

## EXPLANATORY MEMORANDUM TO

### THE PLANT HEALTH (FORESTRY) (AMENDMENT) (ENGLAND) ORDER 2019

2019 No. 1075

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Forestry Commission and is laid before Parliament by Command of Her Majesty.

#### 2. Purpose of the instrument

- 2.1 This instrument amends the Plant Health (Forestry) Order 2005 (S.I. 2015/2517) (“the principal Order”) which contains measures to prevent the introduction and spread of harmful plant pests and diseases.
- 2.2 It implements the specific control measures in Commission Implementing Decisions (EU) 2018/1503 and (EU) 2018/1959 and Commission Implementing Directive (EU) 2019/523.

#### 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 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 covers 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”). It establishes the EU plant health regime. The Plant Health Directive is implemented in England for 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.

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

6.2 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 and come into force either 21 days after the day on which the Order was laid or after 1 September 2019. The changes are described in more detail below.

## 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 measures are contained in the following pieces of EU legislation:

- a) Commission Implementing Decision (EU) 2018/1503 which establishes emergency measures to prevent the introduction into and the spread within the EU of *Aromia bungii*.
- b) Commission Implementing Decision (EU) 2018/1959 which establishes measures to prevent the introduction into and spread within the EU of the harmful organism *Agrilus planipennis* (Fairmaire) through wood originating in Canada and the United States of America.
- c) Commission Implementing Directive (EU) 2019/523 which amends Annexes 1 to V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of the following organisms harmful to plants or plant products and against their spread within the Community:
  - *Grapholita packardi*, the Cherry Fruitworm
  - *Ceratocystis platani* (J.M. Walter) Engelbr. & T.C. Harr., the cause of Canker Stain of Plane
  - *Fusarium circinatum* Nirenberg & O'Donnell, the cause of the Pitch Canker Disease
  - *Geosmithia morbida* Kolarik, Freeland, Utley & Tisserat, the causal agent, together with *Pityophthorus juglandis* Blackman, of the Thousand Cankers Disease

## 8. European Union (Withdrawal) Act 2018/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 2018.

## **9. Consolidation**

- 9.1 This is not a consolidation. The new EU Plant Health Regulation (Regulation (EU) 2016/2031<sup>2</sup>), part of a package of revised regulations under the agri-food chain, will apply from December 2019. Implementation of this new Regulation will require significant changes to domestic legislation later this year.

## **10. Consultation outcome**

- 10.1 The changes outlined in section 7.2 have been published by the European Commission, reflecting those already in place at the EU level.

## **11. Guidance**

- 11.1 The main stakeholders likely to be affected will be informed of the transposition of the changes and a summary of the measures will be placed on the Forestry Commission Plant Health GOV.UK web pages.

## **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 This Order 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.

## **15. Contact**

- 15.1 Dr John Morgan, Head of Plant Health, Forestry Commission can answer any queries regarding this instrument.  
15.2 Richard Greenhous, Director, Forest Services, Forestry Commission England can confirm that this Explanatory Memorandum meets the required standard.  
15.3 Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

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