

# ORDINANCE

## OF THE STATES OF DELIBERATION

ENTITLED

### **The Plant Health (Implementation) (Guernsey) Ordinance, 2020 \***

[CONSOLIDATED TEXT]

#### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it 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. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* No. IX of 2020; as amended by the Plant Health (Brexite) (Amendment) (Guernsey) Regulations, 2020 (G.S.I. No. 130 of 2020); the Plant Health (Brexite) (Amendment) (Guernsey) Regulations, 2021 (G.S.I. No. \*\* of 2021). See also the Deputy Bailiff (Guernsey) Law, 1969 (Ordres en Conseil Vol. XXII, p. 122); the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010).

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Plant Health (Implementation) (Guernsey) Ordinance, 2020**

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(Made on 4th February, 2020.)

## **The Plant Health (Implementation) (Guernsey) Ordinance, 2020**

**THE STATES POLICY & RESOURCES COMMITTEE**, in pursuance of the Resolutions of the States of the 27<sup>th</sup> April, 2006<sup>a</sup>, and in exercise of the powers conferred on the States by sections 1 to 4 of the Plant Health (Enabling Provisions) (Guernsey) Law, 2014<sup>b</sup> and sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994<sup>c</sup>, and all other powers enabling them in that behalf and in exercise of the powers conferred on the Committee by Article 66A(1) of the Reform (Guernsey) Law, 1948<sup>d</sup>, hereby orders: –

### PART I

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

##### **Suspicion of non-compliance.**

1. (1) This section applies where a plant health officer suspects that a controlled consignment or a regulated item is likely to be, or has been, brought into Guernsey from a third country in contravention of [a plant health rule] or that any such consignment or item may not otherwise comply with [a plant health rule].

(2) A plant health officer must serve a notice on the responsible

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**a** Article IX of Billet d'État No. VIII of 2006.

**b** Order in Council No. X of 2014; as amended by Ordinance No. IX of 2016.

**c** Ordres en Conseil Vol. XXXV (1), p. 65; as amended by Order in Council No. I of 2019.

**d** Ordres en Conseil Vol XIII, p. 288; as amended by Order in Council No. XVII of 2015: there are other amendments not relevant to this Ordinance.

operator –

- (a) placing the consignment or item under official detention, and
- (b) prohibiting the entry of the consignment or item into [Guernsey],

pending the outcome of official controls to confirm or eliminate the suspicion referred to in subsection (1).

(3) This section applies to any controlled consignment or regulated item whether or not its ultimate destination is in Guernsey.

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**NOTE**

*In section 1, the words, first, "a plant health rule" and, second, "Guernsey" in square brackets, wherever occurring, were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(2)(a) and regulation 4(2)(c), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Consignments not correctly presented for official controls.**

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

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

3. (1) This section applies to –
- (a) any controlled consignment or regulated item which, in the opinion of a plant health officer, has been brought into Guernsey from a third country in contravention of [a plant health rule],
  - (b) any controlled consignment or regulated item which has been brought into Guernsey from a third country and which does not otherwise comply with [a plant health rule], or
  - (c) any consignment which has been brought into Guernsey from a third country and which, in the opinion of a plant health officer, poses a risk to plant health in Guernsey or to any other part of [the Bailiwick].
- (2) A plant health officer must serve a notice on the responsible operator –
- (a) placing the consignment or item under official detention, and
  - (b) setting out the measures which the responsible operator must take in relation to the consignment or item.

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**NOTE**

*In section 3, first, the words "a plant health rule" in square brackets,*

*wherever occurring, and, second, the words in square brackets in subsection (1)(c) were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(2)(a) and regulation 4(3), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Notices under section 1, 2 or 3.**

4. A notice under section 1, 2 or 3 may include any of the following –
- (a) the measures that the responsible operator must take in relation to the consignment or item to isolate or quarantine the consignment or item or otherwise deal with the risk to plant health arising from the consignment or item,
  - (b) where a plant health officer requires the consignment or item to be destroyed or otherwise disposed of, re-exported or treated, the measures that the responsible operator must take to destroy or otherwise dispose of, re-export or treat the consignment or item, or
  - (c) any other measures which the plant health officer considers are appropriate in the light of the suspected or known contravention or the risk to plant health in Guernsey or to any other part of [the Bailiwick] arising from the consignment or item.

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**NOTE**

*In section 4, the words in square brackets in paragraph (c) were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(3), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Interpretation of this Part.**

5. In this Part, "**responsible operator**" means the operator who is responsible for the controlled consignment or regulated item (as the case may be) in question.

PART II

EXCEPTIONS FROM REQUIREMENT TO HAVE A [UK PLANT PASSPORT]  
FOR MOVEMENTS OF PLANTS ETC.

**Article 82 of the PHR: meaning of "close proximity".**

6. (1) For the purposes of Article 82 of the PHR (which provides for an exception from the requirement for a [UK plant passport] for the movement of plants etc.), the premises of a registered operator are to be regarded as being in "**close proximity**" to other premises of that operator if any point on the boundary of its operative area, or of any of its operative areas, is within ten miles of any point on the boundary of the operative area, or of any of the operative areas, of the other premises.

(2) In subsection (1), "**operative area**", in relation to the premises of a registered operator means –

- (a) in the case of premises which are used entirely by the registered operator to carry out one or more of the activities mentioned in Article 65(1) of the PHR, the area comprising those premises, or
- (b) in the case of any other premises used by the registered operator to carry out one or more activities mentioned in Article 65(1) of the PHR, the area within the premises which is used by the registered operator

to carry out any of those activities.

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**NOTE**

*In section 6, and the heading to Part II, the words "UK plant passport" in square brackets were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(2)(c), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**PART III**

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

**Introduction.**

7. (1) This Part applies if a plant health officer suspects that a controlled plant pest or prohibited material is present or likely to be present, or becomes aware that a controlled plant pest or prohibited material is present, on any premises in Guernsey.

(2) In this section and in section 8, "**prohibited material**" means –

- (a) a plant, plant product or other object which is carrying, or is infested by or infected with, a controlled plant pest or may be carrying, or be infested by or infected with, a controlled plant pest,
- (b) a plant, plant product or other object the entry of which into [...] Guernsey is prohibited under [a plant health rule], or
- (c) a plant, plant product or other object the movement of

which [...] into, within or from Guernsey is prohibited under [a plant health rule].

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**NOTE**

*In section 7, the words omitted in square brackets in, first, subsection (2)(b) and, second, subsection (2)(c) were repealed and, third, the words "a plant health rule" in square brackets, wherever occurring, were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(4)(a), regulation 4(4)(b) and regulation 4(2)(a), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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

8. (1) A plant health officer may serve a notice on the appropriate person –
- (a) requiring the appropriate person to treat, destroy or otherwise dispose of the controlled plant pest or prohibited material,
  - (b) prohibiting for the period specified in the notice –
    - (i) the removal of any controlled plant pest or prohibited material from the premises, or
    - (ii) any activity which the plant health officer considers necessary to prohibit in order to prevent the establishment or spread of a controlled plant pest,
  - (c) requiring the removal of any controlled plant pest or prohibited material from the premises, or

- (d) requiring the taking of any other steps, as specified in the notice, which the plant health officer considers necessary to eradicate the controlled plant pest or prevent its establishment or spread.

(2) If a plant health officer has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of, or ensuring the eradication of, any controlled plant pest from any premises, the plant health officer may serve a notice on the occupier imposing any prohibition or requiring any reasonable step to be taken for that purpose.

(3) In subsection (1), "**appropriate person**" means –

- (a) in the case of premises used by a professional operator, the professional operator, or
- (b) in the case of any other premises –
  - (i) the occupier or any other person in charge of the premises, or
  - (ii) any other person who is charge of the controlled plant pest or the prohibited material at those premises.

**Action which may be taken by a plant health officer.**

9. (1) A plant health officer may, on giving reasonable notice, enter any premises and any adjacent premises for the purpose of taking steps to –

- (a) eradicate, destroy or otherwise deal with any

controlled plant pest,

- (b) prevent the spread of any controlled plant pest, or
- (c) destroy, treat or otherwise deal with any infected material.

(2) Subsection (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier.

(3) A plant health officer may be accompanied by such other persons [...] and bring onto the premises such equipment and vehicles as the plant health officer considers necessary.

(4) A person accompanying a plant health officer under subsection (3) may –

- (a) remain on the premises and from time to time re-enter the premises without a plant health officer,
- (b) bring onto the premises any equipment or vehicles that the person considers necessary, or
- (c) carry out work on the premises in a manner directed by a plant health officer.

(5) In subsection (1), "**infected material**" means –

- (a) a plant, plant product or other object which is carrying, or is infested by or infected with, a

controlled plant pest or may be carrying, or be infested by or infected with, a controlled plant pest, or

- (b) a plant, plant product or other object which is not carrying, or is not infested by or infected with, a controlled plant pest but the presence or existence of which may, in the opinion of a plant health officer, cause a controlled plant pest to spread or be spread.

(6) Any costs or expenses reasonably incurred by a plant health officer in taking any steps under subsection (1) are recoverable by the Committee from the owner or occupier of the premises on which the steps were taken as a civil debt.

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**NOTE**

*In section 9, the words omitted in square brackets in subsection (3) were repealed by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(5), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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

**10.** (1) This section applies where the Committee has officially confirmed the presence of a controlled plant pest which is not known to be present in Guernsey or the presence of a controlled plant pest in an area of Guernsey where it was not previously present.

- (2) The Committee may by notice –
  - (a) demarcate an area in relation to the presence of the controlled plant pest for the purpose of eradicating or containing the plant pest, and

- (b) specify the prohibitions or restrictions which are to apply to the demarcated area for that purpose.
- (3) A notice under subsection (2) –
  - (a) must describe the extent of the demarcated area,
  - (b) must specify the date on which any such prohibitions or restrictions are to commence,
  - (c) must be published in a manner appropriate to bring it to the attention of the public,
  - (d) may be amended or withdrawn by further notice, and
  - (e) must give brief particulars of the right of appeal in relation to the notice under section 33(1).

#### PART IV

#### TEMPORARY LOCAL MEASURES

#### **Temporary local measures.**

**11.** ...

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#### **NOTE**

*Part IV, and section 11 thereof, were repealed by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(6), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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PART V  
REGISTRATION, AUTHORISATIONS AND CERTIFICATES

**Purpose of this Part.**

12. This Part provides for supplementary procedure in relation to applications for registration or authorisation and other matters provided for under the PHR and, for the avoidance of doubt, in the event of any inconsistency between these provisions and those of the PHR, the provisions of the PHR prevail.

**Application for registration as professional operator.**

13. A professional operator which operates in Guernsey must submit an application for registration pursuant to Article 66 of the PHR, including the elements required under that Article, to the Committee in the manner and form required by the Committee.

**Applications for authorisation or for the issue of a phytosanitary certificate etc.**

14. (1) The following applications must be made to the Committee in the manner and form required by the Committee –

- (a) an application for a temporary authorisation to permit a relevant activity for official testing, scientific or educational purposes, trials, varietal selection or breeding,
- (b) an application for an authorisation referred to in Article 64(2) (release of plants etc. from quarantine stations and confinement facilities) of the PHR,
- (c) an application for an authorisation referred to in Article 89(1) (authorisation of professional operators to issue [UK plant passport]s) of the PHR,

- (d) an application for an authorisation referred to in Article 98 (authorisation and supervision of registered operators applying the mark of wood packaging material in [Guernsey]) of the PHR, and
- (e) an application for the issue of a phytosanitary certificate for export [or] a phytosanitary certificate for re-export [...].

(2) In this section –

**"relevant activity"** means an activity which would otherwise be prohibited under the PHR [...] or another [plant health rule] involving –

- (a) the introduction of a plant pest or a plant, plant product or other object into Guernsey,
- (b) the movement of a plant pest or a plant, plant product or other object within Guernsey,
- (c) the holding of a controlled plant pest or a plant, plant product or other object at premises in Guernsey, or
- (d) the multiplication of a plant pest at premises in Guernsey.

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**NOTE**

*In section 14, the words, first, "UK plant passport", second, "Guernsey" and, third, "plant health rule" in square brackets, wherever occurring, were substituted, fourth, the word in the first pair of square brackets in subsection*

*(1)(e) was substituted and the words omitted in the second pair of square brackets therein were repealed and, fifth, the words omitted in square brackets in subsection (2) were repealed by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(2)(c), regulation 4(2)(b), regulation 4(2)(a), regulation 4(7)(a) and regulation 4(7)(b), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Authorisations for other purposes.**

15. (1) The Committee may grant an authorisation to permit [...] –

(a) [ the carrying out of] any activity specified in a plant health derogation, [...]

[(ab) the introduction into Guernsey, the movement within Guernsey, or the holding or multiplication in Guernsey, of a potential quarantine plant pest for official testing, scientific or educational purposes, trials, varietal selection or breeding, or]

(b) [ the carrying out of] any other activity which requires the approval of the Committee under the PHR, the OCR or this Ordinance.

(2) An application for any such authorisation must be made to the Committee in the manner and form required by the Committee.

[ (3) In this section –

**"a plant health derogation"** means a derogation from provisions of the PHR which is set out in Preserved EU law, an enactment implementing the same or regulations made under the PHR or the OCR, and

**"potential quarantine plant pest"** means a plant pest which is not a Guernsey quarantine pest or a provisional Guernsey quarantine pest, but which, in the opinion of the appropriate authority, fulfils the criteria set out in subsection 1 of Section 3 of Annex I to the PHR or may fulfil the criteria in subsection 2 of that Section.]

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**NOTE**

*In section 15, first, the words omitted in the first pair of square brackets in subsection (1) were repealed and the words in the first pair of square brackets in subsection (1)(a) and in square brackets in subsection (1)(b) were inserted, second, the word omitted in square brackets immediately after subsection (1)(a) was repealed and paragraph (ab) of subsection (1) was inserted and, third, subsection (3) was substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(8)(a)(i), regulation 4(8)(a)(ii) and regulation 4(8)(b), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Registrations made or authorisations granted by the Committee.**

**16.** (1) A registration made or an authorisation granted by the Committee for the purposes of the PHR [or the OCR or under] this Ordinance must be in writing and may be granted or made –

- (a) subject to conditions, or
- (b) for an indefinite period or a specified period.

(2) A registration made or an authorisation granted by the Committee may permit the Committee to –

- (a) in the case of a registration, amend, suspend or revoke the registration, or

- (b) in the case of an authorisation, amend, suspend or withdraw the authorisation,

at any time by notice in writing.

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**NOTE**

*In section 16, the words in square brackets in subsection (1) were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(9), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Fee for issue of phytosanitary certificates etc.**

**17.** (1) A fee of £35 per certificate is payable by the applicant for a certificate in respect of the issue of any of the certificates listed in subsection (2) by the Committee.

(2) The certificates referred to in subsection (1) are –

- (a) a phytosanitary certificate for export issued under Article 100 of the PHR, [and]
- (b) a phytosanitary certificate for re-export issued under Article 101 of the PHR, [...]
- (c) ...

(3) Liability to pay the fee arises upon service by the Committee on the applicant of an account specifying the fee payable for the certificate issued.

(4) The fee is payable within 30 days starting with the date of issue of the account and, where relevant, by such means as the Committee may

reasonably specify in the account.

(5) Where an account, or part of it, is not paid within the 30 day period specified under subsection (4), the sum is recoverable from the applicant as a civil debt due to the Committee.

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**NOTE**

*In section 17, first, the word in square brackets immediately after paragraph (a) of subsection (2) was inserted and, second, the word omitted in square brackets immediately after paragraph (b) of subsection (2) and, third, paragraph (c) of that subsection were repealed by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(10)(a), regulation 4(10)(b) and regulation 4(10)(c), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**PART VI**

**NOTIFICATION REQUIREMENTS**

**Notification requirements in relation to seed potatoes.**

**18.** ...

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**NOTE**

*Section 18 was repealed by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(11), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Notification requirements in relation to citrus fruits.**

**19.** ...

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**NOTE**

*Section 19 was repealed by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(11), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Notification requirements in relation to other plants and plant products.**

20. (1) A professional operator who is bringing [...] into Guernsey [any solid fuel wood from a third country to which Article 47(1) of the OCR does not apply] must, before or no later than four days after the date of [the arrival of the wood] in Guernsey, notify a plant health officer of the matters referred to in subsection (2) –

(a) ...

(b) ...

(c) ...

(2) The matters are –

(a) the expected date of the arrival of the consignment or, if the consignment has arrived in Guernsey, the date on which it first arrived in Guernsey,

(b) the intended destination of the consignment, or if the consignment has arrived at its intended destination in Guernsey, its current location,

(c) the genus, species and quantity of the [...] wood in the consignment,

(d) the country from which the [...] wood [has been, or is] to be, consigned,

(e) ...

[(f) the address of the consignor, and

(g) details of any phytosanitary treatments applied to the wood.]

(3) In this section, "**solid fuel wood**" means fuel wood in the form of logs, billets, twigs, faggots or other similar forms.

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**NOTE**

*In section 20, first, the words omitted in the first pair of square brackets in subsection (1) were repealed, second, the words in the second pair of square brackets therein were inserted, third, the words in the third pair of square brackets in that subsection were substituted, fourth, subsection (1)(a), subsection (1)(b) and subsection (1)(c) were repealed, fifth, the words omitted in square brackets in subsection (2)(c) and in the first pair of square brackets in subsection (2)(d) were repealed, sixth, the words in the second pair of square brackets in subsection (2)(d) were substituted, seventh, subsection (2)(e) was repealed and, eighth, subsection (2)(f) was substituted and subsection (2)(g) inserted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(12)(a)(i), regulation 4(12)(a)(ii), regulation 4(12)(a)(iii), regulation 4(12)(a)(iv), regulation 4(12)(b)(i), regulation 4(12)(b)(ii), regulation 4(12)(b)(iii) and regulation 4(12)(b)(iv), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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PART VII

GENERAL PROVISIONS IN RELATION TO PLANT HEALTH OFFICERS AND  
ENFORCEMENT

**Powers of entry.**

**21.** (1) A plant health officer may enter any premises at a reasonable time for the purpose of –

- (a) performing official controls to verify that –
  - (i) an operator is complying with the OCR ,
  - (ii) a professional operator is complying with the PHR,
  - (iii) a person is complying with this Ordinance, or
  - (iv) any plants, plant products or other objects which are subject to [a plant health rule comply with that rule],
- (b) carrying out other official activities which are to be performed by the Committee pursuant to the OCR, the PHR or this Ordinance,
- (c) enforcing the OCR, the PHR or this Ordinance,
- (d) verifying information supplied by a person in connection with an application for registration or for an authorisation or other consent (however named) granted, or to be granted, under this Ordinance, or
- (e) ascertaining whether a condition of an authorisation or other consent (however named) granted by the Committee under this Ordinance or for the purposes of the OCR or the PHR is being or has been complied

with.

(2) Subsection (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier.

(3) A plant health officer who enters premises for a purpose specified in subsection (1) or under a warrant issued by the Bailiff under section 22 may –

- (a) examine, photograph or mark any part of the premises, any object on the premises or anything that is attached to or otherwise forms part of the premises,
- (b) in the case of premises being used to manufacture wood packaging material, examine or test any treatment facility, machinery, tools or other equipment used for the manufacture of wood packaging material or observe and monitor the manufacturing of wood packaging material,
- (c) take samples of or from –
  - (i) any plant pest,
  - (ii) any plant, plant product or other object, or
  - (iii) any container, package or item which has been or may have been in contact with a plant pest or plant, plant product or other object,

*Consolidated text*

- (d) open any container or package or require the owner or person in charge of any container or package to open the container or package, or
- (e) inspect or make copies of any documents or records (in whatever form they may be held) relating to the production of, or any activities relating to, any plant, plant product or other object.

(4) A plant health officer may destroy or otherwise dispose of any sample taken under this section when the sample is no longer required.

(5) A plant health officer may –

- [(a) be accompanied by such persons as the plant health officer considers necessary, and]
- (b) bring onto the premises such equipment and vehicles as the plant health officer considers necessary.

(6) A person accompanying a plant health officer under subsection (5)(a) may –

- (a) remain on the premises and from time to time re-enter the premises without a plant health officer,
- (b) bring onto the premises any equipment or vehicles that the person considers necessary, or
- (c) carry out work on the premises in a manner directed by a plant health officer.

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**NOTES**

*In section 21, first, the words in square brackets in subsection (1)(a)(iv) and, second, subsection 5(a) were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(13)(a) and regulation 4(13)(b), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Right of entry conferred by a warrant issued by the Bailiff.**

22. (1) If the Bailiff is satisfied by information on oath supplied by a plant health officer that –

- (a) there are reasonable grounds for entering premises under section 9, 21 or 24, and
- (b) any of the conditions in subsection (2) is met,

the Bailiff may grant a warrant to a plant health officer permitting the officer to enter those premises, if necessary by reasonable force.

(2) The conditions are that –

- (a) entry to the premises has been, or is likely to be, refused and notice of the intention to apply for a warrant has been given to the occupier,

- (b) asking for admission to the premises, or giving notice of the intention to apply for a warrant, would defeat the object of the entry,
  - (c) entry is required urgently, or
  - (d) the premises are unoccupied or the occupier is temporarily absent.
- (3) A warrant issued under this section is valid for one month.
- (4) A plant health officer who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before entry.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Information notices.**

- 23.** (1) A plant health officer may by notice require an appropriate person to give to the plant health officer, within the time specified in the notice, any information which the person may possess as to –
- (a) the plants grown or products stored at any time on the premises specified in the notice,

- (b) any plant pest or plant, plant product or other object of a description referred to in subsection (4)(b), or
- (c) the persons who have had, or are likely to have had, any plant pest or plant, plant product or other object of a description referred to in subsection (4)(b) in their possession or under their charge.

(2) The time within which the information is required to be given to the plant health officer must be reasonable.

(3) An appropriate person must produce for examination by the plant health officer any authorisation, official statement, certificate, [UK plant passport], record, invoice or other document relating to a plant pest or any plant, plant product or other object specified in the notice.

(4) In this section, "**appropriate person**" means –

- (a) in relation to any premises to be specified in a notice under subsection (1), a person who is the owner, occupier or other person in charge of the premises,
- (b) a person who has, has had, or is reasonably suspected by the plant health officer to have or have had, possession or charge of –
  - (i) a controlled plant pest,
  - (ii) any plant, plant product or other object which was carrying a controlled plant pest or which

was infested by or infected with a controlled plant pest, or

(iii) any plant, plant product or other object which the plant health officer knows or suspects to have been imported into or exported from Guernsey, or

(c) a person who, as auctioneer, salesman or otherwise, has sold, offered for sale or otherwise disposed of a controlled plant pest.

(5) A statement made by a person in response to a requirement imposed by or under this section –

(a) may be used in evidence against that person in proceedings other than criminal proceedings, and

(b) may not be used in evidence against that person in criminal proceedings except –

(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or

(ii) in proceedings for –

(A) an offence under section 37, or

(B) some other offence where, in giving evidence that person makes a statement

inconsistent with it, but is only admissible to the extent necessary to establish the inconsistency,

(C) perjury, or

(D) perverting the course of justice.

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**NOTE**

*In section 23, the words in square brackets in subsection (3) were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(2)(c), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Failure to comply with a notice: action in default.**

24. (1) If a person fails to comply with a notice served on that person under this Ordinance, a plant health officer may enter any premises at all reasonable times to take or cause to be taken any steps that the plant health officer considers necessary to ensure compliance with the notice or to remedy the consequences of the failure to carry them out.

(2) Subsection (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier.

(3) Subsection (1) does not affect any right of entry conferred by a warrant issued by the Bailiff under section 22.

(4) A plant health officer may be accompanied by such [...] persons [...] and bring onto the premises such equipment and vehicles as the plant health officer considers necessary.

(5) A person accompanying a plant health officer under subsection (4) may –

- (a) remain on the premises and from time to time re-enter the premises without a plant health officer,
- (b) bring onto the premises any equipment or vehicles that the person considers necessary, or
- (c) carry out work on the premises in a manner directed by a plant health officer.

(6) Any costs or expenses reasonably incurred by a plant health officer in taking any steps under subsection (1) are recoverable by the Committee from the person on whom the notice was served as a civil debt.

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## NOTES

*In section 24, the words omitted in, first, the first and, second, the second pairs of square brackets in subsection (4) were repealed by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(14) and regulation 4(5), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.*

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

25. Where a plant health officer knows, or has reasonable grounds for

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

**Marking of wood packaging material: power of seizure.**

26. (1) This section applies where a plant health officer knows, or has reasonable grounds for suspecting, that a person has incorrectly applied, or intends to incorrectly apply, the ISPM 15 mark to wood packaging at any premises in Guernsey.

(2) The plant health officer may seize and detain from that person or from those premises any stencil, template or other item of equipment that appears to the plant health officer to be capable of being used to apply the ISPM 15 mark.

(3) If, in the opinion of the plant health officer, it is not for the time being practicable for the plant health officer to seize and remove any item, the plant health officer may require any person on the premises to ensure that the item is not removed or otherwise interfered with until such time as the plant health officer may seize and remove it.

(4) The plant health officer must make reasonable efforts to give notice to the appropriate person –

- (a) stating what has been seized and the reason for its seizure, and
- (b) explaining the effect of subsections (5) to (12).

(5) Any item seized under subsection (2) may be retained by the Committee for as long as is necessary in all the circumstances, and in particular for the purposes of proceedings in relation to an offence under section 34(1) or 35.

(6) The Committee may apply to the Court for the forfeiture of any item retained under subsection (5).

(7) Where an application is made under subsection (6), the Court may order the item to be forfeited if the Court is satisfied that –

- (a) an offence under section 34(1) or 35 has been committed in respect of it, or
- (b) it was used in the commission of such an offence.

(8) If the Court orders the item to be forfeited, the Committee may dispose of it in whatever way it considers appropriate.

(9) If the Court does not order the item to be forfeited, it must order the item to be returned to the appropriate person.

(10) The Committee may recover from the appropriate person as a civil debt all reasonable costs and expenses incurred by the Committee for the purposes of securing the forfeiture of an item under subsections (6) to (8).

(11) Where the retention of any item has been, but is no longer, authorised under this section –

- (a) the item must be returned to the appropriate person, and
- (b) the appropriate person may apply to the Court for an order that the item be returned.

(12) Where the item is required to be returned to the appropriate person and reasonable efforts have been made, without success, to return the item to that person, the Committee may dispose of the item in whatever manner it considers appropriate.

(13) In this section –

**"appropriate person"** means –

- (a) in the case of an item seized from a person, the person from whom it was seized,
- (b) in the case of an item seized from premises, the occupier or any other person in charge of the premises, or
- (c) in the case of an item seized from a person or premises which does not belong to a person falling within paragraph (a) or (b), the owner, and

**"the Court"** means the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats.

(14) Nothing in this section affects the powers of a plant health officer under section 25.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein*

*relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Disclosure of information held by the Committee for Home Affairs.**

27. (1) The Committee for Home Affairs may disclose any information in its possession to the Committee for the purposes of enabling or assisting the Committee to carry out any function conferred on it under the PHR or this Ordinance.

(2) Nothing in subsection (1) affects any other power of, or requirement on, the Committee for Home Affairs to disclose information.

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

28. (1) The Committee may disclose information to any other competent authority in any other part of the [British Islands, which is responsible for plant health rules,] for the purposes of the PHR or the OCR.

(2) Nothing in subsection (1) affects any other power or requirement of the Committee to disclose information.

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**NOTE**

*In section 28, the words in square brackets in subsection (1) were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(15), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Appointment of plant health officer.**

29. (1) A person may be appointed by the Committee as an official plant health officer or to perform any of the other functions of a plant health officer under this Ordinance.

(2) For the avoidance of doubt, an appointment under subsection (1), insofar as it relates to functions of an official plant health officer, must comply with Article 5(3) of the OCR and any other provision relevant to that appointment (including relating to appropriate training) under that Regulation.

(3) A person purporting to carry out the functions of a plant health officer must, upon request, produce evidence of his or her appointment.

(4) In the event of any inconsistency between the provisions of this section and of the OCR, the provisions of the OCR prevail.

**Interpretation of this Part.**

**30.** (1) In this Part –

**"ISPM 15 mark"** means the mark referred to in Article 96(1) of the PHR, which may be applied to wood packaging material to attest that it has been treated in accordance with Annex 1 to ISPM 15, and

**"wood packaging material"** includes any wood or other object which is required to be treated and marked in accordance with Annex 1 to ISPM 15.

(2) For the purposes of sections 25 and 26, a person **"incorrectly"** applies the ISPM 15 mark to wood packaging material if the person applies the mark otherwise than in the manner specified in Article 96(1) of the PHR as read with Article 97(1) of the PHR.

PART VIII

GENERAL AND SUPPLEMENTAL PROVISIONS RELATING TO NOTICES

**Miscellaneous provisions as to notices.**

**31.** (1) This section applies to any notice given by a plant health officer under this Ordinance other than a notice under section 26(4).

(2) The notice may –

(a) specify one or more requirements or alternative requirements,

(b) specify the manner in which and the period in which any requirement or condition specified in the notice must be carried out or fulfilled, or

(c) require the owner or any other person who appears to be in charge of the premises to which the notice relates to –

(i) notify the Committee of any change in occupation of the premises, the date of the change and the name of the new occupier, and

(ii) inform the new occupier of the premises of the contents of the notice.

(3) Any destruction, disposal, re-export or treatment of a plant, plant product or other object or a plant pest which is required to be carried out under the notice must be carried out, or arranged to be carried out, to the satisfaction of a plant health officer, by the person on whom the notice has been served from or at the place specified in the notice.

(4) A plant health officer may amend or withdraw the notice by a

further notice.

(5) The notice may define by reference to a map or plan or otherwise the extent of the premises referred to in the notice.

(6) The notice must give brief particulars of any right of appeal in relation to the notice under section 33(1).

**Service of notices.**

**32.** (1) Any notice to be given or served under this Ordinance may be given or served –

- (a) on an individual, by being delivered to the individual, or by being left at, or sent by post or transmitted to, the individual's usual or last known place of abode,
- (b) on a company, by being left at, or sent by post or transmitted to, its registered office,
- (c) on an overseas company, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in Guernsey or, if there is no such place, its registered or principal office or last known registered or principal office elsewhere,
- (d) on an unincorporated body, by being given to or served on any partner, member, manager or authorised officer thereof in accordance with paragraph (a), or by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in Guernsey or, if there is no such place, its

principal or last known principal place of business elsewhere, or

- (e) on the Committee or a plant health officer, by being left at, or sent by post or transmitted to, the principal offices of the Committee.

(2) In subsection (1) –

- (a) the expression "**by post**" means by recorded delivery service or ordinary letter post, and
- (b) the expression "**transmitted**" means transmitted by electronic communication, facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication, in which event the notice is to be regarded as served when it is received.

(3) If a person notifies the Committee or a plant health officer of an address for service within Guernsey under this Ordinance, any notice to be given to or served on the person may be given or served by being left at, or sent by post or transmitted to, that address.

(4) If a notice under this Ordinance is to be served on the occupier or any other person in charge of premises, and the last known place of abode or address of that person cannot be ascertained after reasonable enquiry, the notice may be served on that person by addressing it to "the occupier" and leaving it conspicuously affixed to an object on the premises for a period of seven days.

(5) If service of a notice cannot, after reasonable enquiry, be

effected by the Committee or a plant health officer in accordance with this section, the notice may be served –

- (a) by being published in such manner and for such period as the Committee or the plant health officer thinks fit, or
- (b) by being published in La Gazette Officielle on two occasions falling in successive weeks,

and a notice served under this subsection is sufficient if addressed to the person for whom it is intended.

(6) Subsections (1) to (5) are without prejudice to any other lawful method of service.

(7) Despite subsections (1) to (5) and (9) and any other enactment or rule of law in relation to the service of documents, no notice to be given to or served on the Committee or a plant health officer under this Ordinance is to be regarded as having been given or served until it is received.

(8) If a person upon whom a document is to be served under this Ordinance is a person under legal disability, the document must be served on the person's guardian, and if there is no guardian, the party wishing to effect service may apply to the court for the appointment of a person to act as guardian for the purposes of this Ordinance.

(9) A notice sent by post is, unless the contrary is shown, deemed for the purposes of this Ordinance to have been received –

- (a) in the case of a notice sent to an address in the United

Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting, or

- (b) in the case of a notice sent elsewhere, on the seventh day after the day of posting, excluding in each case any day which is not a working day.

(10) Service of a notice sent by post is to be proved by showing the date of posting, the address thereon and the fact of prepayment.

(11) In this section, "**working day**" means any day other than a Saturday, a Sunday or a non-business day.

(12) The provisions of this section are subject to any contrary provision under this Ordinance.

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**NOTE**

*In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.*

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**PART IX**

**APPEALS AGAINST DECISIONS**

**Appeals against decisions.**

**33.** (1) A person aggrieved by a decision of the Committee or of a plant health officer, as the case may be –

- (a) to refuse an application by that person for registration

*Consolidated text*

as a professional operator under Article 66 of the PHR,

- (b) to amend, suspend or revoke a registration of that person as a professional operator under Article 66(6) of the PHR and section 16,
- (c) to refuse an application by that person for authorisation to issue [UK plant passport]s under Article 89 of the PHR,
- (d) to amend, suspend or withdraw, under Article 92 of the PHR and section 16, an authorisation to issue [UK plant passport]s issued to that person,
- (e) to issue a notice (except for an information notice under section 23), or a notice to amend such a notice –
  - (i) served on that person under this Ordinance, or
  - (ii) under this Ordinance designating or demarcating an area (however named) where that person's premises, or a part of the same, are located,
- (f) to take or ensure the taking of any measures provided for under this Ordinance in relation to that person's premises, or part of the same,
- (g) to refuse an application for another authorisation under the PHR or this Ordinance, or

- (h) to amend, suspend or withdraw another authorisation under the PHR or this Ordinance, issued to that person,

may appeal to the Court against the decision.

(2) A person aggrieved by such other description of decision by any person under this Ordinance, the PHR or the OCR as the Committee may by Order prescribe, may appeal to the Court against the decision.

(3) The grounds of an appeal under this section are that –

- (a) the decision was *ultra vires* or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(4) An appeal under this section must be instituted –

- (a) within a period of 28 days immediately following the date of the notification of the decision, and
- (b) by summons served on the President of the

Committee, the plant health officer or the other person, as the case may be, stating the grounds and material facts on which the appellant relies.

(5) The Committee, plant health officer or other person, as the case may be, may, where an appeal under this section has been instituted, apply to the Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution, and on hearing the application the Court may –

- (a) dismiss the appeal or dismiss the application (in either case on such terms and conditions as the Court may direct), or
- (b) make such other order as the Court considers just.

(6) The provisions of subsection (5) are without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007<sup>f</sup>.

(7) On an appeal under this section the Court may –

- (a) set the decision aside and, if the Court considers it appropriate to do so, remit the matter to the Committee, plant health officer or other person, as the case may be, with such directions as the Court thinks fit, or
- (b) confirm the decision, in whole or in part.

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<sup>f</sup> O.R.C. No. IV of 2007; as amended by O.R.C. No. II of 2008; and No. IV of 2009.

(8) On an appeal under this section against a decision the Court may, on the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision pending the determination of the appeal.

(9) An appeal from a decision of the Court under this section lies to the Court of Appeal on a question of law.

(10) In this section "**the Court**" means the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats, and for the purposes of an appeal under this section the Court may appoint one or more assessors to assist it in the determination of any matter before it.

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#### NOTES

*In section 33, the words "UK plant passport" in square brackets, wherever occurring, were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(2)(c), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.*

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PART X  
OFFENCES

**General.**

34. (1) A person commits an offence if the person contravenes –
- (a) ...
  - (b) section 18(1), 19(1) or 20(1),
  - (c) a provision of the PHR specified in Part I of Schedule 2,
  - (d) a provision of the OCR specified in Part II of Schedule 2 (insofar as it applies to plants, plant products or other objects which are subject to [a plant health rule]),
  - (e) a provision of any other EU legislation specified in Part III of Schedule 2, or
  - (f) ...
- (2) But subsection (1) does not apply to anything done under, or in accordance with –
- (a) an authorisation or other consent (however named) which is granted, or has effect, under this Ordinance, or
  - (b) a notice which is given by a plant health officer or the

Committee under this Ordinance.

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**NOTE**

*In section 34, first, paragraph (a) and paragraph (f) and, second, the words omitted in paragraph (b) of subsection were repealed and, third, the words in square brackets in subsection (1)(d) were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(16)(a), regulation 4(16)(b) and regulation 4(2)(a), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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

35. A person commits an offence if the person fails to comply with –
- (a) a provision of a notice served on the person under this Ordinance,
  - (b) a term or condition of an authorisation or other consent (however named) granted to the person under this Ordinance, or
  - (c) a direction given under this Ordinance.

**Defence: reasonable excuse.**

36. It is a defence for a person charged with an offence under section 34 or 35 to show that the person had a reasonable excuse for contravening the provision, term or condition or direction in question.

**Provision of false or misleading information.**

37. (1) A person commits an offence if, for the purposes of obtaining an authorisation or other consent (however named) under this Ordinance or procuring the issue of a [UK plant passport] or certificate, the person –

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

(2) In this section and in section 38, "**certificate**" means a phytosanitary certificate [for export or a phytosanitary certificate for re-export].

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**NOTE**

*In section 37, first, the words in square brackets in subsection (1) and, second, the words in square brackets in subsection (2) were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(2)(c) and regulation 4(17), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Improper use of [...] plant passport]s or certificates.**

**38.** A person commits an offence if the person –

- (a) dishonestly issues a [UK plant passport] or a certificate,
- (b) dishonestly alters a [...] plant passport] or a certificate, or
- (c) dishonestly re-uses a [...] plant passport] or a certificate.

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**NOTES**

*In section 38,*

*the words "plant passport" and "UK plant passport" in square brackets, wherever occurring, were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(2)(c), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations;*

*the words omitted in square brackets within, first, the square brackets in the marginal note thereto and, second, the square brackets in paragraph (b) and paragraph (c) were revoked by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2021, regulation 6(2), respectively paragraph (a) and paragraph (b), with effect from 11th May, 2021.<sup>1</sup>*

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**Obstruction.**

- 39.** [ (1)] A person commits an offence if the person –
- (a) intentionally obstructs a plant health officer or a person accompanying a plant health officer acting in the execution or enforcement of [any provision under] the PHR, the OCR or this Ordinance,
  - (b) without reasonable excuse, fails to give to a plant health officer or a person accompanying a plant health officer any assistance or information which the plant health officer or such person may reasonably require for those purposes, or
  - (c) fails to produce a document or record when required to do so by the Committee or a plant health officer acting in the execution or enforcement of [any provision under] the PHR, the OCR or a provision under this Ordinance.

[ (2) In subsection (1), a reference to the PHR or the OCR includes Preserved EU law adopted, or regulations made, under the PHR or the OCR and any other Preserved EU law or enactment implementing the same relating to plant health.]

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**NOTE**

*In section 39, first, subsection (1) was re-numbered, second, the words in square brackets in paragraph (a) and paragraph (c) of subsection (1) as so re-numbered and, third, subsection (2) were inserted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(18)(a), regulation 4(18)(b) and regulation 4(18)(c), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Offence relating to the disclosure of information held by the Committee for Home Affairs.**

**40.** A person commits an offence if the person discloses any information received from the Committee for Home Affairs under section 27(1) and –

- (a) the information relates to a person whose identity is specified in the disclosure or can be deduced from the disclosure,
- (b) the disclosure is for a purpose other than specified in section 27(1), and
- (c) the Committee for Home Affairs has not given its prior consent to the disclosure.

**Defence: lawful disclosure.**

**41.** It is a defence for a person charged with an offence under section 40

to prove that the person reasonably believed that –

- (a) the disclosure was lawful, or
- (b) the information had previously been made available lawfully.

**Criminal liability of directors etc.**

**42.** (1) Where an offence under this Ordinance is committed by a body corporate, limited partnership with legal personality or foundation and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) in the case of a body corporate, any director, manager, secretary or other similar officer,
- (b) in the case of a limited partnership with legal personality, any general partner,
- (c) in the case of a foundation, any foundation official, or
- (d) any person purporting to act in any capacity described in paragraphs (a) to (c),

that person as well as the body corporate, limited partnership or foundation is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with the member's functions of management as if the member were a director.

(3) In this section –

**"foundation"** means –

- (a) a foundation created under the Foundations (Guernsey) Law, 2012<sup>g</sup>, or
- (b) an equivalent or similar body created or established under the law of another jurisdiction (however named),

**"foundation official"** means –

- (a) in relation to a foundation created under the Foundations (Guernsey) Law, 2012, a foundation official within the meaning of that Law, and
- (b) in relation to an equivalent or similar body created or established under the law of another jurisdiction, a person with functions corresponding to those of a foundation official described in paragraph (a) of this definition, and

**"general partner"** means –

- (a) in relation to a limited partnership falling within paragraph (a) of the definition in this section of **"limited partnership"**, a general partner within the

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<sup>g</sup> Order in Council No. I of 2013; as amended by Order in Council No. VI of 2017, Ordinance No. IX of 2016, and No. XXVII of 2018.

meaning of the Limited Partnerships (Guernsey) Law, 1995<sup>h</sup>, and

- (b) in relation to a limited partnership falling within paragraph (b) of the definition in this section of "**limited partnership**", a person whose liability for, and functions in relation to, the partnership correspond to that of a general partner described in paragraph (a) of this definition.

(4) In this section and in section 43 "**limited partnership**" means-

- (a) an arrangement which is registered as a limited partnership, and in respect of which there is a valid certificate of registration, under the Limited Partnerships (Guernsey) Law, 1995, or
- (b) an arrangement entered into under the laws of a jurisdiction outside Guernsey between two or more persons, under which –
  - (i) one or more of them is, or are jointly and severally, liable without limitation for all debts and obligations to third parties incurred pursuant to the arrangement, and

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<sup>h</sup> Ordres en Conseil Vol. XXXVI, p. 264; as amended by Ordres en Conseil Vol. XXXVI, p. 571; Order in Council No. IV of 2001; No. X of 2007; No. VIII of 2008; Ordinance No. XXXIII of 2003; No. IX of 2016; G.S.I. No. 89 of 2008; and G.S.I. No. 51 of 2016.

- (ii) the others have, by whatever means, contributed or agreed to contribute specified amounts pursuant to the arrangement and are not liable for those debts and obligations (unless they participate in controlling the business or are otherwise subjected to a greater liability by those laws in specified circumstances) beyond the amount contributed or agreed to be contributed,

whether with or without legal personality.

**Criminal proceedings against unincorporated bodies.**

**43.** (1) Where an offence under this Ordinance is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) in the case of a partnership (not being a limited partnership with legal personality or a limited liability partnership), any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty of which the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be

proceeded against and punished accordingly.

(2) Where an offence under this Ordinance is alleged to have been committed by an unincorporated body, proceedings for the offence must, without prejudice to subsection (1), be brought in the name of the body and not in the name of any of its members.

(3) A fine imposed on an unincorporated body on its conviction for an offence under this Ordinance must be paid from the funds of the body.

(4) In this section "**limited liability partnership**" means –

- (a) a limited liability partnership formed in Guernsey under the Limited Liability Partnerships (Guernsey) Law, 2013<sup>i</sup>, or
- (b) an entity formed under the laws of a jurisdiction outside Guernsey, being an entity corresponding to a limited liability partnership described in paragraph (a).

### **Penalties.**

44. A person guilty of an offence under this Ordinance is liable on conviction to a fine not exceeding level 5 on the uniform scale.

## PART XI

### FEES AND CHARGES AND EXCLUSION OF LIABILITY

### **Fees and charges.**

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<sup>i</sup> Order in Council No. VI of 2014; as amended by Order in Council No. VI of 2017; Ordinance No. XII of 2015; No. IX of 2016; and No. XXVII of 2018.

**45.** (1) There is payable to the Committee fees or charges of such amounts or at such rates, by such persons and in such manner as may be prescribed by Order of the Committee in connection with –

- (a) the carrying out of functions,
- (b) the provision of any services by the Committee or a plant health officer in connection with any of their functions, or
- (c) the recovery of any reasonable costs associated with administration and enforcement,

under this Ordinance or the PHR.

(2) An Order made under this section may, without prejudice to the generality of subsection (1) –

- (a) make provision for the calculation, administration, payment, collection and recovery of fees and charges, the enforcement of liabilities to pay the same and the levying of interest or penalties in the event of late or non-payment of fees or charges, and
- (b) amend section 17 to –
  - (i) substitute the fee payable for the issue of any certificate under that section, or
  - (ii) make such provision as is referred to in paragraph (a).

**Exclusion of liability.**

46. (1) Subject to subsection (3), no person falling within subsection (2) is to be –

- (a) liable in damages, or
- (b) where an individual, personally liable in any civil proceedings,

in respect of anything done or omitted to be done after the commencement of this Ordinance in the discharge or purported discharge of their functions, or functions delegated to them, under this Ordinance or the PHR, unless the thing was done or omitted to be done in bad faith.

(2) The persons within this subsection are –

- (a) the Committee, or
- (b) a plant health officer or any other person carrying out a function under this Ordinance or the PHR.

(3) Subsection (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000<sup>j</sup>.

PART XII  
MISCELLANEOUS

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<sup>j</sup> Order in Council No. XIV of 2000; as amended by Order in Council No. I of 2005; Ordinance No. XXXVII of 2001; No. XXXIII of 2003; No. XX of 2015; No. IX of 2016; No. XXVI of 2018; and G.S.I. No. 27 of 2006.

**Powers to amend or prescribe certain provisions by Order.**

47. (1) The Committee may by Order –

- (a) amend or substitute any of the Schedules to this Ordinance, or
- (b) amend or substitute any definition or other part of any interpretation provision in this Ordinance.

(2) The Committee may by Order make such further provision as it considers necessary or expedient in relation to the taking of measures for the control of controlled plant pests including in particular where the pest is present, or suspected to be present –

- (a) in Guernsey, or
- (b) in another island within the Bailiwick or a neighbouring jurisdiction as defined in section 5(1) of the Plant Health (Enabling Provisions) (Guernsey) Law, 2014.

(3) The measures provided for under subsection (2) may include, without limitation –

- (a) containment measures or preventative measures within the meaning of section 2(1)(k) and (l) of the Plant Health (Enabling Provisions) (Guernsey) Law, 2014, or
- (b) measures in relation to the control of any controlled

plant pest affecting solanaceous species, including potato ring rot, potato brown rot or potato cyst nematodes including measures to implement –

- (i) Council Directive 93/85/EEC on the control of potato ring rot<sup>k</sup>,
- (ii) Council Directive 98/57/EC on the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*<sup>l</sup>,
- (iii) Council Directive 2007/33/EC on the control of potato cyst nematodes and repealing Directive 69/465/EEC<sup>m</sup>, or
- (iv) Commission Implementing Decision 2011/787/EU.

**Interpretation: general.**

**48.** (1) In this Ordinance, unless the context requires otherwise –

[ ...]

"**commencement date**" means the date on which this Ordinance comes into force,

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<sup>k</sup> OJ L 259, 18.10.1993, p. 1.

<sup>l</sup> OJ L 235, 21.8.1998, p. 1, as amended by Commission Directive 2006/63/CE of 14 July 2006 (OJ No L 206, 27.7.2006, p. 36).

<sup>m</sup> OJ L 156, 16.6.2007, p. 12.

**"the Committee"** means the States of Guernsey Committee for the Environment & Infrastructure,

**"the Committee for Home Affairs"** means the States of Guernsey Committee for Home Affairs,

**"controlled consignment"** means a consignment containing any plant, plant product or other object –

- (a) which may not be brought into [Guernsey] without a phytosanitary certificate for export or a phytosanitary certificate for re-export pursuant to –
  - (i) Article 72 (plants, plant products and other objects for which phytosanitary certificates are required) or 74 (plants, plant products and other objects for which phytosanitary certificates are required for introduction into a [Guernsey pest-free area]) of the PHR,
  - (ii) ...
  - (iii) any other [plant health rule] other than Article 73 of the PHR, or
- (b) which was exported from [Guernsey] to a third country and is returning to [Guernsey] following the refusal by that third country to allow its entry into the country,

**"controlled plant pest"** means –

- (a) a plant pest of a description specified in [Annex 2, 2A, 3 or 4] to the Phytosanitary Conditions Regulation, [or]
- (b) ...
- (c) a plant pest subject to any other [plant health rule],

**"country"** includes a territory,

[ ...]

**"[plant health rule]"** means a rule within the meaning given in Article 1(2)(g) of the OCR,

**"ISPM 15"** means International Standard for Phytosanitary Measures No. 15 of March 2002 on Guidelines for regulating wood packaging material in international trade, prepared by the Secretariat of the International Plant Protection Convention established by the Food and Agriculture Organisation of the United Nations<sup>n</sup>,

**"notice"** means a notice in writing and "notify" means notify in writing,

**"the OCR"** 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

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<sup>n</sup> Available from the Secretariat of the International Plant Protection Convention, AGPP-FAO, Vale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC, insofar as it applies to EU plant health rules<sup>o</sup>,

**"this Ordinance"** includes any Order made under this Ordinance,

**"the PHR"** means Regulation (EU) 2016/2031 of the European Parliament and of the Council 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<sup>p</sup>,

**"the Phytosanitary Conditions Regulation"** means Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of the PHR<sup>q</sup>,

**"plant health officer"** means a person appointed under section 29(1),

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<sup>o</sup> OJ L 095, 7.4.2017, p. 1.

<sup>p</sup> OJ L 317, 23.11.2016, p. 4.

<sup>q</sup> OJ L 319, 10.12.2019, p. 1.

[ "**plant passport**" means a passport which is a UK plant passport or other permitted plant passport,]

"[**UK plant passport**]" is construed in accordance with Article 78 of the PHR,

"**plant pest**" means a pest within the meaning given in Article 1(1) and (2) of the PHR,

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

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

"**Potato cyst nematode**" means any cyst-forming nematode of the species *Globodera pallida* (Stone) Behrens or *Globodera rostochiensis* (Wollenweber) Behrens that infests and multiplies on potatoes and any strains or pathotypes of such nematode,

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

"**premises**" includes any place, building or other land, vehicle, vessel, aircraft, hovercraft, freight container, railway wagon, trailer or movable building or structure,

[ **"Preserved EU law"** has the meaning given in section 3(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018,]

**"regulated item"** means –

- (a) any plant, plant product or other object to which [a plant health rule] applies, other than any plant, plant product or other object which is part of a controlled consignment, or
- (b) a controlled plant pest,

[ ...]

**"third country"** means a country outside the [British Islands],

**"under"**, in relation to an EU Instrument, includes "by", "in accordance with", "for the purposes of", "pursuant to" and "by virtue of" the EU Instrument or any other EU instrument made under it,

**"uniform scale"** means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989<sup>r</sup>, and

[ ...]

(2) Unless the context otherwise requires, words and expressions which are not defined in this Ordinance and which appear in the PHR or the OCR

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<sup>r</sup> Ordres en Conseil Vol. XXXI, p. 278, for the current scale of fines see Ordinance No. XXIX of 2006; there are other amendments not relevant to this Ordinance.

have the same meaning in this Ordinance as they have in the PHR or the OCR (as the case may be).

(3) Unless the context requires otherwise, any reference in this Ordinance to an EU instrument is a reference to that EU instrument as from time to time amended, re-enacted (with or without modification), extended or applied.

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## NOTES

*In section 48,*

*first, the words omitted in the first pair of square brackets and the words omitted in square brackets immediately after the definitions of the expressions "country", "regulated item" and "uniform scale" in subsection (1) were repealed, second, the word "Guernsey" in square brackets, wherever occurring in subsection (1), was substituted, third, the words in square brackets in paragraph (a)(i) of the definition of the expression "controlled consignment" in subsection (1) were substituted, fourth, paragraph (a)(ii) of that definition was repealed, fifth, the words "plant health rule" and "a plant health rule" in square brackets, wherever occurring in subsection (1), were substituted, sixth, the words in square brackets in paragraph (a) of the definition of the expression "controlled plant pest" in subsection (1) were substituted, seventh, the word in square brackets immediately after paragraph (a) of that definition was inserted, eighth, paragraph (b) of that definition was repealed, ninth, the words in square brackets in the definition of the expression "UK plant passport" in subsection (1) were substituted, tenth, the definition of the expression "Preserved EU law" in subsection (1) was inserted and, eleventh, the words in square brackets in the definition of the expression "third country" in that subsection were substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(19)(a), regulation 4(2)(b), regulation 4(19)(b)(i), regulation 4(19)(b)(ii), regulation 4(2)(a), regulation 4(19)(c)(i), regulation 4(19)(c)(ii), regulation 4(19)(c)(iii), regulation 4(2)(c), regulation 4(19)(d) and regulation 4(19)(e), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations;*

*the definition of the expression "plant passport" in paragraph (1) was inserted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2021, regulation 6(3), with effect from 11th May, 2021.*

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## **Interpretation: EU instruments relating to plant health.**

49. ...

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**NOTE**

*Section 49 was repealed by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(20), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Measures adopted under Article 30(1) of the PHR.**

50. ...

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**NOTE**

*Section 50 was repealed by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(20), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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**Consequential amendment.**

51. (1) The European Communities (Official Controls) (Implementation and General Provisions) (Guernsey) Ordinance, 2019<sup>jj</sup> is amended as follows.

(2) In section 3 (appointment of staff and Designated Officers) –

(a) after subsection (5)(a), delete "and", and

(b) after subsection (5)(b) add –

" and,

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<sup>jj</sup> Made by the Policy & Resources Committee on 10<sup>th</sup> December, 2019.

- (c) "plant health officers" appointed under section 29(1) of the Plant Health (Implementation) (Guernsey) Ordinance, 2020 as official plant health officers."

**Consequential repeals.**

52. The enactments listed in Schedule 4 are repealed.

**Citation and commencement.**

53. This Ordinance may be cited as the Plant Health (Implementation) (Guernsey) Ordinance, 2020 and shall come into force on the 4<sup>th</sup> February, 2020.

SCHEDULE 1  
TEMPORARY LOCAL MEASURES

Section 11

...

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**NOTE**

*Schedule 1 was repealed by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(21), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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SCHEDULE 2

Section 34(1)(c) to (e)

OFFENCES: RELEVANT PROVISIONS IN THE [PRESERVED EU LAW]

PART I

THE PHR

<i>Provision of the PHR</i>	<i>Subject matter</i>
Article 5(1) (as read with Article 8(1))	Prohibits the introduction of a [Guernsey quarantine pest] into [Guernsey], the movement of a [Guernsey quarantine pest] within [Guernsey] or the holding, multiplication or the release of a [Guernsey quarantine pest] in [Guernsey] <sup>II</sup> .
Article 9(3) (as read with Article 33(1))	Requires professional operators immediately to notify competent authorities of any evidence they may have concerning an imminent danger of the entry of:  (a) a [Guernsey quarantine pest] or a [provisional Guernsey quarantine pest] into [Guernsey] or into a part of [Guernsey] where it is not yet present, or  (b) a [PFA quarantine pest] into the [Guernsey pest-free area established in respect of that pest].
Article 14(1) (as read with Articles 16 and 33(1))	Requires a professional operator who suspects or becomes aware that:

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<sup>II</sup> The list of Union quarantine pests is set out in Annex II to the Phytosanitary Conditions Regulation").

*Consolidated text*

- (a) a [Guernsey quarantine pest] or a [provisional Guernsey quarantine pest] is present in plants, plant products or other objects which are under the operator's control, or
- (b) a [PFA quarantine pest] is present in plants, plant products or other objects which are under the operator's control in the [Guernsey pest-free area established in respect of that pest],

immediately to notify the competent authority and take precautionary measures to prevent the establishment and spread of the pest.

Article 14(3)

Requires a professional operator:

- (a) to consult the competent authority where the professional operator has received an official confirmation concerning the presence of a [Guernsey quarantine pest] in plants, plant products or other objects which are under the operator's control, and
- (b) where applicable, proceed with the actions required under Article 14(4) to (7).

Article 15(1) (as read with Articles 15(2), 16 and 33(1)) Requires a person who is not a professional operator immediately to notify the

competent authority where the person becomes aware of, or has reason to suspect:

- (a) the presence of a [Guernsey quarantine pest], or
- (b) the presence of a [PFA quarantine pest] in the [Guernsey pest-free area established in respect of that pest].

Article 32(2)

Prohibits the introduction of a [PFA quarantine pest] into the [Guernsey pest-free area established in respect of that pest], the movement of a [PFA quarantine pest] within the [Guernsey pest-free area established in respect of that pest] or the holding, multiplication or the release of a [PFA quarantine pest] in the [Guernsey pest-free area established in respect of that pest]<sup>mm</sup>.

Article 37(1) (as read with Article 39 and Article 17 of the Phytosanitary Conditions Regulation)

Prohibits the introduction into [Guernsey] by a professional operator of a [Guernsey regulated non-quarantine pest] on plants for planting through which it is transmitted, or the movement of a [Guernsey regulated non-quarantine pest] within [Guernsey] by a professional operator on plants for planting through which it is transmitted<sup>nn</sup>.

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<sup>mm</sup> The list of protected zones and the respective protected zone pests is set out in Annex III to the Phytosanitary Conditions Regulation.

<sup>nn</sup> The list of Union-regulated non-quarantine pests and the relevant plants for planting, with categories and thresholds, is set out in Annex IV to the Phytosanitary Conditions Regulation.

Article 40(1) (as read with Articles 47 and 48(1))	Prohibits the introduction into [Guernsey] of certain plants, plant products or other objects if they originate from all or certain third countries or territories <sup>oo</sup> .
[Article 41(1) (as read with Articles 47 and 48(1))	Prohibits the introduction into Guernsey of certain plants, plant products or other objects from third countries unless the special requirements in respect of those plants, plant products or other objects are fulfilled.]
[Article 41(1A) (as read with Article 48(1))	Prohibits the introduction into Guernsey of certain plants, plant products or other objects from a Relevant British Island unless the special requirements in respect of those plants, plant products or other objects are fulfilled.]
[Article 41(1B) (as read with Article 48(1))	Prohibits the movement within Guernsey of certain plants, plant products or other objects unless the special requirements in respect of those plants, plant products or other objects are fulfilled.]
Article 42(2) (as read with Articles 47 and 48(1))	Prohibits the introduction into [Guernsey] of high-risk plants, plant products or other objects from third countries <sup>rr</sup> .

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<sup>oo</sup> The list of plants, plant products and other objects and the third countries, groups of third countries or specific areas of third countries to which the prohibition applies is set out in Annex VI to the Phytosanitary Conditions Regulation.

<sup>rr</sup> The list of high risk plants, plant products and other objects to which the prohibition applies is set out in Annex I to Commission Implementing Regulation (EU) 2018/2019 establishing a provisional list of high risk plants, plant products or other objects, within the meaning of Article 42 of the PHR and a list of plants for

Article 43(1)	Prohibits the introduction into [Guernsey] of wood packaging material, whether or not in use in the transport of objects of any kind, unless it fulfils the specified requirements or is subject to the exemptions provided for in ISPM 15.
Article 45(1), third paragraph (as read with Article 55)	Requires postal services and professional operators involved in sales through distance contracts to make specified information available to their clients through the internet.
Article 53(1) (as read with Articles 57 and 58).	Prohibits: <ul style="list-style-type: none"><li>(a) the introduction of certain plants, plant products or other objects originating from third countries into [Guernsey pest-free areas], or</li><li>(b) the introduction of certain plants, plant products or other objects originating [in Guernsey or a Relevant British Island into Guernsey pest-free areas]<sup>ss</sup>.</li></ul>
Article 54(1) (as read with Articles 57 and 58)	Prohibits: <ul style="list-style-type: none"><li>(a) the introduction of certain plants, plant products or other objects into [Guernsey pest-free areas] unless</li></ul>

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which phytosanitary certificates are not required for introduction into the Union, within the meaning of Article 73 of that Regulation (OJ No. L 323, 19.12.2018, p. 10).

<sup>ss</sup> The list of plants, plant products and other objects for these purposes is set out in Annex IX to the Phytosanitary Conditions Regulation.

the special requirements in respect of [those Guernsey pest-free areas] are fulfilled, or

- (b) the movement of certain plants, plant products or other objects within [Guernsey pest-free areas] unless the special requirements in respect of [those Guernsey pest-free areas] are fulfilled<sup>tt</sup>.

Article 59

Requires vehicles, machinery or packaging material used for:

- (a) specified plants, plant products or other objects moving into or within [Guernsey], or through [Guernsey], to be free from [Guernsey quarantine pest]s and pests subject to measures adopted pursuant to Article 30(1), or
- (b) specified plants, plant products or other objects moving into or within [Guernsey pest-free areas], or through [Guernsey pest-free areas], to be free from the [...] [PFA quarantine pest]s [relating to those areas].

Article 62(1)

Requires a person responsible for a quarantine station or confinement facility to monitor the station or facility and its

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<sup>tt</sup> The list of plants, plant products and other objects for these purposes is set out in Annex X to the Phytosanitary Conditions Regulation.

	immediate vicinity for the unintended presence of [Guernsey quarantine pest]s and pests subject to measures adopted pursuant to Article 30(1).
Article 62(2)	Requires a person responsible for a quarantine station or confinement facility to take appropriate action based on the contingency plan referred to in point (e) of Article 61(1) and to comply with the obligations of professional operators in Article 14 where the unintended presence of a [Guernsey quarantine pest] or a [provisional Guernsey quarantine pest] is found or suspected.
Article 64(1) (as read with Article 64(2))	Prohibits the release of plants, plant products and other objects from quarantine stations or confinement facilities unless authorised by the competent authorities.
Article 66(1) (as read with Article 65(3))	Requires certain professional operators to submit an application for registration to the competent authorities.
Article 66(5) (as read with Article 65(3))	Requires registered operators, where relevant: <ul style="list-style-type: none"><li>(a) to submit an annual update concerning any changes in the data referred to in points (d) and (e) of Article 66(2) or in the statements referred to in points (b) and (c) of Article 66(2), or</li><li>(b) to update the data referred to in</li></ul>

point (a) of Article 66(2) no later than 30 days after the change in that data.

Article 69(1) (as read with Articles 65(3) and 69(3)) Requires a professional operator to whom plants, plant products or other objects are supplied that are subject to the specified requirements or conditions to keep a record allowing the operator to identify the professional operator who supplied each trade unit.

Article 69(2) (as read with Article 69(3)) Requires a professional operator who is supplying plants, plant products or other objects that are subject to the specified requirements or conditions to keep a record allowing the operator to identify the professional operator to whom each trade unit was supplied.

Article 69(4) Requires professional operators to keep the records required pursuant to Article 69(1) to (3) for at least three years.

Article 70(1) Requires professional operators who are supplied with, or supply, the plants, plant products or other objects referred to in Article 69(1) and (2) to have in place traceability systems or procedures to allow identification of the movements of those plants, plant products and other objects within and between their own premises.

Articles 72(1) and 73 Prohibits the introduction into [Guernsey] of certain plants, plant products and other objects from third countries unless they are

accompanied by a phytosanitary certificate<sup>uu</sup>.

Article 74(1)

Prohibits the introduction of certain plants, plant products and other objects from third countries into [Guernsey pest-free areas] unless accompanied by a phytosanitary certificate<sup>vv</sup>.

Article 79(1) (as read with Articles 81, 82[, 83, ][92a and 95(a)(2)])

Prohibits the movement of certain plants, plant products and other objects within [Guernsey] [or the introduction of certain plants, plant products and other objects into Guernsey from a Relevant British Island without a UK plant passport]<sup>ww</sup>.

Article 80(1) (as read with Articles 81, 82[, 83, ][92a and 95(a)(2)])

Prohibits the introduction of certain plants, plant products and other objects into [Guernsey pest-free areas], or the movement of certain plants, plant products and other objects within [Guernsey pest-free areas], without a [UK plant passport]<sup>xx</sup>.

Article 84(1)

Prohibits professional operators from

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<sup>uu</sup> The list of plants, plant products and other objects for the purposes of Article 72(1) is set out in Part A of Annex XI to the Phytosanitary Conditions Regulation. The list of plants, plant products and other objects for the purposes of Article 73 is set out in Part B of that Annex, but does not include any plants, plant products and other objects in the list set out in Part C of that Annex.

<sup>vv</sup> The list of plants, plant products and other objects for these purposes is set out in Annex XII to the Phytosanitary Conditions Regulation.

<sup>ww</sup> The list of plants, plant products and other objects for these purposes is set out in Annex XIII to the Phytosanitary Conditions Regulation.

<sup>xx</sup> The list of plants, plant products and other objects for these purposes is set out in Annex XIV to the Phytosanitary Conditions Regulation.

	issuing [UK plant passport]s unless they are authorised and from issuing [UK plant passport]s for plants, plant products or other objects for which they are not responsible.
Article 84(3)	Prohibits authorised professional operators from issuing [UK plant passport]s except at specified premises, collective warehouses or dispatching centres.
Article 85 (as read with Article 87)	Prohibits authorised professional operators from issuing [UK plant passport]s for plants, plant products or other objects unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.
Article 86(1) (as read with Articles 86(2) and 87)	Prohibits authorised professional operators from issuing [UK plant passport]s for plants, plant products or other objects to be introduced into, or moved within, a [Guernsey pest-free area] unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.
[Article 86a	Prohibits authorised professional operators from issuing UK plant passports for plants, plant products or other objects to be introduced into a Relevant British Island unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.]
Article 88	Requires professional operators to attach [UK plant passport]s to the trade unit of the

plants, plant products or other objects concerned, or where the plants, plant products or other objects are moved in a package, bundle or container, to that package, bundle or container.

Article 90(1)

Requires an authorised operator to:

- (a) identify and monitor the points in its production process and certain other critical points as regards the movement of plants, plant products and other objects where the authorised operator intends to issue a [UK plant passport] in respect of those plants, plant products and other objects, and
- (b) to keep records concerning the identification and monitoring of those points for at least three years.

Article 90(2)

Requires authorised operators to ensure that appropriate training is given to its personnel involved in the examinations referred to in Article 87.

Article 93(1)

Prohibits authorised operators from issuing replacement [UK plant passport]s unless certain conditions are fulfilled.

Article 93(5)

Requires authorised operators to retain [certain] [plant passport]s or their contents for at least three years.

[Article 95a(1)]

Prohibits the introduction of a relevant NI trade unit into Guernsey from Northern

Ireland unless it is accompanied by the plant passport which was required for its movement within Northern Ireland.]

Article 96(1)

Prohibits the marking of wood packaging material, wood or other objects in [Guernsey] by:

- (a) any professional operator who is not authorised in accordance with Article 98, or
- (b) otherwise than in the manner required.

Article 97(1)

Prohibits the repairing of wood packaging material:

- (a) by any professional operator who is not authorised in accordance with Article 98, or
- (b) otherwise than in the manner required.

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PART II  
THE OCR

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*Provision of the OCR*

*Subject matter*

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Article 47(5) (as read with Articles 5 and 7 of Commission Delegated Regulation (EU) 2019/2122 supplementing Regulation (EU) 2017/625 of the European Parliament	Requires the operator responsible for a relevant consignment entering [Guernsey] to ensure that it is presented for official controls at the border control post of first arrival into [Guernsey].
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and of the Council as regards certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' personal luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending Regulation (EU) No 142/2011<sup>yy</sup>).

Article 50(1)

Requires the operator of a relevant consignment to which Article 47(1) applies to present the original official certificates or documents which are required to accompany the consignment to the competent authorities of the border control post.

Article 50(3)

Prohibits the operator of a relevant consignment from splitting the consignment until official controls have been performed and the Common Health Entry Document ("**CHED**") has been finalised.

Article 56(1)

Requires the operator of a relevant consignment to complete the relevant part of the CHED.

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<sup>yy</sup> OJ L 321, 12.12.2019, p. 45.

Article 56(4) (as read with Article 1(1) Requires the operator of a relevant of Commission Implementing Regulation (EU) 2019/1013 on the prior notification of consignments of certain categories of animals and goods entering [Guernsey]<sup>zz</sup>)

Requires the operator of a relevant consignment to give prior notification to the competent authorities of the border control post of arrival of the consignment before the physical arrival of the consignment in [Guernsey].

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PART III  
OTHER EU LEGISLATION

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*Provision of EU legislation*

*Subject matter*

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**Commission Delegated Regulation (EU) 2019/1602 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination<sup>aaa</sup>**

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Article 3 (as read with Articles 4(a), 5(1) (b), (d), 5(2)(a) and (c) and 6(a))

Requires the operator responsible for a consignment to ensure that a Common Health Entry Document ("CHED") accompanies the consignment before it is released for free circulation in accordance with Article 57(2)(b) of the OCR.

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**Commission Delegated Regulation (EU) 2019/2124 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for official controls of consignments of animals and goods in transit, transshipment and onward transportation through the Union, and amending Commission Regulations (EC) No**

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<sup>zz</sup> OJ L 165, 21.6.2019, p. 8.

<sup>aaa</sup> OJ L 250, 30.9.2019, p. 6.

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798/2008, (EC) No 1251/2008, (EC) No 119/2009, (EU) No 206/2010, (EU) No 605/2010, (EU) No 142/2011, (EU) No 28/2012, Commission Implementing Regulation (EU) 2016/759 and Commission Decision 2007/777/EC<sup>bbb</sup>

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Article 5(a) and (b) Requires the operator who is responsible for a relevant consignment that has been given authorisation for onward transportation to enter certain details in the CHED and submit the CHED.

Article 6 Requires the operator who is responsible for a relevant consignment that has been given authorisation for onward transportation to comply with the specified conditions relating to its transportation and storage.

Article 16(1) and (3) Requires the operator who is responsible for a transhipped relevant consignment to notify the specified information to competent authorities.

Article 22(4) Requires the operator who is responsible for a relevant consignment that is in transit through [Guernsey] to take specific measures relating to the transportation of the consignment.

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**NOTES**

*In Schedule 2,*

*first, the words in square brackets in the heading, second, the words "Guernsey quarantine pest" in square brackets, wherever occurring, third,*

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**bbb** OJ L 321, 12.12.2019, p. 73.

*the word "Guernsey" in square brackets, wherever occurring, fourth, the words "provisional Guernsey quarantine pest" in square brackets, wherever occurring, fifth, the words "PFA quarantine pest" in square brackets, wherever occurring, sixth, the words "Guernsey pest-free area established in respect of that pest" in square brackets, wherever occurring, seventh, the words "Guernsey regulated non-quarantine pest" in square brackets, wherever occurring, eighth, the words "Guernsey pest-free areas" in square brackets, wherever occurring, were all substituted, ninth, the entry relating to Article 41(1) was substituted and the entries relating to Article 41(1A) and Article 41(1B) were inserted, tenth, the words in square brackets in item (b) of the entry relating to Article 53(1) were substituted, eleventh, the words "those Guernsey pest-free areas" in square brackets, wherever occurring in the entry relating to Article 54(1), were substituted, twelfth, the words "Guernsey pest-free areas" in square brackets, wherever occurring in the entry relating to Article 59, were substituted, thirteenth, the word omitted in the third pair of square brackets in item (b) of that entry was repealed and the words in the fifth pair of square brackets therein were inserted, fourteenth, the punctuation and figures in the first pair of square brackets in the first column and, fifteenth, the words in the second pair of square brackets in the second column of the entry relating to Article 79(1) were substituted, sixteenth, the punctuation and figures in the first pair of square brackets in the first column of the entry relating to Article 80(1) were substituted, seventeenth, the words "UK plant passport" and "plant passport" in square brackets, wherever occurring, were substituted and, eighteenth, the words in the second pair of square brackets in the entry relating to Article 86(1) were substituted and the entry relating to Article 86a was inserted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, respectively regulation 4(22), regulation 4(23)(b), regulation 4(2)(b), regulation 4(23)(e), regulation 4(23)(c), regulation 4(23)(d), regulation 4(23)(f), regulation 4(23)(a), regulation 4(23)(g), regulation 4(23)(h), regulation 4(23)(i), regulation 4(23)(j)(i), regulation 4(23)(j)(ii), regulation 4(23)(k)(i), regulation 4(23)(k)(ii), regulation 4(23)(l), regulation 4(2)(c) and regulation 4(23)(m), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations;<sup>2</sup>*

*the word "Guernsey" in square brackets, wherever occurring in the entries relating to Articles 47(5) and 56(4) in the table in Part II, was substituted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(24), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations;*

*first, the figures, letters, word and parentheses in the second pair of square brackets in the first column of the entry relating to Article 79(1), second, the figures, letters, word and parentheses in the second pair of square brackets in the first column of the entry relating to Article 80(1) and, third, the word in the first pair of square brackets in the second column of the entry relating to Article 93(5) were substituted and, fourth, the entry relating to Article 95(a)(1) was inserted by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2021, regulation 6(4), respectively*

*Consolidated text*

*paragraph (a), paragraph (b), paragraph (c) and paragraph (d), with effect from 11th May, 2021.<sup>3</sup>*

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SCHEDULE 3

Section 34(1)(f)

OFFENCES RELATING TO EU EMERGENCY DECISIONS

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**NOTE**

*Schedule 3 was repealed by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(25), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.*

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SCHEDULE 4

Section 52

REPEALS

1. Loi relative au doryphore (anglicé Colorado Beetle), 1933<sup>ccc</sup>.
2. Ordonnance relative à la Vente, au Déplacement et a Transport de Plantes Contaminées, 1932<sup>ddd</sup>.
3. Ordonnance relative au Doryphore (anglicé Colorado Beetle), 1933<sup>eee</sup>.
4. The Narcissus Pests Ordinance, 1938<sup>fff</sup>.

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<sup>1</sup> These words were previously amended, in part, by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(2)(c), with effect from 11

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<sup>ccc</sup> Ordres en Conseil Vol. IX, p. 318; as amended by Ordres en Conseil Vol. XXIII, p. 188; Vol. XXXI, p. 278; and Ordinance No. XXXIII of 2003.

<sup>ddd</sup> Recueil d'Ordonnance Tome VI, p. 59.

<sup>eee</sup> Recueil d'Ordonnance Tome VIII, p. 289.

<sup>fff</sup> Recueil d'Ordonnance Tome VIII, p. 287; as amended by Ordres en Conseil Vol. XXXI, p. 278; Recueil d'Ordonnance Tome XIV, p. 4; Ordinance No. XXXIII of 2003; and No. IX of 2016.

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p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.

<sup>2</sup> The words "plant passport" in the second pair of square brackets in the second column of the entry relating to paragraph 93(5) were originally substituted as "UK plant passport" by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(2)(c), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.

<sup>3</sup> The figures, letters, word and parentheses in the second pair of square brackets in the first column of the entry relating to Article 79(1) were previously amended, in part, by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(23)(k)(i), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations; the figures, letters, word and parentheses in the second pair of square brackets in the first column of the entry relating to Article 80(1) were previously amended, in part, by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(23)(l), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations; and the word in the first pair of square brackets in the second column of the entry relating to Article 93(5) was previously amended, in part, by the Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020, regulation 4(2)(c), with effect from 11 p.m. on 31st December, 2020, subject to the provisions of regulations 6 to 9 of the 2020 Regulations.