



Windsor Framework Democratic Scrutiny Committee

OFFICIAL REPORT (Hansard)

Regulation (EU) 2024/3115 amending Regulation (EU)
2016/2031 and Regulation (EU) 2017/625 regarding Plant
Health Controls and Reporting Obligations:
Department of Agriculture, Environment and Rural Affairs

9 January 2025

NORTHERN IRELAND ASSEMBLY

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Regulation (EU) 2024/3115 amending Regulation (EU) 2016/2031 and Regulation (EU) 2017/625 regarding Plant Health Controls and Reporting Obligations:
Department of Agriculture, Environment and Rural Affairs

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Members present for all or part of the proceedings:

Mr Philip McGuigan (Chairperson)
Mr David Brooks (Deputy Chairperson)
Dr Steve Aiken
Mr Jonathan Buckley
Mr Peter Martin
Mr Eóin Tennyson

Witnesses:

Ms Charmaine Beer	Department of Agriculture, Environment and Rural Affairs
Mr John Joe O'Boyle	Department of Agriculture, Environment and Rural Affairs

The Chairperson (Mr McGuigan): I welcome John Joe O'Boyle, who is the chief executive of the Forest Service, and Charmaine Beer, who is the head of the plant health division in DAERA. Before I start, we received the explanatory memorandum (EM) from the British Government just this morning, so I am assuming that you also received it? OK. I invite you to present your evidence, and then we will have questions afterwards.

Ms Charmaine Beer (Department of Agriculture, Environment and Rural Affairs): Thank you, Chair, for the opportunity to speak to the Committee today to discuss the impact of the amending regulation 2024/3115 regarding plant health. This is amending legislation that sits under annex 2 to the Windsor framework.

By way of background, DAERA's Forest Service is the competent authority for plant health in Northern Ireland. It has a strategic aim to safeguard Northern Ireland's plant health status and, in doing so, contribute to the all-Ireland single epidemiological unit. Safeguarding plant health protects our natural environment, supports our economy and contributes to the well-being of society. It is achieved through the implementation of the plant health policy and legislative frameworks, which apply risk-based official controls whilst facilitating trade and economic growth. The main legislative basis through which it is achieved is the Plant Health (Official Controls and Miscellaneous Provisions) Regulations (Northern Ireland) 2020, as transposed from EU regulations.

Following the UK's exit from the EU, the Windsor framework agreement continues to apply plant health regulatory requirements in Northern Ireland. Plant health is currently under the control of the Secretary of State, and DAERA officials work closely with their counterparts in the Department for Environment, Food and Rural Affairs (DEFRA) and the other UK nations through the UK plant health common framework agreement and other official networks. The common framework provides the UK-

wide forum to discuss and agree plant health policy. In addition, officials work closely with their counterparts in the Republic of Ireland.

There are 23 protected zones in Northern Ireland for unwanted plant and tree pests and pathogens. Those zones, which are approved by the European Commission, demonstrate that the region is free from specific pests and pathogens that are present in other European countries, and the high number of Northern Ireland protected zones indicates our good plant health status. The protected zones bring additional restrictions to prevent quarantined pests from entering and establishing here, such as bark beetles, the oak processionary moth and pests of potatoes and other grown crops.

I turn to the legislation. As I have said, this is amending legislation that sits under annex 2 to the Windsor framework. Regulation (EU) 2024/3115, which is before you for scrutiny today, amends regulation (EU) 2016/2031 on protective measures against pests of plants, which is known as "the EU plant health regulation", as regards reporting requirements and procedures for implementing controls in respect of certain high-risk plants. It also amends regulation (EU) 2017/625, the official controls regulation, as regards certain notifications of non-compliance. The changes are to enhance effectiveness and transparency and practical implementation of the EU plant health regulatory system but do not change overall plant health policy.

I will now outline some further details of the legislative amendments, if that is OK, Chair. The principal change that is being introduced is an electronic notification system and reporting tool that will be used to directly inform the European Commission of annual returns, including multi-annual surveys and pest outbreaks. Monitoring and surveillance plans and reports will also be submitted electronically, as will contingency plans. This will also include information on derogations to the movement of plants and plant material. The electronic process will be beneficial for submitting DAERA's plant health annual returns to the EU, with information being more streamlined and more accessible for use and reactive response when needed. The amendments establish a Union plant health emergency team to provide member states with urgent assistance concerning new outbreaks of quarantined pests. It will include technical, scientific and laboratory support and may extend to third countries where the risk justifies EU intervention to protect EU territory. The amendments provide the Commission with the powers to take immediate actions to prohibit pests that it determines as high-risk from entering any member state's territory or Northern Ireland without requiring an EU implementing Act or additional national legislation. That will enhance pest control by simplifying the making of legislation which strengthens regulatory controls.

Under the powers, a derogation can be requested to an EU prohibition specific to a plant or plant product identified as high-risk in certain EU territories. The risk will be based on an evidence dossier and written request indicating a lower level of risk for the territory making the application. Where a member state can provide evidence, the EU can permit a derogation, provided the applicant fulfils the dossier and reporting requirements. The derogation can be for up to 5 years and is dependent on no objections from other member states to its establishment. The derogation may be revoked at any time by the EU, if it is deemed appropriate to do so.

For plants and plant products moving into the EU with any such derogation, phytosanitary certificates, known as PCs, must include on the additional declarations all details of the derogation under which the item is entering the member state. A derogation can also facilitate the movement of prohibited products within the EU, if it is supported by a plant passport under the normal EU plant passporting arrangements.

The amendment also enables the use of digitised phytosanitary certificates — PCs — on the EU system to cover the movement from the border control point to the place of destination, rather than issuing an authenticated paper or electronic copy as is currently required under article 50 of (EU) 2017/625, which can be used in conjunction with the International Plant Protection Convention (IPPC) hub used by non-EU countries for digitised PCs. We already have compatibility for that change in Northern Ireland and for trade with GB.

The amendment to regulation (EU) 2017/625, the official controls regulations, exempts the member state from notifying a non-compliance to the Commission when it relates to personal baggage or postal movements for personal consumption, if the non-compliance is the absence of a phytosanitary certificate or other required verification to reduce the regulatory burden. In certain circumstances, where a risk has been verified, specific import requirements for moving plants and other goods into Northern Ireland may change in line with EU temporary measures. That could include a requirement for PCs accompanying regulated goods moving from GB to NI to include additional declarations to state how they comply with EU requirements for regulated non-quarantined pests.

I will move on to the impact of the regulation on Northern Ireland. Application of the amendments to Northern Ireland will not have a significant impact on the everyday life of communities as they do not amend existing plant health policy but set out improvements to the application of existing policy, which has been applied in Northern Ireland since 2016. The amendments improve the existing policy application by introducing digital EU reporting arrangements to the existing plant health regulatory regime. The amendments provide an option for other derogations for certain prohibited products and exempt notifications of certain non-compliances that relate to the official control regulations to the commission.

The explanatory memorandum clarifies that there is no impact on goods moved from Great Britain to Northern Ireland with a Northern Ireland plant health label. Moreover, in line with the Government's commitment to ensure that Northern Ireland's traders have unfettered access to the rest of the UK's internal market, the measures will in no way impede the movement of qualifying Northern Ireland goods from Northern Ireland to Great Britain. The UK Government's explanatory memorandum includes that:

"As a result of certain flexibilities offered by this regulation, some businesses may benefit from reduced costs incurred in moving plants and plant products."

It clarifies that DEFRA is considering the changes made by the regulations and confirms that it will consider whether there is any benefit in introducing similar changes.

Thank you. We are happy to take questions.

The Chairperson (Mr McGuigan): Thank you. I will paraphrase: overall, the main objective of the legislation is to improve processes rather than alter policy, and those are your words. You have highlighted the measures from the British Government's explanatory memorandum, which states:

"The measures will affect ... arrangements to reduce operational burdens and improve clarity. This will provide flexibilities to ... stakeholders",

in the North. That is what the implementation of the legislation is about. What would be the impact if we did not apply the legislation here?

Ms Beer: If we did not apply the legislation, we would end up being out of sync with the digital systems that are being set up. That would mean that we would be slower to respond and would have less information flowing into the EU network. Our plant health responses would not be optimised.

The Chairperson (Mr McGuigan): Would that impact on traders and businesses here?

Ms Beer: Yes.

The Chairperson (Mr McGuigan): OK. Thank you.

Mr Buckley: Thank you very much for your presentation. What GB plants are deemed as being a risk when they enter Northern Ireland territory?

Ms Beer: What plants are deemed to be a risk?

Mr Buckley: Yes.

Ms Beer: Do you want to take that one, John?

Mr John Joe O'Boyle (Department of Agriculture, Environment and Rural Affairs): Certainly. Quite a spectrum of plants are deemed as being a risk. They have been classified. A list of those plants gets updated on the basis of risk assessment and changes across European countries. The list often gets amended by adding a new plant or a new risk that is coming through.

A couple of those risks were mentioned in passing, including the oak processionary moth, which was found in GB at a particular time and eradicated. We do not have that sort of pest in Northern Ireland. Other examples include ips, which is a beetle that attacks trees and is fairly common in some parts of GB. It is common in most of GB, in fact, with the exception of an area up on the west coast of Scotland

that still has protected zone status. There is a risk of those kinds of beetles, which we do not have here, coming here and affecting forests or woodlands in Northern Ireland.

Mr Buckley: I will make it more specific for you: what plants are now deemed to be a risk, post Brexit trading conditions under the Windsor framework, that were not deemed to be a risk before that? Does anything in particular come to mind?

Mr O'Boyle: The plant health issues have not really changed because of the EU exit; they are as they were. We had a really good protected zone status before the EU exit, and we still have protected zone status. A lot of the issues in plant health disease are to do with the organisms that are transported with the plants rather than with the plants themselves. Our natural environment — our forests and trees — could be at risk from the beetles and similar organisms that exist on plants in GB but not on the same plants in Northern Ireland.

Mr Buckley: What is the level of trade between GB and Northern Ireland in, for example, transferring plants?

Mr O'Boyle: Quite a lot of plants still move from GB to Northern Ireland.

Mr Buckley: Do you have a trade figure?

Mr O'Boyle: No, I do not have a figure. Quite a lot of plants are moved unregulated, and then there are the regulated plants. This regulation is about regulating the regulated plants.

The Chairperson (Mr McGuigan): I do not want to get into a policy discussion about plant health. The regulation that we are looking at is specific, and I ask that we keep our questions specific to that.

Mr Buckley: My understanding is that the regulation will impact on GB businesses that move plants and seeds requiring a phytosanitary certificate to Northern Ireland: am I right in that?

Mr O'Boyle: The regulation will not change any of the regulation that is imposed; it will simply change the IT for handling the regulation, how it is regulated. It is about the notification issues.

The Chairperson (Mr McGuigan): It is administration

Mr O'Boyle: Yes.

Mr Buckley: It has been stated that plants staying within the UK internal market that move to Northern Ireland with a plant health label, for example, will not be impacted.

Mr O'Boyle: That is correct.

Mr Buckley: Obviously, that is business-to-business movement.

Mr O'Boyle: Yes.

Mr Buckley: Will business-to-consumer movement be impacted?

Mr O'Boyle: That is a Windsor framework issue, not an issue under this regulation.

Mr Buckley: The overall regulation covers the movement of plants and the administrative barriers that they may face on entering the Northern Ireland market.

Mr O'Boyle: Yes. Under the Northern Ireland plant health label (NIPHL) arrangements, plants that move from a business have to move to a registered business in Northern Ireland. They do not move from a business to an individual consumer under the NIPHL scheme.

Mr Buckley: So business-to-business movement is unaffected, if a plant has a Northern Ireland plant label, but that is not the case for business-to-consumer movement. I and, I am sure, other members

have faced situations where constituents cannot access seeds, for example, that they used to buy in the GB market. Will the regulation have any material impact on their ability to access them?

Mr O'Boyle: The regulation does not impact on that one way or the other. The situation stays the same.

Mr Buckley: It stays the same.

Mr O'Boyle: It stays the same, yes.

Mr Buckley: The barriers are still in place.

Mr O'Boyle: They are still subject to the Windsor framework arrangements, yes.

Mr Buckley: Thank you.

Dr Aiken: Just a quick one: electronic notification. Obviously, the process is moving towards being digital. Who does that notification?

Ms Beer: There are networks of that information. There is a European network and an international network that GB accesses. They are compatible with each other.

Dr Aiken: Who does it specifically in Northern Ireland?

Ms Beer: As the competent authority, we will make reports onto that system.

Dr Aiken: Do you do that now?

Ms Beer: Yes.

Dr Aiken: OK, so there will be no change. You have the systems, you have the IT, and you did not buy it from Fujitsu, thank goodness.

Mr O'Boyle: That is right. It falls to the competent authority to do that. This enables us to do it in a more streamlined way, using a more integrated digital platform.

Dr Aiken: OK. Just for my information, is that the:

"Information Management System for Official Controls (IMSOC)"?

Mr O'Boyle: Yes. That is the system that is in place across the UK.

Dr Aiken: And that system talks to the EU system?

Mr O'Boyle: It does.

Dr Aiken: OK. Thanks. Cheers.

Mr Martin: I have a couple of questions. Although I did not scribble down exactly what the officials said in the initial evidence, my sense was that the regulation would not have much impact on the movement of goods. The officials can correct me if I am badly paraphrasing that. The EM, however, states:

"The proposed measures will impact the process of exporting certain goods from Great Britain ("GB") to the EU, as well as moving such goods to NI unless moved via the green lane".

Is the evidence that this will not have a significant impact or that it will have a significant impact?

Ms Beer: There is no evidence that the regulation will have a significant impact. The systems are already in place for those movements. Say that a new pest becomes a concern: there may be extra

restrictions put on something like that or extra documentation. The EM is referring to those things; it does not change the existing system for the movements of goods that are already flowing.

Mr Martin: That is useful.

The EM also states:

"Consequently, providing the legal power to adopt procedural rules on how to submit and examine a request for granting temporary derogations",

and:

"Providing the legal power to adopt rules on the process for identifying and listing high-risk plants."

I have learned what "high-risk plants" are; when I first read that, I thought that they might be triflids. That cultural reference may be lost on the Committee.

From those two points, it looks as if new powers could be adopted. How would they be adopted?

Ms Beer: That really refers to the fact that a member state can make a request for derogation, if it deems that a particular plant is low-risk for it. For example, if we do not have a host plant here for a certain pest, it would be deemed to be a low-risk movement. We could make a case in that scenario for derogation if we provide the right evidence to do so — if that answers your question.

The amendment tries to bring more agility to the system, which has been in place since 2016. The EU and all nations are concerned about plant health risk and want to be able to move swiftly when they need to. That is what it is about, but it is also about not overburdening every nation. They could apply for specific derogations if we had good evidence that a certain pest or disease was not of concern for us.

Mr Martin: In summary, it is, effectively, of benefit to the EU and not necessarily to us in Northern Ireland. It helps the EU in the efficiency and agility of the process. Is that fair?

Ms Beer: We would also have the ability to apply for derogations for Northern Ireland if we saw that they would reduce an unnecessary regulatory burden, for example, because we did not have the threat of a certain pest that other nations in Europe had.

Mr O'Boyle: I will just add that it would allow member states, including us, in this case, to make such an application through a streamlined process that would allow it to be considered by the EU as opposed to through the overall EU process that was there previously.

Mr Martin: That is fine.

I have a final question. Has DAERA consulted any stakeholders in Northern Ireland on the impact of this?

Ms Beer: No, we have not consulted specifically on this regulation.

Mr Martin: OK. Is that usual for something like this?

Ms Beer: As the amendments are mainly technical and mainly impact on the competent authority in how it reports things to the EU, they would not have a wider stakeholder reach. That is not unusual for these sorts of technical amendments.

Mr Martin: Who is the competent authority?

Ms Beer: DAERA is the competent authority for plant health in Northern Ireland.

Mr Martin: OK. These are business-to-business movements, as my colleague Mr Buckley said, but there must be businesses in Northern Ireland that are affected in some way. Would it not have been expeditious to ask those businesses for their view of the regulations?

Ms Beer: We have certain stakeholder forums across the UK with regular meetings and updates on these sorts of regulations, but we have not consulted specifically on this amendment.

Mr Martin: Just to be clear, no businesses in Northern Ireland were consulted on the impact of the amendment on trade or movement.

Ms Beer: Not specifically.

Mr Martin: That is great.

Mr Tennyson: My question builds on a point that Peter raised. I am looking at the updated EM, but it deals with a similar issue at paragraph 16: the powers granted to seek temporary derogation from special import requirements. How does that compare with the current process? Currently, is there a formal process for seeking an exemption, or is that new?

Ms Beer: It is new, and it would be a lot less burdensome. It would allow a more precautionary approach so that, if you think that you have a problem, you can start to act while you collect the evidence for it.

Mr Tennyson: OK. If you were concerned about a plant that, for whatever reason, we wanted to move from GB into Northern Ireland that was deemed high-risk, would the regulation provide us with a pathway to address that?

Ms Beer: Yes.

Mr Tennyson: OK. That is me.

The Chairperson (Mr McGuigan): Anybody else? No. OK. Thank you.