

*This Statutory Instrument has been made in part to correct errors in S.I. 2019/809 and S.I. 2021/136 and is being issued free of charge to all known recipients of those Statutory Instruments.*

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STATUTORY INSTRUMENTS

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**2021 No. 426**

**PLANT HEALTH**

**SEEDS, ENGLAND**

**The Official Controls, Plant Health, Seeds and Seed Potatoes  
(Amendment etc.) Regulations 2021**

<i>Sift requirements satisfied</i>	<i>25th March 2021</i>
<i>Made - - - -</i>	<i>29th March 2021</i>
<i>Laid before Parliament</i>	<i>30th March 2021</i>
<i>Coming into force - -</i>	<i>20th April 2021</i>

The Secretary of State makes the following 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), and Articles 22(2) and (3) and 144(6) 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(b) (“the Official Controls Regulation”).

The Scottish Ministers and the Welsh Ministers(c) have consented to the Secretary of State making these Regulations for the purpose of Article 3(2B) of the Official Controls Regulation.

The Secretary of State has consulted in accordance with Article 144(7) of the Official Controls Regulation, during the preparation and evaluation of the following Regulations.

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

**Citation, commencement, extent and application**

1.—(1) These Regulations may be cited as the Official Controls, Plant Health, Seeds and Seed Potatoes (Amendment etc.) Regulations 2021.

(2) These Regulations come into force on 20th April 2021.

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(a) 2018 c. 16; section 8 was amended by section 27 of the European Union (Withdrawal Agreement Act) 2020 (c. 1) and paragraph 21 of Schedule 7 was amended by section 41(4) of, and paragraph 53(2) of Schedule 5 to, that Act.  
(b) EUR 2017/625, amended by S.I. 2020/1481, there are other amending instruments but none is relevant.  
(c) Article 3(2B) of EUR 2017/625 contains the definition of “the appropriate authority”.

(3) These Regulations extend as follows—

- (a) regulations 6 and 7 extend to England and Wales;
- (b) regulation 8 extends to the United Kingdom;
- (c) the remainder extends to England and Wales, and Scotland.

(4) They apply in relation to England and Wales and Scotland only, with the exception of Part 3, which applies in relation to England only.

## PART 1

### Modification of retained EU law

#### Amendment to Regulation (EU) 2016/2031

2.—(1) Regulation (EU) 2016/2031(a) of the European Parliament and of the Council on protective measures against pests of plants is amended as follows.

(2) In Article 2(9)(d) for “the Union territory”, substitute “Great Britain”.

#### Amendments to Commission Implementing Regulation (EU) 2019/2072

3.—(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(b) is amended as follows.

(2) In Annex 2A—

- (a) for the heading “**B. Insect and mites**” substitute “**B. Insects and mites**”, and—
  - (i) after entry 2, insert “2A *Aonidiella orientalis* (Newstead) [AONDOR]”;
  - (ii) after entry 4, insert “4A *Eotetranychus sexmaculatus* (Riley) [TETRSM]”;
  - (iii) after entry 7, insert “7A *Platypus apicalis* (White) [PLTPAP]”;

(b) under the heading “**C. Viruses, viroids and phytoplasmas**” omit entries 9 and 10.

(3) In Annex 3, in the table, in entry 4, in the second column—

- (a) after “Castle Point,” insert “Central Bedfordshire (part of),”;
- (b) after “Lewisham,” insert “Luton,”;
- (c) omit “Littleford,” and “South Bedfordshire,”;
- (d) after “St Albans,” insert “Stevenage,”; and
- (e) after “Tower Hamlets,” insert “Uttlesford,”.

(4) In Annex 4, in the table in Part E, under “**Fungi and oomycetes**”, omit the entry relating to “*Candidatus Liberibacter*”.

(5) In Annex 5—

- (a) in the table in Part C, under “**Viruses, viroids, virus-like diseases and phytoplasmas**”, in the second entry relating to “Tomato ringspot virus [TORSV0]”, in the third column—
  - (i) for paragraph (a) substitute—

“(a) the plants originate in areas known to be free from Tomato ringspot virus, or”;
  - (ii) in paragraph (b), at the beginning, insert the text contained in the existing paragraph (a);
- (b) in the table in Part E, under “**Bacteria**”—

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(a) EUR 2016/2031 was amended by S.I. 2020/1482 and S.I. 2021/79.

(b) EUR 2019/2072 was amended by S.I. 2020/1527.

- (i) in the second entry relating to “*Xanthomonas euvesicatoria* Jones *et al.* [XANTEU]”, in the third column—
    - (aa) in paragraph (a), after “extraction” insert “method”;
    - (bb) at the end of paragraph (a), for “and”, substitute “or”;
    - (cc) in paragraph (b) at the beginning insert “the seeds have been obtained by an appropriate acid extraction method, and”;
  - (ii) in the second entry relating to “*Xanthomonas gardneri* (ex Šutič) Jones *et al.* [XANTGA]”, in the third column—
    - (aa) in paragraph (a) after “extraction” insert “method”;
    - (bb) at the end of paragraph (a), for “and” substitute “or”;
    - (cc) in paragraph (b) at the beginning insert “the seeds have been obtained by an appropriate acid extraction method, and”;
  - (iii) in the second entry relating to “*Xanthomonas perforans* Jones *et al.* [XANTPF]” in the third column—
    - (aa) in paragraph (a) after “extraction” insert “method”;
    - (bb) in paragraph (b) at the beginning insert “the seeds have been obtained by an appropriate acid extraction method, and”;
  - (iv) in the second entry relating to “*Xanthomonas vesicatoria* (ex Doidge) Vauterin *et al.* [XANTVE]” in the third column—
    - (aa) in paragraph (a) after “extraction” insert “method”;
    - (bb) at the end of paragraph (a), insert “or”;
    - (cc) for paragraph (b) substitute—
      - “(b) the seeds have been obtained by an appropriate acid extraction method, and
        - (i) no symptoms of disease caused by *Xanthomonas vesicatoria* (ex Doidge) Vauterin *et al.* have been observed on visual inspections at appropriate times during the complete cycle of vegetation of the plants at the site of production, or
        - (ii) 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.”.
- (6) In Annex 6, in Part B—
- (a) in paragraph 1—
    - (i) for the entry “*Acer* L.” substitute “*Acer* L., other than: one- to three-year old bare-rooted, dormant, free-of-leaves, grafted or budded plants for planting of *Acer japonicum* Thunberg, *Acer palmatum* Thunberg, and *Acer shirasawanum* Koidzumi, originating in New Zealand”;
    - (ii) for the entry “*Albizia* Durazz” substitute “*Albizia* Durazz, other than: bare-rooted, dormant grafted plants for planting of *Albizia julibrissin* Durazzini originating in Israel, with a maximum diameter of 2.5cm .”;
    - (iii) for the entry “*Malus* Mill” substitute “*Malus* Mill., other than: one- to two-year old bare-rooted, dormant, grafted plants for planting of *Malus domestica* (Borkhausen) originating in Serbia”;
    - (iv) for the entry “*Robinia* L.” substitute “*Robinia* L. other than: bare-rooted, dormant grafted plants for planting of *Robinia pseudoacacia* L. originating in Israel, with a maximum diameter of 2.5cm”; and
  - (b) omit paragraph 4.
- (7) In Annex 7, in Part A—

- (a) in the section headed “Interpretation”, in the definition of ‘associated controlled dunnage’, for “109, 111, 112, 113, 120, 123, 125, 130, 132, 135, 136, 138 or 140” substitute “109, 111, 112, 113, 116, 117, 120, 122, 123, 125, 128, 130, 132, 135, 136, 138, 140 or 142”;
- (b) in the table—
- (i) in entry 9, in column 1, after “Solanaceae”, insert “other than tubers of *Solanum tuberosum*”;
- (ii) at entry 20, for paragraph (e) in column 3, substitute—  
“(e) they originate in a site of production where the procedures to combat *Globodera pallida* (Stone) Behrens and *Globodera rostochiensis* (Wollenweber) Behrens set out in EPPO PM 9/26 have been implemented.”;
- (iii) in entry 22, in column 3, for paragraphs (b) to (d) substitute—  
“(b) they originate in a place of production which:
- (i) has been found to be free from *Synchytrium endobioticum* (Schilbersky) Percival, or
- (ii) is considered to be free from *Synchytrium endobioticum* (Schilbersky) Percival as a consequence of the implementation of the procedures set out in EPPO PM 9/5,
- (c) they originate in a place of production which:
- (i) has been found to be free from *Clavibacter sepedonicus* (Spieckermann & Kotthoff) Li *et al.*, or
- (ii) is considered to be free from *Clavibacter sepedonicus* (Spieckermann & Kotthoff) Li *et al.* as a consequence of the implementation of the procedures set out in EPPO PM9/2(2), and
- (d) they originate in a site of production where the procedures to combat *Globodera pallida* (Stone) Behrens and *Globodera rostochiensis* (Wollenweber) Behrens set out in EPPO PM 9/26 have been implemented.”;
- (iv) in entry 24, in column 3, after “tubers must” insert “be”;
- (v) in entry 27—
- (aa) in column 2, after “country” insert “other than EU Member States, Liechtenstein and Switzerland”;
- (bb) in column 3, for entries (a) and (b), substitute—  
“(a) that they originate in:
- (i) a country which, in accordance with the measures specified in ISPM4, is known to be free from *Clavibacter sepedonicus* (Spieckermann & Kotthoff) Li *et al.*,
- (ii) a place of production established by the national plant protection organisation in accordance with ISPM10 as a place of production that is free from *Clavibacter sepedonicus* (Spieckermann & Kotthoff) Li *et al.*, or
- (iii) a place of production which is considered to be free from *Clavibacter sepedonicus* (Spieckermann & Kotthoff) Li *et al.* as a consequence of the implementation of the procedures set out in EPPO PM 9/2,
- (b) that they originate in:
- (i) an area which, in accordance with the measures specified in ISPM4, is known to be free from *Synchytrium endobioticum* (Schilbersky) Percival (all races other than Race 1, the common European race), and no symptoms of *Synchytrium endobioticum* (Schilbersky) Percival have been observed at the place of production or in its immediate vicinity for an adequate period,

- (ii) a place of production established by the national plant protection organisation in accordance with ISPM10 as a place of production that is free from *Synchytrium endobioticum* (Schilbersky) Percival, or
- (iii) a place of production which is considered to be free from *Synchytrium endobioticum* (Schilbersky) Percival as a consequence of the implementation of the procedures set out in EPPO PM 9/5, and”;
- (vi) in entry 31, in column 3, for the words from “originate” to the end substitute “originate in a site of production where the procedures to combat *Globodera pallida* (Stone) Behrens and *Globodera rostochiensis* (Wollenweber) Behrens set out in EPPO PM 9/26 have been implemented”;
- (vii) in entry 32, in column 3, for the words from “originate” to the end substitute “originate in a site of production where the procedures to combat *Globodera pallida* (Stone) Behrens and *Globodera rostochiensis* (Wollenweber) Behrens set out in EPPO PM 9/26 have been implemented”;
- (viii) in entry 33, in column 3, for the words from “originate” to the end substitute “originate in a site of production where the procedures to combat *Globodera pallida* (Stone) Behrens and *Globodera rostochiensis* (Wollenweber) Behrens set out in EPPO PM 9/26 have been implemented”;
- (ix) in entry 56, in column 2, omit “where *Fusarium circinatum* Nirenberg & O’Donnell is known to occur”;
- (x) after entry 68, insert—

68A	Bare-rooted, dormant, free-of-leaves, grafted or budded, one- to three-year old plants for planting of <i>Acer japonicum</i> Thunberg, <i>Acer palmatum</i> Thunberg and <i>Acer shirasawanum</i> Koidzumi	New Zealand	<p>The plants must be accompanied by an official statement:</p> <ul style="list-style-type: none"> <li>(a) that they are free from <i>Eotetranychus sexmaculatus</i> (Riley);</li> <li>(b) that they have been grown throughout their life in a place of production, which, together with the sites of production* that form part of it, is registered and supervised by the national plant protection organisation of the country of origin;</li> <li>(c) that the site of production has been found free from <i>Eotetranychus sexmaculatus</i> (Riley) during official inspections carried out at appropriate times since the beginning of the complete production cycle; in the case of suspicion of the presence of <i>Eotetranychus sexmaculatus</i> (Riley) at the site of production, appropriate treatments have been carried out to ensure the absence of the</li> </ul>
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pest; a surrounding zone of 100m has been established, which is subject to specific surveys at appropriate times to detect *Eotetranychus sexmaculatus* (Riley); and where the pest has been found on any host plants, those plants have been rogued out and destroyed immediately;

- (d) that a system has been put in place to ensure that tools and machinery have been cleaned to be free from soil and plant debris and disinfected to be free from *Eotetranychus sexmaculatus* (Riley), before they have been introduced into each site of production;
- (e) that at harvest they have been cleaned and trimmed and have undergone an official phytosanitary inspection, consisting at least of a detailed visual examination, in particular of stems and branches of the plants to confirm the absence of *Eotetranychus sexmaculatus* (Riley); and
- (f) immediately prior to export, the consignments have been subjected to an official inspection\*\* for the presence of *Eotetranychus sexmaculatus* (Riley), in particular of stems and branches of the plants.

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

\*\*The size of the sample for inspection has been such as to enable at least the detection of a 1 % level of infestation with a level of confidence of 99 %.

68B	Bare-rooted, dormant, free-of-leaves, grafted	New Zealand	The plants must be accompanied by an official statement:
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or budded one- to three- year old plants for planting of *Acer japonicum* Thunberg, *Acer palmatum* Thunberg and *Acer shirasawanum* Koidzumi

- (a) that they are free from *Oeomona hirta* (Fabricius) and *Platypus apicalis* (White);
- (b) that they have been grown throughout their life in a place of production, which, together with the sites of production\* that form part of it is registered and supervised by the national plant protection organisation of the country of origin;
- (c) that the site of production has been found free from *Oeomona hirta* (Fabricius) and *Platypus apicalis* (White) during official inspections carried out at appropriate times since the beginning of the complete production cycle; and in the case of suspicion of the presence of *Oeomona hirta* (Fabricius) and *Platypus apicalis* (White) at the site of production, appropriate treatments have been carried out to ensure the absence of the pests;
- (d) that at harvest, they have been cleaned and have undergone an official inspection to confirm the absence of *Oeomona hirta* (Fabricius) and *Platypus apicalis* (White); and
- (e) that immediately before export consignments have been subjected to an official inspection\*\* for the presence of *Oeomona hirta* (Fabricius) and *Platypus apicalis* (White).

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

\*\*The size of the sample for inspection has been such as to

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enable at least the detection of a 1 % level of infestation with a level of confidence of 99 %;

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- (xi) in entry 71, in column 1, omit “, (“the specified plants”);
- (xii) in entry 74, in column 3—
  - (aa) in paragraph (a), at the end, omit “or”;
  - (bb) in sub-paragraph (b)(ii), at the end, for “and” substitute “or”; and
  - (cc) for sub-paragraph (b)(iii), substitute—
    - “(c) no symptoms of diseases caused by *Candidatus Phytoplasma ‘mali’* Seemüller & Schneider have been observed on plants at the place of production, or on susceptible plants in its immediate vicinity, since the beginning of the last three complete cycles of vegetation.”;
- (xiii) in entry 76, in column 3—
  - (aa) after the opening words insert—
    - “(za) that they originate in an area\* which, in accordance with the measures specified in ISPM4, is known to be free from *Candidatus Phytoplasma ‘pruni’* (16SrIII-A) Davis, Zhao, Dally, Lee, Jomantiene & Douglas,”;
    - (bb) in sub-paragraph (a)(ii) at the end for “and” substitute “or”;
    - (cc) in sub-paragraph (b), omit “in either case”;
    - (dd) at the end, insert “\*The name of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”.”;
- (xiv) after entry 83, insert—

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“83A	Plants for planting of <i>Fragaria</i> L. other than seeds	Third countries other than EU Member States, Liechtenstein and Switzerland	Official statement that the plants originate in an area known to be free from <i>Anthonomus signatus</i> Say.”
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(xv) after entry 93, insert—

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“93A	Bare-rooted, dormant grafted plants for planting of <i>Albizia julibrissin</i> Durazzini, with a maximum diameter of 2.5 cm;	Israel	<p>The plants must be accompanied by an official statement:</p> <ul style="list-style-type: none"> <li>(a) that they are free from <i>Euwallacea fornicatus sensu lato</i> and <i>Fusarium euwallaceae</i>,</li> <li>(b) that they have been grown throughout their life in a place of production which is registered and supervised by the national plant protection organisation of the country of origin, and that registration has included the respective production sites* within the place of production,</li> <li>(c) that they fulfil one of the following requirements:           <ul style="list-style-type: none"> <li>(i) the plants have a</li> </ul> </li> </ul>
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diameter of less than 2 cm at the base of the stem,

- (ii) the plants have been grown in a site with complete physical protection against the introduction of *Euwallacea fornicatus sensu lato* at least during the period of six months before export, which is subject to official inspections at appropriate times and has been found free from the pest, confirmed as a minimum with traps which are checked at least every four weeks, including immediately before export, or
- (iii) that they have been grown in a site of production which has been found free from *Euwallacea fornicatus sensu lato* and *Fusarium euwallaceae* since the beginning of the last complete cycle of vegetation, and confirmed free from *Euwallacea fornicatus sensu lato*, (pest freedom confirmed as a minimum with traps) during official inspections carried out at least every four weeks and in the case of suspicion of the presence of either of the two pests at the site of production, appropriate treatments against the pests have been carried out to ensure the absence of the pests, a surrounding
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zone of 1 km has been established, which is monitored at appropriate times for *Euwallacea fornicatus sensu lato* and *Fusarium euwallaceae* and where either of these two pests are found on any host plants, those plants have been immediately rogued out and destroyed, and

- (d) that immediately before export, consignments of plants with a diameter of 2 cm or wider at the base of the stem have been subjected to an official inspection\*\* for the presence of the pest, in particular in stems and branches of the plants, including destructive sampling.

The phytosanitary certificate must specify which requirement of point (c) above in this entry has been fulfilled.

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

\*\*The size of the sample for inspection must be such as to enable at least the detection of a 1 % level of infestation with a level of confidence of 99 %.

93B	Bare-rooted, dormant grafted plants for planting with a maximum diameter of 2.5 cm of <i>Albizia julibrissin</i> Durazzini;	Israel	<p>The plants must be accompanied by an official statement:</p> <p>(a) that they are free from <i>Aonidiella orientalis</i>,</p> <p>(b) that they have been grown throughout their life in a place of production which is registered and supervised by the national plant protection organisation of the country of origin; that registration has included</p>
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the respective production sites\* within the place of production; and that place of production has also fulfilled one of the following requirements:

- (i) for a period of at least six months before export, the plants have been grown in a site with complete physical protection against the introduction of *Aonidiella orientalis* which is subject to official inspections every three weeks and has been found free from the pest, including immediately before export, or
- (ii) the site of production has been found free from *Aonidiella orientalis* since the beginning of the last complete cycle of vegetation during official inspections carried out every three weeks; in the case of suspicion of the presence of the pest at the site of production, appropriate treatments against the pest have been carried out to ensure the absence of the pest; a surrounding zone of 100m has been established, which is monitored at appropriate times for *Aonidiella orientalis*, and where the pest is found on any plant, those plants have been immediately rogued out and destroyed, and

(c) that immediately before

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			<p>export, consignments of the plants have been subjected to an official inspection** for the presence of <i>Aonidiella orientalis</i>, in particular in stems and branches of the plants.</p> <p>The phytosanitary certificate must specify which requirement of point (b) above in this entry has been fulfilled.</p> <p>*The name of the site of production(s) must be included in the phytosanitary certificate under the heading “Additional declaration”.</p> <p>**The size of the sample for inspection must be such as to enable at least the detection of a 1 % level of infestation with a level of confidence of 99 %.</p>
93C	Bare-rooted, dormant grafted plants for planting of <i>Robinia pseudoacacia</i> L. with a maximum diameter of 2.5 cm;	Israel	<p>The plants must be accompanied by an official statement:</p> <ul style="list-style-type: none"> <li>(a) that they are free from <i>Euwallacea fornicatus sensu lato</i> and <i>Fusarium euwallaceae</i>,</li> <li>(b) that they have been grown throughout their life in a place of production which is registered and supervised by the national plant protection organisation of the country of origin, and that registration has included the respective production sites* within the place of production,</li> <li>(c) that they fulfil one of the following requirements: <ul style="list-style-type: none"> <li>(i) the plants have a diameter of less than 2 cm at the base of the stem,</li> <li>(ii) the plants have been grown in a site with complete physical protection against the introduction of <i>Euwallacea fornicatus sensu lato</i></li> </ul> </li> </ul>

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for at least during six months before export, which is subject to official inspections at appropriate times and has been found free from the pest, with pest freedom at the site confirmed as a minimum with traps which are checked at least every four weeks, including immediately before export, or

- (iii) that they have been grown in a site of production which has been found free from *Euwallacea fornicatus sensu lato* and *Fusarium euwallaceae* since the beginning of the last complete cycle of vegetation, and found free from *Euwallacea fornicatus sensu lato*, with pest freedom confirmed as a minimum with traps, during official inspections carried out at least every four weeks; in the case of suspicion of the presence of either of the two pests at the site of production, appropriate treatments against the pests have been carried out to ensure the absence of the pests; a surrounding zone of 1 km has been established, which is monitored at appropriate times for *Euwallacea fornicatus sensu lato* and *Fusarium euwallaceae* and where either of the
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two pests are found on any host plants, those plants have been immediately rogued out and destroyed, and

- (d) that immediately before export, consignments of plants with a diameter of 2 cm or wider at the base of the stem have been subjected to an official inspection\*\* for the presence of the pest, in particular in stems and branches of the plants, including destructive sampling.

The phytosanitary certificate must specify which requirement of point (c) above in this entry has been fulfilled.

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

\*\*The size of the sample for inspection must be such as to enable at least the detection of a 1 % level of infestation with a level of confidence of 99 %.”

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(xvi) in entry 114, in column 2, omit “Albania” in the first place where it occurs, “Kazakhstan,” “Russia,” and “Turkey,”;

(xvii) in entry 115, in column 3—

(aa) after the opening words, insert—

“(za) that the bark has been subject to fumigation, the active ingredient, the minimum wood temperature, the rate (g/m<sup>3</sup>) and the exposure time of which are indicated on the phytosanitary certificate\*,”;

(bb) in paragraph (a), after “appropriate heat treatment” insert “\*\*”; and

(cc) for the words “There must also” to “phytosanitary certificate.” substitute—

“\*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.

\*\* There must also be evidence of that heat treatment by a mark “HT” on the phytosanitary certificate.”;

(xviii) in entry 116—

(aa) for the entry in column 1, substitute—

“Wood of *Pinus* and *Pseudotsuga menziesii* (Mirbel) Franco, other than:

- in the form of chips, particles, sawdust, shavings, wood waste and scrap, and isolated bark,
- wood packaging material (except associated controlled dunnage),
- but including wood which has not kept its natural round surface.”; and
  - (bb) for the entry in column 2 substitute “Any third country, other than European countries where *Fusarium circinatum* Nirenberg & O’Donnell is known not to occur”;
- (xix) in entry 117—
  - (aa) in column 1 after “(Pinales)”, insert “, other than wood packaging material, (except associated controlled dunnage)”;
  - (bb) in column 3, for paragraph (c) substitute—
    - “(c) be accompanied by an official statement that it has undergone kiln-drying to below 20% moisture content, expressed as a percentage of dry matter, achieved through an appropriate time/temperature schedule and have evidence by a mark “kiln-dried” or “KD” or another internationally recognised mark, put on the wood or on any wrapping in accordance with current usage.”;
- (xx) in entry 118, in column 3—
  - (aa) in paragraph (a) for “fumigation” substitute “fumigation\*”;
  - (bb) in paragraph (b) for “area\*” insert “area\*\*”;
  - (cc) after paragraph (b) insert—
    - “\* 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.”; and
    - (dd) for “\*The name” substitute “\*\* The name”;
- (xxi) in the table at entry 119—
  - (aa) for the entry in column 1 substitute “Wood of conifers (Pinales) in the form of chips, particles, sawdust, shavings, wood waste and scrap, and isolated bark”;
  - (bb) for the entry in column 2 substitute “Any third country, other than European countries where *Fusarium circinatum* Nirenberg & O’Donnell is known not to occur”;
- (xxii) in entry 122, in column 1, at the end insert “, other than wood packaging material, (except associated controlled dunnage).”;
- (xxiii) in entry 128, in column 1, at the end insert “, other than wood packaging material, (except associated controlled dunnage).”;
- (xxiv) in entry 130, in column 3—
  - (aa) after the opening words, insert—
    - “(za) an official statement that the wood originates in an area\* established by the national plant protection organisation in accordance with ISPM4 as an area that is free from *Bretziella fagacearum* Z.W. de Beer, Marincowitz, T.A. Duong & M.J. Wingfield,”; and
    - (bb) at the end insert “\* The name of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration”.”;
- (xxv) in entry 131, in column 3—
  - (aa) after the opening words, insert—
    - “(za) an official statement that the wood originates in an area\* established by the national plant protection organisation in accordance with ISPM4 as an area that is free from *Bretziella fagacearum* Z.W. de Beer, Marincowitz, T.A. Duong & M.J. Wingfield,”; and

- (bb) at the end, insert “\* The name of the area(s) must be included in the phytosanitary certificate under the heading “Additional declaration.””;
- (xxvi) in entry 142—
  - (aa) in column 1, after “other than wood packaging material”, insert “(except associated controlled dunnage),”; and
  - (bb) in column 3, in paragraph (a), in the opening words, after “wood waste” insert “, sawdust”.
- (8) In Annex 10—
  - (a) in the table, in column 3—
    - (i) after “Castle Point,” insert “Central Bedfordshire (part of),”;
      - (ii) after “Lewisham,” insert “Luton,”;
      - (iii) omit “Littlesford,” and “South Bedfordshire,”;
      - (iv) after “St Albans,” insert “Stevenage,”; and
      - (v) after “Tower Hamlets,” insert “Uttlesford,”.
- (9) In Annex 11—
  - (a) in Part A—
    - (i) in entry 36, in column 3, at the end insert “other than EU Member States, Liechtenstein and Switzerland”;
    - (ii) in entry 41, in column 3, for “The USA” substitute “Canada and the USA”;
    - (iii) after entry 41, insert—

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“41A	<i>Castanea Mill.</i>	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, non agglomerated: - Wood waste and scrap (other than sawdust): ex 4401 40 90	Any third country”
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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  
- Non-coniferous wood (other than tropical wood specified in subheading note 1 to Chapter 44 or other tropical wood, oak (*Quercus* spp.) or beech (*Fagus* spp.)), in the rough, whether or not stripped or 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

Railway or tramway sleepers (cross-ties) of wood:  
- Not impregnated:  
- Non-coniferous:  
4406 12 00  
- Other than not impregnated:  
- Non-coniferous:  
4406 92 00

Non-coniferous wood (other than

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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

Packing cases,  
boxes, crates,  
drums and similar  
packings of wood,  
cable-drums of  
wood, pallets, box  
pallets and other  
load boards of  
wood, pallet  
collars of wood:  
- Cases, boxes,  
crates, drums and  
similar packings,  
cable-drums:  
4415 10 10  
4415 10 90  
- Pallets, box  
pallets and other  
load boards, pallet  
collars:  
4415 20 20  
4415 20 90

Prefabricated  
buildings of wood:  
9406 10 00

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(b) in Part C, in the table, omit entry 10;

(10) In Annex 13, in paragraph 10, at the end, insert—

“(c) *Juglans* L.,

(d) *Pterocarya* L..”

## PART 2

### Modification of retained EU law

#### **Amendments to Commission Implementing Regulation (EU) 2020/1217**

4.—(1) Commission Implementing Regulation (EU) 2020/1217 on a derogation from Implementing Regulation (EU) 2019/2072 concerning the introduction into the Union of naturally or artificially dwarfed plants for planting of *Chamaecyparis* Spach, *Juniperus* L. and certain species of *Pinus* L., originating in Japan<sup>(a)</sup> is amended as follows.

(2) In Article 2—

- (a) for “point 1 of Annex VI” substitute “point 1 of Part A of Annex 6”;
- (b) for “the Union” substitute “Great Britain”.

(3) In Article 3, for “the Union” substitute “Great Britain”.

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

(5) In the Annex—

- (a) in the title, for “**the Union**” substitute “**Great Britain**”;
- (b) omit paragraph 2;
- (c) in paragraph 3—
  - (i) in both places where it occurs, for “the Union” substitute “Great Britain”;
  - (ii) for “the Commission”, substitute “the NPPO of Great Britain”;
- (d) in paragraph 4—
  - (i) in subparagraph (a)(v), for “the Union” substitute “Great Britain”;
  - (ii) in subparagraph (b)(ii), for “the Union” substitute “Great Britain”;
  - (iii) in subparagraph (c)(ix), omit “(non-European populations)”;
  - (iv) in subparagraph (c)(xiv), for “the Union” substitute “Great Britain”;
  - (v) in subparagraph (d)(xviii), for “the Union” substitute “Great Britain”;
- (e) in paragraph 5, in both places where it occurs, for “the Commission”, substitute “the NPPO of the UK”;
- (f) in paragraph 6 for “the Union” substitute “Great Britain”;
- (g) in paragraph 8, for “30” substitute “42”;
- (h) in paragraph 9, at the end, for “Member States” substitute “The NPPO of the UK”;
- (i) for paragraph 12, substitute—

“If any contamination by the pests of concern is confirmed during the post-entry detention period, referred to in point 10, the relevant nursery in Japan shall be disqualified from the official registered nursery status. The NPPO of the UK shall immediately inform Japan thereof.”.

#### **Amendments to Commission Implementing Regulation (EU) 2020/1231**

5.—(1) 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<sup>(b)</sup> is amended as follows.

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(a) EUR 2020/1217.

(b) EUR 2020/1231.

(2) In Article 1, in paragraph 1 for “by the Member States to the Commission” substitute “by the competent authority to the UK National Plant Protection Organisation”.

(3) In the words following Article 3, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

(4) In Annex 1—

(a) in Part 1, omit “Member State”;

(b) in Part 2—

(i) in the title of paragraph 1, for “Union” substitute “GB”;

(ii) in paragraph 1.1—

(aa) in the title of the template for “Union” substitute “GB”;

(bb) in the table, in the heading entitled “11. Survey details;”, in point H), at the end insert “, where appropriate”;

(iii) in paragraph 1.2, in the entry for column 6 for “the Member State” substitute “Great Britain”;

(iv) in the title of paragraph 2, for “Union” substitute “GB”;

(v) in paragraph 2.1 for “Union” substitute “GB”.

(5) In Annex 2—

(a) in Part 1—

(i) in paragraph 1—

(aa) omit “Member State” in the first bullet point;

(bb) in the fifth bullet point, for “Union”, in both places where it occurs, substitute “GB”;

(cc) in the final bullet point, for “Member State”, substitute “Competent Authority”;

(ii) in paragraph 2(c) omit “Member State” and, at the end, insert “of GB”;

(b) in Part 2—

(i) in the title of paragraph 1, for “Union” substitute “GB”;

(ii) in paragraph 1.1—

(aa) in the title of the template, for “Union” substitute “GB”;

(bb) in the table, in the heading entitled “10. Survey detail” at H) at the end insert “where appropriate”;

(iii) in the title of paragraph 2 for “Union” substitute “GB”;

(iv) in paragraph 2.1 for “Union” substitute “GB”.

## PART 3

### Seed and seed potatoes: amendment of secondary legislation

#### **The Seed Marketing Regulations 2011**

**6.—**(1) The Seed Marketing Regulations 2011(a) are amended as follows.

(2) In Schedule 4, in paragraph 10(4), for “, NI Variety List or an equivalent list of a country granted equivalence” substitute “or the NI Variety List”.

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(a) S.I. 2011/463, amended by S.I. 2019/131 and 472. S.I. 2019/131 was amended by S.I. 2020/1388; there are other amending instruments but none is relevant.

### **The Seed Potatoes (England) Regulations 2015**

7.—(1) The Seed Potatoes (England) Regulations 2015(a) are amended as follows.

(2) In Schedule 1, in paragraph 3(a), for “National List or the Common Catalogue” substitute “GB Variety list”.

(3) In Schedule 4—

(a) in Part 2, in Table 2—

(i) for “UK”, in each place where it occurs, substitute “GB”;

(ii) for “equivalent Union grade”, in each place where it occurs, substitute “equivalent grade”;

(b) in Part 3, in Table 3, for “UK”, in each place where it occurs, substitute “GB”.

### **The Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019**

8.—(1) The Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019(b) are amended as follows.

(2) In regulation 1—

(a) in paragraph (b), omit “, other than regulation 7(15)(a),”;

(b) omit paragraph (c).

(3) In regulation 7(15), omit sub-paragraph (a).

## **PART 4**

### **Revocation of retained EU legislation**

9. The following retained direct EU legislation is revoked—

(a) Commission Implementing Regulation (EU) 2020/1292 as regards measures to prevent the entry into the Union of *Agrilus planipennis* Fairmaire from Ukraine(c);

(b) Commission Implementing Decision (EU) 2020/1549 repealing Decision 2004/200/EC on measures to prevent the introduction into and the spread within the Community of *Pepino mosaic virus*(d).

## **PART 5**

### **Official controls: amendment of secondary legislation**

### **Amendment to the Official Controls and Phytosanitary Conditions (Amendment) Regulations 2021**

10.—(1) The Official Controls and Phytosanitary Conditions (Amendment) Regulations 2021(e) are amended as follows.

(2) For regulation 2(2), substitute—

“(2) Those transitional derogations and modifications have effect in relation to the importation of *Solanum tuberosum* L (ware potatoes) as if, in the definition of “territory

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(a) S.I. 2015/1953, amended by S.I. 2019/809; there is another amending instrument but it is not relevant. S.I. 2019/809 was amended by S.I. 2020/1388.

(b) S.I. 2019/809, amended by S.I. 2020/1388.

(c) EUR 2020/1292.

(d) EUR 2020/1549.

(e) S.I. 2021/136.

subject to special transitional import arrangements” in paragraph 2 of Annex 6, in paragraph (b), for sub-paragraphs (i) to (iii) there were substituted—

- “(i) Poland;
- (ii) Portugal;
- (iii) Romania;
- (iv) Spain;”.

## PART 6

### Frequency of checks

#### Interpretation

11. In this Part—

- (a) “importation” means bringing goods into Great Britain from a relevant third country;
- (b) “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<sup>(a)</sup>;
- (c) “Regulation (EU) 2019/66” means Commission Implementing Regulation (EU) 2019/66 on rules on uniform practical arrangements for the performance of official controls on plants, plant products and other objects in order to verify compliance with Union rules on protective measures against pests of plants applicable to those goods<sup>(b)</sup>;
- (d) “relevant third country” has the meaning given by Annex 6 to the Official Controls Regulation;
- (e) “specified goods” means plants, plant products and other objects specified in the Annex to Regulation (EU) 2019/66 (inserted by regulation 12(3));
- (f) “transitional staging period” has the meaning given by Annex 6 to the Official Controls Regulation.

#### Modification of Commission Implementing Regulation (EU) 2019/66

12.—(1) Regulation (EU) 2019/66 has effect in relation to the importation of specified goods from a relevant third country during the transitional staging period falling on or after 20th April 2021 subject to the following modifications.

(2) After Article 5, insert—

*“Article 5A*

**Uniform minimum frequency of official controls on specified goods entering Great Britain from a relevant third country**

1. The competent authority must perform identity checks and physical checks on specified goods entering Great Britain from a relevant third country during the transitional staging period falling on or after 20th April 2021 at a frequency equal to or greater than that specified in the Annex.

2. In this Article—

- (a) “relevant third country” has the meaning given by Annex 6 to Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other

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(a) EUR 2017/625, as amended by S.I. 2020/1481. Article 168 of, and Annex 6 to, Regulation (EU) 2017/625 was modified by regulation 2 of S.I. 2021/136.

(b) EUR 2019/66, as amended by S.I. 2020/1631.

official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products<sup>(a)</sup>;

- (b) “specified goods” means plants, plant products and other objects specified in the Annex;
- (c) “transitional staging period” has the meaning given by Annex 6 to 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.”.

(3) After Article 8, insert the following Annex—

**“Annex**

Article 5A

**Minimum frequency for identity checks and physical checks of specified goods entering Great Britain from a relevant third country**

<i>Category</i>	<i>Plants, plant products or other objects</i>	<i>Frequency of identity checks (%)</i>	<i>Frequency of physical checks (%)</i>
<b>1</b>	<b>Machinery and vehicles which have been operated for agricultural or forestry purposes</b>		
	—	5	5
<b>2</b>	<b>Plants for planting, other than seeds</b>		
	Bulbs, corms, rhizomes, tubers, (other than tubers of potatoes), not intended for final users <sup>(1)</sup>	100	100
	Bulbs, corms, rhizomes, tubers, (other than tubers of potatoes), intended for final users <sup>(1)</sup>	10	10
	Cuttings, seedlings (except forestry reproductive material), young plants of strawberries or of vegetables, not intended for final users <sup>(1)</sup>	100	100
	Other plants intended for planting (other than cut Christmas trees), not intended for final users <sup>(1)</sup>	100	100
	Other plants intended for planting (other than cut Christmas trees) not specified elsewhere in this table, intended for final users <sup>(1)</sup>	10	10
	Tissue cultures	5	5
<b>3</b>	<b>Tubers of potatoes</b>		
	Tubers of <i>Solanum tuberosum</i> L. intended for planting (seed potatoes)	100	100

(a) EUR 2017/625, as amended by S.I. 2020/1481. Article 168 of, and Annex 6 to, Regulation (EU) 2017/625 was modified by regulation 2 of S.I. 2021/136.

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<b>4</b>	<b>Tubers of potatoes</b>		
	Tubers of—		
	<i>Solanum tuberosum</i> L. (ware potatoes) originating in Poland, Portugal or Romania	50	50
	<i>Solanum tuberosum</i> L. (ware potatoes) originating in Spain	100	100
<b>5</b>	<b>Seeds, not intended for final users<sup>(1)</sup></b>		
	Seeds of—		
	<i>Allium cepa</i> L.	100	100
	<i>Allium porrum</i> L.	100	100
	<i>Castanea</i> Mill.	100	100
	<i>Capsicum</i> spp. L.	100	100
	<i>Helianthus annuus</i> L.	100	100
	<i>Medicago sativa</i> L.	100	100
	<i>Phaseolus cocineus</i> .	100	100
	<i>Phaseolus vulgaris</i> L.	100	100
	<i>Solanum lycopersicum</i> L.	100	100
	<i>Solanum tuberosum</i> L. (True potato seed)	100	100
	Vegetable seeds of <i>Pisum sativum</i> L. and <i>Vicia faba</i> L.	100	100
	Seeds of oil and fibre plants of—		
	<i>Brassica napus</i> L.	100	100
	<i>Brassica rapa</i> L.	100	100
	<i>Sinapis alba</i> L.	100	100
	<i>Glycine max</i> (L.) Merrill	100	100
	<i>Linum usitatissimum</i> L.	100	100
<b>6</b>	<b>Seeds, intended for final users<sup>(1)</sup></b>		
	Seeds of—		
	<i>Allium cepa</i> L.	5	5
	<i>Allium porrum</i> L.	5	5

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	<i>Castanea</i> Mill.	5	5
	<i>Capsicum</i> spp. L.	5	5
	<i>Helianthus annuus</i> L.	5	5
	<i>Medicago sativa</i> L.	5	5
	<i>Phaseolus cocineus</i> .	5	5
	<i>Phaseolus vulgaris</i> L.	5	5
	<i>Solanum lycopersicum</i> L.	5	5
	<i>Solanum tuberosum</i> L. (True potato seed)	5	5
	Vegetable seeds of <i>Pisum sativum</i> L. and <i>Vicia faba</i> L.	5	5
	Seeds of oil and fibre plants of—		
	<i>Brassica napus</i> L.	5	5
	<i>Brassica rapa</i> L.	5	5
	<i>Sinapis alba</i> L.	5	5
	<i>Glycine max</i> (L.) Merrill	5	5
	<i>Linum usitatissimum</i> L.	5	5
<b>7</b>	<b>Bark</b>		
	Isolated bark of—		
	<i>Castanea</i> Mill.	5	5
	Conifers (Pinales)	5	5
	<i>Juglans</i> L.	5	5
	<i>Pterocarya</i> Kunth.	5	5
<b>8</b>	<b>Wood</b>		
	Wood of <i>Platanus</i> L., including wood which has not kept its natural round surface	50	50
	Wood of <i>Castanea</i> Mill., excluding wood which is bark-free	50	50
	Wood of Conifers (Pinales), including wood which has not kept its natural round surface	50	50
	Wood of <i>Prunus</i> L., including wood which has not kept its natural round surface, other than	5	5

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wood of *Prunus laurocerasus* L.

Wood, including wood which has not kept its natural round surface of—

<i>Acer</i> L.	5	5
<i>Aesculus</i> L.	5	5
<i>Alnus</i> L.	5	5
<i>Betula</i> L.	5	5
<i>Carpinus</i> L.	5	5
<i>Cercidiphyllum</i> Siebold & Zucc.	5	5
<i>Corylus</i> L.	5	5
<i>Fagus</i> L.	5	5
<i>Fraxinus</i> L.	5	5
<i>Koelreuteria</i> Medikus.	5	5
<i>Platanus</i> L.	5	5
<i>Populus</i> L.	5	5
<i>Salix</i> L.	5	5
<i>Tilia</i> L.	5	5
<i>Ulmus</i> L.	5	5
Wood of <i>Juglans</i> L. and <i>Pterocarya</i> Kunth.	5	5

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<sup>(1)</sup> “Intended for final users” includes clearly packed and ready for supply to final users, identifiable as being for use by landscapers or contractors for planting at the final site of the plants and where additional packing or preparation (excluding multiplication, propagation or growing on) is required before making plants available to final users.”

29th March 2021

*Gardiner of Kimble*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in exercise of section 8(1) of 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 the deficiencies referred to in paragraphs (a) to (c) of section 8(2)) arising from the withdrawal of the United Kingdom from the European Union.

Part 1 amends Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council on protective measures against pests of plants.

Part 2 makes amendments to retained EU law relating to plant health not previously amended, to correct operability deficiencies.

Part 3 makes amendments to secondary legislation in relation to seeds and seed potatoes.

Part 4 revokes certain retained EU law relating to plant health.

Part 5 makes an amendment to secondary legislation in relation to official controls.

Part 6 makes provision to supplement and modify the transitional derogations and modifications specified in Article 168 of, and Annex 6 to, 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, as they apply in relation to ware potatoes.

It modifies Commission Implementing Regulation (EU) 2019/66 on rules on uniform practical arrangements for the performance of official controls on plants, plant products and other objects in order to verify compliance with Union rules on protective measures against pests of plants applicable to those goods.

It makes provision for the minimum frequency of physical checks and identity checks of consignments of certain plants, plant products and other objects entering Great Britain from an EU member State, Liechtenstein or Switzerland.

The fees applicable to physical checks and identity checks of consignments are set out, as regards consignments which include bark (other than bark as planting material) or wood, in the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015 (S.I. 2015/350), and otherwise, in the Plant Health etc. (Fees) (England) Regulations 2018 (S.I. 2018/289).

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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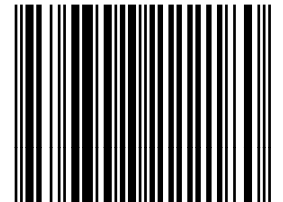
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