

EXPLANATORY MEMORANDUM TO
THE MARKETING OF ORNAMENTAL PLANT PROPAGATING MATERIAL
(AMENDMENT) (ENGLAND AND WALES) REGULATIONS 2018

2018 No. 974

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 Marketing of Ornamental Plant Propagating Material Regulations 1999 (S.I. 1999 No 1801) which contain the marketing requirements for ornamental plant propagating material. It implements additional marketing requirements for certain species of *Palmae* (palms, including trees).

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 England and Wales
- 4.2 The territorial application of this instrument is England and Wales
- 4.3 The Scottish Ministers will be making corresponding provision for Scotland.
- 4.4 The Department of Agriculture, Environment and Rural Affairs in Northern Ireland will be making corresponding provision for Northern Ireland.

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 1998/56/EC sets out the marketing requirements for ornamental plant propagating material. It is implemented in Great Britain by the Marketing of Ornamental Plant Propagating Material Regulations 1999.
- 6.2 Commission Implementing Directive (EU) 2018/484 sets out further marketing requirements for ornamental propagating material of certain species of palm to

prevent infestation of the harmful organism *Rhynchophorus ferrugineus* (Olivier), also known as red palm weevil.

7. Policy background

What is being done and why?

- 7.1 Red palm weevil is a harmful organism that can cause severe damage to certain species of palms, including palm trees. Until recently it was classed by the EU as a quarantine pest and regulated by means of emergency plant health measures to prevent its introduction and spread. With this organism now known to be widespread throughout the majority of Member States, a decision was taken at EU level to remove it from the list of plant health quarantine pests and in future ensure the quality of the propagating material through specific marketing requirements. The UK is one of the few Member States where red palm weevil is not known to be present. It's removal from the list of quarantine pests does not affect the UK's protected zone status¹ for which strict plant health controls will still be in place to ensure the UK continues to remain free from the pest.

This instrument sets out specific requirements to ensure the quality of propagating material of certain species of palm which, without such controls in place, would be at risk of infestation by red palm weevil. It ensures that if the UK's protected zone status should end, propagating material of ornamental palms would still be protected from infestation through the marketing regulations. This instrument is therefore necessary in the UK for reasons of biosecurity.

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 2018.

9. Consolidation

- 9.1 As this instrument is the second amendment to the Marketing of Ornamental Plant Propagating Material Regulations 1999 and the changes are simple in nature, a consolidation is not considered appropriate. Informal consolidation of new instruments is available to the public free of charge via the National Archives website: <http://www.legislation.gov.uk>.

10. Consultation outcome

- 10.1 There is no legal requirement to consult.

11. Guidance

- 11.1 The main stakeholders involved in the production and marketing of ornamental palms will be informed of the new measures by means of an information note which will be placed on the Defra website.

¹ A protected zone is defined in the EU Plant Health Directive as a zone in which a harmful organism which is established in parts of the EU, is not endemic or established despite favorable conditions. Protected zone status allows the UK to place restrictions on suppliers in countries where the pest is present.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 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 because the level of impact per business is low.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses
- 13.3 The UK's continuing protected zone status for red palm weevil means there is no change in the regulatory burden.

14. Monitoring & review

- 14.1 Because of the UK's protected zone status this instrument has no economic impact. Accordingly and in line with the requirements of the Small Business, Enterprise and Employment Act 2015 a review clause is not considered appropriate. Lord Gardiner has confirmed this in the following statement:

"A review would be disproportionate when taking in to account the economic impact of the regulatory provision on the qualifying activity".

15. Contact

- 15.1 Andy Mitchell at the Department for Environment, Food and Rural Affairs
Telephone: 02080265714 or email: andy.mitchell@defra.gsi.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Nicola Spence at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Gardiner of Kimble at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.