

EXPLANATORY MEMORANDUM

The Plant Health (Amendment) (England) Order 2004

2004 No. 2365

1. 1. The Plant Health (Amendment) (England) Order 2004 No. 2365.
- 1.2. This Explanatory Memorandum is laid before Parliament by Command of Her Majesty.
- 1.3. Department for Environment, Food and Rural Affairs.
2. The Order implements: seven Directives, one Decision and the EU Act of Accession which amend EC Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community and Directive 2001/36/EC recognising protected zones exposed to particular plant health risks in the Community; and a Commission Decision implementing a free trade agreement between Switzerland and the EU which also requires an amendment to plant health legislation.
3. [Matter of special interest to the Joint Committee on Statutory Instruments/Select Committee on Statutory Instruments N/A]
4. Legislative background
 - 4.1. Directives 2000/29/EC and 2001/36/EC are implemented in England by the Plant Health (Great Britain) Order 1993 (as amended). Details about the legislation to be implemented by the amendment Order are as follows:
 - (a) Directive 2002/36 (certain provisions) relating to restrictions concerning soil and growing medium.
 - (b) Directives 2003/46/EC and 2003/47/EC correct previous errors in Directives 2003/21/EC and 2002/36/EC.
 - (c) Directive 2003/116/EC introduces new Community controls in respect of *Erwinia amylovora* (fireblight).
 - (d) Directives 2004/31/EC and 2004/32/EC also introduce changes in respect of *Erwinia amylovora* (fireblight). These include new provisions for material originating in Switzerland and an amendment to the protected zones for Italy.
 - (e) The accession of new member states to the EU, which brings the new countries within the Community's single market arrangements.

(f) Decision 2004/522/EC and Directive 2004/70/EC make consequential amendments to the Plant Health Directive in respect of the protected zone arrangements for the accession countries.

(g) Decision 2004/278/EC relates to the EU's agreement with the Swiss Confederation regarding trade in agricultural products. Under this agreement, a number of plants and plant products can be traded between the EU and Switzerland with a plant passport rather than a phytosanitary certificate.

5. Extent

5.1. The instrument applies in respect of England only.

6. Policy background

6.1. Directives 2003/46/EC and 2003/47/EC correct errors made by previous Directives. Points 9 and 30 of the Annex to Directive 2002/36 which contained one of the errors, were not implemented along with other amendments introduced last year and are now implemented in the current Order. These corrections have no impact for England.

6.2. Directive 2003/116/EC introduces more stringent controls in order to prevent the spread of fireblight. The host range capable of spreading fireblight has been extended and improvements have been made to the 'buffer zone' provisions to reduce the risk of short distance spreading of the disease. In addition, controls have been introduced on the movement of beehives within the Community as bees have been identified as a potential risk in the spread of the disease. Directives 2004/31/EC and 2004/32/EC also introduce further changes to the fireblight protected zone arrangements. Fireblight is a notifiable disease affecting apples, pears and related trees and shrubs in the family *Rosaceae*. There are no chemical measures available in the UK to control fireblight and infected material must be destroyed. The revised provisions on fireblight therefore provide additional safeguards in preventing the spread of the disease.

6.2. Under the accession arrangements, the new member states have joined the EU's Single Market regime. Under these arrangements, plant passports have replaced phytosanitary certificates for trade with the new member states and certain material that was previously prohibited from entering the Community is now allowed entry. In addition, certain new member states are now subject to specific protected zone arrangements in order to prevent the spread of harmful organisms within their territories and any trade with these countries in the material specified will have to meet the protected zone requirements. The accession arrangements also provide for transitional measures on compliance with specified aspects of plant health legislation for some new member states.

6.3. The EU/Swiss agreement allows plant passports rather than phytosanitary certificates to be used for trade in certain plants and plant products between the EU and Switzerland.

- 6.4. In order to issue plant passports, businesses trading in specified plants must be registered and receive authorisation from Defra. Authorisation is granted annually on the basis of an official inspection of the plants during the growing season and a check on record keeping. Official passporting authorisation visits provide an opportunity to monitor the plant health status of the growing crop as well as checks on record keeping. Issuing passports also facilitates traceability in the event of plant health problems being detected. These measures would reduce the risk of pest outbreaks and therefore reduce the likelihood of having to carry out containment /eradication measures.
- 6.5. It is envisaged that only a few businesses that are not already authorised to issue plant passports will now be required to register as a result of the introduction of these new measures. Overall, trading using plant passports is regarded as being no more onerous than trading with phytosanitary certificates.
- 6.6. As regards the new provisions regarding beehives, there is little export of bees and as the documentary evidence will be provided free of charge these measures are unlikely to have a major impact on beekeepers.
7. Impact
 - 7.1. A public consultation exercise has been carried out on the implementation of these measures. No comments were received. The Order will provide additional safeguards on the spread of fireblight and provide for revised trade arrangements with the new member states and Switzerland. A Regulatory Impact Assessment (which applies to England only) has been prepared.
8. Contact
 - 8.1. Kim Chadwick, Defra, Room 333, Foss House, King's Pool, 1-2 Peasholme Green, York YO1 7PX. Tel: 01904 455186 Fax: 01904 455198

Department for Environment, Food and Rural Affairs
September 2004

Transposition note

Plant Health (Amendment) (England) Order 2004

| (1) Commission Directive 2002/36/EC | | |
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| Article | Purpose | Implementation |
| 1 and Annex, points 9 and 30 | removal of Algeria and the addition of Georgia to the list of countries that are subject to requirements relating to soil and growing medium | Article 2(14)(b), (16)(b) and (20)(c) |

| (2) Commission Directive 2003/46/EC | | |
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| Article | Purpose | Implementation |
| 1 and Annex | Amendment to Annex to Directive 2001/32 (amendment of the Protected Zone for <i>Gonipterus scutellatus</i> Gyll to include Greece and to limit the application in relation to Portugal to the Azores only) | Article 2(22)(c) |

| (3) Commission Directive 2003/47/EC | | |
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| Article | Purpose | Implementation |
| 1 and Annex, point 1 | Amendment to Annex II of Directive 2000/29 (amendment of the Protected Zone for <i>Gonipterus scutellatus</i> Gyll to include Greece and to limit the application in relation to Portugal to the Azores only) | Article 2(11) |
| 1 and Annex, point 2 | Amendment to Annex IV of Directive 2000/29 (amendment of the Protected Zone for <i>Gonipterus scutellatus</i> Gyll to include Greece and to limit the application in relation to Portugal to the Azores only) | Article 2(18)(a) |

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| 1 and Annex, point 3 | Amendment to Annex V of Directive 2000/29 (amendment of a clerical error in Dir. 2002/36) | Article 2(20)(b) |
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Note: amendments in point 4 of the Annex (amendments to Part B of Annex V not transposed, as superseded by later amendments).

| (4) Commission Directive 2003/116/EC | | |
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| Article | Purpose | Implementation |
| 1 and Annex, point 1(a) | Amendment to Annex II of Directive 2000/29 (amendment to the list of host plants capable of spreading <i>Erwinia amylovora</i> (Burr.) Winsl. et al. to include <i>Amelanchier</i> Med., <i>Photinia davidiana</i> (Dcne.) Cardot and all species of <i>Sorbus</i> L.) | Article 2(10) |
| 1 and Annex, point 1(b) | Amendment to Annex II of Directive 2000/29 (amendment to the list of host plants capable of spreading <i>Erwinia amylovora</i> (Burr.) Winsl. et al. to include <i>Amelanchier</i> Med., <i>Photinia davidiana</i> (Dcne.) Cardot and all species of <i>Sorbus</i> L.) | Article 2(12) |
| 1 and Annex, point 2 | Amendment to Annex III of Directive 2000/29 (amendment to the list of host plants capable of spreading <i>Erwinia amylovora</i> (Burr.) Winsl. et al. to include <i>Amelanchier</i> Med., <i>Photinia davidiana</i> (Dcne.) Cardot and all species of <i>Sorbus</i> L.) | Article 2(15) |
| 1 and Annex, point 3(a) | Amendment to Annex IV of Directive 2000/29 (amendment to the list of host plants capable of spreading <i>Erwinia amylovora</i> (Burr.) Winsl. et al. to include <i>Amelanchier</i> Med., <i>Photinia davidiana</i> (Dcne.) Cardot and all species of <i>Sorbus</i> L.) | Article 2(16) and (17) |

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| 1 and Annex, point 3(b) | Amendment to Annex IV of Directive 2000/29 (amendment to the list of host plants capable of spreading <i>Erwinia amylovora</i> (Burr.) Winkl. et al. to include <i>Amelanchier</i> Med., <i>Photinia davidiana</i> (Dcne.) Cardot and all species of <i>Sorbus</i> L.; amendments to the provisions on “buffer zones”; the introduction of a requirement for documentary evidence of certain facts for the movement of beehives) | Article 2(18)(d) |
| 1 and Annex, point 4(a) | Amendment to Annex V of Directive 2000/29 (amendment to the list of host plants capable of spreading <i>Erwinia amylovora</i> (Burr.) Winkl. et al. to include <i>Amelanchier</i> Med., <i>Photinia davidiana</i> (Dcne.) Cardot and all species of <i>Sorbus</i> L.) | Article 2(19)(a) and (b) |
| 1 and Annex, point 4(b) | Amendment to Annex V of Directive 2000/29 (amendment to the list of host plants capable of spreading <i>Erwinia amylovora</i> (Burr.) Winkl. et al. to include <i>Amelanchier</i> Med., <i>Photinia davidiana</i> (Dcne.) Cardot and all species of <i>Sorbus</i> L.) | Article 20(e) |

(5) Commission Directive 2004/31/EC

| Article | Purpose | Implementation |
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| 1 and Annex, point 1 | Amendment to Annex I of Directive 2000/29 (amendment of the Protected Zone for beet necrotic yellow vein virus to remove Sweden) | Article 2(7) |
| 1 and Annex, point 2 | Amendment to Annex II of Directive 2000/29 | Article 2(12) |

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| | (amendment of the Protected Zone for <i>Erwinia amylovora</i> (Burr.) Winsl. et al. to remove certain Italian provinces) | |
| 1 and Annex, point 3(a) | Amendment to Annex III of Directive 2000/29 (removal of Switzerland from the list of third countries from which the introduction of plants of <i>Vitis</i> L. other than fruit is prohibited) | Article 2(14)(c) |
| 1 and Annex, point 3(b) | Amendment to Annex III of Directive 2000/29 (amendment of the Protected Zone for <i>Erwinia amylovora</i> (Burr.) Winsl. et al. to remove certain Italian provinces and removal of Switzerland from the list of third countries prohibited from introducing plants and live pollen for pollination of plants capable of spreading that pest, except in relation to <i>Cotoneaster</i> Ehrh. and <i>Photinia davidiana</i> (Dcne.) Cardot) | Article 2(15) |
| 1 and Annex, point 4(a) | Amendment to Annex IV of Directive 2000/29 (addition of Iran to the list of countries where <i>Tilletia indica</i> Mitra is known to occur and for which special requirements must be met for the introduction and movement into and within Great Britain of seeds and grain of the genera <i>Triticum</i> , <i>Secale</i> and <i>X Triticosecale</i>) | Article 2(16)(c) |
| 1 and Annex, point 4(b) | Amendment to Annex IV of Directive 2000/29 (amendment of the Protected Zone for beet necrotic yellow vein virus to remove Sweden) | Article 2(18)(b) |

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| 1 and Annex, point 5 | Amendment to Annex V of Directive 2000/29 (addition of Iran to the list of countries where <i>Tilletia indica</i> Mitra is known to occur and for which special requirements must be met for the introduction and movement into and within Great Britain of seeds and grain of the genera <i>Triticum</i> , <i>Secale</i> and <i>X Triticosecale</i>) | Article 2(20)(a) and (d) |
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Note: renumbering in Annex, point 4, point 4(b) not implemented: implementing Order uses own numbering.

| (6) Commission Directive 2004/32/EC | | |
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| Article | Purpose | Implementation |
| 1 and Annex, point 1 | Amendment to Annex of Directive 2001/32 (amendment of the Protected Zone for <i>Erwinia amylovora</i> (Burr.) Winsl. et al. to remove certain Italian provinces) | Article 2(23) |
| 1 and Annex, point 2 | Amendment to Annex of Directive 2001/32 (amendment of the Protected Zone for beet necrotic yellow vein virus to remove Sweden) | Article 2(24)(a) |

| (7) Article 20 and Annex II of the Act concerning the Conditions of Accession | | |
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| Article | Purpose | Implementation |
| Act, Annex II, Part 6 (Agriculture), Section B (Veterinary and Phytosanitary Legislation), Sub-section II (Phytosanitary Legislation) | | |
| item 5(a) | establishment of a new Protected Zone for <i>Daktulosphaera vitifoliae</i> (Fitch) in Cyprus | Article 2(6)(a) |
| item 5(b) | amendment of the Protected Zone for <i>Globodera pallida</i> (Stone) Behrens to include Latvia, Slovakia and Slovenia | Article 2(6)(a) |

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| item 5(b) | amendment of the Protected Zone for <i>Leptinotarsa decemlineata</i> Say to include Cyprus and Malta | Article 2(6)(b) |
| item 5(c) | amendment of the Protected Zone for beet necrotic yellow vein virus to include Lithuania | Article 2(7) |
| item 5(d) | removal of <i>Eotetranychus orientalis</i> Klein from the list of plant pests not known to occur in the Community and relevant for the entire Community | Article 2(8) |
| item 5(e) | placement of <i>Eotetranychus orientalis</i> in the list of plant pests known to occur in the Community and relevant for the entire Community | Article 2(9) |
| item 5(f) | <i>transposed in a different instrument: The Plant Health (Forestry) (Great Britain) (Amendment) Order 2004</i> | |
| item 5(g) | amendment of the Protected Zone for <i>Erwinia amylovora</i> (Burr.) Winsl. to include Lithuania, Latvia, Slovenia and Slovakia | Article 2(12) |
| item 5(h) | amendment of the Protected Zone for Citrus tristeza virus to include Malta | Article 2(13) |
| item 5(i) | removal of Cyprus and Malta from the countries of origin in relation to tubers of species of <i>Solanum</i> L and their hybrids | Article 2(14)(a) |
| item 5(j) | removal of Cyprus, Estonia, Latvia, Lithuania and Malta | Article 2(14)(b) |

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| | from the list of countries of origin in relation to soil and growing medium | |
| item 5(k) | amendment of the Protected Zone for <i>Erwinia amylovora</i> (Burr.) Winsl. to include Lithuania, Latvia, Slovenia and Slovakia | Article 2(15) |
| item 5(l) | removal of Estonia, Latvia and Lithuania from the list of countries of origin in relation to soil and growing medium | Article 2(16)(b) |
| item 5(m) | removal of Cyprus and Malta from the list of countries of origin in relation to soil and growing medium | Article 2(16)(b) |
| item 5(n) | <i>transposed in a different instrument: The Plant Health (Forestry) (Great Britain) (Amendment) Order 2004</i> | |
| item 5(o) | <i>transposed in a different instrument: The Plant Health (Forestry) (Great Britain) (Amendment) Order 2004</i> | |
| item 5(p) | <i>transposed in a different instrument: The Plant Health (Forestry) (Great Britain) (Amendment) Order 2004</i> | |
| item 5(q) | amendment of the Protected Zone for <i>Erwinia amylovora</i> (Burr.) Winsl. to include Lithuania, Latvia, Slovenia and Slovakia | Article 2(18)(d) |
| item 5(r) | establishment of a new Protected Zone for <i>Daktulosphaira vitifoliae</i> (Fitch) in Cyprus | Article 2(18)(d) |
| item 5(s) | introduction of plant passport and phytosanitary certificate requirements in respect of fruits of <i>Vitis</i> L. | Article 2(19)(c) |
| item 5(t) | removal of Cyprus, Estonia, Latvia, Lithuania and Malta from the list of countries of origin in relation to soil and | Article 2(20)(a)(iii) |

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| | growing medium | |
| item 5(u) | introduction of plant passport and phytosanitary certificate requirements in respect of fruits of <i>Vitis</i> L. | Article 2(20)(b)(ii) |
| item 6(a) | amendment of time limits for certain protected zones | no implementation required |
| item 6(b) | establishment of a new Protected Zone for <i>Daktulosphaira vitifoliae</i> (Fitch) in Cyprus | Article 2(22)(a) |
| item 6(c) | amendment of the Protected Zone for <i>Globodera pallida</i> (Stone) Behrens to include Latvia, Slovakia and Slovenia | Article 2(22)(b) |
| item 6(d) | <i>transposed in a different instrument: The Plant Health (Forestry) (Great Britain) (Amendment) Order 2004</i> | |
| item 6(e) | amendment of the Protected Zone for <i>Leptinotarsa decemlineata</i> Say to include Cyprus and Malta | Article 2(22)(d) |
| item 6(f) | amendment of the Protected Zone to include Lithuania, Latvia, Slovenia and Slovakia | Article 2(23) |
| item 6(g) | amendment of the Protected Zone for beet necrotic yellow vein virus to include Lithuania | Article 2(24)(a) |
| item 6(h) | amendment of the Protected Zone for Citrus tristeza virus to include Malta | Article 2(24)(b) |

(8) Commission Directive 2004/70/EC

| Article | Purpose | Implementation |
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| 1 and Annex I, point 1 | Amendment to Annex I of Directive 2000/29 (amendment of the Protected Zone for beet necrotic yellow vein virus to include | Article 2(7) |

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| | Lithuania) | |
| 1 and Annex I, point 2 | Amendment to Annex II of Directive 2000/29 (amendment of the Protected Zone for <i>Erwinia amylovora</i> (Burr.) Winsl. et al. to include Latvia, Lithuania, Slovakia and Slovenia) | Article 2(12) |
| 1 and Annex I, point 3(a) and (b) | Amendment to Annex III of Directive 2000/29 (removal of Switzerland from the list of third countries prohibited from introducing certain plants capable of spreading <i>Erwinia amylovora</i> (Burr.) Winsl. et al. and amendment of the Protected Zone to include Latvia, Lithuania, Slovakia and Slovenia) | Article 2(15) |
| 1 and Annex I, point 4(a) and (b) | Amendment to Annex IV of Directive 2000/29 (amendment of the Protected Zone for beet necrotic yellow vein virus to exclude Sweden) | Article 2(18)(b) |
| 1 and Annex I, point 4(c) | (amendment to the list of host plants capable of spreading <i>Erwinia amylovora</i> (Burr.) Winsl. et al.; amendments to the provisions on “buffer zones”; and amendment of the Protected Zone to include Lithuania, Latvia, Slovenia and Slovakia) | Article 2(18)(d) |
| 1 and Annex I, point 4(d) | (introduction of a requirement for documentary evidence of certain facts for the movement of beehives and amendment of the Protected Zone to include Lithuania, Latvia, Slovenia and Slovakia) | Article 2(18)(d) |
| 1 and Annex I, point 4(e) to (k) | Amendment to Annex IV of Directive 2000/29 | Article 2(18)(b) |

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| | (amendment of the Protected Zone for beet necrotic yellow vein virus to exclude Sweden) | |
| 1 and Annex II, points (a) and (b) | Amendment to Annex IV of Directive 2000/29 (amendment of the Protected Zone for beet necrotic yellow vein virus to include Lithuania) | Article 2(18)(b) |
| 1 and Annex II, points (c) | Amendment to Annex IV of Directive 2000/29 (amendment of the Protected Zone for <i>Globodera pallida</i> (Stone) Behrens to include Latvia, Slovakia and Slovenia) | Article 2(18)(c) |
| 1 and Annex II, points (d) to (j) | Amendment to Annex IV of Directive 2000/29 (amendment of the Protected Zone for beet necrotic yellow vein virus to include Lithuania) | Article 2(18)(b) |
| 1 and Annex II, point (k) | Amendment to Annex IV of Directive 2000/29 (amendment of the Protected Zone for Citrus tristeza virus to include Malta) | Article 2(18)(e) |

(9) Commission Decision 2004/522/EC

| Article | Purpose | Implementation |
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| 1 and Annex, point 1 | Amendment to Annex of Directive 2001/32 (amendment of the Protected Zone for <i>Erwinia amylovora</i> (Burr.) Winsl. et al. to include Latvia, Lithuania, Slovakia and Slovenia) | Article 2(23) |
| 1 and Annex, point 2 | Amendment to Annex of Directive 2001/32 (amendment of the Protected Zone for beet necrotic yellow vein virus to include Lithuania) | Article 2(24)(a) |

(10) Commission Decision 2004/522/EC

| Article | Purpose | Implementation |
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| Annex, Appendix 1 | List of species which are subject to special trade arrangements under the EC-Swiss Confederation Trade Agreement | Article 2(2)(d), (e) and (f), (3), (4), (5) and (21) |

REGULATORY IMPACT ASSESSMENT

1. TITLE

AMENDMENT OF PLANT HEALTH LEGISLATION

2. PURPOSE AND INTENDED EFFECT OF MEASURE

2.1 Objective

To implement ten new Community measures into national plant health legislation.

2.2 Issue

New Community measures which amend the EU's Plant Health Directive (2000/29/EC) have recently been agreed. The Plant Health Directive is implemented in the UK by the Plant Health (Great Britain) Order 1993 (as amended). These new measures, detailed below, will therefore require an amendment to that Order.

- (i) Two Directives 2003/46/EC and 2003/47/EC correct previous errors in Directives 2003/21/EC and 2002/36/EC and certain provisions in Directive 2002/36 which were subject to further clarification. However, these Directives have no impact on the UK.
- (ii) Directive 2003/116/EC introduces new Community controls in respect of *Erwinia amylovora* (fireblight) from 31 March 2004.
- (iii) Directives 2004/31/EC and 2003/32/EC introduce further changes in respect of *Erwinia amylovora*. These include new provisions for material originating in Switzerland and an amendment to the protected zone details for Italy.
- (iv) The accession of new member states to the EU brings these countries within the Community's single market arrangements from 1 May 2004.
- (v) Directive 2004/70/EC and Decision 2004/522/EC make consequential amendments to the Plant Health Directive in respect of the protected zone arrangements for the accession countries.
- (vi) Decision 2004/278/EC relates to the EU's agreement with the Swiss Confederation regarding trade in agricultural products. From 1 April 2004, a number of plants and plant products can be traded between the EU and Switzerland with a plant passport rather than a phytosanitary certificate.

This Regulatory Impact Assessment applies to England only. The Devolved Administrations will be preparing separate assessments in respect of their areas.

2.3 Risk assessment

There are three main risks if the new measures are not implemented. Firstly, there is the risk of infraction proceedings by the Commission, which would be initiated if the measures were not implemented. Secondly, our industry would be out of line with the rest of the Community and would face difficulties trading with the accession countries and Switzerland. Thirdly, there is the plant health risk.

Directive 2003/116/EC introduces more stringent controls in order to prevent the spread of fireblight. The host range capable of spreading fireblight has been extended and improvements have been made to the 'buffer zone' provisions to reduce the risk of short distance spreading of the disease. Directives 2004/31/EC and 2004/32/EC introduce further amendments to the provisions regarding fireblight. Fireblight is a notifiable disease affecting apples, pears and related trees and shrubs in the family *Rosaceae*. There are no chemical measures available in the UK to control fireblight and infected material must be destroyed.

The accession document, together with Directives 2004/70/EC and Decision 2004/522/EC, also provides for specific protected zone arrangements for certain new member states in order to prevent the spread of harmful organisms within their territories.

2.4 Main provisions

The revised provisions on fireblight will provide additional safeguards in preventing the spread of the disease. *Amelanchier* plants are now added to the list of susceptible species which are subject to control measures. There are also new provisions for the movement of beehives between 15 March and 30 June and amendments to the buffer zone requirements.

Under the accession arrangements, plant passports will replace phytosanitary certificates for trade with the new member states. Last year, over 400 phytosanitary certificates were issued for trade with the accession countries. In addition, certain new member states are now subject to specific protected zone arrangements and any trade with these countries in the material specified will have to meet the protected zone requirements.

The accession arrangements also provide for transitional measures on compliance with specified aspects of plant health legislation for some new member states.

The EU/Swiss agreement will allow plant passports rather than phytosanitary certificates to be used for trade in certain plants and plant products between the EU and Switzerland. Last year over 150 phytosanitary certificates were issued by Defra for all trade with Switzerland.

3. OPTIONS

3.1 Identifying the issue

Two options have been identified

Option 1 – Do nothing

Not implementing the new provisions will place English traders out of line with the rest of the Community. Trade in certain products with the accession countries and Switzerland would be difficult or impossible as consignments would not be accompanied by plant passports including the new protected zone designations and phytosanitary certificates may not be accepted by the importing countries' plant health authorities. The risk of firelight spreading within the Community would also be increased if the new measures were not introduced.

Non-implementation would also increase the plant health risk to England and result in infraction proceedings by the Commission.

Option 2 – Implement the new provisions

This would require businesses, which do not already trade in passportable material to register and receive authorisation from Defra to issue plant passports if they wish to trade in the products covered by the new measures. They would also need to amend their labelling to include passport details. Businesses that are already registered would have to make some amendments to their existing labels. Such an approach would ensure consistency with the rest of the Community, facilitate trade, provide additional protection against increased plant health risks and avoid infraction proceedings.

Beekeepers wishing to move their hives into one of the Community's protected zones would also have to provide the documentary evidence required by Directive 2003/116/EC.

4. Benefits

4.1 Business sectors affected

The main businesses affected are nurseries and other companies which trade in certain plants. Charities and voluntary organisations should not be affected unless they are involved in the commercial activities referred to.

In order to issue plant passports, businesses trading in specified plants must be registered and receive authorisation from Defra. Authorisation is granted annually on the basis of an official inspection of the plants during the growing season and a check on record keeping.

Official passporting authorisation visits provide an opportunity to monitor the plant health status of the growing crop as well as checks on record keeping. Issuing passports also facilitates traceability in the event of plant health problems being detected. These measures would reduce the risk of pest outbreaks and therefore reduce the likelihood of having to carry out containment /eradication measures.

Beekeepers would also have to meet the provisions relating to the movement of beehives.

4.2 Issues of equity and fairness

It is envisaged that none of these measures will have an unfair impact on any sector of the industry. Businesses which currently only export plants and plant products to Switzerland and the accession countries will need to be authorised to issue plant passports if the products exported fall within the plant passport regime. It is envisaged that only a few businesses will fall into this category. Overall, trading using plant passports is regarded as being no more onerous than trading with phytosanitary certificates.

As regards the provisions regarding beehives, there is little export of bees and as the documentary evidence will be provided free of charge these measures are unlikely to have a major impact on the beekeepers.

5. Costs

5.1 Compliance costs

There would be no compliance costs for the option of doing nothing although there would be significant costs associated with the loss of trade, potential plant health problems and dealing with infraction procedures.

For growers who wish to trade in the material that is now plant passportable, there would be three compliance elements involved in implementing the new measures: registration, authorisation; labelling. The new registration requirements would be free and with no time limit. Authorisation to issue plant passports would require an annual visit by the Plant Health and Seeds Inspectorate and be chargeable at the rate of £81 per hour on site. There would be an administrative charge associated with the amendment of labels and documentation to include passport details. However, the additional costs would be negligible, as most suppliers would be able to amend existing documentation to accommodate this information.

Any additional costs are likely to be offset by savings in phytosanitary certification, which can involve soil sampling, growing season inspections and pre-export inspections and certification. Visits and inspections associated with phytosanitary certification are chargeable at the rate of £81 per hour and a charge is also made (between £5 and £45) for the issue of certificates.

The fireblight proposals relating to beehives are unlikely to result in any additional costs for beekeepers, as the National Beekeeping Unit would provide the required documentary evidence free.

5.2 Costs for a typical business

These are dependent on the level of trade in the material affected by the new legislation, including the extent to which costs will be offset by saving in phytosanitary certification. Any businesses not currently authorised to issue plant passports who would be required to do so under these proposals would need to register and receive a new annual visit at a cost of £81 per hour. The minimum inspection period is 30 minutes but may be more depending on the layout of the premises, number of plants etc. For premises that are already authorised, annual visits are already carried out but some additional input may be necessary by the Plant Health and Seeds Inspectorate. There are approximately 960 businesses currently authorised to issue plant passports. Around 60 other businesses currently send plants or products to Switzerland

and 85 businesses trade with the accession countries with phytosanitary certificates. However, only those which trade in future in passportable plants and products will need to be registered and authorised.

6. Consultation with small business: the Small Firms' Impact Test

The likely burden on small businesses is not considered to be any more onerous in relation to size, than it would be for larger businesses. However, it is recognised that smaller businesses generally have less administrative capacity. Overall, trading using plant passports is regarded as being no more onerous than trading with phytosanitary certificates.

No comments on the effect of these measures on small businesses were received during the public consultation process.

7. Competition assessment

The Competition Filter has been applied and the conclusion is that there is no significant risk of impact on competition. A detailed assessment has therefore not been prepared.

In applying the filter, the market identified was the plant and plant products industry. In this sector, no businesses are known to have more than a 10% share of the market. It is therefore considered that the costs will fall evenly across the markets. The proposals will have no impact on market structure and will not adversely affect new firms compared to existing ones. Neither is rapid technology change a characteristic of the markets. Finally the introduction of these measures has no impact on the choice of firms in respect of price, quality, range or location of their products.

8. Enforcement and sanctions

The proposal will be enforced under the Plant Health (Great Britain) Order 1993, which lays down provisions for offences for non-compliance. The Plant Health and Seeds Inspectorate will undertake annual authorisation visits at relevant premises in respect of plant passporting.

9. Monitoring and review

There is a continuous programme to monitor plant health developments, carried out at Community level by the Standing Committee on Plant Health. This takes into account developments within Member States, including new pest risk assessments and interceptions. This procedure will provide the opportunity, where necessary, to consider any further changes to the plant passporting regime. The Commission's Food and Veterinary Office (FVO) also undertake audits of member states' compliance with EC legislation.

10. Consultation

A public consultation exercise has been carried out. No comments were received.

11. Summary and recommendation

The Department considers that these measures should be implemented into national legislation. Legislation will be prepared to reflect the amendments being made to the Plant Health Directive (2000/29/EC) and the SI will amend the Plant Health (Great Britain) Order 1993 (as amended) as regards England.

12. Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by the responsible Minister.....Ben Bradshaw

Date.....9th September 2004

13. Contact points

Richard McIntosh, Defra, Room 344, Foss House, King's Pool, 1-2 Peasholme Green, York YO1 7PX. Tel 01904 455177 Fax 01904 455198

Kim Chadwick, Defra, Room 333, Foss House, King's Pool, 1-2 Peasholme Green, York YO1 7PX. Tel 01904 455186 Fax 01904 455198