

EXPLANATORY MEMORANDUM TO
THE PLANT HEALTH (ENGLAND)(AMENDMENT)(No.3) ORDER 2007

2007 No. 3133

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

This Order amends the Plant Health (England) Order 2005 ('the principal Order') which contains measures to prevent the introduction and spread of harmful plant pests and diseases. It corrects an error in the Plant Health (England) (Amendment)(No.2) Order 2007.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Background**

- 4.1 Council 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 ("the Plant Health Directive") establishes the Community plant health regime. It contains measures to be taken in order to prevent the introduction into, and spread within, the Community of serious pests and diseases of plants and plant produce. The Directive is implemented in England, for non-forestry matters, by the Plant Health (England) Order 2005. Similar but separate legislation operates in Scotland, Wales and Northern Ireland.
- 4.2 A number of Community instruments have been adopted amending the annexes of the Directive as a result of technical changes in the assessment of risks presented by particular pests and diseases and introducing new measures to address risks presented by other pests and diseases. These amendments are to be implemented through the Plant Health (England) (Amendment)(No.2) Order 2007 which comes into force on 1 November.
- 4.3 The amending Order is made under sections 2 and 3(1) of the Plant Health Act 1967, which enable the Secretary of State to make Orders for the purposes of preventing the introduction of plant pests into England and to prevent their spread.

5. **Extent**

This instrument applies to England only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Plant Health (England) (Amendment)(No.2) Order 2007 implements several pieces of EU legislation, including:

- Commission Decision 2007/365/EC which introduces emergency measures to prevent the introduction into and spread within the Community of *Rhynchophorus ferrugineus* (Red palm weevil), a serious pest of palms such as the coconut palm, date palm or oil palm. The Order adds *Rhynchophorus ferrugineus* to the list of prohibited insects in the Plant Health (England) Order 2005 and introduces new requirements for the import and movement of susceptible plants.
- Commission Decision 2007/433/EC which introduces emergency measures to prevent the introduction into and spread within the Community of *Gibberella circinata*, a fungus which can cause significant mortality on *Pinus* species. The Order adds *Gibberella circinata* to the list of prohibited fungi in the Plant Health (England) Order 2005 and introduces new requirements for the import and movement of susceptible plants.
- Commission Decision 2007/410/EC which introduces additional measures to prevent the introduction and spread of Potato spindle tuber viroid, an important pathogen of solanaceous crops which can cause yield losses of up to 65% in potato and 50% in tomato. Introduction of the organism is already prohibited under existing legislation but it has been found recently in association with on new host material. The Order restricts the introduction and movement of the relevant host material.

6. The Plant Health (England) (Amendment)(No.2) Order 2007 erroneously restricts some of the measures in each Decision to material originating from third countries. The No 3 Order corrects those errors, by making clear that material of EU origin is also covered.

8. Impact

An impact assessment has not been prepared as the Order has no impact on the costs for business.

9. Contact

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