

*Draft Regulations laid before Parliament under paragraphs 1(1) and 8F(1) of Schedule 7 to the
European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2020 No. 000

EXITING THE EUROPEAN UNION PLANT HEALTH

The Plant Health (Amendment) (EU Exit) Regulations 2020

<i>Made</i>	-	-	-	-	***
<i>Coming into force</i>	-	-			***

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⁽¹⁾.

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 2020.

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

(1) 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.

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(2) are amended as follows.

- (2) In regulation 2(1), after the definition of “plant health rule”, insert—
““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.”.
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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(3) 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:

(2) [S.I. 2019/1517](#), amended by S.I. 2020/xxx; there are other amending instruments but none is relevant.
(3) [EUR 2016/2031](#), amended by S.I. 2020/xxx.

(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 applies in Northern Ireland by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement⁽⁴⁾;

(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⁽⁵⁾;

(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

⁽⁴⁾ 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).

⁽⁵⁾ S.I. 2020/xxx.

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.”.

(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).”;