

**EXPLANATORY MEMORANDUM TO**  
**THE PLANT HEALTH (FORESTRY) (AMENDMENT) ORDER 2008**

**2008 No. 644**

1. This explanatory memorandum has been prepared by the Forestry Commission and is laid before Parliament by Command of Her Majesty.

This memorandum does not contain information for the Joint Committee on Statutory Instruments.

## **2. Description**

This Order amends the Plant Health (Forestry) Order 2005 (SI 2005/2517) (the principal Order) so as to introduce emergency controls to prevent the introduction into and spread within Great Britain of two tree pests: Oak Processionary Moth and Pitch Pine Canker (the latter being the implementation of Commission Decision 2007/433/EC<sup>1</sup>).

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

None

## **4. Legislative Background**

- 4.1 Council Directive 2000/29/EC<sup>2</sup> on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ("the Plant Health Directive") establishes the Community plant health regime. It contains measures to be taken in order to prevent the introduction into, and spread within, the Community of pests and diseases injurious to plants and plant produce.
- 4.2 Article 16.2 of the Plant Health Directive provides for a Member State, where it considers that there is an imminent danger and where it further considers that the measures it has requested are not being taken in sufficient time to prevent the introduction or spread of a harmful organism in its territory, to take temporarily any additional measures which it deems necessary.
- 4.3 The Commission may also adopt provisional emergency measures on its own initiative – it has done this in Commission Decision 2007/433/EC on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O'Donnell (in relation to Pitch Pine canker).
- 4.4 The Plant Health Directive and additional emergency measures are implemented in Great Britain, for forestry matters, by the Plant Health (Forestry) Order 2005. The current instrument, which is made under Sections. 2 and 3(1) of the Plant Health Act 1967, amends that Order.

## **5. Extent**

This instrument applies to Great Britain.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

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<sup>1</sup> OJ No. L 161, 22.6.2007, p.66.

<sup>2</sup> OJ No. L 169, 10.7.2000, p.1.

## 7. Policy background

7.1 The Forestry Commission first notified the Commission and the Member States of the appearance of Oak Processionary Moth in October 2006 following reports to Defra of findings in semi-mature trees planted for amenity purposes. There is a single generation per annum. On the continent, larvae occur during May and June. They live gregariously in webs spun among shoots of the host plant and have the habit of following one another in long processions as they move around trees feeding on the leaves. Larvae pupate at the end of June or beginning of July, and emerge from the webs as adults 1-2 weeks later. The adults fly during July and August, during which time the females lay their eggs on host plants. The eggs over-winter and hatch the following May. In June 2007 the Forestry Commission informed the European Commission that an eradication programme had been launched, following surveys conducted in May 2007 when further nests were found and a Pest Risk Assessment confirmed that quarantine measures were justified. Surveys through the spring and summer resulted in the removal and destruction of a further estimated 708 nests. In September the Commission and the Member States were advised that additional measures were considered necessary to prevent further introductions of infested oak trees introduced from Member States where the pest is present and requested the Commission to formulate proposals for such measures.

7.1 7.2 The European Commission has indicated that it is prepared to make proposals but it will take a number of months before these are agreed and adopted. In the meantime, the Forestry Commission considers that it is necessary to put in place temporary measures before the start of the main 2008 import season for plants, and has been pressed by the forest nursery industry to do so without delay.

7.3 This Order amends the Plant Health (Forestry) Order 2005 by adding Oak Processionary Moth (*Thaumetopoea processionea*) to the tree pests listed in Schedule 1 of the Order "Tree pests which shall not be landed or spread within Great Britain" and by introducing additional requirements in Part B of Schedule 4, "Relevant material, from another part of the European Community, which may only be landed in or moved within Great Britain if special requirements are satisfied" in respect of all oak trees, the principal host of Oak Processionary Moth, which are to be introduced into Great Britain. Currently, there are no special requirements in place with respect to this tree pest and the current regime of requiring plants intended for planting to be accompanied by a plant passport does not extend to plants which are prepared and ready for sale to the final consumer. There is evidence that semi-mature oak trees, often used for landscaping purposes and which are consigned 'prepared and ready for sale to the final consumer' have been introduced into Great Britain while carrying the Moth either in its egg stage or in nests containing larvae. The Moth is not known to occur outside the EU. and the new requirements do not therefore extend to oak trees imported from third countries.

7.4 Oak trees, other than those prepared and ready for sale to the final consumer, are already included within the EU plant passport regime and thus the majority of such plants moving in trade are already required to be accompanied by a plant passport. In future, authority to issue a plant passport for oak trees destined for the GB market will only be able to be granted to those producers in other Member States whose place of production, and its immediate vicinity, are free from Oak Processionary Moth.

7.5 The Order also implements Commission Decision 2007/433/EC by further amending the Plant Health (Forestry) Order 2005, adding the disease *Gibberella circinata*, the cause of Pitch Canker of pine to Schedule 1 and introducing into Part B of Schedule 4 requirements in respect of plants and seeds of Douglas fir and plants of the genus *Pinus*, hosts of the disease. The disease can cause significant losses, especially in nursery stock, and a Pest Risk Assessment for the Euro-Mediterranean area indicates that it could establish in Great Britain and cause significant damage. Surveys carried out in 2007 by many of the member States of the EU indicate that it is currently present only in Spain, where over 2 million nursery trees were destroyed in 2007

## **8. Impact**

An Impact Assessment has not been carried out as there is unlikely to be any significant impact on either businesses, charities or the voluntary sector.

## **9. Contact**

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