

EXPLANATORY MEMORANDUM TO

The Plant Health (Amendment No. 2) Order (Northern Ireland) 2019

SR No. 151

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 Statutory Rule amends the Plant Health Order (Northern Ireland) 2018 (S.R. 2018 No. 184) ("the principal Order") which contains measures to prevent the introduction and spread of harmful plant pests and diseases. It strengthens current measures to protect against the introduction of *Thaumetopoea processionea* L. (the Oak Processionary Moth) into Northern Ireland.

3. Background

- 3.1. 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 ("the Plant Health Directive") establishes the EU plant health regime. The Plant Health Directive (and therefore the principal Order) is updated frequently, to take account of new or revised risk assessments, pest interceptions, changes in distribution of pests and other developments. The Plant Health Directive is implemented in Northern Ireland by the Plant Health Order (Northern Ireland) 2018 and, in relation to wood and bark matters, by the Plant Health (Wood and Bark) Order (Northern Ireland) 2006 (2006 No. 66). Similar but separate legislation operates in England, Scotland and Wales.
- 3.2. Under the Plant Health Directive, Northern Ireland is a protected zone with regard to the Oak Processionary Moth (OPM). DEFRA has confirmed the finding of OPM caterpillars on oak trees for planting recently imported into England from the Netherlands and Germany. It is therefore necessary to introduce urgent measures to prevent the spread of OPM to Northern Ireland.
- 3.3. This Statutory Rule will amend the principal Order by strengthening measures to address the increased risk of OPM being introduced into Northern Ireland. The amendment is to be implemented through this instrument which comes into operation on 22 July 2019.

4. Consultation

- 4.1. A targeted stakeholder consultation was carried out with key stakeholders involved in the importation and planting of oak trees in Northern Ireland.

All those contacted indicated support for the legislative change and the proactive steps being taken by the Department to mitigate the risk.

5. Equality Impact

- 5.1. This Order has been screened out for equality impacts. The implementing measures will apply in equal measure to all Section 75 groups. No impact on any Section 75 group is anticipated.

6. Regulatory Impact

- 6.1. This legislation applies to activities that are undertaken by small businesses.
- 6.2. There is no, or no significant impact on business, charities, voluntary bodies or 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. None.

10. Parity or Replicatory Measure

- 10.1. England introduced similar but separate legislation on 15 July 2019. Scotland and Wales are in the process of introducing similar legislation for their respective devolved administrations.

11. Additional Information

- 11.1. This instrument does not relate to withdrawal from the European Union.
- 11.2. The emergency measures against OPM come into operation on 22 July 2019 in breach of the rule requiring instruments to be laid at least 21 days before they come into effect, as action is needed urgently to prevent further introductions of this pest.