

The Plant Health (Guernsey) Ordinance, 2019

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The Plant Health (Guernsey) Ordinance, 2019

THE STATES POLICY & RESOURCES COMMITTEE, in pursuance of the Resolutions of the States of the 27th April, 2006^a, and in exercise of the powers conferred on the States by sections 1 to 4 of the Plant Health (Enabling Provisions) (Guernsey) Law, 2014^b and sections 1 and 3 of the European Union (Amendment of Legislation) (Bailiwick of Guernsey) Law, 2018^c, 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^d, hereby orders:-

PART I COMMON LIST

Common list of plant pests, prohibited infested material etc.

1. In this Ordinance –
 - (a) “the list of controlled material” means Schedule 6 to the Plant Health Regulations,
 - (b) “the list of pest free area controlled material” means Schedule 7 to the Plant Health Regulations,

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

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

^c Order in Council No. V of 2019.

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

- (c) “the list of prohibited infested material” means Schedule 2 to the Plant Health Regulations,
- (d) “the list of prohibited material” means Schedule 3 to the Plant Health Regulations,
- (e) “the list of prohibited plant pests” means Schedule 1 to the Plant Health Regulations, and
- (f) “the list of regulated material” means Schedule 4 to the Plant Health Regulations,

subject to the modifications to any of those Schedules set out in Schedule 1.

PART II

IMPORTS FROM THIRD COUNTRIES

Application of Part II.

2. This Part applies to plant pests and relevant material which are brought into Guernsey from a third country, whether directly or via another CD territory or a UK territory.

Prohibitions and restrictions on landing plant pests and relevant material.

- 3. (1) No person may bring any of the following into Guernsey -
 - (a) any plant pest of a description specified in Part A, B or D of the list of prohibited plant pests,

- (b) any relevant material of a description specified in column 2 of Part A, B or D of the list of prohibited infested material which is carrying or infected with a plant pest of a description specified in the corresponding entry in respect of that description of relevant material in column 3,
- (c) any plant pest which, although not specified in Part A, B or D of the list of prohibited plant pests, or in column 3 of Part A, B or D of the list of prohibited infested material, is not normally present in Guernsey and which is likely to be injurious to plants in Guernsey,
- (d) any relevant material of a description specified in column 2 of Part A or B of the list of prohibited material which originates in a third country specified in the entry in respect of that description of relevant material in column 3 of that list,
- (e) any relevant material of a description specified in column 2 of Part A or D of the list of regulated material, unless the requirements specified in the corresponding entries in respect of that description of relevant material in column 3 are complied with, or
- (f) where relevant material is destined for a Guernsey pest free area –

- (i) any plant pest on the list of prohibited plant pests which is prescribed by Order of the Committee under section 54 as a plant pest which must not be introduced into, or spread within, that Guernsey pest free area,

- (ii) any relevant material on the list of prohibited infested material which is –
 - (A) carrying or infected with a plant pest which is prescribed by Order of the Committee under section 54 in relation to that relevant material, and

 - (B) prescribed by Order of the Committee under section 54 as material which must not be brought into or moved within that Guernsey pest free area if the material is carrying or infected with that plant pest, or

- (iii) any relevant material which is on the list of regulated material and which is prescribed by Order of the Committee under section 54 as relevant material which may only be brought into or moved within that Guernsey pest free area if specified requirements are met, unless it meets those specified requirements.

(2) The prohibition in subsection (1)(d) does not apply to any relevant material which is—

(a) in the course of its consignment between two third countries under appropriate customs procedures and without any change in customs status, and

(b) transported in such a way as to prevent the accidental escape of plant pests.

(3) Subsection (1)(e) does not apply to any relevant material which is prohibited from being landed under subsection (1)(d).

(4) Subsection (1)(e) and (f)(ii) and (iii) is subject to section 7(1).

Advance notification of landing.

4. (1) No person may bring any notifiable relevant material into a point of entry that is located in Guernsey, unless notice is given in accordance with this section.

(2) A notice must—

(a) be in accordance with the requirements of Schedule 2,

(b) be given to the Committee at the specified address, and

(c) be given in time to arrive at the specified address—

- (i) in the case of any relevant material brought by air, at least four working hours before its arrival, and
- (ii) in any other case, at least three working days before its arrival.

(3) In the case of seed potatoes originating in the European Union or Switzerland, the following information must be included under paragraph 13 of the notice set out in Schedule 2—

- (a) their intended use,
- (b) their intended destination,
- (c) their variety and quantity, and
- (d) the identification number of the producer of the potatoes.

(4) In the case of plants of *Castanea* Mill, *Fraxinus* L., *Olea europaea* L., *Pinus* L., *Platanus* L., *Prunus* L., *Quercus* L. or *Ulmus* L., that are intended for planting and originate in the European Union or Switzerland, the following information must be included under paragraph 13 of the notice set out in Schedule 2—

- (a) their intended destination,
- (b) their genus, species and quantity, and

(c) the identification number of the supplier of the plants.

(5) If a person can reasonably show that it was not possible to give notice in accordance with subsection (2)(c) because the person was not aware that the material had been consigned, the person may give notice as soon as is reasonably practicable.

(6) Subsection (1) is subject to sections 7(1) and 16.

(7) In this section—

(a) “**specified address**” means the address given by the Committee from time to time for the purposes of this section, and

(b) “**working hour**” means a period of one hour during a working day.

EU transit material.

5. (1) No person may bring any EU transit material into a RoRo port that is located in Guernsey unless that material is destined for a single approved place of inspection.

(2) Subsection (1) is subject to section 7(1).

(3) In this subsection, “**RoRo port**” means a point of entry that—

(a) services roll-on/roll-off ferries operating between

Guernsey and a member state of the European Union,
and

- (b) is listed in a notice published by the Committee from time to time.

Requirements for certificates.

6. (1) No person may bring any notifiable relevant material into a point of entry that is located in Guernsey unless the material is accompanied by a phytosanitary certificate or a phytosanitary certificate for re-export which certifies that the material meets the prescribed requirements and the requirements in subsections (2) to (4).

(2) In the case of transit material which has been split up, combined with other consignments or repackaged, the relevant material must be accompanied by a phytosanitary certificate for re-export which was issued in the country of transit.

(3) In the case of transit material which has or may have been exposed to infection or contamination by any plant pest, is not the same material as in the original consignment or which has been processed so as to change its nature, the relevant material must be accompanied by a phytosanitary certificate which was issued in the country of transit.

(4) In any other case, the relevant material must be accompanied by a phytosanitary certificate which was issued in the country in which that material originates or from which it was consigned.

(5) The phytosanitary certificate must be the original certificate

and the phytosanitary certificate for re-export must be the original certificate or a copy of the original certificate certified by an authorised officer.

- (6) Subsection (1) does not apply to any relevant material which—
 - (a) is in the course of its consignment between two third countries under appropriate customs procedures,
 - (b) does not undergo any change in customs status, and
 - (c) is transported in such a way as to prevent the accidental escape of plant pests.

(7) Subsection (1) is subject to section 7(1).

(8) In subsections (2) and (3), “**transit material**” means relevant material consigned to Guernsey via a third country by way of transit.

Exceptions from certain prohibitions and requirements.

7. (1) The following provisions do not apply to any exempt items which are brought into Guernsey in the baggage of a passenger or other traveller coming from any third country, other than the European Union or Switzerland, or any exempt material which is brought into Guernsey in the baggage of a passenger or other traveller coming from the European Union or Switzerland, if the exempt items or exempt material meet the conditions in subsection (2)—

- (a) section 3(1)(e) and (f)(ii) and (iii),
- (b) section 4(1),

- (c) section 5(1),
- (d) section 6(1),
- (e) section 9, and
- (f) section 12.

(2) The conditions referred to in subsection (1) are that the exempt items—

- (a) do not show any signs of the presence of a plant pest,
- (b) are not intended for use in the course of a trade or business,
- (c) are intended for household use, and
- (d) in the case of any tree or wood originating in a third country, other than the European Union or Switzerland, has been grown in or consigned from the Euro-Mediterranean area.

(3) The provisions referred to in subsection (1) do not apply to any trees or wood falling within subsection (4) originating in any third country, other than the European Union or Switzerland, which is brought into Guernsey in the baggage of a passenger or other traveller coming from any such third country and which meets the conditions in subsection (2).

- (4) The trees or wood referred to in subsection (3) are –
- (a) parts of trees, including dried cones, leaves and branches, for decoration or which together form a single wreath,
 - (b) one cut coniferous tree less than three metres in height,
 - (c) tree seedlings, other than seedlings of *Fraxinus* L or seedlings in bonsai form, not exceeding five in total, or
 - (d) pieces of wood which are bark-free and not exceeding–
 - (i) one metre in length, and
 - (ii) five in total.

- (5) In this section—

- (a) "**Euro-Mediterranean area**" means the geographical area comprising Europe, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and the area of Turkey east of the Bosphorus Strait known as Anatolia,

- (b) “**exempt items**” means any of the following relevant material originating in a third country other than the European Union or Switzerland—
- (i) fruit and raw vegetables (other than potatoes), weighing no more than two kg in total,
 - (ii) a single bouquet of cut flowers (which may include parts of plants),
 - (iii) packets of seeds, other than seeds of potatoes or *Fraxinus* L., not exceeding five packets in total,
 - (iv) bulbs, corms, tubers, other than potatoes, and rhizomes, grown in and consigned from the Euro-Mediterranean area and weighing no more than two kg in total, or
 - (v) plants for planting, other than bulbs, corms, tubers or rhizomes or plants of *Fraxinus* L. intended for planting, grown in and consigned from the Euro-Mediterranean area and not exceeding five in total,
- (c) “**exempt material**” means any small quantity of relevant material originating in the European Union or Switzerland, other than plants of *Castanea* Mill. intended for planting, plants of *Fraxinus* L. intended

for planting or plants, other than seeds, of *Platanus* L.
intended for planting, and

- (d) “**packet of seeds**” means a packet of seeds of a type normally sold to the consumer other than for use in the course of a trade or business or a packet of seeds of a similar size.

Presentation and display of documents.

8. (1) The following documents must be delivered to an inspector by the importer of a consignment of notifiable relevant material within three days of the date of its arrival in Guernsey—

- (a) any phytosanitary certificate or phytosanitary certificate for re-export which is required under section 6 to accompany the consignment of notifiable relevant material, and
- (b) in the case of notified EU material, the trade documents which accompany the consignment.

(2) In the case of a consignment which includes notifiable relevant material and which is imported into Guernsey by post, the importer must ensure that any phytosanitary certificate or phytosanitary certificate for re-export which is required under section 6 to accompany the consignment is affixed to the outside of the package of the relevant material.

(3) But if the consignment consists of more than one package of notifiable relevant material, the importer must ensure that the certificate is affixed to

the outside of one of the packages of notifiable relevant material and copies of the certificate are affixed to the outside of each of the remaining packages of notifiable relevant material in the consignment.

Prohibition on the removal of relevant material from its area of plant health control.

9. (1) This section applies to notifiable relevant material, other than notified EU material, which is brought into a point of entry that is located in Guernsey.

(2) No person may move any notifiable relevant material or cause any notifiable relevant material to be moved from its point of entry unless the material is being moved to a designated area of plant health control or an approved place of inspection.

(3) No person may remove any notifiable relevant material or cause any notifiable relevant material to be removed from –

(a) its point of entry, or

(b) where the material is moved to a designated area of plant health control or an approved place of inspection in Guernsey, the designated area of plant health control or approved place of inspection,

unless an inspector has discharged the material under section 11 or the removal of the material is permitted under Part V.

(4) Any notifiable relevant material which is being held at a point

of entry or a designated area of plant health control under subsection (3) must be stored by the importer under the supervision and in accordance with the instructions of an inspector.

(5) The importer is liable for the costs of storing the notifiable relevant material pending its release.

Exceptions from the prohibition on the removal of relevant material from its area of plant health control.

10. Section 9(3) does not apply to—

- (a) any relevant material which is in the course of its consignment between two third countries under appropriate customs procedures without any change in customs status and which is transported in such a way as to prevent the accidental escape of plant pests, or
- (b) any relevant material which is subject to section 7(1) or (3).

Plant health discharge.

11. (1) This section applies to any notifiable relevant material, other than notified EU material, which is brought into a point of entry that is located in Guernsey.

(2) An inspector may discharge notifiable relevant material from its point of entry, designated area of plant health control or approved place of inspection in Guernsey if the inspector is satisfied—

- (a) that the relevant material meets the prescribed requirements,
- (b) that the relevant material corresponds with the description given to it in the phytosanitary certificate or phytosanitary certificate for re-export which accompanied the material on entry, and
- (c) that the relevant material is accompanied by the correct phytosanitary certificate.

(3) An inspector may, for the purpose of being satisfied as to the matters referred to in subsection (2)(a), carry out an examination of a consignment of relevant material and its packaging and, where necessary, the vehicle transporting the consignment.

(4) An inspector may, for the purpose of being satisfied as to the matters referred to in subsection (1)(b), carry out an examination of a consignment of relevant material to determine whether it corresponds to its description in the documents that accompany it.

(5) Where the inspector is satisfied that the relevant material may be discharged from its point of entry, designated area of plant health control or approved place of inspection, the inspector must stamp the phytosanitary certificate or phytosanitary certificate for re-export relating to the relevant material with the official stamp of the Committee and date it.

(6) An inspector may, for the purpose of performing an

examination under subsection (3), require the occupier or other person in charge of the premises in which the check is to take place to provide—

- (a) where appropriate, suitable areas of inspection,
 - (b) adequate lighting, and
 - (c) inspection tables.
- (7) In this section—
- (a) “**examination**”, in relation to a consignment of relevant material, means an examination of the consignment in its entirety or on the basis of one or more representative samples from the consignment or from each lot forming part of the consignment, and
 - (b) “**lot**” means a number of units of a single commodity, identifiable by its homogeneity of composition and origin, which form part of a consignment.

Requirements applicable to notified EU material.

12. (1) This section applies to notified EU material which is brought into a point of entry that is located in Guernsey.

- (2) An inspector must carry out an examination of—
 - (a) the phytosanitary certificate or phytosanitary certificate for re-export which accompanies a

consignment of notified EU material to confirm that the consignment is accompanied by the correct phytosanitary certificate, and

- (b) the trade documents that accompany the consignment to confirm that those documents correspond to the description of the relevant material in the phytosanitary certificate or phytosanitary certificate for re-export.

Request to the Chief Revenue Officer for material to be detained.

13. (1) Where an inspector has reasonable grounds for suspecting that there is a risk that a plant pest may spread from any relevant material, the inspector may request the Chief Revenue Officer to exercise the power in section 14(1) for the purpose of enabling the inspector to enforce any provision of this Ordinance.

(2) A request under section 13(1)—

- (a) may identify the relevant material in any way, and
- (b) must be made in writing or be made orally and confirmed in writing.

(3) Where an inspector issues a notice or takes any other action under this Ordinance in respect of relevant material detained by the Chief Revenue Officer under section 14(1), the inspector must advise the Chief Revenue Officer of the notice or action.

Power of the Chief Revenue Officer.

14. (1) The Chief Revenue Officer may, where requested by an inspector in accordance with section 13(1), detain for not more than two working days any relevant material or any container, package or cargo of any kind which has been or may have been in contact with that material and which is referred to in that request, if the material, container, package or cargo has not been cleared from customs charge as referred to in section 11 of the Customs Law.

(2) The Committee for Home Affairs may give directions as to how any relevant material detained under subsection (1) is to be dealt with during the period of its detention.

(3) The importer of any relevant material detained under subsection (1) is responsible for the costs of storing the material during the period of its detention.

General provisions relating to certificates.

15. (1) A phytosanitary certificate or phytosanitary certificate for re-export which accompanies notifiable relevant material under section 6 must—

- (a) have been completed not more than 14 days before the date of the dispatch of the consignment of relevant material which it accompanies,
- (b) have been issued by the national plant protection organisation of the country of export or re-export in accordance with the provisions of Section V(1) of the IPPC,

- (c) have been completed by an authorised officer,
 - (d) have been issued in English,
 - (e) be addressed to the “the Plant Protection Organisation of the United Kingdom”, and
 - (f) have been completed in typescript or block capitals.
- (2) Where in relation to any relevant material of a description–
- (a) specified in column 2 of Part A or D of the list of regulated material, or
 - (b) prescribed by Order of the Committee under section 54 as relevant material which may only be brought into or moved within a Guernsey pest free area if specified requirements are met,

more than one set of entry requirements is specified in the corresponding entry in column 3 of Part A or D of the list of regulated material or by Order of the Committee under section 54, the phytosanitary certificate or phytosanitary certificate for re-export issued in respect of any relevant material of that description must specify under the heading “Additional declaration” which particular set of requirements has been complied with.

Requirements to be met by relevant material destined for an approved place of inspection.

16. (1) This section applies to notifiable relevant material, other than

notified EU material, which is destined for an approved place of inspection.

(2) Any relevant material to which this section applies may not be moved within Guernsey unless it is accompanied by a copy of the phytosanitary certificate or phytosanitary certificate for re-export which accompanied the material on its entry into Guernsey and—

- (a) its packaging and the vehicle in which it is transported is sealed in such a way that there is no risk of the relevant material causing infestation, infection or contamination or a change occurring in the identity of the material, or
- (b) where the material is destined for an approved place of inspection in Guernsey, its movement has been authorised by the Committee.

(3) The importer of any relevant material which is destined for an approved place of inspection in Guernsey must give to the Committee notice of the following particulars no later than three working days before the material is landed—

- (a) the name, address and location of the approved place of inspection for which the relevant material is destined,
- (b) the scheduled date and time of arrival of the relevant material at the approved place of inspection,

(c) the name, address and registration number of the importer, and

(d) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export required under section 6 to accompany the relevant material.

(4) The importer must notify the Committee immediately of any changes to the particulars which the importer has given under subsection (3).

(5) The notice must be given to the Committee at the address given by the Committee from time to time for the purposes of this section.

Approved places of inspection.

17. (1) The Committee may approve premises which are not located at a point of entry or are not part of a designated area of plant health control as a place at which appropriate checks may be carried out by an inspector in respect of notifiable relevant material, other than notified EU material.

(2) An application for approval under subsection (1) may be made to the Committee by an importer or other person responsible for that place in such form and containing such information as the Committee may specify.

(3) An approval may be granted subject to conditions, including conditions relating to the storage of the relevant material, and may be withdrawn at any time if the Committee no longer considers that the place to which the approval relates is suitable for the purpose for which the approval was given.

(4) In this section, "**appropriate checks**", in relation to a

consignment of relevant material, means –

- (a) an examination of the phytosanitary certificate or phytosanitary certificate for re-export accompanying the consignment to determine whether it is the correct certificate,
- (b) an examination of the consignment to determine whether it corresponds to its description in the trade documents that accompany it, and
- (c) an examination of the consignment and its packaging, and where necessary, the vehicle transporting the consignment to determine whether it meets the prescribed requirements.

Interpretation of Part II.

18. In this Part, unless the context requires otherwise—

“**approved place of inspection**” means a place which has been approved by the Committee under section 17,

“**correct phytosanitary certificate**”, in relation to notifiable relevant material, means a phytosanitary certificate or phytosanitary certificate for re-export which has been issued—

- (a) in the manner specified in section 6(2) to (5), and
- (b) in respect of the relevant prescribed requirements,

“designated area of plant health control” means a place close to a point of entry which has been designated as an area of plant health control by the Committee and the Committee for Home Affairs,

“EU transit material” means any notifiable relevant material from a third country, other than a country in the European Union, which is consigned to Guernsey via the European Union and which, on its entry into the European Union, was not subject to—

- (a) the formalities described in Section 13a of Directive 2000/29/EC^e, or
- (b) other similar official controls under Regulation (EU) 2017/625 of the European Parliament and of the Council^f, as it has effect in EU law,

“notifiable relevant material” means any relevant material—

- (a) of a description specified in Schedule 5 to the Plant Health Regulations,
- (b) originating in a third country and destined for a Guernsey pest free area which is prescribed by Order of the Committee under section 54 in relation to that

^e O.J. L 169 of 10.7.2000, p. 1.

^f O.J. L 095 of 7.4.2017, p. 1.

material, or

- (c) of a description specified in Schedule 7 to the Plant Health Regulations originating in a third country,

“notified EU material” means any notifiable relevant material originating in the European Union or Switzerland which is intended to be, or has been, consigned to Guernsey from the European Union or Switzerland via a point of entry in Guernsey and whose arrival in Guernsey has been notified to the Committee in accordance with section 4(1),

“point of entry” means—

- (a) in the case of relevant material which arrives by air, the airport at which the material first arrives in Guernsey, or
- (b) in the case of relevant material which arrives by maritime transport, the port at which the material first arrives in Guernsey,

“prescribed requirements”, in relation to any notifiable relevant material, means the requirements specified in respect of the material in section 3,

“trade documents” in relation to a consignment of notifiable relevant material, means the invoice, delivery note, consignment note or similar document which accompanies the consignment, and

“**working day**”, in relation to the notice requirements in sections 4(2)(c)(ii) and 16(3) and the period for which material may be detained under section 14(1), means a period of twenty-four hours which is not a Saturday, a Sunday or a non-business day within the meaning of section 1(1) of the Bills of Exchange (Guernsey) Law, 1958⁸.

PART III
CONTROLS ON MOVEMENT ETC. WITHIN GUERNSEY AND ON
CONSIGNMENTS TO OTHER BRITISH ISLANDS

Prevention of the spread of plant pests.

19. (1) No person may knowingly keep, store, plant, sell or move or knowingly cause or permit to be kept, stored, planted, sold or moved —

- (a) any plant pest of a description specified in Part A, B or D of the list of prohibited plant pests,
- (b) any relevant material of a description specified in column 2 of Part A, B or D of the list of prohibited infested material which is carrying or infected with a plant pest of a description specified in the corresponding entry in column 3,
- (c) any plant pest which, although not specified in Part A, B or D of the list of prohibited plant pests, or in column 3 of Part A, B or D of the list of prohibited

⁸ Ordres en Conseil Vol. XVII, p. 384; amended by Order in Council No. XI of 1993; there are other amendments not relevant to this Ordinance.

infested material, is not normally present in Guernsey and which is likely to be injurious to plants in Guernsey,

- (d) any relevant material introduced into Guernsey in contravention of section 3(1)(d) or (e),
- (e) any relevant material of a description specified in column 2 of Part B or E of the list of regulated material which originates in a CD territory or the United Kingdom unless the requirements specified in the corresponding entries in respect of that description of relevant material in column 3 are complied with, or
- (f) any relevant material originating in a third country and consigned from another CD territory or the United Kingdom which, if it had been brought into a point of entry located in Guernsey, would have contravened section 3(1)(d) or (e).

(2) No person may knowingly keep, store, plant, sell or move or knowingly cause or permit to be kept, stored, planted, sold or moved in a Guernsey pest free area –

- (a) any plant pest on the list of prohibited plant pests which is prescribed by Order of the Committee under section 54 as a plant pest which must not be introduced into or spread within, that Guernsey pest free area,

- (b) any relevant material on the list of prohibited infested material which is –
 - (i) carrying or infected with a plant pest which is prescribed by Order of the Committee under section 54 in relation to that material, and
 - (ii) prescribed by Order of the Committee under section 54 as material which must not be brought into, or moved within, that Guernsey pest free area if the material is infected with that plant pest,
- (c) any relevant material originating in a third country which is brought into a Guernsey pest free area in contravention of section 3(1)(f)(iii),
- (d) any relevant material which is –
 - (i) on the list of regulated material,
 - (ii) originates in the United Kingdom or a CD territory,
 - (iii) is prescribed by Order of the Committee under section 54 as relevant material which may only be brought into, or moved within, that Guernsey pest free area if specified

requirements are met,

unless those specified requirements prescribed by Order of the Committee are met,

- (e) any relevant material originating in a third country and consigned from another CD territory or the United Kingdom which, if it had been brought into a point of entry located in Guernsey, would have contravened section 3(1)(f)(iii).

(3) The prohibitions in subsection (1) and (2) do not apply to any plant pest or relevant material which is required to be kept, stored or moved in compliance with a requirement imposed by an inspector under Part V or VI.

(4) Subsections (1)(e) and (2)(d) are subject to section 21.

(5) In this section, “**move**” means move or otherwise dispose of, and “**moved**” is to be construed accordingly.

Requirements for UK plant passports.

20. (1) No person may move any of the following relevant material into or within Guernsey unless it is accompanied by a UK plant passport—

- (a) any relevant material of a description specified in the list of controlled material which originates in a CD territory or the United Kingdom, or
- (b) any relevant material of a description specified in the

list of controlled material that has been discharged—

- (i) by an inspector under section 11(1), or
- (ii) by or on behalf of another appropriate UK plant health authority, in an equivalent manner.

(2) No person may move any of the following relevant material into or within a Guernsey pest free area unless it is accompanied by a UK plant passport which is valid for that Guernsey pest free area—

- (a) any relevant material of a description, prescribed by Order of the Committee under section 54 in respect of the relevant Guernsey pest free area, which originates in the United Kingdom or a CD territory,
- (b) any relevant material of a description prescribed by Order of the Committee under section 54 in respect of the relevant Guernsey pest free area that has been discharged by an inspector under section 11(1) or by or on behalf of another appropriate UK plant health authority in an equivalent manner.

(3) No person may consign from Guernsey to another CD territory or a UK territory any of the following relevant material originating in Guernsey, unless it is accompanied by a UK plant passport—

- (a) in the case of relevant material destined for England,

Northern Ireland or Wales, any relevant material of a description specified in the list of controlled material,

- (b) in the case of relevant material destined for a place in England, Northern Ireland or Wales which is within a UK pest free area, any relevant material of a description specified in the list of pest free area controlled material in respect of that UK pest free area,
- (c) in the case of relevant material destined for Scotland, any relevant material of a description specified in Part A of Schedule 6 to the Plant Health (Scotland) Order 2005^h or Part A of Schedule 6 to the Plant Health (Forestry) Order 2005ⁱ,
- (d) in the case of relevant material destined for a place in Scotland which is within a UK pest free area, any relevant material of a description specified in Part B of Schedule 6 to the Plant Health (Scotland) Order 2005 or Part B of Schedule 6 to the Plant Health (Forestry) Order 2005 in respect of that UK pest free area,

^h S.S.I. 2005/613; amended by S.S.I. 2006/474; 2007/415; 498; 2008/300; 350; 2009/153; 2010/206; 342; 2012/266; 326; 2013/5; 187; 366; 2014/140; 2015/10; 2016/83; 2018/112; and 283.

ⁱ S.I. 2005/2517; amended by S.I. 2006/2696; 2008/644; 2009/594; 2009/3020; 2012/2707; 2013/755 (W.90); 2691; 2014/2420; 2016/1167; 2017/1178; and 2018/1048.

(e) in the case of relevant material destined for another CD territory, any relevant material of a description specified for the purposes of this subsection in the applicable plant health legislation of that CD territory.

(4) In the case of any relevant material originating in a place of production in Guernsey, a UK plant passport may only be issued in respect of that material if the material has been subject to a satisfactory inspection at the place of production.

(5) The requirements in subsection (1)(b) and (2)(b) do not apply to any notified EU material moving from its point of entry to its first destination in Guernsey if it is accompanied by a copy of the phytosanitary certificate or phytosanitary certificate for re-export which accompanied the material on its entry into Guernsey.

(6) Subsections (1)(a), (2)(a) and (3) are subject to section 21.

(7) Subsection (2) is subject to section 22.

Exceptions from certain prohibitions and requirements.

21. (1) The following provisions do not apply to small quantities of relevant material, other than excluded material, if the relevant material meets the conditions in subsection (2)—

(a) section 19(1)(e) and (2)(d), and

(b) section 20(1)(a), (2)(a) and (3).

- (2) The conditions are that the relevant material—
- (a) does not show any signs of the presence of a plant pest,
 - (b) is not intended for use in the course of a trade or business, and
 - (c) is intended for household use.

(3) The Committee may exempt from the prohibition on movement in section 20(1)(a) or (2)(a) the movement of relevant material which originates in Guernsey if the Committee is satisfied that—

- (a) the movement is made locally by small producers or processors whose entire production and sale of such material is intended for final usage by persons on the local market who are not professionally involved in plant production, and
- (b) there is no risk of plant pests spreading or being spread as a result of that movement.

(4) In subsection (1), “**excluded material**” means any of the following relevant material—

- (a) plants of *Castanea* Mill. intended for planting,
- (b) plants of *Fraxinus* L. intended for planting,

- (c) plants, other than seeds, of *Platanus* L. intended for planting.

Validity of plant passports for Guernsey.

22. (1) This section applies to relevant material of a description prescribed by Order of the Committee as relating to a Guernsey pest free area and which is moved through that Guernsey pest free area to a destination outside the relevant Guernsey pest free area.

(2) The requirements in section 20(2) do not apply if the relevant material—

- (a) originates outside the relevant Guernsey pest free area, and
- (b) is accompanied during its transit through the Guernsey pest free area by a document of a type normally used for trade purposes which certifies that the material originates outside the relevant Guernsey pest free area and is in transit to a final destination outside the relevant Guernsey pest free area and the conditions in subsection (3) are met.

(3) The conditions are that—

- (a) the packaging in which the relevant material is transported and any vehicle which is used to transport the material is free from soil and plant

debris and any relevant plant pest,

- (b) the material was sealed immediately after packaging or, where appropriate, after loading, and remains sealed during the transit of the material through the pest free area, and
 - (c) the nature or construction of the packaging in which the material is transported and any vehicle which is used to transport the material are sufficient to ensure that there is no risk of any relevant plant pest which may be present in or on the relevant material escaping.
- (4) In this section—
- (a) “**relevant Guernsey pest free area**”, in relation to any relevant material of a description prescribed by Order of the Committee under section 54, means the Guernsey pest free area which has been designated by Order of the Committee under section 54 in respect of that material, and
 - (b) “**relevant plant pest**”, in relation to a Guernsey pest free area, means the plant pest in respect of which the Guernsey pest free area has been designated by Order of the Committee under section 54.

General provisions relating to UK plant passports.

23. (1) Any alteration or erasure in a plant passport automatically invalidates the UK plant passport unless the alteration or erasure is certified by an authorised officer or the relevant plant business authorised under section 28 to issue the UK plant passport, in either case by initialling the alteration or erasure by hand.

(2) A UK plant passport relating to any relevant material is to be treated as accompanying that relevant material only if the plant passport is affixed to the relevant material, its packaging or the vehicle transporting it by an authorised officer, by the relevant plant business authorised to issue it or by an inspector.

(3) Where a UK plant passport comprises an official label and is to be affixed by the relevant plant business who is authorised to issue the UK plant passport, the relevant plant business must affix it in such a way that it cannot be re-used.

(4) A person may only issue a replacement UK plant passport to replace a UK plant passport issued in respect of a consignment if—

- (a) the consignment has been divided up, the consignment or part of the consignment has been combined with another consignment or the plant health status of the consignment has been changed, and
- (b) the person is satisfied that the relevant material to which the replacement plant passport will relate can be identified and is free from any risk of infestation by a regulated plant pest.

(5) A UK plant passport which accompanies any relevant material in accordance with section 20 must be retained by the person who is the final user of the relevant material or who uses the relevant material in the course of a trade or business.

PART IV

REGISTRATION OF RELEVANT PLANT BUSINESSES AND AUTHORITY TO ISSUE UK PLANT PASSPORTS

Register of relevant plant businesses.

24. The Committee must maintain a register listing the following particulars in relation to each relevant plant business which meets the requirements of this Part—

- (a) the name of the relevant plant business,
- (b) the name of any other person responsible for making the application for the relevant plant business under section 26,
- (c) the trading name of the relevant plant business, if different from the name of the relevant plant business,
- (d) details of the activities to which this Ordinance applies and which the relevant plant business engages in or intends to engage in,
- (e) the address of each premises at which the relevant

plant business engages in or intends to engage in those activities, and

- (f) a registration number unique to the relevant plant business.

Obligation to register.

25. (1) No relevant plant business may engage in any activity to which this Ordinance applies at any premises unless the relevant plant business is registered in respect of the activity at those premises.

(2) But a relevant plant business need not be registered in respect of any activity to which this Ordinance applies if—

- (a) the relevant plant business is a producer, and
- (b) all of the relevant material which the relevant plant business produces and sells is intended for final use by persons on the local market who are not involved in plant production in the course of a trade or business.

Registration requirements.

26. (1) An application for registration must—

- (a) be made in writing to the Committee, and
- (b) be in such form and contain such information as the Committee may reasonably require for the purpose of

considering the application.

(2) A relevant plant business must immediately notify the Committee in writing if—

- (a) before the relevant plant business has been registered, there is any change in the circumstances of the relevant plant business recorded in the relevant plant business's application for registration, or
- (b) there is any change in the particulars listed in the register in relation to the relevant plant business.

(3) The Committee may only register a relevant plant business in respect of an activity or premises if the Committee is satisfied that the relevant plant business is able and willing to comply with the conditions in section 27(1).

(4) The Committee must notify a relevant plant business when the relevant plant business has been registered or, in the case of a refusal of an application for registration, of its decision and the reasons for the same.

Conditions for maintaining registration as a relevant plant business and other trade-related conditions.

27. (1) A registered relevant plant business must—

- (a) keep an accurate plan of each of the relevant plant business's registered premises,
- (b) keep a record of all relevant material which is—

- (i) purchased by the relevant plant business,
 - (ii) brought onto any of the relevant plant business's registered premises for the purpose of storing, planting or producing the material on those premises, or
 - (iii) produced on, or dispatched from, any of the relevant plant business's registered premises,
- (c) keep each document which the relevant plant business has created or received and which relates to the records referred to in paragraph (b) for at least one year from the date on which the relevant plant business created or received it,
- (d) designate an individual (whether the relevant plant business or another person) who is technically experienced in relation to the registered activities and the related plant health matters affecting the registered premises and who is available to liaise with the Committee in relation to matters arising under this Ordinance,
- (e) examine each of the registered premises and the relevant material at those premises at such times and in the manner as may be specified in any guidelines issued from time to time by the Committee,

- (f) make a declaration that the relevant plant business is able and willing to comply with the conditions specified in paragraphs (a) to (e) at any time and in such form as the Committee may require, and
- (g) comply with such other conditions, as may be specified by the Committee, which the Committee considers necessary for the purpose of assessing the presence of or the spread of any plant pest on any of the relevant plant business's registered premises by reason of the condition of those premises.

(2) If the Committee is satisfied that a registered relevant plant business has failed to comply with any of the conditions specified in subsection (1), the Committee may, by notification in writing, suspend the relevant plant business's registration until the Committee is satisfied that the relevant plant business is able and willing to comply with those conditions.

(3) A professional operator who supplies or is supplied *Xylella* specified plants, must—

- (a) keep a record of each lot of the plants supplied by the professional operator and the name of the professional operator to whom the lot was supplied for three years from the date on which it was supplied,
- (b) keep a record of each lot of the plants received by

the professional operator and the name of the professional operator who supplied the lot for three years from the date on which it was received, and

(c) immediately following the dispatch or receipt of any such lot, notify the Committee in writing of the specified details in respect of that lot.

(4) In subsection (3)—

(a) “**professional operator**” means any person who, in the course of a trade, business or profession, is involved in planting, breeding, producing, importing, marketing or distributing plants,

(b) “**specified details**”, in relation to a lot, means its origin, consignor, consignee, place of destination, individual serial, week or batch number of the UK plant passport, identity and quantity,

(c) “**Xylella specified plants**” means plants which belong to the genera and species specified in paragraph 13 of Part E of the list of regulated material that have been grown for a part of their life in, or have been moved through -

(i) an area demarcated under paragraph 5 of Schedule 15 to the Plant Health Regulations, or, in relation to Scotland, under equivalent

provisions in the Scotland Orders, or

- (ii) in a CD territory in which *Xylella fastidiosa* (Wells et al.) has been confirmed to be present.

Authority to issue UK plant passports.

28. (1) A registered relevant plant business which wishes to issue UK plant passports in relation to relevant material which is to be moved from any premises in Guernsey must apply in writing to the Committee for the authority to do so.

(2) The applicant must provide the Committee with any details which the Committee reasonably requires about the relevant material.

(3) The Committee may carry out any examination of the relevant material and the premises from which the material is to be moved which the Committee considers necessary in relation to the application.

(4) The Committee may only grant an authorisation to issue UK plant passports if, having regard to any examination of the relevant material and premises which are the subject of the application, the Committee is satisfied—

- (a) that the premises and the relevant material are free from any regulated plant pests, and
- (b) where any requirements are specified under this Ordinance in relation to the relevant material, those requirements have been complied with.

(5) An authorisation to issue plant passports granted by the Committee must be given in writing and may be granted subject to such conditions as the Committee considers appropriate to ensure that any relevant requirements under this Ordinance are complied with in relation to the relevant material, including the territories for which the UK plant passports to be issued will be valid.

(6) The Committee may suspend the operation of an authorisation to issue UK plant passports entirely or in relation to specified premises or specified relevant material if, having regard to any examination of the premises of the registered relevant plant business and any relevant material there, the Committee is not satisfied—

- (a) that the premises or the relevant material are free from any regulated plant pests, and
- (b) where any requirements are specified under this Ordinance in relation to the relevant material, that those requirements have been complied with.

(7) The Committee may suspend the operation of, or vary an authorisation to issue UK plant passports, to the extent that the Committee considers necessary if satisfied that the registered relevant plant business has failed to—

- (a) notify the Committee in accordance with section 26(2) of any change in the particulars registered in relation to the relevant plant business,
- (b) comply with any of the conditions specified in section 27(1),

- (c) comply with any conditions in the authorisation granted under subsection (5), or
- (d) comply with a requirement in a notice served on the relevant plant business under section 31.

(8) A decision under this section in relation to an authorisation to issue UK plant passports –

- (a) to refuse an application for an authorisation,
- (b) to impose a condition on, or to vary, an authorisation, or
- (c) to suspend, in whole or in part, the operation of an authorisation,

must be notified by the Committee to the applicant or the holder of the authorisation in writing together with the reasons for the same.

PART V

MEASURES TO CONTROL THE LANDING OF RELEVANT MATERIAL AND PREVENT THE SPREAD OF PLANT PESTS

Examination, sampling and marking.

29. (1) An inspector may enter any premises at all reasonable times for the purpose of—

- (a) determining the presence or the distribution of a plant pest on the premises,
- (b) checking compliance with any provision under this Ordinance,
- (c) carrying out an examination of a relevant plant business's premises (including relevant material, documents or records on the premises) in connection with the relevant plant business's authorisation or application for authorisation to issue UK plant passports under section 28, or
- (d) otherwise enforcing the provisions under this Ordinance.

(2) An inspector acting under subsection (1) must, if requested to do so, show evidence of their authority to act.

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

(4) Subsection (1) does not affect any right of entry conferred by a warrant issued by the Bailiff.

(5) An inspector who enters premises for a purpose specified in subsection (1) or under a warrant issued by the Bailiff may—

- (a) examine, photograph or mark any part of the premises or any object on the premises,
- (b) take samples of or from any plant pest or relevant material, or from any container or package, or from any material which has been or may have been in contact with a plant pest or relevant material, and
- (c) inspect or make copies of any documents or records (in whatever form they may be held) relating to the production of or trade in any relevant material.

(6) An inspector may, for the purpose of exercising a power conferred under subsection (5), open or authorise any person to open on behalf of the inspector any container or package or require the owner or any person in charge of any container or package to open it in the manner specified by the inspector.

(7) An inspector may prohibit the movement, treatment or destruction of any plant pest, relevant material, container or package or any material which may have been contact with a plant pest or relevant material where this is necessary to enable the inspector to exercise the powers conferred by subsection (5).

(8) Where any document or record referred to in subsection (5)(c) is kept by means of a computer, an inspector may—

- (a) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the record or document, or

(b) require any person who is in charge of or is otherwise concerned with the operation of the computer, apparatus or material to give the inspector any assistance which the inspector reasonably requires.

(9) An inspector may destroy or otherwise dispose of any sample taken under subsection (5)(b) where the sample is no longer required by the inspector under this Ordinance.

(10) An inspector may be accompanied by such other persons and may bring onto the premises such equipment and vehicles, as the inspector considers necessary.

(11) A person accompanying an inspector under subsection (10)—

(a) may remain on the premises and from time to time re-enter the premises without the inspector,

(b) bring onto the premises any equipment or vehicle that the person considers necessary, or

(c) carry out work on the premises in the manner directed by an inspector.

(12) A person accompanying an inspector under subsection (10) must, if so requested, show evidence of their authority given in that behalf by the Committee.

Emergency measures and special measures.

30. (1) Where a regulated plant pest is found to be present in Guernsey, the Committee may by notice—

- (a) demarcate an area in relation to that infestation for the purpose of eradicating or containing that plant pest, and
- (b) specify the prohibitions and restrictions which are to apply in the demarcated area for that purpose.

(2) A notice under subsection (1)—

- (a) must be in writing,
- (b) must describe the extent of the demarcated area,
- (c) must specify the date on which any such prohibitions or restrictions are to commence,
- (d) must be published in a manner appropriate to bring it to the attention of the public, and
- (e) may be amended or revoked, in whole or in part, by further notice.

(3) 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 specified regulated 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 of Guernsey or a neighbouring jurisdiction.

(4) The measures provided for under subsection (3) 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,
- (b) measures equivalent to any of the emergency measures (including the carrying out of surveys for the presence of specified regulated plant pests) provided for under Schedules 9 to 16A of the Plant Health Regulations, and
- (c) measures equivalent to any of the special measures in relation to the control of specified regulated plant pests affecting solanaceous species (including potatoes) provided for under Schedules 13 to 16 of the

England Order^j.

Actions which may be required by an inspector.

31. (1) If an inspector has reasonable grounds for suspecting that any plant pest or relevant material is likely to be or has been brought into Guernsey in contravention of any provision under this Ordinance, the inspector may serve a notice on an appropriate person.

(2) An appropriate person is—

(a) a relevant plant business or other person who is in possession of or who is in any way entitled to the custody or control of the plant pest or relevant material, or

(b) any person who is in charge of the premises at which the plant pest or relevant material is held or is likely to be held on its arrival.

(3) A notice under subsection (1) may—

(a) prohibit the bringing in to Guernsey of any plant pest or relevant material,

^j U.K.S.I. 2015/610; amended by 2015/1827; 2016/104; 2017/8; 2017/1220; 2018/71; 2018/320; 2018/910; and 2018/1051; there are prospective amendments under the Plant Health (Amendment) (England) (EU Exit) Regulations 2019 and the Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019 laid before the UK Parliament in draft for approval.

- (b) specify the manner in which any plant pest or relevant material is to be brought in and the precautions which are to be taken during and subsequent to its entry,
- (c) require any plant pest or relevant material to be treated, re-exported, destroyed or otherwise disposed of,
- (d) prohibit the removal of any plant pest or relevant material from the premises for the period specified in the notice and, where appropriate, impose any other prohibitions which the inspector considers necessary to prevent the introduction or spread of any plant pest,
- (e) require the removal of any plant pest or relevant material from the premises specified in the notice, and
- (f) require the taking of any other steps, as may be specified in the notice, which the inspector considers necessary to prevent the introduction or spread of any plant pest.

(4) If an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises any controlled plant pest or prohibited material, the inspector may serve a notice on the occupier or any other person in charge of the premises or the plant pest or relevant material.

- (5) A notice under subsection (4) may—
- (a) require any controlled plant pest or prohibited material to be treated, re-exported, destroyed or otherwise disposed of,
 - (b) prohibit the removal of any controlled plant pest or prohibited material from the premises for the period specified in the notice and, where appropriate, impose any other prohibitions which the inspector considers necessary to prevent the introduction or spread of any controlled plant pest,
 - (c) require the removal of any controlled plant pest or prohibited material from the premises specified in the notice,
 - (d) require the taking of any other steps, as specified in the notice, which the inspector considers necessary to prevent the introduction or spread of any controlled plant pest.

(6) If an inspector has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of or ensuring the eradication of any controlled plant pest from the premises mentioned in subsection (4), the inspector may serve a notice on the occupier or a person in charge of any other premises, imposing any prohibition or requiring any reasonable step to be taken for that purpose.

(7) In this section—

(a) “**controlled plant pest**” means—

- (i) a regulated plant pest, or
- (ii) a plant pest which is not normally present in Guernsey, but in respect of which the inspector considers that there is an imminent danger of the plant pest spreading or being spread in Guernsey, and

(b) “**prohibited material**” means—

- (i) relevant material which is carrying or is infected with, or which may be carrying or infected with, a controlled plant pest, or
- (ii) relevant material the landing of which is prohibited under section 3 or the movement of which in Guernsey is prohibited under section 19.

Actions which may be taken by an inspector.

32. (1) If an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises any controlled plant pest or infected material, the inspector may, on serving reasonable notice, enter the premises and on the premises or elsewhere take steps to—

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

(2) An inspector acting under subsection (1) must, if requested to do so, show evidence of their authority to act.

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

(4) Subsection (1) does not affect any right of entry conferred by a warrant issued by the Bailiff.

(5) An inspector may be accompanied by such other persons and may bring onto the premises such equipment and vehicles, as the inspector considers necessary.

- (6) A person accompanying an inspector under subsection (5)—
- (a) may remain on the premises and from time to time re-enter the premises without the inspector,
 - (b) bring onto the premises any equipment or vehicle

which the person considers necessary,

- (c) carry out work on the premises in the manner directed by an inspector.

(7) A person accompanying an inspector under subsection (5) must, if so requested, show evidence of their authority given in that behalf by the Committee.

(8) In this section—

(a) “**controlled plant pest**” means—

- (i) a regulated plant pest, or
- (ii) a plant pest which is not normally present in Guernsey, but in respect of which the inspector considers that there is an imminent danger of the plant pest spreading or being spread in Guernsey, and

(b) “**infected material**” means—

- (i) relevant material which is carrying or is infected with, or which may be carrying or infected with, a controlled plant pest, or
- (ii) relevant material which is not carrying or infected with a controlled plant pest, but in

respect of which the inspector considers that there is an imminent danger of the plant pest spreading or being spread.

Miscellaneous provisions as to notices.

33. (1) A notice served under subsection (1) or (4) of section 31 may specify one or more requirements or alternative requirements.

(2) Any requirement specified in a notice under subsection (1), (4) or (6) of section 31 must be carried out in the manner and within such reasonable time as the inspector may specify in the notice.

(3) Any treatment, re-export, destruction or disposal which is required by a notice served under section 31 must be carried out, or arranged to be carried out, to the satisfaction of an inspector, by the person on whom the notice was served from or at the place specified in the notice.

(4) Any plant pest or relevant material which is required by a notice served under section 31 to be moved to a place specified in the notice may not be moved to the designated place except in the manner specified in the notice.

(5) An inspector may amend or withdraw a notice served by an inspector under this Ordinance by a further notice.

(6) A notice under subsection (5) may be subject to any conditions which the inspector considers necessary to prevent the introduction or spread of any plant pest or re-infection or re-infestation by the plant pest to which the original notice relates.

(7) Any notice served under this Part may define by reference to a map or plan or otherwise the extent of the premises referred to in the notice.

(8) An inspector may, by notice, require the owner or any other person who appears to be in charge of the premises to which a notice served under section 32 relates—

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

(b) to inform the new occupier of the premises of the contents of the notice.

Information as to compliance with notices.

34. A notice served under this Ordinance may require the person on whom the notice is served to inform the inspector immediately whether the requirements of the notice have been complied with and, if they have, to provide the inspector with details of the steps taken to comply with those requirements.

Failure to comply with a notice.

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

(2) An inspector acting under subsection (1) must, if requested to do so, show evidence of their authority to act.

(3) Subsection (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling, unless 24 hours' notice of the intended entry has been given to the occupier.

(4) Subsection (1) does not affect any right of entry conferred by a warrant issued by the Bailiff.

(5) An inspector acting under subsection (1) may be accompanied by such other persons and may bring onto the premises such equipment and vehicles, as the inspector considers necessary.

(6) A person accompanying an inspector under subsection (5)—

(a) may remain on the premises and from time to time re-enter the premises without the inspector,

(b) bring onto the premises any equipment or vehicle which the person considers necessary,

(c) carry out work on the premises in the manner directed by the inspector.

(7) A person accompanying an inspector under subsection (5) must, if so requested, show evidence of their authority given in that behalf by the Committee.

(8) Where an inspector takes any steps under subsection (1), the Committee may recover, as a civil debt from the person on whom the notice was

served, all reasonable costs incurred in taking those steps.

(9) In this section, “**affected premises**” means any premises in or on which any plant pest or relevant material to which the notice relates may be present.

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

36. (1) If the Bailiff is satisfied by information on oath supplied by an inspector that —

(a) there are reasonable grounds for entering premises under section 29, 32 or 35, and

(b) any of the conditions in subsection (2) are met,

the Bailiff may grant a warrant to an inspector.

(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,

(d) the premises are unoccupied or the occupier is temporarily absent.

(3) A warrant shall authorise an inspector at any time within one month of the date of the grant -

(a) to enter the premises, and

(b) to exercise in respect of the premises (and any plant pest, relevant material or other thing found on the premises) all such powers as the inspector may exercise under this Part.

(4) An inspector executing a warrant under this section may use such reasonable force as may be necessary.

(5) An inspector who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before entry.

(6) Sections 10 (search warrants-safeguards) and 11 (execution of warrants) of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003^k apply in relation to an issue of a warrant under this section to an inspector as they apply in relation to the issue of a warrant to a police officer.

PART VI

CONTROL ON PLANTING OF CERTAIN POTATOES

^k Order in Council No. XXIII of 2003; to which there are amendments not relevant to this Ordinance.

Control on planting of certain potatoes.

37. (1) No person may knowingly plant, or knowingly cause or permit to be planted, any potatoes or any potatoes produced from those potatoes, which have been grown in a third country, other than a country in the European Union or Switzerland.

(2) No person may knowingly plant or knowingly cause or permit to be planted any potatoes unless—

- (a) they derive in direct line from potato material which has been obtained under an officially approved programme in a CD territory, the United Kingdom, the European Union or Switzerland,
- (b) they have been found to be free from Potato brown rot in official tests using the methods set out in EPPO PM 7/21, and
- (c) they have been found to be free from Potato ring rot in official tests using the methods set out in EPPO 7/59.

PART VII

EXPORT CERTIFICATION

Certificates for export of relevant material to third countries.

38. (1) A person who intends to export any relevant material to a third country may apply to the Committee for a phytosanitary certificate or a

phytosanitary certificate for re-export.

(2) Where the Committee has received an application made under subsection (1), an inspector must –

- (a) carry out any inspection of a consignment or laboratory examination of any relevant material forming part of a consignment which the inspector considers necessary to allow the inspector to issue the certificate, and
- (b) if the inspector is satisfied that a certificate should be issued, issue the certificate on behalf of the Committee.

(3) In this Part –

"laboratory examination" includes laboratory testing,

"phytosanitary certificate" means a certificate duly completed in the form set out in Part A of Schedule 3 or in such other similar form as may be agreed between the Committee and the third country whose phytosanitary requirements the certificate is intended to meet, and

"phytosanitary certificate for re-export" means a certificate duly completed in the form set out in Part B of Schedule 3 or in such other similar form as may be agreed between the Committee and the third country whose phytosanitary requirements the certificate is

intended to meet.

Fee for issue of certificates.

39. (1) A fee of £35 per phytosanitary certificate or phytosanitary certificate for re-export is payable by the applicant for a certificate in respect of the issue of a certificate by an inspector on behalf of the Committee under section 38.

(2) 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.

(3) The fee is payable within 30 days starting with the date of issue of the account and by such means as the Committee may reasonably specify in the account.

(4) Where an account, or part of it, is not paid within the 30 day period specified under subsection (3), the sum is recoverable from the applicant as a civil debt due to the Committee.

PART VIII

LICENCES

Licences to carry out activities prohibited by this Ordinance.

40. (1) Notwithstanding any other provision of this Ordinance, any plant pest or relevant material may be imported into, or kept, stored, planted, moved or otherwise disposed of in Guernsey and any other thing prohibited by this Ordinance may be done under the authority of a licence granted by the Committee if it is an activity which may be permitted under Parts A, C or D of Schedule 8 to the Plant Health Regulations as modified by subsection (3).

(2) A licence granted under subsection (1) must be in writing and may be granted—

(a) subject to conditions,

(b) for an indefinite period or a specified period.

(3) The modifications to Parts A, C and D of Schedule 8 to the Plant Health Regulations to referred to in subsection (1) are –

(a) for each reference to "relevant Plant Health Order" or "relevant Plant Health Orders" substitute "Plant Health (Guernsey) Ordinance, 2019",

(b) for each reference to "the United Kingdom" substitute "Guernsey" except in the definition of "**registered nursery**" and in paragraph 2(b),

(c) any reference to "the" or "an" "appropriate UK plant health authority" is to be read as a reference to the Committee,

(d) for each reference to "the" or "a" "relevant UK territory" substitute "Guernsey", and

(e) in Part A, in paragraph 5(d) and in Part D, paragraph 27(a), after "Plant Health (EU Exit) Regulations, 2019" insert "as modified by the Plant Health (Guernsey) Ordinance, 2019".

Licences for trial or scientific purposes or for work on varietal selections.

41. (1) The Committee must by licence authorise the importation, movement or keeping of any plant pest or relevant material for any activity for trial or scientific purposes or for work on varietal selections, where the importation, movement or keeping of the plant pest or relevant material for any such purpose would otherwise be prohibited by this Ordinance, if the Committee—

- (a) has received an application for a licence containing the information set out in Part A of Schedule 4 and
- (b) is satisfied that the general conditions set out in Part B of Schedule 4 are met in relation to the application.

(2) A licence granted under subsection (1) must be in writing and include—

- (a) any conditions specified in Part C of Schedule 4 which are relevant to any plant pest or relevant material that is the subject of the activities to which the licence relates, and
- (b) any other conditions as the Committee may determine in relation to the licence quarantine measures that are appropriate in respect of those activities.

(3) The Committee must revoke a licence granted under subsection (1) where it is established to the satisfaction of the Committee that the licensee has not complied with or met any condition of the licence which is imposed

under subsection (2)(b).

(4) On the conclusion of any licensed activity, the licensee must, unless otherwise authorised by the Committee under subsection (5)—

- (a) destroy or sterilise any plant pest or relevant material that was the subject of the licensed activity and any other relevant material which has come into contact with or which may have been contaminated by any such plant pest or relevant material, and
- (b) sterilise or clean in any manner specified by the Committee, the premises and facilities at which the licensed activity was carried out.

(5) The Committee may authorise the licensee to refrain from destroying any relevant material under subsection (4)(a) if the Committee is satisfied that it has been subject to appropriate quarantine measures and has been found, in any manner specified by the Committee, to be free from regulated plant pests and from other plant pests considered by the Committee to pose a risk.

(6) In this section—

- (a) **“appropriate quarantine measures”** means—
 - (i) where applicable, quarantine measures which are equivalent to those specified in Part A of Annex 3 to Commission Directive 2008/61/EC establishing the conditions under which

certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes or for work on varietal selections¹, or

(ii) in any other case, any quarantine measures, including testing, as may be specified by the Committee,

(b) “**licence quarantine measures**” means the measures specified in Part D of Schedule 4, and

(c) “**licensed activity**” means any activity for trial or scientific purposes or for work on varietal selections which is authorised by a single licence under subsection (1).

Notification of decisions on licences.

42. A decision under section 40 or 41 in relation to a licence –

(a) to refuse an application for a licence,

(b) to impose a condition on the issue of a licence, or

¹ O.J. L 158 of 18.6.2008, p. 41.

- (c) to revoke a licence,

must be notified by the Committee to the applicant or the holder of the licence in writing together with the reasons for the same.

PART IX

NOTIFICATIONS, PROVISION AND EXCHANGE OF INFORMATION

Notification of the presence or suspected presence of certain plant pests.

43. (1) The occupier or other person in charge of premises who becomes aware of or suspects that any notifiable plant pest is present on the premises, or any other person who in the course of their duties or business becomes aware of or suspects that a notifiable plant pest is present on any premises, must immediately notify the Committee or an inspector of its presence or suspected presence.

(2) A notice under subsection (1) may first be given orally, but must be confirmed in writing as soon as reasonably practicable.

(3) In this section, “**notifiable plant pest**” means—

- (a) a plant pest, other than a plant pest of a description specified in Schedule 17 to the England Order^m, which—

^m U.K.S.I. 2015/610; amended by 2015/1827; 2016/104; 2017/8; 2017/1220; 2018/71; 2018/320; 2018/910; and 2018/1051.

- (i) is a regulated plant pest,
 - (ii) is of a description specified in column 3 of Part B of the list of prohibited infested material and which is present on, or appears to an inspector to have been in contact with, relevant material of a description specified in the entry in respect of that plant pest in column 2 of Part B of the list of prohibited infested material, or
 - (iii) although not a regulated plant pest, is not normally present in Guernsey and is likely to be injurious to plants in Guernsey,
- (b) a plant pest of a description specified in Schedule 17 to the England Order which—
- (i) is a cause of Fire Blight,
 - (ii) is a sub-species or strain normally present in Guernsey and which has been found on the premises of a registered relevant plant business,
 - (iii) is a sub-species or strain not normally present in Guernsey and which has been found on any premises, or
 - (iv) is also specified in column 3 of Part A of the

list of prohibited infested material and which is present on, or appears to an inspector to have been in contact with, relevant material of a description specified in the entry in respect of that plant pest in column 2 of Part A of that list.

(4) If the Committee becomes aware of the presence or suspected presence of *Xylella fastidiosa* (Wells *et al.*) in any place or area in Guernsey, the Committee must ensure that any person having under their control plants which may be infected by *Xylella fastidiosa* (Wells *et al.*) is immediately informed of—

- (a) its presence or suspected presence,
- (b) the possible consequences arising from its presence or suspected presence, and
- (c) the measures taken as a result.

Information to be given.

44. (1) An inspector or any other officer of the Committee may by notice in writing require an appropriate person to give to the inspector or 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 in respect of which a notice has been served under this Ordinance,

- (b) any plant pest or relevant material referred to in subsection (4)(b), and
- (c) the persons who have had or are likely to have had any plant pest or relevant material 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 inspector or other officer must be reasonable.

(3) An appropriate person must produce for examination by the inspector or other officer any licence, official statement, certificate, UK plant passport, record, invoice or other document relating to a plant pest or any relevant material specified in the notice.

(4) In this section, “**appropriate person**” means—

- (a) a person who is the owner, occupier or other person in charge of premises in respect of which a notice has been served under this Ordinance,
- (b) a person who has, has had, or is reasonably suspected by the inspector or officer to have or have had, possession or charge of—
 - (i) a regulated plant pest,
 - (ii) a plant pest which, although not a regulated

plant pest, is not normally present in Guernsey and which is likely to be injurious to plants in Guernsey,

(iii) any relevant material carrying or infected with a plant pest referred to in subparagraph (i) or (ii), or

(iv) any relevant material which the inspector or officer knows or suspects to have been landed in or exported from Guernsey, or

(c) a person who, as auctioneer, salesman or otherwise, has sold, offered for sale or otherwise disposed of a plant pest referred to in paragraph (b)(i) or (ii).

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

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

(b) may not be used in evidence against the 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,

- (ii) in proceedings for –
 - (A) an offence under section 47(2),
 - (B) some other offence where, in giving evidence the person makes a statement inconsistent with it, but it is only admissible to the extent necessary to establish the inconsistency,
 - (C) perjury, or
 - (D) perverting the course of justice.

Power to share information for the purposes of the Ordinance.

45. (1) The Committee for Home Affairs may disclose any information in its possession to the Committee under or for the purposes of this Ordinance.

(2) Subsection (1) is without prejudice to any other power of the Committee for Home Affairs to disclose information.

(3) No person may disclose any information received from the Committee for Home Affairs under subsection (1) if—

- (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 subsection (1), and
- (c) the Committee has not given its prior consent to the disclosure.

PART X

APPEALS AGAINST DECISIONS

Appeals against decisions.

46. (1) A person aggrieved by a decision of the Committee or of an inspector, as the case may be –

- (a) to refuse an application by that person for registration as a relevant plant business under section 26,
- (b) to suspend a registration of that person as a relevant plant business under section 27(2),
- (c) to refuse an application by that person for authorisation to issue UK plant passports under section 28,
- (d) to impose a condition under section 28(5) on an authorisation to issue UK plant passports granted to that person,
- (e) to suspend, in whole or in part, under section 28(6) or

- (7) the operation of an authorisation granted to that person to issue UK plant passports,
- (f) to vary under section 28(7) an authorisation granted to that person to issue UK plant passports,
- (g) to issue a notice, or a notice to amend a notice –
- (i) served on that person under section 31(1), (4) or (6) or section 33(5) or under an Order made under section 30(3) and (4), or
- (ii) under section 30(1) or under an Order made under section 30(3) and (4) designating or demarcating an area (however named) where that person's premises, or a part of the same, are located,
- (h) to take or ensure the taking of any measures provided for by Order under section 30(3) and (4) in relation to that person's premises, or part of the same,
- (i) to refuse an application for a licence made by that person or to impose a condition on the issue of a licence granted to that person under section 40 or 41, or
- (j) to revoke under section 41(3) a licence issued to that person,

may appeal to the Royal Court against the decision.

(2) A person aggrieved by such other description of decision by any person under this Ordinance as the Committee may by Order prescribe, may appeal to the Royal 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 inspector or the other person, as the case may be, stating the grounds and material facts on

which the appellant relies.

(5) The Committee, inspector 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 this subsection are without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007ⁿ.

(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, inspector 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.

ⁿ O.R.C. No. IV of 2007; 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.

PART XI OFFENCES

Offences.

47. (1) A person commits an offence if, without reasonable excuse, proof of which lies with the person—

- (a) the person contravenes or fails to comply with—
 - (i) section 3(1),
 - (ii) section 4(1),
 - (iii) section 5(1),
 - (iv) section 6(1), (2), (3) or (4),

- (v) section 8,
- (vi) section 9(2), (3) or (4),
- (vii) section 16(2), (3) or (4),
- (viii) section 19,
- (ix) section 20,
- (x) section 23(3), (4) or (5),
- (xi) section 25(1),
- (xii) section 26(2),
- (xiii) section 27(1) or (3),
- (xiv) section 37(1) or (2)
- (xv) section 41(4),
- (xvi) section 43(1),
- (xvii) section 45(3), or
- (xviii) any prohibition or restriction of a notice issued under section 30(1) or in an Order made under

30(3) and (4).

- (b) the person contravenes or fails to comply with –
 - (i) any provision of a notice served on the person,
 - (ii) a term or condition of a licence granted by the Committee, or
 - (iii) a direction given,

under this Ordinance, or
- (c) the person intentionally obstructs an inspector or any person authorised by an inspector in exercise of the powers given to the inspector by or under this Ordinance.

(2) A person commits an offence if, for the purpose of procuring the issue of a UK plant passport, a replacement UK plant passport, a phytosanitary certificate, a phytosanitary certificate for re-export or a licence under this Ordinance, the person—

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

- (3) A person commits an offence if the person—
- (a) dishonestly issues a UK plant passport,
 - (b) dishonestly alters a UK plant passport, or
 - (c) dishonestly re-uses a UK plant passport.

(4) It is a defence for a person charged with an offence under subsection (1)(a)(xvii) to prove that the person reasonably believed—

- (a) that the disclosure was lawful, or
- (b) that the information had already and lawfully been made available to the public.

(5) Where the commission by any person of an offence under this Ordinance is due to the act of default of some other person, that other person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings for the offence are taken against the first-mentioned person.

Criminal liability of directors etc.

48. (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 -

"body corporate" means a body of persons, of whatever description, incorporated with or without limited liability in any part of the world,

"foundation" means –

- (a) a foundation created under the Foundations (Guernsey) Law, 2012^o, or

^o Order in Council No. I of 2013; amended by Order in Council No. VI of 2017; Ordinance No. IX of 2016; and No. XXVII of 2018.

- (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 meaning of the Limited Partnerships (Guernsey) Law, 1995^P, and

^P Ordres en Conseil Vol. XXXVI, p. 264; 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.

- (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 49 "**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
 - (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.

49. (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[¶], 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.

50. 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 XII

MISCELLANEOUS

Fees and charges.

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

[¶] Order in Council No. VI of 2014; amended by Order in Council No. VI of 2017; Ordinance No. XII of 2015; No. IX of 2016; and No. XXVII of 2018.

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

under this Ordinance.

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

- (a) make provision for the 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 39 to –
 - (i) substitute the fee payable for the issue of a certificate under that section, or
 - (ii) make such provision as is referred to in paragraph (a).

Exclusion of liability.

52. (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, 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) an inspector or any other person authorised by the Committee to carry out a function under this Ordinance.

(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^r.

^r Order in Council No. XIV of 2000; amended by Order in Council No. I of 2005; Ordinance No. XXXVII of 2003; No. XX of 2015; No. IX of 2016; No. XXVI of 2018; and G.S.I. No. 27 of 2006.

The Customs Law.

53. The provisions of this Ordinance apply without prejudice to the Customs Law.

Powers to amend or prescribe certain provisions by Order.

54. (1) The Committee may by Order-
- (a) amend or substitute any of the Schedules to this Ordinance,
 - (b) amend or substitute any definition or other part of any interpretation provision in this Ordinance,
 - (c) amend this Ordinance to substitute a reference to –
 - (a) any list forming part of the common list for an equivalent list specified by Order of the Committee under this section, or
 - (b) any other provision of a statutory instrument of any UK territory for a reference to a different provision of any such statutory instrument relating to plant health or to an Order made under this Ordinance, or
 - (d) specify a list equivalent to any list forming part of the common list.

(2) The Committee may by Order make such provision as it considers necessary or expedient in relation to the designation and regulation of Guernsey pest free areas in accordance with ISPM No. 4.

(3) The Committee may, without prejudice to the generality of subsection (2), by Order –

- (a) designate pest free areas covering the whole or any part of Guernsey,
- (b) prescribe the plant pests on the list of prohibited plant pests which must not be introduced into, or spread within, Guernsey pest free areas,
- (c) prescribe relevant material on the list of prohibited infested material which must not be brought into or moved within a Guernsey pest free area if the material is carrying or infected with a plant pest specified in the Order,
- (d) prescribe relevant material on the list of regulated material which may only be brought into or moved within a Guernsey pest free area if requirements specified in the Order are met, or
- (e) provide for exceptions from the application of certain provisions of this Ordinance to be disapplied in relation to a Guernsey pest free area and for additional requirements to apply in relation to that

Guernsey pest free area.

Service of documents.

55. (1) Any document to be given or served under or for the purposes of 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 the Bailiwick or, if there is no such place, its principal or last known principal place of business elsewhere, or
- (e) on the Committee or an inspector, 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 document is to be regarded as served when it is received.

(3) If a person notifies the Committee or an inspector of an address for service within Guernsey under or for the purposes of this Ordinance, any document 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 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 document cannot, after reasonable enquiry, be effected by the Committee or an inspector in accordance with this section, the document may be served–

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

and a document 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 document to be given to or served on the Committee or an inspector under or for the purposes of 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 document 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 document 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,
- (b) in the case of a document 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 document 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 –

"document" excludes a summons, and

"working day" means any day other than a Saturday, a Sunday or a non-business day within the meaning of section 1(1) of the Bills of Exchange (Guernsey) Law, 1958.

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

Interpretation.

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

"appropriate UK plant health authority" means—

- (a) in relation to timber and forest pests in England, the

Forestry Commissioners,

- (b) otherwise in relation to England, the Secretary of State,
- (c) in relation to Wales, the Welsh Ministers,
- (d) in relation to Scotland, the Scottish Ministers,
- (e) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs,
- (f) in relation to Guernsey, the Committee,
- (g) in relation to the Bailiwick of Jersey, the Department of Environment of the Bailiwick of Jersey,
- (h) in relation to the Isle of Man, the Department of Environment, Food and Agriculture of the Isle of Man,

“authorised officer” means, as the context requires—

- (a) in relation to a UK plant passport, an inspector acting under the authority of the appropriate UK plant health authority, or
- (b) in relation to a phytosanitary certificate or phytosanitary certificate for re-export, an authorised

representative, or a public officer acting under the authority, of the national plant protection organisation of the country in which a phytosanitary certificate or phytosanitary certificate for re-export or a translation of a phytosanitary certificate or phytosanitary certificate for re-export is issued,

"CD territory" means the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man,

"Chief Revenue Officer" has the same meaning as in the Customs Law,

"the Committee" means the States of Guernsey Committee for Economic Development,

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

"the common list" means –

- (a) the list of controlled material,
- (b) the list of pest free area controlled material,
- (c) the list of prohibited infested material,
- (d) the list of prohibited material,

(e) the list of prohibited plant pests, and

(f) the list of regulated material,

“consignment” means a quantity of goods covered by a single document required for customs or other formalities,

“country” includes a territory,

“Customs Law” means the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^s,

“England Order” means the Plant Health (England) Order 2015,

“EPPO PM 7/21” means the standard describing a diagnostic protocol for *Ralstonia solanacearum*, *R. pseudosolanacearum* and *R. syzygii* approved by the European and Mediterranean Plant Protection Organization,

“EPPO PM 7/59” means the standard describing a diagnostic protocol for *Clavibacter michiganensis* subsp. *sepedonicus* approved by the European and Mediterranean Plant Protection Organization,

“European Union” means the territories of the member states of the European Union, being the Union established by the Treaty on European

^s Ordres en Conseil Vol. XXIII, p. 573; amended by Ordres en Conseil Vol. XXXI, p. 278; Vol. XXXIII, p. 217; Order in Council No. VI of 2019; Ordinance No. IX of 2016; G.S.I. No. 17 of 1973; G.S.I. No. 9 of 1986; and G.S.I. No. 4 of 1990; there are other amendments not relevant to this Ordinance.

Union signed at Maastricht on 7th February, 1992 (as amended by any later Treaty), but excluding the Canary Islands, Ceuta, Melilla and the French Overseas Departments,

"**exit day**" has the meaning in the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018^t,

"**Fire Blight**" means the disease in Rosaceae caused by *Erwinia amylovora* (Burr.) Winsl. *et al.*,

"**the Forestry Commissioners**" means the Forestry Commissioners constituted under the Forestry Acts 1919 to 1945 and continued in existence by section 1 of the Forestry Act 1967^u,

"**Guernsey pest free area**" means a pest free area designated by Order of the Committee under section 54,

"**importer**", in relation to any plant pest or relevant material at any time between their consignment from a third country and the time when they are discharged by an inspector under this Ordinance, includes any owner or other person for the time being in possession of or beneficially interested in the plant pest or relevant material,

"**inspector**" means any person appointed by the Committee to be an

^t Order in Council No. I of 2019.

^u An Act of Parliament (1967 c. 10); there are amendments not relevant to this Ordinance.

inspector for the purposes of this Ordinance,

“IPPC” means the International Plant Protection Convention 1951, done at Rome on 6 December, 1951,

“ISPM No. 4” means International Standard for Phytosanitary Measures No. 4 of November 1995 on the requirements for the establishment of pest free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations,

“isolated bark” means bark which has been removed or become detached from a living, felled or fallen tree or from any part of such a tree,

“the list of controlled material” : see section 1,

“the list of pest free area controlled material” : see section 1,

“the list of prohibited infested material” : see section 1,

“the list of prohibited material”; see section 1,

“the list of prohibited plant pests” : see section 1,

“the list of regulated material” : see section 1,

“national plant protection organisation” means the service established by the government of a third country to discharge the functions specified in Section IV(1)(a) of the IPPC, details of which have been notified—

- (a) in the case of contracting parties to the IPPC, to the Director of the Food and Agriculture Organisation of the United Nations, and
- (b) in all other cases, to the national plant protection organisation of the United Kingdom,

“official”, in relation to any testing or other procedure required by this Ordinance to be carried out in respect of any relevant material, means carried out by or under the supervision of the appropriate UK plant health authority or the national plant protection organisation of the country in which the testing or other procedure is carried out and **“officially”** is to be construed accordingly,

“official label” means a label that meets the relevant requirements set out in Part A or B of Schedule 5, issued by or with the authority of the appropriate UK plant health authority,

“official statement” means a statement issued by an authorised officer or a statement included in a UK plant passport,

“phytosanitary certificate” means a certificate in the form set out in Part A of Schedule 3, which complies with the requirements in section 15(1) and (2),

“phytosanitary certificate for re-export” means a certificate in the form set out in Part B of Schedule 3, which complies with the requirements in section 15(1) and (2),

“place of production” means any premises, normally worked as a unit, together with any contiguous land in the same ownership or occupation as such premises,

“plant” means a living plant (including a tree, fungus or shrub) or a living part of a plant (including a living part of a tree, fungus or shrub), at any stage of growth: and living parts of a plant shall include —

- (a) fruit or seed,
- (b) vegetables, other than those preserved by deep freezing,
- (c) tubers, corms, bulbs or rhizomes,
- (d) cut flowers,
- (e) branches with or without foliage,
- (f) a plant or shrub that has been cut and which retains any foliage,
- (g) leaves or foliage,
- (h) a plant or shrub in tissue culture,
- (i) live pollen, and
- (j) bud wood, cuttings or scions,

“the Plant Health Regulations” means the Plant Health (EU Exit) Regulations 2019^v,

“planting” means any operation for the placing of plants to ensure their subsequent growth, reproduction or propagation,

“plant pest” means any species, strain or biotype of plant, animal or pathogenic agent which is injurious or likely to be injurious to any plant or plant product and for the avoidance of doubt includes viruses and viroids,

“plant product” means a product of plant origin, unprocessed or having undergone simple preparation, in so far as it is not a plant,

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

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

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

^v Laid before the UK Parliament in draft for approval; there are prospective amendments under the draft Plant Health (Amendment) (England) (EU Exit) Regulations 2019 and the Animal Health, Plant Health, Seeds and Seed Potatoes (Amendment) (EU Exit) Regulations 2019 laid before the UK Parliament for approval.

the context requires,

“**premises**” includes any land, building, vehicle, vessel, aircraft, hovercraft, freight container or railway wagon,

“**producer**”, in relation to relevant material, means a person who grows or makes the material in the course of a trade or business,

“**register**” means the register of relevant plant businesses maintained under section 24(1),

“**registered**”, in relation to a relevant plant business, means a relevant plant business the particulars of which are listed in the register, and “**registration**” is to be construed accordingly,

“**regulated plant pest**” means—

- (a) a plant pest of a description specified in Part A, B or D of the list of prohibited plant pests,
- (b) a plant pest on the list of prohibited plant pests prescribed by Order of the Committee under section 54 as a plant pest in relation to a Guernsey pest free area,
- (c) a plant pest of a description specified in column 3 of Part A, B or D of the list of prohibited infested material,

- (d) a plant pest prescribed by Order of the Committee under section 54 in relation to relevant material which must not be brought into or moved within a Guernsey pest free area as referred to in section 3(1)(f)(ii),

“relevant material” means any –

- (a) plant,
- (b) plant product including, without limitation, wood or isolated bark, or
- (c) soil,

"relevant plant business" means –

- (a) an importer of relevant material,
- (b) a producer of relevant material,
- (c) a person in charge of premises used for the storage, aggregation or dispatch of consignments of relevant material, or
- (d) a person who in the course of a trade or business divides up or combines consignments of relevant material,

“third country” means any country or territory outside the British

Islands,

"**Scottish Ministers**" is to be construed in accordance with section 44(2) of the Scotland Act 1998^w,

"**UK pest free area**" means an area in the United Kingdom which has been established as a pest free area in accordance with ISPM No. 4,

"**UK plant passport**" means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in Part A or B of Schedule 5, issued by or with the authority of the appropriate UK plant health authority, and includes any replacement of such a passport,

"**UK territory**" means England, Wales, Scotland or Northern Ireland,

"**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^x,

"**Welsh Ministers**" is to be construed in accordance with section 45(2)

^w An Act of Parliament (1998 c. 46); amended by the Scotland Act 2012, an Act of Parliament (2012 c. 11) and to which there are other amendments not relevant to this Ordinance.

^x 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.

of the Government of Wales Act 2006^Y,

"**wood**" means –

- (a) any wood which retains all or part of its natural round surface, with or without bark,
- (b) wood in the form of chips, particles, shavings, sawdust, wood waste or scrap, and
- (c) whether or not falling within paragraph (a) or (b), wood packaging material, and

"**wood packaging material**" means wood in the form of packing cases, boxes, crates, drums or similar packings, pallets, box pallets or other load boards, pallet collars or dunnage whether or not actually in use in the transport of objects of any kind.

(2) Unless expressly provided otherwise, any reference in this Ordinance to a genus or species is to be construed as a reference to that genus or species or to any of its hybrids.

(3) Unless expressly provided otherwise, any reference in this Ordinance to the European Union, to a member state of the European Union or a third country includes a reference to a state, country, principality, province or region

^Y An Act of Parliament (2006 c. 32); amended by the Wales Act 2014, an Act of Parliament (2014 c. 29) and to which there are other amendments not relevant to this Ordinance.

within the European Union, member state, or third country, as the case may be.

(4) Any reference in this Ordinance to an EU instrument or a Statutory Instrument of any UK territory is, unless the contrary intention appears, a reference to that EU instrument or Statutory Instrument as from time to time amended, re-enacted (with or without modification), extended or applied.

(5) Words and expressions which are not defined in this Ordinance or in the Plant Health (Enabling Provisions) (Guernsey) Law, 2014 and which appear in the Plant Health Regulations have the same meaning in this Ordinance as they have in the Plant Health Regulations.

Transitional provisions.

57. Schedule 6, which makes transitional provisions, has effect.

Disapplication of Preserved EU Law.

58. (1) Any Preserved EU law that applies in relation to the health of plants ceases to have effect –

- (a) to the extent that equivalent provision is made under this Ordinance, and
- (b) from the date that the equivalent provision under this Ordinance comes into force.

(2) In this section "**Preserved EU law**" has the same meaning as in the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

Citation.

59. This Ordinance may be cited as the Plant Health (Guernsey) Ordinance, 2019.

Commencement.

60. This Ordinance shall come into force on exit day.

SCHEDULE 1

Section 1

MODIFICATIONS TO THE COMMON LIST OF PLANT PESTS, PROHIBITED INFESTED MATERIAL ETC.

Modifications to the list of prohibited plant pests.

1. In Schedule 1 to the Plant Health Regulations –
 - (a) in the headings to Parts A and B for "the United Kingdom" substitute "Guernsey",
 - (b) the following pest is to be treated as if included in Part A, Bacteria, –

Erwinia amylovora (Burr.) Winsl. *et al.*, the cause of Fire Blight in Rosaceae", and
 - (c) in Part D, for "the relevant UK territories" substitute "Guernsey".

Modifications to the list of prohibited infested material.

2. In Schedule 2 to the Plant Health Regulations –
 - (a) in the headings to Parts A, B and D, for "the relevant UK territories" substitute "Guernsey" and for "the United Kingdom" substitute "Guernsey",
 - (b) the following relevant material is to be treated as if

included in columns 2 and 3 of Part A, Bacteria –

"Plants, other than seeds, of <i>Amelanchier</i> Med., <i>Chaenomeles</i> Lindl., <i>Cotoneaster</i> Ehrh., <i>Crataegus</i> L., <i>Cydonia</i> Mill., <i>Eriobotrya</i> Lindl., <i>Malus</i> Mill., <i>Mespilus</i> L., <i>Photinia davidiana</i> (Dcne.) Cardot, <i>Pyracantha</i> Roem., <i>Pyrus</i> L. or <i>Sorbus</i> L., intended for planting	<i>Erwinia</i> <i>amylovora</i> (Burr.) Winsl. <i>et al.</i> ".
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(c) in Part B, Bacteria, omit item 2.

Modifications to the list of prohibited material.

3. In Schedule 3 to the Plant Health Regulations, in the headings to Part A and B, for "the relevant UK territories" substitute "Guernsey".

Modifications to the list of regulated material.

4. In Schedule 4 to the Plant Health Regulations –

- (a) in the headings to Parts A, B and D for "the relevant UK territories" substitute "Guernsey", and
- (b) in Part D, in the first column of item 32, omit all the words after "third country".

SCHEDULE 2

Section 4

NOTICE OF LANDING

Notice of landing of notifiable material required by section 4(1) of the Plant Health
(Guernsey) Ordinance, 2019

1. Details of relevant material.....
 2. Quantity of relevant material.....
 3. Consignor country.....
 4. Country where consigned
 5. Consignor.....
 6. Importer.....
 7. Country of destination.....
 8. Intended point of entry in
Guernsey.....
 9. Air: Flight
No.....
 10. Sea (material in vehicle): vehicle registration
number.....
 11. Sea (material in container): Vessel name and container number or
numbers.....
 12. Expected date and time of
arrival.....
 - [13. Additional information (where
required).....]
- Signature of importer or air or sea port authority.....
- Date.....

(The information contained in the notice must be completed in English and in

typescript or block capitals)

SCHEDULE 3

Sections 38(3) and 54(1)

FORM OF PHYTOSANITARY CERTIFICATE AND FORM OF PHYTOSANITARY
CERTIFICATE FOR RE-EXPORT

Part A

Form of Phytosanitary Certificate

PHYTOSANITARY CERTIFICATE

No

Plant protection organisation of:

To plant protection organisation(s) of:

I Description of consignment

Name and address of exporter:

Declared name and address of consignee:

Number and description of packages:

Distinguishing marks:

Place of origin:

Declared means of conveyance:

Declared point of entry:

Name of produce and quantity declared:

Botanical name of plants:

This is to certify that the plants, plant products or other regulated articles described herein have been inspected and/or tested according to appropriate official procedures and are considered to be free from the quarantine pests specified by the importing contracting

party and to conform with the current phytosanitary requirements of the importing contracting party, including those for regulated non-quarantine pests.

They are deemed to be practically free from other pests^(*)

II Additional declaration

III Disinfestation and/or disinfection treatment

Date: Treatment: Chemical (active ingredient):

Duration and temperature:

Concentration:

Additional information:

.....

Place of issue:

Name of authorised officer:

(Stamp of organisation)

Date

(signature)

No financial liability with respect to this certificate shall attach to

(name of plant protection organisation) or to any of its officers or representatives^(*).

^(*) Optional clause

Part B

Form of Phytosanitary Certificate for Re-export

PHYTOSANITARY CERTIFICATE FOR RE-EXPORT

No

Plant protection organisation of: (contracting party of re-export)

To plant protection organisation(s) of: (contracting party(ies) of import)

I Description of consignment

Name and address of exporter:

Declared name and address of consignee:

Number and description of packages:

Distinguishing marks:

Place of origin:

Declared means of conveyance:

Declared point of entry:

Name of produce and quantity declared:

Botanical name of plants:

This is to certify that the plants, plant products or other regulated articles described above
..... were imported into (contracting party of re-export) from
..... (contracting party of origin) covered by phytosanitary certificate No (*)
original [] certified true copy [] of which is attached to this certificate; that they are packed []
repacked [] in original [] (*) new [] containers, that based on the original phytosanitary
certificate [] and additional inspection [], they are considered to conform with the current
phytosanitary requirements of the importing contracting party, and that during storage in
..... (contracting party of re-export), the consignment has not been subjected to the risk
of infestation or infection.

II Additional declaration

III Disinfestation and/or disinfection treatment

Date: Treatment: Chemical (active ingredient):

Duration and temperature:

Concentration:

Additional information:

Place of issue:

Name of authorised officer:

(Stamp of organisation)

Date:

(signature)

No financial liability with respect to this certificate shall attach to (name of plant protection organisation) or to any of its officers or representatives^(**).

^(*)Insert tick in appropriate [] boxes.

^(**)Optional clause.

SCHEDULE 4

Section 41

LICENCES FOR TRIAL OR SCIENTIFIC PURPOSES OR FOR WORK ON VARIETAL SELECTIONS

PART A

INFORMATION TO BE INCLUDED IN AN APPLICATION FOR A SCIENTIFIC LICENCE.

1. The name and address of the person responsible for the proposed specified activity.

2. The following details in relation to the relevant material and plant pests to be used in the specified activity –
 - (a) their scientific name,
 - (b) the type of relevant material,
 - (c) the quantity of relevant material,
 - (d) the place of origin of the relevant material,
 - (e) the place at which the relevant material is to be first stored or planted after its official release (where relevant),

- (f) the proposed method of destruction or treatment of the relevant material on completion of the specified activity (where relevant), and
- (g) in the case of any relevant material or plant pest which is to be imported from a third country, its proposed point of entry into Guernsey.

3. In the case of any relevant material to be used in the specified activity, appropriate documentary evidence to confirm its place of origin.

4. The duration, nature and objectives of the proposed specified activity, including a summary and a specification of the work to be conducted.

5. The address and description of the specific site at which the proposed specified activity is to be carried out.

PART B

GENERAL CONDITIONS TO BE MET IN RELATION TO AN APPLICATION FOR A SCIENTIFIC LICENCE

6. The nature and objectives of the specified activity comply with the concept of trial or scientific purposes for work on varietal selections.

7. The premises and the facilities at the site at which the specified activity is to be carried out meet any conditions relating to their quarantine.

8. The personnel carrying out the specified activity have appropriate scientific and technical qualifications.

PART C
LICENCE CONDITIONS RELATING TO ANY PLANT PEST OR RELEVANT
MATERIAL TO BE USED IN A SPECIFIED ACTIVITY

9. For the purposes of section 41(2)(a) the conditions are that –
- (a) in the case of any relevant material, the material is accompanied on its entry into Guernsey by a letter of authority which has been issued by the relevant national plant protection organisation on the basis of appropriate documentary evidence as regards the place of origin of the material,
 - (b) in the case of any material of a description specified in Schedule 5 to the Plant Health Regulations, the material is, wherever possible, accompanied on its entry into Guernsey, by a phytosanitary certificate issued in the country of origin which –
 - (i) confirms that the material is free from any regulated plant pest, other than a plant pest whose importation is authorised by licence,
 - (ii) includes the statement under the heading "Additional declaration", "This material is imported under section 41 of the Plant Health (Guernsey) Ordinance, 2019", and

- (iii) includes the name of any authorised plant pest, and
- (c) the relevant material is held under quarantine containment conditions and on arrival is directly and immediately moved to the site specified in the licence.

PART D

LICENCE QUARANTINE MEASURES

10. The licence quarantine measures are –

- (a) in the case of premises, facilities and working procedures which relate to the specified activity –
 - (i) the physical isolation of any plant pests or relevant material being used in the specified activity from all other plant pests and relevant material, including control of vegetation in surrounding areas, where appropriate,
 - (ii) the designation of a contact person responsible for the specified activity,
 - (iii) the implementation of restrictions on access to the premises and facilities being used in relation to the specified activity and, where appropriate, to the area surrounding those

premises and facilities, to named personnel only,

- (iv) the appropriate identification of the premises and facilities being used, indicating the type of activities and personnel responsible,
- (v) the maintenance of a register of the activities performed and a manual of operating procedures, including procedures in the event of escape of plant pests from containment,
- (vi) the maintenance of appropriate security and alarm systems,
- (vii) the implementation of –
 - (A) appropriate control measures to prevent the introduction into and the spread of plant pests within the premises being used,
 - (B) controlled procedures for sampling, and for transfer of any relevant material between premises and facilities used,
 - (C) controls for the disposal of waste, soil and water, as appropriate,

- (D) appropriate hygiene and disinfection procedures and facilities for personnel, structures and equipment,
 - (E) appropriate measures and facilities for disposal of experimental material, and
 - (F) appropriate indexing (including testing) facilities and procedures,
- (b) other appropriate quarantine measures according to the specific biology and epidemiology of the type of material involved and the activities approved, including -
- (i) the maintenance of facilities accessible to authorised personnel via a separate room with two interlocking doors,
 - (ii) the maintenance of facilities under negative air pressure,
 - (iii) the use of escape-proof containers with appropriate mesh size and other barriers,
 - (iv) the maintenance of the material in isolation from other plant pests and material,

- (v) the maintenance of any material for breeding in breeding cages with manipulation devices,
- (vi) the prohibition of any interbreeding of the plant pest with indigenous strains or species,
- (vii) the implementation of controls on the continuous culture of the plant pest,
- (viii) the maintenance of the plant pest under conditions that strictly control the multiplication of the plant pest,
- (ix) the implementation of procedures to check the purity of cultures of the plant pest for freedom from parasites and other plant pests,
- (x) the implementation of appropriate control programmes for the material to eliminate possible vectors,
- (xi) in the case of in vitro activities, the implementation of controls on the handling of the material under sterile conditions,
- (xii) the maintenance of the plant pest in conditions to ensure that it cannot spread via any vector, and

- (xiii) the seasonal isolation of the material to ensure that the activities are done during periods of low plant health risk.

Interpretation of this Schedule.

11. In this Schedule, "**specified activity**" means any activity for trial or scientific purposes or for work on varietal selections.

SCHEDULE 5

Section 54(1)

REQUIREMENTS FOR UK PLANT PASSPORTS

PART A

Requirements for UK plant passports in relation to relevant material

1. A UK plant passport may only be issued in respect of relevant material that has been the subject of a satisfactory inspection at its place of production.

2. A UK plant passport must comprise -

- (a) an official label containing at least the UK plant passport details specified in paragraph 4(a) to (e), and
- (b) a document of a kind normally used for trade purposes containing all of the UK plant passport details specified in paragraph 4.

3. But where the UK plant passport relates to any relevant material referred to in Part B, the UK plant passport may comprise an official label containing the UK plant passport details specified in paragraph 4 and any other information required under Part B.

4. The UK plant passport details are—

- (a) the title "UK plant passport",
- (b) the name or code for the appropriate UK plant health authority,
- (c) the registration number of the producer, importer or other person who is authorised to issue the UK plant passport or to whom the UK plant passport was issued,
- (d) the week number of the date when the UK plant passport was attached to the relevant material, or a serial or batch number identifying that material,
- (e) the botanical name in Latin of the relevant material to which the UK plant passport relates,
- (f) the quantity of the relevant material to which the UK plant passport relates (number of plants, plant products, volume or weight),
- (g) where the relevant material fulfils the requirements for a UK pest free area, a Guernsey Pest Free Area or an equivalent designation in another CD territory, the marking "PFA" and any code for the pest free area,
- (h) in the case of a replacement plant passport, the

marking “RP” and, where appropriate, a code for the producer or importer who was authorised to issue the original plant passport or to whom the original plant passport was issued, and

- (i) in the case of relevant material originating in a third country, the name of the country of origin of the material or (if appropriate) the country from which the material was consigned to a CD territory or the United Kingdom.

5. An official label must—

- (a) not have been previously used,
- (b) be made of material suitable for its purpose, and
- (c) in the case of an adhesive label, be in a form approved for use as an official label by—
 - (i) in the case of plant passports issued in Guernsey, the Committee, or
 - (ii) in the case of plant passports issued in another CD territory or a UK territory, the appropriate UK plant health authority or a person acting under their authority.

6. (1) The information contained in a UK plant passport must be—

- (a) given in English,
- (b) printed, except where it would not be reasonably practicable to do so.

(2) Where the information is printed, it must be printed in block capitals.

(3) Where the information is not printed, it must be given in typescript or written in block capitals.

7. An additional document of a kind referred to in paragraph 2(b) may include the additional information specified in paragraph 8 provided that it is clearly separate from the UK plant passport details included in the document.

8. The additional information is any information relevant for the purpose of labelling the relevant material to which it relates and which is set out in—

- (a) in relation to vegetable plant material—
 - (i) produced in Great Britain, in Part B of Schedule 2 to the Marketing of Vegetable Plant Material Regulations 1995^Z, or
 - (ii) produced in Northern Ireland, in Part B of

^Z U.K.S.I. 1995/2652; amended by U.K.S.I. 2007/1449; 2007/2190; 2014/487/2014/519; 2018/575; 2018/1216; 2019/131; and S.S.I. 2007/133.

Schedule 2 to the Marketing of Vegetable Plant
Material Regulations (Northern Ireland)
1995^{aa},

(b) in relation to fruit plant propagating material and
fruit plants—

(i) produced in England, in Part 2 of Schedule 2 to
the Fruit Plant and Propagating Material
(England) Regulations 2017^{bb},

(ii) produced in Wales, in Part 2 of Schedule 2 to
the Fruit Plant and Propagating Material
(Wales) Regulations 2017^{cc},

(iii) produced in Scotland, in Part 2 of Schedule 5
to the Fruit Plant and Propagating Material
(Scotland) Regulations 2017^{dd}, or

(iv) produced in Northern Ireland, in Part 2 of
Schedule 2 to the Fruit Plant and Propagating
Material Regulations (Northern Ireland)

aa S.R. 1995 No. 415; as amended by S.R. 2007 No. 400.

bb U.K.S.I. 2017/595; to which there are amendments not relevant to this Ordinance.

cc U.K.S.I. 2017/691 (W.163); to which there are amendments not relevant to this Ordinance.

dd S.S.I. 2017/177; to which there are amendments not relevant to this Ordinance.

2017^{ee},

(c) in relation to ornamental plant propagating material—

(i) produced in England or Wales, in the Schedule to the Marketing of Ornamental Plant Propagating Material Regulations 1999^{ff},

(ii) produced in Scotland, in Schedule 1 to the Marketing of Ornamental Plant Propagating Material Regulations 1999^{gg}, or

(iii) produced in Northern Ireland, in the Schedule to the Marketing of Ornamental Plant Propagating Material Regulations (Northern Ireland) 1999^{hh}.

PART B

Requirements for UK plant passports permitted for certain relevant material

9. An official label which comprises a UK plant passport or part of a UK

^{ee} S.R. 2017 No. 119; to which there are amendments not relevant to this Ordinance.

^{ff} U.K.S.I. 1999/1801; amended by U.K.S.I. 2018/575; 2018/974; 2018/1216 (W.249); and 2019/131.

^{gg} U.K.S.I. 1999/1801; amended by U.K.S.I. 2018/575; 2018/974; 2018/1216; 2019/131; and S.S.I. 2018/284.

^{hh} S.R. 1999 No. 502; amended by S.R. 2018 No. 188.

plant passport and which relates to any relevant material specified in this Part must comply with the following requirements in relation to that material.

10. An official label in respect of tubers of *Solanum tuberosum* L. intended for planting must—

- (a) comply with the requirements —
 - (i) in the case of seed potatoes produced in England, in Part 1 of Schedule 2 to the Seed Potatoes (England) Regulations 2015ⁱⁱ,
 - (ii) in the case of seed potatoes produced in Wales, in Part 1 of Schedule 2 to the Seed Potatoes (Wales) Regulations 2016^{jj},
 - (iii) in the case of seed potatoes produced in Scotland, in Part 1 of Schedule 5 to the Seed Potatoes (Scotland) Regulations 2015^{kk}, or
 - (iv) in the case of seed potatoes produced in Northern Ireland, in Part 1 of Schedule 2 to the Seed Potatoes Regulations (Northern Ireland)

ⁱⁱ U.K.S.I. 2015/1953; amended by U.K.S.I. 2017/288; and 2018/575.

^{jj} U.K.S.I. 2016/106 (W.52); amended by U.K.S.I. 2017/596 (W.139); and 2018/1216 (W.249).

^{kk} S.S.I. 2015/395; amended by S.S.I. 2016/68; and 2016/434.

2016^{ll},

- (b) contain the title “UK plant passport”, and
- (c) where the tubers are intended to be consigned to another part of Guernsey, provide evidence that they have been officially examined to ensure that they comply with the requirements specified in item 5 of Part B of the list of regulated material.

11. An official label in respect of seeds of *Medicago sativa* L. must—

- (a) comply with the requirements —
 - (i) in the case of seeds produced in England, in Parts 2 and 3 of Schedule 3 to the Seed Marketing Regulations 2011^{mm},
 - (ii) in the case of seeds produced in Wales, in Parts 2 and 3 of Schedule 3 to the Seed Marketing (Wales) Regulations 2012ⁿⁿ,
 - (iii) in the case of seeds produced in Scotland, in

^{ll} S.R. 2016 No. 190; amended by S.R. 2017 No. 155; and S.R. 2019/41.

^{mm} U.K.S.I. 2011/463; amended by U.K.S.I. 2011/2992; 2012/3035; 2014/487; 2016/613; 2017/288; and 2019/131.

ⁿⁿ U.K.S.I. 2012/245 (W.39); amended by U.K.S.I. 2013/889; 2014/519; 2016/1242; and 2017/1095.

Part 2 of Schedule 6 to the Oil and Fibre Plant Seed (Scotland) Regulations 2004^{oo}, or

(iv) in the case of seeds produced in Northern Ireland, in Parts 2 and 3 of Schedule 3 to the Seed Marketing Regulations (Northern Ireland) 2016^{pp},

(b) contain the title “UK plant passport”, and

(c) where the seeds are intended to be consigned to another part of Guernsey, provide evidence that they have been officially examined to ensure that they comply with the requirements specified in items 21 and 22 of Part B of the list of regulated material.

^{oo} S.S.I. 2004/317; amended by S.S.I. 2007/224; 2007/536; 2009/223; 2010/219;; 2016/68; 2016/434; and U.K.S.I. 2011/1043.

^{pp} S.R. 2016 No. 244; amended by S.R. 2017 No. 222; and S.R. 2018 No. 188.

SCHEDULE 6

Section 57

TRANSITIONAL PROVISIONS

Notices and Licences.

1. Any notice served or licence issued under –
 - (a) the Import and Export (Plant Health) Ordinance, 1982^{qq},
 - (b) the Plant Pests Ordinance, 1982^{rr},
 - (c) the Import and Export of Trees, Wood and Bark (Health) Ordinance, 1982^{ss}, or
 - (d) the Tree Pests Ordinance, 1982^{tt},

which has effect at the coming into force of this Ordinance remains in force as if it

^{qq} Recueil d'Ordonnances Tome XXII, p. 219; amended by Ordres en Conseil Vol. XXXI, p. 278; Recueil d'Ordonnances Tome XXIII, p. 70; Tome XXIV, p. 78; Ordinance No. XXXIII of 2003; and No. IX of 2016.

^{rr} Recueil d'Ordonnances Tome XXII, p. 198; amended by amended by Ordres en Conseil Vol. XXXI, p. 278; Ordinance No. XXXIII of 2003; and No. IX of 2016.

^{ss} Recueil d'Ordonnances Tome XXII, p. 321; amended by Ordres en Conseil Vol. XXXI, p. 278; Recueil d'Ordonnance Tome XXII, p. 321; Ordinance No. XXXIII of 2003; and No. IX of 2016.

^{tt} Recueil d'Ordonnances Tome XXII, p. 209; amended by Ordres en Conseil Vol. XXXI, p. 278; Ordinance No. XXXIII of 2003; and No. IX of 2016.

were issued or granted under this Ordinance.

Certificates.

2. Any application made, certificate issued or other thing done in relation to the issuing of a phytosanitary certificate or a re-forwarding phytosanitary certificate, within the meaning of the Import and Export (Plant Health) Ordinance, 1982 or the Import and Export of Trees, Wood and Bark (Health) Ordinance, 1982 shall have effect as if done under the corresponding provision of this Ordinance.

Plant passports.

3. (1) An authorisation to issue plant passports which has been given and has effect immediately before exit day continues to apply on or after exit day as if it were an authorisation to issue UK plant passports.

(2) Where a plant passport has been issued, under an authorisation referred to in subparagraph (1), before exit day for the purposes of the movement of that material which takes place both before and after exit day, the plant passport is to be treated as if it were a UK plant passport.

(3) For the avoidance of doubt, an authorisation under subparagraph (1) includes an authorisation to issue plant passports given in writing by the Inspector (within the meaning of the Import and Export (Plant Health) Ordinance, 1982) which has been given and has effect before exit day.

Obligation to register as a relevant plant business.

4. (1) A person which is a relevant plant business as at the date section 25 of this Ordinance comes into force ("**commencement date**") shall be treated as if registered under section 26 provided that an application is made to the

Committee for registration in accordance with section 26 within 6 months starting from the commencement date.

(2) A relevant plant business falling within subparagraph (1), shall be treated as if it were registered until -

(a) the Committee register the relevant plant business under section 26,

(b) if the application to register under section 26 is refused-

(i) the expiry of the period for appealing against the refusal under section 46,

(ii) where an appeal is duly instituted against the refusal, the date the appeal is finally determined or withdrawn, or

(iii) the expiry of a period of twelve months starting from the commencement date,

whichever is the later.

(3) An appeal is finally determined or withdrawn for the purposes of this paragraph when the appeal and any further appeal is finally determined.

