

EXPLANATORY MEMORANDUM TO
The Plant Health Order (Northern Ireland) 2018
SR No. 184

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 2, 3 and 4(1) of the Plant Health Act (Northern Ireland) 1967 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. This instrument consolidates with amendments the Plant Health Order (Northern Ireland) 2006 (S.R. 2006 No. 82) which contains measures to prevent the introduction and spread of harmful plant pests and diseases and the Plant Health (*Phytophthora ramorum*) Order (Northern Ireland) 2005 (S.R. 2005 No. 23) which contains measures to prevent the introduction and spread of *Phytophthora ramorum* and various amendments to those Orders.

3. Background

- 3.1. This instrument (the Principal Order) implements the EU Plant Health regime established by 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 ("the Plant Health Directive") and Council Directives 69/464/EEC on the control of Potato Wart Disease, 93/85/EEC on the control of Potato Ring Rot, 98/57/EC on the control of Potato Brown Rot and 2007/33/EC on the control of Potato Cyst Nematodes. In relation to wood and bark matters the Plant Health Directive is implemented by the Plant Health (Wood and Bark) Order (Northern Ireland) 2006 (S.R. 2006 No. 66). Similar but separate legislation to the Principal Order operates in England, Scotland and Wales.
- 3.2. The Plant Health 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.
- 3.3. The EU instruments listed below have been adopted and 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. The measures are also implemented through this instrument. The changes are described in paragraphs 3.5 to 3.9.
- 3.4. This instrument also includes measures strengthening import and movement requirements for oak trees, to minimise the risk of further incursions of *Thaumetopoea processionea* (oak processionary moth (OPM)). OPM is regulated in the Plant Health Directive as a protected

zone pest, with most of the UK (other than an infested area including and around Greater London) having this status. Oak trees being moved into the UK protected zone from other parts of the EU and from the infested area must be accompanied by a plant passport confirming OPM freedom. A recent interception of OPM on oak trees from the Netherlands has highlighted that current import controls need to be strengthened.

- 3.5. The specific EU measures arising from technical changes in the assessment of the risks presented by particular pests and diseases are as follows:
- 3.6. Commission Implementing Directive 2017/1279 amends Annexes I to V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community reflecting technical changes in the assessment of risks presented by particular pests and diseases and introducing new measures to address risks presented by other pests and diseases.
- 3.7. Commission Implementing Decision 2017/2374 sets out conditions for the movement, storage and processing of certain citrus fruits and their hybrids which are destined for industrial processing and originate in third countries to prevent the introduction into the EU of *Phyllosticta citricarpa* (McAlpine) Van der Aa (Citrus blackspot), *Xanthomonas citri* pv. *citri* (Citrus canker) and *Xanthomonas citri* pv. *aurantifolii* (South American canker). Commission Implementing Directive 2017/1279 provides for citrus imported for processing and Commission Implementing Decision 2017/2374 sets the detailed requirements to facilitate this activity.
- 3.8. Commission Implementing Decisions (EU) 2016/715, (EU) 2017/801 and (EU) 2018/85 all relate to 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 provision for the import of citrus fruit destined exclusively for industrial processing into juice and strengthening measures which introduce an advance notice of landing requirement for fruit to be juiced in Northern Ireland and a requirement for a licence to move these fruits.
- 3.9. Commission Implementing Decisions (EU) 2017/2352 and (EU) 2018/927 implement the latest changes to Commission Implementing Decision (EU) 2015/789 which introduced measures intended to prevent the introduction into and the spread within the Union of *Xylella fastidiosa*, a bacterium which causes disease in a wide range of woody plants such as grapevine, citrus, olive and several species of broadleaf trees. The original measures have been amended and updated several times responding to scientific and disease developments, including findings in new areas. The disease is not present in the UK but has limited distribution in some other European countries. The latest changes reflect 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, more prescriptive official inspection and testing is required providing strengthened protection against

the risk of disease spread via infected plants, although the risk situation remains under continuous review to determine if additional measures are needed.

4. Consultation

- 4.1. There is good recognition and support for the importance of keeping OPM out of the UK by stakeholder groups. The main stakeholder organisations have been consulted through the Tree Health Policy Group and the measures have been replicated in England and Scotland.
- 4.2. The changes outlined in paragraphs 3.5 to 3.9 reflect those already in place at the EU level, which have been published by the European Commission. Stakeholders have been involved during discussions on development of the new measures on *Xylella fastidiosa* and are fully supportive of strengthened measures to protect Northern Ireland from this serious plant pest, which is present in other EU Member States, and have taken voluntary measures to reduce the risk of introducing the disease.
- 4.3. Other issues are mainly technical updates or have limited impact on Northern Ireland business.

5. Equality Impact

- 5.1. Not applicable. This Order has been screened out for equality impacts. No impact on any Section 75 group is anticipated.

6. Regulatory Impact

- 6.1. There is no impact on business, charities or voluntary bodies. The requirements apply mainly in countries exporting to the EU.
- 6.2. There is no impact on the public sector.
- 6.3. A Regulatory Impact Assessment has not been prepared for this Statutory Rule.

7. Financial Implications

- 7.1. The Order has no financial implications for business.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. This Statutory Rule does not have any human rights implications nor is it incompatible with EU law. The Order is therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. This legislation includes implementation of Commission Implementing Directive (EU) 2017/1279, Commission Implementing Decisions (EU) 2017/2374, (EU) 2016/715, (EU) 2017/801, (EU) 2018/85, and (EU) 2017/2352 and (EU) 2018/927.

10. Parity or Replicatory Measure

- 10.1. Similar but separate legislation to the Principal Order operates in England, Scotland and Wales.

11. Additional Information

11.1. Not applicable.