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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 613**

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

**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(1) 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).

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(1) 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..

### **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.

(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.