

**EXPLANATORY MEMORANDUM FOR EUROPEAN UNION  
LEGISLATION/DOCUMENTS WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL  
AGREEMENT AND THE WINDSOR FRAMEWORK**

**PE-CONS 66/24**

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
AMENDING REGULATION (EU) 2016/2031 AS REGARDS MULTIANNUAL  
SURVEY PROGRAMMES, NOTIFICATIONS CONCERNING THE PRESENCE OF  
REGULATED NON-QUARANTINE PESTS, TEMPORARY DEROGATIONS FROM  
IMPORT PROHIBITIONS AND SPECIAL IMPORT REQUIREMENTS AND  
ESTABLISHMENT OF PROCEDURES FOR GRANTING THEM, TEMPORARY  
IMPORT REQUIREMENTS FOR HIGH-RISK PLANTS, PLANT PRODUCTS AND  
OTHER OBJECTS, THE ESTABLISHMENT OF PROCEDURES FOR THE LISTING  
OF HIGH RISK PLANTS, THE CONTENT OF PHYTOSANITARY CERTIFICATES  
AND THE USE OF PLANT PASSPORTS, AND AS REGARDS CERTAIN  
REPORTING REQUIREMENTS FOR DEMARCATED AREAS AND SURVEYS OF  
PESTS AND AMENDING REGULATION (EU) 2017/625 AS REGARDS CERTAIN  
NOTIFICATIONS OF NON-COMPLIANCE**

Submitted by Department for Environment Food and Rural Affairs

January 2025

**SUBJECT MATTER**

1. Amendments are being made to Regulation (EU) 2016/2031 on protective measures against pests of plants (“the EU Plant Health Regulation”) and Regulation (EU) 2017/625 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 (“the EU Official Controls Regulation”). Both regulations apply to Northern Ireland (“NI”) under the Windsor Framework.
2. The EU Plant Health Regulation establishes lists of regulated pests and products in line with prescribed criteria based on phytosanitary principles. The amendments by PE-CONS 66/24 (“the Regulation”) intend to enhance its clarity, transparency, and coherence of EU rules for plant health. An Explanatory Memorandum (“EM”) has been developed for the final version of the Regulation, after an EM was submitted on the original EU proposal (COM(23)661) in early 2024.
3. The measures will affect internal EU and NI arrangements to reduce operational burdens and improve clarity. This will provide flexibilities to NI stakeholders. The following changes to the EU Plant Health Regulation are as follows:
  - A Union Plant Health Emergency Team is established to provide EU member states and NI with urgent assistance, when required, for action against new outbreaks of particular pests in their territories.

- Goods that are non-compliant with the rules on Regulated Non-Quarantine Pests (“RNQPs”) that are moving within or into the EU or NI must be reported via the electronic notification system, the Information Management System for Official Controls (“IMSOC”).
  - Introduce a power to allow certain goods (such as logs) to move without an EU Plant Passport attached, when it is impractical to attach an EU Plant Passport. EU Plant Passports must remain in use, despite not being attached, for these goods being moved.
  - Confer a power to remove the requirement for EU Plant Passports for certain goods which are for the direct supply to final users, under certain conditions when they are distributed via distance sales.
  - Allow Phytosanitary Certificates (“PCs”) of imported plants to be replaced with the information contained in the electronic notification system, provided that an electronic or digital version of the PC is available in that system and can be made available on request.
  - Amend the reporting obligations concerning the pest survey programme and demarcated areas.
4. Amendments to the EU Official Controls Regulation are also made by PE-CONS 66/24 to alter movements within the EU, or movements between NI and EU Member States, to stop requiring the notification of certain non-compliance cases for goods imported via passenger luggage, or through postal services, intended for personal consumption. Instead, these cases will be recorded and reported to the Commission on an annual basis to reduce administrative burdens.
5. The measures may affect the process of exporting certain goods from Great Britain (“GB”) to the EU, or goods moved via the ‘red lane’ from GB to Northern Ireland, by amending the EU Plant Health Regulation, to:
- Clarify that temporary measures may introduce specific import requirements for the respective plants and other goods against pests that provisionally qualify as Union Quarantine Pests.
  - Require that PCs specifically state how the exporting country has ensured that the relevant goods comply with import requirements on RNQPs.
  - Provide the legal power to adopt a temporary derogation, from import prohibitions and special import requirements for goods that have been removed from the list of high-risk plants, plant products and other objects, based on a provisional assessment.
  - Consequently, introduce the legal power to adopt procedural rules on how to submit and examine a request for granting temporary derogations.
  - Provide the legal power to adopt rules on the process for identifying and listing high-risk plants.
  - Clarify the legal basis for expanding requirements for third countries’ equivalence to refer not only to internal movement requirements but also to existing import requirements, in line with the relevant International Standard.

- Enable official attestations, issued by exporting countries for specific imported plants, plant products and other objects, to be accepted as alternatives to international standards.
6. Goods moved with a Northern Ireland Plant Health Label, as agreed under the Windsor Framework, are unaffected by the changes.

## **SCRUTINY HISTORY**

7. The Parliamentary Scrutiny history relevant (on the original EU proposal) to this Explanatory Memorandum (EM) is contained in Annex A.

## **MINISTERIAL RESPONSIBILITY**

8. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs.

## **INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)**

9. Plant health is a devolved area. The Regulation covers requirements in Northern Ireland as well as in relation to the import of plants and plant products into the EU, and movements into NI from GB, which interacts with the Plant Health Common Framework that was provisionally agreed (subject to parliamentary scrutiny) with the Devolved Governments in 2020.
10. The Scottish and Welsh Governments, as well as the Department of Agriculture, Environment and Rural Affairs, have an interest in this Regulation. As agreed in the Plant Health Common Framework, NI participates in the plant health framework fully and on an equal basis to the other UK administrations. This includes involvement in all stages of policy development and in discussions to resolve disputes, which are open to Northern Ireland Executive officials and ministers. The arrangements established under the provisional Plant Health Common Framework reflect NI's integral place in the United Kingdom and provide the necessary consensus-based governance and dispute resolution mechanisms to facilitate continued cooperation between all four UK administrations on plant health matters. The Devolved Governments have been consulted in the preparation of this EM.

## **LEGAL AND PROCEDURAL ISSUES**

11.

i. **Legal Base**

Article 43(2) of the Treaty on the Functioning of the European Union provides the legal basis for adopting provisions necessary for the pursuit of the objectives of the common agricultural policy.

ii. **Voting Procedure**

Ordinary Legislative Procedure.

iii. **Timetable for adoption and implementation**

The Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. An 18-month transition period will be granted for third countries to adapt to the new rules to declare on PCs how RNQP rules have been complied with.

**POLICY AND LEGAL IMPLICATIONS**

12. This regulation expands or provides several new powers to the Commission within the EU Plant Health Regulation, meaning that the Commission will have a wider flexibility on how it exerts its plant health rules.
13. There will be no impact to goods moving from Great Britain to Northern Ireland with a Northern Ireland Plant Health Label, provided the conditions are met, where businesses will continue to benefit from reduced certification requirements.
14. Moreover, in line with the Government's commitment to ensuring Northern Ireland traders have unfettered access to the rest of the UK internal market, these measures will in no way impede the movement of qualifying Northern Ireland goods from Northern Ireland to Great Britain. Such goods will also continue to benefit from the market access principles set out in the United Kingdom Internal Market Act 2020. Accordingly, so long as those goods meet Northern Ireland standards, they can be sold anywhere in the UK internal market.
15. Northern Ireland will benefit from flexibilities by virtue of the removal, rationalisation and digitisation of certain reporting requirements, urgent assistance when needed with certain pest outbreaks, and allowing Phytosanitary Certificates of imported plants to be replaced with the information contained in the electronic notification system.
16. The Regulation should benefit trade between GB and NI, as well as GB and the EU. Already by virtue of the Windsor Framework, we have seen the Commission lift bans on 21 high-risk plants including wild privet and rowan. Through this legislation, powers are granted so that temporary derogations from import prohibitions and special import requirements for certain goods can be submitted, examined, and granted by the Commission in future. The Regulation sets out the information which needs to be submitted by the third country and the process the Commission will follow, including a time limit for completion, all of which improve transparency of this process.

17. Furthermore, the Commission will have powers to allow official attestations from GB professional operators (if deemed adequate for phytosanitary protection) to accompany relevant goods as required as alternatives to PCs, in the absence of suitable international standards. Finally, to increase transparency for GB and EU traders, new powers would enable the introduction of procedures for identifying and listing high-risk plants under the EU list of prohibited plants.
18. The direct impact of this regulation on GB professional operators will be the change to the PC requirements; to declare how compliance with requirements on RNQPs has been ensured. This requirement will apply to all plants for planting imported into the EU, or moving to NI via the red lane, where RNQP requirements apply. No additional PCs are required - the affected plants for planting already require a PC and should meet RNQP rules, however where there are multiple options for complying with RNQP requirements, professional operators will need to declare which requirement has been met on the PC. This will have an administrative impact on professional operators, as well as having an effect on the Animal and Plant Health Agency ("APHA") IT system for exporting/re-exporting goods in GB, which the UKG is currently assessing the impact of. The process of re-exporting goods to the EU will also be impacted as the PCs provided from the country of origin will not meet the new EU requirements.
19. The UKG is planning to engage with all relevant stakeholders on the new PC requirements on RNQP rules ahead of coming into force. The UKG has a policy on RNQPs under review, but as part of this, it will consider whether there is any benefit to introducing similar changes by requesting a declaration on compliance with RNQP requirements.
20. The Commission has provided 18 months for third countries and their operators, including the UK, to adapt to these new rules for PCs. As above, plants for planting staying within the UK internal market and that move to NI with a Northern Ireland Plant Health Label will be unaffected by these changes.
21. As above, Defra is considering these changes and will consider whether there is any benefit to introducing similar changes. Though the UK already does not attach UK Plant Passports ("UKPP") to certain goods, such as logs, for practical reasons. Instead, UKPP are attached to delivery notes for such goods. In addition, the UKG is collaborating with industry to explore the use of electronic UKPP, instead of attaching physical UKPP, to hopefully develop over the next 18 months.

## **CONSULTATION**

22. No formal consultation or impact assessment has been carried out. However, the UK Government maintains regular engagement with industry on trade within the United Kingdom. Communications are published on the UK Plant Health Information Portal, as well as shared via meetings with the Plant Health Advisory Forum and the Horticulture Working Group established by the Safeguarding the Union Command Paper.

## **FINANCIAL IMPLICATIONS**

23. The Regulation has no financial implications that the UKG is aware of. As a result of certain flexibilities offered by this regulation, some businesses may benefit from reduced costs incurred in moving plants and plant products.

A handwritten signature in black ink, reading "Sue Hayman". The signature is written in a cursive, flowing style.

**BARONESS HAYMAN OF ULLOCK**

**PARLIAMENTARY UNDER- SECRETARY OF STATE  
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

**PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO:**

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EU) 2016/2031 AS REGARDS MULTIANNUAL SURVEY PROGRAMMES, NOTIFICATIONS CONCERNING THE PRESENCE OF REGULATED NON-QUARANTINE PESTS, TEMPORARY DEROGATIONS FROM IMPORT PROHIBITIONS AND SPECIAL IMPORT REQUIREMENTS AND ESTABLISHMENT OF PROCEDURES FOR GRANTING THEM, TEMPORARY IMPORT REQUIREMENTS FOR HIGH-RISK PLANTS, PLANT PRODUCTS AND OTHER OBJECTS, THE ESTABLISHMENT OF PROCEDURES FOR THE LISTING OF HIGH RISK PLANTS, THE CONTENT OF PHYTOSANITARY CERTIFICATES AND THE USE OF PLANT PASSPORTS, AND AS REGARDS CERTAIN REPORTING REQUIREMENTS FOR DEMARCATED AREAS AND SURVEYS OF PESTS AND AMENDING REGULATION (EU) 2017/625 AS REGARDS CERTAIN NOTIFICATIONS OF NON-COMPLIANCE**

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**COM(23)661: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EU) 2016/2031 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS MULTIANNUAL SURVEY PROGRAMMES, NOTIFICATIONS CONCERNING THE PRESENCE OF REGULATED NON-QUARANTINE PESTS, TEMPORARY DEROGATIONS FROM IMPORT PROHIBITIONS AND SPECIAL IMPORT REQUIREMENTS AND ESTABLISHMENT OF PROCEDURES FOR GRANTING THEM, TEMPORARY IMPORT REQUIREMENTS FOR HIGH RISK PLANTS, PLANT PRODUCTS AND OTHER OBJECTS, THE ESTABLISHMENT OF PROCEDURES FOR THE LISTING OF HIGH RISK PLANTS, THE CONTENT OF PHYTOSANITARY CERTIFICATES, THE USE OF PLANT PASSPORTS AND AS REGARDS CERTAIN REPORTING REQUIREMENTS FOR DEMARCATED AREAS AND SURVEYS OF PEST**

**DEFRA SUBMITTED AN EM DATED 06 FEBRUARY 2024**

**SCRUTINY COMMITTEES' RECOMMENDATIONS:**

<b>COMMONS (EUROPEAN SCRUTINY COMMITTEE)</b>	<b>LORDS (EAC WINDSOR FRAMEWORK SUB-COMMITTEE)</b>
<b>CLEARED FROM SCRUTINY (OUTCOME AGENDA 14, 17/4/24)</b>	<b>SIFTED FOR EXAMINATION TO SUBCOMMITTEE (CHAIR'S SIFT 47 15/2/24). LORD DOUGLAS-MILLER REPLIED ON 9 MAY 2024 TO A LETTER FROM</b>

**THE CHAIR (FROM LORD JAY  
DATED 29 FEBRUARY 2024) AND NO  
FURTHER SCRUTINY TOOK PLACE  
IN THE LAST PARLIAMENT.**