EXPLANATORY MEMORANDUM TO

The Plant Health (Amendment) Order (Northern Ireland) 2019

SR No. 49

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under sections 2 and 3(1) of the Plant Health Act (Northern Ireland) 1967 and section 2(2) of and paragraph 1A of Schedule 2 to the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose

2.1. This Statutory Rule amends the Plant Health Order (Northern Ireland) 2018 (S.R. 2018 No. 184) ("the principal Order") which contains measures to prevent the introduction and spread of harmful plant pests and diseases. It extends current measures to protect against the introduction of Xylella fastidiosa from the EU following findings on olive trees in Belgium, implements the specific control measures in Commission Implementing Decisions (EU) 2018/1503 and (EU) 2018/1511, removes provisions relating to Commission Implementing Decisions 2014/237/EU and (EU) 2015/1849 which are no longer in force and updates the principal Order to clarify all the material that is subject to import checks.

3. Background

3.1. Council Directive 2000/29/EC on protective measures against the introduction into the EU of organisms harmful to plants or plant products and against their spread within the EU ("the Plant Health Directive") establishes the EU plant health regime. The Plant Health Directive (and therefore the principal Order) is updated frequently, to take account of new or revised risk assessments, pest interceptions, changes in distribution of pests and other developments. The Plant Health Directive is implemented in Northern Ireland by the Plant Health Order (Northern Ireland) 2018 and, in relation to wood and bark matters, by the Plant Health (Wood and Bark) Order (Northern Ireland) 2006 (2006 No. 66). Similar but separate legislation operates in England, Scotland and Wales.

3.2. The measures to be adopted will amend the principal Order by introducing new measures to address risks presented by particular pests and diseases. These amendments are to be implemented through this instrument which comes into operation on 28th March 2019.

3.3. Commission Implementing Decision (EU) 2015/789 introduced measures intended to prevent the introduction into and spread within the EU of Xylella fastidiosa. Those measures have been amended and updated several times responding to scientific and disease developments, including findings in new areas. Changes implemented through the principal Order

reflected key UK objectives and require official annual inspections of premises growing and trading host plants and testing of all symptomatic host plants detected during such inspections, prior to plant movements. For higher risk hosts (including olive trees) more prescriptive official inspection and testing is required, providing extra protection.

3.4. Xylella fastidiosa causes disease in a wide range of woody plants such as grapevine, citrus, olive and several species of broadleaf trees, including native UK species and represents a substantial plant health risk, due to its broad host range.

3.5. Belgium confirmed at an EU Standing Committee in October 2018 an interception on traded olive trees imported from Spain indicating a degree of uncertainty regarding the status of olive trees being traded in the EU, despite the strengthened legislation being introduced.

3.6. While the risk situation is being kept under review in light of ongoing developments, we intend to extend the current statutory notification scheme for imports from EU member states to cover olive trees. Such a change needs to be introduced quickly as olive trees are traded throughout the year.

3.7. This instrument also implements the following specific EU measures:

3.8. Commission Implementing Decision (EU) 2018/1503 establishing measures to prevent the introduction into and the spread within the Union of Aromia bungii;

3.9. Commission Implementing Decision (EU) 2018/1511 amending Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of Xylella fastidiosa.

3.10. This instrument also removes provisions relating to Commission Implementing Decision 2014/237/EU on measures to prevent the introduction into and the spread within the Union of harmful organisms as regards certain fruits and vegetables originating in India and Commission Implementing Decision (EU) 2015/1849 on measures to prevent the introduction into and the spread within the Union of harmful organisms as regards certain vegetables originating in Ghana, which are no longer in force.

3.11. It also updates the principal Order to clarify all the material subject to import checks.

4. Consultation

4.1. Stakeholders recognise the benefits of keeping Xylella fastidiosa out of Northern Ireland and support the increased measures. The changes outlined in paragraphs 3.7 to 3.11 reflect those already in place at EU level, which have been published by the EU Commission.

5. Equality Impact

5.1. This Order has been screened out for equality impacts. The implementing measures will apply in equal measure to all Section 75 groups. No impact on any Section 75 group is anticipated.

6. Regulatory Impact

6.1. This legislation applies to activities that are undertaken by small businesses.

6.2. There is no, or no significant impact on business, charities, voluntary bodies or the public sector.

6.3. A Regulatory Impact Assessment has not been prepared for this Statutory Rule.

7. Financial Implications

7.1. The Order has no financial implications for business.

8. Section 24 of the Northern Ireland Act 1998

8.1. This Statutory Rule does not have any human rights implications nor is it incompatible with EU law. The Order is therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. This legislation provides for implementation of Commission Implementing Decisions (EU) 2018/1503 and (EU) 2018/1511 and removes provisions relating to Commission Implementing Decisions 2014/237/EU and (EU) 2015/1849 which are no longer in force.

10. Parity or Replicatory Measure

10.1. Similar but separate legislation to the principal Order operates in England, Scotland and Wales.

11. Additional Information

11.1. This instrument does not relate to withdrawal from the European Union.