EXPLANATORY MEMORANDUM TO

THE PLANT HEALTH (FORESTRY) (AMENDMENT) (ENGLAND AND SCOTLAND) ORDER 2014

2014 No. 2420

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 (S.I. 2005/2517) ('the principal Order') which contains measures to prevent the introduction and spread of harmful tree pests and diseases. It implements Commission Implementing Directives 2014/78/EU and 2014/83/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 European Union 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 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 Two Commission Implementing Directives 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 tree pests and diseases and introduce new measures to address risks presented by other tree pests and diseases. These amendments are to be implemented through this instrument which comes into force on 3 October 2014.

5. Territorial Extent and Application

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

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

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 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 tree 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 tree pests and diseases.

7.2 The key changes of interest are establishment of the UK as a protected zone for certain pests of sweet chestnut, plane and oak.trees (areas that are free from pests usually established elsewhere in the EU). These include the chestnut gall wasp (*Dryocosmus kuriphilus* Yasumatsu), sweet chestnut blight *(Cryphonectria parasitica*), plane wilt (*Ceratocystis platani* (J.M.Walter) Engelbr. & T.C. Harr) and oak processionary moth *(Thaumatopoea processionea* L). The plants and plant produce that are hosts of these pests must reach higher plant health standards before entering the UK protected 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.

7.3 Additional national control measures to prevent the introduction and spread of sweet chestnut blight and plane wilt were introduced in relation to England and Scotland by the Plant Health (Forestry) (Amendment) (England and Scotland) Order 2013 (S.I. 2013/2691) whilst strengthened EU measures, in the form of protected zone requirements, were being pursued for the UK, in relation to these tree pests.. The new EU protected zone requirements for sweet chestnut blight and plane wilt replace the existing national measures against these pests. Additional national measures for oak processionary moth had been introduced in relation to Great Britain by separate Plant Health (Forestry) (Amendment) Orders in 2008 and 2009 (S.I. 2008/644 and S.I. 2009/594 respectively). The Order is amended to introduce the new EU protected zone requirements for oak processionary moth.

7.4 Bronze birch borer (*Agrilus anxius*) is added as a new pest and new landing requirements are introduced for trees and wood of birch from Canada and the USA. New strengthened measures are introduced in respect of the Emerald ash borer (*Agrilus planipennis*) and the pinewood nematode (*Bursaphalenchus xylophilus*).

7.5 The requirements for wood packaging from outside of the EU are amended to make those for material in use the same as those for material not in use. These also apply to the wood which is used to wedge or support cargo (dunnage) although an exception is made for dunnage which is associated with controlled timber consignments and which is constructed from wood of the same type and quality as the wood in the consignment and meets the same EU phytosanitary requirements as the wood in the consignment.

7.6 The requirements for heat treatment of conifer wood and bark from outside of the EU are strengthened. This wood must be heat-treated to achieve a minimum temperature of 56^{o} C for a minimum duration of 30 continuous minutes throughout the entire profile of the wood (including at its core).

7.7 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 be found at: http://www.forestry.gov.uk/planthealth

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

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 Forestry Commission 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 & review

12.1 The Plant Health Directive (and therefore the Order) is updated frequently, to take account of new or revised risk assessments, pest interceptions, changes in distribution of pests and other developments.

13. Contact

Dr John Morgan (Plant Health Service, Forestry Commission, 231 Corstorphine Road, Edinburgh EH12 7AT. Tel 0300 067 5170, or e-mail john.morgan@forestry.gsi.gov.uk can answer any queries regarding the instrument.