

## POLICY NOTE

### THE PLANT HEALTH (FORESTRY) (PHYTOPHTHORA RAMORUM MANAGEMENT ZONE) (SCOTLAND) ORDER 2014

SSI 2014/122

#### Introduction

1. The Forestry Commissioners are making the following Order in exercise of the powers conferred by sections 3(1), (2) and 4(1) of the Plant Health Act 1967(a)<sup>1</sup> as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972(b)<sup>2</sup> and all other powers enabling them to do so. The instrument is subject to negative resolution procedure.

#### Purpose of the instrument

2. This Order makes provision which Scottish Ministers and the Forestry Commissioners think expedient for preventing the spread of pests in Scotland, in particular, *Phytophthora ramorum* Werres, De Cock and Man in ‘t Veld sp. nov..

This instrument;

- Improves the efficiency of tackling *Phytophthora ramorum*, whilst retaining sufficient control to prevent further spread of the disease.
- Prohibits a person from moving susceptible material (defined in article 2 and Schedule 1) from within the zone to outside the zone unless the movement is to an approved facility for the purposes of processing the material (approved in accordance with article 4).
- Provides that in addition, a person must keep records of the movement of such material and provide information about those when requested to do so by inspectors.
- Provides inspectors with a power to enter premises for the purpose of inspecting, seizing, removing, destroying or treating susceptible material moved in contravention of article 3.
- Provides that a person who, without reasonable excuse, moves susceptible material in contravention of article 3 or obstructs an inspector in the exercise of the inspector’s powers under article 6 commits an offence.

---

<sup>1</sup> 1967 c.8 section 3(1) was amended by the European Communities Act 1972 (c.68) (“the 1972 Act”), section 4(1) and Schedule 4, paragraph 8 and further amended by S.I. 2011/1043. Section 3(4) was substituted by the Criminal Justice Act 1982 (c.48), section 42 and the Statute Law (Repeals) Act 1993 (c.50), section 1(1) and Schedule 1, Part XIV. There are other amendments which are not relevant to this Order. The powers conferred by section 3 of the Plant Health Act 1967 (“the 1967 Act”) are conferred on a competent authority as defined in section 1(2) of the 1967 Act. The Forestry Commissioners are the competent authority for Scotland as regards the protection of forest trees and timber from attack by pests.

<sup>2</sup> 1972 c.62.

## 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. Council Decision 2002/757 introduced measures on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in 't Veldsp. nov..

## Policy Background

4. *Phytophthora ramorum* (‘ramorum’) is causing extensive damage and mortality to larch trees in Scotland and without appropriate action will continue to do so. This will result in a loss of the wide range of benefits provided by larch to society.

5. Due to the limitations in the current legislation and potential of impacts of Ramorum a new Statutory Instrument is required to fulfil a Ministerial commitment to control the spread of the disease.

6. The approach approved by the Minister, to tackling *Ramorum* in forest areas is now based on the following geographic zoning:

- a “red zone”, where infection is high, concentrated and the death of larch is already widespread and irreversible in south west Scotland and;
- the rest of Scotland, where the focus of efforts to contain or delay further spread is through Statutory Plant Health Notices and sanitation felling. .

7. The area of larch in this Red Zone is around 8000-9000 ha, about half of which is on the national forest estate (NFE) and half is privately owned. From recent aerial and ground surveys it is currently estimated that 60-70% of larch is infected in the Red Zone – the remainder is predicted to become infected.

8. Within the Red Zone it is estimated that there is 3 million cubic meters of standing larch timber. In Scotland it is estimated that there is 17 million cubic meters standing Larch.

9. It is predicted that up to 1 million cubic meters of larch per year will be harvested from the Red Zone, for each of the next three years. Previous harvesting levels were in the region <200K cubic meters per year.

10. At present FCS still need to issue SPHN’s for movement control purposes within the red zone; this is to prevent infected timber or bark entering the supply chain.

11. The function of this Instrument will be to replace individual SPHN’s within the Red Zone with a Movement order which places controls over the movement of potentially infectious material from the identified area.

## **Consultation**

12. 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 with the Scotland *Phytophthora Ramorum* Working Group.

## **Business and Regulatory Impact**

13. A Business and Regulatory Impact Assessment has been prepared.

**John Dougan**  
**Forestry Commission Scotland**  
**231 Corstorphine Road**  
**Edinburgh**  
**EH12 7AT**