EXPLANATORY MEMORANDUM TO

THE PHYTOSANITARY CONDITIONS (AMENDMENT) REGULATIONS 2025

2025 No. 559

1. Introduction

1.1 This explanatory memorandum has been prepared by Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

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, 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.

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, 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, *Neodiprion abietis* (known as the balsam fir sawfly) and *Pseudomonas avellanae* (a bacterial pathogen that causes hazelnut decline), 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. These pests have been assessed as meeting the criteria to be QPs, as a result of our risk and horizon scanning process.

(b) Remove the pest Tobacco ringspot virus from the QP list, instead adding it to the Regulated Non-Quarantine Pest ("RNQP") list with specified host plants for planting.

(c) Revise the list of plants for planting that are currently regulated as hosts of Tomato ringspot virus (a RNQP).

(d) Similarly, amend the list of plants regulated as hosts of *Agrilus planipennis* (known as emerald ash borer). As with (b) and (c), these measures were introduced on a risk basis to protect GB biosecurity and have since been reviewed following recent scientific developments.

(e) Update the references to conifer species, following taxonomic changes, to cover all conifer plants given these could similarly be associated with high-risk pests.

(f) Conduct consequential amendments to Annex 11 to ensure that regulated commodities are pre-notified and inspected at a rate higher than 1%. These commodities are currently regulated with import requirements associated with certain QPs. As a result, they should be listed in Annex 11, Part A.

(g) Carry out technical updates to the legislation to clarify certain import requirements and to formalise an existing trade easement. These changes simplify the legislation and aid understanding for domestic and international stakeholders.

What was the previous policy, how is this different?

5.2 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 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 the proposal to revise the regulation for Tobacco ringspot virus, with the associated import and movement requirements on host plants for planting. Stakeholders were also engaged on the proposals to update the host list for Tomato ringspot virus and (separately) for *Agrilus planipennis* and, finally, to update the references to conifer plants.

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 virus provisions. One response was received on the proposal to update the host list for *Agrilus planipennis*. The stakeholder did not comment on the proposed change to regulations but recommended that the status of *Juglans* (walnut) as a potential host should continue to be monitored. The Government letter, published in response, emphasised that GB Plant Health Services will continue to monitor new information on this pest very closely as part of our normal horizon scanning activities[1].

7.3 One response was also received on the proposal to update the references to conifer plants, welcoming the change as an enhancement to biosecurity[2].

7.4 Past engagement was conducted on the Pest Risk Analyses[3&4] concerning *Pseudomonas avellanae* and *Neodiprion abietis* in 2022 and 2023-2024 respectively. The changes in legislation reflect the assessed risk of these pests.

7.5 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[5]. 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 £0.18 million estimated for UK businesses.

[1] https://planthealthportal.defra.gov.uk/assets/Stakeholder_engagement_response_letter_EAB-hosts.pdf
[2] https://planthealthportal.defra.gov.uk/assets/Stakeholder-engagement-letter_Regulation-of-conifer-plants.pdf
[3] https://planthealthportal.defra.gov.uk/pests-and-diseases/uk-plant-health-risk-register/downloadExternalPra.cfm?id=4448
[4] planthealthportal.defra.gov.uk/pests-and-diseases/uk-plant-health-risk-register/downloadExternalPra.cfm?id=4544
[5] https://planthealthportal.defra.gov.uk/latest-news/legislation-for-spring-2025/

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

9.4 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 £10 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 None.

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 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").