WELSH STATUTORY INSTRUMENTS

2006 No. 1701 (W.163)

PLANT HEALTH, WALES

The Plant Health (Export Certification) (Wales) Order 2006

Made - - - -	*27 June 2006*
Coming into force - -	*30 June 2006*

The National Assembly for Wales, in exercise of the powers conferred by sections 3(1), (4) and 4A of the Plant Health Act 1967(**1**), with the consent of the Treasury, hereby makes the following Order:

Title, commencement and application

1.—(1) The title of this Order is the Plant Health (Export Certification) (Wales) Order 2006 and this Order comes into force on 30 June 2006.

(2) This Order applies in relation to Wales.

Interpretation

2.—(1) In this Order—

"authorised officer" ("*swyddog awdurdodedig*") means—

(a) a person authorised by the National Assembly to be an inspector for the purposes of this Order or the Plant Health (Wales) Order 2006(**2**) or

(b) any other officer of the National Assembly;

"certificate" ("*tystysgrif*"), in relation to an application made pursuant to this Order, means either a phytosanitary certificate or a phytosanitary certificate for re-export, as the case may be;

"National Assembly" ("*Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"phytosanitary certificate" ("*tystysgrif ffytoiechydol*") means a certificate duly completed in the form set out in Schedule 1 or in such other similar form as may be agreed between the National Assembly and the third country whose phytosanitary requirements the certificate is intended to meet;

(**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). Under the Transfer of Functions (Wales) (No.1) Order 1978 (S.I.1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State; and under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1, the functions transferred to the Secretary of State by the 1978 Order were transferred to the National Assembly for Wales.

(**2**) S.I. [ ].

"phytosanitary certificate for re-export" ("*tystysgrif ffytoiechydol ar gyfer ailallforio*") means a certificate duly completed in the form set out in Schedule 2 or in such other similar form as may be agreed between the National Assembly and the third country whose phytosanitary requirements the certificate is intended to meet;

"pre-export service" ("*gwasanaeth cyn-allforio*") means any plant health inspection or examination, including by the taking of samples, which is required to be carried out in order to satisfy the phytosanitary requirements of a third country, other than any such service required for the issue of a certificate under this Order; and

"third country" ("*trydedd wlad*") has the same meaning in this Order as in the Plant Health (Great Britain) Order 1993(**3**).

(2) This Order does not apply in respect of any certificate or service provided by or on behalf of the Forestry Commissioners.

Certificates for export of plants etc. to third countries

3.—(1) A person who intends exporting plants, plant products or other objects to a third country may apply to the National Assembly for a certificate under this Order.

(2) Where the National Assembly has received an application made under paragraph (1), an authorised officer must—

(a) carry out any of the services listed in the first column of Schedule 3 which he or she considers necessary to allow him or her to issue the certificate; and

(b) if he or she is satisfied that a certificate should be issued, issue the certificate on behalf of the National Assembly.

(3) An authorised officer may authorise any person in writing to inspect grain where such inspection is required to enable that officer to issue the certificate.

Pre-export services

4.—(1) A person who intends exporting plants, plant products or other objects to one or more third countries may apply to the National Assembly for a pre-export service under this Order.

(2) Where the National Assembly has received an application made under paragraph (1), an authorised officer must—

(a) carry out any pre-export service which the authorised officer considers necessary to determine whether the import requirements of the country or countries of export specified in the application are met; and

(b) provide the applicant with the results of any inspection or examination carried out.

Charges for the issue of certificates and the provisions of services

5.—(1) Subject to paragraph (2), there is to be paid to the National Assembly—

(a) in respect of the services referred to in the first column of Schedule 3, the fee set out opposite in the second column of that Schedule; and

(b) in respect of a pre-export service, the fee set out in the second column of Schedule 4.

(2) A small exporter must pay to the National Assembly—

(a) in respect of the services referred to in the first column of Schedule 3 either—

(i) the fee set out opposite in the third column of Schedule 3; or

(**3**) S.I. 1993/1320.

(ii) if the sum total of fees in respect of any services under this Order for which he or she has become liable during the financial year in which his or her application is made exceeds £250, the fee set out in the second column of Schedule 3; and

(b) in respect of a pre-export service either—

(i) the fee set out in the third column of Schedule 4; or

(ii) if the sum total of fees in respect of any services under this Order for which he or she has become liable during the financial year in which his or her application is made exceeds £250, the fee set out in the second column of Schedule 4.

(3) In this article, "small exporter" ("*allforiwr bach*") means a person who, in the financial year in which his or her application is made—

(a) is not a taxable person for the purposes of the Value Added Tax Act 1994(**4**); or

(b) makes no taxable supply of plants, plant products, seeds, soil or agricultural machinery for the purposes of the Value Added Tax Act 1994; or

(c) did not export in the previous financial year goods accompanied by a certificate the total value of which was £5,000 or more.

Offences

6.—(1) A person is guilty of an offence if, for the purposes of procuring the issue of a certificate under this Order, the person—

(a) makes a statement which he or she knows to be false in a material particular;

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

(c) intentionally fails to disclose any material information.

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

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**5**)

D. Elis-Thomas
27 June 2006 The Presiding Officer of the National Assembly

(**4**) 1994 c. 23.
(**5**) 1998 c. 38.