SCOTTISH STATUTORY INSTRUMENTS

2004 No. 440

PLANT HEALTH

The Plant Health (Great Britain) Amendment (Scotland) Order 2004

Made - - - -	*7th October 2004*
Laid before the Scottish Parliament - - - -	*8th October 2004*
Coming into force - -	*11th November 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 2 and 3 of the Plant Health Act 1967(**1**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as The Plant Health (Great Britain) Amendment (Scotland) Order 2004 and shall come into force on 11th November 2004.

(2) This Order extends to Scotland only.

Amendment of The Plant Health (Great Britain) Order 1993

2.—(1) The Plant Health (Great Britain) Order 1993(**2**) is amended in accordance with the following paragraphs of this article.

(2) In article 2(1) (interpretation)–

(a) for the definition of "Directive 2000/29/EC" substitute–

> ""Directive 2000/29/EC" means Council Directive 2000/29/EC(**3**) of 8th May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community as amended by Commission Directives 2001/33/EC(**4**) of 8th May

(**1**) 1967 c. 8; sections 2(1) and 3(1) and (2) 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).

(**2**) S.I.1993/1320; amended by S.I. 1993/3213, 1995/1358 and 2929, 1996/25, 1165 and 3242, 1997/1145 and 2907, 1998/349 and 1121, S.S.I. 1999/22 and 129, 2001/249, 2002/164 and 2003/224.

(**3**) O.J. No. L 169, 10.7.00, p.1.

(**4**) O.J. No. L 127, 9.5.01, p.42; and see the associated Commission Directive 2001/32/EC, O.J. No. L 127, 9.5.01, p.38.

2001, 2002/28/EC(**5**) of 19th March 2002, 2002/36/EC(**6**) of 29th April 2002, 2003/22/EC(**7**) of 24th March 2003, 2003/47/EC(**8**) of 4th June 2003, 2003/116/EC(**9**) of 4th December 2003, 2004/31/EC(**10**) of 17th March 2004, 2004/70/EC(**11**) of 28th April 2004 and Article 20 and Annex II of the Act concerning the Conditions of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded signed on 16th April 2003(**12**);";

(b) for the definition of "the Euro Mediterranean area" substitute–

""the Euro Mediterranean area" means the geographical area comprising Europe, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and Turkey;";

(c) for the definition of "Europe" substitute–

""Europe" includes the Canary Islands and Belarus, Moldova, the Ukraine and Russia (excluding the Regions of Buryat, Yakut and Tuva, the Altai, Khabarovsk, Drasnoyarsk and Maritime Krais and the Amur, Chita, Irkutsk, Kamchatka, Kemerovo, Kurgan, Magadan, Novosibirsk, Omsk, Sakhalin, Tomsk and Tyumen Oblasts) but does not include Turkey;";

(d) for the definition of "European Community" substitute–

""European Community" means the territories of the Member States including the Isle of Man and the Channel Islands but excluding the Canary Islands, Ceuta, Melilla and the French Overseas Departments;";

(e) in the definition of "official statement" after "phytosanitary certificate" insert "or, in the case of imports from Switzerland of plants, plants products or other objects which are listed in Part A of Schedule 5A, by the issue of a Swiss plant passport";

(f) for the definition of "plant passport" substitute–

""plant passport" means either–

(a) a label and, where appropriate, an accompanying document issued in the European Community containing the relevant information in Schedule 9 which gives evidence that the provisions of this Order relating to plant health standards and special requirements for plants and plant products moving within the European Community have been complied with; or

(b) except for the purposes of article 11(3) and article 14, a Swiss plant passport;"; and

(g) after the definition of "South America" insert–

""Swiss plant passport" means a label and, where appropriate, an accompanying document, issued in Switzerland in accordance with Swiss legislation which–

(a) contains information that gives evidence that the legislation in Switzerland relating to plant health standards and special requirements for plants and

(**5**) O.J. No. L 77, 20.3.02, p.23; and see the associated Commission Directive 2002/29/EC, O.J. No. L 77, 20.3.02, p.26.
(**6**) O.J. No. L 116, 3.5.02, p.16.
(**7**) O.J. No. L 78, 25.3.03, p.10.
(**8**) O.J. No. L 138, 5.6.03, p.47.
(**9**) O.J. No. L 321, 6.12.03, p.36.
(**10**) O.J. No. L 85, 23.3.04, p.18; and see the associated Commission Directive 2004/32 EC, O.J. No. L 85, 23.3.04, p.24.
(**11**) O.J. No. L 127, 29.4.04, p97.
(**12**) O.J. No L 236, 23.9.03, p33.

plant products moving into and within Switzerland have been complied with; and

(b) relates to a plant, plant product or other object listed in Part A of Schedule 5A;".

(3) In article 3 (prohibition on importing into Great Britain from a third country plants, plant pests etc.) for paragraph (1)(e) substitute–

"(e) subject to the provisions of paragraph (2) of this article, any plant, plant product or other object which is of a description specified in section I of Part B of Schedule 5 unless–

(i) it has been the subject of a satisfactory plant health inspection by an authorised officer in the country of origin or the consignor country and is accompanied by a valid phytosanitary certificate or, in the case of imports from Switzerland of plants, plant products or other objects which are listed in Part A of Schedule 5A, by a Swiss plant passport; or

(ii) in the case of imports from Switzerland, it is a plant, plant product or other object listed in Part B of Schedule 5A.".

(4) In article 9 (official statements in respect of imported plants etc. from third countries) after "phytosanitary certificate" in each place where it occurs, insert "or, in the case of imports from Switzerland of plants, plant products or other objects which are listed in Part A of Schedule 5A, a Swiss plant passport".

(5) In article 11 (provisions relating to the issue of phytosanitary certificates and subsequent plant passports), in paragraph (2), after "directly consigned to Great Britain" insert "or, in the case of consignments from Switzerland of plants, plant products or other objects which are listed in Part A of Schedule 5A, a Swiss plant passport".

(6) In Schedule 1, Part B(a) (insects, mites and nematodes, at all stages of their development)–

(a) for item 1a(**13**) substitute–

"1a	*Daktulosphaira vitifoliae* (Fitch)	CY
1b	*Globodera pallida* (Stone) Behrens	FI, LV, SI, SK"; and

(b) in item 2 for the words in the second column substitute–

"E (Ibiza and Menorca), IRL, P (Azores and Madeira), FI (districts of Åland, Håme, Kymi, Pirkanmaa, Satakunta, Turku, Uusimaa), S (counties of Blekinge, Gotlands, Halland, Kalmar and Skåne), UK, CY, M".

(7) In Schedule 1, Part B(d) (virus and virus like organisms) in item 1 for the words in the second column substitute–

"DK, F (Brittany), FI, IRL, LT, P (Azores), UK (Northern Ireland)".

(8) In Schedule 2, Part A, Section 1(a) (insects, mites and nematodes, at all stages of their development) omit item 14.

(9) In Schedule 2, Part A, Section 2(a) (insects, mites and nematodes, at all stages of their development) after item 6 insert–

"6a	*Eutetranychus orientalis Klein*	Plants of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf, and

(**13**) Item 1a was inserted by S.I. 1995/1358.

		their hybrids, other than fruit and seeds".

(10) In Schedule 2, Part A, Section 2(b) (bacteria) in item 3 for the words in the second column substitute–

"Plants of *Amelanchier* Med., *Chaenomeles* Lindl., *Cotoneaster* Ehrh., *Crataegus* L., *Cydonia* Mill., *Eriobotrya* Lindl., *Malus* Mill., *Mespilus* L., *Photinia davidiana* (Dcne.) Cardot, *Pyracantha* Roem., *Pyrus* L. and *Sorbus* L., intended for planting, other than seeds".

(11) In Schedule 2, Part B(a) (insects, mites and nematodes, at all stages of their development) in item 5 for the words in the third column substitute–

"EL, P (Azores)".

(12) In Schedule 2, Part B(b) (bacteria) for item 2 substitute–

"**2.** Erwinia amylovora *(Burr.) Winsl. et al*.	*Parts of plants, other than fruit, seeds and plants intended for planting, but including live pollen for pollination of* Amelanchier *Med*., Chaenomeles *Lindl*., Cotoneaster *Ehrh*., Crataegus *L*., Cydonia *Mill*., Eriobotrya *Lindl*., Malus *Mill*., Mespilus *L*., Photinia davidiana (Dcne.) *Cardot*, Pyracantha *Roem*., Pyrus *L. and* Sorbus *L*.	*E, F (Corsica), IRL, I (Abruzzi; Apulia; Basilicata; Calabria; Campania; Emilia Romagna: provinces of Forlí Cesena, Parma, Piacenza and Rimini; Friuli Venezia Giulia; Lazio; Liguria; Lombardy; Marche; Molise; Piedmont; Sardinia; Sicily; Trentino Alto Adige: autonomous province of Trento; Tuscany; Umbria; Valle d'Aosta; Veneto: except in the province of Rovigo the communes Rovigo, Polesella, Villamarzana, Fratta Polesine, San Bellino, Badia Polesine, Trecenta, Ceneselli, Pontecchio Polesine, Arquà Polesine, Costa di Rovigo, Occhiobello, Lendinara, Canda, Ficarolo, Guarda Veneta, Frassinelle Polesine, Villanova del Ghebbo, Fiesso Umbertiano, Castelguglielmo, Bagnolo di Po, Giacciano con Baruchella, Bosaro, Canaro, Lusia, Pincara, Stienta, Gaiba, Salara, and in the province of Padova the communes Castelbaldo, Barbona, Piacenza d'Adige, Vescovana, S. Urbano, Boara Pisani, Masi, and in the province of Verona the communes Palù, Roverchiara, Legnago, Castagnaro, Ronco all'Adige, Villa Bartolomea, Oppeano, Terrazzo, Isola*

	Rizza, Angiari), LV, LT, A (Burgenland, Carinthia, Lower Austria, Tirol (administrative district Lienz), Styria, Vienna), P, SI, SK, FI, UK (Northern Ireland, Isle of Man and Channel Islands)".

(13) In Schedule 2, Part B(d) (viruses and virus-like organisms) for the words in the third column substitute–

"EL, F (Corsica), I, M, P".

(14) In Schedule 3, Part A (plants, plant products and other objects the introduction of which shall be prohibited in Great Britain)–

(a) in item 12, in the second column omit "Cyprus," and "Malta";

(b) in item 14 for the words in the second column substitute–

"Turkey, Belarus, Moldova, Russia, Ukraine, Georgia and third countries not belonging to continental Europe, other than the following: Algeria, Egypt, Israel, Libya, Morocco and Tunisia"; and

(c) in item 15 for the words in the second column substitute–

"Third countries other than Switzerland".

(15) In Schedule 3, Part B (plants, plant products and other objects the introduction of which shall be prohibited in certain protected zones)–

(a) for item 1 substitute–

"**1.** Without prejudice to the prohibitions applicable to the plants listed in Schedule 3A(9), (9.1) and (18), where appropriate, plants and live pollen for pollination of: *Amelanchier* Med., *Chaenomeles* Lindl., *Crataegus* L., *Cydonia* Mill., *Eriobotrya* Lindl., *Malus* Mill., *Mespilus* L., *Pyracantha* Roem., *Pyrus* L. and *Sorbus* L., other than fruit and seeds, originating in third countries other than Switzerland and other than those recognised as being free from *Erwinia amylovora* (Burr.) Winsl. et al. or in which pest free areas have been established in relation to *Erwinia amylovora* (Burr.) Winsl. et al. in accordance with the relevant International Standards for Phytosanitary Measures	E, F (Corsica), IRL, I (Abruzzi; Apulia; Basilicata; Calabria; Campania; Emilia-Romagna: provinces of Forlí-Cesena, Parma, Piacenza and Rimini; Friuli-Venezia Giulia; Lazio; Liguria; Lombardy; Marche; Molise; Piedmont; Sardinia; Sicily; Trentino-Alto Adige: autonomous province of Trento; Tuscany; Umbria; Valle d'Aosta; Veneto: except in the province of Rovigo the communes Rovigo, Polesella, Villamarzana, Fratta Polesine, San Bellino, Badia Polesine, Trecenta, Ceneselli, Pontecchio Polesine, Arquà Polesine, Costa di Rovigo, Occhiobello, Lendinara, Canda, Ficarolo, Guarda Veneta, Frassinelle Polesine, Villanova del Ghebbo, Fiesso Umbertiano, Castelguglielmo, Bagnolo di Po, Giacciano con Baruchella, Bosaro, Canaro, Lusia, Pincara, Stienta, Gaiba, Salara, and in the province of Padova the communes Castelbaldo, Barbona, Piacenza d'Adige, Vescovana, S. Urbano, Boara Pisani, Masi, and in the province of Verona the communes Palù, Roverchiara, Legnago, Castagnaro, Ronco all'Adige, Villa Bartolomea, Oppeano,