

2007 No. 498

PLANT HEALTH

The Plant Health (Scotland) Amendment (No. 2) Order 2007

Made 6th November 2007

Laid before the Scottish Parliament 7th November 2007

Coming into force 1st December 2007

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 2, 3 and 4(1) of the Plant Health Act 1967(a) as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972(b), and all other powers enabling them to do so.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(c) and it appears to the Scottish Ministers that it is expedient for the references in the following Order to certain Decisions to be construed as references to those instruments as amended from time to time.

Citation and commencement

1. This Order may be cited as the Plant Health (Scotland) Amendment (No. 2) Order 2007 and comes into force on 1st December 2007.

Amendments to the Plant Health (Scotland) Order 2005

2. The Plant Health (Scotland) Order 2005(d) is amended in accordance with articles 3 to 7.

Prevention of the introduction into and spread within the European Community of *Rhynchophorus ferrugineus* (Olivier)

3.—(1) In article 2(1)(general interpretation)—

(a) in the definition of “Directive 2000/29/EC”, after “2006/35/EC(e)”, insert “2007/41/EC(f)”;

(b) at the appropriate place, insert ““Decision 2007/365/EC” means Commission Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread

(a) 1967 c.8; sections 2(1) and 3(1) were amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 8; section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c.48) and further amended by section 17(1) of the Criminal Justice Act 1991 (c.53) and the Statute Law (Repeals) Act 1993 (c.50), section 1(1) and Schedule 1, Part XIV. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1972 c.62.

(c) 1972 c.68. Schedule 2, paragraph 1A, inserted by the Legislative and Regulatory Reform Act 2006 (c.51), section 28, provides for the inclusion in subordinate legislation of references to European Community instruments as references to those instruments as amended from time to time.

(d) S.S.I. 2005/613, as amended by S.S.I. 2006/474 and 2007/415.

(e) inserted by S.S.I. 2006/474.

(f) O.J. No. L 169. 29.6.2007, p.51.

within the Community of *Rhynchophorus ferrugineus* (Olivier)(a), as amended from time to time;”.

(2) In Schedule 1 (plant pests which shall not be landed in or spread within Scotland), Part A (plant pests not known to occur in any part of the European Community), after item 34 of “Insects, mites and nematodes” add–

“35. *Rhynchophorus ferrugineus* (Olivier)”.

(3) In Schedule 4 (restrictions on the landing in and movement within Scotland of relevant material), Part A (relevant material, from third countries, which may only be landed in Scotland if special requirements are satisfied) after item 57 insert–

“57a. Plants, other than fruit or seeds, having a diameter of the stem at the base of over 5cm of the species listed in Article 1(b) of Decision 2007/365/EC originating in any third country	Without prejudice to the requirements in item 57, the plants, including those collected from natural habitats, shall be accompanied by an official statement that the plants meet the requirements of paragraph (a), (b) or (c) of point 1 of Annex I to Decision 2007/365/EC”.
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(4) In Schedule 4 (restrictions on the landing in and movement within Scotland of relevant material) in Part B (relevant material, from another part of the European Community, which may only be landed in or moved within Scotland if special requirements are satisfied), after item 6 insert–

“6a. Plants, other than fruit or seeds, having a diameter of the stem at the base of over 5cm of the species listed in Article 1(b) of Decision 2007/365/EC	The plants shall be accompanied by an official statement that they have been grown in accordance with the specifications in paragraph (a), (b), (c) or (d) of point 2 of Annex I to Decision 2007/365/EC”.
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(5) In Schedule 5 (relevant material from a third country for which a phytosanitary certificate may be required), Part A (relevant material which may only be landed in Scotland if accompanied by a phytosanitary certificate), Schedule 6 (prohibitions on the landing in and movement within Scotland of relevant material without a plant passport), Part A (relevant material, from Scotland or elsewhere in the European Community, which may only be landed in or moved within Scotland if accompanied by a plant passport) and in Schedule 7 (prohibitions on the consignment of relevant material to another part of the European Community without a plant passport), Part A (relevant material which may only be consigned to another part of the European Community if accompanied by a plant passport), after item 1 insert–

“1a. Plants, other than fruit or seeds, having a diameter of the stem at the base of over 5cm of the species listed in Article 1(b) of Decision 2007/365/EC.”.

Prevention of the introduction into and spread within the European Community of *Gibberella circinata* Nirenberg & O’Donnell

4.—(1) In article 2(1)(general interpretation), at the appropriate place insert ““Decision 2007/433/EC” means 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(b), as amended from time to time;”.

(2) In Schedule 1 (plant pests which shall not be landed in or spread within Scotland), Part A (plant pests not known to occur in any part of the European Community), after item 17 of “Fungi” add–

“18. *Gibberella circinata* Nirenberg & O’Donnell”.

(a) O.J. No. L 139, 31.5.2007, p.24.
(b) O.J. No. L 161, 22.6.2007, p.66.

(3) In Schedule 4 (restrictions on the landing in and movement within Scotland of relevant material), Part A (relevant material, from third countries, which may only be landed in Scotland if special requirements are satisfied), after item 2 insert—

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| “2a. Plants intended for planting, including seeds and cones for propagation purposes, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC, originating in any third country | Without prejudice to the requirements in items 1, 2 and 3, the plants shall be accompanied by an official statement that— <ul style="list-style-type: none">(a) they originate in a place of production which is registered and supervised by the national plant protection organisation in the country of origin; and(b) they meet the requirements of paragraph (a), (b) or (c) of point I of Annex I to Decision 2007/433/EC”. |
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(4) In Schedule 4, (restrictions on the landing in and movement within Scotland of relevant material), Part B (relevant material, from another part of the European Community, which may only be landed in or moved within Scotland if special requirements are satisfied), after item 1 insert—

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| “1a. Plants intended for planting, including seeds and cones for propagation purposes, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC | Without prejudice to the requirements in item 7 of Part A of Schedule 6, the plants shall be accompanied by an official statement that they have been grown in accordance with the specifications in paragraph (a), (b) or (c) of point II of Annex I to Decision 2007/433/EC”. |
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(5) In Schedule 5, (relevant material from a third country for which a phytosanitary certificate may be required), Part A (relevant material which may only be landed in Scotland if accompanied by a phytosanitary certificate), after item 1 insert—

- “1b. Seeds and cones, intended for propagating, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC.”.

(6) In Schedule 6 (prohibitions on the landing in and movement within Scotland of relevant material without a plant passport), Part A (relevant material, from Scotland or elsewhere in the European Community, which may only be landed in or moved within Scotland if accompanied by a plant passport) and in Schedule 7 (prohibitions on the consignment of relevant material to another part of the European Community without a plant passport), Part A (relevant material which may only be consigned to another part of the European Community if accompanied by a plant passport), after item 1 insert—

- “1b. Plants intended for planting, including seeds and cones intended for propagating, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC.”.

Prevention of the introduction and spread of Potato spindle tuber viroid

5.—(1) In article 2(1) (general interpretation), at the appropriate place insert ““Decision 2007/410/EC” means Commission Decision 2007/410/EC on measures to prevent the introduction into and the spread within the Community of Potato spindle tuber viroid(a), as amended from time to time;”.

(2) In Schedule 4, (restrictions on the landing in and movement within Scotland of relevant material), Part A (relevant material, from third countries, which may only be landed in Scotland if special requirements are satisfied), after item 37 insert—

(a) O.J. No. L 155, 15.6.2007, p.71.

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| <p>“37a. Plants, intended for planting, including seeds, of the genera and species referred to in Article 1 of Decision 2007/410/EC, originating in any third country</p> | <p>The plants shall be accompanied by an official statement that–</p> <ul style="list-style-type: none"> (a) they originate in and have been grown throughout their life in a place of production which is registered and supervised by the national plant protection organisation in the country of origin; and (b) they meet the requirements of paragraph (a), (b), (c) or (d) of point 1 of the Annex to Decision 2007/410/EC”. |
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(3) In Schedule 4, (restrictions on the landing in and movement within Scotland of relevant material), Part B (relevant material, from another part of the European Community, which may only be landed in or moved within Scotland if special requirements are satisfied), after item 20 insert–

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| <p>“20a. Plants, intended for planting, including seeds, of the genera and species referred to in Article 1 of Decision 2007/410/EC</p> | <p>The plants shall be accompanied by an official statement that they have been grown throughout their life or since their introduction into the European Community in a place of production which meets the requirements of paragraph (a), (b), (c) or (d) of point 2 of the Annex to Decision 2007/410/EC”.</p> |
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(4) In Schedule 6, (prohibitions on the landing in and movement within Scotland of relevant material without a plant passport), Part A (relevant material, from Scotland or elsewhere in the European Community, which may only be landed in or moved within Scotland if accompanied by a plant passport) and in Schedule 7 (prohibitions on the consignment of relevant material to another part of the European Community without a plant passport), Part A (relevant material which may only be consigned to another part of the European Community if accompanied by a plant passport)–

- (a) after item 3, insert–

“3a. Plants, intended for planting, including seeds, other than those in item 3, of the genera and species referred to in Article 1 of Decision 2007/410/EC.”; and

- (b) for item 7(b), substitute–

“(b) plants of *Solanaceae*, other than seeds and other than those in items 3 and 3a, intended for planting;”.

Measures in respect of certain citrus fruits

6.—(1) In article 2(1)(general interpretation), at the appropriate place insert ““Decision 2004/416/EC” means Commission Decision 2004/416/EC on temporary emergency measures in respect of certain citrus fruits originating in Argentina or Brazil(a), as amended from time to time;”.

(2) In Schedule 4, (restrictions on the landing in and movement within Scotland of relevant material), Part A (relevant material, from third countries, which may only be landed in Scotland if special requirements are satisfied)–

- (a) in the second column of items 15 and 17, after “third country” add “, other than Brazil”;

(a) O.J. No. L 151, 30.4.2004, p.76, amended by Commission Decision 2007/347/EC, O.J. No. L 130, 22.5.2007, p.46.

(b) after item 15 add–

“15a. Fruits of <i>Citrus</i> L., <i>Fortunella</i> Swingle or <i>Poncirus</i> Raf., originating in Brazil	Without prejudice to the requirements in items 14, 16 and 18, the fruits shall be accompanied by an official statement that they meet the requirements of paragraph (a) or (b) of point 1 and of point 3 of the Annex to Decision 2004/416/EC”.
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(c) in the third column of item 16, for “15, 17” substitute “15, 15a, 17, 17a”;

(d) after item 17 add–

“17a. Fruits of <i>Citrus</i> L., other than <i>Citrus aurantium</i> L., <i>Fortunella</i> Swingle or <i>Poncirus</i> Raf., originating in Brazil	Without prejudice to the requirements in items 14, 16 and 18, the fruits shall be accompanied by an official statement that they meet the requirements of paragraph (a) or (b) of point 2 and of point 3 of the Annex to Decision 2004/416/EC”; and
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(e) in the third column of item 18, for “17” substitute “17a”.

Miscellaneous amendments

7. In Schedule 7 (prohibitions on the consignment of relevant material to another part of the European Community without a plant passport), Part B (relevant material which may only be consigned to a protected zone in another part of the European Community if accompanied by a plant passport which is valid for that protected zone), in item 3 for “or *Sorbus* L.” substitute “, *Sorbus* L. or *Vitis* L.”.

RICHARD LOCHHEAD
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
6th November 2007

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Plant Health (Scotland) Order 2005 (S.S.I. 2005/613) (“the principal Order”) so as to implement the instruments below–

- (a) Commission Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier);
- (b) 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;
- (c) Commission Decision 2007/410/EC on measures to prevent the introduction into and the spread within the Community of Potato spindle tuber viroid;
- (d) Commission Decision 2004/416/EC on temporary emergency measures in respect of certain citrus fruits originating in Argentina or Brazil, as amended by Commission Decision 2007/347/EC; and
- (e) 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.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 (c.68) and references to the Decisions listed in (a), (b) and (c) are to be construed as references to those instruments as amended from time to time.

Articles 3, 4 and 5 make various amendments to Schedules 1, 4, 5, 6 and 7 to the principal Order so as to apply the restrictions on the landing in and movement within Scotland of certain plant material (described in each article) from third countries and other parts of the European Community and the requirements for phytosanitary certificates and plant passports to the plant material listed in order to prevent the introduction into and spread within Scotland of, respectively, the following plant pests: *Rhynchophorus ferrugineus* (Olivier), *Gibberella circinata* Nirenberg & O’Donnell, Potato spindle tuber viroid.

Article 3 also amends the definition of “Directive 2000/29/EC” so as to incorporate within it Commission Directive 2007/41/EC.

Article 7 adds *Vitis* L. to the list of plants in Part B of Schedule 7 to the principal Order requiring a plant passport if they are to be consigned to a protected zone in another part of the European Community.

Article 6 amends Schedule 4 to the principal Order so as to apply special requirements in respect of certain citrus fruits originating in Brazil.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. A Transposition Note has been provided.

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The Plant Health (Scotland) Amendment (No. 2) Order 2007

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