



Department  
for Environment  
Food & Rural Affairs



Llywodraeth Cymru  
Welsh Government



Scottish  
Government  
Riaghaltas  
na h-Alba

**Date:** 27 November 2024

Dear Sir/Madam,

## **Response to consultation on the proposed derogation for exceptional loads of large plants, plant products and other objects**

Thank you for submitting views on the above targeted consultation, which ran from 26 September to 10 October 2024. This letter provides a summary of the responses received and next steps for the proposed amendments.

### **Background**

The consultation invited views on proposed amendments to the assimilated Commission Implementing Regulation (EU) 2019/1014 to introduce a derogation from the minimum designation requirements for Border Control Posts (BCPs), including Inspection Centres (ICs) and also applying to inland Control Points (CPs).

As noted, the policy intent for the proposed derogation is to enable plant health inspections of large plants and plant products and other large objects outdoors at BCPs, ICs and CPs. This would apply only at facilities designated for this purpose, and in exceptional cases where inspections of the derogation's prescribed scope of commodities cannot be safely and feasibly carried out indoors under cover of a roof as required under existing official controls.

The consultation outlined the proposed scope of import commodities, including mature/large trees and used agricultural and forestry machinery, as well as the specific facility and operational requirements that must be met at designated facilities in order to apply the derogation.

### **Summary of responses**

A total of 11 responses were received, including from the Horticultural Trades Association (HTA) and National Farmers Union (NFU), three importing UK nurseries, two Border Control Post operators and a conservation charity.

The HTA supported the biosecurity and plant health risk mitigation principles underpinning the proposed derogation, as well as the need for balance between border controls and efficient movement of trade. They noted that the proposed scope of tree stock was within the margin of accuracy, although mixed loads including smaller shrubs were highlighted as a possible gap. Their response also noted that there may be limited commercial incentive among BCPs and CPs to adopt the derogation, as well as likely disparity among port operations and costs. The Government was urged to ensure its own Sevington BCP applied for the derogation and to encourage other BCPs to do the same.

The NFU highlighted the expertise and procedures in place at commercial horticultural businesses to unload and ensure biosecurity of large loads of plants and plant products. Both industry groups advocated for additional policy responses, including the restoration of the Place of Destination (PoD) scheme to avoid perceived risks at BCP facilities, which in their view included damage to stock, crop losses and multiple handling and cross-contamination issues.

UK importing nurseries were critical of the proposals, largely in the wider context of concerns with the inspection regime, and similarly recommended that inspections be carried out at point of destination:

- One nursery felt the proposals reflected ‘poor design’ of the border entry system and challenged the costs to nurseries, the lack of additional government funding and the narrow scope given the potentially high volumes of ‘exceptional’ loads.
- Another called for the derogation to include all loose-load plants as it was not ‘possible or financially viable’ to pack loads in such a way as to facilitate import inspections.
- One nursery cited unfair trading conditions as a potential violation of UK competition law.

The conservation charity supported measures to improve biosecurity, highlighting the high risk to plant health posed by large tree imports. This feedback acknowledged that the derogation would allow for more thorough inspection (within the current operational limits) and called for a range of operational procedures and mitigation measures to avoid cross-contamination, prevent the escape of mobile pests and ensure further in-field surveillance. The charity also urged Defra to explore future options for indoor inspection of large mature trees and provide support to BCP operators to implement them.

### **Government response and next steps**

*We note the feedback received often focused on the wider border control inspection regime, but where specific to the derogation proposals this has been considered for further policy and legislative development.*

*The proposed derogation will proceed as planned, with minor technical amendments to the draft legislative provisions to clarify some of the operational and facility requirements. Stakeholder concerns regarding biosecurity and health and safety risks will be incorporated into additional operational procedures and mitigation*

*measures, including as part of the official designation process and in the development of standard operating procedures.*

*It should be made clear that inspections at inland points of destination are now only possible at designated CP facilities that meet the requirements of the Official Controls Regulations (OCR). The PoD scheme officially closed on 30 April 2024 after it was introduced as a temporary measure to facilitate the transition to BCPs and CPs. PoD sites and inspections will not be reinstated as these would fail to meet the OCR requirements or achieve the high quality performance standards set by the Border Targeted Operating Model for UK sanitary and phytosanitary (SPS) controls.*

*For the avoidance of doubt, the derogation does not exempt the prescribed commodities from SPS checks or other controls. The proposals provide for these checks to be conducted in outdoor unloading and inspection areas under certain conditions, recognising operational and logistical challenges and ensuring the conditions are met so as not to compromise biosecurity. Applying the derogation will be a commercial decision available to already designated facilities or those seeking designation.*

We wish to thank stakeholders for their efforts in providing such timely and considered responses. The feedback received through consultation, among other engagements and discussions, is much appreciated and has made a highly valuable contribution to the process.

Yours sincerely,

Plant Health Imports Delivery

Biosecurity, Borders and Trade Programme

Department for Environment, Food & Rural Affairs