

EXPLANATORY MEMORANDUM TO
THE PHYTOSANITARY CONDITIONS (AMENDMENT) (NO. 3) REGULATIONS
2022

2022 No. 1120

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 The purpose of this instrument is to protect biosecurity and support trade between Great Britain (GB) and third countries by enhancing protective measures for at-risk plant goods.

2.2 This instrument amends Regulation (EU) 2019/2072 (“the Phytosanitary Conditions Regulation”) to:

- Revise GB quarantine and regulated non-quarantine pest lists following updated pest risk assessments or changes in the status of the pest within Great Britain.
- Extend the obligation concerning plants, plant products and other objects originating in third countries which may only be introduced into Great Britain if special requirements are met, to include EU Member states, Liechtenstein and Switzerland, treating all countries equally.
- Amend requirements to ensure that the pest free area is named on the phytosanitary certificates in relation to *Agrilus planipennis* Fairmaire (“emerald ash borer”) and further to clarify that the pest free area or place/site of production (as appropriate) should be named on the phytosanitary certificates in relation to *Xylella fastidiosa* (Wells et al.) (“Xylella”).
- Introduce GB-wide measures to inspect imported seeds of *Pinus* L. (pines) and *Pseudotsuga menziesii* (Mirbel) Franco which are host plants of the pathogen *Fusarium circinatum* (“pitch pine canker”).
- Make administrative amendments to correct the name of the genus *Chrysanthemum* L. on phytosanitary certificates.

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

- 5.1 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 products and other objects. The purpose of the Regulations is to reduce biosecurity risks and protect crop production and the environment in Great Britain from the introduction and spread of harmful plant pests.
- 6.2 This SI amends Commission Implementing Regulation (EU) 2019/2072 (“the Phytosanitary Conditions Regulation”) establishing uniform conditions for the implementation of the Plant Health Regulation. The Phytosanitary Conditions Regulation was amended by the Plant Health (Phytosanitary Conditions) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1527) to set out the lists of pests that pose a risk to the biosecurity of Great Britain, and measures in relation to the introduction into and movement within Great Britain of plants, plant products and other objects, to reduce the risks in connection with those pests to an acceptable level. This amendment updates those lists of pests.
- 6.3 This instrument also introduces further amendments to the Phytosanitary Conditions Regulations to reflect ongoing assessments of the different risks posed to the biosecurity of Great Britain.

7. Policy background

What is being done and why?

- 7.1 Following its establishment in Great Britain, *Thekopsora minima* (Arthur) Sydow & P. Sydow, the causal agent of blueberry leaf rust, has been reclassified as a regulated non-quarantine pest in Great Britain. Therefore, this instrument moves *Thekopsora minima* (Arthur) Sydow & P. Sydow from the list of GB quarantine pests to the list of GB regulated non-quarantine pests. This change of status means that only *Vaccinium* (such as blueberry) plants moved within the scope of the fruit marketing directives (marketed for the purpose of fruit production) need to be free from the pest.
- 7.2 Secondly, this instrument adds various fungi and oomycetes, insects and mites, viruses, viroids and phytoplasmas to the list of provisional GB quarantine pests. On the basis of initial assessments, it has been decided that these pests meet the criteria to be GB quarantine pests. Detailed assessments will be completed on these pests in the future. However, it has been decided to make these changes now as part of ongoing UK risk analysis process to maintain robust biosecurity in Great Britain. Exporting countries should ensure that exports of plants, plant products and other objects entering Great Britain are free from these pests.
- 7.3 Thirdly, this instrument extends the obligation for plants, plant products and other objects originating in third countries which may only be introduced into Great Britain if special requirements are met to include EU Member states, Liechtenstein and

Switzerland. This brings all trading partners in line with the same requirements, making sure all countries are treated equally. It also upholds the IPPC principle of non-discrimination and ensures phytosanitary measures in Great Britain are in line with Article 2.3 of the WTO SPS agreement. Consequently, EU member states, Switzerland and Liechtenstein will be required to include additional declarations on phytosanitary certificates which accompany exports to Great Britain.

- 7.4 Fourthly, this instrument provides operational amendments to phytosanitary certificates. These amendments clarify Xylella measures, which require pest free areas for lower risk hosts to be notified in advance. Additionally, they require the names of Xylella or emerald ash borer pest free areas or pest free places/sites of production to be included on phytosanitary certificates. These changes to the phytosanitary certificate provide additional assurance that the relevant plants are only entering Great Britain from the pest free area, or pest free places/sites of production which have been notified in advance by the exporting country.
- 7.5 GB Plant Health Services carry out inspections (documentary, identity and physical) on consignments of imported plants, plant products and other objects to prevent the introduction and spread of organisms harmful to plants or plant products. These regulated goods are categorised depending on the biosecurity risk they pose.
- 7.6 This instrument adds seeds of *Pinus* L. (pines) and *Pseudotsuga menziesii* (Mirbel) Franco to the list of goods which fall within the scope of Article 72 of the Plant Health Regulation. Article 72 goods are high-risk due to the likelihood of GB quarantine pests being associated with them and can only be introduced if specific import requirements are met. Additionally, they need to be pre-notified to the GB Plant Health Services when imported to ensure they receive an official inspection. These seeds are subject to import requirements against the pathogen, the pitch pine canker.
- 7.7 Finally, this instrument provides an administrative amendment to correct the name of the genus *Chrysanthemum* L. on phytosanitary certificates. This makes no changes to its existing import requirements.
- 7.8 The reclassification of *Thekopsora minima* (Arthur) Sydow & P. Sydow as a regulated non-quarantine pest will come into force on 25 November 2022. All other measures in this SI will come into force on 3 May 2023.

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 No consultation with external businesses took place for this instrument because it does not amend legislation following a new pest risk analysis. As a result, there is no statutory obligation to consult on this instrument.
- 10.2 The Scottish and Welsh Devolved Administrations have been consulted about this instrument and are content.

11. Guidance

- 11.1 A summary of the measures has been provided on the Plant Health Portal here: [Update on Legislation for Autumn 2022 - UK Plant Health Information Portal \(defra.gov.uk\)](https://www.defra.gov.uk/plant-health/legislation-for-autumn-2022/). This includes a Q&A document on the measures, including the changes for trade.

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 A full Impact Assessment has not been prepared for this instrument because no significant impact on the private or voluntary sector is foreseen.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 This instrument applies equally to all businesses importing high risk plant goods. There is no exemption for small businesses, given the importance of protecting plant biosecurity through the actions of all businesses, regardless of their size.

14. Monitoring & review

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

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.