

**SI NOTIFICATION: SUMMARY**

<b>Title:</b> The Phytosanitary Conditions (Amendment) Regulations 2022 – PH/36
<b>Proposed laying date at Westminster</b> Laying 8 February 22
<b>Date by which Committee is to respond</b> 6 February 2022
<b>Power(s) under which SI is to be made</b> Articles 5(3), 30(1), 32(3), 37(5), 41(3), 42(3), 54(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)
<b>Categorisation under SI Protocol</b> Type 1
<b>Purpose:</b> <p>PH/36 makes the following provision using PHR:</p> <p>Measures will</p> <ul style="list-style-type: none"> <li>• introduce or update conditions for the import of host plants and other relevant regulated goods in Great Britain for certain pests.</li> <li>• modify the regulatory status of several pests.</li> <li>• add pests to GB quarantine pest list.</li> </ul> <p>These measures are expected to have a negligible impact on trade.</p>
<b>Other information</b> <p>The SI aligns with the UKG and SG policy to continue to protect Scottish and British businesses who trade in plants, plant products, timber and timber products whilst continuing to protect plant biosecurity. In addition it does not distort the trade or disadvantage Scottish importers.</p>
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## NOTIFICATION TO THE SCOTTISH PARLIAMENT

### **The Phytosanitary Conditions (Amendment) Regulations 2022 (“PH/36”)**

#### **The notification is Type 1**

**A brief overview of the SI** – The Phytosanitary Conditions (Amendment) Regulations 2022 (“PH/36”).

PH/36 is to be made using powers conferred by: Articles 5(3), 30(1), 32(3), 37(5), 41(3), 42(3), 54(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”).

The SI is subject to negative procedure and is to be laid on 8 February 2022.

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

PH/36 makes amendments in the area of Plant Health.

The amendments make the following changes.

Using powers contained in the Plant Health Regulation, PH/36 amends the Annexes of retained EU law Commission Implementing Regulation (EU) 2019/2072 (“the Phytosanitary Conditions Regulation”) to alter the classification of specific plant pests or import conditions placed on certain plants, plant products and other objects entering Scotland to reflect the biosecurity risk that they pose.

The World Trade Organisation (WTO) rules require that that a consultation period of 60 days takes place after new Sanitary/Phytosanitary measures (SPS) are notified by a WTO member-state to the WTO. However, where countries consider that there is imminent danger to plants, plant products or other objects in its territory from imports of specific material, justified, technical import measures can be introduced and do not need to complete full consultation period after being notified before becoming law.

Following the undertaking of Pest Risk Analysis, this SI will introduce certain measures without completing the 60 day consultation period to avoid GB being exposed to serious biosecurity threats longer than necessary, and to continue to facilitate trade. The measures relate to *Thaumetopoea processionea* (Oak processionary moth – OPM), *Scolytus morawitzi* (larch sap wood beetle) and *Polygraphus proximus* (Sakhalin fir bark beetle). These specific import requirements enhance the level of protection against the risk of the pests entering GB. These high risk pests/measures will be marked below with\*.

PH/36 also introduces further provision in respect of other pests but these are not considered urgent to protect biosecurity so will come into force 6 months after this SI has been laid i.e. 8 August 2022.

## Summary of the proposals

PH/36 uses powers contained in the Plant Health Regulation to make the following amendments to the Phytosanitary Conditions Regulation.

### 1. ANNEX 2 List of GB quarantine pests Part A

Under heading “Insects and mites” add

- *Eotetranychus sexmaculatus* (Riley)
- *Platypus apicalis* (White) [PLTPAP]
- \**Scolytus morawitzi* Semenov [SCOLMO]

*Eotetranychus sexmaculatus* (six-spotted spider mite); *Platypus apicalis* (New Zealand pinhole boring beetle) are currently listed as a GB provisional quarantine pest but now satisfy the conditions for status as GB quarantine pest and are relisted as such. This means there are specific import requirements already in place, for the high-risk goods (recognised hosts of these pests) e.g. grapevines and forestry timber, therefore will not have an impact on trade. *Scolytus morawitzi* (larch sap wood beetle) kills larch trees and pine, it is spreading from Russia to Europe and not known to occur in GB; the significant damage it can cause on Forestry it needs to be listed now.

### 2. ANNEX 2A List of provisional GB quarantine pests

Under the heading “Insects and mites”

add

- *Agrilus horni* (Kerremans) [AGRLHO]
- *Chrysobothris femorata* (Olivier) [CHRBFE]
- *Lycorma delicatula* (White) [LYCMDE]

Following a re-assessment of these unregulated pests; they now meet the criteria to be a quarantine pest. However they are added to the provisional quarantine pest list, pending a full risk assessment.

remove

- *Aonidiella orientalis* [AONDOR]
- *Diaporthe caulivora* [DIAPPC] *Spodoptera frugiperda* [LAPHFR]

These are being removed as no longer pose a risk to the UK

*under heading “Viruses, viroids and phytoplasmas” add*

- Chilli veinal mottle virus [CHIVMV]

Following a re-assessment this unregulated pest is being added to the provisional quarantine pest list pending full risk assessment.

*Insert new heading “Bacteria” and under that new heading add*

- *Diaporthe phaseolorum* var. *sojae* Lehman [DIAPPS]
- *Pseudomonas avellanae* Janse et al. [PSDMAL]

These are absent for GB, and no longer meet the criteria for a regulated non quarantine pest. Based on assessment, they have met the criteria to be quarantine pests but adding to provisional pest, pending full risk assessment.

*Insert new heading, “Nematodes” and under that heading add*

- *Meloidogyne arenaria* (Neal) Chitwood [MELGAR]
- *Meloidogyne enterolobii* Yang & Eisenback [MELGMY]
- *Meloidogyne javanica* (Treub) Chitwood [MELGJA]
- *Xiphinema index* Thorne & Allen [XIPHIN]

All except, *Meloidogyne enterolobii*, are being removed from RNQPs as no longer meet RNQP's status. They are absent from GB. They have the potential to be a quarantine pest, but will only be added to quarantine status when a full pest risk assessment has been undertaken. *Meloidogyne enterolobii* is unregulated pest but initial assessment confirms this could also qualify as a quarantine pest, but can only be moved to this status, once the full pest risk assessment has been concluded.

### 3. Annex 2 – Part B List of GB quarantine pest, pest known to occur in GB

*Under heading “Insects and mites” add*

- \**Thaumetopoea processionea* L.[THAUPR]

This is required due to it being reclassified as GB quarantine pest known to occur in GB.

### 4. ANNEX 4 Part C List of GB regulated non-quarantine pests and their respective plants for planting

*Under heading “Bacteria” omit*

- *Pseudomonas avellanae* Janse et al. [PSDMAL]

This entry is required due to being added to Annex 2A

*Under heading “Fungi and oomycetes” omit*

- *Diaporthe phaseolorum* var. *sojae* Lehman [DIAPPS] omit due to relisting to Annex 2A
- \*Omitting entry relating to *Diaporthe caulivora* (Athow & Caldwell) J.M. Santos, Vrandecic & A.J.L. Phillips [DIAPPC]

These entries are required due to relisting to Annex 2A

*Under heading “Nematodes” omit Meloidogyne arenaria* Chitwood [MELGAR]

- *Meloidogyne javanica* Chitwood [MELGJA]
- *Xiphinema index* Thorne & Allen [XIPHIN]

These entries are required due to relisting in Annex 2A

5. ANNEX 5 – Part G Measures to prevent the presence of RNQPs on specific plants for planting

- \*Omitting entry relating to *Diaporthe caulivora* (Athow & Caldwell) J.M. Santos, Vrandecic & A.J.L. Phillips [DIAPPC]
- Correcting entry for *Diaporthe* var. *sojae* [DIAPPS]

6. ANNEX 6 – Part B List of high risk plants, plant products and other objects from third countries which may not be introduced into Great Britain pending a risk Assessment – new entry

- \*Plants of *Abies* Mill., *Pinus* L., *Picea* Mill., *Larix* Mill., and *Tsuga* Carr., originating from Russia.

The prohibition on entry to GB in relation to these plants, pending a risk assessment, is required as these plants are hosts plants (originating in Russia) of the pests of *Scolytus morawitzi* and *Polygraphus Proximus*.

7. ANNEX 7: Part A - List of plants, plant products and other objects originating from third countries and the corresponding special requirements for their introduction into Great Britain

- Amending special import requirement for certain hosts plants of *Bemisia tabac* (for final users)
- Amending special requirements for certain host plants relating to disease of *Cronartium* spp
- \*Removing Taiwan from list of countries where *Neocerambyx raddei* known to occur
- Amending special requirements for certain host plants relating to disease of *Liriomyza huidobrensis* (Blanchard)

- Amending special requirements for certain host plants relating to disease of *Liriomyza trifolii* (Burgess)
- \*Inserting new specific import requirements for *Quercus* (oak) of a certain girth size for all third countries - hosts plant of *Thaumetopoea processionea* L. [THAUPR]
- \*Inserting new specific import requirement for wood of *Abies* Mill., *Pinus* L., *Picea* Mill., *Larix* Mill., and *Tsuga* Carr., originating from Russia. (*Polygraphus Proximus*)
- \*Inserting new specific import requirements for certain wood of *Larix* from Russia- (*Scolytus morawitzi*)
- \*Inserting new specific import requirement for certain wood and bark of conifer (Pinales) from Russia for both *Polygraphus Proximus* and *Scolytus morawitzi*
- \*Correcting entries to import conditions relating to *Quercus* (oak) barrels
- Updating import requirements relating to pest *Spodoptera frugiperda* (Smith)
- \*Various corrections to the detail necessary immediately, i.e. name changes to pest and diseases
- Various typographical and similar corrections

The measures being introduced will be GB wide, this avoids any disparity at any borders within GB. These reflect the required measures as regards the desired level of protection for plants imported from countries and areas where these pests are present.

8. ANNEX 8: Part A - List of plants, plant products and other objects originating in a CD territory or Great Britain and the special requirements for their introduction into Great Britain from a CD territory or their movement within Great Britain

- \*Adding new entry for *Quercus* (Oak) of certain girth and height (due to relisting of *Thaumetopoea processionea* L.

Update existing pest measures to enable trade and to strengthen protections against OPM in GB

9. ANNEX 10: List of plants, plant products and other objects to be introduced into, or moved within, GB pest-free areas and corresponding special requirements

- \*Removing entry for *Quercus* (Oak) of certain girth and height due to relisting of *Thaumetopoea processionea* L.

This entry is required due to relisting in Annex 8

10. ANNEX 11: List of plants, plant products and other objects and the respective third countries of origin or dispatch in respect of which phytosanitary certificates are required

- \* Adding Canada to requirements for *Quercus* (Oak) barrels
- \* adding new import requirements for certain wood and wood products of *Quercus* from China, the Democratic People's Republic of Korea, Japan, the Republic of Korea, Russia, Turkey and Vietnam

The amendments made by PH/36 do not confer powers to make legislation on UK or Scottish Ministers.

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

No.

**Summary of stakeholder engagement/consultation**

The UK Plant Health Services ("UKPHS"), comprised of the four UK administrations are in continuous informal/formal engagement with GB-wide stakeholders, such as the Plant Health Advisory Forum (PHAF) and Scottish Tree Health Advisory Group (STHAG). PHAF whose members include the Fresh Produce Consortium; Horticultural Trades Association (HTA) as well as Scottish Stakeholders, National Farmers Union for Scotland (NFUS). STHAG members include Confor, Woodland Trust, and Scottish Stakeholders, Cheviot Trees

Pest Risk Analysis (PRA) have been conducted for *Polygraphus proximus*, and *Scolytus morawitzi* (both of which do not exist in the GB). The PRA for each of these pest concluded that establishment of these pests would be possible. The presence of these pests in the UK would introduce an additional threat to a range of conifer trees.

These PRA's, were put to the PHAF and STHAG. They were also made public on the UK Plant Health Portal. Both groups recognised mitigating measures where needed and the action is proportional to the threat of each pest. They were supportive that this response was due to changing risk profiles and the need bring measures for the high risk goods earlier than others. In addition to these PRA's, these groups were also consulted on the strengthen measures relating to OPM. Again these groups were supportive of the additional import measures being introduced e.g the goods being grown in a pest free area and restrict movement (in and out) of high risk oak trees to the whole of GB (not just within the restricted area). Other Scottish representatives were also supportive of these measures.

The Scottish Government will also communicate these amendments to those who trade in plants, plant products and other objects at the appropriate time.

**A note of other impact assessments, (if available)**

N/A

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

The measures being introduced will be GB wide, this avoids any disparity at any borders within GB. These reflect the required measures as regards the desired level of protection for plants imported from countries and areas where these pests are present.

The amendments to be made by the UK Government in PH/36 reflect the GB wide approach taken to protect GB biosecurity. Scottish Ministers consider that consenting to the SI is the most effective and transparent way to make changes to address these issues at the GB level in circumstances where the legislation being amended has effect on a GB wide basis and there is agreement across administrations about the changes being made. Officials have worked with UKG to ensure the drafting delivers for Scotland's interests and respects devolved competence in Scotland.

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

PH/36 is a negative SI and it is intended to be laid on 8 February 2022.

**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**

N/A

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

No

**Any significant financial implications?**

No.