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21 March 2025

Dear Convener,

**EU EXIT LEGISLATION – PROTOCOL 2 WITH SCOTTISH PARLIAMENT
THE PHYTOSANITARY CONDITIONS (AMENDMENT) REGULATIONS 2025 – DEFRA
PH/057**

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SI, and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

Defra PH/057 is subject to the negative procedure and on current Defra plans is to be laid in the UK Parliament on 8 May 2025.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee, and I look forward to hearing from you by 7 May 2025 latest.

Yours sincerely,



JIM FAIRLIE

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

SI NOTIFICATION: SUMMARY

Title: The Phytosanitary Conditions (Amendment) Regulations 2025 (Defra PH/057)
Proposed laying date at Westminster Laying on 8 May 2025 and coming into force 30 May 2025 except for the provision on conifer plants which will come into force on 8 November 2025.
Date by which Committee is to respond By 7 May 2025.
Power(s) under which SI is to be made This SI is subject to a negative resolution procedure and its enabling powers are conferred by Articles 5(3), 30(1), 37(5) and (5A), 41(3), 72(3) and 105(6) of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants (“the Plant Health Regulation” (PHR)).
Categorisation under SI Protocol Type 1
Purpose: Defra PH/057 amends Annexes 2, 2A, 4, 5, 7 and 11 of the EU Commission Implementing Regulation (EU) 2019/2072 (the Phytosanitary Conditions Regulation) establishing uniform conditions for the implementation of the Plant Health Regulation. More specifically, the SI – <ul style="list-style-type: none">• Changes the status of certain pests, or adds new pests to the regulated classifications,• Adds Tobacco ringspot virus to the list of Regulated Non-Quarantine Pests for certain hosts, and amends host plants and the thresholds for the presence of pests,• Removes Tomato ringspot virus on certain plants no longer considered a plant biosecurity risk,• Amends special import requirements by clarifying existing entries, adds a new provision for <i>Pseudomonas avellanae</i> and removes an import requirement relating to treatment for cut flowers,• Changes the status of certain plants from Canada and /or the USA following the Annex 11 review (re-categorised by risk),• Makes technical updates to clarify or correct the legislation, and• Extends certain import requirements to cover all conifer plants due to taxonomy changes.
Other information The amendments to the Annexes have been notified to the World Trade Organisation in accordance with its rules.
SG Policy contact: Yvonne Hay (Yvonne.Hay@gov.scot)

NOTIFICATION TO THE SCOTTISH PARLIAMENT

The Phytosanitary Conditions (Amendment) Regulations 2025 - Defra PH/057

Is the notification Type 1 or Type 2?

Type 1

A brief overview of the SI

This SI is subject to a negative resolution procedure and its enabling powers are conferred by Articles 5(3), 30(1), 37(5) and (5A), 41(3), 72(3) and 105(6) of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants (“the Plant Health Regulation” (PHR)).

The SI is to be laid on 8 May 2025 and come into force on 30 May 2025, except for the import requirement to cover all conifer plants which will be delayed until 8 November 2025, to comply with the WTO rules. As far as the instrument extends to Scotland, it will make provision which relates to devolved matters.

This instrument focuses on pest measures being introduced which pose a risk to GB, rather than to the EU. The phytosanitary import regime in GB is not static and is kept under continuous review to ensure it continues to address any biosecurity risk posed to the UK, and that it meets our WTO obligations by being risk-based. All new measures are aligned with the scientific principles we share with the EU.

Details of the provisions that Scottish Ministers are being asked to consent to

Summary of the proposals:

PH/057 amends Regulation (EU) 2019/2072 (“the Phytosanitary Conditions Regulation” (PCR)) 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 PCR annexes that are being amended are Annexes 2, 2A, 4, 5,7, and 11.

Background

The purpose of this instrument is to protect plant biosecurity and support trade between GB and third countries by introducing or amending protective measures against high-risk pests of plants.

The SI makes the following changes in relation to pest measures:

- It changes the status of certain pests, or adds new pests to the quarantine and provisional quarantine pest classifications,
- It adds Tobacco ringspot virus to the list of Regulated Non-Quarantine Pests and amends host plants and the thresholds for the presence of pests,
- It removes Tomato ringspot virus in respect of measures relating to regulated non-quarantine pests on specific plants for planting,

- It amends special import requirements by clarifying existing entries, adding a new provision for *Pseudomonas avellanae* and removes an import requirement relating to treatment for cut flowers,
- It changes the status of certain plants from Canada and /or the USA following the Annex 11 review (re-categorised by risk) along with relistings that were not included previously,
- It makes technical updates to clarify or correct the legislation, and
- It extends certain import requirements in relation to all conifer plants due to taxonomy changes.

Why the need for change?

The phytosanitary import regime in GB is not static and is kept under continuous review. The amendments proposed in the SI are based on decisions taken by the UK Plant Health Risk Group “PHRG” in response to the results of the risk assessments made under the Plant Health Regulation. The PHRG is a decision-making body that has representatives from Defra, Scottish Government, Forestry Commission, and the other Devolved Governments with oversight from the UK National Plant Protection Organisation (consisting of the four Chief Plant Health Officers of the UK and senior Forestry Commission officials).

A summary of proposals is at Annex A.

Does the SI relate to a common framework or other scheme?

Plant Health Framework

Summary of stakeholder engagement/consultation

The UK Plant Health Services (UKPHS), comprised of the four UK Governments, are in continuous informal engagement with GB stakeholders on matters of plant health. In connection with the specific pest measures targeted consultations were undertaken by Defra on behalf of the UK Plant Health Service.

All the members of the UK Plant Health Advisory Forum (PHAF) were targeted, including the forestry sector, and GB organisations such as Fresh Produce Consortium and the Horticultural Trades Association (HTA). Defra confirmed that one response was received from the Wales Plant Health Evidence and Advisory Group, which supported the proposal to update the references to conifer plants. There were no responses received from Scottish businesses. The result was [published on the UK Plant Health Portal](#).

In addition, the Scottish Government made Scottish importers who trade in regulated plant and plant products aware of the consultation and plans.

Concerning the provisions for new quarantine pests *Pseudomonas avellanae* (stem dieback of hazel) and *Neodiprion abietis* (Balsam fir sawfly) these were the recommendations from the previous UK Pest Risk Analysis (PRA).

- [PRA *Pseudomonas avellanae* \(stem dieback of hazel\)](#)
- [PRA *Neodiprion abietis* \(Balsam fir sawfly\)](#)

The Scottish Government will also communicate the amendments in Defra PH/057 to Scottish businesses that trade in plants, plant products and other objects before the measures are due to come into force.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

The policy intention is aligned across the GB Plant Health Services, and consenting to the use of devolved provisions within Defra PH/057 is consistent with previous plant health provisions and amendments to the Plant Health Regulation and tertiary legislation. Pest risks have been identified and measures have been developed to ensure these pests do not enter GB or that appropriate action can be taken against any finding. Not implementing these measures would leave the identified risk to GB biosecurity as unmitigated.

Scottish Ministers consider that consenting to Defra PH/057 is the most effective and transparent way to introduce these amendments. It provides clarity and confidence and continues close collaboration across the UK under the provisional Plant Health Common Framework.

Intended laying date (if known) of instruments likely to arise.

Defra PH/057 will be made using the negative procedure and is to be laid in the UK Parliament on 8 May 2025.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

N/A

Information about any time dependency associated with the proposal.

Not applicable

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

None

Any significant financial implications?

No significant financial implications.

Other information

Plant Health is a devolved area of law and in the main, plant health legislation was based

on EU law, which has now become assimilated law (formerly known as retained EU law). The purpose of the amendments to the PCR is to protect biosecurity and facilitate safe trade between Great Britain and the relevant third countries by introducing further measures against the import of host plants and other regulated goods for pests that will pose potential risks to plant health in Scotland (GB). These measures being introduced are bespoke to GB. They apply to specific third countries from which imports currently do not meet the appropriate level of protection for GB.

Similar, but separate Regulations (EU 2019/2072 and EU/2016/2031) are applicable to the EU. It is considered that the measures to be introduced provide the best outcome for Scotland from environmental/trade and biosecurity perspectives. Although the pest measures proposed by the UK may differ from those imposed by the EU, this is a result of the application of those principles to specific GB conditions and does not represent a diminution of the high standards we share. It is not considered that they would be a barrier to future accession to the EU: the measures are able to be amended or revoked at any point in the future.

This SI does not transfer any legislative functions.

The World Trade Organisation (WTO) has been notified of these measures.

Annex A

Summary of planned amendments to Commission Implementing Regulation (EU) 2019/2072 – Defra PH/057

All provisions/amendments to come into force on 30 May 2025 unless stated otherwise.

Planned measure	Why is this measure needed?	Changes
Moving <i>Neodiprion abietis</i> to the Quarantine Pest (QP) list.	UK rolling horizon scanning and risk analysis process has highlighted that this pest now meets the criteria to be a GB QP.	This pest would be subject to increased awareness raising, surveillance and action on detection within Great Britain to protect biosecurity. Stakeholder engagement on the PRA for <i>Neodiprion abietis</i> has already been completed.
Moving <i>Pseudomonas avellanae</i> to the QP list, alongside associated import requirements.	UK rolling horizon scanning and risk analysis process has highlighted that this pest now meets the criteria to be a GB QP. We can apply specific import requirements to listed QPs to address the risk of introduction.	<i>Corylus Avellana</i> L (Hazel) imported into Great Britain would need to be compliant with the additional import requirements. This pest would also be subject to increased awareness raising, surveillance and action on detection within Great Britain to protect biosecurity. The horticulture sector is expected to be affected by the proposed import requirements. Stakeholder engagement on the PRA for <i>Pseudomonas avellanae</i> has already been completed.
The addition of <i>Pochazia shantungensis</i> to the provisional QP list	UK rolling horizon scanning and risk analysis process has highlighted that this pest may meet the criteria to be a GB QP, pending a full risk analysis.	UKPHs intention to take action on this pest would be clarified in legislation. A full risk analysis will be carried out in future to determine how this pest should be regulated.
The removal of the pest <i>Tobacco ringspot virus</i> from the QP list and instead adding it to the Regulated Non-Quarantine Pest (RNQP) list.	Recent risk assessments have concluded that this pest is present in GB and no longer meets the criteria to be a GB QP. Instead, it meets the criteria to be a RNQP.	All imported host material would no longer need to be free from this pest. Instead, certain plants for planting of <i>Glycine max</i> (soybean), <i>Vaccinium</i> (such as blueberry) and <i>Vitis</i> (grape) will be regulated as RNQP hosts of <i>Tobacco ringspot virus</i> and must be free from this pest to be imported or moved in Great Britain.
An update to the plants regulated in relation to the RNQP, <i>Tomato ringspot virus</i> .	Recent risk assessments have identified plants that are hosts of this RNQP. They also concluded that the associated regulation on an existing host should be removed, due to the negligible risk.	Certain plants for planting of <i>Rubus</i> (such as raspberry), <i>Vaccinium</i> and <i>Vitis</i> would be regulated as hosts of <i>Tomato ringspot virus</i> and must be free from this pest to be imported or moved in Great Britain. Certain plants for planting of <i>Pelargonium</i> (geranium), <i>Malus</i> (apple), <i>Prunus</i> (stone fruit) would no longer be regulated as a host of <i>Tomato ringspot virus</i> . As a result, it would no longer be required to be free from this pest to be imported or moved in Great Britain.

<p>An update to the plants regulated in relation to the QP, <i>Agilus planipennis</i>.</p>	<p>A technical review has identified that the host plant list should be updated, due to the adjusted risk.</p>	<p><i>Juglans ailantifolia</i>, <i>J. mandshurica</i> (species of walnut) and <i>Pterocarya rhoifolia</i> (Japanese wignut) will no longer be regulated as hosts of <i>Agilus planipennis</i>. As a result, certain plants, wood and bark of these species will no longer need to meet specific import requirements to be imported into Great Britain.</p> <p>Conversely, <i>Chionanthus virginicus</i> (fringetree) will be regulated as a host of this pest, therefore certain plants, wood and bark of this species will need to comply with specific import requirements to be imported into Great Britain.</p> <p>The forestry sector is expected to be affected by the proposed import requirements.</p>
<p>Move certain regulated commodities to Part A of Annex 11 from Part B from Canada and/or USA</p>	<p>Following Annex 11 review certain commodities from USA and /or Canada are to be moved from Annex 11, Part B to Part A.</p>	<p>The specific commodities will be relisted to Part A of Annex 11, to ensure that they require pre-notification and inspected at a rate higher than 1%.</p>
<p>Technical updates to clarify or correct the legislation.</p>	<p>Several technical changes are made to clarify certain import requirements and to formalise certain existing trade easements.</p>	<p>Although no impacts on trade are anticipated, these changes simplify the legislation and aids understanding for domestic and international stakeholders.</p>
<p>The extension of certain import requirements to cover all conifer plants.</p>	<p>Plants of conifers are currently regulated at the order level (Pinales) rather than the class level (Pinopsida). Due to taxonomy changes, the order level (Pinales) no longer covers all conifer plants.</p> <p>All references to Pinales for plants of conifers therefore need updating to Pinopsida.</p>	<p>Imported plants of conifers will need to meet specific import requirements. This change is unlikely to have a significant impact on trade. This single measure would come into force on 8 November 2025.</p>