

**EXPLANATORY MEMORANDUM TO**  
**THE PLANT HEALTH (ENGLAND) (AMENDMENT) (NO. 4) ORDER 2018**  
**2018 No. 1051**

**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 implements the specific control measures in Commission Implementing Decision (EU) 2018/638 and updates the principal Order to clarify all the material that is subject to import checks

**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 EU<sup>1</sup> (“the Plant Health Directive”) establishes the EU plant health regime. The Plant Health Directive is implemented in England by the Plant Health (England) 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.

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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.
- 6.3 These amendments are to be implemented through this instrument which comes into force on 1 November 2018. 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:
- Commission Implementing Decision (EU) 2018/638 which establishes emergency measures to prevent the introduction into and spread within the Union of *Spodoptera frugiperda*.
  - Commission Implementing Decision (EU) 2018/490 which repeals Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* as the organism is now widespread throughout most parts of the endangered area.
- 7.3 This instrument also removes provisions relating to Commission Implementing Decision (EU) 2014/237 on measures to prevent the introduction into and the spread within the Union of harmful organisms as regards certain fruits and vegetables originating in India and Commission Implementing Decision (EU) 2015/1849 on measures to prevent the introduction into and the spread within the Union of harmful organisms as regards certain vegetables originating in Ghana, which are no longer in force.
- 7.4 It also updates the principal Order to clarify all the material subject to import checks.

## 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 The changes outlined in paragraph 7.2 reflect those already in place at the EU level, which have been published by the European Commission and have been subject to consultations with the sectors involved.

## **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. The requirements apply mainly in countries exporting to the EU. The revocation of Decision 2007/365/EC on emergency measures against *Rhynchophorus ferrugineus* has no practical impact in the UK, which has now been designated a Protected Zone for this pest, so there is ongoing protection against introductions
- 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) 2016/2031<sup>2</sup>) was published on 26 October 2016 as part of a package of revised regulations under the agri-food chain.

## **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.

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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>