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COMMISSION

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COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

on criteria to be fulfilled by the professional operators in order to comply with the conditions set out in Article 89(1) point (a) of Regulation (EU) 2016/2031 and procedures to ensure that those criteria are met

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.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

According to Article 79(1) paragraph (a) of Regulation (EU) 2016/2031, in order for certain plants, plant products and other objects to be moved within the Union territory, a plant passport is required. Such plant passport attests that the plant, plant product or other object concerned fulfils all the requirements set out in Articles 85 and 86 of that Regulation and thus that it is free from Union quarantine pests and compliant with the Union regulated non-quarantine pests measures, where applicable. Therefore, it ensures that the plants do not present a phytosanitary risk for the Union. Consequently, due to the technical and scientific character of the matter, the issuance of plant passports shall only be allowed by authorised operators under the supervision of the competent authorities.

Article 89(1) paragraph (a) of Regulation (EU) 2016/2031 establishes provisions on the authorisation of professional operators to issue plant passports, and provides for conditions to be fulfilled by those operators. They shall possess the necessary knowledge to carry out the examinations referred to in Article 87 of that Regulation, concerning the Union quarantine pests, the measures adopted pursuant to Article 30(1), protected zones quarantine pests, and Union regulated non-quarantine pests as well as concerning the signs, symptoms and means to prevent the presence and spread of such pests.

Therefore, in order to ensure that the professional operators comply with such conditions, Article 89(2) empowers the Commission to supplement Regulation (EU) 2016/2031 by setting out the criteria to be fulfilled by the operators in order for them to comply with the conditions set out in Article 89(1) paragraph (a) and the procedures to ensure that those criteria are met.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission consulted the Expert Group on Plant Health on 5 September 2018.

This draft Delegated act was subject to consultation of the general public between [...] and [...] via the Better Regulation portal. A total of [...] responses were received which are publicly available.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Delegated Act provides for the criteria to be fulfilled by professional operators in order for them to be authorised to issue plant passports and the procedures to ensure that those criteria are met, pursuant to Article 89(2) of Regulation (EU) 2016/2031.

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on criteria to be fulfilled by the professional operators in order to comply with the conditions set out in Article 89(1) point (a) of Regulation (EU) 2016/2031 of the European Parliament and of the Council and procedures to ensure that those criteria are met

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 of 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 89(2) thereof,

Whereas:

- (1) Regulation (EU) 2016/2031 provides that plant passport should be issued for the movement of certain plants, plant products and other objects within the Union territory and into or within a protected zone.
- (2) In order to ensure that the information contained in the plant passport, as well as the required examinations for the issuance of the plant passports, are based on sound scientific and technical expertise, they may only be issued by authorised operators, under the supervision of the competent authorities.
- (3) Certain criteria should be established to ensure that the professional operators possess the necessary knowledge of the rules concerning pests that could affect certain plants, plant products and other objects and the measures to prevent the presence and spread of those pests.
- (4) A procedure will be necessary to ensure that all the criteria referred to in Article 89(2) of Regulation (EU) 2016/2031 are met, with a view to ensuring that all the authorised operators are aware of the information needed for the issuance of plant passports. The competent authorities should therefore make available an electronic guidance document containing information about the biology of pests and the respective vectors, and, about the relevant aspects of the biology of plants, plant products and other objects as their hosts, and about performance of examinations, prevention of infestation and the establishment of an emergency plan.
- (5) For reasons of legal certainty, this Regulation should apply from the same date as Regulation (EU) 2016/2031.

¹ OJ L 317, 23.11.2016, p. 4.

HAS ADOPTED THIS REGULATION:

Article 1

Criteria to be fulfilled by professional operators authorised to issue plant passports

1. Professional operators shall fulfil the following criteria in order to be eligible for authorisation in relation to the issuance of plant passports:
 - (a) they have demonstrated to the competent authority the necessary knowledge of the applicable rules relevant to the examinations carried out in accordance with Article 87 of Regulation (EU) 2016/2031 concerning the Union quarantine pests, pests subject to measures adopted pursuant to Article 30(1) of Regulation (EU) 2016/2031, protected zone quarantine pests and Union regulated non-quarantine pests that could affect the plants, plant products and other objects concerned;
 - (b) they have demonstrated to the competent authority the necessary knowledge of the measures required to prevent the presence and spread of the pests referred to in point (a);
 - (c) they have an effective emergency plan on actions to be taken in case of any findings of the pests referred to in point (a) that affect or are likely to affect their plants, plant products or other objects;
 - (d) they have demonstrated to the competent authorities the necessary knowledge and competence, for the performance of the required examinations of the plant, plant product or other object for the relevant pests and to take the measures referred to in point (b).
 - (e) They have proven to the competent authorities that they possess or have access to the necessary equipment and facilities for the performance of the required examinations of the plant, plant product or other object and the capacity to take the measures referred to in point (b).

Article 2

Procedures ensuring fulfilment of criteria for professional operators

1. The competent authority shall prepare an electronic guidance document for the professional operators on the criteria to be fulfilled in the examinations relating to the issuance of plant passports.

Such electronic guidance document shall be published in the official website of each competent authority and contain all of the following elements:

- (a) information about the biology of pests and the respective vectors, and about the relevant aspects of the biology of the hosts concerned;
- (b) information about the signs of the presence of those pests and the symptoms of infestation of the plants, plant products or other objects by the respective pests, the modalities for the performance of visual inspections, as well as sampling and testing,
- (c) information about treatments, best practices and other actions to be taken to prevent infestation, or to address the potential infestation of the plants, plant products or other objects by the respective pests;

- (d) information on the establishment and content of the emergency plan referred to in point (c) of Article 1.
2. The competent authorities shall take all the appropriate measures to verify that the professional operators comply with all the criteria set out in paragraph 1.

Article 3

Entry into force and date of application

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

This Regulation 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