

2005 No. 3480

PLANT HEALTH, ENGLAND

**The Plant Health (Export Certification) (England) (Amendment)
Order 2005**

<i>Made</i> - - - -	<i>13th December 2005</i>
<i>Laid before Parliament</i>	<i>20th December 2005</i>
<i>Coming into force</i> - -	<i>14th January 2006</i>

The Secretary of State for Environment, Food and Rural Affairs makes the following Order in exercise of the powers conferred by sections 3(1) and 4A of the Plant Health Act 1967(a), now vested in her(b):

The Treasury consents to the making of this Order:

Title and commencement

1. This Order may be cited as the Plant Health (Export Certification) (England) (Amendment) Order 2005 and shall come into force on 14th January 2006.

Amendment of the Plant Health (Export Certification) (England) Order 2004

2.—(1) The Plant Health (Export Certification) (England) Order 2004(c) shall be amended in accordance with the following paragraphs of this article.

(2) In article 2(1)—

(a) for the definition of “authorised officer” there shall be substituted—

““authorised officer” means—

(a) a person authorised by the Secretary of State to be an inspector for the purposes of this Order or the Plant Health (England) Order 2005(d); or

(b) any other officer of the Secretary of State;”;

(b) in the definition of “certificate” for “reforwarding phytosanitary certificate” there shall be substituted “phytosanitary certificate for re-export”;

(a) 1967 c. 8; section 3(1) was amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 8; section 4A was inserted by the Agriculture Act 1986 (c. 49), section 3.

(b) Under the Transfer of Functions (Wales) (No.1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State; and under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1, the functions transferred to the Secretary of State by the 1978 Order were transferred to the National Assembly for Wales. Under article 2(1) and (2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), the remaining functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were transferred to the Secretary of State.

(c) S.I. 2004/1404.

(d) S.I. 2005/2530.

(c) after the definition of “phytosanitary certificate” there shall be inserted—

““phytosanitary certificate for re-export” means a certificate duly completed in the form set out in Schedule 2 or in such other similar form as may be agreed between the Secretary of State and the third country whose phytosanitary requirements the certificate is intended to meet;

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

(d) the definition of “reforwarding phytosanitary certificate” shall be deleted.

(3) After article 3 there shall be inserted—

“Pre-export services

3A.—(1) A person who intends exporting plants, plant products or other objects to one or more third countries may apply to the Secretary of State for a pre-export service under this Order.

(2) Where the Secretary of State has received an application made under paragraph (1), an authorised officer shall—

- (a) carry out any pre-export service which he considers necessary to determine whether the import requirements of the country or countries of export specified in the application are met; and
- (b) provide the applicant with the results of any inspection or examination carried out.”.

(4) For article 4 there shall be substituted—

“Charges for the issue of certificates and the provision of services

4.—(1) Subject to paragraph (2), there shall be paid to the Secretary of State—

- (a) in respect of the services referred to in the first column of Schedule 3, the fee set out opposite in the second column of that Schedule; and
- (b) in respect of a pre-export service, the fee set out in the second column of Schedule 4.

(2) A small exporter shall pay to the Secretary of State—

- (a) in respect of the services referred to in the first column of Schedule 3 either—
 - (i) the fee set out opposite in the third column of Schedule 3; or
 - (ii) if the sum total of fees in respect of any services under this Order for which he has become liable during the financial year in which his application is made exceeds £250, the fee set out in the second column of Schedule 3; and
- (b) in respect of a pre-export service either—
 - (i) the fee set out in the third column of Schedule 4; or
 - (ii) if the sum total of fees in respect of any services under this Order for which he has become liable during the financial year in which his application is made exceeds £250, the fee set out in the second column of Schedule 4.

(3) In this article, “small exporter” means a person who, in the financial year in which his application is made—

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

(a) 1994 c.23.

- (b) makes no taxable supply of plants, plant products, seeds, soil or agricultural machinery for the purposes of the Value Added Tax Act 1994; or
- (c) did not export in the previous financial year goods accompanied by a certificate the total value of which was £5,000 or more.”.

(5) For Schedule 2 there shall be substituted—

“

SCHEDULE 2

Article 2

FORM OF A PHYTOSANITARY CERTIFICATE FOR RE-EXPORT

1 Name and address of exporter		2 PHYTOSANITARY CERTIFICATE FOR RE-EXPORT [No. EC//]	
3 Declared name and address of consignee		4 Plant Protection Organisation of	
		to Plant Protection Organisation(s) of	
		5 Place of origin	
6 Declared means of conveyance			
7 Declared point of entry			
8 Distinguishing marks: number and description; name of produce; botanical name of plants		9 Quantity declared	
<p>10 This is to certify —that the plants or plant products described above were imported into (country of re-export) from (country of origin) covered by Phytosanitary Certificate No.</p> <p>* <input type="checkbox"/> original <input type="checkbox"/> certified true copy of which is attached to this Certificate, that they are</p> <p>* <input type="checkbox"/> packed <input type="checkbox"/> repacked in <input type="checkbox"/> original <input type="checkbox"/> new containers, —that based on the</p> <p>* <input type="checkbox"/> original Phytosanitary Certificate and <input type="checkbox"/> additional inspection, they are considered to conform with the current Phytosanitary regulations of the importing country, and —that during storage in (country of re-export) the consignment has not been subjected to the risk of infestation or infection.</p> <p>* Insert tick in the appropriate boxes.</p>			
11 Additional declaration			
DISINFESTATION AND/OR DISINFECTION TREATMENT		Place of issue:	
12 Treatment		Date:	
13 Chemical (active ingredient)	14 Duration and temperature	Name and signature of authorised officer: Stamp of Organisation:	
15 Concentration	16 Date		
17 Additional information”.			

(6) After Schedule 3 there shall be added—

“

SCHEDULE 4

Article 4

Service	Fee	Fee (small exporter)
Pre-export service	£20.25 for each quarter hour or part thereof with a minimum fee of £40.50.	£10.13 for each quarter hour or part thereof with a minimum fee of £20.25.”.

7th December 2005

Bach
Parliamentary Under Secretary of State
Department for Environment,
Food and Rural Affairs

We consent

13th December 2005

Joan Ryan
Gillian Merron
Two of the Lords Commissioners
of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 14th January 2006, amends the Plant Health (Export Certification) (England) Order 2004 (S.I. 2004/1404). The changes to that Order are as follows—

The definition of “authorised officer” is amended and a definition of “pre-export service” is added (article 2(2)).

Reforwarding phytosanitary certificates are renamed “phytosanitary certificates for re-export” (article 2(2) and (5)).

A new Article 3A is inserted which provides for the making of applications for pre-export services and the carrying out of such services by authorised officers (article 2(3)).

Article 4 is amended and a new Schedule 4 is added to provide for the payment of fees for pre-export services and specifying the amount of those fees (article 2(4) and (6)).

A regulatory impact assessment has been prepared and placed in the Library of each House of Parliament. Copies can be obtained from Plant Health Division, Defra, Foss House, Kings Pool, Peasholme Green, York YO1 7PX.

STATUTORY INSTRUMENTS

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