

## POLICY NOTE

### THE PLANT HEALTH (SCOTLAND) AMENDMENT (No. 3) ORDER 2013

SSI 2013/366

#### 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, section 2(2) of, and paragraph 1A of Schedule 2 to the European Communities Act 1972. The instrument is subject to negative resolution 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;

- strengthens existing measures to protect the health of specific genera of trees - *Castanea Mill* (including seeds)(sweet chestnut) and *Platanus L.* (plane);
- implements the EU Commission Implementing Decisions -2013/253/EU – recognition of certain third countries and certain area of third countries as being free from *Xanthomonas campestris* (citrus canker), *Cercospora angolensis* Carv.et Mendes (citrus leaf spot) and *Guignardia citricarpa* Kiely (citrus blackspot)
- Updates legislative references in light of the Treaty of Lisbon.

#### 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 PHSO) 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 Scottish Government has been working with Defra and Forestry Commission Scotland to review the top risks to tree health with a view to taking rapid action to address these. As part of this work, a Scottish Tree Health Advisory Group (STHAG) has been established and works closely with UK Plant Health Risk Group (representatives from Defra,

Fera, Forestry Commission and the Scottish Government). Together they are continuing their review of new and revised threats, including production of risk assessments and consultations on such assessments

4.1. It was recommended that biosecurity should be strengthened to reduce risks at the border and within the UK. Recommended measures include timely consideration of EU Protected Zone status to protect against new threats before they arrive, notification of the imports of high-risk plants and monitoring of threats including pathways into the UK to take rapid action where necessary.

4.2. Many harmful organisms affecting tree health are already regulated through the EU Plant Health Regime and Scotland makes good use of the EU Protected zone system, which requires additional measures to be met when moving specified material into designated areas. There are 11 zones in place for organisms affecting tree species, the most of any member state. The Plant Health Risk Group reviews the UK's Protected Zones, to consider whether additional measures are needed in relation to other organisms which are present elsewhere but not in the UK.

4.3 As a result it was recognised that *Ceratocystis platani* (Plane wilt) and *Cryphonectria parasitica* (Chestnut blight) are both serious diseases which threaten the wider environment in the UK. The introduction and spread of both diseases is primarily from the import of infected planting material therefore strengthening existing measures aimed at protecting plane and sweet chestnut trees are required. These diseases have also been identified as a priority during development of a UK plant health risk register.

(i) Plane

Plane trees are regulated by the Plant Health Directive, with protection against *Ceratocystis platani* (plane wilt). It has killed tens of thousands of plantation trees and street trees in the eastern United States, California and southern Europe. Infected trees die within 3-6 years. The disease is present in Europe and despite current EU legislation designed to limit its spread further it is still spreading in France and other southern member states. There has been no spread to the GB to date but a risk analysis has shown that introductions of this organism into GB is through infected plants and wood is likely even with the EU measures in place. The new measures being introduced means planting material of *Platanus* landing and moving in Scotland, in addition to pre-notification requirements, need certain accompanying document confirming the place of production is in an area where this disease is not known to occur, or an area established and maintained as an area free from this disease.

(ii) Sweet chestnut

Sweet chestnut is also regulated by the Plant Health Directive, with protection against *Cryphonectria parasitica* (Chestnut blight). Additional requirements currently apply for movements into protected zones, including the UK, but these are restricted to wood and isolated bark. These requirements have proved deficient, as infect plant material from France has caused outbreaks in England. The new measures introduced means planting material, including seeds, when introduced into or moved within Scotland, or consigned from Scotland to another member state, need certain accompanying documentation confirming the place of production is in an area where this disease is known not to occur, or an area established and maintained as an area free from disease.

4.4 We are also pressing for strengthening of the EU requirements, through seeking protected zone status for the UK in relation to plane wilt and strengthened requirements for sweet chestnut blight and planting material. This action is on-going but the UK recognised that EU measures would not be agreed and in place before the 2013 import and planting season began hence the need for national measures. The EU have been notified and the national measures will be kept under review in light of developments at the EU level.

4.5 Equivalent legislative changes have been introduced by Defra and the Forestry Commission who also added these conditions to apply to wood of *Platanus* for the forestry sector.

### **Additional amendments**

5. Upon the introduction of the Treaty of Lisbon (Changes in Terminology) Order 2011, not all of references in the Plant Health Order 2005 were automatically changed. Some further textual amendments are made to reflect the shift from EC to EU.

### **Consolidation**

6. 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 on going, there are no immediate plans to consolidate the principal Order.

### **Consultation**

7. Due to the specialist nature of this regulation there has been no public consultation. However there has been discussion with representative stakeholder bodies at the Scottish Tree Health Advisory Group meetings and we have also written to Scottish stakeholders to make them aware of the Defra/FC measures and that similar measures were planned for Scotland.

### **Business and Regulatory Impact**

16. A Business and Regulatory Impact Assessment has been prepared for plane and sweet chestnuts trees only.

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