

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

**COM(2023) 1500 final**

**COMMISSION IMPLEMENTING REGULATION (EU) .../... of 27.2.2023 amending  
Implementing Regulation (EU) 2018/2019 as regards certain plants for planting  
of *Ligustrum delavayanum* and *Ligustrum japonicum* originating in the United  
Kingdom and Implementing Regulation (EU) 2020/1213 as regards the  
phytosanitary measures for the introduction of those plants for planting into  
the Union territory.**

Submitted by the Foreign, Commonwealth and Development Office

17 April 2023

**SUBJECT MATTER**

1. Under the old Northern Ireland Protocol a range of plants were designated as “high risk” by the EU and were banned from moving to NI.
2. Prior to the Windsor Framework, the UK sought to lift the prohibitions on several of those plant species, focusing on those identified by industry as the highest priority. This involved submitting dossiers of information on the risk posed by those plants moving into Northern Ireland (and also to the EU) to the European Food Safety Authority (EFSA), the body tasked with assessing the relevant risks. But minimal progress had been made over the previous two years.
3. However, following the agreement of the Windsor Framework, the Government has paved the way for the bans on those high priority plants to be lifted, with a process in place to pursue further such cases (in line with industry consultations).
4. As part of that process, this Regulation will amend Implementing Regulation (EU) 2018/2019 accordingly to remove two plants, *Ligustrum delavayanum* and *Ligustrum japonicum*, from the EU’s high risk plant list, enabling them to move from Great Britain to Northern Ireland (and from Great Britain to the EU).
5. As part of the Windsor Framework, another 9 species are due to be approved before the Autumn planting season, with further implementing legislation anticipated. Using the process the Windsor Framework has established, another 7 dossiers have also been submitted to EFSA. The EFSA process is a permanent one, so other dossiers can be submitted at any time if there is demand from industry, though the species chosen so far are those that have been identified as priorities following industry engagement.

## SCRUTINY HISTORY

6. Since the UK's departure from the EU the Government has continued to submit individual EU legislative instruments for scrutiny that apply to Northern Ireland that are in scope of the EU legislation referenced by this new proposal. **MINISTERIAL RESPONSIBILITY**

## MINISTERIAL RESPONSIBILITY

7. Responsibility for the Windsor Framework lies with the Foreign Secretary

## INTEREST OF THE DEVOLVED ADMINISTRATIONS

8. In line with existing commitments on intergovernmental engagement, the Minister for Europe chaired a meeting of the Interministerial Group on UK-EU Relations with the Devolved Administrations on Monday 20 March 2023, ahead of the UKEU Joint Committee on 24 March. **LEGAL AND PROCEDURAL ISSUES**

9. Legal base:

- The implementing regulation amends Implementing Regulation (EU) 2018/2019 as regards certain plants for planting of *Ligustrum delavayanum* and *Ligustrum japonicum* originating in the United Kingdom and Implementing Regulation (EU) 2020/1213 as regards the phytosanitary measures for the introduction of those plants for planting into the Union territory.

10. Timetable for implementation:

- The regulation will enter into force 20 days after it is formally published in the *Official Journal of the European Union*.

## POLICY IMPLICATIONS

11. The implementing Regulation will enable the two listed plants to move to Northern Ireland or to the EU. Article 2 of this regulation amends Implementing Regulation (EU) 2020/1213 to add these two species to the list of those plants that have been removed from EU's list of high risk plants.

12. For movements into Northern Ireland, they will move on the basis of the broader UK-wide plant passport regime, in the same way as for other plant movements under the Windsor Framework. Further detail on these arrangements are set out in the Explanatory Memorandum on the Proposed Regulation COM(2023) 124, that concerns the wider sanitary and phytosanitary legislation that comprises part of the Windsor Framework.

13. For movements into the EU, they can move under full export requirements, whereby traders will need to complete a phytosanitary certificate and undergo relevant checks at the border.
14. This will enable two commercially important plant species to be moved again, with a further tranche to be authorised by the next planting season as part of the ongoing process provided by the Windsor Framework.

## **CONSULTATION**

15. This proposal is the result of bilateral UK and EU discussions. The Government consulted extensively with a broad range of stakeholders in the process of agreeing the Windsor Framework. **FINANCIAL IMPLICATIONS**
16. Implementation of the Windsor Framework will have financial implications for relevant departments and the Northern Ireland Executive, to be considered for approval separately.



**Leo Docherty MP**  
**Parliamentary Under Secretary of State (Europe)**  
**Foreign, Commonwealth and Development Office**