

POLICY NOTE

THE PLANT HEALTH (OFFICIAL CONTROLS AND MISCELLANEOUS PROVISIONS) (SCOTLAND) REGULATIONS 2019

SSI 2019/421

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

Purpose of the instrument

The principal purpose of the instrument is to implement the new EU Plant Health Regulation (Regulation (EU) 2016/2031) and the plant health elements of the new Official Controls Regulation (Regulation (EU) 2017/625) and associated tertiary legislation, which apply from 14 December 2019.

Policy Objectives

The instrument implements Regulation (EU) 2016/2031 on protective measures against pests of plants (“the PHR”) and, so far as relating to plant health, Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of feed and food law, rules on animal health and welfare and plant health and plant protection products (“the OCR”), together with associated tertiary legislation.

The PHR and the OCR are directly applicable and take effect in the domestic law of the UK and other member States on 14 December 2019.

The instrument makes provision to implement the PHR, the OCR and associated tertiary legislation for both non-forestry and forestry plant health.

The PHR consolidates and strengthens EU plant health legislation and in so doing substantially repeals 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 PHR strengthens biosecurity and reduces the risk of the introduction and spread of injurious pests and diseases.

The OCR sets out a framework of requirements for the competent authorities in member States to be responsible for organising and performing official controls and other official activities to verify compliance with agri-food chain legislation, including in relation to plant health.

The instrument ensures that necessary and appropriate enforcement powers are in place in Scotland in connection with the requirements of the PHR, plant health aspects of the OCR and associated tertiary legislation (separate and parallel legislation will apply in England, Wales and Northern Ireland).

The instrument will revoke the Plant Health (Scotland) Order 2005 and the Plant Health (Forestry) Order 2005 (in relation to Scotland), which gave effect to Council Directive 2000/29/EC which as noted above is substantially repealed by the PHR.

The instrument designates the Scottish Ministers as competent authority responsible for the organisation and performance of official controls and other official activities in Scotland insofar as relating to measures in connection with plant pests, plants, plant products or other objects and professional operators for the purposes of the OCR and so also competent authority in Scotland for the purposes of the PHR.

The instrument makes provision for powers of authorised inspectors in connection with ensuring imports from third countries comply with plant health rules and powers which can be used where it is suspected that certain plant pests, plants, plant products and other objects which pose a risk to plant health are present on premises in Scotland.

The instrument makes provision for offences such as failing to comply with notices, providing false or misleading information, the improper use of plant passports, obstructing inspectors and failing to disclose information.

Consultation

Whilst there has been no formal consultation, the Scottish Government has engaged with stakeholders during the planning and implementation of the PHR and related elements of the OCR. This included discussion and feedback provided by stakeholders at the UK Plant Health Advisory Forum (including NFU Scotland, the Horticulture Trades Association and CONFOR amongst others). Any impacted businesses or other stakeholders will be encouraged to share with the Scottish Government their experience and impacts on an on-going basis. This will also assist Scottish Government to complete the Business Regulatory Impact Assessment process.

Impact Assessments

A full impact assessment package has been undertaken including an Equality Impact Assessment and a partial Business and Regulatory Impact Assessment (BRIA).

Financial Effects

A partial Business and Regulatory Impact Assessment (BRIA) has been undertaken. In summary, it highlighted that the changes help the agricultural, horticultural and forestry sectors remain sustainable and competitive, as well as protecting domestic biodiversity and ecosystems, in addition to protecting against plant pests in the food chain, to bring through improved plant health inspections. Any additional costs would be variable from business to business. The BRIA will be reviewed within 12 months based on evidence gathered from stakeholders and businesses.