

## POLICY NOTE

### THE PLANT HEALTH (SCOTLAND) AMENDMENT ORDER 2015

SSI 2015/10

#### 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, and section 20 of the Agriculture (Miscellaneous Provisions) Act 1972. The instrument is subject to negative procedure.

#### Purpose of the instrument

2. This instrument amends the Plant Health (Scotland) Order 2005 (S.S.I. 2005/613) ('the PH Order') which contains measures to prevent the introduction and spread of harmful plant pests and diseases. This instrument transposes and implements;

- Commission Implementing Directives: 2014/78/EU and 2014/83/EU.

The key changes of interest are establishment of the UK as a protected zone (areas that are free from plant pests usually established elsewhere in the EU) for Chestnut gall wasp (*Dryocosmus kuriphilus* Yasumatsu), Oak processionary moth (*Thaumatopea processionea* L), Sweet chestnut blight (*Cryphonectria parasitica*) and Plane wilt (*Ceratocystis platani* (J.M.Walter) Engelbr. & T.C. Harr, formerly known as *Ceratocystis fimbriata* f. spp. platani Walter), requiring that plants and plant produce that are hosts of these pests must reach higher plant health standards before entering these zones. This is in line with UK policy objectives. Additional control measures to prevent the introduction and spread of Sweet Chestnut Blight and Plane wilt were introduced in relation to Scotland by the Plant Health (Scotland) (Amendment) (No.3) Order 2013 whilst strengthened EU measures, in the form of protected zone requirements, were being pursued for the UK, in relation to these plant pests. The new EU protected zone requirements for Sweet chestnut blight and Plane wilt and Oak processionary moth replace the existing national measures against these pests.

A Transposition note is attached

- The following EU Commission Implementing Decisions –

Commission Implementing Decision 2014/422/EU setting out measures in respect of certain citrus fruits originating in South Africa to prevent the introduction into and spread within the Union of *Phyllosticta citricarpa* (McAlpine) Van der Aa

Commission Implementing Decision 2014/497/EU as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Well and Raju)

Commission Implementing Decision 2014/679/EU amending previous Commission Implementing Decision 2012/70/EU as regards its period of application and as regards the

movement to packing facilities of potato tubers in areas demarcated in order to prevent the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix similaris* (Gentner), *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner) (potato flea beetle).

Commission Implementing Decision 2014/690/EU repealing Decision 2006/464/EC on provision emergency measures to prevent the introduction into and spread within the Community of *Dryocosmus kuriphilus* Yasumatsu (Chestnut Gall Wasp)

- In addition, it includes a new provision in article 22 of the PH Order in relation to Commission Implementing Decision 2014/497 and Commission Implementing Decision 201/679 to exempt the movement of relevant material within a demarcated zone from the requirement to be accompanied by a plant passport. For consistency this provision also relates to article 5 of Commission Implementing Decision 2012/697.

## Legislation

3. Council Directive 2000/29/EC on protective measures against the introduction into the European Union of organisms harmful to plants or plant products and against their spread within the Union (“the Plant Health Directive”) establishes the EU plant health regime. It contains measures to be taken in order to prevent the introduction into, and spread within, the EU of pests and diseases injurious to plants and plant produce which are specified in the Annexes of the Directive. The Plant Health Directive is implemented in Scotland by the Plant Health (Scotland) Order (the PH Order) and, in relation to forest materials, by the Plant Health (Forestry) Order 2005 (S.I. 2005/2517), which extends to Great Britain. Similar but separate plant health legislation to the PHSO operates in England, Wales and Northern Ireland.

## Policy Background

4. The Directive (and therefore the principal Order) are updated frequently, to take account of new or revised risk assessments, pest interceptions, changes in distribution of pests and other developments. This instrument transposes and implements specific EU measures arising from technical changes in the assessment of the risks presented by particular pests and diseases.

4.1 The changes are required because of the Commission Implementing Directives 2014/78/EU and 2014/83/EU which have modified the annexes of the Plant Health Directive **as a result of technical changes in the assessment of risks presented by particular pests and diseases and which introduce new measures to address risks presented by other pests and diseases.** These amendments are to be transposed through this instrument, which comes into force on 26 February 2015.

4.2 Equivalent legislative changes have been introduced by Defra under The Plant Health (England) (Amendment) (No.2) Order 2014; The Forestry Commission under The Plant Health (Forestry)(England and Scotland)(Amendment)2014. Northern Ireland is also in the process of implementing these changes.

## **Consolidation**

5 A commitment was made to amend national plant health legislation as and when required, to take account of new or revised risk assessment, pest interceptions, changes in distribution of pest and other developments, until the EU Review of the Plant Health Regime has been concluded. As this is still under review as part of a package of revised regulations on the agri-food chain, there are no immediate plans to consolidate the PH Order.

## **Consultation**

7. This legislation implements EU legislation. The views of stakeholders were sought and taken into account during negotiations with the Commission and other Member States.

## **Business and Regulatory Impact**

16. A Business and Regulatory Impact Assessment has not been prepared as the Order has no impact on the costs for business. The requirements apply mainly in countries exporting to the EU.

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