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STATUTORY INSTRUMENTS

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^(a).

In accordance with Article 2a(2) of that Regulation^(b), 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^(c), 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^(d), the Secretary of State has determined that it is appropriate to amend Annex 5^(e) 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^(f).

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- (a) EUR 2016/2031; relevant amending instruments are S.I. 2020/1482 and 2022/1367.
(b) 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.
(c) Article 28(2) was substituted by S.I. 2020/1482.
(d) Article 37(5) was substituted by S.I. 2020/1482.
(e) Annex 5, Part F was substituted by S.I. 2020/1527.
(f) 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(a) 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(b) is amended as follows.
- (2) In Annex 5, in Part F (measures to prevent the presence of RNQPS on seed potatoes)(c), for the second table substitute—

“(1) RNQPs symptoms caused RNQPs	(2) or Plants planting (genus species)	(3) for Thresholds plants for potatoes ⁽¹⁾	(4) Thresholds for the growing plants basic potatoes ⁽¹⁾	(5) Thresholds for the growing plants for certified seed potatoes ⁽¹⁾
		<u>PBTC</u>	<u>PB</u>	
Blackleg (<i>Dickeya</i> Samson <i>et al.</i> spp. [1DICKG]; <i>Pectobacteriu</i> <i>m</i> Waldee emend. Hauben <i>et al.</i> spp.	<i>Solanum</i> <i>tuberosum</i> L.	0%	0%	1%
				4%

(a) EUR 2019/829, amended by S.I. 2020/1482, 2022/1020.

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

(c) Annex 5, Part F was substituted by S.I. 2020/1527.

[1PECBG]) <i>Candidatus</i> Liberibacter <i>solanacearum</i> Liefting <i>et al.</i>	<i>Solanum</i> <i>tuberosum</i> L.	0%	0%	0%	0%
[LIBEPS] Mosaic symptoms caused by viruses and symptoms caused by Potato leaf roll virus	<i>Solanum</i> <i>tuberosum</i> L.	0%	0.1%	0.8%	6%
[PLRV00] Potato spindle tuber viroid	<i>Solanum</i> <i>tuberosum</i> L.	0%	0%	0%	0%
[PSTVD0]					

⁽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(a);

“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(b);

(a) 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.

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

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

“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^(c);

“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^(d).

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.

(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;

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

(b) 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>.

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

(d) 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>.

- (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.

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: <ul style="list-style-type: none"> 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
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
Windsor and Maidenhead
Woking

Buffer Zone

Adur
Arun
Basingstoke and Deane
Bedford
Braintree
Brighton and Hove
Buckinghamshire Council
Wards:

Abbey
Amersham and Chesham Bois
Aston Clinton and Birtton
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
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

Castle Point
Central Bedfordshire
Chelmsford
Chichester
Colchester
Crawley
Dacorum
East Hampshire
East Hertfordshire District
Council Wards:

West Wycombe
Wing
Winslow

Bishop's Stortford All Saints
Bishop's Stortford Central
Bishop's Stortford Meads
Bishop's Stortford Silverleys
Bishop's Stortford South
Braughing
Buntingford
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 District
Council Wards:

Buckden
Godmanchester and
Hemingford Abbots
Great Paxton
Great Staughton

Lewes
Luton
Maidstone
Maldon
Medway
Mid Sussex
Milton Keynes
New Forest District Council
Wards:

St Neots East
St Neots Eatons
St Neots Eynesbury
St Neots Priory Park and Little
Paxton

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
Sevenoaks
South Cambridgeshire District
Council Wards:

Barrington
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	
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.

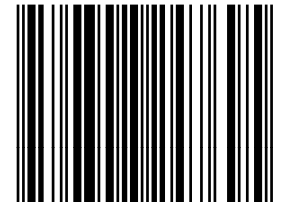
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