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Mr Finlay Carson MSP
The Convener
Rural Affairs, Islands and Natural Environment
Committee
The Scottish Parliament
Edinburgh
EH99 1SP

8 November 2022

Dear Finlay

EU EXIT LEGISLATION – PROTOCOL 2 WITH SCOTTISH PARLIAMENT

I refer to the above and in accordance with paragraph 34, I am now writing to you concerning the outcome of the GB wide SI the Pests of Plants (Authorisations) (Amendment) Regulations 2022 (“PH/037”).

PH/037 was subject to negative procedure. The Scottish Parliament agreed on 28 September 2022 that it was content for Scottish Ministers to give their consent to PH/037, which includes Scottish devolved matters, as set out in the notification to the Parliament.

PH/037 was made on 3 October 2022 under the powers conferred by Articles 8(5), 48(5) 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). Whilst there were some slight variation from the original proposal outlined in the notification, they are not considered so significant as to require a further process. The changes being:

- Amendments to Article 6(4) of EU Commission Delegated Regulation 2019/829 now include provision stipulating that movements of the specified material within Great Britain can take place under one Letter of Authority (LoA), subject to endorsement by the competent authority of the territory of Great Britain from which the material is to be moved.
- A transitional provision was added which ensures that the provision contained within the Regulations which takes effect from 1 November 2022 relating to the introduction or movement of material under LoAs also applies to those issued before 1 November 2022. The effect of this is to allow LoAs, which have been issued prior to 1 November 2022 to be able to continue to be used for multiple sendings of the specified material. This additional provision requires the use of the power in Article 105(6) of the Plant Health Regulation which was not referred to in the notification.

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- Further changes were made to the text in the boxes (information required) pertaining to the LoA. It was important that the text be corrected to make it clear what information is required under the authorisation permit.

For full impact of these changes, revised LoA is attached at annex A.

In the notification, it was advised that a World Trade Organisation (WTO) notification was not being undertaken. However, the UK Government has advised us that a WTO notification is required as the changes impact on trade. However, as this is facilitating trade, it was not necessary to provide the usual 60 day comment period to the WTO. This is why the notification was only made after the SI was finalised. Accordingly, the WTO was notified on 6 October 2022.

I can now confirm that this SI is consistent with the consent granted.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

Kind regards



LORNA SLATER

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<p>1. Name and address of the place of origin of the specified material, including country</p> <p>«Include as much detail as possible about the origin of the material that is being imported»</p>	<p>Letter of Authority</p> <p>for the introduction into, or movements within, England / Wales / Scotland of pests, plants, plant products and other objects for scientific or educational purposes, trials, varietal selection or breeding (issued under Articles 8 and 48(1) of Regulation (EU) 2016/2031 and Commission Delegated Regulation (EU) 2019/829)</p>	
<p>2. Name, address, email address and phone number of person responsible for the specified activities</p> <p>«Name and contact details of the person responsible for the authorisation»</p>	<p>3. Name of the responsible competent authority of issue (logo) delete other bodies as required.</p> <p>«Department for Environment, Food and Rural Affairs (Defra) / Welsh Government / Scottish Government»</p>	
<p>4. Name and address of the Confinement facility/Quarantine station</p> <p>«Containment facilities that are listed on the authorisation» at the above address</p>	<p>5. Declared point of entry for material introduced from a third country</p> <p>Great Britain - «point of entry into GB e.g., Heathrow Airport, if not known can put not known»</p>	
<p>6. Scientific name(s) when appropriate, or name of the specified material, including scientific name of the specified pest concerned and the country(s) of origin the material may be imported from:</p> <p>«Specified material that is listed on the authorisation»</p>	<p>7. Quantity of specified material</p> <p>«Quantity listed on the authorisation if the authorisation says not applicable (n.a.) that will be stated here»</p>	
<p>8. Type of specified material</p> <p>Authorisation for the introduction into, movement within, and holding, multiplication and use of «Specified material e.g., soil, plant pathogens etc»</p>		
<p>9. Packaging and import / movement conditions</p> <p>«Describe how the specified material will be transported e.g., 3 layers of containment by rail»</p>		
<p>10. Additional declaration</p> <p style="text-align: center;">This specified material is introduced into / moved within Great Britain territory under Articles 8 and 48(1) of Regulation (EU) 2016/2031 and Delegated Regulation (EU) 2019/829</p> <p style="text-align: center;">and plant health authorisation no «*****»</p>		
<p>11. Date of issuance: Valid from «issue date» to 31 December of the same year.</p> <p>Reference number of the sending: «this reference number should correspond to your records e.g., 001 / 2023»</p> <p>Quantity per sending of the specified material: «quantity of material being imported»</p>	<p>12. Final Use (tick appropriate option or specify other):</p> <p>Destruction <input type="checkbox"/></p> <p>Collection <input type="checkbox"/></p> <p>Storage <input type="checkbox"/></p> <p>Other, specify..... <input type="checkbox"/></p>	
<p>13. For internal movement within GB only: endorsement by the competent authority of the relevant territory of GB from which material is moved:</p> <p>Place of endorsement: «e.g., York / Scotland. This will be filled in by competent of authorities where material has come from e.g., SASA if from Scotland, APHA if from England or Wales»</p> <p>Date: «of LoA endorsement»</p> <p>Signature of authorised officer:</p> <p>«Signature of APHA / SASA personnel»</p> <p>Name in BLOCK LETTERS</p> <p>«Name of APHA / SASA personnel»</p>	<p>14. Stamp of the responsible competent authority of Issue</p> <p>Place of issue: «place from where the authorisation was issued e.g., York / Scotland»</p> <p>Date: «e.g., 20th December 2021»</p> <p>Signature of authorised officer:</p> <p>«Signature of APHA / SASA personnel»</p> <p>Name (BLOCK LETTERS)</p> <p>«Name of APHA / SASA personnel»</p>	

Blue: prefilled in when you receive your authorisation
 Green: endorsement by GB competent authorities of origin
 Red: Authorisation holder