

EXPLANATORY MEMORANDUM TO
THE PLANT HEALTH (ENGLAND) (AMENDMENT) ORDER 2009

2009 No. 587

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. Purpose of the instrument**

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 2009/7/EC .

It also corrects an error in the principal Order in relation to a prohibition on the import of plants of citrus.

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

None.

- 4. Legislative context**

- 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 Commission Directive has 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 changes 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(1) 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. 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 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 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. The requirements aim to protect the EU from harmful organisms and to facilitate trade.

7.2 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. Based on evidence supplied by Member States, Commission Directive 2009/7/EC amends the list of harmful organisms in the main Directive to improve protection against their introduction into the EU. The following harmful organisms, which are so far not known to be present in the Community, have been added to the list of prohibited organisms:

- *Dendrolimus sibiricus* (Siberian coniferous silk moth)
- *Rhynchophorus palmarum* (American palm weevil)
- *Agrilus planipennis* (Emerald ash borer) on plants of *Fraxinus*, *Juglans mandshurica*, *Ulmus davidiana*, *Ulmus parvifolia*, and *Pterocarya rhoifolia*
- Chrysanthemum stem necrosis virus on plants of *Dendranthema* and *Lycopersicon lycopersicum*
- *Scrobipalopsis solanivora* (Guatemalan potato moth) on tubers of *Solanum tuberosum*
- *Stegophora ulmea* (Black spot of elm) on plants of *Ulmus* and *Zelkova*, intended for planting, other than seeds.

7.3 Requirements for the import of host plants of these organisms have also been amended to take account of their addition to the list of prohibited organisms.

7.4 In addition, measures to protect against the further spread of *Paysandisia archon* (South American palm borer), found in some areas in the Community on 11 genera of palm trees and under official control, have been tightened.

7.5 Changes have been made to the names of *Saissetia nigra* (Nigra scale – a pest of ornamental plant families) and *Diabrotica virgifera* Le Conte (a serious pest of maize) in line with the revised scientific denominations of those organisms. *Saissetia nigra* has become *Parasaissetia nigra*. *Diabrotica virgifera* Le Conte has been split into

two subspecies, *Diabrotica virgifera virgifera* Le Conte, regionally present in the Community, and *Diabrotica virgifera zea*, not present in the Community.

7.6. The Order also corrects an error in the principal Order in relation to a prohibition on the import of plants of citrus.

8. Consultation outcome

8.1 This legislation implements a Commission Directive. The views of stakeholders were sought and taken into account during negotiations with the Commission and other Member States.

9. Guidance

9.1 We have informed the main stakeholders and a summary of the changes will be placed on our website.

10. Impact

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

11. Regulating small business

11.1 The legislation applies equally to all businesses importing controlled plant health material, including small businesses.

12. Monitoring and 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.

13. Contact

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