
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 613

The Plant Health (Scotland) Order 2005

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⁽¹⁾ 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.

(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.

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

(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](#)(2) 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.