

This Statutory Instrument has been made, in part, in consequence of defects in S.I. 2019/170, S.I. 2019/809, S.I. 2020/1294, S.I. 2020/1388 and S.I. 2020/1527, and is being issued free of charge to all known recipients of those Statutory Instruments.

STATUTORY INSTRUMENTS

2021 No. 1229

ANIMALS

PLANT HEALTH

SEEDS

**The Animal Health, Plant Health, Seeds and Seed Potatoes
(Miscellaneous Amendments) Regulations 2021**

<i>Sift requirements satisfied</i>	<i>28th October 2021</i>
<i>Made - - - -</i>	<i>2nd November 2021</i>
<i>Laid before Parliament</i>	<i>3rd November 2021</i>
<i>Coming into force - -</i>	<i>26th November 2021</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Animal Health, Plant Health, Seeds and Seed Potatoes (Miscellaneous Amendments) Regulations 2021 and come into force on 26th November 2021.

(a) 2018 c. 16. Paragraph 21 of Schedule 7 was amended by paragraph 53 of Part 2 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

Extent and application

2. In these Regulations—

- (a) this regulation and regulations 1 and 3 extend, and apply, to England and Wales, Scotland and Northern Ireland;
- (b) regulation 4 extends to England and Wales, Scotland and Northern Ireland, but it applies to England and Wales, and Scotland only;
- (c) regulations 5 to 12 and 14 extend, and apply, to England and Wales, and Scotland;
- (d) regulation 13 extends to England and Wales, but it applies to England only.

PART 2

Amendment of retained EU law

Amendment of Regulation (EC) No 999/2001

3. In Annex 8 to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies(a), in point 2.1 of Section A of Chapter A, omit point (e).

Amendment of Commission Implementing Regulation (EU) No 139/2013

4. In Article 2 of Commission Implementing Regulation (EU) No 139/2013 laying down animal health conditions for imports of certain birds into the Union and the quarantine conditions thereof(b), omit point (g).

Amendment of Regulation (EU) No 576/2013

5. In Article 3 of Regulation (EU) No 576/2013 of the European Parliament and of the Council on the non-commercial movement of pet animals(c), in point (p), for “applies” substitute “has effect”.

Amendment of Commission Implementing Regulation (EU) 2019/2072

6. 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, etc.(d), is amended as follows.

7. In Annex 4, Part E, in the first table, for the heading, “*Fungi and oomycetes*”, substitute “*Bacteria*”.

8.—(1) Annex 5 is amended as follows.

(2) In Part A, in paragraph 2(1), renumber the second point (c) as point (d).

(3) In Part C—

(a) in the first table (bacteria), at the end insert—

“ <i>Xanthomonas vesicatoria</i> (ex Doidge) Vauterin et al	<i>Capsicum annuum</i> L	In the case of seeds: (a) the seeds originate in areas known to be free from
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(a) EUR 2001/999, amended by S.I. 2019/170. S.I. 2019/170 was amended by S.I. 2020/1388. There are other amendments to EUR 2001/999, but none is relevant for this instrument.

(b) EUR 2013/139, amended by S.I. 2020/1462.

(c) EUR 2013/576, amended by S.I. 2020/1388.

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

Xanthomonas vesicatoria (ex Doidge) Vauterin et al,
(b) no symptoms of disease caused by *Xanthomonas vesicatoria* (ex Doidge) Vauterin et al have been observed on visual inspections at the site of production at appropriate times during the complete cycle of vegetation of the plants, or
(c) the seeds have been subjected to official testing for *Xanthomonas vesicatoria* (ex Doidge) Vauterin et al on a representative sample using appropriate methods (whether or not following an appropriate treatment) and have been found in those tests to be free from that pest.
In the case of plants other than seeds:
(a) the seedlings have been grown from seeds that meet the above requirements, and
(b) the plants have been maintained in appropriate hygiene conditions to prevent infection.”;

(b) in the final table (viruses, viroids, virus-like diseases and phytoplasmas)—

(i) in the entry for “*Impatiens* necrotic spot tospovirus [INSV00]”, for the text in the third column substitute—

“The plants have been grown in a site of production that has been subjected to monitoring for the relevant thrips vectors (*Frankliniella occidentalis* Pergande) and, upon their detection, to appropriate treatments to ensure effective suppression of their populations, and:

- (a) no symptoms of *Impatiens* necrotic spot tospovirus have been observed on plants at the site of production during the current growing period, or
- (b) any plants at the production site showing symptoms of *Impatiens* necrotic spot tospovirus during the current growing period have been rogued out and a representative sample of the plants to be moved has been tested and found free from *Impatiens* necrotic spot tospovirus.”;

(ii) in the second entry for “Tomato ringspot virus [TORSV0]”, in the third column, in point (b)—

- (aa) omit “at least the pest”;
- (bb) for “pests tested” substitute “pest”;
- (cc) omit “item”.

(4) In Part E, in the first table (bacteria), in the second entry for “*Xanthomonas vesicatoria* (ex Doidge) Vauterin et al. [XANTVE]”, in the third column omit point (c).

(5) In Part G, in paragraph 2(1), renumber the second point (c) as point (d).

(6) In Part H—

- (a) in the first table (bacteria), in the second entry for “*Xanthomonas euvesicatoria* Jones *et al.* [XANTEU]”, in the first column, for “*Xanthomonas euvesicatoria* Jones *et al.* [XANTEU]” substitute “*Xanthomonas vesicatoria* (ex Doidge) Vauterin *et al.* [XANTVE]”;
- (b) in the second table (fungi and oomycetes), in the second entry for “*Stromatinia cepivora* Berk. [SCLOCE]”, in the third column, in point (b), after “plants” insert “or sets”.

9.—(1) In Annex 7, the table in Part A is amended as follows.

- (2) In entry 1, in the third column, in point (b)(ii), for “the the” substitute “the”.
- (3) In entry 20, in the third column, for point (d) substitute—

“(d) that:

- (i) they originate in an area in which *Meloidogyne chitwoodi* Golden *et al.* (all populations) is known not to occur,
- (ii) they originate from a place of production which has been found free from *Meloidogyne chitwoodi* Golden *et al.* (all populations) based on an annual survey of host crops by visual inspection of host plants at appropriate times and by visual inspection both externally and by cutting of tubers after harvest from potato crops grown at the place of production, or
- (iii) after harvest, they have been randomly sampled and checked for the presence of symptoms after an appropriate method to induce symptoms has been applied or laboratory tested, as well as inspected visually both externally and by cutting tubers at appropriate times to detect the presence of *Meloidogyne chitwoodi* Golden *et al.*, and in all cases at the time of closing of the packages or containers before movement, and found to be free from symptoms of that pest, and”.

(4) In entry 28, in the third column, in point (a), for “*Candidiatus*” substitute “*Candidatus*”.

(5) In entry 109, in the third column—

- (a) omit the “or” at the end of point (a)(ii);
- (b) insert “, or” at the end of point (b)(ii);
- (c) after point (b) insert—

“(c) an official statement that the wood has been subject to fumigation, the active ingredient, the minimum wood temperature, the rate (g/m³) and the exposure time of which are indicated on the phytosanitary certificate; but a phytosanitary certificate may not include any such official statement unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of fumigation.”;

- (d) in the final paragraph, for “There” substitute “For the purposes of points (a) and (b), there”.

(6) In entry 110, in the third column—

- (a) omit the “or” at the end of point (a)(ii);
- (b) insert “, or” at the end of point (b)(ii);
- (c) after point (b) insert—

“(c) an official statement that the wood has been subject to fumigation, the active ingredient, the minimum wood temperature, the rate (g/m³) and the exposure time of which are indicated on the phytosanitary certificate; but a phytosanitary certificate may not include any such official statement unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of fumigation.”;

- (d) in the final paragraph, for “There” substitute “For the purposes of points (a) and (b), there”.

(7) In entry 111, in the third column—

- (a) omit the “or” at the end of point (b);
- (b) insert “, or” at the end of point (c);
- (c) after point (c) insert—

“(d) an official statement that the wood has been subject to fumigation, the active ingredient, the minimum wood temperature, the rate (g/m³) and the exposure time of which are indicated on the phytosanitary certificate; but a phytosanitary certificate may not include any such official statement unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of fumigation.”.

(8) In entry 112, in the third column—

- (a) omit the “or” at the end of point (c);
- (b) insert “, or” at the end of point (d);
- (c) after point (d) insert—

“(e) an official statement that the wood has been subject to fumigation, the active ingredient, the minimum wood temperature, the rate (g/m³) and the exposure time of which are indicated on the phytosanitary certificate; but a phytosanitary certificate may not include any such official statement unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of fumigation.”.

(9) In entry 113, in the third column—

- (a) omit the “or” at the end of point (b);
- (b) insert “, or” at the end of point (c);
- (c) after point (c) insert—

“(d) an official statement that the wood has been subject to fumigation, the active ingredient, the minimum wood temperature, the rate (g/m³) and the exposure time of which are indicated on the phytosanitary certificate; but a phytosanitary certificate may not include any such official statement unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of fumigation.”.

(10) In entry 114, in the third column—

- (a) omit the “or” at the end of point (c);
- (b) insert “, or” at the end of point (d);
- (c) after point (d) insert—

“(e) an official statement that the wood has been subject to fumigation, the active ingredient, the minimum wood temperature, the rate (g/m³) and the exposure time of which are indicated on the phytosanitary certificate; but a phytosanitary certificate may not include any such official statement unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of fumigation.”.

(11) In entry 131, in the third column—

- (a) omit the “or” at the end of point (a);
- (b) insert “, or” at the end of point (b);
- (c) after point (b) insert—

“(c) an official statement that the wood has been subject to fumigation, the active ingredient, the minimum wood temperature, the rate (g/m³) and the exposure time of which are indicated on the phytosanitary certificate; but a phytosanitary certificate may not include any such official statement unless the national plant protection organisation

of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of fumigation.”.

(12) In entry 137, in the third column—

(a) insert “, or” at the end of point (c);

(b) after point (c) insert—

“(d) an official statement that the wood has been subject to fumigation, the active ingredient, the minimum wood temperature, the rate (g/m³) and the exposure time of which are indicated on the phytosanitary certificate; but a phytosanitary certificate may not include any such official statement unless the national plant protection organisation of the country of origin has previously provided the national plant protection organisation of the United Kingdom with written details of fumigation.”.

Amendment of Commission Implementing Regulation (EU) 2019/2148

10.—(1) Commission Implementing Regulation (EU) 2019/2148 on specific rules concerning the release of plants, plant products and other objects from quarantine stations and confinement facilities pursuant to Regulation (EU) 2016/2031 of the European Parliament and of the Council^(a) is amended as follows.

(2) In Article 2—

(a) for point (a) substitute—

“(a) ‘specified material’ means any plants, plant products or other objects that are subject to measures, requirements or restrictions under Articles 30(1), 40(1), 41(1), 42(2), 48(1), 49(1), 53(1) or 54(1) of Regulation (EU) 2016/2031;”^(b);

(b) in point (b), for points (i) to (iii) substitute—

“(i) GB quarantine pest;

(ii) provisional GB quarantine pest;

(iii) PFA quarantine pest,

and for this purpose, the expressions “GB quarantine pest”, “provisional GB quarantine pest” and “PFA quarantine pest” have the meanings given in Regulation (EU) 2016/2031;”.

(3) In Article 3—

(a) in the words before point (a), for “Member States” substitute “competent authority, as defined in Regulation (EU) 2016/2031;”;

(b) after point (a), insert “and”.

(4) In the words following Article 5, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Amendment of Commission Implementing Regulation (EU) 2020/1231

11. In Annex 2 to Commission Implementing Regulation (EU) 2020/1231 on the format and instructions for the annual reports on the results of the surveys and on the format of the multiannual survey programmes and the practical arrangements, respectively provided for in Articles 22 and 23 of Regulation (EU) 2016/2031 of the European Parliament and the Council^(c), in paragraph 1 of Part 1, in the final indent, for “Commission website” substitute “gov.uk website”.

(a) EUR 2019/2148.

(b) EUR 2016/2031, amended by S.I. 2020/1482.

(c) EUR 2020/1231, amended by S.I. 2021/426.

PART 3

Amendment of subordinate legislation

Amendment of the Seeds (National Lists of Varieties) Regulations 2001

12. In the Seeds (National Lists of Varieties) Regulations 2001(a), in regulation 2(1), in the definition of “the NI Variety Lists”, after “(2) to (5)” insert “, and “NI Variety List” means any one of those lists”.

Amendment of the Seed Potatoes (England) Regulations 2015

13. In the Seed Potatoes (England) Regulations 2015(b), in regulation 2(1), for the definition of “seed potatoes produced outside England” substitute—

““seed potatoes produced outside England” means—

- (a) seed potatoes produced in any part of the British Islands other than England; or
- (b) seed potatoes produced in a country granted equivalence;”.

Amendment of the Plant Health (Amendment etc.) (EU Exit) Regulations 2020

14. In the Plant Health (Amendment etc.) (EU Exit) Regulations 2020(c), for regulation 52(1) substitute—

“(1) This regulation applies to plants, plant products and other objects, other than qualifying Northern Ireland goods, which originate in, or are dispatched from—

- (a) an EU Member State, and which are introduced into Great Britain during the period commencing on IP completion day and ending on 31st December 2021;
- (b) Liechtenstein or Switzerland, and which are introduced into Great Britain during the period commencing on 26th November 2021 and ending on 31st December 2021.”.

Benyon of Englefield

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

2nd November 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) to (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union. In addition, the free issue procedure is being used for these Regulations as they correct errors that arise from a number of other instruments, as described below.

Part 2 (regulations 3 to 11) contains various amendments, and corrections, to retained direct EU legislation. These are summarised as follows—

- (a) regulation 3 corrects an error in point 2.1 of Section A of Chapter A to Annex 8 to Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform

(a) S.I. 2001/3510, as amended by S.I. 2020/1294. There are other amendments, but none is relevant for this instrument.

(b) S.I. 2015/1953, as amended by S.I. 2019/809. S.I. 2019/809 was amended by S.I. 2020/1388. There are other amendments to S.I. 2015/1953, but none is relevant for this instrument.

(c) S.I. 2020/1482, as amended by S.I. 2021/429.

encephalopathies (EUR 2001/999). This error arises due to an error in regulation 20(2)(s) of the Animals, Aquatic Animal Health, Invasive Alien Species, Plant Propagating Material and Seeds (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1388). That provision substituted regulation 2(60) of the Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/170), which in turn amended Regulation (EC) No 999/2001;

- (b) regulation 5 corrects an error in Article 3 of Regulation (EU) No 576/2013 of the European Parliament and of the Council on the non-commercial movement of pet animals (EUR 2013/576), which arises due to an error in regulation 15(3)(d) of S.I. 2020/1388;
- (c) regulations 6 to 9 amend 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 (EUR 2019/2072). In particular, regulations 7, 8(2), (3)(b), (4) to (6) and 9(2) to (4) correct errors in Regulation (EU) 2019/2072, which arise due to errors in the Plant Health (Phytosanitary Conditions) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1527);
- (d) regulation 10 amends Commission Implementing Regulation (EU) 2019/2148 on specific rules concerning the release of plants, plant products and other objects from quarantine stations and confinement facilities pursuant to Regulation (EU) 2016/2031 of the European Parliament and of the Council (EUR 2019/2148).

Part 3 contains amendments to various statutory instruments—

- (a) regulation 12 corrects an error in the definition of “the NI Variety Lists” in regulation 2(1) of the Seeds (National Lists of Varieties) Regulations 2001 (S.I. 2001/3510), which arises due to an error in regulation 3(2)(a)(vi) of the Seeds (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1294);
- (b) regulation 13 corrects an error in the definition of “seed potatoes produced outside England” in regulation 2(1) of the Seed Potatoes (England) Regulations 2015 (S.I. 2015/1953), which arises due to an error in regulation 21(4)(b)(vii)(bb) of S.I. 2020/1388. That provision amended regulation 7(3) of the Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/809), which in turn amended S.I. 2015/1953;
- (c) regulation 14 amends the transitional provision in the Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482) to make provision for Liechtenstein and Switzerland.

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

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