
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 421

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

PART 1

Introduction

Citation, commencement and extent

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.

Interpretation: general

2.—(1) In these Regulations—

“the 2005 Order” means the Plant Health (Scotland) Order 2005(1),

“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 the Union territory without a phytosanitary certificate pursuant to—

(i) Article 72 or 74 of the EU Plant Health Regulation,

(ii) an EU emergency decision, or

(iii) any other EU plant health rule, other than Article 73 of the EU Plant Health Regulation,

(b) which was exported from the Union territory to a third country and is returning to the Union territory following the refusal by that third country to allow its entry into the country,

“controlled plant pest” means—

(a) a plant pest of a description specified in Annexes 2, 3 or 4 to Regulation (EU) 2019/2072,

(b) a plant pest of a description specified in an EU emergency decision, or

(c) a plant pest subject to any other EU plant health rule,

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

“EU Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament of the Council on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the

Council and repealing Council Directives [69/464/EEC](#), [74/647/EEC](#), [93/85/EEC](#), [98/57/EC](#), [2000/29/EC](#), [2006/91/EC](#) and [2007/33/EC](#)(2),

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

“the Forestry Order” means the Plant Health (Forestry) Order 2005(3),

“Official Controls Regulation” means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives [98/58/EC](#), [1999/74/EC](#), [2007/43/EC](#), [2008/119/EC](#) and [2008/120/EC](#), and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives [89/608/EEC](#), [89/662/EEC](#), [90/425/EEC](#), [91/496/EEC](#), [96/23/EC](#), [96/93/EC](#) and [97/78/EC](#) and Council Decision [92/438/EEC](#), insofar as it applies to EU plant health rules(4),

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

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

“regulated item” means—

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

“Regulation (EU) 2019/2072” 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 Regulation (EU) 2018/2019(5),

“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(6),

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

(2) 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.

(3) [S.I. 2005/2517](#), as last amended by [S.S.I. 2019/278](#). [S.S.I. 2005/2517](#) is revoked by these Regulations.

(4) 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.

(5) OJ L 319, 10.12.2019, p.1.

(6) [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

3.—(1) In these Regulations—

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

“Commission [Decision 2002/757/EC](#)” means Commission [Decision 2002/757/EC](#) on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in ‘t Veld sp. nov.(8),

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

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

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

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

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

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

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

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

“Commission Implementing Decision (EU) 2016/715” means Commission Implementing Decision (EU) 2016/715 setting out measures in respect of certain fruits originating in certain

(7) OJ L 27, 3.2.1998, p.47.

(8) OJ L 252, 20.9.2002, p.37, as last amended by Commission Implementing Decision (EU) 2016/1967 (OJ L 303, 10.11.2016, p.21).

(9) OJ L 64, 2.3.2004, p.43.

(10) OJ L 319, 2.12.2011, p.112.

(11) OJ L 64, 3.3.2012, p.38, as amended by Commission Implementing Decision (EU) 2014/356/EU (OJ L 175, 14.6.2014, p.38).

(12) OJ L 132, 23.5.2012, p.18, as last amended by Commission Implementing Decision (EU) 2018/5 (OJ L 2, 5.1.2018, p.11).

(13) OJ L 266, 2.10.2012, p.42, as last amended by Commission Implementing Decision (EU) 2018/618 (OJ L 102, 23.4.2018, p.17).

(14) OJ L 311, 10.11.2012, p.14.

(15) OJ L 125, 21.5.2015, p.36, as last amended by Commission Implementing Decision (EU) 2018/1511 (OJ L 255, 11.10.2018, p.16).

(16) OJ L 146, 11.6.2015, p.16.

third countries to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (McAlpine) Van der Aa(17),

“Commission Implementing Decision (EU) 2017/198” means Commission Implementing Decision (EU) 2017/198 as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto(18),

“Commission Implementing Decision (EU) 2018/638” means Commission Implementing Decision (EU) 2018/638 establishing emergency measures to prevent the introduction into and spread within the Union of the harmful organism *Spodoptera frugiperda* (Smith)(19),

“Commission Implementing Decision (EU) 2018/1503” means Commission Implementing Decision (EU) 2018/1503 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann)(20),

“Commission Implementing Decision (EU) 2019/1615” means Commission Implementing Decision (EU) 2019/1615 establishing emergency measures to prevent the introduction into and the spread within the Union of Tomato brown rugose fruit virus (ToBRFV)(21),

“Commission Implementing Decision (EU) 2019/1739” means Commission Implementing Decision (EU) 2019/1739 establishing emergency measures to prevent the introduction into and the spread within the Union of Rose Rosette Virus(22),

“Commission Implementing Decision (EU) 2019/2032” means Commission Implementing Decision (EU) 2019/2032 establishing measures to prevent the introduction into and the spread within the Union of *Fusarium circinatum* Nirenberg & O’Donnell (formerly *Gibberella circinata*) and repealing Decision 2007/433/EC(23).

(2) References to Regulation (EU) 2019/2072 and the European Union instruments referred to in paragraph (1) are to be construed as references to those instruments as amended from time to time.

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

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

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

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

(17) OJ L 125, 13.5.2016, p.16, as last amended by Commission Implementing Decision (EU) 2019/449 (OJ L 77, 20.3.2019, p.76).

(18) OJ L 31, 4.2.2017, p.29.

(19) OJ L 105, 25.4.2018, p.31, as amended by Commission Implementing Decision (EU) 2019/1598 (OJ L 248, 27.9.2019, p.86).

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

(21) OJ L 250, 30.9.2019, p.91.

(22) OJ L 265, 18.10.2019, p.12.

(23) OJ L 313, 4.12.2019, p.94.