

**2012 No. 326**

**PLANT HEALTH**

**The Plant Health (Scotland) Amendment (No. 2) Order 2012**

*Made* - - - - 27th November 2012

*Laid before the Scottish Parliament* 29th November 2012

*Coming into force* - - 14th January 2013

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 2, 3 and 4(1) of the Plant Health Act 1967(a), section 20 of the Agriculture (Miscellaneous Provisions) Act 1972(b) and all other powers enabling them to do so.

This Order makes provision which the Scottish Ministers think expedient for preventing the introduction and spread of pests in Scotland, namely, *Chalara fraxinea* T. Kowalski, including its teleomorph *Hymenoscyphus pseudoalbidus*.

**Citation and commencement**

1. This Order may be cited as the Plant Health (Scotland) Amendment (No. 2) Order 2012 and comes into force on 14th January 2013.

**Amendments to the Plant Health (Scotland) Order 2005**

2. The Plant Health (Scotland) Order 2005(c) is amended in accordance with articles 3 to 11.

**Amendment of Part 1**

3. In article 2(1) (general interpretation), for the definition of “ISPM No. 4” substitute—

““ISPM No. 4” means International Standard for Phytosanitary Measures No. 4 of November 1995 on the requirements for the establishment of pest free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(d);”.

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(a) 1967 c.8. Sections 2(1) and 3(1) were amended by the European Communities Act 1972 (c.68) (“the 1972 Act”), section 4(1) and Schedule 4, paragraph 8 and further amended by S.I. 2011/1043. Section 3(4) was substituted by the Criminal Justice Act 1982 (c.48), section 42 and the Statute Law (Repeals) Act 1993 (c.50), section 1(1) and Schedule 1, Part XIV. There are other amendments which are not relevant to this Order. The functions of the Secretary of State, so far as exercisable within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1972 c.62.

(c) S.S.I. 2005/613, amended by S.S.I. 2006/474, 2007/415 and 498, 2008/300 and 350, 2009/153, 2010/206 and 342, S.I. 2011/1043, and S.S.I. 2012/266.

(d) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/>.

## Amendment of Part 2

4. In article 8(2) (exceptions from certain prohibitions and requirements)—

- (a) in sub-paragraph (a)(iii), after “potatoes” insert “or seeds of *Fraxinus* L.”; and
- (b) for sub-paragraph (b)(ii) substitute—

“(ii) plants intended for planting, other than those in sub-paragraph (i) or plants of *Fraxinus* L., not exceeding 5 in number.”.

## Amendment of Part 3

5. In article 22(1) (exceptions from certain prohibitions and requirements), after “small quantities of any relevant material” insert “other than plants of *Fraxinus* L. intended for planting”.

## Amendment of Schedule 1

6. In Schedule 1 (plant pests which shall not be landed in or spread within Scotland), in Part B (plant pests known to occur in the European Union), for the items under the heading “Fungi”, substitute—

- “1. *Chalara fraxinea* T. Kowalski, including its teleomorph *Hymenoscyphus pseudoalbidus*
- 2. *Melampsora medusae* Thümen
- 3. *Synchytrium endobioticum* (Schilbersky) Percival”.

## Amendment of Schedule 2

7. In Schedule 2 (relevant material which may not be landed in or moved within Scotland if that material is carrying or infected with plant pests), in Part B (plant pests known to occur in the European Union), after item 1 under the heading “Fungi” insert—

- “1a. Plants of *Fraxinus* L. intended for planting *Chalara fraxinea* T. Kowalski, including its teleomorph *Hymenoscyphus pseudoalbidus*”.

## Amendment of Schedule 4

8.—(1) Schedule 4 (restrictions on the landing in and movement within Scotland of relevant material) is amended in accordance with paragraphs (2) and (3).

(2) In Part A (relevant material, from third countries, which may only be landed in Scotland if special requirements are satisfied)—

- (a) in item 7a(a), in the third column, for “The plants shall be accompanied by an official statement” substitute “Without prejudice to the requirements in item 7b, the plants shall be accompanied by an official statement”; and
- (b) after item 7a insert—

- “7b. Plants of *Fraxinus* L., intended for planting, originating in a third country Without prejudice to the requirements in item 7a, the plants shall be accompanied by a phytosanitary certificate which has been issued by the national plant protection organisation of the country from which the plants

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(a) Item 7a was inserted by S.S.I. 2009/153.

originate and which includes under the heading “Additional Declaration” an official statement that the plants have been grown throughout their life in an area which has been established and is maintained as an area free from *Chalara fraxinea* T. Kowalski (including its teleomorph *Hymenoscyphus pseudoalbidus*) in accordance with ISPM No. 4.”.

(3) In Part B (relevant material, from another part of the European Union, which may only be landed in or moved within Scotland if special requirements are satisfied), after item 37a(a) insert—

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|---|---|
| “38. Plants of <i>Fraxinus</i> L. intended for planting | The plants shall be accompanied by an official statement that they have been grown throughout their life in an area which has been established and is maintained as an area free from <i>Chalara fraxinea</i> T. Kowalski (including its teleomorph <i>Hymenoscyphus pseudoalbidus</i> ) in accordance with ISPM No. 4.”. |
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#### **Amendment of Schedule 5**

9. In Schedule 5 (relevant material from a third country for which a phytosanitary certificate may be required), in Part A (relevant material which may only be landed in Scotland if accompanied by a phytosanitary certificate)—

- (a) in paragraph 1(c), for “or *Phaseolus* L.” substitute “*Phaseolus* L. or *Fraxinus* L.”; and
- (b) in paragraph 2(a), after “*Dianthus* L.,” insert “*Fraxinus* L.”.

#### **Amendment of Schedule 6**

10. In Schedule 6 (prohibitions on the landing in and movement within Scotland of relevant material without a plant passport), in Part A (relevant material, from Scotland or elsewhere in the European Union, which may only be landed in or moved within Scotland if accompanied by a plant passport), after paragraph 8(b) insert—

“9. Plants of *Fraxinus* L. intended for planting.”.

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(a) Item 37a was inserted by S.S.I. 2012/266.  
(b) Paragraph 8 was inserted by S.S.I. 2008/350.

### **Amendment of Schedule 7**

**11.** In Schedule 7 (prohibitions on the consignment of relevant material to another part of the European Union without a plant passport), in Part A (relevant material which may only be consigned to another part of the European Union if accompanied by a plant passport), after paragraph 8(a), insert—

“9. Plants of *Fraxinus* L. intended for planting.”.

St Andrew’s House,  
Edinburgh  
27th November 2012

*PAUL WHEELHOUSE*  
Authorised to sign by the Scottish Ministers

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(a) Paragraph 8 was inserted by S.S.I. 2008/350, article 7.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Plant Health (Scotland) Order 2005 (“the principal Order”) to include emergency measures to prevent the introduction and spread of *Chalara fraxinea* T. Kowalski, including its teleomorph *Hymenoscyphus pseudoalbidus*, a cause of ash dieback.

In particular, the Order:

- (a) prohibits the landing in or the spread within Scotland of *Chalara fraxinea* T. Kowalski (article 6);
- (b) prohibits the landing in or the movement within Scotland of plants of *Fraxinus* L. intended for planting which are infected with *Chalara fraxinea* T. Kowalski (article 7));
- (c) imposes additional requirements on the landing in or movement within Scotland of plants of *Fraxinus* L. intended for planting (articles 8 to 10); and
- (d) imposes additional requirements on the consignment from Scotland to other parts of the European Union of plants of *Fraxinus* L. intended for planting (article 11)).

Emergency measures to prevent the introduction and spread of *Chalara fraxinea* T. Kowalski were introduced by the Plant Health (Forestry) (Amendment) Order 2012 (S.I. 2012/2707). Under section 1(2)(a) of the Plant Health Act 1967 (“the 1967 Act”) the competent authority for those measures in relation to the protection of forest trees and timber is the Forestry Commissioners. This Order enables the Scottish Ministers to act as competent authority for Scotland, under section 1(2)(b) of the 1967 Act, in relation to measures to prevent the introduction and spread of *Chalara fraxinea* T. Kowalski otherwise.

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The Plant Health (Scotland) Amendment (No. 2) Order 2012

£4.00

S5728 11/2012 325728T 19585

ISBN 978-0-11-101857-6



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