

2004 No. 1404

PLANT HEALTH, ENGLAND

**The Plant Health (Export Certification) (England)
Order 2004**

<i>Made</i> - - - - -	<i>17th May 2004</i>
<i>Laid before Parliament</i>	<i>21st May 2004</i>
<i>Coming into force</i> - -	<i>22nd June 2004</i>

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

Title, commencement, extent and application

- 1.—(1) This Order may be cited as The Plant Health (Export Certification) (England) Order 2004 and shall come into force on 22nd June 2004.
- (2) This Order extends to England and Wales but applies only in relation to England.

Interpretation

- 2.—(1) In this Order—
- “authorised officer” means a person authorised by the Secretary of State to be an inspector for the purposes of the Plant Health (Great Britain) Order 1993(b) or any other officer of the Secretary of State;
- “certificate”, in relation to an application made pursuant to this Order, means either a phytosanitary certificate or a reforwarding phytosanitary certificate, as the case may be;

(a) 1967 c. 8; sections 2(1) and 3(1) and (2) were amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 8; section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c. 48). 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.

(b) S.I. 1993/1320, to which there are amendments but none relevant to this Order.

“phytosanitary certificate” means a certificate duly completed in the form set out in Schedule 1 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; “reforwarding phytosanitary certificate” 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; and “third country” has the same meaning in this Order as in the Plant Health (Great Britain) Order 1993.

(2) This Order shall not apply in respect of any certificate or service provided by or on behalf of the Forestry Commissioners.

Certificates for export of plants etc. to third countries

3.—(1) A person who intends exporting plants, plant products or other objects to a third country may apply to the Secretary of State for a certificate 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 of the services listed in the first column of Schedule 3 which he considers necessary to allow him to issue the certificate; and
- (b) if he is satisfied that a certificate should be issued, issue the certificate on behalf of the Secretary of State.

(3) An authorised officer may authorise any person in writing to inspect grain where such inspection is required to enable that officer to issue the certificate.

Charges for the issue of certificates

4.—(1) Subject to paragraph (2), an applicant for a certificate shall pay to the Secretary of State, 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.

(2) A small exporter shall pay to the Secretary of State in respect of the services referred to in the first column of Schedule 3 either:—

- (a) the fee set out opposite in the third column of Schedule 3; or
- (b) if the sum total of fees in respect of any such services 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.

(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
- (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.

Offences

5.—(1) A person shall be guilty of an offence if, for the purposes of procuring the issue of a certificate under this Order, he—

- (a) makes a statement which he knows to be false in a material particular;
- (b) recklessly makes a statement which is false in a material particular; or
- (c) intentionally fails to disclose any material information.

(a) 1994 c. 23.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

11th May 2004

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

We consent,

17th May 2004

Joan Ryan
John Heppell
Two of the Lords Commissioners of Her Majesty's Treasury

FORM OF A PHYTOSANITARY CERTIFICATE

1. Name and address of exporter		2. PHYTOSANITARY CERTIFICATE [No. EC/ / /]	
3. Declared name and address of consignee		4. Plant Protection Organisation of	
		to Plant Protection Organisation(s) of	
6. Declared means of conveyance		5. Place of origin	
7. Declared point of entry			
8. Distinguishing marks: number and description; name of produce; botanical name of plants		9. Quantity declared	
10. This is to certify that the plants or plant products described above — have been inspected according to appropriate procedures, and — are considered to be free from quarantine pests, and practically free from other injurious pests; and that they — are considered to conform with the current phytosanitary regulations of the importing country.			
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			

FORM OF A REFORWARDING PHYTOSANITARY CERTIFICATE

1. Name and address of exporter		2. REFORWARDING PHYTOSANITARY CERTIFICATE [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</p> <ul style="list-style-type: none"> — that the plants or plant products described above were imported into (country of re-export) from (country of origin) covered by Phytosanitary Certificate No. * <input type="checkbox"/> original <input type="checkbox"/> certified true copy of which is attached to this Certificate, that they are * <input type="checkbox"/> packed <input type="checkbox"/> repacked in <input type="checkbox"/> original <input type="checkbox"/> new containers, — that based on the * <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. * Insert tick in the appropriate boxes. 			
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			

SCHEDULE 3

Article 4

<i>Services in respect of applications for certificates</i>	<i>Fee</i>	<i>Fee (small exporter)</i>
(1) Services for consignments other than grain:		
Inspection and, where necessary, laboratory examination	£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
Laboratory examination only	£20.00	£10.00
Issue of a certificate where no inspection or laboratory examination is required	£5.00	£2.50
(2) Services for consignments of grain:		
Monitoring of inspections carried out by a person authorised under article 3(3) and, where necessary, laboratory examination carried out by an authorised officer	£45.00	£22.50

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which extends to England and Wales but applies only in relation to England, comes into force on 22nd June 2004. The Order makes provision for the issue of phytosanitary certificates and reforwarding phytosanitary certificates for export of plants, plant products or other objects to third countries to satisfy the requirements of those countries' phytosanitary regulations.

Article 3 provides for the making of applications for and the issue of phytosanitary certificates and reforwarding phytosanitary certificates.

Article 4 and Schedule 3 prescribe the fees payable by applicants for such certificates.

Article 5 provides that it shall be an offence knowingly or recklessly to make a false statement or to intentionally fail to disclose material information for the purpose of obtaining the issue of a certificate.

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.

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**The Plant Health (Export Certification) (England)
Order 2004**

£3.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E0751 6/2004 140751 19585

ISBN 0-11-049333-8



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