

POLICY NOTE

THE PLANT HEALTH (SCOTLAND) AMENDMENT ORDER 2014

SSI 2014/140

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. 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;
 - Amends article 19B of the PH Order to extend the existing prior notification scheme for landing of certain tree species to include elm (*Ulms*) trees – to strengthen plant health measures already in place in relation to the import of those trees and;
 - Amends Schedule 1, Part B of the PH Order, to implement Commission Implementing Directive 2014/19/EU, which removes *Diabrotica virgifera virgifera* Le Conte (Western corn rootworm) as a quarantine pest in the EU.

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 PH Order 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 PH Order 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 and plant health threats with a view to taking rapid action to address these. As part of this work, it has concluded that *Candidatus Phytoplasma ulmi* (Elm yellows) is a potential threat to Elm trees. The first finding of this has been found in England this year; measures are required to raise awareness about the pathogen, improve intelligence about the trade in elms (which is currently unregulated in the EU) and facilitate targeted monitoring by the Plant Health Services in Scotland, England and Wales.

5. *Candidatus* Phytoplasma ulmi is listed in the Plant Health Directive as Elm phloem necrosis mycoplasma because of their lethal effects on native elm species in North America. The effect on European and Asian elm species are less severe as they are considered to be moderately or highly resistant to this. Smaller trees are worse affected. In the UK, the Field elm (*Ulmus minor*) is known to be susceptible whereas Wych elm (*Ulmus glabra*) is known to show some resistance.

6. Despite this being listed in the Plant Health Directive, there have been a number of outbreaks in the EU (Italy, France and Germany). The movement of elm planting material in the EU is not regulated and movements do occur between member states. Imports from third countries may only be imported into the EU with a phytosanitary certificate declaring freedom from harmful organisms. Statutory notification for intra-EU trade will mean that anyone importing elm trees (including young planting material and seeds) must notify the Scottish Government Horticulture and Marketing Unit in advance of their landing via a Scottish port.

Commission Implementing Directive 2014/19

7. Following a review of the spread and establishment of *Diabrotica virgifera virgifera* Le Conte (Western corn rootworm) across the EU the Commission have concluded that no measures are feasible to eradicate it or to effectively prevent its further spread. EU Plant Health requirements regarding *Diabrotica* has therefore been revoked, which this order implements.

8. A new Commission Recommendation (2014/63) EU) has been published, promoting monitoring for the presence and distribution of *Diabrotica*, and integrated pest management to suppress populations. It also, encourages that appropriate information is made available on the use of integrated pest management; including plant protection products and that other activities are pursued, such as training and research. These actions are in line with Directive 2009/128/EU on the sustainable use of pesticides. The UK measures and activities to implement the Directive, including the role of integrated pest management, are set out in the UK National Action Plan.

Consolidation

9. 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 PH Order.

Consultation

10. Elm yellows has recently been detected in England for the first time. Even though the disease has not yet been detected in Scotland, the Scottish Government Plant Health Policy Team and the Forestry Commission Scotland decided to participate in a short UK consultation seeking views on the pest risk analysis (PRA) and steps to combat the disease. Consultation has ended and it has been concluded that most appropriate way to deal with this disease is to add elm trees to the list of pre- landing notifications. This will allow evidence to be gathered on whether elm yellows is already present, to support (or otherwise) additional protection. In addition, when Defra introduced these new measures, the Scottish Government

informed businesses in Scotland of the implications of them and that similar measures were being introduced in Scotland.

Timing

11. This SSI will come into effect on 27 June 2013.

Business and Regulatory Impact

12. There will be no impact to Scottish Businesses by adding *Ulmus* (elm) to the list for tree notifications. A system is now in place, previously set up when we introduced pre-notification of other certain tree genera namely *Castanea* (Sweet Chestnut), *Fraxinus* (Ash), *Pinus* (Pine), *Platanus* (Plane) and *Quercus* (Oak), to the Plant Health (Scotland) Order, therefore the burden on firms is minimal. Also, due to the history of Dutch elm disease there is less demand for elm plants compared to other species, although some forestry nurseries continue to stock Wych elm. While we are not aware of the exact quantities being sold our intelligence would suggest that it is not significant. It is also recognised that these trees are mainly for the amenity sector and that the majority of these imports would come via an English port. The delisting of *Diabrotica virgifera virgifera* as a quarantine pest in the EU directive introduced by the 2014/19/EU will again not have any impact on Scottish business. Therefore a Business and Regulatory Impact Assessment has not been prepared.

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