

## EXECUTIVE NOTE

### THE PLANT HEALTH (SCOTLAND) AMENDMENT (No. 2) ORDER 2010 SSI 2010/342

#### 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.

#### Policy Objective

2. The purpose of this Order is to amend the Plant Health (Scotland) Order 2005 (the 2005 Order) so as to implement EU Decision 2010/380/EU, amending Decision 2008/840/EC relating to measures to prevent the introduction and spread within Scotland of the plant pest *Anoplophora chinensis* (citrus longhorn beetle) (CLB).

#### Policy Background

3. CLB is a damaging quarantine pest of a range of trees and shrubs. Its natural range includes China, Japan and countries in South East Asia, but it is a threat to horticulture, forestry and gardens across much of the EU (including UK) as well as citrus producing regions in the Mediterranean. Although it was previously thought that CLB was unlikely to become established in the UK climate, a recent outbreak in the Netherlands and evidence of the beetle completing its full life cycle in England indicate a heightened risk in the UK. Nursery stock grown under protection is also at risk in all areas.

4. CLB is listed in the Plant Health Directive, 2000/29/EC, (implemented in Scotland by the 2005 Order) as a pest whose introduction or spread within the EU is banned. Susceptible plants imported into the Community require to be accompanied by a phytosanitary certificate confirming that they are free from quarantine pests. However, from 2008 there were an increasing number of interceptions in the EU of CLB on acers (maple trees) from China, some of which were distributed in the UK. An outbreak has also been established in the Italian region of Lombardy.

5. As a result of these incidents it became clear that the existing controls were not adequate to prevent the introduction and spread of this pest. In 2008, the EU Standing Committee on Plant Health (SCPH) therefore acted to strengthen them by introducing a requirement that susceptible plants must be grown for at least 2 years prior to export in a pest-free place of production. It was thought at the time that no nurseries existed in China meeting these requirements, and this would therefore achieve a *de facto* ban. However, the Chinese authorities immediately identified several places of production as having been free of CLB for at least 2 years. Unfortunately interceptions continued to occur, and earlier this year Member States prevailed upon the Commission to introduce an explicit ban on acers being imported from China for 2 years. After the end of the ban, stringent controls will be introduced to ensure that nurseries will be removed from the pest-free register if any evidence of CLB is found in their plants.

6. Minor changes have also been made to the requirements for imports of susceptible species from countries other than China, mainly to require a standard level of destructive sampling on import, which is the only way to detect larvae in the stems of plants.

### **Legislative background**

7. The original restrictions were contained in Decision 2008/840/EC, published on 7 November 2008. The provisions of this Decision were reflected in the Plant Health (Scotland) Amendment (No.2) Order 2008 (SSI 2008/350), although the Decision was not directly referred to because the Order was made on 29 October, before the Decision was published.

8. The current Order implements the provisions of Decision 2010/380/EU, published on 7 July 2010.

### **Provisions**

9. The ban on import of acers from China is implemented by Article 4, inserting a time-limited prohibition into Schedule 3 of the 2005 Order. To permit the introduction of this unprecedented time limit, Article 3 amends Articles 5, 19 and 43 of the 2005 Order to allow for prohibitions to be qualified.

10. For clarity, the amendments to requirements on other imports are implemented in Article 5 by completely replacing Item 81 of Schedule 4 Part A.

11. The new measures which will apply to imports from China after the end of the ban, in relation to maintenance of the register of pest-free places of production, are implemented by direct reference to the requirements of the Decision, since the actions are mainly to be taken by the Commission and the Chinese authorities.

### **Timing**

12. We are conscious of the commitment made when the Plant Health (Scotland) Amendment Order 2010 was laid in May, to consolidate the 2005 Order by the end of the year. Work on this is under way. However, it is necessary to implement the new measures for CLB immediately to minimise the risk of infested plants entering the UK through Scotland, as the import season for Acers from China starts around October. The other UK administrations are taking similar action.

### **Financial impact**

13. A Regulatory Impact Assessment has not been carried out for this Order as the requirements introduced by the Commission Decision will not have a significant impact on Scottish businesses. There are normally no direct imports of relevant plants to Scotland, but it is necessary to have controls in place to avoid displacement from points of entry elsewhere in Europe.

Scottish Government  
Rural Directorate  
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