

**EXPLANATORY MEMORANDUM TO**  
**THE PLANT HEALTH (ENGLAND) (AMENDMENT) (No.2) ORDER 2008**

**2008 No. 2765**

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. 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 introduces emergency measures against *Anoplophora chinensis* (citrus longhorn beetle).

**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. Under Directive 2000/29/EC the introduction and spread within the EU of citrus longhorn beetle is prohibited but no measures are specified in respect of plant material susceptible to it. The European Commission has adopted a draft Decision designed to introduce such measures but the Decision is not yet in force. The current Order amends the Plant Health (England) Order 2005 to implement these new controls in advance of the publication of the draft Decision (Member States being permitted to take such domestic measures under Article 16(2) of the Plant Health Directive).

**5. Territorial Extent and Application**

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 Citrus longhorn beetle is a damaging quarantine pest of a range of trees and shrubs. The common name is misleading because this pest can be found on many different species of trees, and outbreaks in northern Italy, and of the related *Anoplophora glabripennis* in the USA, have shown the potential of these pests to move with international trade and cause damage. The natural range of the beetle includes China, Japan and other countries in South East Asia. They are a threat to horticulture, forestry and woodland trees in the UK and also to citrus production in the Mediterranean. The South East of England is most at risk, given its climate, area of woodland and quantity of hardy nursery stock traded. Should an outbreak occur, it is estimated that the costs of eradication would range between £21m (for a low impact outbreak, involving 2,500 trees) to £325m (for a high impact outbreak, involving 5% of the value of the trees in London). On this basis, there is a strong cost: benefit justification for continuing to exclude citrus longhorn beetle.
- 7.2 In response to the recent findings of citrus longhorn beetle in the UK and elsewhere (particularly Netherlands and Germany) emergency measures have recently been agreed by the Standing Committee on Plant Health. The Commission are in the process of notifying the new requirements under the World Trade Organisation/Sanitary and Phytosanitary Measures procedures. They are expected to be formally adopted by the Commission and published in the Official Journal of the EU around the end of October.
- 7.3 The measures include restrictions on the import of a wide range of plants from countries where the beetle is known to be present, which requires plants to have been grown in a pest free area or a pest free production site, and monitored for at least two years. Unless the countries where citrus longhorn beetle is known to be present already have areas or places of production which have been monitored and found free for the last two years, this amounts to a de facto ban while they set up the necessary arrangements to ensure that consignments can be sent without the pest in future.
- 7.4 In view of the clear urgency of the situation consideration was given to breaking the 21-day rule and bringing the measures into force in England immediately, which would prohibit entry of any consignments not meeting the new requirements, before the beginning of the import season which starts in October. On balance, however, it was felt that a more proportionate and diplomatic response was to publish the measures first and bring them into force later, so as to enable consignments already in transit to enter the UK if pest free and to provide reasonable notice of the changes to authorities in affected countries and to importers.
- 7.5 We have informed the relevant plant health authorities that consignments arriving in the UK after the measures come into force will have to have the necessary additional declaration on the phytosanitary certificate, and will be subject to inspection at import, including some destructive sampling (this pest can be very

difficult to detect without actually cutting the plants open). Any consignments arriving prior to the new legislation being in force will be subject to intensive inspection, including destructive sampling, and destruction or rejection if there is any evidence of infestation. Some other Member States (particularly Netherlands and Germany) are also taking the same approach, to ensure there is no delay in implementation of the EU requirements.

- 7.6 We have written to the main industry groups in England which are likely to be affected by the new measures and will also add a note to our website.

## **8. Impact**

A regulatory impact assessment has not been prepared as the Order has minimal impact on the costs for business.

## **9. Contact**

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