
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 613

The Plant Health (Scotland) Order 2005

PART 1

GENERAL

Title, commencement and extent

1.—(1) This Order may be cited as the Plant Health (Scotland) Order 2005 and shall come into force on 31st December 2005.

(2) Subject to paragraph (3) this Order extends to Scotland only.

(3) In so far as this paragraph, articles 2(1), 5(1), 19(1), 20(1), 22(2), 23(2), 32(5), 33(2), 35(3), 43(2) and 44(2) of this Order extend beyond Scotland, they do so only as a matter of Scots law.

General interpretation

2.—(1) In this Order—

“area of plant health control” is defined in article 10(2);

“authorised officer” means—

- (a) an authorised representative of the responsible official body of the country in which a plant passport is issued, a public servant acting under the authority of such a representative or a qualified agent employed by the responsible official body, in any case who shall be appropriately qualified;
- (b) a person permitted by Swiss legislation to issue a Swiss plant passport; or
- (c) an authorised representative of the responsible official body or the national plant protection organisation of the country in which a phytosanitary certificate or phytosanitary certificate for re export or a translation of a phytosanitary certificate or phytosanitary certificate for re export is issued, or a public officer acting under the authority of such a representative;

“consignment” has the same meaning as in Article 2(1)(p) of Directive 2000/29/EC where that term is used in Part 2 or in relation to any relevant material referred to in that Part;

“Customs Act” means the Customs and Excise Management Act 1979(1);

“Directive 93/85/EC” means Council Directive 93/85/EC(2) on the control of Potato Ring Rot;

“Directive 98/57/EC” means Council Directive 98/57/EC(3) on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.;

“Directive 2000/29/EC” means Council Directive 2000/29/EC(4) on protective measures against the introduction into the Community of organisms harmful to plants or plant

(1) 1979 c. 2.

(2) O.J. No. L 259, 18.10.93, p.1.

(3) O.J. No. L 235, 21.8.98, p.1.

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

products and against their spread within the Community as amended by Commission Directives [2001/33/EC\(5\)](#), [2002/28/EC\(6\)](#), [2002/36/EC\(7\)](#), [2003/22/EC\(8\)](#), [2003/47/EC\(9\)](#), [2003/116/EC\(10\)](#), [2004/31/EC\(11\)](#), [2004/70/EC\(12\)](#), [2004/102/EC\(13\)](#), [2005/16/EC\(14\)](#), Council Directive [2002/89/EC\(15\)](#), Council Regulation ([EC](#)) [806/2003\(16\)](#) and by 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([17](#));

“early potatoes” means potatoes which are harvested before they are completely mature, marketed immediately after they have been harvested and whose skins can be easily removed without peeling;

“EC transit goods” means any relevant material introduced into Scotland from a third country via another part of the European Community;

“electronic communication” has the same meaning as in the Electronic Communications Act 2000([18](#));

“Euro Mediterranean area” means the geographical area comprising Europe, Algeria, Ceuta, Egypt, Israel, Jordan, Lebanon, Libya, Melilla, Morocco, Syria, Tunisia and the area of Turkey east of the Bosphorus Strait known as Anatolia;

“Europe” includes European Russia, Belarus, Georgia, Ukraine, Turkey (except the area east of the Bosphorus Strait known as Anatolia), Kazakhstan (except the area east of the Ural river) and the Canary Islands;

“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;

“fruit” means fruit in the botanical sense but does not include dried, dehydrated, lacquered or deep frozen fruit;

“importer”, in relation to any plant pest or relevant material at any time between their landing from a third country and the time when they are discharged by an inspector under this Order, includes any owner or other person for the time being possessed of or beneficially interested in the plant pest or relevant material;

“inspector” means any person authorised by the Scottish Ministers to be an inspector for the purposes of this Order;

“IPPC” means the International Plant Protection Convention 1951([19](#));

(5) 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.

(6) 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.

(7) O.J. No. L 116, 3.5.02, p.16.

(8) O.J. No. L 78, 25.3.03, p.10; and see the associated Commission Directive [2003/21/EC](#), O.J. No. L 78, 25.3.03.

(9) O.J. No. L 138, 5.6.03, p.47; and see the associated Commission Directive [2003/46/EC](#), O.J. No. L 138, 5.6.03, p.45.

(10) O.J. No. L 321, 6.12.03, p. 36.

(11) O.J. No. L 85, 23.3.04, p.18; and see the associate Commission Directive [2004/32/EC](#), O.J. No. L 85, 23.3.04.

(12) O.J. No. L 127, 29.4.04, p.97.

(13) O.J. No. L 309, 6.10.04, p.9.

(14) O.J. No. L 57, 3.3.05, p.19; and see the associated Commission Directive [2005/18/EC](#), O.J. No. L 57, 3.3.05, p.25.

(15) O.J. No. L 355, 30.12.02, p.45.

(16) O.J. No. L 122, 16.5.03, p.1.

(17) O.J. No. L 236, 23.9.03, p.33.

(18) [2000 c. 7](#); the definition of electronic communication in section 15(1) was amended by the [Communications Act 2003 \(c..21\)](#), section 406(1) and Schedule 17, paragraph 158.

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

“ISPM No. 4” means International Standard for Phytosanitary Measures No. 4 of February 1996⁽²⁰⁾ on Requirements for the establishment of pest free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations;

“ISPM No. 10” means International Standard for Phytosanitary Measures No. 10 of October 1999⁽²¹⁾ on Requirements for the establishment of pest free places of production and pest free production sites, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations;

“landed” means introduced into Scotland by any means and includes imported by post, and “land” and “landing” shall be construed accordingly;

“lot” has the same meaning as in Article 2(1)(o) of Directive 2000/29/EC;

“national plant protection organisation” means the service established by the government of a third country to discharge the functions specified in Article IV(1)(a) of the IPPC, details of which have been notified—

(a) in the case of contracting parties to the IPPC, to the Director of the Food and Agriculture Organisation of the United Nations; and

(b) in all other cases, to the European Commission;

“North America” means the geographical area comprising Canada, Mexico and the USA;

“nursery” means premises wholly or partly used for the cultivation or keeping of plants for the purpose of transplantation or removal to other premises;

“official”, in relation to any testing or other procedure required by this Order to be carried out in respect of any relevant material, means carried out by or under the supervision of the responsible official body or the national plant protection organisation of the country in which the testing or other procedure is carried out and “officially” shall be construed accordingly;

“official body of destination” has the same meaning as in Article 2(1)(l) of Directive 2000/29/EC;

“official body of point of entry” has the same meaning as in Article 2(1)(k) of Directive 2000/29/EC;

“official label” means a label that meets the relevant requirements set out in Part A or B of Schedule 9, issued by or with the authority of the responsible official body for the Member State in which the official label is issued;

“official statement” means a statement issued by an authorised officer or a statement included in a plant passport;

“phytosanitary certificate” means a certificate which complies with the relevant requirements of articles 7 and 15;

“phytosanitary certificate for re export” means a certificate which complies with the relevant requirements of articles 7 and 15;

“place of production” means any premises, normally worked as a unit, together with any contiguous land in the same ownership or occupation as such premises;

“plant” means a living plant (including a fungus or shrub), or a living part of a plant (including a living part of a fungus or shrub), at any stage of growth but excluding forest trees or forest shrubs; and living parts of a plant shall include—

(a) fruit or seed,

(20) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00100 Rome, Italy and <http://www.ippc.int/IPP/En/default.htm>.

(21) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00100 Rome, Italy and <http://www.ippc.int/IPP/En/default.htm>.

- (b) vegetables, other than those preserved by deep freezing,
- (c) tubers, corms, bulbs or rhizomes,
- (d) cut flowers,
- (e) branches with or without foliage,
- (f) a plant or shrub that has been cut and which retains any foliage,
- (g) leaves or foliage,
- (h) a plant or shrub in tissue culture,
- (i) live pollen, and
- (j) bud wood, cuttings or scions;

“plant health check” means an examination carried out under article 12(3);

“plant health movement document” means a document which meets the requirements in Schedule 13;

“planting” has the same meaning as in Article 2(1)(c) of Directive 2000/29/EC;

“plant or shrub in tissue culture” means a plant or shrub growing in a clear liquid or clear solid aseptic culture medium in a closed transparent container;

“plant passport” means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in Part A or B of Schedule 9, issued by or with the authority of the responsible official body for the Member State in which the plant passport is issued, and includes a replacement plant passport;

“plant pest” means any living organism, other than a vertebrate animal, in any stage of its existence, which is injurious or likely to be injurious to any plant or plant product;

“plant product” has the same meaning as in Article 2(1)(b) of Directive 2000/29/EC;

“plant trader” means—

- (a) an importer of relevant material,
- (b) a producer of relevant material,
- (c) a person in charge of premises used for the storage, aggregation or dispatch of consignments of relevant material, or
- (d) a person who in the course of a trade or business divides up or combines consignments of relevant material;

“potato” means any tuber or true seed or any other plant of *Solanum tuberosum* L. or other tuber-forming species of the genus *Solanum* L.;

“Potato Cyst Nematode” means any cyst-forming nematode of the species *Globodera pallida* Stone Behrens or *Globodera rostochiensis* (Wollenweber) Behrens that infests and multiplies on potatoes and any strains or pathotypes of such nematode;

“Potato Ring Rot” means either the disease of potatoes which is caused by the bacterium *Clavibacter michiganensis* subsp. *Sepedonicus* (Spieckermann and Kotthoff) Davis et al. or that bacterium, as the context may require;

“Potato Wart Disease” means either the disease of potatoes which is caused by the fungus *Synchytrium endobioticum* (Schilbersky) Percival or that fungus as the context may require;

“premises” includes any land, building, vehicle, vessel, aircraft, hovercraft, freight container or railway wagon;

“producer”, in relation to relevant material, means a person who grows or makes the material in the course of a trade or business;

“protected zone” means a zone listed in the third column of Annex IV, Part B of Directive 2000/29/EC opposite the reference to the relevant material to which that zone relates;

“register” means the register of plant traders maintained under article 25(1);

“registered”, in relation to a plant trader, means a trader whose particulars are listed in the register, and “registration” shall be construed accordingly;

“relevant material” means any plant, plant product, soil or growing medium;

“responsible official body” means either the body described in paragraph (i) or the body described in paragraph (ii) of Article 2(1)(g) of Directive 2000/29/EC;

“seed” means seed in the botanical sense other than seed not intended for planting;

“Seed Potatoes Regulations” means the Seed Potatoes (Scotland) Regulations 2000(22);

“South America” means the geographical area comprising Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, French Guiana, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela;

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

(a) contains information which gives evidence that the legislation in Switzerland relating to plant health standards and special requirements for relevant material moving into and within Switzerland have been complied with; and

(b) relates to relevant material listed in Part A of Schedule 8;

“third country” means a country or territory other than one within the European Community; and

“USA” means the United States of America except the state of Hawaii.

(2) “Transit”, for the purposes of this Order—

(a) where it occurs in article 12(5) or (6), has the same meaning as in Article 2(1)(r) of Directive 2000/29/EC; and

(b) where it occurs anywhere else in this Order shall bear its ordinary meaning.

(3) Any reference in this Order to a species shall be construed as a reference to that species or to any of its hybrids.

(4) Any reference in this Order to the European Community, to a Member State or a third country includes a reference to a state, country, principality, province or region within the European Community, Member State, or third country, as the case may be.

(5) Any reference in this Order to a numbered article or a numbered Schedule with no corresponding reference to a specific instrument shall be construed as a reference to the article or Schedule so numbered in this Order.

(6) Any reference in this Order to a Community instrument is a reference to that instrument as amended on the date this Order is made.

(7) Any reference in this Order to anything done in writing or produced in written form includes a reference to an electronic communication which has been recorded and is consequently capable of being reproduced.

PART 2

IMPORTS FROM THIRD COUNTRIES

Interpretation of Part 2

3. In this Part—

“approved place of inspection” means a place of destination of relevant material approved by the Scottish Ministers under article 17;

“Customs Code” means Council Regulation (EEC) No. 2913/92⁽²³⁾ establishing the Community Customs Code;

“customs document” means a document required by the Commissioners for Her Majesty’s Revenue and Customs for placing relevant material under one of the procedures specified in Article 4(16)(a) and (d) to (g) of the Customs Code;

“identity check” means an examination of a consignment of relevant material for the purposes of determining whether it corresponds to its description in the documents that accompany it being an examination of that consignment—

- (a) in its entirety; or
- (b) on the basis of one or more representative samples from the consignment or from each lot forming part of the consignment;

“working day”, in relation to the notice requirements in articles 6(3)(b) and 16(3) and the period for which material may be detained under article 14(1), means a period of twenty-four hours which is not a Saturday, Sunday, Easter Monday, 26th December if it is not a Saturday or Sunday, 27th December in a year in which 25th or 26th December is a Sunday or a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971⁽²⁴⁾; and

“working hour” means a period of one hour during a working day.

Application of Part 2

4.—(1) Subject to paragraph (2), the provisions of this Part shall apply to plant pests and relevant material which are introduced into Scotland from a third country either directly or via another part of the European Community.

(2) The provisions of this Part shall only apply to EC transit goods in respect of which the Scottish Ministers have agreed with the official body of point of entry for those goods, in accordance with article 12(6), to be responsible for certain matters.

Prohibitions and restrictions on landing plant pests and relevant material

5.—(1) The landing in Scotland of the following plant pests and relevant material is prohibited—

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

⁽²³⁾ O.J. No. L 302, 19.10.92, p.1.

⁽²⁴⁾ 1971 c. 80.

- (d) subject to paragraph (2), any relevant material of a description specified in column 2 of Schedule 3 which originates in a third country specified in column 3 opposite the reference to that relevant material;
- (e) subject to article 8, any relevant material not prohibited under sub paragraph (d) which is of a description specified in column 2 of Part A of Schedule 4, unless the requirements specified in column 3 of that Part opposite the reference to that relevant material have been complied with; and
- (f) subject to article 8 and without prejudice to any requirements specified in column 3 of Part A of Schedule 4 relating to the relevant material, any relevant material which is of a description specified in column 2 of Part C of Schedule 4, unless the requirements specified in column 3 of that Part opposite the reference to that relevant material have been complied with.

(2) The prohibition in paragraph (1)(d) shall not apply to any relevant material which is in the course of its consignment between two third countries under appropriate customs procedures and without any change in customs status and which is transported in such a way as to prevent the accidental escape of plant pests.

Advance notification of landing

6.—(1) Subject to article 30(3), the landing in Scotland by any person of relevant material to which paragraph (2) refers, is prohibited unless that person gives notice in accordance with this article.

(2) The prohibition on landing relevant material in paragraph (1) applies to the landing in Scotland, where Scotland is the point of entry of the material into the Community, of the following relevant material—

- (a) any relevant material of a description specified in Part A of Schedule 5; or
- (b) any relevant material of a description specified in Part B of Schedule 5 and which is—
 - (i) specified in column 2 of Part C of Schedule 4;
 - (ii) specified in the second column of Annex II, Part B of Directive 2000/29/EC and in the course of its consignment to a protected zone listed in the fourth column opposite the reference to the relevant material; or
 - (iii) specified in the first column of Annex IV, Part B of Directive 2000/29/EC and in the course of its consignment to a protected zone listed in the third column opposite the reference to the relevant material.

(3) A notice under paragraph (1) shall—

- (a) be in accordance with the requirements of Schedule 12; and
- (b) subject to paragraph (5), be given in time to arrive at the office of the Scottish Ministers at least two working days before the relevant material is landed.

(4) The address to which a notice shall be given under paragraph (1) shall be such address as the Scottish Ministers shall specify from time to time, which may include an address for electronic communications.

(5) Where persons who are required by paragraph (1) to give notice of the landing of any relevant material can reasonably show that they were unable to comply with the periods specified in paragraph (3)(b) because they were unaware that the material had been consigned, they shall give notice as soon as is reasonably practicable.

Requirements for certificates

7.—(1) Subject to articles 8 and 30(2) and to paragraph (6), the landing in Scotland of any relevant material referred to in sub paragraph (a) or (b) of article 6(2) is prohibited unless that relevant material is accompanied by a phytosanitary certificate issued in the country in which that material originates or in the country from which it was consigned and, where paragraph (2) applies, by a phytosanitary certificate for re export.

(2) Where relevant material consigned to Scotland via any third country by way of transit has been split up, combined with other consignments or repackaged, that material shall be accompanied by a phytosanitary certificate for re export issued in the country of transit.

(3) Where relevant material consigned to Scotland via any third country by way of transit has or may have been exposed to infection or contamination by any plant pest, no longer remains the same material specified in the phytosanitary certificate which accompanies it or has been processed so as to change its nature, the phytosanitary certificate required to accompany it shall be issued in the country of transit.

(4) Where relevant material is listed in the first column of Annex IV, Part B of Directive 2000/29/EC and the requirement or requirements specified in the second column opposite the reference to that relevant material can only be fulfilled in the country in which the relevant material originates, the phytosanitary certificate required to accompany it shall be issued in that country.

(5) Where a phytosanitary certificate is required by paragraph (2) to be accompanied by a phytosanitary certificate for re export, it may consist of a copy of the certificate certified as a true copy of the original by an authorised officer but in all other cases shall be the original certificate.

(6) Provided the relevant material is transported in such a way as to prevent the accidental escape of plant pests and does not undergo any change in its customs status, paragraph (1) does not apply to—

- (a) relevant material landed in Scotland which, under appropriate customs procedures, is in the course of its consignment between two third countries; or
- (b) relevant material landed in Scotland which has been consigned to Scotland from another part of the European Community via a third country.

Exceptions from certain prohibitions and requirements

8.—(1) The prohibitions on landing relevant material in article 5(1)(e) and (f), the requirement for advance notification in article 6(1) and the requirements of article 7 for relevant material to be accompanied by a phytosanitary certificate or phytosanitary certificate for re export shall not apply to relevant material of a description in paragraph (2), not showing any signs of the presence of any plant pest, landed in Scotland in the baggage of a passenger or other traveller and which—

- (a) is not intended for use in the course of a trade or business; and
- (b) is intended for household use.

(2) The relevant material referred to in paragraph (1) is material which is—

- (a) in one of the following categories, not exceeding the stated quantities—
 - (i) fruit and raw vegetables (other than potatoes), together not exceeding 2 kilogrammes in weight;
 - (ii) cut flowers which may include any parts of plants, together forming a single bouquet; or
 - (iii) seeds (other than seeds of potatoes), not exceeding 5 retail packets or packets of a similar size; or
- (b) in one of the following categories, not exceeding the stated quantities, and which has been grown in and consigned to Scotland from the Euro-Mediterranean area—

(i) bulbs, corms, tubers (other than potatoes) and rhizomes, together not exceeding 2 kilogrammes in weight; or

(ii) plants for planting, other than those in sub paragraph (i), not exceeding 5 in number.

(3) For the purpose of paragraph (2)(a)(iii), a retail packet in relation to a particular seed is one which is of a type normally sold to the consumer other than for use in the course of a trade or business.

Presentation and display of documents

9.—(1) Except in the case of consignments referred to in paragraph (3), any phytosanitary certificate or phytosanitary certificate for re export required under article 7 to accompany relevant material shall be delivered by the importer of that relevant material, within three days of its landing, to an inspector.

(2) Subject to article 30(4), importers shall include in a customs document relating to each consignment of relevant material referred to in sub paragraph (a) or (b) of article 6(2)–

- (a) a statement that “this consignment contains produce of phytosanitary relevance”;
- (b) the reference number of any phytosanitary certificate or phytosanitary certificate for re export required by article 7 to accompany the relevant material; and
- (c) the registration number of the importer of the relevant material.

(3) In the case of a consignment imported into Scotland by post, any phytosanitary certificate or phytosanitary certificate for re export required by article 7 to accompany that material shall be affixed to the outside of the package comprising the relevant material or, if the consignment of relevant material consists of more than one package, be affixed to the outside of one of the packages and copies of the certificate shall be affixed to the outside of each of the remaining packages.

Prohibition on removal of relevant material from an area of plant health control

10.—(1) Subject to articles 11 and 30(3), no person shall remove or cause to be removed from an area of plant health control any relevant material referred to in sub paragraph (a) or (b) of article 6(2) unless an inspector has discharged that relevant material or the removal of that relevant material is permitted under Part 6.

(2) An area of plant health control is–

- (a) the point of entry specified in paragraph (3) where relevant material is landed in Scotland for the first time;
- (b) a place close to the point of entry specified in paragraph (3) which has been designated as an area of plant health control by the Scottish Ministers and by the Commissioners for Her Majesty’s Revenue and Customs; or
- (c) an approved place of inspection.

(3) The point of entry, for the purposes of paragraph (2), shall be–

- (a) where the relevant material is transported by air, the airport; and
- (b) where the relevant material is transported by maritime or fluvial transport, the port.

(4) Pending its removal from an area of plant health control, other than at an approved place of inspection, the importer of relevant material shall store it under the supervision of an inspector under such conditions as the inspector may direct and the importer shall be liable for the costs of such storage.

Exceptions from prohibition on removal of relevant material from an area of plant health control

11. The prohibition imposed by article 10(1) on the removal of relevant material from an area of plant health control unless it has been discharged by an inspector shall not apply to—

- (a) any relevant material which is in the course of its consignment between two third countries under appropriate customs procedures and without any change in its customs status and which is transported in such a way as to prevent the accidental escape of plant pests;
- (b) any relevant material excepted by article 8 from the requirements in article 7; or
- (c) any relevant material which is consigned to Scotland from another part of the European Community via a third country without any change in its customs status and which is transported in such a way as to prevent the accidental escape of plant pests.

Plant health discharge

12.—(1) An inspector may discharge relevant material pursuant to article 10(1) if the inspector is satisfied as to the matters referred to in paragraph (2).

(2) Subject to paragraphs (5) and (6), an inspector shall be satisfied—

- (a) that the relevant material is free from any plant pest of a description specified in Schedule 1;
- (b) if listed in column 2 of Schedule 2, that the relevant material is not carrying or infected with a plant pest of a description specified in column 3 of that Schedule opposite the reference to the relevant material;
- (c) if listed in the second column of Annex II, Part B of Directive 2000/29/EC and in the course of its consignment to a protected zone listed in the fourth column opposite the reference to the relevant material, that the relevant material is not carrying or infected with a plant pest of a description specified in the first column opposite the reference to the relevant material;
- (d) if listed in column 2 of Part A or C of Schedule 4, that the relevant material complies with the requirements specified in column 3 of Part A or C, respectively, opposite the reference to the relevant material and, where there is one or more alternative requirements, the requirements declared in the phytosanitary certificate or phytosanitary certificate for re export;
- (e) if listed in the first column in Annex IV, Part B of Directive 2000/29/EC and in the course of its consignment to a protected zone listed in the third column opposite the reference to the relevant material, that the relevant material complies with the requirements specified in the second column opposite the reference to the relevant material and, where there is one or more alternative requirements, the requirements declared in the phytosanitary certificate or phytosanitary certificate for re export;
- (f) that the relevant material corresponds with the description given to it in the phytosanitary certificate or phytosanitary certificate for re export; and
- (g) that the relevant material is accompanied by the certificate or certificate required by article 7 and, where appropriate, by a plant health movement document.

(3) For the purpose of being satisfied as to any of the matters in paragraph (2)(a) to (e), an inspector may carry out an examination of a consignment or lot of relevant material and its packaging and, where necessary, the vehicle transporting that consignment or lot—

- (a) in its entirety; or
- (b) on the basis of one or more representative samples from the consignment or from each lot forming part of the consignment.

(4) For the purpose of being satisfied as to the matters in paragraph (2)(f), an inspector may carry out an identity check.

(5) Where the official body of destination of any relevant material landed in Scotland for the purpose of transit has agreed with the Scottish Ministers that it will be responsible for some or all of the matters referred to in paragraph (2)(a) to (f), an inspector need only be satisfied as to the matters referred to in paragraph (2)(g) and any matters referred to in paragraph (2)(a) to (f) not subject to the agreement.

(6) Where the official body of point of entry of any relevant material that has been consigned to Scotland via another part of the European Community by way of transit has agreed with the Scottish Ministers, as the official body of destination, that the Scottish Ministers shall be responsible for some or all of the matters referred to in paragraph (2)(a) to (f), the matters as to which an inspector must be satisfied shall be limited accordingly.

(7) Where an inspector is satisfied as to the matters referred to in paragraph (2)(g) the inspector shall—

- (a) stamp the phytosanitary certificate or phytosanitary certificate for re export with the official stamp of the Scottish Ministers and the date the certificate was delivered in accordance with article 9(1); and
- (b) where applicable, complete the relevant headings of the plant health movement document.

(8) An inspector may, for the purpose of performing a plant health check, require the occupier or other person in charge of the premises in which the check is to take place to provide—

- (a) where appropriate, suitable areas of inspection;
- (b) adequate lighting; and
- (c) inspection tables.

Request to an officer for Revenue and Customs for material to be detained

13.—(1) An inspector may, where there are reasonable grounds for suspecting that there is a risk of spread of any plant pest from any relevant material, request an officer for Revenue and Customs to exercise the power in article 14(1) for the purpose of enabling the inspector to enforce any provision of this Order.

(2) A request under this article—

- (a) may identify the relevant material in any way; and
- (b) shall be made—
 - (i) in writing; or
 - (ii) orally and confirmed in writing.

(3) Where an inspector issues a notice or takes any other action under this Order in respect of relevant material detained by an officer for Revenue and Customs under article 14(1) the inspector shall advise that officer in writing of that notice or action.

Power of an officer for Revenue and Customs

14.—(1) An officer for Revenue and Customs may, where requested by an inspector in accordance with article 13(1), detain for not more than two working days any relevant material or any container, package or cargo of any kind which has been or may have been in contact with that material and which is referred to in that request insofar as the material, container, package or cargo is under customs supervision pursuant to Article 37 of the Customs Code and has not been assigned a customs approved treatment or use within the meaning of Article 4(15) of that Code.

(2) The Commissioners for Her Majesty's Revenue and Customs may direct that any relevant material detained under paragraph (1) shall be dealt with during the period of its detention in such manner as they may specify.

(3) The importer of any relevant material detained under paragraph (1) shall be responsible for the costs of storage which arise during the period of its detention.

General provisions relating to certificates

15.—(1) A phytosanitary certificate or phytosanitary certificate for re export shall be completed by an authorised officer in accordance with the relevant requirements of this article and—

- (a) until 31st December 2009, shall—
 - (i) where it is issued by a contracting party to the IPPC, be in the form set out in Part A or B, respectively, of either Schedule 10 or Schedule 11; and
 - (ii) in any other case, be in the form set out in Part A or B, respectively, of Schedule 10; and
- (b) on or after 1st January 2010, shall be in the form set out in Part A or B, respectively, of Schedule 11.

(2) A phytosanitary certificate or phytosanitary certificate for re export shall—

- (a) be issued by the responsible official body or the national plant protection organisation of the country of export or re export in accordance with the provisions of Article V(1) of the IPPC;
- (b) be issued in one of the official languages of the European Community;
- (c) where it is issued in a language other than English, incorporate or be accompanied by a translation into the English language which, if the translation is a document separate from the certificate, shall be completed and signed by an authorised officer;
- (d) be addressed to the “Plant Protection Organisations of the Member States of the European Community”; and
- (e) be completed in typescript or block capitals.

(3) A phytosanitary certificate or phytosanitary certificate for re export issued in respect of any relevant material of a description specified in column 2 of Part A or C of Schedule 4 in which one or more alternative requirement is specified in column 3 of Part A or C, respectively, opposite the reference to that relevant material, shall specify under the heading “Additional declaration” the requirement that has been complied with by reference to the relevant position in Annex IV, Part A Section I or Part B, respectively, of Directive 2000/29/EC.

(4) A phytosanitary certificate or a phytosanitary certificate for re export shall be based on an inspection carried out not more than 14 days before the date of dispatch of the relevant material to which the certificate relates.

(5) A phytosanitary certificate or phytosanitary certificate for re export shall be completed not more than 14 days before the date of dispatch of the consignment of relevant material which it is to accompany.

Requirements to be met by relevant material prior to inspection at its place or country of destination

16.—(1) This article applies to relevant material referred to in sub paragraph (a) or (b) of article 6(2) which—

- (a) is the subject of an agreement described in article 12(5) or (6); or

- (b) whether or not it is subject to an agreement referred to in sub paragraph (a), is destined for an approved place of inspection,

before it has been discharged by an inspector pursuant to article 10(1).

(2) Save where the Scottish Ministers have authorised otherwise, relevant material to which this article applies shall not be moved within Scotland or, where applicable, from Scotland to any other place within the European Community, unless its packaging and the vehicles in which it is transported are sealed in such a way that there is no risk of it causing infestation, infection or contamination or of any change in the identity of the material.

(3) The importer of relevant material to which this article applies, other than relevant material whose destination is elsewhere in the European Community, must give to the Scottish Ministers notice of the following particulars five working days before it is landed—

- (a) the name, address and location of the approved place of inspection or other area of plant health control for which the relevant material is destined;
- (b) the scheduled date and time of arrival of the relevant material at the place referred to in paragraph (a);
- (c) if available, the individual serial number of any plant health movement document required by article 18;
- (d) if available, the date and place at which that plant health movement document was drawn up;
- (e) the name, address and registration number of the importer; and
- (f) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export required to accompany the relevant material,

and must notify the Scottish Ministers immediately in writing of any changes to such particulars.

(4) The address to which notice shall be given under paragraph (3) shall be such address as the Scottish Ministers shall specify from time to time which may include an address for electronic communications.

Approved places of inspection

17.—(1) In accordance with the provisions of this article, the Scottish Ministers may approve a place of destination of relevant material referred to in sub paragraph (a) or (b) of article 6(2) as an approved place of inspection in relation to that material.

(2) An application for a place of destination of relevant material as an approved place of inspection may be made to the Scottish Ministers by an importer or other person responsible for that place in such form and containing such information as the Scottish Ministers may specify.

(3) An approval may be granted subject to conditions, including conditions relating to the storage of relevant material, and may be withdrawn at any time if the Scottish Ministers no longer consider that the place to which the approval relates is suitable for the purposes for which it was given.

(4) For the purposes of this article the Scottish Ministers may only approve a place of destination of relevant material that is subject to an agreement described in article 12(6) if the agreement so provides.

(5) The Scottish Ministers may only approve a place of destination of relevant material as an approved place of inspection where that place has been approved by the Commissioners for Her Majesty's Revenue and Customs for use as a temporary storage facility as referred to in Article 185(1) of Commission Regulation 2454/93/EC(25) laying down provisions for the implementation of the Customs Code.

Requirement for plant health movement document

18. Relevant material which is subject to an agreement in article 12(5) or (6) and which has not been discharged by an inspector pursuant to article 10(1) shall not be moved within Scotland or, where applicable, from Scotland to any other place within the European Community unless it is accompanied by a plant health movement document.

PART 3

INTERNAL COMMUNITY CONTROLS ON MOVEMENT

Prohibitions on landing plant pests and relevant material

19.—(1) Subject to paragraph (2), the landing in Scotland of plant pests or relevant material of the following descriptions which are introduced into Scotland from another part of the European Community, whether as country of origin or country of transit, is prohibited—

- (a) any plant pest of a description specified in Schedule 1;
- (b) any relevant material of a description specified in column 2 of Schedule 2 carrying or infected with a plant pest of a description specified in column 3 of that Schedule opposite the reference to that relevant material;
- (c) any plant pest which, although not specified in Schedule 1 or in column 3 of Schedule 2, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain;
- (d) any relevant material of a description specified in column 2 of Schedule 3 which originates in a third country specified in column 3 opposite the reference to that relevant material;
- (e) subject to article 22, any relevant material not prohibited under sub paragraph (d) which is of a description specified in column 2 of Part A of Schedule 4, unless the requirements specified in column 3 of that Part opposite the reference to that relevant material have been complied with.
- (f) subject to article 22, any relevant material not prohibited under sub paragraph (d) which is of a description specified in column 2 of Part B of Schedule 4, unless the requirements specified in column 3 of that Part opposite the reference to that relevant material have been complied with; and
- (g) subject to article 22 and without prejudice to any requirements specified in column 3 of Part A of Schedule 4 relating to the relevant material, any relevant material which is of a description specified in column 2 of Part C of Schedule 4, unless the requirements specified in column 3 of that Part opposite the reference to that relevant material have been complied with.

(2) Paragraph (1) shall not apply to relevant material prohibited from landing in Scotland by article 5(1)(e) or (f).

Prevention of the spread of plant pests

20.—(1) No person shall knowingly keep, store, sell, plant, move or otherwise dispose of or knowingly cause or permit to be kept, stored, sold, planted, moved or otherwise disposed of—

- (a) any plant pest of a description specified in Schedule 1;
- (b) any relevant material of a description specified in column 2 of Schedule 2 carrying or infected with a plant pest of a description specified in column 3 of that Schedule opposite the reference to that relevant material;

- (c) any plant pest which, although not specified in Schedule 1 or in column 3 of Schedule 2, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain;
- (d) any relevant material landed in contravention of article 5(1)(d), (e) or (f) or article 19(1)(d),(e), (f) or (g);
- (e) subject to article 22, any relevant material of a description specified in column 2 of Part B of Schedule 4 which originates in Great Britain, unless the requirements specified in column 3 of that Part opposite the reference to that relevant material have been complied with;
- (f) subject to article 22 and without prejudice to any requirements specified in column 3 of Part B of Schedule 4 relating to the relevant material, any relevant material of a description specified in column 2 of Part C of Schedule 4 which originates in Great Britain, unless the requirements specified in column 3 of that Part opposite the reference to that relevant material have been complied with; or
- (g) any relevant material introduced into Scotland from England or Wales which, if it had been introduced from a third country or from another part of the European Community, would have contravened article 5(1)(d), (e) or (f) or article 19(1)(d), (e), (f) or (g).

(2) Nothing in paragraph (1) shall prohibit the keeping, storing, moving or otherwise disposing of any plant pest or relevant material referred to in that paragraph in compliance with any requirement imposed by an inspector under Part 6 in respect of that plant pest or relevant material.

Requirements for plant passports

21.—(1) Subject to paragraph (7) and article 22, the landing in or movement within Scotland by any person of any relevant material of a description specified in Part A of Schedule 6 comprising EC transit goods or material originating in Scotland or elsewhere in the European Community is prohibited, unless that relevant material is accompanied by a plant passport and, if originating in Scotland, has been the subject of a satisfactory inspection at the place of production.

(2) Subject to paragraph (7) and articles 22 and 23, the landing in or movement within Scotland by any person of any relevant material of a description specified in Part B of Schedule 6 comprising EC transit goods or material originating in Scotland or elsewhere in the European Community is prohibited, unless that relevant material is accompanied by a plant passport which is valid for Scotland as a protected zone and, if originating in Scotland, has been the subject of a satisfactory inspection at the place of production.

(3) No person shall move within Scotland any relevant material, which if comprised of EC transit goods or material consigned to Scotland from another part of the European Community would be subject to paragraph (1), after the phytosanitary certificate accompanying it has been officially stamped in accordance with article 12(7)(a) unless it is accompanied by a plant passport.

(4) Subject to article 23, no person shall move within Scotland any relevant material, which if comprised of EC transit goods or material consigned to Scotland from another part of the European Community would be subject to paragraph (2), after the phytosanitary certificate accompanying it has been officially stamped in accordance with article 12(7)(a) unless it is accompanied by a plant passport which is valid for Scotland as a protected zone.

(5) Subject to article 22, no person shall consign from Scotland to another part of the European Community any relevant material of a description specified in Part A of Schedule 7 unless that relevant material is accompanied by a plant passport.

(6) Subject to article 22, no person shall consign from Scotland to a protected zone in another part of the European Community any relevant material of a description specified in Part B of Schedule 7 unless that relevant material is accompanied by a plant passport which is valid for that protected zone.

(7) The prohibitions imposed on landing by paragraphs (1) and (2) shall not apply to relevant material in respect of which the Scottish Ministers have agreed, pursuant to an agreement described in article 12(6), to carry out a plant health check.

Exceptions from certain prohibitions and requirements

22.—(1) The prohibitions on landing in article 19(1)(e), (f) and (g) and on movement in article 20(1)(e) and (f) and the requirements in article 21(1), (2), (5) and (6) for certain relevant material to be accompanied by a plant passport shall not apply to small quantities of any relevant material, not showing any signs of the presence of any plant pest, which—

- (a) is not intended for use in the course of a trade or business; and
- (b) is intended for household use.

(2) The prohibitions on movement in article 21(1) and (2) shall not apply to movement of material, which originates in Great Britain, made locally by small producers or processors whose entire production and sale of such material is intended for final usage by persons on the local market who are not professionally involved in plant production.

Validity of plant passports for Scotland

23.—(1) Where a person moves relevant material of a description specified in Part B of Schedule 6 through Scotland to a destination outside Scotland, that person shall not be required to produce a plant passport which is valid for Scotland as a protected zone, if paragraph (2) or (3) applies.

(2) A plant passport shall not be required in respect of relevant material described in paragraph (1) if that material originates in Great Britain.

(3) A plant passport shall not be required in respect of relevant material described in paragraph (1)—

- (a) which during transit through Scotland is accompanied by a document of a type normally used for trade purposes which certifies that the material originates outside Scotland and is in transit to a final destination outside Scotland; and
- (b) whose packaging and any vehicle used in connection with its transit through Scotland is—
 - (i) free from soil and plant debris;
 - (ii) free from any relevant plant pest in relation to which Scotland is a protected zone;
 - (iii) of such a nature or construction as to ensure that, if any relevant plant pest is present in the relevant material, there is no risk of its spreading from the packaging or the vehicle as the case may be; and
 - (iv) sealed immediately after packaging or where appropriate after loading, and remains sealed during transit through Scotland.

General provisions relating to plant passports

24.—(1) Any alteration or erasure in a plant passport shall automatically invalidate that plant passport unless the alteration or erasure is certified by the authorised officer or the plant trader authorised under article 29 to issue the plant passport placing the hand written initials of the authorised officer or the plant trader next to the alteration or erasure.

(2) A plant passport relating to any relevant material shall be treated as accompanying that relevant material only if the plant passport is affixed to—

- (a) the relevant material,
- (b) the packaging of that material, or

(c) the vehicle transporting that material,
by an authorised officer, the plant trader authorised to issue it or an inspector.

(3) A plant passport, insofar as it comprises an official label, shall be affixed in such a way that it cannot be re used.

(4) A person may only issue a replacement plant passport—

(a) to replace a plant passport issued in respect of a consignment—

(i) that has been divided up;

(ii) that has been combined, or part of which has been combined, with another consignment; or

(iii) whose plant health status has been changed; and

(b) if that person is satisfied that the relevant material to which the replacement plant passport will relate—

(i) can be identified; and

(ii) is free from any risk of infestation by a plant pest specified in either Schedule 1 or 2.

PART 4

REGISTRATION OF PLANT TRADERS AND AUTHORITY TO ISSUE PLANT PASSPORTS

Register of plant traders

25.—(1) The Scottish Ministers shall maintain a register listing the following particulars with respect to each plant trader who meets the requirements of this Part:

(a) the name of the plant trader;

(b) the name of the person responsible for making the application where that person is not the plant trader;

(c) the trading name of the plant trader where that name is different from that of the plant trader;

(d) details of those activities to which this Order applies which the plant trader undertakes or intends to undertake;

(e) the address of the premises at which the plant trader undertakes or intends to undertake the activities referred to in sub paragraph (d); and

(f) a registration number unique to the plant trader.

(2) The register maintained under paragraph (1) shall be open to inspection by the European Commission.

Obligation to register

26.—(1) Subject to paragraph (2), no plant trader shall engage in any activity to which this Order applies unless that plant trader is registered in respect of the activity and the premises at which it takes place.

(2) The requirement in paragraph (1) for a plant trader to be registered shall not apply to a producer whose entire production and sale of relevant material is intended for final use by persons on the local market who are not involved in plant production in the course of a trade or business.

(3) Entries on the register kept under article 15(1) of the Plant Health (Great Britain) Order 1993⁽²⁶⁾ on the day before the date of the coming into force of this Order shall, subject to the provisions of this Part, remain in effect for the purposes of this Order as if entered on the register maintained under article 25(1).

Registration requirements

27.—(1) An application for registration shall be made in writing to the Scottish Ministers and shall be in such form and contain such information as the Scottish Ministers may from time to time reasonably require to enable them to register the plant trader in respect of the activity and premises in relation to which the application is made.

(2) If, after a plant trader has applied to the Scottish Ministers to be registered under paragraph (1) but before registration has taken place, there is any change in the plant trader's circumstances as recorded in the application, the plant trader must notify the Scottish Ministers immediately in writing of any such change.

(3) Every registered plant trader must notify the Scottish Ministers immediately in writing of any change in the particulars listed in the register with respect to that plant trader.

(4) Subject to paragraph (5), the Scottish Ministers shall register a plant trader who meets the requirements of this article in respect of the activity and premises in relation to which the plant trader has applied to be registered and shall notify the plant trader when registration has taken place.

(5) The Scottish Ministers shall only register a plant trader in respect of an activity or premises if they are satisfied that the plant trader is able and willing to comply with the conditions specified in article 28(1).

Conditions for maintaining registration as a plant trader

28.—(1) Registered plant traders must in relation to the activities and premises to which their registration relates comply with the following conditions:

- (a) they must keep an accurate up to date plan of the premises;
- (b) they must keep a record of relevant material purchased by them or brought onto the premises for storage, planting or production on those premises, and of relevant material under production on or dispatched from those premises;
- (c) they must keep all documents, created or received by them, relating to the records kept under sub-paragraph (b), for at least one year from the date they created or received them;
- (d) they must designate an individual (whether the registered plant trader or another) who is technically experienced in relation to the activities carried out on the premises and related plant health matters affecting the premises who shall be available to liaise with the Scottish Ministers in relation to matters arising under this Order;
- (e) they must examine their premises and relevant material at such times and in a manner specified in guidelines issued from time to time by the Scottish Ministers;
- (f) they must make a declaration at such time and in such form as the Scottish Ministers may from time to time require that they are able and willing to comply with the conditions specified in sub paragraphs (a) to (e); and
- (g) they must comply with any other conditions which may be specified by the Scottish Ministers which the Scottish Ministers consider necessary to enable them to assess the presence of or spread of any plant pest on the premises by reason of the condition of those premises.

(26) 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, 1121 and 2245, S.S.I. 1999/22 and 129, 2001/249, 2002/164, 2003/224 and 204/440..

(2) Where the Scottish Ministers are satisfied that a registered plant trader has failed to comply with any of the conditions specified in paragraph (1) they may suspend the plant trader's registration until they are satisfied that the plant trader is able and willing to comply with those conditions.

Authority to issue plant passports

29.—(1) Where registered plant traders wish to issue plant passports in relation to any relevant material to be moved from their premises they shall apply to the Scottish Ministers for the authority to do so.

(2) An application under paragraph (1) must be in writing, must give such notice as the Scottish Ministers may reasonably specify to allow them to undertake any necessary examination of the premises to which the application relates and of any relevant material there and must contain such particulars in relation to the relevant material produced, grown, stored or otherwise present on those premises as the Scottish Ministers may from time to time reasonably require.

(3) The Scottish Ministers shall grant an authority under paragraph (1) only if, having regard to any examination of the premises to which the application relates and of any relevant material there, they are satisfied—

- (a) that the premises and relevant material are free from any relevant organisms; and
- (b) where any requirements are specified under this Order in relation to the relevant material, those requirements have been complied with.

(4) The Scottish Ministers' authority to issue plant passports shall be given in writing and may be granted subject to such conditions as they consider appropriate to ensure that the relevant requirements of this Order are complied with, including a condition limiting any territories in which such plant passports shall be valid.

(5) The Scottish Ministers may suspend the operation of an authority to issue plant passports entirely or in relation to specified premises or relevant material if, having regard to any examination of any premises of the registered plant trader and any relevant material there, they are not satisfied that—

- (a) the premises or the relevant material are free from any relevant organisms; or
- (b) where any requirements are specified under this Order in relation to the relevant material, those requirements have been complied with.

(6) The Scottish Ministers may suspend the operation of or vary to the extent they consider necessary an authority to issue plant passports if they are satisfied that the registered plant trader has—

- (a) failed to comply with any of the conditions specified in article 28(1);
- (b) failed to notify the Scottish Ministers in accordance with article 27(3) of any change in the particulars listed in the register with respect to that plant trader;
- (c) failed to comply with a requirement in a notice served on the plant trader under article 32; or
- (d) failed to comply with any conditions in the authority issued by the Scottish Ministers under paragraph (4).

(7) For the purposes of this article “relevant organism” means—

- (a) any plant pest specified in Schedule 1; or
- (b) in relation to relevant material of a description specified in Schedule 2, any plant pest of a description specified in that Schedule opposite the reference to that relevant material.

PART 5

SWISS TRADE AND SWISS PLANT PASSPORTS

Swiss trade and Swiss plant passports

30.—(1) Where relevant material listed in Part A of Schedule 8 has been consigned directly from Switzerland to Scotland, any requirements in article 7 for that relevant material to be accompanied by a phytosanitary certificate shall be deemed to be satisfied by its being accompanied by a Swiss plant passport.

(2) Any requirements in article 7 for relevant material to be accompanied by a phytosanitary certificate shall not apply to relevant material that has been introduced into Scotland from Switzerland where that material is listed in Part B but not in Part A of Schedule 8.

(3) The requirements in articles 6 and 10 shall not apply to relevant material which is—

(a) accompanied by a Swiss plant passport pursuant to paragraph (1); or

(b) of a description referred to in paragraph (2).

(4) Where any relevant material listed in Part A of Schedule 8 is introduced into Scotland from Switzerland via another part of the European Community any requirements in Part 3 for that relevant material to be accompanied by a plant passport shall be deemed to be satisfied by its being accompanied by a Swiss plant passport.

PART 6

MEASURES TO CONTROL THE LANDING OF RELEVANT MATERIAL AND PREVENT THE SPREAD OF PLANT PESTS

Examination, sampling and marking

31.—(1) Subject to article 38, inspectors shall have a right on producing their authority, if so requested, at all reasonable times to enter any premises for the purpose of enforcing the provisions of this Order and in particular—

(a) checking compliance with any provision of this Order; or

(b) carrying out an examination of a plant trader's premises or of relevant material or documents or records on such premises for any purpose in connection with the granting or suspending of any authority to issue a plant passport under article 29.

(2) An inspector entering premises by virtue of paragraph (1) or of a warrant granted under article 38 may—

(a) examine, photograph or mark any part of the premises or any object on the premises;

(b) take samples of or from any plant pest or relevant material or from any container or package, or any material which has been or may have been in contact with such pest or relevant material; and

(c) inspect or make copies of any documents or records (in whatever form they may be held) relating to the production of or trade in any relevant material.

(3) An inspector may, for the purpose of exercising any of the powers under paragraph (2), open, or authorise any person to open on the inspector's behalf any container or package or require the owner or any person in charge of any container or package to open it, in such manner as the inspector may specify.

(4) Inspectors may, so far as is necessary to enable them to exercise any of the powers conferred by paragraph (2), prohibit entirely or to such extent as they may specify the movement, treatment or destruction of any plant pest or relevant material, container or package, or any material which may have been in contact with such pest or relevant material.

(5) Where any such record or document as is mentioned in paragraph (2)(c) is kept by means of a computer, an inspector may—

- (a) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the record or document; and
- (b) require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford the inspector such assistance as the inspector may reasonably require.

(6) An inspector may destroy or otherwise dispose of any sample taken under paragraph (2)(b) where that sample is no longer required in connection with this Order.

(7) An inspector entering premises by virtue of paragraph (1), or of a warrant granted under article 38, may be accompanied by such other persons, including representatives of the European Commission, and such equipment and vehicles as the inspector considers necessary, and any such other persons may, whether or not accompanied by the inspector and on production, if so requested, of their authority given in that behalf by the Scottish Ministers, remain on and from time to time re enter the premises with any equipment or vehicles that person considers necessary, and carry out such work in such manner as the inspector may direct.

Actions which may be required by an inspector

32.—(1) If an inspector has reasonable grounds for suspecting that any plant pest or relevant material is likely to be or has been landed in Scotland in contravention of this Order the inspector may serve a notice in writing in accordance with paragraphs (2) and (3).

(2) An inspector may serve a notice under paragraph (1) on—

- (a) a plant trader or other person who is in possession of or in any way entitled to the custody or control of the plant pest or relevant material which has been landed; or
- (b) any person in charge of the premises from which any plant pest or relevant material is likely to be or has been landed.

(3) A notice under paragraph (1) may—

- (a) prohibit the landing of any plant pest or relevant material;
- (b) specify the manner in which the landing is to be carried out and the precautions which are to be taken during and subsequent to the landing;
- (c) require any plant pest or relevant material to be treated, re exported, destroyed or otherwise disposed of in such manner and within such reasonable time as may be specified in the notice;
- (d) prohibit the removal of any plant pest or relevant material from premises specified in the notice for such period as may be so specified and, where appropriate, impose such other prohibitions as appear to the inspector to be necessary to prevent the introduction or spread of any plant pest;
- (e) require the removal of any plant pest or relevant material from premises specified in the notice in such manner and within such reasonable time as may be so specified;
- (f) require the taking of such other steps, specified in the notice, as appear to the inspector to be necessary to prevent the introduction or spread of any plant pest in such a manner and within such reasonable time as may be specified in the notice.

(4) If an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises any plant pest referred to in paragraph (5) or any relevant material referred to in paragraph (6), the inspector may by notice in writing served on the occupier or other person in charge of the premises or such plant pest or relevant material—

- (a) require any plant pest or relevant material to be treated, destroyed or otherwise disposed of in such manner and within such reasonable time as may be specified in the notice;
- (b) prohibit the removal of any plant pest or relevant material from premises specified in the notice for such period as may be so specified and, where appropriate, impose such other prohibitions as appear to the inspector to be necessary to prevent the spread of any plant pest;
- (c) require the removal of any plant pest or relevant material to premises specified in the notice in such manner and within such reasonable time as may be so specified; or
- (d) require the taking of such other steps, specified in the notice, as appear to the inspector to be necessary to prevent the spread of any plant pest in such manner and within such reasonable time as may be specified in the notice.

(5) The plant pests referred to in paragraph (4) are—

- (a) a plant pest of a description specified in Schedule 1 or in column 3 of Schedule 2;
- (b) any plant pest which is not normally present in Great Britain and in respect of which there is, in the opinion of the inspector, an imminent danger of its spreading or being spread in Great Britain; and
- (c) any plant pest which is not normally present in another part of the European Community and in respect of which there is, in the opinion of the inspector, an imminent danger of its spreading or being spread to another part of the European Community.

(6) The relevant material referred to in paragraph (4) is—

- (a) any relevant material which is carrying or is infected with, or which may be carrying or infected with, a plant pest referred to in paragraph (5); and
- (b) any relevant material the landing of which in Scotland is prohibited under article 5 or 19 or the movement of which in Scotland is prohibited under article 20.

(7) If an inspector has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of or ensuring the eradication of any plant pest from the premises mentioned in paragraph (4), the inspector may by notice in writing served on the occupier or other person in charge of any other premises impose such prohibitions and require the taking of such reasonable steps, specified in the notice, as appear to the inspector to be necessary for that purpose, such steps to be taken in such manner and in such reasonable time as may be specified in the notice.

Actions which may be taken by an inspector

33.—(1) Without prejudice to article 32, and subject to article 38, if an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises any plant pest referred to in paragraph (2) or any relevant material referred to in paragraph (3), the inspector may, after giving the occupier or other person in charge of the premises reasonable notice of the inspector's intention and upon production if so required of the inspector's authority, enter such premises and either on those premises or elsewhere take steps—

- (a) to destroy any plant pest referred to in paragraph (2) and to prevent the spread of any such plant pest; or
- (b) to destroy or treat any relevant material referred to in paragraph (3).

(2) The plant pests referred to in paragraph (1) are—

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

- (b) any plant pest not normally present in Great Britain and in respect of which there is, in the opinion of the inspector, an imminent danger of its spreading or being spread in Great Britain.
- (3) The relevant material referred to in paragraph (1) is—
 - (a) any relevant material which is carrying or is infected with, or which may be carrying or may be infected with, a plant pest referred to in paragraph (2); and
 - (b) any relevant material not carrying or infected with a plant pest referred to in paragraph (2), but in respect of which there is, in the opinion of the inspector, an imminent danger of such a plant pest spreading or being spread.
- (4) An inspector on entering any premises under paragraph (1) may be accompanied by such persons, including representatives of the European Commission, and such equipment and vehicles as the inspector considers necessary for the purposes of facilitating the exercise of the inspector's powers under that paragraph.
- (5) Any person who accompanies an inspector on to premises in accordance with paragraph (4) may, whether or not accompanied by an inspector, upon production if so required of the authority given in that behalf by the Scottish Ministers, remain on the premises and from time to time re enter the premises with any equipment or vehicles that person considers necessary, and carry out such work in such manner as the inspector may direct.

Miscellaneous provisions as to notices

34.—(1) A notice served under paragraph (1) or (2) of article 32 may specify one or more requirements or alternative requirements.

(2) Any treatment, re export, destruction or disposal required by a notice served under article 32 shall be carried out or arranged to be carried out by the person on whom the notice is served to the satisfaction of an inspector from or at a place designated by an inspector and, except with the written authority of an inspector, no plant pest or relevant material to which the notice relates shall be moved otherwise than directly from or to such a place.

(3) An inspector may amend or withdraw a notice served by an inspector under this Order by a further notice served on the person on whom the original notice was served or on the person who is the occupier or in charge of the premises in respect of which the further notice is intended to be served.

(4) A notice under paragraph (3) may be subject to such conditions, if any, as the inspector considers expedient to impose for the purpose of preventing the introduction or spread of any plant pest or re infection or re infestation by the plant pest to which the original notice relates.

(5) Any notice served under this Part may define by reference to a map or plan or otherwise the extent of the premises referred to in the notice.

(6) Where a notice is served under paragraph (2) or (4) of article 32 (“an article 32 notice”), an inspector may, either in that notice or in a separate notice served on the owner or on such other person as appears to the inspector to be in charge of the premises to which the article 32 notice relates, require the person on whom the notice is served to inform—

- (a) the Scottish Ministers of any change in the occupation of the premises to which the article 32 notice relates together with the date of such change and the name of the new occupier; and
- (b) the new occupier of the premises of the contents of the article 32 notice.

Service of notices

35.—(1) Subject to paragraphs (2), (3) and (4), a notice under this Order may be served on any person—

- (a) by personal delivery;
- (b) by leaving it for that person at that person's last known place of abode or business; or
- (c) by sending it through the post addressed to that person at that person's last known place of abode or business.

(2) Where a notice under this Order must be served on the occupier or other person in charge of premises, and the last known place of abode or business of that person cannot be ascertained after reasonable inquiry, the notice shall be taken to be served seven days after it has been addressed to "the occupier" and affixed conspicuously to an object on the premises to which the notice relates.

(3) Subject to paragraph (4), a notice served under this Order may—

- (a) in the case of a body corporate (other than a limited liability partnership), be served on the secretary or clerk of that body at the address of the registered or principal office of that body;
- (b) in the case of a partnership (other than a limited liability partnership), be served on a partner or person having the control or management of the partnership business at the address of the principal office of the partnership; or
- (c) in the case of a limited liability partnership, be served on a member of the partnership at the address of the registered or principal office of that partnership,

and for the purposes of this paragraph the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be its principal office within the United Kingdom.

(4) In the case of a registered plant trader a notice under this Order shall be served on the trader either by personal delivery, or by leaving it for the trader, or sending it through the post addressed to the trader, at the address of the premises listed in the register or, if more than one such address is registered, any address specified by the trader as the principal address.

Information as to compliance with notices

36. A person on whom a notice has been served, or is deemed to have been served, under this Order must, if so required by an inspector, immediately inform the inspector whether the requirements of the notice have been complied with and, if they have been complied with, of the details of the steps taken in order to comply with those requirements.

Failure to comply with a notice

37.—(1) Subject to article 38, if any person fails to comply with a notice served, or deemed to be served, on that person under this Order then, without prejudice to any proceedings consequent upon such failure, an inspector may, on production if so required of the inspector's authority, at all reasonable times for the purposes of this Order enter any premises in which any plant pest or relevant material to which the notice relates may be present and take or cause to be taken such steps as appear to the inspector to be necessary either to ensure compliance with the requirements of the notice or to remedy the consequences of the failure to carry them out.

(2) An inspector entering any premises under paragraph (1) may be accompanied by such other persons, including representatives of the European Commission, and such equipment and vehicles as the inspector considers necessary for the purposes of facilitating the exercise of the powers under that paragraph, and such other persons whether or not accompanied by the inspector and on production, if so requested, of their authority given in that behalf by the Scottish Ministers, may remain on the

premises and from time to time re enter the premises with any equipment or vehicles that person considers necessary, and carry out such work and in such manner as the inspector may direct.

(3) Where an inspector takes any steps pursuant to paragraph (1), the Scottish Ministers may recover all reasonable costs of taking such steps as a debt from the person on whom the notice was served.

Power to enter premises used wholly or mainly as a dwelling

38.—(1) The power to enter premises conferred by articles 31, 33 and 37 may be exercised by an inspector to enter premises used wholly or mainly as a dwelling only if the inspector has been granted a warrant by a sheriff or a justice of the peace.

(2) A sheriff or a justice of the peace may grant a warrant under paragraph (1) only if satisfied—

- (a) that admission to any premises has been refused, or is likely to be refused, or that the case is one of urgency, or that a request for admission might prejudice the purpose of the entry; and
- (b) that there are reasonable grounds for entry under article 31, 33 or 37 as the case may be.

(3) A warrant granted under paragraph (1) shall remain in force—

- (a) for one month; or
- (b) until the purpose for which the warrant is granted has been fulfilled,

whichever period is the shorter.

PART 7

PLANTING OF, AND CONTROL OF PLANT PESTS ON, CERTAIN SOLANACEOUS SPECIES

Miscellaneous provisions for certain solanaceous species

39.—(1) No person shall knowingly plant or knowingly cause or permit to be planted any potatoes or any potatoes which have been produced from those potatoes, which have been grown in any country outside the European Community other than Switzerland.

(2) Without prejudice to paragraph (1), no person shall knowingly plant or knowingly cause or permit to be planted any potatoes unless—

- (a) they derive in direct line from potato material which has been obtained under an officially approved programme in the European Community or Switzerland;
- (b) they have been found to be free from *Ralstonia solanacearum* (Smith) Yabuuchi et al. in official tests using the methods set out in Annex II to Directive 98/57/EC; and
- (c) they have been found to be free from Potato Ring Rot in official tests using the methods set out in Annex I to Directive 93/85/EC.

(3) No person shall knowingly plant or knowingly cause or permit to be planted potatoes other than—

- (a) potatoes which may be marketed in Scotland under the Seed Potatoes Regulations; or
- (b) one year's direct progeny of the potatoes referred to in sub paragraph (a), when that direct progeny has been grown by that person.

(4) Without prejudice to article 28(1)(b), persons involved in the planting of potatoes must retain and make available to an inspector the following documentation—

- (a) an official label together with an invoice or delivery note; or
 - (b) where potatoes marketed or marketable under the Seed Potatoes Regulations or their direct progeny were produced by a certificate holder, the certificate of classification.
- (5) Paragraphs (3) and (4) shall not apply in the case of–
- (a) areas intended for planting of less than 0.1 hectare; or
 - (b) areas intended for the production of early potatoes.
- (6) Without prejudice to any additional or stricter measures which an inspector considers necessary under article 32 or 33, the special measures in respect of Potato Wart Disease, Potato Cyst Nematode, Potato Ring Rot and *Ralstonia solanacearum* (Smith) Yabuuchi et al. set out in Schedules 14, 15, 16 and Part A of 17, respectively, shall apply to control the spread of those plant pests.
- (7) Without prejudice to any additional or stricter measures which an inspector considers necessary under article 32 or 33 and the special measures in respect of *Ralstonia solanacearum* (Smith) Yabuuchi et al. in Part A of Schedule 17, upon the confirmation of the presence of that pest in a sample taken pursuant to Articles 2 and 5 of Directive 98/57/EC, an inspector may demarcate a zone as described in Article 5(1)(a)(iv) or 5(1)(c)(iii) of that Directive in accordance with the requirements in Part B of Schedule 17, to prevent the spread of that plant pest.

PART 8

LICENCES

Licences to carry out activities prohibited by this Order

40. Notwithstanding any of the provisions of this Order, any plant pest or relevant material may be landed, kept, stored, sold, planted, moved or otherwise disposed of in Scotland and any other thing prohibited by this Order may be done under the authority of a licence, whether general or specific, granted by the Scottish Ministers in exercise of any derogation permitted by Directive 2000/29/EC.

Licences for trial or scientific purposes and for work on varietal selections

41.—(1) On receipt of an application for a licence containing the information set out in Article 1(2) of Directive 95/44/EC of 26th July 1995(27) and on being satisfied that the general conditions set out in Annex I to that Directive are fulfilled, the Scottish Ministers shall by licence authorise the landing, movement and keeping of any plant pest or relevant material for activities for trial or scientific purposes or for work on varietal selections where such landing, movement or keeping would otherwise be prohibited by this Order.

- (2) A licence granted under paragraph (1) shall be subject to–
- (a) the conditions laid down in Article 2(2) of Directive 95/44/EC to the extent that they are relevant to any plant pest or relevant material that is the subject of the activities to which the licence relates;
 - (b) such conditions specifying quarantine measures under paragraph 2(a) of Annex I to Directive 95/44/EC as the Scottish Ministers may determine; and
 - (c) such conditions specifying further quarantine measures under paragraph 2(b) of Annex I to Directive 95/44/EC as the Scottish Ministers may determine.

(27) O.J. No. L 184, 3.8.95, p.34.

(3) Where it is established to their satisfaction that the licensee has not fulfilled any condition under sub paragraph (b) or (c) of paragraph (2) imposed on a licence, the Scottish Ministers shall revoke the licence.

(4) At the conclusion of any activities to which a licence granted under paragraph (1) relates the licensee must—

- (a) subject to paragraph (5), destroy or sterilise any plant pest or relevant material that was the subject of the activities and any other relevant material which has come into contact with or which may have been contaminated by any such plant pest or relevant material; and
- (b) sterilise, or clean in such other manner as may be specified by the Scottish Ministers, the premises and facilities at which the activities were undertaken.

(5) The Scottish Ministers may authorise the licensee to refrain from destroying any relevant material under paragraph (4)(a) if they are satisfied that it has been subjected to appropriate quarantine measures and that it has been found by testing in such manner as may be specified by the Scottish Ministers to be free from the plant pests listed in this Order and from other plant pests considered by them to pose a risk.

(6) For the purpose of paragraph (2), references to the responsible official body in Article 2(2) of, and Annex I to, Directive 95/44/EC shall be taken to refer to the Scottish Ministers.

(7) In this article—

- (a) “appropriate quarantine measures” means—
 - (i) in relation to relevant material for which quarantine measures are specified in Part A of Annex III to Directive 95/44/EC, those measures; and
 - (ii) in relation to other relevant material, such quarantine measures as may be specified by the Scottish Ministers; and
- (b) “Directive 95/44/EC” means Commission Directive 95/44/EC(28) establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V of Council Directive 77/93/EEC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections.

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;

(28) O.J. No. L 184, 3.8.95, p.34.

- (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(29).

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;

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

- (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.

PART 10 OFFENCES

Offences

- 45.**—(1) A person shall be guilty of an offence if without reasonable excuse, proof of which shall lie with that person—
- (a) subject to paragraph (2), that person contravenes or fails to comply with—
 - (i) article 6(1);
 - (ii) article 9;
 - (iii) article 10(1) or (4);
 - (iv) article 16(2) or (3);
 - (v) article 18;
 - (vi) article 20(1);
 - (vii) article 21;
 - (viii) article 24(3) or (4);
 - (ix) article 26(1);
 - (x) article 27(2) or (3);
 - (xi) article 28(1);
 - (xii) article 36;
 - (xiii) article 39(1), (2) or (3);
 - (xiv) article 41(4);
 - (xv) article 42(1); and
 - (xvi) article 43(1);

- (b) that person contravenes or fails to comply with a provision or condition of a notice served, or deemed to be served, on that person or of a licence granted or of any direction given, under this Order; or
- (c) that person intentionally obstructs an inspector or any person authorised by an inspector in exercise of the powers given by or under this Order.

(2) Paragraph (1)(a) shall not apply where an article of any description is landed in Scotland in contravention of a prohibition in this Order(30), other than the prohibition in article 6(1).

(3) A person shall be guilty of an offence if, for the purpose of procuring the issue of a plant passport or a replacement plant passport, a phytosanitary certificate, a phytosanitary certificate for re export or a licence under this Order, that person—

- (a) knowingly or recklessly makes a statement which is false in a material particular, or
- (b) intentionally fails to disclose any material information.

(4) A person shall be guilty of an offence if that person—

- (a) dishonestly issues a plant passport; or
- (b) dishonestly alters a plant passport, or re uses a plant passport.

(5) Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager or secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that individual, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(6) For the purposes of paragraph (5), “director” in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(7) Where an offence under this Order is committed by a partnership and is proved to have been committed with the consent or connivance of, or attributable to any neglect on the part of, a partner, that partner, as well as the partnership, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(8) Where the commission by any person of an offence under this Order is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.

(9) Section 136(3) of the Criminal Procedure (Scotland) Act 1995(31) (date of commencement of proceedings) shall apply for the purposes of this article as it applies for the purposes of that section.

Penalties

46. A person guilty of an offence under this Order shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(30) Sections 49 and 50 of the Customs and Excise Management Act 1979 (c. 2) provide respectively for forfeiture of goods improperly imported and penalties for improper importation of goods.

(31) 1995 c. 46.

PART 11

THE CUSTOMS ACT AND REVOCATION

The Customs Act

47. The provisions of this Order shall apply without prejudice to the Customs Act.

Revocation

48. The Orders specified in Schedule 19 are revoked, so far as they extend to Scotland.

St Andrew's House, Edinburgh
30th November 2005

RHONA BRANKIN
Authorised to sign by the Scottish Ministers