EXPLANATORY MEMORANDUM TO

THE PLANT HEALTH (AMENDMENT No.3) ORDER (NI) 2012 – Ash Dieback

2012 No. 392

1. The Department of Agriculture and Rural Development in exercise of the powers conferred on it by sections 2 and 3(1) of the Plant Health Act (Northern Ireland) 1967 makes the following Order which is subject to negative resolution.

2. Description

Ash die-back Ash die-back *(Chalara fraxinea)* has been found in 6 plant nurseries and 4 planting sites in GB, is a very damaging organism of certain species of ash, including our native ash *(F. Excelsior)*, which is one of the most common broadleaved species in GB and Ireland. Ash die-back is not a 'regulated' plant health disease in European Union plant health law, which means that the trade in ash plants between Member States is not subject to inspection.

Emergency legislation is being introduced by GB to restrict the importation or movement of ash trees for planting unless they are known to come from a disease-free area. Northern Ireland and The South will follow suit.

3. Matters of special interest to the Examiner of Statutory Rules

Following the GB lead, DARD legislation is being prepared in parallel with the consultation so that it can be finalised immediately after the consultation. In light of the potential for this disease to kill most of our ash trees if it becomes widespread in NI, and the proximity to the 2012 planting season, we sought your agreement to break the 21 day rule. we sought your agreement to breach the 21 day rule to allow the legislation to take immediate effect (possibly early November). GB has advised their Minister of their intention to do likewise. You have advised that we are to make an explanation of the breach when laying the SR stressing the urgency of the matter.

4. Legislative Background

4.1 This Order amends sections 2 and 3(1) of the Plant Health Act (Northern Ireland) 1967

5. Consultation

Fera is consulting on a pest risk analysis for Chalara fraxinea with a view to the production of recommendations on managing the threat to the UK's ash trees. The consultation period closed on 26 October.

6. Territorial Extent and Application

6.1 This Statutory Rule applies to Northern Ireland. Similar but separate legislation will operate in England, Scotland and Wales.

7. European Convention on Human Rights

7.1 The proposed legislation has been screened for these issues and none were indentified.

8. Equality Impact

8.1 The proposed legislation will apply in equal measure to all Section 75 groups. It is not expected that any of these changes will impact differentially across any of the Section 75 groups.

9. Regulatory Impact

The proposed Statutory Rule will place only a minimal financial burden on the industry, nor is it anticipated that there will be any additional costs to DARD. It is therefore not considered necessary to prepare a Regulatory Impact Assessment

10. Financial Implications

10.1 There are minimal financial implications associated with this Order.

11. Policy background

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12. Contact

Renee McDowell at the Department of Agriculture Tel: 02890 520855 or e-mail: renee.mcdowell@dardni.gov.uk can answer any queries regarding the Statutory Rule.