

**EXPLANATORY MEMORANDUM TO
THE PLANT HEALTH (WOOD PACKAGING MATERIAL MARKING)
(FORESTRY) ORDER 2006**

2006 No. 2695

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

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

2. **Description**

- 2.1 This Order establishes a system for certifying the phytosanitary status of wood packaging material (wooden pallets, crates, etc.) in accordance with an internationally agreed standard. The Order provides for the certification of manufacturers to mark wood packaging material (signifying that it complies with the international standard) provided certain conditions are met. The Order provides for the charging of fees to cover the costs of carrying out assessments of wood packaging material manufacturers.

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

- 3.1 The Order provides for the charging of fees for the granting of a certificate authorising a manufacturer to apply the international standard mark, and for renewing such a certificate, or for reassessment where a certificate has been refused or withdrawn. The fees are detailed in Schedule 1 to the Order. These are based on actual costs assessed during the voluntary marking programme (paras 7.3 and 7.4).

4. **Legislative Background**

- 4.1 The United Kingdom is a contracting party to the International Plant Protection Convention (IPPC). Under this Convention, contracting parties have developed a number of "International Standards for Phytosanitary Measures" (ISPMs), which are standards setting out guidelines and recommendations recognised as the basis for phytosanitary measures. Although these are voluntary standards, contracting parties are encouraged to apply them under the IPPC and under the World Trade Organisation (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures, to which the United Kingdom is also a contracting party. WTO members are required to base their phytosanitary measures on the ISPMs to be deemed WTO-compliant (i.e. they are not imposing unjustified restrictions on trade).

- 4.2 In 2002 the Food and Agriculture Organization (FAO) adopted an ISPM, "*Guidelines for regulating wood packaging material (WPM) in international*

trade” (ISPM No 15). Measures concerning the import of wood packaging material were adopted in Council Directive 2002/89 and implemented in Great Britain in the Plant Health (Forestry) Order 2005 (S.I. 2005/2517). The current Order is concerned with certifying wood packaging material for export purposes. The Order is made under sections 3(1) and (4) and 4A of the Plant Health Act 1967. Section 3(1) and (4) enable the Forestry Commission, as the competent authority, to make Order for the purpose of preventing the conveyance of tree pests by articles exported from Great Britain and to include provisions on offences. Section 4A provides for the imposition of reasonable fees. This Order is made with the consent of the Treasury.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

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 Some 80% of imported products are supported or contained within solid wood packaging material (WPM). Solid wood is recognised worldwide as a high-risk pathway for quarantine pests to become established in new territories. Consequently, movement of WPM into the EU is regulated under the EU’s Plant Health Directive. Most third countries operate similar regulatory regimes for WPM.

7.2 WPM is regulated internationally according to a common phytosanitary standard (i.e. ISPM 15). Under the ISPM 15 scheme, manufacturers who apply certain treatments to wood used in WPM may apply a mark to signify it has been manufactured in accordance with the international standard. In consultation with the wood packaging industry, the Forestry Commission has developed a standard and marking system based on ISPM 15. The “Wood Packaging Material Marking Programme” was introduced in 2001 and to date has operated on a voluntary basis, but it has been the request of the industry itself that the system be made mandatory in order to protect the interests of the compliant majority. Placing the Programme on a statutory footing will ensure that wood packaging material manufactured in the UK and carrying the ISPM 15 mark is accepted in third countries as it provides evidence that the Programme is “official” (as set out in ISPM 15). This Order therefore seeks to place the WPM Marking Programme on a statutory footing with the objective of ensuring that British manufacturers have access to a programme of the highest integrity, recognised globally by National Plant Protection Organisations in third countries and which will secure their share of the international market for WPM.

7.3 It is difficult to put a monetary value on the benefit of enacting the Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006. However, according to the office of National Statistics report *Product Sales and Trade PRA 20400 – Wooden Containers 2004*, the total UK manufacturer sales of

wooden containers (includes pallets, pallet collars, load boards, cable drums etc but excludes casks, barrels and staves) was £404m in 2004. According to the Timber Packaging and Pallet Confederation the UK pallet and packaging industry has an estimated turnover of £350m. A significant proportion (estimated 70%) of this material is destined for use in international trade.

- 7.4 The estimated cost to date for those already registered (680 members) with the programme is £408k (registration and initial assessment). Once registered manufacturers are obliged to pay renewal and reassessment fees twice a year. The total industry cost of renewal and reassessment is estimated to be £435k per annum.

8. Impact

- 8.1 A Regulatory Impact Assessment is attached to this memorandum.
- 8.2 The impact on the public sector is negligible.

9. Contact

Roddie Burgess at the Forestry Commission Tel: 0131 314 6401 or e-mail: roddie.burgess@forestry.gsi.gov.uk can answer any queries regarding the instrument.

The Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006

PURPOSE AND INTENDED EFFECT

1. The Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006 will provide a legal basis for implementing the Food and Agriculture Organization's (FAO) *Guidelines for regulating wood packaging material (WPM) in international trade* (ISPM 15). The main purpose of the order is to place the Wood Packaging Material Marking Programme, which currently operates on a voluntary basis, on a statutory footing. Thus ensuring the integrity of the programme and providing evidence to third countries that the Programme is "official" within the meaning of the term in the FAO's Glossary of Phytosanitary Terms.²

2. Wood packaging material (WPM) is frequently made of raw wood that may not have undergone sufficient processing or treatment to remove or kill pests and therefore becomes a pathway for their introduction and spread. It is difficult to identify the origin of any piece of WPM. Thus its phytosanitary (plant health) status cannot be determined which makes it virtually impossible to determine the level of risk posed.

3. So, to reduce the risk of introduction and/or spread of quarantine pests associated with WPM, including dunnage, the FAO's Interim Commission on Phytosanitary Measures (ICPM) adopted "*Guidelines for regulating wood packaging material in international trade*" (ISPM 15) in 2002.

4. International standards for phytosanitary measures (ISPMs) are developed by and made available to contracting parties to the International Plant Protection Convention (IPPC) through the Interim Commission on Phytosanitary Measures (Superseded by the Commission on Phytosanitary Measures in April 2006). ISPMs are standards setting out guidelines and recommendations recognised as the basis for phytosanitary measures, which Members of the World Trade Organisation can apply under the Agreement on the Application of Sanitary and Phytosanitary Measures.³

¹ https://www.ippc.int/servlet/BinaryDownloaderServlet/16259_ISPM_15_E.pdf?filename=1146658720389_ISPM15.pdf&refID=16259

² <http://www.fao.org/docrep/W3587E/w3587e01.htm>

³ The voluntary programme has been in place since 2001 and managed by an advisory council which includes the Forestry Commission and the relevant industry bodies. The advisory council agreed at the outset that the Programme should be placed on a statutory footing at an appropriate opportunity.

5. Following publication of ISPM 15 the Forestry Commission (FC) and the Forest Service of Northern Ireland, in consultation with the WPM industry, developed a WPM certification scheme. The United Kingdom Wood Packaging Material Marking Programme (UKWPMMP) was implemented in 2001. It is currently a voluntary programme which is administered on the Forestry Commission's behalf by the Timber Packaging and Pallet Confederation (TIMCON) and has 680 registered members.

6. The European Commission stepped up measures to protect member States against the introduction of organisms harmful to plant health, by amending Council Directive 2000/29/EC to introduce entry requirements for WPM based on ISPM 15 with effect from 1 March 2005. Consequently, Council Directive 2000/29/EC, as amended in particular by Commission Directive 2004/102/EC, requires all WPM entering the Community from all third countries other than Switzerland, to be treated and marked according to ISPM15. This has been implemented in Great Britain by the Plant Health (Forestry) Order 2005.

7. The Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006 will ensure the integrity of the UKWPMMP, thus helping to secure market share for British WPM used for export purposes.

Risk Assessment

8. There are two main elements to the consideration of risk: the plant health risk and the risk to WPM manufacturers of not being able to provide ISPM 15 compliant material.

Plant Health Risk

9. Wood Packaging Material is generally low-grade wood that has not been processed to any significant extent other than being roughly sawn. It is generally of low value and is often considered to be disposable. It is recognised that unprocessed wood poses a significant plant health risk.

10. Example 1. Asian Longhorn Beetle (ALB)

Asian Longhorn Beetles and their larvae have been detected in Great Britain on 15 occasions. Outbreaks have been recorded in Austria, Germany and France and are subject to official eradication programmes. In all cases, the beetles or larvae had arrived in WPM. The beetle is a native of China and has recently become established in parts of the USA. Infested trees must be felled and destroyed by chipping and this has dramatically changed the landscape of the State of New York where, so far, over 7000 street trees have had to be felled and destroyed.

11. Example 2. Pine Wood Nematode (PWN)

PWN is a microscopic eelworm that can cause extensive mortality in pines. It is carried from tree to tree by wood boring beetles in the genus *Monochamus*, whose larvae may take up to two years to grow and, on emergence as adults, may carry significant numbers of PWN to new host trees where they may be transferred, either through maturation feeding wounds, or when eggs are laid in slits chewed in the bark. *Monochamus* larvae have been found on imported WPM on a number of occasions and thus the risk of PWN entering GB and the EU is significant.

12. An outbreak of PWN was reported in Portugal in 1999, following which the EU strengthened import controls on coniferous timber originating in third countries with PWN. Emergency measures were introduced and continue to be enforced to contain and eradicate the pest. There is strong anecdotal evidence implicating imported infested WPM as the source of this outbreak.

Risk to British WPM manufacturers

13. Many non-EU countries have implemented ISPM 15-based regulations. Any exporter who uses WPM to ship their products to these countries must ensure that the WPM is ISPM 15 compliant. Consequently, British WPM manufacturers need to

be able to access an ISPM 15 certification programme. It is estimated that over 80% of world trade is shipped in association with WPM. The only alternatives to sourcing new British-manufactured WPM would for exporters to import compliant WPM from another country, or switch to an alternative material.

OPTIONS

Option 1 - Do Nothing

14. The current Programme is voluntary, but most countries regulate their programmes by law. This is necessary to ensure that national programmes are recognised globally as being under full official control with appropriate sanctions against offenders. This option is not considered viable.

Option 2 - Full Implementation

15. Requirements:

- National Plant Protection Organisations (NPPOs) should establish official WPM Marking Programmes. The UKWPMMP has operated since 2001 and currently has 680 registered members.
- All WPM manufacturers who wish to produce material for international trade, must register under the Programme and obtain a certificate authorising them to treat and mark their material according to ISPM 15. Many of the GB manufacturers are already registered with the Programme.
- Implementation of the regulation is at the request of many of the members of the Programme, as confirmed by the relevant trade associations, and aims to ensure that those who attempt to compete unfairly, outside the Programme and fraudulently, can be penalised if caught.
- Providing a statutory footing for the Programme will underline its official status thus ensuring that it will remain acceptable to the NPPOs of our trading partners and make it less likely that any will choose not to recognise WPM manufactured in the UK.

BENEFITS

16. It is difficult to put a monetary value on the benefit of enacting the Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006. However, according to the office of National Statistics report *Product Sales and Trade PRA 20400 – Wooden Containers 2004*, the total UK manufacturer sales of wooden containers (includes pallets, pallet collars, load boards, cable drums etc but excludes casks, barrels and staves) was £404m in 2004. According to TIMCON the UK pallet and packaging industry has an estimated turnover of £350m. A significant proportion (estimated 70%) of this material is destined for use in international trade. The Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006 will ensure that GB WPM manufacturers can supply potential exporters of goods of all kinds with ISPM 15 compliant material.

Costs

17. The total cost to a WPM manufacturer consists of the cost of joining the programme plus the cost of treatment facilities (where these are not already installed as part of the normal commercial process) and timber marking equipment.

18. The procedure for joining the programme includes registration, initial assessment, issue of certificate of authority to apply the ISPM 15 mark, reassessment and

renewal of the certificate (every six months). TIMCON is responsible for programme administration and charges registration and renewal fees to cover their cost of administering the programme. TIMCON's duties include: receiving and processing applications; maintaining records; invoicing for fees; notifying the Forestry Commission of any misuse or abuse of markings and associated administrative functions. Alternatively, the FC could employ additional resources to administer the programme itself. But we estimate that the cost of this will be in excess of the fee charged by TIMCON and would not offer best value for money.

19. The cost of registering with the programme can be split between statutory fees and assessment agency fees. Statutory elements include a one off registration fee of £400 (includes a charge for issuing the certificate) plus a certificate renewal fee (£120 every six months), payable to TIMCON. The assessment agency fees include a one-off initial assessment fee (estimated average £200) plus reassessment fee (estimated average £200 every 6 months) set by and payable direct to an independent agency accredited by the FC. So the total cost of a successful application will be fees of £600 (the registration fee (£400) + the initial assessment (estimated average £200) + £320 every six months thereafter (fees for reassessment (estimated average £200 every six months) + recurring certificate renewal fee of £120 every six months). The SI covers TIMCON's fees but not the assessment agency fees, which they are free to set themselves according to market forces.

20. The estimated cost to date for those already registered (680 members) with the programme is £408k (registration and initial assessment). Once registered manufacturers are obliged to pay renewal and reassessment fees twice a year. The total industry cost of renewal and reassessment is estimated to be £435k per annum.

21. These figures are based on the current fees set by TIMCON which are aimed to recover their costs for administering the Programme and which are subject to scrutiny by the Forestry Commission, and on the estimated average assessment fee (provided by TIMCON) charged by the Independent Assessment Agencies.

22. It is difficult to estimate the cost of treatment and marking facilities because of the various options available. These range from buying in treated material to installing bespoke heat treatment and/or fumigation systems. However, many producers already have appropriate treatment facilities installed as part of their normal commercial operation, or have facilities that require only minor modification in order to comply.

CONSULTATION WITH SMALL BUSINESS: THE SMALL FIRMS' IMPACT TEST

23. Since the voluntary programme was set up in 2001 the WPM industry has made repeated requests for the UK WPM Marking Programme to be given a statutory footing. The industry believes that without this, the international credibility of the Programme might be prejudiced and there is no obvious barrier to prevent non-registered WPM manufacturers from manufacturing and fraudulently marking WPM and competing unfairly against those who have joined the Programme. The proposed regulation does not impose any new burden on those already within the Programme and who are authorised to manufacture and mark WPM. It does, however, introduce penalties which would apply to those who attempt to operate outside the Programme.

COMPETITION ASSESSMENT

None undertaken.

ENFORCEMENT

24. Market forces have already increased demand for ISPM 15 compliant material. WPM manufacturers need to be able to access a credible programme that offers this service. The UKWPMMP was established in 2001 and has achieved a high level of credibility. The Forestry Commission will continue to monitor and control the "Programme".

MONITORING AND REVIEW

25. The Programme will continue to be monitored and reviewed by an Advisory Council comprising representation from the Forestry Commission and the relevant trade associations.

CONSULTATION

26. Because the proposed regulation does not impose any new burdens on industry, formal consultation is not considered necessary. However, the proposed regulation has been prepared in extended informal consultation with the trade associations represented on the Advisory Council. The Associations have kept their members informed

SUMMARY AND RECOMMENDATION

27. The Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006 will ensure that UK WPM manufacturers can compete fairly in the market for the supply of ISPM 15 compliant material to exporters.

28. The integrity of the UKWPMMP is already well recognised and most WPM manufacturers are registered with it. Overall the cost to the British WPM industry of joining the programme is less than the cost of not joining. Implementation of the regulation will not add any new burden to those already registered in the UKWPMMP.

29. Option 2 is recommended because it will ensure that countries with import requirements based on ISPM 15 will accept British WPM.

DECLARATION

30. I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Wilma Harper
Secretary to the Forestry Commissioners

CONTACT POINT

31. Roddie Burgess, Forestry Commission, Silvan House, 231 Corstorphine Road, Edinburgh EH12 7AT. Tel 0131 314 6401 Fax. 0131 314 6148
roddie.burgess@forestry.gsi.gov.uk