RURAL ECONOMY AND CONNECTIVITY COMMITTEE

AGENDA

14th Meeting, 2018 (Session 5)

Wednesday 9 May 2018

The Committee will meet at 9.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Decision on taking business in private:** The Committee will decide whether to take item 5 in private.

2. **Rail services in Scotland:** The Committee will take evidence from—
   - Alex Hynes, Managing Director, Angus Thom, Chief Operating Officer, and David Dickson, Infrastructure Director, Scotrail Alliance.

3. **Salmon farming in Scotland:** The Committee will take evidence from—
   - Fergus Ewing, Cabinet Secretary for the Rural Economy and Connectivity, Mike Palmer, Deputy Director, Aquaculture, Crown Estate, Recreational Fisheries, EMFF and Europe Division, Marine Scotland, Alastair Mitchell, Head of Aquaculture & Recreational Fisheries, Marine Scotland, and Charles Allan, Head of Fish Health Inspectorate, Marine Scotland, Scottish Government.

4. **Subordinate legislation:** The Committee will consider the following negative instruments—
   - Plant Health (Scotland) Amendment Order 2018 (SSI 2018/112)
   - Common Agricultural Policy (Miscellaneous Amendments) (Scotland) Regulations 2018 (SSI 2018/122)

5. **Salmon farming in Scotland:** The Committee will review the evidence it has heard to date on its inquiry on salmon farming in Scotland.
The papers for this meeting are as follows—

**Agenda Item 2**

Cover note  
PRIVATE PAPER

**Agenda Item 3**

Cover note  
PRIVATE PAPER

**Agenda Item 4**

SSI cover note
Rural Economy and Connectivity Committee

14th Meeting, 2018 (Session 5), Wednesday, 9 May 2018

Rail services in Scotland

Background

The Committee will take evidence from Scotrail Alliance. This forms part of a series of regular updates the Committee receives to allow it to monitor rail network and rail service performance issues.

Scotrail Alliance is a formal alliance between Abellio ScotRail and Network Rail and is designed to make the industry in Scotland more responsive to customers’ needs. Both organisations remain separate companies, led by ScotRail Alliance managing director Alex Hynes.

The Committee last heard from Scotrail Alliance on 8 November 2017, on general matters, where they updated the Committee on various improvement projects (e.g. Edinburgh-Glasgow Improvements Programme (EGIP) and the Highland mainline project), Scotrail performance and funding.

The Committee will discuss Scotrail Alliance’s progress towards meeting its objectives focusing on performance, development and improvement projects.
Background

1. The Rural Economy and Connectivity (REC) Committee has agreed to conduct an inquiry into salmon farming in Scotland. The inquiry aims to consider the current state of salmon industry in Scotland, identify opportunities for its future development and explore how the various fish health and environmental challenges it currently faces can be addressed.

2. On 9 May, the Committee will take evidence from the Cabinet Secretary for the Rural Economy and Connectivity and Marine Scotland at the Scottish Government.

3. A SPICe briefing on Salmon Farming in Scotland was published on 13 February 2018 and is available here.

4. The Environment, Climate Change and Land Reform Committee (ECCLR) on 5 March 2018 wrote to the Committee detailing their conclusions on the environmental impacts of salmon farming in Scotland. The letter, which contains the report can be accessed here. See Annex B for correspondence received by the ECCLR Committee in response to letters it sent to Marine Scotland and SEPA at the end of its work on the environmental impacts of salmon farming.

5. Five evidence sessions have previously taken place. The first evidence session was held on 7 March with aquaculture research bodies. The second evidence session was held on 14 March with environmental organisations. The third evidence session was held on 18 April with regulatory bodies. The fourth evidence session was held on 25 April with development bodies. The fifth evidence session was held on 2 May with salmon producers and representatives.

1. The Committee will consider two negative SSIs:

- SSI 2018/112: Plant Health (Scotland) Amendment Order 2018 (see Annex A)
- SSI 2018/122: Common Agricultural Policy (Miscellaneous Amendments) (Scotland) Regulations 2018 (see Annex B)

2. The Annexes, for each instrument respectively, contain the clerk’s note, the Scottish Government’s policy note, the instrument itself and (in the case of SSI 2018/112) transposition tables.

Rural Economy and Connectivity Committee Clerks
4 May 2018
Annex A – SSI 2018/112: Plant Health (Scotland) Amendment Order 2018

Type of Instrument: Negative

Laid Date: 29 March 2018

Coming into force: 14 May 2018

Minister to attend the meeting: No

Procedure

1. Under the negative procedure, an instrument comes into force on the date specified on it (the “coming into force date”) unless a motion to annul is agreed to by the Parliament within the 40-day period. Lead committees are not obliged to report to the Parliament on negative instruments, except where a motion recommending annulment has been lodged.

Consideration by the Delegated Powers and Law Reform Committee

2. At its meeting on 24 April 2018, the Delegated Powers and Law Reform (DPLR) Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instruments on any grounds within its remit.

Policy Objectives

3. These Regulations amend the Plant Health (Scotland) Order 2015 (SSI 2005/613), which contains measures to prevent the introduction and spread of harmful plant pests and diseases.

4. The Regulations implement and transpose specific EU measures arising from technical changes in the assessment of the risks presented by particular pests and diseases. A drafting error is also corrected.

Consultation

5. There have been consultations on the more substantive issues within the instrument. For example, measures to prevent the introduction and spread of Citrus blackspot from fruits in certain countries outside the EU, have been consulted upon.

Transposition deadlines

6. The transposition deadlines for Commission Directives 2017/1279 and 2017/1920, which this instrument implements have not been met. The policy note to this instrument states that there has been no negative impact on trade, as a result of missing these deadlines.

7. The policy note and instrument are attached and also available online at the below link:

Recommendation

8. **The Committee is invited to consider any issues that it wishes to raise in relation to this instrument.**

Rural Economy and Connectivity Committee Clerks
May 2018
POLICY NOTE

THE PLANT HEALTH (SCOTLAND) AMENDMENT ORDER 2018

SSI 2018/112

Introduction

1. The above instrument is made by the Scottish Ministers in exercise of the powers conferred by sections 2, 3 and 4(1) of the Plant Health Act 1967, section 20 of the Agriculture (Miscellaneous Provisions) Act 1972, paragraph 1A of Schedule 2 to the European Communities Act 1972 and all other powers enabling them to do so. The instrument is subject to negative procedure.

Purpose of the instrument

2. This instrument amends the Plant Health (Scotland) Order 2005 (S.S.I. 2005/613) (‘the PH Order’). The PH order contains measures to prevent the introduction and spread of harmful plant pests and diseases and transposes Council Directive 2000/29/EC on protective measures against the introduction into the European Union of organisms harmful to plants or plant products and against their spread within the Union (“the PH Directive”). The EU legislation which is transposed and implemented by this amendment is:

- Commission Decisions (EU) 2016/715, 2017/801 and 2018/85 which all relate to measures in respect of citrus fruits originating in Brazil, Uruguay and South Africa to prevent the introduction into and the spread within the Union of the harmful organism Phyllosticta citricarpa (Citrus blackspot),
- Commission Decisions (EU) 2016/1359 and 2018/5 amending Implementing Decision 2012/270/EU - measures against the introduction into and the spread within the Union of Epitrix (Potato flea beetle)
- Commission Implementing Regulation (EU) 2016/873 - recognising protected zone status for certain member states
- Commission Implementing Decision (EU) 2017/198 - measures to prevent the introduction into and the spread within the Union of Pseudomonas syringae pv. actinidiae (Kiwi canker).
- Decision No 1/2015 of the Joint Committee on Agriculture - amending Annex 4 to the EU-Swiss agreement.
- Commission Implementing Directive (EU) 2017/1279– various amendments of plant health requirements for a range of hosts and pests

The amendments are described in more detail below.
Legislation

3. The PH Directive establishes the EU plant health regime. It contains measures to be taken in order to prevent the introduction into, and spread within, the EU of pests and diseases injurious to plants and plant produce which are specified in the Annexes of the Directive. The PH Directive is implemented in Scotland by the PH Order and, in relation to forest materials, by the Plant Health (Forestry) Order 2005 (S.I. 2005/2517), which extends to Great Britain. Similar but separate plant health legislation to the PH Order operates in England, Wales and Northern Ireland.

Policy Background

4. The PH Directive (and therefore the PH Order) is updated frequently, to take account of new or revised risk assessments, pest interceptions, changes in distribution of pests and other developments. This instrument transposes and implements specific EU measures arising from technical changes in the assessment of the risks presented by particular pests and diseases.

Commission Implementing Directive (EU) 2017/1279 which amends Annexes I to V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community reflecting technical changes in the assessment of risks presented by particular pests and diseases. In particular it now recognises the UK as a protected zone for 4 new pests namely Bacterial shothole of Prunus (Xanthomonas arboricola pv pruni) - Elm Yellows Phytoplasma (Candidatus Phytoplasma ulmi) - Palm borer (Paysandisia archon) - Red Palm Weevil (Rhynchophorus ferrugineus) - Pine Processionary Moth (Thaumetopoea pitycampa) and added three new plant species susceptible to Bemisia tabaci (Tobacco Whitefly) which UK has already protected zone status. Also new import requirements to confirm absence from the vector of citrus greening disease (Trioza erytrea Del Guercio.); within and outwith the EU are required for plants of Choisya and Murraya. A Transposition Note showing how the Directive is transposed by this Order has been published.


Decision No 1/2015 of the Joint Committee on Agriculture concerning the amendment to Appendices 1, 2 and 4 to Annex 4 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products. Plant material originating in Switzerland (as a non-member of the EU) would normally be subject to the plant health controls set out in the Directive applicable to third countries. Annex 4 of the agreement is intended to facilitate trade between the EU and Switzerland in plant material subject to plant health controls. Appendices to Annex 4 set out what controls should be applied to plant material originating in either the EU or Switzerland and moving between the two and the controls to be applied to material which originated in a third country but which is moved between Switzerland and the EU or vice versa. In most cases Switzerland is treated as a Member State for plant health purposes. This means that material can be traded without the usual additional requirements which apply to third country material, which is beneficial both
to industry and the plant health services. Decision 1/2015 amends appendices 1, 2 and 4 of Annex 4 to reflect changes in the plant health legislative provisions of both parties, which are intended to facilitate trade by further extending the range of plant health material for which equivalence arrangements apply.

Commission Implementing Decision (EU) 2016/715/, 2017/801 and 2018/85 all relate to measures in respect of citrus fruits originating in Brazil, Uruguay and South Africa to prevent the introduction into and the spread within the Union of the harmful organism Phyllosticta citricarpa (Citrus blackspot), including strengthening measures and a provision for the import of citrus fruit destined exclusively for industrial processing into juice, by introducing the advance notice of landing requirement for fruit to be juiced in Scotland and their requirements for a licence to move these fruits.

Commission Implementing Decision (EU) 2016/764 and 2017/2352 – continues to strengthen the existing measures to prevent the introduction into and spread within the EU of Xylella fastidiosa (a bacterium which causes harmful effects on a very broad host range including almond, peach, plum, apricot, grapevines, citrus, coffee as well as oak, elm, Italian ryegrass, blackberry, sunflower and particularly on olives, following outbreaks in Italy and France (including Corsica). These instruments clarify measures to be taken on infected zones and expand surveillance areas. It also recognises plants in the EU which are free from this pest are subject to the same requirements as plants originating in third countries where this organism is not present. Seven new hosts have been added to the ‘host list’ that require a plant passport when moved within the EU and: there is a requirement for six high risk hosts to be officially inspected, sampled and tested before movement every year:

Commission Implementing Decisions (EU) 2016/1359 and 2018/5 amending 2012/270/EU - measures against the introduction into and the spread within the Union of Epitrix (Potato flea beetle) to change the name of one of the pests covered by the Decision and strengthens survey requirements.

Commission Implementing Regulation (EU) 2016/873 amending Regulation 690/2008 (EC) which are additional requirements to apply to movements of specified plants into and within certain member states who have protected zones status for particular plant pests.

Commission Implementing Decision (EU) 2017/198 - measures to prevent the introduction into and the spread within the Union of Pseudomonas syringae pv. actinidiae (Kiwi canker). Commission Implementing Decision (EU) 2012/756 expired on 31 March 2016 but due to the continued on-going phytosanitary risk posed by this disease the same measures set out previously were retained and due to further evidence gathering the surrounding width from the pest free place or pest free site of production was reduced from 500m to 100m

The instrument also corrects a drafting error in item 85a in Part B of schedule 4 of the PH Order and corrects a numbering issue identified in the form prescribed by in schedule 12.

Consultation

5. With the exception of the final sub-paragraph, the changes outlined in paragraph 4 are required to implement or to transpose EU law. Some issues (i.e. Phyllosticta citricarpa and Xylella fastidiosa) have been subject to consultations with the sectors involved, while the others are mainly technical updates or have limited impact on UK business.
Timing

6. We are required to transpose and implement EU law into domestic law in a timely manner. On this occasion there has been a delay in transposing Commission Implementing Directives 2017/1279 and 2017/1920 and the transposition deadlines have not been met. In light of the fact that the PH Order has been amended on a number of previous occasions, the decision was taken to group the transposing measures for both the Directives into a single amendment and to incorporate the implementing measures for as many of the recent Commission Implementing Decisions as possible, with a view to reducing the overall number of instruments required to amend the PH Order. There has been a delay in finalising this instrument but no adverse effect on trade has arisen as a result of the failure to meet the transposition deadlines.

Consolidation

7. The PH Order has been amended on a number of occasions and it is likely that further amendments will be required as EU legislation takes account of new or revised risk assessment, pest interceptions, changes in distribution of pest and other developments. The EU has conducted the review of the Plant Health Regime as part of the Smarter Rules for Safer Food package on the agri-food chain and EU Plant Health Regulation EU 2016/2031 has been published. This will come into force on 14 December 2019 however the Commission are still considering issues relating to the implementing/delegating acts to this Regulation and in light of this, there are no immediate plans to consolidate the PH Order.

Business and Regulatory Impact

8. A Business and Regulatory Impact Assessment has not been prepared as the Order has no impact on the costs for business. The requirements apply mainly in countries exporting to the EU.

SASA
Agriculture, Food and Rural Communities Directorate
March 2018
The Scottish Ministers make the following Order in exercise of the powers conferred by sections 2, 3 and 4(1) of the Plant Health Act 1967, section 20 of the Agriculture (Miscellaneous Provisions) Act 1972, paragraph 1A of schedule 2 of the European Communities Act 1972 and all other powers enabling them to do so.

This Order makes provision for preventing the introduction and spread of pests in Scotland and is, in part, called for by EU obligations in:

(a) Decision No 1/2015 of the Joint Committee on Agriculture of 19 November 2015 concerning the amendment to Appendices 1, 2 and 4 to Annex 4 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products;

(b) 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;

(c) Commission Implementing Decision (EU) 2016/764 amending Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.);

(d) Commission Implementing Regulation (EU) 2016/873 amending Regulation (EC) No 690/2008 recognising protected zones exposed to particular plant health risks in the Community;

(e) Commission Implementing Decision (EU) 2016/1359 amending Implementing Decision 2012/270/EU as regards emergency measures to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (McAlpine) Van der Aa.

(a) 1967 c.8. Sections 2(1) and 3(1) were amended by the European Communities Act 1972 (c.68), section 4(1) and schedule 4, paragraph 8 and further amended by S.I. 2011/1043. Section 3(4) was substituted by the Criminal Justice Act 1982 (c.48), section 42 and the Statute Law (Repeals) Act 1993 (c.50), section 1(1) and schedule 1, Part XIV. There are other amendments which are not relevant to this Order. The functions of the Secretary of State, so far as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1972 c.62.

(c) 1972 c.68. Paragraph 1A of schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and amended by the European Union (Amendment) Act 2008 (c.7), section 3(3) and schedule, Part 1.


(f) OJ L 126, 14.5.2016, p.77.

(g) OJ L 145, 2.6.2016, p.10.
spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix similaris* (Gentner), *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner)(a);

(f) 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, Tsuyumu & Goto(b);

(g) Commission Implementing Decision (EU) 2017/801 amending Implementing Decision 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(c);

(h) Commission Implementing Directive (EU) 2017/1279 amending Annexes I to V to Council Directive 2000/29/EC on protective measures against the introduction into and the spread within the Community of organisms harmful to plants or plant products and against their spread within the Community(d);


(j) Commission Implementing Decision (EU) 2017/2352 amending Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.)(f);

(k) Commission Implementing Decision (EU) 2018/5 amending Implementing Decision 2012/270/EU as regards the symptoms of *Epitrix cucumeris* (Harris), *Epitrix papa* sp. n., *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner) and the establishment of relevant demarcated areas(g); and

(l) Commission Implementing Decision (EU) 2018/85 amending 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(h).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for references to 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)(i) and 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 to be construed as references to those instruments as amended from time to time.

Citation and commencement

1. This Order may be cited as the Plant Health (Scotland) Amendment Order 2018 and comes into force on 14th May 2018.

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(b) OJ L 31, 4.2.2017, p.29.
(d) OJ L 184, 15.7.2017, p.33.
(e) OJ L 271, 20.10.2017, p.34.
(g) OJ L 2, 5.1.2018, p.11.
Amendment of the Plant Health (Scotland) Order 2005

2. The Plant Health (Scotland) Order 2005(a) is amended in accordance with articles 3 to 17.

Amendment of Part 1

3. In article 2(1) (general interpretation)—
   (a) after the definition of “authorised officer” insert—

   ““citrus fruits for processing under Decision (EU) 2016/715” means fruits of Citrus L.,
   Fortunella Swingle or Poncirus Raf., other than fruits of Citrus aurantium L. or Citrus
   latifolia Tanaka, which—
   (a) originate in Argentina, Brazil, South Africa or Uruguay;
   (b) are destined exclusively for industrial processing into juice; and
   (c) are to be introduced into the European Union under the derogation specified in
       Article 8 of Decision (EU) 2016/715”;  
   (b) omit the definition of “Decision 2004/416/EC” (b);
   (c) omit the definition of “Decision 2006/473/EC” (c);
   (d) after the definition of “Decision 2012/138/EU” insert—

   “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), as amended from time to time;”;  
   (e) after the definition of “Decision (EU) 2015/893” insert—

   ““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, as amended from time to time.”;
   (f) for the definition of “Directive 2000/29/EC” substitute—

   against the introduction into the Community of organisms harmful to plants or plant
   products and against their spread within the Community (d);”;
   (g) for the definition of “ISPM No. 4(e)” substitute—

   ““ISPM No. 4” means International Standard for Phytosanitary Measures No. 4 of
   November 1995 on the requirements for the establishment of pest free areas, prepared
   by the Secretariat of the IPPC established by the Food and Agriculture Organisation of
   the United Nations, as last published on 29th May 2017 (f);”;
   (h) in the definition of “ISPM No. 10” for “modified in August 2011” substitute “published
   on 14th January 2016”;

(b) This defined term was added by S.S.I. 2007/498. Decision 2004/416/EC is repealed by Commission Implementing Decision (EU) 2016/715.
(c) This defined term was added by S.S.I. 2013/366. The Decision is no longer part of the active acquis of the European Union (see C/2017/8791 (OJ C 1, 4.1.2018, p.1)).
(e) The definition of ISPM No. 4 was previously substituted by S.S.I. 2012/326.
(i) after the definition of “ISPM No. 10” insert—

“ISPM No. 31 means International Standard for Phytosanitary Measures No. 31 of April 2008 on the methodologies for sampling of consignments, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations, as last published on 14th January 2016(a);”;

and

(j) for the definition of “protected zone”(b) substitute—

“protected zone” means a member State or an area in a member State which is recognised as a protected zone exposed to particular plant health risks for the purposes of Directive 2000/29/EC, as listed in Annex I to Commission Regulation (EC) No 690/2008 recognising protected zones exposed to particular plant health risks in the Community(c);”.

Amendment of Part 2

4. In article 6 (advance notification of landing), after paragraph (3) insert—

“(3A) In the case of citrus fruits for processing under Decision (EU) 2016/715, the names, addresses and locations of the premises at which the fruits are to be processed must be included under item 13 of the notice set out in Part B of schedule 12(d).”.

Amendment of Part 3

5.—(1) In article 19 (prohibitions on landing plant pests and relevant material) after paragraph (2) insert—

“(3) In the case of notifiable citrus fruits, the person who is introducing the fruits into Scotland via a point of entry in another part of the European Union must give written notice to an inspector prior to their arrival at that point of entry, of—

(a) the expected date of their introduction into the European Union;
(b) their point of entry into the European Union;
(c) their volume;
(d) the identification numbers of their containers;
(e) the names, addresses and the locations of the premises in Scotland at which they are to be processed.

(4) In this article “notifiable citrus fruits” means citrus fruits for processing under Decision (EU) 2016/715 which are to be introduced into the European Union via a point of entry other than Scotland and which are to be industrially processed into juice in Scotland.”.

(2) In article 22(3)(a) (exceptions from certain prohibitions and requirements)(e) for “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 similaris (Gentner), Epitrix subcrinita (Lec.) and Epitrix tuberis (Gentner)” substitute “Decision 2012/270/EU”.

(a) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at https://www.ippc.int/en.
(b) The definition of “protected zone” was previously substituted by S.S.I. 2015/10.
(d) Schedule 12 is amended by regulation 17.
(e) Paragraph 3(a) was inserted by S.S.I. 2015/10 and subsequently amended by S.S.I. 2016/83.
Amendment of Part 4

6. In article 28A (duties of professional operators in relation to Xylella fastidiosa (Wells et al.))(a) for paragraph (1) substitute—

“(1) Paragraphs (2) and (3) apply to—

(a) any plants specified in relation to Xylella fastidiosa (Wells et al.) which have been grown for at least part of their lives in an area demarcated under a legislative or administrative procedure in an EU member State in accordance with Article 4 of Decision (EU) 2015/789; and

(b) any plants intended for planting of Coffea, Lavandula dentata L., Nerium oleander L., Olea europaea L., Polygala myrtifolia L. and Prunus dulcis (Mill) D.A.Webb which have never been grown within such a demarcated area.”.

Amendment of Part 7

7. In article 39(12) (miscellaneous provisions for certain solanaceous species)(b) for “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 similaris (Gentner), Epitrix subcrinita (Lec.) and Epitrix tuberis (Gentner)” substitute “Decision 2012/270/EU”.

Amendment of Part 9

8. After article 42 (notification of the presence or suspected presence of certain plant pests) insert—

“Additional requirements on professional operators in respect of Pseudomonas syringae pv. actinidiae Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto.

42A. In addition to the requirements which may be imposed on a professional operator by article 42(1), a professional operator who knows of, or suspects, the presence of Pseudomonas syringae pv. actinidiae Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto in any plants, plant products or other objects which are under that operator’s control must immediately take precautionary measures to prevent the establishment and spread of that organism.”.

Amendment of schedule 1

9.—(1) In schedule 1 (plant pests which shall not be landed in or spread within Scotland), in Part A (plant pests not known to occur in any part of the European Union)—

(a) under the heading “Insects, mites and nematodes”—

(i) after item 7 insert—

“7a. Bactericera cockerelli (Sulc.)”;

(ii) after item 17 insert—

“17a. Keiferia lycopersicella (Walsingham)”;

(a) Article 28A was inserted by S.S.I. 2016/83.
(b) Article 39(12) was inserted by S.S.I. 2012/266.
(iii) after item 26a(a) insert—

“26b. Saperda candida Fabricius”; and

(iv) after item 32 insert—

“32a. Thaumatotibia leucotreta (Meyrick)”;

(b) under the heading “Bacteria” after item 1(b) insert—

“2. Xanthomonas citri pv. aurantifolii
3. Xanthomonas citri pv. citri”;

(c) under the heading “Fungi”—

(i) after item 12 insert—

“12a. Phyllosticta citricarpa (McAlpine) Van der Aa”; and

(ii) for item 13 substitute—

“13. Phyllosticta solitaria Ellis & Everhart”; and

(d) under the heading “Viruses and virus-like organisms”—

(i) omit item 1; and

(ii) in item 2, omit “Potato spindle tuber viroid”.

(2) In schedule 1, in Part B (plant pests known to occur in the European Union)—

(a) under the heading “Insects, mites and nematodes”, for item 1c(c) substitute—

“1c. Epitrix papa sp. n.”; and

(b) under the heading “Viruses and virus-like organisms” after item 2 insert—

“2a. Candidatus Phytoplasma ulmi”.

Amendment of schedule 2

10.—(1) In schedule 2 (relevant material which may not be landed in or moved within Scotland if that material is carrying or infected with plant pests), in Part A (plant pests not known to occur in the European Union)—

(a) under the heading “Insects, mites and nematodes”, for column 3 of item 5 substitute “Aonidiella citrina Coquillett”; 

(b) under the heading “Bacteria” omit item 4; and

(c) under the heading “Fungi” omit item 12(d).

(a) Item 26a was inserted by S.S.I. 2009/153.
(b) Item 1 was substituted by S.S.I. 2015/10.
(c) Item 1c. was inserted by S.S.I. 2012/266.
(d) Item 12 was amended to update the scientific name of the fungus by S.S.I 2015/10. Phyllosticta citricarpa (McAlpine) Van der Aa was previously referred to as Guignardia citricarpa Kiely (all strains pathogenic to Citrus).
In schedule 2, in Part B (plant pests known to occur in the European Union)—

(a) under the heading “Insects, mites and nematodes” after item 12 insert—

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<th>Plants</th>
<th>Taxa</th>
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</thead>
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```

Rhynchophorus ferrugineus (Olivier)

(b) under the heading “Bacteria”, for column 3 of item 8 substitute “_Xanthomonas arboricola pv. pruni_ (Smith) Vauterin et al”; and

(c) under the heading “Viruses and virus-like organisms”—

(i) after item 2 insert—

```
<table>
<thead>
<tr>
<th>Item</th>
<th>Plants</th>
<th>Virus</th>
</tr>
</thead>
<tbody>
<tr>
<td>2a.</td>
<td>Plants, other than seeds, of <em>Ulmus</em> L., intended for planting</td>
<td><em>Candidatus Phytoplasma ulmi</em></td>
</tr>
</tbody>
</table>
```

and

(ii) after item 7 insert—

```
<table>
<thead>
<tr>
<th>Item</th>
<th>Plants</th>
<th>Virus</th>
</tr>
</thead>
<tbody>
<tr>
<td>7a.</td>
<td>Plants intended for planting (including seeds) of <em>Solanum lycopersicum</em> L., <em>Capsicum annuum</em> L., <em>Capsicum frutescens</em> L. and plants of <em>Solanum tuberosum</em> L.</td>
<td>Potato spindle tuber viroid</td>
</tr>
</tbody>
</table>
```

Amendment of schedule 3

11. In schedule 3 (relevant material which may not be landed in Scotland if that material originates in certain third countries), omit item 17(a).

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Amendment of schedule 4

12.—(1) In schedule 4 (restrictions on the landing in and movement within Scotland of relevant material), in Part A (relevant material, from third countries, which may only be landed in Scotland if special requirements are satisfied)—

(a) for item 11 substitute—

| “11. Plants, other than seeds of Ulmus L., intended for planting, originating in any country in North America |
| Plants, other than scions, cuttings, plants in tissue culture, pollen and seeds, of Amelanchier Medik., Aronia Medik., Cotoneaster Medik., Crataegus L., Cydonia Mill., Malus Mill., Prunus L., Pyracantha M. Roem., Pyrus L. and Sorbus L., intended for planting, originating in Canada and the USA. |

| Without prejudice to the requirements of item 7c, the plants shall be accompanied by an official statement that no symptoms of ‘Candidatus Phytoplasma ulmi’ have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation. |
| Without prejudice to the requirements of items 4 and 14 of schedule 3 and in items 19, 21 to 23 and 27 to 30 of this Part of this schedule, the plants shall be accompanied by an official statement that they have been grown: |

(a) throughout their life in an area established as free from Saperda candida Fabricius, by the national plant protection organisation in the country of origin, in accordance with ISPM No. 4, the name of the area to be included under the rubric ‘Additional declaration’; or

(b) during a period of at least two years prior to export, or in the case of plants which are younger than two years, throughout their life, in a place of production established as free from Saperda candida Fabricius by the national plant protection organisation in the country of origin, in accordance with ISPM No. 10, and that—

(i) the place of production is registered and supervised by the national plant protection organisation in the country of origin;

(ii) the place of production has been subjected annually to two official inspections for any signs of Saperda candida Fabricius carried out at appropriate times;

(iii) the plants have been grown in a site with complete physical protection against the introduction of Saperda candida Fabricius, or with the application of appropriate preventive treatments and surrounded by a buffer zone with a width of at least 500 metres in which buffer zone the absence of Saperda candida Fabricius was confirmed by official surveys carried out annually at appropriate times; and |
immediately prior to export the plants have been subjected to a meticulous inspection for the presence of *Saperda candida* Fabricius, in particular in the stems of the plant, including, where appropriate, destructive sampling.”;

(b) for items 15, 16, 17, 17a and 17b substitute—


Without prejudice to the requirements of items 14, 16, 17, 18, and 18a the fruits shall be accompanied by an official statement that:

(a) the fruits originate in a country recognised as being free from *Xanthomonas citri* pv. *citri* and *Xanthomonas citri* pv. *aurantifolii* in accordance with ISPM No. 4, provided that this freedom status has been communicated in advance in writing by the national plant protection organisation of the third country concerned to the European Commission;

(b) the fruits originate in an area established by the national plant protection organisation in the country of origin as being free from *Xanthomonas citri* pv. *citri* and *Xanthomonas citri* pv. *aurantifolii*, in accordance with ISPM No. 4, (the name of the area to be included under the rubric ‘Additional declaration’), provided that this freedom status has been communicated in advance in writing by the national plant protection organisation of the third country concerned to the European Commission;

(c) the fruits originate in a place of production established by the national plant protection organisation in the country of origin as being free from *Xanthomonas citri* pv. *citri* and *Xanthomonas citri* pv. *aurantifolii* in accordance with ISPM No. 10, the name of the place of production to be included under the rubric ‘Additional declaration’;

(d) the fruits—

(i) originate in a site of production in which that site and the immediate vicinity of that site are subject to appropriate treatments and cultural practices against *Xanthomonas citri* pv. *citri* and *Xanthomonas citri* pv. *aurantifolii*, (information on the traceability of the fruits to be included on the phytosanitary
(ii) have been subjected to a treatment with sodium orthophenylphenate, or another effective treatment (the name of which is to be included on the phytosanitary certificate or phytosanitary certificate for re-export), provided that the treatment method has been communicated in advance in writing by the national plant protection organisation of the third country concerned to the European Commission; and

(iii) have been subject to official inspections carried out at appropriate times prior to export which have shown that the fruits are free from symptoms of *Xanthomonas citri* pv. *citri* and *Xanthomonas citri* pv. *aurantifolii*; or

(e) the site of production and the immediate vicinity are subject to appropriate treatments and cultural practices against *Xanthomonas citri* pv. *citri* and *Xanthomonas citri* pv. *aurantifolii* (information on the traceability of such fruits to be included on the phytosanitary certificate or phytosanitary certificate for re-export); and

(f) in the case of fruits destined for industrial processing, official inspections prior to export have shown that the fruits are free from symptoms of *Xanthomonas citri* pv. *citri* and *Xanthomonas citri* pv. *aurantifolii*.

<table>
<thead>
<tr>
<th>16.</th>
<th>Fruits of <em>Citrus</em> L., <em>Fortunella</em> Swingle or <em>Poncirus</em> Raf., originating in any third country</th>
</tr>
</thead>
<tbody>
<tr>
<td>Without prejudice to the requirements of items 14, 15, 17, 18 and 18a, the fruits shall be accompanied by an official statement that:</td>
<td></td>
</tr>
<tr>
<td>(a) the fruits originate in a country recognised as being free from <em>Cercospora angolensis</em> Carv. et Mendes in accordance with ISPM No. 4, provided that this freedom status has been communicated in advance in writing by the national plant protection organisation of the third country concerned to the European Commission;</td>
<td></td>
</tr>
<tr>
<td>(b) the fruits originate in an area recognised as being free from <em>Cercospora angolensis</em> Carv. et Mendes, in accordance with ISPM No. 4, (the name of the area is to be included under the rubric ‘Additional declaration’), provided that this freedom status has been communicated in advance</td>
<td></td>
</tr>
</tbody>
</table>
in writing by the national plant protection organisation of the third country concerned to the European Commission; or

(c) no symptoms of *Cercospora angolensis* Carv. et Mendes have been observed in the site of production and in its immediate vicinity since the beginning of the last cycle of vegetation, and none of the fruits harvested in the site of production has shown, in appropriate official examination, symptoms of this organism.

17. Fruits of *Citrus* L., *Fortunella* Swingle or *Poncirus* Raf., other than fruits of *Citrus aurantium* L. and *Citrus latifolia* Tanaka, originating in any third country, other than Argentina, Brazil, South Africa or Uruguay

Without prejudice to the requirements of items 14 to 16, 18 and 18a, the fruits shall be accompanied by an official statement that:

(a) the fruits originate in a country recognised as free from *Phylosticta citricarpa* (McAlpine) Van der Aa, in accordance with ISPM No. 4, provided that this freedom status has been communicated in advance in writing by the national plant protection organisation of the third country concerned to the European Commission;

(b) the fruits originate in an area established by the national plant protection organisation in the country of origin as being free from *Phylosticta citricarpa* (McAlpine) Van der Aa in accordance with ISPM No. 4, (the name of the area to be included under the rubric ‘Additional declaration’), provided that this freedom status has been communicated in advance in writing by the national plant protection organisation of the third country concerned to the European Commission;

(c) the fruits originate in a place of production established by the national plant protection organisation in the country of origin as being free from *Phylosticta citricarpa* (McAlpine) Van der Aa in accordance with ISPM No. 10 (the name of the place of production to be included under the rubric ‘Additional declaration’) and the fruits are found free of symptoms of *Phylosticta citricarpa* (McAlpine) Van der Aa by official inspection of a representative sample, defined in accordance ISPM No. 31;
(d) the fruits originate in a site of production subjected to appropriate treatments and cultural measures against *Phyllosticta citricarpa* (McAlpine) Van der Aa (information on the traceability of such fruits to be included on the phytosanitary certificate or phytosanitary certificate for re-export) and—

(i) official inspections have been carried out at that site of production during the growing season since the beginning of the last cycle of vegetation, and no symptoms of *Phyllosticta citricarpa* (McAlpine) Van der Aa have been detected in the fruits; and

(ii) the harvested fruits from that site of production are found free of symptoms of *Phyllosticta citricarpa* (McAlpine) Van der Aa during an official inspection prior to export, of a representative sample, defined in accordance with international standards; or

(e) in the case of fruits destined for industrial processing, the fruits have been found free of symptoms of *Phyllosticta citricarpa* (McAlpine) Van der Aa prior to the export during an official inspection of a representative sample, defined in accordance with international standards, and—

(i) that the fruits originate in a site of production subjected to appropriate treatments against *Phyllosticta citricarpa* (McAlpine) Van der Aa carried out at the appropriate time, such information to be included under the rubric ‘Additional declaration’, together with information on the traceability of such fruits; and

(ii) the fruits have been transported in individual packages bearing a label, which contains a traceability code and the indication that the fruits are destined for industrial processing.

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| 17a. Fruits of *Citrus* L., *Fortunella* Swingle or *Poncirus* Raf. (other than fruits of *Citrus aurantium* L. or *Citrus latifolia* Tanaka), which originate in Argentina, Brazil, South Africa or Uruguay and Without prejudice to the requirements of items 14, 15, 16, 18 and 18a, the fruits must be accompanied by an official statement that: (a) they originate in an area established by the national plant protection organisation in the country of origin as being free from *Phyllosticta citricarpa* (McAlpine) Van der Aa in accordance with ISPM No. 4 |
which are not destined exclusively for industrial processing into juice (the name of the area to be included under the rubric ‘Additional declaration’), provided that this freedom status has been communicated in advance in writing by the national plant protection organisation of the third country concerned to the European Commission; or

(b) in the case of fruits originating in—

(i) Argentina, they meet the requirements specified in Articles 5a and 7 of Decision (EU) 2016/715 (such information to be included under the rubric ‘Additional declaration’);

(ii) Brazil, they meet the requirements specified in Articles 4 and 7 of Decision (EU) 2016/715 (such information to be included under the rubric ‘Additional declaration’); or

(iii) South Africa or Uruguay, they meet the requirements specified in Articles 5 and 7 of Decision (EU) 2016/715 (such information to be included under the rubric ‘Additional declaration’).

17b. Fruits of Citrus L., Fortunella Swingle or Poncirus Raf. (other than fruits of Citrus aurantium L. or Citrus latifolia Tanaka) which originate in Argentina, Brazil, South Africa or Uruguay and which are destined exclusively for industrial processing into juice

Without prejudice to the requirements of items 14, 15, 16, 18 and 18a, the fruits:

(a) must be accompanied by an official statement that—

(i) they originate in an area established by the national plant protection organisation in the country of origin as being free from Phyllosticta citricarpa (McAlpine) Van der Aa in accordance with ISPM No. 4 (the name of the area to be included under the rubric ‘Additional declaration’), provided that this freedom status has been communicated in advance in writing by the national plant protection organisation of the third country concerned to the European Commission; or

(ii) they—

(aa) originate in a place of production established by the national plant protection organisation in the country of origin as being free from Phyllosticta citricarpa (McAlpine) Van der Aa in accordance with ISPM No. 10, (such information to be included under the rubric...
(bb) have been found free of symptoms of *Phyllosticta citricarpa* (McAlpine) Van der Aa by official inspection of a representative sample defined in accordance with ISPM No. 31;

(b) in the case of fruits for processing under Decision (EU) 2016/715, must be—

(i) accompanied by a phytosanitary certificate which includes an official statement under the rubric ‘Additional declaration’ in accordance with Articles 9(1) and 10 of Decision (EU) 2016/715 and the information specified in Article 9(2) of that Decision;

(ii) packaged and labelled in accordance with Article 17 of that Decision; and

(iii) subject to a licence granted under article 40(1) of this Order authorising their movement within Scotland and, where applicable, their processing and storage in Scotland.”;

(c) in column 3 of item 18 for “17a” substitute “17b”;

(d) after item 18, insert—

| “18a.” | Fruits of *Capsicum* (L.), *Citrus* L., other than *Citrus limon* (L.) Osbeck. and *Citrus aurantiifolia* (Christm.) Swingle, *Prunus persica* (L.) Batsch and *Punica granatum* L. originating in countries of the African continent, Cape Verde, Saint Helena, Madagascar, La Reunion, Mauritius and Israel | Without prejudice to requirements of items 15 to 18 and 56a(a), the fruits shall be accompanied by an official statement that the fruits:

(a) originate in a country recognised as being free of *Thaumatotibia leucotreta* (Meyrick) in accordance with ISPM No. 4;

(b) originate in an area established by the national plant protection organisation in the country of origin as being free from *Thaumatotibia leucotreta* (Meyrick), in accordance with ISPM No. 4, (the name of the area to be included under the rubric ‘Additional declaration’); |

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(a) Item 56a was inserted by S.S.I. 2015/10.
(c) originate in a place of production established by the national plant protection organisation in the country of origin as being free from *Thaumatotibia leucotreta* (Meyrick) in accordance with ISPM No. 10, in which place of production, official inspections have been carried out at appropriate times during the growing season, including a visual examination on representative samples of fruit, and they have shown to be free from *Thaumatotibia leucotreta* (Meyrick) (information on the traceability of fruits originating in such a place of production to be included on the phytosanitary certificate or phytosanitary certificate for re-export); or

(d) have been subjected to an effective cold treatment to ensure freedom from *Thaumatotibia leucotreta* (Meyrick) or another effective treatment to ensure freedom from *Thaumatotibia leucotreta* (Meyrick) (such treatment data to be indicated on the phytosanitary certificate or phytosanitary certificate for re-export), provided that the treatment method has been communicated in advance in writing by the national plant protection organisation of the third country concerned to the European Commission.

(e) in item 22, in column 2, in the list of plant pests known to occur on *Prunus* L., for “*Xanthomonas campestris* pv. *pruni* (Smith) Dye” substitute “*Xanthomonas arboricola* pv. *pruni* (Smith) Vauterin *et al.*”;  

(f) in item 32a—

(i) for each occurrence of “*Epitrix similaris* (Gentner)” in columns 2 and 3 substitute “*Epitrix papa* sp. n.”; and

(ii) in column 3, in paragraph (b) for “any of their symptoms” substitute “the signs of infestation by those organisms on the tubers”;

(g) after item 38 insert—

| “38a.” | Plants of *Solanum lycopersicum* L. and *Solanum melongena* L., other than fruits and seed originating in any third country | Without prejudice to the provisions applicable to the plants in item 9 of schedule 3 and to the requirements of items 36, 37, 38, 43a, and 68, the plants shall be accompanied by an official statement that the plants: |

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(a) Item 32a was inserted by S.S.I. 2012/266.
| 38b. | Fruits of *Solanum lycopersicum* L. and *Solanum melongena* L. originating in any third country | The fruits shall be accompanied by an official statement that the fruits:

(a) originate in a country recognised as being free of *Keiferia lycopersicella* (Walsingham) in accordance with ISPM No. 4;

(b) originate in an area established by the national plant protection organisation in the country of origin as being free from *Keiferia lycopersicella* (Walsingham) in accordance with ISPM No. 4 and which is mentioned on the phytosanitary certificate or phytosanitary certificate for re-export under the rubric ‘Additional declaration’; or

(c) originate in a place of production, established by the national plant protection organisation in the country of origin as being free from *Keiferia lycopersicella* (Walsingham), on the basis of official inspections and surveys carried out during the last three months prior to export and which is mentioned on the phytosanitary certificate or phytosanitary certificate for re-export under the rubric ‘Additional declaration’. |
(h) for items 83(a) and 84(b) substitute—

<table>
<thead>
<tr>
<th>“83.</th>
<th>Live pollen and plants intended for planting, other than seeds, of <em>Actinidia</em> Lindl., originating in any third country.</th>
<th>The plants must be accompanied by an official statement (the information to be contained under the rubric ‘Additional declaration’ on the phytosanitary certificate or phytosanitary certificate for re-export) that they have:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>been grown throughout their life in a country in which the specified organism is known not to occur;</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>been grown throughout their life in a pest free area, established as regards the specified organism by the national plant protection organisation in the country of origin in accordance with ISPM No. 4 (the name of the area to be included on the phytosanitary certificate under the rubric ‘Place of Origin’);</td>
<td></td>
</tr>
<tr>
<td>(c)</td>
<td>been produced in a pest free place of production or a pest free site of production, established as regards the specified organism by the national plant protection organisation in the country of origin in accordance with ISPM No. 10 and where—</td>
<td></td>
</tr>
<tr>
<td>(i)</td>
<td>the plants have been—</td>
<td></td>
</tr>
<tr>
<td>(aa)</td>
<td>grown in a structure with a degree of isolation and protection from the outside environment that effectively excludes the specified organism; and</td>
<td></td>
</tr>
<tr>
<td>(bb)</td>
<td>officially inspected twice at that place or site of production at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the export and have been found to be free from the specified organism; and</td>
<td></td>
</tr>
</tbody>
</table>

(a) Item 83 was inserted by S.S.I. 2013/187.
(b) Item 84 was inserted by S.S.I. 2015/10.
(ii) the place of production or site of production is surrounded by a zone with a radius of 100 metres in which—

(aa) official inspections have been carried out twice at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the export and any plants of *Actinidia* Lindl. showing symptoms of infection which were found during those inspections were immediately destroyed;

(bb) any plants of *Actinidia* Lindl. have been immediately destroyed; or

(cc) each plant of *Actinidia* Lindl. has been regularly tested at the most appropriate times and has been found free from the specified organism; or

(d) the plants have been produced in a pest free place of production established as regards the specified organism by the national plant protection organisation in the country of origin in accordance with ISPM No. 10 and where—

(i) the plants have been officially inspected, sampled and tested twice at that place of production at the most appropriate times during the last complete cycle of vegetation prior to the export and have been found free from the specified organism; and

(ii) the place of production is surrounded by a zone with a radius of 4500 metres in which—

(aa) official inspections, sampling and testing have been carried out throughout that zone twice at the most
appropriate times during the last complete cycle of vegetation prior to the export and the specified organism has not been found;

(bb) any plants of *Actinidia* Lindl. within a radius of 500 metres from the place of production have been immediately destroyed; or

(cc) each plant of *Actinidia* Lindl. within a radius of 500 metres from the place of production has been regularly tested at the most appropriate times and has been found free from the specified organism; and

(dd) in the case of sub-paragraphs (bb) or (cc), any plants of *Actinidia* Lindl. within the zone which are at a distance of between 500 metres and 4500 metres from the place of production have been destroyed or tested according to a sampling scheme which is able to confirm with 99 per cent reliability that the level of the presence of the specified organism in those plants is below 0.1 per cent; and

(e) in those cases where the official statement includes the information given at point (c) or (d), that—

(i) the plants have been directly derived from mother plants grown under conditions compliant with point (a), (b) or (c);

(ii) the plants have been directly derived from mother plants, which were subject to prior individual testing confirming their freedom from the specified organism; or
(iii) the plants have been tested according to a sampling scheme which is able to confirm with 99 per cent reliability that the level of presence of the specified organism in the plants is below 0.1 per cent.

**Interpretation**

In this item entry:


<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Without prejudice to the provisions applicable to the plants in items 85 and 85a, the plants shall be accompanied by an official statement that they:</td>
<td></td>
</tr>
<tr>
<td>(a) originate in a country in which <em>Trioza erytreae</em> Del Guercio is known not to occur;</td>
<td></td>
</tr>
<tr>
<td>(b) originate in an area free from <em>Trioza erytreae</em> Del Guercio, established by the national plant protection organisation in accordance with ISPM No. 4, and which is mentioned on the phytosanitary certificate or phytosanitary certificate for re-export under the rubric ‘Additional declaration’; or</td>
<td></td>
</tr>
<tr>
<td>(c) have been grown in a place of production, which is registered and supervised by the national plant protection organisation in the country of origin and where—</td>
<td></td>
</tr>
<tr>
<td>(i) the plants are placed in a site with complete physical protection against the introduction of <em>Trioza erytreae</em> Del Guercio; and</td>
<td></td>
</tr>
<tr>
<td>(ii) during the last complete cycle of vegetation prior to the movement, two official inspections were carried out at appropriate times and no signs of <em>Trioza erytreae</em> Del Guercio have been observed in the site of production, and in the surrounding area with a width of at least 200 metres.”;</td>
<td></td>
</tr>
</tbody>
</table>
(i) in item 85a(a), in column 3, for “Without the prejudice” substitute “Without prejudice”;
(j) after item 85a insert—

<table>
<thead>
<tr>
<th>“85b.</th>
<th>Plants of <em>Microcitrus</em> Swingle, <em>Naringi</em> Adans. and <em>Swinglea</em> Merr., other than fruits and seeds, originating in third countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Without prejudice to the provisions applicable to the plants in items 84, 85 and 85a, the plants shall be accompanied by an official statement that they:</td>
<td></td>
</tr>
<tr>
<td>(a) originate in a country recognised as being free of <em>Xanthomonas citri</em> pv. <em>citri</em> and <em>Xanthomonas citri</em> pv. <em>aurantifolii</em> in accordance with ISPM No. 4, provided that this freedom status has been communicated in writing by the national plant protection organisation of the third country concerned to the European Commission; or</td>
<td></td>
</tr>
<tr>
<td>(b) originate in an area established by the national plant protection organisation in the country of origin as being free from <em>Xanthomonas citri</em> pv. <em>citri</em> and <em>Xanthomonas citri</em> pv. <em>aurantifolii</em>, in accordance with ISPM No. 4, and which is mentioned on phytosanitary certificate or phytosanitary certificate for re-export under the rubric ‘Additional declaration’, provided that this freedom status has been communicated in writing by the national plant protection organisation of the third country concerned to the European Commission.”;</td>
<td></td>
</tr>
</tbody>
</table>

(k) for item 86(b) substitute—

<table>
<thead>
<tr>
<th>“86.</th>
<th>Plants specified in relation to <em>Xylella fastidiosa</em> (Wells et al.), originating in any third country where the national plant protection organisation of that country has confirmed in writing to the European Commission that <em>Xylella fastidiosa</em> (Wells et al.) is not present in that country</th>
</tr>
</thead>
<tbody>
<tr>
<td>The plants must be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which contains, under the rubric “Additional declaration”, an official statement that:</td>
<td></td>
</tr>
<tr>
<td>(a) the plants originate in a country known to be free from <em>Xylella fastidiosa</em> (Wells et al.); and</td>
<td></td>
</tr>
<tr>
<td>(b) in the case of plants intended for planting, other than seeds, of <em>Coffea</em>, <em>Lavandula dentata</em> L., <em>Nerium oleander</em> L., <em>Olea europaea</em> L., <em>Polygala myrtifolia</em> L. and</td>
<td></td>
</tr>
</tbody>
</table>

(a) Item 85a was inserted by S.S.I. 2016/83.
(b) Item 86 was inserted by S.S.I. 2016/83.
(l) in item 87(a), for column 2, substitute “Plants specified in relation to *Xylella fastidiosa* (Wells et al.), other than plants which have been grown for the entire production cycle *in vitro*, originating in any area where *Xylella fastidiosa* (Wells et al.) is known to be present”; and

(m) after item 87 insert—

| “87a” | Plants specified in relation to *Xylella fastidiosa* (Wells et al.) which have been grown for the entire production cycle *in vitro* and which originate in an area where *Xylella fastidiosa* (Wells et al.) is known to be present | The plants must be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which includes:—

|   |   | (a) an official statement, under the rubric ‘Additional declaration’, that the plants and the site in which they were produced meet the requirements of Article 17(3a) and (4a) of Decision (EU) 2015/789; and
|   |   | (b) under the rubric ‘place of origin’ the name of the site from which they originate.”. |

(2) In schedule 4, in Part B (relevant material, from another part of the European Union, which may only be landed in or moved within Scotland if special requirements are satisfied)—

(a) after item 5(b) insert—

| “5a” | Plants, other than seeds, of *Ulmus* L., intended for planting | The plants must be accompanied by an official statement that no symptoms of *Candidatus Phytoplasma ulmi* have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation.”; |

(b) for item 7a(c) substitute—

| “7a” | Plants, other than fruits and seeds, of *Citrus* L., *Choisya* Kunth, *Fortunella* Swingle, *Poncirus* Raf., *Casimiroa* Llave, *Clausena* Burm f., *Murraya* J. Koenig ex L., *Vepris* Comm., or *Zanthoxylum* L. | The plants must be accompanied by an official statement that they:

|   |   | (a) originate in an area free from *Trioza erytreae* Del Guercio, established by the national plant protection organisation in accordance with ISPM No. 4; or
|   |   | (b) have been grown in a place of production—

(a) Item 87 was inserted by S.S.I. 2016/83.
(b) Item 5 was substituted by S.S.I. 2015/10.
(c) Item 7a was inserted by S.S.I. 2015/10.
(i) which is registered and supervised by the competent authorities in the member State of origin;
(ii) where the plants are placed in a site with complete physical protection against the introduction of *Trioza erytreae* Del Guercio; and
(iii) where, during the last complete cycle of vegetation prior to the movement, two official inspections were carried out at appropriate times and no signs of *Trioza erytreae* Del Guercio have been observed in that site and in the surrounding area with a width of at least 200 metres.

7b. **Fruits of** *Citrus* L., *Fortunella* Swingle or *Poncirus* Raf., other than fruits of *Citrus aurantium* L. or *Citrus latifolia* Tanaka, which:
— originate in Argentina, Brazil, South Africa or Uruguay;
— are destined exclusively for industrial processing into juice; and
— have been introduced into another part of the European Union in accordance with Articles 9 to 13 of Decision (EU) 2016/715

The fruits must be:
(a) packaged and labelled in accordance with Article 17 of Decision (EU) 2016/715; and
(b) subject to a licence granted under article 40(a) of this Order authorising their introduction into, and their movement within, Scotland and, where applicable, their processing and storage in Scotland.

(c) in item 9, in paragraph (a)(ii) of column 3 for “*Xanthomonas campestris* pv. *pruni* (Smith) Dye” substitute “*Xanthomonas arboricola* pv. *pruni* (Smith) Vauterin *et al.*”;
(d) in item 17—
(i) in column 2, for “items 15 and 16” substitute “items 15, 15a and 16 and those seeds of *Solanum tuberosum* L. specified in item 17a”; and
(ii) in column 3, in point (bb) for “true seed of potato” substitute “seeds of *Solanum tuberosum* L., other than those specified in item 17a”.
(e) after item 17, insert—

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17a. Seeds of *Solanum tuberosum* L., other than those specified in item 18.
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The seeds must be accompanied by an official statement that they derive from plants which comply with the requirements, so far as applicable, set out in items 15, 15a, 16 and 17 and:

(a) that they originate in areas known to be free from *Synchytrium endobioticum* (Schilbersky) Percival, *Clavibacter michiganensis* ssp. *sepedonicus* (Spieckermann and Kotthoff) Davis *et al.*, *Ralstonia solanacearum* (Smith) Yabuuchi *et al.* and Potato spindle tuber viroid; or
(b) that they comply with all of the following requirements—

(i) they have been produced in a site where, since the beginning of the last cycle of vegetation, no symptoms of disease caused by the harmful organisms referred to in point (a) have been observed; and

(ii) they have been produced at a site where—

(aa) there is separation of the site from other solanaceous plants and other host plants of Potato spindle tuber viroid;

(bb) there is prevention of contact with staff and items, such as tools, machinery, vehicles, vessels and packaging material, from other sites producing solanaceous plants and other host plants of Potato spindle tuber viroid, or appropriate hygiene measures concerning staff or items from other sites producing solanaceous plants and other host plants of Potato spindle tuber viroid to prevent infection; and

(cc) only water free from all harmful organisms referred to in this item is used”; 

(f) in item 19a(a)—

(i) in column 3, in point (d) for “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 similaris* (Gentner), *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner)” substitute “Decision 2012/270/EU”; and

(ii) for all occurrences of “*Epitrix similaris* (Gentner)” in columns 2 and 3 (other than the occurrence mentioned in head (i)) substitute “*Epitrix papa* sp. n.”;

(g) in item 19b(b) for “*Epitrix cucumeris* (Harris), *Epitrix similaris* (Gentner), *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner)” in column 3 substitute “*Epitrix cucumeris* (Harris), *Epitrix papa* sp. n., *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner)”;

(a) Item 19a was originally inserted by S.S.I. 2012/266 and was later substituted by S.S.I. 2015/10 and amended by S.S.I. 2016/83.

(b) Item 19b was inserted by S.S.I. 2013/5 and substituted by S.S.I. 2016/83.
(h) for item 39(a) substitute—

<table>
<thead>
<tr>
<th>“39. Live pollen and plants intended for planting, other than seeds, of <em>Actinidia</em> Lindl.</th>
<th>The plants must be accompanied by an official statement that they have:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) been grown throughout their life in a member State in which the specified organism is not known to occur;</td>
<td></td>
</tr>
<tr>
<td>(b) been grown throughout their life in a protected zone recognised as regards the specified organism in accordance with Article 2(1)(h) of Directive 2000/29/EC;</td>
<td></td>
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<tr>
<td>(c) been grown throughout their life in a pest free area, established as regards the specified organism by the responsible official body of a member State in accordance with ISPM No. 4;</td>
<td></td>
</tr>
<tr>
<td>(d) been produced in a pest free place of production or a pest free site of production, established as regards the specified organism by the responsible official body of the member State of origin in accordance with ISPM No. 10 and where—</td>
<td></td>
</tr>
<tr>
<td>(i) the plants have been—</td>
<td></td>
</tr>
<tr>
<td>(aa) grown in a structure with a degree of isolation and protection from the outside environment that effectively excludes the specified organism; and</td>
<td></td>
</tr>
<tr>
<td>(bb) officially inspected twice at that place or site of production at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the movement and have been found free from the specified organism; and</td>
<td></td>
</tr>
<tr>
<td>(ii) the place of production or site of production is surrounded by a zone with a radius of at least 100 metres in which—</td>
<td></td>
</tr>
<tr>
<td>(aa) official inspections have been carried out twice at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the movement and</td>
<td></td>
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</tbody>
</table>

(a) Item 39 was inserted by S.S.I. 2013/187.
any plants of Actinidia Lindl. showing symptoms of infection which were found during those inspections were immediately destroyed;

(b) all plants of Actinidia Lindl. were immediately destroyed; or

(cc) each plant of Actinidia Lindl. has been regularly tested at the most appropriate times and has been found free from the specified organism; or

(e) been produced in a pest free place of production established as regards the specified organism by the responsible official body of the member State of origin in accordance with ISPM No. 10 and where—

(i) the plants have been officially inspected, sampled and tested twice at the most appropriate times during the last complete cycle of vegetation prior to the movement and have been found free from the specified organism;

(ii) the place of production is surrounded by a zone with a radius of 500 metres in which—

(aa) official inspections, sampling and testing have been carried out throughout that zone twice at the most appropriate times during the last complete cycle of vegetation prior to the movement and the specified organism has not been found;

(bb) all plants of Actinidia Lindl. have been immediately destroyed; or

(cc) each plant of Actinidia Lindl. within the zone has been regularly tested at the most appropriate times and has been found free from the specified organism; and

(iii) the zone described at point (ii) is encircled by a zone with a width of 4 kilometres in which—

(aa) following official inspections, sampling and testing that have been carried out throughout that zone twice at
the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the movement, eradication measures (consisting of the immediate destruction of infected plants) were taken in all cases where the specified organism has been found on plants of *Actinidia* Lindl.;

(bb) all plants of *Actinidia* Lindl. have been destroyed; or

(cc) all plants of *Actinidia* Lindl. within the zone have been tested according to a sampling scheme which is able to confirm with 99 per cent reliability that the level of presence of the specified organism in the plants is below 0.1 per cent; and

(f) where the requirements set out in point (d) or (e) are met, that the plants—

(i) have been directly derived from mother plants grown under conditions compliant with point (a), (b), (c) or (d);

(ii) have been directly derived from mother plants which were subject to prior individual testing confirming their freedom from the specified organism; or

(iii) have been tested according to a sampling scheme able to confirm with 99 per cent reliability that the level of presence of the specified organism in the plants is below 0.1 per cent.

Interpretation

In this item entry:

“specified organism” means *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto.”;

(i) in item 40(a) in column 2, after “Decision (EU) 2015/789” insert “other than plants which have been grown for the entire production cycle *in vitro* and other than plants belonging to varieties of plants specified in Annex III of that Decision”; and

(a) Item 40 was substituted by S.S.I. 2016/83.
(j) after item 40 insert—

| 40a. | Plants specified in relation to *Xylella fastidiosa* (Wells et al.) which have been grown for the entire production cycle *in vitro* and for at least part of their life in an area demarcated under a legislative or administrative procedure in a member State in accordance with Article 4 of Decision (EU) 2015/789. The plants must be accompanied by an official statement that they have been grown:
| (a) | in a site which meet the requirements of Article 9a(2) of Decision (EU) 2015/789; and |
| (b) | in a manner which meets the requirements of Article 9a(3) of that Decision. |

| 40b. | Host plants of *Xylella fastidiosa* (Wells et al.) (within the meaning of Article 1(b) of Decision (EU) 2015/789) which have never been grown in an area demarcated under a legislative or administrative procedure in a member State in accordance with Article 4 of Decision (EU) 2015/789. The plants must be accompanied by an official statement: |
| (a) | that they have been grown in a site that is subject to annual official inspection and, in the case of symptoms of *Xylella fastidiosa* (Wells et al.), subject to sampling which takes into account technical guidelines for the survey of *Xylella fastidiosa* (Wells et al.), as published on the European Commission website, and testing which is in line with international standards for the presence of *Xylella fastidiosa* (Wells et al.); or |
| (b) | in the case of plants intended for planting of *Coffea, Lavandula dentata* L., *Nerium oleander* L., *Olea europaea* L., *Polygala myrtifolia* L. and *Prunus dulcis* (Mill) D.A.Webb, that they comply with the requirements of the second sub-paragraph of Article 9(8) of Decision (EU) 2015/789. |

| 40c. | Pre-basic mother plants or pre-basic material belonging to any of the following species: |
| — *Juglans regia* L. |
| — *Olea europaea* L. |
| — *Prunus amygdalus* Batsch |
| — *P. amygdalus* × |
| — *P. persica* |
| — *P. armeniaca* L. |
| — *P. avium* (L.) L. |
| — *P. cerasus* L. |
| — *P. domestica* L. |
| — *P. domestica* × |
| — *P. salicina* |

Without prejudice to the requirements in item 40b, the pre-basic mother plants or pre-basic material must be accompanied by an official statement that:

| (a) | they are, or (in the case of pre-basic material) it is, subject to an authorisation provided under Article 1 of Commission Implementing Decision (EU) 2017/925 of 29 May 2017 temporarily authorising certain Member States to certify pre-basic material of certain species of fruit plants, produced in the field under non-insect proof conditions, and repealing Implementing Decision (EU) 2017/167(a); and |

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(For further details, please refer to the relevant legislation.)
— *P. dulcis* (Mill.) D.A. Webb
— *P. persica* (L.) Batsch
— *P. salicina* Lindley
which have been, or (in the case of pre-basic material) has been, grown outside an area demarcated under a legislative or administrative procedure in a member State in accordance with Article 4 of Decision (EU) 2015/789 and which have, or has, spent at least part of their, or its, life outside insect-proof facilities.

(b) within the shortest possible time prior to their or its movement, the pre-basic mother plants or pre-basic material were, or was, subjected to visual inspection, sampling and molecular testing for the presence of *Xylella fastidiosa* (Wells et al.), carried out in accordance with international standards.

In this item—
“pre-basic material” has the meaning given to it by Article 2(5) of Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production(a); and
“pre-basic mother plants” has the meaning given to it by Article 1(3) of Commission Implementing Directive 2014/98/EU implementing Council Directive 2008/90/EC as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections(b).”.

(3) In schedule 4, Part C (relevant material which may only be landed in or moved within Scotland (as a protected zone) if special requirements are satisfied)—

(a) for item 3 substitute—

| “3. | Plants intended for planting, other than seeds, tubers or corms of *Begonia* L., and plants intended for planting, other than seeds of *Dipladenia* A.DC., *Ficus* L., *Hibiscus* L., *Mandevilla* Lindl. and *Nerium oleander* L. |

Without prejudice to the requirements, so far as applicable, in item 66 of Part A of this schedule, the plants must be accompanied by an official statement that:

(a) they originate in an area known to be free from *Bemisia tabaci* Genn. (European populations);

(b) no signs of *Bemisia tabaci* Genn. (European populations) have been observed on plants at the place of production on official inspections carried out at least once each three weeks during the nine weeks prior to marketing;

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(c) in cases where *Bemisia tabaci* Genn. (European populations) has been found at the place of production, the plants, held or produced in this place of production have undergone an appropriate treatment to ensure freedom from *Bemisia tabaci* Genn. (European populations) and that subsequently this place of production has been found free from *Bemisia tabaci* Genn. (European populations) as a consequence of the implementation of appropriate procedures aimed at eradicating *Bemisia tabaci* Genn. (European populations), both from official inspections carried out weekly during the three weeks prior to the movement from this place of production and from monitoring procedures carried out throughout that period; or

(d) for those plants for which there is evidence by their packing or their flower development or by other means that they are intended for direct sale to final consumers not involved in professional plant production, the plants have been officially inspected and found free from *Bemisia tabaci* Genn. (European populations) immediately prior to their movement.”;

and

(b) after item 6(a) insert—

| “7.” | Plants of *Pinus* L., other than fruits and seeds, intended for planting | The plants must be accompanied by an official statement that they have been:
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>grown throughout their life in places of production in countries where <em>Thaumetopoea pityocampa</em> Denis &amp; Schiffermüller is not known to occur;</td>
<td>(a) grown throughout their life in places of production in countries where <em>Thaumetopoea pityocampa</em> Denis &amp; Schiffermüller is not known to occur;</td>
</tr>
<tr>
<td>(b)</td>
<td>grown throughout their life in an area free from <em>Thaumetopoea pityocampa</em> Denis &amp; Schiffermüller established by the national plant protection organisation in accordance with ISPM No. 4;</td>
<td>(b) grown throughout their life in an area free from <em>Thaumetopoea pityocampa</em> Denis &amp; Schiffermüller established by the national plant protection organisation in accordance with ISPM No. 4;</td>
</tr>
</tbody>
</table>

(a) Item 6 was inserted by S.S.I. 2015/10.
8. Plants of *Prunus* L., other than seeds, intended for planting

The plants must be accompanied by an official statement that they:

(a) have been grown throughout their life in places of production in countries where *Xanthomonas arboricola* pv. *pruni* (Smith) Vauterin *et al.* is not known to occur;

(b) have been grown throughout their life in an area free from *Xanthomonas arboricola* pv. *pruni* (Smith) Vauterin *et al.* established by the national plant protection organisation in accordance with ISPM No. 4;

(c) have been derived in direct line from mother plants which have shown no symptoms of *Xanthomonas arboricola* pv. *pruni* (Smith) Vauterin *et al.* during the last complete cycle of vegetation, and no symptoms of *Xanthomonas arboricola* pv. *pruni* (Smith) Vauterin *et al.* have been observed on the plants at the place of production since the beginning of the last complete cycle of vegetation; or

(d) in the case of plants of *Prunus laurocerasus* L. and *Prunus lusitanica* L. for which there is evidence by their packing or by other means that they are intended for sale to final consumers not involved in professional plant production, no symptoms of *Xanthomonas arboricola* pv. *pruni* (Smith) Vauterin *et al.* have been observed on plants at the place of production since the beginning of the last complete growing season.

9. Plants of *Palmae*, intended for planting, having a
diameter of the stem at the base of over 5 centimetres and belonging to the following genera: Brahea Mart., Butia Becc., Chamaerops L., Jubaea Kunth, Livistona R. Br., Phoenix L., Sabal Adans., Syagrus Mart., Trachycarpus H. Wendl., Trithrinax Mart. or Washingtonia Raf. (a) been grown throughout their life in places of production in countries where Paysandisia archon (Burmeister) is known not to occur;

(b) been grown throughout their life in an area free from Paysandisia archon (Burmeister) established by the national plant protection organisation in accordance with ISPM No. 4; or

(c) during a period of at least two years prior to export or movement, been grown in a place of production—

(i) which is registered and supervised by the national plant protection organisation in the country of origin;

(ii) where the plants were placed in a site with complete physical protection against the introduction of Paysandisia archon (Burmeister); and

(iii) where, during 3 official inspections per year carried out at appropriate times, including immediately prior to movement from the place of production, no signs of Paysandisia archon (Burmeister) have been observed.

10. Plants of Palmae, intended for planting, having a diameter of the stem at the base of over 5 centimetres and belonging to the following taxa: Areca catechu L., Arenga pinnata (Wurmb) Merr., Bismarckia Hildebr. & H. Wendl., Borassus flabellifer L., Brahea armata S. Watson, Brahea edulis H. Wendl., Butia capitata (Mart.) Becc., Calamus merrillii Becc.,

The plants must be accompanied by an official statement that they have:

(a) been grown throughout their life in places of production in countries where Rhynchophorus ferrugineus (Olivier) is known not to occur;

(b) been grown throughout their life in an area free from Rhynchophorus ferrugineus (Olivier) established by the national plant protection organisation in accordance with ISPM No. 4; or

(c) during a period of at least two years prior to export or movement, been grown in a place of production—
(i) which is registered and supervised by the national plant protection organisation in the country of origin;
(ii) where the plants were placed in a site with complete physical protection against the introduction of Rhynchophorus ferrugineus (Olivier); and
(iii) where, during 3 official inspections per year carried out at appropriate times, including immediately prior to movement from the place of production, no signs of Rhynchophorus ferrugineus (Olivier) have been observed.”.

Amendment of schedule 5

13. In schedule 5 (relevant material from a third country for which a phytosanitary certificate may be required), in Part A (relevant material which may only be landed in Scotland if accompanied by a phytosanitary certificate)—

(a) in paragraph 1(c)(a) for “mais” substitute “mays”; and
(b) for paragraph 3 substitute—

“3. Fruits of—

(b) Annona L., Cydona Mill., Diospyros L., Malus Mill., Mangifera L., Passiflora L., Prunus L., Psidium L., Pyrus L., Ribes L., Syzygium Gaertn. or Vaccinium L., originating in any country outside Europe;
(c) Capsicum L.; or
(d) Punica granatum L., originating in any country of the African continent, Cape Verde, Saint Helena, Madagascar, La Reunion, Mauritius or Israel.”.

(a) Paragraph 1(c) was amended by S.S.I. 2012/326 and S.S.I. 2015/10.
Amendment of schedule 6

14.—(1) In schedule 6 (prohibitions on the landing in and movement within Scotland of relevant material without a plant passport), in Part A (relevant material, from Scotland or elsewhere in the European Union, which may only be landed in or moved within Scotland if accompanied by a plant passport)—

(a) in paragraph 1 omit “Castanea Mill.”;
(b) in paragraph 3b for both occurrences of “Epitrix similis (Gentner)” substitute “Epitrix papa sp. n.”;
(c) for paragraph 4 substitute—

“4. Plants, other than fruits or seeds, of Choisyta Kunth, Fortunella Swingle, Poncirus Raf., Cásimiroa La Llave, Clausena Burm. f., Murraya J. Koenig ex L., Vepris Comm., Zanthoxylum L. or Vitis L.;”;
(d) for paragraph 7(a), substitute—

(e) in paragraph 12(c)—

(i) at the end of sub-paragraph (1)(a) omit “and”;
(ii) in sub-paragraph (1)(b) for “demarcated area.” substitute “demarcated area; and”;
(iii) after sub-paragraph (1)(b) insert—

“(c) pre-basic mother plants or pre-basic material which belong to the species Juglans regia L., Olea europaea L., Prunus amygdalus Batsch, P. amygdalus × P. persica, P. armeniaca L., P. avium (L.) L., P. cerasus L., P. domestica L., P. domestica × P. salicina, P. dulcis (Mill.) D.A. Webb, P. persica (L.) Batsch, or P. salicina Lindley which have been grown outside such a demarcated area and spent at least part of their life outside insect proof facilities.”;
(iv) for sub-paragraph (3) substitute—

“(3) In this paragraph—

“host plants” has the meaning given to it by Article 1(b) of Decision (EU) 2015/789;
“pre-basic material” has the meaning given to it by Article 2(5) of Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production;
“pre-basic mother plants” has the meaning given to it by Article 1(3) of Commission Implementing Directive 2014/98/EU implementing Council Directive 2008/90/EC as regards specific requirements for the genus and species of fruit plants referred to in

(a) The reference to Castanea Mill. was inserted by S.S.I. 2006/474 to implement Commission Decision 2006/464/EC on provisional emergency measures to prevent the introduction into and the spread within the Community of Dryocosmus kuriphilus Yasumatsu (OJ L 183, 5.7.06, p.29), which has been repealed.
(b) Paragraph 3b was inserted by S.S.I. 2012/266 and substituted by S.S.I. 2013/187.
(c) Paragraph 12 was substituted by S.S.I. 2016/83.
Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections (a).”

(2) In schedule 6, for Part B (relevant material, from Scotland or elsewhere in the European Union, which may only be landed in or moved within Scotland if accompanied by a plant passport which is valid for Scotland (as a protected zone)) substitute—

“PART B

Relevant material, from Scotland or elsewhere in the European Union, which may only be landed in or moved within Scotland if accompanied by a plant passport which is valid for Scotland (as a protected zone)

1. Plants, other than fruit, of Castanea Mill.

2. Seeds of Castanea Mill.

3. Plants, other than seeds, of Platanus L., Prunus L., Quercus spp., other than Quercus suber or Ulmus L., intended for planting.


5. Plants of Pinus L.

6. The plants mentioned in sub-paragraphs (a) and (b) which are produced by producers whose production and sale is authorised to persons engaged in plant production in the course of a trade or business, other than those plants which are prepared and ready for sale to the final consumer, and for which it is ensured by the responsible official body of the consignor country, that the production thereof is separate from that of other products—

(a) plants, other than corms, seeds or tubers, of Begonia L., intended for planting; or
(b) plants, other than seeds, of Dipladenia A.DC., Euphorbia pulcherrima Willd., Ficus L., Hibiscus L., Mandevilla Lindl. or Nerium oleander L., intended for planting.”.

Amendment of schedule 7

15.—(1) In schedule 7 (prohibitions on the consignment of relevant material to another part of the European Union without a plant passport), in Part A (relevant material which may only be consigned to another part of the European Union if accompanied by a plant passport)—

(a) in paragraph 1 omit “Castanea Mill.”;(b);
(b) in paragraph 3b(c) for both occurrences of “Epitrix similaris (Gentner)” substitute “Epitrix papa sp. n.”;

(b) The reference to Castanea Mill was inserted by S.S.I. 2006/474 to implement Commission Decision 2006/464/EC on provisional emergency measures to prevent the introduction into and the spread within the Community of Dryocosmus kuriphilus Yasumatsu (OJ L 183, 5.7.06, p.29), which has now been repealed.
(c) Paragraph 3b was inserted by S.S.I. 2012/266 and was substituted by S.S.I. 2013/187.
(c) for paragraph 4(a) substitute—

“4. Plants, other than fruits or seeds, of Choisya Kunth, Fortunella Swingle, Poncirus Raf., Castamiroa La Llave, Claussenia Burm. f., Murraya J. Koenig ex L., Vepris Comm., Zanthoxylum L. or Vitis L.”;

(d) for paragraph 7(a), substitute—


(e) in paragraph 12(b)—

(i) at the end of sub-paragraph (1)(a) omit “and”;
(ii) in sub-paragraph (1)(b) for “demarcated area.” substitute “demarcated area; and”;
(iii) after sub-paragraph (1)(b) insert—

“(c) pre-basic mother plants or pre-basic material which belong to the species Juglans regia L., Olea europaea L., Prunus amygdalus Batsch, P. amygdalus × P. persica, P. armeniaca L., P. avium (L.) L., P. cerasus L., P. domestica L., P. domestica × P. salicina, P. dulcis (Mill.) D.A. Webb, P. persica (L.) Batsch, or P. salicina Lindley which have been grown outside such a demarcated area and spent at least part of their life outside insect proof facilities.”; and

(iv) for sub-paragraph (3) substitute—

“(3) In this paragraph—

“host plants” has the meaning given to it by Article 1(b) of Decision (EU) 2015/789;
“pre-basic material” has the meaning given to it by Article 2(5) of Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production; and
“pre-basic mother plants” has the meaning given to it by Article 1(3) of Commission Implementing Directive 2014/98/EU implementing Council Directive 2008/90/EC as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections.”."

(2) In schedule 7, in Part B (relevant material which may only be consigned to a protected zone in another part of the European Union if accompanied by a plant passport which is valid for that protected zone)—

(a) for paragraph 2(c) substitute—

“2. Plants, other than seeds, of Beta vulgaris L., Platanus L., Populus L., Prunus L., Quercus spp., other than Quercus suber, or Ulmus L., intended for planting.”;
after paragraph 3 insert—


c for paragraph 10(b) substitute—

“(b) plants, other than seeds, of Dipladenia A.DC., Euphorbia pulcherrima Willd., Ficus L., Hibiscus L., Mandevilla Lindl. or Nerium oleander L., intended for planting.”.

Amendment of schedule 8

16.—(1) In schedule 8 (Swiss plant passports) in Part A (relevant material originating in Switzerland which may be landed in or moved within Scotland if accompanied by a Swiss passport)—

(a) for paragraph 1(a) substitute—


(b) omit paragraph 2;

(c) for paragraph 4 substitute—

“4. Plants, other than fruit or seeds, of Citrus L., Fortunella Swingle, Poncirus Raf., Casimiroa La Llave, Clausena Burn.f., Vepris Comm., Zanthoxylum L. or Vitis L.

4A. Fruits of Citrus L., Fortunella Swingle, Poncirus Raf., with leaves and peduncles.”;

and

(d) in paragraph 5—

(i) for subparagraph (a) substitute—


(ii) for sub-paragraph (ea)(b) substitute—

“(ea) plants of Palmae, intended for planting, having a diameter of the stem at the base of over 5 centimetres and belonging to the following genera or species: Brahea Mart., Butia Becc., Chamaerops L., Jubaea Kunth., Livistona R. Br., Phoenix L.,

(a) Paragraph 1 was substituted by S.S.I. 2012/266.
(b) Sub-paragraph (ea) was inserted by S.S.I. 2012/266.
Sabal Adans., Syagrus Mart., Trachycarpus H. Wendl., Trithrinax Mart. or Washingtonia Raf.; or”; and

(iii) in sub-paragraph (f)—

(aa) for “bulbous rhizomes” substitute “corms, tubers and rhizomes”;

(bb) for “Crocus flavus Weston cv. “Golden Yellow’” substitute “Crocus flavus Weston ‘Golden Yellow’, Dahlia spp.”; and

(cc) after “Ismene Herbert,” insert “Lilium spp..”.

(2) In schedule 8, in Part B (relevant material imported into Switzerland from another third country which, if it would normally be permitted to be landed in Scotland if accompanied by a phytosanitary certificate, may be accompanied by a Swiss passport)—

(a) in paragraph 1(a) omit “, other than Clausena Burm. f. and Murraya Koenig ex. L.”;

(b) in paragraph 2 omit “other than Oryza spp.”;

(c) in paragraph 3, after “Rubus L.” insert “, Oryza spp.”;

(d) after paragraph 3, insert—

“3A. Seeds of Citrus L., Fortunella Swingle or Poncirus Raf.”;

(e) in paragraph 5—

(i) in sub-paragraph (a), after “Apium graveolens L.” insert “, Eryngium L., Limnophila L.”;

(ii) after sub-paragraph (b) omit “or”

(iii) for sub-paragraph (c) substitute—

“(c) Acer saccharum Marsh, originating in Canada or the USA;

(d) Conifers (coniferales);

(e) Castanea Mill., Dendranthema (DC.) Des Moul., Dianthus L., Gypsophila L.,

Pelargonium l’Herit. ex Ait, Phoenix spp., Populus L., Quercus L. or Solidago L.;

(f) Prunus L. originating in any country outside Europe;

(g) leaves of Manihot esculenta Crantz;

(h) cut branches of Betula L., with or without foliage;

(i) cut branches of Fraxinus L., Juglans ailantifolia Carr., Juglans mandshurica Maxim., Ulmus davidiana Planch. or Pterocarya rhoifolia Siebold & Zucc., with or without foliage, originating in Canada, China, the Democratic People’s Republic of Korea, Japan, Mongolia, the Republic of Korea, Russia, Taiwan or the USA; or

(j) Amyris P. Browne, Casimiroa La Llave, Citropsis Swingle & Kellerman, Eremocitrus Swingle, Esenbeckia Kunth., Glycosmis Corrêa, Merrillia Swingle, Naringi Adans., Tetradium Lour., Todalia Juss. or Zanthoxylum L.”;

(f) after paragraph 5 insert—

“5A. Parts of plants, other than fruit but including seeds, of Aegle Corrêa, Aeglopsis Swingle, Afraegle Engl., Atalantia Corrêa, Balsamocitrus Stapf., Burkilianthus Swingle, Calodendrum Thunb., Choisya Kunth, Clausena Burm. f., Limonia L., Microcitrus Swingle, Murraya J. Koenig ex L., Pamburus Swingle, Severinia Ten., Swinglea Merr., Triphasia Lour. or Vepris Comm.”;

(a) Paragraph 1 was substituted by S.S.I. 2012/266.
(g) for paragraph 6 substitute—

“6. Fruit of —

(a) Citrus L., Fortunella Swingle, Poncirus Raf., Momordica L. or Solanum melongena L.;

(b) Annona L., Cydonia Mill., Diospyros L., Malus Mill., Mangifera L., Passiflora L., Prunus L., Psidium L., Pyrus L., Ribes L., Syzygium Gaertn., or Vaccinium L., originating in any country outside Europe; or

(c) Capsicum L.;” and

(h) in paragraph 7 omit “other than for planting”.

Amendment of schedule 12

17. In schedule 12 (notice of landing), in Part B (notice of landing of relevant material required by article 6(1) of the Plant Health (Scotland) Order 2005), in Part B of the notice prescribed therein—

(a) items 5 to 13 are re-numbered as 4 to 12;

(b) after item 12 insert—

“13. Additional information…………………………………………………………”

Revocations

18. The following articles are revoked:

(a) article 6(1) and (2)(c) to (e) of the Plant Health (Scotland) Amendment (No. 2) Order 2007(a);

(b) article 9(2) of the Plant Health (Scotland) Amendment (No. 2) Order 2013(b);

(c) article 3(a) of the Plant Health (Scotland) Amendment (No. 3) Order(c); and

(d) article 3(b) of the Plant Health (Scotland) Amendment Order 2015(d).

FERGUS EWING
A member of the Scottish Government

St Andrew’s House,
Edinburgh
28th March 2018

(a) S.S.I. 2007/498. Article 6(2)(a) and (b) were revoked by S.S.I. 2013/187.
(b) S.S.I. 2013/187.
(c) S.S.I. 2013/366.
(d) S.S.I. 2015/10.
EXPLANATORY NOTE
(This note is not part of the Order)

This Order amends the Plant Health (Scotland) Order 2005 (S.S.I. 2005/613) (“the principal Order”).

It implements the following EU instruments:

Decision No 1/2015 of the Joint Committee on Agriculture of 19th November 2015 concerning the amendment to Appendices 1, 2 and 4 to Annex 4 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (OJ L 27, 1.2.2017, p.155)

Article 16 of the Order implements this decision by amendment of schedule 8 of the principal Order (Swiss plant passports).

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 Phylosticta citricarpa (McAlpine) Van der Aa (OJ L 125, 13.5.2016, p.16) and Commission Implementing Decision (EU) 2017/801 amending Implementing Decision 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 Phylosticta citricarpa (McAlpine) Van der Aa (OJ L 120, 11.5.2017, p.26) and Commission Implementing Decision (EU) 2018/85 amending 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 Phylosticta citricarpa (McAlpine) Van der Aa (OJ L 16, 20.1.2018, p.11).

The Order implements Commission Implementing Decision (EU) 2016/715, as amended. Article 4 amends article 6 of the principal Order (advance notification of landing) to require that when certain citrus fruits originating in Argentina, Brazil, South Africa or Uruguay are due to be industrially processed into juice in Scotland, information is given as to the premises at which such processing is to take place. Article 5 amends article 19 of the principal Order (prohibitions on landing plant pests and relevant material) to require that inspectors receive written notice, in advance, of the landing of such citrus fruits where they have entered the European Union via a point of entry outside Scotland. Article 12(1)(b) amends Part A of schedule 4 of the principal Order to insert new items 17a and 17b which implement the restrictions on landing contained in Commission Implementing Decision (EU) 2016/715 for the citrus fruit concerned. Article 12(2)(b) inserts a new item 7b into Part B of schedule 4 to require that such citrus fruits intended for industrially processing into juice in Scotland may only be landed in or moved within Scotland in accordance with Commission Implementing Decision (EU) 2016/715 and with a licence granted by the Scottish Ministers under article 40(1) of the principal Order.


Commission Implementing Decision (EU) 2015/789 (the “principal Xylella decision”) was implemented by S.S.I. 2016/13, which introduced, into article 2(1) of the principal Order, the defined term “Decision (EU) 2015/789”. The definition of this term contained an ambulatory reference to the principal Xylella decision. The term “Decision (EU) 2015/789” (and thus the ambulatory reference) is also incorporated into the definition of “plants specified in relation to Xylella fastidiosa (Wells et al.)” in article 2(1) of the principal Order with the effect that the amendments made by the amending Decisions are already partially implemented. To the extent not implemented by the ambulatory reference or by administrative measures, the amending Decisions are implemented by article 6 of the Order which amends article 28A of the principal Order (duties of professional operators in relation to Xylella fastidiosa (Wells et al.)) to introduce...
new record-keeping responsibilities on professional operators in relation to certain host plants of *Xylella fastidiosa* (Wells et al.). The amending Decisions are also implemented by article 12(1)(k) which substitutes item 86 in schedule 4 (restrictions on the landing in and movement within Scotland or relevant material) Part A (relevant material, from third countries, which may only be landed in Scotland if special requirements are satisfied) of the principal Order to impose restrictions on the introduction of certain plants originating in any third country where *Xylella fastidiosa* (Wells et al.) is known to be present and also by article 12(1)(l) which amends item 87 in the same Part, to except those plants which have been grown *in vitro* from the general requirements imposed by that item entry and by article 12(1)(m) which introduces new item 87a into that Part, to impose specific requirements in relation to plants grown *in vitro*. The amending Decisions are further implemented by article 12(2)(i) which amends item 40 in schedule 4, Part B (relevant material, from another part of the European Union, which may only be landed in or moved within Scotland if special requirements are satisfied) of the principal Order to except plants grown *in vitro* and host plants listed in Annex III of the principal *Xylella* decision, from the general requirements of that item entry and also by article 12 (2)(j) which introduces new items 40a, 40b and 40c into that Part. These new items impose movement requirements in relation to: plants grown *in vitro* and which have been grown for part of their lives within a demarcated area (item 40a); host plants of *Xylella fastidiosa* (Wells et al.) which have never been grown in a demarcated area (item 40b); and certain pre-basic mother plants and pre-basic material which have been grown outside a demarcated area and outside insect-proof facilities (item 40c). The amending Decisions are also implemented by article 14 (1)(e) which amends schedule 6 (prohibitions on the landing in and movement within Scotland of relevant material without a plant passport), Part A (relevant material, from Scotland or elsewhere in the European Union, which may only be landed in or moved within Scotland if accompanied by a plant passport) to require that certain pre-basic mother plants and pre-basic material may only be landed in Scotland with a plant passport. The amending Decisions are also implemented by article 15(1)(e) which amends schedule 7 (prohibitions on the consignment of relevant material to another part of the European Union without a plant passport), Part A (relevant material which may only be consigned to another part of the European Union if accompanied by a plant passport) to require that certain pre-basic mother plants and pre-basic material may only be moved to another part of the European Union with a plant passport.


Commission Implementing Decision (EU) 2016/873 updates the list of protected zones in Regulation (EC) No 690/2008. This is implemented by article 3(j), which amends article 2(1) of the principal Order by substituting the definition of “protected zone”.

**Commission Implementing Decision (EU) 2016/1359** amending 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 similaris* (Gentner), *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner) (OJ L 215, 10.8.2016, p.29) and **Commission Implementing Decision (EU) 2018/5** amending Implementing Decision 2012/270/EU as regards the symptoms of *Epitrix cucumeris* (Harris), *Epitrix papa* sp. n., *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner) and the establishment of relevant demarcated areas

Implementing Decision 2012/270/EU a as regards emergency measures to prevent the introduction into and the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix similaris* (Gentner), *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner) (OJ L 132, 23.5.2012) (the “principal “Epitrix decision”) applied *inter alia* to *Epitrix similaris* (Gentner) on the understanding that this organism had been detected on Union territory. Following further research the Commission understands that the detected organism should have been identified as *Epitrix papa* sp. n. and that *Epitrix similaris* (Gentner) has yet to be detected in Union territory. Accordingly Commission Implementing Decision (EU) 2016/1359 amends the principal *Epitrix* decision to replace references to *Epitrix similaris* (Gentner) with references to *Epitrix papa* sp. n. (including in the title of the principal *Epitrix* decision. Article 3(d) of the Order inserts the defined term “Decision 2012/270/EU” into article 2(1) of the principal Order to refer to the principal *Epitrix* decision. The
defined term captures the correct reference to Epitrix papa sp. n. and includes an ambulatory reference to the principal Epitrix decision. Article 5(2) substitutes the defined term into the cross references to the principal Epitrix decision in articles 22(3)(a) (exceptions from certain prohibitions and requirements) and article 39(12) (miscellaneous provisions for certain solanaceous species) of the principal Order. References to Epitrix similaris (Gentner) in schedule 1 (plant pests shall not be landed in or spread within Scotland), Part B (plant pests known to occur in the European Union) and in item 32a of part A of schedule 4 and in items 19a and 19b of Part B of schedule 4 and in paragraph 3b of Part A of schedule 6 and Part A of schedule 7 of the principal Order, are changed to references to Epitrix papa sp. n. by articles 9(2)(a), 12(1)(f)(i), 12(2)(f) and (g), article 14(1)(b) and 15(1)(b) respectively. Commission Implementing Decision (EU) 2018/5 is further implemented by the substitution of the text in column 3 of item 32a of Part A of schedule 4 by article 12(1)(f)(ii).

**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, Tsuyumu & Goto (OJ L 31, 4.2.2017, p.29).

Commission Implementing Decision 2012/756/EU as regards measures to prevent the introduction into and the spread within the Union of Pseudomonas syringae pv. actinidiae Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto (OJ L 31, 4.2.2017, p.29) expired on 31st March 2016. Commission Implementing Decision (EU) 2017/198 largely replicates the previous Implementing Decision, with some changes (relating to the permissible measures which may be taken to prevent the spread of the pest and to the permissible width of the regulated zone surrounding a pest free place or site of production). To the extent that the provision remains the same as that in Commission Implementing Decision 2012/756/EU, the relevant articles are already implemented by amendments made in S.S.I. 2013/187. Article 8 implements Commission Implementing Decision (EU) 2017/198 by introducing a new article 42A into the principal Order to create an obligation on professional operators to take precautionary measures where that operator suspects the presence of the pest. Article 12(1)(h) substitutes item 83 in Part A of schedule 4 of the Principal Order to prescribe the information which must accompany plants of Actinidia Lindl. which are entering Scotland from a third country. Article 12(2)(h) substitutes article 39 in Part B of schedule 4 to the principal Order to prescribe the information which must accompany plants of Actinidia Lindl. entering Scotland from a different part of the European Union.


Commission Implementing Directive (EU) 2017/1279 makes a number of amendments to the Annexes of Council Directive 2000/29/EC. This Order transposes those amendments. A transposition note has been published with this Order.


Commission Implementing Directive (EU) 2017/1920 amends Annex IV of Council Directive 2000/29/EC. It is transposed by article 12(2)(d) of the Order which amends item 17 of Part B of schedule 4 of the principal Order to remove seed of Solanum tuberosum L. from its scope and by article 12(2)(e) which inserts item 17a into the Part to reflect the movement requirements imposed on this seed by the Implementing Directive.

No business and regulatory impact assessment has been prepared for this Order as no impact upon business, charities or voluntary bodies is foreseen.
Transposition tables

In these tables —


**TRANSPOSITION OF COMMISSION IMPLEMENTING DIRECTIVE (EU) 2017/1279**

<table>
<thead>
<tr>
<th>Provision of the Implementing Directive</th>
<th>Provision of principal Directive being amended, substituted or inserted</th>
<th>Transposing article of Plant Health (Scotland) Amendment Order 2018</th>
<th>Notes</th>
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</thead>
<tbody>
<tr>
<td>Article 1</td>
<td>Annexes I-V</td>
<td>Article 3(1)(f) and all articles listed in the column below.</td>
<td>Substitution of defined term “Directive 2000/29/EC” in article 2(1) of the principal Order ensures all amendments to principal Directive are incorporated when term is used.</td>
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<td>Article 2</td>
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<td>Annex (1)(a)(i)</td>
<td>Annex I, Part A, Section I</td>
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<tr>
<td>(Amendments in chronological order)</td>
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<td></td>
<td>Annex I, Part A, Section I, heading (a), omit point 5</td>
<td>No transposition required</td>
<td>Already transposed by schedule 1, Part A, item 4 (insects, mites and nematodes) of the principal Order. Anoplophora chinensis (Forster) is the same pest as Anoplophora chinensis (Thomson)</td>
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<td>Annex I, Part A, Section I, heading (a), insertion made after point 6</td>
<td>Article 9(1)(a)(i)</td>
<td>Amends schedule 1, Part A of the principal Order. Bactericera cockerelli (Sulc.)</td>
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<td>Article 9(1)(a)(ii)</td>
<td>Amends schedule 1</td>
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<td>Part A</td>
<td>Article 9(1)(a)(iii)</td>
<td>Amends schedule 1, Part A of the principal Order</td>
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<td>Part A</td>
<td>Article 9(1)(a)(iv)</td>
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<td>Part A</td>
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<td>Relates to <em>Xylella fastidiosa</em> (Wells et al). This organism is already correctly listed in schedule 1, Part B of the principal Order as a pest known to occur in the EU</td>
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<td>Amends schedule 1, Part A of the principal Order</td>
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*Keiferia lycopersicella* (Walsingham)

*Saperda candida* Fabricius

*Thaumatotibia leucotreta* (Meyrick)

*Xylella fastidiosa*

*Xanthomonas citri* pv. *aurantifolii* and *Xanthomonas citri* pv. *citri*

*Phyllosticta citricarpa* (McAlpine) Van der Aa

*Phyllosticta solitaria* Ellis & Everhart

Elm phloem necrosis mycoplasma
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<td>Potato spindle tuber viroid</td>
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<td>Annex II, Part B, heading (a)</td>
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<td>Article 10(2)(a)</td>
<td>Also transposed by schedule 2, Part B, item 12 (insects, mites and nematodes).</td>
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<tr>
<td>Annex II, Part B, heading (b), insertion after point 2</td>
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<td>Annex IV, Part A, Section I, substitution in point 14</td>
<td>Article 12(1)(a) Amends schedule 4, Part A of the principal Order Candidatus Phytoplasma ulmi</td>
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*Thaumetopoea pityocampa* Denis & Schiffermüller |
|-------------------|-------------------------------------------|------------------|------------------------------------------------------------------|
No change in relation to Scotland. |
*Xanthomonas arboricola pv. pruni* (Smith) Vauterin *et al.*  
No change required in relation to *Globodera rastachiensis* (beyond the amendments made by Article 3) |
No change in relation to Scotland. |
No change in relation to Scotland. |
*Paysandisia archon* (Burmeister) and *Rhynchophorus ferrugineus* (Olivier) |
No change in relation to Scotland. |
Additional plants added |
No change in relation to Scotland. |
| Annex (5)(a)(i) Amendments in chronological order | Annex V, Part A, Section I | - | - |
| | Annex V, Part A, Section I, substitution of point 1.4 | Articles 14(1)(c); 15(1)(c) | Amends schedule 6, Part A and schedule 7, Part A of the principal Order  
*Choisya* Kunth and *Murraya* J. Koenig ex L. |
| | Annex V, Part A, Section I, substitution in point 1.7 | Not transposed by this Order | Forestry |
| | Annex V, Part A, | Article 14(1)(d); | Amends schedule 6, |
| Annex V, Part A, Section II | - | - | - |
| Annex V, Part A, Section II, substitution of point 1.2 | Article 14(2); Article 15(2)(a) | Substitutes schedule 6, Part B (insofar as appropriate to Scottish protected zones); amends schedule 7, Part B of the principal Order |
| Annex V, Part A, Section II, insertion after point 1.3 | Article 14(2); Article 15(2)(b) | Substitutes schedule 6, Part B; amends schedule 7, Part B of the principal Order |
| Annex V, Part A, Section II, substitution in point 1.10 | Not transposed by this Order | Forestry |
| Annex V, Part A, Section II, substitution in point 2.1 | Article 13(2); Article 14(2)(c) | Substitutes schedule 6, Part B; amends schedule 7, Part B of the principal Order |
| Annex (5)(b)(i) (Amendments in chronological order) | Annex V, Part B, Section I | - | - |
| Annex V, Part B, Section I, substitution in point 1 | Article 13(a) | Amends schedule 5 of the principal Order |
| Annex V, Part B, Section I, substitution in point 2 | No transposition required | Already correctly transposed by paragraph 2 of schedule 5 of the principal Order |
| Annex V, Part B, Section I, substitution in point 3 | Article 13(b) | Amends schedule 5 of the principal Order |
| Annex V, Part B, Section I, insertion in point 3 | Article 13(b) | Amends schedule 5 of the principal Order |
| Annex V, Part B, Section I, insertions in point 6 | Not transposed by this Order | Forestry |
### Annex (5)(b)(ii) 
Annex V, Part B, Section II  
Not transposed by this Order  
Forestry

#### TRANPOSITION OF COMMISSION IMPLEMENTING DIRECTIVE (EU) 2017/1920

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Annex B – SSI 2018/122: Common Agricultural Policy (Miscellaneous Amendments) (Scotland) Regulations 2018

Type of Instrument: Negative

Laid Date: 16 April 2018

Coming into force: 15 May 2018

Minister to attend the meeting: No

Procedure

9. Under the negative procedure, an instrument comes into force on the date specified on it (the “coming into force date”) unless a motion to annul is agreed to by the Parliament within the 40-day period. Lead committees are not obliged to report to the Parliament on negative instruments, except where a motion recommending annulment has been lodged.

Consideration by the Delegated Powers and Law Reform Committee

10. At its meeting on 1 May 2018, the Delegated Powers and Law Reform (DPLR) Committee considered the instrument.

11. That Committee noted that there was a drafting error in the new regulation 5(3) of the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015, as inserted by regulation 4 of the Regulations.

12. The provision defines "established local practices" for the purposes of paragraph (2)(b) of the new regulation 5, but the definition is contained in paragraph (2)(a).

13. The matter was raised in correspondence with the Scottish Government. The Government has indicated that it will correct the error by way of a correction slip.

Policy Objectives

14. This SSI primarily makes provision in Scotland for the implementation of Regulation (EU) No 2017/2393 of the European Parliament and of the Council, referred to as “the Omnibus Regulation”, which applies from 1 January 2018. The Regulation builds on Commissioner Hogan’s commitment to simplify the Common Agricultural Policy (CAP) and includes a series of measures aimed at further simplifying the policy with a view to easing the burden on, and making life easier, for both farmers and national authorities. More details of these simplification measures are in the attached Policy Note.

15. The policy note and instrument are attached and also available online at the below link: http://www.legislation.gov.uk/ssi/2018/122/policy-note/contents
Recommendation

16. The Committee is invited to consider any issues that it wishes to raise in relation to this instrument.

Rural Economy and Connectivity Committee Clerks
May 2018
POLICY NOTE

THE COMMON AGRICULTURAL POLICY (MISCELLANEOUS AMENDMENTS)
(SCOTLAND) REGULATIONS 2018

SSI 2018/122

Introduction

- The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution procedure. It was made and laid before the Scottish Parliament on 16 April 2018 and its provisions come into force on 15 May 2018.

Background

- This instrument primarily makes provision in Scotland for the implementation of Regulation (EU) No 2017/2393 of the European Parliament and of the Council, referred to as “the Omnibus Regulation”, which applies from 1 January 2018. The Regulation builds on Commissioner Hogan’s commitment to simplify the Common Agricultural Policy (CAP) and includes a series of measures aimed at further simplifying the policy with a view to easing the burden on, and making life easier, for both farmers and national authorities.

- The Omnibus Regulation amends the following EU Regulations which are the basic acts underpinning the CAP:
  - Regulation (EU) No 1305/2013, “the Rural Development Regulation”;
  - Regulation (EU) No 1306/2013, “the Horizontal Regulation”;
  - Regulation (EU) No 1307/2013, the “Direct Payments Regulation”; and
  - Regulation (EU) No 1308/2013, the “Common Market Organisation” Regulation.

These EU Regulations are supplemented by a number of EU delegated and implementing Regulations and those, as well as the basic acts, are implemented in Scotland through a suite of domestic regulations. This instrument primarily makes amendments to those domestic implementing regulations necessary to reflect changes made to the Direct Payments Regulation by the Omnibus Regulation and options the Scottish Ministers may exercise under it. Whilst the Omnibus Regulation applies from 1 January 2018, under the EU rules, applicants have until 15 May in that year, and subsequent Scheme years, to
make an application to the Scottish Ministers in respect of the schemes affected by the amendments made by this instrument.

4. The instrument also makes some changes:
   - to reflect changes made to Commission Delegated Regulation (EU) 639/2014 in respect of the “greening” component of Direct Payments under the Common Agricultural Policy;
   - in relation to the cross-compliance component of Direct Payments under the Common Agricultural Policy (CAP); and
   - in relation to the Less Favoured Area Support Scheme.

Outline of Changes and effect of the instrument

5. The instrument amends the following domestic regulations:
   - the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015;
   - the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014; and
   - the Less Favoured Area Support Scheme (Scotland) Regulations 2010.

The amendments made to the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 are outlined in the following paragraphs 6 to 13. The amendments made to the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014 and the Less Favoured Area Support Scheme (Scotland) Regulations 2010 are outlined in paragraphs 14 and 15.

6. The definitions of “arable land” and “permanent grassland” are amended to align to the revised definitions and options provided by the Omnibus Regulation. Where fallow land has, prior to 1 January 2018, been accepted as arable land it can continue to be accepted as arable land, however, from 2023 it must be considered permanent grassland if it meets the basic criteria, at that point, to be considered as such. The amendment makes clear that land that has not been ploughed up for 5 years or more, is used to grow grasses or other herbaceous forage and has not included in the crop rotation for 5 years of more is to be considered permanent grassland. It also includes, from 2023, land which was fallow and accepted as arable but has become permanent grassland.
7. In addition to the mandatory payment reduction of 5 per cent on all Basic Payment Scheme (BPS) payments in excess of €150,000, the Scottish Government opted in 2014 to implement a further cap on BPS payments with effect from scheme year 2018 to reduce amounts in excess of €600,000 by 100 per cent. This additional payment reduction will impact a limited number of businesses (less than 10) and the amounts in excess of the thresholds are transferred to Pillar 2 to fund Rural Development.

8. For scheme year 2018 onwards, the percentage reduction made to the annual unit value of each BPS payment entitlement transferred without land will reduce from 50 per cent to 30 per cent in line with the Direct Payments Regulation. The value of the siphon applied is used to replenish the National Reserve which is used to fund New Entrants and Young Farmers.

9. Under current rules, payments in respect of the Young Farmer Payment (YFP) can be made for a period of up to 5 years, to be reduced by the number of calendar years elapsed since the applicant set up as head of the holding and the date of their first submission of an application for payment. The Omnibus Regulation introduces a change to the YFP whereby payments are to be made for a 5 year period from the date of first submission of an application for payment. A policy decision has been made to apply the derogation provided in the Omnibus Regulation and limit the impact of the change to young farmers setting up from 2014 onwards. The effect is that where a young farmer has set up in the period 2010-2013, the 5 year payment period will continue to be reduced by the number of calendar years which have elapsed between the date of setting up and the date of first submission of an application for payment. The application of the derogation provides better budget stability for Direct Payments 2018-2019.

10. Persons operating airports, railway services, waterworks, real estate services and permanent sports and recreation grounds (“negative list” activities) are no longer automatically barred from receiving Direct Payments and no longer have to satisfy readmission tests to be eligible to receive Direct Payments.

11. In respect of the minimum activity requirements, amendment is made to the definition of “livestock unit” to include farmed stags aged 27 months and over.
12. Amendments are made in respect of the Ecological Focus Areas (EFA) requirements of Greening. These are:

- amendments to reflect field margins no longer counting as an EFA landscape feature but, rather, that they have been merged with EFA buffer strips (see the and the explanation at recital 10 of Commission Regulation (EU) 2017/1155 and the amendments made by that Regulation to Commission Regulation (EU) 639/2014, Article 45(4) and (5));
- introduction of hectares of agro-forestry and hedges, wooded strips and trees in line as EFAs, along with conversion and weighting factors for hedges, wooded strips and trees in line and a weighting factor for areas of agro forestry;
- to allow buffer strips, field margins, hedges, wooded strips and trees in line to be located adjacent to the arable land of the holding as opposed to on the arable land of the holding.
- amends the periods for sowing catch crops and green cover, and the date before which the crops cannot be harvested.
- breaking down the genus clover into red and white clover species for the purposes of green cover crop species mixtures and nitrogen fixing crops species
- permitting, for the purpose of establishing areas with nitrogen-fixing crops as EFAs, mixtures of nitrogen-fixing crops with other crops provided the nitrogen-fixing crops are predominant by weight of seed.

13. The submission date for claims under the Scottish Upland Sheep Support Scheme (SUSSS) is amended from 16 October to 30 November from 2018 onwards. This extends the derogation already applied in relation to the 2017 scheme year by S.S.I 2017/317. In addition, certain Scheme eligibility conditions are amended to align to the amended submission date: the retention period is amended to start on 1 December instead of 17 October and eligible animals must be less than 12 months old on 1 December instead of 17 October.

14. The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014 make provision in Scotland for the administration and enforcement of the Horizontal Regulation in relation to cross-compliance. The amendments to the Regulations are to reflect domestic policy decisions which are unrelated to amendments made by the Omnibus Regulation to the Horizontal Regulation. The amendments are required to provide:

- clarification on the meaning, and storage, of field heaps;
• that a beneficiary must limit rather than prevent the erosion of the banks of watercourses, at watering points or feeding areas from overgrazing or heavy poaching by livestock; and
• further exemptions to the trimming of hedges and cutting of trees.

15. The amendments made to the Less Favoured Area Support Scheme (Scotland) Regulations 2010 are necessary to make provision for LFASS payments in 2018. Under the Rural Development Regulation, it was intended that LFASS would be replaced in 2018 by a new scheme for payments in respect of areas facing natural or other specific constraints, however, the Omnibus Regulation allows Member States to defer that until 2019.

Impact Assessments

16. No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen. In terms of the assessment of the impact of the implementation of the reformed CAP in Scotland, on people with 'protected characteristics' (age, disability, sex, gender reassignment, race, religion or belief, sexual orientation) an Equality Impact Assessment was undertaken in 2015 and the findings are still applicable in full. A copy can be accessed using the following link:-
http://www.scotland.gov.uk/Topics/People/Equality/18507/EqualityImpactAssessmentSearch

Financial Effects

17. The Direct Payment schemes covered by this instrument will contribute to enabling the Scottish Ministers to pay around €528 (approx. £470) million per annum plus an additional £60 million in respect of the Less Favoured Area Support Scheme (Scotland) (LFASS).

Agriculture and Rural Economy (ARE): Rural Payments and Inspections Division (RPID)

16 April 2018
The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Common Agricultural Policy (Miscellaneous Amendments) (Scotland) Regulations 2018 and come into force on 15th May 2018.

Amendments to the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015

2. The Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015(b) are amended in accordance with regulations 3 to 12.

3. In regulation 2(1) (interpretation), for the definition of “arable land” substitute—

““arable land” means land mentioned in Article 4(1)(h) of the Direct Payments Regulation and includes parcels of land which prior to 1st January 2018 were lying fallow(c) and, subject to regulation 5(2)(c), continue to lie fallow on or after that date;”.

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”)). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), section 3(3) and schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.


(c) Under the second sub-paragraph of Article 4(1) of Regulation (EU) 1307/2013 (OJ L 347, 20.12.13, p. 608) (as amended), where the Scottish Ministers have, prior to 1st January 2018, accepted parcels of land lying fallow as arable land, they may continue to do so after that date. In accordance with that provision, and as outlined in regulation 5(2)(c) of the 2015 Regulations (as substituted by regulation 4 of these Regulations), where such parcels have been so accepted as arable land they must constitute permanent grassland from 2023 where the conditions in Article 4(1)(h) of that Regulation are met.
4. For regulation 5 (definition of permanent grassland) substitute—

“Definition of permanent grassland

5.—(1) For the purposes of—

(a) the following provisions of the Direct Payments Regulation—

(i) Article 4(1)(h);

(ii) Article 4(2), second sub-paragraph; and

(iii) Article 4(2), point (a) of the third sub-paragraph; and

(b) Article 7 of the Direct Payments Delegated Regulation,

permanent grassland includes land to which paragraph (2) applies.

(2) This paragraph applies to—

(a) land which can be grazed and forms part of established local practices where
grasses and other herbaceous forage are traditionally not predominant in grazing
areas;

(b) other than land to which sub-paragraph (c) applies, land which has not been
ploughed up for 5 years or more, provided it is used to grow grasses or other
herbaceous forage naturally (self-seeded) or through cultivation (sown) and has not
been included in the crop rotation for five years or more; or

(c) land which, in accordance with the second sentence of the second sub-paragraph of
Article 4(1) of the Direct Payments Regulation—

(i) constitutes parcels of land lying fallow prior to 1st January 2018; and

(ii) on or after 1st January 2023 meets the conditions for permanent grassland as
set out in Article 4(1)(h) of that Regulation.

(3) In paragraph (2)(b), “established local practices” means the practice of grazing by
livestock of non-herbaceous plants (excluding algae).”.

5. For regulation 8 (reductions) substitute—

“Reductions

8.—(1) This regulation applies for the purposes of Article 11(1) of the Direct Payments
Regulation in respect of direct payments to a farmer pursuant to Chapter 1 of Title III of
that Regulation for a given calendar year.

(2) Where the direct payments to be granted exceed EUR 150,000 for a given calendar
year, the sum in excess of that amount must be reduced by the Scottish Ministers by 5 per
cent.

(3) In addition to the reduction applied in accordance with paragraph (2), where the direct
payments to be granted exceed EUR 600,000 for calendar year 2018 or any subsequent
calendar year, the sum in excess of that amount must be reduced by the Scottish Ministers
by 100 per cent.”.

6. For regulation 9(4) (transfer of payment entitlements) substitute—

“(4) For the purposes of Article 26 of the Direct Payments Delegated Regulation—

(a) in relation to an application in respect of the basic payment scheme in respect of a
calendar year prior to 2018, 50 per cent of the annual unit value of each payment
entitlement transferred without land reverts to the national reserve; and

(b) in relation to an application in respect of the basic payment scheme in respect of
calendar year 2018 or any subsequent calendar year, 30 per cent of the annual unit
value of each payment entitlement transferred without land reverts to the national
reserve.”.
7. For regulation 10 (young farmers) substitute—

"Young farmers"

10.—(1) For the purposes of the second sub-paragraph of Article 50(5) of the Direct Payments Regulation, where a young farmer has set up in accordance with Article 50(2)(a) of that Regulation during the relevant period, the five-year payment period referred to in the first sub-paragraph of Article 50(5) of that Regulation is to be reduced by the number of complete calendar years which have elapsed between the date of set up and the first submission of an application for a payment for young farmers.

(2) For the purposes of the payment calculation required by Article 50(6) of the Direct Payments Regulation, the number of entitlements a young farmer has activated in accordance with Article 32(1) of that Regulation must be multiplied by 25 per cent of the average value of the owned or leased-in payment entitlements held by the farmer.

(3) For the purposes of Article 50(9) of the Direct Payments Regulation, a single maximum limit of 90 hectares is applicable to the number of payment entitlements activated by a young farmer.

(4) In paragraph (1) “relevant period” means the period beginning 1st January 2010 and ending 31st December 2013.”.

8. Omit regulation 12 (active farmers).

9. In regulation 18 (ecological focus areas)—

(a) in paragraph (1), after “(d) (buffer strips),” insert “(e) (hectares of agro-forestry),”;

(b) in paragraph (2), for “field margins as listed in point (e)” substitute “hedges, wooded strips or trees in line as listed in point (a)”;

(c) for paragraph (3) substitute—

“(3) For the purposes of the third sub-paragraph of Article 45(5) of the Direct Payments Delegated Regulation, the minimum width of—

(a) buffer strips, other than buffer strips along watercourses required under GAEC 1, SMR 1 or SMR 10, is 2 metres; and

(b) field margins is 1 metre.

(3A) For the purposes of the second sub-paragraph of Article 45(10a) of the Direct Payments Delegated Regulation, cutting is permitted on buffer strips and field margins provided the buffer strip or field margin remains distinguishable from adjacent agricultural land.”;

(d) for paragraph (5) substitute—

“(5) For the purposes of the second sub-paragraph of Article 45(9) of the Direct Payments Delegated Regulation—

(a) areas under catch crops must be established by under-sowing grass in the main crop provided that the grass and the main crop are sown during the period beginning on 15th February and ending on 15th June in any calendar year and not harvested before 31st December of the same calendar year; and

(b) areas under green cover may be established by sowing a mixture of at least 2 of the crop species listed in Part 1 of schedule 2, provided that the mixture of crop species is sown before 2nd November in any calendar year and not harvested before 31st December of the same calendar year.”;

(e) for paragraph (7) substitute—

“(7) For the purposes of the second sub-paragraph of Article 46(2) of the Direct Payments Regulation, the ecological focus areas referred to in points (c) (landscape features) and (d) (buffer strips) of the first sub-paragraph of Article 46(2) of that Regulation may be located adjacent to the arable land of the holding.

MENU
(8) For the purposes of Article 46(3) of the Direct Payments Regulation—
   (a) the weighting factors set out in Annex X to that Regulation apply to the ecological focus areas mentioned in paragraph (1); and
   (b) the conversion factor set out in Annex X to that Regulation applies to the ecological focus area referred to in point (a) (hedges, wooded strips or trees in line) of the first sub-paragraph of Article 45(4) of the Direct Payments Delegated Regulation;.

10. In schedule 1 (agricultural activity: further criteria), in Part 2 (minimum activity for the purposes of Article 4(1)(c)(iii) of the Direct Payments Regulation), in paragraph 2(2)—
   (a) omit “or” at the end of head (h); and
   (b) after head (h) insert—
   “(ha) 2.5 farmed stags aged 27 months and over; or”.

11. In schedule 2 (ecological focus areas: further criteria)—
   (a) in Part 1 (crop species that may be used in a mixture of crop species for the purposes of Article 45(9) of the Direct Payments Delegated Regulation in relation to areas under green cover)(a) for “Clover (Trifolium)” substitute—
   “Red clover (Trifolium pratense)
   White clover (Trifolium repens)”;
   (b) in Part 2 (nitrogen-fixing crops for the purposes of Article 45(10) of the Direct Payments Delegated Regulation) for “Clover (Trifolium)” substitute—
   “Red clover (Trifolium pratense)
   White clover (Trifolium repens)”;
   (c) in Part 3 (additional conditions for the purposes of Article 45(10) of the Direct Payments Delegated Regulation)—
      (i) for paragraph 2 substitute—
      “2. Areas with nitrogen-fixing crops must be surrounded by a buffer strip or field margin, which is an ecological focus area as referred to in point (d) of the first sub-paragraph of Article 46(2) of the Direct Payments Regulation as construed with Article 45(5) of the Direct Payments Delegated Regulation, with a minimum width of 1 metre and a maximum width of 20 metres;charset_and_its_alternative_1; and
      (ii) for paragraph 3(3)(b), substitute—
      “(3) In sub-paragraphs (1) and (2), “crop species” includes a mixture of any of the crop species listed in Part 2 of this schedule.
      (4) Despite sub-paragraphs (1) and (2), areas with nitrogen fixing crops may also be established by sowing at least 1 of the crop species listed in Part 2 of this schedule with any other crop species, provided that the crop species listed in Part 2 of this schedule is predominant by weight of seed.
      (5) In sub-paragraph (4)—
      “crop species listed in Part 2 of this schedule” includes a mixture of any of the crop species listed in Part 2 of this schedule; and
      “other crop species” includes-
      (a) a mixture of any of the crop species listed in Part 2 of this schedule and any other crop species; and
      (b) a mixture of any crop species not listed in Part 2 of this schedule.”.

(a) Part 1 of schedule 2 was substituted by S.S.I. 2016/104.
(b) Paragraph 3 of Part 3 of schedule 2 was inserted by S.S.I. 2016/104.
12. In schedule 3 (voluntary coupled support)(a), in Part 2 (voluntary coupled support: ovine animals)—
   (a) in paragraph 6 (application for a scheme payment)—
      (i) in sub-paragraph (1)(b), for “paragraph (1A)”(c) substitute “sub-paragraphs (1A) and
          (1B)”;
      (ii) after sub-paragraph (1A) insert—
          “(1B) In respect of calendar year 2018 and any subsequent calendar year, the final date
          for submitting an application to the Scottish Ministers for a scheme payment in respect of
          any eligible ovine animal is 30th November.”;
   (b) in paragraph 7 (eligible ovine animal)—
      (i) in sub-paragraph (b) for “17th October” substitute “1st December”; and
      (ii) in sub-paragraph (c) for “17th October” substitute “1st December”.

Amendments to the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014

13. The Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014(d) are
    amended in accordance with regulation 14.

14. In Part 2 of the schedule (standards for good agricultural and environmental condition)—
    (a) in paragraph 1 (establishment of buffer strips along water courses)—
        (i) in sub-paragraph (2) after “within” insert “, or on any land in a manner which will
           likely result in organic manure being located within,”;
        (ii) after sub-paragraph (7)(e), insert—
           “(8) In this paragraph, “field heap” means a store or stack of organic manure which is a
           freestanding heap which does not slump or produce free draining liquid from within the
           stacked material.”;
    (b) in paragraph 5(1) (minimum land management reflecting site specific conditions to limit
        erosion) for “prevent” substitute “limit”; and
    (c) in paragraph 7 (retention of landscape features)—
        (i) for sub-paragraph (2) substitute—
           “(2) A beneficiary must not trim a hedge or cut a tree during the period beginning on 1st
           March and ending on 31st August in any calendar year (“the prohibited period”), except in
           accordance with sub-paragraph (3A) or (3B).”;
        (ii) for sub-paragraph (3) substitute—
           “(3) Written consent under sub-paragraph (1) is not required—
               (a) to widen field entrances to enable access for livestock or farm machinery; or
               (b) where the hedge (or part of a hedge) or tree is—
                  (i) dead;
                  (ii) damaged; or
                  (iii) insecurely rooted,
               and because of its condition it poses a risk to human safety.”;
        (iii) after sub-paragraph (3) insert—

(a) Schedule 3 was inserted by S.S.I. 2015/215.
(b) Sub-paragraph (1) was amended by S.S.I. 2017/317.
(c) Sub-paragraph (1A) was inserted by S.S.I. 2017/317.
(e) Sub-paragraph (7) was inserted by S.S.I. 2015/215.
“(3A) Trimming a hedge or cutting a tree is permitted during the prohibited period—
(a) for the purposes of hedgelaying up to and including 31st March; or
(b) to the extent necessary for the purposes of road safety.

(3B) Trimming a hedge or cutting a tree during the month of August in any calendar year is permitted if—
(a) the hedge or tree is in a field which during that month has been sown with—
   (i) a crop of oilseed rape; or
   (ii) temporary grass; or
(b) the hedge or tree is in a field which during that month has been sown with any other crop and the Scottish Ministers have given the beneficiary written permission to trim the hedge or cut the tree.”; and

(iv) in sub-paragraph (7)—
(aa) omit “and” at the end of head (b)(ii); and
(bb) for head (c) substitute—
“(c) “hedgelaying” means a traditional method of cultivating hedges where tall saplings are partly cut through near the base and then bent over so that they lie horizontally and make a thick barrier; and

(d) “necessary for the purposes of road safety” includes where a tree or hedge—
   (i) overhangs a road, surfaced track or footpath to which the public have access so as to endanger or obstruct the passage of vehicles, pedestrians or horse-riders; or
   (ii) obstructs or interferes with the view of drivers of vehicles or the light from a public lamp.”

Amendments to the Less Favoured Area Support Scheme (Scotland) Regulations 2010

15. The Less Favoured Area Support Scheme (Scotland) Regulations 2010(a) are amended in accordance with regulations 16 to 18.

16. In regulation 2(1) (interpretation), after the definition of “Scheme 2017 payment”(b) insert—

““Scheme 2018 payment” means the sum to which the applicant is entitled in respect of the period 1st January 2018 to 31st December 2018;”.

17. In regulation 10(2) (enterprise mix)(c) for “or the Scheme 2017 payment” substitute “, the Scheme 2017 payment or the Scheme 2018 payment”.

18. In schedule 5 (rates of payment for less favoured area support)—
(a) in Part I (more disadvantaged land)(d), in the second column of the table, after “Scheme 2017 payment” insert “, Scheme 2018 payment”; and

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(b) The definition of “Scheme 2017 Payment” was inserted by S.S.I. 2015/185.
(c) Regulation 10(2) was amended by S.S.I. 2014/7 and S.S.I. 2015/185.
(d) Part I of schedule 5 was amended by S.S.I. 2011/73, S.S.I. 2014/7 and S.S.I. 2015/185.
(b) in Part II (less disadvantaged land)(a), in the second column of the table, after “Scheme 2017 payment” insert “, Scheme 2018 payment”.

FERGUS EWING
A member of the Scottish Government

St Andrew’s House,
Edinburgh
16th April 2018

(a) Part II of schedule 5 was amended by S.S.I. 2011/73, S.S.I. 2014/7 and S.S.I. 2015/185.
EXPLANATORY NOTE
(This note is not part of the Regulations)

These Regulations amend the following Regulations—

- the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015;
- the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014; and
- the Less Favoured Area Support Scheme (Scotland) Regulations 2010.


In addition, these Regulations make amendments:

- in relation to cross-compliance component of direct payments under the Common Agricultural Policy; and
- to the Less Favoured Area Support Scheme.

Regulations 3 to 12 amend the Common Agricultural Policy (Direct Payments etc.) (Scotland) Regulations 2015 (“the principal 2015 Regulations”), which make provision in Scotland for the administration of the Direct Payments Regulation.

Regulation 3 amends the definition of “arable land” and regulation 4 amends the definition of “permanent grassland”.

Regulation 5 substitutes regulation 8 of the principal 2015 Regulations so that no farmer can receive direct payments totalling an amount in excess of 600,000 Euros. Regulation 6 amends regulation 9 of the principal 2015 Regulations to reduce the amount by which the value of payment entitlements is reduced where they are transferred without land.

Under the Direct Payments Regulation payments to young farmers could be made for a period of up to 5 years, to be reduced by the number of calendar years elapsed since setting up as head of the holding and the date of first submission of an application for payment. Article 3(1) of the omnibus Regulation now requires such payments to be for a full five years, without reduction of elapsed calendar years. Regulation 7 amends the principal 2015 Regulations to exercise a derogation to limit the impact of the omnibus Regulation changes. The effect is that where a young farmer has set up in the period 2010 – 2013, the 5 year payment period will continue to be reduced by the number of calendar years which have elapsed between the date of setting up and the date of first submission of an application for payment.

Regulation 8 omits regulation 12 of the principal 2015 Regulations. Under the Direct Payments Regulation, persons operating airports, railway services, waterworks, real estate services and permanent sports and recreation grounds (the “negative list”) were automatically barred from receiving direct payments unless they could meet certain readmission criteria. The omnibus Regulation permits member States to decide to stop operating the negative list. The effect is that
persons operating such businesses are no longer automatically barred and no longer have to satisfy readmission tests.

Regulation 9 amends regulation 18 of the principal 2015 Regulations in respect of the ecological focus areas (EFA) requirements of greening. It includes, for the first time, hectares of agro-forestry and hedges, wooded strips and trees in line as EFAs. It also introduces both conversion and weighting factors in respect of hedges, wooded strips and trees in line as EFAs, and just the weighting factor in respect of hectares of agro-forestry as EFAs. It also allows cutting on buffer strips and field margins provided those features remain distinguishable from adjacent arable land and permits certain EFAs be located adjacent to the arable land of the holding as opposed to on the arable land of the holding. Further, regulation 9 amends the periods for sowing catch crops and green cover, and the date before which the crops cannot be harvested. Regulation 11 makes associated and further changes in relation to EFAs by amending schedule 2 of the principal 2015 Regulations.

Regulation 10 amends the definition of “livestock” unit for the purposes of the minimum activity provisions in Part 2 of schedule 1 of the principal 2015 Regulations.

Regulations 12 amends Part 2 of schedule 3 of the principal 2015 Regulations to make provision in respect of the current and future years for an extended window for applications under voluntary coupled support for ovine animals. The final date for submitting an application, in respect of calendar year 2018 and subsequent calendar years is 30th November. Regulation 12 also amends the retention period applicable to these ovine animals.

Regulations 13 and 14 amend the standards for good agricultural and environmental condition in the schedule of the Common Agricultural Policy (Cross-Compliance) (Scotland) Regulations 2014 (“the principal 2014 Regulations”). The principal 2014 Regulations make provision in Scotland for the administration and enforcement of the Horizontal Regulation in relation to cross-compliance.

Regulation 14 amends Part 2 of the schedule of the principal 2014 Regulations as follows:

- in paragraph 1, to provide clarification on the meaning, and storage, of field heaps;
- in paragraph 5, to provide that a beneficiary must limit the erosion of the banks of watercourses, at watering points or feeding areas from overgrazing or heavy poaching by livestock; and
- in paragraph 7, to provide further exemptions to the trimming of hedges and cutting of trees.

These amendments are to reflect domestic policy decisions which are unrelated to amendments made by the omnibus Regulation to the Horizontal Regulation.

Regulations 15 to 18 amend the Less Favoured Area Support Scheme (Scotland) Regulations 2010 which make provision in Scotland for the administration of the less favoured area support ("LFA") Scheme under the Rural Development Regulation. They make the amendments necessary to make provision for LFA payments in 2018. Under the Rural Development Regulation, it was intended that the LFA Scheme would be replaced in 2018 by a new scheme for payments in respect of areas facing natural or other specific constraints, however, the omnibus Regulation allows member States to defer that until 2019.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.