

Explanatory Memorandum to the Plant Health (Phytophthora Ramorum) (Wales) (Amendment) Order 2007

This Explanatory Memorandum has been prepared by the Department for Rural Affairs and is laid before the National Assembly for Wales.

1. Description

This Order amends the Plant Health (Phytophthora Ramorum) (Wales) Order 2006 ('the principal Order'), which contains measures to prevent the introduction and spread of Phytophthora ramorum. It implements Commission Decision 2007/201/EC and corrects minor transposition errors in the principal Order.

2. Matters of special interest to the Subordinate Legislation Committee

None. This Order implements prescriptive Community obligations through Commission Decision 2007/201/EC, which amends Commission Decision 2002/757/EC.

3. Legislative Background

Commission Decision 2007/201/EC amends Commission Decision 2002/757/EC, which sets out detailed measures to be taken within Member States against Phytophthora ramorum in order to locate the organism, determine its distribution and prevent its occurrence and spread. This Decision is implemented in Wales, with regard to plants and planting material, by the Plant Health (Phytophthora ramorum) (Wales) Order 2006, using powers under the Plant Health Act 1967. Equivalent but separate legislation operates in England, Scotland and Northern Ireland.

The Plant Health (Phytophthora ramorum) (Wales) (Amendment) Order 2007 is made under sections 2 and 3(1), (2), (3) and (4) of the Plant Health Act 1967. The functions previously conferred on the Secretary of State for Wales were transferred to the National Assembly for Wales and now vest in the Welsh Ministers by virtue of s162 and para 30 of Schedule 11 to the Government of Wales Act 2006.

This instrument is made using the negative resolution procedure.

4. Purpose and intended effect of legislation

The Plant Health (Phytophthora ramorum) (Wales) (Amendment) Order 2007 amends the Plant Health (Phytophthora ramorum) (Wales) Order 2006 ('the principal Order'). It implements Commission Decision 2007/201/EC and corrects minor transposition errors in the principal Order. The main changes are:-

- an amendment to the list of susceptible material to which the Order applies, and
- the introduction of additional requirements on movement of susceptible material, in particular that appropriate phytosanitary measures be taken within a radius of two metres from where infected plants have been standing.

The Assembly Government is required to implement this Commission Decision's as soon as practically possible to ensure a consistent approach is taken to prevent the introduction and spread of this plant pathogen across the EU. The Plant Health and Seeds Inspectorate (PHSI), who operate in Wales on behalf of the Assembly Government, advise that non-implementation of these amendments would mean an increase in the threat to the health of plants and planting material in Wales.

5. Implementation

It is intended that this Amendment Order should come into force on 12 October 2007. Equivalent legislation was implemented in England on 15 August 2007 and is under consideration in both Scotland and Northern Ireland. Apart from the application of improved disease management measures, no other significant effects are expected in Wales as a result of the implementation of this legislation. However, failure to implement these amendments would lead to operational difficulties for PHSI, as it would need to apply separate regulatory regimes to the provision of services relating to this Amendment Order in England and Wales.

6. Consultation

A public consultation on this Amendment Order was not deemed necessary. The amendments implement routine, non-controversial and prescriptive Community obligations. Furthermore, UK industry representatives were given the opportunity to respond to a stakeholder consultation undertaken at the EU level, prior to the formulation of the legislation. As a consequence, neither England nor Scotland undertook a specific consultation on this issue and a similar approach was considered appropriate in Wales.

7. Regulatory Impact Assessment

A regulatory impact assessment has not been prepared, as the Amendment Order has no impact on the costs for business, local government or the voluntary sector.