Commission Delegated Regulation (EU) 2019/829 of 14 March 2019 supplementing Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants, authorising Member States to provide for temporary derogations in view of official testing, scientific or educational purposes, trials, varietal selections, or breeding

COMMISSION DELEGATED REGULATION (EU) 2019/829

of 14 March 2019

supplementing Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants, authorising Member States to provide for temporary derogations in view of official testing, scientific or educational purposes, trials, varietal selections, or breeding

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/2031 of the European Parliament and the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC[(1)], and in particular Articles 8(5) and 48(5) thereof,

Whereas:

(1) In accordance with Regulation (EU) 2016/2031, Member States may, on application, temporarily authorise the introduction into, the movement within, and the holding and multiplication in their territory of Union quarantine pests or pests subject to the measures adopted pursuant to Article 30(1) of that Regulation for official testing, scientific or educational purposes, trials, varietal selections, or breeding. Moreover, Member States may, on application, authorise temporarily the introduction into, and the movement within, their territory of plants, plant products and other objects used for official testing, scientific or educational purposes, trials, varietal selection or breeding.

(2) It is necessary to supplement Regulation (EU) 2016/2031 by adopting rules on the exchange of information between Member States and the Commission concerning the introduction into, and movement within, the Union territory of the pests, plants, plant products and other objects concerned, on the procedures and conditions for granting the respective authorisations, as well as on the requirements for the monitoring of compliance and the actions to be taken in the event of non-compliance.

(3) In order to ensure that the phytosanitary risk linked to the specified activities is eliminated or reduced to an acceptable level, the authorisation of the introduction into, and the movement within, the Union of any specified material should be subject to certain conditions ensuring the submission of a complete and appropriate application, the examination of the nature and objectives of the specified activities, the confirmation

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that the specified activities are performed in quarantine stations or confinement facilities and the destruction and safe removal of contaminated material.

(4) In order to ensure monitoring and traceability of the specified material concerned, and to immediately address any associated phytosanitary risk, it is appropriate that, following the granting of that authorisation, the competent authority of the Member State in which the approved specified activity is to be carried out should issue a letter of authority, which should always accompany the specified material concerned.

(5) Since it has proven to be implemented in an effective and consistent manner, the format of the letter of authority should be similar to the format set out in Annex II to Commission Directive 2008/61/EC[(2)].

(6) A single letter of authority should be used for the multiple introductions into, and movements within the Union of specified material subject to the specified activities, and in accordance with special conditions, so as to ensure a proportionate and effective framework for such introductions and movements.

(7) Official testing is carried out more frequently than the other specified activities. It would therefore be more efficient to allow a more flexible framework for official testing than for the other specified activities.

(8) Rules should be established concerning the actions to be taken by the competent authorities, in the cases of non-compliance with the provisions of this Regulation, to ensure corrective actions as soon as possible. Those actions should include obligations for the person responsible for the specified activities.

(9) For purposes of legal certainty and clarity, Directive 2008/61/EC should be repealed.

(10) This Regulation should apply without prejudice to any rules adopted pursuant to Article 48 of the Regulation (EU) 2017/625 of the European Parliament and of the Council[(3)] (Official Controls Regulation) with regard to goods exempted from official controls at border control posts.

(11) In order to allow for the smooth termination of the activities authorised, it is appropriate to extend the validity of the approvals of those activities for a specified period of time.

(12) For reasons of legal certainty, this Regulation should apply from the same date as Regulation (EU) 2016/2031,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation lays down the conditions for derogation from certain provisions of Regulation (EU) 2016/2031, under which specified pests and plants, plant products and other objects, as defined in Article 2 of this Regulation, may be introduced into, or moved, held, multiplied or used within, the Union, or protected zones therein, for official testing, scientific or educational purposes, trials, varietal selection or breeding.

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In particular, this Regulation sets out derogations from the following provisions of Regulation (EU) 2016/2031:

(a) Article 5(1), on prohibition of introduction, movement, holding, multiplication and release of Union quarantine pests in the Union territory;

(b) Article 30(1), on Union measures adopted for pests not listed as Union quarantine pests but which may fulfil the conditions for inclusion in that list;

(c) Article 32(2), on prohibition of introduction, movement, holding multiplication and release of protected zone quarantine pests into protected zones of Union territory;

(d) Article 40(1), on prohibition of the introduction of certain plants, plants products and other objects from all or certain third countries or territories, into the Union territory;

(e) Article 41(1), on special and equivalent requirements for introduction and movement of certain plants, plants products and other objects from third countries into the Union territory;

(f) Article 42(2), on prohibition of the introduction of certain high-risk plants, plants products and other objects from third countries into the Union territory;

(g) Article 49(1), on temporary measures as regards to the introduction into and the movement within, the Union territory of plants, plants products and other objects from third countries;

(h) Article 53(1), on prohibition of introduction of plants, plants products and other objects originated from third countries or within the Union territory, into protected zones of Union territory;

(i) Article 54(1), on special requirements for introduction of plants, plants products and other objects in protected zones of Union territory.

In particular, this Regulation establishes:

(a) the rules concerning the exchange of information between Member States and the Commission concerning the introduction into, and movement within, or holding, multiplying or use within the Union, or protected zones therein, of specified pests or plants, plant products and other objects;

(b) the procedure and the conditions under which a temporary authorisation shall be granted by Member States for the performance of the specified activities;

(c) the rules concerning the monitoring of compliance, and the actions to be taken in case of non-compliance.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) ‘specified pests’ means one of the following:

(i) Union quarantine pests, listed pursuant to Article 5 of Regulation (EU) 2016/2031,

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(ii) pests subject to the measures adopted pursuant to Article 30(1) of that Regulation,

(iii) protected zone quarantine pests, listed pursuant to Article 32(3) of that Regulation.

(b) 'plants, plant products or other objects' means the plants, plant products or other objects subjected to measures adopted pursuant to Article 30(1), and listed pursuant to Articles 40(2) and (3), 41(2) and (3), 42(2) and (3), 49(1), 53(2) and (3), and 54(2) and (3) of Regulation (EU) 2016/2031;

(c) 'specified material' means any specified pests, plants, plant products or other objects requiring an authorisation within the meaning of this Regulation;

(d) 'specified activities' means any activity carried out by any person, including competent authorities, academic institutions, research institutions or professional operators, related to official testing, scientific or educational purposes, trials, varietal selection or breeding, that involves the introduction into, the movement within, holding, multiplication or use in the Union and protected zone thereof, of any specified material.

Article 3

Exchange of information between Member States and the Commission

1 Member States shall cooperate administratively with regard to the exchange of information between Member States and the Commission concerning the introduction into, movement within, and holding, multiplication and use in, the Union territory or protected zones thereof of any specified material.

2 For the purposes of paragraph 1, Member States shall send, before 31 March each year, to the Commission and to the other Member States all of the following information:

a a list with types and quantities of specified material authorised under this Regulation, and introduced into or moved within the Union, during the preceding calendar year;

b a report on the presence of specified pests not authorised under this Regulation, and any other pests considered as a risk to the Union by the competent authority, and detected during the specified activities;

c measures taken in case of non-compliance;

d the list of quarantine stations and confinement facilities used for the purposes of this Regulation.

3 The movement and the introduction into the Union of the specified material for the purpose of specified activities authorised pursuant to Article 5 shall be recorded, together with the respective authorisation, in a computerised information management system for official controls (IMSOC) as referred to in Article 131 of Regulation (EU) 2017/625 of the European Parliament and of the Council.

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Article 4

Application

Prior to any introduction into, and movement within, holding, multiplication, and use, in the Union of the specified material, in accordance, as applicable, with Articles 8(1) and 48(1) of Regulation (EU) 2016/2031, an application shall be submitted to the competent authorities.

Its content shall comply with the requirements laid down in Annex I to this Regulation.

Article 5

Conditions to grant the authorisation

The authorisation of the introduction into, and movement within, holding, multiplication and use, in the Union of the specified material, in accordance, as applicable, with Articles 8(1) and 48(1) of Regulation (EU) 2016/2031 shall be granted by the Member States for a limited period of time and only where the following conditions are satisfied:

(a) the application has been found to be in compliance with Article 4 of this Regulation;

(b) the nature and objectives of the specified activities proposed in the application have been examined by the competent authority and found to comply with the definition of specified activities provided in Article 2 of this Regulation;

(c) the specified activities have been confirmed to be performed in quarantine stations or confinement facilities indicated in the application and designated by the competent authority in compliance with Articles 60 and 61 of Regulation (EU) 2016/2031;

(d) it has been ensured that, following the completion of the specified activity concerned by that authorisation, the specified material has been destroyed and safely removed, or stored under appropriate conditions for further use in accordance with Article 64 of Regulation (EU) 2016/2031.

Article 6

Letter of authority following the authorisation

1 Following the granting of the authorisation referred to in Article 5, a letter of authority shall be issued by the competent authority of the Member State in which the approved specified activity is to be carried out. This letter of authority shall always accompany the specified material concerned.

2 In the case of specified material originating in the Union, the letter of authority shall conform to the format set out in Part A of Annex II. It shall be officially endorsed by the Member State of origin, for movement of the respective specified material under quarantine or confinement conditions.

3 In the case of specified material originating in third countries, the letter of authority shall conform to the format set out in Part B of Annex II. It shall be officially endorsed by the third country of origin for introduction of the respective specified material under quarantine or confinement conditions.