

EXECUTIVE NOTE

THE PLANT HEALTH (SCOTLAND) AMENDMENT ORDER 2008 SSI/2008/300

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 as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972, and all other powers enabling them to do so. The instrument is subject to negative resolution procedure.

2. The Order also makes provision for a purpose mentioned in Section 2(2) of the European Communities Act 1972 and references to Commission Directive 2008/61/EC should be read as references to that Directive as amended from time to time.

Policy Objective

3. The purpose of this Order is to amend the Plant Health (Scotland) Order 2005 ('the principal Order') which contains measures to prevent the introduction and spread of harmful plant pests and diseases. The amendment has two key objectives:

A. to implement Commission Directives 2008/61/EC and 2008/64/EC, Commission Decision No 1/2008 of the Joint Committee on Agriculture set up by the agreement between the European Community and the Swiss Confederation on trade and agricultural products (2008/86/EC), and Corrigendum 15528/07 to Council Directive 2000/29/EC.

B. to introduce a statutory notification requirement for any seed potatoes imported into Scotland.

Further details are provided below.

Legislative background

4. 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 Plant Health Directive") establishes the Community plant health regime. The Directive is implemented in Scotland, for non-forestry matters, by the Plant Health (Scotland) Order 2005. Similar but separate legislation operates in England, Wales and Northern Ireland.

Policy background

A: Changes to European Legislation.

5. This amendment Order implements a number of Commission instruments amending and correcting the Plant Health Directive, as follows:

i. **Commission Directive 2008/61/EC** sets out the conditions under which licences can be issued for the use of harmful organisms, plants etc for trial and scientific purposes and for work on varietal selections. This replaces Directive 95/44/EC, codifying all the

amendments made since 1995. It does not contain any new changes to the licensing conditions.

- ii. **Commission Directive 2008/64/EC** makes changes to the controls on two pests, the Old World or African Bollworm (*Heliothis armigera* Hubner, now known as *Helicoverpa armigera* (Hubner)) and Strawberry blackspot, (*Colletotrichum acutatum*), which is removed from the list of quarantine pests. A number of changes are also made to the list of areas recognised as protected zones against certain organisms harmful to plant health in the Community. None of these changes apply to Scotland.
- iii. **Commission Decision No 1/2008 (2008/86/EC)** sets out changes agreed between the European Community and Switzerland to the list of material originating in Switzerland which can be landed or moved within the EU when accompanied by a Swiss plant passport. *Sorbus intermedia* (Ehrh.) Pers. is no longer excluded, and seeds or bulbs of *Helianthus annuus* L., *Lycopersicon lycopersicum* (L.) Karsten ex Farw, *Medicago sativa* L. and *Phaseolus* L. are added.
- iv. **Corrigendum 15528/07** to Council Directive 2000/29/EC corrects the omission of bulbs from article 46 of Annex VI A section 1.

The order also removes mention of Bulgaria as a “third country” in the principal Order, as Bulgaria is now a Member of the EU.

6. Directive 2008/64/EC has a transposition date of 31 August 2008. However, since it was published on 27 June 2008, it was not possible for the Scottish Government to meet this deadline. This order has been brought forward at the earliest possible date to minimise any delay in transposition.

7. No Regulatory Impact Assessment has been carried out for these instruments since they are not expected to have any impact on businesses in Scotland.

B: Statutory notification of imported seed potatoes

8. In Scotland we currently have Regulations in place requiring importers to inform Scottish Government inspectors before introducing any potatoes from Germany, Poland or the Netherlands. This follows outbreaks of ring rot and brown rot in those countries in the past. A voluntary notification scheme also encourages potato growers to inform inspectors of all non-Scottish seed potatoes brought into Scotland for planting. Notification allows a risk assessment to be undertaken to decide whether a sample of the potatoes should be tested for quarantine diseases prior to planting or processing.

9. Annual surveys carried out across Europe demonstrate that the relative prevalence of brown rot and ring rot in Member States changes over time. Potatoes from Germany and the Netherlands no longer pose a significantly greater risk than those from elsewhere, but outbreaks are now occurring at an equivalent level in some other Member States. As a result, the Scottish Government consulted the potato industry in February 2008 on possible changes to the notification arrangements for imported potatoes. The consultation paper and a summary of responses are available on the Scottish Government website at www.scotland.gov.uk/consultations and <http://www.scotland.gov.uk/Publications/2008/06/Summaryofresponsesnotific>

10. Article 4 of the above Order amends the Plant Health (Scotland) Order 2005 to introduce a statutory requirement for notification of all seed potatoes introduced into Scotland. This recognises that seed potatoes pose the greatest threat of introducing

quarantine disease, and ensures that imports from all sources can be monitored, as levels of disease rise and fall.

11. The new notification requirement will apply to seed potatoes introduced into Scotland from other parts of the UK, as well as from other Member States. This is in response to concerns raised about seed that may have been originally produced elsewhere in Europe and “grown-on” for one season in the UK, before being brought into Scotland for planting. Notification must be made in writing to Scottish Government inspectors, at least 48 hours in advance, and must provide details of the identity of the potatoes, the proposed time and date of entry and their proposed destination. It is an offence to fail to provide this information. Inspectors can serve a notice requiring the information if it is not provided prior to entry. Decisions on whether to test for disease, and how intensively to sample the consignment, will be based on risk, informed by the history of the crop.

Potatoes from Poland

12. Scotland has measures in place to minimise the risk of seed potatoes becoming contaminated by disease introduced on ware (eating/processing) potatoes. However, it is not possible to eliminate all risk and Poland continues to have significantly higher incidence of ring rot than any other Member State. We therefore propose to continue the requirement for statutory notification of Polish ware potatoes prior to entry. This position will be kept under review in light of the results of annual surveys for brown rot and ring rot in all Member States. An amendment will be made to the Potatoes Originating in Poland (Notification) (Scotland) Order 2004 to restrict its application to ware potatoes. The same instrument will revoke the current requirements for notification of potatoes originating in Germany and the Netherlands.

13. No Regulatory Impact Assessment has been carried out for these changes to notification requirements. The new statutory notification requirements replicate the former voluntary notification scheme therefore the change is not expected to have any impact on businesses.

14. Similar statutory notification requirements for imported seed potatoes are being introduced in England, Wales and Northern Ireland. These will not require notification for seed potatoes from other parts of the UK, nor of Polish ware. However, Defra and the Northern Ireland Government have accepted the desire of the Scottish potato industry to retain more stringent controls to ensure Scotland’s continued freedom from quarantine diseases.

Scottish Government
Rural Directorate

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