

**EXPLANATORY MEMORANDUM TO THE PLANT HEALTH (ENGLAND)
(AMENDMENT) (No.2) ORDER 2013**

2013 No. 1477

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.
2. **Purpose of the Instrument**
 - 2.1 This instrument amends the Plant Health (England) Order 2005 (S.I. 2005 No. 2530) (“the principal Order”) which contains measures to prevent the introduction and spread of harmful plant pests and diseases. It implements the specific control measures in Commission Implementing Decisions 2013/67/EU, 2012/756/EU, 2012/697/EU, 2012/270/EU, 2012/138/EU and 2012/219/EU. It also makes some minor amendments to the principal Order.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 Council Directive 2000/29/EC on protective measures against the introduction into the EU of organisms harmful to plants or plant products and against their spread within the EU¹ (“the Plant Health Directive”) establishes the EU plant health regime. The Plant Health Directive is implemented in England by the Plant Health (England) Order 2005 and, in relation to forestry matters, by the Plant Health (Forestry) Order 2005 (S.I. 2005/2517) which extends to Great Britain. Similar but separate legislation to the principal Order operates in Scotland, Wales and Northern Ireland.
 - 4.2 A number of EU instruments have been adopted which modify the annexes of the Plant Health Directive as a result of technical changes in the assessment of risks presented by particular pests and diseases and introduce new measures to address risks presented by other pests and diseases. These amendments are to be implemented through this instrument which comes into force on 15 July 2013. The changes are described in more detail below.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England only.

¹ This Directive can be found at <http://europa.eu.int/eur-lex/en/search/index.html>.

6. European Convention on Human Rights

- 6.1 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 Directive (Council Directive 2000/29/EC) establishes the EU plant health regime. It contains measures to be taken in order to prevent the introduction into, and spread within, the EU of serious pests and diseases of plants and plant produce. The Directive (and therefore the principal Order) are updated frequently, to take account of new or revised risk assessments, pest interceptions, changes in distribution of pests and other developments. This instrument implements the specific EU measures arising from technical changes in the assessment of the risks presented by particular pests and diseases.

7.2 These EU measures are contained in several pieces of EU legislation:

- Commission Implementing Decision 2013/67/EU which amends the emergency measures set out in Decision 2004/416/EC in respect of certain citrus fruit originating in Brazil. Following a review of available information the temporary emergency measures against *Xanthomonas campestris* (Citrus canker) which restricted imports of certain citrus fruits from Brazil have been withdrawn.
- Commission Implementing Decision 2012/756/EU which introduces emergency measures to prevent the further introduction into and spread within the Community of *Pseudomonas syringae* pv. *actindiae* Takikawa, Serizawa, Ichikawa, Tsuyumu and Goto (the casual agent of Kiwi canker). The Order adds *Pseudomonas syringae* pv. *actindiae* Takikawa, Serizawa, Ichikawa, Tsuyumu and Goto to the list of prohibited bacteria in the principal Order and introduces new requirements for the import and movement of susceptible plants.
- Commission Implementing Decision 2012/697/EU which introduces emergency measures to prevent the introduction and spread of *Pomacea* (Perry) (Apple snail) which causes harmful effects on aquatic plants. The Order adds *Pomacea* (Perry) to the list of prohibited molluscs in the principal Order and introduces new requirements for the import and movement of susceptible plants.
- Commission Implementing Decision 2012/270/EU which introduces emergency measures to prevent the introduction and spread of *Epitrix cucumeris*, *Epitrix similaris*, *Epitrix subcrinita* and *Epitrix tuberis* (Tuber flea beetle) which causes harmful effects to potato tubers. The Order adds *Epitrix cucumeris*, *Epitrix similaris*, *Epitrix subcrinita* and *Epitrix tuberis* to the list of prohibited insects, mites and nematodes in the principal Order and introduces new requirements for the import and movement of susceptible plants.
- Commission Implementing Decision 2012/138/EU which replaces Decision 2008/840/EC and amends the measures to prevent the introduction and spread of *Anoplophora chinensis* (Citrus longhorn beetle). Certain plant species which

were previously not covered by Decision 2008/840/EC are now subject to restrictions and others which were previously covered are now excluded.

- Commission Implementing Decision 2012/219/EU which recognises Serbia as free from *Clavibacter michiganensis* (Potato ring rot). The previous prohibition on the import of potatoes not intended for planting from Serbia is therefore removed.

7.3 This instrument also makes minor amendments to the Plant Health (England) Order 2005 to take account of changes to Commission Regulation (EC) 690/2008 recognising protected zones exposed to particular plant health risks in the EU.

8. Consultation outcome

8.1 This legislation implements EU legislation. The views of stakeholders were sought and taken into account during negotiations with the Commission and other Member States. Decision 2012/270 on *Epitrix* sp. in particular represents the outcome of a UK initiative to ensure that these harmful organisms were regulated at the EU level, before they had the opportunity to spread and establish. This initiative was pursued in collaboration with stakeholders from the range of sectors potentially affected by this organism.

9. Guidance

9.1 The main stakeholders have been informed of the proposed changes and a summary of the measures will be placed on the Defra website.

10. Impact

10.1 An impact assessment has not been prepared as the Order has no impact on the costs for business. The requirements apply mainly in countries exporting to the EU.

11. Regulating small business

11.1 The legislation applies equally to all businesses importing controlled plant health material, including small businesses.

12. Monitoring and review

12.1 The Directive (and therefore the Order) are updated frequently, to take account of new or revised risk assessments, pest interceptions, changes in distribution of pests and other developments.

13. Contact

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Tel: 0300 060 3806; e-mail: iain.johnstone@defra.gsi.gov.uk can answer any queries regarding this instrument.