EXPLANATORY MEMORANDUM

1. i. The Polish Potatoes (Notification) (England) Order 2004 No.1452

   ii. This explanatory memorandum is laid before Parliament by Command of Her Majesty.

   iii. Department for Environment, Food and Rural Affairs.

2. The Order supports the UK's obligations under Article 12 of Council Directive 2000/29 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community by introducing targeted checks on the import of potatoes from Poland. The Order establishes a requirement on importers of Polish potatoes to notify Plant Health inspectors, prior to their introduction into England, of the intended import of the potatoes and of certain other information. The Order also establishes a similar requirement on persons who imported Polish potatoes after 30th April 2004 but before the coming into force of the Order.

3. [Matters of special interest to the Joint Committee on Statutory Instruments/ Select Committee on Statutory Instruments N/A]

4. Legislative Background

4.1 Article 12 of Council Directive 2000/29 requires Member States to organise official checks to ensure compliance with the Directive. Ordinarily, these checks are to be carried out at random but Member States may conduct targeted checks if facts have come to light to suggest that one or more provisions of the Directive have not been complied with. The potential movement of potatoes infected with ring rot being introduced into England from Poland is a situation, which is considered to justify the introduction of targeted checks.

4.2 The provisions of the Order establishing the notification requirements are authorised by section 2 of the Plant Health Act 1967 which allows the Secretary of State, as the competent authority in relation to England, to make such orders as she thinks expedient (or called for in any Community obligation) for preventing the introduction of pests into Great Britain and by section 3(1) of that Act which allows the Secretary of State to make such orders as she thinks expedient (or called for in any Community obligation) for preventing the spread of pests in Great Britain.

4.3 For the purposes of checking compliance with or enforcing the Order, certain powers of inspectors under the Plant Health (Great Britain) Order 1993 are

applied to the current Order. The authority to provide these powers is contained in sections 3(2) and 4 of the 1967 Act and in section 20 of the Agricultural (Miscellaneous Provisions) Act 1972 (which provides for the possibility of recovering the costs of enforcement carried out under the Plant Health (Great Britain) Order 1993).

4.5 The Order makes it an offence to contravene or to fail to comply with one or more of the notification requirements. Authority to create this offence is contained in section 3(4) of the Plant Health Act.

5. Extent

The instrument applies in respect of England only.

6. Policy background

6.1 Prior to the recent accession of the ten new member states to the EU, the import of potatoes from Poland was prohibited because of the presence of ring rot, a serious disease of potatoes. Since 1 May, potatoes from Poland have been allowed entry to the Community in accordance with the plant health and marketing requirements applicable to all potatoes traded within the EU.

6.2 However, due to concerns about the ring rot situation in Poland, a recent EU Food and Veterinary Office (FVO) audit concluded that although Poland had made good progress in implementing EU ring rot legislation, additional measures should be considered because of the prevailing situation. In response to the FVO recommendations, Poland has introduced additional measures, including enhanced testing of all consignments leaving Poland and notification of member states of destination. Although these are useful measures, they only provide limited additional assurance as potato ring rot is notoriously difficult to detect at low levels and the level of testing that will be introduced is unlikely to detect low levels of infection.

6.3 This Order is therefore necessary to supplement the arrangements in Poland. It will ensure that the Polish notification arrangements are effective and will facilitate the comprehensive monitoring of all imported consignments, to assess the risk to trade. The outcome of the monitoring will either provide reassurance about the health status of Polish potatoes or provide evidence in support of more stringent measures, including a ban on imports if necessary.

7. Impact

All the major trade organisations support, in principle, a statutory notification requirement, which they consider will enhance the protection against ring rot.

Any additional burden on the industry will be minimal as many importers already notify seed potatoes on a voluntary basis to Defra or on a statutory basis in respect of imported German potatoes. A Regulatory Impact Assessment has therefore not been prepared.

8. Contact

Richard Mcintosh, Defra, Room 344, Foss House, Kings Pool, 1-2 Peasholme Green, York YO1 7PX. Tel: 01904 455177 Fax 01904 455214.

Department for Environment, Food and Rural Affairs
May 2004