



EUROPEAN
COMMISSION

Brussels, **XXX**
SANTE/11314/2019
(POOL/G1/2019/11314/11314-EN.docx)
[...] (2019) **XXX** draft

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of XXX

establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

COMMISSION IMPLEMENTING REGULATION (EU) .../...

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establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/2031 of the European Parliament and the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC¹, and in particular Article 5(2), Article 32(2), Article 37(2), Article 37(4), Article 40(2), Article 41(2), Article 53(2), Article 54(2), Article 72(1), Article 73, Article 79(2) and Article 80(2) thereof,

Whereas:

- (1) Regulation (EU) 2016/2031 is to apply from 14 December 2019. In order for its provisions to become fully effective, implementing rules are to be adopted regulating the pests, plants, plant products and other objects, as well as respective requirements needed to protect the Union territory from phytosanitary risks.
- (2) In view of this, specific rules should be set out in order to list the Union quarantine pests, the protected zone quarantine pests and the Union regulated non-quarantine pests, as well as measures to prevent their presence in the respective territories of the Union or on plants for planting.
- (3) The pests listed in Part A of Annex I to Council Directive 2000/29/EC² and Section I of Part A of Annex II to that Directive have been reassessed by the European Food Safety Authority (EFSA) in order to set up the list of Union quarantine pests pursuant to Article 5 of Regulation (EU) 2016/2031. The reassessment was necessary to update the phytosanitary status of those pests in accordance with the most recent technical and scientific developments, and also to assess their compliance with the criteria of Article 3 of that Regulation in respect of the Union territory and Section 1 of Annex I thereto.
- (4) As a result of that reassessment, some pests listed in Annexes I and II to Directive 2000/29/EC should not be included in the list of Union quarantine pests because they do not fulfil the conditions provided for in Article 3 of Regulation (EU) 2016/2031 in respect of the Union territory.

¹ OJ L 317, 23.11.2016, p. 4.

² Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1).

- (5) Certain other pests, some of which are listed in Annexes I and II to Directive 2000/29/EC, have been found to fulfil the conditions provided for in Article 3 of Regulation (EU) 2016/2031 in respect of the Union territory, therefore they should be included in the list of Union quarantine pests.
- (6) As a result of the reassessment, some of the pests listed in Annexes I and II to Directive 2000/29/EC as pests not known to occur in the Union territory, should be included in the list of Union quarantine pests as pests known to occur in the Union territory, due to their established presence in certain parts of it.
- (7) The names of certain pests should be updated to reflect the latest developments of the international nomenclature. Those pests are to be listed together with the respective codes assigned by the European and Mediterranean Plant Protection Organisation ('EPPO'). This is necessary to ensure the identification of those pests, even in case of potential change of their names in the future.
- (8) The protected zones recognised in accordance with Commission Regulation (EC) No 690/2008³ and the respective pests listed in Part B of Annex I and Part B of Annex II to Directive 2000/29/EC have been reassessed by the Commission. The purpose of that reassessment was to conclude whether the respective pests correspond to the description of protected zone quarantine pest in Article 32(1) of Regulation (EU) 2016/2031.
- (9) That reassessment has been based on the respective applications by Member States to recognise, amend or revoke protected zones, regular survey reports submitted by the Member States, Commission inspections and several other scientific and technical data.
- (10) Certain pests, some of which are listed in Annexes I and II to Directive 2000/29/EC, have been found to fulfil the conditions provided for in Article 32(1) of Regulation (EU) 2016/2031, therefore they should be included in the list of protected zone quarantine pests. Those pests should be listed together with the respective codes assigned by EPPO, in order to ensure the identification of those pests, even in case of potential change of their names in the future.
- (11) Regulation (EC) No 690/2008 should be repealed to avoid overlaps with the listing of protected zones in this Regulation.
- (12) EPPO has made a reassessment of the pests listed in Section II of Part A of Annex II to Directive 2000/29/EC, the crops under point 3 and the pests under point 6 of Annex I thereto, as well as the pests under point 3 of Annex II to Council Directive 66/402/EEC⁴, Annex I to Council Directive 68/193/EEC⁵, as well as the pests listed in the acts adopted pursuant to Article 5(5) of Council Directive 98/56/EC⁶, Annex II to Council Directive 2002/55/EC⁷, Annex I and point B of Annex II to Council Directive

³ Commission Regulation (EC) No 690/2008 of 4 July 2008 recognising protected zones exposed to particular plant health risks in the Community (OJ L 193, 22.7.2008, p. 1).

⁴ Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed (OJ L 125, 11.7.1966, p. 2309).

⁵ Council Directive 68/193/EEC of 9 April 1968 on the marketing of material for the vegetative propagation of the vine (OJ L 93, 17.4.1968, p. 15).

⁶ Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants (OJ L 226, 13.8.1998, p. 16).

⁷ Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed (OJ L 193, 20.7.2002, p. 33).

2002/56/EC⁸, and the acts adopted pursuant to point (c) of Article 18 of that Directive, point 4 of Annex I and point 5 of Part I of Annex II to Council Directive 2002/57/EC⁹, the acts adopted pursuant to Article 4 of Council Directive 2008/72/EC¹⁰ and the acts adopted pursuant to Article 4 of Council Directive 2008/90/EC¹¹.

- (13) That reassessment was necessary to update the phytosanitary status of those pests in accordance with the most recent technical and scientific developments, and also to assess their compliance with the respective criteria of Article 36 of Regulation (EU) 2016/2031, in respect of the Union territory, and Section 4 of Annex I thereto.
- (14) Certain pests, some of which are listed in those Directives, have been found to fulfil the conditions provided for in Article 36 of Regulation (EU) 2016/2031 in respect of the Union territory, and should therefore be included in the list of Union regulated non-quarantine pests ('RNQPs'). In accordance with Article 37(7) of that Regulation, that list is to provide for specific categories of relevant plants for planting referred to in Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC.
- (15) In certain cases, the respective plants for planting should not be introduced into, or moved within, the Union if the presence of the RNQPs or symptoms caused by RNQPs on them is above those thresholds, as set out in Article 37(8) of Regulation (EU) 2016/2031. As set out further by that Article, that threshold should only be set where it is possible for professional operators to ensure that the incidence of that RNQP on those plants for planting does not exceed that threshold and it is possible to verify whether that threshold is not exceeded in lots of those plants for planting.
- (16) In accordance with Article 37(4) of Regulation (EU) 2016/2031, measures to prevent the presence of RNQPs on the plants for planting concerned, are to apply without prejudice to the measures adopted pursuant to Directives 66/401/EEC, 66/402/EEC, 98/56/EEC, 1999/105/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC. Therefore, this Regulation should not affect the measures, adopted pursuant to those Directives, concerning inspections, sampling and testing of the plants for planting concerned, or the plants from which they originate, the origin of the plants for planting concerned from areas or sites free from, or with physical protection from, the RNQPs concerned, treatments of the plants for planting concerned, or the plants from which they originate, or the production of the plants for planting.
- (17) Moreover, this Regulation should not affect the exceptions or specific provisions for plants for planting, adopted pursuant to those Directives, from the marketing requirements set out by those Directives, and the specific provisions, exceptions for the supply of seed to official testing and inspection bodies, the supply of seeds to providers of certain services, the supply of seeds to providers of services for the production of certain agricultural raw materials intended for industrial purposes, seeds which do not satisfy the conditions in respect of germination, plants intended for scientific purposes, selection work, other test or trial purposes, as well as specific

⁸ Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes (OJ L 193, 20.7.2002, p. 60).

⁹ Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants (OJ L 193, 20.7.2002, p. 74).

¹⁰ Council Directive 2008/72/EC of 15 July 2008 on the marketing of vegetable propagating and planting material, other than seed (OJ L 205, 1.8.2008, p. 28).

¹¹ Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production (OJ L 267, 8.10.2008, p. 8).

provisions concerning bred seed of generations prior to basic seed and seed not finally certified.

- (18) The introduction into the Union of the plants, plant products and other objects, from all or certain third countries, as listed in Part A of Annex III to Directive 2000/29/EC is prohibited.
- (19) Those plants, plants products and other objects have been reviewed on the basis of any new evidence, their pest risk for the Union territory and the update of the list of Union quarantine pests.
- (20) On the basis of that review, certain of those plants, plant products and other objects are therefore to be listed pursuant to Article 40(2) of Regulation (EU) 2016/2031, together with the third countries, groups of third countries or specific areas of third countries to which that prohibition applies, Such prohibition would be necessary because the phytosanitary protection of the Union would not be guaranteed by applying less stringent measures in this regard.
- (21) In view of the reassessment of Union quarantine pests, new provisions for the introduction into the Union of certain plants, plant products and other objects, the respective special requirements, and for the movement within the Union of certain plants, plant products and other objects, and the respective special requirements, should be adopted.
- (22) The introduction of plants, plant products and other objects is prohibited in their respective protected zones and, where applicable, with regards to their third country of origin, as listed in Part B of Annex III to Directive 2000/29/EC. Moreover, the plants, plant products and other objects, as listed in Part B of Annex IV to Directive 2000/29/EC, may only be introduced into the respective protected zones if they fulfil the respective special requirements.
- (23) Those plants, plant products and other objects have been reviewed on the basis of any new evidence, their pest risk for the respective protected zones and the update of the list of the protected zones quarantine pests and the protected zones.
- (24) On the basis of that review, certain of those plants, plant products and other objects, and the respective protected zones, should be listed in this Regulation as provided for in Article 53(2) of Regulation (EU) 2016/2031, together with the third countries and groups of third countries of origin to which that prohibition applies.
- (25) Moreover, certain of those plants, plant products and other objects, and the respective protected zones and special requirements, should be listed in this Regulation as provided for in Article 54(2) of Regulation (EU) 2016/2031.
- (26) A list of plants, plant products and other objects for which a phytosanitary certificate is required for introduction into the Union territory, and the respective third countries of origin or dispatch, is to be established pursuant to Article 72(1) of Regulation (EU) 2016/2031.
- (27) Implementing Regulation (EU) 2018/2019 requires a phytosanitary certificate for the introduction into the Union territory of plants, other than the plants included in the list referred to in Article 72(1), pursuant to Article 73(1) of Regulation (EU) 2016/2031. However, certain fruits have been found fulfil the criteria set out in Annex VI to Regulation (EU) 2016/2031 and identified as plants which do not require a phytosanitary certificate. A phytosanitary certificate should therefore not be required

for the introduction into the Union of the fruits listed in Annex II of Implementing Regulation (EU) 2018/2019.

- (28) For reasons of clarity, Article 2 and Annex II of that Regulation should be deleted, in order to avoid overlaps with this Regulation.
- (29) A list of plants, plant products and other objects for which a phytosanitary certificate is required for introduction into the respective protected zones, and the respective third countries of origin or dispatch, is to be established pursuant to Article 74(1) of Regulation (EU) 2016/2031. Such a list will help to ensure clarity for the professional operators, competent authorities and all of other users of those plants, plant products and other objects.
- (30) A list of plants, plant products and other objects for which a plant passport is required for movement within the Union territory is to be established pursuant to Article 79(1) of Regulation (EU) 2016/2031. Such a list will help to ensure clarity for the professional operators, competent authorities and all other users of those plants, plant products and other objects.
- (31) In order to refrain from imposing requirements on professional operators, those plant passports should not be required for the movement of seeds which are subject to derogations from the requirements of the respective Directives on the marketing of seeds. This is appropriate as this Regulation applies without prejudice to the measures adopted pursuant to those Directives and should not introduce for the professional operators additional certification burdens than the ones currently laid down in those Directives obligations.
- (32) A list of plants, plant products and other objects for which a plant passport is required for being introduced into, or moved within, certain protected zones is to be established pursuant to Article 80(1) of Regulation (EU) 2016/2031. Those plant passports should bear the designation 'ZP' to be distinguished from the plant passports required for the movement within the entire Union territory. Such a list will help to ensure clarity for the professional operators, competent authorities and all other users of those plants, plant products and other objects.
- (33) This Regulation should enter into force on the third day following that of its publication in the *Official Journal of the European Union*, to allow for the competent authorities and the professional operators the longest possible time to prepare for its application.
- (34) Seeds produced before the date of application of this Regulation should be excepted from its provisions. This is necessary in order to allow their introduction into, and movement within the Union, without disruption and in accordance with the standards applicable at the time of their production.
- (35) For reasons of legal certainty, this Regulation should apply from the same date as Regulation (EU) 2016/2031, which is 14 December 2019.
- (36) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation implements Regulation (EU) 2016/2031, as regards the listing of Union quarantine pests, protected zone quarantine pests and Union regulated non-quarantine pests, and the measures on plants, plant products and other objects to reduce the risks of those pests to an acceptable level.

Article 2

Definitions

1. For the purposes of this Regulation, the definitions provided for in Annex I shall apply.
2. In addition, the following definitions shall apply:
 - (a) 'seed' means seed in the botanical sense;
 - (b) 'practically free from pests' means that the extent to which pests, other than Union quarantine pests or protected zone quarantine pests, are present on the plants for planting or fruit plants is sufficiently low to ensure acceptable quality and usefulness of those plants;
 - (c) 'official statement' means a phytosanitary certificate, as referred to in Article 71 of Regulation (EU) 2016/2031, a plant passport, as referred to in Article 78 of that Regulation, the mark of wood packaging, wood or other objects, as referred to in Article 96 of that Regulation, or the attestations as referred to in Article 99 of that Regulation;
 - (d) 'systems approach' means the integration of different risk management measures, at least two of which act independently, and which, when applied together, achieve the appropriate level of protection against Union quarantine pests.

Article 3

List of Union quarantine pests

The list of Union quarantine pests, as referred to in Article 5 of Regulation (EU) 2016/2031, is set out in Annex II to this Regulation.

The list of Union quarantine pests not known to occur in the Union territory is set out in Part A of Annex II and the list of Union quarantine pests known to occur in the Union territory is set out in Part B of Annex II.

Article 4

List of protected zones and the respective protected zone quarantine pests

The list of the protected zones and the respective protected zone quarantine pests, as referred to in Article 32(3) of Regulation (EU) 2016/2031, is set out in Annex III to this Regulation.

Article 5

List of Union regulated non-quarantine pests and specific plants for planting with categories and thresholds

The list of Union regulated non-quarantine pests ('RNQPs') and specific plants for planting with categories and thresholds as referred to in Article 37(2) of Regulation (EU) 2016/2031, are set out in Annex IV to this Regulation. Those plants for planting shall not be introduced into, or moved within, the Union if the presence of the RNQPs, or symptoms caused by RNQPs, on those plants for planting is above those thresholds.

The prohibition of introduction and movement provided for in the second subparagraph shall apply only to the categories of plants for planting as provided for in Annex IV.

Article 6

Measures to prevent the presence of RNQPs on specific plants for planting

1. The measures to prevent the presence of RNQPs concerning the movement within, and introduction into the Union of specific plants for planting, as referred to in Article 37(4) of Regulation (EU) 2016/2031 are set out in Annex V to this Regulation.
2. The measures referred to in paragraph 1 shall not affect the measures adopted pursuant to Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 98/56/EC, 1999/105/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC concerning:
 - (a) inspections, sampling and testing of the plants for planting concerned or the plants from which they originate;
 - (b) the origin of the respective plants for planting from the areas or sites, which are free from, or with physical protection from, the RNQPs concerned;
 - (c) treatments of the plants for planting concerned, or the plants from which they originate;
 - (d) the production of the plants for planting.

In addition, the measures referred to in paragraph 1 shall not affect the exceptions for plants for planting, adopted pursuant to the Directives referred to in the first subparagraph, from the marketing requirements set out by those Directives, or specific provisions, including:

- (a) exceptions concerning the supply of seed to official testing and inspection bodies;
- (b) exceptions concerning the supply of seed to providers of services for processing or packaging, provided the provider of services does not acquire title to seed thus supplied;
- (c) exceptions concerning the supply of seed under certain conditions to providers of services for the production of certain agricultural raw materials, intended for industrial purposes, or seed propagation for that purpose;
- (d) exceptions for seeds which do not satisfy the conditions in respect of germination and for plants intended for scientific purposes, selection work, other test or trial purposes;

- (e) exceptions concerning bred seed of generations prior to basic seed, and seeds as grown, marketed for processing, provided that the identity of the seed is ensured;
- (f) specific provisions concerning seed not finally certified.

Article 7

List of plants, plant products and other objects whose introduction into the Union from certain third countries is prohibited

The list of plants, plant products and other objects whose introduction into the Union territory is prohibited, together with the third countries, groups of third countries or specific areas of third countries to which the prohibition applies as referred to in Article 40(2) of Regulation (EU) 2016/2031, is set out in Annex VI to this Regulation.

Article 8

List of plants, plant products and other objects originating from third countries, or in the Union territory and the corresponding special requirements for their introduction into or movement within the Union territory

1. The list of plants, plant products and other objects, originating from third countries, and the corresponding special requirements for their introduction into the Union territory, as referred to in Article 41(2) of Regulation (EU) 2016/2031, is set out in Annex VII to this Regulation.
2. The list of plants, plant products and other objects, originating in the Union territory, and the corresponding special requirements for their movement within the Union territory, as referred to in Article 41(2) of Regulation (EU) 2016/2031, is set out in Annex VIII to this Regulation.

Article 9

List of plants, plant products and other objects, whose introduction into certain protected zones is prohibited

The list of plants, plant products and other objects, originating from third countries or within the Union territory, whose introduction into certain protected zones is prohibited, as referred to in Article 53(2) of Regulation (EU) 2016/2031, is set out in Annex IX to this Regulation.

Article 10

List of plants, plant products and other objects to be introduced into, or moved within protected zones and corresponding special requirements for protected zones

The list of plants, plant products and other objects, the respective protected zones and the corresponding special requirements for protected zones, as referred to in Article 54(2) of Regulation (EU) 2016/2031, are set out in Annex X to this Regulation.

Article 11

List of plants, plant products and other objects, as well as the respective third countries of origin or dispatch, for which phytosanitary certificates are required for their introduction into the Union territory, and list of plants for which a phytosanitary certificate is not required for their introduction into the Union territory

1. The list of plants, plant products and other objects, as well as the respective third countries of origin or dispatch, whose introduction into the Union territory requires a phytosanitary certificate, as referred to in Article 72(1) of Regulation (EU) 2016/2031, is set out in Part A of Annex XI to this Regulation.
2. All plants, other than the plants referred to in paragraph 1 or Part B of Annex XI shall be accompanied by a phytosanitary certificate.

Article 12

List of plants, plant products and other objects for which a phytosanitary certificate is required for their introduction into a protected zone from certain third countries of origin or dispatch

The list of plants, plant products and other objects, whose introduction into certain protected zones from certain third countries of origin or dispatch requires a phytosanitary certificate, as referred to in Article 74(1) of Regulation (EU) 2016/2031, is set out in Annex XII to this Regulation.

Article 13

List of plants, plant products and other objects for which a plant passport is required for movement within the Union territory

1. The list of plants, plant products and other objects for which a plant passport is required for their movement within the Union territory, as referred to in Article 79(1) of Regulation (EU) 2016/2031, is set out in Annex XIII to this Regulation.
2. By way of derogation from paragraph 1, a plant passport shall not be required for the movement within the Union of seeds which:
 - (a) are subject to the exceptions or specific provisions referred to in the second subparagraph of Article 6(2); and
 - (b) are not listed in Annex IX.

Article 14

List of plants, plant products and other objects for which a plant passport with the designation “ZP” is required for introduction into, and movement within certain protected zones

The list of plants, plant products and other objects for which a plant passport is required for their introduction into, or movement within certain protected zones, as referred to in Article 80(1) of Regulation (EU) 2016/2031, is set out in Annex XIV to this Regulation.

Plant passports referred to in paragraph 1 shall bear the designation 'ZP'.

Article 15
Repeal of Regulation (EC) No 690/2008 and amendment of Implementing Regulation (EU) 2018/2019

Regulation (EC) No 690/2008 is repealed.

Article 2 of, and Annex II to, Implementing Regulation (EU) 2018/2019 are deleted.

Article 16
Exception from application

This Regulation shall not apply to seeds produced before 14 December 2019.

Article 17
Entry into force and application

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 14 December 2019.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
Jean-Claude JUNCKER