POLICY NOTE

THE PLANT HEALTH (MISCELLANEOUS AMENDMENTS) (SCOTLAND) ORDER 2019

SSI 2019/242

The above instrument is made in exercise of the powers conferred by the Plant Health Act 1967 sections 2 and 3(1). This instrument is subject to negative procedure.

Purpose of this instrument. To amend the Plant Health Forestry Order 2005 and the Plant Health (Scotland) Order 2005 to enhance import controls against the introduction of Oak Processionary Moth (*Thaumetopoea processionea*).

Policy Objectives

The Order amends secondary legislation relating to forestry and plant health.

The amendments enhance our controls against Oak Processionary Moth ("OPM"), a known threat to the health of oak trees, people and animals.

The key policy objective is to:

- ensure that imports and movements of relevant material within the OPM protected zone can only take place if that material i.e. oak plants and trees for planting whose girth at 1.2 m above the root collar is 8 cm or more

(a) Have been grown throughout their life in places of production in countries in which OPM is not known to occur;

(b) Have been grown throughout their life in a protected zone which is recognised as such for OPM or in an area free from OPM, established by the national plant protection organisation in accordance with the International Standard for Phytosanitary Measures No. 4; or

(c) Have been grown throughout their life in a site with complete physical protection against the introduction of OPM and have been inspected at appropriate times and found to be free from OPM.

Explanation of the law being amended by the regulations

The Order will amend the following legislation:

- The Plant Health (Forestry) Order 2005
- The Plant Health (Scotland) Order 2005

Legislation

Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ("the PH 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 to the PH Directive. The PH Directive is implemented in Scotland by the Plant Health (Scotland) Order 2005 (S.S.I. 2005/613) ("the PH Order 2005") (and, in relation to forest materials, The Plant Health (Forestry) Order 2005 ("the Forestry Order 2005")). Similar but separate plant health legislation to the PH Order 2005 operates in England, Wales and Northern Ireland.

Reasons for and effect of the proposed change on Scottish law

Due to interceptions of OPM in August 2018, Defra, in consultation with the UK Plant Health Authorities implemented the majority of these conditions through the Plant Health (England) Order 2015 and the Forestry Order 2005. This reflects that fact that the majority of these trees are brought into the UK through English ports. Similar requirements were to be introduced later by the rest of the UK Plant Health Authorities at an appropriate time.

However, further interceptions of consignments of OPM infested oak trees in England and Wales prompted Defra to amend these orders to enhance OPM controls. Similar consignments were traced to Scotland (although no OPM infested trees have yet been found in Scotland) and Wales. This prompted the Devolved Administrations in Scotland, Wales and Northern Ireland to mirror all of the legislative changes proposed by Defra.

The changes will strengthen our controls on oak trees imported into or moved within the OPM protected zone (currently the whole of the UK except parts of London where OPM is already present).

Further information

Consultation

The amendments proposed address an emergency situation. As very few large oak trees are imported into Scotland, the impact on the trade is likely to be minimal. The enhanced controls will help protect Scottish oak trees, people and animals from the effects of OPM.

Consultation on the content was, therefore, not considered necessary.

We have engaged with Defra and other UK administrations to ensure that the changes proposed and the timing of their introduction are consistent and coordinated across the UK.

Impact Assessments

The amended legislation places additional conditions on exporting countries. Therefore, no impact assessments have been prepared.

We plan to publicise the proposed changes to alert the trade and public to the recent findings, and to highlight the need for increased vigilance and regulation to protect tree, public and animal health against the risks that OPM presents.

Financial Effects

No BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Forestry, Rural Environment Directorate
SASA (Plant Health) Agriculture Delivery Directorate
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