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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 613**

**The Plant Health (Scotland) Order 2005**

**PART 9**

**NOTIFICATIONS, PROVISION AND EXCHANGE OF INFORMATION**

**Notification of the presence or suspected presence of certain plant pests**

**42.**—(1) The occupier or other person in charge of premises who knows or suspects that any plant pest to which this article applies is present on the premises, or any other person who, in the course of that person's duties or business, becomes aware or suspicious of the presence of such plant pest on any premises, must immediately give notice to the Scottish Ministers or an inspector of the presence or suspected presence of such plant pest and shall as soon as reasonably practicable after giving such notice confirm it in writing.

(2) This article applies to any plant pest which—

- (a) is of a description specified in Part A of Schedule 1;
- (b) subject to paragraph (3), is of a description specified in Part B of Schedule 1;
- (c) subject to paragraphs (3) and (4), is of a description specified in Part A of Schedule 2;
- (d) subject to paragraph (3), is of a description specified in column 3 of Part B of Schedule 2 and which is present on, or appears to an inspector to have been in contact with, relevant material specified in column 2 of that Schedule opposite the reference to that plant pest; or
- (e) although not specified in Schedule 1 or 2, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain.

(3) Where any plant pest referred to in paragraph (2)(b), (c) or (d) is specified in Schedule 18, it shall be notifiable under paragraph (1) only where it is a subspecies or strain not normally present in Great Britain and is found at the premises of a registered plant trader.

(4) Where any plant pest of a description specified in Schedule 18 is specified in column 3 of Part A of Schedule 2, it shall be notifiable under paragraph (1) only where it is present on, or appears to an inspector to have been in contact with, relevant material specified in column 2 of that Schedule opposite the reference to that plant pest.

**Notification of the likely entry into, or presence in, a free zone of plant pests or relevant material**

**43.**—(1) The responsible authority for a free zone who knows or suspects that any of the things to which this article applies is likely to enter, or is present in, such a free zone, shall immediately give notice of that fact to the Scottish Ministers or an inspector and shall as soon as is reasonably practicable after giving such notice confirm it in writing.

(2) This article applies to—

- (a) any plant pest which is of a description specified in Schedule 1 or in column 3 of Schedule 2;

- (b) any plant pest which, although not specified in Schedule 1 or 2, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain; and
- (c) any relevant material of a description specified in column 2 of Schedule 3 which originates in a country specified in column 3 of that Schedule opposite the reference to that relevant material,

which has been, or is likely to be, landed in Scotland, and has not been cleared out of charge under the Customs Act.

(3) In this article “the responsible authority” and “free zone” have the same meaning as in the Customs Act<sup>(1)</sup>.

### **Information to be given**

**44.**—(1) An inspector or any other officer of the Scottish Ministers may by notice in writing require any person referred to in paragraph (2) to give to the inspector or officer within such reasonable time as may be specified in that notice any information referred to in paragraph (3).

(2) A person to whom paragraph (1) refers is any person who—

- (a) is the owner or occupier or other person in charge of premises in respect of which a notice has been served under this Order;
- (b) has or has had or is reasonably suspected by an inspector or other officer of the Scottish Ministers to have or have had in their possession or under their charge—
  - (i) any plant pest which is of a description specified in Schedule 1 or in column 3 of Schedule 2;
  - (ii) any plant pest which, although not specified in Schedule 1 or 2 is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain;
  - (iii) any relevant material carrying or infected with a plant pest mentioned in sub paragraph (i) or (ii); or
  - (iv) any relevant material which an inspector or any other officer of the Scottish Ministers knows to have been landed or suspects has been landed in, or exported from, Scotland; or
- (c) as auctioneer, salesperson or otherwise, has sold, offered for sale or otherwise disposed of any plant pest or relevant material mentioned in sub paragraph (b).

(3) The information referred to in paragraph (1) is any information that a person referred to in paragraph (2) may possess—

- (a) as to plants grown or products stored at any time on the premises referred to in paragraph (2)(a);
- (b) as to any plant pest or relevant material referred to in paragraph (2)(b); and
- (c) as to the persons who have had or are likely to have had any plant pest or relevant material referred to in paragraph (2)(b) in their possession or under their charge.

(4) A person who is required to give an inspector or other officer any information under paragraph (1) shall produce for examination by that inspector or other officer any licences, official statements, certificates, plant passports, records, invoices or other documents relating to any plant pest or relevant material to which that information relates.

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(1) See section 100A of the Customs Act which was inserted by the Finance Act 1984 (c. 43), section 8 and Schedule 4, Part 1.