

**Explanatory Memorandum to  
The Plant Health (Wales) (Amendment) (No 2) Order 2010**

This Explanatory Memorandum has been prepared by the Department for Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

**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) (No 2) Order 2010.

*Elin Jones*

Minister for Rural Affairs

15 December 2010

## **Description**

This Order amends the Plant Health (Wales) Order 2006 ('the principal Order') which contains measures to prevent the introduction and spread of harmful plant pests and diseases. It implements Commission Directive 2000/29/EC.

### **1. Matters of special interest to the Constitutional Affairs Committee**

The Plant Health (Wales) Order 2006 is English only due to its highly technical nature and size. In addition, the Order and any subsequent amendments are targeted at a very limited audience in Wales.

### **2. Legislative background**

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. 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 is implemented in Wales, for non-forestry matters, by the Plant Health (Wales) Order 2006. Similar but separate legislation operates in Scotland, England and Northern Ireland.

A number of EU instruments have been adopted amending the annexes of the Directive as a result of technical changes in the assessment of risks presented by particular pests and diseases and introducing new measures to address risks presented by other pests and diseases. These amendments are described in more detail below. The current Statutory Instrument makes the necessary amendments to the Plant Health (Wales) Order 2006.

The amending Order is made under sections 2 and 3(1) of the Plant Health Act 1967. These powers now vest in the Welsh Ministers by virtue of s162 and paragraph 30(1) and (2) of Schedule 11 to the Government of Wales Act 2006.

### **3. Purpose & intended effect of the legislation**

*Anoplophora chinensis*: *A. chinensis* (Citrus longhorn beetle) is a damaging pest of a range of trees and shrubs. The common name is misleading because this pest can be found on many different species of trees, and outbreaks in northern Italy, and of the related *Anoplophora glabripennis* (Asian longhorn beetle) in the USA, have shown the potential of these pests to move with international trade and cause damage. The natural range of the beetle includes China, Japan and other countries in South East Asia. They are a threat to horticulture and forestry in the UK and also to citrus production in the Mediterranean.

In response to a number of findings of citrus longhorn beetle in the UK and elsewhere (particularly Netherlands and Germany) in 2008, emergency measures were implemented by the Standing Committee on Plant Health. Commission Decision 2008/840/EC was adopted by the Commission in November 2008. The emergency measures introduced by Commission Decision 2008/840/EC were implemented by the Plant Health (Wales) (Amendment) Order 2008. These included restrictions on the import of a wide range of plants from countries where the beetle is known to be present. There is a requirement

for plants to have been grown in a pest free area and monitored for at least two years.

Commission Decision 2010/380/EU amends previous requirements for the import and movement of susceptible plants introduced in Commission Decision 2008/840/EC to prevent the introduction into and spread within the Community of *A. chinensis*. Amendments introduced by the Decision include a tightening of existing pre-export and import requirements for host material originating from third countries and the introduction of a ban on the import of plants of the genus *Acer* (a particular host for *A. chinensis*) from China for 2 years until 30<sup>th</sup> April 2012. This latter provision was introduced following continued interceptions of *A.chinensis* on *Acers* from China, despite the introduction of Decision 2008/840/EC. An ambulatory reference is being introduced to give effect to this and future EU Decisions on this particular pest. It is necessary and expedient to introduce such a reference, as the Decision is updated regularly with the need for efficient and timely implementation, to ensure effective action against the pest. A further review is already in progress and there will be a further review in spring 2011. Regular reviews are required to take account of scientific developments (e.g. whether the list of host plants specified remains current) and to evaluate the effectiveness of the controls described to consider if any changes are needed (as in the case of Decision 2010/380/EU). At least annual reviews are likely to take place for the foreseeable future.

The measures introduced through this amendment order are intended to prevent the introduction and spread of plant pests and diseases. Failure to implement the measures would place the UK and the wider EU at risk from the relevant pests and diseases and could also lead to infraction action by the European Union.

The Order also makes minor changes to the requirements for the import of soil from third countries; at item 10 of Schedule 3 to clarify the type of material which may be imported and at item 52 of Schedule 4 covering the countries from which soil importation is prohibited.

## **5. Consultation**

Consultation on the Plant Health (Wales) (Amendment) (No 2) Order 2010 was not deemed necessary because it transposes emergency plant health measures initiated by the European Commission.

## **6. Regulatory Impact Assessment (RIA)**

A regulatory impact assessment has not been prepared as the Order has no impact on the costs for business.