

2021 No. 79

EXITING THE EUROPEAN UNION

PLANT HEALTH

The Plant Health (Amendment) (EU Exit) Regulations 2021

Made - - - - 26th January 2021

Coming into force - - 27th January 2021

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

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament in accordance with paragraphs 1(1) and 8F(1) of Schedule 7 to that Act.

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Plant Health (Amendment) (EU Exit) Regulations 2021.

(2) They come into force on the day after the day on which they are made.

PART 2

Amendment of secondary legislation

The Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019

2.—(1) The Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019(b) are amended as follows.

(2) In regulation 2(1), after the definition of “plant health rule”, insert—

(a) 2018 c. 16; section 8 was amended by section 27 of the European Union (Withdrawal Agreement) Act 2020 (c. 1), section 8C was inserted by section 21 of that Act, paragraph 8F of Schedule 7 was inserted by section 41(4) of, and paragraph 51 of Schedule 5, to that Act and paragraph 21 of Schedule 7 was amended by section 41(4) of, and paragraph 53(2) of Schedule 5 to, that Act.

(b) S.I. 2019/1517, amended by S.I. 2020/1482; there are other amending instruments but none is relevant.

““plant passport” means a passport which is a UK plant passport or other permitted plant passport;”.

(3) In regulation 42—

- (a) in the heading, omit “UK”;
- (b) in paragraph (1)(b) and (c), omit “UK” in both places where it occurs.

(4) In Schedule 3, in Part 1, in the table—

- (i) in the entry relating to Article 79(1), in the first column, for “and 92a” substitute “, 92a and 95a(2)”;
- (ii) in the entry relating to Article 80(1), in the first column, for “and 92a” substitute “, 92a and 95a(2)”;
- (iii) in the entry relating to Article 93(5), in the second column, for “replacement UK” substitute “certain”;
- (iv) after the entry relating to Article 93(5) insert—

“Article 95a(1)

Prohibits the introduction of a relevant NI trade unit into Great Britain from Northern Ireland unless it is accompanied by the plant passport which was required for its movement within Northern Ireland.”.

PART 3

Amendment of retained direct EU legislation

Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants

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

- (2) In Article 2, in point (11), after “issue”, in the first place where it occurs, insert “UK”.
- (3) In Article 2b, after paragraph 2 insert—

“3. Any reference in this Regulation (however expressed) to plants, plant products or other objects originating in or from a third country, or dispatched from a third country, does not include:

- (a) any plants, plant products or other objects in so far as they are part of a relevant NI trade unit; or
- (b) any wood packaging material in use in the transport of a relevant NI trade unit.”.

(4) After Article 2b insert—

“Article 2c

Meaning of qualifying Northern Ireland goods and other expressions relating to qualifying Northern Ireland goods

In this Regulation:

- (a) ‘EU Plant Health Regulation’ means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants, as it

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

applies in Northern Ireland by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement^(a);

- (b) ‘other permitted plant passport’ means a plant passport which has been issued in respect of a relevant NI trade unit before its introduction into Great Britain and by which, pursuant to paragraph 2 of Article 95a, that trade unit is permitted to be accompanied if moved within Great Britain;
- (c) ‘qualifying Northern Ireland goods’ has the meaning given in the Definition of Qualifying Northern Ireland Goods (EU Exit) Regulations 2020^(b);
- (d) ‘relevant NI trade unit’ means a trade unit of plants, plant products or other objects listed in Annex 13 or 14 to the Phytosanitary Conditions Regulation which consists entirely of qualifying Northern Ireland goods, other than any such trade unit in respect of which a UK plant passport has been issued in accordance with Articles 83 to 86, 87, 89 and 90.”.

(5) In Article 41, in paragraph 3A—

(a) after point (b) insert—

“(ba) in the case of a plant, plant product or other object which originates in a third country and is included in Part B of Annex 7 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object continues to pose a pest risk which can be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2, and the plant, plant product or other object and those measures can be included in Part A, instead of in Part B, of Annex 7 to the Phytosanitary Conditions Regulation;”;

(b) in point (d)—

(i) omit (“Annex 8”);

(ii) for “Annex 8.” substitute “Annex 8 to the Phytosanitary Conditions Regulation;”;

(c) after point (d) insert—

“(e) in the case of a plant, plant product or other object which originates in Great Britain or a CD territory and is included in Part B of Annex 8 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object continues to pose a pest risk which can be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2, and the plant, plant product or other object and those measures can be included in Part A, instead of in Part B, of Annex 8 to the Phytosanitary Conditions Regulation.”.

(6) In Article 65, in paragraph 1, in point (b), after “issue” insert “UK”.

(7) In Article 66, in paragraph 2, in point (c)(i), after “of” insert “UK”.

(8) In Article 69—

(a) for paragraphs 1 and 2 substitute—

“1. A professional operator to whom a regulated trade unit is supplied must keep a record allowing that operator to identify the professional operator who supplied it.

2. A professional operator supplying a regulated trade unit must keep a record allowing that operator to identify the professional operator to whom it was supplied.”;

(b) after paragraph 7 insert—

“8. In this Article ‘regulated trade unit’ means a trade unit of plants, plant products or other objects that are subject to requirements or conditions pursuant to Article 28(1), 30(1), 37(1), 41, 47(1), 48(1), 49(1), 54(1), 57, 58 or 79(1) or a relevant NI trade unit.”.

(a) OJ No. L 317, 23.11.2016, p. 4, as amended by Regulation (EU) 2017/625 of the European Parliament and of the Council (OJ No. L 95, 7.4.2017, p.1).

(b) S.I. 2020/1454.

(9) In Article 70, in paragraph 1, in the first subparagraph, after “objects”, in the first place where it occurs, insert “in the trade units”.

(10) In Article 71—

(a) in paragraph 1, in the words before point (a), for “third country” substitute “relevant authority”;

(b) after paragraph 4 insert—

“5. In paragraph 1, ‘relevant authority’ means:

(a) in the case of plants, plant products and other objects which are introduced into Great Britain from a third country, the national plant protection organisation of that third country;

(b) in the case of plants, plant products and other objects which are introduced into Great Britain from Northern Ireland and are not part of a relevant NI trade unit, the Department of Agriculture, Environment and Rural Affairs.”.

(11) In Article 79—

(a) in paragraph 1A, at the end insert “and, in relation to qualifying Northern Ireland goods, to Article 95a(2)”;

(b) in paragraph 5, after “no” insert “UK”.

(12) In Article 80—

(a) in paragraph 1A, at the end insert “and, in relation to qualifying Northern Ireland goods, to Article 95a(2)”;

(b) in paragraph 5, after “no” insert “UK”.

(13) In Article 81, in paragraph 1, after “passport” insert “or other permitted plant passport”.

(14) In Article 82, after “passport” insert “or other permitted plant passport”.

(15) In Article 83—

(a) after paragraph 5 insert—

“5A. Where a replacement UK plant passport is issued in relation to plants, plant products or other objects in a relevant NI trade unit pursuant to paragraph 1 or 2 of Article 93, the UK plant passport must contain the element set out in point (1)(g) of Part A of Annex 7 or point (1)(h) of Part B of Annex 7 (as the case may be).”;

(b) in paragraph 8, in the first subparagraph, after “electronic”, in the second place where it occurs, insert “UK”.

(16) In Article 92—

(a) in paragraph 1, at the end insert “and, in relation to qualifying Northern Ireland goods, Article 95a”;

(b) in paragraphs 2 and 3, for “Article 85, or where applicable, Article 86 or 86a”, in both places where it occurs, substitute “the relevant requirements”;

(c) after paragraph 3 insert—

“4. In this Article, ‘the relevant requirements’ means:

(a) in the case of a relevant NI trade unit’, the requirements in Article 85 and, where applicable, Article 86 of the EU Plant Health Regulation;

(b) in the case of any other trade unit, the requirements in Article 85 and, where applicable, Article 86 or 86a of this Regulation.”.

(17) In Article 93—

(a) in paragraph 1, after “passport”, in the first and third places where it occurs, insert “or other permitted plant passport”;

(b) in paragraph 2, after “passport”, in the first and final places where it occurs, insert “or other permitted plant passport”;

- (c) in paragraph 5—
 - (i) in the first subparagraph, after “passport”, in both places where it occurs, insert “or other permitted plant passport”;
 - (ii) in the second subparagraph, for “or its content” substitute “or other permitted plant passport, or its content.”;
 - (iii) in the third subparagraph, after “passport” insert “or other permitted plant passport”;
- (d) after paragraph 5 insert—
 - “6. In paragraph 3(b), ‘the requirements referred to in Articles 85 and 86’ means:
 - (a) in the case of a relevant NI trade unit, the requirements referred to in Articles 85 and 86 of the EU Plant Health Regulation;
 - (b) in the case of any other trade unit, the requirements referred to in Articles 85 and 86 of this Regulation.”.

(18) In Article 95—

- (a) in paragraph A1, for the words from “requirements” to the end substitute “relevant requirements”;
- (b) in paragraph 1, after “passport” insert “or other permitted plant passport”;
- (c) in paragraph 2, after “passport” insert “or other permitted plant passport”;
- (d) in paragraph 3, after “passport”, in both places where it occurs, insert “or other permitted plant passport”;
- (e) in paragraph 4, after “apply”, insert “in relation to a UK plant passport”;
- (f) at the end insert—

- “6. In paragraph A1, ‘relevant requirements’ means:
 - (a) in the case of a relevant NI trade unit, the requirements in Articles 83 to 87, 89, 90, 93 or 94 of the EU Plant Health Regulation;
 - (b) in the case of any other trade unit, the requirements in Articles 83 to 86, 87, 89, 90, 92a, 93 or 94 of this Regulation.”.

(19) After Article 95 insert—

“Article 95a

Introduction of qualifying Northern Ireland goods into Great Britain and their movement within Great Britain

1. A relevant NI trade unit which is introduced directly into Great Britain from Northern Ireland must be accompanied, on its introduction into Great Britain, by the plant passport which was required for its movement within Northern Ireland in accordance with the EU Plant Health Regulation.

2. A relevant NI trade unit which has been introduced into Great Britain from Northern Ireland in accordance with paragraph 1 may be moved within Great Britain if it is accompanied by the plant passport referred to in paragraph 1.”.

(20) In Annex 7—

- (a) in Part A, in point (1)—
 - (i) in point (d), for “plant passport”, in both places where it occurs, substitute “UK plant passport”;
 - (ii) in point (f), for the full stop at the end substitute a semi-colon;
 - (iii) after point (f), insert—
 - “(g) the letter ‘E.’, where applicable followed by ‘GB(NI)’.”;
- (b) in Part B, in point (1)—

- (i) in point (e), for “plant passport”, in both places where it occurs, substitute “UK plant passport”;
- (ii) in point (g)(ii)—
 - (aa) for “the plant passport” substitute “a UK plant passport”;
 - (bb) after “initial”, in both places where it occurs, insert “UK”;
 - (cc) for the full stop at the end substitute a semi-colon;
- (iii) after point (g), insert—
 - “(h) the letter ‘E.’, where applicable followed by ‘GB(NI)’.”.

Commission Implementing Regulation (EU) 2017/2313 setting out the format specifications of the plant passport for movement within the Union territory and the plant passport for introduction into, and movement within, a protected zone

4.—(1) Commission Implementing Regulation (EU) 2017/2313 setting out the format specifications of the plant passport for movement within the Union territory and the plant passport for introduction into, and movement within, a protected zone is amended as follows.

(2) In the Annex—

(a) after point 8 insert—

“8A. Where applicable, ‘GB(NI)’.”;

(b) in Parts A and B, in each model, after “DXX^{7 or 8}” insert “EXXX^{8A}”.

Gardiner of Kimble

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

26th January 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by sections 8(1) and 8C of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies and to deal with matters arising out of, or related to, the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.

These Regulations make amendments to legislation in the field of plant health. Part 2 amends domestic legislation relating to plant health as it applies in England. Part 3 amends Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants and Commission Implementing Regulation (EU) 2017/2313 setting out the format specifications of the plant passport for movement within the Union territory and the plant passport for introduction into, and movement within, a protected zone, as they apply in Great Britain.

An 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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