
STATUTORY INSTRUMENTS

2019 No. 787

The Plant Health (EU Exit) Regulations 2019

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Plant Health (EU Exit) Regulations 2019 and come into force on exit day.

(2) They extend to England and Wales and Northern Ireland.

General interpretation

2.—(1) In these Regulations—

“appropriate UK plant health authority”—

(a) in Schedules 1 to 7, means—

- (i) in relation to timber and forest pests in England, the Forestry Commissioners;
- (ii) otherwise in relation to England, the Secretary of State;
- (iii) in relation to Wales, the Welsh Ministers;
- (iv) in relation to Scotland, the Scottish Ministers;
- (v) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

(b) in Schedules 8 to 16, has the meaning given in regulation 3;

“bark-free” means wood from which all bark, excluding the vascular cambium, ingrown bark around knots and bark pockets between rings of annual growth, has been removed;

“consignment” means a quantity of goods that are covered by a single document required for customs formalities or other formalities, such as a single phytosanitary certificate or a single alternative document or mark;

“[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)(**1**), as amended from time to time, before and after exit day;

“[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)(**2**), as amended from time to time, before and after exit day;

“[Decision 2012/535/EU](#)” means Commission Implementing [Decision 2012/535/EU](#) on emergency measures to prevent the spread within the Union *Bursaphelenchus xylophilus* (Steiner et Buhrer) Nickle et al. (the pinewood nematode)(**3**), as amended from time to time, before and after exit day;

(1) OJ No. L 64, 3.3.2012, p. 38, as amended by Commission Implementing [Decision 2014/356/EU](#) (OJ No. L 175, 14.6.2018, p. 38).

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

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

“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)(4), as amended from time to time, before and after exit day;

“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.)(5), as amended from time to time, before and after exit day;

“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)(6), as amended from time to time, before and after exit day;

“Euro-Mediterranean area” means the geographical area comprising Europe, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and the area of Turkey east of the Bosphorus Strait known as Anatolia;

“Europe” includes Belarus, the Canary Islands, Georgia, Kazakhstan (except the area east of the Ural river), Russia (except the regions of Tyumen, Chelyabinsk, Irkutsk, Kemerovo, Kurgan, Novosibirsk, Omsk, Sverdlovsk, Tomsk, Chita, Kamchatka, Magadan, Amur and Skhalin, the territories of Krasnoyarsk, Altay, Khabarovsk and Primarie, and the republics of Sakha, Tuva and Buryatia), Ukraine and Turkey (except the area east of the Bosphorus Strait known as Anatolia);

“European Union” means the territories of the member States, but excluding the Canary Islands, Ceuta, Melilla and the French Overseas Departments;

“fruit” means fruit in the botanical sense but does not include dried, dehydrated, lacquered or deep frozen fruit;

“IPPC” means the International Plant Protection Convention 1951(7);

“isolated bark” means bark which has been removed or become detached from a living, felled or fallen tree or from any part of such tree;

“ISPM No. 4” means International Standard for Phytosanitary Measures No. 4 of November 1995 on the requirements for the establishment of pest free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(8);

“ISPM No. 9” means International Standard for Phytosanitary Measures No. 9 of November 1998 on the guidelines for pest eradication programmes, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(9);

“ISPM No. 10” means International Standard for Phytosanitary Measures No. 10 of October 1999 on requirements for the establishment of pest free places of production and pest free production sites, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(10);

“ISPM No. 14” means International Standard for Phytosanitary Measures No. 14 of March 2002 on the use of integrated measures in a systems approach for pest risk management,

(4) OJ No. L 311, 10.11.2012, p. 14.

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

(6) OJ No. L 146, 11.6.2015, p. 16.

(7) Adopted in 1951 (Treaty Series No.16 (1954), Cmd 9077) and last revised in 1997 (Miscellaneous Series No.15 (2003), Cmd 5945).

(8) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

(9) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

(10) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(11);

“ISPM No. 15” means International Standard for Phytosanitary Measures No. 15 of March 2002 on the regulation of wood packaging material in international trade, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(12);

“ISPM No. 31” means International Standard for Phytosanitary Measures No. 31 of April 2008 on methodologies for sampling consignments, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(13);

“list of *Xylella* host plants” means the list of relevant material contained in the database maintained by the European Commission of host plants found to be susceptible to *Xylella fastidiosa* in the EU, as amended from time to time(14);

“national plant protection organisation” means the service established by the government of a third country to discharge the functions specified in Article 4(1)(a) of the IPPC, details of which have been notified—

- (a) in the case of contracting parties to the IPPC, to the Director of the Food and Agriculture Organisation of the United Nations; and
- (b) in all other cases, to the national plant protection organisation of the United Kingdom;

“North America” means the geographical area comprising Canada, Mexico and the USA;

“nursery” means premises wholly or partly used for the cultivation or keeping of plants for the purpose of transplantation or removal to other premises;

“official”, in relation to any testing or other procedure to be carried out in respect of any relevant material, means carried out by or under the supervision of the appropriate UK plant health authority or the national plant protection organisation of the country in which the testing or other procedure is carried out and “officially” is to be construed accordingly;

“official statement” means—

- (a) in relation to a phytosanitary certificate or phytosanitary certificate for re-export, a statement issued by an authorised representative of, or a public officer acting, under the national plant protection organisation of the country in which the phytosanitary certificate or phytosanitary certificate for re-export or a translation of the phytosanitary certificate or phytosanitary certificate for re-export is issued; or
- (b) a statement included in a UK plant passport;

“OPM excluded zone” means the local authority areas mentioned in column 3 of item 5 of Part C of Schedule 1 (which are listed as exceptions to the UK pest free area in relation to *Thaumetopoea processionea* L.);

“OPM pest free area” means the area described in column 3 of item 5 of Part C of Schedule 1;

“phytosanitary certificate” and “phytosanitary certificate re-export”, in relation to any relevant material consigned to a relevant UK territory, has the same meaning as it has in the relevant Plant Health Order;

(11) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

(12) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

(13) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

(14) A copy of the list is available from the Plant Health Team, the Department for Environment, Food and Rural Affairs, National Agri-Food Innovation Campus, Sand Hutton, York YO41 1LZ and at https://ec.europa.eu/food/plant/plant_health_biosecurity/legislation/emergency_measures/xylella-fastidiosa/susceptible_en.

“place of production” means any premises, normally worked as a unit, together with any contiguous land in the same ownership or occupation as such premises;

“plant” means a living plant (including a fungus or shrub) or a living part of a plant (including a living part of a fungus or shrub), at any stage of growth, and living parts of a plant include—

- (a) fruit;
- (b) seed;
- (c) vegetables, other than those preserved by deep freezing;
- (d) tubers, corms, bulbs or rhizomes;
- (e) cut flowers;
- (f) branches with or without foliage;
- (g) a plant or shrub that has been cut and which retains any foliage;
- (h) leaves or foliage;
- (i) a plant or shrub growing in a clear liquid or clear solid aseptic culture medium in a closed transparent container;
- (j) live pollen;
- (k) bud wood;
- (l) cuttings; and
- (m) scions;

“planting” means any operation for the placing of plants to ensure their subsequent growth, reproduction or propagation;

“plant or shrub in tissue culture” means;

“plant pest” means any living organism, other than a vertebrate animal, in any stage of its existence which is injurious or likely to be injurious to any plant or plant product;

“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.;

“relevant material” means any plant, plant product, soil or growing medium;

“relevant Plant Health Order” means—

- (a) in relation to England, the Plant Health (England) Order 2015(**15**) or the Plant Health (Forestry) Order 2005(**16**) as it applies in relation to England;
- (b) in relation to Wales, the Plant Health (Wales) Order 2018(**17**) or the Plant Health (Forestry) Order 2005 as it applies in relation to Wales;
- (c) in relation to Northern Ireland, the Plant Health (Wood and Bark) (*Phytophthora ramorum*) Order (Northern Ireland) 2005(**18**), the Plant Health (Wood and Bark) Order (Northern Ireland) 2006(**19**) or the Plant Health Order (Northern Ireland) 2018(**20**);

“relevant UK territories” means England, Wales and Northern Ireland;

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

(15) S.I. 2015/610, as amended by S.I. 2015/1827, 2016/104, 2017/8, 2017/1220, 2018/71, 320, 910, 1051, 2019/526.

(16) S.I. 2005/2517, as amended by S.I. 2006/2696, 2008/644, 2009/594, 2009/3020, 2012/2707, 2013/755 (W.90), 2691, 2014/2420, 2016/1167, 2017/1178, 2018/1048, 2019/498 (W.115).

(17) S.I. 2018/1064 (W.223), amended by S.I. 2019/132 (W.33)463 (W.111).

(18) S.R. 2005 No. 252.

(19) S.R. 2006 No. 66, as amended by S.R. 2009 No. 340, S.R. 2010 No. 48, S.R. 2012 No. 400, S.R. 2015 No. 129, S.R. 2019 No. 41.

(20) S.R. 2018 No. 184, amended by S.R. 2019 No. 41.

“South America” means the geographical area comprising Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, French Guyana, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela;

“Scotland Orders” means the Plant Health (Scotland) Order 2005⁽²¹⁾ and the Plant Health (Forestry) Order 2005 in its application to Scotland;

“third country” means a country or territory other than one within the United Kingdom;

“UK plant passport”, in relation to the movement of any relevant material within a relevant UK territory, has the same meaning as it has in the relevant Plant Health Order;

“the USA” means the United States of America except the state of Hawaii;

“wood”, save where expressly provided otherwise, means—

- (a) any 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; and
- (c) whether or not satisfying the requirements of paragraph (a) or (b), wood packaging material;

“wood packaging material” means wood in the form of packing cases, boxes, crates, drums or similar packings, pallets, box pallets or other load boards, pallet collars or dunnage, whether or not actually in use in the transport of objects of any kind.

(2) Unless expressly provided otherwise, any reference in these Regulations to a genus or species is to be construed as a reference to that genus or species or to any of its hybrids.

(3) Any reference in these Regulations to the European Union, to a member State or a third country includes a reference to a state, country, principality, province or region within the European Union, member State, or third country, as the case may be.

(4) Any reference to a numbered CN Code is a reference to the code set out in Annex 1 to Council Regulations 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽²²⁾ as it has effect in EU law immediately before exit day.

UK plant health authorities

3.—(1) The appropriate UK plant health authorities for the purposes of Schedules 8 to 16 are—

- (a) in relation to timber and forest pests in England, the Forestry Commissioners;
- (b) otherwise in relation to England, the Secretary of State;
- (c) in relation to Wales, the Welsh Ministers;
- (d) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

(2) But for the purposes of Schedules 10 to 16, “appropriate UK plant health authority”, in relation to England, means the Secretary of State.

(3) The Secretary of State may delegate any functions of the Secretary of State under Schedules 10, 11, 13, 15 or 16 to the Forestry Commissioners on any terms and conditions as the Secretary of State considers appropriate.

(21) S.S.I. 2005/613, as amended by S.S.I. 2006/474, 2007/415, 498, 2008/300, 350, 2009/153, 2010/206, 342, 2012/266, 326, 2013/5, 187, 366, 2014/140, 2015/10, 2016/83, 2018/112, 283.

(22) OJ No. L 256, 7.9.1987, p. 1, as last amended by Regulation (EU) No 952/2013 of the European Parliament and of the Council (OJ No. L 269, 10.10.2013, p. 1).

Relevant Plant Health Orders: regulated plant pests and relevant material and derogations

4.—(1) The following Schedules make provision for the purposes of the relevant Plant Health Orders.

- (2) Schedule 1 makes provision about prohibited plant pests.
- (3) Schedule 2 makes provision about prohibited infested relevant material.
- (4) Schedule 3 makes provision about prohibited imported relevant material.
- (5) Schedule 4 makes provision about regulated relevant material.
- (6) Schedule 5 makes provision about notifiable relevant material.
- (7) Schedule 6 makes provision about controlled relevant material.
- (8) Schedule 7 makes provision about notifiable relevant material destined for a UK pest free area.
- (9) Schedule 8 makes provision about derogations from specific prohibitions and requirements under the relevant Plant Health Orders.

Emergency measures

- 5.—(1) The following Schedules make provision about emergency measures.
- (2) Schedule 9 makes miscellaneous provision about emergency measures.
 - (3) Schedule 10 makes provision about emergency measures in respect of *Gibberella circinata* Nirenberg & O'Donnell.
 - (4) Schedule 11 makes provision about emergency measures in respect of *Anoplophora chinensis* (Forster).
 - (5) Schedule 12 makes provision about emergency measures in respect of *Epitrix cucumeris* (Harris), *Epitrix papa* Orlova-Bienkowskaja, *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner).
 - (6) Schedule 13 makes provision about emergency measures in respect of *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al. (the pinewood nematode).
 - (7) Schedule 14 makes provision about emergency measures in respect of *Pomacea* (Perry).
 - (8) Schedule 15 makes provision about emergency measures in respect of *Xylella fastidiosa* (Wells et al.).
 - (9) Schedule 16 makes provision about emergency measures in respect of *Anoplophora glabripennis* (Motschulsky).

Revocation of retained direct EU legislation

6. The instruments listed in Schedule 17 (revocation of retained direct EU legislation) are revoked.

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2nd April 2019