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## STATUTORY INSTRUMENTS

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**2023 No. 497**

# PLANT HEALTH

## The Plant Health and Phytosanitary Conditions (Oak Processionary Moth and Plant Pests) (Amendment) Regulations 2023

Made	- - - -	at 10.38 a.m. on 2nd May 2023
Laid before Parliament		at 4.30 p.m. on 2nd May 2023
Coming into force	- -	24th May 2023

The Secretary of State makes these Regulations in exercise of the powers conferred by Articles 8(5), 17(1), 28(1) and (4), 37(5), 48(5), 105(6) of, and Annex 2 to, Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants<sup>(1)</sup>.

In accordance with Article 2a(2) of that Regulation<sup>(2)</sup>, the Secretary of State makes these Regulations with the consent of the Welsh Ministers and the Scottish Ministers.

In accordance with Article 28(2) of that Regulation<sup>(3)</sup>, the Secretary of State has concluded, on the basis of surveys, that eradication of the GB quarantine pest, *Thaumetopoea processionea* L., in a demarcated area is not possible.

Following a risk assessment made in accordance with Article 37(5) of that Regulation<sup>(4)</sup>, the Secretary of State has determined that it is appropriate to amend Annex 5<sup>(5)</sup> to Commission Implementing Regulation (EU) 2019/2072 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<sup>(6)</sup>.

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- (1) EUR 2016/2031; relevant amending instruments are [S.I. 2020/1482](#) and [2022/1367](#).  
(2) Article 2a(2) of EUR 2016/2031 contains a definition of “the appropriate authority” for the purposes of exercising any power to make regulations under that Regulation and provides that, in the case of regulations applying in relation to Wales or Scotland, the appropriate authority is the Secretary of State if consent is given by the Welsh Ministers or the Scottish Ministers, as the case may be.  
(3) Article 28(2) was substituted by [S.I. 2020/1482](#).  
(4) Article 37(5) was substituted by [S.I. 2020/1482](#).  
(5) Annex 5, Part F was substituted by [S.I. 2020/1527](#).  
(6) EUR 2019/2072, amended by [S.I. 2020/1527](#); there are other amending instruments but none is relevant.

## PART 1

### INTRODUCTION

#### Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Plant Health and Phytosanitary Conditions (Oak Processionary Moth and Plant Pests) (Amendment) Regulations 2023.

(2) These Regulations come into force on 24th May 2023.

(3) Parts 1 and 2 extend to England and Wales, and Scotland.

(4) Part 3 extends to England and Wales but applies in relation to England only.

## PART 2

### AMENDMENT OF PLANT HEALTH LEGISLATION

#### Amendment of Commission Delegated Regulation (EU) 2019/829

2.—(1) Commission Delegated Regulation (EU) 2019/829 supplementing Regulation (EU) 2016/2031 on protective measures against pests of plants, authorising Member States to provide for temporary derogations in view of official testing, scientific or educational purposes, trials, varietal selections, or breeding(7) is amended as follows.

(2) In Annex 1, in paragraph 1, in point (d), after “(including country)” insert “of the laboratory or institution from which the material originated”.

#### Amendment to Commission Implementing Regulation (EU) 2019/2072

3.—(1) Commission Implementing Regulation (EU) 2019/2072 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(8) is amended as follows.

(2) In Annex 5, in Part F (measures to prevent the presence of RNQPS on seed potatoes)(9), for the second table substitute—

<i>“(1)”</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>
<i>RNQPs or symptoms caused by RNQPs</i>	<i>Plants for planting (genus or species)</i>	<i>Thresholds for the growing plants for pre-basic seed potatoes<sup>(1)</sup></i>	<i>Thresholds for the growing plants for basic seed potatoes<sup>(1)</sup></i>	<i>Thresholds for the growing plants for certified seed potatoes<sup>(1)</sup></i>
		<i>PBTC</i>	<i>PB</i>	
Blackleg ( <i>Dickeya</i> Samson <i>et al.</i> )	<i>Solanum tuberosum</i> L.	0%	0%	1%
				4%

(1) Additional restrictions concerning the planting of seed potatoes are provided for in [S.S.I. 2006/319](#), [2015/395](#), [S.I. 2015/1953](#), [2016/106](#) (W. 52), [2019/1517](#), [S.S.I. 2019/421](#), [S.I. 2020/206](#) (W. 48).

(7) EUR 2019/829, amended by [S.I. 2020/1482](#), [2022/1020](#).

(8) EUR 2019/2072, amended by [S.I. 2020/1527](#); there are other amending instruments but none is relevant.

(9) Annex 5, Part F was substituted by [S.I. 2020/1527](#).

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(1)	(2)	(3)		(4)	(5)
<i>RNQPs or symptoms caused by RNQPs</i>	<i>Plants for planting (genus or species)</i>	<i>Thresholds for the growing plants for pre-basic seed potatoes<sup>(1)</sup></i>		<i>Thresholds for the growing plants for basic seed potatoes<sup>(1)</sup></i>	<i>Thresholds for the growing plants for certified seed potatoes<sup>(1)</sup></i>
		<i>PBTC</i>	<i>PB</i>		
spp. [1DICKG]; <i>Pectobacterium</i> Waldee emend. Hauben <i>et al.</i> spp. [1PECBG])		0%	0%	0%	0%
<i>Candidatus</i> Liberibacter <i>solanacearum</i> Liefting <i>et al.</i> [LIBEPS]	<i>Solanum</i> <i>tuberosum</i> L.				
Mosaic symptoms caused by viruses and symptoms caused by Potato leaf roll virus [PLRV00]	<i>Solanum</i> <i>tuberosum</i> L.	0%	0.1%	0.8%	6%
Potato spindle tuber viroid [PSTVD0]	<i>Solanum</i> <i>tuberosum</i> L.	0%	0%	0%	0%”.

(1) Additional restrictions concerning the planting of seed potatoes are provided for in S.S.I. 2006/319, 2015/395, S.I. 2015/1953, 2016/106 (W. 52), 2019/1517, S.S.I. 2019/421, S.I. 2020/206 (W. 48).

### PART 3

#### DEMARCATED AREA FOR CONTROL OF *THAUMETOPOEA PROCESSIONEA* L.

#### Interpretation

##### 4.—(1) In this Part—

“appropriate phytosanitary treatments” means efficient chemical, biological or mechanical treatment for the containment of the specified GB quarantine pest, taking into account local conditions and in accordance with the guidance entitled “Guidance on the application of Plant

Protection Products for phytosanitary treatment of oak processionary moth” dated 17th April 2023 by the national plant protection organisation of the United Kingdom(10);

“the buffer zone” means the area surrounding the infested zone and made up of the areas of the local authorities and local authority wards which are listed in the Schedule as forming part of the buffer zone;

“the demarcated area” means the area made up of the infested zone and the buffer zone, being the area established for the containment of the specified GB quarantine pest;

“high-risk oak trees” means plants for planting, other than fruits and seeds, of *Quercus* L. of a girth of at least 8 centimetres measured at a height of 1.2 metres from the root collar;

“the infested zone” means the area made up of the areas of the local authorities and local authority wards where the specified GB quarantine pest is established which are listed in the Schedule as forming part of the infested zone;

“the Official Controls Regulations” means the Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019(11);

“Plant Health Management Standard” means the Plant Health Management Standard version 1.2 released on the 1st July 2022(12) by Plant Healthy Limited(13);

“plant health inspector” has the meaning given in regulation 2 of the Official Controls Regulations;

“the Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants(14);

“premises” has the meaning given in regulation 14(2) of the Official Controls Regulations;

“professional operator” has the meaning given in Article 2(9) of the Plant Health Regulation;

“the specified GB quarantine pest” means *Thaumetopoea processionea* L..

(2) References to the area of a local authority or a local authority ward are to the area within the boundary line of a local authority or local authority ward, as the case may be, as determined by the Local Government Boundary Commission for England on 22nd May 2022 and updated in October 2022(15).

### **Prohibition on the movement of high-risk oak trees from the demarcated area to outside the demarcated area**

5. No person may move a high-risk oak tree from the demarcated area to any area outside of the demarcated area.

### **Restrictions on the movement of high-risk oak trees within the demarcated area**

6.—(1) No person may move a high-risk oak tree within the demarcated area.

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(10) The guidance “Guidance on the application of Plant Protection Products for phytosanitary treatment of oak processionary moth” is published on the Gov.UK website for the Department for Environment, Food and Rural Affairs. That Guidance is within the page entitled “Managing Oak Processionary Moth in England”. A copy of this guidance can be made available by the local Plant Health and Seed Inspector or the Plant Health Seed Inspectorate by email: [planthealth.info@apha.gov.uk](mailto:planthealth.info@apha.gov.uk).

(11) S.I. 2019/1517, amended by S.I. 2020/1482; there are other amending instruments but none is relevant.

(12) <https://planthealthy.org.uk/assets/images/Plant-Health-Management-Standard-V1.2.pdf>.

(13) Plant Healthy Limited is the sole purpose company that performs the administrative and legal duties on behalf of the Plant Health Alliance. The Plant Health Alliance is a cross-sectoral group and the owner of the Plant Health Management Standard and the governing body of the Plant Healthy Certification Scheme. Their website is <https://planthealthy.org.uk/plant-health-alliance>.

(14) EUR 2016/2031, relevant amending instruments are S.I. 2020/1482 and 2022/1367.

(15) The Local Government Boundary Commission publish the local government boundaries on the Ordnance Survey’s election maps website at <https://www.ordnancesurvey.co.uk/business-government/tools-support/election-maps>.

(2) Paragraph (1) does not apply to a professional operator who meets the conditions specified in paragraph (3).

(3) The conditions referred to in paragraph (2) are that the professional operator—

- (a) holds an acceptable level of biosecurity competence demonstrable by compliance with the Plant Health Management Standard;
- (b) records, and retains for at least 3 years, the following information for each consignment of high-risk oak trees—
  - (i) the name of the professional operator;
  - (ii) the date of movement from the premises of the professional operator and the address of those premises;
  - (iii) the identity, address, email address and phone number of any person who is to receive the high-risk oak tree at its destination and the destination of the consignment;
  - (iv) the species and girth of each high-risk oak tree within the consignment measured at a height of 1.2 metres from the root collar;
  - (v) details of any appropriate phytosanitary treatments applied to each high-risk oak tree within the consignment during the period the tree was on the premises of the professional operator;
- (c) does not move any high-risk oak tree located in the infested zone into the buffer zone;
- (d) does not move any high-risk oak tree located in the buffer zone to within 10 kilometres of the outer edge of the buffer zone;
- (e) in relation to any high-risk oak tree to be moved within the buffer zone—
  - (i) applies appropriate phytosanitary treatments to the tree;
  - (ii) notifies any person who is to receive the tree at its destination, other than any other professional operator, that official planting inspections for the specified GB quarantine pest may be carried out by a plant health inspector;
- (f) provides copies, and allows inspection, of documents specified at sub-paragraph (b) upon the request of the appropriate authority.

(4) The conditions in paragraph (3)(a), (b) and, where applicable, (e) must be complied with prior to movement of a consignment of high-risk oak trees from the premises of the professional operator.

(5) Where a professional operator (the “transferring operator”) takes possession of a high-risk oak tree from another professional operator with a view to moving that tree to the planting site, the conditions in paragraph (3) apply, but this is subject to paragraph (6).

(6) Where the transferring operator proposes to move the tree to the planting site within a period of less than 48 hours of taking possession, the conditions in paragraph (3)(a), (b)(v) and (e)(i) do not apply to that transferring operator.

### **Disapplication of obligation to eradicate GB quarantine pest**

7. The obligation in Article 17(1) of the Plant Health Regulation (obligation of competent authority immediately to take all necessary phytosanitary measures to eradicate a GB quarantine pest from the area concerned) does not apply in the demarcated area.

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At 10.38 a.m. on 2nd May 2023

*Trudy Harrison*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

SCHEDULE

Regulation 4

Demarcated Area

<i>Demarcated Area</i>	<i>Local Authority or Local Authority Ward area</i>
Infested Zone	Barking and Dagenham
	Barnet
	Basildon
	Bexley
	Bracknell Forest
	Brent
	Brentwood
	Bromley
	Broxbourne
	Buckinghamshire Council
	Wards: Chalfont St Giles
	Chalfont St Peter
	Cliveden
	Denham
	Farnham Common and Burnham Beeches
	Gerrards Cross
	Iver, Stoke Poges and Wexham
	Camden
	City of London
	Croydon
	Dartford
	Ealing
	East Hertfordshire District
	Council Wards: Hertford Castle
	Hertford Head
	Hertford Rural South
	Elmbridge
	Enfield
	Epping Forest
	Epsom and Ewell
	Greenwich
	Guildford
	Hackney

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<i>Demarcated Area</i>	<i>Local Authority or Local Authority Ward area</i>
	Hammersmith and Fulham
	Haringey
	Harlow
	Harrow
	Havering
	Hertsmere
	Hillingdon
	Hounslow
	Islington
	Kensington and Chelsea
	Kingston upon Thames
	Lambeth
	Lewisham
	Merton
	Mole Valley
	Newham
	Redbridge
	Reigate and Banstead
	Richmond upon Thames
	Runnymede
	Slough
	Southwark
	Spelthorne
	St Albans
	Surrey Heath
	Sutton
	Three Rivers
	Thurrock
	Tower Hamlets
	Waltham Forest
	Wandsworth
	Watford
	Welwyn Hatfield
	Westminster



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<i>Demarcated Area</i>	<i>Local Authority or Local Authority Ward area</i>
	Windsor and Maidenhead
	Woking
Buffer Zone	Adur
	Arun
	Basingstoke and Deane
	Bedford
	Braintree
	Brighton and Hove
	Buckinghamshire Council Abbey
	Wards:
	Amersham and Chesham Bois
	Aston Clinton and Bierton
	Aylesbury East
	Aylesbury North
	Aylesbury North West
	Aylesbury South East
	Aylesbury South West
	Aylesbury West
	Beaconsfield
	Bernwood
	Booker
	Buckingham East
	Buckingham West
	Cressex and Castlefield
	Chesham
	Chess Valley
	Chiltern Ridges
	Chiltern Villages
	Downley
	Flackwell Heath
	Great Brickhill
	Great Missenden
	Grendon Underwood
	Hazlemere
	Ivinghoe

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<i>Demarcated Area</i>	<i>Local Authority or Local Authority Ward area</i>
	Little Chalfont and Amersham Common
	Little Marlow and Marlow South East
	Marlow
	Penn Wood and Old Amersham
	Ridgeway East
	Ridgeway West
	Ryemead and Micklefield
	Stone and Waddesdon
	Terriers and Amersham Hill
	The Risboroughs
	The Wooburns, Bourne End and Hedsor
	Totteridge and Bowerdean
	Tylers Green and Loudwater
	Wendover, Halton and Stoke Mandeville
	West Wycombe
	Wing
	Winslow
Castle Point	
Central Bedfordshire	
Chelmsford	
Chichester	
Colchester	
Crawley	
Dacorum	
East Hampshire	
East Hertfordshire Council Wards:	District Bishop's Stortford All Saints
	Bishop's Stortford Central
	Bishop's Stortford Meads
	Bishop's Stortford Silverleys
	Bishop's Stortford South
	Braughing
	Buntingford

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<i>Demarcated Area</i>	<i>Local Authority or Local Authority Ward area</i>
	Datchworth and Aston
	Great Amwell
	Hertford Bengoe
	Hertford Kingsmead
	Hertford Rural North
	Hertford Sele
	Hunsdon
	Little Hadham
	Much Hadham
	Mundens and Cottered
	Puckeridge
	Sawbridgeworth
	Stanstead Abbots
	Thundridge and Standon
	Walkern
	Ware Chadwell
	Ware Christchurch
	Ware St Mary's
	Ware Trinity
	Watton-at-stone
	Eastbourne
	Eastleigh
	Fareham
	Gosport
	Gravesham
	Hart
	Havant
	Horsham
Huntingdonshire Council Wards:	District Buckden
	Godmanchester and
	Hemingford Abbots
	Great Paxton
	Great Staughton
	St Neots East
	St Neots Eatons

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<i>Demarcated Area</i>	<i>Local Authority or Local Authority Ward area</i>
	St Neots Eynesbury
	St Neots Priory Park and Little Paxton
Lewes	
Luton	
Maidstone	
Maldon	
Medway	
Mid Sussex	
Milton Keynes	
New Forest District Council Wards:	Ashurst
	Copythorne South and Netley Marsh
	Bramshaw
	Copythorne North and Minstead
	Brockenhurst and Forest South East
	Butts Ash and Dibden Purlieu
	Dibden and Hythe East
	Fawley
	Blackfield and Langley
	Furzedown and Hardley
	Holbury and North Blackfield
	Hythe West and Langdown
	Lyndhurst
	Marchwood
	Totton Central
	Totton East
	Totton South
	Totton West
North Hertfordshire	
Portsmouth	
Reading	
Rochford	
Rushmoor	

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<i>Demarcated Area</i>	<i>Local Authority or Local Authority Ward area</i>
	Sevenoaks
	South Cambridgeshire District
	Council Wards:
	Bassingbourne
	Caldecote
	Cambourne
	Caxton and Papworth
	Foxton
	Gamlingay
	Hardwick
	Melbourn
	The Mordens
	South Oxfordshire
	Southampton
	Southend-on-Sea
	Stevenage
	Swale
	Tandridge
	Tendring District Council
	Wards:
	Alresford and Elmstead
	Ardleigh and Little Bromley
	Brightlingsea
	Lawford, Manningtree and Mistley
	St Osyth
	The Bentleys and Frating
	Weeley and Tendring
	West Clacton and Jaywick Sands
	Test Valley
	Tonbridge and Malling
	Tunbridge Wells
	Uttlesford
	Vale of White Horse
	Waverley
	Wealden
	West Berkshire

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<i>Demarcated Area</i>	<i>Local Authority or Local Authority Ward area</i>
	Wiltshire Council Wards: Alderbury and Whiteparish Redlynch and Landford Winterslow and Upper Bourne Valley
	Winchester
	Wokingham
	Worthing

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend—

- (a) Commission Delegated Regulation (EU) 2019/829 (the “Temporary Derogations Regulation”) supplementing Regulation (EU) 2016/2031 on protective measures against pests of plants, authorising Member States to provide for temporary derogations in view of official testing, scientific or educational purposes, trials, varietal selections, or breeding; and
- (b) Commission Implementing Regulation (EU) 2019/2072 (the “Phytosanitary Conditions Regulation”) 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.

These Regulations demarcate an area for control and containment of a GB quarantine pest.

Regulation 2 amends the Temporary Derogations Regulation to require the name and address of the laboratory or institution from which the material originated to be included in an application under that Regulation.

Regulation 3 amends the Phytosanitary Conditions Regulation to revise the movement and import requirements for seed potatoes.

Part 3 demarcates an area where the GB quarantine pest, *Thaumetopoea processionea* L. (Oak Processionary Moth), has become established (the infested zone) and a buffer zone around that infested zone and prohibits the movement of high-risk oak trees within the demarcated area except by professional operators subject to prescribed conditions. Failure to comply with regulation 5 or 6 may lead to a plant health inspector taking official activities to prevent the spread of the pest under regulations 14 to 16 of the Official Controls (Plant Health and Genetically Modified Organisms) (England) Regulations 2019 ([S.I. 2019/1517](#)).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.