

EXECUTIVE NOTE

THE PLANT HEALTH (SCOTLAND) AMENDMENT ORDER 2009 (SSI 2009/153)

Introduction

1. The above instrument is made by the Scottish Ministers in exercise of powers conferred by sections 2, 3 and 4(1) of the Plant Health Act 1967 as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972, and all other powers enabling them to do so. The instrument is subject to negative resolution procedure.

Policy Objective

2. The purpose of this Order is to amend the Plant Health (Scotland) Order 2005 (the Principal Order) which contains measures to prevent the introduction and spread of harmful plant pests and diseases. It implements Commission Directive 2009/7/EC and corrects an error in the principal Order in relation to a prohibition on the import of plants of citrus.

3. The Scottish Government has been working closely with Defra colleagues on this matter to ensure a consistency of approach to changes and it is that requirement which has determined the timetable for bringing these Regulations into force.

Legislative Background

4. Council Directive 2000/29/EC 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 serious pests and diseases of plants and plant produce. The Directive is implemented in Scotland, for non-forestry matters, by the Plant Health (Scotland) Order 2005. Similar but separate legislation operates in England, Wales and Northern Ireland.

5. The Directive is updated frequently, to take account of new or revised risk assessments, pest interceptions, changes in distribution of pests and other developments.

Policy Background

6. The amendments to the Plant Health Directive which this Order implements arise from technical changes in the assessment of the risks presented by particular pests and diseases. Commission Directive 2009/7/EC amends the list of harmful organisms in the main Directive to improve protection against their introduction into the EU as based on evidence supplied by Member States.

7. The following harmful organisms, which are so far not known to be present in the Community, have been added to the list of organisms prohibited in all cases (Amendment of Schedule 1, Articles 4 and 5):

- *Dendrolimus sibiricus* (Siberian coniferous silk moth)
- *Rhynchophorus palmarum* (American palm weevil)

- *Diabrotica virgifera zea* (a pest of maize)
- *Diabrotica virgifera virgifera* (Le Conte).

This implements the division of *Diabrotica virgifera* Le Conte into two subspecies, *Diabrotica virgifera virgifera* Le Conte, regionally present in the Community, and *Diabrotica virgifera zea*, not present in the Community.

8. The following harmful organisms will be prohibited if present on particular host plants (Amendment of Schedule 2, article 6):

- *Agrilus planipennis* (Emerald ash borer) on plants of *Fraxinus*, *Juglans mandshurica*, *Ulmus davidiana*, *Ulmus parvifolia*, and *Pterocarya rhoifolia*
- *Scrobipalopsis solanivora* (Guatemalan potato moth) on tubers of *Solanum tuberosum*
- *Stegophora ulmea* (Black spot of elm) on plants of *Ulmus* and *Zelkova*, intended for planting, other than seeds.
- Chrysanthemum stem necrosis virus on plants of *Dendranthema* and *Lycopersicon lycopersicum*

9. *Saissetia nigra* (Nigra scale – a pest of ornamental plant families) has been renamed *Parasaissetia nigra*., in line with its revised scientific denomination, and measures to protect against the further spread of *Paysandisia archon* (South American palm borer), found in some areas in the Community on 11 genera of palm trees and under official control, have been tightened. The Order also corrects an error in the principal Order in relation to a prohibition on the import of plants of citrus.

10. Requirements for the import and movement of host plants of these organisms have also been amended to take account of their addition to the list of prohibited organisms (Amendment of Schedules 4 and 6, Articles 3 to 8).

Financial impact

11. No regulatory impact assessment has been prepared as the Order has no impact on the costs for Scottish businesses.

Scottish Government
Rural Directorate
30 March 2009

TRANSPOSITION NOTE

THE PLANT HEALTH (SCOTLAND) AMENDMENT ORDER 2009

This transposition note shows how Commission Directive 2009/7/EC amending Annexes I, II, IV and V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L40/12, 11.2.2009 p12) has been implemented by the Plant Health (Scotland) Amendment Order 2009.

Amendments made by the Directive are listed in the Annex, under Article 1. Amendments made by the Order are listed in Articles 3 to 8, following Article 2.

Paragraphs 3(a) and 5(b) of the Annex apply to forestry only and will be transposed in the Plant Health (Forestry) (Amendment) Order 2009.

Provision	Purpose	Implementation
Annex paragraph 1	Add <i>Dendrolimus sibiricus</i> and <i>Rhynchophorus palmarum</i> to the list of organisms prohibited in all cases and separate the two subspecies of <i>Diabrotica virgifera</i> , one of which is known in the Community and the other not.	Article 4, 5 (<i>insert pest names in the lists in Schedule 1A and 1B</i>)
Annex paragraph 2	Add <i>Agrilus planipennis</i> , <i>Scrobipalopsis solanivora</i> , <i>Stegophora ulmea</i> , Chrysanthemum stem necrosis virus, <i>Parasaissetia nigra</i> (formerly <i>Saissetia nigra</i>) and <i>Paysandisia archon</i> to the list of organisms prohibited if present on particular host plants.	Article 6 (<i>insert pests and susceptible host plants into Schedule 2A and 2B</i>)
Annex paragraph 3(b)-(g), 4, 5(a)	Amend the requirements for the import and movement of host plants of <i>Agrilus planipennis</i> , <i>Scrobipalopsis solanivora</i> , <i>Stegophora ulmea</i> , Chrysanthemum stem necrosis virus, and <i>Paysandisia archon</i> , reflecting their addition to the list of prohibited organisms.	Articles 7- 8 (<i>add requirements for import and movement of host plants to Schedules 4A, 4B and 6</i>)