

EXPLANATORY MEMORANDUM TO
THE PLANT HEALTH (FORESTRY) (ENGLAND AND SCOTLAND)
(AMENDMENT) ORDER 2013

2013 No. 2691

1. This explanatory memorandum has been prepared by the Forestry Commission and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends the Plant Health (Forestry) Order 2005 ('the principal Order') which contains measures to prevent the introduction and spread of harmful tree pests and diseases. It introduces emergency measures to strengthen the existing measures against the fungal diseases *Cryphonectria parasitica* (the cause of sweet chestnut blight) and *Ceratocystis fimbriata* sp. *platini* (the cause of plane canker stain). The Order also implements specific control measures in Commission Implementing Decision 2012/138/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Anoplophora chinensis* (Citrus longhorn beetle).

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

3.1 None

4. Legislative Context

4.1 Council Directive 2000/29/EC on protective measures against the introduction into the European Union of organisms harmful to plants or plant products and against their spread within the EU¹ ("the Plant Health Directive") establishes the EU plant health regime. The Plant Health Directive is implemented in Great Britain for forestry matters by the principal Order, but the functions of the Forestry Commissioners under the principal Order were transferred as regards Wales to the Welsh Ministers on 1 April 2013 by S.I. 2013/755. Similar but separate legislation implements the Plant Health Directive for non-forestry matters in England, Wales and Scotland.

4.2 The instrument, which comes into force on 11th November 2013, will amend the principal Order by strengthening existing measures to protect the health of certain tree species. The changes are described in more detail below.

5. Territorial Extent and Application

5.1 This instrument extends to Great Britain, but applies in relation to England and Scotland only.

6. European Convention on Human Rights

¹ This Directive can be found at <http://europa.eu.int/eur-lex/en/search/index.html>.

6.1 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 Report of the Tree Health and Plant Biosecurity Expert Taskforce published on 20 May 2013 recommended that biosecurity should be strengthened to reduce risks at the border and within the UK. One recommendation was timely consideration of EU Protected Zone status to protect against new threats before they arrive. A range of actions to address other Taskforce recommendations is currently being considered.

7.2 *Cryphonectria parasitica* and *Ceratocystis fimbriata* are both damaging fungal organisms affecting sweet chestnut and plane trees respectively. Both organisms are regulated by the Plant Health Directive.

7.3 In Great Britain there are 28 thousand hectares of sweet chestnut in woodlands over 0.5 ha in size representing 3% of our broadleaved trees area. Sweet chestnut is highly valued as a timber species and is locally important to Kent and Sussex as a species which is grown on short coppice rotations for fencing material. It is occasionally planted as a specimen tree and in orchards for nut production and trees have to be passported for movement within the EU. The requirements in the Plant Health Directive which seek to protect sweet chestnut from *Cryphonectria parasitica* have proved deficient, as infected planting material from France has caused a small number of outbreaks in the UK. The new measures introduced through the Order will require movements of sweet chestnut planting material, including seeds, into and within England or Scotland and from England or Scotland to other Member States to be accompanied by certain documentation confirming that the material has been grown in a place of production in a country where *Cryphonectria parasitica* is known not to occur or an area designated by plant health authorities as free from the disease.

7.4 London plane (*Platanus x acerifolia*) is a well-known variety which grows strongly for up to 200 years and can live to 300 years. Plane is a very important component of the urban tree population in Britain and surveys have recorded plane as the 11th most numerous tree in London representing 5.1% of a total population, estimated at 7 million trees. The prominent position of these trees means that they have a very high amenity value and are culturally important to the heritage of parks and open spaces in many of the major cities. Although there has been no spread to Britain to date, risk analysis for the UK Plant Health Risk Register has concluded that there was an imminent threat of introduction of *Ceratocystis fimbriata* through infected plants or wood, even with the existing EU measures in place. The measures introduced through this Order will mean that movements of plane trees intended for planting into England or Scotland and from England or Scotland to other parts of the EU must be accompanied by certain documentation confirming that they have been grown in a place of production in a country in which the disease is known not to occur or an area designated by plant health authorities as free from the disease. New measures are also being introduced which will strengthen the measures in place to restrict the landing and movement of wood and bark of plane trees from third countries. Strengthened EU requirements are being pursued, through a case for Protected Zone status for the UK in relation to plane canker stain and extending the current Protected Zone against chestnut blight to the whole of the UK (currently the Isle of Man is excluded). New

requirements for movements of sweet chestnut planting material into Protected Zones are also being sought. However, EU measures will not be agreed and in place before the forthcoming autumn season for trading and planting trees. The national measures will be kept under review in light of developments at the EU level.

- 7.5 Equivalent measures in relation to sweet chestnut and plane planting material are also being introduced through amendments to the Plant Health (England) Order 2005. Similar measures are being considered by other Devolved Administration
- 7.6 The Order also implements specific control measures in Commission Implementing Decision 2012/138/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Anoplophora chinensis* (Citrus longhorn beetle), which replaces Decision 2008/840/EC. Certain tree species which were previously not covered by Decision 2008/840/EC are now subject to restrictions and others which were previously covered are now excluded. New strengthened measures are introduced specifically for trees originating in China. The Order provides for references in the principal Order to Commission Implementing Decision 2012/138/EU to be read as amended from time to time.
- 7.7 Consolidation

The Plant Health Directive is currently under review. There are therefore no immediate plans to consolidate the principal Order.

8. Consultation outcome

- 8.1 Stakeholders have supported the need for stronger measures, through consultation on initial risk assessments on these issues and, at the stakeholder workshops which were arranged to help develop a UK plant health risk register. The recommendations arising from these workshops were supported by stakeholders at a Tree Health Summit held by the Secretary of State on 11 July.

9. Guidance

- 9.1 The Forestry Commission will devote part of its website to *Cryphonectria parasitica* and *Ceratocystis fimbriata*, to provide information about the diseases and questions and answers about the proposed legislation. The Forestry Commission and Fera's Plant Health and Seeds Inspectorate will liaise with individual clients about the new measures.

10. Impact

- 10.1 Impact Assessments have been prepared by the Department for Environment, Food and Rural Affairs in relation to England for the measures affecting sweet chestnut and plane trees. Copies accompany this Explanatory Memorandum.
- 10.2 No impact assessment has been prepared in relation to the strengthened measures affecting wood and bark of plane or Commission Implementing Decision

2012/138/EU as no impact on business or the private or voluntary sector is foreseen from these measures.

11. Regulating small business

- 11.1 The new measures will apply to all businesses, including micro-businesses, importing plane and sweet chestnut trees. The risk of introducing harmful organisms is not mitigated by the size of the business importing material.

12. Monitoring & review

- 12.1 The national measures to protect plane and sweet chestnut trees will be kept under review in light of developments at the EU level. The Forestry Commission will continue to monitor the situation and the need for future amendments to take account of new or revised risk assessments, pest interceptions and other developments.

13. Contact

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