

EXPLANATORY MEMORANDUM TO
THE OFFICIAL CONTROLS (PLANT HEALTH) AND PHYTOSANITARY
CONDITIONS (AMENDMENT) REGULATIONS 2025

2025 No. 13

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

- 2.1 Baroness Hayman of Ullock, Parliamentary Under-Secretary of State at the Department for Environment, Food and Rural Affairs, confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Nicola Spence, Deputy Director for Plant Health, Bees and Seeds at the Department for Environment, Food and Rural Affairs, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 Suzie Pearce at the Department for Environment, Food and Rural Affairs, Telephone: 07557 486012 or email: Suzannah.pearce@defra.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 This instrument protects biosecurity and supports trade between Great Britain (“GB”) and third countries by introducing or amending protective measures against high-risk pests of plants. It also amends certain official control measures to ensure the application of plant health rules and carries out required technical updates to the legislation.

Where does the legislation extend to, and apply?

- 4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, and Scotland.
- 4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, and Scotland.

5. Policy Context

What is being done and why?

- 5.1 This instrument is amending Regulation (EU) 2019/2072 (“the Phytosanitary Conditions Regulation”) establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 (“the Plant Health Regulation”) as regards protective measures against pests of plants, following a revision in certain pest risks. The instrument makes amendments to:
- Move the pest, *Heterobasidion irregulare* (known to cause Annosus root and butt rot), from the list of Provisional Quarantine Pests to the list of Quarantine Pests (“QPs”). QPs are listed pests absent from GB (or under official control) which pose an unacceptable risk to GB, as they would cause economic/environmental damage if introduced. We can apply specific import requirements to listed QPs to address the risk of introduction. This pest has been assessed as meeting the criteria to be a QP, as a result of our risk and horizon scanning process.
 - Introduce specific import requirements for an existing GB QP, *Popillia japonica* (known as the Japanese beetle), which, via our risk and horizon scanning process, has been identified as spreading in Europe and therefore warrants additional measures to prevent its entry into GB.
 - Re-categorise certain plants and plant products, following the completion of risk assessments, as promised under the Border Target Operating Model. This is part of an ongoing technical review of plant products subject to plant health import requirements and maintains the GB plant health regime as risk-based and proportionate.
 - Establish a new requirement for plants for planting being imported into GB. Certain plants for planting will need to be grown on a registered nursery, and subject to inspections prior to export, to provide greater biosecurity assurances.
 - Add an additional option for the import of certain plants of *Capsicum* (pepper) species to enable trade.
 - Carry out technical updates to the legislation, such as to update the names of pests or commodities to ensure consistency with internationally recognised names (where no impacts on stakeholders are anticipated), and to clarify certain import requirements. Errors are also being corrected in the Phytosanitary Conditions Regulation (by virtue of amendments made by the Plant Health (Phytosanitary Conditions) (Amendment) (EU Exit) Regulations 2020 (“S.I. 2020/1527”), the Phytosanitary Conditions (Amendment) Regulations 2022 (“S.I. 2022/114”), The Phytosanitary Conditions (Amendment) (No. 3) Regulations 2022 (“S.I. 2022/1120”), and the Phytosanitary Conditions (Amendment) Regulations 2024 (“S.I. 2024/610”).
- 5.2 As a result of the re-categorisations (see section 5.1(c)), this instrument makes parallel changes to Annex 8 to Regulation (EU) 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (“the Official Controls Regulation”) and the Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (“S.I. 2020/1482”). These amendments alter the list of certain fruit and vegetables exempt from requiring pre-notification and a phytosanitary certificate respectively when being imported from certain countries, including the EU, Liechtenstein and Switzerland.
- 5.3 Finally, this instrument amends Regulation (EU) 2019/1014 to exclude large plants, plant products and other objects from the requirement for unloading in an area with a

roof. This provision enables the implementation of appropriate biosecurity standards in those cases.

What was the previous policy, how is this different?

- 5.4 The phytosanitary import regime in GB is not static and is kept under continuous review to ensure that it continues to address any biosecurity risk posed to the UK, and that it meets our WTO obligations by being risk-based. This instrument continues this risk-based approach.

6. Legislative and Legal Context

How has the law changed?

- 6.1 The principal legislation governing plant health is assimilated legislation, namely the Plant Health Regulation and the Official Controls Regulation. Tertiary legislation adopted under the Plant Health Regulation (also assimilated legislation) includes the Phytosanitary Conditions Regulation which establishes uniform conditions for the application of the Plant Health Regulation (amongst other things). Tertiary legislation adopted under the Official Controls Regulation includes Regulation (EU) 2019/1014 which lays down rules for border control posts to expand upon the minimum requirements set out by the Official Controls Regulation.
- 6.2 Under powers conferred by the European Union (Withdrawal) Act 2018, the assimilated legislation was amended where necessary, in order to address failures to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.
- 6.3 Subsequent amendments have been made to the lists and/or measures set out in the Phytosanitary Conditions Regulation (by statutory instruments such as S.I. 2022/114, S.I. 2022/1120 and S.I. 2024/610) and the Official Controls Regulations to reflect the outcome of any new or revised risk assessments, pest interceptions, changes in pest distributions and other developments concerning pests, plants, plant products or other objects, or their official controls.
- 6.4 Annex 6 to the Official Controls Regulation provides for a transitional staging period which temporarily eases the requirement for certain official documents and the performance of official controls in relation to specified categories of plants and other goods imported into Great Britain from relevant third countries. As part of those arrangements, Annex 8 to the Official Controls Regulation and S.I. 2020/1482 exclude certain fruit and vegetables from requiring a phytosanitary certificate and pre-notification when being imported from certain countries, including the EU, Liechtenstein and Switzerland.

Why was this approach taken to change the law?

- 6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 Targeted stakeholder engagement was carried out on the proposed measures to regulate the new QP, *Heterobasidion irregulare*, with the associated import requirements on host plants, wood and woodchips from countries where the pest is present. Stakeholders were also engaged on the proposal to re-categorise certain plants and plant products, to introduce a new requirement for plants for planting from third

countries, and regarding the exclusion of large plants, plant products and other objects from requiring a roof in unloading areas.

- 7.2 These engagements were published on the Plant Health Portal and circulated to stakeholders, including those in the Plant Health Advisory Forum. No comments were received for the *Heterobasidion irregulare* provision, while 3 responses were received regarding the proposal to re-categorise certain plants and plant products, all of which were fully supportive¹.
- 7.3 A total of 9 responses were received on the new import requirement for plants for planting². Some stakeholders supported the proposal given the additional biosecurity assurances, whilst others were concerned by what they perceived as a trade ban and some additional administrative burdens.
- 7.4 Finally, a total of 11 responses were received on the proposed exclusion of large plants, plant products and other objects³. This feedback was also mixed as some stakeholders supported the proposals, recognising operational constraints at border control facilities and recommending additional procedural and mitigation measures, which will be incorporated as part of standard operating procedures to apply the derogation. More critical responses related to the wider border inspection regime which is outside the scope of these regulations.
- 7.5 Past engagement was also held in 2015 on the Pest Risk Analysis⁴ concerning *Popillia japonica* before it became a GB QP. The changes in legislation reflect the assessed risk of this pest.
- 7.6 The Scottish and Welsh Devolved Governments have been consulted about this instrument and are content.

8. Applicable Guidance

- 8.1 A summary of the measures was published on the Plant Health Portal here⁵. This includes a Q&A document on the measures, including the changes for trade.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

A full Impact Assessment has not been prepared for this instrument because the annual impact of the legislative changes was estimated to be below £10 million, with an annual cost of under £1 million estimated for UK businesses.

Impact on businesses, charities and voluntary bodies

- 9.1 There is no, or no significant, impact on business, charities or voluntary bodies because the additional requirements are considered to be minor. Any additional costs incurred are a result of changes to existing measures to protect plant biosecurity.
- 9.2 The legislation does impact small or micro businesses. There is no exemption for small businesses, given the importance of protecting plant biosecurity through the actions of all businesses, regardless of their size.

¹ <https://planthealthportal.defra.gov.uk/assets/PH052-response-letter-v3.pdf>

² <https://planthealthportal.defra.gov.uk/assets/Response-letter-for-publication-pdf.pdf>

³ <https://planthealthportal.defra.gov.uk/assets/Consultation-response-letter-large-loads-derogation.pdf>

⁴ <https://planthealthportal.defra.gov.uk/pests-and-diseases/uk-plant-health-risk-register/downloadExternalPra.cfm?id=4106>

⁵ <https://planthealthportal.defra.gov.uk/latest-news/legislation-for-winter-2024/>

9.3 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 The approach to monitoring this legislation is that these measures will be kept under review following any new or revised risk assessments, pest interceptions, changes in pest distributions and other developments.
- 10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Baroness Hayman of Ullock has made the following statement:
- 10.3 “A statutory review clause is not required as the annual impact of the legislative changes was estimated to be below £5 million. The measures will also be kept under review following any developments as detailed in section 10.1”.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 The department confirms that it has complied with the requirement in paragraph 4.7.6 of Statutory Instrument Practice and has consulted the Statutory Instrument Registrar on the use of the free issue procedure in relation to this instrument. The corrections are outlined in section 5.1(f).

12. European Convention on Human Rights

- 12.1 Baroness Hayman of Ullock, Parliamentary Under-Secretary of State, has made the following statement regarding Human Rights:
- “In my view, the provisions of the Official Controls (Plant Health) and Phytosanitary Conditions (Amendment) Regulations 2025 are compatible with the Convention rights.”.

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).