

**EXPLANATORY MEMORANDUM TO  
THE PLANT HEALTH (ENGLAND) (AMENDMENT) (No. 3) ORDER 2013**

**2013 No. 2687**

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 strengthens the existing control measures against *Ceratocystis fimbriata* f. spp. *platani* Walter (a cause of plane canker stain) and *Cryphonectria parasitica* (Murrill) Barr (a cause of sweet chestnut tree blight) and extends the existing statutory notification scheme for certain tree species to include pine trees. It also implements Commission Implementing Decision 2013/253/EC as regards the recognition of certain third countries and certain areas of third countries as being free from *Xanthomonas campestris* (citrus canker), *Cercospora angolensis* Carv. et Mendes (citrus leaf spot) and *Guignardia citricarpa* Kiely (citrus blackspot).
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 EU<sup>1</sup> (“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 The instrument, which comes into force on 11 November 2013, will amend the principal Order by strengthening existing measures intended to protect the health of certain tree species. It will also implement Commission Implementing Decision 2013/253/EC which amends Decision 2006/473/EC in respect of those third countries and certain areas of third countries recognised as free from certain specific diseases of citrus fruit. The changes are described in more detail below.

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

## **5. Territorial Extent and Application**

5.1 This instrument applies to England only.

## **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 Report of the Tree Health and Plant Biosecurity Expert Taskforce published on 20 May 2013 recommended that biosecurity should be strengthened to reduce risks at the border and within the UK. Recommended measures include timely consideration of EU Protected Zone status to protect against new threats before they arrive, notification of the import of high-risk plants and monitoring of threats including pathways into the UK to take rapid action where necessary. A range of actions to address these recommendations is currently being considered.

7.2 In the meantime, the UK Plant Health Risk Group (which co-ordinates UK assessment and management of tree and plant health threats, involving representatives from Fera, Forestry Commission and Devolved Administrations), is continuing its monthly review of new and revised threats, including production of risk assessments and consultations on such assessments. Around 10-15 risk assessments are published for consultation each year, with the outcome helping to identify priorities for new or revised measures.

7.3 Many harmful organisms affecting tree health are already regulated through the EU Plant Health Regime and the UK makes good use of the EU Protected Zone system, which requires additional measures to be met when moving specified material into designated areas. The UK already has 11 Zones in place for organisms affecting tree species, the most of any Member State. The Plant Health Risk Group has reviewed the UK's Protected Zones, to consider whether additional measures are needed in relation to other organisms which are present elsewhere but not in the UK. This work is contributing to the response to Taskforce recommendations referred to above.

7.4 As a result of this work, taking account of the recommendations emerging from the Task Force, the Plant Health Risk Group has recommended strengthening existing measures aimed at protecting plane and sweet chestnut trees by requiring that material entering the UK comes from areas free from specific high risk diseases. These issues have also been identified as a priority during development of a UK plant health risk register, which was one of the recommendations arising from the Task Force.

7.5 Plane trees are regulated by the Plant Health Directive, with protection against *Ceratocystis platani* (plane canker stain), a serious disease of plane trees which has killed tens of thousands of plantation trees and street trees in the eastern

United States, California, and southern Europe. Infected trees typically die within 3-6 years. The disease is already present in Europe and, despite current EU wide legislation designed to limit its further spread, is still spreading in France and other southern member states. Although there has been no spread to the UK to date, the outcome of a consultation on a risk analysis for the UK Plant Health Risk Register has concluded that there was an imminent threat of introduction of Plane wilt through infected plants or wood, even with the existing EU measures in place. Climate does not appear to be an impediment to survival of the pathogen here. The new measures introduced through this instrument will mean that movements of plane trees into and within England, and from England to other Member States, will need to be accompanied by certain documentation confirming that they have been grown in a place of production in a country in which the disease is known not to occur or an area designated by plant health authorities as free of the disease. Equivalent changes are being made to the Plant Health (Forestry) Order 2005, as well as strengthening requirements for wood from plane trees being imported into Great Britain from third countries, for which the requirements are currently weaker than for wood being moved within the EU.

- 7.6 Sweet chestnut is also regulated by the Plant Health Directive, with protection against *Cryphonectria parasitica* (Chestnut blight), a harmful fungal disease. Additional requirements currently apply for movements into protected zones, including the UK, but these are restricted to wood and isolated bark. These requirements have proved deficient, as infected planting material from France has caused outbreaks in the UK. The new measures introduced through this instrument will require that material, including seeds, when introduced into or moved within England, or consigned from England to another Member State, to be accompanied by certain documentation confirming that the material comes from places of production in countries where Chestnut blight is known not to occur or from an area designated by plant health authorities as free from the disease.
- 7.7 Strengthened EU requirements are being pursued, through a case for protected zone status for the UK in relation to plane wilt and extending the current protected zone against chestnut blight to the whole of the UK (currently the Isle of Man is excluded). New requirements for movements of sweet chestnut planting material into protected zones are also being sought. However, EU measures will not be agreed and in place before the forthcoming autumn season for trading and planting trees. The national measures will be kept under review in light of developments at the EU level.
- 7.8 Pine trees are at risk from *Dothistroma pini* and *Dothistroma septosporum* (fungi which cause a needle cast of conifers) and *Thaumetopoea pityocampa* (pine processionary moth). As well as damaging pines, the hairs of the pine processionary caterpillar larvae cause harmful reactions in humans and other mammals. *Dothistroma septosporum* is regulated by the EU Plant Health Directive, but it is present and spreading in parts of the EU (it is known to be present in some parts of the UK). *Dothistroma pini* is not regulated, but is known to be present in certain other EU member states. The risk is that there could be further introductions and spread of these harmful organisms, including the

possibility of new strains emerging. The principal Order requires that imports of pine trees can only come into England from specific designated *Dothistroma* disease-free sites. However, we currently have no means of knowing the precise details of consignments arriving in England from other parts of the EU and so there remains a risk that infected trees could be imported. The pine processionary moth is currently unregulated, but is spreading northwards through France. There have been no interceptions or findings in the UK and it is unclear whether the UK climate would be suitable for its establishment. Work is in progress to assess the situation further, but notification of imports will help raise awareness, generate evidence about the scale of trade and facilitate inspections in the meantime. General powers are available to take action in the event of findings. The Plant Health (England) (Amendment) Order 2013 (S.I. 2013/ 23) introduced a statutory notification scheme for imports of plane, oak, sweet chestnut and ash trees. This was in response to the threat posed to these genera by certain organisms present elsewhere in Europe coming to England through the import of infected trees. This instrument extends the existing statutory notification scheme to require notification of imports of pine planting material.

- 7.9 The rationale for acting now is that winter is the main import and planting season for trees, while they are dormant. The main interception of ash trees infected with *Chalara fraxinea* and the outbreaks of sweet chestnuts infected with sweet chestnut blight involved trees imported over the winter period. A delay in introduction would mean that we would miss some of this crucial period.
- 7.10 Equivalent legislative changes are being prepared for plane and sweet chestnut, with the addition of certain changes on wood movements, by the Forestry Commission, updating the Plant Health (Forestry) Order 2005.
- 7.11 Similar measures to protect plane and sweet chestnut trees are being considered by the Devolved Administrations. Similar measures to protect pine trees are already in place in Scotland and are being considered by the other Devolved Administrations.
- 7.12 *Xanthomonas campestris* (citrus canker), *Cercospora angolensis* Carv. et Mendes (citrus leaf spot) and *Guignardia citricarpa* Kiely (citrus blackspot) are diseases of citrus fruit. Under the Plant Health Directive the import of citrus fruit is only permitted from those third countries or areas within third countries recognised in Commission Decision 2006/473/EC as free from those diseases. Following a review of available information, Commission Implementing Decision 2013/253/EU amends the list of disease free countries and areas set out in Decision 2006/473/EC.

## **8. Consultation outcome**

- 8.1 Stakeholders have supported the need for stronger measures, through consultation on initial risk assessments on these issues and at the stakeholder workshops which were arranged to help develop a plant health risk register. The recommendations arising from these workshops were supported by stakeholders at a Tree Health Summit held by the Secretary of State on 11 July.

## **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. The Plant Health and Seeds Inspectorate will liaise with individual clients about the new measures.

## **10. Impact**

- 10.1 Impact assessments have been prepared for each of the measures and copies are attached.

## **11. Regulating small business**

- 11.1 The new measures will apply to all businesses, including micro-businesses, importing plane, sweet chestnut and pine trees. The risk of introducing harmful organisms isn't mitigated by the size of the business importing material.

## **12. Monitoring and review**

- 12.1 The national measures to protect plane and sweet chestnut trees will be kept under review in light of developments at the EU level. In relation to pine, these measures will be kept under review in light of EU consideration of the future regulatory status of *Dothistroma septosporum* and *Dothistroma pini*, as well as the outcome of work to assess the risk from the pine processionary moth. Defra will continue to monitor the situation and the need for future amendments to take account of new or revised risk assessments, pest interceptions and other developments.

## **13. Contact**

- 13.1 Iain Johnstone, Defra, Second Floor, Lancaster House, Hampshire Court, Newcastle Business Park, Newcastle Upon Tyne, NE4 7YH;  
Tel: 0300 060 3806; e-mail: [iain.johnstone@defra.gsi.gov.uk](mailto:iain.johnstone@defra.gsi.gov.uk) can answer any queries regarding this instrument.