EXPLANATORY MEMORANDUM TO

THE PLANT HEALTH (FORESTRY) (MISCELLANEOUS REVOCATIONS) (ENGLAND) ORDER 2015

2015 No. 741

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 instrument revokes the Watermark Disease (Local Authorities) Order 1974 (S.I.1974/768) ('the principal Order'), the Increase of Fines (Plant Health) (Forestry) Order 1984 (S.I. 1984/688) and the Watermark Disease (Local Authorities) (Amendment) Order 1992 (S.I.1992/44) ("the 1992 amendment") in relation to England.

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

3.1 None

4. Legislative Context

4.1 The principal Order gave certain Local Authorities in England the power to enforce the felling of willow trees infected or suspected to be infected with Watermark Disease. The 1992 amendment made changes to the Local Authorities to which the Order applied and increased the maximum fine for offences under the principal Order replacing an earlier amendment made to the principal Order by the Increase of Fines (Plant Health) (Forestry) Order 1984. The principal Order, as amended, applied to Bedfordshire, Essex, Hertfordshire, Norfolk, Suffolk and Wiltshire County Councils.

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**.**

7. Policy background

7.1 The revocation of the Order is part of the government's drive to reduce the regulatory burden or red tape[1] that surrounds businesses and is a cost to the taxpayer.

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[1]Defra's documents relating to the Better regulation: Red Tape Challenge are at: https://www.gov.uk/government/collections/better-regulation-red-tape-challenge

7.2 The disease was first identified in the UK in 1924 and local control orders were introduced in the 1950s and 60s when it was believed at the time that the spread of the disease could be prevented by clearing and burning any willow trees with infection. The principal Order superseded all of the previous local watermark disease orders. As it is necessary for Local Authorities to enforce the principal Order, this action would come at a cost to taxpayers. None of the six Local Authorities to which the Order applies have exercised their powers in the last 8 years and in some instances even longer.

7.3 The bacterium *Brenneria salicis*, the cause of watermark disease in willow, is prevalent in the wider environment; and scientific opinion is that removal of diseased trees would not achieve eradication. The disease can remain symptomless in some trees and transportation of infected cutting material is considered to be the primary source of disease spread. While eradication is not feasible it is possible to reduce the disease impact through management practices. An entry for Watermark Disease has been added to the UK Plant Health Risk Register, and this concludes that statutory action is no longer necessary. It is consistent with Government's Plant Health Strategy for industry to decide how best to respond to threats from a pest which is not a priority for statutory action.

8. Consultation outcome

8.1 A public consultation was held between 4 June and 24 August 2014. Two groups responded; Local Authorities who were in favour of revoking the Order and representatives for the growers and processors of cricket bat willow who were opposed. The response to the consultation and the decision to revoke the Order was published on Forestry Commission England's Consultation Hub in March 2015 https://englandconsult.forestry.gov.uk/.

8.2 As a principle Government will regulate only to achieve its policy objectives and where the original policy objectives have changed or are no longer relevant, the measure should be allowed to expire (or be repealed). Equally, if the measure has not had a significant beneficial impact in line with the original policy objectives, the presumption should be that it is allowed to expire (or be repealed). The principal Order does not achieve its original policy objective and does not provide a significant beneficial impact.

9. Guidance

9.1 A brief note on the revocation of the measures will be placed on the Forestry Commission's website.

10. Impact

10.1 An impact assessment was not conducted as the measures in the legislation are no longer enforced therefore no impact on business or the private or voluntary sector is foreseen.

11. Regulating small business

11.1 No impact on small businesses is foreseen.

12. Monitoring and review

12.1 Not applicable.

13. Contact

13.1 John Morgan, Forestry Commission, Silvan House, 231 Corstorphine Road Edinburgh, EH12 7AT; Tel 0300 067 5170; e-mail john.morgan@forestry.gsi.gov.uk can answer any queries regarding this instrument.