EXPLANATORY MEMORANDUM TO

THE PLANT HEALTH (ENGLAND) (AMENDMENT) (No.2) ORDER 2014

2014 No. 2385

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.

2. Purpose of the Instrument

2.1 This instrument amends the Plant Health (England) Order 2005 (S.I. 2005/2530) ("the principal Order") which contains measures to prevent the introduction and spread of harmful plant pests and diseases. It implements Commission Implementing Directives 2014/78/EU and 2014/83/EU and Commission Implementing Decision 2014/422/EU.

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 EU of organisms harmful to plants or plant products and against their spread within the EU[1] ("the Plant Health Directive") establishes the EU plant health regime. The Plant Health Directive is implemented in England by the Plant Health (England) Order 2005 and, in relation to forestry matters, by the Plant Health (Forestry) Order 2005 (S.I. 2005/2517) which extends to Great Britain. Similar but separate legislation to the principal Order operates in Scotland, Wales and Northern Ireland.

4.2 A number of EU instruments have been adopted which modify the annexes of the Plant Health Directive as a result of technical changes in the assessment of risks presented by particular pests and diseases and introduce new measures to address risks presented by other pests and diseases. These amendments are to be implemented through this instrument which comes into force on 1 October 2014.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

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**.**

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

7. Policy background

7.1 The Plant Health Directive (Council Directive 2000/29/EC) establishes the EU plant health regime. It contains measures to be taken in order to prevent the introduction into, and spread within, the EU of serious pests and diseases of plants and plant produce. The Directive (and therefore the principal Order) are updated frequently, to take account of new or revised risk assessments, pest interceptions, changes in distribution of pests and other developments. This instrument implements a package of EU measures arising from technical changes in the assessment of the risks presented by particular pests and diseases.

7.2 The key changes of interest are establishment of the UK as a protected zone (areas that are free from plant pests usually established elsewhere in the EU) for Chestnut gall wasp (*Dryocosmus kuriphilus* Yasumatsu), Oak processionary moth *(Thaumatopoea processionea* L), Sweet chestnut blight *(Cryphonectria parasitica*) and Plane wilt (*Ceratocystis platani* (J.M.Walter) Engelbr. & T.C. Harr, formerly known as *Ceratocystis fimbriata* f. spp. *platani* Walter), requiring that plants and plant produce that are hosts of these pests must reach higher plant health standards before entering these zones. This is in line with UK policy objectives. The Report of the Tree Health and Plant Biosecurity Expert Taskforce published in May 2013 recommended that biosecurity should be strengthened to reduce risks at the border and within the UK, through measures including timely consideration of EU Protected Zone status to protect against new threats before they arrive. Strengthening of protection against Chestnut gall wasp, Oak processionary moth, Sweet chestnut blight and Plane wilt was identified as a priority during development of a UK plant health risk register, which was one of the recommendations arising from the Task Force. Additional control measures to prevent the introduction and spread of Sweet Chestnut Blight and Plane wilt were introduced in relation to England by the Plant Health (England) (Amendment) (No. 3) Order 2013 (S.I. 2013/2687) whilst strengthened EU measures, in the form of protected zone requirements, were being pursued for the UK, in relation to these plant pests. The new EU protected zone requirements for Sweet chestnut blight and Plane wilt replace the existing national measures against these pests.

7.3 Commission Implementing Decision 2014/422/EU sets out measures in respect of certain citrus fruits originating in South Africa to prevent the introduction into and spread within the EU of Citrus blackspot (*Phyllosticta citricarpa* (McAlpine) Van der A). New special requirements are introduced in Schedule 4A of the principal Order in relation to the import into England from South Africa of fruits of Citrus L., Fortunella Swingle, Poncirus Raf., and their hybrids, other than fruits of *Citrus aurantium* L. and *Citrus latifolia* Tanaka.

7.4 A transposition note is attached. A summary of all the changes to Council Directive 2000/29/EC introduced by Commission Implementing Directives 2014/78/EU and 2014/83/EU can also be found at: http://www.fera.defra.gov.uk/plants/plantHealth/documents/amendmentsSummary2014.pdf

8. Consultation outcome

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

9. Guidance

9.1 The main stakeholders have been informed of the proposed changes and a summary of the measures has been placed on the Defra website.

10. Impact

10.1 An impact assessment has not been prepared as the Order has no impact on the costs for business. The requirements apply mainly in countries exporting to the EU.

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. The EU plant health regime is currently under review as part of a package of revised regulations on the agri-food chain.

13. Contact

13.1 Iain Johnstone, Defra, Second Floor, Lancaster House, Hampshire Court, Newcastle Business Park, Newcastle Upon Tyne, NE4 7YH;
Tel: 0300 060 3806; e-mail: iain.johnstone@defra.gsi.gov.uk can answer any queries regarding this instrument.

ANNEX

Transposition Note for the transposition of Commission Implementing Directives 2014/78/EU and 2014/83/EU amending Annexes I, II, III, IV and 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 within the Community

Commission Implementing Directive 2014/78/EU		
Provision in Annex	**Amendment to Directive 2000/29/EC ("the Plant Health Directive")**	**Provision in the Plant Health (England) (Amendment) (No.2) Order 2014**
(1)(a)(i)	Amendments to Section I, Part A, Annex I to the Plant Health Directive	Article 14(1) (amending Part A of Schedule 1 to the Plant Health (England) Order 2005 ("the principal Order")
(1)(a)(ii)	Amendments to Section II, Part A, Annex I to the Plant Health Directive	Article 14(2) (amending Part B of Schedule 1 to the principal Order); nothing further required to implement third indent of (1)(a)(ii)
(1)(b)(i)	Amendment to Part B, Annex I to the Plant Health Directive	Nothing further required
(1)(b)(ii)	Amendment to Part B, Annex I to the Plant Health Directive	Article 4 (amending article 5 of the principal Order), article 7 (amending article 19 of the principal Order), article 8 (amending article 20 of the principal Order) and article 14(3) (inserting a new Part C in Schedule 1 to the principal Order)
(2)(a)(i)	Amendments to Section I, Part A, Annex II to the Plant Health Directive	Article 15(1) (amending Part A of Schedule 2 to the principal Order)
(2)(a)(ii)	Amendments to Section II, Part A, Annex II to the Plant Health Directive	Article 15(2)(a) and (c) (amending Part B of Schedule 2 to the principal Order)
(2)(b)(i)	Amendment to Part B, Annex II to the Plant Health Directive	Nothing required (relates to forestry matters)
(2)(b)(ii)	Amendment to Part B, Annex II to the Plant Health Directive	Nothing required (no protected zones in relation to England)
(2)(b)(iii)	Amendment to Part B, Annex II to the Plant Health Directive	Nothing further required
(2)(b)(iv)	Amendment to Part B, Annex II to the Plant Health Directive	Nothing required (no protected zones in relation to England)
(3)(a) and (b)	Amendment to Part B, Annex III to the Plant Health Directive	Nothing required (no protected zones in relation to England)
(4)(a)(i)	Amendments to Section I, Part A,	Article 16(1)(b), (d), (e), (h) to

	Annex IV to the Plant Health Directive	(z) and (bb) (amending Part A of Schedule 4 to the principal Order). Nothing required for amendments in (4)(a)(ii) to points 1.1 to 8 (relate to forestry matters). Nothing further required for other amendments in (4)(a)(i)
(4)(a)(ii)	Amendments to Section II, Part A, Annex IV to the Plant Health Directive	Article 16(2)(c) to (n) (amending Part B of Schedule 4 to the principal Order)
(4)(b)	Amendments to Part B, Annex IV to the Plant Health Directive	Article 16(3) (amending Part C of Schedule 4 to the principal Order). Nothing required for amendments in (4)(b) to points 4, 10, 14.2, 6.3 and 14.9 (relate to forestry matters). Nothing required for other amendments in (4)(b) (no other protected zones in relation to England)
(5)(a)(i)	Amendments to Section I, Part A, Annex V to the Plant Health Directive	Article 18(1)(a) and (b) and article 19(1)(a) and (b) (amending Part A of Schedules 6 and 7 to the principal Order)
(5)(a)(ii)	Amendments to Section II, Part A, Annex V to the Plant Health Directive	Articles 18(2) and 19(2)(b) and (c) (amending Part B of Schedules 6 and 7 to the principal Order). Amendment in (5)(a)(ii) to point 1.2 replaced by amendment to point 1.2 made by Commission Implementing Directive 2014/83/EU
(5)(b)(i)	Amendments to Section I, Part B, Annex V to the Plant Health Directive	Article 17(1) (amending Part A of Schedule 5 to the principal Order). Nothing required for amendments in (5)(b)(i) to points 5 and 6 (relate to forestry matters)
(5)(b)(ii)	Amendments to Section II, Part B, Annex V to the Plant Health Directive	Article 17(2) (amending Part B of Schedule 5 to the principal Order)
Commission Implementing Directive 2014/83/EU		
(1)	Amendment to Part B, Annex I to the Plant Health Directive	Nothing further required in relation to the protected zone in

		relation to England
(2)(a)	Amendment to Section II, Part A, Annex II to the Plant Health Directive	Article 15(2)(b) (amending Part B of Schedule 2 to the principal Order)
(2)(b)	Amendment to Part B, Annex II to the Plant Health Directive	Nothing further required (no protected zone in relation to England)
(2)(c)	Amendment to Part B of Annex II to the Plant Health Directive	Article 15(2)(b) (amending Part B of Schedule 2 to the principal Order)
(3)(a) and (b)	Amendments to Part B, Annex III to the Plant Health Directive	Nothing further required (no protected zones in relation to England)
(4)(a)(i) and (ii)	Amendments to Section I, Part A, Annex IV to the Plant Health Directive	Nothing required (relates to forestry matters)
(4)(a)(iii)	Amendment to Section I, Part A, Annex IV to the Plant Health Directive	Article 16(1)(c) (amending Part A of Schedule 4 to the principal Order)
(4)(b)(i)	Amendment to Section II, Part A, Annex IV to the Plant Health Directive	Nothing required (relates to forestry matters)
(4)(b)(ii)	Amendment to Section II, Part A, Annex IV to the Plant Health Directive	Article 16(2)(b) (amending Part B of Schedule 4 to the principal Order)
(4)(c)(i)	Amendment to Part B, Annex IV to the Plant Health Directive	Nothing required (relates to forestry matters)
(4)(c)(ii)	Amendment to Part B, Annex IV to the Plant Health Directive	Article 16(3) (amending Part C of Schedule 4 to the principal Order)
(4)(c)(iii) to (vii)	Amendments to Part B, Annex IV to the Plant Health Directive	Nothing required (no protected zones in relation to England)
(5)(a)(i)	Amendment to Section II, Part A, Annex V to the Plant Health Directive	Articles 18(2) and 19(2)(a) (amending Part B of Schedules 6 and 7 to the principal Order)
(5)(a)(ii)	Amendment to Section II, Part A, Annex V to the Plant Health Directive	Nothing required (relates to forestry matters)
(5)(b)	Amendments to Section I, Part B, Annex V to the Plant Health Directive	Nothing required (relates to forestry matters)