

**S.I. No. 431/2012 — Destructive Insects and Pests Acts 1958 and 1991 (*Chalara fraxinea*) (No. 2) Order 2012.**

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 9th November, 2012.*

I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by sections 2 and 3 of the Destructive Insects and Pests Acts 1958 and 1991 (as adapted by the Agriculture, Fisheries and Food (Alteration of Name of Department and Title of Minister) Order 2011 ( S.I. No. 455 of 2011 )), hereby order as follows:

1. This Order may be cited as the Destructive Insects and Pests Acts 1958 and 1991 (*Chalara fraxinea*) (No. 2) Order 2012.

2. This Order applies to *Chalara fraxinea* and the genus *Fraxinus* L.

3. (1) For the purposes of this Order-

“article” means a plant or wood of the genus *Fraxinus* L.;

“*Chalara fraxinea*” means *Chalara fraxinea* T. Kowalski (anamorph), including its teleomorph *Hymenoscyphus pseudoalbidus*;

“Council Directive” means Council Directive 2000/29/EC of 8 May 2000<sup>1</sup> ;

“crop” means a plant of the genus *Fraxinus* L.;

“inspector authorised by the Minister” means—

(a) an authorised officer within the meaning of section 11 (4) of the Forestry Act 1946 (No. 13 of 1946), or

(b) an authorised officer appointed under Regulation 11 of the European Communities (Control of Organisms Harmful to Plants and Plant Products) Regulations 2004 ( S.I. No. 894 of 2004 );

“official statement” has the same meaning as in the Council Directive;

“plant” has the meaning assigned to “plants” in Article 2.1(a) of the Council Directive;

“plant passport” has the meaning assigned to it in Article 2.1(f) of the Council Directive;

“plant product” has the meaning assigned to “plant products” of Article 2.1(b) of the Council Directive;

“wood” means round wood or sawn wood as set out in the International Standards for Phytosanitary Measures (ISPM 5) Glossary of Phytosanitary Terms (2012) as adopted by the Seventh Session of the Commission on Phytosanitary Measures in March 2012 under the International Plant Protection Convention and published by the Food and Agriculture Organisation of the United Nations (FAO).

4. (1) A person shall not land into or keep *Chalara fraxinea* in the State unless authorised by the Minister.

(2) A person shall not cause *Chalara fraxinea* to spread in the State.

(3) A person shall not land a plant of the genus *Fraxinus* L. into the State unless it is accompanied by a plant passport or official statement stating that it originates from an area known to be free from *Chalara fraxinea*.

(4) A person shall not land wood of genus *Fraxinus* L. into the State originating in countries where *Chalara fraxinea* is known to occur unless the wood—

(a) is accompanied by a plant passport or an official statement stating that it originates in an area known to be free from *Chalara fraxinea*,

(b) is squared so as to remove entirely the rounded surface,

(c) is bark-free and the water content is less than 20% expressed as a percentage of the dry matter, or

(d) if sawn, with or without residual bark attached, has undergone kiln-drying to below 20 % moisture content, expressed as a percentage of dry matter, achieved through an appropriate time and temperature schedule. There shall be evidence thereof by a mark 'Kiln-dried' or 'KD' or another internationally recognised mark, put on the wood or on any wrapping in accordance with current usage.

(5) A person who lands an article in the State in contravention of paragraphs (3) or (4) shall remove or destroy it in accordance with any instructions issued by the Minister and shall be liable for the cost of such removal or destruction.

5. (1) The Minister may direct in writing the removal or destruction of a crop, plant product or wood which is infected with *Chalara fraxinea* or which in the opinion of an inspector authorised by the Minister appears—

(a) to be infected by *Chalara fraxinea*, or

(b) likely to spread *Chalara fraxinea*.

(2) The Minister may by notice, prohibit the keeping, selling or exposing or offering for sale, or the keeping or the distribution in any manner—

(a) a crop, plant product or wood which is infected by *Chalara fraxinea*, or

(b) a crop, plant product or wood which in the opinion of an inspector authorised by the Minister appears to be infected by *Chalara fraxinea*.

(3) The Minister may by notice, prohibit the distribution in any manner a plant of the genus *Fraxinus* L. unless it is accompanied by a plant passport.

(4) A notice issued under paragraphs (2) and (3) may be issued or published in a manner the Minister considers appropriate.

(5) The Minister may attach conditions, withdraw or suspend a notice issued under paragraphs (2) and (3).

(6) A person who contravenes this Article shall be liable for the cost of removal or destruction.

6. An inspector authorised by the Minister may carry out any or all the functions in section 3(2) (c) of the Acts for the purposes of preventing the spread of *Chalara fraxinea*.

7. The owner or person in charge of land where a crop has been removed or destroyed for the purpose of reducing the spread of *Chalara fraxinea* shall notify the Minister in writing before he or she re-sows or re-plants such land with a tree of any species.

8. The Destructive Insects and Pests Acts 1958 and 1991 (*Chalara fraxinea*) Order 2012 ( S.I. No. 411 of 2012 ) is revoked.

L.S.

GIVEN under my Official Seal,

6 November 2012.

SIMON COVENEY,

Minister for Agriculture, Food and the Marine.

#### EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

This Order is made under the Destructive Insects and Pests Acts 1958 and 1991 and provides for measures to be put in place to prevent the spread of *Chalara fraxinea* in the genus *Fraxinus* L.