

**EXPLANATORY MEMORANDUM TO
THE PLANT HEALTH (ENGLAND)(AMENDMENT)(No.2) ORDER 2007**

2007 No. 2950

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.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

This Order amends the Plant Health (England) Order 2005 ('the principal Order') which contains measures to prevent the introduction and spread of harmful plant pests and diseases. It implements Commission Directive 2007/41/EC and Commission Decisions 2007/365/EC, 2007/433/EC, 2007/410/EC and Commission Decision 2004/416/EC, as amended by Decision 2006/473/EC

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

None.

4. **Legislative Background**

- 4.1 Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ("the Plant Health Directive") establishes the Community plant health regime. It contains measures to be taken in order to prevent the introduction into, and spread within, the Community of serious pests and diseases of plants and plant produce. The Directive is implemented in England, for non-forestry matters, by the Plant Health (England) Order 2005. Similar but separate legislation operates in Scotland, Wales and Northern Ireland.
- 4.2 A number of Community instruments have been adopted amending the annexes of the Directive as a result of technical changes in the assessment of risks presented by particular pests and diseases and introducing new measures to address risks presented by other pests and diseases. These amendments are described in more detail below. The current Statutory Instrument makes the necessary amendments to the Plant Health (England) Order.
- 4.3 The amending Order is made under sections 2 and 3(1) of the Plant Health Act 1967, which enable the Secretary of State to make Orders for the purposes of preventing the introduction of plant pests into England and to prevent their spread.

5. Extent

This instrument applies to England only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Plant Health Directive (Council Directive 2000/29/EC) establishes the Community plant health regime. It contains measures to be taken in order to prevent the introduction into, and spread within, the Community of serious pests and diseases of plants and plant produce. The amendments to the Plant Health Directive which this amendment Order implements arise from technical changes in the assessment of the risks presented by particular pests and diseases. Details of the Commission legislation amending the Plant Health Directive are as follows:

- (i) **Commission Directive 2007/41/EC** makes minor changes to the list of areas recognised in Directive 2000/29 as protected zones against certain organisms harmful to plant health in the Community. None of these changes apply to the UK. The Directive also adds *Vitis L.* to the list of material requiring a plant passport when introduced into or moved within a protected zone.
- (ii) **Commission Decision 2007/365/EC** introduces emergency measures to prevent the introduction into and spread within the Community of *Rhynchophorus ferrugineus* (Red palm weevil), a serious pest of palms such as the coconut palm, date palm or oil palm. The order adds *Rhynchophorus ferrugineus* to the list of prohibited insects in the Plant Health (England) Order 2005 and introduces new requirements for the import and movement of susceptible plants.
- (iii) **Commission Decision 2007/433/EC** introduces emergency measures to prevent the introduction into and spread within the Community of *Gibberella circinata*, a fungus which can cause significant mortality on *Pinus* species. The order adds *Gibberella circinata* to the list of prohibited fungi in the Plant Health (England) Order 2005 and introduces new requirements for the import and movement of susceptible plants.
- (iv) **Commission Decision 2007/410/EC** introduces additional measures to prevent the introduction and spread of Potato spindle tuber viroid, an important pathogen of solanaceous crops which can cause yield losses of up to 65% in potato and 50% in tomato. Introduction of the organism is already prohibited under existing legislation but it has been found recently in association with on new host material. The order restricts the introduction and movement of the relevant host material.
- (v) Following a series of findings on citrus fruit from Brazil and Argentina, Commission Decision 2004/416/EC laid down temporary emergency

measures to prevent the introduction of *Guignardia citricarpa* and *Xanthomonas campestris*, (bacterial pathogens harmful to citrus fruit) from those countries. **Commission Decision 2006/473/EC** lifts the restrictions on citrus fruits originating in Argentina, reflecting a decrease in the number of problems with consignments from that country. This amendment order implements Decision 2004/416 as regards citrus fruit from Brazil.

- 7.2 The measures introduced through this amendment order are intended to prevent the introduction and spread of plant pests and diseases. Failure to implement the measures would place the UK and the wider EU at risk from the relevant pests and diseases and could also lead to infraction action by the European Commission.

8. Impact

A regulatory impact assessment has not been prepared as the Order has no impact on the costs for business.

9. Contact

Iain Johnstone (Defra, Plant Health, 1st Floor, The Quadrant, Newburn Riverside, Newcastle Upon Tyne, NE15 8NZ. Tel: 0191 229 5482, e-mail: iain.johnstone@defra.gsi.gov.uk) can answer any queries regarding the instrument.

TRANSPOSITION TABLE

Plant Health (England) (Amendment) (No. 2) Order 2007

This Order implements the following Community instruments:

Commission Decision 2007/365/EC (*Rhynchophorus ferrugineus*)

Provision	Purpose	Transposition (reference to provision in the Plant Health (England) (Amendment) (No. 2) Order 2007)
Article 2	prohibition on introduction and spread of pest	Article 3(2) (<i>insert pest name into list in Schedule 1A</i>)
Article 3	prohibition on import of susceptible plants without phytosanitary certificate and inspection	Article 3(3) (<i>add susceptible plants and phytosanitary certificate requirements to Sch 4A</i>) Article 3(5) (<i>add susceptible plants to Sch 5</i>)
Article 4	prohibition on movement of susceptible plants without plant passport	Article 3(4) (<i>add susceptible plants and passport requirements to Sch 4B</i>) Article 3(5) (<i>add susceptible plants to Sch 6 and 7</i>)
Article 5(2)	requirement to notify suspected or confirmed presence of pest	No transposition necessary – already a requirement in art. 42(2) of the Plant Health (England) Order 2005
Article 6	establishment of demarcated areas	Not transposed; separate legislation will be introduced if a need for demarcated areas arises

Commission Decision 2007/433/EC (*Gibberella circinata*)

Provision	Purpose	Transposition (reference to provision in the Plant Health (England) (Amendment) (No. 2) Order 2007)
Article 2	prohibition on introduction and spread of pest	Article 4(2) (<i>insert pest name into list in Schedule 1A</i>)
Article 3	prohibition on import of susceptible plants without phytosanitary certificate and inspection	Article 4(3) (<i>add susceptible plants and phytosanitary certificate requirements to Sch 4A</i>) Article 4(5) (<i>add susceptible plants to Sch 5</i>)
Article 4	prohibition on movement of susceptible plants without plant passport	Article 4(4) (<i>add susceptible plants and passport requirements to Sch 4B</i>) Article 4(6) (<i>add susceptible plants to Sch 6 and 7</i>)
Article 5(2)	requirement to notify suspected or confirmed presence of pest	No transposition necessary – already a requirement in art. 42(2) of the Plant Health (England) Order 2005
Article 6 (and Annex II)	establishment of demarcated areas	Not transposed; separate legislation will be introduced if a need for demarcated areas arises

Commission Decision 2007/410/EC (Potato spindle tuber viroid)

Provision	Purpose	Transposition (reference to provision in the Plant Health (England) (Amendment) (No. 2) Order 2007)
Article 1	prohibition on import of susceptible plants without phytosanitary certificate and	Article 5(2) (<i>add list of susceptible plants and phyto requirements to Sch 4A</i>)

	inspection	Article 5(4) (<i>add list of susceptible plants to Sch 6 and 7 / note – Solanum J covered by item 3</i>)
Article 2	prohibition on movement of susceptible plants without plant passport	Article 5(3) (<i>add list of susceptible plants and passport requirements to Sch 4B</i>)
Article 3(2)	requirement to notify suspected or confirmed presence	No transposition necessary – already a requirement in art. 42(2) of the Plant Health (England) Order 2005

Commission Decision 2004/416/EC, as amended by Commission Decision 2007/347/EC (citrus fruits)

Provision	Purpose	Transposition (reference to provision in the Plant Health (England) (Amendment) (No. 2) Order 2007)
Article 1	Amendments to import requirements for certain citrus fruits	Article 6 (<i>amend phytosanitary certificate requirements in Sch 4A</i>)

Commission Directive 2007/41/EC (amendments to protected zones)

Provision	Purpose	Transposition (reference to provision in the Plant Health (England) (Amendment) (No. 2) Order 2007)
Annex, points 1-4	amendments to protected zones	<i>Transposition not required as these apply to protected zones outside the UK</i>
Annex, point 5	requirements for plant passports for movement to protected zones;	Article 7 (<i>add Vitis L. to list in Sch 7B, item 3</i>)

