
WELSH STATUTORY INSTRUMENTS

2006 No. 1643

The Plant Health (Wales) Order 2006

PART 10

OFFENCES

Offences

45.—(1) A person is guilty of an offence if without reasonable excuse, proof of which lies with him or her—

- (a) subject to paragraph (2), he or she contravenes or fails to comply with—
 - (i) article 6(1);
 - (ii) article 9;
 - (iii) article 10(1) or (4);
 - (iv) article 16(2) or (3);
 - (v) article 18;
 - (vi) article 20(1);
 - (vii) article 21;
 - (viii) article 24(3) or (4);
 - (ix) article 26(1);
 - (x) article 27(2) or (3);
 - (xi) article 28(1);
 - (xii) article 36;
 - (xiii) article 39(1);
 - (xiv) article 41(4);
 - (xv) article 42(1); and
 - (xvi) article 43(1);
- (b) he or she contravenes or fails to comply with a provision or condition of a notice served, or deemed to be served, on him or her or of a licence granted or of any direction given, under this Order; or
- (c) he or she intentionally obstructs an inspector or any person authorised by an inspector in exercise of his or her powers given by or under this Order.

(2) Paragraph (1)(a) does not apply where an article of any description is landed in Wales in contravention of a prohibition in this Order⁽¹⁾, other than the prohibition in article 6(1).

(1) Sections 49 and 50 of the Customs and Excise Management Act 1979 (c. 2) provide respectively for forfeiture of goods improperly imported and penalties for improper importation of goods.

(3) A person is guilty of an offence if, for the purpose of procuring the issue of a plant passport or a replacement plant passport, a phytosanitary certificate, a phytosanitary certificate for re-export or a licence under this Order, he or she—

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

(4) A person is guilty of an offence if he or she—

- (a) dishonestly issues a plant passport; or
- (b) dishonestly alters a plant passport, or re-uses a plant passport.

(5) Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager or secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

he or she, as well as the body corporate, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(6) For the purposes of paragraph (5), “director” in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(7) Where an offence under this Order is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or attributable to any neglect on the part of, a partner, he or she, as well as the partnership, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(8) Where the commission by any person of an offence under this Order is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.

Penalties

46. A person guilty of an offence under this Order is liable on summary conviction to a fine not exceeding level 5 on the standard scale.