

EXPLANATORY MEMORANDUM TO
THE PLANT HEALTH (*PHYTOPHTHORA KERNOVII* MANAGEMENT ZONE)
(ENGLAND) (REVOCATION) ORDER 2014

2014 No. 2875

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 revokes the Plant Health (*Phytophthora kernovii* Management Zone) (England) Order 2004 (S.I. 2004/3367).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

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 2005 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.

4.2 The Plant Health (*Phytophthora kernovii* Management Zone) (England) Order 2004 (S.I. 2004/3367) gave plant health inspectors additional powers to those conferred on them by the Plant Health (England) Order 2005) and by the Plant Health (Forestry) Order 2005 for the purpose of containing within and eradicating from an area within Cornwall *Phytophthora kernovii*.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

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

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

- 7.1 In the course of surveys for *Phytophthora ramorum* in October 2003, another species of *Phytophthora*, *Phytophthora kernovii*, was found in Cornwall severely affecting beech trees and rhododendrons. This pathogen is taxonomically a distant cousin of *P. ramorum*. The Plant Health (*Phytophthora kernovii* Management Zone) (England) Order 2004 gave plant health inspectors additional powers to those conferred on them by the Plant Health (Great Britain) Order 1993 and by the Plant Health (Forestry) (Great Britain) Order 1993 for the purpose of containing within and eradicating from an area within Cornwall *P. kernovii*. (These orders were replaced by the Plant Health (England) Order 2005 and by the Plant Health (Forestry) Order 2005.) The movement of susceptible material from within the zone to outside the zone was prohibited without the written authority of an inspector. Inspectors could, for the purpose of preventing the spread of *P. kernovii*, close footpaths within the zone.
- 7.2 Since the first discovery of *P. kernovii* in 2003, there have been further findings in woodlands, gardens and nurseries in the South West, Scotland, Ireland and on a range of other tree and shrub hosts. The Plant Health (*Phytophthora kernovii* Management Zone) (England) Order 2004 can therefore now be revoked. The findings of *P. kernovii* have gone well beyond the bounds of the infected zone which the order instituted. The practical impact of the removal of these controls is minimal as management of the disease has been aligned with the management of other quarantine pests and diseases such as *P. ramorum*. In particular, specific requirements to prevent the spread of *P. kernovii* and pursue its eradication can be prescribed in statutory Notices issued under the Plant Health (England) Order 2005 and the Plant Health (Forestry) Order 2005. Such Notices are not restricted to the Management Zone and can be targeted at individual findings.

8. Consultation outcome

- 8.1 As the practical impact of the removal of these controls is minimal, a consultation is unnecessary.

9. Guidance

- 9.1 A brief note on the revocation of the measures will be placed on the Defra website.

10. Impact

- 10.1 An impact assessment has not been prepared as the Order has no impact on the costs for business.

11. Regulating small business

- 11.1 No impact on small businesses is foreseen.

12. Monitoring and review

- 12.1 N/A

13. Contact

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Tel: 0300 060 3806; e-mail: iain.johnstone@defra.gsi.gov.uk can answer any queries regarding this instrument.