

EXPLANATORY MEMORANDUM TO
THE PLANT HEALTH (ENGLAND) (AMENDMENT) ORDER 2017

2017 No. 8

1. Introduction

- 1.1 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.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument amends the Plant Health (England) Order 2015 (S.I. 2015 No. 610) (“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 2016/715/EU and 2016/764/EU and the minor changes to a pest name in Commission Implementing Decision 2016/1359/EU.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 In its Ninth Report of Session 2015-16, the Joint Committee on Statutory Instruments reported article 46(1)(a) of the principal Order for defective drafting in respect of its references to articles 9, 18, 24(3) and 36 of that Order. This instrument contains amendments to the principal Order to address the specific issues of defective drafting raised by the Committee.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

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 2015 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.

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

- 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 6th February 2017. The changes are described in more detail below.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is to England and Wales.
5.2 The territorial application of this instrument is England.

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

What is being done and why

- 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 (EU) 2016/715 which sets out measures in respect of citrus fruits originating in Brazil, Uruguay and South Africa to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (Citrus blackspot), including a derogation for the import of citrus fruit destined exclusively for industrial processing into juice.
 - Commission Implementing Decision (EU) 2016/764 which amends Implementing Decision (EU) 2015/789 to strengthen the existing measures intended to prevent the introduction into and spread within the EU of *Xylella fastidiosa* (a bacterium which causes disease in a wide range of woody commercial plants such as grapevine, citrus, olive and several species of broadleaf trees).
 - Commission Implementing Decision (EU) 2016/1359 which amends Commission Implementing Decision 2012/270/EU on measures against the introduction into and the spread within the Union of *Epitrix* (Potato flea beetle) to change the name of one of the pests covered by Decision.

Consolidation

- 7.3 This is not a consolidation as this is the third instrument to amend the principal Order.

8. Consultation outcome

- 8.1 The changes outlined in paragraph 7.2 reflect those already in place at the EU level, which have been published by the European Commission. Some issues (i.e. *Phyllosticta citricarpa* and *Xylella fastidiosa*) have been subject to consultations with the sectors involved, while the others are mainly technical updates or have limited impact on UK business.

9. Guidance

- 9.1 The main stakeholders likely to be affected will be informed of the transposition of these EU changes and a summary of the measures will be placed on the Defra website.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies. The requirements apply mainly in countries exporting to the EU.
- 10.2 There is no impact on the public sector.
- 10.3 An impact assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 The legislation applies equally to all businesses importing controlled plant health material, including small businesses. The risk of introducing harmful organisms is not mitigated by the size of the business.

12. Monitoring & 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. A new EU Plant Health Regulation has recently been published as part of a package of revised regulations under the agri-food chain.

13. Contact

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