*Draft Regulations laid before Parliament under paragraph 1(3) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

# 2019 No. 000

# EXITING THE EUROPEAN UNION
# PLANT HEALTH

## The Plant Health (Amendment etc.) (EU Exit) Regulations 2019

*Made - - - -* ***
*Coming into force in accordance with regulation 1(2) to (4)*

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(**1**).

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament in accordance with paragraph 1(3) of Schedule 7 to that Act.

## PART 1

### Introduction

**Citation and commencement**

**1.**—(1) These Regulations may be cited as the Plant Health (Amendment etc.) (EU Exit) Regulations 2019.

(2) This Part, regulation 4(6)(d)(ii), (e), (7)(c)(i) and (8)(b) and Part 4 come into force on the day after the day on which these Regulations are made.

(3) Part 2 comes into force on exit day.

(4) Part 3, other than regulation 4(6)(d)(ii), (e), (7)(c)(i) and (8)(b), comes into force immediately before exit day.

(**1**) 2018 c. 16.

# PART 2

## Amendment of primary legislation relating to plant health

### The Plant Health Act 1967

**2.** In sections 2(1) and 3(1) of the Plant Health Act 1967(**2**), omit "or called for by any EU obligation".

### The Plant Health Act (Northern Ireland) 1967

**3.** In sections 2(1) and 3(1) of the Plant Health Act (Northern Ireland) 1967(**3**), omit "or called for by any Community obligation".

# PART 3

## Amendment of the Plant Health (EU Exit) Regulations 2019

**4.**—(1) The Plant Health (EU Exit) Regulations 2019(**4**) are amended as follows.

(2) In regulation 2(1), in the definition of "relevant material", at the end insert "or any used machinery or vehicle which has been operated for agricultural or forestry purposes".

(3) In Schedule 1—

(a) in the table in Part A—

(i) under the heading "Insects, mites and nematodes"—

(aa) after item 8 insert—

| | |
|---|---|
| "8A. | *Aromia bungii* (Faldermann)"; |

(bb) after item 22 insert—

| | |
|---|---|
| "22A. | *Grapholita packardi* Zeller"; |

(cc) after item 33 insert—

| | |
|---|---|
| "33A. | *Neoleucinodes elegantalis* (Guenée) |
| 33B. | *Oemona hirta* (Fabricius) |
| 33C. | *Pityophthorus juglandis* Blackman"; |

(ii) under the heading "Fungi"—

(aa) after item 1 insert—

| | |
|---|---|
| "1A. | *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr."; |

(bb) after item 3 insert—

(**2**) 1967 c. 8; section 2(1) was amended by paragraph 8(2)(a) of Schedule 4 to the European Communities Act 1972 (c. 68) and S.I. 2011/1043. Section 3(1) was amended by paragraph 8(2)(a) and (b) of Schedule 4 to the European Communities Act 1972 and S.I. 2011/1043.

(**3**) 1967 c. 28 (N.I.); sections 2(1) and 3(1) were amended by S.R. & O (N.I.) 1972 No. 351.

(**4**) S.I. 2019/787, amended by S.I. 2019/809.

| | |
|---|---|
| "3A. | *Elsinoë australis* Bitanc. & Jenk. |
| 3B. | *Elsinoë citricola* X.L. Fan, R.W. Barreto & Crous |
| 3C. | *Elsinoë fawcettii* Bitanc. & Jenk."; |

(cc) after item 4 insert—

| | |
|---|---|
| "4A. | *Fusarium circinatum* Nirenberg & O'Donnell |
| 4B. | *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat"; |

(b) in Part D—

(i) after item 3 insert—

| | |
|---|---|
| "3A. | *Phyllocoptes fructiphilus* (Keifer 1940)"; |

(ii) for items 4 and 5 substitute—

| | |
|---|---|
| "4. | *Phytophthora ramorum* Werres, De Cock & Man in't Veld sp. nov |
| 5. | *Pomacea* (Perry)"; |

(iii) after item 6 insert—

| | |
|---|---|
| "7. | Rose rosette virus". |

(4) In Schedule 2—

(a) in the table in Part A—

(i) under the heading "Insects, mites and nematodes"—

(aa) omit item 10;

(bb) in item 37, in column 2, after "seeds, of" insert "*Cedrus* Trew or";

(ii) under the heading "Fungi", omit item 10.

(5) In Schedule 3, in the table in Part A, for item 14 substitute—

| | | |
|---|---|---|
| "14. | Soil consisting in part of solid organic substances or other growing medium consisting in whole or in part of solid organic substances, other than any growing medium that is composed entirely of peat or fibre of *Cocos nucifera* L. and has not been previously used for growing plants or for any agricultural purposes | Any third country, other than the European Union or Switzerland". |

(6) In Schedule 4—

(a) in the definition of "associated controlled dunnage", for "9 or 12 to 14" substitute "8A, 9, 11 or 12 to 14A";

(b) in the table in Part A—

(i) in item 8, in the entry in column 3, in paragraph (a), at the beginning insert "except in the case of wood originating in Canada or the USA,";

(ii) after item 8 insert—

| | | |
|---|---|---|
| "8A. | Wood of *Juglans* L. or *Pterocarya* Kunth, other than wood in the form of:<br><br>—chips, particles, sawdust, shavings, wood waste or scrap, or<br><br>—wood packaging material which is not associated controlled dunnage,<br><br>but including wood which has not kept its natural round surface, originating in the USA or the European Union | The wood must be accompanied by:<br>(a) an official statement that it originates in:<br>(i) an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat and its vector *Pityophthorus juglandis* Blackman, or<br>(ii) in the case of wood originating in the European Union, an area known to be free from *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat and its vector *Pityophthorus juglandis* Blackman,<br>(b) an official statement that it has undergone an appropriate heat treatment to achieve a minimum temperature of 56˚C for a minimum duration of 40 continuous minutes throughout the entire profile of the wood, or<br>(c) an official statement that it has been squared to entirely remove the natural rounded surface.<br><br>Where the phytosanitary certificate includes the official statement referred to in paragraph (b), there must also be evidence of that heat treatment by a mark "HT" put on the wood or on any wrapping in accordance with current usage and on the phytosanitary certificate.<br><br>*The name of the area(s) must be included in the phytosanitary certificate under the heading "Additional declaration"";" |

(iii) for item 11 substitute—

| | | |
|---|---|---|
| "11. | Wood of *Platanus* L., other than wood packaging material that is not associated controlled dunnage, but including wood which has not kept its natural round surface and wood in the form of chips, particles, sawdust, shavings, wood waste or scrap, originating in Albania, | The wood must be accompanied by:<br>(a) an official statement that it originates in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr.,<br>(b) in the case of wood originating in the European Union, an official statement |

| | | |
|---|---|---|
| | Armenia, the European Union, Switzerland, Turkey or the USA | that it originates in a part of the European Union which is recognised as an EU protected zone in relation to *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr., or<br>(c) 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.<br><br>Where the phytosanitary certificate includes the official statement referred to in paragraph (c), there must also be evidence of that kiln-drying 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.<br><br>*The name of the area(s) must be included in the phytosanitary certificate under the heading "Additional declaration"";

(iv) after item 14 insert—

| | | |
|---|---|---|
| "14A. | Wood of *Prunus* L., other than in the form of:<br><br>—chips, particles, sawdust, shavings, wood waste or scrap, or<br><br>—wood packaging material which is not associated controlled dunnage,<br><br>but including wood which has not kept its natural round surface, originating in China, Democratic People's Republic of Korea, Mongolia, Japan, Republic of Korea or Vietnam | The wood must be accompanied by:<br>(a) an official statement that it originates in an area* established by the national plant protection organisation in accordance with ISPM No. 4 as an area that is free from *Aromia bungii* (Faldermann),<br>(b) an official statement that it has undergone an appropriate heat treatment to achieve a minimum temperature of 56˚C for a minimum duration of 30 continuous minutes throughout the entire profile of the wood, or<br>(c) an official statement that it has undergone appropriate ionising radiation to achieve a minimum absorbed dose of 1kGy throughout the wood.<br><br>Where the phytosanitary certificate includes the official statement referred to in paragraph (b), there must also be evidence of that heat treatment by a mark "HT" on the phytosanitary certificate.<br><br>*The name of the area(s) must be included in the phytosanitary certificate under the heading "Additional declaration"";