EXPLANATORY MEMORANDUM TO

THE PHYTOSANITARY CONDITIONS (AMENDMENT) (NO. 2) REGULATIONS 2025

2025 No. 1170

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 Suzannah Pearce at the Department for Environment, Food and Rural Affairs can be contacted by email at the following address with any queries regarding the instrument: planthealth@defra.gov.uk. Alternatively, the department can be contacted by telephone: +44 (0) 3459 335577.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument protects biosecurity by introducing or amending protective measures against high-risk pests of plants. This instrument also supports trade where appropriate by removing the import requirements for pests which no longer meet the criteria for regulation as a GB Quarantine Pest or GB Pest Free Area Pest.

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:

(a) Move the pests, *Agrilus horni* (known as the aspen root girdler), *Heterobasidion occidentale* (a fungal pathogen of conifers), and *Toumeyella parvicornis* (the pine tortoise scale), 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. As a result, specific import requirements are being applied to *Toumeyella parvicornis.* These pests have been assessed as meeting the criteria to be QPs, as a result of our risk and horizon scanning process.

(b) Extend the existing import requirements for the QP *Bursaphelenchus xylophilus* (known as the pinewood nematode) to apply to the host wood exports from Armenia, following the identification of this pest in Armenia.

(c) Add the pest *Homona magnanima* (the oriental tea tortrix) to the provisional Quarantine Pest list, after it was assessed as meeting the criteria to be a QP, based on a preliminary assessment.

(d) Deregulate the pest *Helicoverpa armigera* (the cotton bollworm) after a recent policy review concluded that this pest no longer meets the criteria to be regulated as a QP.

(e) Deregulate the Pest Free Area Quarantine Pests, *Dendroctonus micans* (the great spruce bark beetle) and *Ips cembrae* (the large larch bark beetle). Recent evidence no longer supports the absence of these bark beetles in their respective Pest Free Areas in the west of Scotland.

5.2 This instrument also carries out technical updates to the Phytosanitary Conditions Regulation:

(a) Firstly, to update the taxonomic name of a pest, *Ennomos subsignarius* (the elm spanworm moth), to ensure consistency with the internationally recognised name *Ennomos subsignaria.*

(b) Secondly, to correct an error involving a misplaced asterisk in the existing import requirements for the bacterial pathogen *Xylella fastidiosa* (by virtue of an amendment made by the Official Controls and Phytosanitary Conditions (Amendment) Regulations 2021 (S.I. 2021/136)).

(c) Thirdly, to add the seed of *Solanum sisymbriifolium* to the list of goods which require a UK plant passport for their movement within Great Britain ("GB") or introduction into GB from a Crown Dependency ("CD") territory. This commodity was added to the legislation by the Phytosanitary Conditions (Amendment) Regulations 2024 ("S.I. 2024/610") as a host of the regulated non-quarantine pest, potato spindle tuber viroid after it was found to harbour this pest. As a result of these amendments, the seed of *Solanum sisymbriifolium* must be free from the pest to be moved within, or introduced into, GB. However, an amendment was erroneously missed that would have mandated that a UK plant passport was required for this seed to be moved within GB or introduced into GB from a CD territory.

What was the previous policy, how is this different?

5.3 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 Plant Health Regulation is one of the principal pieces of legislation governing plant health, it provides protective measures against pests of plants by establishing controls and restrictions which apply to the import into and internal movement within GB of certain plants, plant products and other objects. Tertiary legislation adopted under the now assimilated Plant Health Regulation includes the Phytosanitary Conditions Regulation which establishes uniform conditions for the application of the Plant Health Regulation (amongst other things).

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 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.

Why was this approach taken to change the law?

6.4 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 held on a summary of the Pest Risk Analysis ("PRA") on *Toumeyella parvicornis*, and the recommended phytosanitary measures, provided by the European and Mediterranean Plant Protection Organisation ("EPPO")[1]. The specific measures on *Toumeyella parvicornis* are based on these EPPO recommendations. Stakeholders were also engaged on the proposal to deregulate *Helicoverpa armigera* as a quarantine pest including the withdrawal of its associated import requirements[2].

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 from stakeholders regarding *Toumeyella parvicornis*, while four comments were received in relation to *Helicoverpa armigera*. The majority of responses were supportive or raised no objection to the proposal to deregulate *Helicoverpa armigera*[3].

[1] Stakeholder engagement on *Toumeyella parvicornis*: https://planthealthportal.defra.gov.uk/assets/Consultation_Letter_Toumeyella-v2.pdf
[2] Stakeholder engagement on *Helicoverpa armigera*: https://planthealthportal.defra.gov.uk/latest-news/stakeholder-engagement-for-the-policy-review-of-helicoverpa-armigera/
[3] Response letter following stakeholder engagement on *Helicoverpa armigera*: https://planthealthportal.defra.gov.uk/assets/Helicoverpa_armigera_Policy_review_response_final.pdf

7.3 Past engagement was also held in 2017 on the UK PRA for *Heterobasidion occidentale* and in 2022 on the UK PRA concerning *Agrilus horni*. The changes in legislation reflect the assessed risk of these pests.

7.4 The Scottish and Welsh 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[4]. 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

9.1 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 saving of £0.14 million estimated for UK businesses.

Impact on businesses, charities and voluntary bodies

9.2 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.

9.3 The legislation does impact small or micro businesses.

9.4 There is no exemption for small businesses, given the importance of protecting plant biosecurity through the actions of all businesses, regardless of their size.

9.5 There is no, or no significant, impact on the public sector because the additional requirements are considered to be minor.

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 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 £10 million. The measures will also be kept under review following any developments as detailed in section 10.1".

[4] Guidance on the pest measures: https://planthealthportal.defra.gov.uk/latest-news/legislation-for-autumn-2025/

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 5.2.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

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").