

**Consolidated text<sup>1</sup> of Preserved Commission Implementing Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC**

Text of the Preserved Commission Implementing Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC ("**the Retained Plant Health Regulation**"), as amended, insofar as it applies to Guernsey, by:

- The Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020 (G.S.I. No. 130 of 2020),
- The Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2021 (G.S.I. No. 53 of 2021),
- The Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2022 (G.S.I. No. 5 of 2022), and
- The Plant Health (Preserved EU law) (Amendment) (Guernsey) Regulations, 2023 (G.S.I. No. 41 of 2023).

Whilst it is believed to be accurate, this document is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions and no liability is accepted for any loss arising from its use.

This document is up to date as at 3<sup>rd</sup> August, 2023 so that the reader should check for any subsequent amendments to the Retained Plant Health Regulation under Guernsey legislation.

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<sup>1</sup> Note: unlike the consolidated texts of legislation of domestic origin i.e. Laws, Ordinances and Statutory Instruments, this consolidation does not include notes on each amendment.

**PRESERVED COMMISSION IMPLEMENTING REGULATION (EU) 2016/2031  
OF THE EUROPEAN PARLIAMENT OF THE COUNCIL**

**of 26 October 2016**

**on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Directive 2000/29/EC sets out a plant health regime.
- (2) On 21 November 2008, the Council invited the Commission to proceed to an evaluation of that plant health regime.
- (3) In the light of the outcome of that evaluation and the experience gained from the application of Directive 2000/29/EC, that Directive should be replaced. In order to ensure uniform application of the new rules, the act replacing that Directive should take the form of a Regulation.
- (4) Plant health is very important for plant production, forests, natural and planted areas, natural ecosystems, ecosystem services and biodiversity in the Union. Plant health is threatened by species injurious to plants and plant products which now present a greater risk of being introduced into the Union territory owing to

globalisation of trade and climate change. In order to fight that threat, it is necessary to adopt measures concerning the determination of the phytosanitary risks posed by those pests and the reduction of those risks to an acceptable level.

(5) The need for such measures has long been recognised. They have formed the subject of international agreements and international conventions, including the International Plant Protection Convention (IPPC) of 6 December 1951 concluded at the United Nations Food and Agricultural Organisation (FAO) and its new, revised text approved by the FAO Conference in November 1997 at its 29th session. The Union and all its Member States are contracting parties to the IPPC.

(6) It has become apparent that for the determination of the scope of this Regulation it is important to take into account bio-geographical factors to avoid the introduction into and spread within the territory of the European Union of pests not present in that territory. Consequently, Ceuta, Melilla and, with the exception of Madeira and the Azores, the outermost regions of Member States referred to in Article 355(1) of the Treaty on the Functioning of the European Union (TFEU) should be excluded from the territorial scope of this Regulation. References to third countries should be read as references also to those excluded territories.

(7) Directive 2000/29/EC sets out rules concerning official controls to be carried out by the competent authorities as regards protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community. It requires the Member States to carry out adequate and efficient control measures. Such adequate and efficient official controls measures should also be continued in the future. As part of the 'Smarter Rules for Safer Food' package, this Regulation should only provide for a limited number of provisions on official controls since those rules should be provided for in the framework of the horizontal legislation on official controls.

(8) Criteria should be set out for the identification of pests for which the adoption of measures is necessary to prevent their introduction into and spread within the entire Union territory. Such pests are referred to as 'Union quarantine pests'. Criteria should also be set out for the identification of pests for which it is necessary to adopt measures of control only as regards one or more parts of that territory. Such pests are referred to as 'protected zone quarantine pests'. Where those pests are plants, the implementation of this Regulation should focus in particular on plants which are parasitic to other plants, when they are most injurious to plant health.

(9) In order to allow efforts for the control of Union quarantine pests to concentrate on those pests whose potential economic, environmental or social impact is the most severe for the Union territory a restricted list of such pests ('priority pests') should be established.

(10) In order to ensure that effective and timely action is taken where a Union quarantine pest is found to be present or suspected of being present, notification obligations should apply to the Member States, professional operators and the public.

(11) Where those notification obligations imply that personal data of natural or legal persons should be disclosed to the competent authorities, this may constitute a limitation of Article 8 (Protection of Personal Data) of the Charter on Fundamental Rights of the European Union ('the Charter'). However such a limitation would be necessary and proportionate to the achievement of the public interest objective of this Regulation.

(12) A professional operator or other person suspecting or becoming aware of the presence of a Union quarantine pest in a plant, plant product or other object which is or was under its control should be under an obligation to notify the competent authority of that suspicion or awareness, to take all measures that may be appropriate as regards the elimination of the pest and the withdrawal or recall of the plants, plant products or other objects concerned, and to provide to the competent authority, other persons in the trade chain and the public with information.

(13) Member States should take all necessary phytosanitary measures to eradicate Union quarantine pests, when found to be present in their territories. It is appropriate to set out measures which may be taken by Member States in such a case. It is also appropriate to set out the principles which the Member States should follow when deciding which measures should be taken. Those measures should include the establishment of demarcated areas, consisting of an infested zone and a buffer zone and, when applicable, the determination of actions which should be taken by a professional operator or other person in order to eliminate the quarantine pest or in order to prevent the spread of that pest.

(14) In certain cases, Member States should impose measures for the eradication of quarantine pests on plants in private premises, because eradication of pests can only be successful if all sources of infestation are removed. For that purpose, the competent authorities of Member States should have legal access to those premises. This may constitute a limitation of Article 7 (Respect for Private and Family Life) and Article 17 (Right to Property) of the Charter. That limitation should be necessary and proportionate to the achievement of the public interest objective of this Regulation.

(15) Prevention and early detection of the presence of pests is extremely important for timely and effective eradication. Member States should therefore carry out surveys for the presence of Union quarantine pests in the areas where those pests were not known to be present. In view of the number of Union quarantine pests and the time and resources required to carry out those surveys, Member States should establish multiannual survey programmes.

(16) The Commission should be empowered to adopt measures where there is a suspected or confirmed presence of specific Union quarantine pests, in particular concerning their eradication and containment and the establishment of demarcated areas, surveys, contingency plans, simulation exercises and action plans.

(17) Where a Union quarantine pest has become established in a demarcated area and cannot be eradicated, the Commission should adopt Union measures as regards the containment of that pest in that area.

(18) In order to ensure swift and effective action against pests which are not Union quarantine pests, but which Member States consider may fulfil the conditions for inclusion in the list of Union quarantine pests, provision should be made for measures to be taken by Member States in the event that they become aware of the presence of such a pest. Similar provisions should be set out for the Commission.

(19) Under certain conditions Member States should be allowed to adopt more stringent measures than those required by Union legislation.

(20) Special provisions should apply to priority pests as regards, in particular, the provision of information to the public, surveys, contingency plans, simulation exercises, action plans for eradication and co-financing of measures by the Union.

(21) Quarantine pests which are present in the Union territory but which are absent from specific parts of that territory designated as 'protected zones', and whose presence would have an unacceptable economic, social or environmental impact only within those protected zones, should be specifically identified and listed as 'protected zone quarantine pests'. The introduction into, movement within, and release into the respective protected zones of protected zone quarantine pests should be prohibited.

(22) Rules should be established concerning the recognition, modification or revocation of recognition of protected zones, survey obligations for protected zones, action to be taken in the event that protected zone quarantine pests are found to be present in the respective protected zones, as well as the establishment of temporary protected zones. Strict rules should apply for the amendment of the extent, and for the revocation of recognition, of protected zones where a protected zone quarantine pest is found to be present within the respective protected zone.

(23) A pest, which is not a Union quarantine pest, should be referred to as a 'Union regulated non-quarantine pest' if that pest is mainly transmitted through specific plants for planting, its presence on those plants for planting has an unacceptable economic impact as regards the intended use of those plants and it is listed as a Union regulated non-quarantine pest. In order to limit the presence of such pests, their

introduction into, or movement within, the Union territory on the plants for planting concerned should be prohibited where those pests are present at an incidence above a certain threshold.

(24) Certain plants, plant products and other objects pose an unacceptable risk due to their likelihood of hosting a Union quarantine pest. For some of those, acceptable risk-mitigation measures are available, while not for others. Depending on the availability of acceptable risk-mitigation measures, their introduction into, or movement within, the Union territory should be either prohibited or subject to special requirements. Those plants, plant products and other objects should be listed.

(25) In addition to the measures taken to manage the unacceptable risk of the plants, plant products and other objects thereof, this Regulation should provide risk-based and preventive measures to protect the Union territory from pests that a plant, plant product or other object originating from a third country might introduce, on the basis of a preliminary assessment of that high risk. That preliminary assessment should take into account specific criteria appropriate for the plant, plant product or other object concerned. For that purpose scientific opinions or studies of the IPPC, the European and Mediterranean Plant Protection Organisation (EPPO), the European Food Safety Authority (EFSA) or Member State authorities should be taken into account. On the basis of that preliminary assessment, a list of those high-risk plants, plant products or other objects should be established and their introduction into the Union territory should be prohibited, pending a risk assessment carried out in accordance with IPPC standards. Those plants, plant products or other objects should not include those whose introduction in the Union territory is prohibited or subject to special and equivalent requirements, on the basis of a pest risk analysis, or which are subject to the temporary prohibitions set out in this Regulation.

(26) Provision should be made for derogations from the prohibitions or special requirements as regards the introduction of plants, plant products and other objects into the Union territory. The Commission should be empowered to recognise certain measures of third countries as equivalent to the requirements for the movement within the Union territory of plants, plant products and other objects concerned.

(27) Those prohibitions or requirements should neither apply to small quantities of certain plants, plant products and other objects, other than plants for planting, for non-commercial and non-professional purposes, nor, in certain cases, to the introduction into, and movement within, frontier zones of plants, plant products and other objects.

(28) It is appropriate to provide for exemptions from the prohibition of introduction into, and movement within, the Union territory of pests, plants, plant products and other objects which are subject to those prohibitions and which are intended for certain purposes such as official testing, scientific or educational

purposes, trials, varietal selection or breeding. Proper safeguards should be set and information should be provided to those concerned.

(29) Plants moving into the Union from third countries and moving through postal services are in many cases non-compliant with the phytosanitary requirements of the Union. In order to raise awareness, specific rules concerning the information to be provided to travellers and clients of postal services should be set out.

(30) A derogation from the Union rules for the introduction into, and movement within, the Union territory should be provided for plants, plant products and other objects in phytosanitary transit, subject to specific conditions.

(31) The international trade of plants, plant products and other objects with which there is limited phytosanitary experience can potentially involve unacceptable risks of the establishment of quarantine pests which are not yet listed as Union quarantine pests and for which no measures have been adopted pursuant to this Regulation. In order to ensure swift and effective action against those newly identified or suspected pest risks associated with plants, plant products and other objects which are not subject to permanent requirements or prohibitions, but may qualify for such permanent measures, the Commission should have the possibility to adopt temporary measures in accordance with the precautionary principle and identify those plants, plant products and other objects taking into account objective and established elements.

(32) It is necessary to set out prohibitions and special requirements, similar to those set out for the Union territory, in respect of the introduction into, and movement within, protected zones of plants, plant products and other objects that would pose a risk of an unacceptable level due to their likelihood of hosting the respective protected zone quarantine pest.

(33) General requirements should be adopted concerning vehicles, machinery and packaging material used for plants, plant products and other objects to ensure that they are free from quarantine pests.

(34) Member States should designate confinement facilities and quarantine stations. Requirements concerning the designation, authorisation, operation and supervision of those confinement facilities and quarantine stations and concerning the release of plants, plant products or other objects from those facilities or stations should be set out. Where those requirements include the maintenance of lists of staff and visitors entering the facilities and stations, this may constitute a limitation of Article 8 (Protection of Personal Data) of the Charter. However that limitation would be necessary and proportionate to the achievement of the public interest objective of this Regulation.

(35) The Commission should keep a publicly available, updated list of all notifications it has received concerning emerging pests in third countries which may pose a risk to plant health in the Union territory.

(36) In order to ensure effective implementation of this Regulation, certain professional operators subject to obligations under this Regulation should be registered in registers set up by the Member States. Requirements for registration, as well as exemptions from those requirements, should be set out.

(37) In order to facilitate the detection of the source of an infestation by a quarantine pest, it is appropriate to require professional operators to keep records in respect of the plants, plant products and other objects supplied to them by professional operators and supplied by them to other professional operators. In view of the latency periods of some quarantine pests, and the time required for the detection of the source of infestation, records should be kept for at least three years.

(38) Professional operators should also have in place systems and procedures to allow identification of the movements of plants, plant products and other objects within and between their own premises.

(39) A phytosanitary certificate should be required for the introduction from third countries into the Union territory, and into protected zones, of certain plants, plant products and other objects. Those plants, plant products and other objects should be listed in the interest of transparency.

(40) Phytosanitary certificates should also be required for the introduction of other plants from third countries into the Union territory. This is important in order to ensure an appropriate level of phytosanitary safety as well as effective overview of the import of those plants into the Union and the risks thereof. Those plants should, however, not be subject to the provisions on official controls at border control posts laid down in the relevant Union legislation.

(41) Those phytosanitary certificates should comply with the requirements of the IPPC and should attest compliance with the requirements and measures established pursuant to this Regulation. In order to ensure the credibility of the phytosanitary certificates, rules should be established concerning the conditions of their validity and invalidation.

(42) The movement within the Union territory, and into and within protected zones, of certain plants, plant products and other objects should only be permitted if accompanied by a plant passport, attesting compliance with the requirements and

measures established pursuant to the provisions of this Regulation. Those plants, plant products and other objects should be listed in the interest of transparency.

(43) Plant passports should not be required for plants, plant products and other objects supplied directly to final users, including home gardeners. However, certain exceptions should be set out.

(44) In order to ensure the credibility of the plant passports, rules should be established concerning their content and form.

(45) Plant passports should generally be issued by the authorised professional operator. It should be possible for competent authorities to decide to issue plant passports.

(46) Rules should be set out for the issuance of plant passports, the examinations required for issuance, the attaching of plant passports, the authorisation and supervision of professional operators issuing plant passports, the obligations of authorised operators and the withdrawal of that authorisation.

(47) In order to reduce the burden of authorised operators, examinations for issuing plant passports should, where appropriate, be combined with the examinations required under Council Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC.

(48) Authorised operators should possess the necessary knowledge concerning pests.

(49) Certain authorised operators may wish to establish a pest risk management plan, ensuring and demonstrating a high level of competence and awareness as regards pest risks as regards critical points in their professional activities and justifying special control arrangements with the competent authorities. Union rules should be established concerning the contents of those plans.

(50) It is appropriate to provide for the replacement of plant passports and of phytosanitary certificates.

(51) In cases of non-compliance with the Union rules, plant passports should be removed, invalidated and, for reasons of traceability, kept.

(52) International Standard for Phytosanitary Measures No 15 Regulation of Wood Packaging Material in International Trade (ISPM15) requires wood packaging material to be marked with a specific mark, applied by duly authorised and supervised professional operators. This Regulation should set out requirements

concerning the treatment, marking and repairing of wood packaging material in line with that standard. This Regulation should also set out rules for the authorisation and supervision of professional operators in the Union territory applying that mark.

(53) Where so required by a third country, the respective plants, plant products or other objects should be moved from the Union territory to that third country with a phytosanitary certificate for export or re-export. In respect of the relevant provisions of the IPPC, those certificates should be issued by the competent authorities, respecting the contents of the model certificates for export and re-export set out by the IPPC. Protection should be offered to third countries against Union quarantine pests because of their acknowledged harmful nature, except where a Union quarantine pest is officially known to be present in the third country concerned and not under official control, or where it can be reasonably assumed that that Union quarantine pest does not meet the criteria to qualify as a quarantine pest for the third country concerned.

(54) Where a plant, plant product or other object is moved through more than one Member States before it is exported to a third country, it is important that the Member State in which the plants, plant product or other objects were produced or processed exchanges information with the Member State which issues the phytosanitary certificate for export. That exchange of information is important in order to enable compliance with the requirements of the third country to be attested. Therefore, a harmonised 'pre-export certificate' should be established in order to ensure that the exchange of that information takes place in a uniform manner.

(55) The Commission should establish an electronic system for the notifications required in accordance with this Regulation.

(56) In order to take into account the most severe economic, social or environmental impact on the Union territory of certain Union quarantine pests, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of listing priority pests.

(57) In order to ensure that the exceptions for Union quarantine pests and for plants, plant products and other objects originating from third countries or territories which are prohibited from being introduced into the Union territory, used for official testing, scientific or educational purposes, trials, varietal selection or breeding are implemented in a manner that does not pose any pest risk to the Union territory or parts of it, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules concerning the exchange of information between Member States and the Commission as regards the introduction into, movement within, and holding, multiplication and use in, the Union territory of the pests and plants, plant products and other objects concerned, the procedure and

conditions for granting the corresponding authorisation, and the monitoring of compliance as well as the actions to be taken in the event of non-compliance.

(58) In order to ensure the correct application of the derogations from the obligation to carry out annual surveys of demarcated areas, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of further specifying the pests concerned by those derogations and conditions for the application of those derogations.

(59) In order to ensure that protected zones are established and function in a reliable manner, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of detailed rules for the surveys to be carried out for purposes of the recognition of protected zones and for the preparation and the content of surveys on protected zone quarantine pests.

(60) In order to ensure a proportionate and restricted application of the exemptions concerning the movement of plants, plant products or other objects into or within frontier zones, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules concerning the maximum width of third country frontier zones and Member State frontier zones, the maximum distance of the movement of the plants, plant products and other objects concerned within the third country frontier zones and Member State frontier zones and the procedures concerning the authorisation of the introduction into, and movement within, the Member State frontier zones of plants, plant products and other objects.

(61) In order to ensure that the registration of professional operators is proportionate to the objective of controlling pest risk, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules setting out further categories of professional operators to be exempted from the obligation to register, particular requirements for the registration of certain categories of professional operators and the maximum figures for small quantities that the professional operators may supply to final users in order to be exempted from the obligation to register.

(62) In order to ensure the credibility of phytosanitary certificates of third countries which are not contracting parties to the IPPC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules supplementing the conditions for acceptance of phytosanitary certificates from those third countries.

(63) In order to minimise the pest risks of plants, plant products or other objects moved within the Union territory, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules setting out the

cases where, for particular plants, plant products or other objects, the exemption from the requirement to issue plant passports only applies for small quantities.

(64) In order to ensure the reliability of examinations of plants, plant products and other objects carried out for the issuance of plant passports, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules on visual examination, sampling and testing and the frequency and timing of the examinations.

(65) In order to enhance the credibility of plant passports, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules setting out criteria to be fulfilled by the professional operators in order for them to be authorised to issue plant passports and procedures ensuring that those criteria are met.

(66) In order to ensure correct marking of wood packaging material and to take into account the development of international standards, and in particular of ISPM15, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending and supplementing the requirements concerning wood packaging material, including its introduction into the Union territory, and of specifying the requirements for authorisation of registered operators to apply the mark of wood packaging material in the Union territory.

(67) In order to take into account the development of international standards, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules concerning attestations for plants, plant products and other objects, other than wood packaging material, which would require the application of a specific attestation of compliance with the rules of this Regulation.

(68) In order to ensure the utility and reliability of official attestations, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules setting out the contents of official attestations, the authorisation and supervision of professional operators issuing those attestations, as well as the elements of the export, re-export and pre-export certificate.

(69) In order to adapt to the development of scientific and technical knowledge and of international standards, in particular the standards of the IPPC and the EPPO, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules amending the Annexes to this Regulation.

(70) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the

Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(71) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission with respect to listing Union quarantine pests; setting out the format of reports on surveys, as well as instructions on how to fill in that format; establishing the format of the multiannual survey programmes and related practical arrangements; setting out measures against specific Union quarantine pests; and adopting measures for a limited time as regards the risks posed by pests not listed as Union quarantine pests.

(72) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to establishing a list of protected zones and of the respective protected zone quarantine pests; and amending the extent of, or revoking the recognition of, protected zones.

(73) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to listing of Union regulated non-quarantine pests and the plants for planting concerned; and setting out measures to prevent the presence of Union regulated non-quarantine pests on the respective plants for planting.

(74) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to: listing the plants, plant products and other objects which are prohibited from being introduced into the Union territory, and the third countries concerned; listing the plants, plant products and other objects subject to special requirements, and the special requirements concerned for their introduction into, and movement within, the Union territory; the provisional listing of the high-risk plants, plant products and other objects whose introduction into the Union territory is to be prohibited, and the third countries concerned; the procedure for risk assessment in connection with that listing; setting out, for third countries, requirements that are equivalent to the requirements for movement within the Union territory of plants, plant products or other objects; setting out arrangements for the presentation and use of posters and brochures concerning the introduction of plants, plant products and other objects into the Union territory; setting out specific conditions or measures concerning the introduction of particular plants, plant products and other objects into frontier zones of Member States; adoption of temporary measures concerning plants, plants products and other objects likely to pose newly identified pest risks or other suspected

phytosanitary risks; adopting decisions on temporary measures taken by Member States concerning imminent danger; listing of plants, plant products and other objects which are prohibited from being introduced into certain protected zones; listing the plants, plant products and other objects subject to special requirements, and the special requirements concerned for their introduction into, and movement within, certain protected zones; and laying down rules concerning the requirements for quarantine stations and confinement facilities, and the release of plants, plant products and other objects from those stations and facilities.

(75) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to setting out shorter or longer minimum periods for keeping the records concerning traceability by the professional operators, and requirements as to the accessibility of those records.

(76) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to: listing of the plants, plant products and other objects, and the respective third countries of origin or dispatch, for which a phytosanitary certificate is to be required for their introduction into the Union territory; listing of the plants, plant products and other objects, and the respective third countries of origin or dispatch, for which a phytosanitary certificate is to be required for their introduction into certain protected zones from those third countries; listing of the plants, plant products and other objects, the third countries concerned, and the maximum quantity subject to be exempted from the requirement for a phytosanitary certificate when introduced in the Union territory; and setting out technical arrangements concerning the invalidation of the electronic phytosanitary certificates.

(77) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to listing of the plants, plant products and other objects, for which a plant passport is to be required for their movement within the Union territory; listing of the plants, plant products and other objects for which a plant passport is to be required for their introduction, and movement within, certain protected zones; and specifying the protected zone pests, plants, plant products or other objects for which a plant passport for protected zones is required in the case of direct supply to a final user.

(78) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to setting out the format specifications of the plant passport; identifying types and species of plants for planting for which exemptions from the indication of traceability code in the format of the plant passport should not apply; and setting out technical arrangements for the issuance of electronic plant passports.

(79) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission with respect to setting out specific arrangements concerning the material, treatment and marking as regards repairing of wood packaging material; laying down the format specifications of attestations other than the mark of wood packaging material; laying down the procedures for the issuance of the pre-export certificate; and laying down specific rules concerning the submission of notifications.

(80) The implementing powers conferred on the Commission should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

(81) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to measures to be adopted against specific Union quarantine pests or pests not listed as Union quarantine pests, to the prohibition of introduction of certain plants, plant products and other objects into the Union territory or a protected zone or to subjecting such introduction to specific requirements and to temporary measures concerning plants, plant products and other objects likely to pose newly identified pest risks or other suspected phytosanitary risks, imperative grounds of urgency so require.

(82) Council Directives 74/647/EEC and 2006/91/EC set out measures on the control of carnation leaf-rollers and San José Scale. Following the entry into force of those Directives, the pests concerned have become widespread throughout the Union territory, and their containment is thus no longer feasible. Those Directives should therefore be repealed.

(83) Council Directives 69/464/EEC, 93/85/EEC, 98/57/EC and 2007/33/EC should be repealed, as new measures on the pests which they concern should be adopted in accordance with this Regulation. In view of the time and resources required to adopt those new measures, those Directives should be repealed with effect from 1 January 2022.

(84) Regulation (EU) No 652/2014 of the European Parliament and of the Council provides that grants for measures against pests are to concern certain pests listed in the Annexes to Directive 2000/29/EC, and certain pests not listed in those Annexes but subject to temporary Union measures adopted with regard to them. In addition to the provisions of that Regulation, this Regulation establishes the category of priority pests and it is essential that certain measures taken by the Member States as regards, in particular, priority pests are to be eligible for Union grants, including compensation paid to professional operators for the value of plants, plant products and other objects subject to destruction pursuant to the eradication measures set out in this Regulation. Regulation (EU) No 652/2014 should therefore be amended.

(85) Technical amendments should also be made in Regulations (EU) No 228/2013 and (EU) No 1143/2014 of the European Parliament and of the Council.

(86) Since the objective of this Regulation, namely to ensure a harmonised approach with regard to protective measures against pests of plants, cannot be sufficiently achieved by the Member States but can rather, by reason of its effect, complexity, and trans-border and international character, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not exceed what is necessary in order to achieve that objective.

(87) For small and medium-sized enterprises (SMEs), this Regulation does not create a disproportionate administrative burden or economic impact. Under this Regulation, based on consultation with stakeholders, the special situation of SMEs has been taken into account where possible. A potential universal exemption for micro-enterprises, which make up the majority of companies, has not been considered, in view of the public policy objective of protecting plant health.

(88) This Regulation takes into account the IPPC, the Agreement on the Application of Sanitary and Phytosanitary Measures and the guidelines set out under them.

(89) In accordance with the principle of 'smart' regulation, the implementation of this Regulation should be coordinated with that of Regulation (EU) No 1143/2014 in order to ensure that Union plant health legislation applies fully and in its entirety.

(90) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter and notably respect for private and family life, the right to property, the protection of personal data, freedom to conduct business and the freedom of art and science. This Regulation should be applied by the Member States in accordance with those rights and principles,

HAVE ADOPTED THIS REGULATION:

## **CHAPTER I**

### ***Subject matter, scope and definitions***

#### *Article 1*

#### **Subject matter and scope**

1. This Regulation establishes rules to determine the phytosanitary risks posed by any species, strain or biotype of pathogenic agents, animals or parasitic plants injurious to

plants or plant products ('pests') and measures to reduce those risks to an acceptable level.

2. Where there is evidence that non-parasitic plants, other than those regulated under Article 4(1) of Regulation (EU) No 1143/2014, pose phytosanitary risks which would have a severe economic, social and environmental impact on Guernsey, those non-parasitic plants may be considered as pests for the purposes of this Regulation.

[3. ...]

## *Article 2* **Definitions**

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

- (1) 'plants' means living plants and the following living parts of plants:
  - (a) seeds, in the botanical sense, other than those not intended for planting;
  - (b) fruits, in the botanical sense;
  - (c) vegetables;
  - (d) tubers, corms, bulbs, rhizomes, roots, rootstocks, stolons;
  - (e) shoots, stems, runners;
  - (f) cut flowers;
  - (g) branches with or without foliage;
  - (h) cut trees retaining foliage;
  - (i) leaves, foliage;
  - (j) plant tissue cultures, including cell cultures, germplasm, meristems, chimaeric clones, micro-propagated material;
  - (k) live pollen and spores;
  - (l) buds, budwood, cuttings, scions, grafts;

(2) 'plant products' means unmanufactured material of plant origin and those manufactured products that, by their nature or that of their processing, may create a risk of the spread of quarantine pests.

Except where otherwise provided in the Phytosanitary Conditions Regulation, other Preserved EU law within the meaning of section 3(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 or any enactment implementing the same relating to plant health or regulations made under Article 28(1) or 30(1), wood shall only be considered as a plant product if it fulfils one or more of the following criteria:

- (a) it retains all or part of its natural round surface, with or without bark;
- (b) it has not retained its natural round surface due to sawing, cutting or cleaving;
- (c) it is in the form of chips, particles, sawdust, wood waste, shavings or scrap, and has not undergone processing involving the use of glue, heat or pressure or a combination thereof to produce pellet, briquettes, plywood or particle board;
- (d) it is, or is intended to be, used as packaging material, whether or not it is actually in use for transport of goods;

(3) 'planting' means any operation for the placing of plants in a growing medium, or by grafting or similar operations, to ensure their subsequent growth, reproduction or propagation;

(4) 'plants for planting' means plants intended to remain planted, to be planted or to be replanted;

(5) 'other object' means any material or object, other than plants or plant products, capable of harbouring or spreading pests, including soil or growing medium;

(6) 'competent authority' means the Committee for the Environment & Infrastructure and any reference to "a competent authority", "competent authorities", "each competent authority" or "any of the competent authorities" is to be construed, unless the context requires otherwise, as a reference to that Committee:

(7) 'lot' means a number of units of a single commodity, identifiable by its homogeneity of composition, origin and other relevant elements, forming part of a consignment;

(8) 'trade unit' means the smallest commercial or other useable unit applicable to the marketing stage concerned, which may be the subset or the whole of a lot;

(9) 'professional operator' means any person, governed by public or private law, involved professionally in, and legally responsible for, one or more of the following activities concerning plants, plant products and other objects:

- (a) planting;
- (b) breeding;
- (c) production, including growing, multiplying and maintaining;
- (d) introduction into, and movement within and out of, Guernsey;
- (e) making available on the market;
- (f) storage, collection, dispatching and processing;

(10) 'registered operator' means a professional operator registered in accordance with Article 65;

(11) 'authorised operator' means a registered operator authorised by the competent authority to issue UK plant passports in accordance with Article 89, to apply a mark in accordance with Article 98, or to issue attestations in accordance with Article 99;

(12) 'final user' means any person acting for purposes which are outside that person's trade, business or profession who acquires plants or plant products for personal use;

(13) 'test' means an official examination, other than visual, to determine if pests are present or to identify pests;

(14) 'treatment' means a procedure, whether official or non-official, for the killing, inactivation or removal of pests, or for rendering those pests infertile, or for the devitalisation of plants or plant products;

(15) 'incidence' means the proportion or number of units in which a pest is present in a sample, consignment, field or other defined population;

(16) 'establishment' means the perpetuation, for the foreseeable future, of a pest within an area after entry;

(17) 'eradication' means the application of phytosanitary measures to eliminate a pest from an area;

- (18) 'containment' means the application of phytosanitary measures in and around an infested area to prevent the spread of a pest;
- (19) 'quarantine station' means any official station for holding pests, plants, plant products or other objects in quarantine;
- (20) 'confinement facility' means any facility, other than quarantine stations, where pests, plants, plant products or other objects are kept under confinement conditions;
- (21) 'traceability code' means a letter, numerical or alphanumeric code that identifies a consignment, lot or trade unit, used for traceability purposes, including codes referring to a lot, batch, series, date of production or professional operator documents;
- (22) 'phytosanitary measure' means any official measure having the purpose to prevent the introduction or spread of quarantine pests or to limit the economic impact of regulated non-quarantine pests;
- (23) 'Regulation (EU) 2017/625' means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products;
- (24) 'appropriate authority' has the meaning given in Article 2a;
- (25) ...
- (26) 'Relevant British Island authority', in relation to a country or territory forming part of a Relevant British Island, means the authority that is officially responsible in that country or territory for the implementation of rules in relation to protective measures against pests of plants;
- (27) 'Relevant British Island pest-free area' means an area forming the whole or part of a Relevant British Island which has been established as a pest-free area in accordance with ISPM4 in respect of a Relevant British Island quarantine pest;
- (28) 'Relevant British Island quarantine pest' means a pest which:
- (i) is present in Guernsey, but not in an area forming the whole or part of a Relevant British Island which is recognised as free from that pest in accordance with ISPM4; and

- (ii) may not, under the relevant legislation applying in the area in question of the Relevant British Island, be introduced into that area;
- (29) 'Relevant British Island' means a country or territory within the British Islands except for Guernsey and Northern Ireland;
- (30) 'Commission Delegated Regulation (EU) 2019/1702' means Commission Delegated Regulation (EU) 2019/1702 establishing a list of priority pests;
- (31) 'Guernsey pest-free area' means an area forming the whole or part of Guernsey which has been established as a pest-free area in accordance with ISPM4 in respect of a PFA quarantine pest;
- (32) 'Guernsey quarantine pest' has the meaning given in Article 4;
- (33) 'Guernsey regulated non-quarantine pest' has the meaning given in Article 36;
- (34) 'IPPC' means the International Plant Protection Convention 1951;
- (35) 'ISPM4' means International Standard for Phytosanitary Measures No. 4 of November 1995 on the requirements for the establishment of pest free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations;
- (36) 'ISPM15' means International Standard for Phytosanitary Measures No. 15 of March 2002 on guidelines for regulating wood packaging material in international trade, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of United Nations;
- (37) 'PFA quarantine pest' has the meaning given in Article 32(1);
- (38) 'the Phytosanitary Conditions Regulation' means Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants;
- (39) 'priority pest' has the meaning given in Article 6(1);
- (40) 'provisional Guernsey quarantine pest' has the meaning given in Article 30(A1);

(41) “Relevant British Islands legislation’, in relation to a country or territory in a Relevant British Island, means legislation on protective measures against pests of plants that is in force in that country or territory;

(42) ...

(43) ‘UK NPPO’ means the national plant protection organisation of the United Kingdom;

(44) ‘UK plant passport’ has the meaning given in Article 78.

*Article 2a*

**Meaning of appropriate authority**

1. In this Regulation, “the appropriate authority” means the Committee for the Environment & Infrastructure.

[...]

[2. ...]

[3. ...]

*Article 2b*

**Meaning of third country**

1. In this Regulation:

‘third country’ means any country or territory outside the British Islands;

‘EU Member State’ means a member State.

2. For the purposes of this Regulation, any reference to the territory of a member State or the European Union is not to be treated as including the Canary Islands, Ceuta, Melilla and the French Overseas Department.

3. Any reference in this Regulation (however expressed) to plants, plant products or other objects originating in or from a third country, or dispatched from a third country, does not include:

- (a) any plants, plant products or other objects in so far as they are part of a relevant NI trade unit; or

- (b) any wood packaging material in use in the transport of a relevant NI trade unit.

*Article 2c*

**Meaning of qualifying Northern Ireland goods and other expressions relating to qualifying Northern Ireland goods**

In this Regulation:

- (a) 'EU Plant Health Regulation' means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants, as it applies in Northern Ireland by virtue of the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;
- (b) 'other permitted plant passport' means a plant passport which has been issued in respect of a relevant NI trade unit before its introduction into Guernsey and by which, pursuant to paragraph 2 of Article 95a, that trade unit is permitted to be accompanied if moved within Guernsey;
- (c) 'qualifying Northern Ireland goods' has the meaning given in the Definition of Qualifying Northern Ireland Goods (EU Exit) Regulations 2020;
- (d) 'relevant NI trade unit' means a trade unit of plants, plant products or other objects listed in Annex 13 or 14 to the Preserved Phytosanitary Conditions Regulation which consists entirely of qualifying Northern Ireland goods, other than any such trade unit in respect of which a UK plant passport has been issued in accordance with Articles 83 to 86, 87, 89 and 90.

**CHAPTER II**

**Quarantine pests**

**Section 1**

**Quarantine pests**

**Article 3**

**Definition of quarantine pests**

A pest is a 'quarantine pest', with respect to a defined territory, if it fulfils all of the following conditions:

- (a) its identity is established, within the meaning of point (1) of Section 1 of Annex I;
- (b) it is not present in the territory, within the meaning of point (2)(a) of Section 1 of Annex I, or, if present, is not widely distributed within that territory, within the meaning of points (2)(b) and (c) of Section 1 of Annex I;
- (c) it is capable of entering into, becoming established in and spreading within the territory, or, if present in the territory, but not widely distributed, is capable of entering into, becoming established in and spreading within those parts of that territory where it is absent, within the meaning of point (3) of Section 1 of Annex I;
- (d) its entry, establishment and spread would, within the meaning of point (4) of Section 1 of Annex I, have an unacceptable economic, environmental or social impact on that territory, or, if present but not widely distributed, for those parts of the territory where it is absent; and
- (e) feasible and effective measures are available to prevent the entry into, establishment in or spread of that pest within, that territory and to mitigate the risks and impact thereof.

## **Section 2**

### **Guernsey quarantine pests**

#### **Article 4**

#### **Definition of Guernsey quarantine pests**

A quarantine pest is a 'Guernsey quarantine pest' if the defined territory referred to in the introductory part of Article 3 is Guernsey and if it is included in the list in Annex 2 to the Phytosanitary Conditions Regulation.

#### **Article 5**

#### **Prohibition of introduction, movement, holding, multiplication or release of Guernsey quarantine pests**

1. A Guernsey quarantine pest shall not be introduced into, moved within, or held, multiplied or released in, Guernsey.

[2. ....].

3. The appropriate authority may by regulations amend or modify the list of Guernsey quarantine pests in Annex 2 to the Phytosanitary Conditions Regulation where the results of an assessment show, in respect of Guernsey, that a pest which is not included in that list fulfils the conditions listed in Article 3, or that a pest which is included in that list no longer fulfils one or more of those conditions.

[4. ....].

## Article 6

### **Priority pests**

1. Guernsey quarantine pests are 'priority pests' if they fulfil all of the following conditions:

- (a) they fulfil, as regards Guernsey, one or more of the conditions set out in point (2) of Section 1 of Annex I;
- (b) their potential economic, environmental or social impact is the most severe in respect of Guernsey, as set out in Section 2 of Annex I;
- (c) they are included in the list in the Annex to Commission Delegated Regulation (EU) 2019/1702.

2. The appropriate authority may by regulations amend the list of priority pests in the Annex to Commission Delegated Regulation (EU) 2019/1702 where the results of an assessment show that a Guernsey quarantine pest which is not included in that list fulfils the conditions referred to in points (a) and (b) of paragraph 1, or that a pest which is included in that list no longer fulfils either of those conditions.

## Article 7

### **Amendment of Section 1 of Annex I**

The appropriate authority may by regulations amend Section 1 of Annex I in order to adapt it to the development of scientific and technical knowledge and of relevant international standards.

## Article 8

### **Guernsey quarantine pests used for official testing, scientific or educational purposes, trials, varietal selections or breeding**

1. By way of derogation from Article 5(1), a competent authority may, on application, temporarily authorise the introduction into, the movement within, and the holding and multiplication in, the relevant territory of Guernsey quarantine pests or provisional Guernsey quarantine pests for official testing, scientific or educational purposes, trials, varietal selections, or breeding.

An authorisation shall be granted for the activity concerned only if adequate restrictions are imposed to ensure that the introduction, movement, holding, multiplication or use of the pest concerned does not result in its establishment or spread within the relevant territory, taking into account the identity, biology and means of dispersal of the pest, the activity envisaged, the interaction with the environment and other relevant factors relating to the risk posed by that pest.

2. Authorisations granted pursuant to paragraph 1 shall include all of the following conditions:

- (a) the pest is to be kept in a location and under conditions which:
  - (i) the competent authority considers to be appropriate; and
  - (ii) are referred to in the authorisation;
- (b) the activity involving the pest is to be carried out in a quarantine station or a confinement facility designated by the competent authority in accordance with Article 60 and referred to in the authorisation;
- (c) the activity involving the pest is to be carried out by personnel:
  - (i) whose scientific and technical competence is considered to be appropriate by the competent authority; and
  - (ii) who are referred to in the authorisation;
- (d) the pest is to be accompanied by the authorisation when introduced into, moved within, or held or multiplied in, the relevant territory.

3. An authorisation granted pursuant to paragraph 1 shall be limited as to the quantity of the pest that can be introduced, moved, held, multiplied or used and the length of time that is adequate for the activity concerned. The authorisation shall not exceed the capacity of the designated quarantine station or confinement facility.

An Authorisation shall include the restrictions necessary to adequately eliminate the risk of establishment and spread of the Guernsey quarantine pest or provisional Guernsey quarantine pest to which the authorisation relates.

4. The competent authority shall monitor compliance with the conditions referred to in paragraph 2 and the limitation and the restrictions referred to in paragraph 3 and take the necessary action in the event of non-compliance. Where appropriate, that action shall be the revocation of the authorisation referred to in paragraph 1.

5. The appropriate authority may by regulations lay down detailed rules concerning:

- [(a) ...]
- (b) the procedure and conditions for granting the authorisation referred to in paragraph 1; and
- (c) the monitoring of compliance and the actions to be taken in the event of non-compliance, as referred to in paragraph 4.

#### Article 9

##### **Notification of an imminent danger**

[1. ....].

[2. ....].

3. Where a professional operator has any evidence concerning an imminent danger of the entry of a Guernsey quarantine pest or a provisional Guernsey quarantine pest into Guernsey or into a part of Guernsey where it is not yet present, the professional operator must immediately notify the competent authority.

#### Article 10

##### **Official confirmation by the competent authorities of the presence of a Guernsey quarantine pest**

Where a competent authority suspects or has received evidence concerning the presence of a Guernsey quarantine pest or a provisional Guernsey quarantine pest in a part of its territory where that pest was previously not known to be present, or in a consignment of plants, plant products or other objects introduced into, intended to be introduced into, or moved within, Guernsey, it shall immediately take the measures necessary to confirm on the basis of a diagnosis of an official laboratory as referred to in Article 37 of Regulation (EU) 2017/625 ('to officially confirm, whether that pest is present.

Pending the official confirmation of the presence of the pest, the competent authority shall, where appropriate, take phytosanitary measures to eliminate the risk of spread of the pest.

The suspicion or evidence referred to in the first paragraph of this Article may be based on any information received pursuant to Articles 14 and 15, or any other source.

Article 11

[...]

Article 12

### **Information on Guernsey quarantine pests to be provided to professional operators by the competent authorities**

1. Where one of the situations referred to in paragraph 2 is officially confirmed, the competent authority shall ensure that professional operators whose plants, plant products or other objects may be affected are informed of the presence of the Guernsey quarantine pest or provisional Guernsey quarantine pest without delay.

2. The situations are:

- (a) the presence in Guernsey of a Guernsey quarantine pest not known to be present there;
- (b) the presence of a Guernsey quarantine pest in a part of Guernsey where it was previously not present;
- (c) the presence of a Guernsey quarantine pest in a consignment of plants, plant products or other objects introduced into, intended to be introduced into, or moved within, Guernsey.

## Article 13

### **Information on priority pests to be provided to the public by the competent authorities**

Where one of the situations referred to in points (a) and (b) of Article 12(2) is officially confirmed as regards a priority pest, the competent authority shall inform the public about the measures it has taken or intends to take and about any measures to be taken by relevant categories of professional operators or other persons.

## Article 14

### **Measures to be taken immediately by professional operators**

1. Where a professional operator suspects or becomes aware that a Guernsey quarantine pest or a provisional Guernsey quarantine pest is present in plants, plant products or other objects which are under that operator's control, it shall immediately notify the competent authority thereof, in order for that competent authority to take actions in accordance with Article 10. Where appropriate, the professional operator shall also immediately take precautionary measures to prevent the establishment and spread of that pest.
2. The competent authority may decide that the notification referred to in paragraph 1 is not required where a specific pest is known to occur in an area. The competent authority must promptly publish any decision made under this paragraph in such manner as the competent authority considers is appropriate to bring it to the attention of the professional operators who may be affected by the decision.
3. Where a professional operator receives an official confirmation concerning the presence of a Guernsey quarantine pest or provisional Guernsey quarantine pest in plants, plant products or other objects which are under that operator's control, it shall consult the competent authority regarding the action to be taken and shall proceed, as applicable, with the actions referred to in paragraphs 4 to 7.
4. The professional operator shall immediately take the necessary measures to prevent the spread of that pest. Where the competent authority has provided instructions concerning those measures, the professional operator shall act in accordance with those instructions.
5. Where so instructed by the competent authority, the professional operator shall take the necessary measures to eliminate the pest from the plants, plant products or other objects concerned and from that operator's premises, land, soil, water or other infested elements which are under its control.

6. Unless otherwise instructed by the competent authority, the professional operator shall, without delay, withdraw from the market the plants, plant products and other objects which are under that operator's control and in which the pest could be present. Where those plants, plant products or other objects have left the control of the professional operator, the professional operator shall, unless otherwise instructed by the competent authority, immediately:

- (a) inform the persons in the trade chain to whom those plants, plant products and other objects have been supplied of the presence of the pest;
- (b) provide those persons with guidelines on the necessary measures to be taken during shipment of the respective plants, plant products and other objects to reduce the risk of spread or escape of the pests concerned; and
- (c) recall those plants, plant products or other objects.

7. Where paragraph 1, 3, 4, 5 or 6 of this Article applies, the professional operator shall, on request, provide to the competent authority all information which is relevant for the members of the public. Without prejudice to Article 13, if action is necessary with regard to the plants, plant products or other objects in which the respective pest may be present, the competent authority shall inform the public as soon as possible of that fact.

## Article 15

### **Measures to be taken by persons other than professional operators**

1. Where any person other than a professional operator becomes aware of the presence of a Guernsey quarantine pest or provisional Guernsey quarantine pest or has reason to suspect such a presence, that person shall immediately notify the competent authority. Where that notification is not made in writing, the competent authority shall officially record it. If so requested by the competent authority, that person shall provide that authority with the information which is in its possession concerning that presence.

2. The competent authority may decide that the notification referred to in paragraph 1 is not required where a specific pest is known to be present in an area.

2A. The competent authority must promptly publish any decision made under paragraph 2 in such manner as the competent authority considers is appropriate to bring the decision to the attention of the public.

3. The person who made the notification referred to in paragraph 1 shall consult the competent authority on the action to be taken and shall, in accordance with the instructions of the competent authority, take the measures necessary to prevent the spread of that pest and to eliminate it from the plants, plant products or other objects concerned and, where applicable, from that person's premises.

## Article 16

### **Derogations to notification obligations**

The notification obligations referred to in Articles 14 and 15 shall not apply where:

- (a) a Guernsey quarantine pest or provisional Guernsey quarantine pest is found to be present in the infested zone of a demarcated area established for the containment of that pest, as referred to in Article 18(2);
- (b) a Guernsey quarantine pest or provisional Guernsey quarantine pest is found to be present in the infested zone of a demarcated area and subject to eradication measures requiring eight years or more, during the period of those first eight years.

## Article 17

### **Eradication of Guernsey quarantine pests**

1. Where one of the situations referred to in points (a) and (b) of Article 12(2) is officially confirmed, the competent authority shall immediately take all necessary phytosanitary measures to eradicate the relevant Guernsey quarantine pest or provisional Guernsey quarantine pest from the area concerned. Those measures shall be taken in accordance with Annex II.

That obligation to eradicate shall not apply where Preserved EU law within the meaning of section 3(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 relating to plant health provides or regulations made under Article 28(1) provide otherwise.

2. The competent authority shall without delay investigate the source of the presence of the Guernsey quarantine pest or provisional Guernsey quarantine pest concerned, in particular where that presence may be related to movements of plants, plant products or other objects, and the possibility that the pest concerned has been spread to further plants, plant products or other objects by those movements.

[3. ....].

4. The measures referred to in paragraph 1 and the investigations referred to in paragraph 2 shall be taken irrespective of whether the pest is present on public or private premises.

## Article 18

### **Establishment of demarcated areas**

1. Where one of the situations referred to in points (a) and (b) of Article 12(2) is officially confirmed, the competent authority shall immediately establish one or more areas where the eradication measures referred to in Article 17(1) are to be taken ('demarcated area').

The demarcated area shall consist of an infested zone and a buffer zone.

2. The infested zone shall, as applicable, contain:

- (a) all plants known to be infested by the pest concerned;
- (b) all plants showing signs or symptoms indicating possible infestation by that pest;
- (c) all other plants liable to have been or become contaminated or infested by that pest, including plants liable to be infested due to their susceptibility to that pest and their close proximity to infested plants or common source of production, if known, with infested plants, or plants grown from them;
- (d) land, soil, water courses or other elements infested, or liable to be infested, by the pest concerned.

3. The buffer zone shall be adjacent to the infested zone and shall surround it.

Its extent shall be appropriate in view of the risk of the pest concerned spreading out of the infested zone naturally or by human activities in the infested zone and its surroundings, and shall be decided in accordance with the principles set out in Section 2 of Annex II.

However, where any risk of the pest spreading out of the infested zone is eliminated or reduced to an acceptable level through natural or artificial barriers, no buffer zone shall be required to be established.

4. By way of derogation from paragraph 1, where upon initial examination the competent authority concludes, in view of the nature of the pest, the plant, plant product or other object concerned and the site where it was found, that the pest concerned can be eliminated immediately, the competent authority may decide not to establish a demarcated area.

In that case, it shall carry out a survey to determine whether any further plants or plant products have been infested. On the basis of that survey, the competent authority shall determine whether there is a need to establish a demarcated area.

[5. ....].

[6. ....].

## Article 19

### **Surveys and modifications of demarcated areas and lifting of restrictions**

1. The competent authorities shall at least annually, at appropriate times, carry out a survey of each demarcated area as regards the development of the presence of the pest concerned.

Those surveys shall be carried out in accordance with Article 22(2).

[2. ....]

3. Where appropriate, the competent authorities shall modify the boundaries of the infested zones, the buffer zones and the demarcated areas, in view of the results of the surveys referred to in paragraph 1.

4. The competent authorities may abolish a demarcated area and terminate the respective eradication measures where the pest-free status of that area has been verified. This will be the case where the following two conditions are fulfilled:

- (a) the survey referred to in paragraph 1 shows that the area has been found to be free from the pest concerned; and
- (b) the pest concerned has not been found to be present in that demarcated area for a sufficiently long period.

5. When deciding on the modifications referred to in paragraph 3 or the abolition of the demarcated area referred to in paragraph 4, the competent authority concerned shall take into account at least the following factors:

- (a) the biology of the pest and the vector concerned;
- (b) the presence of host plants;
- (c) the ecoclimatic conditions; and
- (d) the likelihood of the eradication measures having been successful.

6. By way of derogation from paragraph 1 of this Article, annual surveys shall not be required to be carried out in the infested zone of demarcated areas established for:

- (a) pests subject to eradication measures requiring eight years or more;
- (b) pests subject to containment measures, where applicable.

7. The appropriate authority may by regulations supplement this Regulation by further specifying the pests referred to in point (a) of paragraph 6 of this Article and in point (b) of Article 16 and conditions for the application of those derogations.

Article 20

[...]

Article 21

### **Amendment of Annex II**

The appropriate authority may by regulations amend Annex II in order to adapt it to the development of scientific and technical knowledge and of relevant international standards.

Article 22

## **Surveys on Guernsey quarantine pests and pests provisionally qualifying as Guernsey quarantine pests**

1. The competent authorities shall carry out risk-based surveys in the territories for which they are responsible, over specific periods of time, checking at least for:

- (a) the presence of any Guernsey quarantine pest; and
- (b) signs or symptoms of any provisional Guernsey quarantine pest or any pest which has been provisionally assessed, in accordance with Article 29(2), as fulfilling the criteria set out in Subsection 1 of Section 3 of Annex 1.
- [(c) ...]

Those surveys shall take place in all areas where the pest concerned was not known to be present.

2. The design of the surveys referred to in paragraph 1 shall be based on the risk that the pest occurs in the area covered by each survey. They shall consist, at least, of visual examinations by the competent authority carrying out the survey and, where appropriate, the collection of samples and performance of tests. Those surveys shall be carried out in all appropriate locations and shall include, where appropriate, premises, vehicles, machinery and packaging used by professional operators and other persons. They shall be based on sound scientific and technical principles and shall be carried out at appropriate times with regard to the possibility to detect the pest concerned.

Those surveys shall take account of scientific and technical evidence, and any other appropriate information, concerning the presence of the pests concerned.

[3. ....].

### Article 23

#### **Multiannual survey programmes and collection of information**

1. The competent authorities shall establish multiannual survey programmes setting out the content of the surveys to be carried out pursuant to Article 22. Those programmes shall provide for the collection and recording of the scientific and technical evidence and other information referred to in the second subparagraph of Article 22(2).

The multiannual survey programmes shall include the following elements in conformity with Article 22(2):

- (a) the specific objective of each survey;
- (b) the scope of each survey as regards the area concerned and the time scale covered, as well as the pests, plants and commodities targeted;
- (c) the survey methodology and quality management including a description of the procedures for visual examination, sampling and testing and their technical justification;
- (d) the timing, frequency and numbers of scheduled visual examinations, samples and tests; and
- (e) the methods of recording and reporting the information collected.

The multiannual survey programmes shall be for a period of five to seven years.

[2. ....].

[3. ....].

#### Article 24

##### **Surveys of priority pests**

1. For each priority pest, the competent authorities shall carry out a survey annually, as set out in Article 22(1) and (2). Those surveys shall include a sufficiently high number of visual examinations, sampling and testing, as appropriate for each priority pest, to ensure, as far as it is possible given the respective biology of each priority pest and the ecoclimatic conditions, with a high degree of confidence, the timely detection of those pests.

[...]

[2. ....].

#### Article 25

##### **Contingency plans for priority pests**

1. Each competent authority shall draw up and keep up to date for each priority pest which is capable of entering into and becoming established in Guernsey a separate plan containing information concerning the decision-making processes, procedures and protocols to be followed, and the minimum resources to be made available and the procedures to make available further resources in the event of an officially confirmed or suspected presence of that pest ('the contingency plan').

The competent authorities shall, at an appropriate stage, consult all relevant stakeholders in the process of drawing up and keeping up to date the contingency plans.

[...]

2. Each contingency plan shall include the following:

- (a) the roles and responsibilities of the bodies involved in the execution of the plan, in case of a confirmed or suspected presence of the priority pest concerned, as well as the chain of command and procedures for the co-ordination of actions to be taken by the competent authority, other public authorities, as referred to in Article 4(2) of Regulation (EU) 2017/625, delegated bodies or natural persons involved, as referred to in Article 28(1) of that Regulation, laboratories and professional operators ;
- (b) access of the competent authority to premises of professional operators, other relevant operators and natural persons;
- (c) access of the competent authority, where necessary, to laboratories, equipment, personnel, external expertise and resources necessary for the rapid and effective eradication or, where appropriate, containment of the priority pest concerned;
- (d) measures to be taken concerning the provision of information to the professional operators concerned and the public as regards the presence of the priority pest concerned and the measures taken against it in the event that the presence of the pest concerned is officially confirmed or suspected;
- (e) arrangements for recording findings of the presence of the priority pest concerned;
- (f) the available assessments as set out in Article 6(2);

- (g) the risk management measures to be taken as regards the priority pest concerned, in accordance with Section 1 of Annex II, and the procedures to be followed;
- (h) principles for the geographical demarcation of demarcated areas;
- (i) protocols describing the methods of visual examinations, sampling and laboratory testing; and
- (j) principles concerning the training of personnel of the competent authority and, where appropriate, the bodies, public authorities, laboratories, professional operators and other persons referred to in point (a).

Where appropriate, the items referred to in points (d) to (j) of the first subparagraph shall take the form of instruction manuals.

3. Contingency plans may be combined for multiple priority pests with similar biology and range of host species. In those cases, the contingency plan shall consist of a general part common to all priority pests covered by it and of specific parts for each priority pest concerned.

4. The competent authorities must, before 1st January 2023, establish contingency plans for the priority pests included in the list of priority pests in the Annex to Commission Delegated Regulation (EU) 2019/1702, as it has effect on exit day within the meaning of section 12(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

4A. Paragraph 4 does not apply to any priority pest that is removed from that list before 1st January 2023.

4B. Within one year from the date of the inclusion of any further pest concerned in the list of priority pests, the competent authorities shall establish contingency plans for that priority pest.

4C. The competent authorities shall regularly review and, where appropriate, update their contingency plans.

[5. ....].

## Article 26

### **Simulation exercises for priority pests**

1. The competent authorities shall carry out simulation exercises in the territories for which they are responsible concerning the implementation of the contingency plans at intervals set according to the biology of the priority pest or pests concerned and the risk posed by that pest or those pests.

Those exercises shall take place with regard to all priority pests concerned within a reasonable period of time and with the involvement of the relevant stakeholders.

Those exercises shall not be required where measures for the eradication of the pest or pests concerned have recently been taken.

[2. ....].

[3. ....].

#### Article 27

##### **Action plans for priority pests**

1. Where the presence of a priority pest is officially confirmed in Guernsey pursuant to Article 10, the competent authority shall immediately adopt a plan (the 'action plan') setting out the measures for the eradication of that pest or its containment, as well as a time schedule for the application of those measures.

The action plan shall include a description of the design and organisation of the surveys to be carried out and set out the number of visual examinations, samples to be taken and laboratory tests to be carried out, as well as the methodology to be applied for the examination, sampling and testing.

The action plan shall be based on the relevant contingency plan and shall be immediately communicated by the competent authority to the professional operators concerned.

[2. ....].

#### Article 28

##### **Guernsey measures for specific Guernsey quarantine pests**

1. The appropriate authority may by regulations, set out measures against specific Guernsey quarantine pests. The provision that may be made in those regulations may include, in relation to a specific Guernsey quarantine pest, provision:

- (a) concerning the measures to be taken in the event of suspicion and official confirmation by competent authorities of the presence of that Guernsey quarantine pest;
- (b) concerning the measures to be taken immediately by professional operators;
- (c) concerning the measures to be taken by persons other than professional operators;
- (d) concerning the eradication of that Guernsey quarantine pest;
- (da) concerning the containment of that Guernsey quarantine pest;
- (e) concerning the establishment of demarcated areas;
- (f) concerning surveys and modifications of demarcated areas and lifting of restrictions;
- (g) concerning surveys of that Guernsey quarantine pest;
- (ga) concerning prevention measures in areas outside demarcated areas where necessary to protect the establishment of that Guernsey quarantine pest in those areas;
- (h) in the case of a Guernsey quarantine pest which is a priority pest:
  - (i) concerning surveys for that priority pest, as regards the number of visual examinations, samples and tests for the priority pests
  - (ii) concerning contingency plans for that priority pest;
  - (iii) concerning simulation exercises for that priority pest;
  - (iv) concerning action plans for that priority pest.
- [(i) ...]
- [(j) ...]
- [(k) ...]

[...]

2. Regulations under paragraph 1 may only make provision under point (da) of that paragraph if the appropriate authority has concluded, on the basis of surveys or other evidence, that the eradication of the provisional Guernsey quarantine pest in a demarcated area is not possible.

[3. ...]

4. Regulations made under paragraph 1 may include any of the measures specified in Annex II, taking into account the specific risks of the Guernsey quarantine pest to which the regulations relate and any specific ecoclimatic conditions and risks as regards any part of Guernsey.

[5. ...]

[6. ...]

[7. ...]

#### Article 29

##### **Measures by competent authorities concerning pests not listed as Guernsey quarantine pests**

1. Where the presence of a pest that is not included in Annex 2 or 2A to the Phytosanitary Conditions Regulation is officially confirmed to be present in a part of Guernsey, and the competent authority considers that the pest may fulfil the conditions for inclusion in Annex 2 to the Phytosanitary Conditions Regulation, the competent authority must immediately assess whether the pest fulfils the criteria set out in Subsection 1 of Section 3 of Annex I and notify the other competent authorities of its conclusion. If it concludes that those criteria are fulfilled, it shall immediately take eradication measures in accordance with Annex II. Articles 17 to 19 shall apply.

Where it is concluded, on the basis of the surveys referred to in Article 19 or other evidence, that the eradication of a pest in a demarcated area is not possible, Article 28(2) shall apply *mutatis mutandis*.

Where the presence of a pest fulfilling the criteria referred to in the first subparagraph is officially confirmed in a consignment of plants, plant products or other objects introduced into, or moved within, Guernsey, the competent authority shall take the necessary measures to prevent the entry of that pest into, and its establishment and spread in, the territory for which it is responsible.

Where a competent authority suspects the presence in its territory of a pest fulfilling the criteria referred to in the first subparagraph, Article 10 shall apply *mutatis mutandis*.

Pending the official confirmation of the presence of that pest, the competent authority shall, where appropriate, take phytosanitary measures to mitigate the risk of it spreading.

2. The competent authority must promptly assess whether the pest concerned fulfils the criteria for quarantine pests set out in Section 1 of Annex I.

2A. Each competent authority must ensure that interim measures are taken in relation to the pest where it is present in its territory or in a consignment of plants, plant products or other objects introduced into, or moved within, its territory until:

- (a) a risk assessment has been carried out which shows that the pest does not fulfil the criteria set out in Subsection 1 of Section 3 of Annex 1; or
- (b) regulations in relation to the pest have been made under Article 30(1).

2B. In paragraph 2A, 'interim measures', in relation to a pest which has been provisionally assessed, in accordance with paragraph 2, to fulfil the criteria set out in Subsection 1 of Section 3 of Annex 1, means any of the following measures insofar as they are relevant:

- (a) official confirmation of the presence of the pest where its presence is suspected;
- (b) pending official confirmation of presence of the pest, phytosanitary measures to mitigate the risk of the pest spreading;
- (c) where the pest is officially confirmed to be present; eradication measures equivalent to the measures specified in Articles 17 to 19 in relation to Guernsey quarantine pests or, if it is concluded, on the basis of the surveys referred to in Article 19 or other evidence, that the eradication of the pest in a demarcated area is not possible, containment measures; and
- (d) any other measures which are necessary or appropriate to prevent the entry of that pest into Guernsey, or its establishment or spread within Guernsey, including risk-based surveys to check for signs and symptoms of that pest.

[3. ...]

## Article 30

### **Measures concerning provisional GB quarantine pests**

A1. In this Article, 'provisional Guernsey quarantine pest' means a pest which is not included in the list of Guernsey quarantine pests in Annex 2 to the Phytosanitary Conditions Regulation, but which, according to an appropriate assessment, meets the criteria set out in Subsection 2 of Section 3 of Annex 1 and is listed in Annex 2A to the Phytosanitary Conditions Regulation.

A2. A provisional Guernsey quarantine pest may not be introduced into, moved within, or held, multiplied or released in, Guernsey.

1. The appropriate authority may by regulations:

- (a) amend or modify Annex 2A to the Phytosanitary Conditions Regulation where the results of an assessment show, in respect of Guernsey, that a pest which is not included in that Annex fulfils the criteria set out Subsection 2 of Section 3 of Annex 1, or that a pest which is included in that Annex no longer fulfils those criteria or fulfils the criteria in Article 3;
- (b) make temporary provision for the purposes of preventing the introduction of a provisional Guernsey quarantine pest into Guernsey, or the spread of a provisional Guernsey quarantine pest within Guernsey.

1A. Regulations under paragraph 1 may include, in relation to the provisional Guernsey quarantine pest, provision concerning:

- (a) measures to be taken in the event of suspicion and official confirmation by competent authorities of the presence of that provisional Guernsey quarantine pest;
- (b) measures to be taken immediately by professional operators;
- (c) measures to be taken by persons other than professional operators;
- (d) the eradication of that pest;

- (e) the containment of that pest;
- (f) the establishment of demarcated areas;
- (g) surveys and modifications of demarcated areas and lifting of restrictions;
- (h) surveys of that pest;
- (i) prevention measures in areas outside demarcated areas where necessary to protect the establishment of that pest in those areas.

[2. ...]

3. Regulations under paragraph 1 may only make provision for the purposes of point (e) of paragraph 1A if the appropriate authority has concluded, on the basis of surveys or other evidence, that the eradication of the provisional Guernsey quarantine pest is not possible.

[4. ...]

5. Regulations under paragraph 1 may include any of the measures specified in Annex II, taking into account the specific risks of the pest.

[6. ...]

[7. ...]

[8. ...]

## Article 31

### **Making stringent requirements**

1. The competent authorities may apply within their respective territories more stringent measures than those specified in regulations made under, Article 28(1) or Article 30(1), if justified by the objective of phytosanitary protection and in accordance with the principles set out in Section 2 of Annex II.

Those more stringent measures shall not impose, or result in, any prohibitions or restrictions on the introduction into, or movement within and through, Guernsey of

plants, plant products and other objects, other than those imposed by, or under, Articles 40 to 58 and 71 to 101.

[2. ...]

### **Section 3**

#### **PFA quarantine pests**

#### Article 32

#### **Recognition of Guernsey pest-free areas**

1. 'A PFA quarantine pest' is a pest which:

(a) is present in –

(i) a Relevant British Island but is not present in Guernsey and the whole Island is recognised as free of that plant pest in accordance with ISPM 4; or

(ii) Guernsey but not present in a part of it and that part is recognised as free of that pest in accordance with ISPM4; and

(b) is listed in column (1) of the table in Annex 3 to the Phytosanitary Conditions Regulation.

2. A PFA quarantine pest may not be introduced into, moved within, or held, multiplied or released in, any Guernsey pest-free area established in respect of that PFA quarantine pest, and described in the corresponding entry in column (2) of the table in Annex 3 to the Phytosanitary Conditions Regulation.

Article 8 shall apply mutatis mutandis to the introduction into, movement within, and holding and multiplication in, a Guernsey pest-free area of the PFA quarantine pest in respect of which the area was established.

3. [...]

The appropriate authority may by regulations amend or modify Annex 3 to the Phytosanitary Conditions Regulation where:

(a) a plant pest is no longer recognised as a PFA quarantine pest;

- (b) any additional Guernsey pest-free area is recognised in relation to a PFA quarantine pest;
- (c) the extent of an existing Guernsey pest-free area has been altered; or
- (d) an existing Guernsey pest-free area is no longer recognised as free from the PFA quarantine pest in respect of which the area was established.

[...]

[...]

[4. ....].

[5. ....].

[6. ....].

[7. ....].

#### Article 33

##### **General obligations concerning Guernsey pest-free areas**

1. With regard to a Guernsey pest-free area, the obligations set out in Articles 9 to 19 shall apply *mutatis mutandis* to the relevant PFA quarantine pest.

2. Where a PFA quarantine pest is found to be present in a Guernsey pest-free area established in respect of that PFA quarantine pest and the competent authority has established a demarcated area in response to its presence, any plant, plant product or other object originating in the demarcated area may not be moved from that demarcated area into the remaining part of that Guernsey pest-free area or into any other Guernsey pest-free area established in respect of that PFA quarantine pest if its movement has been authorised by, or on behalf of, the competent authority by notice.

2A. By way of derogation from paragraph 2, a plant, plant product or other object may be moved out of that demarcated area and through and out of the Guernsey pest-free area concerned if it is packed and moved in such a way that there is no risk of spreading the relevant PFA quarantine pest within the Guernsey pest-free area.

[3. ....].

Article 34

**Surveys on PFA quarantine pests**

1. The competent authorities must carry out annual surveys of each Guernsey pest-free area within their respective territories as regards the presence of the PFA quarantine pests in respect of which those areas have been established.

Article 22(2) shall apply mutatis mutandis to those surveys.

1A. The appropriate authority may by regulations supplement this Regulation by laying down detailed rules for the preparation and the content of the surveys referred to in paragraph 1.

[2. ....].

Article 35

[...]

CHAPTER III

**Guernsey regulated non-quarantine pests**

Article 36

**Definition of Guernsey regulated non-quarantine pests**

A pest is a 'Guernsey regulated non-quarantine pest' if it fulfils all of the following conditions and it is included in column (1) of the tables in Annex 4 to the Phytosanitary Conditions Regulation:

- (a) its identity is established in accordance with point (1) of Section 4 of Annex I;
- (b) it is present in Guernsey;

- (c) it is not a Guernsey quarantine pest or a provisional Guernsey quarantine pest;
- (d) it is transmitted mainly through specific plants for planting, in accordance with point (2) of Section 4 of Annex I;
- (e) its presence on those plants for planting has an unacceptable economic impact, as regards the intended use of those plants for planting, in accordance with point (3) of Section 4 of Annex I;
- (f) feasible and effective measures are available to prevent its presence on the plants for planting concerned.

#### Article 37

#### **Prohibition of the introduction and movement of Guernsey regulated non-quarantine pests on plants for planting**

1. A professional operator may not introduce a Guernsey regulated non-quarantine pest into Guernsey, or move a Guernsey regulated non-quarantine pest within, Guernsey on the plants for planting through which it is transmitted as specified in the entries in respect of that pest in column (2) of the tables in Annex 4 to the Phytosanitary Conditions Regulation, if the presence of that pest on those plants for planting exceeds the thresholds specified in those tables in respect of that pest and those plants for planting.

The prohibition laid down in the first subparagraph shall not apply in the following cases:

- (a) movement of plants for planting within, or between, the premises of the professional operator concerned;
- (b) movement of plants for planting necessary for their disinfection.

[2. ...].

[3. ...].

[4. ...].

4A. A professional operator may not introduce into Guernsey, or move within Guernsey, any plants for planting referred to in Annex 5 to the Phytosanitary Conditions Regulation, unless the measures specified in respect of those plants for

planting to prevent the presence of the Guernsey regulated non-quarantine pests have been taken.

5. The appropriate authority may by regulations amend or modify Annex 4 or 5 to the Phytosanitary Conditions Regulation where the results of an assessment show that:

- (a) a pest not listed in column (1) of the tables in Annex 4 to the Phytosanitary Conditions Regulation fulfils the conditions referred to in Article 36;
- (b) a pest listed in column (1) of the tables in Annex 4 to the Phytosanitary Conditions Regulation no longer fulfils one or more of the conditions referred to in Article 36; or
- (c) amendments to Annex 4 or 5 to the Phytosanitary Conditions Regulation are necessary as regards the categories referred to in paragraph 7 of this Article or the thresholds referred to in paragraph 8 of this Article.

5A. The appropriate authority may by regulations amend or modify Annex 5 to the Phytosanitary Conditions Regulation to make provision as to the measures to be taken to prevent the presence of a Guernsey regulated non-quarantine pest on the plants for planting concerned.

5B. Regulations under paragraph 5A may specify whether the measures are to apply to the introduction of the plants for planting into Guernsey, the movement of those plants of planting within Guernsey, or both.

5C. Any measures specified in regulations under paragraph 5A must be consistent with the principles set out in Section 2 of Annex 2 to this Regulation.

[6. ....].

7. Where point (e) of Article 36 is only fulfilled for one or more of the categories of pre-basic, basic, or certified material, seed or seed potatoes, or standard or CAC material or seed, as referred to Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC, the tables in Annex 4 to the Phytosanitary Conditions Regulation must include those categories stating that the prohibition of introduction and movement provided for in paragraph 1 of this Article only applies to those categories.

8. Where point (e) of Article 36 is only fulfilled if the pest concerned is present at an incidence above a certain threshold higher than zero, the tables in Annex 4 to the Phytosanitary Conditions Regulation must include that threshold stating that the prohibition of introduction and movement provided for in paragraph 1 of this Article only applies above that threshold.

Such a threshold shall only be included if both of the following points are fulfilled:

- (a) it is possible for professional operators to ensure that the incidence of that Guernsey regulated non-quarantine pest on those plants for planting does not exceed that threshold;
- (b) it is possible to verify whether that threshold is not exceeded in lots of those plants for planting.

The principles for the management of the risk of pests set out in Section 2 of Annex II shall apply.

9. Article 31 shall apply *mutatis mutandis* to the measures to be taken by the competent authorities concerning Guernsey regulated non-quarantine pests and the respective plants for planting.

#### Article 38

##### **Amendment of Section 4 of Annex I**

The appropriate authority may by regulations amend Section 4 of Annex I in order to adapt it to the development of scientific and technical knowledge and of relevant international standards.

#### Article 39

##### **Guernsey regulated non-quarantine pests used for scientific or educational purposes, trials, varietal selection, breeding or exhibitions**

The prohibition provided for in Article 37 shall not apply to Guernsey regulated non-quarantine pests which are present on plants for planting used for scientific or educational purposes, trials, varietal selection, breeding or exhibitions.

### CHAPTER IV

#### **Measures concerning plants, plant products and other objects**

Section 1  
**Measures relating to Guernsey**

Article 40

**Prohibition of the introduction of plants, plant products and other objects into Guernsey**

1. Plants, plant products or other objects of a description specified in any entry in column (1) of the tables in Parts A and C of Annex 6 to the Phytosanitary Conditions Regulation may not be introduced into Guernsey if they originate from any third country listed in the corresponding entry in column (2) of those tables.

[2. ....].

3. The appropriate authority may by regulations amend Parts A and C of Annex 6 to the Phytosanitary Conditions Regulation where the amendment is appropriate in the light of a risk assessment in relation to a plant, plant product or other object originating in or dispatched from a third country.

3A. For the purposes of paragraph 3, an amendment is appropriate if, on the basis of the risk assessment, it is concluded:

- (a) in the case of a plant, plant product or other object which is not included in Part A or C of Annex 6 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object poses a pest risk of an unacceptable level which cannot be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2;
- (b) in the case of a plant, plant product or other object which is included in Part A or C of Annex 6 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object no longer poses a pest risk of an unacceptable level, or that it continues to pose a risk of an unacceptable level, but that the risk can be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2.

3B. A plant, plant product or other object may only be regarded as posing a pest risk of an unacceptable level for the purposes of paragraph 3A if the risk assessment shows that the plant, plant product or other object may host a Guernsey quarantine pest and, in determining the acceptability of the level of pest risk, the risk assessment was

carried out in accordance with the principles set out in Section 2 of Annex II, where appropriate with regard to one or more specific third countries.

[4. ....].

#### Article 41

### **Plants, plant products and other objects subject to special and equivalent requirements**

1. Plants, plant products or other objects of a description specified in any entry in column (1) of the tables in Parts A and B of Annex 7 to the Phytosanitary Conditions Regulation, and which originate in a third country listed in the corresponding entry in column (2) of those tables may only be introduced into, or moved within, Guernsey if the special requirements specified in the corresponding entry in column (3) of those tables are fulfilled.

1A. Plants, plant products or other objects of a description specified in any entry in column (1) of the tables in Parts A and B of Annex 8 to the Phytosanitary Conditions Regulation which originate in a Relevant British Island may only be introduced into Guernsey if the special requirements specified in the corresponding entry in column (2) of those tables are fulfilled.

1B. Plants, plant products or other objects of a description specified in any entry in column (1) of the tables in Parts A and B of Annex 8 to the Phytosanitary Conditions Regulation, and which originate in Guernsey or a Relevant British Island may only be moved within Guernsey if the special requirements specified in the corresponding entry in column (2) of those tables are fulfilled.

[2. ....].

3. The appropriate authority may by regulations amend Annex 7 or 8 to the Phytosanitary Conditions Regulation where the amendment is appropriate in the light of a risk assessment in relation to a plant, plant product or other object.

3A. For the purposes of paragraph 3, an amendment is appropriate if, on the basis of a the risk assessment, it is concluded:

- (a) in the case of a plant, plant product or other object which originates in a third country and is not included in Part A or B of Annex 7 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object poses a pest risk of an unacceptable level which can be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2;

- (b) in the case of a plant, plant product or other object which originates in a third country and is included in Part A or B of Annex 7 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object poses a pest risk of an unacceptable level which can no longer be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2 or that the pest risk can continue to be reduced to an acceptable level by applying alternative measures to those specified in relation to the plant, plant product or other object in Annex 7 to the Phytosanitary Conditions Regulation;
- (ba) in the case of a plant, plant product or other object which originates in a third country and is included in Part B of Annex 7 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object continues to pose a pest risk which can be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex II, and the plant, plant product or other object and those measures can be included in Part A, instead of in Part B, of Annex 7 to the Preserved Phytosanitary Conditions Regulation;
- (c) in the case of a plant, plant product or other object which originates in Guernsey or a Relevant British Island and is not included in Annex 8 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object poses a pest risk of an unacceptable level which can be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2;
- (d) in the case of a plant, plant product or other object which originates in Guernsey or a Relevant British Island and is included in Annex 8 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object poses a pest risk of an unacceptable level which can no longer be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2, or that the pest risk can continue to be reduced to an acceptable level by applying alternative measures to those specified in relation to the plant, plant product or other object in Annex 8 to the Preserved Phytosanitary Conditions Regulation.
- (e) in the case of a plant, plant product or other object which originates in Guernsey or a Relevant British Island and is included in Part B of Annex 8 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object continues to pose a pest risk which can be

reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex II, and the plant, plant product or other object and those measures can be included in Part A, instead of in Part B, of Annex 8 to the Phytosanitary Conditions Regulation.

3B. A plant, plant product or other object may only be regarded as posing a pest risk of an unacceptable level for the purposes of paragraph 3A if the risk assessment shows that the plant, plant product or other object may host a Guernsey quarantine pest and, in determining the acceptability of the level of pest risk and the measures to reduce that risk to an acceptable level, the risk assessment was carried out in accordance with the principles set out in Section 2 of Annex 2, where appropriate with regard to one or more specific third countries or parts of specific third countries.

4. In the event that plants, plant products or other objects have been introduced into, or moved within, Guernsey in violation of paragraph 1 of this Article, the competent authority shall adopt the necessary measures, as referred to in Article 66(3) of Regulation (EU) 2017/625.

[...]

## Article 42

### **Restrictions on the basis of a preliminary assessment for the introduction into Guernsey of high-risk plants, plant products and other objects**

1. A plant, plant product or other object originating in a third country which, on the basis of a preliminary assessment, presents a pest risk of an unacceptable level for Guernsey is a 'high-risk plant', 'high-risk plant product' or 'high-risk other object' ('high-risk plants, plant products or other objects').

That preliminary assessment shall take into account, as appropriate for the plant, plant product or other object concerned, any prohibitions or requirements that apply to that plant, plant product or object by virtue of Article 40 or 41 or any measures made pursuant to Article 49(1) and the criteria set out in Annex III.

2. High-risk plants, plant products or other objects listed in Part B of Annex 6 to the Phytosanitary Conditions Regulation may not be introduced into Guernsey from the third countries, groups of third countries or specific areas of third countries of origin specified in respect of those plants, plant products or other objects in that list.

3. The appropriate authority may by regulations amend Part B of Annex 6 to the Phytosanitary Conditions Regulation to provisionally include at the appropriate

taxonomic level, pending the risk assessment referred to in paragraph 4, additional high-risk plants, plant products or other objects and, where appropriate, the third countries, groups of third countries or specific areas of third countries of origin in respect of those plants, plant products or other objects.

[...]

[...]

4. Where a risk assessment in relation to a high-risk plant, plant product or other object originating in any third country has been completed, the appropriate authority must by regulations amend the list of high-risk plants, plant products or other objects in Part B of Annex 6 to the Phytosanitary Conditions Regulation, to remove the third country from the entry in that list relating to that ,plant, plant product or other object.

4A. Regulations under paragraph 4 may amend Part A or C of Annex 6, or Part A or B of Annex 7, of the Phytosanitary Conditions Regulation, where appropriate, in the light of the risk assessment.

5. Provided that demand for import of plants, plant products or other objects listed in Part B of Annex 6 to the Phytosanitary Conditions Regulation is identified, the risk assessment referred to in paragraph 4 shall be carried out within an appropriate and reasonable period of time.

Where appropriate, that assessment may be limited to plants, plant products or other objects of a particular third country of origin or dispatch, or a group of third countries of origin or dispatch.

6. The appropriate authority may by regulations lay down specific rules concerning the procedure to be followed in order to carry out the risk assessment referred to in paragraph 4.

7. A risk assessment referred to in paragraph 4 is one which:

- (a) is carried out by the UK NPPO and conforms with the procedures for risk assessment laid down in Commission Implementing Regulation (EU) 2018/2018 laying down specific rules concerning the procedure to be followed to carry out the risk assessment of high risk plants, plant products and other objects within the meaning of Article 42(1) of the PHR, as it has effect in Great Britain, or
- (b) is otherwise carried out in accordance with regulations made under paragraph 6.

## Article 43

### **Specific import conditions for the introduction into Guernsey of wood packaging material**

1. Wood packaging material, whether or not actually in use in the transport of objects of all kinds, shall only be introduced into Guernsey from a third country if it fulfils all of the following requirements:

- (a) it has been subject to one or more of the approved treatments and complies with the applicable requirements set out in Annex 1 to ISPM15;
- (b) it is marked with the mark referred to in Annex 2 of ISPM15 attesting that it has been subject to the treatments referred to in point (a).

This paragraph shall not apply to wood packaging material which is subject to the exemptions provided for in ISPM15.

2. The appropriate authority may by regulations:

- (a) amend the requirements set out in paragraph 1 of this Article to take into account the development of international standards, and in particular of ISPM15;
- (b) specify derogations from paragraph 1 for the purpose of exempting other wood packaging material which is not subject to the exemptions provided for in ISPM15 from the requirements of paragraph 1 of this Article or for the purpose of imposing less stringent requirements on wood packaging material which is subject to the exemptions provided for in ISPM15.

## Article 44

### **Setting out of equivalent requirements**

1. The appropriate authority may by regulations make provision for the purpose of giving effect to a relevant decision.

1A. Regulations under paragraph 1 may:

- (a) amend the special requirements in column (3) of the table in Part A or B of Annex 7 to the Phytosanitary Conditions Regulation to set out the

equivalent requirements that apply to the plant, plant product or other object in question;

- (b) specify the conditions under which the decision of the UK NPPO applies.

1B. In paragraph 1, 'relevant decision' means a decision of the UK NPPO confirming that specific measures which are applied in the third country in relation to a particular plant, plant product or other object from that third country provide a level of phytosanitary protection which is equivalent to the measures included in the special requirements in relation to that plant, plant product or other object in Annex 7 to the Phytosanitary Conditions Regulation.

[2. ....].

#### Article 45

##### **Information to be provided to travellers and clients of postal services**

1. The competent authorities and seaport, airport and international transport operators must make information available to passengers concerning the prohibitions referred to in Article 40(1) and 42(2), the requirements referred to in Article 41(1) and any exemption which applies by virtue of Article 75(1) as regards the introduction of plants, plant products and other objects into Guernsey from a third country.

They shall provide that information in the form of posters or brochures and, where applicable, on their internet sites, in the standardised format (if any) published by the appropriate authority.

Postal services and professional operators involved in sales through distance contracts shall also make available to their clients that information concerning plants, plant products and other objects referred to in the first subparagraph at least through the internet.

The appropriate authority may publish, in such manner as the appropriate authority considers appropriate, a standardised format for any poster or brochure which must be used for the purposes of the first subparagraph of this paragraph.

[2. ....].

#### Article 46

[...]

## Article 47

### **Requirements for phytosanitary transit**

1. By way of derogation from Article 40(1), Article 41(1), Article 42(2), Article 72(1) and Article 73, plants, plant products and other objects may be introduced into, and be passed through, Guernsey to a third country, either in the form of transit or transshipment ('phytosanitary transit'), if they fulfil both of the following conditions:
  - (a) they are accompanied by a signed declaration of the professional operator in control of those plants, plant products and other objects stating that those plants, plant products or other objects are in phytosanitary transit;
  - (b) they are packed and moved in such a way that there is no risk of spreading of Guernsey quarantine pests during their introduction into, and passing through, Guernsey.
2. The competent authority shall prohibit phytosanitary transit if the plants, plant products or other objects concerned do not comply, or there is reasonable evidence that they will not comply, with paragraph 1.

## Article 48

### **Plants, plant products and other objects used for official testing, scientific or educational purposes, trials, varietal selection or breeding**

1. By way of derogation from Article 40(1), Article 41(1) and Article 42(2), a competent authority may, on application, authorise temporarily the introduction into, and the movement within, the territory for which it is responsible of plants, plant products and other objects used for official testing, scientific or educational purposes, trials, varietal selection or breeding.

That authorisation shall be granted for the activity concerned only if adequate restrictions are imposed to ensure that the presence of the plants, plant products or other objects concerned does not cause an unacceptable risk of the spread of a Guernsey quarantine pest or a provisional Guernsey quarantine pest, taking into account the identity, biology and means of dispersal of the pests concerned, the activity envisaged, the interaction with the environment and other relevant factors relating to the pest risk posed by those plants, plant products or other objects.

2. Where an authorisation is granted in accordance with paragraph 1, it shall include all of the following conditions:

- (a) the plants, plant products or other objects concerned are to be kept in a location and under conditions found to be appropriate by the competent authority and referred to in the authorisation;
- (b) the activity involving those plants, plant products or other objects is to be carried out in a quarantine station or a confinement facility designated in accordance with Article 60 by the competent authority and referred to in the authorisation;
- (c) the activity involving those plants, plant products or other objects is to be carried out by personnel whose scientific and technical competence is found to be appropriate by the competent authority and referred to in the authorisation;
- (d) those plants, plant products or other objects are to be accompanied by the authorisation when introduced into, or moved within, the territory in question.

3. The authorisation referred to in paragraph 1 shall be limited to the amount and duration that is adequate for the activity concerned and shall not exceed the capacity of the designated quarantine station or confinement facility.

It shall include the restrictions necessary to adequately eliminate the risk of the spread of the relevant Guernsey quarantine pests or provisional Guernsey quarantine pests.

4. The competent authority shall monitor compliance with the conditions referred to in paragraph 2 and the limitation and the restrictions referred to in paragraph 3 and take the necessary action in case those conditions, that limitation or those restrictions are not complied with.

Where appropriate, that action shall be the revocation of the authorisation referred to in paragraph 1.

5. The appropriate authority may by regulations supplement this Regulation by laying down detailed rules concerning:

[(a).....;]

- (b) the procedures and conditions for granting the authorisation referred to in paragraph 1 of this Article; and

- (c) the requirements for the monitoring of compliance and the actions to be taken in the event of non-compliance, as referred to in paragraph 4 of this Article.

#### Article 49

#### **Temporary measures concerning plants, plant products and other objects likely to pose newly identified pest risks or other suspected phytosanitary risks**

1. The appropriate authority may by regulations impose temporary measures as regards the introduction into, and movement within, Guernsey of plants, plant products and other objects from third countries where the following conditions are fulfilled:

- (a) the plants, plant products or other objects are likely to pose newly identified pest risks which are not sufficiently covered by any existing measures and are not linked, or cannot yet be linked, to Guernsey quarantine pests or provisional Guernsey quarantine pests;
- (b) there is insufficient phytosanitary experience, such as in relation to new plant species or pathways, as regards trade in the plants, plant products and other objects concerned originating in or dispatched from the third countries concerned;
- (c) no assessment has been carried out as regards the newly identified pest risks for Guernsey in respect of those plants, plant products or other objects from the third countries concerned.

[...]

2. The temporary measures referred to in paragraph 1 shall be adopted taking into account Section 2 of Annex II and Annex IV.

They shall provide for one or more of the following, as necessary in the case concerned:

- (a) systematic and intensive inspections and sampling, at the point of introduction, of each lot of plants, plant products or other objects introduced into Guernsey and the testing of samples;

- (b) a quarantine period, within a quarantine station or a confinement facility as referred to in Article 60, to verify the absence of the newly identified pest risk concerned in those plants, plant products or other objects;
- (c) a prohibition of the introduction of those plants, plant products or other objects into Guernsey.

In the cases referred to in points (a) and (b) of the second subparagraph, regulations made under paragraph 1 may also set out specific measures to be taken before the introduction into Guernsey of those plants, plant products or other objects.

3. The temporary measures referred to in paragraph 1 shall apply for an appropriate and reasonable period of time, pending the characterisation of pests likely to be associated with those plants, plant products or other objects from those third countries and the full assessment of the risks posed by those pests in accordance with Section 1 of Annex I.

[4. ....].

5. By way of derogation from the measures adopted pursuant to paragraph 1 of this Article, Article 48 shall apply to the introduction into, and the movement within, Guernsey of plants, plant products or other objects used for official testing, scientific or educational purposes, trials, varietal selection or breeding.

[6. ....].

Article 50

[...]

Article 51

#### **Amendment of Annexes III and IV**

The appropriate authority may by regulations amend Annexes III and IV in order to adapt them to the development of scientific and technical knowledge and of relevant international standards.

Article 52

[...]

Section 2

## **Measures relating to Guernsey pest-free areas**

### Article 53

#### **Prohibition of introduction of plants, plant products and other objects into Guernsey pest-free areas**

1. Any plants, plant products or other objects of a description specified in any entry in column (1) of the table in Annex 9 to the Phytosanitary Conditions Regulation, whether originating in a third country, Guernsey or a Relevant British Island, may not be introduced into, or moved within, a Guernsey pest-free area listed in the corresponding entry in column (2) of the table
2. The appropriate authority may by regulations amend Annex 9 to the Phytosanitary Conditions Regulation where the amendment is appropriate in the light of a risk assessment in relation to a plant, plant product or other object.

[3. ....].

For the purposes of paragraph 2, an amendment is appropriate if, on the basis of the risk assessment, it is concluded:

- (a) in the case of a plant, plant product or other object which is not included in Annex 9 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object poses a pest risk of an unacceptable level which cannot be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2;
- (b) in the case of any plant, plant product or other object which is included in Annex 9 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object no longer poses a pest risk of an unacceptable level, or that it continues to pose a pest risk of an unacceptable level, but that the risk can be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2.

3A. A plant, plant product or other object may only be regarded as posing a pest risk of an unacceptable level for the purposes of paragraph 3 if the risk assessment shows that the plant, plant product or other object may host a PFA quarantine pest and, in determining the acceptability of the level of pest risk to the Guernsey pest-free area

which relates to the PFA quarantine pest, the risk assessment was carried out in accordance with the principles set out in Section 2 of Annex II.

[4. ....].

#### Article 54

### **Plants, plant products and other objects subject to special requirements for Guernsey pest-free areas**

1. Plants, plant products or other objects of a description specified in any entry in column (1) of the table in Annex 10 to the Phytosanitary Conditions Regulation, whether originating in a third country, Guernsey or a Relevant British Island, may only be introduced into, or moved within, a Guernsey pest-free area listed in the corresponding entry in column (3) of the table if the special requirements specified in the corresponding entry in column (2) of the table are fulfilled.

[2. ....].

3. The appropriate authority may by regulations amend Annex 10 to the Phytosanitary Conditions Regulation where the amendment is appropriate in the light of a risk assessment in relation to a plant, plant product or other object.

3A. For the purposes of paragraph 3, an amendment is appropriate if, on the basis of the risk assessment, it is concluded:

- (a) in the case of a plant, plant product or other object which is not included in Annex 10 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object poses a pest risk of an unacceptable level which can be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2; or
- (b) in the case of a plant, plant product or other object which is included in Annex 10 to the Phytosanitary Conditions Regulation, that the plant, plant product or other object poses a pest risk of an unacceptable level which can no longer be reduced to an acceptable level by applying one or more of the measures set out in points (2) and (3) of Section 1 of Annex 2, or that the pest risk can continue to be reduced to an acceptable level by applying alternative measures to those specified in Annex 10 to the Phytosanitary Conditions Regulation.

3B. A plant, plant product or other object may only be regarded as posing a pest risk of an unacceptable level for the purposes of paragraph 3A if the risk assessment shows that the plant, plant product or other object may host a PFA quarantine pest and, in determining the acceptability of the level of pest risk to the Guernsey pest-free area which relates to the PFA quarantine pest and the measures to reduce that risk to an acceptable level, the risk assessment was carried out in accordance with the principles set out in Section 2 of Annex II.

[4. ....].

#### Article 55

##### **Information to be provided to travellers and clients of postal services as regards Guernsey pest-free areas**

Article 45 shall apply mutatis mutandis to the introduction into, or the movement within, Guernsey pest-free areas of plants, plant products and other objects.

#### Article 56

[...]

#### Article 57

##### **Requirements for phytosanitary transit as regards Guernsey pest-free areas**

Article 47 shall apply mutatis mutandis to the phytosanitary transit of the plants, plant products and other objects of a description specified in any entry in column (1) of the tables in Annex 9 or 10 to the Phytosanitary Conditions Regulation through the Guernsey pest-free areas related to those plants, plant products or other objects.

#### Article 58

##### **Plants, plant products and other objects used for official testing, scientific or educational purposes, trials, varietal selection or breeding as regards Guernsey pest-free areas**

By way of derogation from Article 53(1) and Article 54(1), Article 48 shall apply mutatis mutandis to the introduction into, and the movement within, a Guernsey pest-free area of plants, plant products and other objects of a description specified in any entry in column (1) of the tables in Annex 9 or 10 to the Phytosanitary Conditions Regulation which relate to that Guernsey pest-free area and used for official testing, scientific or educational purposes, trials, varietal selection or breeding.

### Section 3

#### **Other measures concerning plants, plant products and other objects**

##### Article 59

#### **General requirements for vehicles, machinery and packaging material**

1. Vehicles, machinery and packaging material used for plants, plant products or other objects of a description specified in any entry in Annex 6, 7 or 8 to the Phytosanitary Conditions Regulation, or in any regulations made under Article 28(1), 30(1), or 49(1), and moving into or within Guernsey, or through Guernsey pursuant to Article 47, shall be free from Guernsey quarantine pests and GB provisional quarantine pests.
2. Paragraph 1 shall apply to any Guernsey pest-free area also as regards a PFA quarantine pest relating to that Guernsey pest-free area.

##### Article 60

#### **Designation of quarantine stations and confinement facilities**

1. For the purposes referred to in Articles 8, 48, 49 and 58, the competent authorities shall take one or more of the following actions, taking into account the relevant pest risk:
  - (a) designate in the territories for which they responsible quarantine stations or confinement facilities;
  - [(b).....]
  - (c) designate temporarily the premises of professional operators or other persons in the territories for which they are responsible as confinement facilities for the pests, plants, plant products or other objects and their relevant uses as set out in Articles 8, 48 and 49.

[2. ....].

##### Article 61

#### **Requirements for quarantine stations and confinement facilities**

1. Quarantine stations and confinement facilities referred to in Article 60 shall meet the following requirements to prevent the spread of Guernsey quarantine pests:

- (a) they provide physical isolation of the pests, plants, plant products and other objects to be kept in quarantine or confinement and ensure they cannot be accessed or removed from those stations or facilities without consent of the competent authority;
- (b) they have systems, or access to systems, for sterilisation, decontamination or destruction of infested plants, plant products and other objects, waste and equipment before removal from the stations or facilities;
- (c) they have an identification and description of the tasks of those stations and facilities, the persons responsible for carrying out those tasks and the conditions under which they shall carry out those tasks;
- (d) they have a sufficient number of suitably qualified, trained and experienced personnel; and
- (e) they have a contingency plan for the purpose of effectively eliminating any unintended presence of Guernsey quarantine pests and provisional Guernsey quarantine pests and preventing their spread.

2. The appropriate authority may by regulations lay down specific rules in order to provide uniform conditions of application for the requirements set out in paragraph 1 in relation to the type of plants, plant products and other objects and the actual or potential risk, including specific requirements for official testing, scientific or educational purposes, trials, varietal selection or breeding.

[...]

## Article 62

### **Operation of quarantine stations and confinement facilities**

1. The person responsible for the quarantine station or confinement facility shall monitor that station or facility and its immediate vicinity for the unintended presence of Guernsey quarantine pests and provisional Guernsey quarantine pests.

2. Where an unintended presence of a pest referred to in paragraph 1 is found or suspected, the person responsible for the quarantine station or confinement facility concerned shall take the appropriate action, based on the contingency plan referred to

in point (e) of Article 61(1). The obligations set out for professional operators in Article 14 shall apply mutatis mutandis to the person responsible for the quarantine station or confinement facility.

3. The person responsible for the quarantine station or confinement facility shall keep records on the following:

- (a) the personnel employed;
- (b) the visitors accessing the station or facility;
- (c) the pests, plants, plant products and other objects entering and leaving the station or facility;
- (d) the place of origin of such plants, plant products and other objects; and
- (e) observations concerning the presence of pests on such plants, plant products and other objects inside the quarantine station or confinement facility and in its immediate vicinity.

Those records shall be kept for three years.

### Article 63

#### **Supervision of quarantine stations and confinement facilities and revocation of designation**

1. The competent authorities shall regularly inspect the quarantine stations and confinement facilities which they have designated to verify whether they meet the requirements set out in Article 61 and the operation conditions set out in Article 62.

They shall determine the frequency of those inspections according to the pest risk related to the operation of the quarantine stations or confinement facilities.

2. Where corrective actions to ensure compliance with Articles 61 and 62 are considered to be necessary by a competent authority, the competent authority may require the person responsible for the quarantine station or confinement facility to implement those corrective actions, either immediately or within a specified period of time.

Where the competent authority concludes that the quarantine station or confinement facility does not comply with Articles 61 and 62 or the person responsible for it has failed to comply with Articles 61 and 62, that authority shall without delay take the

measures necessary to ensure that non-compliance with those provisions does not continue. Those measures may include the revocation or suspension of the designation referred to in Article 60(1).

3. Where the competent authority has taken measures in accordance with paragraph 2 of this Article other than the revocation of the designation referred to in Article 60(1), and non-compliance with Articles 61 and 62 continues, that authority shall without delay revoke that designation.

#### Article 64

##### **Release of plants, plant products and other objects from quarantine stations and confinement facilities**

1. Plants, plant products and other objects shall only leave a quarantine station or a confinement facility, upon authorisation by the competent authority, if it is confirmed that they are free from Guernsey quarantine pests and provisional Guernsey quarantine pests, or, where applicable, PFA quarantine pests.

2. The competent authority may authorise the movement of plants, plant products or other objects infested by a Guernsey quarantine pest or provisional Guernsey quarantine pest from a quarantine station or a confinement facility to another quarantine station or confinement facility if that movement is justified by official testing or scientific reasons and takes place under the conditions set by the competent authority.

3. The appropriate authority may by regulations, lay down specific rules concerning the release of plants, plant products and other objects from quarantine stations and confinement facilities, and, where appropriate, labelling requirements related to that release or to the movement referred to in paragraph 2.

[...]

#### CHAPTER V

##### **Registration of professional operators and traceability**

#### Article 65

##### **Official register of professional operators**

1. The competent authorities shall keep and update a register containing the following professional operators who operate in Guernsey:

- (a) professional operators introducing into, or moving within, Guernsey plants, plant products and other objects for which a phytosanitary certificate or a UK plant passport is required pursuant to Article 72(1), Article 73, Article 74(1), Article 79(1) and Article 80(1);
- (b) professional operators authorised to issue UK plant passports in accordance with Article 89;
- (c) professional operators who request the competent authority to issue the certificates referred to in Articles 100 and 101;
- (d) professional operators authorised to apply the marks referred to in Article 98, authorised to issue the attestations referred to in Article 99, providing information in accordance with Articles 45 or 55, or carrying out activities concerning the relevant plants in demarcated areas, unless those operators are listed in another official register which is accessible to the competent authorities; and
- (e) professional operators other than the ones referred to in points (a) to (d) of this subparagraph, if so required by the special requirements in Annex 7, 8 or 10 or by regulations made under Article 28(1), 30(1), or 49(1).

[...]

2. The competent authorities must ensure that a professional operator is registered only once in the register of a competent authority. Where applicable, that registration shall be carried out with explicit references to each of the different premises referred to in point (d) of Article 66(2).

3. Paragraph 1 of this Article shall not apply to a professional operator who fulfils one or more of the following criteria:

- (a) it supplies exclusively and directly to final users small quantities of plants, plant products and other objects by means other than sales through distance contracts;
- (b) it supplies exclusively and directly to final users small quantities of seeds, other than the seeds subject to Article 72;

- (c) its professional activity concerning plants, plant products and other objects is limited to transporting them for another professional operator;
- (d) its professional activity exclusively concerns the transport of objects of all kinds using wood packaging material.

The competent authority may decide not to apply the exemption referred to in point (a) of the first subparagraph to all or certain growers or other professional operators if so justified by the pest risk presented by the plants that they grow or if it is concerned by any other of their activities.

4. The appropriate authority may by regulations:

- (a) amend this Regulation by adding further categories of professional operators to be exempted from the application of paragraph 1 of this Article, where registration would constitute an administrative burden for them disproportionate to the low pest risk related to their professional activities;
- (b) supplement this Regulation by setting out particular requirements for the registration of certain categories of professional operators, taking into account the nature of the activity or of the plant, plant product or other object concerned;
- (c) supplement this Regulation by setting out the maximum figures for small quantities of particular plants, plant products or other objects as referred to in point (a) of the first subparagraph of paragraph 3. The figures shall be established as appropriate for the plants, plant products and other objects concerned and the respective pest risks.

## Article 66

### **Procedure of registration**

1. Professional operators falling within the scope of Article 65(1) shall submit to the competent authorities an application for registration.
2. The application for registration shall include the following elements:
  - (a) name, address in Guernsey and contact details of the professional operator;

- (b) a statement concerning the intention of the professional operator to exercise one or more of the activities referred to in Article 65(1) concerning plants, plant products and other objects;
- (c) a statement concerning the intention of the professional operator to carry out, as applicable, one or more of the following activities:
  - (i) issuing of UK plant passports for plants, plant products and other objects pursuant to Article 84(1);
  - (ii) placing of the mark on wood packaging material referred to in Article 96(1);
  - (iii) issuing of any other attestation referred to in Article 99(1);
- (d) address of the premises and, where applicable, the location of land plots used by the professional operator to carry out the activities referred to in Article 65(1) for the purpose of the registration; and
- (e) the commodity types, families, genera or species of the plants and plant products and, where appropriate, the nature of other objects concerned by the activities of the professional operator, as referred to in Article 65(1).

3. The competent authorities shall register a professional operator without delay where the application for registration contains the elements set out in paragraph 2.

[4. ....].

5. Registered operators shall, where relevant, submit annually an update concerning any changes in the data referred to in points (d) and (e) of paragraph 2 and the statements referred to in points (b) and (c) of paragraph 2. That submission shall take place by 30 April of each year with regard to the updating of the data of the preceding year.

An application for updating the data referred to in point (a) of paragraph 2 shall be submitted no later than 30 days after the change in those data.

6. Where the competent authority becomes aware that a registered operator no longer carries out the activities referred to in Article 65(1), or that the elements included in the application submitted by the registered operator in accordance with paragraph 2

of this Article are no longer correct, it shall request that operator to correct those elements immediately or within a specified period of time.

Where the registered operator does not correct those elements within the period of time set by the competent authority, the competent authority shall, as appropriate, amend or revoke the registration of that operator.

#### Article 67

##### **Content of the register**

The register shall contain the elements set out in points (a), (b), (d) and (e) of Article 66(2) and the following elements:

- (a) the official registration number for the professional operator;
- (b) where applicable, an indication for which of the activities referred to in point (c) of Article 66(2) the professional operator is authorised, and, where applicable, the specific plants, plant products or other objects concerned.

#### Article 68

##### **Availability of information of official registers**

[1. ....].

2. The competent authority shall make available, on justified request, the information referred to in points (a) and (b) of Article 66(2) and point (b) of Article 67 concerning a particular registered operator to any professional operator established in Guernsey, for its own use.

3. This Article shall apply without prejudice to rules on confidentiality, access to information and private data protection.

#### Article 69

##### **Traceability**

1. A professional operator to whom a regulated trade unit is supplied must keep a record allowing that operator to identify the professional operator who supplied it.

2. A professional operator supplying a regulated trade unit must keep a record allowing that operator to identify the professional operator to whom it was supplied.

3. Where an authorised operator issues a UK plant passport pursuant to Article 84(1), and where the competent authority issues a UK plant passport pursuant to Article 84(2) for a registered operator, that operator shall ensure, for the purpose of ensuring traceability pursuant to paragraphs 1 and 2 of this Article, that it records the following information as regards that UK plant passport:

(a) where applicable, the professional operator who supplied the trade unit concerned;

(b) the professional operator to whom the trade unit concerned was supplied; and

(c) relevant information relating to the plant passport.

4. Professional operators shall keep the records referred to in paragraphs 1, 2 and 3 for at least three years after the date on which the plant, plant product or other object concerned was supplied to or by them.

5. The appropriate authority may by regulations set out the following elements:

(a) a shorter or longer minimum period than the one referred to in paragraph 4 with regards to specific plants, where so justified by the length of the cultivation period of those plants; and

(b) requirements as to the accessibility of the records to be kept by the professional operators referred to in paragraphs 1 and 2.

[...]

6. On request, the professional operators referred to in paragraph 4 shall communicate the information in the records referred to in paragraphs 1, 2 and 3 to the competent authority.

7. This Article shall not apply to the professional operators referred to in points (c) and (d) of the first subparagraph of Article 65(3).

8. In this Article 'regulated trade unit' means a trade unit of plants, plant products or other objects that are subject to requirements or conditions pursuant to Article 28(1), 30(1), 37(1), 41, 47(1), 48(1), 49(1), 54(1), 57, 58 or 79(1) or a relevant NI trade unit.

## Article 70

### **Movements of plants, plant products and other objects within and between the premises of the professional operator**

1. The professional operators who are supplied with, or supply, the plants, plant products or other objects in the trade units referred to in Article 69(1) and (2) shall have in place traceability systems or procedures to allow identification of the movements of those plants, plant products and other objects within and between their own premises.

The first subparagraph shall not apply to the professional operators referred to in points (c) and (d) of the first subparagraph of Article 65(3).

2. The information identified by the systems or procedures referred to in paragraph 1 on the movement of the plants, plant products and other objects within and between the premises of the professional operators referred to in that paragraph shall be made available to the competent authority on request.

## CHAPTER VI

### **Certification of plants, plant products and other objects**

#### Section 1

### **Phytosanitary certificates required for the introduction of plants, plant products and other objects into Guernsey**

## Article 71

### **Phytosanitary certificate for introduction into Guernsey**

1. A phytosanitary certificate for introduction of plants, plant products and other objects into Guernsey shall be a document, issued by a relevant authority, which fulfils the conditions of Article 76, has the contents set out in Part A of Annex V, or, where applicable, Part B of Annex V, and certifies that the plant, plant product or other object concerned complies with all of the following requirements:

- (a) it is free from Guernsey quarantine pests and provisional Guernsey quarantine pests
- (b) it complies with the provisions of Article 37(1) concerning the presence of Guernsey regulated non-quarantine pests on plants for planting;

- (c) it complies with the requirements referred to in Article 41(1) or, where applicable, Article 54(1);
  - (d) where applicable, it complies with any requirements specified in regulations made under Article 28(1), or 30(1).
2. Where one or more options are specified for the purposes of meeting any such requirements, the phytosanitary certificate shall specify under the heading 'Additional Declaration' which specific requirement is fulfilled. That specification shall include the full wording of the relevant requirement.
3. Where required by regulations made under Article 44(1), the phytosanitary certificate shall state that the plants, plant products or other objects concerned comply with phytosanitary measures recognised for the purposes of those regulations as equivalent.
4. The appropriate authority may by regulations amend Parts A and B of Annex V to adapt them to the development of the relevant international standards.
5. In paragraph 1, 'relevant authority' means:
- (a) in the case of plants, plant products and other objects which are introduced into Guernsey from a third country, the national plant protection organisation of that third country;
  - (b) in the case of plants, plant products and other objects which are introduced into Guernsey from Northern Ireland and are not part of a relevant NI trade unit, the Department of Agriculture, Environment and Rural Affairs of the Northern Ireland Executive.

## Article 72

### **Plants, plant products and other objects for which phytosanitary certificates are required**

1. Plants, plant products and other objects of a description specified in any entry in columns (1) and (2) of the table in Part A of Annex 11 to the Phytosanitary Conditions Regulation which originate in any third country listed in the corresponding entry in column (3) of that table may not be introduced into Guernsey unless they are accompanied by a phytosanitary certificate

[...]

[...]

[...]

[2. ....].

3. The appropriate authority may by regulations amend Part A of Annex 11 to the Phytosanitary Conditions Regulation, in accordance with the principles set out in Section 2 of Annex II, where there is a risk that a plant, plant product or other object not listed in that Part hosts a Guernsey quarantine pest or provisional Guernsey quarantine pest, or where, for a plant, plant product or other object listed in that Part, that risk no longer exists.

[4. ....].

5. By way of derogation from paragraphs 1 and 3, no phytosanitary certificate shall be required for the plants, plant products or other objects which are subject to Articles 47, 48 and 75(1).

#### Article 73

##### **Other plants for which phytosanitary certificates are required**

1. Plants of a description specified in columns (1) and (2) of Part B of Annex 11 to the Phytosanitary Conditions Regulation, may not be introduced into Guernsey from third countries unless they are accompanied by a phytosanitary certificate.

2. The appropriate authority may by regulations amend Part C of Annex 11 to the Phytosanitary Conditions Regulation where an assessment, based on evidence about pest risks and experience with trade, demonstrates that such a certificate is not necessary. That assessment shall take into account the criteria set out in Annex VI. Where appropriate, that assessment may only concern plants of a particular third country of origin or dispatch, or a group of third countries of origin or dispatch.

[...]

#### Article 74

##### **Plants, plant products and other objects for which phytosanitary certificates are required for introduction into a Guernsey pest-free area**

1. Any plants, plant products and other objects of a description specified in any entry in columns (1) and (2) of the table in Annex 12 to the Phytosanitary Conditions Regulation, which originate in a third country specified in the corresponding entry in column (3) of the table and are destined for a Guernsey pest-free area established in respect of those plants, plant products or other objects may not be introduced into Guernsey unless they are accompanied by a phytosanitary certificate.

[2. ....].

3. The appropriate authority may by regulations amend Annex 12 to the Phytosanitary Conditions Regulation in accordance with the principles set out in Section 2 of Annex II, where there is a risk that a plant, plant product or other object not listed in Annex 11 or in Annex 12 to the Phytosanitary Conditions Regulation hosts a PFA quarantine pest, or where, for a plant, plant product or other object listed in Annex 11 or 12 to the Phytosanitary Conditions Regulation, that risk no longer exists.

3A. Regulations under paragraph 3 may apply in relation to a plant, plant product or other object originating in, or dispatched from, all third countries or particular third countries or regions.

[4. ....].

5. By way of derogation from paragraphs 1 and 3, no phytosanitary certificate shall be required for the plants, plant products or other objects which are subject to Article 57, 58 or 75(1).

#### Article 74a

#### **Commodity classification**

1. The appropriate authority may by regulations amend Annex 11 to the Phytosanitary Conditions Regulation to:

- (a) remove the references to any CN codes used in that Annex to identify the plants plant products and other objects listed; or
- (b) identify the plants, plant products and other objects listed in those Annexes by any alternative commodity code classification system that the appropriate authority considers appropriate.

#### Article 75

#### **Exceptions for travellers' luggage**

1. Small quantities of particular plants, other than plants for planting, and of plant products and other objects from a third country, may be exempted from the requirement for a phytosanitary certificate set out in Article 72(1), Article 73 or Article 74(1), if they comply with all of the following conditions:

- (a) they are introduced into Guernsey as part of travellers' personal luggage;
- (b) they are not to be used for professional or commercial purposes;
- (c) they are listed in regulations made under paragraph 2 of this Article.

2. The appropriate authority may by regulations list the plants, plant products and other objects referred to in paragraph 1 and the third countries concerned, and set out the maximum quantity, as appropriate, of the plants, plant products and other objects concerned that are to be subject to the exemption of that paragraph and, where appropriate, one or more of the risk management measures set out in Section 1 of Annex II.

That listing and the setting out of the maximum quantity concerned and, where appropriate, the risk management measures shall be decided on the basis of the pest risk posed by small quantities of those plants, plant products and other objects, in accordance with the criteria set out in Section 2 of Annex II.

[...]

## Article 76

### **Conditions to be fulfilled by a phytosanitary certificate**

1. Without prejudice to obligations under the IPPC and taking into account relevant international standards, the competent authority shall only accept a phytosanitary certificate accompanying plants, plant products or other objects to be introduced from a third country, if the content of that certificate complies with Part A of Annex V. Where the plants, plant products or other objects are to be introduced from a third country from which they do not originate, the competent authority shall only accept a phytosanitary certificate complying either with Part A or Part B of Annex V.

It shall not accept that phytosanitary certificate where the additional declaration referred to in Article 71(2), where applicable, is not present or not correct, and where the statement referred to in Article 71(3), where applicable, is not present.

It shall not accept a phytosanitary certificate for re-export if that phytosanitary certificate is not accompanied by the original phytosanitary certificate for export, or a certified copy of the original phytosanitary certificate for export.

2. The competent authority shall only accept a phytosanitary certificate if it fulfils the following requirements:

- (a) it is issued in English;
- (b) it is addressed to the national plant protection organisation of the United Kingdom; and
- (c) it has been issued no more than 14 days before the date on which the plants, plant products or other objects covered by it have left the third country in which it was issued.

3. In the case of a third country which is a contracting party to the IPPC, the competent authority shall only accept the phytosanitary certificates issued by the official national plant protection organisation of that third country or, under its responsibility, by a public officer who is technically qualified and duly authorised by that official national plant protection organisation.

4. In the case of a third country which is not a contracting party to the IPPC, the competent authority shall only accept the phytosanitary certificates issued by the authorities which are competent in accordance with the national rules of that third country and notified to the UK NPPO.

The appropriate authority may by regulations supplement this Regulation concerning the conditions for acceptance referred to in the first subparagraph of this paragraph, to ensure the reliability of those certificates.

5. Electronic phytosanitary certificates shall only be accepted when provided in a form and manner approved by the competent authority in writing.

#### Article 77

#### **Invalidation of phytosanitary certificate**

1. Where a phytosanitary certificate has been issued in accordance with Article 71(1), (2) and (3), and the competent authority concerned concludes that the conditions referred to in Article 76 are not fulfilled, it shall invalidate that phytosanitary certificate and ensure that it does not accompany any longer those plants, plant products or other objects concerned. In that case, and in respect of the plants, plant

products or other objects concerned, the competent authority shall take one of the measures set out in Article 66(3) of Regulation (EU) 2017/625.

Upon invalidation, the certificate concerned shall bear on its face and in a prominent position a triangular stamp in red, marked 'CERTIFICATE CANCELLED' from the competent authority, together with its denomination and the date of invalidation.

[2. ....].

3. The appropriate authority may by regulations, set out technical arrangements concerning the invalidation of the electronic phytosanitary certificates, as referred to in Article 76(5).

## Section 2

### **UK plant passports required for the movement of plants, plant products and other objects within or into Guernsey**

#### Article 78

##### **UK plant passports**

1. A UK plant passport shall be an official label to be used for:

- (a) the movement of plants, plant products or other objects described in Articles 79 and 80 (including the introduction of plants, plant products or other objects into Guernsey from a Relevant British Island); and
- (b) the movement of plants, plant products or other objects from Guernsey to a Relevant British Island.

2. Articles 83 to 92 and Articles 93 to 95 apply in relation to any UK plant passport issued in Guernsey.

3. Article 92a applies to any UK plant passport issued in a Relevant British Island that accompanies plants, plant products or other objects that are introduced into Guernsey from that Relevant British Island and are subsequently moved within Guernsey.

#### Article 79

### **Plants, plant products and other objects for which a UK plant passport is required for movement within or into Guernsey**

1. Plants, plant products and other objects listed in Annex 13 to the Phytosanitary Conditions Regulation may not be moved within Guernsey or introduced into Guernsey from a Relevant British Island, unless they are accompanied by a UK plant passport.

1A. Paragraph 1 is subject to Articles 81 and 82 and, in relation to qualifying Northern Ireland goods, to Article 95a(2).

[2. ....].

3. The appropriate authority may by regulations amend Annex 13 to the Phytosanitary Conditions Regulation in accordance with the principles set out in Section 2 of Annex 2:

- (a) to include a plant, plant product or other object that is not included in Annex 13 to the Phytosanitary Conditions Regulation where there is a risk that the plant, plant product or other object hosts a Guernsey quarantine pest;
- (b) to remove a plant, plant product or other object listed in that Annex, where the risk that it hosts a Guernsey quarantine pest no longer exists.

[4. ....].

5. By way of derogation from paragraphs 1 and 3, no UK plant passport shall be required for the plants, plant products or other objects which are subject to Article 47, 48 or 75(1).

[6. ....].

#### Article 80

#### **Plants, plant products and other objects for which a UK plant passport is required for introduction into, and movement within, Guernsey pest-free areas**

1. Any plants, plant products and other objects described in any entry in column (1) of the table in Annex 14 to Phytosanitary Conditions Regulation may not be introduced into, or moved within, a Guernsey pest-free area specified in the corresponding entry in column (2) of the table unless they are accompanied by a UK plant passport.

1A. Paragraph 1 is subject to Articles 81 and 82 and, in relation to qualifying Northern Ireland goods, to Article 95a(2).

[2. ....].

3. The appropriate authority may by regulations, amend Annex 14 to the Phytosanitary Conditions Regulation in accordance with the principles set out in Section 2 of Annex 2:

(a) to include a plant, plant product or other object which is not listed in Annex 14 to the Phytosanitary Conditions Regulation, where there is a risk that the plant, plant product or other object hosts a PFA quarantine pest: or

(b) to remove a plant, plant product or other object from the list in Annex 14 to the Phytosanitary Conditions Regulation, where the risk that it hosts a PFA quarantine pest no longer exists.

[4. ....].

5. By way of derogation from paragraphs 1 and 3, no UK plant passport shall be required for the plants, plant products or other objects which are subject to Article 57 or 58.

## Article 81

### **Exception for direct supply to final users**

A1. This Article applies to the movement of plants, plant products or other objects in Guernsey and the introduction of plants, plant products or other objects into Guernsey from a Relevant British Island.

1. No UK plant passport or other permitted plant passport shall be required for the movement of plants, plant products or other objects which are supplied directly to a final user, including home gardeners.

1A. That exception shall not apply to:

(a) final users receiving those plants, plant products or other objects by means of sales through distance contracts; or

(b) final users of plants, plant products or other objects described in an entry (if any) in column (1) of the table in Annex 14 to Phytosanitary

Conditions Regulation who are situated in a Guernsey pest-free area specified in the corresponding entry in column (2) of the table.

The appropriate authority may by regulations specify that point (b) of paragraph 1A only applies for particular PFA quarantine pests and plants, plant products or other objects.

2. The appropriate authority may by regulations supplement this Regulation by setting out the cases where, for particular plants, plant products or other objects, the exception of paragraph 1 of this Article shall only apply to small quantities. Those regulations must define those quantities per period of time as appropriate to the plant, plant product or other object concerned and the respective pest risks.

## Article 82

### **Exceptions for movements within and between the premises of a registered operator**

No UK plant passport or other permitted plant passport shall be required for the movements of plants, plant products and other objects within and between the premises of the same registered operator which are in close proximity to each other.

[...]

[...]

## Article 83

### **Content and format of the UK plant passport**

1. A UK plant passport shall take the form of a distinct label, made on any substrate suitable for printing the elements set out in Part A, B, C or D of Annex 7, provided that the plant passport is clearly distinguishable from any other information or label which may also be indicated on that substrate.

The plant passport shall be easily visible and clearly legible, and the information on it shall be unchangeable and durable.

2. A UK plant passport shall contain the elements set out in Part A of Annex VII, except where paragraph 4 or 5 applies.

By way of derogation from point 1(e) of Part A of Annex VII, the traceability code shall not be required on a UK plant passport for the movement of plants for planting in

Guernsey, or the introduction of plants for planting into Guernsey from a Relevant British Island, where the plants for planting fulfil all of the following conditions:

- (a) they are prepared in such a way that they are ready for the sale to final users without any further preparation and no risk exists concerning the spread of Guernsey quarantine pests or provisional Guernsey quarantine pests
- (b) they do not belong to types or species specified in regulations made under paragraph 3 of this Article.

3. The appropriate authority may by regulations, identify types and species of plants for planting for which the exemption referred to in paragraph 2 shall not apply.

4. A UK plant passport for introduction into, and movement within, a Guernsey pest-free area or Relevant British Island pest-free area shall contain the elements set out in Part B of Annex VII.

5. In the case of plants for planting produced, or made available on the market, as pre-basic, basic or certified material or pre-basic, basic or certified seed or seed potatoes, as respectively referred to in Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC and 2008/90/EC, a UK plant passport shall be included, in a distinct form, in the official label which must be produced in accordance with the respective provisions of those Directives.

Where this paragraph applies, a UK plant passport must contain:

- (a) the elements set out in Part C of Annex 7; or
- (b) in the case of plants, plant products or objects which are to be introduced into a Guernsey pest-free area or Relevant British Island pest-free area, the elements set out in Part D of Annex 7.

5A. Where a replacement UK plant passport is issued in relation to plants, plant products or other objects in a relevant NI trade unit pursuant to paragraph 1 or 2 of Article 93, the UK plant passport must contain the element set out in point (1)(g) of Part A of Annex VII or point (1)(h) of Part B of Annex VII (as the case may be).

6. The appropriate authority may by regulations amend Parts A, B, C and D of Annex VII in order to adapt the elements set out therein, where applicable, to the development of scientific and technical knowledge.

7. A UK plant passport must comply with the requirements set out in Commission Implementing Regulation (EU) 2017/2313 setting out the format specifications of the plant passport for movement within the Union territory and the plant passport for introduction into, and movement within, a protected zone.

7A. The appropriate authority may by regulations make provision relating to the format or size of UK plant passports.

8. A UK plant passport may also be issued in an electronic form ('electronic UK plant passport'), provided that it contains all the elements set out in Part A, B, C or D of Annex 7 (as the case may be), and that the technical arrangements have been set out in regulations made under paragraph 9.

The appropriate authority may by regulations set out technical arrangements for the issuance of electronic UK plant passports, to ensure an appropriate, credible and effective mode for their issuance.

#### Article 84

##### **Issuance of UK plant passports by authorised professional operators and competent authorities**

1. UK plant passports shall be issued by authorised operators, under the supervision of the competent authorities.

Authorised operators shall issue UK plant passports only for the plants, plant products or other objects for which they are responsible.

2. By way of derogation from paragraph 1, competent authorities may also issue UK plant passports.

3. Authorised operators shall only issue UK plant passports in the premises, collective warehouses and dispatching centres which are under their responsibility and declared by them pursuant to point (d) of Article 66(2) or, where Article 94(1) applies, in another location if so authorised by the competent authority.

#### Article 85

##### **Substantive requirements for a UK plant passport**

A UK plant passport may only be issued for the movement of a plant, plant product or other object within Guernsey if the plant, plant product or other object fulfils the following requirements:

- (a) it is free from Guernsey quarantine pests and provisional Guernsey quarantine pests;
- (b) it complies with the provisions of Article 37(1) concerning the presence of Guernsey regulated non-quarantine pests on plants for planting and the provisions of Article 37(4A) concerning the measures to be taken;
- (c) it complies with the requirements referred to in Article 41 (1B);
- (d) where applicable, it complies with any requirements specified in regulations made under Article 28(1), or 30(1); and
- (e) where applicable, it complies with any measures adopted by the competent authority for the eradication of Guernsey quarantine pests pursuant to Article 17(1) or the eradication of provisional Guernsey quarantine pests pursuant to regulations made under Article 30(1).

#### Article 86

### **Substantive requirements for a UK plant passport for movement into and within a Guernsey pest-free area**

A1. This Article applies to any plant, plant product or other object of a description specified in any entry in column (1) of the table in Annex 14 to Phytosanitary Conditions Regulation which is to be introduced into, or moved within, a Guernsey pest-free area specified in the corresponding entry in column (2) of the table.

1. A UK plant passport may only be issued for the introduction into, and movement within, a Guernsey pest-free area of a plant, plant product and other object if it fulfils all of the requirements of Article 85, and in addition the following requirements:

- (a) it is free from the PFA quarantine pests which relates to that Guernsey pest-free area; and
- (b) it complies with the requirements referred to in Article 54(1).

2. But where Article 33(2) applies, a UK plant passport may not be issued for plants, plant products or other objects originating in the demarcated area concerned and which may host the PFA quarantine pest concerned.

#### Article 86a

## **UK plant passports for the introduction of plants, plant products and other objects into Relevant British Islands from Guernsey**

1. This Article applies to any plant, plant product or other object which is to be introduced into a Relevant British Island from Guernsey and is required by the Relevant British Islands legislation to be accompanied by a UK plant passport on its introduction into that territory.
2. A UK plant passport may only be issued for the introduction of a plant, plant product or other object into a Relevant British Island if the plant, plant product or other object:
  - (a) fulfils all of the requirements of Articles 85 and 86, where applicable; and
  - (b) fulfils any additional requirements that apply under the Relevant British Islands legislation to the introduction of that plant, plant products or other object into the Relevant British Island.

### Article 87

#### **Examinations for UK plant passports**

1. A UK plant passport may only be issued for plants, plant products and other objects for which a meticulous examination in accordance with paragraphs 2, 3 and 4 has shown that they fulfil the requirements of Article 85, and, where applicable, Articles 86 and 86a.

Plants, plant products and other objects may either be examined individually or by representative samples. The examination shall also cover the packaging material of the plants, plant products or other objects concerned.

2. The examination shall be carried out by the authorised operator. However, in the following cases, the examination shall be carried out by the competent authority:
  - (a) where point (c) of the first subparagraph of paragraph 3 of this Article applies concerning inspections, sampling and testing;
  - (b) where Article 84(2) applies; or
  - (c) where an examination is carried out in the immediate vicinity as referred to in point (b) of the first subparagraph of paragraph 3 of this

Article and the authorised operator does not have access to that immediate vicinity.

3. The examination shall fulfil all of the following conditions:
  - (a) it shall be carried out at appropriate times and taking into account the risks involved;
  - (b) it shall be carried out at the premises referred to in point (d) of Article 66(2). Where so required by or under regulations made under Article 28(1) or 30(1) or pursuant to Article 37(4), 41(1B) or 54(1)], an examination shall also be carried out in the immediate vicinity of the place of production of the plants, plant products or other object concerned;
  - (c) it shall be made at least by visual examination, complemented by:
    - (i) inspections, sampling and testing by the competent authority in the event of suspicion of the presence of a Guernsey quarantine pest or a provisional Guernsey quarantine pest, or in the event of the suspicion of the presence of a PFA quarantine pest in the relevant Guernsey pest-free area; or
    - (ii) sampling and testing in the event of suspicion of the presence of a Guernsey regulated non-quarantine pest, where applicable above the respective thresholds;
  - (d) its results shall be recorded and stored for at least three years.

That examination shall take place without prejudice to any specific examination requirements or measures applicable by virtue of regulations made under Article 28(1) or 30(1), or requirements or measures under Article 37(4), 41(1B) or 54(1), and in the case of plants, plant products and other objects that are to be introduced into a Relevant British Island, under the Relevant British Islands legislation. Where those examination requirements or measures require the examination to be carried out by the competent authority, that examination shall not be carried out by the authorised operator referred to in paragraph 2 of this Article.

4. The appropriate authority may by regulations supplement this Regulation by setting out detailed measures concerning visual examination, sampling and testing, and the frequency and timing of the examinations, referred to in paragraphs 1, 2 and 3 of this Article, with regard to specific plants, plant products and other objects, on the

basis of the particular pest risks they may present. Those examinations shall, where appropriate, concern certain plants for planting belonging to pre-basic, basic, or certified material, seed or seed potatoes, or standard or CAC material or seed as respectively referred to in Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC.

5. Where regulations made under the paragraph 4 make provision in relation to specific plants for planting, and those plants for planting are subject to certification schemes under Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC and 2008/90/EC, the regulations must set out the requirements as regards the examinations for the presence of Guernsey quarantine pests, provisional Guernsey quarantine pests and Guernsey regulated non-quarantine pests and other characteristics of the plants for planting under the relevant legislation, in a single certification scheme.

6. Regulations made under paragraph 4 must take account of developments in scientific and technical knowledge and international standards.

#### Article 88

### **Attaching of the UK plant passports**

UK plant passports issued in Guernsey shall be attached by the professional operators concerned to the trade unit of the plants, plant products and other objects concerned before they are moved within Guernsey pursuant to Article 79 or into or within a Guernsey pest-free area pursuant to Article 80, or before they are introduced into a Relevant British Island. Where such plants, plant products or other objects are moved in a package, bundle or container, the UK plant passport shall be attached to that package, bundle or container.

#### Article 89

### **Authorisation of professional operators to issue UK plant passports**

1. The competent authority shall grant an authorisation to a professional operator to issue UK plant passports ('the authorisation to issue UK plant passports') for particular families, genera or species, and commodity types of plants, plant products and other objects where that professional operator complies with both of the following conditions:

- (a) it possesses the necessary knowledge to carry out the examinations referred to in Article 87 concerning the Guernsey quarantine pests, GB provisional quarantine pests, PFA quarantine pests, Relevant British

Island quarantine pests and Guernsey regulated non-quarantine pests that could affect the plants, plant products and other objects concerned, and concerning the signs of the presence of those pests, the symptoms caused by them, and the means to prevent the presence and spread of those pests;

- (b) it has in place systems and procedures enabling it to fulfil its obligations concerning traceability pursuant to Articles 69 and 70.

2. The appropriate authority may by regulations supplement this Regulation by setting out criteria to be fulfilled by the professional operators in order for them to comply with the conditions set out in point (a) of paragraph 1 of this Article and procedures to ensure that those criteria are met.

#### Article 90

##### **Obligations of authorised operators**

1. Where an authorised operator intends to issue a UK plant passport, it shall identify and monitor the points of its production process, and the points concerning the movement of plants, plant products and other objects, which are critical as regards compliance with Articles 33(2), 37(4A), 41(1B), 54(1), 85, 86, 86a and 87 (as the case may be) and any requirements specified in regulations made under Article 28(1) or 30(1).

It shall keep for at least three years records concerning the identification and monitoring of those points.

2. The authorised operator referred to in paragraph 1 shall ensure that appropriate training is provided, when necessary, to its personnel involved in the examinations referred to in Article 87, in order to ensure that that personnel possesses the necessary knowledge to carry out those examinations.

#### Article 91

##### **Pest risk management plans**

1. Authorised operators may have in place pest risk management plans. The competent authority shall approve those plans, if they fulfil all of the following conditions:

- (a) they set out measures which are appropriate for those operators to fulfil the obligations set out in Article 90(1);

- (b) they fulfil the requirements set out in paragraph 2 of this Article.

Authorised operators implementing an approved pest risk management plan may be subject to inspections with a reduced frequency, as referred to in point (b) of Article 22(3) of Regulation (EU) 2017/625.

2. The pest risk management plans shall cover, where appropriate in the form of standard operating procedure manuals, at least the following:

- (a) the information required under Article 66(2) concerning the registration of the authorised operator;
- (b) the information required under Articles 69(4) and 70(1) concerning the traceability of plants, plant products and other objects;
- (c) a description of the production processes of the authorised operator and its activities as regards movement and sales of plants, plant products and other objects;
- (d) an analysis of the critical points referred to in Article 90(1) and the measures taken by the authorised operator to mitigate the pest risks associated with those critical points;
- (e) the procedures in place and actions foreseen where quarantine pests are suspected or found to be present, the recording of those suspicions or findings and the recording of the actions taken;
- (f) the roles and responsibilities of the personnel involved in the notifications referred to in Article 14, the examinations referred to in Article 87(1), the issuance of UK plant passports pursuant to Article 84(1), Article 93(1) and (2) and Article 94, and the attaching of UK plant passports pursuant to Article 88; and
- (g) the training provided to the personnel referred to in point (f) of this paragraph.

3. Where the competent authority becomes aware that the professional operator concerned does not apply the measures referred to in point (a) of the first subparagraph of paragraph 1, or that a pest risk management plan is no longer up to date with any of the requirements referred to in point (b) of the first subparagraph of paragraph 1, that authority shall without delay take the measures necessary to ensure

that non-compliance with those conditions does not continue. Those measures may include the withdrawal of the approval of that plan.

Where the competent authority has taken measures in accordance with the first subparagraph other than the withdrawal of the approval of the plan, and the non-compliance continues, that authority shall without delay withdraw that approval.

## Article 92

### **Inspections and withdrawal of authorisation**

1. The competent authority shall carry out inspections at least once per year, and sampling and testing if appropriate, to verify whether the authorised operators comply with, where applicable, Article 83(1), (2), (4) and (5), Article 87, Article 88, Article 89(1), Article 90 and Article 93(1), (2), (3) and (5) and, in relation to qualifying Northern Ireland goods, Article 95a.

2. Where the competent authority becomes aware that an authorised operator does not comply with the provisions referred to in paragraph 1 or that a plant, plant product or other object, for which that professional operator has issued a UK plant passport, does not comply with the relevant requirements, that authority shall without delay take the measures necessary to ensure that non-compliance with those provisions does not continue.

Those measures may include the withdrawal of the authorisation to issue UK plant passports for the plants, plant products and other objects concerned.

3. Where the competent authority has taken measures in accordance with paragraph 2 other than the withdrawal of the authorisation to issue UK plant passports for the plants, plant products and other objects concerned, and non-compliance with the relevant requirements continues, that authority shall without delay withdraw that authorisation.

4. In this Article, 'the relevant requirements' means:

- (a) in the case of a relevant NI trade unit, the requirements in Article 85 and, where applicable, Article 86 of the EU Plant Health Regulation;
- (b) in the case of any other trade unit, the requirements in Article 85 and, where applicable, Article 86 or 86a of this Regulation.

## Article 92a

## **UK plant passports issued in Relevant British Islands**

1. A UK plant passport issued in a Relevant British Island may only accompany plants, plant products or other objects that are introduced into Guernsey from that Relevant British Island, and are subsequently moved within Guernsey if the UK plant passport:

- (a) has been issued, in accordance with relevant legislation in the Relevant British Island, by the Relevant British Island authority for that country or territory or by a professional operator under the supervision of the Relevant British Island authority;
- (b) is in the relevant form and has the relevant content specified in Article 83; and
- (c) is attached to the trade unit of the plants, plant products or other objects, or where the plants, plant products or other objects are moved in a package, bundle or container, to that package, bundle or container.

2. In paragraph 1, 'relevant legislation' means legislation containing provision which only permits UK plant passports to be issued for plants, plant products or other objects that are to be introduced into Guernsey if:

- (a) the plants, plant products or other objects:
  - (i) are free from Guernsey quarantine pests, provisional Guernsey quarantine pests, and where applicable, PFA quarantine pests;
  - (ii) comply with the provisions of Article 37(1) concerning the presence of Guernsey regulated non-quarantine pests on plants for planting and the provisions of Article 37(4A) concerning the measures to be taken;
  - (iii) comply with the requirements concerning their introduction into, and movement within, Guernsey referred to in Article 41(1A) and (1B) and, where applicable, the requirements referred to in Article 54(1);
  - (iv) comply with any requirements specified in regulations made under Article 28(1) or 30(1); and
  - (v) comply with any measures adopted by the competent authority for the eradication of Guernsey quarantine pests pursuant to

Article 17(1) or the eradication of provisional Guernsey quarantine pests pursuant to regulations made under Article 30(1); and.

- (b) examinations have been carried out for the purpose of attesting that the plants, plant products or other objects fulfil those requirements in a manner equivalent to the examinations required under Article 87 in respect of UK plant passports issued for movement of plants, plant products or other objects within Guernsey.

### Article 93

#### **Replacing a UK plant passport**

1. An authorised operator which has received a trade unit of plants, plant products or other objects for which a UK plant passport or other permitted plant passport has been issued, or the competent authority acting on request of a professional operator, may issue a new UK plant passport for that trade unit, replacing the UK plant passport or other permitted plant passport initially issued for that trade unit, provided that the conditions of paragraph 3 are fulfilled.
2. Where a trade unit of plants, plant products or other objects for which a UK plant passport or other permitted plant passport has been issued is divided into two or more new trade units, the authorised operator responsible for those new trade units, or the competent authority acting on request of a professional operator, shall issue a UK plant passport for each new trade unit resulting from the division, provided that the conditions set out in paragraph 3 are fulfilled. Those UK plant passports shall replace the UK plant passport or other permitted plant passport issued for the initial trade unit.
3. A UK plant passport, as provided for in paragraphs 1 and 2, may only be issued if the following conditions are fulfilled:
  - (a) the traceability requirements referred to in Article 69(3) concerning the plants, plant products or other objects concerned are fulfilled;
  - (b) as applicable, the plants, plant products or other objects concerned continue to comply with the requirements referred to in Articles 85 and 86; and
  - (c) the characteristics of the plants, plant products or other objects concerned have not changed.

4. Where a UK plant passport is issued pursuant to paragraph 1 or 2, the examination referred to in Article 87(1) shall not be required.

5. Following the replacement of a UK plant passport or other permitted plant passport pursuant to paragraph 1 or 2, the authorised operator concerned shall retain the replaced UK plant passport or other permitted plant passport or its content for at least three years.

Where the replacement of a UK plant passport pursuant to paragraph 1 or 2 is carried out by the competent authority, the professional operator on whose request it is issued shall retain the replaced UK plant passport or other permitted plant passport, or its content, for at least three years.

That retainment may take the form of storage of the information contained in the UK plant passport or other permitted plant passport in a computerised database, provided that this includes the information contained in any traceability barcode, hologram, chip or other data carrier which may supplement the traceability code as referred to in Annex VII.

6. In paragraph 3(b), 'the requirements referred to in Articles 85 and 86' means:

- (a) in the case of a relevant NI trade unit, the requirements referred to in Articles 85 and 86 of the EU Plant Health Regulation;
- (b) in the case of any other trade unit, the requirements referred to in Articles 85 and 86 of this Regulation.

#### Article 94

#### **UK plant passports replacing phytosanitary certificates**

1. By way of derogation from Article 87 of this Regulation, where a plant, plant product or other object, is introduced into Guernsey from a third country and a UK plant passport is required for the movement of the plant, plant product or other object within Guernsey pursuant to Article 79(1) and 80(1) of this Regulation, a UK plant passport shall be issued if the checks under Article 49(1) of Regulation (EU) 2017/625 concerning its introduction have been completed satisfactorily and have led to the conclusion that the plant, plant product or other object concerned fulfils the substantive requirements for issuance of a UK plant passport according to Article 85 of this Regulation and, where appropriate, Article 86 of this Regulation.

The replacement of a phytosanitary certificate by a UK plant passport may be carried out at the place of destination of the plant, plant product or other object concerned, instead of the point of entry, where checking at the place of destination is allowed.

2. By way of derogation from the first subparagraph of paragraph 1, a UK plant passport need not be issued for the movement of a plant, plant product or other object from its place of entry into Guernsey to its initial destination in Guernsey if the plant, plant product or other object is accompanied by a copy, issued by the competent authority, of the original phytosanitary certificate that accompanied it on its arrival in Guernsey.

3. The competent authority shall retain the phytosanitary certificate for at least three years. That retainment may take the form of storage of the information contained in the phytosanitary certificate in a computerised database.

Where point (a) of Article 101(2) applies, that phytosanitary certificate shall be replaced by a certified copy thereof.

#### Article 95

#### **Invalidation and removal of a UK plant passport**

A1. This Article applies where a professional operator becomes aware that a trade unit of plants, plant products or other objects, which is under the operator's control, does not comply with any of the relevant requirements.

1. The professional operator must invalidate the UK plant passport or other permitted plant passport and, where possible, remove it from that trade unit.

Without prejudice to the notification obligation referred to in Article 14, that professional operator shall inform the competent authority under the competence of which it operates.

2. Where the professional operator fails to comply with paragraph 1, the competent authority shall invalidate the UK plant passport or other permitted plant passport and, where possible, remove it from the trade unit concerned.

3. Where paragraphs 1 and 2 apply, the professional operator concerned shall retain the invalidated UK plant passport or other permitted plant passport or its content for at least three years.

That retention may take the form of storage of the information contained in the invalidated UK plant passport or other permitted plant passport in a computerised

database, provided that this includes the information contained in any traceability barcode, hologram, chip or other data carrier which may supplement the traceability code as referred to in Annex VII, and a statement concerning that invalidation.

4. Where paragraphs 1 and 2 apply in relation to a UK plant passport, the professional operator concerned shall inform accordingly the authorised operator, or competent authority, who issued the invalidated UK plant passport.

5. [...].

6. In paragraph A1, 'relevant requirements' means:

- (a) in the case of a relevant NI trade unit, the requirements in Articles 83 to 87, 89, 90, 93 or 94 of the EU Plant Health Regulation;
- (b) in the case of any other trade unit, the requirements in Articles 83 to 86, 87, 89, 90, 92a, 93 or 94 of this Regulation.

#### Article 95a

### **Introduction of qualifying Northern Ireland goods into Guernsey and their movement within Guernsey**

1. A relevant NI trade unit which is introduced directly into Guernsey from Northern Ireland must be accompanied, on its introduction into Guernsey, by the plant passport which was required for its movement within Northern Ireland in accordance with the EU Plant Health Regulation.

2. A relevant NI trade unit which has been introduced into Guernsey from Northern Ireland in accordance with paragraph 1 may be moved within Guernsey if it is accompanied by the plant passport referred to in paragraph 1.

#### Section 3

### **Other attestations**

#### Article 96

### **Marking of wood packaging material, wood, or other objects**

1. The mark applied on wood packaging material, wood or other objects to attest that a treatment has been applied in accordance with Annex 1 to ISPM15 shall comply with the requirements set out in Annex 2 to ISPM15 in all of the following cases:

- (a) wood packaging material introduced into Guernsey from a third country as referred to in Article 43;
- (b) wood packaging material marked within Guernsey, moving out of Guernsey to a third country or Northern Ireland;
- (c) wood packaging material, wood or other objects moving within or into Guernsey from a Relevant British Island, if so required by regulations made under Article 28(1) or 30(1) or by Article 41(1) or 54(1), or in the case of wood packaging material moving from Guernsey to a Relevant British Island, if required by legislation in force in that Relevant British Island;
- (d) any other wood packaging material, wood or other object marked within Guernsey.

The mark shall only be applied where the wood packaging material, wood or other objects have been subject to one or more of the approved treatments referred to in Annex 1 to ISPM15, without prejudice to Regulations (EC) No 1005/2009 (28), (EC) No 1107/2009 (29) and (EU) No 528/2012 (30) of the European Parliament and of the Council.

For wood packaging material, wood or other objects marked in Guernsey, the mark shall only be applied by a registered operator authorised in accordance with Article 98.

Points (a) and (b) of the first subparagraph shall not apply to wood packaging material which is subject to the exemptions provided for in ISPM15.

2. The appropriate authority may by regulations amend the requirements set out in paragraph 1 of this Article in order to adapt them to the development of international standards and in particular to ISPM15.

#### Article 97

#### **Repairing of wood packaging material in Guernsey**

1. Wood packaging material that is marked with the mark referred to in Article 96 shall only be repaired if all of the following conditions are fulfilled:

- (a) the person carrying out that repair is a registered operator authorised in accordance with Article 98;

- (b) the material and treatment used are eligible for repair;
  - (c) the mark is applied anew, as appropriate.
2. The appropriate authority may by regulations set out specific arrangements concerning the material, treatment and marking referred to in paragraph 1, taking into account relevant international standards and in particular ISPM15.
3. Paragraphs 1 and 2 shall not apply where a professional operator permanently obliterates by any means all earlier applications of that mark from the wood packaging material.

#### Article 98

#### **Authorisation and supervision of registered operators applying the mark of wood packaging material in Guernsey**

1. An authorisation to apply the mark referred to in Article 96 and to repair wood packaging material in accordance with Article 97 shall be granted by the competent authority on application to a registered operator provided that the registered operator fulfils both of the following conditions:
- (a) it possesses the necessary knowledge to carry out the treatment of the wood packaging material, wood and other objects required pursuant to regulations referred to in Articles 96 and 97;
  - (b) it operates appropriate facilities and equipment to carry out that treatment ('treatment facilities');

The appropriate authority may by regulations supplement this Regulation by specifying the requirements for authorisation, where appropriate in view of the development of scientific and technical knowledge and international standards.

2. An authorisation to apply the mark referred to in Article 96 and to repair wood packaging material according to Article 97 shall be granted by the competent authority on application to a registered operator using wood treated in a facility of another operator, provided that it fulfils all of the following conditions in respect of wood packaging material marked with that mark:

- (a) it exclusively uses wood:

- (i) which has been subject to one or more of the approved treatments referred to in Annex 1 of ISPM15 and has been treated in facilities operated by a registered operator authorised pursuant to paragraph 1 of this Article; or
  - (ii) which has been subject to one or more of the approved treatments referred to in Annex 1 of ISPM15 in a treatment facility in a third country that has been approved by the national plant protection organisation of that third country;
- (b) it ensures that the wood used for that purpose can be traced back to the treatment facilities referred to in point (a)(i) and (ii) of this paragraph;
- (c) where applicable pursuant to regulations made under Article 28(1) or 30(1) or pursuant to Article 41(1) or 54(1), it exclusively uses wood referred to in point (a) of this subparagraph which is accompanied by a UK plant passport or any other document providing guarantees that the treatment requirements referred to in Annex 1 to ISPM15 are fulfilled.

3. The competent authority shall supervise at least once per year the registered operators it has authorised pursuant to paragraphs 1 and 2 to verify and ensure that they treat and mark as appropriate wood packaging material, wood and other objects in accordance with Article 96(1) and Article 97 and fulfil the conditions set out respectively in paragraphs 1 and 2 of this Article.

4. Where any of the competent authorities becomes aware that a professional operator does not comply with the requirements referred to in paragraphs 1 or 2, that authority shall without delay take the measures necessary to ensure that the non-compliance with those provisions does not continue.

Where the competent authority has taken those measures other than the withdrawal of the authorisation referred to in paragraphs 1 or 2, and the non-compliance continues, that authority shall without delay withdraw the authorisation referred to in paragraphs 1 or 2.

#### Article 99

##### **Attestations other than the mark of wood packaging material**

1. The appropriate authority may by regulations supplement this Regulation by setting out the elements to be contained in official attestations specific for plants, plant products or other objects, other than wood packaging material, which are required by

the applicable international standards as form of proof of the implementation of measures specified in regulations made under Article 28(1), 30(1) or 44(1) or the implementation of measures specified in the requirements to be fulfilled under Article 41(1) or 54(1).

2. Those regulations may also set out requirements concerning one or more of the following:

- (a) the authorisation of professional operators as regards the issuance of the official attestations referred to in paragraph 1;
- (b) the supervision by the competent authority of the professional operators authorised pursuant to point (a) of this paragraph;
- (c) the withdrawal of that authorisation referred to in point (a) of this paragraph.

3. The appropriate authority may by regulations make provision about the format specifications of the attestations referred to in paragraph 1 of this Article.

#### Section 4

### **Export of plants, plant products and other objects from Guernsey**

#### Article 99a

### **Interpretation**

In Articles 100 and 101, “relevant phytosanitary import requirements” means:

- (a) in relation to the export of plants, plant products or other objects to a third country other than an EU Member State, the phytosanitary import requirements of that third country;
- (b) in relation to the export of plants, plant products or other objects to an EU Member State, the phytosanitary import requirements of the European Union;
- (c) in relation to the movement of plants, plant products or other objects to Northern Ireland, the phytosanitary import requirements of the European Union that apply by virtue of the Protocol on Ireland/Northern Ireland to the withdrawal agreement.

## Article 100

### **Phytosanitary certificate for export from Guernsey**

1. Where, for the export of a plant, plant product or other object from Guernsey to a third country or Northern Ireland, a phytosanitary certificate is required by the relevant phytosanitary import requirements ('phytosanitary certificate for export'), that certificate shall be issued by the competent authority, at the request of the professional operator, when all of the following conditions are fulfilled:

- (a) the professional operator is registered by that competent authority in accordance with Article 65;
- (b) the professional operator has under its control the plant, plant product or other object to be exported;
- (c) it is ensured that that plant, plant product or other object complies with the relevant phytosanitary import requirements.

The competent authority shall also issue a phytosanitary certificate for export at the request of persons other than professional operators, provided that the conditions set out in points (b) and (c) of the first subparagraph are fulfilled.

For the purpose of this paragraph, the competent authority shall not delegate the issuance of the phytosanitary certificate for export to any other person.

2. Without prejudice to obligations under the IPPC, and taking into account the relevant international standards, the phytosanitary certificate for export shall be issued where the information available allows the competent authority to certify compliance of the plant, plant product or other object concerned with the relevant phytosanitary import requirements. That information may originate from one or more of the following elements, as applicable:

- (a) inspections, sampling and testing of the plants, plant products or other objects concerned, or their place of production and its vicinities;
- (b) official information on the pest status in the production site, place of production, area or country of origin of the plants, plant products or other objects concerned;
- (c) a UK plant passport, as referred to in Article 78, accompanying the plants, plant products or other objects concerned, where that UK plant passport attests the results of inspections by a competent authority;

- (d) the mark of wood packaging material as referred to in Article 96(1), or the attestations referred to in Article 99(1);
- [(e) ...]
- (f) official information included in the phytosanitary certificate as referred to in Article 71, where the plants, plant products or other objects concerned have been introduced into Guernsey from a third country.

3. [...]

4. The appropriate authority may by regulations amend the elements referred to in paragraph 2 of this Article to adapt them to the development of the relevant international standards.

5. Electronic phytosanitary certificates for export shall be provided in a form and manner approved by the competent authority in writing, where the use of electronic phytosanitary certificates is permitted by the competent authority.

#### Article 101

##### **Phytosanitary certificate for re-export from Guernsey**

1. For the re-export of a plant, plant product or other object which originates in a third country and has been introduced into Guernsey from that, or another, third country, a phytosanitary certificate for re-export from Guernsey ('the phytosanitary certificate for re-export') shall, where possible, be issued instead of the phytosanitary certificate for export.

The phytosanitary certificate for re-export shall be issued by the competent authority at the request of the professional operator when all of the following conditions are fulfilled:

- (a) that professional operator is registered by that competent authority in accordance with Article 65;
- (b) the professional operator has under its control the plant, plant product or other object to be re-exported;
- (c) it is ensured that that plant, plant product or other object complies with the phytosanitary import requirements of the third country concerned.

The competent authority shall also issue a phytosanitary certificate for re-export at the request of persons other than professional operators, provided that the conditions set out in points (b) and (c) of the second subparagraph are fulfilled.

For the purpose of this paragraph, the competent authority shall not delegate the issuance of the phytosanitary certificate for re-export to any other person.

2. Without prejudice to obligations under the IPPC, and taking into account the relevant international standards, the phytosanitary certificate for re-export shall be issued where the information available allows certifying of compliance with the relevant phytosanitary import requirements and that all of the following conditions are complied with:

- (a) the original phytosanitary certificate accompanying the plant, plant product or other object concerned from the third country of origin, or a certified copy of it, is attached to the phytosanitary certificate for re-export;
- (b) the plant, plant product or other object concerned has not been grown, produced or processed to change its nature since its introduction into Guernsey;
- (c) the plant, plant product or other object concerned has not been exposed to any risk of infestation or contamination with quarantine pests or regulated non-quarantine pests, listed as such for the purposes of imports into the third country of destination, during its storage in Guernsey;
- (d) the identity of the plant, plant product or other object concerned has been maintained.

3. Article 100(2) shall apply *mutatis mutandis*.

4. [...]

5. [...]

6. Electronic phytosanitary certificates for re-export shall be provided in a form and manner approved by the competent authority in writing, where the use of electronic phytosanitary certificates is permitted by the competent authority.

[...]

## CHAPTER VII

### **Supporting measures by the Commission**

Article 103

[...]

Article 104

[...]

## CHAPTER VIII

### **Final provisions**

Article 105

[...]

Article 106

[...]

Article 107

[...]

Article 108<sup>2</sup>

### **Additional regulation making powers of the appropriate authority**

1. For the purpose set out in paragraph 2, the appropriate authority may by regulations:

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<sup>2</sup> Note that this is Article 105 in the UK enactment.

- (a) amend this Regulation, any other item of Preserved EU law made under it or any other item of Preserved EU law relating to plant health;
- (b) amend or repeal –
  - (i) the Plant Health (Implementation) (Guernsey) Ordinance, 2020, or any enactment made under that Ordinance or any enactment made under the Plant Health (Enabling Provisions) (Guernsey) Law, 2014, or
  - (ii) any regulations made under section 5 of the Brexit Law,  
  
insofar as the same relate to the implementation of an item of Preserved EU law relating to plant health;
- (c) provide for the disapplication of any item of Preserved EU law relating to plant health;
- (d) provide that any item of Preserved EU law relating to plant health or any other enactment, insofar as it relates to plant health, shall have effect subject to such exceptions, adaptations and modifications as may be prescribed by regulations; or
- (e) make provision for the purpose of dealing with matters arising out of or related to any item of Preserved EU law relating to plant health.

2. The purpose referred to in paragraph 1 is to make equivalent provision, in Guernsey legislation relating to plant health, to that in force, or known to be coming into force, in any part of the United Kingdom, except for Northern Ireland, in retained EU law relating to plant health or in any enactment implementing the same subject to any modifications, adaptations or exceptions which the appropriate authority considers necessary or expedient to adapt the provisions to Guernsey.

3. The power in paragraph 1 includes a power to make provision as to the creation and punishment of offences in respect of contraventions of any item of Preserved EU law, any enactment referred to in point (b) of paragraph 1 or made under this Article and as to the creation of new duties, obligations, liabilities, remedies, penalties, sanctions and other consequences but subject to the provisions of paragraph 4.

4. The power conferred by paragraphs 1 and 3 to make provision as to the creation and punishment of offences does not include power –

- (a) to provide for offences to be triable only on indictment;

- (b) to authorise the imposition, on summary conviction of an offence, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on the Magistrate's Court by section 9 of the Magistrate's Court (Guernsey) Law, 2008; or
- (c) to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years.

5. This Article is without prejudice to other powers of the appropriate authority to make regulations under other provisions of this Regulation.

6. Regulations of the appropriate authority under this Article shall be laid before a meeting of the States of Deliberation as soon as possible after being made; and if at that or the next meeting the States of Deliberation resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done under them or to the making of new regulations.

7. In this Article:

- (a) 'Brexit Law' means the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018;
- (b) 'implementation' and related expressions have the meaning given by section 12(1) of the Brexit Law;
- (c) 'plant health' means protective measures against pests of plants and other matters in relation to plant health;
- (d) 'Preserved EU law' has the meaning given by section 3 of the Brexit Law; and
- (e) 'retained EU law' has the meaning in section 6(7) of the European Union (Withdrawal) Act 2018."

## Article 109

### Repeals

1. Directive 2000/29/EC is repealed, without prejudice to Article 165(2), (3) and (4) of Regulation (EU) 2017/6252. The following Directives are repealed:

- (a) Directive 69/464/EEC;
- (b) Directive 74/647/EEC;
- (c) Directive 93/85/EEC;
- (d) Directive 98/57/EC;
- (e) Directive 2006/91/EC;
- (f) Directive 2007/33/EC.

3. References to the acts repealed in accordance with paragraphs 1 and 2 shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex IX.

#### Article 110

#### **Amendment of Regulation (EU) No 228/2013**

In Article 24(2) of Regulation (EU) No 228/2013, the following subparagraph is added: 'Union financing of the programmes for the control of pests in the outermost regions of the Union shall be implemented in accordance with Regulation (EU) No 652/2014 of the European Parliament and of the Council.'

#### Article 111

#### **Amendment of Regulation (EU) 652/2014**

Regulation (EU) No 652/2014 is amended as follows:

- (1) in Article 1, point (e) is replaced by the following:
  - '(e) on protective measures against pests of plants;'
- (2) in Article 5(2), the following point is added:
  - '(c) the programmes for the control of pests in the outermost regions of the Union as referred to in Article 25;'
- (3) in Article 16(1), points (a), (b) and (c) are replaced by the following:

- '(a) measures to eradicate a pest from an infested area, taken by the competent authorities pursuant to Article 17(1), Article 28(1), Article 29(1) or Article 30(1) of Regulation (EU) 2016/2031 of the European Parliament and of the Council;
- (b) measures to contain a priority pest, listed pursuant to Article 6(2) of Regulation (EU) 2016/2031, against which Union containment measures have been adopted pursuant to Article 28(2) of that Regulation, in an infested area from which that priority pest cannot be eradicated, where those measures are essential to protect the Union territory against further spread of that priority pest. Those measures shall concern the eradication of that pest from the buffer zone surrounding that infested area if it is found to be present in that buffer zone; and
- (c) prevention measures taken against the spread of a priority pest, listed pursuant to Article 6(2) of Regulation (EU) 2016/2031, against which Union measures have been adopted pursuant to Article 28(3) of that Regulation, where those measures are essential to protect the Union territory against further spread of that priority pest."

(4) Article 17 is replaced by the following:

'Article 17  
Conditions

The measures referred to in Article 16 may qualify for grants provided that they have been applied immediately and the applicable provisions laid down in the relevant Union law have been complied with, and provided that one or more of the following conditions are fulfilled:

- (a) they concern Union quarantine pests, listed pursuant to Article 5(2) of Regulation (EU) 2016/2031 as not known to occur in the Union territory;
- (b) they concern pests, not listed as Union quarantine pests, which are subject to a measure adopted by the competent authority of a Member State pursuant to Article 29(1) of Regulation (EU) 2016/2031;

- (c) they concern pests, not listed as Union quarantine pests, which are covered by a measure adopted by the Commission pursuant to Article 30(1) of Regulation (EU) 2016/2031;
- (d) they concern priority pests listed pursuant to Article 6(2) of Regulation (EU) 2016/2031.

For measures fulfilling the condition laid down in point (b) of the first paragraph, the grant shall not cover costs incurred later than two years after the entry into force of the measure adopted by the competent authority of the Member State concerned pursuant to Article 29 of Regulation (EU) 2016/2031, or incurred after the expiry of that measure. For measures fulfilling the condition laid down in point (c) of the first paragraph, the grant shall not cover costs incurred after the expiry of the measure adopted by the Commission pursuant to Article 30(1) of Regulation (EU) 2016/2031.’;

- (5) in paragraph 1 of Article 18, point (d) is replaced by the following:

- ‘(d) costs of compensation to the owners concerned for the value of the destroyed plants, plant products or other objects subject to the measures referred to in Article 16, limited to the market value of such plants, plant products and other objects as if they were not affected by those measures; the salvage value, if any, shall be deducted from the compensation; and’;

- (6) Article 19 is amended as follows:

- (a) the first paragraph is replaced by the following:

‘Grants may be awarded to Member States for annual and multiannual survey programmes that they carry out concerning the presence of pests (“survey programmes”), provided that those survey programmes comply with at least one of the following three conditions:

- (a) they concern Union quarantine pests listed pursuant to Article 5(2) of Regulation (EU) 2016/2031 as not known to occur in the Union territory;
- (b) they concern priority pests listed pursuant to Article 6(2) of Regulation (EU) 2016/2031; and

(c) they concern pests not listed as Union quarantine pests which are covered by a measure adopted by the Commission pursuant to Article 30(1) of Regulation (EU) 2016/2031.';

(b) the third paragraph is replaced by the following:

'For measures fulfilling the condition laid down in point (c) of the first paragraph, the grant shall not cover costs incurred after the expiry of the measure adopted by the Commission pursuant to Article 30(1) of Regulation (EU) 2016/2031.';

(7) in Article 20, a new point is inserted before point (a):

'(-a) costs for visual examinations;';

(8) in Article 47, point 2 is replaced by the following:

'(2) The following Article is inserted:

"Article 15a

Member States shall provide that anyone who becomes aware of the presence of a pest listed in Annex I or Annex II or a pest covered by a measure pursuant to Article 16(2) or 16(3), or has reason to suspect such a presence, shall immediately notify the competent authority, and, if so requested by that competent authority, shall provide the information concerning that presence which is in its possession. Where the notification is not submitted in writing, the competent authority shall officially record it.".'.

Article 112

### **Amendment of Regulation (EU) No 1143/2014**

In Article 2(2) of Regulation (EU) No 1143/2014, point (d) is replaced by the following:

'(d) pests of plants listed pursuant to Article 5(2) or Article 32(3), or subject to measures pursuant to Article 30(1), of Regulation (EU) 2016/2031 of the European Parliament and of the Council;'

## Article 113

### **Entry into force and application**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from 14 December 2019. However:

- (a) point 8 of Article 111 shall apply from 1 January 2017;
- (b) Article 100(3) and Article 101(4) shall apply from 1 January 2021.

2. The acts referred to in points (a), (c), (d) and (f) of Article 109(2) are repealed with effect from 1 January 2022. In the event of conflict between the provisions of those acts and the provisions of this Regulation, the provisions of this Regulation shall prevail.

Done at Strasbourg, 26 October 2016.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

I. LESAY

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## ANNEX I

### **CRITERIA FOR THE QUALIFICATION OF PESTS ACCORDING TO THEIR RISK TO GUERNSEY**

#### SECTION 1

##### **Criteria to identify pests which qualify as a quarantine pest, as referred to in Article 3, Article 6(1), Article 7, Article 29(2), and Article 49(3)**

(1) Identity of the pest

The taxonomic identity of the pest shall be clearly defined or, alternatively, the pest shall have been shown to produce consistent symptoms and to be transmissible.

The taxonomic identity of the pest shall be defined at species level or, alternatively, a higher or lower taxonomic level, where that taxonomic level is scientifically appropriate based on its virulence, host range or vector relationships.

(2) Presence of the pest in the territory in question

One or more of the following conditions shall apply:

- (a) the pest is not known to be present in the territory in question;
- (b) the pest is not known to be present in the territory in question, except in a limited part of it;
- (c) the pest is not known to be present in the territory in question, except for scarce, irregular, isolated and infrequent presences in it.

Where point (b) or (c) applies, the pest shall be considered to be not widely distributed.

(3) Capability of entry, establishment and spread of the pest in the territory in question

(a) Capability of entry

The pest shall be considered capable of entry into the territory in question, or, if present but not widely distributed, into the part of that territory where it is absent ('relevant part of the endangered area'), either by natural spread, or if all of the following conditions are fulfilled:

- (i) it is associated, as regards plants, plant products or other objects which are moved into the territory in question, with those plants, plant products and other objects in the territory where they originate or from where they are moved into the territory in question;
- (ii) it survives during transport or storage;
- (iii) it may be transferred to a suitable host plant, plant product or other object in the territory in question.

(b) Capability of establishment

The pest shall be considered capable of 'establishment' in the territory in question, or, if present but not widely distributed, in the part of that territory where it is absent, if all of the following conditions are fulfilled:

- (i) hosts of the pest and, where relevant, vectors for transmission of the pest are available;
- (ii) the decisive environmental factors are favourable for the pest concerned and, where applicable, its vector, enabling it to survive periods of climatic stress and complete its life cycle;
- (iii) cultivation practices and control measures applied in that territory are favourable;
- (iv) the survival methods, reproductive strategy, genetic adaptability of the pest and its minimum viable population size support its establishment.

(c) Capability of spread

The pest shall be considered capable of territorial spread in the territory in question, or, if present but not widely distributed, in the part of that territory where it is absent, if one or more of the following conditions is fulfilled:

- (i) the environment is suitable for natural spread of the pest;
- (ii) barriers to natural spread of the pest are insufficient;
- (iii) commodities or conveyances allow for movement of the pest;
- (iv) hosts and, where relevant, vectors of the pest are present;
- (v) cultivation practices and control measures applied in that territory are favourable;
- (vi) natural enemies and antagonists of the pest are not present or not sufficiently capable of suppressing the pest.

(4) Potential economic, social and environmental impact

The entry, establishment and spread of the pest in the territory in question, or, if present but not widely distributed, in the part of that territory where it is absent, shall have an unacceptable economic, social and/or environmental impact on that territory,

or the part of that territory where it is not widely distributed, as regards one or more of the following points:

- (a) crop losses in terms of yield and quality;
- (b) costs of control measures;
- (c) costs of replanting and/or losses due to the necessity of growing substitute plants;
- (d) effects on existing production practices;
- (e) effects on street trees, parks and natural and planted areas;
- (f) effects on native plants, biodiversity and ecosystem services;
- (g) effects on the establishment, spread and impact of other pests, for example due to the capacity of the pest concerned to act as a vector for other pests;
- (h) changes to producer costs or input demands, including control costs and costs of eradication and containment;
- (i) effects on producer profits that result from changes in quality, production costs, yields or price levels;
- (j) changes to domestic or foreign consumer demand for a product resulting from quality changes;
- (k) effects on domestic and export markets and prices paid, including effects on export market access and likelihood of phytosanitary restrictions imposed by trading partners;
- (l) resources needed for additional research and advice;
- (m) environmental and other undesired effects of control measures;
- (n) effects on Natura 2000 or other protected areas;
- (o) changes in ecological processes and the structure, stability or processes of an ecosystem, including further effects on plant species, erosion, water table changes, fire hazards, nutrient cycling;

- (p) costs of environmental restoration and prevention measures;
- (q) effects on food security and food safety;
- (r) effects on employment;
- (s) effects on water quality, recreation, tourism, landscape heritage, animal grazing, hunting, fishing.

## SECTION 2

### **Criteria to identify Guernsey quarantine pests which qualify as a priority pest as referred to in Article 6(1) and (2)**

Guernsey quarantine pests shall be considered to have the most severe economic, social or environmental impact in respect of Guernsey if their entry, establishment and spread fulfils one or more of the following points:

- (a) Economic impact: the pest has the potential to cause major losses in terms of the direct and indirect effects referred to in point (4) of Section 1 for plants with a significant economic value in Guernsey.

The plants referred to in the first subparagraph may be trees that are not in production.

- (b) Social impact: the pest has the potential to cause one or more of the following effects:
  - (i) a significant employment decrease in the agriculture, horticulture or forestry sector concerned or industries related to those sectors, including tourism and recreation;
  - (ii) significant risks to food security or food safety;
  - (iii) the disappearance of, or long-term large-scale damage to, important tree species growing or cultivated in Guernsey or tree species of high importance in terms of landscape as well as cultural or historical heritage for Guernsey.
- (c) Environmental impact: the pest has the potential to cause one or more of the following effects:

- (i) significant effects on biodiversity and ecosystems services, including effects on species and habitats listed under Council Directives 92/43/EEC<sup>3</sup> and Directive 2009/147/EC<sup>4</sup> of the European Parliament and of the Council;
- (ii) significant and long-term increases of the use of plant protection products on the plants concerned;
- (iii) the disappearance of, or long-term large-scale damage to, important tree species growing or cultivated in Guernsey or tree species of high importance in terms of landscape as well as cultural or historical heritage for Guernsey.

### SECTION 3

#### **Criteria for a preliminary assessment to identify pests which provisionally qualify as a Guernsey quarantine pest requiring temporary measures as referred to in Article 29(1) and Article 30(A1)**

##### Subsection 1

#### **Criteria for a preliminary assessment to identify pests which provisionally qualify as a Guernsey quarantine pest requiring temporary measures as referred to in Article 29(1)**

##### (1) Identity of the pest

The pest shall meet the criterion defined in point (1) of Section 1.

##### (2) Presence of the pest in Guernsey

The pest is not previously known to be present in Guernsey. Based on the information available to the competent authorities, the pest is also not previously known to be present in Guernsey, or is considered to fulfil the conditions set out in point (2)(b) or (c) of Section 1 as regards Guernsey.

##### (3) Probability of establishment and spread of the pest in Guernsey

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<sup>3</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

<sup>4</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

Based on the information available to the competent authorities, the pest meets the criteria defined in point (3)(b) and (c) of Section 1 as regards Guernsey.

(4) Potential economic, social and environmental impact of the pest

Based on the information available to the competent authorities, the pest would have an unacceptable economic, social and/or environmental impact on Guernsey, if it established and spread in Guernsey.

That impact shall include at least one or more of the direct effects listed under point (4)(a) to (g) of Section 1.

#### Subsection 2

#### **Criteria for a preliminary assessment to identify pests which provisionally qualify as a Guernsey quarantine pest requiring temporary measures as referred to in Article 30(A1)**

(1) Identity of the pest

The pest shall meet the criterion defined in point (1) of Section 1.

(2) Presence of the pest in Guernsey

The pest is not previously known to be present in Guernsey, or is considered to fulfil the conditions set out in point (2)(b) or (c) of Section 1 as regards Guernsey.

(3) Probability of establishment and spread of the pest in Guernsey, or the specific part(s) of Guernsey where it is not present

Based on the information available, the pest meets the criteria defined in point (3)(b) and (c) of Section 1 as regards Guernsey.

(4) Potential economic, social and environmental impact of the pest

Based on the information available, the pest would have an unacceptable economic, social and/or environmental impact on Guernsey, if it established and spread in Guernsey.

That impact shall include at least one or more of the direct effects listed under point (4)(a) to (g) of Section 1.

#### SECTION 4

**Criteria to identify pests which qualify as a Guernsey regulated non-quarantine pest as referred to in Articles 36 and 38**

(1) Identity of the pest

The pest shall meet the criterion defined in point (1) of Section 1.

(2) Probability of spread in Guernsey of the pest

The transmission of the pest shall be assessed to take place mainly via specific plants for planting, rather than via natural spread or via movement of plant products or other objects.

That assessment shall include, as appropriate, the following aspects:

- (a) the number of life cycles of the pest on the hosts concerned;
- (b) the biology, epidemiology and survival of the pest;
- (c) possible natural, human-assisted or other pathways for transmission of the pest to the host concerned and pathway efficiency, including mechanisms of dispersal and dispersal rate;
- (d) subsequent infestation and transmission of the pest from the host concerned to other plants and vice versa;
- (e) climatological factors;
- (f) cultural practices before and after harvest;
- (g) soil types;
- (h) susceptibility of the host concerned and relevant stages of host plants;
- (i) presence of vectors for the pest;
- (j) presence of natural enemies and antagonists of the pest;
- (k) presence of other hosts susceptible to the pest;
- (l) prevalence of the pest in Guernsey;

(m) intended use of the plants.

(3) Potential economic, social and environmental impact of the pest

Infestations of the plants for planting referred to in point (2) with the pest shall have an unacceptable economic impact on the intended use of those plants as regards one or more of the following points:

- (a) crop losses in terms of yield and quality;
- (b) extra costs of control measures;
- (c) extra costs of harvesting and grading;
- (d) costs of replanting;
- (e) losses due to the necessity of growing substitute plants;
- (f) effects on existing production practices;
- (g) effects on other host plants at the place of production;
- (h) effects on the establishment, spread and impact of other pests due to the capacity of the pest concerned to act as a vector for those other pests;
- (i) effects on producer costs or input demands, including control costs and costs of eradication and containment;
- (j) effects on producer profits that result from changes in production costs, yields or price levels;
- (k) changes to domestic or foreign consumer demand for a product resulting from quality changes;
- (l) effects on domestic and export markets and prices paid;
- (m) effects on employment.

ANNEX II

**MEASURES AND PRINCIPLES FOR THE MANAGEMENT OF THE RISKS OF  
PESTS**

## SECTION 1

### **Measures to manage the risks of quarantine pests as referred to in Article 17(1), Article 21, Article 25(2), Article 28(4), Article 29(1), Article 30(5), Article 40(3A), Article 41(3A), Article 53(3), Article 54(3A) and Article 75(2)**

The management of the risks of quarantine pests shall consist of one or more, as appropriate, of the following measures:

- (1) Measures targeting prevention and elimination of infestation of cultivated and wild plants
  - (a) Restrictions as regards the identity, nature, origin, ancestry, provenance and production history of cultivated plants.
  - (b) Restrictions on the cultivation, harvesting and use of plants.
  - (c) Restrictions on the use of plant products, premises, land, water, soil, growing media, facilities, machinery, equipment and other objects.
  - (d) Surveillance, visual examination, sampling and laboratory testing of plants, plant products, premises, land, water, soil, growing media, facilities, machinery, equipment and other objects for the presence of quarantine pests.
  - (e) Surveillance for breakdown or change in the effectiveness of a resistant plant species or plant variety which relates to a change in the composition of the quarantine pest or its biotype, pathotype, race or virulence group.
  - (f) Physical, chemical and biological treatment of plants, plant products, premises, land, water, soil, growing media, facilities, machinery, equipment and other objects, infested or potentially infested with quarantine pests.
  - (g) Destruction of plants, plant products and other objects infested or potentially infested with quarantine pests or for preventive purposes.
  - (h) Information, data recording, communication and reporting obligations.
  - (i) Registration of professional operators concerned.

For the purposes of point (b), those measures may include requirements with regard to the testing of plant species and plant varieties for resistance to the quarantine pest concerned and the listing of plant species and plant varieties found to be resistant to the quarantine pest concerned.

For the purposes of point (f), those measures may include requirements with regard to:

- (i) the registration, authorisation and official supervision of professional operators applying the treatment concerned;
  - (ii) the issuance of a phytosanitary certificate, UK plant passport, label or other official attestation for the treated plants, plants products or other objects and the placing of the mark referred to in Article 96(1) following the application of the treatment concerned.
- (2) Measures targeting consignments of plants, plants products and other objects
- (a) Restrictions on the identity, nature, origin, provenance, ancestry, production method, production history and traceability of plants, plant products and other objects.
  - (b) Restrictions on the introduction, movement, use, handling, processing, packaging, storage, distribution and destination of plants, plant products and other objects.
  - (c) Surveillance, visual examination, sampling, laboratory testing of plants, plant products and other objects for the presence of quarantine pests, including through subjection to quarantine procedures and pre-export inspections in third countries.
  - (d) Physical, chemical and biological treatment and, where appropriate, destruction of plants, plant products and other objects infested or potentially infested with quarantine pests.
  - (e) Information, data recording, communication and reporting obligations.
  - (f) Registration of professional operators concerned.

For the purposes of points (a) to (d), those measures may include requirements with regard to:

- (i) the issuance of a phytosanitary certificate, UK plant passport, label or other official attestation, including the placing of the mark referred to in Article 96(1) to attest compliance with points (a) to (d);
  - (ii) the registration, authorisation and official supervision of professional operators applying the treatment referred to in point (d).
- (3) Measures targeting pathways for quarantine pests, other than consignments of plants, plant products or other objects
  - (a) Restrictions on the introduction and movement of quarantine pests as a commodity.
  - (b) Surveillance, visual examination, sampling and laboratory testing and where appropriate destruction of quarantine pests as a commodity.
  - (c) Restrictions on plants, plant products and other objects carried by travellers.
  - (d) Surveillance, visual examination, sampling and laboratory testing and where appropriate treatment or destruction of plants, plant products and other objects carried by travellers.
  - (e) Restrictions on vehicles, packaging and other objects used in transport of commodities.
  - (f) Surveillance, visual examination, sampling and laboratory testing and where appropriate treatment or destruction of vehicles, packaging and other objects used in transport of commodities.
  - (g) Information, data recording, communication and reporting obligations.
  - (h) Registration of professional operators concerned.

## SECTION 2

**Principles for the management of the risks of pests as referred to in Article 17(1), Article 18(3), Article 21, Article 28(4), Article 29(1), Article 30(5), Article 31(1), Article 37(5C) and (8), Article 40(3B), Article 41(3B), Article 49(2), Article 53(3A), Article 54(3B), Article 72(3), Article 74(3), Article 75(2), Article 79(3) and Article 80(3)**

The management of the risks of Guernsey quarantine pests, PFA quarantine pests and Guernsey regulated non-quarantine pests shall respect the following principles:

(1) Necessity

Measures to manage the risk of a pest shall be applied only where such measures are necessary to prevent the entry, establishment and spread of that pest.

(2) Proportionality

Measures taken to manage the risk of a pest shall be proportionate to the risk posed by the pest concerned and the level of protection that is required.

(3) Minimal impact

Measures taken to manage the risk of a pest shall represent the least restrictive measures available, and result in the minimum impediment to the international movement of people, commodities and conveyances.

(4) Non-discrimination

Measures taken to manage the risk of a pest shall not be applied in such a way as to constitute either a means of arbitrary or unjustified discrimination or a disguised restriction, particularly on international trade. They shall be no more stringent for third countries than measures applied to that same pest if present within Guernsey, if third countries can demonstrate that they have the same phytosanitary status and apply identical or equivalent phytosanitary measures.

(5) Technical justification

Measures taken to manage the risk of a pest shall be technically justified on the basis of conclusions reached by using an appropriate risk analysis or, where applicable, another comparable examination and evaluation of available scientific information. Those measures should reflect, and, where appropriate, be modified or removed to reflect, new or updated risk analysis or relevant scientific information.

(6) Feasibility

Measures taken to manage the risk of a pest should be such as to allow that the objective of those measures is likely achieved.

### ANNEX III

#### **CRITERIA TO ASSESS HIGH-RISK PLANTS, PLANT PRODUCTS OR OTHER OBJECTS AS REFERRED TO IN ARTICLE 42**

The criteria to be taken into account for the assessment referred to in Article 42 are the following:

- (1) as regards plants for planting other than seeds:
  - (a) they are introduced into Guernsey usually in the form of a shrub or tree or they are present in Guernsey in such form or are taxonomically related to such plants;
  - (b) they are collected in the wild or grown from plants collected in the wild;
  - (c) they are grown outdoors or grown from plants grown outdoors in the third countries, group of third countries or specific areas of third countries concerned;
  - (d) they are known to host commonly hosted pests known to have a major impact on plant species which are of major economic, social or environmental importance to Guernsey;
  - (e) they are known to commonly harbour pests without signs and symptoms of those pests, or with a latent period for the expression of those signs or symptoms, implying that the presence of pests is likely to be missed during inspections at introduction into Guernsey;
  - (f) they are perennial plants commonly traded as old plants;
- (2) as regards other plants, plant products or other objects:
  - (a) they are known to host and provide a significant pathway for commonly hosted pests known to have major impact on plant species which are of a major economic, social or environmental importance to Guernsey;
  - (b) they are known to commonly harbour and provide a significant pathway for pests without signs and symptoms of those pests, or with a latent period for the expression of those signs or symptoms, implying that the presence of pests is likely to be missed during inspections at introduction into Guernsey.

## ANNEX IV

### **ELEMENTS TO IDENTIFY PLANTS OR PLANT PRODUCTS WHICH ARE LIKELY TO POSE NEWLY IDENTIFIED PEST RISKS OR OTHER SUSPECTED PHYTOSANITARY RISKS FOR GUERNSEY, AS REFERRED TO IN ARTICLE 49**

Plants or plant products from third countries shall be considered likely to pose pest risks for Guernsey, as referred to in Article 49(1), where those plants or plant products fulfil at least three of the following conditions, including at least one of the conditions provided in point (1)(a), (b) and (c):

- (1) Characteristics of the plants or plant products:
  - (a) they belong to, or are produced from, a plant genus or family known to commonly host pests regulated as quarantine pests in Guernsey or in third countries;
  - (b) they belong to, or are produced from, a plant genus or family known to host commonly hosted pests known to have major impact on plant species grown in Guernsey which have major economic, social or environmental importance to Guernsey;
  - (c) they belong to, or are produced from, a plant genus or family known to commonly harbour pests without signs and symptoms of those pests, or with a latent period for the expression of those signs or symptoms of at least three months, implying that the presence of pests on those plants or plant products is likely to be missed during official controls at introduction into Guernsey, without recourse to sampling and testing or submission to quarantine procedures;
  - (d) they are grown outdoors or grown from plants grown outdoors in the third countries of origin;
  - (e) they are not shipped in closed containers or packaging, or when shipped in such a way, the shipments because of their size cannot be opened in closed premises for purposes of official controls at introduction into Guernsey.
- (2) Origin of the plants or plant products:

- (a) they originate from, or are moved from, a third country which is the source of repetitive notifications of interception of quarantine pests not listed in Annex 2 to the Phytosanitary Conditions Regulation;
- (b) they originate from, or are moved from, a third country which is not a contracting party to the IPPC.

#### ANNEX V

### CONTENTS OF PHYTOSANITARY CERTIFICATES FOR INTRODUCTION INTO GUERNSEY

#### PART A

#### **Phytosanitary certificates for export as referred to in Article 76(1)**

**II. Additional Declaration**

[Enter text here]

**III. Disinfestation and/or Disinfection Treatment**

Date \_\_\_\_\_ Treatment \_\_\_\_\_ Chemical (active ingredient) \_\_\_\_\_

Duration and temperature \_\_\_\_\_

Concentration \_\_\_\_\_

Additional information \_\_\_\_\_

\_\_\_\_\_

Place of issue \_\_\_\_\_

(Stamp of Organisation) \_\_\_\_\_ Name of authorised officer \_\_\_\_\_

Date \_\_\_\_\_

(Signature)

\_\_\_\_\_

No financial liability with respect to this certificate shall attach to \_\_\_\_\_ (name of Plant Protection Organisation) or to any of its officers or representatives (\*).

\_\_\_\_\_  
(\*). Optional clause

PART B

**Phytosanitary certificates for re-export as referred to in Article 76(1)**

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**Model Phytosanitary Certificate for Re-Export**

No \_\_\_\_\_

Plant Protection Organisation of \_\_\_\_\_ (contracting party of re-export)

TO: Plant Protection Organisation(s) of \_\_\_\_\_ (contracting party(ies) of import)

**I. Description of Consignment**

Name and address of exporter: \_\_\_\_\_

Declared name and address of consignee: \_\_\_\_\_

Number and description of packages: \_\_\_\_\_

Distinguishing marks: \_\_\_\_\_

Place of origin: \_\_\_\_\_

Declared means of conveyance: \_\_\_\_\_

Declared point of entry: \_\_\_\_\_

Name of produce and quantity declared: \_\_\_\_\_

Botanical name of plants: \_\_\_\_\_

This is to certify that the plants, plant products or other regulated articles described above were imported into \_\_\_\_\_ (contracting party of re-export) from \_\_\_\_\_ (contracting party of origin) covered by Phytosanitary Certificate No \_\_\_\_\_,

(\* original  (\* certified true copy

of which is attached to this certificate; that they are

(\* packed  (\* repacked

in

(\* original  (\* new

containers, that based on the

(\* original phytosanitary certificate

and

(\* additional inspection

they are considered to conform with the current phytosanitary requirements of the importing contracting party, and that during storage in \_\_\_\_\_ (contracting party of re-export), the consignment has not been subjected to the risk of infestation or infection.

## II. Additional Declaration

[Enter text here]

## III. Disinfestation and/or Disinfection Treatment

Date \_\_\_\_\_ Treatment \_\_\_\_\_ Chemical (active ingredient) \_\_\_\_\_

Duration and temperature \_\_\_\_\_

Concentration \_\_\_\_\_

Additional information \_\_\_\_\_

\_\_\_\_\_

Place of issue \_\_\_\_\_

(Stamp of Organisation) \_\_\_\_\_ Name of authorised officer \_\_\_\_\_

Date \_\_\_\_\_

(Signature)

No financial liability with respect to this certificate shall attach to \_\_\_\_\_ (name of Plant Protection Organisation) or to any of its officers or representatives (\*\*).

\_\_\_\_\_  boxes  
(\* Insert tick in appropriate  
(\*\*) Optional clause

## ANNEX VI

### **CRITERIA TO IDENTIFY PLANTS REFERRED TO IN ARTICLE 73 WHICH DO NOT REQUIRE A PHYTOSANITARY CERTIFICATE**

The assessment referred to in Article 73 shall take into account the following criteria:

- (1) the plants do not host Guernsey quarantine pests or provisional Guernsey quarantine pests, or commonly hosted pests which may impact on plant species grown in Guernsey;
- (2) the plants have a history of compliance with the requirements for introduction into Guernsey relevant to the third country or countries of origin;
- (3) no indication of outbreak(s) is linked to the introduction of the plants concerned from one or more third countries, and those plants have not been subject to repetitive interceptions of Guernsey quarantine pests or provisional Guernsey quarantine pests during the introduction into Guernsey.

## ANNEX VII

### **UK PLANT PASSPORTS**

#### PART A

#### **UK Plant passports, as referred to in the first subparagraph of Article 83(2)**

- (1) The UK plant passport for the movement of plants, plant products and other objects within Guernsey, the introduction of plants, plant products and other objects into Guernsey from a Relevant British Island or the introduction of plants, plant products and other objects into a Relevant British Island from Guernsey shall contain the following elements:
  - (a) the words 'UK Plant Passport' in its upper right-hand corner, in English;
  - [(b).....;]
  - (c) the letter 'A.', followed by the botanical name of the plant species or taxon concerned, in the case of plants and plant products, or, where appropriate, the name of the object concerned, and, optionally, the name of the variety;

- (d) the letter 'B.', followed by the registration number of the professional operator concerned who issues the UK plant passport or for whom the UK plant passport is issued by the competent authority or the Relevant British Island authority;
  - (e) the letter 'C.', followed by the traceability code of the plant, plant product or the other object concerned;
  - (f) the letter 'D.', where applicable followed by
    - (i) the name of the third country of origin, or
    - (ii) if originating in or from Guernsey or a Relevant British Island, 'GB';
  - (g) the letter 'E'. where applicable followed by 'GB(NI)'.
- (2) The traceability code referred to in point (1)(e) may also be supplemented by a reference to a unique traceability barcode, hologram, chip or other data carrier, present on the trade unit.

## PART B

### **UK Plant passports for movement into and within Guernsey pest-free areas and Relevant British Island pest-free areas as referred to in the second subparagraph of Article 83(4)**

- (1) The UK plant passport for movement into and within Guernsey pest-free areas and for movement into Relevant British Island pest-free areas shall contain the following elements:
- (a) the words 'UK Plant Passport – PFA' in its upper right-hand corner in English;
  - (b) immediately underneath those words, the scientific name(s) or the code(s) of the respective PFA quarantine pest(s) or Relevant British Island quarantine pest(s);
  - [(c) ...]
  - (d) the letter 'A.', followed by the botanical name of the plant species or taxon concerned, in the case of plants and plant products, or, where

appropriate, the name of the object concerned and, optionally, the name of the variety;

- (e) the letter 'B.', followed by the registration number of the professional operator concerned who issues the UK plant passport or for whom the UK plant passport is issued by the competent authority or the Relevant British Island authority;
- (f) the letter 'C.', followed by the traceability code of the plant, plant product or the other object concerned;
- (g) the letter 'D.', where appropriate followed by:
  - (i) the name of the third country of origin, or
  - (ii) if originating in or from Guernsey or a Relevant British Island, 'GB' and, in the case of replacement of a UK plant passport, the registration number of the professional operator concerned who issued the initial UK plant passport or for whom the initial UK plant passport was issued by the competent authority as referred in Article 93(1) and (2);
- (h) the letter 'E'. where applicable followed by 'GB(NI)'.

(2) The traceability code referred to in point (1)(f) may also be supplemented by a reference to a unique traceability barcode, hologram, chip or other data carrier, present on the trade unit.

## PART C

### **UK Plant passports, combined with a certification label, as referred to in the second subparagraph of Article 83(5)**

(1) The UK plant passport for movement of plants, plant products or other objects within Guernsey, the introduction of plants, plant products or other objects into Guernsey from a Relevant British Island or the introduction of plants, plant products or other objects into a Relevant British Island from Great Britain, combined in a joint label with the official label for seeds or other propagating material referred to in the relevant legislation on the marketing of seeds and other propagating material, shall contain the following elements:

- (a) the words 'UK Plant Passport' in the upper right-hand corner of the joint label in English;

[(b).....;]

The UK plant passport shall be positioned in the joint label immediately above, and have the same width as, that official label.

(2) Point (2) of Part A shall apply accordingly.

#### PART D

#### **UK Plant passports for movement into and within Guernsey pest-free areas and for movement into Relevant British Island pest-free areas, combined with a certification label, as referred to in the third subparagraph of Article 83(5)**

(1) The UK plant passport for movement into and within Guernsey pest-free areas and for movement into Relevant British Island pest-free areas, combined in a joint label with the official label for seeds or other propagating material referred to in respectively in, Article 10(1) of Directive 66/401/EEC, Article 10(1) of Directive 66/402/EEC, Article 10(1) of Directive 68/193/EEC, Article 12 of Directive 2002/54/EC, Article 28(1) of Directive 2002/56/EC and Article 12(1) of Directive 2002/57/EC shall contain the following elements:

- (a) the words 'UK Plant Passport – PFA' in its upper right-hand corner in English;
- (b) immediately underneath those words, the scientific name(s) or code(s) of the PFA quarantine pest(s) or Relevant British Island quarantine pest(s) concerned;
- [(c) ...]

The UK plant passport shall be positioned in the joint label immediately above, and have the same width as, that official label or, where applicable, that master certificate.

(2) Point (2) of Part B shall apply accordingly.

#### ANNEX VIII

[...]

## ANNEX IX

## CORRELATION TABLE

<b>Council Directive 69/464/EEC</b>	<b>This Regulation</b>
Article 1	Article 28(1)
Article 2	Article 28(1)(e)
Articles 3, 4 and 5	Article 28(1)(d)
Article 6	Article 28(1)(f)
Article 7	-
Article 8	Article 8
Article 9	Article 31(1)
Articles 10 and 11	Article 28(1)(d)
Articles 12 and 13	-

<b>Council Directive 93/85/EEC</b>	<b>This Regulation</b>
Article 1	Article 28(1)
Article 2	Article 28(1)(g)
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(\*) See Article 109(1).