

# STATES OF JERSEY



Jersey

## DRAFT EU LEGISLATION (PLANT HEALTH) (JERSEY) REGULATIONS 202-

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Lodged au Greffe on 27th January 2020  
by the Minister for the Environment

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STATES GREFFE



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## REPORT

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### Background

The European Union is in the process of improving, modernising and streamlining regulations concerning all aspects of the agri-food chain. These new regulations aim to strengthen the health and safety aspects of the food chain and to shift regulation to a more risk-based approach. They also aim to promote consistency in how regulations are applied throughout the EU and across industries. Together, these enhanced regulations will replace over 70 existing European directives and regulations and are known collectively as the **Smarter Rules for Safer Food (SRSF)** package.

### Details

Two of the 3 principal regulations of the new SRSF relate to the area of plant health. Namely the **Plant Health Regulation** (EU 2016/2031) and the over-arching **Official Controls Regulation** (EU 2017/625). Both of these Regulations (as well as their underlying tertiary legislation) have applied to member states since the 14th December 2019. The **EU Legislation (Plant Health) (Jersey) Regulations 202-** implements both the Plant Health Regulation and the Official Controls Regulations as they relate to the area of Plant Health and ensures their continuing application post-Brexit. It provides Government with the powers to apply, audit, inspect and enforce the regulations in line with the overarching EU provisions.

The agri-food industry is the EU's second largest economic sector, with an annual value in the region of €750 billion. Whilst a key driver in the development of SRSF was to ensure customer safety, the regulations will also improve the long-term health of the food industries by promoting sustainable food production. An obvious example being offsetting potential pesticide use by promoting effective biosecurity protocols.

Equally, pests and diseases can and have had significant negative impacts on our environment as well as our industry. The Food and Agriculture Organisation (FAO) cites invasive pests as one of the main factors in biodiversity loss worldwide. More locally, the devastating impacts of Dutch Elm Disease in the 1970s can still be seen across the Island and behind the scenes measures are in place to protect the Island's natural resources from a number of current threats to our natural environment.

Both now and post-Brexit we are committed to ensuring parity between our local legislation and the EU's statutory controls in the area of Plant Health. Continued alignment with EU control procedures and practices in this area not only facilitates trade with both the UK and EU, it affords access to international expertise and robust scientific information and allows us to adopt evidence-based, scientifically tested procedures and practices.

The Plant Health Regulation (EU 2016/2031) replaces Directive 2000/29/EC. This shift to a directly applicable regulation has major benefits in terms of efficiencies and equivalence across the EU. By applying this regulation under the [European Union Legislation \(Implementation\) \(Jersey\) Law 2014](#) we can ensure that it remains applicable post-Brexit and that the Island will benefit from the intended ambulatory effect of the new regime so that future changes will apply in Jersey automatically, improving efficiency and allowing the Island's plant health legislation to maintain uniformity with EU standards. Once this regulation is in effect, the only exception to the ambulatory effect will be any new National Measures that the UK introduces. These are currently included in Schedule 1 of the regulations and these may be updated by Order to ensure we can react quickly to rapidly emerging plant health risks. This

legislation also includes all current EU plant health emergency decisions made prior to the 14th December 2019, within Regulation 5. This brings local legislation in line with all current EU provisions.

In contrast, Regulation 48 allows for the Minister to limit the ambulatory effect of EU provisions once the UK leaves the EU should that be necessitated by a specific phytosanitary risk.

We need modern risk-based regulation to tackle the increasing biosecurity threat posed by strengthened global trade. SRSF aims to increase plant health regulation using a risk-based approach, targeting inspections and compliance checking in areas that are shown to pose a higher risk coupled with increased transparency of the official controls conducted by government. Regulation 50 provides that the Minister conducts and publishes periodic reviews of these regulations and their operation, the first of which is due in December 2024.

One example of the major changes in the new Plant Health Regulation is with regards the plant passporting scheme. Traditionally plant passports were only used for higher risk commodities subject to specific threats, but their scope has now been widened to include all plants that are intended to be replanted. This will increase traceability across the sectors and allow tracing back outbreaks more rapidly and effectively as well as providing assurance in areas such as agricultural seed production.

The new Regulation also provide for controls in the internet sales market. A significant number of plants and plant products enter the Island this way, and it can be argued that the frequency of these low-value consignments present a high risk. While some controls already exist, the new regulation will provide a greater ability to monitor this risk pathway.

The Regulation also creates a broader category of professional operators, those that are professionally involved in planting, breeding, production or sales of plants or plant products. The Plant Health Inspectorate will maintain a register of these operators (Regulation 50) and the regulation makes certain legal requirements of these operators in terms of record keeping and compliance. The requirement to keep a register of professional operators is covered by Regulation 7.

Those operators who wish to sell plants and plant products to trade or industry (known as authorised operators) will need to apply for the authorisation to issue plant passports to their goods, as covered by Part 7 of the Regulation. Whilst this has always been the case, the change in scope of the plant passporting system and revised requirements in terms of the auditing of those operators will see this area also undergo a degree of change.

The Official Controls Regulation (EU 2017/625) also places statutory requirements on government. Examples include auditing of the official controls, publishing of data and the formalisation of rights to appeal (Regulation 47).

In conclusion, adopting the plant health aspects of the SRSF provides a valuable opportunity to ensure our environmental protection credentials in this area are in line with national and international standards as well as ensuring local producers are both protected and accredited to continue to trade into both UK and EU markets.

It is extremely important that Government acknowledges the increasingly vital role that plant health and biosecurity more broadly plays for Jersey. As an Island positioned between the UK and mainland EU, we are afforded some protection by our geographical separation, but our relatively close proximity to France and frequent freight and passenger movements provide pathways for transmission of plant health and biosecurity risks. Part of Jersey's sense of place and attractiveness to tourists and high net-worth individuals is provided by its green and natural 'feel' and the green landscape also

contributes to ecosystem services with regard to water and air quality, carbon sequestration, biodiversity and human wellbeing. Should this landscape be jeopardised by largescale biosecurity threats, and the resultant control measures required, the impacts would be far reaching, expensive and could take decades to recover from.

**Financial and manpower implications**

There are no immediate financial or manpower implications arising from this decision, however, there may be a requirement for funding in the short to medium term while services adapt to the new scope of the regulations.



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## EXPLANATORY NOTE

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The Draft EU Legislation (Plant Health) (Jersey) Regulations 202- , if passed, will give effect in Jersey law to certain EU instruments concerning plant health and official controls in relation to plant health. Specifically, these instruments are Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants (OJ L 317, 23.11.2016, p.4) (“the EU Plant Health Regulation”), 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 (OJ L 95, 7.4.2017, p.1) (“the Official Controls Regulation”), 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 (OJ L 319, 10.12.2019, p.1) (“the Phytosanitary Conditions Regulation”) and a series of EU Emergency Decisions concerning plant health (which are listed in Regulation 2).

*Regulation 1* contains general interpretative provisions, including provisions about the EU Plant Health Regulation and the Official Controls Regulation.

*Regulation 2* lists the instruments comprising the EU Emergency Decisions.

*Regulation 3* specifies certain plant pests which are to be subject to measures under Article 31(1) of the EU Plant Health Regulation.

*Regulation 4* provides the meaning of the term “close proximity”.

*Regulation 5* gives effect to the EU Plant Health Regulation, the Official Controls Regulation, the Phytosanitary Conditions Regulation and the EU Emergency Decisions in Jersey law (to the extent that such provisions do not already have effect in Jersey under Protocol 3). These instruments are to be given effect on an ambulatory basis as the EU plant health regime is fast moving. The ambulatory effect will also extend to EU instruments which are implementing acts or delegated acts of the European Commission in relation to the EU Plant Health Regulation and the Official Controls Regulation insofar as it relates to plant health.

*Regulation 6* confirms that the Minister for the Environment (“the Minister”) is the competent authority for the purposes of these Regulations and the EU instruments to which these Regulations give effect in Jersey law.

*Regulation 7* provides that the Minister is responsible for keeping a register of professional operators.

*Regulation 8* contains a derogation in relation to one of the implementing acts of the European Commission in relation to plant health which deals with prior notification of certain consignments.

*Regulations 9 to 12* enable plant health inspectors in GHE to issue notices on responsible operators in relation to certain controlled consignments and other regulated items in certain circumstances (suspicion of non-compliance, consignments not correctly present for official controls or which pose a risk to plant health) and set out the provisions which the notices may include.

*Regulation 13* enables the Minister to grant permits authorising inspection centres and commercial storage facilities for the purposes of official controls. The respective facilities must comply with one of the implementing acts of the European Commission in relation to minimum requirements for border control posts.

*Regulation 14* introduces Part 5, which deals with situations where a plant health inspector suspects or becomes aware that a controlled plant pest or prohibited material is present in Jersey.

*Regulation 15* enables a plant health inspector to serve a notice with the aim of preventing the establishment of the plant pest.

*Regulation 16* allows a plant health inspector to take action to deal with any controlled plant pest or infected material.

*Regulation 17* enables the Minister to establish demarcated areas and to specify the measures to be taken in those areas.

*Regulation 18* introduces Schedule 1. Schedule 1 sets out certain temporary national measures in relation to plants, plant products and other objects being introduced into Jersey from the EU or third countries (as appropriate). The Minister may amend Schedule 1 by Order to update such temporary measures as needed.

*Regulation 19* requires professional operators with a principal place of business in Jersey to register with the Minister.

*Regulations 20 to 22* deal with certain other applications contemplated by the EU Plant Health Regulation and authorisations permitting activities to be carried out under derogations provided for in an implementing act or a delegated act of the European Commission. The Minister may impose conditions or limit the period of authorisation and may modify, suspend or revoke an authorisation.

*Regulation 23* introduces Schedule 2. Schedule 2 contains specific measures relating to certain solanaceous species. The measures give effect to the requirements of the existing EU Directives in relation to potatoes (specifically, Council Directive 69/464/EEC on control of Potato Wart Disease (OJ L 323, 24.12.1969, p.1), Council Directive 93/85/EEC on the control of potato ring rot (OJ L 259, 18.10.1993, p.1), Council Directive 98/57/EC on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al. (OJ L 235, 21.8.1998, p.1) and Council Directive 2007/33/EC on the control of potato cyst (OJ L 156, 16.6.2007, p.12)). The Minister may amend Schedule 2 by Order to enable these Regulations to be future-proofed if those measures change.

*Regulations 24 to 26* concern notification requirements in relation to the organisation of official controls in respect of potatoes (Regulation 24), citrus fruit (Regulation 25) and other plant products (Regulation 26). The Minister may amend Regulation 26 by Order to keep the list of plants and products up to date.

*Regulations 27 to 33* provide general powers to plant health inspectors. Regulation 27 contains interpretation. Regulation 28 contains a power of entry into premises without warrant. Regulation 29 provides a power of entry with a warrant from the Bailiff. Regulation 30 allows a plant health inspector to issue a notice requiring the provision of information. Regulation 31 confers a further power of entry which applies if a notice is not complied with. Regulation 32 enables a plant health inspector to remove a mark incorrectly applied to wood packaging material. Regulation 33 confers a power to issue a notice prohibiting the use of materials used to apply such a mark.

*Regulation 34* allows a customs officer to disclose information to the Minister.

*Regulation 35* enables the Minister to provide information to UK and EU competent authorities.

*Regulation 36* contains miscellaneous provisions in relation to notices given by plant health inspectors.

*Regulation 37* makes provision about the service of notices.



*Regulation 38* creates certain criminal offences carrying an unlimited fine. This is done by reference to other provisions of these Regulations, including provisions of the Schedules. In particular, Schedules 3 and 4 list provisions of the EU Plant Health Regulation, the Official Controls Regulation and certain of the EU Emergency Decisions the contravention of which are to constitute criminal offences. The Minister may amend Schedule 3 and 4 by Order to update the provisions of those EU instruments so as to maintain up to date the list of provisions which attract criminal sanction.

*Regulation 39* provides that failure to comply with a notice without reasonable excuse is an offence carrying an unlimited fine.

*Regulation 40* makes the provision of false or misleading information an offence carrying an unlimited fine.

*Regulation 41* makes it an offence carrying an unlimited fine to dishonestly issue, alter or re-use a plant passport or a phytosanitary certificate.

*Regulation 42* renders obstruction of a plant health inspector an offence carrying an unlimited fine.

*Regulation 43* provides that disclosure of information received from a customs officer is an offence carrying imprisonment for up to 2 years, an unlimited fine, or both.

*Regulation 44* makes provision in relation to offences committed by bodies corporate and others.

*Regulation 45* specifies that methods and techniques for official controls must be in accordance with the Official Controls Regulation. In particular, specific references is made to an operator having the right to a second expert opinion and to the Minister having power to designate official laboratories outside Jersey for official controls purposes.

*Regulation 46* enables the Minister to make Orders prescribing fees.

*Regulation 47* provides a right of appeal to the Royal Court in relation to decisions and acts under these Regulations, the EU Plant Health Regulation and the Official Controls Regulation.

*Regulation 48* enables the Minister, by Order, to impose limits on the ambulatory effect of the EU instruments given effect to by these Regulations.

*Regulation 49* provides that Orders under these Regulations may contain consequential etc provisions.

*Regulation 50* requires the Minister to periodically review these Regulations and to report thereon.

*Regulation 51* amends the Plant Health (Jersey) Law 2003 to clarify the relationship between the Law and these Regulations and to expand the compensation scheme in Article 6 to cover things done under these Regulations.

*Regulation 52* repeals the Plant Health (Jersey) Order 2005.

*Regulation 53* is the citation and commencement provision.





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*Made* [date to be inserted]  
*Coming into force* [date to be inserted]

**THE STATES** make these Regulations under Article 2 of the European Union Legislation (Implementation) (Jersey) Law 2014<sup>1</sup>.

### PART 1

#### INTRODUCTION

#### 1 General interpretation

- (1) In these Regulations –
- “controlled consignment” means a consignment containing a plant, plant product or other object –
- (a) which must not be brought into the Union territory without a phytosanitary certificate for export or a phytosanitary certificate for re-export under –
    - (i) Article 72 or 74 of the EU Plant Health Regulation,
    - (ii) an EU Emergency Decision, or
    - (iii) any other EU plant health rule, other than Article 73 of the EU Plant Health Regulation; or
  - (b) which was exported from the Union to a third country and is returning to the Union following the refusal by that third country to allow its entry into the country;
- “controlled plant pest” means –
- (a) a plant pest of a description specified in Annex 2, 3 or 4 to the Phytosanitary Conditions Regulation;
  - (b) a plant pest of a description specified in an EU Emergency Decision; or
  - (c) a plant pest subject to controls under any other EU plant health rule;
- “customs officer” means an officer within the meaning of the Customs and Excise (Jersey) Law 1999<sup>2</sup>;

“EU Emergency Decision” means an instrument specified in Regulation 2(1);

“EU Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants (OJ L 317, 23.11.2016, p.4), amending Regulations (EU) 228/2013, (EU) 652/2014 and (EU) 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;

“EU plant health rule” means a rule within the meaning given in Article 1(2)(g) of the Official Controls Regulation;

“ISPM 15” means International Standard for Phytosanitary Measures No. 15 of March 2002 on Guidelines for regulating wood packaging material in international trade, prepared by the Secretariat of the International Plant Protection Convention established by the Food and Agriculture Organisation of the United Nations;

“Minister” means the Minister for the Environment;

“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 (OJ L 95, 7.4.2017, p.1), amending Regulations (EC) 999/2001, (EC) 396/2005, (EC) 1069/2009, (EC) 1107/2009, (EU) 1151/2012, (EU) 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) 1/2005 and (EC) 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) 854/2004 and (EC) 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC;

“Phytosanitary Conditions Regulation” means 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 (OJ L 319, 10.12.2019, p.1);

“plant health inspector” means a person authorised by the Minister to be an inspector under the Plant Health (Jersey) Law 2003<sup>3</sup>;

“plant pest” means a pest within the meaning given in Article 1(1) and (2) of the EU Plant Health Regulation;

“premises” includes any land, building, vehicle, vessel, aircraft, hovercraft, freight container, railway wagon, trailer or movable building or structure;

“prohibited material” means –

- (a) a plant, plant product or other object which is carrying or is infected with or infested by, or which may be carrying or infected with or infested by, a controlled plant pest;
- (b) a plant, plant product or other object whose entry into the Union territory or Jersey is prohibited under an EU plant health rule; or

- (c) a plant, plant product or other object whose movement within the Union territory or whose movement into, within or from Jersey is prohibited under an EU plant health rule;

“regulated item” means –

- (a) any plant, plant product or other object to which the EU Plant Health Regulation applies, other than any plant, plant product or other object which is part of a controlled consignment; and
- (b) a controlled plant pest;

“responsible operator”, in relation to a controlled consignment or regulated item, means an operator who is required to ensure that the consignment or item is presented for official controls in accordance with Article 47(5) of the Official Controls Regulation.

- (2) Unless the context otherwise requires –

- (a) terms used in these Regulations and defined in the EU Plant Health Regulation or Official Controls Regulation have the same meaning as in the EU instrument in question;
- (b) subject to Regulation 48, a reference in these Regulations to the EU Plant Health Regulation, the Official Controls Regulation, the Phytosanitary Conditions Regulation or an EU Emergency Decision is to be construed as a reference to that EU instrument as amended, substituted, extended or applied from time to time by any other EU provision, or as it otherwise has effect in the EU from time to time by virtue of any judgment of the European Court; and
- (c) a reference in these Regulations to the EU Plant Health Regulation or the Official Controls Regulation is to be construed as including any implementing act or delegated act (within the meaning given in Articles 290 and 291 of the Treaty on the Functioning of the European Union) adopted by the Commission under or in relation to the EU Plant Health Regulation or the Official Controls Regulation or for which the legal basis otherwise is or includes the EU Plant Health Regulation or the Official Controls Regulation.

## 2 EU Emergency Decisions

- (1) The following are EU Emergency Decisions –

- (a) Commission Decision 98/109/EC authorising Member States temporarily to take emergency measures against the dissemination of *Thrips palmi* Karny as regards Thailand (OJ L 27, 3.2.1998, p.47);
- (b) Commission Decision 2002/757/EC on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in ‘t Veld sp. Nov. (OJ L 252, 20.9.2002, p.37);
- (c) Commission Decision 2004/200/EC on measures to prevent the introduction into and the spread within the Community of Pepino Mosaic Virus (OJ L 64, 2.3.2004, p.43);
- (d) Commission Implementing Decision 2011/787/EU authorising member States temporarily to take emergency measures against the

dissemination of *Ralstonia solanacearum* (Smith) Yabuuchi et al. as regards Egypt (OJ L 319, 2.12.2011, p.112.);

- (e) Commission Implementing Decision 2012/138/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Anoplophora chinensis* (Forster) (OJ L 64, 3.3.2018, p.38);
- (f) Commission Implementing Decision 2012/270/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix papa* sp.n., *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner) (OJ L 132, 23.5.2012, p.18);
- (g) Commission Implementing Decision 2012/535/EU on emergency measures to prevent the spread within the Union of *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al. (the pine wood nematode) (OJ L 266, 2.10.2012, p.42);
- (h) Commission Implementing Decision 2012/697/EU as regards measures to prevent the introduction into and the spread within the Union of the genus *Pomacea* (Perry) (OJ L 697, 10.11.2012, p.14);
- (i) Commission Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.) (OJ L 125, 21.5.2015, p.36);
- (j) Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulksy) (OJ L 146, 11.6.2015, p.16);
- (k) Commission Implementing Decision (EU) 2016/715 setting out measures in respect of certain fruits originating in certain third countries to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (McAlpine) Van der Aa. (OJ L 125, 13.5.2016, p.16);
- (l) Commission Implementing Decision (EU) 2017/198 as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyuma & Goto (OJ L 31, 4.2.2017, p.29);
- (m) Commission Implementing Decision (EU) 2018/638 establishing emergency measures to prevent the introduction into and spread within the Union of the harmful organism *Spodoptera frugiperda* (Smith) (OJ L 105, 25.4.2018, p.31);
- (n) Commission Implementing Decision (EU) 2018/1503 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann) (OJ L 254, 10.10.2018, p.9);
- (o) Commission Implementing Decision (EU) 2019/1615 establishing emergency measures to prevent the introduction into and the spread within the Union of Tomato brown rugose fruit virus (ToBRFV) (OJ L 250, 30.9.2015, p.91);
- (p) Commission Implementing Decision (EU) 2019/1739 establishing emergency measures to prevent the introduction into and the spread

within the Union of Rose Rosette Virus (OJ L 265, 18.10.2019, p.12); and

- (q) Commission Implementing Decision (EU) 2019/2032 establishing measures to prevent the introduction into and the spread within the Union of *Fusarium circinatum* Nirenberg & O'Donnell (formerly *Gibberella circinata*) (OJ L 313, 4.12.2019, p.94).

- (2) The Minister may by Order amend paragraph (1).

### **3 Measures adopted under Article 30(1) of the EU Plant Health Regulation**

A reference in the EU Plant Health Regulation to a pest that is subject to the measures adopted under Article 30(1) includes the following plant pests –

- (a) *Epitrix cucumeris* (Harris), *Epitrix papa*. (Orlova-Bienkowskaja), *Epitrix subcrinita* (Lec.) or *Epitrix tuberis* (Gentner);
- (b) *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyuma & Goto;
- (c) Rose rosette virus; and
- (d) Tomato brown rugose fruit virus.

### **4 Article 82 of the EU Plant Health Regulation: meaning of "close proximity"**

For the purposes of Article 82 of the EU Plant Health Regulation, premises in Jersey of a registered operator are to be regarded as being in close proximity to any other premises of that operator which are also in Jersey.

## **PART 2**

### **EFFECT OF EU INSTRUMENTS**

### **5 Effect of EU plant health instruments**

- (1) Subject to paragraph (4), the following EU instruments have effect in Jersey to the extent, if any, that they do not have effect under Article 2 of the European Union (Jersey) Law 1973<sup>4</sup> –
  - (a) the EU Plant Health Regulation;
  - (b) the Official Controls Regulation, in so far as it applies to EU plant health rules;
  - (c) the Phytosanitary Conditions Regulation;
  - (d) any EU instrument which is an implementing act or delegated act adopted by the Commission under or in relation to the EU Plant Health Regulation or the Official Controls Regulation or for which the legal basis otherwise is or includes the EU Plant Health Regulation or the Official Controls Regulation; and
  - (e) each EU Emergency Decision.

- (2) A reference in the EU instruments specified in paragraph (1) to member States or the EU (however expressed) is to be construed as including Jersey.
- (3) A reference in those EU instruments to member States or the EU (however expressed) is to be construed as also including the United Kingdom, Guernsey and the Isle of Man.
- (4) The EU instruments specified in paragraph (1) have effect in Jersey subject to the exception set out in paragraph (5) which applies despite anything to the contrary in those EU instruments.
- (5) A plant or plant product of *Fraxinus* L. other than wood without bark or foliage that does not retain any of its natural round surface must not be introduced into Jersey, regardless of the country from which it originates, unless it carries an internationally approved mark conforming to international standards confirming it has been kiln dried to below twenty per cent moisture content through an appropriate time and temperature schedule as approved by the national plant protection organisation of the country where it was treated.
- (6) The Minister may by Order make further provision in relation to exceptions to paragraph (5).
- (7) A person must not, without the written authority of a plant health inspector, knowingly engage in any activity in Jersey that involves –
  - (a) the genetic modification of a plant pest; or
  - (b) the use or keeping of plant pests that the person knows to be genetically modified.
- (8) In paragraph (7) –

“genetic modification” of a plant pest means modification of the genetic complement of the pest;

“genetically modified plant pest” includes an organism or material that contains such a plant pest or a part of such a plant pest, other than *Agrobacterium* species and organisms that have been modified to eliminate all pathogenic genetic sequences.

### PART 3

#### COMPETENT AUTHORITY

##### 6 Designation of competent authority

- (1) The Minister is designated as the competent authority responsible for the organisation and the performance of official controls and other official activities in Jersey in so far as they relate to –
  - (a) plants;
  - (b) non-forestry material;
  - (c) plant pests;
  - (d) trees;
  - (e) forestry material;

- (f) tree pests; and
  - (g) professional operators, including forestry professional operators.
- (2) In this Regulation –
- “forestry material” means –
- (a) wood which retains part or all of its natural round surface, with or without bark;
  - (b) wood in the form of chips, particles, shavings, sawdust, wood waste or scrap;
  - (c) conifer trees over 3m in height; or
  - (d) bark which has been removed or become detached from, or from part of, a living, felled or fallen tree;

“forestry professional operator” means a professional operator who carries out one or more of the following activities, but no other activities described in Article 2(9) of the EU Plant Health Regulation –

- (a) the introduction of forestry material into Jersey;
- (b) the storage, aggregation or movement of forestry material within Jersey, the movement of forestry material into Jersey from another part of the Union territory or the movement of forestry material from Jersey to another part of the Union territory;
- (c) the export of forestry material from Jersey to a third country;
- (d) the treatment and marking of wood packaging material or forestry material in accordance with Annex 1 to ISPM 15 or the repair of wood packaging material in Jersey;
- (e) the introduction of tree pests into Jersey, the movement of tree pests within Jersey or the holding or multiplication of tree pests in Jersey, for official testing, scientific or educational purposes, trials, varietal selection or breeding; or
- (f) the introduction of trees or forestry material into Jersey or the movement of trees or forestry material within Jersey, for use in official testing, scientific or educational purposes, trials, varietal selection or breeding;

“non-forestry material” means plants, plant products or other objects (as defined in the EU Plant Health Regulation), other than forestry material;

“tree” means a living tree or shrub, or a living part of a tree or shrub, at any stage of its growth;

“tree pest” means a plant pest which is injurious to trees or wood;

“wood packaging material” means wood or wood products (excluding paper products) used, or intended to be used, for supporting, protecting or carrying a commodity of any kind, including dunnage.

## **7 Register of professional operators**

The Minister is responsible for keeping and updating the register of professional operators referred to in Article 65(1) of the EU Plant Health Regulation for Jersey.

## PART 4

### OFFICIAL CONTROLS ON CONTROLLED CONSIGNMENTS FROM THIRD COUNTRIES AND OTHER OFFICIAL CONTROLS ON GOODS FROM THIRD COUNTRIES

#### **8 Derogation to requirement to give prior notification in accordance with Article 1(1) of Implementing Regulation (EU) 2019/1013**

- (1) The responsible operator of a controlled consignment which is to be brought into Jersey by air must notify the Minister of the consignment's expected arrival at least four working hours before its expected arrival in Jersey.
- (2) In the case of any controlled consignment which consists, in whole or in part, of unprocessed logs or sawn or chipped wood and is to be brought into Jersey, the operator must notify the Minister of the consignment's arrival at least three working days before its expected arrival in Jersey.
- (3) Article 1(1) of Commission Implementing Regulation (EU) 2019/1013 does not apply to any responsible operator of a controlled consignment referred to in paragraph (1) or (2).
- (4) In this Regulation –
  - “Commission Implementing Regulation (EU) 2019/1013” means Commission Implementing Regulation (EU) 2019/1013 on prior notification of consignments of certain categories of animals and goods entering the Union (OJ L 165, 21.6.2019, p.4);
  - “working day” means any day, other than –
    - (a) a Saturday or Sunday;
    - (b) Christmas Day or Good Friday; or
    - (c) a day that is a public holiday under the Public Holidays and Bank Holidays (Jersey) Act 2010<sup>5</sup>;
  - “working hour” means a period of one hour between the hours of 8am and 4pm during a working day.

#### **9 Suspicion of non-compliance**

- (1) This Regulation applies where a plant health inspector suspects that a controlled consignment or a regulated item is likely to be, or has been, brought into Jersey from a third country in contravention of an EU plant health rule or that any such consignment or item may not otherwise comply with an EU plant health rule.
- (2) A plant health inspector must serve a notice on the responsible operator –
  - (a) placing the consignment or item under official detention; and
  - (b) prohibiting the consignment or item from entry into the Union territory,pending the outcome of official controls to confirm or eliminate the suspicion referred to in paragraph (1).



- (3) Paragraph (1) applies to any controlled consignment or regulated item whether or not its ultimate destination is in Jersey.

## **10 Consignments not correctly presented for official controls**

Where a plant health inspector suspects or is aware that a controlled consignment or regulated item has not been presented for official controls in accordance with Article 47(1) of the Official Controls Regulation, or in accordance with the other requirements referred to in Article 66(6) of that Regulation, the plant health inspector must serve a notice on the responsible operator recalling the consignment and placing the consignment under official detention.

## **11 Official measures in relation to non-compliant consignments or consignments which pose a risk to plant health**

- (1) This Regulation applies to –
  - (a) any controlled consignment or regulated item which, in the opinion of a plant health inspector, has been brought into Jersey from a third country in contravention of an EU plant health rule;
  - (b) any controlled consignment or regulated item which has been brought into Jersey from a third country which does not otherwise comply with an EU plant health rule;
  - (c) any consignment which has been brought into Jersey from a third country and which, in the opinion of a plant health inspector, poses a risk to plant health in Jersey or to any other part of the Union territory.
- (2) A plant health inspector must serve a notice on the responsible operator (or, in the case of a consignment which is not a controlled consignment, the operator responsible for the consignment) –
  - (a) placing the consignment or item under official detention; and
  - (b) setting out the measures which the operator who is responsible for the consignment or item must take in relation to the consignment or item.

## **12 Notices under Regulation 9, 10 or 11**

A notice under Regulation 9, 10 or 11 may include any of the following –

- (a) the measures that the responsible operator must take in relation to the consignment or item to isolate or quarantine the consignment or item or otherwise deal with the risk to plant health arising from the consignment or item;
- (b) where a plant health inspector requires the consignment or item to be destroyed or otherwise disposed of, re-exported or treated, the measures that the responsible operator must take to destroy or otherwise dispose of, re-export or treat the consignment or item; and
- (c) any other measures which the plant health inspector considers are appropriate in light of the suspected or known contravention or the risk to

plant health in Jersey or to any other part of the Union territory arising from the consignment or item.

### **13 Authorisation of inspection centres and commercial storage facilities**

- (1) The Minister may grant a permit which authorises –
  - (a) the use of a facility as an inspection centre for the purpose of carrying out official controls and other official activities on controlled consignments and other regulated items on their arrival in Jersey; or
  - (b) the use of commercial storage facilities as a place at which identity checks and physical checks may be performed on controlled consignments and other regulated items on their arrival in Jersey.
- (2) An application for a permit must be made to the Minister by the operator of the facility or commercial storage facilities in the manner and form required by the Minister.
- (3) A permit may only be granted under paragraph (1)(a) if the Minister is satisfied that the facility complies with the requirements specified in respect of inspection centres in Article 8 of Regulation (EU) 2019/1014.
- (4) A permit may only be granted under paragraph (1)(b) if the Minister is satisfied that the commercial storage facilities comply with the requirements specified in respect of commercial storage facilities in Article 3(11) of Regulation (EU) 2019/1014.
- (5) A permit granted under paragraph (1)(a) or (b) must be in writing and may be granted –
  - (a) subject to conditions or without conditions; and
  - (b) for an indefinite period or a specified period.
- (6) A permit granted under paragraph (1)(a) or (b) may include provision permitting the Minister to modify, suspend or revoke the permit at any time by notice in writing.
- (7) In this Regulation, “Regulation (EU) 2019/1014” means Commission Implementing Regulation (EU) 2019/1014 of 12 June 2019 to lay down detailed rules on minimum requirements for border control posts, including inspection centres, and for the format, categories and abbreviations to use for listing border control posts and control points (OJ L 165, 21.6.2019, p.10).

## **PART 5**

### **OFFICIAL ACTIVITIES TO PREVENT THE ESTABLISHMENT OR SPREAD OF PLANT PESTS**

#### **14 Application of Part 5**

This Part applies if a plant health inspector suspects that a controlled plant pest or prohibited material is present or likely to be present, or becomes aware that a controlled plant pest or prohibited material is present, on any premises in Jersey.

**15 Notices in relation to controlled plant pests or prohibited material**

- (1) A plant health inspector may serve a notice on the appropriate person –
  - (a) requiring the appropriate person to treat, destroy or otherwise dispose of the controlled plant pest or prohibited material;
  - (b) prohibiting for the period specified in the notice –
    - (i) the removal of any controlled plant pest or prohibited material from the premises, or
    - (ii) any activity which the inspector considers necessary to prohibit in order to prevent the establishment or spread of a controlled plant pest;
  - (c) requiring the removal of any controlled plant pest or prohibited material from the premises; or
  - (d) requiring the taking of any other steps, as specified in the notice, which the inspector considers necessary to eradicate the controlled plant pest or prevent its establishment or spread.
- (2) If a plant health inspector has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of, or ensuring the eradication of, any controlled plant pest from any premises, the inspector may serve a notice on the occupier imposing any prohibition or requiring any reasonable step to be taken for that purpose.
- (3) In paragraph (1), “appropriate person” means –
  - (a) in the case of premises used by a professional operator, the professional operator; and
  - (b) in the case of any other premises –
    - (i) the occupier or any other person in charge of the premises, or
    - (ii) any other person who is in charge of the controlled plant pest or the prohibited material at those premises.

**16 Action which may be taken by a plant health inspector**

- (1) A plant health inspector may, on giving reasonable notice, enter any premises and any adjacent premises for the purpose of taking steps to –
  - (a) eradicate, destroy or otherwise deal with any controlled plant pest;
  - (b) prevent the spread of any controlled plant pest; or
  - (c) destroy, treat or otherwise deal with any infected material.
- (2) Before entering any premises for the purposes specified in paragraph (1), a plant health inspector must, if requested to do so, produce a document showing that he or she is an inspector and any warrant issued under Regulation 29.
- (3) Paragraph (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours’ notice has been given to the occupier.
- (4) A plant health inspector may –
  - (a) be accompanied –

- (i) by a representative of the European Commission or an authorised officer of any competent authority designated in Union territory for the purpose of the EU Plant Health Regulation or the Official Controls Regulation, or
    - (ii) such other persons as the inspector considers necessary; and
  - (b) bring onto the premises such equipment and vehicles as the inspector considers necessary.
- (5) A person accompanying a plant health inspector under paragraph (4) may –
- (a) bring onto the premises any equipment or vehicles that the person considers necessary; and
  - (b) carry out work on the premises in a manner directed by a plant health inspector.
- (6) In paragraph (1), “infected material” means –
- (a) a plant, plant product or other object which is carrying or infected with a controlled plant pest or may be carrying or be infected with a controlled plant pest; and
  - (b) a plant, plant product or other object which is not carrying or infected with a controlled plant pest but whose presence or existence may, in the opinion of a plant health inspector, cause a controlled plant pest to spread or be spread.

## **17 Establishment of demarcated areas and measures to be taken in those areas**

- (1) This Regulation applies where the Minister has officially confirmed the presence of a controlled plant pest which is not known to be present in Jersey or in an area of Jersey where it was not previously present.
- (2) The Minister may by notice –
- (a) demarcate an area in relation to the presence of the controlled plant pest for the purpose of eradicating or containing the plant pest; and
  - (b) specify the prohibitions or restrictions which are to apply to the demarcated area for that purpose.
- (3) A notice under paragraph (2) –
- (a) must be in writing;
  - (b) must describe the extent of the demarcated area;
  - (c) must specify the date on which any such prohibitions or restrictions are to commence;
  - (d) must be published in a manner appropriate to bring it to the attention of the public; and
  - (e) may be amended or revoked, in whole or in part, by further notice.

## PART 6

### TEMPORARY NATIONAL MEASURES

#### 18 Temporary national measures: further provision in Schedule 1

- (1) Schedule 1 contains additional temporary measures to prevent the entry of certain controlled plant pests into Jersey, and their establishment in, and spread within, Jersey.
- (2) The Minister may by Order amend Schedule 1.

## PART 7

### REGISTRATION, AUTHORISATIONS AND CERTIFICATES

#### 19 Applications for registration

An application for registration under Article 66(1) of the EU Plant Health Regulation which is to be submitted to the Minister must be submitted in the manner and form required by the Minister.

#### 20 Other applications

- (1) The following applications must be made to the Minister in the manner and form required by the Minister –
  - (a) an application for a temporary authorisation to permit a relevant activity for official testing, scientific or educational purposes, trials, varietal selection or breeding;
  - (b) an application for an authorisation referred to in Article 64(2) of the EU Plant Health Regulation;
  - (c) an application for an authorisation referred to in Article 89(1) of the EU Plant Health Regulation;
  - (d) an application for an authorisation referred to in Article 98(1) of the EU Plant Health Regulation; and
  - (e) an application for the issue of a phytosanitary certificate for export, a phytosanitary certificate for re-export or a pre-export certificate.
- (2) In this Regulation “relevant activity” means an activity which would otherwise be prohibited under the EU Plant Health Regulation or an EU Emergency Decision involving –
  - (a) the introduction of a plant pest or a plant, plant product or other object into Jersey;
  - (b) the movement of a plant pest or a plant, plant product or other object within Jersey;
  - (c) the holding of a controlled plant pest or a plant, plant product or other object at premises in Jersey; or
  - (d) the multiplication of a plant pest at premises in Jersey.

## **21 Authorisations for other purposes**

- (1) The Minister may grant an authorisation to permit the carrying out of –
  - (a) any activity specified in a plant health derogation; or
  - (b) any other activity which requires the approval of the Minister as competent authority under the EU Plant Health Regulation, the Official Controls Regulation or these Regulations.
- (2) An application for any such authorisation must be made to the Minister in the manner and form required by the Minister.
- (3) In this Regulation, a “plant health derogation” means –
  - (a) a derogation from provisions of the EU Plant Health Regulation which is set out in an implementing or delegated act adopted by the European Commission under the EU Plant Health Regulation or the Official Controls Regulation; or
  - (b) a derogation in any decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union, which continues to apply for the purposes of the EU Plant Health Regulation on or after the date this Regulation comes into force and allows member States to authorise an activity which would otherwise be prohibited by or under the EU Plant Health Regulation.

## **22 Authorisations granted by the Minister**

- (1) An authorisation granted by the Minister for the purposes of the EU Plant Health Regulation or these Regulations must be in writing and may be granted –
  - (a) subject to conditions; or
  - (b) for an indefinite period or a specified period.
- (2) The Minister may modify, suspend or revoke an authorisation granted under paragraph (1) at any time by notice in writing.

# **PART 8**

## **MEASURES RELATING TO CERTAIN SOLANACEOUS SPECIES**

### **23 Measures relating to certain solanaceous species: further provision in Schedule 2**

- (1) Schedule 2 contains specific measures relating to certain solanaceous species.
- (2) The Minister may by Order amend Schedule 2.

## PART 9

### NOTIFICATION REQUIREMENTS FOR THE ORGANISATION OF OFFICIAL CONTROLS

#### 24 Notification requirements in relation to potatoes

- (1) A person who is bringing any of the following potatoes into Jersey must provide written notification to a plant health inspector of the matters referred to in paragraph (2) at least two days prior to the expected date of their arrival in Jersey –
  - (a) seed potatoes, wherever grown or suspected to have been grown; or
  - (b) potatoes, other than seed potatoes, grown or suspected to have been grown in Poland, Portugal, Romania or Spain and any other member State where *Epitrix* spp. is present.
- (2) The matters are –
  - (a) the expected time and date of their arrival;
  - (b) their intended use;
  - (c) their intended destination;
  - (d) their variety and quantity; and
  - (e) the identification number of the producer of the potatoes.
- (3) In paragraph (1)(b), “Spain” has the same meaning as in paragraph 3 of Schedule 1.

#### 25 Notification requirements in relation to citrus fruits

- (1) A professional operator who is introducing notifiable citrus fruits into Jersey must provide written notification to the Minister of the matters referred to in paragraph (2) prior to their arrival in Jersey.
- (2) The matters are—
  - (a) the expected date of their introduction into Jersey;
  - (b) their volume;
  - (c) the identification numbers of their containers; and
  - (d) the names, addresses and the locations of the premises in Jersey at which they are to be processed.
- (3) In paragraph (1), “notifiable citrus fruits” means fruits of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf., *Microcitrus* Swingle, *Naringi* Adans., or *Swinglea* Merr., originating in a third country, which are to be industrially processed into juice in Jersey.

#### 26 Notification requirements in relation to other plants and plant products

- (1) A person who brings any of the following plants or plant products into Jersey must notify a plant health inspector in writing of the matters referred to in paragraph (2) prior to their arrival in Jersey –

- (a) plants of *Abies* Mill., *Larix* Mill., *Picea* A. Dietr., *Pinus* L. and *Pseudotsuga* Carr;
  - (b) plants for planting, other than seeds, of *Dipladenia* A.DC., *Euphorbia pulcherrima* Willd., *Ficus* L., *Hibiscus* L., *Mandevilla* Lindl., *Nerium oleander* L., *Platanus* L., *Prunus* L., *Quercus* spp., other than *Quercus suber*, *Ulmus* L. and plants for planting of *Begonia* L., other than corms, seeds and tubers;
  - (c) plants, other than fruit and seeds, of *Amelanchier* Med., *Castanea* Mill., *Chaenomeles* Lindl., *Cotoneaster* Ehrh., *Crataegus* L., *Cydonia* Mill., *Eriobotrya* Lindl., *Malus* Mill., *Mespilus* L., *Photinia davidiana* (Dcne.) Cardot, *Pyracantha* Roem., *Pyrus* L., *Sorbus* L.;
  - (d) plants of *Palmae*, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following taxa: *Areca catechu* L., *Arenga pinnata* (Wurmb) Merr., *Bismarckia* Hildebr. & H. Wendl., *Borassus flabellifer* L., *Brahea* Mart., *Butia* Becc., *Calamus merrillii* Becc., *Caryota cumingii* Lodd. ex Mart., *Caryota maxima* Blume, *Chamaerops* L., *Cocos nucifera* L., *Copernicia* Mart., *Corypha utan* Lam., *Elaeis guineensis* Jacq., *Howea forsteriana* Becc., *Jubaea* Kunth, *Livistona* R. Br., *Metroxylon sagu* Rottb., *Phoenix* L., *Pritchardia* Seem. & H. Wendl., *Ravenea rivularis* Jum. & H. Perrier, *Roystonea regia* (Kunth) O. F. Cook, *Sabal* Adans., *Syagrus* Mart., *Trachycarpus* H. Wendl., *Trithrinax* Mart., *Washingtonia* Raf;
  - (e) live pollen for pollination of *Amelanchier* Med., *Chaenomeles* Lindl., *Cotoneaster* Ehrh., *Crataegus* L., *Cydonia* Mill., *Eriobotrya* Lindl., *Malus* Mill., *Mespilus* L., *Photinia davidiana* (Dcne.) Cardot, *Pyracantha* Roem., *Pyrus* L. and *Sorbus* L.;
  - (f) solid fuel wood from another member State, or solid fuel wood from a third country to which Article 47(1) of the Official Controls Regulation does not apply; and
  - (g) products derived from wood that retains any bark or any of its original round surface (including, but not limited to, woodchip, cladding that retains its natural edge and cut trees for display or other purposes).
- (2) The matters are –
- (a) the intended date of the arrival of the consignment in Jersey;
  - (b) the intended destination of the consignment;
  - (c) the genus, species and quantity of the plants or wood in the consignment;
  - (d) the country from which they have been, or are to be, consigned;
  - (e) in the case of plants intended for planting, the official identification number of the supplier of the plants; and
  - (f) in the case of solid wood fuel and products derived from unprocessed wood –
    - (i) the address of the consignor, and
    - (ii) details of any phytosanitary treatments applied to the wood or product.



- (3) In this Regulation, “solid fuel wood” means fuel wood in the form of logs, billets, twigs, faggots or other similar forms.
- (4) The Minister may by Order amend paragraphs (1) to (3).

## **PART 10**

### GENERAL POWERS OF PLANT HEALTH INSPECTORS AND ENFORCEMENT

#### **27 Interpretation of Part 10**

- (1) In this Part –
  - “ISPM 15 mark” means the mark referred to in Article 96(1) of the EU Plant Health Regulation;
  - “wood packaging material” includes any wood or other object which is required to be treated and marked in accordance with Annex 1 to ISPM 15.
- (2) For the purposes of Regulations 32 and 33, a person “incorrectly” applies the ISPM 15 mark to wood packaging material if the person applies the mark otherwise than in the manner specified in Article 96(1) of the EU Plant Health Regulation, as read with Article 97(1) of the EU Plant Health Regulation.

#### **28 Powers of entry**

- (1) A plant health inspector may enter any premises at a reasonable time for the purpose of –
  - (a) performing official controls to verify that –
    - (i) an operator is complying with the Official Controls Regulation,
    - (ii) a professional operator is complying with the EU Plant Health Regulation,
    - (iii) a person is complying with these Regulations, or
    - (iv) any plants, plant products or other objects which are subject to an EU plant health rule or to the requirements in Schedule 1 comply with the rule or those requirements;
  - (b) carrying out other official activities which are to be performed by the Minister under the Official Controls Regulation or the EU Plant Health Regulation;
  - (c) enforcing the Official Controls Regulation, the EU Plant Health Regulation or these Regulations;
  - (d) verifying information supplied by a person in connection with an application for registration or for an authorisation or permit made under these Regulations; and
  - (e) ascertaining whether a condition of an authorisation or permit granted by the Minister under these Regulations or for the purpose of the EU Plant Health Regulation or the Official Controls Regulation is being or has been complied with.

- (2) Before entering any premises for the purposes specified in paragraph (1), a plant health inspector must, if requested to do so, produce a document showing that he or she is an inspector and any warrant issued under Regulation 29.
- (3) Paragraph (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier.
- (4) A plant health inspector who enters premises for a purpose specified in paragraph (1) may –
  - (a) examine, photograph or mark any part of the premises, any object on the premises or anything that is attached to or otherwise forms part of the premises;
  - (b) in the case of premises being used to manufacture wood packaging material, examine or test any treatment facility, machinery, tools or other equipment used for the manufacture of wood packaging material or observe and monitor the manufacture of wood packaging material;
  - (c) take samples of or from –
    - (i) any plant pest,
    - (ii) any plant, plant product or other object, or
    - (iii) any container, package or item which has been or may have been contact with a plant pest or plant, plant product or other object;
  - (d) open any container or package or require the owner or person in charge of any container or package to open the container or package; and
  - (e) inspect or make copies of any documents or records (in whatever form they may be held) relating to the production of, or any activities relating to, any plant, plant product or other object.
- (5) A plant health inspector may destroy or otherwise dispose of any sample taken under this Regulation when the sample is no longer required.
- (6) A plant health inspector may –
  - (a) be accompanied –
    - (i) by a representative of the European Commission or an authorised officer of any competent authority designated in Union territory for the purpose of the EU Plant Health Regulation or the Official Controls Regulation, or
    - (ii) such other persons as the inspector considers necessary; and
  - (b) bring onto the premises such equipment and vehicles as the inspector considers necessary.
- (7) A plant health inspector who is accompanied by a person mentioned in paragraph (6)(a)(i) may –
  - (a) show the person any documents or records which are inspected by the inspector under paragraph (4)(e); and
  - (b) make copies, or require copies to be made, of those documents or records for that person.

- (8) A person accompanying a plant health inspector under paragraph (6)(a)(ii) may –
  - (a) bring onto the premises any equipment or vehicles that the person considers necessary; and
  - (b) carry out work on the premises in a manner directed by a plant health inspector.

## **29 Right of entry conferred by a warrant issued by the Bailiff**

- (1) The Bailiff may by signed warrant permit a plant health inspector to enter premises for a purpose mentioned in any of Regulations 16, 28 and 31, if necessary by reasonable force, if the Bailiff, on sworn information in writing, is satisfied that –
  - (a) there are reasonable grounds to enter those premises; and
  - (b) any of the conditions in paragraph (2) are met.
- (2) The conditions are that –
  - (a) entry to the premises has been, or is likely to be, refused and notice of the intention to apply for a warrant has been given to the occupier;
  - (b) asking for admission to the premises, or giving notice of the intention to apply for a warrant, would defeat the object of the entry;
  - (c) entry is required urgently; or
  - (d) the premises are unoccupied or the occupier is temporarily absent.
- (3) A warrant is valid for one month.
- (4) A plant health inspector who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before entry.

## **30 Information notices**

- (1) A plant health inspector may by notice in writing require an appropriate person to give to the inspector, within the time specified in the notice, any information which the person may possess as to –
  - (a) the plants grown or products stored at any time on the premises specified in the notice;
  - (b) any plant pest or plant, plant product or other object referred to in paragraph (4)(b); or
  - (c) the persons who have had, or are likely to have had, any plant pest or plant, plant product or other object referred to in paragraph (4)(b) in their possession or under their charge.
- (2) The time within which the information is required to be given to the inspector must be reasonable.
- (3) An appropriate person must produce for examination by the inspector any authorisation, official statement, certificate, plant passport, record, invoice or other document relating to a plant pest or any plant, plant product or other object specified in the notice.
- (4) In this Regulation, “appropriate person” means –

- (a) a person who is the owner, occupier or other person in charge of the premises specified in the notice;
- (b) a person who has, has had, or is reasonably suspected by the inspector to have or have had, possession or charge of –
  - (i) a controlled plant pest,
  - (ii) any plant, plant product or other object which was carrying a controlled plant pest or which was infected with or infested by a controlled plant pest, or
  - (iii) any plant, plant product or other object which the inspector knows or suspects to have been imported into or exported from Jersey; or
- (c) a person who, as auctioneer, salesperson or otherwise, has sold, offered for sale or otherwise disposed of a controlled plant pest.

### **31 Failure to comply with a notice**

- (1) If a person fails to comply with a notice served on that person under these Regulations, a plant health inspector may enter any premises specified in the notice at all reasonable times to take or cause to be taken any steps that the plant health inspector considers necessary to ensure compliance with the notice or to remedy the consequences of the failure to carry them out.
- (2) The reasonable costs of taking such steps are recoverable by the Minister as a debt from the person on whom the notice was served.
- (3) Before acting under paragraph (1), a plant health inspector must, if requested to do so, produce a document showing that he or she is an inspector and any warrant issued under Regulation 29.
- (4) Paragraph (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier.
- (5) A plant health inspector may –
  - (a) be accompanied –
    - (i) by a representative of the European Commission or an authorised officer of any competent authority designated in Union territory for the purpose of the EU Plant Health Regulation or the Official Controls Regulation, or
    - (ii) such other persons as the inspector considers necessary; and
  - (b) bring onto the premises such equipment and vehicles as the inspector considers necessary.
- (6) A person accompanying a plant health inspector under paragraph (5) may –
  - (a) bring onto the premises any equipment or vehicles that the person considers necessary; and
  - (b) carry out work on the premises in a manner directed by a plant health inspector.

### **32 Removal of ISPM 15 mark from wood packaging material**

Where a plant health inspector knows, or has reasonable grounds for suspecting, that the ISPM 15 mark has been incorrectly applied to wood packaging material, the inspector may remove the mark or, by notice in writing, require another person to remove it.

### **33 Marking of wood packaging material: power of seizure**

- (1) This Regulation applies where a plant health inspector knows, or has reasonable grounds for suspecting, that a person has incorrectly applied, or intends to incorrectly apply, the ISPM 15 mark to wood packaging material at any premises in Jersey.
- (2) The plant health inspector may seize and detain from that person or from those premises any stencil, template or other item of equipment that appears to the inspector to be capable of being used to apply the ISPM 15 mark.
- (3) If, in the opinion of the plant health inspector, it is not for the time being practicable for the inspector to seize and remove any item, the inspector may require any person on the premises to ensure that the item is not removed or otherwise interfered with until such time as the inspector may seize and remove it.
- (4) The plant health inspector must make reasonable efforts to give written notice to the appropriate person –
  - (a) stating what has been seized and the reason for its seizure; and
  - (b) explaining the effect of paragraph (5).
- (5) Any item seized under paragraph (2) may be retained by the Minister for as long as is necessary in all the circumstances, and in particular for the purposes of proceedings in relation to an offence specified in Regulation 38(1).
- (6) Where the retention of the item is no longer necessary and no order has been made by the court under Article 2 of the Criminal Justice (Forfeiture Orders) (Jersey) Law 2001<sup>6</sup> it must be returned to the appropriate person.
- (7) Where the item is required to be returned to the appropriate person and reasonable efforts have been made, without success, to return the item to that person, the Minister may dispose of the item in whatever way the Minister thinks appropriate.
- (8) In this Regulation –

“appropriate person” means –

  - (a) in the case of an item seized from a person, the person from whom the item was seized;
  - (b) in the case of an item seized from premises, the occupier or any other person in charge of the premises;
  - (c) in the case of an item seized from a person or premises which does not belong to a person falling within paragraph (a) or (b), the person to whom it belongs and who asserts ownership over it.
- (9) Nothing in this Regulation affects the powers of a plant health inspector under Regulation 32.

**34 Disclosure of information held by customs officers**

- (1) A customs officer may disclose any information in his or her possession to the Minister for the purposes of enabling or assisting the Minister to carry out any function conferred on the Minister under the EU Plant Health Regulation, the Official Controls Regulation or these Regulations.
- (2) Nothing in this Regulation prejudices any other power or requirement to disclose information.

**35 Disclosure of information to other competent authorities**

- (1) For the purposes of enabling the Minister to carry out functions as competent authority under the EU Plant Health Regulation and the Official Controls Regulation, the Minister may disclose information to a UK authority that the Minister has received in the execution and performance of the Minister's functions.
- (2) Nothing in paragraph (1) affects any other power or requirement of the Minister to disclose information which exists under Union legislation or an enactment.
- (3) In particular, the Minister may disclose information to other competent authorities in member States in the performance of the Minister's functions under the EU Plant Health Regulation, the Official Controls Regulation and these Regulations.
- (4) In this Regulation, "UK authority" means –
  - (a) in relation to England, the Secretary of State or the Forestry Commissioners;
  - (b) in relation to Northern Ireland, the Department for Agriculture, Environment and Rural Affairs;
  - (c) in relation to Scotland, the Scottish Ministers;
  - (d) in relation to Wales, the Welsh Ministers.
- (5) The Minister may be Order amend paragraph (4).

**PART 11****MISCELLANEOUS PROVISIONS AS TO NOTICES****36 Miscellaneous provisions as to notices**

- (1) This Regulation applies to any notice given by a plant health inspector under these Regulations.
- (2) The notice may –
  - (a) specify one or more requirements or alternative requirements;
  - (b) specify the manner in which and the period in which any requirement or condition specified in the notice must be carried out or fulfilled; or
  - (c) require the owner or any other person who appears to be in charge of the premises to which the notice relates to –

- (i) notify the Minister of any change in occupation of the premises, the date of the change and the name of the new occupier, and
  - (ii) inform the new occupier of the premises of the contents of the notice.
- (3) Any destruction, disposal, re-export or treatment of a plant, plant product or other object or a plant pest which is required to be carried out under the notice must be carried out, or arranged to be carried out, to the satisfaction of a plant health inspector by the person on whom the notice has been served.
- (4) A plant health inspector may amend or withdraw the notice by a further notice.
- (5) The notice may define by reference to a map or plan or otherwise the extent of the premises referred to in the notice.

### **37 Service of notices**

- (1) A notice given by a plant health inspector under these Regulations is validly served on a person by –
  - (a) delivering it to the person personally;
  - (b) leaving it at the person's proper address; or
  - (c) sending it by post or electronic means to the person's proper address.
- (2) In the case of an unincorporated association, a notice may be served on or given to an officer of the association.
- (3) If the name or address of any occupier of premises on whom a notice is to be served or given under the relevant legislation cannot, after reasonable enquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.
- (4) If the notice is urgent it may be served in the manner provided for under paragraph (3) and a copy subsequently served in the manner provided for under paragraph (1) if this is possible after reasonable enquiry.
- (5) For the purposes of this Regulation and Article 7 of the Interpretation (Jersey) Law 1954<sup>7</sup>, "proper address" means –
  - (a) in the case of a body corporate or limited liability partnership or an officer of the body or partnership –
    - (i) the registered or principal office in Jersey of the body or partnership, or
    - (ii) the email address of the officer;
  - (b) in the case of any other partnership or a partner or person having control or management of the partnership business –
    - (i) the principal office in Jersey of the partnership, or
    - (ii) the email address of the partner or person having control or management;
  - (c) in the case of an unincorporated association or an officer of the association –
    - (i) the office of the association, or

- (ii) the email address of the officer;
  - (d) in any other case, a person's last known address, which includes an email address.
- (6) The Minister may by Order amend this Regulation.

## **PART 12**

### **OFFENCES**

#### **38 Offences: general**

- (1) A person commits an offence, and is liable to a fine, if the person, without reasonable excuse, contravenes –
- (a) Regulation 5(5) or (7);
  - (b) paragraph 2(1) or 4 of Schedule 1;
  - (c) paragraphs 2(1) or (2), 5(1) or (2), 11(1), 12(1), 13(1), 14(1), 15, 20(1), 21(7), 22(2), 27(1), 28(7), 29(2) or 31(2) of Schedule 2;
  - (d) Regulation 24(1), 25(1) or 26(1);
  - (e) a provision of the EU Plant Health Regulation specified in Part 1 of Schedule 3;
  - (f) a provision of the Official Controls Regulation specified in Part 2 of Schedule 3 in so far as it applies to plants, plant products or other objects which are subject to an EU plant health rule;
  - (g) a provision of other EU legislation specified in Part 3 of Schedule 3; or
  - (h) a provision of an EU Emergency Decision specified in Schedule 4.
- (2) But paragraph (1) does not apply to anything done under –
- (a) an authorisation or permit granted under these Regulations; or
  - (b) a notice given by a plant health inspector or the Minister under these Regulations.
- (3) The Minister may by Order amend Schedule 3 and Schedule 4.

#### **39 Failure to comply with requirements of notices etc.**

A person commits an offence, and is liable to a fine, if the person, without reasonable excuse, contravenes –

- (a) a provision or condition of a notice served on the person under these Regulations;
- (b) a provision or condition of an authorisation or permit granted to the person under these Regulations; or
- (c) a provision or condition of a direction given under these Regulations.



#### **40 Provision of false or misleading information**

A person commits an offence, and is liable to a fine, if, for the purposes of obtaining an authorisation or a permit or procuring the issue of plant passport or certificate, the person –

- (a) knowingly or recklessly makes a statement or representation which is false in a material particular;
- (b) knowingly or recklessly furnishes a document or information which is false in a material particular; or
- (c) intentionally fails to disclose any material information.

#### **41 Improper use of plant passports or certificates**

- (1) A person commits an offence, and is liable to a fine, if the person –
  - (a) dishonestly issues a plant passport or a certificate;
  - (b) dishonestly alters a plant passport or a certificate; or
  - (c) dishonestly re-uses a plant passport or a certificate.
- (2) In paragraph (1), “certificate” means a phytosanitary certificate for export, a phytosanitary certificate for re-export or a pre-export certificate.

#### **42 Obstruction**

- (1) A person commits an offence, and is liable to a fine, if the person –
  - (a) intentionally obstructs a plant health inspector or an authorised person acting in the execution or enforcement of the EU Plant Health Regulation, the Official Controls Regulation or these Regulations;
  - (b) without reasonable excuse, fails to give to a plant health inspector or an authorised person any assistance or information which the inspector or authorised person may reasonably require for those purposes; or
  - (c) fails to produce a document or record when required to do so by the Minister or a plant health inspector acting in the execution or enforcement of the EU Plant Health Regulation, the Official Controls Regulation or these Regulations.
- (2) In paragraph (1), “authorised person” means a person authorised by the Minister.

#### **43 Offence relating to the disclosure of information held by customs officers**

A person commits an offence, and is liable to imprisonment for a term of 2 years and to a fine, if the person, without lawful authority or reasonable excuse, discloses any information received from a customs officer under Regulation 34(1) and –

- (a) the information relates to a person whose identity is specified in the disclosure or can be deduced from the disclosure;
- (b) the disclosure is for a purpose other than specified in Regulation 34(1); and

- (c) the customs officer has not given his or her prior consent to the disclosure.

#### **44 Offences by bodies corporate and others**

- (1) In this Regulation –
  - “relevant offence” means an offence under these Regulations that is committed by a limited liability partnership, a separate limited partnership, an incorporated limited partnership or another body corporate;
  - “relevant person” means –
    - (a) if the relevant offence is committed by a limited liability partnership, a partner of the partnership;
    - (b) if the relevant offence is committed by a separate limited partnership or an incorporated limited partnership –
      - (i) a general partner, or
      - (ii) a limited partner who is participating in the management of the partnership;
    - (c) if the relevant offence is committed by a body corporate other than an incorporated limited partnership –
      - (i) a director, manager, secretary or other similar officer of the body corporate, and
      - (ii) if the affairs of the body corporate are managed by its members, a member who is acting in connection with the member’s functions of management; and
    - (d) a person purporting to act in any capacity described in subparagraphs (a) to (c) in relation to the partnership or body that commits the relevant offence.
- (2) If a relevant offence is proved to have been committed with the consent or connivance of a relevant person, that relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.
- (3) Paragraph (4) applies if a relevant offence –
  - (a) is an offence that may be committed by neglect; and
  - (b) is proved to be attributable to any neglect on the part of a relevant person.
- (4) The relevant person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

## PART 13

### MISCELLANEOUS

#### 45 Methods and techniques for official controls

- (1) The methods and techniques for official controls under these Regulations must be in accordance with Article 14 of the Official Controls Regulation.
- (2) Without limiting paragraph (1), Article 35 of the Official Controls Regulation provides for an operator whose animals or goods are subject to sampling, analysis, test or diagnosis to have the right to a second expert opinion at the operator's own expense.
- (3) Without limiting paragraph (1), Article 37 of the Official Controls Regulation provides for the Minister, as competent authority, to designate as an official laboratory (to carry out the laboratory analyses, tests and diagnoses on samples taken during official controls and other official activities) a laboratory located in another member State or third country that is a Contracting Party to the Agreement on the European Economic Area, subject to compliance with the conditions in that Article.

#### 46 Fees

- (1) The Minister may by Order prescribe fees payable for any authorisation, certificate, plant passport, permit or registration, or any inspection or other service or control provided under the Plant Health Regulation, the Official Controls Regulation or these Regulations.
- (2) Without limiting paragraph (1), the Order may –
  - (a) include fees in respect of anything done by a plant health inspector or another person, whether or not it is done at the request of the person required to pay the fee; and
  - (b) make provision for the recovery of such fees or the refusal of any service if a fee prescribed for the service is not paid.
- (3) Fees in relation to official controls performed under the Official Controls Regulation must be calculated, set, charged and collected in accordance with *Chapter VI* of the Official Controls Regulation.
- (4) The Plant Health (Field Inspections – Fees) (Jersey) Order 2014<sup>8</sup> applies to inspections carried out under these Regulations.

#### 47 Appeals

- (1) There is a right of appeal to the Royal Court against –
  - (a) a refusal, modification, suspension, revocation or cancellation of any authorisation, registration or permit under these Regulations or the imposition of a condition under any such authorisation, registration or permit;
  - (b) any requirement or other decision of the Minister or a plant health inspector under these Regulations; or

- (c) any other act under the EU Plant Health Regulation, the Official Controls Regulation or these Regulations prescribed by Order of the Minister for the purposes of this Regulation.
- (2) An appeal must be brought within 21 days after the appellant is served with a written copy of the decision, requirement, or other act, against which the appeal is brought, or within any further time that the Royal Court may allow.
- (3) Unless the Royal Court so orders, the lodging of an appeal does not operate to stay the effect of a decision, requirement or other act pending the determination of the appeal.
- (4) On hearing the appeal, the Royal Court may –
  - (a) confirm, reverse or vary the decision, requirement, or other act, against which the appeal is brought; and
  - (b) make any order as to the costs of the appeal as it thinks fit.

#### **48 Limits on ambulatory effect**

- (1) Paragraph (2) has effect where a provision of an EU instrument which has effect in Jersey under Regulation 5(1) is to be or has been amended, substituted, extended or applied from time to time by another EU instrument, or otherwise is to have or has effect in the EU from time to time by virtue of any judgment of the European Court.
- (2) The Minister may by Order provide that an amendment, substitution, extension or effect specified in the Order is not to have effect in Jersey.
- (3) An Order under paragraph (2) does not have retrospective effect.
- (4) Where an Order is in force under this Regulation, no subsequent amendment, substitution, extension or change of effect in respect of the provision specified in the Order is to have effect in Jersey unless a further Order under paragraph (2) so provides.

#### **49 Orders generally**

An Order under these Regulations may contain any consequential, incidental, supplementary and transitional provisions as the Minister considers to be necessary or expedient.

#### **50 Review**

- (1) The Minister must from time to time –
  - (a) carry out a review of these Regulations and their operation; and
  - (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before 14th December 2024.
- (3) Subsequent reports must be published at intervals not exceeding five years.

#### **51 Plant Health (Jersey) Law 2003 amended**

In the Plant Health (Jersey) Law 2003<sup>9</sup> –

- (a) after Article 2 (object of this Law) is inserted –

**“2A Relationship with the EU Legislation (Plant Health) (Jersey) Regulations 202-**

Nothing in or under this Law derogates from the EU Legislation (Plant Health) (Jersey) Regulations 202-<sup>10</sup>.”;

- (b) in Article 6 (compensation) after “an Order” in both places it occurs is inserted “or the EU Legislation (Plant Health) (Jersey) Regulations 202-<sup>11</sup>”.

**52 Repeal**

The Plant Health (Jersey) Order 2005<sup>12</sup> is repealed.

**53 Citation and commencement**

- (1) These Regulations may be cited as the EU Legislation (Plant Health) (Jersey) Regulations 202-.
- (2) These Regulations, apart from paragraphs (2) to (6) of Regulation 5 and Regulation 48, come into force 14 days after they are made.
- (3) Paragraphs (2) to (6) of Regulation 5 and Regulation 48 come into force on the commencement of Article 2 of the European Union (Repeal and Amendment) (Jersey) Law 2018<sup>13</sup>.

## SCHEDULE 1

(Regulation 18)

### TEMPORARY NATIONAL MEASURES

#### PART 1 – PLANTS, PLANT PRODUCTS OR OTHER OBJECTS FROM THIRD COUNTRIES

##### 1 Interpretation of Part 1

In this Schedule, “introduce” means introduce into Jersey from a third country or another part of the Union territory.

##### 2 Temporary measures applying to the introduction of plants, plant products or other objects from third countries

- (1) A person must not introduce any used machinery or vehicles which have been operated for agricultural or forestry purposes and exported from Switzerland unless the machinery or vehicles –
  - (a) have been exported from an area established by the national plant protection organisation in accordance with ISPM 4 as an area that is free from *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr.; or
  - (b) in the case of any machinery or vehicles exported from an area infested with *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr., they have been cleaned and were free from soil and plant debris prior to being moved out of the area.
- (2) In paragraph (1), “ISPM 4” means International Standard for Phytosanitary Measures No. 4 of November 1995 on the requirements for the establishment of pest free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations.

#### PART 2 – PLANTS, PLANT PRODUCTS OR OTHER OBJECTS FROM ANOTHER PART OF THE UNION TERRITORY

##### 3 Interpretation of Part 2

In this Part –

“move” means move within Jersey;

“official statement” means a statement issued by, or under the supervision of, an authorised representative of the competent authority in the member State of origin;

“Spain” means that part of Spain which is included within the Union territory for the purposes of the EU Plant Health Regulation, other than the Balearic Islands.

#### 4 Temporary measures applying to the introduction of plants, plant products or other objects from another part of the Union territory

A person must not introduce or move any plants, plant products or other objects described in column 2 of Table 1 unless they are accompanied by an official statement confirming the matters set out in the corresponding entry in column 3 of that Table.

<b>Table 1</b>		
(1)	(2) <i>Description of plants, plant products or other objects</i>	(3) <i>Details of official statement</i>
1.	Tubers of <i>Solanum tuberosum</i> L., including those intended for planting which originate in Spain except where those tubers originate in an area which has been established in accordance with Article 5 of Decision 2012/270/EU.	The official statement must confirm that the tubers have been washed so that there is no more than 0.1% of soil remaining.
2.	Tubers of <i>Solanum tuberosum</i> L., originating in Poland.	The official statement must confirm that the tubers have been found free from <i>Clavibacter michiganensis</i> ssp. <i>Sepedonicus</i> (Spieckermann and Kotthoff) David et al. in laboratory tests.

## SCHEDULE 2

(Regulation 23)

### MEASURES RELATING TO THE PLANTING OF CERTAIN SOLANACEOUS SPECIES AND THE CONTROL OF RELEVANT PLANT PESTS

#### PART 1 – GENERAL INTERPRETATION

##### 1 General interpretation of Schedule 2

In this Schedule –

“Directive 93/85/EEC” means Council Directive 93/85/EEC on the control of potato ring rot (OJ L 259, 18.10.1993, p.1);

“Directive 98/57/EC” means Council Directive 98/57/EC on the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.* (OJ L 235, 21.8.1998, p.1);

“Directive 2007/33/EC” means Council Directive 2007/33/EC on the control of potato cyst nematodes and repealing Directive 69/465/EEC (OJ L 156, 16.6.2007, p.12);

“potato” means any tuber or true seed or any other plant of *Solanum tuberosum* L. or other tuber-forming species of the genus *Solanum* L.;

“Potato brown rot” means either the disease of potatoes caused by *Ralstonia solanacearum* (Smith) Yabuuchi *et al.* or that bacterium, as the context requires;

“Potato ring rot” means either the disease of potatoes which is caused by the bacterium *Clavibacter michiganensis* (Smith) Davis *et al.* spp. *Sepedonicus* (Spieckermann and Kotthof) Davis *et al.* or that bacterium, as the context requires;

“true seed” means seed in the botanical sense other than seed not intended for planting.

#### PART 2 – GENERAL PROVISIONS RELATING TO THE PLANTING OF CERTAIN SOLANACEOUS SPECIES

##### 2 General restrictions on the planting of potatoes

- (1) A person must not knowingly plant, or knowingly cause or permit to be planted, any potatoes or any potatoes produced from those potatoes, which have been grown in a third country, other than Switzerland.
- (2) A person must not knowingly plant, or knowingly cause or permit to be planted, any potatoes unless –
  - (a) they derive in direct line from potato material which has been obtained under an officially approved programme in the EU or Switzerland;



- (b) they have been found to be free from Potato ring rot in official tests using the methods set out in Annex 1 to Directive 93/85/EEC; and
  - (c) they have been found to be free from Potato brown rot in official tests using the methods set out in Annex 2 to Directive 98/57/EC.
- (3) Sub-paragraphs (1) and (2) do not prohibit the planting of potatoes of the selection known as “Jersey Royal”.

### PART 3 – MEASURES FOR THE CONTROL OF POTATO WART DISEASE

#### 3 Interpretation of Part 3

In this Part –

- (a) “Potato wart disease” means either the disease of potatoes which is caused by the fungus *Synchytrium endobioticum* (Schilbersky) Percival or that fungus, as the context requires;
- (b) a plot of land is to be regarded as a contaminated plot if Potato wart disease is confirmed by an official test to be present on at least one plant that is growing or was grown on that plot.

#### 4 Official measures relating to contaminated plots of land

- (1) A plant health inspector must demarcate any contaminated plot and a safety zone around that plot which is large enough to ensure the protection of the surrounding areas.
- (2) A plant health inspector must serve a notice on the occupier or other person in charge of the contaminated plot requiring any potato tubers or haulms which are present on the contaminated plot, or which come from the contaminated plot, to be treated in such a way that the Potato wart disease present on them is destroyed.
- (3) Where a plant health inspector is satisfied that any potato tubers or haulms are contaminated with Potato wart disease and the inspector cannot determine whether those tubers or haulms have been present on a contaminated plot, the inspector may serve a notice on the occupier or other person in charge of the contaminated plot which requires the whole batch containing the affected tubers or haulms to be treated in such a way that there is no risk of Potato wart disease spreading.

#### 5 Prohibition on the planting of potatoes on contaminated plots

- (1) Where a contaminated plot is demarcated under paragraph 4(1), a person must not –
  - (a) grow any potatoes on the plot; or
  - (b) grow or store any plants intended for transplanting on the plot.
- (2) A person must not grow potatoes in a safety zone demarcated under paragraph 4(1) unless a plant health inspector is satisfied that they are of a variety which is resistant to the races of Potato wart disease found on the contaminated plot to which the safety zone relates.

- (3) A potato variety is to be considered resistant to a particular race of Potato wart disease for the purposes of sub-paragraph (2) where that variety reacts to contamination by the pathogenic agent of that race in such a way that there is no danger of secondary infection.

## 6 Revocation of the demarcation of a contaminated plot

Where a plant health inspector is satisfied that Potato wart disease is no longer present on a plot which was demarcated under paragraph 4(1) or on its associated safety zone, the inspector must revoke that demarcation.

## PART 4 – MEASURES FOR THE CONTROL OF EUROPEAN POPULATIONS OF POTATO CYST NEMATODE

### 7 Interpretation of Part 4

In this Part—

“field” means an area which has been demarcated as a field for the purposes of Article 3 of Directive 2007/33/EC;

“host plants” means plants with roots of *Capsicum* spp., *Solanum lycopersicum* L. or *Solanum melongena* L.;

“infested field” means a field which is recorded as infested under paragraph 9(1);

“Potato cyst nematode” means any cyst-forming nematode of the species *Globodera pallida* (Stone) Behrens or *Globodera rostochiensis* (Wollenweber) Behrens that infests and multiplies on potatoes, including any strain or pathotype of any such nematode;

“susceptible bulbs” means bulbs, tubers or rhizomes, grown in soil and intended for planting, other than those for which there is evidence by their packaging or by other means that they are intended for sale to final consumers not involved in professional plant or cut flower production, of *Allium ascalonicum* L., *Allium cepa* L., *Dahlia* spp., *Gladiolus* Tourn. Ex L., *Hyacinthus* spp., *Iris* spp., *Lilium* spp., *Narcissus* L. or *Tulipa* L.;

“susceptible material” means host plants, susceptible bulbs or susceptible plants;

“susceptible plants” means plants with roots of *Allium porrum* L., *Asparagus officinalis* L., *Beta vulgaris* L., *Brassica* spp. or *Fragaria* L.

### 8 Official investigations and surveys

The Minister must ensure that –

- (a) official investigations are carried out in accordance with Articles 4 and 5 of Directive 2007/33/EC for the presence of Potato cyst nematodes in fields in which seed potatoes or susceptible material intended for the production of plants for planting are to be planted or stored; and

- (b) official surveys are carried out in accordance with Article 6 of Directive 2007/33/EC for the presence of Potato cyst nematodes in fields used for the production of potatoes, other than those intended for the production of seed potatoes.

## **9 Official records of investigations and surveys**

- (1) The Minister must ensure that the results of each official investigation or official survey carried out under paragraph 8 are recorded to indicate whether Potato cyst nematodes were found in the fields during the investigation or survey.
- (2) Where the officially approved measures set out in Section 3(C) of Annex 3 to Directive 2007/33/EC have been taken in a field which has been recorded as infested under sub-paragraph (1) and, following the completion of those measures, it is confirmed that Potato cyst nematodes are no longer present, the Minister must ensure that the record is updated accordingly.

## **10 Notices in relation to infested fields and contaminated susceptible material**

- (1) A plant health inspector must serve a notice in writing on the occupier or other person in charge of an infested field which specifies the boundaries of the field.
- (2) The notice may not be withdrawn until it is confirmed, in accordance with paragraph 9(2) that Potato cyst nematode is no longer present in the field.
- (3) A plant health inspector must by notice designate as contaminated any susceptible material which comes from a field that has been officially recorded as infested under paragraph 9(1) or any susceptible material which has been in contact with soil in which Potato cyst nematodes have been found.

## **11 Prohibition on the planting of potatoes in infested fields**

- (1) Unless authorised to do so by a plant health inspector, a person must not –
  - (a) plant any potatoes that are intended for the production of seed potatoes in an infested field; or
  - (b) plant or store any susceptible material which is intended for planting in an infested field.
- (2) A plant health inspector may authorise the planting of susceptible bulbs or susceptible plants in an infested field.
- (3) An authorisation under sub-paragraph (2) must be by notice and must contain the measures set out in Section 3(A) of Annex 3 to Directive 2007/22/EC.

## **12 Suppression of Potato cyst nematodes**

- (1) A person must not plant any potatoes that are not intended for the production of seed potatoes in an infested field unless authorised to do so by a plant health inspector.
- (2) An authorisation under sub-paragraph (1) must be by notice and may only be given if the inspector is satisfied that all reasonable steps to suppress Potato cyst nematodes in the field have been taken in accordance with the official control programme adopted by the Minister for the suppression of Potato cyst nematodes.

## **13 Controls on contaminated seed potatoes etc.**

- (1) A person must not plant any seed potatoes or any host plants which have been designated as infested under paragraph 10(3), unless authorised to do so by a plant health inspector.
- (2) An authorisation under sub-paragraph (1) must be by notice and must contain the measures which the inspector considers necessary to decontaminate those seed potatoes or plants.

## **14 Controls on potatoes for industrial processing or grading**

- (1) A person must not move any potatoes which have been designated as infested under paragraph 10(3) and are intended for industrial processing or grading, unless authorised to do so by a plant health inspector.
- (2) An authorisation under sub-paragraph (1) must be by notice and must require the potatoes to be delivered to a processing or grading plant that has appropriate and officially approved waste disposal procedures that ensure that there is no risk of Potato cyst nematodes spreading.

## **15 Controls on contaminated bulbs etc.**

A person must not plant any susceptible bulbs or susceptible plants which have been designated as contaminated under paragraph 10(3), unless they have been subject to the measures set out in Section 3(A) of Annex 3 to Directive 2007/33/EC and a plant health inspector has confirmed by notice that they are no longer contaminated.

## **16 Further investigations for the presence of Potato cyst nematodes**

If any suspected occurrence or confirmed presence of Potato cyst nematodes in Jersey results from a breakdown or change in the effectiveness of a resistant potato variety which relates to an exceptional change in the composition of nematode species, pathotype or virulence group, the Minister must ensure that the species of Potato cyst nematode and, where applicable, the pathotype and virulence group involved, is investigated and confirmed by appropriate methods.

**PART 5 – MEASURES FOR THE CONTROL OF POTATO RING ROT****17 Interpretation of Part 5**

In this Part –

“certified seed potatoes” means seed potatoes which derive in direct line from potato material that has been obtained under an officially approved programme in the EU;

“contaminated” means designated by a plant health inspector as contaminated for the purposes of Article 5(1)(a) of Directive 93/85/EEC;

“first growing year”, in the case of measures to be taken in relation to a contaminated place of production, means the first growing year following the growing year in which the place of production is designated as contaminated for the purposes of Article 5(1)(a) of Directive 93/85/EEC;

“object” means any item of machinery, vehicle, vessel, store or other object, including packaging material;

“possibly contaminated” means determined by a plant health inspector as possibly contaminated for the purposes of Article 5(1)(b) of Directive 93/85/EEC;

“susceptible material” means tubers or plants of *Solanum tuberosum* L.;

“zone” means any area, including any individual premises.

**18 Official surveys and testing**

- (1) The Minister must ensure that systematic official surveys for Potato ring rot are carried out in Jersey on tubers of *Solanum tuberosum* L. and, where appropriate, on plants of *Solanum tuberosum* L., in accordance with Article 2(1) of Directive 93/85/EEC.
- (2) Where the presence of Potato ring rot in susceptible material is suspected, the Minister must ensure that –
  - (a) official testing is carried out using the method set out in Annex 1 to Directive 93/85/EEC and in accordance with the conditions specified in point 1 of Annex 2 to Directive 93/85/EEC to confirm or refute its presence;
  - (b) the following are retained and appropriately conserved pending completion of the official testing –
    - (i) all tubers sampled, and wherever possible, all plants sampled,
    - (ii) any remaining extract and additional preparation material for the screening tests, and
    - (iii) all relevant documentation; and
  - (c) pending the confirmation or refutation of its presence, where suspect diagnostic visual symptoms of Potato ring rot have been seen or symptoms of Potato ring rot have been identified by a positive immunofluorescence test or other appropriate positive test –
    - (i) the movement of all lots or consignments from which the samples have been taken, other than those which are under official control, is prohibited, except where it has been

- established that there is no identifiable risk of Potato ring rot spreading,
- (ii) steps are taken to trace the origin of the suspected occurrence, and
  - (iii) additional appropriate precautionary measures based on the level of estimated risk to prevent any spread of the plant pest are taken.
- (3) The Minister may by notice specify measures for the purposes of sub-paragraph (2)(c)(i) to (iii).

## **19 Measures to be taken following the confirmation of the presence of Potato ring rot**

- (1) If the presence of Potato ring rot is confirmed in a sample of susceptible material following official testing carried out under paragraph 18(2)(a) or sub-paragraph (2), the Minister must ensure that –
  - (a) the susceptible material, the consignment or lot and any object from which the sample was taken and, where appropriate, the place of production and field from which the susceptible material was harvested are designated as contaminated by a plant health inspector;
  - (b) a plant health inspector determines the extent of the probable contamination through pre- or post-harvest contact or through any production link with anything designated as contaminated under paragraph (a), taking into account the matters set out in point 1 of Annex 3 to Directive 93/85/EEC; and
  - (c) a zone is demarcated by a plant health inspector on the basis of the designation made under paragraph (a), taking into account the matters set out in point 2 of Annex 3 to Directive 93/85/EEC.
- (2) Where susceptible material has been designated as contaminated under sub-paragraph (1)(a), the Minister must ensure that testing is carried out on potato stocks which are clonally related to that susceptible material in the manner specified in paragraph 18(2)(a) in order to determine the probable primary source of infection and the extent of the probable contamination.
- (3) Any such testing must be carried out on as much susceptible material as is necessary to determine the probable primary source of infection and the extent of the probable contamination.
- (4) Any designation by a plant health inspector under this paragraph must be made by notice.
- (5) Where any susceptible material or object is determined by a plant health inspector under sub-paragraph (1)(b) to be possibly contaminated, the inspector must by notice designate that material or object as possibly contaminated.

**20 Restrictions in relation to susceptible material or objects contaminated or possibly contaminated with Potato ring rot**

- (1) A person must not knowingly plant or knowingly cause or permit to be planted –
  - (a) any contaminated susceptible material; or
  - (b) any possibly contaminated susceptible material.
- (2) Where susceptible material or an object has been designated as contaminated or possibly contaminated under paragraph 19(1), a plant health inspector must serve a notice requiring that –
  - (a) in the case of contaminated susceptible material, the material be disposed of by destruction or by any other measure that complies with point 1 of Annex 4 to Directive 93/85/EEC;
  - (b) in the case of possibly contaminated susceptible material, the material be used or disposed of in accordance with point 2 of Annex 4 to Directive 93/85/EEC; and
  - (c) in the case of a contaminated object or a possibly contaminated object, the object be –
    - (i) disposed of by destruction, or
    - (ii) cleansed and disinfected so that there is no identifiable risk of Potato ring rot surviving or spreading.
- (3) Anything cleansed and disinfected in accordance with subparagraph (2)(c)(ii) is no longer treated as contaminated for the purposes of Directive 93/85/EEC.

**21 Measures in relation to a contaminated place of production**

- (1) A plant health inspector must serve the following notices on any occupier or other person who is in charge of a contaminated place of production –
  - (a) in relation to any contaminated field which is part of the place of production, a notice containing the first set of eradication measures or a notice containing the second set of eradication measures; and
  - (b) in relation to any field which part of the place of production and is not contaminated, a notice containing the third set of eradication measures.
- (2) The first set of eradication measures are –
  - (a) the measures to be taken in the field from the date of receipt of the notice and for at least three growing years from the start of the first growing year so as to eliminate volunteer potato plants, and other naturally-found host plants, of Potato ring rot;
  - (b) a prohibition on the planting of any of the following in the field during that period –
    - (i) potato tubers, plants or true seeds,
    - (ii) naturally-found host plants of Potato ring rot, or
    - (iii) crops for which there is a risk of Potato ring rot surviving or spreading;

- (c) a requirement that in the first potato cropping season following that period only potatoes for ware production be planted in the field, provided that the field has been found free from volunteer potato plants and other naturally found host plants of Potato ring rot for at least two consecutive growing years prior to planting, and that the harvested tubers be subjected to official testing using the method set out in Annex 1 to Directive 93/85/EEC; and
  - (d) a requirement that in the next potato cropping season only potatoes for seed or ware production be planted in the field following an appropriate rotation cycle (which, where the potatoes are to be planted for seed production, must include a break of at least two consecutive growing years when no potatoes are planted).
- (3) The second set of eradication measures are –
- (a) the measures to be taken in the field from the date of receipt of the notice and for four growing years from the start of the first growing year so as to eliminate volunteer potato plants, and other naturally-found host plants, of Potato ring rot;
  - (b) a requirement that, during that period, the field be maintained in bare fallow or in permanent pasture with frequent close cutting or intensive grazing; and
  - (c) a requirement that in the first potato cropping season following that period only potatoes for seed or ware production be planted, provided that the field has been found free from volunteer potato plants and other naturally-found host plants of Potato ring rot for at least two consecutive growing years prior to planting, and that the harvested tubers be subjected to official testing using the method set out in Annex 1 to Directive 93/85/EEC.
- (4) The third set of eradication measures are –
- (a) where a plant health inspector is satisfied that the risk of volunteer potato plants and other naturally-found host plants of Potato ring rot has been eliminated, a prohibition on the planting of any of the following in the field from the date of receipt of the notice and for the first growing year –
    - (i) potato tubers, plants or true seeds,
    - (ii) naturally-found host plants of Potato ring rot, and
    - (iii) certified seed potatoes, unless they are for ware production only;
  - (b) a requirement that in the subsequent growing year only the following potatoes be planted for seed or ware production –
    - (i) certified seed potatoes, and
    - (ii) seed potatoes officially tested for the absence of Potato ring rot and grown under official control at a place of production which is not a contaminated place of production;
  - (c) a requirement that during at least the third growing year only certified seed potatoes or seed potatoes grown under official control from certified seed potatoes be planted for seed or ware production; and



- (d) the measures to be taken in the field from the date of receipt of the notice to the end of the third growing year so as to eliminate volunteer potato plants, and naturally-found host plants, of Potato ring rot and a requirement that official testing be carried out on harvested tubers in each field using the method set out in Annex 1 to Directive 93/85/EEC.
- (5) A notice served by a plant health inspector under sub-paragraph (1) must additionally include a requirement that all machinery and storage facilities at the place of production which are used for potato production be cleansed and disinfected immediately and following the first growing year and specify the appropriate methods for cleansing and disinfecting the machinery and storage facilities.
- (6) The measures which may be specified in a notice under sub-paragraph (1) or (5) may be included in a notice with other appropriate measures.
- (7) The person on whom a notice is served under paragraph (1) must ensure that the measures specified in the notice are taken in the required manner.
- (8) Where a plant health inspector serves a notice containing the first set of eradication measures, the Minister must ensure that an official survey is carried out in relation to the field mentioned in sub-paragraph (2)(d) in accordance with Article 2 of Directive 93/85/EEC.

## **22 Additional measures applicable to a unit of protected crop production**

- (1) This paragraph applies to the planting of any potato tubers, plants or true seeds in a contaminated unit of protected crop production where it is possible to replace all of the growing medium in the unit.
- (2) A person must not plant any potato tubers, plants or true seeds in the unit without the written authorisation of a plant health inspector.
- (3) A plant health inspector may not grant an authorisation under sub-paragraph (2) unless –
  - (a) all of the measures to eliminate Potato ring rot and to remove all host plants which are specified in a notice in relation to the place of production in which the unit is situated have been complied with;
  - (b) the growing medium in the unit has been completely changed; and
  - (c) the unit and all equipment used on the unit has been cleansed and disinfected to eliminate Potato ring rot and to remove all host plant material.
- (4) Where an authorisation is granted under sub-paragraph (2), the authorisation may specify that only certified seed potatoes, mini-tubers or micro-plants derived from officially tested sources may be used in the production.

## **23 Measures to be taken in demarcated zones for the control of Potato ring rot**

- (1) This paragraph applies where a plant health inspector has demarcated a zone under paragraph 19(1)(c).

- (2) The Minister may, by notice, specify further prohibitions, restrictions and other measures which are to apply in the demarcated zone to prevent the risk of Potato ring rot surviving or spreading.
- (3) The Minister may, in particular, specify in a notice under paragraph (2) that –
  - (a) any machinery or storage facilities at premises within the demarcated zone which used for potato production must be cleansed and disinfected in an appropriate manner so that there is no identifiable risk of Potato ring rot surviving or spreading;
  - (b) only certified seed potatoes or seed potatoes grown under official control may be planted during the specified period;
  - (c) any seed potatoes grown in a place of production which is possibly contaminated must be officially tested after harvesting; and
  - (d) potatoes intended for planting must be handled separately from all other potatoes at premises within the zone or that a system of cleansing and, where appropriate, disinfection must be carried out between the handling of seed and ware potatoes during the specified period.
- (4) A notice under sub-paragraph (2) –
  - (a) must be in writing;
  - (b) must describe the extent of the demarcated zone;
  - (c) must specify the date on which each measure is to take effect and for how long;
  - (d) must be published in a manner appropriate to bring it to the attention of the public; and
  - (e) may be amended, suspended or revoked, in whole or in part, by further notice.
- (5) Any premises which are partly within and partly outside a demarcated zone must be treated as within that zone for the purposes of this paragraph.
- (6) A notice published in accordance with sub-paragraph (4) is to be treated as having been served on –
  - (a) any occupier or other person in charge of any premises within the demarcated zone; and
  - (b) any person who operates machinery or carries out any other activity in relation to the production of potatoes within the demarcated zone.
- (7) The Minister must ensure that –
  - (a) premises growing, storing or handling potato tubers and premises which operate potato machinery under contract are supervised by plant health inspectors for the duration of the specified period;
  - (b) an official survey is carried out during the specified period in accordance with Article 2 of Directive 93/85/EEC; and
  - (c) a programme is established, where appropriate, for the replacement of all seed potato stocks over an appropriate period of time.
- (8) For the purposes of sub-paragraphs (3) and (7), the “specified period” means the period specified in the notice which must be at least three growing seasons following the year in which the zone was demarcated.

**PART 6 – MEASURES FOR THE CONTROL OF POTATO BROWN ROT****24 Interpretation of Part 6**

In this Schedule –

“certified seed potatoes” means seed potatoes which derive in direct line from potato material that has been obtained under an officially approved programme in the EU;

“contaminated” means designated by a plant health inspector as contaminated for the purposes of Article 5(1)(a)(ii) of Directive 98/57/EC;

“first growing year”, in the case of measures to be taken in relation to a contaminated place of production, means the first growing year following the growing year in which the contaminated place of production is designated as contaminated for the purposes of Article 5(1)(a)(ii) of Directive 98/57/EC;

“object” means any item of machinery, vehicle, vessel, store or other object, including packaging material;

“possibly contaminated” means determined by a plant health inspector as possibly contaminated for the purposes of Article 5(1)(a)(iii) or (c)(iii) of Directive 98/57/EC;

“susceptible material” means plants (including tubers), other than true seed, of *Solanum tuberosum* L. or plants, other than fruit or seeds, of *Solanum lycopersicum* L.;

“zone” means any area, including any individual premises.

**25 Official surveys and testing**

- (1) The Minister must ensure that annual systematic official surveys are carried out in Jersey to identify the presence of Potato brown rot on susceptible material in accordance with Article 2 of Directive 98/57/EC.
- (2) Where the presence of Potato brown rot is suspected, the Minister must ensure that –
  - (a) official testing is carried out to confirm or refute its presence –
    - (i) in the case of susceptible material, using the method set out in Annex 2 to Directive 98/57/EC and in accordance with the conditions specified in point 1 of Annex 3 to Directive 98/57/EC, and
    - (ii) in any other case, using any officially approved method; and
  - (b) pending the confirmation or refutation of its presence, where suspect diagnostic visual symptoms of Potato brown rot have been seen and a positive result in a rapid screening test has been obtained or a positive result in the screening tests specified in point 2 of section 1 and section 3 of Annex 2 to Directive 98/57/EC has been obtained –
    - (i) the movement of all plants and tubers from all crops, lots or consignments from which the samples have been taken, other than those which are under official control, is prohibited,

- except where it has been established that there is no identifiable risk of Potato brown rot spreading,
- (ii) steps are taken to trace the origin of the suspected occurrence, and
  - (iii) additional appropriate precautionary measures based on the level of estimated risk are taken to prevent any spread of Potato brown rot.
- (3) The Minister may by notice specify measures for the purposes of sub-paragraph (2)(b)(i) to (iii).

## **26 Measures to be taken following the confirmation of the presence of Potato brown rot**

- (1) If the presence of Potato brown rot is confirmed following official testing carried out under paragraph 25(2)(a), the Minister must ensure that the actions specified in sub-paragraphs (2) to (4) are taken in accordance with sound scientific principles, the biology of Potato brown rot and the relevant production, marketing and processing systems of host plants of Potato brown rot.
- (2) In the case of susceptible material, the actions are –
- (a) an investigation by a plant health inspector to determine the extent and the primary sources of the contamination in accordance with Annex 4 to Directive 98/57/EC;
  - (b) further official testing, including on all clonally related seed potato stocks;
  - (c) the designation of the following as contaminated by a plant health inspector—
    - (i) the susceptible material and consignment or lot from which the sample was taken,
    - (ii) any objects which have been in contact with that sample, and
    - (iii) any unit or field of protected crop production and any place of production of the susceptible material from which the sample was taken;
  - (d) a determination by a plant health inspector of the extent of probable contamination through pre- or post-harvest contact, through production, irrigation or spraying links or through clonal relationship; and
  - (e) the demarcation of a zone by a plant health inspector on the basis of the designation under paragraph (c), the determination made under paragraph (d) and the possible spread of Potato brown rot in accordance with point 2(i) of Annex 5 to Directive 98/57/EC;
- (3) In the case of host plants, other than susceptible material, where the production of susceptible material is identified to be at risk by a plant health inspector, the actions are –
- (a) an investigation by a plant health inspector to determine the extent and the primary sources of the contamination in accordance with Annex 4 to Directive 98/57/EC;

- (b) the designation by a plant health inspector of host plants from which the sample was taken as contaminated;
  - (c) a determination of the probable contamination by a plant health inspector; and
  - (d) the demarcation of a zone by a plant health inspector on the basis of the designation under paragraph (b), the determination made under paragraph (c) and the possible spread of Potato brown rot in accordance with point 2(i) of Annex 5 to Directive 98/57/EC.
- (4) In the case of surface water and associated wild solanaceous host plants where production of susceptible material is identified by a plant health inspector to be at risk through irrigation, spraying or flooding of surface water, the actions are –
- (a) an investigation by a plant health inspector to establish the extent of the contamination, which includes an official survey at appropriate times on samples of surface water and, if present, wild solanaceous host plants;
  - (b) the designation of surface water from which the sample was taken by a plant health inspector, to the extent appropriate and on the basis of the investigation under paragraph (a);
  - (c) a determination by a plant health inspector of the probable contamination on the basis of the designation made under paragraph (b); and
  - (d) the demarcation of a zone by a plant health inspector on the basis of the designation under paragraph (b), the determination made under paragraph (c) and the possible spread of Potato brown rot in accordance with point 2(ii) of Annex 5 to Directive 98/57/EC.

## **27 Restrictions in relation to susceptible material or objects contaminated or possibly contaminated with Potato brown rot**

- (1) A person must not knowingly plant or knowingly cause or permit to be planted –
- (a) any contaminated susceptible material; or
  - (b) any possibly contaminated susceptible material.
- (2) Where susceptible material or an object has been designated as contaminated or possibly contaminated under paragraph 26(2), a plant health inspector must serve a notice requiring that –
- (a) in the case of contaminated susceptible material, the material be subjected to any measure that complies with point 1 of Annex 6 to Directive 98/57/EC;
  - (b) in the case of possibly contaminated susceptible material, the material be used or disposed of in accordance with point 2 of Annex 6 to Directive 98/57/EC; and
  - (c) in the case of a contaminated object or a possibly contaminated object, the object be –
    - (i) disposed of by destruction, or

- (ii) cleansed and disinfected so that there is no identifiable risk of Potato brown rot surviving or spreading.
- (3) Anything cleansed and disinfected in accordance with sub-paragraph (2) is no longer treated as contaminated for the purposes of Directive 98/57/EC.

## **28 Measures which may be required in relation to a contaminated place of production**

- (1) A plant health inspector must serve the following notices on any occupier or other person who is in charge of a contaminated place of production which is in a zone demarcated by a plant health inspector under paragraph 26(2)(e) –
  - (a) in relation to a contaminated field or unit of protected crop production which is part of the place of production, a notice containing the first set of eradication measures or a notice containing the second set of eradication measures; and
  - (b) in relation to a field which is part of the place of production and is not contaminated and, where the inspector is satisfied that the risk of volunteer potato and tomato plants and other naturally-found host plants of Potato brown rot has been eliminated, a notice containing the third set of eradication measures.
- (2) The first set of eradication measures are –
  - (a) the measures to be taken in the field or the unit from the date of receipt of the notice and for at least four growing years from the start of the first growing year so as to eliminate any volunteer potato and tomato plants and other host plants, including solanaceous weeds, of Potato brown rot;
  - (b) a prohibition on the planting of any of the following in the field or the unit during that period –
    - (i) potato tubers, plants or true seeds,
    - (ii) tomato plants or seeds,
    - (iii) taking into account the biology of Potato brown rot, other host plants or plants of the species Brassica in respect of which there is a risk of Potato brown rot surviving, and
    - (iv) crops in respect of which there is a risk of Potato brown rot spreading;
  - (c) a requirement that in the first potato or tomato cropping season following that period only potatoes for ware production be planted in the field or the unit, provided that the field or the unit has been found free from volunteer potato and tomato plants and other host plants, including solanaceous weeds, during official inspections of Potato brown rot, for at least the two consecutive growing years prior to planting, and that harvested tubers or tomato plants be subjected to official testing using the method set out in Annex 2 to Directive 98/57/EC; and
  - (d) a requirement that an appropriate rotation cycle be applied in subsequent potato or tomato cropping seasons, which must be at least two years where potatoes are to be planted for seed production.

- (3) The second set of eradication measures are –
- (a) the measures to be taken in the field or the unit from the date of receipt of the notice and for five growing years from the start of the first growing year so as to eliminate volunteer potato and tomato plants and other naturally-found host plants, including solanaceous weeds, of Potato brown rot;
  - (b) a requirement that –
    - (i) during the first three of those growing years, the field or the unit be maintained –
      - (A) in bare fallow,
      - (B) in cereals, if the inspector is satisfied that there is no risk of Potato brown rot spreading,
      - (C) in permanent pasture with frequent close cutting or intensive grazing, or
      - (D) as grass for seed production, and
    - (ii) during the fourth and fifth growing years, only non-host plants of Potato brown rot in respect of which there is no risk of Potato brown rot surviving or spreading be planted in the field or the unit; and
  - (c) a requirement that in the first potato or tomato cropping season following that period only potatoes for seed or ware production be planted, provided that the field or the unit has been found free from volunteer potato and tomato plants and other host plants, including solanaceous weeds, during official inspections of Potato brown rot, for at least the two consecutive growing years prior to planting, and that harvested tubers or tomato plants be subjected to official testing using the method set out in Annex 2 to Directive 98/57/EC.
- (4) The third set of eradication measures are –
- (a) a requirement that from the date of receipt of the notice and for the first growing year no host plants of Potato brown rot be planted or only the following potatoes and tomato plants be planted in the field –
    - (i) certified seed potatoes for ware production, and
    - (ii) tomato plants grown from seed which meets the requirements of Directive 2000/29/EC, for fruit production;
  - (b) a requirement that, if potatoes are to be planted in the first subsequent growing year, only the following potatoes be planted for seed or ware production in that year –
    - (i) certified seed potatoes, and
    - (ii) seed potatoes officially tested for the absence of Potato brown rot and grown under official control at a place of production which is not contaminated;
  - (c) a requirement that, if tomato plants are to be planted in the first subsequent growing year, only the following tomato plants be planted for plant or fruit production in that year –
    - (i) tomato plants grown from seed which meets the requirements of Directive 2000/29/EC, and

- (ii) if vegetatively propagated, tomato plants grown from seed which meets the requirements of Directive 2000/29/EC and grown under official control at a place of production which is not contaminated;
  - (d) a requirement, in the case of potatoes, that in the second subsequent growing year and any other subsequent growing year, only certified seed potatoes or seed potatoes grown under official control from certified seed potatoes be planted for seed or ware production in the field;
  - (e) a requirement, in the case of tomatoes, that during the second subsequent growing year and any other subsequent growing year, only tomato plants grown from seed which meets the requirements of Directive 2000/29/EC or if, vegetatively propagated, tomato plants grown from seed which meets the requirements of Directive 2000/29/EC and grown under official control be planted for plant or fruit production in the field;
  - (f) the measures to be taken in the field from the date of receipt of the notice to the end of the growing year specified in the notice so as to eliminate volunteer potato plants, and naturally-found host plants, of Potato brown rot; and
  - (g) official inspections of growing crops at appropriate times and official testing of harvested potatoes in accordance with the method set out in Annex 2 to Directive 98/57/EC.
- (5) A notice served by a plant health inspector under sub-paragraph (1) must additionally –
- (a) include a requirement that all machinery and storage facilities at the place of production which are used for potato production be cleansed and disinfected immediately and following the first growing year and specify the appropriate methods for cleansing and disinfecting the machinery and storage facilities; and
  - (b) prohibit any irrigation or spraying programme at the place of production or specify how any irrigation or spraying programme at the place of production must be carried out for the purpose of preventing the spread of Potato brown rot.
- (6) The measures which may be specified in a notice under sub-paragraph (1) may be included in a notice with other appropriate measures.
- (7) The person on whom a notice is served under paragraph (1) must ensure that the measures specified in the notice are taken in the required manner.

## **29 Additional measures in relation to units of protected crop production**

- (1) This paragraph applies to the planting of any potato tubers, plants or true seeds in a contaminated unit of protected crop production where it is possible to replace all of the growing medium in the unit.
- (2) A person must not plant any potato tubers, plants or true seeds, tomato plants or seeds or other host plants of Potato brown rot in the unit without the written authorisation of a plant health inspector.
- (3) A plant health inspector may not grant an authorisation under sub-paragraph (2) unless –



- (a) all of the measures to eliminate Potato brown rot and to remove all host plants of Potato brown rot which are specified in a notice in relation to the place of production in which the unit is situated have been complied with;
  - (b) the growing medium in the unit has been completely changed; and
  - (c) the unit and all of the equipment used on the unit has been cleansed and disinfected to eliminate Potato brown rot and remove all host plant material.
- (4) An authorisation under sub-paragraph (2) may –
- (a) in relation to potato production, specify that only certified seed potatoes or mini-tubers or micro-plants derived from officially tested sources may be used in the production;
  - (b) in relation to tomato production, specify that only seed which meets the requirements of Directive 2000/29/EC or, if vegetatively propagated, tomato plants produced from seed which meets the requirements of Directive 2000/29/EC and grown under official control, may be used in the production;
  - (c) prohibit any irrigation or spraying programme at the place of production; and
  - (d) specify how any irrigation or spraying programme at the place of production must be carried out for the purpose of preventing the spread of Potato brown rot.

### **30 Measures to be taken in demarcated zones for the control of Potato brown rot**

- (1) This paragraph applies where a plant health inspector has demarcated a zone in relation to a confirmed finding of Potato brown rot under paragraph 26.
- (2) The Minister may, by notice, specify further prohibitions, restrictions and other measures which are to apply in the demarcated zone to prevent the risk of Potato brown rot surviving or spreading.
- (3) The Minister may, in particular, specify in a notice under paragraph (2) that –
  - (a) any machinery or storage facilities at premises within the demarcated zone which are used for growing, storing or handling potato tubers or tomatoes within the zone, or any premises within the zone from which machinery for potato or tomato production is operated under contract, must be cleansed and, where appropriate, disinfected so that there is no identifiable risk of Potato brown rot surviving or spreading;
  - (b) in the case of potato crops, only certified seed potatoes or seed potatoes grown under official control may be planted during the specified period;
  - (c) potatoes intended for planting must be handled separately from all other potatoes at premises within the zone or that a system of cleansing and, where appropriate, disinfection must be carried out

- between the handling of seed and ware potatoes during the specified period;
- (d) in the case of tomato crops, only tomato plants grown from seed which meets the requirements of Directive 2000/29/EC or, if vegetatively propagated, tomato plants produced from such seed and grown under official control may be planted during the specified period;
  - (e) contaminated surface water must not be used for the irrigation or the spraying of specified plant material and, where appropriate, other host plants of Potato brown rot, without the prior written authorisation of a plant health inspector; and
  - (f) if liquid waste discharges have been contaminated, any waste from industrial processing or packaging premises in the zone which handle specified plant material must be disposed of under the supervision of a plant health inspector.
- (4) A notice under sub-paragraph (2) –
- (a) must be in writing;
  - (b) must describe the extent of the demarcated zone;
  - (c) must specify in relation to each measure whether it applies generally or to an area of surface water in the demarcated zone;
  - (d) must specify the date on which each measure takes effect and for how long;
  - (e) must be published in a manner appropriate to bring it to the attention of the public; and
  - (f) may be amended, suspended or revoked, in whole or in part, by further notice.
- (5) Any premises which are partly within and partly outside a demarcated zone must be treated as within that zone for the purposes of this paragraph.
- (6) A notice published in accordance with sub-paragraph (4) is to be treated as having been served on –
- (a) any occupier or other person in charge of any premises within the demarcated zone; and
  - (b) any person who –
    - (i) has a right to use any contaminated surface water,
    - (ii) has any contaminated surface water on premises within the demarcated zone which the person occupies or is in charge of, and
    - (iii) any person who operates machinery or carries out any other activity in relation to the production of potatoes or tomatoes within the demarcated zone.
- (7) The Minister may only specify –
- (a) the measures referred to in sub-paragraph (3)(a) to (d) where the zone has been demarcated for the purposes of Article 5(1)(a)(iv) of Directive 98/57/EC; and

- (b) the measures referred to in sub-paragraph (3)(e) and (f) where the zone has been demarcated for the purposes of Article 5(1)(c)(iii) of Directive 98/57/EC.
- (8) The Minister must ensure that –
  - (a) premises growing, storing or handling potato tubers and premises which operate potato machinery under contract are supervised by plant health inspectors during the specified period;
  - (b) an official survey is carried out in accordance with Article 2 of Directive 98/57/EC during the specified period;
  - (c) a programme is established, where appropriate, for the replacement of all seed potato stocks over an appropriate period of time.
- (9) For the purposes of sub-paragraphs (3) and (9), the “specified period”, in relation to a zone demarcated under paragraph 26, must be at least three growing seasons following the year in which the zone was demarcated.

## PART 7 – MEASURES RELATING TO EGYPTIAN POTATOES

### **31 Measures for the purposes of Article 7 of Commission Implementing Decision 2011/787/EC**

- (1) In this Part, “Egyptian potatoes” means any tubers of *Solanum tuberosum* L., originating in Egypt, which are introduced into the Union territory under Commission Implementing Decision 2011/787/EC.
- (2) No professional operator may –
  - (a) move any Egyptian potatoes within Jersey unless they are labelled to indicate that they originate in Egypt;
  - (b) process, prepare, wash or package any Egyptian potatoes at premises in Jersey other than at premises that the Minister has approved in writing for that purpose.
- (3) Paragraph (2)(b) does not apply to the packing or preparation of any Egyptian potatoes in a shop, restaurant, canteen, club, public house, school, hospital, or similar establishment (including a vehicle or a fixed or mobile stall) for delivery to the final consumer.

**SCHEDULE 3**

(Regulation 38(1))

**OFFENCES: RELEVANT PROVISIONS IN THE EU REGULATIONS****PART 1 – EU PLANT HEALTH REGULATION**

<b>Provision of the EU Plant Health Regulation</b>	<b>Subject matter</b>
Article 5(1) (as read with Article 8(1))	Prohibits the introduction of a Union quarantine pest into the Union territory, the movement of a Union quarantine pest within the Union territory or the holding, multiplication or the release of Union quarantine pest in the Union territory.
Article 9(3) (as read with Article 33(1))	Requires professional operators to immediately notify competent authorities of any evidence they may have concerning an imminent danger of the entry of: <ul style="list-style-type: none"> <li>– a Union quarantine pest or a pest subject to measures adopted under Article 30(1) into the Union territory or into a part of the Union territory where it is not yet present, or</li> <li>– a protected zone quarantine pest into the respective protected zone.</li> </ul>
Article 14(1) (as read with Articles 16 and 33(1))	Requires a professional operator who suspects or becomes aware that: <ul style="list-style-type: none"> <li>– a Union quarantine pest or a pest subject to measures adopted under Article 30(1) is present in plants, plant products or other objects which are under the operator's control,</li> <li>– a protected zone quarantine pest is present in plants, plant products or other objects which are under the operator's control in the respective protected zone,</li> </ul> to immediately notify the competent authority and take precautionary measures to prevent the establishment and spread of the pest.
Article 14(3)	Requires a professional operator: <ul style="list-style-type: none"> <li>– to consult the competent authority where the professional operator has</li> </ul>

Provision of the EU Plant Health Regulation	Subject matter
	<p>received an official confirmation concerning the presence of a Union quarantine pest in plants, plant products or other objects which are under the operator's control, and</p> <p>– where applicable, proceed with the actions required under Article 14(4) and (7)</p>
Article 15(1) (as read with Articles 15(2), 16 and 33(1))	<p>Requires a person who is not a professional operator to immediately notify the competent authority where the person becomes aware of:</p> <p>– the presence of a Union quarantine pest or has reason to suspect the presence of a Union quarantine pest,</p> <p>– the presence of a protected zone quarantine pest, or has reason to suspect the presence of a protected zone quarantine pest, in the respective protected zone.</p>
Article 32(2)	<p>Prohibits the introduction of a protected zone quarantine pest into the respective protected zone, the movement of a protected zone quarantine pest within the respective protected zone or the holding, multiplication or the release of a protected zone quarantine pest in the respective protected zone.</p>
Article 37(1) (as read with Article 39 and Article 17 of the Phytosanitary Conditions Regulation)	<p>Restricts the introduction of a Union regulated non-quarantine pest into the Union territory or the movement of a Union regulated non-quarantine pest within the Union territory by a professional operator on plants for planting through which it is transmitted.</p>
Article 40(1) (as read with Articles 47 and 48(1))	<p>Prohibits the introduction into the Union territory of certain plants, plant products or other objects if they originate from all or certain third countries or territories.</p>
Article 41(1) (as read with Articles 47 and 48(1))	<p>Prohibits:</p> <p>– the introduction into the Union territory of certain plants, plant products or other objects from third countries unless the special requirements in respect of those</p>

<b>Provision of the EU Plant Health Regulation</b>	<b>Subject matter</b>
	<p>plants, plant products or other objects are fulfilled;</p> <p>– the movement within the Union territory of certain plants, plant product or other objects unless the special requirements in respect of those plants, plant products or other objects are fulfilled.</p>
Article 42(2) (as read with Articles 47 and 48(1))	Prohibits the introduction into the Union territory of high-risk plants, plant products or other objects from third countries.
Article 43(1)	Prohibits the introduction into the Union territory of wood packaging material, whether or not actually in use in the transport of objects of all kind, unless it fulfils the specified requirements.
Article 45(1), third paragraph (as read with Article 55)	Requires postal services and professional operators involved in sales through distance contracts to make specified information available to their clients through the internet.
Article 53(1) (as read with Articles 57 and 58).	<p>Prohibits:</p> <p>– the introduction of certain plants, plant products or other objects originating from third countries into certain protected zones;</p> <p>– the introduction of certain plants, plant products or other objects originating within the Union territory into certain protected zones.</p>
Article 54(1) (as read with Articles 57 and 58)	<p>Prohibits:</p> <p>– the introduction of certain plants, plant products or other objects into certain protected zones unless the special requirements in respect of those protected zones are fulfilled;</p> <p>– the movement of certain plants, plant products or other objects within certain protected zones unless the special requirements in respect of those protected zones are fulfilled.</p>

<b>Provision of the EU Plant Health Regulation</b>	<b>Subject matter</b>
Article 59	<p>Requires vehicles, machinery or packaging material used for:</p> <ul style="list-style-type: none"> <li>– specified plants, plant products or other objects moving into or within the Union territory, or through the Union territory, to be free from Union quarantine pests and pests subject to measures adopted under Article 30(1),</li> <li>– specified plants, plant products or other objects moving into or within the protected zones, or through protected zones, to be free from the respective protected zone quarantine pests.</li> </ul>
Article 62(1)	<p>Requires a person responsible for a quarantine station or confinement facility to monitor the station or facility and its immediate vicinity for the unintended presence of Union quarantine pests and pests subject to measures adopted under Article 30(1).</p>
Article 62(2)	<p>Requires a person responsible for a quarantine station or confinement facility to monitor the station or facility to take appropriate action based on the contingency plan referred to in point (e) of Article 61(1) and to comply with the obligations of professional operators in Article 14.</p>
Article 64(1) (as read with Article 64(2))	<p>Prohibits the release of plants, plant products and other objects from quarantine stations or confinement facilities unless authorised by the competent authorities.</p>
Article 66(1) (as read with Article 65(3))	<p>Requires certain professional operators to submit an application for registration to the competent authorities.</p>
Article 66(5) (as read with Article 65(3))	<p>Requires registered operators, where relevant:</p> <ul style="list-style-type: none"> <li>– to annually submit an update concerning any changes in the data referred to in points (d) and (e) of Article 66(2) or in the statements referred to in points (b) and (c) of Article 66(2);</li> </ul>

Provision of the EU Plant Health Regulation	Subject matter
	– to update the data referred to in point (a) of Article 66(2) no later than 30 days after the change in that data.
Article 69(1) (as read with Articles 65(3) and 69(3))	Requires a professional operator to whom plants, plant products or other objects are supplied that are subject to the specified requirements or conditions to keep a record allowing the operator to identify the professional operator who supplied each trade unit.
Article 69(2) (as read with Article 69(3))	Requires a professional operator who is supplying plants, plant products or other objects that are subject to the specified requirements or conditions to keep a record allowing the operator to identify the professional operator to whom each trade unit was supplied.
Article 69(4)	Requires professional operators to keep the records required under Article 69(1) to (3) for at least three years.
Article 70(1)	Requires professional operators who are supplied with, or supply, the plants, plant products or other objects referred to in Article 69(1) and (2) to have in place traceability systems or procedures to allow identification of the movements of those plants, plant products and other objects within and between their own premises.
Articles 72(1) and 73	Prohibits the introduction into the Union territory of certain plants, plant products and other objects from third countries unless they are accompanied by a phytosanitary certificate.
Article 74(1)	Prohibits the introduction of certain plants, plant products and other objects from third countries into certain protected zones unless accompanied by a phytosanitary certificate.
Article 79(1) (as read with Articles 81, 82 and 83)	Prohibits the movement of certain plants, plant products and other objects within the Union territory without a plant passport.



<b>Provision of the EU Plant Health Regulation</b>	<b>Subject matter</b>
Article 80(1) (as read with Articles 81, 82 and 83)	Prohibits the introduction of certain plants, plant products and other objects into certain protected zones, or the movement of certain plants, plant products and other objects within certain protected zones, without a plant passport.
Article 84(1)	Prohibits professional operators from issuing plant passports unless they are authorised and from issuing plant passports for plants, plant products or other objects for which they are not responsible.
Article 84(3)	Prohibits authorised professional operators from issuing plant passports except at specified premises, collective warehouses or dispatching centres.
Article 85 (as read with Article 87)	Prohibits authorised professional operators from issuing plant passports for plants, plant products or other objects unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.
Article 86(1) (as read with Articles 86(2) and 87)	Prohibits authorised professional operators from issuing plant passports for plants, plant products or other objects to be introduced into, or moved within, a protected zone unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.
Article 88	Requires professional operators to attach plant passports to the trade unit of the plants, plant products or other objects concerned, or where the plants, plant products or other objects are moved in a package, bundle or container, to that package, bundle or container.
Article 90(1)	Requires an authorised operator to: <ul style="list-style-type: none"> <li>– identify and monitor the points in its production process and certain other points concerning the movement of plants, plant products and other objects where the authorised operator intends to issue a plant passport in respect of those</li> </ul>

<b>Provision of the EU Plant Health Regulation</b>	<b>Subject matter</b>
	plants plant products and other objects; and – keep records concerning the identification and monitoring of those points for at least three years.
Article 90(2)	Requires authorised operators to ensure that appropriate training is given to its personnel involved in the examinations referred to in Article 87.
Article 93(1)	Prohibits authorised operators from issuing replacement plant passports unless certain conditions are fulfilled.
Article 93(5)	Requires authorised operators who to retain replaced plant passports or their contents for at least three years.
Article 96(1)	Prohibits the marking of wood packaging material, wood or other objects in the Union territory by any person who is not authorised in accordance with Article 98 or in the manner required.
Article 97(1)	Prohibits the repairing of wood packaging material by any person who is not authorised in accordance with Article 98 or in the manner required.

## PART 2 – OFFICIAL CONTROLS REGULATION

<b>Provision of the Official Controls Regulation</b>	<b>Subject matter</b>
Article 47(5)	Requires the operator responsible for a relevant consignment entering the Union to ensure that it is presented for official controls at the border control post of first arrival into the Union.
Article 50(1)	Requires the operator of a relevant consignment to which Article 47(1) applies to present the original official certificates or documents which are required to accompany the consignment to the competent authorities of the border control post.

<b>Provision of the Official Controls Regulation</b>	<b>Subject matter</b>
Article 50(3)	Prohibits the operator of a relevant consignment from splitting the consignment until official controls have been performed and the CHED has been finalised.
Article 56(1)	Requires the operator of a relevant consignment to complete the relevant part of the CHED.
Article 56(4)	Requires the operator of a relevant consignment to give prior notification to the competent authorities of the border control post of arrival of the consignment prior to the physical arrival of the consignment in the Union.

## PART 3 – OTHER EU LEGISLATION

<b>Provision of EU legislation</b>	<b>Subject matter</b>
<b>Commission Delegated Regulation (EU) 2019/1602 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination (OJ L 250, 30.9.2019, p.6)</b>	
Article 3 (as read with Article 4(a), 5(1) (b), (d), 5(2)(a) and (c) and 6(a))	Requires the operator responsible for a consignment to ensure that a CHED accompanies the consignment before it is released for free circulation in accordance with Article 57(2)(b) of the Official Controls Regulation.
<b>Commission Delegated Regulation (EU) 2019/2124 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for official controls of consignments of animals and goods in transit, transshipment and onward transportation through the Union (OJ L 321, 12.12.2019, p.73)</b>	
Article 5(a) and (b)	Requires the operator who is responsible for a relevant consignment that has been given authorisation for onward transportation to enter certain details in the CHED and submit the CHED.
Article 6	Requires the operator who is responsible for a relevant consignment that has been given authorisation for onward transportation to comply with the

Provision of EU legislation	Subject matter
	specified conditions relating to its transportation and storage.
Article 16(1) and (3)	Requires the operator who is responsible for a transhipped relevant consignment to notify the specified information to competent authorities.
Article 22(4)	Requires the operator who is responsible for a relevant consignment that is in transit through the Union territory to take specific measures relating to the transportation of the consignment.

**SCHEDULE 4**

(Regulation 38(1))

**OFFENCES RELATING TO EU EMERGENCY DECISIONS**

<b>EU decision</b>	<b>Provision of EU decision</b>
Commission Decision 98/109/EC	Article 1 (requirements in relation to the introduction into the Union territory of specified cut flowers originating in Thailand)
Commission Decision 2002/757/EC	Article 3(1) to (3) (requirements in relation to the introduction into the Union territory of susceptible plants and susceptible wood originating in the USA)  Article 3(4) (requirements in relation to the movement within the Union territory of certain plants intended for planting originating in third countries, other than the USA)  Article 4 (prohibition on the introduction into the Union territory of susceptible bark originating in the USA)  Article 5 (requirements in relation to the movement within the Union territory of certain plants intended for planting originating in the Union)
Commission Decision 2004/200/EC	Article 1 (prohibition on the introduction of the specified organism into the Union territory and its spread within the Union territory)  Article 3(1) (requirements in relation to the movement within the Union territory of specified seeds originating in the Union territory)
Commission Implementing Decision 2011/787/EU	Article 1(1) (requirements in relation to the introduction into the Union territory of specified tubers originating in Egypt)
Commission Implementing Decision 2012/138/EU	Article 2 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries, other than China)  Article 3(1) and (2) (requirements in relation to the introduction into the Union

EU decision	Provision of EU decision
	<p>territory of specified plants originating in China)</p> <p>Article 4 (requirements in relation to the movement within the Union territory of specified plants originating in, or introduced into, demarcated areas or specified plants introduced into the Union territory in accordance with Article 2 or 3)</p>
<p>Commission Implementing Decision 2012/270/EU</p>	<p>Article 1 (prohibition on the introduction of any specified organism into the Union territory and the spread of any specified organism within the Union territory)</p> <p>Article 2(1) (requirements in relation to the introduction into the Union territory of potato tubers originating in third countries where one or more of the specified organisms are known to be present)</p> <p>Article 3 (requirements in relation to the movement within the Union territory of potato tubers originating in demarcated areas or potato tubers introduced into the Union territory from third countries where one or more of the specified organisms are known to be present)</p>
<p>Commission Implementing Decision 2012/535/EU</p>	<p>Article 10(1) and (2) (requirements in relation to the movement within the Union territory of susceptible plants, susceptible wood or susceptible bark)</p>
<p>Commission Implementing Decision 2012/697/EU</p>	<p>Article 2 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries)</p> <p>Article 3 (requirements in relation to the movement within the Union territory of specified plants originating in demarcated areas)</p>
<p>Commission Implementing Decision (EU) 2015/789</p>	<p>Article 9 (requirements in relation to the movement within the Union territory of specified plants, other than which have been grown for the entire production cycle <i>in vitro</i> or plants belonging to</p>

EU decision	Provision of EU decision
	<p>varieties of specified plants listed in Annex III)</p> <p>Article 9a (requirements in relation to the movement within the Union territory of specified plants which have been grown for the entire production cycle <i>in vitro</i> and for at least part of their life in demarcated areas)</p> <p>Article 15 (requirements in relation to the introduction of specified plants for planting, other than seeds, originating in Costa Rica or Honduras)</p> <p>Article 16 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries where the specified organism is not present)</p> <p>Article 17(1) (requirements in relation to the introduction into the Union territory of specified plants originating in third countries where the specified organism is known to be present)</p>
Commission Implementing Decision (EU) 2015/893	<p>Article 2(a) (requirements in relation to the introduction into the Union territory of specified plants originating in third countries where the specified organism is known to be present)</p> <p>Article 3(a) (requirements in relation to the introduction into the Union territory of specified wood originating in third countries where the specified organism is known to be present)</p> <p>Article 4 (requirements in relation to the movement within the Union territory of specified plants originating in, or introduced into, demarcated areas or specified plants introduced into the Union territory from third countries in accordance with Article 2)</p> <p>Article 5 (requirements in relation to the movement within the Union territory of specified wood originating in demarcated areas, specified wood retaining all or part of its round surface which has been</p>

EU decision	Provision of EU decision
	introduced into demarcated areas or specified wood packaging material originating in demarcated areas)
Commission Implementing Decision (EU) 2016/715	<p>Article 5 (requirements in relation to the introduction into the Union territory of specified fruits originating in South Africa or Uruguay)</p> <p>Article 5a (requirements in relation to introduction into the Union territory of specified fruits originating in Argentina or Brazil)</p>
Commission Implementing Decision (EU) 2017/198	<p>Article 1 (prohibition on the introduction of the specified organism into the Union territory and its spread within the Union territory)</p> <p>Article 2 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries)</p> <p>Article 3 (requirements in relation to the movement within the Union territory of specified plants originating in the Union or specified plants introduced into the Union territory from third countries in accordance with Article 2)</p>
Commission Implementing Decision 2018/638	Article 3(a) and (b) (requirements in relation to introduction into the Union territory of specified plants originating in third countries other than Switzerland)
Commission Implementing Decision (EU) 2018/1503	<p>Article 7(1), (6) and (7) (requirements in relation to the movement within the Union territory of specified plants originating in demarcated areas, specified plants introduced into demarcated areas or specified plants introduced into the Union territory from third countries where the specified organism is known to be present in accordance with Article 11)</p> <p>Article 8 (requirements in relation to the movement within the Union territory of specified wood originating in demarcated areas or specified wood retaining all or part of its round surface introduced into demarcated areas)</p>



EU decision	Provision of EU decision
	<p>Article 9 (requirements in relation to movement within the Union territory of specified wood packaging material originating in demarcated areas)</p> <p>Article 11 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries where the specified organism is known to be present)</p> <p>Article 12 (requirements in relation to the introduction into the Union territory of specified wood originating in third countries where the specified organism is known to be present)</p>
Commission Implementing Decision (EU) 2019/1615	<p>Article 2 (prohibition on the introduction of the specified organism into the Union territory and on its spread within the Union territory)</p> <p>Article 5(1) and (5) (requirements in relation to the movement within the Union territory of specified plants originating in the Union territory)</p> <p>Article 6 (requirements in relation to introduction into the Union territory of specified plants originating in third countries)</p>
Commission Implementing Decision (EU) 2019/1739	<p>Article 2 (prohibition on the introduction of the specified organism into the Union territory and on its spread within the Union territory)</p> <p>Article 5 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries)</p>
Commission Implementing Decision (EU) 2019/2032	<p>Article 6 (requirements in relation to the movement within the Union territory of specified plants)</p> <p>Article 7 (requirements in relation to the movement of specified wood and isolated bark from an infested zone to a buffer zone or from a demarcated area)</p> <p>Article 8 (requirements in relation to the movement of wood packaging material)</p>

EU decision	Provision of EU decision
	<p>from an infested zone to a buffer zone or from a demarcated area)</p> <p>Article 9 (requirements in relation to the introduction into the Union territory of specified plants originating in non-European third countries)</p> <p>Article 10 (requirements in relation to the introduction into the Union territory of specified wood or isolated bark originating in non-European third countries)</p>

## ENDNOTES

### Table of Endnote References

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<i>1</i>	<i>chapter 17.245</i>
<i>2</i>	<i>chapter 24.660</i>
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