

2021 No. 1171

PLANT HEALTH

**The Phytosanitary Conditions (Amendment) (No. 2) Regulations
2021**

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| <i>Made</i> | - - - - | <i>20th October 2021</i> |
| <i>Laid before Parliament</i> | | <i>21st October 2021</i> |
| <i>Coming into force</i> | - - | <i>2nd December 2021</i> |

The Secretary of State, in exercise of the powers conferred by Articles 5(3), 30(1), 37(5), 40(3), 41(3), 42(3), 72(3) and 105(6) of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants^(a) (“the Plant Health Regulation”), makes the following Regulations.

The Scottish Ministers and the Welsh Ministers^(b) have consented to the Secretary of State making these Regulations for the purposes of Article 2a(2) of the Plant Health Regulation.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Phytosanitary Conditions (Amendment) (No. 2) Regulations 2021, and come into force on 2nd December 2021.

(2) They extend to England and Wales, and Scotland.

Amendments to Commission Implementing Regulation (EU) 2019/2072

2.—(1) 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^(c) is amended as follows.

(2) In Annex 2^(d), in Part A—

(a) under the heading “**B. Fungi and oomycetes**”—

(i) after entry 35, insert “35A. *Thekopsora minima* (Arthur) Sydow & P. Sydow [THEKMI]”;

(b) under the heading “**C. Insects and mites**”—

(i) after entry 11A, insert “11B. *Agrilus fleischeri* Obenberger [AGRLFL]”;

(ii) after entry 99, insert “99A. *Prodiplosis longifila* Gagné [PRDILO]”.

(a) EUR 2016/2031 amended by S.I. 2020/1482. There are other amendments, but none is relevant to this instrument.

(b) Article 2a(2) of EUR 2016/2031 contains a definition of “the appropriate authority” as regards the making of regulations and consent from Welsh Ministers and Scottish Ministers.

(c) EUR 2019/2072 amended by S.I. 2020/1527, 2021/136, 426 and 641.

(d) Annex 2 to EUR 2019/2072 was substituted by Schedule 1 to S.I. 2020/1527 and amended by S.I. 2021/641.

- (3) In Annex 2A(a)—
- (a) under the heading “**A. Fungi and oomycetes**”, omit entry 6;
 - (b) under the heading “**B. Insects and mites**”, omit entries 1 and 8.
- (4) In Annex 4(b), in Part I—
- (a) under the heading “**Bacteria**”, omit the entry which relates to *Pseudomonas savastanoi* pv. *savastanoi* (Smith) Gardan *et al.* [PSDMSA];
 - (b) under the heading “**Insects and mites**”, omit the entry which relates to *Epidiaspis leperii* Signoret [EPIDBE];
 - (c) under the heading “**Nematodes**”, omit the entry which relates to *Heterodera fici* Kirjanova [HETDFI];
 - (d) under the heading “**Viruses, viroids, virus-like diseases and phytoplasmas**”, omit the entries which relate to Apricot latent virus [ALV000] and Aucuba mosaic agent and blackcurrant yellows agent combined.
- (5) In Annex 6(c)—
- (a) In Part A, after entry 20, insert—

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| “21. | Plants, other than fruit and seeds, of <i>Fraxinus</i> L. | Any third country where <i>Agrilus planipennis</i> Fairmaire is known to occur”; |
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- (b) In Part B, after entry 3, insert—

“3A. Plants of *Polymnia sonchifolia* Pöppig & Endlicher, originating from any third country.”.

- (6) In Annex 7(d), in Part A—

- (a) in the section headed “Interpretation”, in the definition of ‘associated controlled dunnage’, after “136,”, insert “136A,”;
- (b) in the table—
 - (i) after entry 30, insert—

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| “30A. | Plants for planting, other than bulbs, corms, rhizomes, seeds and tubers, of <i>Asparagus</i> Tournier ex Linnaeus, <i>Cucurbitaceae</i> , <i>Solanaceae</i> , <i>Cynara scolymus</i> L., <i>Persea americana</i> Miller and <i>Tagetes</i> L. | The Americas | <p>The plants must be accompanied by an official statement that:</p> <ul style="list-style-type: none"> (a) they originate in a country which, in accordance with the measures specified in ISPM No. 4, is known to be free from <i>Prodiplosis longifila</i> Gagné; (b) they originate in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from <i>Prodiplosis longifila</i> Gagné; or (c) they originate in a site of production**: <ul style="list-style-type: none"> (i) established by the national plant protection organisation in accordance with ISPM No. 10 as a site of production that is free from <i>Prodiplosis longifila</i> Gagné; and (ii) which provides complete physical protection against the introduction of <i>Prodiplosis longifila</i> Gagné. |
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(a) Annex 2A to EUR 2019/2072 was inserted by Schedule 2 to S.I. 2020/1527 and amended by S.I. 2021/426.
 (b) Annex 4 to EUR 2019/2072 was substituted by Schedule 4 to S.I. 2020/1527.
 (c) Annex 6 to EUR 2019/2072 was substituted by Schedule 6 to S.I. 2020/1527.
 (d) Annex 7 to EUR 2019/2072 was substituted by Schedule 7 to S.I. 2020/1527 and amended by S.I. 2021/136, 426 and 641.

* The name(s) of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”.

** The name(s) of the site(s) of production must be included in the phytosanitary certificate under the heading “Additional declaration”.”;

- (ii) in entry 42A, in the third column, in the unnumbered paragraph after paragraph (g), for the words from “The total number” to “quarantine facilities.” substitute—

“The total number of plants dispatched to Great Britain must not exceed quantities which have been approved by the UK NPPO in advance, having regard to the availability of quarantine facilities. In the case of plants of *Juniperus* L., the plants may only be imported into Great Britain during the period beginning on 1st November each year and ending on 31st March the following year.”;

- (iii) in entry 50—

(aa) for the entry in the second column, substitute “Any third country”;

(bb) in the third column, in the first paragraph, for “plants originate” substitute “plants have been grown during a period of at least two years prior to export, or in the case of plants which are younger than two years, have been grown throughout their life.”;

- (iv) after entry 63, insert—

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| “63A. | Plants, including cut branches with or without foliage, other than plants in tissue culture, pollen or seeds, of <i>Populus</i> L. and <i>Salix</i> L. | China, the Democratic People’s Republic of Korea, Japan, Kazakhstan, Mongolia, the Republic of Korea and Russia | The plants must be accompanied by an official statement that they have been grown throughout their life in an area* established by the national plant protection organisation in accordance with the measures specified in ISPM No. 4 as an area that is free from <i>Agrilus fleischeri</i> Obenberger, and not within 100 km of a known outbreak of <i>Agrilus fleischeri</i> Obenberger. * The name(s) of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”.”; |
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- (v) after entry 85, insert—

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| “85A. | Plants for planting, other than plants in tissue culture or seeds, of <i>Vaccinium</i> L. | Any third country | The plants must be accompanied by an official statement that: (a) they originate in a country free from <i>Thekopsora minima</i> (Arthur) Sydow & P. Sydow; (b) they originate in an area* established by the national plant protection organisation in accordance with the measures specified in ISPM No. 4 as being free from <i>Thekopsora minima</i> (Arthur) Sydow & P. Sydow; or (c) they originate in a place of production established by the national plant protection |
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organisation in accordance with the measures specified in ISPM No. 10 as being free from *Thekopsora minima* (Arthur) Sydow & P. Sydow.

* The name(s) of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”.”;

(vi) after entry 102, insert—

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| “102A. | Fruits of <i>Cucurbitaceae</i> and <i>Solanaceae</i> | The Americas | The fruits must be accompanied by an official statement that they originate in: (a) a country which in accordance with the measures specified in ISPM No. 4 is known to be free from <i>Prodiplosis longifila</i> Gagné; (b) an area* established by the national plant protection organisation in accordance with the measures specified in ISPM No. 4 as an area that is free from <i>Prodiplosis longifila</i> Gagné; (c) a place of production (identified in the official statement for traceability purposes) where official inspections and surveys for the presence of <i>Prodiplosis longifila</i> Gagné carried out at the place of production and its immediate vicinity during a period of two months prior to export, including a visual inspection of a representative sample of fruits, have shown the fruits to be free of that pest, provided that, in the case of the fruits of <i>Solanum lycopersicum</i> L., all green parts have been removed; or (d) an insect-proof site of production (identified in the official statement for traceability purposes) established by the national plant protection organisation in the country of origin as being free from <i>Prodiplosis longifila</i> Gagné, on the basis of official inspections and surveys carried out during a period of two months prior to export. |
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* The name(s) of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”.”;

(vii) after entry 105, insert—

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| “105A. | Plants, other than plants for planting, of <i>Asparagus</i> Tournier ex Linnaeus | The Americas | The plants must be accompanied by an official statement that: (a) they originate in a country which in accordance with the measures specified in ISPM No. 4 is known to be free from |
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Prodiplosis longifila Gagné;
 (b) they originate in an area* established by the national plant protection organisation in accordance with the measures specified in ISPM No. 4 as an area that is free from *Prodiplosis longifila* Gagné; or
 (c) immediately prior to their export, they have been officially inspected and found free from *Prodiplosis longifila* Gagné.

* The name(s) of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”.”;

- (viii) in entry 125, for the entry in the second column, substitute “Any third country”;
- (ix) in entry 126, for the entry in the second column, substitute “Any third country”;
- (x) in entry 127, for the entry in the second column, substitute “Any third country”;
- (xi) after entry 136, insert—

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| “136A. | Wood of <i>Populus</i> L. and <i>Salix</i> L. other than in the form of: —chips, particles, sawdust, shavings, wood waste and scrap, or —wood packaging material, except associated controlled dunnage, but including wood which has not kept its natural round surface | China, the Democratic People’s Republic of Korea, Japan, Kazakhstan, Mongolia, the Republic of Korea and Russia | The wood must be accompanied by an official statement that: (a) it originates in an area* which in accordance with the measures specified in ISPM No. 4 is known to be free from <i>Agrilus fleischeri</i> Obenberger, and not within 100 km of a known outbreak of <i>Agrilus fleischeri</i> Obenberger; (b) it is bark-free, and has undergone an appropriate heat treatment to achieve a minimum temperature of 56 °C for a minimum duration of 30 continuous minutes throughout the entire profile of the wood; or (c) it has undergone appropriate ionizing irradiation to achieve a minimum absorbed dose of 1 kGy throughout the wood. |
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Where the phytosanitary certificate includes the official statement referred to in paragraph (b), there must also be evidence of that heat treatment by a mark “HT” put on the wood or on any wrapping in accordance with current usage and on the phytosanitary certificate.

* The name(s) of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”.”;

- (xii) after entry 137, insert—

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| “137A. | Wood in the form of chips, particles, sawdust, | China, the Democratic | The wood must be accompanied by an official statement that it originates in an |
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| | shavings, wood waste and scrap obtained in whole or part from <i>Populus</i> L. and <i>Salix</i> L. | People's Republic of Korea, Japan, Kazakhstan, Mongolia, the Republic of Korea and Russia | area* which in accordance with the measures specified in ISPM No. 4 is known to be free from <i>Agrilus fleischeri</i> Obenberger, and not within 100 km of a known outbreak of <i>Agrilus fleischeri</i> Obenberger. * The name(s) of the area(s) must be included in the phytosanitary certificate under the heading "Additional declaration". |
| 137B. | Isolated bark and objects made of bark of <i>Populus</i> L. and <i>Salix</i> L. | China, the Democratic People's Republic of Korea, Japan, Kazakhstan, Mongolia, the Republic of Korea and Russia | The isolated bark and objects made of bark must be accompanied by an official statement that they originate in an area* which in accordance with the measures specified in ISPM No. 4 is known to be free from <i>Agrilus fleischeri</i> Obenberger, and not within 100 km of a known outbreak of <i>Agrilus fleischeri</i> Obenberger. * The name(s) of the area(s) must be included in the phytosanitary certificate under the heading "Additional declaration". |

(7) In Annex 11(a), in Part A, in the table—

- (a) in entry 17, for the entry in the third column substitute "Any third country";
- (b) after entry 18, insert—

"18A. *Asparagus* Other vegetables, fresh or chilled: The Americas";
Tournier ex 0709 20 00
Linnaeus

(c) after entry 20, insert—

"20A. *Cucurbitaceae* Cucumbers and gherkins, fresh or chilled: The Americas";
0707 00 05
0707 00 90

Melons (including watermelons):
0807 11 00
0807 19 00

Pumpkins, squash and gourds (*Cucurbita* spp.):
0709 93 10
0709 93 90

Other fruit, fresh or chilled:
ex 0810 90 75

(a) Annex 11 of EUR 2019/2072 was substituted by Schedule 10 to S.I. 2020/1527 and amended by S.I. 2021/426.

(d) in entry 37, for the entry in the third column, substitute “Any third country”;

(e) after entry 40 and before the heading “Wood of:”, insert—

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| “40A. | <i>Salix</i> L. | Vegetable products of bark not elsewhere specified or included: ex 1404 90 00 | China, the Democratic People’s Republic of Korea, Japan, Kazakhstan, Mongolia, the Republic of Korea and Russia”; |
| | | Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms: – Sawdust and wood waste and scrap, not agglomerated: – Wood waste and scrap (other than sawdust): ex 4401 40 90 | |

(f) in entry 43, for the entry in the third column substitute “The Americas, China, the Democratic People’s Republic of Korea, Japan, Kazakhstan, Mongolia, the Republic of Korea and Russia”;

(g) in entry 46, for the entry in the third column substitute “Any third country”;

(h) after entry 53, insert—

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| “54 | <i>Salix</i> L. | Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms: – Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms: — Non-coniferous: ex 4401 12 00 – Wood in chips or particles: — Non-coniferous: ex 4401 22 00 – Sawdust and wood waste and scrap, not agglomerated: — Sawdust: ex 4401 40 10 — Wood waste and scrap (other than sawdust): ex 4401 40 90 Wood in the rough, not stripped of bark or sapwood, or roughly squared: – Treated with paint, stains, creosote or other preservatives: — Non-coniferous: ex 4403 12 00 | China, the Democratic People’s Republic of Korea, Japan, Kazakhstan, Mongolia, the Republic of Korea and Russia”. |
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Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared:

– Other than treated with paint, stains, creosote or other preservatives:

ex 4403 99 00

Split poles; piles, pickets and stakes of wood, pointed but not sawn lengthwise:

– Non-coniferous:

ex 4404 20 00

Non-coniferous railway or tramway sleepers (cross-ties) of wood:

– Not impregnated:

ex 4406 12 00

– Other (than not impregnated):

ex 4406 92 00

Non-coniferous wood (other than tropical wood, oak (*Quercus* spp.), beech (*Fagus* spp.), maple (*Acer* spp.), cherry (*Prunus* spp.), ash (*Fraxinus* spp.), birch (*Betula* spp.) or poplar and aspen (*Populus* spp.)), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm:

ex 4407 99 27

ex 4407 99 40

ex 4407 99 90

Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm:

ex 4408 90 15

ex 4408 90 35

ex 4408 90 85

ex 4408 90 95

Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood, including staves:

ex 4416 00 00

Prefabricated buildings of wood:

ex 9406 10 00

20th October 2021

Benyon of Englefield
Parliamentary Under Secretary of State,
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Commission Implementing Regulation (EU) 2019/2072 (“the Phytosanitary Conditions Regulation”) 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.

Regulation 2 amends the Phytosanitary Conditions Regulation to include additional measures to prevent the introduction of the plant pests *Prodiplosis longifila*, *Agrilus fleischeri*, *Thekopsora minima* and *Agrilus planipennis* in Great Britain. It deregulates the following pests which do not pose a risk to biosecurity in Great Britain: *Pseudomonas savastanoi* pv. *Savastanoi*, *Epidiaspis leperii*, *Heterodera fici*, Apricot latent virus and Aucuba mosaic agent and blackcurrant yellows agent combined. It also introduces a prohibition, pending a risk assessment, on the introduction of *Polymnia sonchifolia*, which risks introducing a GB quarantine pest of potatoes.

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

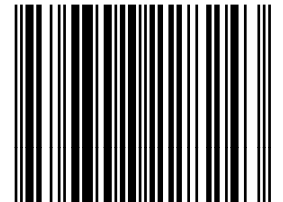
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£6.90

<http://www.legislation.gov.uk/id/uksi/2021/1171>

ISBN 978-0-34-822824-3



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