

Explanatory Memorandum to the Plant Health (Wales) (Amendment) Order 2019

This Explanatory Memorandum has been prepared by the Plant Health and Environment Protection Branch within the Economy, Skills and Natural Resources Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Plant Health (Wales) (Amendment) Order 2019. I am satisfied the benefits justify the likely cost.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs

30 January 2019

1. Description

This Order amends the Plant Health (Wales) Order 2018 (S.I. 2018/1064) (W. 223) 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.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

3. Legislative background

This Order is made under powers conferred on the Welsh Ministers by sections 2 and 3(1) of the Plant Health Act 1967 ('the Act') which enable them to make such orders as they think expedient to prevent the introduction of pests into and spread of plant pests within Great Britain.

The Welsh Ministers are the competent authority for Wales for the purposes of the Act pursuant to section 1(2) of the Act as amended by the Natural Resources Body for Wales (Functions) Order 2013.

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 is implemented in Wales by the Plant Health (Wales) Order 2018. Similar but separate legislation operates in Scotland, England and Northern Ireland.

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 Plant Health (Wales) Order 2018, 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.

This Order is subject to the negative procedure.

4. Purpose & intended effect of the legislation

Xylella fastidiosa is a bacterium which causes disease in a wide range of woody plants such as grapevine, citrus, olive and several species of broadleaf trees, including native UK species. It represents a substantial plant health risk, due to its broad host range and significant economic, social and environmental impacts in areas where it is present. Once established it is very unlikely it could be eradicated.

At the October meeting of the Standing Committee on Plants, Animals, Food and Feed, Belgium confirmed their first findings of *Xylella fastidiosa*, on olive trees imported from Spain. There is a high level of olive plant surveillance in the EU, including a UK survey, as this is one of the principal hosts of the disease and three symptomatic olive trees were detected during routine surveillance of a wholesaler in Belgium and three non-symptomatic trees from the same lot have also tested positive.

This is the first interception on traded olive trees and it is unclear at this stage whether this is indicative of a wider problem, or evidence of the surveillance system successfully picking up a problem at an early stage. It does, however, indicate a degree of uncertainty regarding the status of olive trees being traded in the EU, despite the strengthened legislation that has been introduced.

While the risk situation is kept under continuous review in light of ongoing developments, we are extending the current statutory notification scheme for imports from EU member states to cover olive trees. As with species already included in this scheme, this would help to raise awareness in the trade, facilitate ongoing targeted checks and would also facilitate timely tracing in the event of any potential issues arising. While a comprehensive survey programme is already in place, such notifications would help with targeting specific imported consignments, giving the best prospects of intercepting any diseased trees at an early stage, preventing introduction.

5. Consultation

Stakeholders recognise the importance of the strengthened measures introduced in this legislation. They regard *Xylella fastidiosa* as a major concern and support strengthened measures in preventing this disease from entering the UK.

6. Regulatory Impact Assessment (RIA)

Option 1: Business as Usual

Under this option, the Animal and Plant Health Agency (APHA) would not need to be informed about the import of olive trees from other EU Countries. As this is the baseline option, there are no additional costs and benefits associated with this option.

Option 2: Extend the statutory notification scheme to include olive trees.

This option extends the statutory notification scheme for imports of certain tree species from other EU member states to include olive trees. This is the preferred option.

Costs

As is the case for plants already covered by the scheme, importers of olive trees will need to notify APHA prior to, or within 4 days of the arrival of the trees. The information which will have to be supplied includes the species being imported, the country of export, the number of plants being imported and the intended first destination after arrival. The notification can be made using an existing online form. While there may be a small administrative cost to the importer associated with the time it takes to notify APHA, the proposed change is considered to be a proportionate step to help reduce the risk of the introduction of *Xylella fastidiosa* into the UK.

The administrative costs incurred in Wales are expected to be limited due to there being very few importers based in Wales.

Benefits

An outbreak of *Xylella fastidiosa* in the UK would have a potentially significant economic impact on horticultural businesses as well as having wider environmental impacts, with host plants within 100 metres of the outbreak having to be destroyed and potential restrictions on the movement and trade of certain plants.

Making the proposed change to the notification scheme will help APHA to target specific imported consignments and give the authorities the best chance of identifying any diseased plants at an early stage, preventing the introduction and spread of the bacterial disease in the UK.

This option will also ensure the application of the notification scheme in Wales is consistent with that in England.