



STATUTORY INSTRUMENTS.

S.I. No. 459 of 2020



EUROPEAN UNION (PLANT HEALTH) REGULATIONS 2020

EUROPEAN UNION (PLANT HEALTH) REGULATIONS 2020

Arrangement of Regulations

Part 1

Preliminary & General

1. Citation
2. Interpretation

Part 2

General Provisions

3. Prohibition relating to Union quarantine pests
4. Union quarantine pests used for official testing, scientific or educational purposes, etc
5. Notification of an imminent danger
6. Measures where a Union quarantine pest is suspected or present
7. Immediate measures to be taken by professional operators
8. Measures to be taken by persons other than professional operators
9. Non-application of requirement to notify
10. Assistance to Minister
11. Establishment of demarcated areas
12. Surveys on Union quarantine pests and pests provisionally qualifying as Union quarantine pests
13. Contingency plans for priority pests
14. Action plan for a priority pest
15. Union measures for specific Union quarantine pests
16. Measures concerning pests not listed as Union quarantine pests
17. Union measures concerning pests not listed as Union quarantine pests
18. More stringent requirements
19. Recognition of a protected zone
20. General obligations concerning a protected zone
21. Survey on protected zone quarantine pest
22. Prohibition on Union regulated non-quarantine pests
23. Prohibition on the introduction of plants, plant products and other objects into the Union territory
24. Special and equivalent requirements
25. Restrictions on high-risk plants, plant products and other objects

26. Specific import conditions for the introduction of wood packaging material
27. Information to be provided to passengers and clients of postal services
28. Exception on prohibitions for frontier zones
29. Requirements for phytosanitary transit
30. Introduction for official testing, scientific or educational purposes, trials, varietal selection or breeding
31. Temporary measures concerning newly identified pest risks or other suspected phytosanitary risks
32. Temporary measures concerning imminent danger
33. Prohibition of introduction of plants, plant products and other objects into protected zones
34. Plants, plant products and other objects subject to special requirements for protected zones
35. Information to be provided to passengers and clients of postal services as regards protected zones
36. Exception from prohibitions and requirements for frontier zones as regards protected zones
37. Requirements for phytosanitary transit as regards protected zones
38. Plants, plant products and other objects used for official testing, scientific or educational purposes, trials, varietal selection or breeding as regards protected zones
39. Other measures concerning plants, plant products and other objects
40. Quarantine stations and confinement facilities
41. Release and movement from quarantine stations and confinement facilities
42. Traceability
43. Phytosanitary certificates
44. Plant passport
45. Issuing of plant passports
46. Attachment of plant passports
47. Authorisation of professional operators to issue plant passports
48. Obligations of authorised operators
49. Pest risk management plan
50. Replacing a plant passport
51. Replacing a phytosanitary certificate
52. Invalidation and removal of a plant passport
53. Wood packaging material, wood or other object
54. Other Attestations

4 [459]

- 55. Pre-export certificate
- 56. Notices
- 57. Contravention of Commission Decisions
- 58. Contravention of Regulation No 2017/625

Part 3

Restrictions including Registrations, Authorisations and Approvals

- 59. Pre-notification of movement
- 60. Registration
- 61. Authorisations and approvals
- 62. Records
- 63. Forgery including fraudulent or deceptive activity

Part 4

Enforcement

- 64. Appointment of authorised officer
- 65. Functions of authorised officer
- 66. Search warrant
- 67. Compliance notice
- 68. Appeal against compliance notice
- 69. Seizure and detention for non-compliance with a compliance notice
- 70. Fixed Payment Notice

Part 5

Procedural

- 71. Fees
- 72. Obstruction and false statements
- 73. Data Sharing
- 74. Service

Part 6

Offences and Penalties

- 75. Contravention of these Regulations
- 76. Penalties and prosecutions
- 77. Evidence on certificate etc

Part 7

Revocations and Transitional Measures

- 78. Revocations, savers etc

EUROPEAN UNION (PLANT HEALTH) REGULATIONS 2020

I, CHARLIE MCCONALOGUE, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972, for the purpose of giving effect to Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016¹, Commission Implementing Regulation (EU) 2017/2313 of 13 December 2017², Commission Implementing Regulation (EU) 2018/2018 of 18 December 2018³, Commission Implementing Regulation (EU) 2018/2019 of 18 December 2018⁴, Commission Delegated Regulation (EU) 2019/827 of 13 March 2019⁵, Commission Delegated Regulation (EU) 2019/829 of 14 March 2019⁶, Commission Delegated Regulation (EU) 2019/1702 of 1 August 2019⁷, Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019⁸, Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019⁹, Commission Implementing Regulation (EU) 2019/2148 of 13 December 2019¹⁰, Commission Implementing Regulation (EU) 2020/178 of 31 January 2020¹¹ and Commission Implementing Decision (EU) 2020/758 of 4 June 2020¹²; and further effect to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017¹³; Commission Implementing Decision 2012/697 of 8 November 2012¹⁴; Commission Implementing Decision (EU) 2015/789 of 18 May 2015¹⁵ (as amended by Commission Implementing Decision (EU) 2015/2417/EU of 17 December 2015¹⁶, Commission Implementing Decision (EU) 2016/764 of 12 May 2016¹⁷, Commission Implementing Decision (EU) 2017/2352 of 14 December 2017¹⁸, Commission Implementing Decision (EU) 2018/927 of 27 June 2018¹⁹ and Commission Implementing Decision (EU) 2018/1511 of 9 October 2018²⁰); Commission Decision 2004/200/EC of 27 February 2004²¹; Commission Implementing Decision 2012/270/EU of 16 May 2012²² as amended by Commission Implementing Decision 2014/679/EU of 25 September 2014²³,

¹ OJ L 317, 23.11.2016, p. 4

² OJ L 331, 14.12.2017, p. 44

³ OJ L 323, 19.12.2018, p. 7

⁴ OJ L 323, 19.12.2018, p. 10

⁵ OJ L 137, 23.5.2019, p. 10

⁶ OJ L 137, 23.5.2019, p. 15

⁷ OJ L 260, 11.10.2019, p. 8

⁸ OJ L 261, 14.10.2019, p. 37

⁹ OJ L 319, 10.12.2019, p. 1

¹⁰ OJ L 325, 16.12.2019, p. 156

¹¹ OJ L 37, 10.2.2020, p. 1

¹² OJ L 179, 9.6.2020, p. 8

¹³ OJ L 95, 7.4.2017, p. 1

¹⁴ OJ L 311, 10.11.2012, p. 14

¹⁵ O.J.No.L125 of 21.05.2015, p.36

¹⁶ O.J.No.L333 of 19.12.2015, p.143

¹⁷ O.J.No.L126 of 14.05.2016, p.77

¹⁸ O.J.No.L336 of 16.12.2017, p.31

¹⁹ O.J.No.L164 of 29.06.2018, p.49

²⁰ O.J.No.L255 of 11.10.2018, p.16

²¹ OJ L 64, 2.3.2004, p. 43

²² OJ L 132, 23.5.2012, p. 18

²³ OJ L 283, 27.9.2014, p. 61

Commission Implementing Decision 2016/1359/EU of 8 August 2016²⁴ and Commission Implementing Decision (EU) 2018/5 of 3 January 2018²⁵; Commission Decision 2006/464/EC of 27 June 2006²⁶; Commission Implementing Decision (EU) 2019/2032 of 26 November 2019²⁷; and Commission Implementing Decision (EU) 2016/715 of 11 May 2016²⁸ (as amended by Commission Implementing Decision (EU) 2017/801 of 8 May 2017²⁹, Commission Implementing Decision (EU) 2018/85 of 18 January 2018³⁰, Commission Implementing Decision (EU) 2019/449 of 18 March 2019³¹), Commission Implementing Regulation (EU) 2020/918 of 1 July 2020³², Commission Implementing Regulation (EU) 2020/1002 of 9 July 2020³³, Commission Implementing Regulation (EU) 2020/1164 of 6 August 2020³⁴, Commission Regulation (EU) 2020/1191 of 11 August 2020³⁵, Commission Implementing Regulation (EU) 2020/1199 of 13 August 2020³⁶, Commission Implementing Regulation (EU) 2020/1201 of 14 August 2020³⁷, Commission Implementing Regulation (EU) 2020/1213 of 21 August 2020³⁸, Commission Implementing Regulation (EU) 2020/1214 of 21 August 2020³⁹, Commission Implementing Regulation (EU) 2020/1217 of 25 August 2020⁴⁰, Commission Implementing Regulation (EU) 2020/1231 of 27 August 2020⁴¹, Commission Implementing Regulation (EU) 2020/1292 of 15 September⁴², Commission Implementing Regulation (EU) 2020/1361 of 30 September 2020⁴³ and Commission Implementing Regulation (EU) 2020/1362 of 30 September 2020⁴⁴ hereby make the following regulations:

Part 1

Preliminary & General

Citation

1. These Regulations may be cited as the European Union (Plant Health) Regulations 2020.

²⁴ OJ L 215, 10.8.2016, p. 29

²⁵ OJ L 2, 05.01.2018, p.11

²⁶ OJ L 183, 5.7.2006, p. 29

²⁷ OJ L 313, 4.12.2019, p. 94

²⁸ OJ L 125, 13.5.2016, p. 16

²⁹ OJ L 120, 11.5.2017, p. 26

³⁰ OJ L 16, 20.1.2018, p. 11

³¹ OJ L 77, 20.3.2019, p. 76

³² OJ L 209, 2.7.2020, p. 14

³³ OJ L 221, 10.7.2020, p. 122

³⁴ OJ L 258, 7.8.2020, p. 6

³⁵ OJ L 262, 12.8.2020, p. 6

³⁶ OJ L 267, 14.8.2020, p. 3

³⁷ OJ L 269, 17.8.2020, p. 2

³⁸ OJ L 275, 24.8.2020, p. 5

³⁹ OJ L 275, 24.8.2020, p. 12

⁴⁰ OJ L 277, 26.8.2020, p. 6

⁴¹ OJ L 280, 28.8.2020, p. 1

⁴² OJ L 302, 16.9.2020, p. 20

⁴³ OJ L 317, 1.10.2020, p. 1

⁴⁴ OJ L 317, 1.10.2020, p. 5

Interpretation

2. (1) In these Regulations-

“authorised officer” means –

- (a) a person appointed under Regulation 64;
- (b) a person who, immediately before the making of these Regulations, was an authorised officer under the European Communities (Control of Organisms Harmful to Plants and Plant Products) Regulations 2004 (S.I. No. 894 of 2004),
- (c) a member of the Garda Síochána, or
- (d) an officer of the Revenue Commissioners;

“Commission Decision” means a Commission Decision referred to in Regulation 57;

“delegated act” means a delegated act adopted in accordance with Article 105 of the Plant Health Regulation, or Article 106 of that Regulation where urgency is a factor;

“implementing act” means an implementing act adopted in accordance with Article 107(2) of the Plant Health Regulation or Article 107(3) of that Regulation where imperative grounds of urgency is a factor;

“ISPM15” means the International Standards for Phytosanitary Measures No 15, Regulation of Wood Packaging Material in International Trade;

“Minister” means the Minister for Agriculture, Food and the Marine;

“Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 as amended, supplemented or implemented by the Regulations and Decisions of the European Union specified in the Schedule;

“premises” includes land (including land under water) with or without buildings, an establishment, a vehicle (including a boat, ship, hovercraft, aircraft or off-shore installation (being an offshore installation within the meaning of the Safety, Health and Welfare (Offshore Installations) Act 1987 (No. 18 of 1987))), railway wagon, container or other thing used in connection with, or ancillary to, such a thing;

“object” has the same meaning assigned to “other object” by Article 2(5) of the Plant Health Regulation;

“pest provisionally qualifying as a Union quarantine pest” means a pest within the meaning of Article 29 or 30 of the Plant Health Regulation;

“Regulation No 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 as amended, supplemented or implemented by Commission Delegated Regulation (EU) 2018/631 of 7 February 2018⁴⁵, Commission Implementing Regulation (EU) 2018/329 of 5 March 2018⁴⁶, Commission Implementing Regulation (EU) 2018/1587 of 22

⁴⁵ OJ L 105, 25.4.2018, p. 1

⁴⁶ OJ L 63, 6.3.2018, p. 13

October 2018⁴⁷, Commission Delegated Regulation (EU) 2019/478 of 14 January 2019⁴⁸, Commission Implementing Regulation (EU) 2019/66 of 16 January 2019⁴⁹ (as amended by Commission Implementing Regulation (EU) 2020/714 of 28 May 2020 and Commission Implementing Regulation (EU) 2020/887 of 26 June 2020), Commission Delegated Regulation (EU) 2019/624 of 8 February 2019⁵⁰, Commission Delegated Regulation (EU) 2019/625 of 4 March 2019⁵¹, Commission Delegated Regulation (EU) 2019/1081 of 8 March 2019⁵², Commission Delegated Regulation (EU) 2019/1012 of 12 March 2019⁵³, Commission Implementing Regulation (EU) 2019/530 of 27 March 2019⁵⁴, Commission Implementing Regulation (EU) 2019/723 of 2 May 2019⁵⁵, Commission Implementing Regulation (EU) 2019/626 of 5 March 2019⁵⁶ (as amended by Commission Implementing Regulation (EU) 2019/1981 of 28 November 2019⁵⁷), Commission Implementing Regulation (EU) 2019/627 of 15 March 2019⁵⁸, Commission Implementing Regulation (EU) 2019/628 of 8 April 2019⁵⁹, Commission Implementing Regulation (EU) 2019/1013 of 16 April 2019⁶⁰, Commission Delegated Regulation (EU) 2019/1602 of 23 April 2019⁶¹, Commission Implementing Regulation (EU) 2019/1014 of 12 June 2019⁶², Commission Delegated Regulation (EU) 2019/2090 of 19 June 2019⁶³, Commission Delegated Regulation (EU) 2019/1666 of 24 June 2019⁶⁴, Commission Implementing Regulation (EU) 2019/1139 of 3 July 2019⁶⁵, Commission Delegated Regulation (EU) 2019/2074 of 23 September 2019⁶⁶, Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019⁶⁷, Commission Implementing Regulation (EU) 2019/1685 of 4 October 2019⁶⁸, Commission Delegated Regulation (EU) 2019/2122 of 10 October 2019⁶⁹, Commission Delegated Regulation (EU) 2019/2125 of 10 October 2019⁷⁰, Commission Delegated Regulation (EU) 2019/2124 of 10 October 2019⁷¹, Commission Delegated

⁴⁷ OJ L 264, 23.10.2018, p. 20

⁴⁸ OJ L 82, 25.3.2019, p. 4

⁴⁹ OJ L 15, 17.1.2019, p. 1

⁵⁰ OJ L 131, 17.5.2019, p. 1

⁵¹ OJ L 131, 17.5.2019, p. 18

⁵² OJ L 171, 26.6.2019, p. 1

⁵³ OJ L 165, 21.6.2019, p. 4

⁵⁴ OJ L 88, 29.3.2019, p. 19

⁵⁵ OJ L 124, 13.5.2019, p. 1

⁵⁶ OJ L 131, 17.5.2019, p. 31

⁵⁷ OJ L 308, 29.11.2019, p. 72

⁵⁸ OJ L 131, 17.5.2019, p. 51

⁵⁹ OJ L 131, 17.5.2019, p. 101

⁶⁰ OJ L 165, 21.6.2019, p. 8

⁶¹ OJ L 250, 30.9.2019, p. 6

⁶² OJ L 165, 21.6.2019, p. 10

⁶³ OJ L 317, 9.12.2019, p. 28

⁶⁴ OJ L 255, 4.10.2019, p. 1

⁶⁵ OJ L 180, 4.7.2019, p. 12

⁶⁶ OJ L 316, 6.12.2019, p. 6

⁶⁷ OJ L 261, 14.10.2019, p. 37

⁶⁸ OJ L 258, 9.10.2019, p. 11

⁶⁹ OJ L 321, 12.12.2019, p. 45

⁷⁰ OJ L 321, 12.12.2019, p. 99

⁷¹ OJ L 321, 12.12.2019, p. 73

Regulation (EU) 2019/2126 of 10 October 2019⁷², Commission Delegated Regulation (EU) 2019/2127 of 10 October 2019⁷³, Commission Delegated Regulation (EU) 2019/2123 of 10 October 2019⁷⁴, Commission Implementing Regulation (EU) 2019/1793 of 22 October 2019⁷⁵ (as amended by Commission Implementing Regulation (EU) 2020/625 of 6 May 2020), Commission Implementing Regulation (EU) 2019/1873 of 7 November 2019⁷⁶, Commission Implementing Regulation (EU) 2019/2128 of 12 November 2019⁷⁷, Commission Implementing Regulation (EU) 2019/2007 of 18 November 2019⁷⁸, Commission Implementing Regulation (EU) 2019/2130 of 25 November 2019⁷⁹, Commission Implementing Regulation (EU) 2019/2129 of 25 November 2019⁸⁰, Commission Implementing Regulation (EU) 2019/2093 of 29 November 2019⁸¹, Commission Implementing Regulation (EU) 2020/466 of 30 March 2020⁸² (as amended by Commission Implementing Regulation (EU) 2020/1087 of 23 July 2020⁸³ and Commission Implementing Regulation (EU) 2020/1341 of 28 September 2020⁸⁴), Commission Implementing Regulation (EU) 2020/1158 of 5 August 2020⁸⁵ and Commission Implementing Regulation (EU) 2020/1191 of 11 August 2020;

“third country” has the meaning assigned to it in the first subparagraph of Article 1(3) of the Plant Health Regulation;

“vehicle” includes ship, vessel, aircraft, train, container designed or used for carriage on a vehicle either attached to or detached from a vehicle or trailer designed for use or used with a vehicle.

(2) A word or expression that is used in these Regulations and is also used in the Plant Health Regulation, Regulation No 2017/625 or a Commission Decision has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Plant Health Regulation, Regulation No 2017/625 or the Commission Decision.

⁷²OJ L 321, 12.12.2019, p. 104

⁷³OJ L 321, 12.12.2019, p. 111

⁷⁴OJ L 321, 12.12.2019, p. 64

⁷⁵OJ L 277, 29.10.2019, p. 89

⁷⁶OJ L 289, 8.11.2019, p. 50

⁷⁷OJ L 321, 12.12.2019, p. 114

⁷⁸OJ L 312, 3.12.2019, p. 1

⁷⁹OJ L 321, 12.12.2019, p. 128

⁸⁰OJ L 321, 12.12.2019, p. 122

⁸¹OJ L 317, 9.12.2019, p. 96

⁸²OJ L 98, 31.3.2020, p. 30

⁸³OJ L 239, 24.07.2020, P. 12

⁸⁴OJ L 314, 29.09.2020, p. 2

⁸⁵OJ L 257, 06.08.2020, p. 1

Part 2

General Provisions

Prohibition relating to Union quarantine pests

3. (1) A person who contravenes Article 5 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of the introduction into the State, movement, holding, multiplication or release of Union quarantine pests commits an offence.

Union quarantine pests used for official testing, scientific or educational purposes, etc

4. (1) Notwithstanding Regulation 3, a professional operator may apply to the Minister for temporary authorisation to introduce into, move within, or hold and multiply within the State, a Union quarantine pest or pests subject to the measures adopted pursuant to Article 30(1) of the Plant Health Regulation, in accordance with Article 8(1) of the Plant Health Regulation.

(2) An application for authorisation referred to in paragraph (1) shall, in addition to the requirements of Regulation 61, provide evidence of the requirements referred to in Article 8(2) (including any delegated act supplementing that Article) and the limitations and restrictions referred to in Article 8(3) of the Plant Health Regulation.

(3) A person who contravenes the following provisions of Commission Delegated Regulation (EU) 2019/829 of 14 March 2019 commits an offence-

- (a) Article 4 in respect of an application for authorisation,
- (b) Article 5 in respect of conditions of authorisation,
- (c) Article 6 in respect of a letter of authority accompanying specified material, or
- (d) Article 7 in respect of official testing.

Notification of an imminent danger

5. A professional operator who contravenes Article 9(3) of the Plant Health Regulation in respect of the immediate notification of any evidence concerning an imminent danger referred to in paragraph (1) of that Article concerning Union quarantine pests or pests referred to in paragraph 2 of that Article commits an offence.

Measures where a Union quarantine pest is suspected or present

6. (1) Where the Minister suspects, or has received evidence concerning, the presence of a Union quarantine pest, or a pest subject to measures adopted

pursuant to Article 30(1) of the Plant Health Regulation, he or she may, in accordance with Article 10 of the Regulation-

- (a) introduce measures to confirm the presence of that pest, or
- (b) introduce phytosanitary measures to eliminate the risk of spread of that pest.

(2) A person who contravenes or fails to comply with a measure referred to in paragraph (1) commits an offence.

(3) Where the presence of a priority pest is confirmed within the State, the Minister may publish information on measures he or she has taken or intends to take and any measures to be taken by relevant categories of professional operators or other persons in accordance with Article 13 of the Plant Health Regulation.

Immediate measures to be taken by professional operators

7. (1) A professional operator who contravenes Article 14 of the Plant Health Regulation in respect of a measure set out in that article commits an offence.

(2) Where a professional operator receives an official confirmation referred to in Article 14(3) of the Plant Health Regulation concerning the presence of a Union quarantine pest, and the operator contravenes that Article in respect of the requirement to-

- (a) consult with the Minister, or
- (b) carry out an action referred to in Article 14(3) of the Regulation including the carrying out of an instruction given by the Minister

then that operator commits an offence.

(3) A professional operator who contravenes Article 14(7) of the Plant Health Regulation in respect of the provision of information upon request commits an offence.

(4) Where a professional operator provides all relevant information to the Minister in accordance with Article 14(7) of the Plant Health Regulation, the Minister may publish all or any part of such information.

Measures to be taken by persons other than professional operators

8. (1) A person, other than a professional operator, who contravenes Article 15(1) of the Plant Health Regulation in respect of the requirement to-

- (a) immediately notify the Minister of the presence of a Union quarantine pest or the person's suspicion of the presence of a Union quarantine pest, or
- (b) provide the Minister with all information in that person's possession regarding the presence of a Union quarantine pest

commits an offence.

(2) A person, other than a professional operator, who contravenes Article 15(3) of the Plant Health Regulation in respect of the requirement to-

- (a) consult with the Minister,
 - (b) carry out an instruction provided by the Minister, or
 - (c) carry out a measure referred to in that article
- commits an offence.

Non-application of requirement to notify

9. Notwithstanding Regulations 7 and 8, where a professional operator referred to in Regulation 7 or a person referred to in Regulation 8 is under an obligation to inform the Minister in accordance with those provisions, the professional operator or, as the case may be, the person may avail of the derogations provided for in Article 16 of the Plant Health Regulation or a delegated act related to that Article, in respect of:

- (a) a Union quarantine pest found to be present in the infested zone of a demarcated area established for the containment of that pest;
- (b) a Union quarantine pest found to be present in the infested zone of a demarcated area and subject to eradication measures requiring eight years or more.

Assistance to Minister

10. A person who fails, upon request, to provide assistance to, or cooperation with, the Minister, where the Minister is, in accordance with Article 17 of the Plant Health Regulation, carrying out-

- (a) phytosanitary measures to eradicate a Union quarantine pest, or
- (b) an investigation into the source of the presence of the Union quarantine pest

commits an offence.

Establishment of demarcated areas

11. (1) The Minister may, in accordance with Article 18 of the Plant Health Regulation-

- (a) establish a demarcated area, or
- (b) carry out a survey to determine whether any further plants or plant products have been infested.

(2) The Minister may, in accordance with Article 19 of the Plant Health Regulation or a delegated act referred to in that Article -

- (a) modify the boundaries of an infested zone, buffer zone or demarcated area,

- (b) abolish a demarcated area and terminate the respective eradication measures, or
- (c) carry out a survey as regards the presence of the pest concerned.

(3) A person who, upon request, fails to provide reasonable assistance to, or cooperation with, the Minister in respect of a demarcated area or survey referred to in paragraph (1) or (2) commits an offence.

Surveys on Union quarantine pests and pests provisionally qualifying as Union quarantine pests

12. (1) The Minister may, in accordance with Article 22 of the Plant Health Regulation or an implementing act referred to in that Article, carry out a survey for the presence of any Union quarantine pest, or signs or symptoms of any pest referred to at point (b) of paragraph (1) of Article 22.

(2) Where a survey referred to in paragraph (1) relates to a priority pest, the survey shall, in addition, be carried out in accordance with Article 24 of the Plant Health Regulation.

(3) A person who, upon request, fails to provide reasonable assistance to, or cooperation with, the Minister as regards a survey referred to in paragraph (1) commits an offence.

Contingency plans for priority pests

13. (1) The Minister may, in accordance with Article 25 of the Plant Health Regulation, establish a contingency plan for a priority pest.

(2) The Minister may, in accordance with Article 26 of the Plant Health Regulation, carry out a simulation exercise concerning the implementation of a contingency plan referred to in paragraph (1).

(3) A person who, upon request, fails to provide reasonable assistance to, or cooperation with, the Minister in relation to a contingency plan referred to in paragraph (1) or a simulation exercise referred to in paragraph (2) commits an offence.

Action plan for a priority pest

14. (1) The Minister may, in accordance with Article 27 of the Plant Health Regulation, carry out an action plan referred to in that article, for the eradication or containment of a priority pest.

(2) A person who, upon request, fails to provide reasonable assistance to, or cooperate with, the Minister as regards an action plan referred to in paragraph (1) commits an offence.

Union measures for specific Union quarantine pests

15. (1) Where the Commission, in accordance with Article 28 of the Plant Health Regulation, introduces measures relating to a specific Union quarantine

pest, a person who contravenes that Article or an implementing act referred to in that Article, in respect of a measure, or fails to comply with such measure commits an offence.

(2) A person who, upon request, fails to provide reasonable assistance to, or cooperate with, the Minister as regards the implementation of a measure referred to in paragraph (1) commits an offence.

(3) Paragraph (1) applies, in accordance with Article 28(2) of the Plant Health Regulation, to the introduction of measures for the containment as well as the eradication of a Union quarantine pest, and applies, in accordance with Article 28(3) of the Regulation, whether inside or outside a demarcated area.

Measures concerning pests not listed as Union quarantine pests

16. (1) Where the presence of a pest, other than a Union quarantine pest, is confirmed in the State, and the Minister, in accordance with Article 29 of the Plant Health Regulation, concludes that the pest fulfils the criteria referred to in that Article, the Minister may introduce measures in accordance with that Article.

(2) Where the Minister suspects the presence in the State of a pest fulfilling the criteria referred to in paragraph (1), he or she may introduce measures to eliminate the risk of spread of that pest in accordance with the fourth and fifth subparagraph of Article 29(1) of the Plant Health Regulation.

(3) A person who fails to provide reasonable assistance to, or cooperate with, the Minister as regards-

(a) applicable measures referred to in Article 29(1) of the Plant Health Regulation, or

(b) measures introduced by the Minister in accordance with that Article,

for the eradication or containment of the pest referred to in paragraph (1) and (2) commits an offence.

Union measures concerning pests not listed as Union quarantine pests

17. (1) Where the Commission, in accordance with Article 30 of the Plant Health Regulation, introduces measures relating to a specific pest provisionally qualifying as a Union quarantine pest, a person who contravenes that Article or an implementing act referred to in that Article, in respect of a measure, or fails to comply with such measure commits an offence.

(2) A person who, upon request, fails to provide reasonable assistance to, or cooperate with, the Minister as regards the implementation of a measure referred to in paragraph (1) commits an offence.

(3) Paragraph (1) applies, in accordance with Article 30(3) of the Plant Health Regulation, to the introduction of measures for the containment as well as the eradication of a pest provisionally qualifying as a Union quarantine pest, and applies, in accordance with Article 30(4) of the Regulation, whether inside or outside a demarcated area.

More stringent requirements

18. Where the Minister, in accordance with Article 31 of the Plant Health Regulation, introduces measures of a more stringent nature than those pursuant to Article 28(1), (2) and (3) and Article 30(1), (3) and (4) of the Plant Health Regulation, a person shall, upon request, provide reasonable assistance to, and cooperate with, the Minister in regards to compiling the annual report referred to in the second subparagraph of Article 31(2).

Recognition of a protected zone

19. (1) Where the Commission, in accordance with Article 32(1) of the Plant Health Regulation, recognises the territory of the State or a part thereof as a protected zone, a person who contravenes the first subparagraph of Article 32(2) or an implementing act referred to in Articles 32 or 35, in respect of the introduction, movement, holding, multiplication or release of a protected zone quarantine pest within the respective protected zone, or the extent of the protected zone, commits an offence.

(2) Notwithstanding paragraph (1), an operator may apply to the Minister for temporary authorisation to introduce into, move within, or hold and multiply within a protected zone the respective protected zone quarantine pest, in accordance with the second subparagraph of Article 32(2) of the Plant Health Regulation.

(3) An application for authorisation referred to in paragraph (2) shall, in addition to the requirements of Regulation 61, provide evidence of the requirements referred to in Article 8(2) (including any delegated act supplementing that Article) and the limitations and restrictions referred to in Article 8(3) of the Plant Health Regulation (as extended to a protected zone and the respective protected zone quarantine pest in accordance with the second subparagraph of Article 32(2) of the Plant Health Regulation).

(4) This Regulation applies, in accordance with Article 32(6) of the Plant Health Regulation, to a temporary protected zone.

General obligations concerning a protected zone

20. (1) The Minister may, in accordance with Article 33 of the Plant Health Regulation, apply any of the provisions of the Plant Health Regulation referred to in that Article to a protected zone, temporary protected zone or a protected zone quarantine pest.

(2) A person who, as regards a protected zone, temporary protected zone or a protected zone quarantine pest-

- (a) contravenes Article 33(1) of the Plant Health Regulation, or a provision referred to in that Article, or
- (b) fails to provide reasonable assistance to, or cooperate with, the Minister as regards the implementation of a provision referred to in paragraph (5)

commits an offence.

(3) A person who contravenes Article 33(2) of the Plant Health Regulation in respect of movement of a plant, plant product or other object from a demarcated area established in a protected zone commits an offence.

Survey on protected zone quarantine pest

21. (1) The Minister may, in accordance with Article 34 of the Plant Health Regulation or a delegated act referred to in that Article, carry out a survey of a protected zone for the presence of the protected zone quarantine pest concerned.

(2) A person who, upon request, fails to provide reasonable assistance to, or cooperate with, the Minister as regards a survey referred to in paragraph (1) commits an offence.

Prohibition on Union regulated non-quarantine pests

22. (1) Subject to paragraphs (2) and (3) and the exceptions provided for in paragraphs (7), (8) and the second subparagraph of paragraph (1) of Article 37 of the Plant Health Regulations, a professional operator who contravenes Article 37 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of the introduction into or movement within the State of a Union regulated non-quarantine pest commits an offence.

(2) Paragraph (1) does not, in accordance with Article 39 of the Plant Health Regulation, apply to Union regulated non-quarantine pests which are present on plants for planting used for scientific or educational purposes, trials, varietal selection, breeding or exhibitions.

(3) The transitional measures referred to in Article 17 of Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 are to apply until 14 December 2020.

Prohibition on the introduction of plants, plant products and other objects into the Union territory

23. A person who contravenes Article 40 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of the introduction of a plant, plant product or other object into the State, originating from a third country or territory commits an offence.

Special and equivalent requirements

24. (1) A person who contravenes Article 41 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of special requirements, or equivalent requirements, relating to the introduction into, or movement within, the State of a plant, plant product or other object commits an offence.

(2) A person who, upon request, fails to provide reasonable assistance to, or cooperate with, the Minister in respect of a measure referred to in Article 41(4) of the Plant Health Regulation commits an offence.

Restrictions on high-risk plants, plant products and other objects

25. A person who contravenes Article 42 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of the introduction of a high-risk plant, plant product or other object into the State, originating from a third country or specific area of a third country commits an offence.

Specific import conditions for the introduction of wood packaging material

26. A person who contravenes Article 43 of the Plant Health Regulation or a delegated act referred to in that Article, in respect of the introduction of wood packaging material into the State, originating from a third country or territory commits an offence.

Information to be provided to passengers and clients of postal services

27. A person obliged to make information available under Article 45 of the Plant Health Regulation who contravenes that Article or an implementing act referred to in that Article, in respect of providing information commits an offence.

Exception on prohibitions for frontier zones

28. (1) Notwithstanding Regulations 23, 24 and 25, an operator may apply to the Minister for authorisation to introduce into a frontier zone situated within the State, a plant, plant product or other object originating in a third country frontier zone in accordance with Article 46 of the Plant Health Regulation or an implementing or delegated act referred to in that Article.

(2) An application for authorisation referred to in paragraph (1) shall, in addition to the requirements of Regulation 61, provide evidence of the requirements referred to in Article 46 of the Plant Health Regulation and any delegated or implementing act referred to in that Article.

Requirements for phytosanitary transit

29. (1) Notwithstanding Regulations 23, 24, 25 and 43(1)(a) and (b), a person may, for the purpose of transit or transshipment, introduce into and pass through the State to a third country, a plant, plant product or other object, in accordance with the conditions set down in Article 47 of the Plant Health Regulation.

(2) A person who contravenes Article 47 of the Plant Health Regulation in respect of the transit or transshipment of a plant, plant product or other object originating in a third country commits an offence.

Introduction for official testing, scientific or educational purposes, trials, varietal selection or breeding

30. (1) Notwithstanding Regulations 23, 24 and 25, a professional operator may apply to the Minister for a temporary authorisation to introduce into, and move within, the State a plant, plant product or other object used for official testing, scientific or educational purposes, trials, varietal selection or breeding, originating in a third country, in accordance with Article 48 of the Plant Health Regulation or a delegated act referred to in that Article.

(2) An application for authorisation referred to in paragraph (1) shall, in addition to the requirements of Regulation 61, provide evidence of the requirements, limitations and restrictions referred to in Article 48 of the Plant Health Regulation and any delegated or implementing act referred to in that Article.

(3) Without prejudice to paragraph (2), a person who contravenes the following provisions of Commission Delegated Regulation (EU) 2019/829 of 14 March 2019-

- (a) Article 4 in respect of an application for authorisation,
- (b) Article 5 in respect of conditions of authorisation,
- (c) Article 6 in respect of a letter of authority accompanying specified material, or
- (d) Article 7 in respect of official testing

commits an offence.

Temporary measures concerning newly identified pest risks or other suspected phytosanitary risks

31. A person who contravenes a temporary measure specified in an implementing act referred to in Article 49 of the Plant Health Regulation, in respect of a plant, plant product or other object likely to pose a newly identified pest risk or other suspected phytosanitary risk commits an offence.

Temporary measures concerning imminent danger

32. A person who contravenes a temporary measure specified in an implementing act referred to in Article 52(4) of the Plant Health Regulation, in respect of protecting the State against imminent danger commits an offence.

Prohibition of introduction of plants, plant products and other objects into protected zones

33. A person who contravenes Article 53 of the Plant Health Regulation in respect of the introduction of a plant, plant product or other object into a relevant protected zone specified in an implementing act referred to in that Article commits an offence.

Plants, plant products and other objects subject to special requirements for protected zones

34. (1) Where the Commission, in accordance with Article 54 of the Plant Health Regulation, introduces a special requirement as regards the introduction into, or movement within, a protected zone of a plant, plant product or other object, a person who contravenes that Article or an implementing act referred to in that Article, in respect of a special requirement, or fails to comply with such special requirement, commits an offence.

Information to be provided to passengers and clients of postal services as regards protected zones

35. A person obliged to make information available under Article 55 of the Plant Health Regulation, or an implementing act related to that Article, who contravenes that Article or implementing act in respect of the provision of information relating to a protected zone commits an offence.

Exception from prohibitions and requirements for frontier zones as regards protected zones

36. (1) Notwithstanding Regulations 33 and 34, a professional operator may apply to the Minister for authorisation to introduce into a protected zone a plant, plant product or other object originating in a third country frontier zone in accordance with Article 56 of the Plant Health Regulation.

(2) An application for authorisation referred to in paragraph (1) shall, in addition to the requirements of Regulation 61, provide evidence of the conditions, limitations and restrictions required by Article 56 of the Plant Health Regulation and any delegated or implementing act referred to in that Article.

Requirements for phytosanitary transit as regards protected zones

37. (1) Notwithstanding Regulations 33, 34 and 43(1)(a) and (b), a person may, for the purpose of transit or transshipment, introduce into, and pass through, a protected zone situated within the State, a plant, plant product or other object, in accordance with the requirements of Article 57 of the Plant Health Regulation.

(2) A person who contravenes Article 57 of the Plant Health Regulation in respect of the transit or transshipment of a plant, plant product or other object through a protected zone situated within the State commits an offence.

Plants, plant products and other objects used for official testing, scientific or educational purposes, trials, varietal selection or breeding as regards protected zones

38. (1) Notwithstanding Regulations 33 and 34, an operator may apply to the Minister for a temporary authorisation to introduce into, and move within, a protected zone situated within the State a plant, plant product or other object

used for official testing, scientific or educational purposes, trials, varietal selection or breeding, in accordance with Article 58 of the Plant Health Regulation.

(2) An application for authorisation referred to in paragraph (1) shall, in addition to the requirements of Regulation 61, provide evidence of the conditions, limitations and restrictions required by Article 58 of the Plant Health Regulation and any delegated act referred to in that Article.

Other measures concerning plants, plant products and other objects

39. A person who contravenes Article 59 of the Plant Health Regulation in respect of the introduction into, or movement within, the State, or a protected zone situated within the State, of vehicles, machinery and packaging material commits an offence.

Quarantine stations and confinement facilities

40. (1) Where the Minister designates a quarantine station or confinement facility under Article 60 of the Plant Health Regulation, a person responsible for the quarantine station or confinement facility who contravenes-

- (a) Article 61 in respect of requirements, or
- (b) Article 62 or an implementing act referred to in that Article, in respect of the operation conditions

commits an offence.

(2) A person responsible for a quarantine station or confinement facility who fails to implement a corrective action in respect of a requirement referred to in Article 63(2) of the Plant Health Regulation commits an offence.

Release and movement from quarantine stations and confinement facilities

41. (1) A professional operator may apply to the Minister for authorisation to-

- (a) release a plant, plant product or other object referred to in Article 64(1) of the Plant Health Regulation from a quarantine station or a confinement facility in accordance with Article 64(1) or an implementing act referred to in that Article, or
- (b) move a plant, plant product or other object referred to in Article 64(2) of the Plant Health Regulation from a quarantine station or a confinement facility to another quarantine station or confinement facility, in accordance with Article 64 (2) or an implementing act referred to in that Article.

(2) An application for authorisation referred to in paragraph (1) shall, in addition to the requirements of Regulation 61, provide evidence relating to compliance with the rules, conditions (including labelling conditions), limitations and restrictions required by Article 64 of the Plant Health Regulation and any implementing act referred to in that Article.

(3) A person responsible for a quarantine station or confinement facility who contravenes Article 64 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of-

- (a) the release of a plant, plant product or other object from a quarantine station or confinement facility,
- (b) the labelling requirements related to such release, or
- (c) the movement referred to in Article 64(2) of the Plant Health Regulation

commits an offence.

Traceability

42. A professional operator who contravenes the following provisions of the Plant Health Regulation commits an offence:

- (a) Article 69 in respect of the traceability of a plant, plant product or other object;
- (b) Article 70 in respect of the traceability of a plant, plant product or other object within and between his or her premises.

Phytosanitary certificates

43. (1) Subject to paragraph (2), a person who contravenes the following provisions commits an offence:

- (a) Article 71 of the Plant Health Regulation or a delegated or implementing act referred to in that Article in respect of the content of a phytosanitary certificate for a plant, plant product or other object to be introduced into the State from a third country;
- (b) Article 72 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of the requirement to have a phytosanitary certificate before a plant, plant product or other object may be introduced into the State from a third country;
- (c) Article 73 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of the requirement to have a phytosanitary certificate before a plant (other than a plant referred to in subparagraph (b)) may be introduced into the State, or the requirement for an assessment, taking into account the criteria set out in Annex VI to the Plant Health Regulation, to demonstrate that a phytosanitary certificate is not required;
- (d) Article 74 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of the requirement to have a phytosanitary certificate, official mark or official attestation before a plant, plant product or other object may be introduced into a protected zone located within the State.

(2) A person may carry out an activity referred to in paragraph (1)(b), (c) or (d) if the activity is permitted under Article 75 of the Plant Health Regulation

and the person carries the activity out in accordance with Article 75 or an implementing act referred to in that Article.

(3) A person who contravenes Article 75 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of an exemption from the requirement to have a phytosanitary certificate before a small quantity of a particular plant (other than a plant for planting), plant product or other object from a third country may be introduced into the State commits an offence.

(4) “phytosanitary certificate” means a phytosanitary certificate that is not invalidated in accordance with Article 77 of the Plant Health Regulation.

Plant passport

44. (1) Subject to paragraph (2) and (3), a person who contravenes the following provisions commits an offence:

- (a) Article 79 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of the requirement to have a Plant Passport before a plant, plant product or other object may be moved within the Union territory;
- (b) Article 80 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of the requirement to have a plant passport before a plant, plant product or other object may be introduced into, or moved within, a protected zone located within the State.

(2) Paragraph (1) does not apply, in accordance with the exception set out in Article 81 of the Plant Health Regulation, or an implementing or delegated act referred to in that Article, to a person supplying a plant, plant product or other object directly to a final user, to the extent that the person engages in that activity.

(3) Paragraph (1) does not apply, in accordance with the exception set out in Article 82 of the Plant Health Regulation, to a professional operator moving a plant, plant product or other object within and between his or her own premises, which are in close proximity to each other, to the extent that the professional operator engages in that activity.

(4) For the purposes of paragraph (3), “close proximity” means a premises located no more than 400 kilometres from the premises of dispatch.

(5) A person who contravenes Article 83 of the Plant Health Regulation or an implementing or delegated act referred to in that Article, in respect of the requirement, content and format of a plant passport for movement within the Union territory, or introduction into, and movement within, a protected zone, commits an offence.

Issuing of plant passports

45. (1) An authorised operator who contravenes Article 84 of the Plant Health Regulation in respect of the issuing of a plant passport commits an offence.

(2) A person who contravenes Article 85 of the Plant Health Regulation in respect of the issuing of a plant passport for a plant, plant product or other object to be moved within the Union territory commits an offence.

(3) A person who contravenes Article 86 of the Plant Health Regulation in respect of the issuing of a plant passport for a plant, plant product or other object to be introduced into, and moved within, a protected zone commits an offence.

(4) Subject to Regulation 51, a person referred to in paragraphs (1), (2) or (3) who contravenes Article 87 of the Plant Health Regulation or a delegated act referred to in that Article, in respect of the requirements for, and conditions of, an inspection before a plant passport may be issued commits an offence.

Attachment of plant passports

46. An authorised operator who contravenes Article 88 of the Plant Health Regulation in respect of the attachment of a plant passport commits an offence.

Authorisation of professional operators to issue plant passports

47. (1) A professional operator may apply to the Minister for authorisation to issue plant passports in accordance with Article 89(1) of the Plant Health Regulation.

(2) An application for authorisation referred to in paragraph (1) shall, in addition to the requirements of Regulation 61, provide evidence of the requirements referred to in points (a) and (b) of Article 89(1) of the Plant Health Regulation and any delegated act referred to in that Article.

(3) A professional operator who, without first being authorised by the Minister to do so, issues a plant passport commits an offence.

Obligations of authorised operators

48. An authorised operator who contravenes Article 90 of the Plant Health Regulation in respect of the following commits an offence:

- (a) the monitoring of points of a production process and the points of the movement of a plant, plant product or other object;
- (b) the keeping of records;
- (c) the training provided to its personnel.

Pest risk management plan

49. (1) An authorised operator may apply to the Minister for approval of a pest risk management plan in accordance with Article 91 of the Plant Health Regulation.

(2) An application for approval referred to in paragraph (1) shall, in addition to the requirements of Regulation 61, provide evidence of the

conditions referred to in points (a) and (b) of Article 91(1) of the Plant Health Regulation.

Replacing a plant passport

50. An authorised operator who contravenes Article 93 of the Plant Health Regulation in respect of the replacement of a plant passport commits an offence.

Replacing a phytosanitary certificate

51. Notwithstanding Regulation 45(4), the Minister may issue a plant passport in accordance with Article 94 of the Plant Health Regulation in respect of an inspection of a plant, plant product or other object to be introduced into the State from a third country, or the replacement of a phytosanitary certificate.

Invalidation and removal of a plant passport

52. A professional operator who contravenes Article 95 of the Plant Health Regulation in respect of-

- (a) invalidating or removing a plant passport,
- (b) informing the Minister of the invalidation or removal referred to in subparagraph (a),
- (c) retaining the invalidated plant passport or its content, or
- (d) informing the authorised operator, or Minister, who issued the invalidated plant passport of the information required by Article 95(4)

commits an offence.

Wood packaging material, wood or other object

53. (1) A person who contravenes Article 96 of the Plant Health Regulation or a delegated act referred to in that Article, in respect of the marking of wood packaging material, wood or other object commits an offence.

(2) A person who contravenes Article 97 of the Plant Health Regulation or an implementing act referred to in that Article, in respect of the repair of wood packaging material commits an offence.

(3) Notwithstanding paragraphs (1) and (2), a registered operator may apply to the Minister for authorisation, in accordance with Article 98(1) of the Plant Health Regulation, to-

- (a) mark wood packaging material, wood or another object referred to in Article 96 of the Plant Health Regulation, or

- (b) repair wood packaging material referred to in Article 97 of the Plant Health Regulation.

(4) An application for authorisation referred to in paragraph (3) shall, in addition to the requirements of Regulation 61, provide evidence of the conditions referred to in points (a) and (b) of Article 98(1) of the Plant Health Regulation and a delegated act referred to in that Article.

(5) Notwithstanding paragraphs (1) and (2), where a registered operator uses wood treated in a facility of another operator, that registered operator may, in respect of that wood, apply to the Minister for authorisation in accordance with Article 98(2) of the Plant Health Regulation to-

- (a) mark wood packaging material, wood or another object referred to in Article 96 of the Plant Health Regulation, or
- (b) repair wood packaging material referred to in Article 97 of the Plant Health Regulation.

(6) An application for authorisation referred to in paragraph (5) shall, in addition to the requirements of Regulation 61, provide evidence of the conditions referred to in points (a), (b) and (c) of Article 98(2) of the Plant Health Regulation.

Other Attestations

54. (1) A person who contravenes Article 99 of the Plant Health Regulation or a delegated or implementing act referred to in that Article, in respect of attestations commits an offence.

(2) A professional operator may apply to the Minister for authorisation to issue attestations referred to in Article 99(1) of the Plant Health Regulation.

(3) An application for authorisation referred to in paragraph (2) shall, in addition to the requirements of Regulation 61, provide evidence of the conditions referred to in points (a), (b) and (c) of Article 99(2) of the Plant Health Regulation and any delegated act referred to in that Article.

(4) A person who, without first being authorised by the Minister to do so, issues an attestation referred to in paragraph (1) commits an offence.

Pre-export certificate

55. A person who contravenes Article 102(4) of the Plant Health Regulation in respect of a pre-export certificate accompanying a plant, plant product or other object concerned during its movement within the Union territory commits an offence.

Notices

56. Where an implementing act lays down a specific rule in relation to a notice referred to in Article 104 of the Plant Health Regulation, the requirement to provide such notice is not fulfilled until the rule is also complied with.

Contravention of Commission Decisions

57. A person who contravenes or fails to comply with any of the following Commission Decisions commits an offence:

- (a) Commission Implementing Decision 2012/697 of 8 November 2012 in respect of the following:
 - (i) The genus *Pomacea* (Perry), or
 - (ii) Plants for planting, excluding seeds, that can only grow in water or soil that is permanently saturated with water;
- (b) Commission Decision No 2002/757/EC of 19 September 2002 (as amended by Commission Decision No 2004/426/EC of 29 April 2004, Commission Decision No 2007/201/EC of 27 March 2007, Commission Implementing Decision 2013/782/EU of 18 December 2013 and Commission Implementing Decision (EU) 2016/1967 of 8 November 2016) in respect of the following:
 - (i) *Phytophthora ramorum* Werres, De Cock & Man in 't Veld *sp. nov.*, or
 - (ii) Susceptible plants, susceptible wood, susceptible bark and other plants referred to in the Commission decision;
- (c) Commission Decision 2004/200/EC of 27 February 2004 in respect of the following:
 - (i) *Pepino mosaic virus*, or
 - (ii) seeds of tomato, *Lycopersicon lycopersicum* (L.) Karsten ex Farw;
- (d) Commission Implementing Decision 2012/270/EU of 16 May 2012 (as amended by Commission Implementing Decision 2014/679/EU of 25 September 2014, Commission Implementing Decision 2016/1359/EU of 8 August 2016 and Commission Implementing Decision (EU) 2018/5 of 3 January 2018) in respect of the following:
 - (i) *Epitrix cucumeris* (Harris), *Epitrix similaris* (Gentner), *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner), or
 - (ii) Tubers of *Solanum tuberosum* L;
- (e) Commission Decision 2006/464/EC of 27 June 2006 in respect of the following:
 - (i) *Dryocosmus kuriphilus* Yasumatsu, or
 - (ii) plants or parts of plants of the genus *Castanea* Mill., intended for planting, other than fruit and seeds;
- (f) Commission Implementing Decision (EU) 2019/2032 of 26 November 2019 in respect of the following:
 - (i) *Fusarium circinatum* Nirenberg & O'Donnell 1998q, or

- (ii) plants of the genus *Pinus* L. and the species *Pseudotsuga menziesii*, intended for planting, including seeds and cones for propagation purposes;
- (g) Commission Implementing Decision (EU) 2016/715 of 11 May 2016 (as amended by Commission Implementing Decision (EU) 2017/801 of 8 May 2017, Commission Implementing Decision (EU) 2018/85 of 18 January 2018 and Commission Implementing Decision (EU) 2019/449 of 18 March 2019) in regards to the following:
 - (i) *Phyllosticta citricarpa* (McAlpine) Van der Aa, or
 - (ii) the specified fruit.

Contravention of Regulation No 2017/625

58. (1) A person who, by act or omission—
- (a) being an organic control authority, delegated body or natural person to which specific official control tasks have been delegated or an official laboratory, fails to comply with an obligation of confidentiality in contravention of Article 8,
 - (b) being an operator, fails to report the arrival of an animal or goods in contravention of Article 9(7),
 - (c) being an operator, fails to comply with a requirement (obligations of operators) in contravention of Article 15,
 - (d) being a body or natural person to which certain official control tasks or certain tasks related to other official activities have been delegated, fails to comply with an obligation in contravention of Article 32,
 - (e) being an operator of an official laboratory, fails to comply with an obligation in contravention of Article 38,
 - (f) being an operator, fails to present a consignment referred to in Article 47(1) at a border control post in contravention of Article 47(5),
 - (g) being an operator, fails to present original official certificates or documents at a border control post in contravention of Article 50(1),
 - (h) being an operator, splits a consignment in contravention of Article 50(3),
 - (i) being an operator, fails to complete the Common Health Entry Document (CHED) in contravention of Article 56(1) or (3),
 - (j) being an operator, fails to provide prior notification in contravention of Article 56(4),
 - (k) being an operator, fails to comply with a direction in contravention of Article 69(1),

- (l) being an operator, re-dispatches a consignment in contravention of Article 72,
- (m) being an operator, fails to issue an official attestation in contravention of Article 91, or
- (n) otherwise contravenes a provision (mentioned in this Regulation),

of Regulation No 2017/625 commits an offence.

(2) Where a sample of a plant, plant product or other object is purchased or taken for analysis, testing or inspection pursuant to Regulation 65, the authorised officer shall ensure that the operator whose plant, plant product or other object is being analysed, tested or inspected has, in accordance with Article 35 of Regulation No 2017/625, the right to a second expert opinion, at the operator's own expense.

Part 3

Restrictions including Registrations, Authorisations and Approvals

Pre-notification of movement

59. (1) Except as provided in paragraph (2) and subject to paragraph (3), a person shall, in accordance with Article 56(3)(a) of Regulation No 2017/625, no later than 1 working day before the expected arrival, notify the Minister in writing of his or her intention to move into the State a plant, plant product or other object referred to in Articles 28(1), 30(1), 40(3), 41(3), 49(1), 53(3), 54(3), 72(1), 73(1) or 74(1) of the Plant Health Regulation or an implementing or delegating act referred to in those provisions.

(2) A person referred to in paragraph (1) may, where logistical constraints prevent compliance with the time limit set out in paragraph (1), avail of the derogation provided for in Article 1(2) of Commission Implementing Regulation (EU) 2019/1013 of 16 April 2019, but in such a case the period of prior notification shall be at least 24 hours.

(3) in case of the import of consignments of unprocessed logs and sawn and chipped wood through a border control post designated in accordance with the exemption provided for in Article 4 of Commission Delegated Regulation (EU) 2019/1012 of 12 March 2019, the period of prior notification referred to in paragraph (1) shall, in accordance with the derogation provided for in Article 1(3) of Commission Implementing Regulation (EU) 2019/1013 of 16 April 2019, be -

- (a) a period of not less than 5 working days, or
- (b) a period agreed with the Minister, such period being not less than the period referred to in paragraph (1).

(4) A person who contravenes paragraphs (1), (2) or (3) commits an offence.

Registration

60. (1) The register established under Regulation 7 of the European Communities (Control of Organisms Harmful to Plants and Plant Products) Regulations 2004 shall continue in existence and be maintained by the Minister as if that register was established under these Regulations, notwithstanding the revocation of the European Communities (Control of Organisms Harmful to Plants and Plant Products) Regulations 2004.

(2) The register continued under paragraph (1) is to be known in these Regulations as the register of professional operators.

(3) The Minister may enter the name of a person in a register, attach conditions to registration, vary a condition or refuse an application.

(4) An application for registration shall be in a form that contains such information as the Minister may request.

(5) A professional operator shall not carry out an activity referred to in points (a) to (e) of the first subparagraph of Article 65 of the Plant Health Regulation unless he or she is entered in a register maintained under this Regulation.

(6) An application for registration shall comply with the following provisions of the Plant Health Regulation:

- (a) Article 65(2) as regards an operator being registered only once and the reference to each of the different premises;
- (b) Article 66 as regards the procedure of registration.

(7) The Minister may make available, upon reasoned request to another member state or to the Commission, or where applicable, justified request, relevant information in accordance with Article 68 of the Plant Health Regulation.

(8) A person entered on the register shall provide such updated information as the Minister may reasonably require to maintain the register.

(9) Without prejudice to the generality of paragraph (3), the Minister may revoke or suspend an entry from the register on notice in writing to the person named in the register.

(10) If the Minister proposes to refuse an application, impose or vary a condition or to revoke or suspend entry onto the register under paragraph (9), he or she shall-

- (a) notify the applicant or registered operator of the proposal and the reasons for the proposal, and that he or she may make representations in relation to the proposal to the Minister within 14 days of notification,
- (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the applicant or registered operator of the decision and the reasons for the decision.

(11) The Minister shall maintain and publish, in a manner that he or she considers appropriate, the register of professional operators.

(12) Where a person is removed from a register, any authorisation attaching to that person is also revoked.

Authorisations and approvals

61. (1) Where the Minister is satisfied that the requirements of these Regulations and the Plant Health Regulation will be complied with, he or she may, subject to these Regulations, authorise or approve a person for the purposes of these Regulations and the Plant Health Regulation in relation to any of the matters specified in paragraph (2).

(2) An authorisation or approval may be granted by the Minister in respect of an application for:

- (a) a temporary authorisation referred to in Regulation 4(1) to introduce into, move within, or hold and multiply within the State, a Union quarantine pest or pests subject to the measures adopted pursuant to Article 30(1) of the Plant Health Regulation, in accordance with Article 8(1) of the Plant Health Regulation;
- (b) a temporary authorisation referred to in Regulation 19(2) to introduce into, move within, or hold and multiply within a protected zone the respective protected zone quarantine pest, in accordance with the second subparagraph of Article 32(2) of the Plant Health Regulation;
- (c) an authorisation referred to in Regulation 28(1) to introduce into a frontier zone situated within the State a plant, plant product or other object originating in a third country frontier zone in accordance with Article 46 of the Plant Health Regulation;
- (d) an authorisation referred to in Regulation 30(1) to temporarily introduce into, and move within, the State a plant, plant product or other object used for official testing, scientific or educational purposes, trials, varietal selection or breeding, originating in a third country, in accordance with Article 48 of the Plant Health Regulation;
- (e) an authorisation referred to in Regulation 36(1) to introduce into a protected zone a plant, plant product or other object originating in a third country frontier zone in accordance with Article 56 of the Plant Health Regulation;
- (f) an authorisation referred to in Regulation 38(1) to temporarily introduce into, and move within, a protected zone situated within the State a plant, plant product or other object used for official testing, scientific or educational purposes, trials, varietal selection or breeding, in accordance with Article 58 of the Plant Health Regulation;
- (g) an authorisation referred to in Regulation 41(1) to-

- (i) release a plant, plant product or other object referred to in Article 64(1) of the Plant Health Regulation from a quarantine station or a confinement facility in accordance with Article 64(1) or an implementing act referred to in that Article, or
 - (ii) move a plant, plant product or other object referred to in Article 64(2) of the Plant Health Regulation from a quarantine station or a confinement facility to another quarantine station or confinement facility, in accordance with Article 64(2) or an implementing act referred to in that Article;
 - (h) an authorisation referred to in Regulation 47(1) to issue plant passports in accordance with Article 89(1) of the Plant Health Regulation;
 - (i) an approval referred to in Regulation 49 of a pest risk management plan in accordance with Article 91 of the Plant Health Regulation;
 - (j) an authorisation referred to in Regulation 53(4), in accordance with Article 98(1) of the Plant Health Regulation, to-
 - (i) mark wood packaging material, wood or another object referred to in Article 96 of the Plant Health Regulation, or
 - (ii) repair wood packaging material referred to in Article 97 of the Plant Health Regulation;
 - (k) an authorisation referred to in Regulation 53(6), where a registered operator uses wood treated in a facility of another operator, in accordance with Article 98(2) of the Plant Health Regulation to-
 - (i) mark wood packaging material, wood or another object referred to in Article 96 of the Plant Health Regulation, or
 - (ii) repair wood packaging material referred to in Article 97 of the Plant Health Regulation;
 - (l) an authorisation referred to in Regulation 54(2) to issue attestations referred to in Article 99(1) of the Plant Health Regulation;
 - (m) an authorisation or approval referred to in a delegated or implementing act and where such authorisation or approval is not referred to in this paragraph.
- (3) An application for authorisation or approval shall -
- (a) be submitted in writing by the applicant to the Minister,
 - (b) be in such form as the Minister may specify, and
 - (c) be legible and state the name and address of the applicant and where the applicant is a body corporate its principal place of business.

(4) A person applying for authorisation or approval shall furnish the Minister with such information as the Minister may reasonably require to ensure that these Regulations and the Plant Health Regulation will be complied with and to decide whether or not to grant the authorisation or approval.

(5) A person who in making an application for authorisation or approval wilfully makes a false or misleading statement commits an offence.

(6) An authorisation or approval with any conditions attached to it shall be in writing and in such form as the Minister may decide and signed by an officer of the Minister.

(7) An authorisation or approval is valid for such period as the Minister may determine.

- (8) (a) The Minister may attach any condition (including a condition as to the keeping of appropriate records) to an authorisation or approval at the time it is granted or at any time subsequently,
- (b) the Minister may amend or revoke a condition attached to the authorisation or approval and shall notify the person who has applied for or holds an authorisation or approval in writing of the conditions, amendment or revocation, as the case may be, in relation to that authorisation or approval,
- (c) compliance with the relevant provisions of these Regulations and of the Plant Health Regulation (including any delegated or implementing act) is a condition of any authorisation or approval under this Regulation.

(9) Where the Minister is not satisfied that the relevant provisions of these Regulations and the Plant Health Regulation are being or will be complied with, the Minister may -

- (a) refuse an application for authorisation or approval, or
- (b) revoke or suspend an authorisation or approval,

and shall notify the person who has applied for or holds an authorisation or approval in writing of the refusal, revocation or suspension.

(10) The Minister shall not-

- (a) revoke or suspend an authorisation or approval,
- (b) refuse an application for authorisation or approval, or
- (c) amend or revoke a condition to an authorisation or approval,

without -

- (i) notifying the holder of, or applicant for, the authorisation or approval of his intention to revoke or suspend the authorisation or approval or refuse the application, or amend the condition, as the case may be,
- (ii) specifying his or her reasons for the intended revocation, suspension or refusal of the authorisation or approval, or amendment of the condition, and

- (iii) affording the holder of, or applicant for, the authorisation or approval an opportunity for making representations or having representations made on his or her behalf to the Minister in relation to the proposed revocation, suspension or refusal or amendment of the condition, as the case may be, within 14 days of the receipt by that person of the notification referred to in subparagraph (i) and having regard to any such representations.

(11) The holder of an authorisation or approval shall inform the Minister if significant changes are made in the operation or organisation of the activities to which the authorisation or approval relates.

(12) A person who contravenes an authorisation or approval or a condition of an authorisation or approval or fails to comply with paragraph (11) commits an offence.

Records

62. A person who is required to maintain a record pursuant to the Plant Health Regulation or as a condition of registration or approval under these Regulations shall maintain the record for a period of not less than 3 years (or where, in relation to a particular type or class of record, a longer period is specified in the Plant Health Regulation, for that specified period) and make it available on request to an authorised officer.

Forgery including fraudulent or deceptive activity

63. (1) A person shall not forge or utter knowing it to be forged—

- (a) a document or record referred to in these Regulations,
- (b) a certificate referred to in Article 88 of Regulation No 2017/625,
- (c) an attestation referred to in Article 99 of the Plant Health Regulation or Article 91 of Regulation No 2017/625 or a private attestation,
- (d) an entry in the professional operator register, a record purporting to be maintained under Regulation 62, a requirement or direction of an authorised officer under Regulation 65 (if the requirement or direction is in writing), a compliance notice or notice under Regulation 70, a certificate or other document purporting to be issued, granted or given under these Regulations,

(in this Regulation referred to as “a forged document”).

(2) A person shall not alter with intent to defraud or deceive, or to utter knowing it to be so altered—

- (a) a document or record referred to in these Regulations,
- (b) a certificate referred to in Article 88 of Regulation No 2017/625,

- (c) an attestation referred to in Article 99 of the Plant Health Regulation or Article 91 of Regulation No 2017/625 or a private attestation,
- (d) an entry in the register of professional operators, a record purporting to be maintained under Regulation 62, a requirement or direction of an authorised officer under Regulation 65 (if the requirement or direction is in writing), a compliance notice or notice under Regulation 70, a certificate or other document purporting to be issued, granted or given under these Regulations,

(in this Regulation referred to as “an altered document”).

(3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged document or an altered document.

(4) A person, either directly or indirectly, by himself or herself or with another person shall not knowingly-

(a) import or move into the State a plant, plant product or other object where the marketing, indication, documentation or labelling of such plant, plant product or other object is false, deceptive or misleading or is likely to create an erroneous impression about the health status of such plant, plant product or other object,

(b) sell or supply a plant, plant product or other object to another professional operator or member of the general public where the marketing, indication, documentation or labelling of such plant, plant product or other object is false, deceptive or misleading or is likely to create an erroneous impression about the health status of such plant, plant product or other object,

(c) make false, incorrect or incomplete statements to deceive or attempt to deceive in relation to the health status of a plant, plant product or other object, or

(d) apply the ISPM15 mark to wood packaging material, or repair wood packaging material bearing the ISPM15 mark, in contravention of the Plant Health Regulation.

(5) Without prejudice to the generality of paragraph (4), a person shall not knowingly misrepresent the health status of a plant, plant product or other object in relation to, but not limited to, its infestation or contamination with a pest or disease, place of origin or dispatch, or the species, variety or constituent parts of a plant, plant product or other object.

Part 4

Enforcement

Appointment of authorised officer

64. (1) The Minister may appoint in writing such persons or classes of persons as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under these Regulations, as specified in the appointment.

(2) The Minister may terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period or specified purpose.

(3) An appointment as an authorised officer ceases—

- (a) if it is terminated pursuant to paragraph (2),
- (b) if it is for a fixed period, on the expiry of that period,
- (c) if it is for a specified purpose, on the completion of that purpose, or
- (d) if the person appointed is an officer of the Minister, a member of the Garda Síochána, an officer of the Revenue Commissioners or member of a class of person, upon the person ceasing to be such an officer or member.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person to whom that paragraph relates.

(5) An authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment.

(6) when exercising a power conferred on him or her, the authorised officer, an officer of the Revenue Commissioners or a member of the Garda Síochána shall, if requested by a person affected, produce the warrant or evidence that he or she is such an officer or member to the person.

Functions of authorised officer

65. (1) For the purposes of these Regulations, the Plant Health Regulation or a Commission Decision an authorised officer may—

- (a) enter and inspect, at all reasonable times, any premises if he or she is carrying out an official control or other official activity for the purposes of these Regulations, the Plant Health Regulation or a Commission Decision or where he or she has reasonable grounds for believing that—
 - (i) a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates is, may be or has been present,

- (ii) a record relating to a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates is, may be or has been present,
 - (iii) equipment, machinery, a vehicle, a vessel or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates is, may be or has been present,
- (b) examine a pest, plant, plant product, object, equipment, machinery or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates,
 - (c) require the name and address of the owner, or person in possession or control of a pest, plant, plant product, object, equipment, machinery, a document, a vehicle or a vessel used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates, or require details of place of departure, journey or destination,
 - (d) inspect a vehicle, a vessel, an aircraft, a railway wagon, a container, equipment, machinery, a computerised information management system or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates and require the person in charge or control of such to refrain from moving it,
 - (e) require the owner, person in possession or control of any premises, equipment, machinery, a computerised information management system, a vehicle, a vessel or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates, to produce to the officer such records (and in the case of a record stored in non-legible form, produce to him or her a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,
 - (f) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form) or extracts from the record that the officer finds or is produced to him or her during an inspection,
 - (g) make a record, including by means of writing, sound recording, photograph, video or other means,
 - (h) take, without making a payment, samples from a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates, or any article, substance or liquid as he or she may reasonably

require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient and mark or otherwise identify it,

- (i) obtain samples of a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates by way of anonymously placed orders or mystery shopping, whether in person, remotely or over the internet, and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient and mark or otherwise identify it.

(2) An authorised officer may require a person to give information regarding the ownership and identity of a pest, plant, plant product, object, equipment, machinery, a vehicle, a vessel or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates as is in the person's knowledge or procurement.

(3) Where an authorised officer has reasonable grounds for believing that—

- (a) an offence is being or has been committed under these Regulations, or
- (b) evidence of an offence to which subparagraph (a) relates may be, is or has been on any land or premises, or in a vehicle, a vessel, an aircraft, a railway wagon, a container, equipment or machinery,

the officer may, in addition to the powers exercisable by him or her under paragraph (1):

- (i) search the land or premises;
- (ii) search the vehicle, vessel, aircraft, railway wagon, container, equipment or machinery (including any computerised information management system);
- (iii) require a person in charge or control of the vehicle, vessel, aircraft, railway wagon, container, equipment or machinery to—
 - (I) refrain from moving it, or move it to a location where it may be searched,
 - (II) give information regarding its place of departure, journey or destination, and
 - (III) where the equipment or machinery is part of a computerised information management system, provide assistance (including passwords) to enable access to such devices or systems;

- (iv) seize and detain a pest, plant, plant product, object or other thing and mark or otherwise identify it;
- (v) detain the vehicle, vessel, aircraft, railway wagon, equipment, machinery (including any computerised information management system) or container for such reasonable period necessary for the purposes of permitting an inspection or a search under this Regulation either at the place where it was first detained or require it to be moved to such other location as the authorised officer requires;
- (vi) remove any equipment, machinery (including any computerised information management system), books, documents or records and detain them for such reasonable period necessary for the purpose of his or her functions under these Regulations;
- (vii) give such direction to a person who has a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates, or who has equipment, machinery, vehicle or vessel or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates in his or her possession or under his or her control or who has information relating to such, as the authorised officer may reasonably consider necessary for the purposes of these Regulations.

(4) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he or she has obtained a search warrant under Regulation 66 other than where he or she has reasonable grounds for believing that before a search warrant could be sought in relation to the dwelling under Regulation 66, any evidence of an offence referred to in paragraph (3)(a) is being or is likely to be disposed of or destroyed.

(5) An authorised officer, when exercising a function under this Regulation, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the function.

(6) An authorised officer may use reasonable force, if necessary, to exercise his or her functions under these Regulations.

(7) Where, in the course of exercising a function under these Regulations, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under these Regulations, the officer may seize and retain it for use in evidence in proceedings for an offence under these Regulations.

(8) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under these Regulations if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(9) A member of the Garda Síochána may stop a vehicle or vessel, for the purposes of these Regulations and may require it to be moved for inspection to such place as he or she directs.

(10) A person who has—

- (a) a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates, or
- (b) equipment, machinery, a vehicle, a vessel or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates in his or her possession or under his or her control, or information or a record relating to any of them, shall give such—
 - (i) assistance to an authorised officer, or person who accompanies the officer, and
 - (ii) information to an authorised officer on request being made, in that behalf by the officer, as the officer may reasonably require for the exercise of his or her functions under these Regulations.

(11) The owner or person in charge of any premises used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates shall, if required by an authorised officer, where it is practicable and possible, provide suitable equipment or facilities or a suitable part of the plant or establishment for the officer to carry out his or her functions under these Regulations.

(12) An authorised officer may require a person to give to the officer such information as is in the person's possession, power or procurement as regards any premises specified by the officer including—

- (a) whether or not the premises is used, either partly or wholly, for or in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates,
- (b) the name of the owner, occupier or person who is in charge of the premises, and
- (c) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

(13) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on him or her by these Regulations.

Search warrant

66. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for believing-

- (a) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found on a premises,
- (b) there is or was a pest, plant, plant product, object, equipment or other thing made, used or adapted for use (including manufacture and transport) in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates, or
- (c) a document or other record related to a thing to which subparagraph (a) or (b) refers is or may be on the premises,

the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle, vessel or aircraft named in the warrant.

(3) If a premises is entered under a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Compliance notice

67. (1) Where an authorised officer is of the opinion that—

- (a) these Regulations, the Plant Health Regulation or a Commission Decision is not being or has not been complied with, or there are reasons to believe that these Regulations, the Plant Health Regulation or a Commission Decision will not be complied with,
- (b) it is necessary for the protection of human health, plant health or the environment including the prevention, control or eradication of a disease, or
- (c) it is necessary, ancillary or supplementary for the Plant Health Regulation or a Commission Decision to have full effect,

the officer may serve a notice (“compliance notice”) stating that opinion to the person—

- (i) who appears to be the owner, occupier, or person in charge of the premises, or
- (ii) in possession or control of a pest, plant, plant product, object or other thing

to which the notice relates.

- (2) A compliance notice shall—
- (a) require the person to whom it is served to take such action as specified in the notice,
 - (b) inform the person to whom it is served that he or she may appeal the notice in the District Court under Regulation 68, and
 - (c) state that if the person to whom it is served fails to comply with the notice, he or she commits an offence and is liable to a penalty set out in Regulation 76(1).
- (3) A compliance notice may require that—
- (a) a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates be dealt with in a manner specified in the notice,
 - (b) such alterations be made to a premises or operations at a premises as the officer specifies in the notice,
 - (c) a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates be detained, disposed of or destroyed in such manner and at a place (if any) as the officer specifies in the notice,
 - (d) a specified operation or activity cease on a premises,
 - (e) a specified operation or activity take place only in a manner specified in the notice,
 - (f) a specified type or level of sampling and analysis be undertaken for a period specified in the notice,
 - (g) prohibit the transport or further transport of a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates, either absolutely or unless such conditions as may be specified in the notice are complied with,
 - (h) require a person to return a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates, to the place of departure by a route which in the opinion of the authorised officer is the most direct or prudent,
 - (i) a measure within the meaning of Article 138(2) of Regulation No 2017/625 be taken as specified in the notice,
 - (j) a special treatment within the meaning of Article 71 of Regulation No 2017/625 be taken as specified in the notice,
 - (k) a specified operation or activity may only be carried out under and in accordance with such terms and conditions as are specified in the notice, or

- (l) require a person to make such changes to a label, packaging or marketing material including re-labelling of a plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates as may be specified in the notice.

(4) A person to whom a compliance notice is served shall comply with the compliance notice until the notice expires, is withdrawn under paragraph (6) or is annulled under Regulation 68, and not cause or permit another person to contravene the terms of the notice.

(5) A compliance notice may specify a time limit within which it is to be complied with.

(6) A compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(7) A compliance notice may require the owner, occupier, operator or person in charge of any premises, a pest, plant, plant product, object, vehicle, vessel, machinery (including any computerised information management system), equipment or other thing to which the Plant Health Regulation relates to choose between two or more of the requirements specified in the notice.

(8) A compliance notice shall include an address for service of an appeal under Regulation 68.

(9) A person on whom a compliance notice is served who fails to comply with, or causes or permits another person to contravene the notice commits an offence.

Appeal against compliance notice

68. (1) A person to whom a compliance notice is served may, within 7 days from the date of service of the notice, appeal the notice to the Judge of the District Court having jurisdiction in the District Court district—

- (a) where the pest, plant, plant product, object, premises, vehicle, machinery (including any computerised information management system), equipment, vessel or other thing to which the Plant Health Regulation or a Commission Decision relates which is the subject of the notice, is situated, or
- (b) where the person bringing the appeal ordinarily resides or carries on business,

on the grounds that the notice is unreasonable having regard to these Regulations, the Plant Health Regulation or a Commission Decision.

(2) Notice of an appeal shall contain a statement of the grounds upon which it is alleged that the notice or any of the terms of the notice are unreasonable and shall be served on the authorised officer who served the compliance notice at the address included on the notice in accordance with Regulation 67 not later than 48 hours prior to the hearing of the appeal.

(3) A person bringing an appeal shall lodge a copy of the notice or appeal with the District Court Clerk concerned not later than 48 hours prior to the hearing of the appeal.

(4) On the hearing of an appeal a Judge of the District Court may confirm, modify or annul a notice.

(5) A person, including a person on whom a compliance notice has been served, who —

- (a) pending the determination of an appeal, deals with a pest, plant, plant product, object, premises, vehicle, vessel, machinery (including any computerised information management system), equipment or other thing to which the notice relates, other than in accordance with the terms of the compliance notice, or
- (b) if the notice is confirmed or modified on appeal, deals with a pest, plant, plant product, object, any premises, vehicle, vessel, equipment, machinery (including any computerised information management system) or other thing to which the notice relates other than in accordance with the terms of the compliance notice as confirmed or modified

commits an offence.

(6) In this Regulation “appeal” means an appeal under paragraph (1).

Seizure and detention for non-compliance with a compliance notice

69. (1) Without prejudice to an appeal under Regulation 68, if—

- (a) a person in control of a pest, plant, plant product, object or other thing to which a compliance notice relates, or in control of a premises, vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with a pest, plant, plant product, object or other thing to which a compliance notice relates fails to comply with the terms of a compliance notice within the time specified,
- (b) an authorised officer has reasonable grounds for believing that the terms of a compliance notice, whether or not modified under Regulation 68(4), will not be complied with, or
- (c) a compliance notice has been confirmed with or without modification under Regulation 68(4) and the notice has not been complied with,

an authorised officer may at any time seize the pest, plant, plant product, object or other thing to which a compliance notice relates, or seize the vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with a pest, plant, plant product, object or other thing to which a compliance notice relates.

(2) If the pest, plant, plant product, object or other thing to which a compliance notice relates, a vessel, vehicle, equipment, machinery (including

any computerised information management system) or other thing used in connection with a pest, plant, plant product, object or other thing to which a compliance notice relates is seized in accordance with paragraph (1), an authorised officer may—

- (a) sell, destroy or dispose of the pest, plant, plant product, object or other thing to which a compliance notice relates or cause it to be sold, destroyed or be disposed of, or
- (b) take such other measures in relation to the pest, plant, plant product, object or other thing to which a compliance notice relates, or in relation to the vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with a pest, plant, plant product, object or other thing to which a compliance notice relates as the authorised officer considers appropriate in the circumstances.

(3) Any profits arising out of the sale, destruction or disposal of a pest, plant, plant product, object or other thing to which a compliance notice relates in accordance with paragraph (2) shall be paid to the owner of the pest, plant, plant product, object or other thing to which a compliance notice relates less any expenses incurred in connection with the seizure, sale, destruction or disposal.

(4) The costs (including ancillary costs) of a measure taken under this Regulation are recoverable by the Minister—

- (a) as a simple contract debt in a court of competent jurisdiction from the person who was the owner of the pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or a Commission Decision relates or from the person who was the owner of the means of transport at the time the measure was carried out, or
- (b) by deducting the costs from any sum payable from the Minister to a person on whom a notice has been served.

(5) The costs of any action required by a compliance notice shall be borne by the owner of a premises, pest, plant, plant product, object or other thing to which the notice relates.

Fixed Payment Notice

70. (1) If an officer of the Minister, authorised by the Minister in that behalf, has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations (other than an offence under Regulation 63(1), (2), (4) or (5)), he or she may serve a notice in writing (“fixed payment notice”) on that person stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days beginning on the date of the notice make to the Minister, at the address specified in the notice, a payment of €250 accompanied by the notice,

- (c) the person is not obliged to make the payment, and
 - (d) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.
- (2) Where a fixed payment notice is served under paragraph (1)—
- (a) the person to whom the notice applies may, during the period specified in the notice, make to the Minister, at the address specified in the notice, the payment specified in the notice accompanied by the notice,
 - (b) the Minister may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
 - (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In proceedings for an offence under these Regulations, the onus of proving that a payment pursuant to a notice under this Regulation has been made lies on the person on whom the fixed payment notice was served.

(4) In proceedings for an offence referred to in paragraph (1) it is a defence for the accused to show that he or she has made a payment in accordance with this Regulation pursuant to a fixed payment notice issued in respect of that offence.

Part 5

Procedural

Fees

71. (1) The Minister may, from time to time, set and charge a fee in respect of—

- (a) an application for entry onto, or amendment to, the register of professional operators,
- (b) an application for an authorisation or approval under Regulation 61(1),
- (c) a licence, authorisation, approval, attestation or certificate (or amendment to registration, a licence, authorisation, approval, attestation or certificate) which is in force for a definite or indefinite period of more than 12 months, such annual fee (if any), or
- (d) the performance by the Minister of a function under the Plant Health Regulation or under these Regulations,

and different fees (having regard to Chapter VI of, and Annex IV to, Regulation No 2017/625 and not exceeding the cost, estimated by the Minister, of performing the function to which the fee relates) may be set and charged having regard to the cost to the Minister of performing a particular function.

(2) Notwithstanding paragraph (1), the Minister shall charge a fee for an activity referred to -

(a) in Article 79(1), in respect of which a fee is set under Annex IV to that Regulation unless he or she sets a different fee in accordance with Article 81, and

(b) in Article 79(2), in accordance with Article 81 of Regulation No 2017/625.

(3) A fee payable pursuant to this Regulation may be recovered by the Minister from the person by whom it is payable as a simple contract debt in a court of competent jurisdiction.

(4) Moneys received by the Minister under this Regulation or Regulation 70 shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Public Expenditure and Reform.

(5) A fee set under the Regulations revoked by Regulation 78 of these Regulations remains payable and may be recovered by the Minister from the person by whom it is payable as a simple contract debt in a court of competent jurisdiction.

Obstruction and false statements

72. A person who—

(a) obstructs, interferes with or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,

(b) fails or refuses, without reasonable cause, to comply with a requirement of an authorised officer under Regulation 65,

(c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with Regulation 65,

(d) in purporting to give information to an authorised officer for the exercise of the officer's functions under these Regulations—

(i) makes a statement that he or she knows to be false or misleading in a material particular or recklessly makes a statement which is false or misleading in a material particular, or

(ii) intentionally fails to disclose a material particular,

- (e) tampers or otherwise interferes with a sample taken under Regulation 65, or
 - (f) aids or abets a contravention of these Regulations, the Plant Health Regulation or a Commission Decision
- commits an offence.

Data Sharing

73. (1) Information, including personal data (within the meaning of Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 and section 69 of the Data Protection Act 2018) held by—

- (a) the Minister,
- (b) a body or individual to whom a function under these Regulations, the Plant Health Regulation or a Commission Decision has been delegated, or
- (c) the operator of a laboratory for the analysis of samples,

for the purposes of these Regulations or an act of the institutions of the European Union, may be exchanged by them with each other for the performance by them of their functions under these Regulations.

(2) Paragraph (1) is without prejudice to any other power of the Minister to disclose information by or under an act of the institutions of the European Union.

Service

74.(1) A compliance notice shall, subject to paragraph (2), be addressed to the person concerned by name and may be served on or given to the person—

- (a) by giving it to the person, his or her employee, servant or agent,
- (b) by leaving it at the address at which the person ordinarily resides, normally carries out business, or, if an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, if an address for service has been furnished, at that address,
- (d) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the compliance notice relates to a premises, by delivering it to the premises or by affixing it in a conspicuous position on or near the premises,
- (e) by sending it by means of electronic mail to a device or facility for the reception of electronic mail where such an electronic mail address has been furnished by the person, but only if the sender's facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail confirming successful transmission of the notification, notice or document.

(2) If a compliance notice is to be served on or given to a person who is the owner or occupier of a premises and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words “the owner” or “the occupier”.

(3) A person shall not, at any time within 6 months after a compliance notice is affixed under paragraph (1)(d), remove, damage or deface the notification or compliance notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Act 2014 is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

Part 6

Offences and Penalties

Contravention of these Regulations

75. (1) A person who, by act or omission-

- (a) contravenes Regulation 60(5), (6) or (8), 62 or 63(3) of these Regulations,
- (b) fails to give assistance to an authorised officer, or person who accompanies the officer, or
- (c) contravenes a condition of-
 - (i) a registration under Regulation 60, or
 - (ii) an authorisation or approval under these Regulations
 commits an offence.

(2) A person who contravenes Regulation 63(1), (2), (4) or (5) commits an offence.

(3) A statement or admission made by a person pursuant to a requirement under Regulation 65(10)(ii) is not admissible in evidence in proceedings brought against the person for an offence (other than an offence under this Regulation for failing to give information or giving false information) under these Regulations.

Penalties & prosecutions

76. (1) A person who commits an offence under these Regulations (other than an offence under Regulation 63(1), (2), (4) or (5)) is liable-

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment to a fine not exceeding €500,000, or to imprisonment for a term not exceeding three years, or to both.

(2) A person who commits an offence under Regulation 63(1), (2), (4) or (5) is liable—

- (a) on summary conviction, to—
 - (i) a class A fine,
 - (ii) imprisonment for a term not exceeding 6 months,
 - (iii) the forfeiture of any consideration or advantage obtained in connection with the offence or, in the alternative, the forfeiture of land, cash or other property of an equivalent value to such consideration or advantage, or
 - (iv) any combination of the penalties referred to in subparagraphs (i) to (iii), or
- (b) on conviction on indictment, to—
 - (i) a fine not exceeding €500,000,
 - (ii) imprisonment for a term not exceeding 3 years,
 - (iii) the forfeiture of any consideration or advantage obtained in connection with the offence or, in the alternative, the forfeiture of land, cash or other property of an equivalent value to such consideration or advantage, or
 - (iv) any combination of the penalties referred to in subparagraphs (i) to (iii).

(3) An offence under these Regulations may be prosecuted summarily by the Minister.

(4) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purported to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she was guilty of the offence.

(5) If the affairs of a body corporate are managed by its members, paragraph (4) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

(6) In proceedings alleging a contravention of these Regulations, it is a defence for the defendant to show he or she acted in accordance with a derogation or transitional measure laid down by an act of an institution of the European Union relevant to the subject of the offence it is alleged that he or she committed.

Evidence on certificate etc

77. (1) In proceedings for an offence under these Regulations, a certificate purported to be signed by a person employed at a laboratory where a sample taken under these Regulations is analysed stating the capacity in which the person is employed and stating—

- (a) that the person received a sample,

- (b) that, for the period specified in the certificate, the person had the sample in his or her possession,
- (c) that the person gave the sample to another person named in the certificate, or
- (d) the person carried out a procedure for the purpose of detecting in the sample, a substance or contamination or that the sample contained a substance as is, or was contaminated in a manner, specified in the certificate,

is (without proof of the signature of the person or that he or she is employed at the laboratory), unless the contrary is proved, evidence of the matters stated in the certificate.

(2) A certificate purporting to be signed by an officer of the Minister and to certify that on a specific day or days or during the whole of a specified period-

- (a) a particular person or establishment did not stand registered in the register of professional operators,
- (b) the registration of a person or establishment in the register of professional operators is suspended or has been revoked,
- (c) a person was or was not the holder of an authorisation or approval granted under these Regulations,
- (d) a plan or establishment was or was not authorised or approved under these Regulations, or
- (e) that a particular authorisation or registration, referred to in this paragraph, was subject to a particular condition or conditions,

is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Minister, evidence, unless the contrary is shown, of the matters stated in the certificate.

(3) In proceedings for an offence under these Regulations the court may, if it considers that the interests of justice so require, direct that oral evidence of any matter stated in a certificate under paragraph (1) or (2) be given, and the court may for the purpose of receiving oral evidence adjourn the matter.

Part 7

Revocations and Transitional Measures

Revocations, savers etc

78. (1) The following Regulations are revoked:

- (a) The European Communities (Phytosanitary Measures) Regulations 2004 (S.I. No. 578 of 2004),
- (b) European Communities (Control of Organisms Harmful to Plants and Plant Products) Regulations 2004 (S.I. No. 894 of 2004),

- (c) European Communities (Control of Organisms Harmful to Plants and Plant Products) (Amendment) (No. 3) Regulations 2006 (S.I. No. 490 of 2006),
- (d) the European Communities (Phytosanitary Measures) (Sudden Oak Death) (Amendment) Regulations 2007 (S.I. No. 673 of 2007),
- (e) European Communities (Control of Organisms Harmful to Plants and Plant Products) (Amendment) (No. 3) Regulations 2007 (S.I. No. 777 of 2007),
- (f) European Communities (Control of Organisms Harmful to Plants and Plant Products) (Amendment) Regulations 2012 (S.I. No. 99 of 2012),
- (g) European Communities (Control of Organisms Harmful to Plants and Plant Products) (Amendment) (No. 2) Regulations 2012 (S.I. No. 297 of 2012),
- (h) European Communities (Control of Organisms Harmful to Plants and Plant Products) (Amendment) (No.3) Regulations 2012 (S.I. No. 370 of 2012),
- (i) European Communities (Control of Organisms Harmful to Plants and Plant Products) (Amendment) (No. 2) Regulations 2017 (S.I. No. 318 of 2017),
- (j) European Communities (Control of Organisms Harmful to Plants and Plant Products) (Amendment) (No. 3) Regulations 2018 (S.I. No. 86 of 2018),
- (k) European Communities (Control of Organisms Harmful to Plants and Plant Products) (Amendment) (No.4) Regulations 2018 (S.I. No. 87 of 2018),
- (l) European Communities (Control of Organisms Harmful to Plants and Plant Products) (Amendment) (No.5) Regulations 2018 (S.I. No.444 of 2018),
- (m) European Communities (Control of Organisms Harmful to Plants and Plant Products) (Amendment) Regulations 2019 (S.I. No. 227 of 2019), and
- (n) European Communities (Control of Organisms Harmful to Plants and Plant Products) (Amendment) (No. 2) Regulations 2019 (S.I. No. 437 of 2019).

(2) The provisions of the following Orders do not apply to a pest, plant, plant product or other thing referred to in these Regulations, the Plant Health Regulation or a Commission Decision that originates in a Member State—

- (a) the Potatoes Importation (Ireland) Order, 1920,
- (b) the Destructive Insects and Pests (Ireland) Order, 1922,
- (c) the Destructive Insects and Pests (Chrysanthemum Midge) (No. 2) Order 1939,

- (d) the Colorado Beetle Order 1945 (S.R. and O., No. 228 of 1945),
- (e) the Importation of Strawberry Plants and Black Currant and Gooseberry Bushes Order 1946 (S.R. and O. No. 358 of 1946),
- (f) the Importation of Forest Trees (Prohibition) Order 1949 (S.I. No. 292 of 1949), and
- (g) the Stem and Bulb Eelworm Order 1966 (S.I. No. 2 of 1966).

(3) An authorised officer appointed under the Regulations revoked by paragraph (1) and holding office immediately before the making of these Regulations continues in office after such making as if appointed under these Regulations.

(4) An authorisation granted under the Regulations revoked by paragraph (1) and in force immediately before the making of these Regulations continues in force after such making as if granted under these Regulations.

(5) An application for entry in the register or an application for an authorisation (within the meaning of the Regulations revoked by paragraph (1)) that remains to be determined on commencement of these Regulations is, after the commencement of these Regulations considered to be an application for entry in the register of professional operators or an application for an authorisation and may be determined as if made under these Regulations.

(6) Any reference made in an instrument to Regulations revoked by paragraph (1) shall be construed as a reference to these Regulations.

Regulation 2

Schedule

Ref	EU Act
1	Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017
2	Commission Implementing Regulation (EU) 2017/2313 of 13 December 2017
3	Commission Implementing Regulation (EU) 2018/2018 of 18 December 2018
4	Commission Implementing Regulation (EU) 2018/2019 of 18 December 2018 (as amended by Commission Implementing Regulation (EU) 2020/1214 of 21 August 2020 and Commission Implementing Regulation (EU) 2020/1361 of 30 September 2020)

5	Commission Delegated Regulation (EU) 2019/827 of 13 March 2019
6	Commission Delegated Regulation (EU) 2019/829 of 14 March 2019
7	Commission Delegated Regulation (EU) 2019/1702 of 1 August 2019
8	Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019
9	Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 as amended by Commission Implementing Regulation (EU) 2020/1164 of 6 August 2020
10	Commission Implementing Regulation (EU) 2019/2148 of 13 December 2019 (as amended by Commission Implementing Regulation (EU) 2020/1217 of 25 August 2020)
11	Commission Implementing Regulation (EU) 2020/178 of 31 January 2020
12	Commission Implementing Regulation (EU) 2020/918 of 1 July 2020
13	Commission Implementing Regulation (EU) 2020/1002 of 9 July 2020
14	Commission Implementing Decision (EU) 2020/758 of 4 June 2020
15	Commission Implementing Regulation (EU) 2020/1191 of 11 August 2020
16	Commission Implementing Regulation (EU) 2020/1199 of 13 August 2020
17	Commission Implementing Regulation (EU) 2020/1201 of 14 August 2020
18	Commission Implementing Regulation (EU) 2020/1213 of 21 August 2020 (as amended by Commission Implementing Regulation (EU) 2020/1362 of 30 September 2020)
19	Commission Implementing

	Regulation (EU) 2020/1231 of 27 August 2020
20	Commission Implementing Regulation (EU) 2020/1292 of 15 September 2020



GIVEN under my Official Seal,
23 October, 2020.

CHARLIE MCCONALOGUE,
Minister for Agriculture, Food and the Marine.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

These Regulations give further effect to Plant Health Regulation (EU) 2016/2031 to provide for more proactive and effective measures to protect plants, plant products and forests from destructive pests and diseases.

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