EXECUTIVE NOTE TO

THE PLANT HEALTH (SCOTLAND) AMENDMENT (NO. 2) ORDER 2007
SSI 2007/ 498

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, and all other powers enabling them to do so. The instrument is subject to negative resolution procedure.

2. The Order also makes provision for a purpose mentioned in Section 2(2) of the European Communities Act 1972 and references to Commission Decisions 2007/365/EC, 2007/433/EC and 2007/410/EC are to be construed as references to those instruments as amended from time to time. These Decisions will affect only a few Scottish businesses and the impact will not be significant. In the event of any future amendments to these Decisions the Scottish Government will either write directly to affected businesses or inform them through a Plant Health Newsletter, which will be available on the Scottish Government website.

Policy Objective

3. The purpose of this Order is to amend the Plant Health (Scotland) Order 2005 ('the principal Order') which contains measures to prevent the introduction and spread of harmful plant pests and diseases. The amendment implements Commission Directive 2007/41/EC and Commission Decisions 2007/365/EC, 2007/433/EC, 2007/410/EC and Commission Decision 2004/416/EC, as amended by Decision 2006/473/EC. Further details are provided below.

Legislative background

4. Council 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 Plant Health Directive") establishes the Community plant health regime. The Directive is implemented in Scotland, for non-forestry matters, by the Plant Health (Scotland) Order 2005. Similar but separate legislation operates in England, Wales and Northern Ireland.

Policy background

5. The Plant Health Directive contains measures to be taken in order to prevent the introduction into, and spread within, the Community of serious pests and diseases of plants and plant produce. The amendments to the Plant Health Directive which this amendment Order implements arise from technical changes in the assessment of the risks presented by particular pests and diseases. Details of the Commission legislation amending the Plant Health Directive are as follows:

(i) **Commission Decision 2007/365/EC** introduces emergency measures to prevent the introduction into and spread within the Community of *Rhynchophorus ferrugineus* (Red palm weevil), a serious pest of palms. The order adds *Rhynchophorus ferrugineus* to the list of prohibited insects in the Plant Health (Scotland) Order 2005 and introduces new requirements for the import and movement of susceptible plants.

(ii) **Commission Decision 2007/433/EC** introduces emergency measures to prevent the introduction into and spread within the Community of *Gibberella circinata*, a fungus which can cause significant mortality on *Pinus* species. The order adds *Gibberella circinata to* the list of prohibited fungi in the Plant Health (Scotland) Order 2005 and introduces new requirements for the import and movement of susceptible plants.

(iii) **Commission Decision 2007/410/EC** introduces additional measures to prevent the introduction and spread of Potato spindle tuber viroid, an important pathogen of solanaceous crops which can cause yield losses of up to 65% in potato and 50% in tomato. Introduction of the organism is already prohibited under existing legislation but it has been found recently in association with new host material. The order restricts the introduction and movement of the relevant host material.

(iv) Following a series of findings on citrus fruit from Brazil and Argentina, **Commission Decision 2004/416/EC** laid down temporary emergency measures to prevent the introduction of *Guignardia citricarpa* and *Xanthomonas campestris,* (bacterial pathogens harmful to citrus fruit) from those countries. **Commission Decision 2006/473/EC** lifts the restrictions on citrus fruits originating in Argentina, reflecting a decrease in the number of problems with consignments from that country. This amendment order implements Decision 2004/416 as regards citrus fruit from Brazil.

(v) **Commission Directive 2007/41/EC** makes minor changes to the list of areas recognised in Directive 2000/29/EC as protected zones against certain organisms harmful to plant health in the Community. None of these changes apply to the UK. The Directive also adds *Vitis* L. to the list of material requiring a plant passport when introduced into or moved within a protected zone. This amendment order implements that change in relation to *Vitis* L.

Directive 2007/41/EC has an implementation date of 1 November 2007. The Scottish Government acknowledges the slight delay In implementation which is due to developing a common policy approach on the drafting of the legislation with the respective administrations in England, Wales and Northern Ireland. Since Scotland has little trade in *Vitis* L, we do not expect there to be any practical impact and we do not anticipate infraction proceedings will be taken.

Impact

6. The changes will not have a significant impact on Scottish businesses. It is therefore considered that a Regulatory Impact Assessment is not necessary.

Scottish Government
Rural Directorate

1 November 2007

TRANSPOSITION NOTE

THE PLANT HEALTH (SCOTLAND) AMENDMENT (NO. 2) ORDER 2007

This transposition note shows how the main elements of the following European Community instruments have been implemented by the Plant Health (Scotland) Amendment (No 2) Order 2007:

- **Commission Decision 2007/365/EC** on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier) (OJ No. L 139, 31.5.2007, p. 24);

- **Commission Decision 2007/433/EC** on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O'Donnell (OJ No. L 161, 22.6.2007, p. 66);

- **Commission Decision 2007/410/EC** on measures to prevent the introduction into and spread within the Community of Potato spindle tuber viroid (OJ No. L 155, 15.6.2007, p. 71);

- **Commission Decision 2004/416/EC** on temporary emergency measures in respect of certain citrus fruits originating in Argentina or Brazil (OJ No. L 151, 30.4.2004, p. 76), as amended by Commission Decision 2007/347/EC (OJ No. L 130, 22,5,2007, p. 46); and

- **Commission Directive 2007/41/EC** amending certain Annexes to Council 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 (OJ No. L 169, 29.6.2007, p. 51).

The changes in detail are as follows:

Commission Decision 2007/365/EC (*Rhynchophorus ferrugineus*)

Provision	**Purpose**	**Implementation**
Article 2	prohibition on introduction and spread of pest	Article 3(2) *(insert pest name into list in Schedule 1A)*
Article 3	prohibition on import of susceptible plants without phytosanitary certificate and inspection	Article 3(3) *(add susceptible plants and phytosanitary certificate requirements to Sch 4A)* Article 3(5) *(add susceptible plants to Sch 5A)*
Article 4	prohibition on movement of susceptible plants without plant passport	Article 3(4) *(add susceptible plants and passport requirements to Sch 4B)* Article 3(5) *(add susceptible plants to Sch 6A and 7A)*

Article 5(2)	requirement to notify suspected or confirmed presence of pest	No transposition necessary – already a requirement in art. 42(2) of the Plant Health (Scotland) Order 2005
Article 6	establishment of demarcated areas	Not transposed; separate legislation will be introduced if a need for demarcated areas arises

Commission Decision 2007/433/EC (*Gibberella circinata*)

Provision	**Purpose**	**Implementation**
Article 2	prohibition on introduction and spread of pest	Article 4(2) *(insert pest name into list in Schedule 1A)*
Article 3	prohibition on import of susceptible plants without phytosanitary certificate and inspection	Article 4(3) *(add susceptible plants and phytosanitary certificate requirements to Sch 4A)* Article 4(5) *(add susceptible plants to Sch 5A)*
Article 4	prohibition on movement of susceptible plants without plant passport	Article 4(4) *(add susceptible plants and passport requirements to Sch 4B)* Article 4(6) *(add susceptible plants to Sch 6A and 7A)*
Article 5(2)	requirement to notify suspected or confirmed presence of pest	No transposition necessary – already a requirement in art. 42(2) of the Plant Health (Scotland) Order 2005
Article 6 (and Annex II)	establishment of demarcated areas	Not transposed; separate legislation will be introduced if a need for demarcated areas arises

Commission Decision 2007/410/EC (Potato spindle tuber viroid)

Provision	**Purpose**	**Implementation**
Article 1	prohibition on import of susceptible plants without phytosanitary certificate and inspection	Article 5(2) (*add list of susceptible plants and phyto requirements to Sch 4A)* Article 5(4) *(add list of susceptible plants to Sch 6A and 7A / note – Solanum J covered by item 3)*
Article 2	prohibition on movement of susceptible plants without plant passport	Article 5(3) *(add list of susceptible plants and passport requirements to Sch 4B)*
Article 3(2)	requirement to notify suspected or confirmed presence	No transposition necessary – already a requirement in art. 42(2) of the Plant Health (Scotland) Order 2005

Commission Decision 2004/416/EC, as amended by Commission Decision 2007/347/EC (citrus fruits)

Provision	Purpose	Implementation
Article 1	Amendments to import requirements for certain citrus fruits	Article 6 (*amend phytosanitary certificate requirements in Sch 4A)*

Commission Directive 2007/41/EC (amendments to protected zones)

Provision	Purpose	Implementation
Annex, points 1-4	amendments to protected zones	*Transposition not required as these apply to protected zones outside the UK*
Annex, point 5	requirements for plant passports for movement to protected zones	Article 7(b) *(add Vitis L. to list in Sch 7B, item 3)*