

EXPLANATORY MEMORANDUM TO
THE PLANT HEALTH (ENGLAND) (AMENDMENT) (NO. 2) ORDER 2018
2018 No. 320

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) 2017/2374 and Commission Implementing Directive (EU) 2017/1920.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

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 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.
- 4.2 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.
- 4.3 These amendments are to be implemented through this instrument which comes into force on 1 April 2018. The changes are described in more detail below.

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

5. Extent and Territorial Application

- 5.1 The extent of this instrument is to England and Wales.
- 5.2 The territorial application of this instrument is England.

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

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) 2017/2374 which 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). There is already provision in the Directive for citrus imported for processing and this Decision sets the detailed requirements to facilitate this activity, which is a helpful initiative for certain UK companies.
 - Commission Implementing Directive (EU) 2017/1279 which amends Annex IV to Council Directive 2000/29/EC as regards the movement of seeds of *Solanum tuberosum* L. (potatoes) originating in the EU. Specifically, provision is made for the movement of true potato seed, to complement the requirements already in place for seed potato tubers.
- 7.3 This instrument also corrects an error in Article 19A(2)(c) of the principal Order by reinstating “quantity” to the list of matters to be notified when landing certain plants for planting.
- 7.4 It also corrects an error in Schedule 8B of the principal Order by adding conifers (*Coniferales*) to the list of material which may be imported from a third country via Switzerland with a plant passport.

Consolidation

- 7.5 This is not a consolidation as this is the fourth instrument to amend the principal Order.

8. Consultation outcome

- 8.1 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.

9. Guidance

- 9.1 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.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies. The requirements apply mainly in countries exporting to the EU.
- 10.2 There is no impact on the public sector.
- 10.3 An impact assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 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.

12. Monitoring & review

- 12.1 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) 2016/20312) was published on 26 October 2016 as part of a package of revised regulations under the agri-food chain.

13. Contact

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Tel: 02080 265265; e-mail: iain.johnstone@defra.gsi.gov.uk can answer any queries regarding this instrument.

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