SCOTTISH STATUTORY INSTRUMENTS

2004 No. 248

PLANT HEALTH

The Plant Health (Export Certification) (Scotland) Order 2004

Made - - - -	*27th May 2004*
Laid before the Scottish Parliament - - - -	*1st June 2004*
Coming into force - -	*22nd June 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 3(1), (2) and (4) and 4A 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 (Export Certification) (Scotland) Order 2004 and shall come into force on 22nd June 2004.

(2) This Order extends to Scotland only.

Interpretation

2.—(1) In this Order–

"certificate" means a phytosanitary certificate or a reforwarding phytosanitary certificate;

"inspector" means any person authorised by the Scottish Ministers to be an inspector for the purposes of the Plant Health (Great Britain) Order 1993(**2**);

"phytosanitary certificate" means a certificate duly completed either in the form set out in Schedule 14 to the Plant Health (Great Britain) Order 1993 or the equivalent written in a language other than English;

"premises" includes any land, building, vessel, vehicle, aircraft, hovercraft or freight container;

"reforwarding phytosanitary certificate" means a certificate duly completed either in the form set out in Schedule 15 to the Plant Health (Great Britain) Order 1993 or the equivalent written in a language other than English;

(**1**) 1967 c. 8; section 3(1) and (2) was 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 section 4A was inserted by the Agriculture Act 1986 (c. 49), section 3. Section 1(2) of the 1967 Act specifies the competent authorities for the purposes of that Act. 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). The requirement to obtain Treasury consent was removed by section 55 of that Act.

(**2**) S.I.1993/1320 to which there are amendments but none relevant to this Order.

"soil" includes any medium used for the growing of plant material and "soil sample" shall be construed accordingly.

(2) Where a fee is prescribed in this Order in relation to an inspection, examination or test as well as the issue of a certificate, the refusal to issue a certificate by reason of the results of the inspection, examination or test being unsatisfactory shall not affect the amount of the fee payable.

Phytosanitary certificates for export of plants etc. to third countries

3.—(1) Any requirement of a third country for a plant, plant product or other object to be accompanied by a phytosanitary certificate or a reforwarding phytosanitary certificate issued by an official plant protection organisation whether for the purposes of–

(a) Article V of the International Plant Protection Convention 1951(**3**); or

(b) any arrangement corresponding to that Article,

may be met by the issue of such a certificate by an inspector to accompany that plant product or other object.

(2) Where an inspector issues a certificate under paragraph (1)–

(a) that inspector may also in connection with the issue of that certificate carry out any of the other services listed in column 1 of the Schedule to this Order which that inspector considers necessary to meet the phytosanitary requirements of the importing country; and

(b) where appropriate, that inspector may certify that a consignment has been inspected on the basis of a laboratory examination alone.

(3) An inspector shall be authorised to enter onto premises for the purpose of any examination or inquiry under this Order.

(4) The inspection referred to in the first item of column 1 of the Schedule to this Order may be carried out by any person authorised in writing by an inspector to inspect grain for the purposes of phytosanitary certification.

Fees for export certification services

4. The producer or exporter (as applicable) shall pay to the Scottish Ministers in respect of any service described in column 1 of the Schedule to this Order the fee specified in column 2 of that Schedule opposite the reference to that service.

Offences

5.—(1) Any person who for the purposes of procuring the issue of a phytosanitary certificate or reforwarding phytosanitary certificate under this Order–

(a) knowingly or recklessly makes a statement which is false in a material particular; or

(b) intentionally fails to disclose any material information,

is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(**3**) Adopted in 1951 (Treaty Series No. 16 (1954), Cmd 9077) and revised in 1979 (Miscellaneous Series No. 1 (1981), Cmnd 8108).

Pentland House, Edinburgh
27th May 2004

ROSS FINNIE
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