

POLICY NOTE

THE MARKETING OF ORNAMENTAL PLANT PROPAGATING MATERIAL AMENDMENT (SCOTLAND) REGULATIONS 2018

SSI 2018/284

Introduction

1. The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972. It is subject to negative resolution procedure.

Policy objectives

2. (i) Transposition of (EU) 2018/484 - The instrument transposes Commission Implementing Directive (EU) 2018/484 as regards requirements to be fulfilled by the propagating material of certain genera or species of *Palmae* in respect of *Rhynchophorus ferrugineus* (Olivier). It does so by amending the Marketing of Ornamental Plant Propagating Material Regulations 1999 (the 1999 Regulations). Specifically, the instrument introduces certain requirements to be fulfilled in the production of propagating material of certain genera or species of *Palmae* prior to marketing in respect of *Rhynchophorus ferrugineus* (Olivier) which is a plant pest.

(ii) Fix out of date references – The instrument corrects references within the 1999 Regulations which are now out of date.

(iii) Remedial transposition – The instrument fully transposes the table which is contained in the annex of Directive 93/49/EEC setting out the schedule indicating the conditions to be met by plant propagating material and ornamental plants.

Policy Background

3. (i) Transposition of Directive (EU) 2018/484 - *Rhynchophorus ferrugineus* (Olivier) is an insect which is a highly invasive plant pest. It is more commonly known as the red palm weevil. Red palm weevil has been found in most of the endangered Union territories and it is now known to occur in a substantial part of Union territory. Red palm weevil causes severe damage to plants of host species belonging to the *Palmae* family. Those plants are present in many parts of the Union. They are planted in large numbers for ornamental purposes and are of high environmental and economic importance. The EU has therefore decided to set out specific requirements to ensure the quality of the propagating material of those genera and species of *Palmae* which are most commonly marketed in the Union and which are at risk of being infested by red palm weevil. The transposition of these new requirements into domestic legislation is achieved by adding them to the existing requirements which are contained in the 1999 Regulations. The instrument insert a new schedule 2 into the 1999 Regulations which includes a list of the genera and species of *Palmae* to which the new requirements apply.

(ii) Fix out of date references - The 1999 Regulations contain a number of out of date references to EU legislation. This instrument updates those references.

(iii) Remedial transposition - the Instrument fully transposes the Annex of Commission Directive 93/49/EEC.

EU Legislative Background

4. Commission Implementing Directive (EU) 2018/484 contains requirements to be fulfilled in the production of the propagating material of certain genera or species of *Palmae* to protect against the spread of red palm weevil. The genera and species of *Palmae* are designated in the Annex of Directive (EU) 2018/484 (which itself amends the Annex to Directive 93/49/EEC).

Technical updates to the Annex to Commission Directive 93/49/EEC, as amended by Commission Implementing Directive (EU) 2018/484

5. The Marketing of Ornamental Plant Propagating Material Amendment (Scotland) Regulations 2018, in their transposition of the Annex of Commission Directive 93/49/EEC (by an addition of a new Schedule 2 to the 1999 Regulations), incorporate on the advice of SASA (Science and Advice for Scottish Agriculture) a number of technical updates to the nomenclature of the genus or species of both plants / plant material and harmful organisms/diseases. This is to ensure that the Directive is given full effect where there is an error in the nomenclature in the Directive or else the nomenclature has not been updated with scientific changes. These changes are listed below with explanations.

In the section in relation to the species/ genus of “*Dianthus caryophyllus* L. and hybrids”, under the heading “Fungi and fungus-like organisms”, *Phytophthora nicotiana* f. sp. *parasitica* has been cited as *Phytophthora nicotiana* var. *parasitica*, to reflect its current nomenclature and as, technically, it’s no longer considered a fungus the heading has accordingly been changed from Fungi to “Fungi and fungus-like organisms”.

The contemporary spelling of *oxysporum* is spelt with a ‘y’ and not an ‘i’. In addition, each time this name appears with a third name following it, that third name should always be preceded with ‘f. sp.’. Again, this is reflect correct nomenclature.

In some incidents the Instrument has made a change from “spp” to “sp”. Spp denotes that more than one species (possibly even all of them) within the listed genus are viewed as harmful organisms for the host plant which, where it has been altered from the Directive, is to reflect that the Directive must have stated spp in error.

The species/genus of *Euphorbia pulcherrima* (Wild ex Kletch) has had its spelling corrected to *Euphorbia pulcherrima* (Willd ex Klotzch). It is an nomenclature error in the Directive.

In summary, the changes are:

- *Fusarium oxisporum* spp. *Chrysanthemi* change to *Fusarium oxysporum* f.sp. *Chrysanthemi*
- Change title from Fungi to Fungi and fungus-like organisms
- *Fusarium Oxisporum* f.spp *dianthi* to *Fusarium oxysporum* f. sp. *dianthi*
- *Phytophthora nicotiana* spp. *Parasitica* to *Phytophthora nicotiana* var. *parasitica*
- Titled corrected to Willd ex Klotzch
- *Fusarium Oxisporum* spp *gladioli* to *Fusarium oxysporum* f. sp. *gladioli*

Consultation

6. (EU) 2018/484 imposes no burden on business (as the UK already has protected zone status for red palm weevil) and there is no legal requirement to consult. However we are planning to send out an information note to the main stakeholders in order to advise them of the new marketing requirements.

Financial Effects

7. (i) As the UK already has protected zone status for red palm weevil we anticipate no imposition or financial burden on ornamental stakeholders.

(ii) There will be no financial implementations to the Scottish Government or the tax payer.

BRIA

8. A BRIA is not required as consultation is not being carried out with ornamental stakeholders.

Transposition Note

9. In the Scottish Government's view, the resources required to produce a Transposition Note are significantly greater than can be justified by the resulting added benefit to the reader.

Timing

10. This instrument will come into force on 17 November 2018.

Graham Hall

Scottish Government
Agriculture and Rural Economy Directorate
Science and Advice for Scottish Agriculture Division