

EXPLANATORY MEMORANDUM TO THE
Plant Health (England) (Amendment) Order 2006

2006 No. [2307]

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 which contains measures to prevent the introduction and spread of harmful plant pests and diseases. It transposes changes to the Plant Health Directive (2000/29/EC) introduced by a number of Decisions and Directives since the 2005 Order came into force. The Order also makes other minor amendments to the principal Order.

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 which revoked and consolidated with amendments the Plant Health (Great Britain) Order 1993 in its application to England. Similar but separate legislation operates in Scotland, Wales and Northern Ireland.
- 4.2 Since the introduction of the 2005 Order, 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. These amendments are described in more detail below. The current Statutory Instrument makes the necessary amendments to the Plant Health (England) Order, together with a number of other minor amendments.
- 4.3 The amending Order is made under sections 2 and 3(1) and (4) 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) **Decision 2005/870** recognises Bulgaria as free from *Clavibacter michiganensis*.
- (ii) **Decision 2005/77** amends an error in Annex V of Directive 2000/29 which required a plant passport for moving only 'certified' seed of *Helianthus annuus* L., *Lycopersicon lycopersicum* (L). and *Phaseolus* L. within the Community. Following the amendment all seed of these species requires a plant passport for movement within the Community.
- (iii) The Plant Health Directive provides for certain areas, where pests which occur elsewhere within the Community are not present, to be recognised as protected zones. **Directive 2006/35** amends the protected zone arrangements for Slovenia, Slovakia and Italy in respect of *Erwinia amylovora*, Portugal in respect of *Bemisia tabaci* and Lithuania in respect of Beet necrotic yellow vein virus.
- (iv) **Decision 2006/464** introduces provisional emergency measures to prevent the introduction and spread within the Community of *Dryocosmus kuriphilus* – a pest of *Castanea* Mill. (Chestnut trees and fruit).
- (v) **Decision 2006/473** recognises certain third countries as being free from the citrus pests *Xanthomonas campestris*, *Cercospora angolensis* and *Guignardia citricarpa*.

7.2 The Order also makes minor changes to the provisions for the movement of material within the Community using plant passports. It removes the automatic exemption for material moved locally and replacing it with a discretionary exemption taking account of plant health risk and extends to certain commercial users of plant material the requirement to retain plant passports so as to assist with the traceability of material in the event of a pest or disease outbreak.

8. Impact

A regulatory impact assessment has not been prepared. The amendment order is largely a consolidation of existing technical amendments with the main impact falling on plant health authorities in third countries.

9. Contact

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TRANSPOSITION NOTE

PLANT HEALTH (ENGLAND) (AMENDMENT) ORDER 2006

This transposition note shows how the main elements of the following instruments have been implemented by the Plant Health (England) (Amendment) Order 2006:

- **Commission Directive 2005/77/EC** amending Annex V to 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 in the Community (OJ No. L296, 12.11.2005, p.17);
- **Commission Decision 2005/870/EC** recognising Bulgaria as being free from *Clavibacter michiganensis* (Smith) Davis *et al.* spp *sepedonicus* (Spieckerman and Kotthoff) Davis *et al* (OJ No. L 319, 7.12.2005, p.9);
- **Commission Directive 2006/35/EC** amending Annexes I to IV to 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 (OJ No. L88, 25.3.2006, p.9);
- **Commission Decision 2006/473/EC** recognising certain third countries and areas as being free from *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus) (OJ No. L 187, 8.7.2006, p. 35);
- **Commission Decision 2006/464/EC** on provisional emergency measures to prevent the introduction into and the spread within the Community of *Dryocosmus kuriphilus* Yasumatsu (OJ No. L 183, 5.7.2006, p. 29).

These regulations do what is necessary to implement the following Community instruments, including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply.

Commission Directive 2005/77/EC

Article of the Directive	Purpose	Implementation
Art 1	Requires all seeds of <i>Helianthus annuus</i> L., <i>Lycopersicon lycopersicum</i> (L.) Karsten ex Farw. and <i>Phaseolus</i> L., to be accompanied by a plant passport	Art 2(17)

Commission Decision 2005/870/EC

Article of the Decision	Purpose	Implementation
Art 1	Recognises Bulgaria as free from a certain pest; meaning tubers of <i>Solanum</i> L. which originate in Bulgaria are exempted from the prohibition on landing in England	Art 2(14)

Commission Directive 2006/35/EC

This instrument makes amendments to certain protected zones in other Member States - no amendments to Order required other than to bring Directive with scope of definition of "Directive 2000/29"

Commission Decision 2006/473/EC

Article of the Decision	Purpose	Implementation
Arts 1-3	Recognizes certain areas as being free from <i>Xanthomonas campestris</i> , <i>Cercospora angolensis</i> and <i>Guignardia citricarpa</i>	Art 2(15)(d) to (h)

Commission Decision 2006/464/EC

Article of the Decision	Purpose	Implementation
Art 1	Prohibits the introduction of <i>Dryocosmus kuriphilus</i> Yasumatsu into England	Art 2(11)
Art 3 and Annex 1(1)	Specifies the requirements for introduction into England	Art 2(15)(a) and (b) and (16)