
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

**The Forestry (EU Exit) (Scotland)
(Amendment etc.) Regulations 2019**

PART 2

Amendment of the Plant Health (Forestry) Order 2005

63. After schedule 12 insert—

“SCHEDULE 12A

Article 37A(2)

Emergency measures: miscellaneous

PART A

Official surveys

1. The Scottish Ministers must carry out official surveys for the presence of the following plant pests—

- (a) *Phytophthora ramorum* Werres, De Cock & Man in ‘t Veld sp. nov.;
- (b) *Gibberella circinata* Nirenberg & O’Donnell;
- (c) *Anoplophora chinensis* (Forster);
- (d) *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al.;
- (e) *Xylella fastidiosa* (Wells et al.);
- (f) *Anoplophora glabripennis* (Motschulsky);
- (g) *Aromia bungii* (Faldermann).

2. Official surveys carried out pursuant to paragraph 1(b) must include surveys for evidence of infection by *Gibberella circinata* Nirenberg & O’Donnell.

3. Official surveys carried out pursuant to paragraph 1(c) must include surveys for evidence of infestation by *Anoplophora chinensis* (Forster) on host plants.

4. Official surveys carried out pursuant to paragraph 1(d) must—

- (a) include surveys for *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al. on the plants, wood and bark to which schedule 12D applies and its vectors in the genus *Monochamus*; and
- (b) consist of the collection of samples of that material and those vectors in accordance with sound scientific and technical principles and the laboratory testing of those samples in accordance with EPPO PM 7/4.

5. Official surveys carried out pursuant to paragraph 1(e) must—

- (a) consist of visual examinations and, in the case of any suspicion of infection by *Xylella fastidiosa* (Wells et al.), the collection of samples and testing;
 - (b) be based on sound scientific and technical principles;
 - (c) be carried out at appropriate times of the year;
 - (d) take account of the available scientific and technical evidence, the biology of the plant pest and its vectors, the presence and the biology of the relevant material which may host or become infected with the plant pest; and
 - (e) include the screening of the plant pest in areas which have been demarcated under schedule 12E by one molecular test and, where the test is positive, by the carrying out, in line with international standards, of at least one additional positive molecular test.
- 6.** Official surveys carried out under paragraph 1(f) must include surveys for evidence of infestation by *Anoplophora glabripennis* (Motschulsky) on host plants.
- 7.** Official surveys carried out pursuant to paragraph 1(g) must—
- (a) consist of visual examinations and, in the case of any suspicion of infestation by *Aromia bungii* (Faldermann), collection of samples for pest identification; and
 - (b) take account of the available scientific and technical evidence, the biology of the plant pest and any other appropriate information concerning the presence of the plant pest.
- 8.** In paragraph 4, “EPPO PM 7/4” means the standard describing a diagnostic protocol for *Bursaphelenchus xylophilus* approved by the European and Mediterranean Plant Protection Organization⁽¹⁾.

PART B

Phytophthora ramorum Werres, De Cock & Man in ‘t Veld sp. nov.

- 8.** Where signs of *Phytophthora ramorum* Werres, De Cock & Man in ‘t Veld sp. nov. have been found on any plants in a place, other than a place of production, the Scottish Ministers must take appropriate measures to contain the plant pest.

PART C

Emergency measures: Scotland and England

- 9.** This Part applies where there is evidence that a relevant plant pest is present in Scotland or England.
- 10.** The Scottish Ministers must cooperate with the Commissioners to determine the extent of the area to be demarcated in relation to the infestation and the actions to be taken to eradicate and contain the relevant plant pest.
- 11.** For the purposes of paragraph 10, the Scottish Ministers must ensure that the objectives of the demarcation and actions to be taken are consistent with the objectives and actions that would apply if the area were to be demarcated under the applicable schedule.
- 12.** In this Part—
- (a) “relevant plant pest” means any of the following—

(1) First approved by the European and Mediterranean Plant Protection Organization in September 2012 and available from its Secretariat at 21 Boulevard Richard Lenoir, 75011, Paris, France and at https://www.eppo.int/RESOURCES/eppo_standards/pm10_phytosanitary_treatments.

- (i) *Gibberella circinata* Nirenberg & O'Donnell;
 - (ii) *Anoplophora chinensis* (Forster);
 - (iii) *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al.;
 - (iv) *Xylella fastidiosa* (Wells et al.);
 - (v) *Anoplophora glabripennis* (Motschulsky);
- (b) “applicable schedule”, in relation to a plant pest, means the schedule which makes provision about emergency measures in respect of that plant pest.

SCHEDULE 12B

Article 37A(3)

Emergency measures: *Gibberella circinata* Nirenberg & O'Donnell

Application and interpretation

1. This schedule applies where there is evidence that *Gibberella circinata* Nirenberg & O'Donnell is present in Scotland.
2. In this schedule—
 - “the plant pest” means *Gibberella circinata* Nirenberg & O'Donnell;
 - “susceptible plants” means any plants of the genus *Pinus* L. or the species *Pseudotsuga menziesii*, intended for planting, including seeds or cones for propagation purposes.

Establishment of a demarcated area

3. The Scottish Ministers must by notice demarcate an area in relation to the infestation consisting of—
 - (a) an infected zone and a buffer zone around the infected zone; and
 - (b) where two or more buffer zones around infected zones overlap or are geographically close, an area encompassing those infected zones and buffer zones and the areas between the buffer zones.
4. The infected zone must include the area in which the plant pest was found and all susceptible plants showing symptoms caused by the plant pest.
5. The boundary of the buffer zone must be at least one km beyond the boundary of the infected zone.
6. The demarcation of any infected zone and buffer zone for the purposes of paragraph 3 must be based on sound scientific principles, the biology of the plant pest and its vectors, the level of infection, the time of year and the distribution of susceptible plants.
7. If there is a confirmed finding of the plant pest outside an infected zone, the Scottish Ministers must either demarcate a further area or amend the original demarcated area in accordance with paragraphs 3 to 6 to take account of that finding.
8. Paragraph 3 does not apply in so far as any part of the area to be demarcated would be in England.

Measures to be taken in a demarcated area

9. Where the Scottish Ministers demarcate an area under paragraph 3, they must ensure that—

- (a) measures are taken for the purpose of eradicating the plant pest in the demarcated area; and
- (b) intensive monitoring is carried out in the demarcated area for the presence of the plant pest through appropriate inspections.

Lifting of demarcation

10. The Scottish Ministers may lift the demarcation that applies to an area which has been demarcated under paragraph 3 if the official surveys carried out pursuant to paragraph 1(b) of schedule 12A show that the plant pest has not been found to be present in the demarcated area in the two years prior to the lifting of the demarcation.

SCHEDULE 12C

Article 37A(4)

Emergency measures: *Anoplophora chinensis* (Forster)

PART A

Application and interpretation

1. This schedule applies where there is evidence that *Anoplophora chinensis* (Forster) is present in Scotland.

2. In this schedule—

“appropriate time”, in the case of paragraphs 11(a) and 12(a), means immediately or, in any case where the infested plants were found outside the flying period of the plant pest, before the start of the next flying period;

“demarcated area” means an area demarcated under paragraph 3;

“felling”, in relation to a plant, includes its removal;

“infested plant” means a plant which has been found to be infested with the plant pest;

“place of production” means a place of production which meets the requirements referred to in column 3 of item 2 of Part E of schedule 4;

“the plant pest” means *Anoplophora chinensis* (Forster);

“relevant period” means a period of at least four consecutive years which includes at least one life cycle of the plant pest and the year after;

“susceptible plants” means plants for planting, other than seeds, that have a stem or root collar diameter of one cm or more at their thickest point, of *Acer* spp., *Aesculus hippocastanum*, *Alnus* spp., *Betula* spp., *Carpinus* spp., *Citrus* spp., *Cornus* spp., *Corylus* spp., *Cotoneaster* spp., *Crataegus* spp., *Fagus* spp., *Lagerstroemia* spp., *Malus* spp., *Platanus* spp., *Populus* spp., *Prunus laurocerasus*, *Pyrus* spp., *Rosa* spp., *Salix* spp. or *Ulmus* spp.

PART B

Establishment of a demarcated area

3. The Scottish Ministers must by notice and without delay demarcate an area in relation to the infestation consisting of an infested zone and a buffer zone around the infested zone.
4. The infested zone must include the area in which the plant pest was found, all plants showing symptoms caused by the plant pest and, where appropriate, all plants belonging to the same lot at the time of planting.
5. The boundary of the buffer zone must be at least two km beyond the boundary of the infested zone, but may be reduced to one km beyond the boundary of the infested zone where the Scottish Ministers conclude that eradication of the plant pest is possible and remain of that view.
6. The demarcation of the infested zone and the buffer zone must be based on sound scientific principles, the biology of the plant pest, the level of infestation, the distribution of host plants in the area concerned and evidence of establishment of the plant pest.
7. If there is a confirmed finding of the plant pest outside the infested zone, the Scottish Ministers must either demarcate a further area or amend the original demarcated area in accordance with paragraphs 3 to 6 to take account of that finding.
8. Paragraph 3 is subject to paragraph 15.
9. This Part does not apply in so far as any part of the area to be demarcated would be in England.

PART C

Measures to be taken in a demarcated area

10. Where an area is demarcated under paragraph 3, the Scottish Ministers must ensure that measures are taken to eradicate the plant pest in the area or, where they have concluded that this is no longer possible, to contain the spread of the plant pest from the area.
11. The eradication measures must include—
 - (a) the felling of all infested plants and plants with symptoms caused by the plant pest, other than any plant to which sub-paragraph (d) applies, and the complete removal of their roots at the appropriate time;
 - (b) the felling of all susceptible plants within a radius of 100 m of an infested plant, other than any plant to which sub-paragraph (d) applies, and the examination of those plants for any sign of infestation;
 - (c) the removal, examination and disposal of plants felled in accordance with sub-paragraphs (a) and (b) and their roots, taking all necessary precautions to avoid the spread of the plant pest during and after felling;
 - (d) in any case where the Scottish Ministers conclude that the felling of an infested tree, any tree with symptoms caused by the plant pest or a susceptible plant within a radius of 100 m of an infested plant would not be appropriate and alternative eradication measures can be applied to offer the same level of protection to those measures, those alternative eradication measures;
 - (e) the prevention of any movement of potentially infested plants out of the demarcated area;

- (f) the tracing back to the origin of the infestation and the tracing of plants associated with the infestation as far as possible, along with examinations of the plants traced for any sign that they are infested with the plant pest, which must include targeted destructive sampling;
- (g) where appropriate, the replacement of susceptible plants by other plants;
- (h) the prohibition on the planting of susceptible plants in the open air within a radius of 100 m of an infested plant, except in a place of production;
- (i) intensive monitoring for the presence of the plant pest by annual inspections at appropriate times on host plants, with specific focus on the buffer zone, including, where appropriate, targeted destructive sampling;
- (j) activities to raise public awareness of the threat of the plant pest and the measures adopted to prevent its introduction into and spread within Scotland, including the conditions relating to the movement of susceptible plants from the demarcated area;
- (k) where necessary, specific measures to address any particularity or complication that could reasonably be expected to prevent, hinder or delay eradication of the plant pest; and
- (l) any other measure which may contribute to the eradication of the plant pest, taking into account the guidelines in ISPM No. 9 and ISPM No. 14.

12. The containment measures must include—

- (a) the felling of all infested plants and plants with symptoms caused by the plant pest, other than any plant to which sub-paragraph (c) applies, and the complete removal of their roots at the appropriate time;
- (b) the removal, examination and disposal of plants felled in accordance with sub-paragraph (a) and their roots, taking all necessary precautions to avoid the spread of the plant pest after felling;
- (c) in any case where the Scottish Ministers conclude that the felling and the disposal of an infested tree or any tree with symptoms caused by the plant pest would not be appropriate and alternative containment measures can be applied to offer the same level of protection to those measures, those alternative containment measures;
- (d) the prevention of any movement of potentially infested plants out of the demarcated area;
- (e) where appropriate, the replacement of susceptible plants by other plants;
- (f) the prohibition on the planting of susceptible plants in the open air within a radius of 100 m of an infested plant, except in a place of production;
- (g) intensive monitoring for the presence of the plant pest by annual inspections at appropriate times on host plants, which must include targeted destructive sampling;
- (h) activities to raise public awareness of the threat of the plant pest and the measures adopted to prevent its introduction into and spread within Scotland, including the conditions relating to the movement of susceptible plants from the demarcated area;
- (i) where necessary, specific measures to address any particularity or complication that could reasonably be expected to prevent, hinder or delay containment of the plant pest; and
- (j) any other measure which may contribute to the containment of the plant pest.

13. The Scottish Ministers must set time periods for the implementation of the measures to be carried out.

14. The Scottish Ministers may only conclude that it is not possible to eradicate the plant pest from a demarcated area where the results of official surveys carried out over a period of four or more consecutive years have confirmed the presence of the plant pest in the demarcated area and there is evidence that the plant pest can no longer be eradicated from the area.

PART D

Measures to be taken where no demarcated area is established

15. The Scottish Ministers need not demarcate an area in relation to a finding of the plant pest in Scotland where—

- (a) there is evidence that—
 - (i) the infestation has been caused by the movement of susceptible plants to the area of infestation and those plants were infested with the plant pest prior to their movement to that area; or
 - (ii) it is an isolated finding which is not expected to lead to the establishment of the plant pest; and
- (b) they have ascertained that the plant pest is not established in the area and will not successfully breed or spread if appropriate eradication measures are taken.

16. Where the Scottish Ministers do not demarcate an area for the reasons specified in paragraph 15(a) and (b), they must ensure that—

- (a) measures are immediately taken for the purpose of promptly eradicating the plant pest and preventing its spread;
- (b) over the relevant period, monitoring is carried out within one km of the infested plants or the place at which the plant pest was found, which must be regular and intensive in the first year;
- (c) the infested plants are destroyed;
- (d) tracing back to the origin of the infestation and tracing of plants associated with the infestation is carried out as far as possible, along with examinations of the plants traced for any sign that they are infested with the plant pest, which must include targeted destructive sampling;
- (e) activities to raise public awareness of the threat posed by the plant pest are carried out;
- (f) any other measure which may contribute to the eradication of the plant pest is taken, taking account of the guidelines in ISPM No. 9 and ISPM No. 14.

PART E

Lifting of demarcation

17. The Scottish Ministers may lift the demarcation that applies to a demarcated area if—

- (a) the plant pest is not detected in the demarcated area over the relevant period during official surveys carried pursuant to paragraph 1(c) of schedule 12A or by the monitoring referred to in paragraph 11(i); or
- (b) the conditions in paragraph 15(a) and (b) are satisfied.

SCHEDULE 12D

Article 37A(5)

Emergency measures: *Bursaphelenchus xylophilus*
(Steiner et Buhner) Nickle et al. (the pinewood nematode)

PART A

Application and interpretation

1. This schedule applies where there is evidence that *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al. is present in a susceptible plant in Scotland in which it was previously not known to occur or where there is evidence that it is present in Scotland by other means.

2. In this schedule—

“appropriate samples”, in relation to a susceptible plant, means samples from several parts of the plant, including the crown, and any part where signs of activity of insect vectors are visible;

“appropriate sampling scheme” means a sampling scheme which is able to confirm with 99% reliability that the level of the plant pest in the plants being sampled and tested is below 0.1%;

“appropriate time”, in relation to the felling of susceptible plants, means—

(a) in the case of any plant identified outside the flight season of the vector, before the start of the next flight season;

(b) in the case of any plant identified during the flight season of the vector, immediately;

“authorised treatment facility” means a treatment facility authorised by the Scottish Ministers for the purposes of this schedule;

“demarcated area” means an area demarcated under paragraph 3;

“exempt plant” means any susceptible plant which the Scottish Ministers have concluded it would be inappropriate to fell;

“flight season of the vector” means the period beginning on 1st April and ending on 31st October or such other period as the Scottish Ministers consider appropriate;

“pest free area” means a demarcated area in respect of which there is evidence from surveys carried out for the presence of the vector in accordance with ISPM No. 4 that the vector has not been present in the area for at least three consecutive years;

“the plant pest” means *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al. (the pinewood nematode);

“relevant movement restrictions”, in relation to susceptible plants, susceptible wood or susceptible bark, mean any restrictions that apply to their movement under this Order;

“residual material” means cut stems, cutting residues and naturally occurring debris showing signs of activity of insect vectors which are located in a part of the demarcated area where wilt symptoms of the susceptible plants are not expected to occur or are expected to be delayed;

“susceptible bark” means bark of conifers (Coniferales);

“susceptible plants” means plants, other than fruit and seeds, of *Abies* Mill., *Cedrus* Trew, *Larix* Mill., *Picea* A. Dietr., *Pinus* L., *Pseudotsuga* Carr. or *Tsuga* Carr.;

“susceptible wood” means wood of conifers (Coniferales), other than sawn wood or logs of *Taxus* L or *Thuja* L., which—

- (a) retains part or all of its natural round surface, with or without bark, or is in the form of chips, particles, shavings, sawdust, wood waste or scrap;
- (b) has not retained its round surface; or
- (c) is in the form of beehives or bird nesting boxes;

“the vector” means beetles belonging to the genus *Monochamus* Megerle in Dejean, 1821.

PART B

Establishment of a demarcated area

3. The Scottish Ministers must by notice and without delay demarcate an area in relation to the infestation consisting of—

- (a) the infested zone (being the area in which the plant pest was found to be present); and
- (b) a buffer zone around the infested zone.

4. The buffer zone must have a diameter of at least 20 km, which may be reduced to 6 km, if the eradication measures referred to in paragraph 9 are being taken and the Scottish Ministers consider that the reduction will not jeopardise the effectiveness of the eradication measures.

5. Where the plant pest is found to be present in the buffer zone and eradication measures are not being taken in the demarcated area, the Scottish Ministers must demarcate a further area in accordance with paragraphs 3 and 4 to take account of that finding.

6. Where the plant pest is found to be present in the buffer zone and eradication measures are being taken in the demarcated area, the Scottish Ministers must either demarcate a further area or amend the original demarcated area in accordance with paragraphs 3 and 4 to take account of that finding.

7. This Part does not apply in so far as any part of the area to be demarcated would be in England.

PART C

Eradication measures

8. This Part applies where an area is demarcated under paragraph 3 by the Scottish Ministers.

9. The Scottish Ministers must ensure that the following measures are taken under official supervision to eradicate the plant pest—

- (a) the establishment of a clear-cut zone around each susceptible plant in which the plant pest has been found to be present in accordance with paragraph 10;
- (b) the felling, removal and disposal of all susceptible plants, other than any exempt plants, in a clear-cut zone, taking all necessary precautions to avoid spreading the plant pest and the vector during felling;
- (c) the taking of appropriate samples from the susceptible plants felled and any residual material in the clear-cut zone;
- (d) the testing of those samples for the presence of the plant pest;
- (e) the carrying out of the following surveys—

- (i) surveys of the susceptible plants and residual material in the demarcated area, during and outside the flight season of the vector, in accordance with paragraph 11; and
- (ii) surveys of the vector itself during the flight season of the vector in accordance with paragraph 12, which must be intensive in any area affected by fire or storm;
- (f) the identification of all susceptible plants in the demarcated area which are infested with the plant pest or which are dead, in poor health or affected by fire or storm;
- (g) the felling, at the appropriate time, of—
 - (i) all susceptible plants in the demarcated area which have been found to be infested with the plant pest;
 - (ii) in the case of any plants in a pest free area, all susceptible plants which have been found to be infested following their sampling and testing using an appropriate sampling scheme; and
 - (iii) in the case of any plants in a demarcated area which is not a pest free area, all susceptible plants in the demarcated area which are dead, in poor health or affected by fire or storm;
- (h) in the case of felled susceptible plants in the demarcated area in which the plant pest has not already been found to be present, the sampling and testing of those plants using an appropriate sampling scheme;
- (i) the disposal of all felled susceptible plants and the resulting logging remains, taking all necessary precautions to avoid spreading the plant pest and the vector during felling, by their destruction on site or their removal and the treatment of their wood and bark in accordance with paragraph 13;
- (j) in the case of any place of production of plants for planting in which the plant pest has been detected on susceptible plants grown at the place of production since the beginning of the last complete growing cycle, the removal and disposal of those plants, taking all necessary precautions to avoid spreading the plant pest and the vector;
- (k) the identification of all felled susceptible plants in the buffer zone which are not subject to the preceding measures and the removal of those plants and their logging remains, taking all necessary precautions to avoid spreading the plant pest and the vector;
- (l) in the case of any exempt plants, the application of alternative eradication measures to their felling, removal and disposal to prevent any possible spread of the plant pest from the plants;
- (m) in the case of any clear-cut zone which has been reduced for the reasons specified in paragraph 10(a)—
 - (i) the inspection, during or after the flight season of the vector, of those susceptible plants which are located between 100 m and 500 m of an infested susceptible plant for signs or symptoms of the presence of the plant pest;
 - (ii) the taking of appropriate samples of any plant inspected under paragraph (i) which shows signs or symptoms of the presence of the plant pest and the testing of those samples for the presence of the plant pest;
 - (iii) the carrying out of intensive surveys of the vector by sampling and testing individual vectors for the presence of the plant pest in the area located between 100 m and 500 m of an infested susceptible plant; and
 - (iv) the application of alternative eradication measures to their felling, removal and disposal to prevent any possible spread of the plant pest from the susceptible plants; and

- (n) the production of a hygiene protocol setting out the hygiene procedures for vehicles transporting forest products and machinery for processing forest products to ensure that the plant pest cannot be spread with those vehicles and machinery.
- 10.** Any clear-cut zone must be established promptly in light of the risk of transmission of the plant pest by the vector from the susceptible plant in which it was found and must have a minimum initial radius of 500 m, which may be reduced to 100 m if—
- (a) the Scottish Ministers conclude that the creation of a clear-cut zone with a radius of 500 m would have unacceptable social or environmental impacts; or
 - (b) the Scottish Ministers have evidence from surveys carried out for the presence of the vector in accordance with ISPM No. 4 that the vector has not been present in the area during the preceding three years.
- 11.** When carrying out any survey of any susceptible plants and residual material in a demarcated area, the survey must—
- (a) include the inspection, sampling and testing of those plants and that material for the presence of the plant pest;
 - (b) focus in particular on susceptible plants which are dead, in poor health or affected by fire or storm; and
 - (c) be carried out at an appropriate rate which ensures that the intensity of the survey in the area lying within a radius of 3000 m of an infested susceptible plant is at least four times higher than in the rest of the buffer zone outside that area.
- 12.** When carrying out any survey of the vector in a demarcated area during the flight season, the survey must include the inspection, sampling and testing of the vector for the presence of the plant pest.
- 13.** In the case of susceptible wood identified in the demarcated area during the flight season of the vector, the logs must either—
- (a) be—
 - (i) stripped of their bark, treated with an insecticide known to be effective against the vector or covered with an insect net drenched with such an insecticide immediately after felling;
 - (ii) promptly removed to a storage place or to an authorised treatment facility; and
 - (iii) in the case of any logs retaining their bark, treated with an insecticide known to be effective against the vector or covered with an insect net drenched with such an insecticide immediately on arrival at the storage place or the authorised treatment facility; or
 - (b) where the Scottish Ministers conclude that the actions described in paragraph (i) would not be effective, be immediately destroyed on site and chipped into pieces less than 3 cm thick and 3 cm wide.

PART D

Containment measures

14. This Part applies—

- (a) where—
 - (i) annual surveys carried out pursuant to paragraph 9(e) over a minimum period of four consecutive years and the experience gathered by the Scottish Ministers

shows that, in the particular circumstances, it is impossible to eradicate the plant pest; or

- (ii) there is evidence of the presence of the plant pest throughout the infested zone of a demarcated area, the infested zone exceeds 20 km and the experience gathered shows that in the particular circumstances, it is impossible to eradicate the plant pest in the infested area; and
- (b) where the Scottish Ministers have concluded that it would not be appropriate to continue to apply the eradication measures in Part C.

15. The Scottish Ministers must ensure that the following measures are taken under official supervision to contain the plant pest—

- (a) the carrying out of annual surveys of susceptible plants and the vector in the infested zone or zones in the demarcated area;
- (b) the felling of all susceptible plants in the infested zone or zones in which the plant pest has been found to be present and the removal and disposal of those plants and their felling remains, taking all necessary precautions to avoid spreading the plant pest and the vector;
- (c) the carrying out of the following surveys in the buffer zone of the demarcated area in accordance with paragraphs 16 and 17—
 - (i) surveys, during and outside the flight season of the vector, of susceptible plants and residual material; and
 - (ii) surveys, during the flight season of the vector, of the vector itself;
- (d) the identification of all susceptible plants in the buffer zone which are infested with the plant pest or which are dead, in poor health or affected by fire or storm;
- (e) the felling, at the appropriate time, of all susceptible plants in the buffer zone which have been found to be infested with the plant pest, taking all necessary precautions to avoid spreading the plant pest and the vector during felling;
- (f) the disposal of all felled susceptible plants and the resulting logging remains in the buffer zone, taking all necessary precautions to avoid spreading the plant pest and the vector during their disposal, by—
 - (i) their immediate destruction on site;
 - (ii) their movement under official control from the buffer zone into the infested zone or zones; or
 - (iii) their removal and the treatment of their wood and bark in accordance with paragraph 18;
- (g) in the case of felled susceptible plants in the buffer zone in which the plant pest has not already been found to be present, the removal of those plants and their logging remains, taking all necessary precautions to ensure that they do not attract the plant pest or the vector;
- (h) the identification of all felled susceptible plants in the buffer zone which are not subject to any of the preceding measures in this paragraph and the removal of those plants and their logging remains, taking all necessary precautions to avoid spreading the plant pest and the vector; and
- (i) the production of a hygiene protocol setting out the hygiene procedures for vehicles transporting forest products and machinery for processing forest products to ensure that the plant pest cannot be spread with those vehicles and machinery.

16. When carrying out a survey of susceptible plants and residual material in a demarcated area, the survey must—

- (a) include the inspection, sampling and testing of those plants and that material for the presence of the plant pest;
- (b) focus in particular on susceptible plants which are dead, in poor health or affected by fire or storm; and
- (c) be carried out at an appropriate rate which ensures that the intensity of the survey in the area lying within a radius of 3000 m of an infested susceptible plant is at least four times higher than in the rest of the buffer zone outside that area.

17. When carrying out any survey of the vector in a demarcated area during the flight season, the survey must include the inspection, sampling and testing of the vector for the presence of the plant pest.

18. In the case of susceptible wood identified in the demarcated area during the flight season of the vector, the logs must either—

- (a) be—
 - (i) stripped of their bark, treated with an insecticide known to be effective against the vector or covered with an insect net drenched with such an insecticide immediately after felling;
 - (ii) promptly removed to a storage place or to an authorised treatment facility; and
 - (iii) in the case of any logs retaining their bark, treated with an insecticide known to be effective against the vector or covered with an insect net drenched with such an insecticide immediately on arrival at the storage place or the authorised treatment facility; or
- (b) where the Scottish Ministers conclude that the actions described in sub-paragraph (a) would not be effective, be immediately destroyed on site and chipped into pieces less than 3 cm thick and 3 cm wide.

PART E

Other measures

19. Where an area is demarcated under paragraph 3 by the Scottish Ministers, they must ensure that—

- (a) operators and the public are informed of the measures taken in accordance with Parts C and D; and
- (b) frequent random checks are carried out on susceptible plants, susceptible wood and susceptible bark which are being moved from the demarcated area to another demarcated area or from the infested zone to the buffer zone in the demarcated area.

20. The Scottish Ministers must ensure that the checks referred to in paragraph 19(b) are based on the risk that the plants or wood and bark in question carry live pinewood nematodes, taking into account the provenance of the consignment, the degree of susceptibility of the plants or wood and bark in question and past compliance by the operator with any relevant movement restrictions or any other measure imposed on the operator to eradicate or contain the plant pest.

21. Any checks must be carried out—

- (a) at the points where they are moved from the infested zone into the buffer zone;

- (b) at the points where they are moved from the buffer zone into an area outside the demarcated area;
- (c) at their place of destination in the buffer zone; and
- (d) at their place of origin in the infested zone, including sawmills.

22. The checks must include—

- (a) an examination to ascertain that the plants, wood or bark is accompanied by a UK plant passport;
- (b) an examination to ascertain the identity of the relevant material being moved; and
- (c) an examination of the plants, wood or bark to ascertain whether they meet the requirements of this Order relating to their movement, and testing for the presence of the plant pest where the movement of material is or is suspected to be in breach of restrictions on the movement of susceptible plants, susceptible wood or susceptible bark under this Order or with any other measure imposed on the operator to eradicate or contain the plant pest.

23. The Scottish Ministers must ensure that random checks are carried out on susceptible plants, susceptible wood and susceptible bark moving from a demarcated area situated outside its territory into its territory.

24. Where any random check reveals that the susceptible plants, susceptible wood or susceptible bark are being moved in contravention of any movement restrictions referred to in paragraph 22(c), the Scottish Ministers must ensure that—

- (a) the susceptible plants, susceptible wood or susceptible bark are destroyed under official supervision;
- (b) the susceptible plants, susceptible wood or susceptible bark are moved under official supervision to an authorised treatment facility for heat treatment; or
- (c) where the susceptible material consists of wood packaging material actually in use in the transport of objects, the wood packaging material is returned under official supervision to the place of dispatch or a location nearby the place of interception for repackaging those objects and destruction of the wood packaging material.

PART F

Authorisation of treatment facilities

25. Where an area is demarcated under paragraph 3 by the Scottish Ministers, they must by notice designate the treatment facilities that are authorised by they to—

- (a) carry out appropriate heat treatment for the purposes of item 7 of Part E of the list of regulated material;
- (b) issue UK plant passports for susceptible wood and bark which they have treated for the purposes of item 7 of Part E of the list of regulated material;
- (c) treat wood packaging material for the purposes of item 7 of Part E of the list of regulated material; and
- (d) mark beehives and bird nesting boxes for the purposes of item 7 of Part E of the list of regulated material.

26. The Scottish Ministers must ensure that—

- (a) each treatment facility which is authorised for the purposes of paragraph 25 has systems in place to guarantee the traceability of any susceptible wood or susceptible bark that it treats;
- (b) each treatment facility which is authorised to apply the mark specified in Annex 2 to ISPM No. 15 uses wood which has been treated by an authorised treatment facility and has systems in place to guarantee the traceability of the treated wood back to the treatment facility at which it was treated.

27. The Scottish Ministers must ensure that the treatment facilities that they have authorised are subject to official supervision.

28. The Scottish Ministers must withdraw any authorisation granted to a treatment facility where they become aware of the presence of the plant pest in susceptible wood, susceptible bark or wood packaging material treated by the treatment facility or in susceptible wood packaging material marked by the treatment facility.

PART G

Lifting of demarcation

29. The Scottish Ministers may lift the demarcation which applies to a demarcated area if—
- (a) official surveys show that the plant pest has not been found to be present in the demarcated area in the four years prior to the lifting of the demarcation; or
 - (b) the Scottish Ministers have evidence from the surveys carried out for the presence of the vector in accordance with ISPM No. 4 that the vector has not been present in the area for the three years prior to the lifting of the demarcation, and the absence of the vector has been confirmed by sampling and testing.

SCHEDULE 12E

Article 37A(6)

Emergency measures: *Xylella fastidiosa* (Wells et al.)

PART A

Application and interpretation

1. This schedule applies where *Xylella fastidiosa* (Wells et al.) is confirmed to be present in Scotland.

2. In this schedule—

“demarcated area” means an area demarcated under paragraph 5;

“infected plant” means a plant which has been tested and found to be infected by the plant pest;

“the plant pest” means *Xylella fastidiosa* (Wells et al.);

“susceptible plants” means host plants, intended for planting, belonging to the genera or species listed in the list of *Xylella* host plants.

3. Any test or survey which is carried out for the purposes of paragraph 7(b), 25(b)(ii) or 26 must be based on a sampling scheme capable of identifying with 99% reliability a level of presence of infected plants of 1% or above.

4. Any survey which is carried out for the purposes of paragraph 7(c) or 16(g) must be based on a grid split of 100 m x 100 m squares within a zone of a width of at least 1 km surrounding the infected zone and a grid split of 1 km x 1 km squares within the rest of the buffer zone.

PART B

Establishment of a demarcated area

5. The Scottish Ministers must by notice and without delay demarcate an area in relation to the infection consisting of an infected zone and a buffer zone around the infected zone.

6. The infected zone must include all plants known to be infected by the plant pest, all plants showing symptoms indicating possible infection by the plant pest and all other plants liable to be infected by the plant pest due to their close proximity to infected plants or a known common source of production with infected plants or plants grown from them.

7. The boundary of the buffer zone must be at least five km beyond the boundary of the infected zone, but may be reduced to one km beyond the boundary of the infected zone where the Scottish Ministers conclude with a high degree of confidence that the initial presence of the plant pest has not resulted in any spread of the plant pest and the following conditions have been met—

- (a) all host plants within a radius of 100 m of the infected plant have been promptly removed;
- (b) no other plants have been found infected by the plant pest in the infected zone following official tests which have been carried out at least once during the course of the year and which targeted symptomatic plants, as well as asymptomatic plants in the proximity of the symptomatic ones;
- (c) a delimiting survey has been carried out in the zone surrounding the infected zone that extended at least 2.5 km beyond the boundary of the infected zone, which included visual inspections of susceptible plants and the sampling and testing of symptomatic plants, as well as asymptomatic plants in the proximity of the symptomatic plants; and
- (d) the possibility of natural spread of the plant pest has been excluded as a result of tests which have been carried out twice during the flight season of the relevant vector and in accordance with international guidelines in which no vectors carrying the plant pest have been detected in the infected zone.

8. The demarcation of the infected zone and the buffer zone must be based on sound scientific principles, the biology of the plant pest and its vectors, the level of infection, the distribution of the susceptible plants in the area concerned and the presence of vectors of the plant pest.

9. Where the infection is limited to one particular sub-species of the plant pest which has been identified by one positive molecular test carried out in line with international standards, the demarcation may be based on that sub-species alone.

10. If there is a confirmed finding of the plant pest in the buffer zone, the Scottish Ministers must either demarcate a further area or amend the original demarcated area in accordance with paragraphs 5 to 9 to take account of that finding.

11. The Scottish Ministers must maintain a list of demarcated areas in their territory and publish that list.

12. Paragraph 5 is subject to paragraph 23.

13. This Part does not apply in so far as any part of the area to be demarcated would be in England.

PART C

Eradication measures

14. This Part applies where an area is demarcated under paragraph 5 by the Scottish Ministers.

15. The Scottish Ministers must ensure that measures are taken to eradicate the plant pest.

16. The eradication measures must include—

- (a) the immediate removal of the following plants within a radius of 100 m of each infected plant, other than any plants to which paragraph 17 applies—
 - (i) host plants, regardless of their health status;
 - (ii) plants known to be infected by the plant pest; and
 - (iii) plants showing symptoms indicating possible infection by the plant pest or which are suspected to be infected by the plant pest;
- (b) in the case of any plants to which paragraph 17 applies—
 - (i) the official inspection of those plants during the flight season of relevant vectors for symptoms of the plant pest and measures to ensure their physical isolation; and
 - (ii) their sampling and testing for the presence of the plant pest where symptoms of the plant pest are present;
- (c) the sampling and testing of susceptible plants within a radius of 100 m of each infected plant in accordance with ISPM No. 31;
- (d) the application of appropriate phytosanitary treatments against vectors of the plant pest and plants that may host those vectors prior to the removal of any plants under sub-paragraph (a);
- (e) the destruction of the plants removed under sub-paragraph (a) either in situ or in a nearby location designated for this purpose within the infected zone in a manner that ensures that the plant pest is not spread;
- (f) appropriate investigations to identify the origin of the infection, which must include the tracing of susceptible plants associated with the infected plants (including those that were moved before the demarcated area was established);
- (g) annual surveys to monitor the presence of the plant pest, which must include visual inspections of susceptible plants and the sampling and testing of symptomatic plants, as well as asymptomatic plants in the proximity of the symptomatic ones;
- (h) the prohibition on the planting of host plants in the infected zone, except where they are physically protected against the introduction of the plant pest by its vectors;
- (i) the raising of public awareness of the threat of the plant pest and the measures adopted to prevent its introduction and spread and the setting up of road signs to delineate the demarcated area;
- (j) where necessary, specific measures to address any particularity or complication that could reasonably be expected to prevent, hinder or delay eradication of the plant pest;
- (k) the application of appropriate agricultural practices for the management of the plant pest and its vectors; and
- (l) any other measure which may contribute to the eradication of the plant pest, taking account of the guidelines in ISPM No. 9 and ISPM No. 14.

17. The Scottish Ministers may decide that individual host plants officially designated as plants with historic value need not be removed if the following conditions are met—

- (a) the host plants have been sampled and tested and have been confirmed not to be infected by the plant pest;
- (b) the individual host plants have, or the area concerned has, been physically isolated in an appropriate manner from relevant vectors for the purpose of preventing the spread of the plant pest;
- (c) appropriate agricultural practices for the management of the plant pest and its vectors have been applied.

PART D

Other measures

18. Where an area is demarcated under paragraph 5 by the Scottish Ministers, they must ensure that regular official checks are carried out on susceptible plants which are being moved out of the demarcated area, or from the infected zone to the buffer zone in the demarcated area.

19. The Scottish Ministers must ensure that the checks referred to in paragraph 18 are carried out at—

- (a) the points where the susceptible plants are moved from the infected zone into the buffer zone;
- (b) the points where the susceptible plants are moved from the buffer zone into an area outside the demarcated area;
- (c) their place of destination in the buffer zone; and
- (d) their place of destination outside the demarcated zone.

20. The checks must include an examination of the UK plant passport accompanying the plants and an examination to ascertain the identity of the material in the consignment.

21. The intensity of the checks must be based on the risk of the plants carrying the plant pest or its known or potential vectors, taking into account—

- (a) the provenance of the lots in the consignment;
- (b) the degree of susceptibility of the plants; and
- (c) the extent to which each operator in the demarcated area has complied with the restrictions on the movement of susceptible plants under this Order and with any other official measure imposed on the operator to eradicate or contain the plant pest.

22. Where any checks carried out pursuant to paragraph 18 show that the plants do not comply with the requirements specified under this Order in relation to their movement, the Scottish Ministers must ensure that those plants are destroyed immediately in situ or in a nearby location and that all necessary precautions to avoid the spread of the plant pest and its vectors are taken during and after removal.

PART E

Measures to be taken where no demarcated area is established

23. The Scottish Ministers need not demarcate an area in relation to a finding of the plant pest in Scotland where—

- (a) there is evidence—
 - (i) that the infection has been caused by the recent movement of susceptible plants to the area in which the plant pest was found; or
 - (ii) that the plant pest has been found in a site with physical protection from the vectors of the plant pest;
- (b) there is evidence that the susceptible plants were infected with the plant pest before they were introduced into that area; and
- (c) no vectors carrying the plant pest have been detected in tests carried out in accordance with internationally validated testing methods in the vicinity of those plants.

24. Where the Scottish Ministers do not demarcate an area for the reasons specified in paragraph 23(a) to (c), they must ensure that annual surveys are carried out for a period of at least two years beginning on the date of their decision not to demarcate the area, in order to determine whether any other plants are or have been infected with the plant pest.

PART F

Lifting of demarcation

- 25.** The Scottish Ministers may lift the demarcation that applies to a demarcated area if—
- (a) the plant pest is not detected in the demarcated area over a period of five years in official surveys carried out pursuant to paragraph 1(e) of schedule 12A or by the monitoring referred to in paragraph 16(g); and
 - (b) where the buffer zone has been reduced in accordance with paragraph 7, one year after the date of its initial establishment if the following conditions are met—
 - (i) the measures described in paragraphs 7(a) to (d) have been taken and, as a result, the Scottish Ministers are able to conclude with a high degree of confidence that the initial presence of the plant pest was an isolated case and no further spread has occurred in the demarcated area; and
 - (i) as close as practically possible to the time of lifting, official tests have been carried out in the demarcated area in accordance with international standards, which targeted symptomatic plants and asymptomatic plants in the proximity of the symptomatic plants.

26. Where the demarcation of an area is lifted under paragraph 25(b), the Scottish Ministers must ensure that the susceptible plants located in that area are subject to intensive surveys for a period of two years following the date of the lifting of the demarcation.

- 27.** Those surveys must—
- (a) be carried out in accordance with international standards;
 - (b) be based on scientific and technical principles relating to the potential spread of the plant pest in the immediate surroundings; and
 - (c) include the targeting of symptomatic plants and asymptomatic plants in the proximity of the symptomatic plants.

SCHEDULE 12F

Article 37A(7)

Emergency measures: *Anoplophora glabripennis* (Motschulsky)

PART A

Application and interpretation

1. This schedule applies where *Anoplophora glabripennis* (Motschulsky) is confirmed to be present in Scotland.

2. In this schedule—

“appropriate time”, in relation to the felling of susceptible plants, means—

- (a) in the case of any plant identified outside the flight season of the plant pest, before the next flight season;
- (b) in the case of any plant identified during the flight season of the plant pest, immediately;

“demarcated area” means an area demarcated under paragraph 3;

“infested plant” means a plant which has been found to be infested with the plant pest;

“the plant pest” means *Anoplophora glabripennis* (Motschulsky);

“the relevant period” means four consecutive years which includes at least one life cycle of the plant pest and the year after;

“susceptible plants” means plants for planting, other than seeds, that have a stem diameter of one cm or more at their thickest point of *Acer* spp., *Aesculus* spp., *Alnus* spp., *Betula* spp., *Carpinus* spp., *Cercidiphyllum* spp., *Corylus* spp., *Fagus* spp., *Fraxinus* spp., *Koelreuteria* spp., *Platanus* spp., *Populus* spp., *Salix* spp., *Tilia* spp. and *Ulmus* spp.;

“susceptible wood” means wood, obtained in whole or in part of the specified plants, other than wood packaging material, but including wood that has not retained its natural round surface which meets one of the following descriptions—

<i>CN code</i>	<i>Description</i>
CN 4401 10 00	Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms
CN 4401 22 00	Non-coniferous wood, in chips or particles
CN ex 4401 39 80	Other wood waste and scrap, not agglomerated in logs, briquettes, pellets or similar forms
CN 4403 10 00	Wood in the rough, treated with paint, stains, creosote or other preservatives, whether or not stripped of bark or sapwood, or roughly squared
CN 4403 92	Wood of beech (<i>Fagus</i> spp.) in the rough, whether or not stripped of bark or sapwood, or roughly squared
CN ex 4403 99	Non-coniferous wood (other than, beech (<i>Fagus</i> spp.), poplar (<i>Populus</i> spp.) or birch (<i>Betula</i> spp.)), in the rough, whether or not stripped of bark or sapwood, or roughly squared
CN 4403 99 10	Wood of poplar (<i>Populus</i> spp.) in the rough, whether or not stripped of bark or sapwood, or roughly squared

<i>CN code</i>	<i>Description</i>
CN 4403 99 51	Sawlogs of birch (<i>Betula</i> spp.) in the rough, whether or not stripped of bark or sapwood, or roughly squared
CN 4403 99 59	Wood of birch (<i>Betula</i> spp.) in the rough, whether or not stripped of bark or sapwood, or roughly squared, other than sawlogs
CN ex 4404 20 00	Non-coniferous split poles, piles, pickets and stakes of wood, pointed but not sawn lengthwise
CN 4406	Railway or tramway sleepers (cross-ties) of wood
CN 4407 92 00	Wood of beech (<i>Fagus</i> spp.), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
CN 4407 93	Wood of maple (<i>Acer</i> spp.), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
CN 4407 95	Wood of ash (<i>Fraxinus</i> spp.), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
CN ex 4407 99	Non-coniferous wood (other than beech (<i>Fagus</i> spp.), maple (<i>Acer</i> spp.), ash (<i>Fraxinus</i> spp.) or poplar (<i>Populus</i> spp.)), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
CN 4407 99 91	Wood of poplar (<i>Populus</i> spp.), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
CN 9406 00 20	Prefabricated buildings of wood

PART B

Establishment of demarcated area

3. The Scottish Ministers must by notice and without delay demarcate an area in relation to the infestation consisting of an infested zone and a buffer zone around the infested zone.
4. The infested zone must include the area in which the plant pest was found and all plants showing symptoms caused by that plant pest.
5. The boundary of the buffer zone must be at least two km beyond the boundary of the infested zone, but may be reduced to one km beyond the boundary of the infested zone if the Scottish Ministers conclude that eradication of the plant pest is possible and for so long as they remain of that view.
6. The demarcation of the infested zone and the buffer zone must be based on sound scientific principles, the biology of the plant pest, the level of infestation, the distribution of the host plants in the area concerned and evidence of establishment of the plant pest.
7. If there is a confirmed finding of the plant pest outside the infested zone, the Scottish Ministers must either demarcate a further area or amend the original demarcated area in accordance with paragraphs 3 to 6 to take account of that finding.
8. Paragraph 3 is subject to paragraph 15.

9. This Part does not apply in so far as any part of the area to be demarcated would be in England.

PART C

Measures to be taken in a demarcated area

10. Where an area is demarcated under paragraph 3, the Scottish Ministers must ensure that measures are taken within the demarcated area to eradicate the plant pest in the area or, where they have concluded that eradication of the plant pest is no longer possible, to contain the spread of the plant pest from the area.

11. The eradication measures must include—

- (a) the felling of all infested plants and plants with symptoms caused by the plant pest, and the complete removal of their roots if larval galleries are observed below the root collar of the infested plants, at the appropriate time;
- (b) the felling of all susceptible plants within a radius of 100 m of an infested plant, other than any plant to which sub-paragraph (d) applies, and the examination of those plants for any sign of infestation;
- (c) the removal, examination and disposal of plants felled in accordance with sub-paragraphs (a) and (b), and where necessary their roots, taking all necessary precautions to avoid the spread of the plant pest during and after felling;
- (d) in any case where the Scottish Ministers conclude that the felling and disposal of any infested plant, any plant with symptoms caused by the plant pest or any susceptible plant within a radius of 100 m of an infested plant would not be appropriate due to the particular social, cultural or environmental value of the plant, regular detailed examination of any sign of infestation and the application of measures equivalent to its felling and disposal to prevent any possible spread of the plant pest from the plant;
- (e) the prohibition of any movement of potentially infested plants out of the demarcated area;
- (f) the tracing back to the origin of the infestation and the tracing of plants and wood associated with the infestation as far as possible, along with examinations of the plants and wood traced for any sign that they are infested with the plant pest, which must include targeted destructive sampling;
- (g) where appropriate, the replacement of susceptible plants by other plants;
- (h) the prohibition on the planting of susceptible plants in the open air within a radius of 100 m of an infested plant, except in a place of production authorised by the Scottish Ministers;
- (i) intensive monitoring for the presence of the plant pest on host plants by annual inspections at appropriate times on host plants, with specific focus on the buffer zone, which must include at least one inspection a year using techniques capable of detecting infestation at crown height and, where appropriate, targeted destructive sampling;
- (j) activities to raise public awareness of the threat of the plant pest and the measures adopted to prevent its introduction into and spread within Scotland, including the conditions relating to the movement of susceptible plants and susceptible wood from the demarcated area;
- (k) where necessary, specific measures to address any particularity or complication that could reasonably be expected to prevent, hinder or delay eradication of the plant pest; and

- (l) any other measure which may contribute the eradication of the plant pest, taking account of the guidelines in ISPM No. 9 and ISPM No. 14.

12. The containment measures must include—

- (a) the following measures—
 - (i) the felling of all infested plants and plants with symptoms caused by the plant pest and the complete removal of their roots if larval galleries are observed below the root collar of the infested plants, at the appropriate time; and
 - (ii) the removal, examination and disposal of plants felled in accordance with paragraph (i) and, where necessary, their roots, taking all necessary precautions to avoid the spread of the plant pest after felling; or
- (b) the prohibition of any movement of potentially infested plants out of the demarcated area;
- (c) where appropriate, the replacement of susceptible plants by other plants;
- (d) the prohibition on the planting of susceptible plants in the open air within a radius of 100 m of an infested plant, except in a place of production authorised by the Scottish Ministers;
- (e) intensive monitoring for the presence of the plant pest on host plants, with specific focus on the buffer zone, which must include at least one inspection a year using techniques capable of detecting infestation at crown height and, where appropriate, targeted destructive sampling;
- (f) activities to raise public awareness of the threat of the plant pest and the measures adopted to prevent its introduction into and spread within Scotland, including the conditions relating to the movement of susceptible plants and susceptible wood from the demarcated area;
- (g) where necessary, specific measures to address any particularity or complication that could reasonably be expected to prevent, hinder or delay eradication of the plant pest; and
- (h) any other measure which may contribute to the containment of the plant pest.

13. The Scottish Ministers must set time periods for the implementation of the eradication and containment measures to be carried out.

14. The Scottish Ministers may only conclude that it is not possible to eradicate the plant pest from a demarcated area where the results of official surveys carried out over the relevant period have confirmed the presence of the plant pest in the demarcated area and there is evidence that the plant pest can no longer be eradicated from the area.

PART D

Measures to be taken where no demarcated area is established

15. The Scottish Ministers need not demarcate an area in relation to a finding of the plant pest in Scotland—

- (a) where there is evidence that—
 - (i) the infestation has been caused by the movement of susceptible plants or susceptible wood to the area in which the plant pest was found and that the susceptible plants or susceptible wood were infested with the plant pest before that movement; or

- (ii) it is an isolated finding which is not expected to lead to the establishment of the plant pest; and
 - (b) where they have ascertained from a specific investigation that the plant pest is not established in the area and that it will not successfully breed or spread due to its biology if appropriate eradication measures are taken.
- 16.** Where the Scottish Ministers do not demarcate an area for the reasons specified in paragraph 15(a) and (b), they must ensure that—
- (a) measures are taken immediately for the purpose of promptly eradicating the plant pest and preventing its spread;
 - (b) monitoring is carried out over the relevant period for the presence of the plant pest in the area which lies within a radius of one km of the infested plants or infested wood or the place where the plant pest was found, which must be regular and intensive in the first year;
 - (c) all infested plants and wood are destroyed;
 - (d) tracing back to the origin of the infestation and tracing of plants and wood associated with the infestation is carried out as far as possible, along with examinations of the plants and wood traced for any sign that they are infested with the plant pest, which must include targeted destructive sampling;
 - (e) activities to raise public awareness of the threat posed by the plant pest are carried out; and
 - (f) any other measure which may contribute to the containment of the plant pest, taking account of the guidelines in ISPM No. 9 and ISPM No. 14.

PART E

Lifting of demarcation

- 17.** The Scottish Ministers may lift the demarcation that applies to a demarcated area—
- (a) if the plant pest is not detected in the area over a relevant period during official surveys carried pursuant to paragraph 1(f) of schedule 12A and the monitoring referred to in paragraph 11(i); or
 - (b) in any case where, following further investigation, it is clear that the area need not have been demarcated for the reasons specified in paragraph 15(a) and (b).

SCHEDULE 12G

Article 37A(8)

Emergency measures: *Aromia bungii* (Faldermann)

PART A

Application and interpretation

- 1.** This schedule applies where *Aromia bungii* (Faldermann) is confirmed to be present in Scotland.
- 2.** In this schedule—

“appropriate time”, in relation to the felling of susceptible plants, means—

- (a) in the case of any plant identified outside the flight season of the plant pest, before the next flight season;
- (b) in the case of any plant identified during the flight season of the plant pest, immediately;

“demarcated area” means an area demarcated under paragraph 3;

“infested plant” means a plant which has been found to be infested with the plant pest;

“infested wood” means wood which has been found to be infested with the plant pest;

“infested wood packaging material” means wood packaging material which has been found to be infested with the plant pest;

“the plant pest” means *Aromia bungii* (Faldermann);

“susceptible plants” means plants for planting, other than seeds, that have a stem diameter of one cm or more at their thickest point of *Prunus* spp., other than *Prunus laurocerasus* L.;

“susceptible wood” means wood, obtained in whole or in part from susceptible plants, which meets one of the following descriptions—

<i>CN Code</i>	<i>Description</i>
CN 4401 12 00	Non-coniferous fuel wood, in logs, in billets, in twigs, in faggots or in similar forms
CN 4401 22 00	Non-coniferous wood, in chips or particles
CN 4401 40	Sawdust and wood waste and scrap, not agglomerated
CN 4403 12 00	Non-coniferous wood in the rough, treated with paint, stains, creosote or other preservatives, whether or not stripped of bark or sapwood, or roughly squared
CN ex 4404 20 00	Non-coniferous hoopwood; split poles; piles, pickets and stakes of wood, pointed but not sawn lengthwise; wooden sticks, roughly trimmed but not turned, bent or otherwise worked, suitable for the manufacture of walking sticks, umbrellas, tool handles or the like; chipwood and the like
CN 4406	Railway or tramway sleepers (cross-ties) of wood
CN 4407 94	Wood of cherry (<i>Prunus</i> spp.) sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
CN 4416 00 00	Casks, barrels, vats, tubs and other coopers’ products and parts thereof, of wood, including staves
CN 9406 10 00	Prefabricated buildings of wood

“susceptible wood packaging material” means wood packaging material obtained in whole or in part from susceptible plants.

PART B

Establishment of demarcated area

3. The Scottish Ministers must by notice and without delay demarcate an area in relation to the infestation consisting of an infested zone and a buffer zone around the infested zone.
4. The infested zone must include the area in which—
 - (a) the plant pest was found;
 - (b) all plants known to be infested by the plant pest are located;
 - (c) all plants showing signs or symptoms indicating possible infestation by the plant pest are located; and
 - (d) all plants which may be or may become infested by the plant pest, including any plants which may be or may become infested with the plant pest due to their susceptibility to the plant pest and their close proximity to infested plants or a common source of production, if known, with infested plants or plants grown from them.
5. The boundary of the buffer zone—
 - (a) must initially be at least two km beyond the boundary of the infested zone, but may be reduced to one km beyond the boundary of the infested zone if the Scottish Ministers conclude that eradication of the plant pest is possible and for so long as they remain of that view; or
 - (b) where the Scottish Ministers subsequently conclude in accordance with paragraph 13 that eradication of the plant pest is no longer possible, must be at least four km beyond the boundary of the infested zone.
6. The demarcation of the infested zone and the buffer zone must be based on sound scientific principles, the biology of the plant pest, the level of infestation, the distribution of susceptible plants and susceptible wood in the area concerned and evidence of establishment of the plant pest.
7. If there is a confirmed finding of the plant pest in the buffer zone, the Scottish Ministers must amend the original demarcated area in accordance with paragraphs 3 to 6 to take account of that finding.
8. Paragraph 3 is subject to paragraph 14.
9. This Part does not apply in so far as any part of the area to be demarcated would be in England.

PART C

Measures to be taken in a demarcated area

10. Where an area is demarcated under paragraph 3, the Scottish Ministers must ensure that measures are taken within the demarcated area to eradicate the plant pest in the area or, where they have concluded that eradication of the plant pest is no longer possible, to contain the spread of the plant pest from the area.
11. The eradication measures must include—
 - (a) the felling of all infested plants and plants with symptoms caused by the plant pest, and the complete removal of their roots if larval galleries are observed below the root collar of the infested plants, at the appropriate time;

- (b) the felling of all susceptible plants within a radius of 100 m of an infested plant, other than any plant to which sub-paragraph (d) applies, and the examination of those plants for any sign of infestation;
- (c) the removal, examination and disposal of plants felled in accordance with sub-paragraphs (a) and (b), and where necessary their roots, taking all necessary precautions to avoid the spread of the plant pest during and after felling and the examination and disposal of other plant products and wood packaging material;
- (d) in any case where the Scottish Ministers conclude that the felling and disposal of any susceptible plant within a radius of 100 m of an infested plant would not be appropriate due to the particular social, cultural or environmental value of the plant, regular detailed examination of the plant for any sign of infestation and the application of measures equivalent to its felling and disposal to prevent any possible spread of the plant pest from the plant;
- (e) the prohibition of any movement of a susceptible plant, susceptible wood or susceptible wood packaging material which is potentially infested with the plant pest out of the demarcated area;
- (f) the tracing back to the origin of the infestation, and the tracing of plants, wood and wood packaging material associated with the infestation as far as possible, along with examinations of the plants, wood and wood packaging material traced for any sign that they are infested with the plant pest;
- (g) where appropriate, the replacement of susceptible plants by other plant species;
- (h) a prohibition on the planting of susceptible plants in the open air within a radius of 100 m of an infested plant, except in a place of production authorised by the Scottish Ministers;
- (i) intensive surveillance for the presence of the plant pest on species of *Prunus* L. by annual inspections at appropriate times, with specific focus on the buffer zone, which must include at least one inspection a year and, where appropriate, destructive sampling;
- (j) activities to raise public awareness of the threat of the plant pest and the measures adopted to prevent its introduction into and spread within the relevant UK territory, including the conditions relating to the movement of susceptible plants, susceptible wood and susceptible wood packaging material from the demarcated area;
- (k) where necessary, specific measures to address any particularity or complication that could reasonably be expected to prevent, hinder or delay eradication of the plant pest; and
- (l) any other measure which may contribute to the eradication of the plant pest, taking account of the guidelines in ISPM No. 9 and ISPM No. 14.

12. The containment measures must include—

- (a) the following measures—
 - (i) the felling of all infested plants and plants with symptoms caused by the plant pest and the complete removal of their roots if larval galleries are observed below the root collar of the infested plants, at the appropriate time; and
 - (ii) the removal, examination and disposal of plants felled in accordance with paragraph (i) and, where necessary, their roots, taking all necessary precautions to avoid the spread of the plant pest after felling; or
- (b) the prohibition of any movement of susceptible plants which are potentially infested with the plant pest out of the demarcated area;
- (c) where appropriate, the replacement of susceptible plants by other plants;

- (d) the prohibition on the planting of susceptible plants in the open air in the infested zone, except in a place of production authorised by the Scottish Ministers;
- (e) intensive surveillance for the presence of the plant pest on species of *Prunus* L., with specific focus on the buffer zone, which must include at least one inspection a year and, where appropriate, targeted destructive sampling;
- (f) activities to raise public awareness of the threat of the plant pest and the measures adopted to prevent its introduction into and spread within the relevant UK territory, including the conditions relating to the movement of susceptible plants and susceptible wood from the demarcated area;
- (g) where necessary, specific measures to address any particularity or complication that could reasonably be expected to prevent, hinder or delay containment of the plant pest; and
- (j) any other measure which may contribute to the containment of the plant pest.

13. The Scottish Ministers may only conclude that it is not possible to eradicate the plant pest from a demarcated area where the results of official surveys carried out over a period of four consecutive years have confirmed the presence of the plant pest in the demarcated area and there is evidence that the plant pest can no longer be eradicated from the area.

PART D

Measures to be taken where no demarcated area is established

14. The Scottish Ministers need not demarcate an area in relation to a finding of the plant pest in a relevant UK territory where—

- (a) there is evidence—
 - (i) that the infestation has been caused by the movement of any susceptible plant, susceptible wood or susceptible wood packaging material to the area in which the plant pest was found and that the susceptible plants, susceptible wood or susceptible wood packaging material was infested with the plant pest before that movement; or
 - (ii) that it is an isolated finding, immediately associated with a susceptible plant, susceptible wood or susceptible wood packaging material, which is not expected to lead to the establishment of the plant pest; and
- (b) they have ascertained from a specific investigation that the plant pest is not established in the area and that, due to its biology, it will not successfully breed or spread if appropriate eradication measures are taken.

15. Where Scottish Ministers do not demarcate an area for the reasons specified in paragraph 14, they must ensure that—

- (a) measures are taken immediately for the purpose of promptly eradicating the plant pest and preventing its spread;
- (b) regular and intensive surveillance is carried out over a period of four consecutive years for the presence of the plant pest in the area which lies within a radius of one km of the infested plants, infested wood or infested wood packaging material or the place where the plant pest was found;
- (c) all infested plants, infested wood and infested wood packaging material are destroyed;
- (d) tracing back to the origin of the infestation and tracing of plants, wood and wood packaging material associated with the infestation is carried out as far as possible, along

with examinations of the plants, wood and wood packaging material traced for any sign that they are infested with the plant pest, which must include targeted destructive sampling;

- (e) activities to raise public awareness of the threat posed by the plant pest are carried out; and
- (f) any other measure which may contribute to the eradication of the plant pest, taking account of the guidelines in ISPM No. 9 and ISPM No. 14.

PART E

Authorisation of treatment and processing facilities

16. Where an area is demarcated under paragraph 3 by the Scottish Ministers and there are no treatment or processing facilities in the demarcated area to treat or process susceptible wood for the purposes of item 11 of Part E of the list of regulated material, or to treat and mark susceptible wood packaging material for the purposes of item 12 of Part E of the list of regulated material, the Scottish Ministers must ensure that any susceptible wood or susceptible wood packaging material is only moved to a facility outside the demarcated area if—

- (a) in the case of susceptible wood, the facility has been authorised to treat susceptible wood for the purposes of item 11 of Part E of the list of regulated material, and the wood is immediately treated or processed at the facility on arrival;
- (b) in the case of susceptible wood packaging material, the facility has been authorised to treat and mark susceptible wood packaging material for the purposes of item 12 of Part E of the list of regulated material and the wood packaging material is immediately treated and marked at the facility on arrival; and
- (c) the movement is carried out under the control of the Scottish Ministers and under closed conditions so as to ensure that the plant pest cannot spread.

17. The Scottish Ministers must ensure that—

- (a) any facility which is located outside the demarcated area and is authorised to treat susceptible wood for the purposes of item 11 of Part E of the list of regulated material disposes of any waste material in a manner that ensures the plant pest cannot spread;
- (b) intensive surveillance is carried out at appropriate times for the presence of the plant pest through inspections on species of *Prunus L.*, within at least one km of the facility.

PART F

Lifting of demarcation

18. The Scottish Ministers may lift the demarcation that applies to a demarcated area if the plant pest is not detected in the area over a period of four consecutive years—

- (a) during official surveys carried pursuant to paragraph 1(g) of schedule 12A; and
- (b) in regular and intensive surveillance for the presence of the plant pest carried out in the area lying within a radius of one km of the infested plants, infested wood or infested wood packaging material or the place where the plant pest was found.”.