

EXPLANATORY MEMORANDUM TO
THE PLANT HEALTH (ENGLAND) (AMENDMENT) (NO. 5) ORDER 2018
2018 No. 1136

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.

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 extends current measures to protect against the introduction of *Xylella fastidiosa* from the EU following findings on olive trees in Belgium.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is to England and Wales.
4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 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)

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

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.

- 6.2 Commission Implementing Decision (EU) 2015/789 introduced measures intended to prevent the introduction into and spread within the EU of *Xylella fastidiosa*. Those measures have been amended and updated several times responding to scientific and disease developments, including findings in new areas. Changes, implemented on 1 March 2018 through the Plant Health (England) (Amendment) Order 2018, reflected key UK objectives and require official annual inspections of premises growing and trading host plants and testing of all symptomatic host plants detected during such inspections, prior to plant movements. For higher risk hosts (including olive trees) more prescriptive official inspection and testing is required, providing extra protection. In September 2018, additional requirements were introduced for movements of *Polygala myrtifolia*, in response to the increased risk status associated with this plant species.

7. Policy background

What is being done and why?

- 7.1 *Xylella fastidiosa* is a bacterium which causes disease in a wide range of woody plants such as grapevine, citrus, olive and several species of broadleaf trees, including native UK species. It represents a substantial plant health risk, due to its broad host range and significant economic, social and environmental impacts in areas where it is present. Once established it is very unlikely it could be eradicated.
- 7.2 At the October meeting of the Standing Committee on Plants, Animals, Food and Feed, Belgium confirmed their first findings of *Xylella fastidiosa*, on olive trees imported from Spain. There is a high level of olive plant surveillance in the EU, including a UK survey, as this is one of the principal hosts of the disease and three symptomatic olive trees were detected during routine surveillance of a wholesaler in Belgium and three non-symptomatic trees from the same lot have also tested positive. This is the first interception on traded olive trees and it is unclear at this stage whether this is indicative of a wider problem, or evidence of the surveillance system successfully picking up a problem at an early stage. It does, however, indicate a degree of uncertainty regarding the status of olive trees being traded in the EU, despite the strengthened legislation that has been introduced.
- 7.3 While the risk situation is kept under continuous review in light of ongoing developments, we are intending to extend the current statutory notification scheme for imports from EU member states to cover olive trees. As with species already included in this scheme, this would help to raise awareness in the trade, facilitate ongoing targeted checks and would also facilitate timely tracing in the event of any potential issues arising. While a comprehensive survey programme is already in place, such notifications would help with targeting specific imported consignments, giving the best prospects of intercepting any diseased trees at an early stage, preventing introduction. Such a change will be most beneficial if introduced quickly as olive trees are traded year round.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 This is not a consolidation as this is the fifth instrument to amend the principal Order.

10. Consultation outcome

10.1 There is good recognition and support for the importance of keeping the pest out of the UK by stakeholder groups. Stakeholders will benefit as a result of this SI being introduced and in fact welcome this. They regard *Xylella fastidiosa* as a major concern and support Government intervention in this area.

11. Guidance

11.1 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.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 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.

14. Monitoring & review

14.1 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 (Regulation (EU) 2016/20312) was published on 26 October 2016 as part of a package of revised regulations under the agri-food chain.

² This Directive can be found at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1519643730000&uri=CELEX:32016R2031>

15. Contact

- 15.1 Iain Johnstone, Defra, Second Floor, Lancaster House, Hampshire Court, Newcastle Business Park, Newcastle Upon Tyne, NE4 7YH; Tel: 02080 265265; e-mail: iain.johnstone@defra.gsi.gov.uk can answer any queries regarding this instrument.
- 15.2 Nicola Spence, Deputy Director for Plant Health, Bees and Seeds, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Gardiner at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.