

**2013 No. 366**

**PLANT HEALTH**

**The Plant Health (Scotland) Amendment (No. 3) Order 2013**

*Made* - - - - 19th December 2013

*Laid before the Scottish Parliament* 23rd December 2013

*Coming into force* - - 6th February 2014

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 paragraph 1A of Schedule 2 to the European Communities Act 1972(c) and all other powers enabling them to do so.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for references to Commission Decision 2006/473/EC recognising certain third countries and certain areas of third countries as being free from *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus)(d) to be construed as references to that instrument as amended from time to time.

This Order makes provision for preventing the introduction and spread of pests within Scotland and throughout the UK and is in part called for by EU obligations contained in Commission Implementing Decision 2013/253/EU amending Decision 2006/473/EC as regards the recognition of certain third countries and certain areas of third countries as being free from *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to citrus)(e).

**Citation and commencement**

1. This Order may be cited as the Plant Health (Scotland) Amendment (No. 3) Order 2013 and comes into force on 6th February 2014.

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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) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”), section 27(4)). Section 2(2) was also amended by the 2006 Act, section 27(1)(a) and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), Schedule, Part 1. Paragraph 1A of Schedule 2 was inserted by the 2006 Act, section 28 and was amended by the 2008 Act, Schedule, Part 1. The functions conferred upon the Minister of the Crown under the 1972 Act, section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of the 1998 Act, section 53.
- (d) OJ L 187, 8.7.2006, p.35.
- (e) OJ L 145, 31.5.2013, p.35, as corrected and renumbered by OJ L 196 18.7.2006, p.26.

## **Amendment of the Plant Health (Scotland) Order 2005**

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

### **Amendment of article 2 (general interpretation)**

3. In article 2(1)—

(a) for the definition of “Decision 2006/473/EC”(b) substitute—

““Decision 2006/473/EC” means Commission Decision 2006/473/EC recognising certain third countries and certain areas of third countries as being free from *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus), as amended from time to time;”;

(b) after the definition of “official body of point of entry”, insert—

““official documentation” means documentation issued by or with the authority of the responsible official body of the member State in which the documentation is issued;”.

### **Amendment of article 8 (exceptions from certain prohibitions and requirements)**

4. In article 8 (2)(c)—

(a) in sub-paragraph (a)(iii), after “or seeds of *Fraxinus* L.”, insert “ or *Castanea* Mill.”;

(b) in sub-paragraph (b)(ii), after “plants of *Fraxinus* L.”, insert “*Castanea* Mill. or *Platanus* L.”.

### **Amendment of article 21 (requirements for plant passports)**

5. After article 21(7), insert—

“(8) Subject to article 22(1), no person shall move within Scotland or consign from Scotland to another part of the European Union any relevant material of the following description unless it is accompanied by the appropriate documentation—

(a) plants of *Castanea* Mill. intended for planting;

(b) plants, other than seeds, of *Platanus* L. intended for planting.

(9) In paragraph (8), “appropriate documentation” means—

(a) in the case of plants of *Castanea* Mill. intended for planting, official documentation confirming that the requirements specified in column 3 of item 6 of Part A of Schedule 4 or in column 3 of item 4 of Part B of Schedule 4 have been met;

(b) in the case of plants, other than seeds, of *Platanus* L. intended for planting, official documentation confirming that the requirements specified in column 3 of item 8 of Part A of Schedule 4 or in column 3 of item 5 of Part B of Schedule 4 have been met.”.

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(a) S.S.I. 2005/613 as amended by S.S.I. 2006/474, S.S.I. 2007/415, S.S.I. 2007/498, 2008/300, S.S.I. 2008/350, S.S.I. 2009/153, S.S.I. 2010/206, S.S.I. 2010/342, S.I. 2011/1043, S.S.I. 2012/266, S.S.I. 2012/326, S.S.I. 2013/5 and S.S.I. 2013/187.

(b) Definition inserted by S.S.I. 2006/474.

(c) Article 8(2) was amended by S.S.I. 2012/326.

## **Amendment of article 22 (exceptions from certain prohibitions and requirements)**

### **6. For article 22(1)(a), substitute—**

“(1) The following prohibitions and requirements shall not apply to small quantities of the specified relevant material where the relevant material meets the conditions in paragraph (1A)—

- (a) in the case of relevant material, other than plants of *Castanea* Mill., *Fraxinus* L. or *Platanus* L. intended for planting—
  - (i) the prohibitions on landing in articles 19(1)(e), (f) and (g) and 19B(1)(b);
  - (ii) the prohibitions on movement in article 20(1)(e) and (f); and
  - (iii) the requirements in article 21(1), (2), (5) and (6);
- (b) in the case of plants of *Castanea* Mill. intended for planting—
  - (i) the prohibitions on landing in article 19(1)(e), other than the prohibition on the landing of plants of *Castanea* Mill. intended for planting, unless the requirements in column 3 of item 6 of Part A of Schedule 4 have been complied with;
  - (ii) the prohibitions on landing in article 19(1)(f), other than the prohibition on the landing of plants of *Castanea* Mill. intended for planting, unless the requirements in column 3 of item 4 of Part B of Schedule 4 have been complied with; and
  - (iii) the requirements in article 21(1) and (5);
- (c) in the case of plants of *Castanea* Mill. intended for planting which originate in Great Britain and have remained in Great Britain throughout their life—
  - (i) the prohibitions on movement under article 20(1)(e); and
  - (ii) the requirement in article 21(8)(a);
- (d) in the case of plants of *Castanea* Mill. intended for planting which originate in Great Britain, but have not remained in Great Britain throughout their life, the prohibitions on movement under article 20(1)(e), other than the prohibition on the movement of plants of *Castanea* Mill. intended for planting, unless the requirements in column 3 of item 4 of Part B of Schedule 4 have been complied with;
- (e) in the case of plants of *Platanus* L. intended for planting—
  - (i) the prohibitions on landing in article 19(1)(e), other than the prohibition on the landing of plants, other than seeds, of *Platanus* L. intended for planting, unless the requirements in column 3 of item 8 of Part A of Schedule 4 have been complied with;
  - (ii) the prohibitions on landing in article 19(1)(f), other than the prohibition on the landing of plants, other than seeds, of *Platanus* L. intended for planting, unless the requirements in column 3 of item 5 of Part B of Schedule 4 have been complied with; and
  - (iii) the requirements in article 21(1) and (5);
- (f) in the case of plants of *Platanus* L. intended for planting which originate in Great Britain and have remained in Great Britain throughout their life—
  - (i) the prohibitions on movement in article 20(1)(e); and
  - (ii) the requirement in article 21(8)(b);

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(a) Article 22(1) was amended by S.S.I. 2012/326 and S.S.I. 2013/187.

(b) Article 19B was inserted by S.S.I. 2013/187.

- (g) in the case of plants of *Platanus* L. intended for planting which originate in Great Britain but have not remained in Great Britain throughout their life, the prohibitions on movement under article 20(1)(e), other than the prohibition on the movement of plants, other than seeds, of *Platanus* L. intended for planting unless the requirements in column 3 of item 5 of Part B of Schedule 4 have been complied with.

(1A) The conditions are that the relevant material—

- (a) does not show any signs of the presence of a plant pest;
- (b) is not intended for use in the course of a trade or business; and
- (c) is intended for household use.”.

**Amendment of article 24 (general provisions relating to plant passports)**

7. In article 24(5)(a), after “plant passport”, insert “or the official documentation”.

**Amendment of Schedule 2 (relevant material which may not be landed in or moved within Scotland if that material is carrying or infected with plant pests)**

8. In Schedule 2 in Part B (plant pests known to occur in the European Union)—

- (a) for item 3 under the heading “Fungi”, substitute—

“3. Plants of *Castanea* Mill. intended for planting or plants, other than seeds, of *Cryphonectria parasitica* (Murrill) Barr”.  
*Quercus* L. intended for planting

**Amendment of Schedule 4 (restrictions on the landing in and movement within Scotland of relevant material)**

9.—(1) In Schedule 4, in Part A (relevant material, from third countries, which may only be landed in Scotland if special requirements are satisfied)—

- (a) for item 6 substitute—

“6. Plants of *Castanea* Mill. intended for planting, originating in any third country

Without prejudice to the requirements in items 5, 6b, 60, 61 and 64, the plants shall be accompanied by a phytosanitary certificate or a phytosanitary certificate for re-export which includes under the heading “Additional declaration” an official statement that they have been grown throughout their life in:

- (a) a place of production in a country in which *Cryphonectria parasitica* (Murrill) Barr is not known to occur; or

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(a) Article 24(5) was added by S.S.I. 2006/474.

- (b) an area established and maintained as an area free from *Cryphonectria parasitica* (Murrill) Barr in accordance with ISPM No. 4.
- 6aa. Plants, other than seeds, of *Quercus* L. intended for planting, originating in any third country
- Without prejudice to the requirements in items 4, 5, 60, 61 and 64, the plants shall be accompanied by an official statement that:
- (a) they originate in an area known to be free from *Cryphonectria parasitica* (Murrill) Barr; or
  - (b) no symptoms of *Cryphonectria parasitica* (Murrill) Barr have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation.”; and

(b) for item 8, substitute—

- “8. Plants, other than seeds, of *Platanus* L. intended for planting, originating in any third country
- Without prejudice to the requirements in items 60, 61, 64 and 81, the plants shall be accompanied by a phytosanitary certificate or a phytosanitary certificate for re-export which includes under the heading “Additional declaration” an official statement that they have been grown throughout their life in:
- (a) a place of production in a country in which *Ceratocystis fimbriata* f. spp. *platani* Walter is not known to occur; or
  - (b) an area established and maintained as an area free from *Ceratocystis fimbriata* f. spp. *platani* Walter in accordance with ISPM No. 4.”.

(2) In Schedule 4, 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)—

(a) for item 4, substitute—

- “4. Plants of *Castanea* Mill. intended for planting
- Without prejudice to the requirements in item 4b, the plants shall be accompanied by official documentation confirming that they have been grown throughout their life in:

- (a) a place of production in a country in which *Cryphonectria parasitica* (Murrill) Barr is not known to occur; or
    - (b) an area established and maintained as an area free from *Cryphonectria parasitica* (Murrill) Barr in accordance with ISPM No. 4.
- 4aa. Plants, other than seeds, of *Quercus* L. intended for planting
- The plants shall be accompanied by an official statement that:
- (a) they originate in an area known to be free from *Cryphonectria parasitica* (Murrill) Barr; or
  - (b) no symptoms of *Cryphonectria parasitica* (Murrill) Barr have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation.”; and

(b) for item 5, substitute—

- “5. Plants, other than seeds, of *Platanus* L. intended for planting
- Without prejudice to the requirements in items 37 and 37a, the plants shall be accompanied by official documentation confirming that they have been grown throughout their life in:
- (a) in a place of production in a country in which *Ceratocystis fimbriata* f. spp. *platani* Walter is not known to occur; or
  - (b) an area established and maintained as an area free from *Ceratocystis fimbriata* f. spp. *platani* Walter in accordance with ISPM No. 4.”.

**Amendment of Schedule 5 (relevant material from a third country for which a phytosanitary certificate may be required)**

10. In Schedule 5 in Part A (relevant material which may only be landed in Scotland if accompanied by a phytosanitary certificate) after paragraph 2, insert—

“2A. Seeds of *Castanea* Mill. intended for planting.”

**Amendment of Articles 2, 4 and 21 and Schedules 9 (requirements for plant passports) and 13 (plant health movement document in light of Treaty of Lisbon Amending the Treaty on the European Union and the Treaty Establishing the European Community signed at Lisbon on 13th December 2007**

**11.**—(1) For “EC transit goods” in each place where it occurs in articles 2(1), 4(2) and 21 substitute with “EU transit goods”.

(2) For “EC plant passport” substitute with “EU plant passport” in each place where it occurs—

- (a) in Part A of Schedule 9, paragraph 7(a) and in Part B of that Schedule paragraphs 2(b), 3(b), 4(b) and 5(b); and
- (b) in Schedule 13, Part B.

*PAUL WHEELHOUSE*

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
19th December 2013

## EXPLANATORY NOTE

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

This Order amends the Plant Health (Scotland) Order 2005 (S.I. 2005/613).

Articles 4 and 6 to 9 amend the existing control measures to prevent the introduction and spread of *Ceratocystis fimbriata* f. spp. *platani* Walter (a cause of plane canker stain) and *Cryphonectria parasitica* (Murrill) Barr (a cause of sweet chestnut blight). The revised control measures in relation to *Ceratocystis fimbriata* f. spp. *platani* Walter apply to the landing in and the movement within Scotland, and the consignment from Scotland to another part of the European Union, of plants, other than seeds, of *Platanus* L. intended for planting. The revised control measures in relation to *Cryphonectria parasitica* (Murrill) Barr apply to the landing in and the movement within Scotland, and the consignment from Scotland to another part of the European Union, of plants of *Castanea* Mill. intended for planting.

In addition article 3(a) implements Commission Implementing Decision 2013/253/EU amending Commission Decision 2006/473/EC as regards the recognition of certain third countries and certain areas of third countries as being free from *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus) (OJ No L 145, 31.5.2013, p.35) as corrected and renumbered by OJ L 196 18.7.2006 p.26 by providing that references to Commission Decision 2006/473/EC (OJ No L 187, 8.7.2006, p.35) should be read as references to that Decision as amended from time to time.

Article 11 makes textual amendments in light of the Treaty of Lisbon amending the Treaty on the European Union of the Treaty establishing the European Community signed at Lisbon on 13th December 2007.

A Business Regulatory impact assessment has been prepared and placed in the Scottish Government Agriculture, Food and Rural Communities Directorate, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD and online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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