



The Scottish Parliament
Pàrlamaid na h-Alba

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

AGENDA

20th Meeting, 2014 (Session 4)

Wednesday 25 June 2014

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Decision on taking business in private:** The Committee will decide whether to take items 4 and 5 in private.
2. **Subordinate legislation:** The Committee will consider the following negative instruments—

Plant Health (Scotland) Amendment Order 2014: SSI 2014/140; and
Specified Diseases (Notification and Slaughter) (Amendment) and
Compensation (Scotland) Order 2014 (SSI 2014/151).
3. **Public petition PE01490:** The Committee will take evidence from—

Paul Wheelhouse, Minister for Environment and Climate Change, Andrew
Taylor, Policy Officer, Wildlife Management, and Hugh Dignon, Head of
Branch, Wildlife Management, Scottish Government.
4. **Resource use and the circular economy:** The Committee will consider a draft letter to the Scottish Government.
5. **Land Reform Review Group final report:** The Committee will consider a draft letter to the the Scottish Government.

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The papers for this meeting are as follows—

Agenda item 2

Note by the Clerk

RACCE/S4/14/20/1

Agenda item 3

Note by the Clerk

RACCE/S4/14/20/2

PRIVATE PAPER

RACCE/S4/14/20/3
(P)

Agenda item 4

PRIVATE PAPER

RACCE/S4/14/20/4
(P)

Agenda item 5

PRIVATE PAPER

RACCE/S4/14/20/5
(P)

Subordinate legislation cover note for SSI 2014/140 and SSI 2014/151

Procedure

1. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

2. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

Recommendation

3. **The Committee is invited to consider any issues which it wishes to raise on these instruments.**

Delegated Powers and Law Reform Committee

4. At its meeting on 10 June 2014, the Committee considered the following instruments and determined that it did not need to draw the attention of the Parliament to any of the instruments on any grounds within its remit.

SSI 2014/140

Title of Instrument: Plant Health (Scotland) Amendment Order 2014 (SSI 2014/140)

Type of Instrument: Negative

Laid Date: 29 May 2014

Circulated to Members: 20 June 2014

Meeting Date: 25 June 2014

Minister to attend the meeting: No

Drawn to the Parliament’s attention by Delegated Powers and Law Reform Committee: No

Reporting Deadline: 11 August 2014

Purpose

5. This instrument amends the Plant Health (Scotland) Order 2005 (SSI 2005/613) ('the PH Order') which contains measures to prevent the introduction and spread of harmful plant pests and diseases. This instrument;

6. Amends article 19B of the PH Order to extend the existing prior notification scheme for landing of certain tree species to include elm (*Ulm*s) trees – to strengthen plant health measures already in place in relation to the import of those trees and;

7. Amends Schedule 1, Part B of the PH Order, to implement Commission Implementing Directive 2014/19/EU, which removes *Diabrotica virgifera virgifera* Le Conte (Western corn rootworm) as a quarantine pest in the EU.

EXPLANATORY NOTE

This Order amends the Plant Health (Scotland) Order 2005 (SSI 2005/613) ("the principal Order").

Article 3 amends article 19B of the principal Order to prohibit a person from landing in Scotland plants of *Ulmus* L. intended for planting, which have been grown in another member State or in Switzerland, unless prior written notification of certain information has been given to an authorised inspector.

Article 4 amends Schedule 1, Part B of the principal Order to remove the entry in relation to the organism *Diabrotica virgifera virgifera* Le Conte so as to implement Commission Implementing Directive 2014/19/EU amending Annex I 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 L 38, 7.2.2014, p.30).

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

POLICY NOTE

Introduction

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. The instrument is subject to negative resolution procedure.

Legislation

Council Directive 2000/29/EC on protective measures against the introduction into the European Union of organisms harmful to plants or plant products and against their spread within the Union ("the Plant Health 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 of the Directive. The Plant Health

Directive is implemented in Scotland by the PH Order and, in relation to forest materials, by the Plant Health (Forestry) Order 2005 (SI 2005/2517), which extends to Great Britain. Similar but separate plant health legislation to the PH Order operates in England, Wales and Northern Ireland.

Policy Background

The Scottish Government has been working with Defra and Forestry Commission Scotland to review the top risks to tree and plant health threats with a view to taking rapid action to address these. As part of this work, it has concluded that *Candidatus Phytoplasma ulmi* (Elm yellows) is a potential threat to Elm trees. The first finding of this has been found in England this year; measures are required to raise awareness about the pathogen, improve intelligence about the trade in elms (which is currently unregulated in the EU) and facilitate targeted monitoring by the Plant Health Services in Scotland, England and Wales.

Candidatus Phytoplasma ulmi is listed in the Plant Health Directive as Elm phloem necrosis mycoplasma because of their lethal effects on native elm species in North America. The effect on European and Asian elm species are less severe as they are considered to be moderately or highly resistant to this. Smaller trees are worse affected. In the UK, the Field elm (*Ulmus minor*) is known to be susceptible whereas Wych elm (*Ulmus glabra*) is known to show some resistance.

Despite this being listed in the Plant Health Directive, there have been a number of outbreaks in the EU (Italy, France and Germany). The movement of elm planting material in the EU is not regulated and movements do occur between member states. Imports from third countries may only be imported into the EU with a phytosanitary certificate declaring freedom from harmful organisms. Statutory notification for intra-EU trade will mean that anyone importing elm trees (including young planting material and seeds) must notify the Scottish Government Horticulture and Marketing Unit in advance of their landing via a Scottish port.

Commission Implementing Directive 2014/19

Following a review of the spread and establishment of *Diabrotica virgifera virgifera* Le Conte (Western corn rootworm) across the EU the Commission have concluded that no measures are feasible to eradicate it or to effectively prevent its further spread. EU Plant Health requirements regarding *Diabrotica* has therefore been revoked, which this order implements.

A new Commission Recommendation (2014/63) EU) has been published, promoting monitoring for the presence and distribution of *Diabrotica*, and integrated pest management to suppress populations. It also, encourages that appropriate information is made available on the use of integrated pest management; including plant protection products and that other activities are pursued, such as training and research. These actions are in line with Directive 2009/128/EU on the sustainable use of pesticides. The UK measures and activities to implement the Directive, including the role of integrated pest management, are set out in the UK National Action Plan.

Consolidation

A commitment was made to amend national plant health legislation as and when required, to take account of new or revised risk assessment, pest interceptions, changes in distribution of pest and other developments, until the EU Review of the Plant Health Regime has been concluded. As this is still on going, there are no immediate plans to consolidate the PH Order.

Consultation

Elm yellows has recently been detected in England for the first time. Even though the disease has not yet been detected in Scotland, the Scottish Government Plant Health Policy Team and the Forestry Commission Scotland decided to participate in a [short UK consultation](#) seeking views on the pest risk analysis (PRA) and steps to combat the disease. Consultation has ended and it has been concluded that most appropriate way to deal with this disease is to add elm trees to the list of pre- landing notifications. This will allow evidence to be gathered on whether elm yellows is already present, to support (or otherwise) additional protection. In addition, when Defra introduced these new measures, the Scottish Government informed businesses in Scotland of the implications of them and that similar measures were being introduced in Scotland.

Timing

This SSI will come into effect on 27 June 2013.

Business and Regulatory Impact

There will be no impact to Scottish Businesses by adding *Ulmus* (elm) to the list for tree notifications. A system is now in place, previously set up when we introduced pre-notification of other certain tree genera namely *Castanea* (Sweet Chestnut), *Fraxinus* (Ash), *Pinus* (Pine), *Platanus* (Plane) and *Quercus* (Oak), to the Plant Health (Scotland) Order, therefore the burden on firms is minimal. Also, due to the history of Dutch elm disease there is less demand for elm plants compared to other species, although some forestry nurseries continue to stock Wych elm. While we are not aware of the exact quantities being sold our intelligence would suggest that it is not significant. It is also recognised that these trees are mainly for the amenity sector and that the majority of these imports would come via an English port. The delisting of *Diabrotica virgifera virgifera* as a quarantine pest in the EU directive introduced by the 2014/19/EU will again not have any impact on Scottish business. Therefore a Business and Regulatory Impact Assessment has not been prepared.

SSI 2014/151

Title of Instrument: Specified Diseases (Notification and Slaughter) (Amendment) and Compensation (Scotland) Order 2014 (SSI 2014/151)

Type of Instrument: Negative

Laid Date: 30 May 2014

Circulated to Members: 20 June 2014

Meeting Date: 25 June 2014

Minister to attend the meeting: No

Drawn to the Parliament's attention by Delegated Powers and Law Reform Committee: No

Reporting Deadline: 11 August 2014

Purpose

8. This Order amends the Specified Diseases (Notification and Slaughter) Order 1992 by adding dourine, equine infectious anaemia and glanders to the list of diseases in that Order to which section 32 of the Animal Health Act 1981 applies. Section 32 of that Act gives the Scottish Ministers a power to slaughter animals affected, suspected of being affected, or exposed to specified diseases.

9. This Order also prescribes the scale of compensation payable where the Scottish Ministers cause the slaughter under section 32 of the Animal Health Act 1981 of an animal confirmed to be affected with dourine, equine infectious anaemia or glanders.

EXPLANATORY NOTE

As set out above in paragraphs 9 and 10.

A Business and Regulatory Impact Assessment has not been produced for this instrument as animal disease outbreak is unpredictable and its impact would vary depending on the location and nature of an outbreak.

POLICY NOTE

The above instrument was made in exercise of the powers conferred by sections 32(2) and (3) and 87(2)(a) of the Animal Health Act 1981 and all other powers enabling Scottish Ministers to do so. The instrument is subject to negative procedure.

Policy Objectives

The Specified Diseases (Notification and Slaughter) (Amendment) and Compensation (Scotland) Order 2014 (SSI 2014/151) amends the Specified Diseases (Notification and Slaughter) Order 1992 to apply Scottish Ministers' powers of animal slaughter (set out in section 32(1) of the Animal Health Act 1981) to the diseases of dourine, equine infectious anaemia ("EIA") and glanders, and in addition allows for compensation of £1 to be paid for any animals that Scottish Ministers cause to be slaughtered because they are so affected.

Background

Dourine, EIA and glanders are diseases that normally affect horses (although glanders is a zoonotic disease) and the response to all three is similar, that is, cases are isolated and slaughtered to prevent further spread. Consequently all three are being legislated for together. Although the risk of an incursion into Scotland by either dourine or glanders is considered low, the need for legislation on EIA was triggered by cases of EIA in England in 2012. This instrument provides a suitable legislative opportunity to make provision for cases of dourine, and glanders, in addition to provision for EIA.

Section 32(1) of the Animal Health Act 1981 grants Scottish Ministers the power, if they think fit, to slaughter any animal which is affected, suspected of being affected, or has been exposed to the infection of, a disease to which the section applies. This instrument therefore enables Scottish Ministers to exercise, at their discretion, slaughter powers in relation to animals affected, suspected of being affected, or exposed to the infection of, dourine, EIA or glanders. At present, the policy intention is to slaughter animals only on confirmation that these diseases are present. In other words, the policy is to only slaughter animals affected by these diseases.

Section 32(3) of the Animal Health Act 1981 requires the payment of compensation for animals slaughtered under the section. As explained above, the policy intention is to slaughter only those animals affected by dourine, EIA and glanders. Slaughtered animals affected by dourine, EIA or glanders are effectively worthless. Consequently compensation has been set at £1 per affected animal slaughtered. This approach mirrors that taken in England, where compensation for animals affected by EIA has been set at £1 per animal slaughtered (no provision has yet been made in England for animals affected by dourine or glanders).

The instrument interacts with the Infectious Diseases of Horses Order 1987 ("IDHO"), which already applies to EIA, dourine and glanders. The IDHO provides for the compulsory notification of these diseases, places movement restrictions on infected premises, allows for veterinary investigations and the cleansing and disinfection of premises and vehicles. However, the IDHO does not provide for the slaughter of animals in connection with these diseases, slaughter powers instead being exercised by virtue of an Order under section 32 of the Animal Health Act 1981. This Order is the Specified Diseases (Notification and Slaughter) Order 1992. Taken together, the IDHO and the Specified Diseases (Notification and Slaughter) Order 1992 (as amended by this instrument) give Scottish Ministers the power to control and eradicate dourine, EIA and glanders.

Public Consultation

Representatives of the equine industry were asked about the intention to introduce powers to slaughter animals affected by dourine, EIA or glanders and to pay compensation of £1 for each affected animal so slaughtered. The industry accepted the necessity of the provisions to help combat the spread of the disease.

Impact assessments

The instrument does not negatively impact on protected characteristics such as age, disability, sex, gender reassignment, sexual orientation, race, religion and belief. Nor does it provide any opportunity to promote equality with respect to these characteristics.

Financial Effects

The financial effects are unpredictable and would vary depending on the location and nature of an outbreak (i.e. including but not limited to its spread, its severity, and the virulence of the particular strain) of EIA, glanders or dourine. This unpredictability has led the Scottish Government to conclude that it would be difficult to provide a meaningful Business and Regulatory Impact Assessment ("BRIA"). The Cabinet Secretary for Rural Affairs and the Environment has therefore agreed that no BRIA is necessary for this instrument.

Petition PE01490

Petition PE01490 on the control of wild goose numbers by Patrick Krause on behalf of the Scottish Crofting Federation

Background

1. Petition PE01490¹ was lodged on 2 September 2013 with 429 signatures of support. The text of the petition is as follows—

“Calling on the Scottish Parliament to urge the Scottish Government to address the problems created by increasing populations of wild geese in the crofting areas as a matter of priority; reassess its decision to stop funding existing goose management programmes, and assign additional resources to Crop Protection and Adaptive Management programmes to ensure this threat to the future of crofting is averted.”

2. A SPICe briefing² was produced on the petition. Further, detailed information on the petition can be found on the petition webpage, a link to which is provided in footnote 1 below.

3. The Public Petitions Committee heard evidence from the petitioner on the issues raised in the petition at its meeting on 29 October 2013³. At this meeting the Public Petitions Committee agreed to refer the petition to the Rural Affairs, Climate Change and Environment (RACCE) Committee on the grounds that control of geese populations was included as part of its current work programme⁴.

RACCE Committee consideration

4. The RACCE Committee considered the petition at its meeting on 27 November 2013⁵ and agreed to write to a selection of stakeholders seeking their views on the issues raised in the petition and to consider the petition further once these views had been received. The Committee agreed to write to the Minister for Environment and Climate Change; local authorities where Local Goose Management Schemes are in place; the Crofting Commission; and the Wildfowl and Wetlands Trust; and to forward these responses to the petitioner for comment. In total eight responses, including the petitioners, were received and were

¹ Petition PE01490. Available at:

<http://external.scottish.parliament.uk/GettingInvolved/Petitions/controlgoosenumbers>

² SPICe Petition Briefing PE1490 available at:

<http://external.scottish.parliament.uk/ResearchBriefingsAndFactsheets/Petitions%20briefings%20S4/PB13-1490.pdf>

³ Scottish Parliament Public Petitions Committee. *Official Report 29 October 2013*. Cols 1775-1780. Available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=8598&mode=pdf>

⁴ Scottish Parliament Rural Affairs, Climate Change and Environment Committee. *Work Programme 2013*. Available at:

http://www.scottish.parliament.uk/S4_RuralAffairsClimateChangeandEnvironmentCommittee/General%20Documents/RACCE_-_web_work_prog_-_Sept_2013.pdf

⁵ Scottish Parliament Rural Affairs, Climate Change and Environment Committee. *Official Report 27 November 2013*. Available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=9035&mode=pdf>

considered by the Committee at its meeting on 2 April 2014⁶ where it agreed to hear oral evidence on the issues raised in the petition.

5. At its meeting on 18 June 2014⁷ the Committee heard evidence from stakeholders in a roundtable session and will hear evidence from the Minister for Environment and Climate Change at its meeting on 25 June 2014.

6. All the responses⁸ received by the Committee, including additional responses submitted for its meeting on 18 June 2014, are available on the Committee's webpage.

Clerks

Rural Affairs, Climate Change and Environment Committee

⁶ Scottish Parliament Rural Affairs, Climate Change and Environment Committee. *Official Report 2 April 2014*. Available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=9094&mode=pdf>

⁷ Scottish Parliament Rural Affairs, Climate Change and Environment Committee. *Official Report 18 June 2014*. Available at (due for publication by 6pm on Friday 20 June):

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/29878.aspx>

⁸ Scottish Parliament Rural Affairs, Climate Change and Environment Committee. *Meeting Papers 18 June 2014*. Available at:

http://www.scottish.parliament.uk/S4_RuralAffairsClimateChangeandEnvironmentCommittee/Meeting%20Papers/Meeting_Papers_06_18_2014.pdf.