EXPLANATORY MEMORANDUM TO

THE PESTS OF PLANTS (AUTHORISATIONS) (AMENDMENT) REGULATIONS 2022

2022 No. 1020

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument amends Commission Delegated Regulation (EU) 2019/829 of 14 March 2019 supplementing Regulation (EU) 2016/2031 of the European Parliament and of the Council 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, to address deficiencies in the legislation which add unnecessary burdens on businesses and GB Plant Health services. The instrument will improve the scientific authorisation process by introducing new measures to address deficiencies and remove the administrative requirements for authorisation holders without compromising biosecurity.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 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.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales and Scotland.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Retained Regulation (EU) 2016/2031 ("the Plant Health Regulation") on protective measures against pests of plants and retained Regulation (EU) 2017/625 ("the Official Controls Regulation") 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 (together "the Regulations") establish controls and restrictions which apply to the import and internal movement of certain plants, plant pests and other material. The purpose of the Regulations is to help reduce biosecurity risks and protect the environment from the spread of harmful pests.

6.2 Both Article 8 and 48 of the Plant Health Regulation provide derogations that allow the import of GB quarantine pests and plants, plant products and other objects to quarantine stations or confinement facilities and authorise these facilities for the purposes of official testing, scientific, and educational purposes, trials, varietal selections, or breeding. These derogations are exceptions to the general prohibition against the introduction of quarantine pests into Great Britain. However, these derogations are subject to strict controls. Namely an application is required to be submitted to the competent authority to temporarily allow the introduction to, movement within Great Britain of the quarantine pests or plants, plant products or other objects.

6.3 This instrument amends Commission Delegated Regulation (EU) 2019/829, which establishes requirements in the administration of the derogations under Articles 8 and 48 of the Plant Health Regulation. These amendments alter the exchange of information and information contained on the Letter of Authority (LoA) under Article 3(3), Article 6(4) and Annex I that are required when both making an application for authorisation under these derogations and for the purposes of monitoring the specified materials.

6.4 The amendments made by this instrument reduce the administrative burden on authorisation holders and GB Plant Health services.

7. Policy background

What is being done and why?

7.1 The current GB scientific authorisation regime issues authorisations which allow pests or plants, plant products and other material which would normally be prohibited, to be imported into or moved within Great Britain for official testing, scientific or educational purposes, trials, varietal selections or breeding. Only designated quarantine stations or confinement facilities, which have been approved as suitable to contain the specified material, are eligible for an authorisation to introduce and store these materials.

7.2 Following successful authorisation applications, the competent authority (GB Plant Health services), send applicants an authorisation and a LoA which permits the import, movement and storage of the specified material. There are more than 250 licences held across Great Britain covering over 60 scientific and research institutions. Currently LoAs should be either for a single import or for multiple imports of one type of material, from the same origin under the same conditions. Given the size and complexity of many of our authorisations this is not practical.

7.3 To reduce the administrative burden on authorisation holders and GB Plant Health services, this instrument amends LoAs and allows multiple movements of permitted materials from all named origins. Furthermore, it clarifies that each LoA will only be valid from the date of issue to the end of the calendar year in which they are issued (which reflects current practice). Additional changes have also been made to the LoA to simplify this document and decrease the administrative burden on importers. The updated LoA is annexed to this instrument.

7.4 Secondly, this amendment will reduce the amount of information which must be provided by applicants when applying for an authorisation. Namely applicants will no

longer be required to include the number of consignments (sendings) which will be imported, or the contact details of the consignor. Initially several authorisation holders queried why the information was required and highlighted that it was often not possible or practical to provide. This information does not help GB Plant Health services when assessing the risk that the specified material poses to biosecurity.

7.5 Thirdly, this amendment will remove the requirement for third countries of origin to endorse the import of the specified material into Great Britain. Third country National Plant Protection Organisations (NPPOs) of the country of origin are not involved in the authorisation process and have no control over the material they are endorsing. Consequently, their endorsement serves no purpose in terms of Great Britain's biosecurity. In addition, several third country NPPOs have refused to provide these endorsements in the past, which has delayed the import of the specified material, frustrating Authorisation holders.

7.6 Fourthly, this amendment will add an obligation for the competent authority of the territory from which specified material is to be moved, to endorse the movement of the material to another territory within Great Britain. This requirement was inserted following consultation with the devolved administrations. This provides assurance that places of destination for these movements meet the requirements of a designated quarantine station or confinement facility.

7.7 The Regulations also provide for the amendments relating to introductions and movements of material under LoAs to apply to introductions or movements on or after 1st November 2022 under LoAs issued before 1st November 2022.

7.8 Finally, this SI omits Article 3(3), which required an appropriate computerised information system to be used to hold information related to the movement and introduction of the specified material. This is no longer required in line with current policy and reflects the practice that these records must be kept by the person responsible in accordance with Article 62(3)(c) and (d) of the Plant Health Regulation.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 This is not a consolidation instrument.

10. Consultation outcome

10.1 A targeted consultation was conducted over 8 weeks on the changes to the GB legislation governing Scientific Licensing. The seven respondents, were generally supportive of the proposed amendments. Following comments from the respondents, administrative changes to the LoA have been made.

10.2 Those responding were concerned that the details of suppliers wouldn't be collected following plans to allow multiple introductions of specified material in this SI. As a result, the LoA was amended to ensure applicants supply this information. Concerns were also raised that the LoAs for multiple use could increase the likelihood of

receiving unsolicited material. Clarification was provided that any person sending material to Great Britain would need to have received a valid LoA from the authorisation holder and only specified material listed on the LoA can be sent.

10.3 The Scottish and Welsh devolved administrations have been consulted on the proposed amendments in this SI and agreed with the proposed changes. Amendments were made to the LoA following concerns that internal movements of the specified materials would need to be endorsed to confirm the recipients of specified material are authorised to obtain it and have suitable confinement facilities to hold materials which could pose a biosecurity risk.

11. Guidance

11.1 Detailed guidance will be issued to authorisation holders and online guidance will be updated before the legislation comes into force on the 1st of November 2022.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

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

12.3 An Impact Assessment has not been prepared for this instrument because there is expected to be a low level of impact per business and few businesses are affected.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 The legislation applies equally to all businesses moving, holding and multiplying the specified material, including small businesses. The risk of introducing harmful organisms is not mitigated by the size of the business.

14. Monitoring & review

14.1 The instrument does not include a statutory review clause and the scientific authorisation regime will be kept under review following any new or revised risk assessments, pest interceptions, changes in pest distributions or other developments.

15. Contact

15.1 Kate Somerwill-Owens at the Department for Environment, Food and Rural Affairs, Telephone: 02085 654 319 or email: kate.somerwill-owens@defra.gov.uk, can be contacted with any queries regarding this instrument.

15.2 Nicola Spence, Deputy Director for Plant Health Bees and Seeds, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lord Benyon, Parliamentary Under Secretary of State for Rural Affairs, Access to Nature and Biosecurity can confirm that this Explanatory Memorandum meets the required standard.