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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 132**

**The Plant Health (Export Certification) (Scotland) Order 2018**

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Plant Health (Export Certification) (Scotland) Order 2018 and comes into force on 1st June 2018.

(2) This Order extends to Scotland only.

**Interpretation**

2. In this Order—

“certificate” means a phytosanitary certificate or a phytosanitary certificate for re-export;

“consignment” means a quantity of goods being covered by a single document required for customs formalities or for other formalities, such as a single phytosanitary certificate or single alternative document or mark and may be composed of one or more lots;

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

“IPC document” means an intra-EU phytosanitary communication document, being an official document which—

- (a) is issued in relation to a consignment which is intended to be exported from another member State to a third country; and
- (b) communicates to the national plant protection organisations of other member States that certain phytosanitary procedures have been applied;

“phytosanitary certificate” means a certificate which complies with the relevant requirements of articles 7 and 15 of the principal plant health Order<sup>(1)</sup>;

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

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

“principal plant health Order” means the Plant Health (Scotland) Order 2005<sup>(2)</sup>;

“soil” includes any medium used for the growing of plant material and “soil sample” is construed accordingly; and

“third country” means a country or territory other than one within the European Union.

**Phytosanitary certificates for export of plants etc. to third countries**

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

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(1) S.S.I. 2005/613; articles 7 and 15 were amended by S.I. 2011/1043, article 6(1); article 15 was also amended by S.S.I. 2016/83.  
(2) S.S.I. 2005/613, as amended by S.S.I. 2006/474, S.S.I. 2007/415, S.S.I. 2007/498, S.S.I. 2008/300, S.S.I. 2008/350, S.S.I. 2009/153, S.S.I. 2010/206, S.S.I. 2010/342, S.I. 2011/1043, S.S.I. 2012/266, S.S.I. 2012/326, S.S.I. 2013/5, S.S.I. 2013/187, S.S.I. 2013/366, S.S.I. 2014/140, S.S.I. 2015/10, S.S.I. 2016/83 and S.S.I. 2018/112.

- (a) Article V of the International Plant Protection Convention 1951<sup>(3)</sup>; or
- (b) any arrangement corresponding to that Article,

may be met by the issue of such a certificate by an inspector to accompany that plant, plant product or other object, subject to an application and payment of a fee as mentioned in article 4.

(2) In connection with the issue, or proposed issue, of a certificate under paragraph (1), an inspector may—

- (a) carry out any of the services listed in column 2 of the table in the schedule which the inspector considers are necessary to meet the phytosanitary requirements of the third country; and
- (b) where appropriate, certify that a consignment has been inspected on the basis of a laboratory examination alone.

(3) An inspector may enter any premises, other than premises used wholly or mainly as a private dwelling, for the purpose of any examination or inquiry under this Order.

#### **Fees for export certification services**

4.—(1) A person who applies to the Scottish Ministers for a certificate or IPC document in relation to a plant, plant product or other object, must pay to the Scottish Ministers any fee prescribed in column 3 of the table in the schedule which corresponds to a service described in column 2 of the table which has been performed by an inspector in connection with that application.

(2) Paragraph (3) applies where—

- (a) a service listed in column 2 of the table in the schedule includes the issue of a certificate or IPC document; and
- (b) the application for the issue of the certificate or IPC document is refused by an inspector by reason of the results of any related inspection, examination or test.

(3) A fee is still payable for the service mentioned in paragraph (2)(a) by the person mentioned in paragraph (1).

#### **Offences and penalties**

5.—(1) A person commits an offence if, for the purposes of procuring the issue of a certificate or IPC document under this Order, that person—

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

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

#### **Offences by bodies corporate etc.**

6.—(1) Where—

- (a) an offence under article 5(1) has been committed by a body corporate or a Scottish partnership or other unincorporated association; and

(3) Adopted in 1951 (Treaty Series No. 16 (1954), Cmd 9077) and revised in 1979 (Miscellaneous Series No. 1 (1981), Cmnd 8108) and in 1997. The revised 1997 text entered into force in 2005 (1004/597/EC, Council Decision of 19th July 2004 approving the accession of the European Community to the International Plant Protection Convention, as revised and approved by Resolution 12/97 of the 29th Session of the FAO Conference in November 1997; OJ L 267 of 14/08/2004, p.39).

(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—

- (i) a relevant individual; or
- (ii) an individual purporting to act in the capacity of a relevant individual,

the individual (as well as the body corporate, Scottish partnership or unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
  - (i) a director, manager, secretary or other similar officer of the body;
  - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner;
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

### **Revocations**

7. The following Orders are revoked—

- (a) the Plant Health (Export Certification) (Scotland) Order 2004(4).
- (b) the Plant Health (Export Certification) (Scotland) Amendment Order 2007(5).

St Andrew’s House,  
Edinburgh  
25th April 2018

*FERGUS EWING*  
A member of the Scottish Government

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(4) S.S.I. 2004/248, as amended by S.S.I. 2007/137.

(5) S.S.I. 2007/137.