

## EXPLANATORY MEMORANDUM TO

### THE PLANT HEALTH (ENGLAND) (AMENDMENT) ORDER 2018

2018 No. 71

#### 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) 2017/2352.

#### 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 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.
- 4.2 Commission Implementing Decision (EU) 2015/789 introduced measures intended to prevent the introduction into and spread within the EU of *Xylella fastidiosa*. The original measures have been amended and updated several times responding to scientific and disease developments, including findings in new areas. This instrument implements the latest changes, introduced through Commission Implementing Decision (EU) 2017/2352, responding to technical changes in the assessment of the risks presented by *Xylella fastidiosa*.
- 4.3 These amendments are to be implemented through this instrument which comes into force on 14 February 2018. The provisions relating to the official inspection and testing of the higher risk hosts, described in paragraph 7.3 will come into force on 1 March 2018. The changes are described in more detail below.

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<sup>1</sup> 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 revised EU measures to prevent the further introduction and spread within the EU 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 disease is not present in the UK but has limited distribution in some other European countries.
- 7.2 Commission Implementing Decision (EU) 2015/789 introduced measures intended to prevent the introduction into and spread within the EU of *Xylella fastidiosa*. The original measures have been amended and updated several times responding to scientific and disease developments, including findings in new areas. The latest changes, introduced through Commission Implementing Decision (EU) 2017/2352, reflect key 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.
- 7.3 For higher risk hosts (e.g. *Polygala myrtifolia*) more prescriptive official inspection and testing is required (referring to statistical levels and prescribed diagnostic methods), providing extra protection. This strengthens 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. These requirements will come into force on 1 March 2018, in line with Commission Implementing Decision (EU) 2017/2352.

### *Consolidation*

- 7.4 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. Stakeholders have been involved during discussions on development of the new measures and are fully supportive of strengthened measures to protect the UK 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.

## **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 has recently been published as part of a package of revised regulations under the agri-food chain.

## **13. Contact**

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