



STATUTORY INSTRUMENTS.

S.I. No. 310 of 2021

EUROPEAN UNION (PLANT HEALTH CONTROLS) REGULATIONS
2021

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S.I. No. 310 of 2021

EUROPEAN UNION (PLANT HEALTH CONTROLS) REGULATIONS 2021

I, CHARLIE MCCONALOGUE, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving further effect to Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016¹, Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019², Commission Implementing Regulation (EU) 2020/1199 of 13 August 2020³, Commission Implementing Regulation (EU) 2020/1292 of 15 September 2020⁴, Commission Implementing Regulation (EU) 2020/1825 of 2 December 2020⁵, Commission Implementing Regulation (EU) 2020/2210 of 22 December 2020⁶, Commission Implementing Regulation (EU) 2020/2211 of 22 December 2020⁷, Commission Implementing Regulation (EU) 2021/759 of 7 May 2021⁸ and Commission Implementing Regulation (EU) 2021/901 of 3 June 2021⁹ and Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017¹⁰, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Plant Health Controls) Regulations 2021.

Interpretation

2. (1) In these Regulations—

“authorised officer” means an authorised officer within the meaning of the European Union (Plant Health) Regulations 2020 (S.I. No. 459 of 2020);

“Commission Regulation” means Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 (as amended by Commission Implementing Regulation (EU) 2020/1199 of 13 August 2020, Commission Implementing Regulation (EU) 2020/1292 of 15 September 2020, Commission Implementing Regulation (EU) 2020/1825 of 2 December 2020, Commission Implementing Regulation (EU) 2020/2210 of 22 December 2020, Commission Implementing Regulation (EU) 2020/2211 of 22 December 2020, Commission Implementing

¹ OJ L 317, 23.11.2016, p. 4

² OJ L 319, 10.12.2019, p. 1

³ OJ L 267, 14.8.2020, p. 3

⁴ OJ L 302, 16.9.2020, p. 20

⁵ OJ L 406, 3.12.2020, p. 58

⁶ OJ L 438, 28.12.2020, p. 28

⁷ OJ L 438, 28.12.2020, p. 41

⁸ OJ L 162, 10.5.2021, p. 18.

⁹ OJ L 197, 4.6.2021, p. 75

¹⁰ OJ L 95, 7.4.2017, p. 1

Regulation (EU) 2021/759 of 7 May 2021 and Commission Implementing Regulation (EU) 2021/901 of 3 June 2021);

“harmful organism” means a union quarantine pest or a non-regulated union quarantine pest specified in column (2) of the Schedule;

“Minister” means Minister for Agriculture, Food and the Marine;

“Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016;

“plant or plant product” means a plant or plant product specified in column (1) of the Schedule;

“premises” includes land (including land under water) with or without buildings, an establishment, a vehicle (including a boat, ship, hovercraft, aircraft or off-shore installation (being an offshore installation within the meaning of the Safety, Health and Welfare (Offshore Installations) Act 1987(No. 18 of 1987))), railway wagon, container or other thing used in connection with, or ancillary to, such a thing;

“Regulation No 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017;

“vehicle” includes ship, vessel, aircraft, train, container designed or used for carriage on a vehicle either attached to or detached from a vehicle or trailer designed for use or used with a vehicle.

(2) A word or expression that is used in these Regulations and is also used in the Plant Health Regulation, the Commission Regulation or Regulation No 2017/625 has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Plant Health Regulation, the Commission Regulation or Regulation No 2017/625.

Notification

3. (1) Where a person takes delivery of a plant or plant product referred to in column (1) of the Schedule, and that plant or plant product was moved into the State from another Member State, he or she shall, in accordance with Article 9(7) of Regulation No 2017/625, notify the Minister, as soon as is practicable, and in any case no more than 48 hours following arrival, of the arrival of such plant or plant product into the State.

(2) A notification referred to in paragraph (1) shall be in such form as the Minister may determine and shall include the following particulars—

- (a) the date of the plant or plant product’s arrival into the State;
- (b) the destination of the plant or plant product;
- (c) the genus, species and quantity of the plant or plant product;
- (d) the identification number of the supplier of the plant or plant product;

- (e) the Member State from which the plant or plant product has been consigned.
- (3) A person who contravenes paragraph (1) commits an offence.
- (4) These Regulations are in addition to, and not in substitution for, the European Union (Plant Health) Regulations 2020 (S.I. No. 459 of 2020).

Contravention of Regulation No 2017/625

4. An operator who, by act or omission, fails to comply with a requirement (obligations of operators) in contravention of Article 15 of Regulation No 2017/625 commits an offence.

Functions of authorised officer

- 5. (1) For the purposes of these Regulations, the Plant Health Regulation or the Commission Regulation an authorised officer may—
 - (a) enter and inspect, at all reasonable times, any premises if he or she is carrying out an official control or other official activity for the purposes of these Regulations, the Plant Health Regulation or the Commission Regulation, or where he or she has reasonable grounds for believing that—
 - (i) a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates is, may be or has been present,
 - (ii) a record relating to a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates is, may be or has been present,
 - (iii) equipment, machinery, a vehicle, a vessel or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates is, may be or has been present,
 - (b) examine a pest, plant, plant product, object, equipment, machinery or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates,
 - (c) require the name and address of the owner, or person in possession or control of a pest, plant, plant product, object, equipment, machinery, a document, a vehicle or a vessel used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates, or require details of place of departure, journey or destination,

- (d) inspect a vehicle, a vessel, an aircraft, a railway wagon, a container, equipment, machinery, a computerised information management system or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates and require the person in charge or control of such to refrain from moving it,
- (e) require the owner, person in possession or control of any premises, equipment, machinery, a computerised information management system, a vehicle, a vessel or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates, to produce to the officer such records (and in the case of a record stored in non-legible form, produce to him or her a copy in a legible form) that are in the person's possession or procurement, or under the person's control, as the officer may reasonably require,
- (f) inspect and take copies of any record (including a legible reproduction of one stored in non-legible form) or extracts from the record that the officer finds or is produced to him or her during an inspection,
- (g) make a record, including by means of writing, sound recording, photograph, video or other means,
- (h) take, without making a payment, samples from a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates, or any article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient and mark or otherwise identify it,
- (i) obtain samples of a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates by way of anonymously placed orders or mystery shopping, whether in person, remotely or over the internet, and carry out or cause to be carried out on the samples such tests, analyses, examinations or inspections as he or she considers necessary or expedient and mark or otherwise identify it.

(2) An authorised officer may require a person to give information regarding the ownership and identity of a pest, plant, plant product, object, equipment, machinery, a vehicle, a vessel or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates as is in the person's knowledge or procurement.

- (3) Where an authorised officer has reasonable grounds for believing that—
- (a) an offence is being or has been committed under these Regulations, or
 - (b) evidence of an offence to which subparagraph (a) relates may be, is or has been on any land or premises, or in a vehicle, a vessel, an aircraft, a railway wagon, a container, equipment or machinery,

the officer may, in addition to the powers exercisable by him or her under paragraph (1):

- (i) search the land or premises;
- (ii) search the vehicle, vessel, aircraft, railway wagon, container, equipment or machinery (including any computerised information management system);
- (iii) require a person in charge or control of the vehicle, vessel, aircraft, railway wagon, container, equipment or machinery to—
 - (I) refrain from moving it, or move it to a location where it may be searched,
 - (II) give information regarding its place of departure, journey or destination, and
 - (III) where the equipment or machinery is part of a computerised information management system, provide assistance (including passwords) to enable access to such devices or systems;
- (iv) seize and detain a pest, plant, plant product, object or other thing and mark or otherwise identify it;
- (v) detain the vehicle, vessel, aircraft, railway wagon, equipment, machinery (including any computerised information management system) or container for such reasonable period necessary for the purposes of permitting an inspection or a search under this Regulation either at the place where it was first detained or require it to be moved to such other location as the authorised officer requires;
- (vi) remove any equipment, machinery (including any computerised information management system), books, documents or records and detain them for such reasonable period necessary for the purpose of his or her functions under these Regulations;
- (vii) give such direction to a person who has a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates, or who has equipment, machinery, vehicle or vessel or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations,

the Plant Health Regulation or the Commission Regulation relates in his or her possession or under his or her control or who has information relating to such, as the authorised officer may reasonably consider necessary for the purposes of these Regulations.

(4) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling unless he or she has obtained a search warrant under Regulation 6 other than where he or she has reasonable grounds for believing that before a search warrant could be sought in relation to the dwelling under Regulation 6, any evidence of an offence referred to in paragraph (3)(a) is being or is likely to be disposed of or destroyed.

(5) An authorised officer, when exercising a function under this Regulation, may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the function.

(6) An authorised officer may use reasonable force, if necessary, to exercise his or her functions under these Regulations.

(7) Where, in the course of exercising a function under these Regulations, an authorised officer finds or comes into possession of anything that the officer has reasonable grounds for believing to be evidence of an offence or suspected offence under these Regulations, the officer may seize and retain it for use in evidence in proceedings for an offence under these Regulations.

(8) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under these Regulations if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(9) A member of the Garda Síochána may stop a vehicle or vessel, for the purposes of these Regulations and may require it to be moved for inspection to such place as he or she directs.

(10) A person who has—

- (a) a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates, or
- (b) equipment, machinery, a vehicle, a vessel or other thing used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates in his or her possession or under his or her control, or information or a record relating to any of them, shall give such
 - (i) assistance to an authorised officer, or person who accompanies the officer, and
 - (ii) information to an authorised officer on request being made, in that behalf by the officer,

as the officer may reasonably require for the exercise of his or her functions under these Regulations.

(11) The owner or person in charge of any premises used in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates shall, if required by an authorised officer, where it is practicable and possible, provide suitable equipment or facilities or a suitable part of the plant or establishment for the officer to carry out his or her functions under these Regulations.

(12) An authorised officer may require a person to give to the officer such information as is in the person's possession, power or procurement as regards any premises specified by the officer including—

- (a) whether or not the premises is used, either partly or wholly, for or in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates,
- (b) the name of the owner, occupier or person who is in charge of the premises, and
- (c) whether or not the premises is let and, if let, the name and address of the person to whom, and the period of time for which, it is let.

(13) Nothing in section 17 of the Industrial and Provident Societies Act 1893 prevents an authorised officer from exercising a function conferred on him or her by these Regulations.

Search warrant

6. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for believing—

- (a) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found on a premises,
- (b) there is or was a pest, plant, plant product, object, equipment or other thing made, used or adapted for use (including manufacture and transport) in connection with a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates, or
- (c) a document or other record related to a thing to which subparagraph (a) or (b) refers is or may be on the premises,

the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises, vehicle, vessel or aircraft named in the warrant.

(3) If a premises is entered under a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Compliance notice

7. (1) Where an authorised officer is of the opinion that—

- (a) these Regulations, the Plant Health Regulation or the Commission Regulation is not being or has not been complied with, or there are reasons to believe that these Regulations, the Plant Health Regulation or the Commission Regulation will not be complied with,
- (b) it is necessary for the protection of human health, plant health or the environment including the prevention, control or eradication of a disease, or
- (c) it is necessary, ancillary or supplementary for these Regulations to have full effect,

the officer may serve a notice (“compliance notice”) stating that opinion to the person—

- (i) who appears to be the owner, occupier, or person in charge of the premises, or
- (ii) in possession or control of a pest, plant, plant product, object or other thing

to which the notice relates.

(2) A compliance notice shall—

- (a) require the person to whom it is served to take such action as specified in the notice,
- (b) inform the person to whom it is served that he or she may appeal the notice in the District Court under Regulation 8, and
- (c) state that if the person to whom it is served fails to comply with the notice, he or she commits an offence and is liable to a penalty set out in Regulation 12(1).

(3) A compliance notice may require that—

- (a) a pest, plant, plant product, object or other thing to which these Regulations relate be dealt with in a manner specified in the notice,
- (b) such alterations be made to a premises or operations at a premises as the officer specifies in the notice,
- (c) a pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates be detained, disposed of or destroyed in such manner and at a place (if any) as the officer specifies in the notice,
- (d) a specified operation or activity cease on a premises,
- (e) a specified operation or activity take place only in a manner specified in the notice,
- (f) a specified type or level of sampling and analysis be undertaken for a period specified in the notice,

- (g) prohibit the transport or further transport of a pest, plant, plant product to which these Regulations relate, either absolutely or unless such conditions as may be specified in the notice are complied with,
- (h) require a person to return a pest, plant, plant product to which these Regulations relate, to the place of departure by a route which in the opinion of the authorised officer is the most direct or prudent,
- (i) a measure within the meaning of Article 138(2) of Regulation No 2017/625 be taken as specified in the notice,
- (j) a special treatment within the meaning of Article 71 of Regulation No 2017/625 be taken as specified in the notice,
- (k) a specified operation or activity may only be carried out under and in accordance with such terms and conditions as are specified in the notice, or
- (l) require a person to make such changes to a label, packaging or marketing material including re-labelling of a plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates as may be specified in the notice.

(4) A person to whom a compliance notice is served shall comply with the compliance notice until the notice expires, is withdrawn under paragraph (6) or is annulled under Regulation 8, and not cause or permit another person to contravene the terms of the notice.

(5) A compliance notice may specify a time limit within which it is to be complied with.

(6) A compliance notice may be modified or withdrawn in a further notice and the earlier notice has effect subject to the modification or withdrawal.

(7) A compliance notice may require the owner, occupier, operator or person in charge of any premises, a pest, plant, plant product, object, vehicle, vessel, machinery (including any computerised information management system), equipment or other thing to which the Plant Health Regulation relates to choose between two or more of the requirements specified in the notice.

(8) A compliance notice shall include an address for service of an appeal under Regulation 8.

(9) A person on whom a compliance notice is served who fails to comply with, or causes or permits another person to contravene the notice commits an offence.

Appeal against compliance notice

8. (1) A person to whom a compliance notice is served may, within 7 days from the date of service of the notice, appeal the notice to the Judge of the District Court having jurisdiction in the District Court district—

- (a) where the pest, plant, plant product, object, premises, vehicle, machinery (including any computerised information management system), equipment, vessel or other thing to which the Plant Health Regulation relates which is the subject of the notice, is situated, or
- (b) where the person bringing the appeal ordinarily resides or carries on business,

on the grounds that the notice is unreasonable having regard to these Regulations, the Plant Health Regulation or the Commission Regulation.

(2) Notice of an appeal shall contain a statement of the grounds upon which it is alleged that the notice or any of the terms of the notice are unreasonable and shall be served on the authorised officer who served the compliance notice at the address included on the notice in accordance with Regulation 7 not later than 48 hours prior to the hearing of the appeal.

(3) A person bringing an appeal shall lodge a copy of the notice or appeal with the District Court Clerk concerned not later than 48 hours prior to the hearing of the appeal.

(4) On the hearing of an appeal a Judge of the District Court may confirm, modify or annul a notice.

(5) A person, including a person on whom a compliance notice has been served, who —

- (a) pending the determination of an appeal, deals with a pest, plant, plant product, object, premises, vehicle, vessel, machinery (including any computerised information management system), equipment or other thing to which the notice relates, other than in accordance with the terms of the compliance notice, or
- (b) if the notice is confirmed or modified on appeal, deals with a pest, plant, plant product, object, any premises, vehicle, vessel, equipment, machinery (including any computerised information management system) or other thing to which the notice relates other than in accordance with the terms of the compliance notice as confirmed or modified

commits an offence.

(6) In this Regulation “appeal” means an appeal under paragraph (1).

Seizure and detention for non-compliance with a compliance notice

9. (1) Without prejudice to an appeal under Regulation 8, if—

- (a) a person in control of a pest, plant, plant product, object or other thing to which a compliance notice relates, or in control of a premises, vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with a pest, plant, plant product, object or other thing to which a compliance notice relates fails to comply with the terms of a compliance notice within the time specified,

- (b) an authorised officer has reasonable grounds for believing that the terms of a compliance notice, whether or not modified under Regulation 8(4), will not be complied with, or
- (c) a compliance notice has been confirmed with or without modification under Regulation 8(4) and the notice has not been complied with,

an authorised officer may at any time seize the pest, plant, plant product, object or other thing to which a compliance notice relates, or seize the vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with a pest, plant, plant product, object or other thing to which a compliance notice relates.

(2) If the pest, plant, plant product, object or other thing to which a compliance notice relates, a vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with a pest, plant, plant product, object or other thing to which a compliance notice relates is seized in accordance with paragraph (1), an authorised officer may—

- (a) sell, destroy or dispose of the pest, plant, plant product, object or other thing to which a compliance notice relates or cause it to be sold, destroyed or be disposed of, or
- (b) take such other measures in relation to the pest, plant, plant product, object or other thing to which a compliance notice relates, or in relation to the vessel, vehicle, equipment, machinery (including any computerised information management system) or other thing used in connection with a pest, plant, plant product, object or other thing to which a compliance notice relates as the authorised officer considers appropriate in the circumstances.

(3) Any profits arising out of the sale, destruction or disposal of a pest, plant, plant product, object or other thing to which a compliance notice relates in accordance with paragraph (2) shall be paid to the owner of the pest, plant, plant product, object or other thing to which a compliance notice relates less any expenses incurred in connection with the seizure, sale, destruction or disposal.

(4) The costs (including ancillary costs) of a measure taken under this Regulation are recoverable by the Minister—

- (a) as a simple contract debt in a court of competent jurisdiction from the person who was the owner of the pest, plant, plant product, object or other thing to which these Regulations, the Plant Health Regulation or the Commission Regulation relates or from the person who was the owner of the means of transport at the time the measure was carried out, or
- (b) by deducting the costs from any sum payable from the Minister to a person on whom a notice has been served.

(5) The costs of any action required by a compliance notice shall be borne by the owner of a premises, pest, plant, plant product, object or other thing to which the notice relates.

Service

10. (1) A compliance notice shall, subject to paragraph (2), be addressed to the person concerned by name and may be served on or given to the person—

- (a) by giving it to the person, his or her employee, servant or agent,
- (b) by leaving it at the address at which the person ordinarily resides, normally carries out business, or, if an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, if an address for service has been furnished, at that address,
- (d) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the compliance notice relates to a premises, by delivering it to the premises or by affixing it in a conspicuous position on or near the premises,
- (e) by sending it by means of electronic mail to a device or facility for the reception of electronic mail where such an electronic mail address has been furnished by the person, but only if the sender's facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail confirming successful transmission of the notification, notice or document.

(2) If a compliance notice is to be served on or given to a person who is the owner or occupier of a premises and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person by using the words “the owner” or “the occupier”.

(3) A person shall not, at any time within 6 months after a compliance notice is affixed under paragraph (1)(d), remove, damage or deface the notification or compliance notice without lawful authority.

(4) For the purposes of this Regulation, a company within the meaning of the Companies Act 2014 is considered to be ordinarily resident at its registered office and every other body corporate or unincorporated body is considered to be ordinarily resident at its principal office or place of business.

Obstruction and false statements

11. (1) A person who—

- (a) obstructs, interferes with or impedes an authorised officer, or any person who accompanies an authorised officer, in the course of exercising a function conferred on the officer under these Regulations,
- (b) fails or refuses, without reasonable cause, to comply with a requirement of an authorised officer under Regulation 5,
- (c) fails, without reasonable cause, to give assistance or requested information to an authorised officer in accordance with Regulation 5,

- (d) in purporting to give information to an authorised officer for the exercise of the officer's functions under these Regulations—
 - (i) makes a statement that he or she knows to be false or misleading in a material particular or recklessly makes a statement which is false or misleading in a material particular, or
 - (ii) intentionally fails to disclose a material particular,
- (e) tampers or otherwise interferes with a sample taken under Regulation 5, or
- (f) aids or abets a contravention of these Regulations, the Plant Health Regulation

commits an offence.

(2) A statement or admission made by a person pursuant to a requirement under Regulation 5(10)(ii) is not admissible in evidence in proceedings brought against the person for an offence (other than an offence under this Regulation for failing to give information or giving false information) under these Regulations.

Penalties & prosecutions

12. (1) A person who commits an offence under these Regulations is liable—

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment to a fine not exceeding €500,000, or to imprisonment for a term not exceeding three years, or to both.

(2) An offence under these Regulations may be prosecuted summarily by the Minister.

(3) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purported to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she was guilty of the offence.

(4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

(5) In proceedings alleging a contravention of these Regulations, it is a defence for the defendant to show he or she acted in accordance with a derogation or transitional measure laid down by an act of an institution of the European Union relevant to the subject of the offence it is alleged that he or she committed.

Revocations

13. The Destructive Insects and Pests Acts 1958 and 1991 (Pre-Notification) Order 2020 (S.I. No. 30 of 2020) are revoked.

Regulation 3**Schedule**

Plants for Planting	Harmful Organism
<i>Quercus</i>	<i>Thaumetopoea processionea</i>
<i>Cotoneaster</i> <i>Crataegus</i> (Hawthorn) <i>Malus</i> (Apple) <i>Pyrus</i> (Pear) <i>Sorbus</i> (Mountain Ash)	<i>Erwinia amylovora</i>
<i>Castanea</i> (chestnut)	<i>Dryocosmus kuriphilus</i> and <i>Cryphonectria parasitica</i>
<i>Coffea</i> (Coffee) <i>Lavandula</i> (lavender) <i>Nerium oleander</i> <i>Olea</i> (Olive) <i>Prunus</i> <i>Rosmarinus officinalis</i> (Rosemary) <i>Polygala myrtifolia</i> <i>Vitis</i> (grape vine)	<i>Xylella fastidiosa</i>
<i>Prunus</i>	<i>Xanthomonas arboricola</i> pv. <i>Pruni</i>
<i>Pinus</i>	<i>Thaumetopoea pityocampa</i>
Plant Products	
Wood of conifers that is not bark free (except sawn wood that has been kiln-dried to below 20% moisture content and where the wood or its wrapping has been marked KD or kiln-dried)	<i>Ips typographus</i> , <i>Ips amitinus</i> , <i>Ips sexdentatus</i> , <i>Ips cembrae</i> , <i>Ips duplicatus</i> , <i>Dendroctonus micans</i>
Isolated bark of conifers	
Cut Christmas trees over 3m in height	

Fuel wood	Wood boring insects, bark beetles
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L.S.

GIVEN under my Official Seal,
25 June, 2021.

CHARLIE MCCONALOGUE,
Minister for Agriculture, Food and the Marine.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations give further effect to a number of European Regulations concerning official controls to protect plants, plant products and forests from destructive pests and diseases. The purpose of these Regulations is to introduce a notification requirement upon the arrival of the plants for planting and plant products listed in the schedule from other Member States.

BAILE ÁTHA CLIATH
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