

The Plant Health (Implementation) (Guernsey)

Ordinance, 2020

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The Plant Health (Implementation) (Guernsey)

Ordinance, 2020

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 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^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

OFFICIAL CONTROLS ON CONTROLLED CONSIGNMENTS AND OTHER GOODS FROM THIRD COUNTRIES

Suspicion of non-compliance.

1. (1) This section applies where a plant health officer suspects that a controlled consignment or a regulated item is likely to be, or has been, brought into Guernsey from a third country in contravention of an EU plant health rule or that

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

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

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

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

any such consignment or item may not otherwise comply with an EU plant health rule.

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

(a) placing the consignment or item under official detention, and

(b) prohibiting the entry of the consignment or item into the Union territory,

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

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

Consignments not correctly presented for official controls.

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

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

3. (1) This section applies to –

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

Notices under section 1, 2 or 3.

4. A notice under section 1, 2 or 3 may include any of the following –

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

Interpretation of this Part.

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

PART II

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

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

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

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

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

PART III
OFFICIAL ACTIVITIES TO PREVENT THE ESTABLISHMENT OR SPREAD OF
PLANT PESTS

Introduction.

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

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

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

Notices in relation to controlled plant pests or prohibited material.

8. (1) A plant health officer may serve a notice on the appropriate person –

- (a) requiring the appropriate person to treat, destroy or otherwise dispose of the controlled plant pest or prohibited material,
- (b) prohibiting for the period specified in the notice –
 - (i) the removal of any controlled plant pest or prohibited material from the premises, or
 - (ii) any activity which the plant health officer considers necessary to prohibit in order to prevent the establishment or spread of a controlled plant pest,
- (c) requiring the removal of any controlled plant pest or prohibited material from the premises, or
- (d) requiring the taking of any other steps, as specified in the notice, which the plant health officer considers necessary to eradicate the controlled plant pest or prevent its establishment or spread.

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

- (3) In subsection (1), "**appropriate person**" means –
- (a) in the case of premises used by a professional operator, the professional operator, or
 - (b) in the case of any other premises –
 - (i) the occupier or any other person in charge of the premises, or
 - (ii) any other person who is charge of the controlled plant pest or the prohibited material at those premises.

Action which may be taken by a plant health officer.

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

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

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

(3) A plant health officer may be accompanied by such other persons (including representatives of the European Commission) and bring onto the premises such equipment and vehicles as the plant health officer considers necessary.

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

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

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

- (a) a plant, plant product or other object which is carrying, or is infested by or infected with, a controlled plant pest or may be carrying, or be infested by or infected with, a controlled plant pest, or
- (b) a plant, plant product or other object which is not carrying, or is not infested by or infected with, a controlled plant pest but the presence or existence of

which may, in the opinion of a plant health officer, cause a controlled plant pest to spread or be spread.

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

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

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

(2) The Committee may by notice –

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

(3) A notice under subsection (2) –

- (a) must describe the extent of the demarcated area,
- (b) must specify the date on which any such prohibitions or restrictions are to commence,

- (c) must be published in a manner appropriate to bring it to the attention of the public,
- (d) may be amended or withdrawn by further notice, and
- (e) must give brief particulars of the right of appeal in relation to the notice under section 33(1).

PART IV

TEMPORARY LOCAL MEASURES

Temporary local measures.

11. Schedule 1 contains additional temporary measures to prevent the entry of certain controlled plant pests into Guernsey, or their establishment in, or spread within, Guernsey.

PART V

REGISTRATION, AUTHORISATIONS AND CERTIFICATES

Purpose of this Part.

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

Application for registration as professional operator.

13. A professional operator which operates in Guernsey must submit an application for registration pursuant to Article 66 of the PHR, including the elements

required under that Article, to the Committee in the manner and form required by the Committee.

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

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

- (a) an application for a temporary authorisation to permit a relevant activity for official testing, scientific or educational purposes, trials, varietal selection or breeding,
- (b) an application for an authorisation referred to in Article 64(2) (release of plants etc. from quarantine stations and confinement facilities) of the PHR,
- (c) an application for an authorisation referred to in Article 89(1) (authorisation of professional operators to issue plant passports) of the PHR,
- (d) an application for an authorisation referred to in Article 98 (authorisation and supervision of registered operators applying the mark of wood packaging material in the Union territory) of the PHR, and
- (e) an application for the issue of a phytosanitary certificate for export, a phytosanitary certificate for re-export or a pre-export certificate.

(2) In this section -

"**relevant activity**" means an activity which would otherwise be prohibited under the PHR, an EU emergency decision or another EU plant health rule involving –

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

Authorisations for other purposes.

15. (1) The Committee may grant an authorisation to permit the carrying out of –

- (a) any activity specified in a plant health derogation, or
- (b) any other activity which requires the approval of the Committee under the PHR, the OCR or this Ordinance.

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

(3) In this section, a "**plant health derogation**" means –

(a) a derogation from provisions of the PHR which is set out in an implementing or delegated act adopted by the European Commission under the PHR or the OCR, or

(b) a derogation in any decision within the meaning of Article 288 of the Treaty on the Functioning of the European Union^e which continues to apply for the purposes of the PHR on or after the commencement date and which allows member States to authorise an activity which would otherwise be prohibited under the PHR.

Registrations made or authorisations granted by the Committee.

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

(a) subject to conditions, or

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

^e OJ C 202, 7.6.2016, p. 1.

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

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

at any time by notice in writing.

Fee for issue of phytosanitary certificates etc.

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

- (2) The certificates referred to in subsection (1) are –
 - (a) a phytosanitary certificate for export issued under Article 100 of the PHR,
 - (b) a phytosanitary certificate for re-export issued under Article 101 of the PHR, and
 - (c) a pre-export certificate issued under Article 102 of the PHR.
- (3) Liability to pay the fee arises upon service by the Committee

on the applicant of an account specifying the fee payable for the certificate issued.

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

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

PART VI

NOTIFICATION REQUIREMENTS

Notification requirements in relation to seed potatoes.

18. (1) A professional operator who is bringing any of the following potatoes into Guernsey must, at least two days before the expected date of their arrival in Guernsey, notify a plant health officer of the matters referred to in subsection (2) –

- (a) seed potatoes grown or suspected of having been grown in another member State or in Switzerland, or
- (b) potatoes, other than seed potatoes, grown or suspected of having been grown in Poland, Portugal, Romania or Spain.

(2) The matters are –

- (a) the expected time and date of their arrival,

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

(3) In this section –

"seed potatoes" means –

- (a) potatoes which bear that description or any description indicating their suitability for planting and propagation and which are capable of being used for planting and propagation, or
- (b) any potatoes that are intended to be used for planting and propagation.

Notification requirements in relation to citrus fruits.

19. (1) A professional operator who is introducing notifiable citrus fruits into the Union territory through a border control post in another part of the Union territory must, before their arrival at that border control post, notify the Committee at the specified address of the matters referred to in subsection (2).

- (2) The matters are –
- (a) the expected date of their introduction into the European Union,
 - (b) the name of the border control post,
 - (c) their volume,
 - (d) the identification numbers of their containers, and
 - (e) the names, addresses and the locations of the premises in Guernsey at which they are to be processed.
- (3) In subsection (1) –

"**notifiable citrus fruits**" means fruits of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf., *Microcitrus* Swingle, *Naringi* Adans., or *Swinglea* Merr., originating in a third country, which are to be industrially processed into juice in Guernsey, and

"**specified address**" means the address given by the Committee from time to time for the purposes of this section.

Notification requirements in relation to other plants and plant products.

20. (1) A professional operator who is bringing any of the following plants or plant products into Guernsey must, before or no later than four days after

the date of their arrival in Guernsey, notify a plant health officer of the matters referred to in subsection (2) –

- (a) plants of *Castanea* Mill., *Fraxinus* L., *Olea europaea* L., *Pinus* L., *Platanus* L., *Prunus* L., *Quercus* L. or *Ulmus* L. intended for planting, which have been grown or are suspected of having been grown in another member State,
 - (b) plants of *Castanea* Mill., *Fraxinus* L., *Olea europaea* L., *Pinus* L., *Platanus* L., *Prunus* L., *Quercus* L. or *Ulmus* L. intended for planting, which have been grown or are suspected of having been grown in Switzerland and to which Article 47(1) (requirements for phytosanitary transit) of the OCR does not apply, or
 - (c) solid fuel wood from another member State, or solid wood fuel from a third country to which Article 47(1) of the OCR does not apply.
- (2) The matters are –
- (a) the expected date of the arrival of the consignment or, if the consignment has arrived in Guernsey, the date on which it first arrived in Guernsey,
 - (b) the intended destination of the consignment, or if the consignment has arrived at its intended destination in Guernsey, its current location,

- (c) the genus, species and quantity of the plants or wood in the consignment,
- (d) the country from which the plants or wood have been, or are to be, consigned,
- (e) in the case of plants intended for planting, the identification number of the supplier of the plants, and
- (f) in the case of solid fuel wood –
 - (i) the address of the consignor, and
 - (ii) details of any phytosanitary treatments applied to the wood.

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

PART VII

GENERAL PROVISIONS IN RELATION TO PLANT HEALTH OFFICERS AND ENFORCEMENT

Powers of entry.

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

- (a) performing official controls to verify that –
 - (i) an operator is complying with the OCR ,
 - (ii) a professional operator is complying with the PHR,
 - (iii) a person is complying with this Ordinance, or
 - (iv) any plants, plant products or other objects which are subject to an EU plant health rule or to the requirements in Schedule 1 comply with that rule or those requirements,
- (b) carrying out other official activities which are to be performed by the Committee pursuant to the OCR, the PHR or this Ordinance,
- (c) enforcing the OCR, the PHR or this Ordinance,
- (d) verifying information supplied by a person in connection with an application for registration or for an authorisation or other consent (however named) granted, or to be granted, under this Ordinance, or
- (e) ascertaining whether a condition of an authorisation or other consent (however named) granted by the Committee under this Ordinance or for the purposes

of the OCR or the PHR is being or has been complied with.

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

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

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

(iii) any container, package or item which has been or may have been in contact with a plant pest or plant, plant product or other object,

(d) open any container or package or require the owner or person in charge of any container or package to open the container or package, or

(e) inspect or make copies of any documents or records (in whatever form they may be held) relating to the production of, or any activities relating to, any plant, plant product or other object.

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

(5) A plant health officer may –

(a) be accompanied by –

(i) a representative of the European Commission, an authorised officer of any competent authority designated in the Union territory for the purposes of the PHR or the OCR, or

(ii) such other person as the plant health officer considers necessary, or

(b) bring onto the premises such equipment and vehicles as the plant health officer considers necessary.

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

(a) remain on the premises and from time to time re-enter the premises without a plant health officer,

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

(c) carry out work on the premises in a manner directed by a plant health officer.

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

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

(a) there are reasonable grounds for entering premises under section 9, 21 or 24, and

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

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

(2) The conditions are that –

- (a) entry to the premises has been, or is likely to be, refused and notice of the intention to apply for a warrant has been given to the occupier,
- (b) asking for admission to the premises, or giving notice of the intention to apply for a warrant, would defeat the object of the entry,
- (c) entry is required urgently, or
- (d) the premises are unoccupied or the occupier is temporarily absent.

(3) A warrant issued under this section is valid for one month.

(4) A plant health officer who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before entry.

Information notices.

23. (1) A plant health officer may by notice require an appropriate person to give to the plant health officer, within the time specified in the notice, any information which the person may possess as to –

- (a) the plants grown or products stored at any time on the premises specified in the notice,
- (b) any plant pest or plant, plant product or other object of a description referred to in subsection (4)(b), or

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

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

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

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

(a) in relation to any premises to be specified in a notice under subsection (1), a person who is the owner, occupier or other person in charge of the premises,

(b) a person who has, has had, or is reasonably suspected by the plant health officer to have or have had, possession or charge of –

(i) a controlled plant pest,

(ii) any plant, plant product or other object which was carrying a controlled plant pest or which

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

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

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

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

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

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

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

(ii) in proceedings for –

(A) an offence under section 37, or

(B) some other offence where, in giving evidence that person makes a statement inconsistent with it, but is only admissible to the extent necessary to establish the inconsistency,

(C) perjury, or

(D) perverting the course of justice.

Failure to comply with a notice: action in default.

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

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

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

(4) A plant health officer may be accompanied by such other persons (including representatives of the European Commission) and bring onto the premises such equipment and vehicles as the plant health officer considers necessary.

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

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

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

Removal of ISPM 15 mark from wood packaging material.

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

Marking of wood packaging material: power of seizure.

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

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

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

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

(a) stating what has been seized and the reason for its seizure, and

(b) explaining the effect of subsections (5) to (12).

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

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

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

(a) an offence under section 34(1) or 35 has been committed in respect of it, or

(b) it was used in the commission of such an offence.

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

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

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

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

(a) the item must be returned to the appropriate person, and

(b) the appropriate person may apply to the Court for an order that the item be returned.

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

(13) In this section –

"appropriate person" means –

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

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

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

Disclosure of information held by the Committee for Home Affairs.

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

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

Disclosure of information to other competent authorities.

28. (1) The Committee may disclose information to any other competent authority in any other part of the Union territory for the purposes of the PHR or the OCR.

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

Appointment of plant health officer.

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

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

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

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

Interpretation of this Part.

30. (1) In this Part –

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

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

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

PART VIII

GENERAL AND SUPPLEMENTAL PROVISIONS RELATING TO NOTICES

Miscellaneous provisions as to notices.

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

(2) The notice may –

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

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

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

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

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

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

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

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

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

Service of notices.

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

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

(2) In subsection (1) –

(a) the expression "**by post**" means by recorded delivery service or ordinary letter post, and

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

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

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

(5) If service of a notice cannot, after reasonable enquiry, be effected by the Committee or a plant health officer in accordance with this section, the notice may be served –

(a) by being published in such manner and for such period as the Committee or the plant health officer thinks fit, or

- (b) by being published in La Gazette Officielle on two occasions falling in successive weeks,

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

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

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

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

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

- (a) in the case of a notice sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting, or
- (b) in the case of a notice sent elsewhere, on the seventh day after the day of posting, excluding in each case any

day which is not a working day.

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

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

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

PART IX

APPEALS AGAINST DECISIONS

Appeals against decisions.

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

- (a) to refuse an application by that person for registration as a professional operator under Article 66 of the PHR,
- (b) to amend, suspend or revoke a registration of that person as a professional operator under Article 66(6) of the PHR and section 16,
- (c) to refuse an application by that person for authorisation to issue plant passports under Article 89 of the PHR,

- (d) to amend, suspend or withdraw, under Article 92 of the PHR and section 16, an authorisation to issue plant passports issued to that person,
- (e) to issue a notice (except for an information notice under section 23), or a notice to amend such a notice –
 - (i) served on that person under this Ordinance, or
 - (ii) under this Ordinance designating or demarcating an area (however named) where that person's premises, or a part of the same, are located,
- (f) to take or ensure the taking of any measures provided for under this Ordinance in relation to that person's premises, or part of the same,
- (g) to refuse an application for another authorisation under the PHR or this Ordinance, or
- (h) to amend, suspend or withdraw another authorisation under the PHR or this Ordinance, issued to that person,

may appeal to the Court against the decision.

- (2) A person aggrieved by such other description of decision by

any person under this Ordinance, the PHR or the OCR as the Committee may by Order prescribe, may appeal to the Court against the decision.

- (3) The grounds of an appeal under this section are that –
 - (a) the decision was ultra vires or there was some other error of law,
 - (b) the decision was unreasonable,
 - (c) the decision was made in bad faith,
 - (d) there was a lack of proportionality, or
 - (e) there was a material error as to the facts or as to the procedure.

- (4) An appeal under this section must be instituted -
 - (a) within a period of 28 days immediately following the date of the notification of the decision, and
 - (b) by summons served on the President of the Committee, the plant health officer or the other person, as the case may be, stating the grounds and material facts on which the appellant relies.

(5) The Committee, plant health officer or other person, as the case may be, may, where an appeal under this section has been instituted, apply to

the Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution, and on hearing the application the Court may -

(a) dismiss the appeal or dismiss the application (in either case on such terms and conditions as the Court may direct), or

(b) make such other order as the Court considers just.

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

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

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

(b) confirm the decision, in whole or in part.

(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

^f O.R.C. No. IV of 2007; as amended by O.R.C. No. II of 2008; and No. IV of 2009.

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 X
OFFENCES

General.

34. (1) A person commits an offence if the person contravenes –
- (a) paragraph 1 or 2 of Schedule 1,
 - (b) section 18(1), 19(1) or 20(1),
 - (c) a provision of the PHR specified in Part I of Schedule 2,
 - (d) a provision of the OCR specified in Part II of Schedule 2 (insofar as it applies to plants, plant products or other objects which are subject to an EU plant health rule),

(e) a provision of any other EU legislation specified in Part III of Schedule 2, or

(f) a provision of an EU emergency decision specified in Schedule 3.

(2) But subsection (1) does not apply to anything done under, or in accordance with –

(a) an authorisation or other consent (however named) which is granted, or has effect, under this Ordinance, or

(b) a notice which is given by a plant health officer or the Committee under this Ordinance.

Failure to comply with requirements of notices etc.

35. A person commits an offence if the person fails to comply with –

(a) a provision of a notice served on the person under this Ordinance,

(b) a term or condition of an authorisation or other consent (however named) granted to the person under this Ordinance, or

(c) a direction given under this Ordinance.

Defence: reasonable excuse.

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

Provision of false or misleading information.

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

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

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

Improper use of plant passports or certificates.

38. A person commits an offence if the person –

- (a) dishonestly issues a plant passport or a certificate,

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

Obstruction.

39. A person commits an offence if the person –

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

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

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

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

Defence: lawful disclosure.

41. It is a defence for a person charged with an offence under section 40 to prove that the person reasonably believed that –

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

Criminal liability of directors etc.

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

- (a) in the case of a body corporate, any director, manager, secretary or other similar officer,
- (b) in the case of a limited partnership with legal

personality, any general partner,

- (c) in the case of a foundation, any foundation official, or
- (d) any person purporting to act in any capacity described in paragraphs (a) to (c),

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

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

(3) In this section -

"foundation" means -

- (a) a foundation created under the Foundations (Guernsey) Law, 2012⁸, or
- (b) an equivalent or similar body created or established under the law of another jurisdiction (however named),

"foundation official" means -

⁸ Order in Council No. I of 2013; as amended by Order in Council No. VI of 2017, Ordinance No. IX of 2016, and No. XXVII of 2018.

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

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

paragraph (a) of this definition.

- (4) In this section and in section 43 "**limited partnership**" means-
- (a) an arrangement which is registered as a limited partnership, and in respect of which there is a valid certificate of registration, under the Limited Partnerships (Guernsey) Law, 1995, or
 - (b) an arrangement entered into under the laws of a jurisdiction outside Guernsey between two or more persons, under which -
 - (i) one or more of them is, or are jointly and severally, liable without limitation for all debts and obligations to third parties incurred pursuant to the arrangement, and
 - (ii) the others have, by whatever means, contributed or agreed to contribute specified amounts pursuant to the arrangement and are not liable for those debts and obligations (unless they participate in controlling the business or are otherwise subjected to a greater liability by those laws in specified circumstances) beyond the amount contributed or agreed to be contributed,

whether with or without legal personality.

Criminal proceedings against unincorporated bodies.

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

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

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

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

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

- (4) In this section "**limited liability partnership**" means -
- (a) a limited liability partnership formed in Guernsey under the Limited Liability Partnerships (Guernsey) Law, 2013ⁱ, or
 - (b) an entity formed under the laws of a jurisdiction outside Guernsey, being an entity corresponding to a limited liability partnership described in paragraph (a).

Penalties.

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

PART XI

FEES AND CHARGES AND EXCLUSION OF LIABILITY

Fees and charges.

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

- (a) the carrying out of functions,
- (b) the provision of any services by the Committee or a

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

plant health officer in connection with any of their functions, or

- (c) the recovery of any reasonable costs associated with administration and enforcement,

under this Ordinance or the PHR.

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

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

Exclusion of liability.

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

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

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

(2) The persons within this subsection are -

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

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

PART XII MISCELLANEOUS

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

Powers to amend or prescribe certain provisions by Order.

47. (1) The Committee may by Order -

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

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

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

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

- (a) containment measures or preventative measures within the meaning of section 2(1)(k) and (l) of the Plant Health (Enabling Provisions) (Guernsey) Law, 2014, or

- (b) measures in relation to the control of any controlled plant pest affecting solanaceous species, including potato ring rot, potato brown rot or potato cyst nematodes including measures to implement –
- (i) Council Directive 93/85/EEC on the control of potato ring rot^k,
 - (ii) Council Directive 98/57/EC on the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*^l,
 - (iii) Council Directive 2007/33/EC on the control of potato cyst nematodes and repealing Directive 69/465/EEC^m, or
 - (iv) Commission Implementing Decision 2011/787/EU.

Interpretation: general.

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

"another member State" means a member State other than the United Kingdom,

^k OJ L 259, 18.10.1993, p. 1.

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

^m OJ L 156, 16.6.2007, p. 12.

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

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

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

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

- (a) which may not be brought into the Union territory without a phytosanitary certificate for export or a phytosanitary certificate for re-export pursuant to –
 - (i) Article 72 (plants, plant products and other objects for which phytosanitary certificates are required) or 74 (plants, plant products and other objects for which phytosanitary certificates are required for introduction into a protected zone) of the PHR,
 - (ii) an EU emergency decision, or
 - (iii) any other EU plant health rule other than Article 73 of the PHR, or

- (b) which was exported from the Union territory to a third country and is returning to the Union territory following the refusal by that third country to allow its entry into the country,

"controlled plant pest" means -

- (a) a plant pest of a description specified in Annex II, III or IV to the Phytosanitary Conditions Regulation,
- (b) a plant pest of a description specified in an EU emergency decision, or
- (c) a plant pest subject to any other EU plant health rule,

"country" includes a territory,

"EU emergency decision" means an EU Instrument referred to section 49,

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

"ISPM 15" means International Standard for Phytosanitary Measures No. 15 of March 2002 on Guidelines for regulating wood packaging material in international trade, prepared by the Secretariat of the International Plant

Protection Convention established by the Food and Agriculture Organisation of the United Nationsⁿ,

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

"the **OCR**" means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC, insofar as it applies to EU plant health rules^o,

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

"**the PHR**" means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants,

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

^o OJ L 095, 7.4.2017, p. 1.

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

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

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

"plant passport" is construed in accordance with Article 78 of the PHR,

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

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

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

"Potato cyst nematode" means any cyst-forming nematode of the

^P OJ L 317, 23.11.2016, p. 4.

^q OJ L 319, 10.12.2019, p. 1.

species *Globodera pallida* (Stone) Behrens or *Globodera rostochiensis* (Wollenweber) Behrens that infests and multiplies on potatoes and any strains or pathotypes of such nematode,

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

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

"**regulated item**" means –

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

"**Spain**" means that part of Spain which is included within the Union territory for the purposes of the PHR, other than the Balearic Islands,

"**third country**" means a country outside the Union territory,

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

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

"**Union territory**" is construed in accordance with the second paragraph of Article 1(3) of the PHR.

(2) Unless the context otherwise requires, words and expressions which are not defined in this Ordinance and which appear in the PHR or the OCR have the same meaning in this Ordinance as they have in the PHR or the OCR (as the case may be).

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

Interpretation: EU instruments relating to plant health.

49. In this Ordinance –

"**Commission Decision 98/109/EC**" means Commission Decision 98/109/EC authorising Member States temporarily to take emergency

^r 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.

measures against the dissemination of *Thrips palmi* Karny as regards Thailand^s,

"**Commission Decision 2002/757/EC**" means Commission Decision 2002/757/EC on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in 't Veld sp. nov.^t,

"**Commission Decision 2004/200/EC**" means Commission Decision 2004/200/EC on measures to prevent the introduction into and spread within the Community of Pepino mosaic virus^u,

"**Commission Implementing Decision 2011/787/EU**" means Commission Implementing Decision 2011/787/EU authorising member States temporarily to take emergency measures against the dissemination of *Ralstonia solanacearum* (Smith) Yabuuchi et al., as regards Egypt^v,

"**Commission Implementing Decision 2012/138/EU**" means Commission Implementing Decision 2012/138/EU as regards emergency

^s OJ No. L 27, 3.2.1998, p. 47.

^t OJ No. L 252, 20.9.2002, p. 37, as last amended by Commission Implementing Decision (EU) 2016/1967 (OJ No L 303, 10.11.2016, p. 21).

^u OJ No. L 64, 2.3.2004, p. 43.

^v OJ No. L 319, 2.12.2011, p. 112.

measures to prevent the introduction into and the spread within the Union of *Anoplophora chinensis* (Forster)^w,

"Commission Implementing Decision 2012/270/EU" means Commission Implementing Decision 2012/270/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix papa* sp.n., *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner)^x,

"Commission Implementing Decision 2012/535/EU" means Commission Implementing Decision 2012/535/EU on emergency measures to prevent the spread within the Union of *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al. (the pine wood nematode)^y,

"Commission Implementing Decision 2012/697/EU" means Commission Implementing Decision 2012/697/EU as regards measures to prevent the introduction into and the spread within the Union of the genus *Pomacea* (Perry)^z,

"Commission Implementing Decision (EU) 2015/789" means Commission Implementing Decision (EU) 2015/789 as regards measures to

^w OJ No L 64, 3.3.2012, p. 38, as amended by Commission Implementing Decision (EU) 2014/356/EU (OJ No L 175, 14.6.2014, p. 38).

^x OJ No L 132, 23.5.2012, p. 18, as last amended by Commission Implementing Decision (EU) 2018/5 (OJ No L 2, 5.1.2018, p. 11).

^y OJ No L 266, 2.10.2012, p. 42, as last amended by Commission Implementing Decision (EU) 2018/618 (OJ No L 102, 23.4.2018).

^z OJ No L 311, 10.11.2012, p. 14.

prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.)^{aa},

"Commission Implementing Decision (EU) 2015/893" means Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulksy)^{bb},

"Commission Implementing Decision (EU) 2016/715" means Commission Implementing Decision (EU) 2016/715 setting out measures in respect of certain fruits originating in certain third countries to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (McAlpine) Van der Aa.^{cc},

"Commission Implementing Decision (EU) 2017/198" means Commission Implementing Decision (EU) 2017/198 as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyuma & Goto^{dd},

"Commission Implementing Decision (EU) 2018/638" means Commission Implementing Decision (EU) 2018/638 establishing emergency

^{aa} OJ No L 125, 21.5.2015, p. 36, as last amended by Commission Implementing Decision (EU) 2018/1511 (OJ No L 255, 11.10.2018).

^{bb} OJ No L 146, 11.6.2015, p. 16.

^{cc} OJ No L 125, 13.5.2016, p. 16, as last amended by Commission Implementing Decision (EU) 2018/85 (OJ No L 16, 20.1.2018).

^{dd} OJ No L 31, 4.2.2017, p. 29.

measures to prevent the introduction into and the spread within the Union of the harmful organism *Spodoptera frugiperda* (Smith)^{ee},

"Commission Implementing Decision (EU) 2018/1503" means Commission Implementing Decision (EU) 2018/1503 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann)^{ff},

"Commission Implementing Decision (EU) 2019/1615" means Commission Implementing Decision (EU) 2019/1615 establishing emergency measures to prevent the introduction into and the spread within the Union of Tomato brown rugose fruit virus (ToBRFV)^{gg},

"Commission Implementing Decision (EU) 2019/1739" means Commission Implementing Decision (EU) 2019/1739 establishing emergency measures to prevent the introduction into and the spread within the Union of Rose Rosette Virus^{hh}, and

"Commission Implementing Decision (EU) 2019/2032" means Commission Implementing Decision (EU) 2019/2032 establishing measures to

^{ee} OJ No L 105, 25.4.2018, p. 31, as amended by Commission Implementing Decision (EU) 2019/1598 (OJ No L 248, 27.9.2019, p. 86).

^{ff} OJ No L 254, 10.10.2018, p. 9.

^{gg} OJ No L 250, 30.9.2019, p. 91.

^{hh} OJ No L 265, 18.10.2019, p. 12.

prevent the introduction into and spread within the Union of *Fusarium circinatum* Nirenberg & O'Donnell (formerly *Gibberella circinata*)ⁱⁱ,

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

50. (1) Any reference in the PHR to a pest that is subject to the measures adopted under Article 30(1) of the PHR includes the following plant pests–

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

Consequential amendment.

51. (1) The European Communities (Official Controls) (Implementation and General Provisions) (Guernsey) Ordinance, 2019^{jj} is amended as follows.

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

ⁱⁱ OJ No. L313, 4.12.2019, p. 94.

^{jj} Made by the Policy & Resources Committee on 10th December, 2019.

- (a) after subsection (5)(a), delete "and", and
- (b) after subsection (5)(b) add –

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

Consequential repeals.

52. The enactments listed in Schedule 4 are repealed.

Citation and commencement.

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

TEMPORARY LOCAL MEASURES

PART I

PLANTS, PLANT PRODUCTS OR OTHER OBJECTS FROM THIRD COUNTRIES

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

1. (1) No person may introduce any used machinery or vehicles which have been operated for agricultural or forestry purposes and exported from Switzerland unless the machinery or vehicles –

(a) have been exported from an area established by the national plant protection organisation in accordance with ISPM 4 as an area that is free from *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr., or

(b) in the case of any machinery or vehicles exported from an area infested with *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr., they have been cleaned and were free from soil and plant debris prior to being moved out of the area.

(2) In this paragraph –

"IPPC" means the International Plant Protection Convention 1951, done at Rome on 6th December, 1951,

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

"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.

PART II

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

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

2. No person may introduce or move any plants, plant products or other objects described in column 2 of Table 1 unless they are accompanied by an

^{kk} Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

official statement confirming the matters set out in the corresponding entry in column 3 of that Table.

Table 1

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

3. In this Part –

"**move**" means move within Guernsey, and

"**official statement**" means a statement issued by, or under the supervision of, an authorised representative of the competent authority in the member State of origin.

PART III

INTERPRETATION

Interpretation of the Schedule.

4. In this Schedule, "**introduce**" means introduce into Guernsey from a third country or another part of the Union territory.

SCHEDULE 2

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

OFFENCES: RELEVANT PROVISIONS IN THE EU REGULATIONS

PART I

THE PHR

<i>Provision of the PHR</i>	<i>Subject matter</i>
Article 5(1) (as read with Article 8(1))	Prohibits the introduction of a Union quarantine pest into the Union territory, the movement of a Union quarantine pest within the Union territory or the holding, multiplication or the release of a Union quarantine pest in the Union territory ^{II} .
Article 9(3) (as read with Article 33(1))	Requires professional operators immediately to notify competent authorities of any evidence they may have concerning an imminent danger of the entry of: (a) a Union quarantine pest or a pest subject to measures

^{II} The list of Union quarantine pests is set out in Annex II to the Phytosanitary Conditions Regulation").

adopted pursuant to Article 30(1) into the Union territory or into a part of the Union territory where it is not yet present, or

- (b) a protected zone quarantine pest into the respective protected zone.

Article 14(1) (as read with Articles 16 and 33(1))

Requires a professional operator who suspects or becomes aware that:

- (a) a Union quarantine pest or a pest subject to measures adopted pursuant to Article 30(1) is present in plants, plant products or other objects which are under the operator's control, or
- (b) a protected zone quarantine pest is present in plants, plant products or other objects which are under the operator's control in the respective protected zone,

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

Article 14(3)

Requires a professional operator:

- (a) to consult the competent

authority where the professional operator has received an official confirmation concerning the presence of a Union quarantine pest in plants, plant products or other objects which are under the operator's control, and

- (b) where applicable, proceed with the actions required under Article 14(4) to (7).

Article 15(1) (as read with Articles 15(2), 16 and 33(1))

Requires a person who is not a professional operator immediately to notify the competent authority where the person becomes aware of, or has reason to suspect:

- (a) the presence of a Union quarantine pest, or
- (b) the presence of a protected zone quarantine pest in the respective protected zone.

Article 32(2)

Prohibits the introduction of a protected zone quarantine pest into the respective protected zone, the movement of a protected zone quarantine pest within the respective protected zone or the holding, multiplication or the release of a protected zone quarantine pest in the

	respective protected zone ^{mm} .
Article 37(1) (as read with Article 39 and Article 17 of the Phytosanitary Conditions Regulation)	Prohibits the introduction into the Union territory by a professional operator of a Union regulated non-quarantine pest on plants for planting through which it is transmitted, or the movement of a Union regulated non-quarantine pest within the Union territory by a professional operator on plants for planting through which it is transmitted ⁿⁿ .
Article 40(1) (as read with Articles 47 and 48(1))	Prohibits the introduction into the Union territory of certain plants, plant products or other objects if they originate from all or certain third countries or territories ^{oo} .
Article 41(1) (as read with Articles 47 and 48(1))	Prohibits: <ul style="list-style-type: none"> (a) the introduction into the Union territory of certain plants, plant products or other objects from third countries unless the special

^{mm} The list of protected zones and the respective protected zone pests is set out in Annex III to the Phytosanitary Conditions Regulation.

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

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

- requirements in respect of those plants, plant products or other objects are fulfilled^{PP}, or
- (b) the movement within the Union territory of certain plants, plant products or other objects unless the special requirements in respect of those plants, plant products or other objects are fulfilled^{PP}.

^{PP} The list of plants, plant products and other objects originating from third countries and the corresponding special requirements in relation to their introduction into the Union territory is set out in Annex VII to the Phytosanitary Conditions Regulation.

^{PP} The list of plants, plant products and other objects originating in the Union and the corresponding special requirements in relation to their movement within the Union territory is set out in Annex VIII to the Phytosanitary Conditions Regulation.

Article 42(2) (as read with Articles 47 and 48(1))	Prohibits the introduction into the Union territory of high-risk plants, plant products or other objects from third countries ^{rr} .
Article 43(1)	Prohibits the introduction into the Union territory of wood packaging material, whether or not in use in the transport of objects of any kind, unless it fulfils the specified requirements or is subject to the exemptions provided for in ISPM 15.
Article 45(1), third paragraph (as read with Article 55)	Requires postal services and professional operators involved in sales through distance contracts to make specified information available to their clients through the internet.
Article 53(1) (as read with Articles 57 and 58).	Prohibits: <ul style="list-style-type: none"> (a) the introduction of certain plants, plant products or other objects originating from third countries into certain protected zones, or

^{rr} The list of high risk plants, plant products and other objects to which the prohibition applies is set out in Annex I to Commission Implementing Regulation (EU) 2018/2019 establishing a provisional list of high risk plants, plant products or other objects, within the meaning of Article 42 of the PHR and a list of plants for which phytosanitary certificates are not required for introduction into the Union, within the meaning of Article 73 of that Regulation (OJ No. L 323, 19.12.2018, p. 10).

(b) the introduction of certain plants, plant products or other objects originating within the Union territory into certain protected zones^{ss}.

Article 54(1) (as read with Articles 57 and 58) Prohibits:

- (a) the introduction of certain plants, plant products or other objects into certain protected zones unless the special requirements in respect of those protected zones are fulfilled, or
- (b) the movement of certain plants, plant products or other objects within certain protected zones unless the special requirements in respect of those protected zones are fulfilled^{tt}.

Article 59 Requires vehicles, machinery or packaging material used for:

- (a) specified plants, plant products or other objects moving into or

^{ss} The list of plants, plant products and other objects for these purposes is set out in Annex IX to the Phytosanitary Conditions Regulation.

^{tt} The list of plants, plant products and other objects for these purposes is set out in Annex X to the Phytosanitary Conditions Regulation.

within the Union territory, or through the Union territory, to be free from Union quarantine pests and pests subject to measures adopted pursuant to Article 30(1), or

- (b) specified plants, plant products or other objects moving into or within the protected zones, or through protected zones, to be free from the respective protected zone quarantine pests.

Article 62(1)

Requires a person responsible for a quarantine station or confinement facility to monitor the station or facility and its immediate vicinity for the unintended presence of Union quarantine pests and pests subject to measures adopted pursuant to Article 30(1).

Article 62(2)

Requires a person responsible for a quarantine station or confinement facility to take appropriate action based on the contingency plan referred to in point (e) of Article 61(1) and to comply with the obligations of professional operators in Article 14 where the unintended presence of a Union quarantine pest or a

pest subject to measures adopted pursuant to Article 30(1) is found or suspected.

Article 64(1) (as read with Article 64(2)) Prohibits the release of plants, plant products and other objects from quarantine stations or confinement facilities unless authorised by the competent authorities.

Article 66(1) (as read with Article 65(3)) Requires certain professional operators to submit an application for registration to the competent authorities.

Article 66(5) (as read with Article 65(3)) Requires registered operators, where relevant:

(a) to submit an annual update concerning any changes in the data referred to in points (d) and (e) of Article 66(2) or in the statements referred to in points (b) and (c) of Article 66(2), or

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

Article 69(1) (as read with Articles 65(3) and 69(3)) Requires a professional operator to whom plants, plant products or other objects are supplied that are subject to

the specified requirements or conditions to keep a record allowing the operator to identify the professional operator who supplied each trade unit.

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

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

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

Articles 72(1) and 73 Prohibits the introduction into the Union territory of certain plants, plant products and other objects from third countries

unless they are accompanied by a phytosanitary certificate^{uu}.

Article 74(1)

Prohibits the introduction of certain plants, plant products and other objects from third countries into certain protected zones unless accompanied by a phytosanitary certificate^{vv}.

Article 79(1) (as read with Articles 81, 82 and 83)

Prohibits the movement of certain plants, plant products and other objects within the Union territory without a plant passport^{ww}.

Article 80(1) (as read with Articles 81, 82 and 83)

Prohibits the introduction of certain plants, plant products and other objects into certain protected zones, or the movement of certain plants, plant products and other objects within certain

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

^{vv} The list of plants, plant products and other objects for these purposes is set out in Annex XII to the Phytosanitary Conditions Regulation.

^{ww} The list of plants, plant products and other objects for these purposes is set out in Annex XIII to the Phytosanitary Conditions Regulation.

protected zones, without a plant passport^{xx}.

Article 84(1)

Prohibits professional operators from issuing plant passports unless they are authorised and from issuing plant passports for plants, plant products or other objects for which they are not responsible.

Article 84(3)

Prohibits authorised professional operators from issuing plant passports except at specified premises, collective warehouses or dispatching centres.

Article 85 (as read with Article 87)

Prohibits authorised professional operators from issuing plant passports for plants, plant products or other objects unless the specified requirements are fulfilled in respect of those plants, plant products or other objects.

Article 86(1) (as read with Articles 86(2) and 87)

Prohibits authorised professional operators from issuing plant passports for plants, plant products or other objects to be introduced into, or moved within, a protected zone unless the specified

^{xx} The list of plants, plant products and other objects for these purposes is set out in Annex XIV to the Phytosanitary Conditions Regulation.

requirements are fulfilled in respect of those plants, plant products or other objects.

Article 88

Requires professional operators to attach plant passports to the trade unit of the plants, plant products or other objects concerned, or where the plants, plant products or other objects are moved in a package, bundle or container, to that package, bundle or container.

Article 90(1)

Requires an authorised operator to:

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

Article 90(2)

Requires authorised operators to ensure that appropriate training is given to its

personnel involved in the examinations referred to in Article 87.

Article 93(1)

Prohibits authorised operators from issuing replacement plant passports unless certain conditions are fulfilled.

Article 93(5)

Requires authorised operators to retain replacement plant passports or their contents for at least three years.

Article 96(1)

Prohibits the marking of wood packaging material, wood or other objects in the Union territory by:

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

Article 97(1)

Prohibits the repairing of wood packaging material:

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

PART II
THE OCR

<i>Provision of the OCR</i>	<i>Subject matter</i>
Article 47(5) (as read with Articles 5 and 7 of Commission Delegated Regulation (EU) 2019/2122 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' personal luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending Regulation (EU) No 142/2011 ^{yy}).	Requires the operator responsible for a relevant consignment entering the Union to ensure that it is presented for official controls at the border control post of first arrival into the Union.
Article 50(1)	Requires the operator of a relevant consignment to which Article 47(1) applies to present the original official certificates or documents which are required to accompany the consignment to the competent authorities of the

^{yy} OJ L 321, 12.12.2019, p. 45.

border control post.

Article 50(3)

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

Article 56(1)

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

Article 56(4) (as read with Article 1(1) of Commission Implementing Regulation (EU) 2019/1013 on the prior notification of consignments of certain categories of animals and goods entering the Union^{zz})

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

PART III

OTHER EU LEGISLATION

Provision of EU legislation

Subject matter

Commission Delegated Regulation (EU) 2019/1602 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common

^{zz} OJ L 165, 21.6.2019, p. 8.

Health Entry Document accompanying consignments of animals and goods to their destination^{aaa}

Article 3 (as read with Articles 4(a), 5(1) (b), (d), 5(2)(a) and (c) and 6(a)) Requires the operator responsible for a consignment to ensure that a Common Health Entry Document ("CHED") accompanies the consignment before it is released for free circulation in accordance with Article 57(2)(b) of the OCR.

Commission Delegated Regulation (EU) 2019/2124 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for official controls of consignments of animals and goods in transit, transshipment and onward transportation through the Union, and amending Commission Regulations (EC) No 798/2008, (EC) No 1251/2008, (EC) No 119/2009, (EU) No 206/2010, (EU) No 605/2010, (EU) No 142/2011, (EU) No 28/2012, Commission Implementing Regulation (EU) 2016/759 and Commission Decision 2007/777/EC^{bbb}

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

Article 6 Requires the operator who is responsible

^{aaa} OJ L 250, 30.9.2019, p. 6.

^{bbb} OJ L 321, 12.12.2019, p. 73.

for a relevant consignment that has been given authorisation for onward transportation to comply with the specified conditions relating to its transportation and storage.

Article 16(1) and (3)

Requires the operator who is responsible for a transhipped relevant consignment to notify the specified information to competent authorities.

Article 22(4)

Requires the operator who is responsible for a relevant consignment that is in transit through the Union territory to take specific measures relating to the transportation of the consignment.

SCHEDULE 3

Section 34(1)(f)

OFFENCES RELATING TO EU EMERGENCY DECISIONS

<i>EU decision</i>	<i>Provision of EU decision</i>
Commission Decision 98/109/EC	Article 1 (requirements in relation to the introduction into the Union territory of cut flowers of <i>Orchidaceae</i> originating in Thailand).
Commission Decision 2002/757/EC	Article 3(1) and (2) (requirements in relation to the introduction into the Union territory of susceptible plants and susceptible wood originating in the USA). Article 3(4) (requirements in relation to the movement within the Union territory of certain plants, other than seeds, intended for planting and originating in third countries, other than the USA). Article 4 (prohibition on the introduction into the Union territory of susceptible bark originating in the USA). Article 5 (requirements in relation to the movement within the Union territory of certain plants intended for planting originating in the Union).
Commission Decision 2004/200/EC	Article 1 (prohibition on the movement within the Union territory) of seeds of <i>Solanum lycopersicum</i> L. contaminated by Pepino mosaic virus) insofar as it relates to the movement of seeds of <i>Solanum lycopersicum</i> L. that were produced before

14th December 2019 and are moved within the Union territory at any time before 14th December 2020.

Article 3(1) (requirements in relation to the movement of seeds of *Solanum lycopersicum* L. originating in the Union) insofar as it relates to the movement of seeds of *Solanum lycopersicum* L. that were produced before 14th December 2019 and are moved within the Union territory at any time before 14th December 2020.

Commission
Implementing
Decision
2011/787/EU

Article 41(1) (requirements in relation to the introduction into the Union territory of tubers of *Solanum tuberosum* L. originating in Egypt).

Commission
Implementing
Decision
2012/138/EU

Article 2 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries, other than China).

Article 3(1) and (2) (requirements in relation to the introduction into the Union territory of specified plants originating in China).

Article 4 (requirements in relation to the movement within the Union territory of specified plants originating in, or introduced into, demarcated areas or specified plants introduced into the Union territory in accordance with Article 2 or 3).

Commission
Implementing

Article 1 (prohibition on the introduction into the Union territory and the spread within the Union territory, of *Epitrix*

Decision 2012/270/EU	<i>cucumeris</i> (Harris), <i>Epitrix papa</i> . (Orlova-Bienkowskaja), <i>Epitrix subcrinita</i> (Lec.) or <i>Epitrix tuberis</i> (Gentner)).
	Article 2(1) (requirements in relation to the introduction into the Union territory of potato tubers originating in third countries where one or more of the specified organisms are known to be present).
	Article 3 (requirements in relation to the movement within the Union territory of potato tubers originating in demarcated areas or potato tubers introduced into the Union territory from third countries where one or more of the specified organisms are known to be present).
Commission Implementing Decision 2012/535/EU	Article 10(1) and (2) (requirements in relation to the movement within the Union territory of susceptible plants, susceptible wood or susceptible bark).
Commission Implementing Decision 2012/697/EU	Article 2 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries).
	Article 3 (requirements in relation to the movement within the Union territory of specified plants originating in demarcated areas).
Commission Implementing Decision (EU) 2015/789	Article 9 (requirements in relation to the movement within the Union territory of specified plants, other than any which have been grown for the entire production cycle <i>in vitro</i> or plants belonging to varieties of specified plants listed in Annex III).

Article 9a (requirements in relation to the movement within the Union territory of specified plants which have been grown for the entire production cycle *in vitro* and for at least part of their life in demarcated areas).

Article 15 (prohibition on the introduction of plants for planting, other than seeds, of *Coffea* originating in Costa Rica or Honduras).

Article 16 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries where the specified organism is not present).

Article 17(1) (requirements in relation to the introduction into the Union territory of specified plants originating in third countries where the specified organism is known to be present).

Commission
Implementing
Decision (EU)
2015/893

Article 2(a) (requirements in relation to the introduction into the Union territory of specified plants originating in third countries where the specified organism is known to be present).

Article 3(a) (requirements in relation to the introduction into the Union territory of specified wood originating in third countries where the specified organism is known to be present).

Article 4 (requirements in relation to the movement within the Union territory of specified plants originating in, or introduced into, demarcated areas or specified plants introduced into the Union territory from third countries in

accordance with Article 2).

Article 5 (requirements in relation to the movement within the Union territory of specified wood originating in demarcated areas, specified wood retaining all or part of its round surface which has been introduced into demarcated areas or specified wood packaging material originating in demarcated areas).

Commission
Implementing
Decision (EU)
2016/715

Article 5 (requirements in relation to the introduction into the Union territory of specified fruits originating in South Africa or Uruguay).

Article 5a (requirements in relation to introduction into the Union territory of specified fruits originating in Argentina or Brazil).

Commission
Implementing
Decision
2017/198/EU

Article 1 (prohibition on the introduction of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto into the Union territory and its spread within the Union territory).

Article 2 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries).

Article 3 (requirements in relation to the movement within the Union territory of specified plants originating in the Union or specified plants introduced into the Union territory from third countries in accordance with Article 2).

Commission
Implementing

Article 3(a) and (b) (requirements in relation to introduction into the Union territory of specified plants originating in third

Decision (EU) 2018/638	countries other than Switzerland).
Commission Implementing Decision (EU) 2018/1503	<p>Article 7(1), (6) and (7) (requirements in relation to the movement within the Union territory of specified plants originating in demarcated areas, specified plants introduced into demarcated areas or specified plants introduced into the Union territory from third countries where the specified organism is known to be present in accordance with Article 11).</p> <p>Article 8 (requirements in relation to the movement within the Union territory of specified wood originating in demarcated areas or specified wood retaining all or part of its round surface introduced into demarcated areas).</p> <p>Article 9 (requirements in relation to movement within the Union territory of specified wood packaging material originating in demarcated areas).</p> <p>Article 11 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries where the specified organism is known to be present).</p> <p>Article 12 (requirements in relation to the introduction into the Union territory of specified wood originating in third countries where the specified organism is known to be present).</p>
Commission Implementing	Article 2 (prohibition on the introduction of Tomato brown rugose fruit into the Union territory and its movement within

Decision (EU) 2019/1615	<p>the Union territory).</p> <p>Article 5 (requirements in relation to the movement within the Union territory of specified plants originating in the Union territory).</p> <p>Article 6 (requirements in relation to introduction into the Union territory of specified plants originating in third countries).</p>
Commission Implementing Decision (EU) 2019/1739	<p>Article 2 (prohibition on the introduction of Rose rosette virus into the Union territory and its spread within the Union territory).</p> <p>Article 5 (requirements in relation to the introduction into the Union territory of specified plants originating in third countries).</p>
Commission Implementing Decision (EU) 2019/2032	<p>Article 6 (requirements in relation to the movement within the Union territory of specified plants).</p> <p>Article 7 (requirements in relation to the movement of specified wood and isolated bark from an infested zone to a buffer zone or from a demarcated area).</p> <p>Article 8 (requirements in relation to the movement of wood packaging material from an infested zone to a buffer zone or from a demarcated area).</p> <p>Article 9 (requirements in relation to the introduction into the</p>

Union territory of specified plants originating in non-European third countries).

Article 10 (requirements in relation to the introduction into the Union territory of specified wood or isolated bark originating in non-European third countries).

SCHEDULE 4

Section 52

REPEALS

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

^{ccc} Ordres en Conseil Vol. IX, p. 318; as amended by Ordres en Conseil Vol. XXIII, p. 188; Vol. XXXI, p. 278; and Ordinance No. XXXIII of 2003.

^{ddd} Recueil d'Ordonnance Tome VI, p. 59.

^{eee} Recueil d'Ordonnance Tome VIII, p. 289.

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