048	The whole instrument
The Plant Health (Miscellaneous Amendments) (Scotland) Order 2019	S.S.I. 2019/242	The whole instrument
The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2019	S.S.I. 2019/124	Regulations 2 to 15
The Plant Health (Scotland) Amendment Order 2019	S.S.I. 2019/290	The whole instrument

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations give effect in particular to—

- (a) 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](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#),
- (b) 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](#), in so far as it applies to the rules referred to in Article 1(2)(g) of that Regulation.

Part 1 contains introductory and interpretation provisions.

Part 2 makes provision in connection with the designation of the Scottish Ministers as the competent authority responsible for the organisation and performance of official controls and other official activities in Scotland for plant health purposes.

Part 3 makes provision in connection with official controls on imports of plants, plant products and other objects from third countries.

Part 4 makes provision in connection with official activities to prevent the establishment or spread of plant pests.

Part 5 makes provision in connection with temporary national measures, in addition to measures at the EU level, to prevent the entry of certain plant pests into Scotland, and their establishment within, and spread within, Scotland.

**Changes to legislation:** There are currently no known outstanding effects for the *The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019*. (See end of Document for details)

Part 6 makes provision in connection with registration of professional operators and in connection with the grant or issue of authorisations, licences and certificates.

Part 7 makes provision in connection with measures relating to certain solanaceous species, implementing in particular:

- Council Directive [69/464/EEC](#) on control of Potato Wart Disease,
- Council Directive [93/85/EEC](#) on the control of potato ring rot,
- Council Directive [98/57/EC](#) on the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*,
- Council Directive [2007/33/EC](#) on the control of potato cyst nematodes and repealing Directive [69/465/EEC](#).

Part 8 sets out notification requirements.

Part 9 makes provision for general powers of inspectors and enforcement.

Part 10 makes general provision in connection with notices given or served under the Regulations.

Part 11 makes provision in connection with offences and penalties.

Part 12 makes further miscellaneous provision, including consequential amendments to other secondary legislation, revocations of secondary legislation and transitional provisions.

A partial business regulatory impact assessment has been prepared for these Regulations and has been placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government, Directorate for Agriculture and Rural Economy, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD.

**Changes to legislation:**

There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019.