

# Statutory Instrument 1993 No. 1320

## The Plant Health (Great Britain) Order 1993

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### STATUTORY INSTRUMENTS

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**1993No. 1320**

### PLANT HEALTH

### The Plant Health (Great Britain) Order 1993

*Made* 20th May 1993

*Laid before Parliament* 21st May 1993

*Coming into force* 1st June 1993

The Minister of Agriculture, Fisheries and Food in relation to England, the Secretary of State for Scotland in relation to Scotland and the Secretary of State for Wales in relation to Wales, in exercise of the powers conferred on them by sections 2, 3 and 4(1) of the Plant Health Act 1967<sup>[1]</sup>, as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972<sup>[2]</sup>, and now vested in them<sup>[3]</sup> and of all other powers enabling them in that behalf, hereby make the following Order:

#### **Title, extent and commencement**

**1.** This Order may be cited as the Plant Health (Great Britain) Order 1993, shall apply to Great Britain and shall come into force on 1st June 1993.

#### **Interpretation**

**2.**—(1) In this Order, unless the context otherwise requires—

"appropriate Minister" means in the application of this Order to England the Minister of Agriculture, Fisheries and Food, in its application to Scotland the Secretary of State for Scotland and in its application to Wales the Secretary of State for Wales;

"approved immune variety" means a variety of potatoes approved for the time being by the appropriate Minister as being immune from wart disease of potatoes;

"approved resistant variety" means a variety of potatoes approved for the time being by the appropriate Minister as being resistant to one or more pathotypes of potato cyst nematode;

"authorised officer" means—

(a) in relation to a certificate, translation or copy issued in Great Britain, an inspector or other officer of the appropriate Minister, and

(b) in relation to a certificate, translation or copy issued in a place other than Great Britain, a representative of the Plant Protection Service of the country in which the certificate, translation or copy was issued;

"authorised person" means a person authorised under article 17;

"Central America" means the geographical area comprising Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama and the islands commonly known as the West Indies;

"Customs Act" means the Customs and Excise Management Act 1979<sup>[4]</sup>;

"Directive 77/93/EEC" means Council Directive of 21st December 1976 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community<sup>[5]</sup>, as amended and supplemented by the instruments listed in Schedule 16;

"early potatoes" means potatoes harvested before they are completely mature, marketed immediately after their harvesting and whose skins can be easily removed without peeling;

"the Euro-Mediterranean area" means the geographical area comprising Europe, Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Libya, Malta, Morocco, Syria, Tunisia and Turkey;

"Europe" includes the Canary Islands and Belarus, Estonia, Latvia, Lithuania, Moldova, the Ukraine and Russia (excluding the Regions of Buryat, Yakut and Tuva, the Altai, Khabarovsk, Drasnoyarsk and Maritime Krai and the Amur, Chita, Irkutsk, Kamchatka, Kemerovo, Kurgan, Magadan, Novosibirsk, Omsk, Sakhalin, Tomsk and Tyumen Oblasts) but does not include Cyprus or Turkey;

"European Community" means the European Economic Community including the Isle of Man and the Channel Islands but excluding the Canary Islands, Ceuta, Melilla and the French Overseas Departments;

"fruit" means fruit in the botanical sense but does not include dried, dehydrated, lacquered or deep frozen fruit;

"genetically modified plant pest" means a plant pest, the genetic complement of which has been modified, and includes—

(a) organisms and material which contain such a plant pest or parts thereof, and

(b) any other modified organisms likely to be injurious to plants, other than *Agrobacterium* species and other organisms which, in the opinion of the appropriate Minister, have been modified to eliminate all pathogenic sequences;

"growing medium" means material, intended to sustain the life of plants, which consists wholly or partly of soil or peat (whether used or unused), parts of plants, bark or other humus, or any other solid substance;

"importer" in relation to any plant pest, plant, plant product or other object includes—

(a) any person who (whether as owner, consignor, consignee, agent, broker or otherwise) is in possession of or in any way entitled to the

custody of the plant pest, plant, plant product or other object which is likely to be or has been landed in Great Britain from a country outside the European Community; and

(b) any person by whose action the plant pest, plant, plant product or other object is likely to be or has been landed in Great Britain from a country outside the European Community;

"inspector" means any person authorised by the appropriate Minister to be an inspector for the purposes of this Order;

"landed" includes imported by post and "land" and "landing" shall be construed accordingly<sup>[6]</sup>;

"North America" means the geographical area comprising Canada, Mexico and the United States of America (except the state of Hawaii);

"nursery" means premises wholly or partly used for the cultivation or keeping of plants for the purpose of transplantation or removal to other premises;

"official" in relation to any testing or any other procedure required by this Order to be carried out in respect of any plant, plant product, soil or growing medium means carried out by or under the supervision of the Plant Protection Service of the country in which the testing or other procedure is carried out and "officially" shall be construed accordingly;

"official register" means the register referred to in article 15;

"official statement" means a statement by an authorised officer and shall be deemed to have been given—

(a) in respect of plants, plant products and other objects imported into Great Britain from outside the European Community by the issue of a phytosanitary certificate; and

(b) in respect of plants, plant products and other objects moved within the European Community by the issue of a plant passport;

"phytosanitary certificate" means a certificate duly completed either in the form set out in Schedule 14 or the equivalent written in a language other than English;

"place of production" means any premises, normally worked as a unit, together with any contiguous uncultivated land;

"plant" means a living plant or living part of a plant, including seed; living parts of plants include—

(a) fruit, in the botanical sense,

(b) vegetables (other than those preserved by deep freezing),

(c) tubers, corms, bulbs or rhizomes,

(d) cut flowers,

(e) branches with foliage,

(f) cut trees retaining foliage, and

(g) plants in tissue culture;

"plant passport" means a label and, where appropriate, an accompanying document containing the relevant information in Schedule 7 which gives evidence that the provisions of this Order relating to plant health standards and special requirements for plants and plant products moving within the European Community have been complied with;

"plant in tissue culture" means a plant growing in a liquid or solid aseptic culture medium in a closed transparent container;

"plant pest" means pests of and harmful organisms liable to infect plants or plant products which belong to the animal or plant kingdoms, or which are viruses, mycoplasmas or other pathogens and includes genetically modified plant pests;

"plant product" means a product of plant origin, which is unprocessed or has undergone simple preparation insofar as it is not a plant;

"potato" means any tuber or true seed or any other plant of *Solanum tuberosum* L. or other tuber-forming species or hybrid of the genus *Solanum* L.;

"potato cyst nematode" means cyst-forming nematodes of the

genus *Globodera* Skarbilovich (Behrens) that infest and multiply on potatoes and includes all strains and pathotypes thereof;

"potato ring rot" means either the disease of potatoes which is caused by the bacterium *Clavibacter michiganensis* (Smith) Davis et al. ssp. *sepedonicus* (Spieckermann and Kotthoff) Davis et al. and is known as potato ring rot or that bacterium as the context may require;

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

"protected zone" means a zone in the European Community:

(a) in which one or more plant pests referred to in Directive 77/93/EEC, which are established in one or more parts of the European Community, are not endemic or established, despite favourable conditions for them to establish there, or

(b) in which there is a danger that certain plant pests will establish themselves, given propitious ecological conditions, for particular crops, despite the fact that these organisms are not endemic or established in the European Community,

and which has been recognised, in accordance with the procedure laid down in Article 16a of Directive 77/93/EEC;

"reforwarding phytosanitary certificate" means a certificate duly completed either in the form set out in Schedule 15 or the equivalent written in a language other than English;

"seed" means seed in the botanical sense other than seed not intended for planting;

"soil" means material wholly or partly derived from the upper layer of the earth's crust which is capable of sustaining plant life and which contains solid organic substances such as parts of plants, humus, peat or bark, but does not include material composed entirely of unused peat;

"South America" means the geographical area comprising Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, French Guyana, Guyana, Paraguay, Peru, Surinam, Uruguay and Venezuela;

"third country" means a country or territory other than one within the European Community;

"wart disease of potatoes" means either the disease of potatoes which is caused by the fungus *Synchytrium endobioticum* (Schilb.) Perc. and is known as wart disease of potatoes or that fungus as the context may require.

(2) Any reference in this Order to a particular plant pest is a reference to that pest in any stage of its existence.

(3) Any reference in this Order to a particular plant includes reference to a hybrid containing genetic material from the family, genus or species to which the plant belongs.

(4) Any reference in this Order to the European Community, or a third country includes reference to a state, province or region within the European Community, or that third country.

(5) Any reference in this Order to a numbered Article or a numbered Schedule is a reference to the article or Schedule so numbered in this Order.

**Prohibition on importing into Great Britain from a third country plants, plant pests etc.**

- 3.—(1) No person shall import into Great Britain from a third country—
- (a) any plant pest of a description specified in Part A of Schedule 1;
  - (b) any plant or plant product of a description specified in the second column

- of Part A of Schedule 2 carrying or infected with a plant pest of a description specified in the first column of that Part opposite the reference to that description of plant or plant product;
- (c) any plant, plant product or other object of a description specified in the first column of Part A of Schedule 3 which originates in a country specified in the second column of that Part opposite the reference to that description of plant or plant product;
- (d) subject to the provisions of paragraph (2) of this article, any plant, plant product or other object which is of a description specified in the first column of section 1 of Part A of Schedule 4 unless the special requirements specified in the second column of that section opposite the reference to that description of plant, plant product or other object have been satisfied;
- (e) subject to the provisions of paragraph (2) of this article, any plant, plant product or other object which is of a description specified in section 1 of Part B of Schedule 5 unless it has been the subject of a satisfactory plant health inspection by an authorised officer in the country of origin or the consignor country and is accompanied by a valid phytosanitary certificate;
- (f) any plant pest which, although not specified in Part A of Schedule 1, Part A of Schedule 2, or section 1 of Part A of Schedule 4, is a plant pest which is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain.

- (2) The requirements of paragraphs (1)(d) and (e) of this article shall not apply to any plants or plant products not showing any signs of any plant pest which are landed in Great Britain contained in the baggage of a passenger or other traveller and which:
- (a) are not intended for use in the course of trade or business, and
  - (b) are intended for household use, and
  - (c) are in one of the following categories, not exceeding the stated quantities—
    - from all third countries,
      - (i) fruit and raw vegetables (other than potatoes)-together 2kg,
      - (ii) cut flowers and any parts of plants together forming a single bouquet-1 bouquet,
      - (iii) seeds (other than seeds of potatoes)-5 retail packets, that is to say packets in which the seed in question is normally sold to the consumer (other than for use in the course of a trade or business) or packets of similar size,
    - and, in addition, from non-European Community countries of the Euro-Mediterranean area,
      - (iv) bulbs, corms, tubers (other than potatoes) and rhizomes-together 2kg,
      - (v) other plants-5 plants.

**Prevention of the spread of plant pests within the European Community**

- 4.—(1) No person shall without the authority of an inspector knowingly sell, plant, move or otherwise dispose of or knowingly cause or permit to be sold, planted, moved or otherwise disposed of—
- (a) any plant pest of a description specified in Part A of Schedule 1;
  - (b) any plant or plant product of a description specified in the second column of Part A of Schedule 2 carrying or infected with a plant pest of a description specified in the first column of that Part opposite the reference to that description of plant or plant product;
  - (c) any plant, plant product or other object of a description specified in the first column of Part A of Schedule 3 which originates in a country specified in the second column of that Part opposite the reference to that description of plant or plant product;
  - (d) subject to the provisions of paragraph (2) of this article, any plant, plant

- product or other object which is of a description specified in the first column of section 2 of Part A of Schedule 4 unless the special requirements specified in the second column of that section opposite the reference to that description of plant, plant product or other object have been satisfied;
- (e) subject to the provisions of paragraph (2) of this article, any plant, plant product or other object which is of a description specified in section 1 of Part A of Schedule 5 and which requires a plant passport unless it has been the subject of a satisfactory plant health inspection at the place of production and is accompanied by a valid plant passport;
- (f) any plant pest which, although not specified in section 2 of Part A of Schedule 4, is a plant pest which is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain;
- (g) any plant, plant product, other object or plant pest imported in contravention of the provisions of Article 3.

(2) The requirements of paragraphs (1)(d) and (e) of this article shall not apply to the movement within Great Britain and into Great Britain from elsewhere in the European Community of any plants or plant products not showing any signs of any plant pest contained in the baggage of a passenger or other traveller and which:

- (a) are not intended for use in the course of trade or business, and
- (b) are intended for household use, and
- (c) have been grown anywhere in the European Community.

(3) No person shall without the authority of an inspector knowingly keep or knowingly cause or permit to be kept any plant pest specified in Schedule 6 (subject to the exception in that Schedule) or any plant pest which is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain.

(4) No person shall without the authority of an inspector engage in any activity which involves genetic modification of a plant pest or engage in any activity which to his knowledge involves genetically modified plant pests.

**Prohibition on introduction into protected zones of plant pests, plants etc.**

5.—(1) No person shall introduce into a protected zone described in the second column of Part B of Schedule 1 any plant pest specified in the first column of that Part opposite the reference to that protected zone.

(2) No person shall introduce into a protected zone described in the third column of Part B of Schedule 2 any plant or plant product of a description specified in the second column of that Part opposite the reference to that zone, where the plant or plant product carries or is infected with a plant pest of a description so specified in the first column of that Part.

(3) No person shall introduce into a protected zone, described in the second column of Part B of Schedule 3 any plant, plant product or other object of a description specified in the first column of that Part in relation to that protected zone.

(4) No person shall introduce into a protected zone described in the third column of Part B of Schedule 4 any plant, plant product or other object of a description specified in the first column of that Part unless the conditions specified in the second column of that Part in relation to that plant, plant product or other object are complied with.

(5) Subject to article 7, no person shall introduce into a protected zone described in Part B of Schedule 2 or 4 any plant, plant product or other object which (a) is

specified opposite the reference to that protected zone in those Parts and (b) appears in Section 2 of Part A or Section 2 of Part B of Schedule 5 unless that plant, plant product or other object has been the subject of a satisfactory plant health inspection at the place of production within the European Community or in the country of origin or consignor country and is accompanied by a plant passport or phytosanitary certificate valid for that protected zone.

**Prevention of the spread of plant pests within protected zones**

6. Subject to the provisions of this Order, no person shall without the authority of an inspector knowingly keep, sell, plant, move or otherwise dispose of, or knowingly cause or permit to be kept, sold, planted, moved or otherwise disposed of-

- (a) in a protected zone described in the second column of Part B of Schedule 1 any plant pest specified in the first column of that Part;
- (b) in a protected zone described in the third column of Part B of Schedule 2 any plant or plant product of a description specified in the second column of that Part in relation to that protected zone, where the plant or plant product carries or is infected with a plant pest of a description specified opposite thereto in the first column of that part;
- (c) in a protected zone described in the second column of Part B of Schedule 3 any plant, plant product or other object of a description specified in the first column of that Part in relation to that protected zone;
- (d) in a protected zone described in the third column of Part B of Schedule 4 any plant, plant product or other object of a description specified in the first column of that Part unless the relevant conditions specified in the second column of that Part have been complied with;
- (e) any plant pest, plant, plant product or other object introduced into a protected zone in contravention of Article 5.

**Movement of plants, plant pests etc. through protected zones**

7.—(1) Plants, plant products and other objects listed in section 2 of Part A of Schedule 5 originating outside the relevant protected zones listed in the third column of Part B of Schedule 4 may move through the relevant protected zones to a final destination outside the zones, without a valid plant passport for those zones, subject to the conditions specified in Part A of Schedule 7.

(2) Where, during an inspection carried out under Article 23 or 25 within the protected zone, any plant, plant product or other object specified in paragraph (1) of this article does not meet the conditions specified in Part A of Schedule 7, either of the additional measures specified in Part B of Schedule 7 may be taken, without prejudice to Article 22 or 23.

**General provisions relating to protected zones**

8.—(1) The appropriate Minister shall carry out surveys in accordance with the provisions of Commission Directive 92/70/EEC of 30th July 1992 laying down detailed rules for surveys to be carried out for purposes of the recognition of protected zones in the Community<sup>[7]</sup> in relation to those zones referred to in Schedule 8 which are in Great Britain.

(2) Any item listed in the first column of Part B of Schedule 4 and numbered 20, 22, 23, 25, 26, 27 or 30 need not comply with the relevant special requirements set out in the second column of Schedule 4 within Great Britain provided that it originated within the United Kingdom.

**Official statements in respect of imported plants etc. from third countries**

9.—(1) Any official statement required to be made in accordance with the second column of section 1 of Part A or the second column of Part B of Schedule 4 in respect of any plant, plant product or other object shall be deemed to have been made by the issue of a phytosanitary certificate to accompany that plant, plant product or other

object in accordance with this Order.

(2) Any requirement for a satisfactory plant health inspection in the country of origin outside the European Community in respect of any plant, plant product or other object specified in Part B of Schedule 5 shall be deemed to have been met by the issue of a phytosanitary certificate to accompany that plant, plant product or other object in accordance with this Order.

### **Official statements in respect of plants etc. moved within the European Community**

**10.**—(1) Any official statement required to be made in accordance with the second column of section 2 of Part A or the second column of Part B of Schedule 4 in respect of any plant, plant product or other object shall be deemed to have been made by the issue of a plant passport to accompany that plant, plant product or other object in accordance with this Order.

(2) Any requirement for a satisfactory plant health inspection at the place of production within the European Community, including the United Kingdom, in respect of any plant, plant product or other object specified in Part A of Schedule 5 shall be deemed to have been met by the issue of a plant passport to accompany that plant, plant product or other object in accordance with this Order.

(3) Notwithstanding the provisions of article 4 but subject to the provisions of paragraph (4) below, plants, plant products and other objects specified in Part A of Schedule 5 may be moved without a plant passport, provided that the movement is made locally by small producers or processors whose entire production and sale of such plants, plant products and other objects is intended for final usage by persons on the local market who are not professionally involved in plant production.

(4) Where, in the opinion of the appropriate Minister, there is reason to fear the spread of plant pests, he may by notice prohibit the movement of plants, plant products or other objects referred to in paragraph (3) above without a plant passport and such notice shall be given in such manner as the Minister may determine.

### **Provisions relating to the issue of phytosanitary certificates and subsequent plant passports**

**11.**—(1) Where, after a phytosanitary certificate has been issued in respect of any plant, plant product or other object specified in the first column of section 1 of Part A of Schedule 4 or Part B of Schedule 5 the plant, plant product or other object has been consigned to, stored, repacked or split up in a third country other than that in which the certificate was issued, that certificate shall be accompanied by a reforwarding phytosanitary certificate issued in that other country.

(2) Where any plant, plant product or other object specified in Part B of Schedule 5, following its export from Great Britain to a third country, is landed in Great Britain it shall be accompanied by a phytosanitary certificate issued in the country from which it was directly consigned to Great Britain.

(3) Where, after a phytosanitary certificate has been issued in respect of any plant, plant product or other object specified in the first column of section 1 of Part A of Schedule 4 or Part B of Schedule 5 the plant, plant product or other object has been imported into Great Britain the certificate shall, subject to a satisfactory inspection of the plant, plant product or other object by an inspector, be replaced by a plant passport in accordance with the requirements of Part A of Schedule 5.

### **General provisions relating to certificates**

**12.**—(1) Where a phytosanitary certificate or reforwarding phytosanitary certificate is issued in a third country in a language other than English it shall



incorporate or be accompanied by a translation into the English language, which translation, if it is a document separate from the certificate, shall be completed and signed by an authorised officer.

(2) Subject to paragraph (3) of this article, where a consignment of plants, plant products or other objects has been consigned between two or more third countries before being consigned to Great Britain, in the place of any certificate required by this Order it may be accompanied by a copy of such certificate issued in the country from which the consignment has been directly consigned to Great Britain and certified by an authorised officer as a true copy of the original or a true copy of a certified copy of the original, as the case may be.

(3) Paragraph (2) of this article shall not apply in the case of a reforwarding phytosanitary certificate issued in the third country from which the consignment was directly consigned to Great Britain, in which case the original reforwarding phytosanitary certificate issued in that country shall accompany the consignment.

(4) A certificate issued by or on behalf of a state, provincial or other regional or local government authority of part of a third country, or by or on behalf of any department, service or other organ of such authority shall not be deemed to be a valid phytosanitary certificate or a valid reforwarding phytosanitary certificate for the purposes of this Order unless such authority is the only one empowered to issue, in relation to such part of the country, phytosanitary certificates or reforwarding phytosanitary certificates to accord with the requirements of this Order.

(5) Except in the case of consignments imported into Great Britain by post from any third country, any phytosanitary certificate or reforwarding phytosanitary certificate shall be delivered to the proper officer at the same time as, and together with, the consignment. In this paragraph the expression "proper officer" has the like meaning as in the Customs Act and the reference to the entry shall be construed as reference to the entry, delivery of which is to be made in accordance with the provisions of that Act. This paragraph shall be without prejudice to the obligation of a forestry trader to deliver the certificate within three days of landing of the consignment, in accordance with article 12(5) of the Plant Health (Forestry) (Great Britain) Order 1993<sup>[8]</sup>.

(6) In the case of a consignment imported into Great Britain by post from any third country any phytosanitary certificate or reforwarding phytosanitary certificate shall be affixed to the outside of the package comprising the consignment or, if the consignment consists of more than one package, such certificate shall be affixed to the outside of one of the packages and copies thereof affixed to the outside of each of the remaining packages.

(7) All phytosanitary certificates or reforwarding phytosanitary certificates produced when plants, plant products or other objects are landed in Great Britain from any third country shall be stamped or otherwise endorsed by an officer of Customs and Excise showing the date on which the consignment is cleared from Customs charge.

### **Period during which inspections are to be made and certificates issued**

**13.—**(1) The last inspection before dispatch carried out in the country of origin or consignor country for the purposes of issuing a phytosanitary certificate or a reforwarding phytosanitary certificate shall be carried out not more than 14 days before the date of the dispatch of the consignment to which the inspection relates.

(2) A phytosanitary certificate or a reforwarding phytosanitary certificate shall not be valid for the purposes of this Order unless it is completed and signed by an authorised officer not more than 14 days before the date of the despatch of the

consignment which it is to accompany and after the carrying out of any inspection referred to in paragraph (1) of this article which relates to that consignment.

### **General provisions relating to plant passports**

**14.**—(1) Any plant passport issued in respect of any plant, plant product or other object specified in the first column of section 2 of Part A and the first column of Part B of Schedule 4 or Part A of Schedule 5 shall consist of a label affixed to that plant, plant product or other object and where appropriate an accompanying document containing the information specified in Part A of Schedule 9 to this Order as necessary.

(2) The accompanying document shall be any document which is normally used for trade purposes, and shall not be required where all the information specified in Part A of Schedule 9 is contained on the label affixed to the plant, plant product or other object.

(3) The appropriate information specified in Part A of Schedule 9 shall be contained on the plant passport in capital letters insofar as it is in manuscript, and shall be in at least one of the official languages of the European Community.

(4) Where the plant passport consists of a label and accompanying document as specified in paragraph (1) of this article, the label shall contain at least the information set out in Part B of Schedule 9 and the accompanying document shall contain the information set out in Part A of Schedule 9 where appropriate.

(5) Additional information not specified in Schedule 9 may also be included on the plant passport, but shall be clearly separated from such information required in Schedule 9.

(6) Any plant passport affixed to any plant, plant product or other object specified in accordance with paragraph (1) of this Article shall be produced, stored and affixed to such plant, plant product or other object by, or under the supervision of, an authorised person or an inspector.

(7) The authorised person or inspector referred to in paragraph (6) of this article, as appropriate, shall ensure that—

(a) any plant, plant product or other object in respect of which a plant passport is required, is issued with such valid plant passport appropriate for the destination within the European Community or the United Kingdom of such plant, plant product or other object. Where relevant, this shall include an indication as specified in Schedule 9 that the plant, plant product or other object meets the appropriate requirements of any protected zone to which the plant, plant product or other object is being moved;

(b) any plant, plant product or other object in respect of which a plant passport is required, but which originates in a third country, is, subject to a satisfactory inspection by an inspector, issued with a valid passport which shall include the name of the country of origin or, where appropriate, the consignor country;

(c) in circumstances where a plant passport is to be replaced by another plant passport for onward movement of any plant, plant product or other object it shall contain an indication, as specified in Schedule 9, that the subsequent plant passport is replacing the former plant passport.

(8) Without prejudice to the requirements of Schedule 10 any business, individual or other organisation whether or not listed in the official register shall, upon receipt of plants, plant products or other objects accompanied by a plant passport, remove the said passport and retain it for at least one year.

### **Official register**

**15.**—(1) The appropriate Minister shall keep an official register containing the following particulars of each business, individual, or other organisation which applies for registration:

- (a) name of the business, individual or other organisation;
- (b) address of the premises to which the application relates;
- (c) a registration number unique to the business, individual, or other organisation.

(2) An application to be listed in the official register may be made by:

- (a) any business, individual or other organisation involved or intending to become involved in propagating, growing, trading, or any other activity associated with plants, plant products or other objects;
- (b) any business, individual or other organisation intending to import any plant, plant product or other object.

(3) An application to be listed in the official register shall be made in writing in such form and containing such particulars as may be required by the appropriate Minister.

(4) The appropriate Minister may refuse to register an applicant if he considers registration inappropriate or the particulars provided insufficient, giving notice in writing of his reasons.

(5) The register shall be open to inspection by the European Commission.

### **Requirements of registration**

**16.**—(1) Each business, individual or other organisation listed in the official register shall fulfil the requirements specified in Schedule 10 to this Order.

(2) Each business, individual or other organisation listed in the official register shall notify the appropriate Minister of any change in the following-

- (a) species of plants or planting material propagated, grown or traded;
- (b) location of the propagating, growing or trading;
- (c) stage of growth at which plants and plant products are marketed;
- (d) the authorised person.

### **Authorised persons**

**17.**—(1) The appropriate Minister shall authorise, subject to any conditions he thinks fit, on application by any business, individual or other organisation listed in the official register, a responsible person to act on behalf of that business, individual or other organisation to produce, store and issue plant passports.

(2) The authority to issue plant passports conferred on a business, individual or other organisation listed in the official register shall be conferred pursuant to a satisfactory inspection by an inspector of the place of production, any plant thereof or any other premises handling any plant, plant product or other object which may require a plant passport, as appropriate, for the purpose of ascertaining for the purposes of this Order the plant health status of such plants, plant products or other objects at the place of production, any part thereof or any other premises.

(3) Where the requirements of this Order are not being fulfilled insofar as they relate to the issue of plant passports, the authority referred to in this article may be revoked in part or in full by the appropriate Minister until such time as a satisfactory

inspection specified in paragraph (2) of this article can be carried out, or until any such breach of any condition associated with the authorisation to issue plant passports has been remedied to the satisfaction of the appropriate Minister.

### **Miscellaneous potato provisions**

**18.**—(1) No person shall plant or knowingly cause or permit to be planted in Great Britain any potatoes which have been grown in any place outside the European Community other than Austria or Switzerland.

(2) Potatoes referred to in paragraph (1) of this article shall include any potatoes which have been derived from such potatoes.

(3) This article shall not apply to any potatoes which have been landed in Great Britain under and in accordance with the conditions of a licence granted under article 30 or which have been derived from potatoes which have been so landed.

(4) No person shall plant, or knowingly cause or permit to be planted, in the seed potatoes protected region of Great Britain as defined under the Seed Potatoes Regulations 1991<sup>[9]</sup>, potatoes, other than—

- (a) potatoes which may be marketed in the said region under those regulations, or
- (b) one year's direct progeny of such potatoes, where that direct progeny has been grown by that person.

Persons involved in the planting of potatoes in the said region shall retain and make available to an authorised officer documentation as specified in paragraph (5).

(5) The documentation required by paragraph (4) of this article shall be in the form of—

- (a) an official label together with either an invoice or delivery note, or
- (b) where potatoes marketed or marketable under the Seed Potatoes Regulations 1991 or their direct progeny were produced by a certificate holder, the certificate of classification.

(6) Paragraph (4) and (5) shall not apply in the case of—

- (a) areas intended for planting of less than 0.1 hectare, or
- (b) areas intended for the production of early potatoes.

(7) Without prejudice to article 22 or 23 the special measures in respect of Potato Wart Disease, Potato Cyst Nematode and Potato Ring Rot set out in Schedules 11, 12 and 13 respectively shall be adopted to control the spread of those plant pests.

(8) Any business, individual or other organisation engaged in the production or importation of tubers of *Solanum tuberosum* L. (excluding seed potatoes), shall notify the appropriate Minister of their name and address and the appropriate Minister shall record this information in a register which shall be held separately from the official register. For the purposes of this paragraph "production" includes the operation of collective warehouses and dispatching centres.

(9) The businesses, individuals or other organisations referred to in paragraph (8) of this article shall ensure that the requirements of item 19.5 of section 2 of Part A of Schedule 4 are met in respect of the movement of such potatoes.

### **Special provisions relating to certain citrus fruit**

**19.**—(1) Any business, individual or other organisation engaged in the production

or importation of fruit of *Citrus* L., "Fortunella" Swingle or "Poncirus" Raf., and their hybrids, shall notify the appropriate Minister of their name and address and the appropriate Minister shall record this information in a register. This register shall be held separately from the official register and shall be open to inspection by the European Commission.

(2) The businesses, individuals or other organisations referred to in paragraph (1) of this article shall ensure that the requirements of item 31.1 of section 2 of Part A of Schedule 4 are met in respect of the movement of such fruit.

(3) The appropriate origin mark shall be deemed to have been included on the packaging by reference to the name of the country whether a European Community country or third country.

(4) For the purposes of this article "packaging" includes any label attached to the packaging or any document normally used for trade purposes and accompanying the consignment.

**Notification of the presence or suspected presence of certain plant pests**

20.—(1) The occupier or other person in charge of premises who knows or suspects that any plant pest to which this article applies is present on the premises or any other person who, in the course of his duties or business, becomes aware of or suspects the presence of such plant pest on any premises, shall immediately give notice to the appropriate Minister or an inspector of the presence or suspected presence of such plant pest.

(2) This article applies to any plant pest—

- (a) which is of a description specified in Schedule 6; or
- (b) which is not normally present in Great Britain and is likely to be injurious to plants in Great Britain;

but is subject to the exceptions set out in Schedule 6.

**Notification of the likely entry into, or presence in, a free zone of plant pests, plants, plant products etc.**

21.—(1) The responsible authority for a free zone who knows or suspects that any of the things to which this article applies is likely to enter, or is present in, such free zone, shall immediately give notice of that fact to the appropriate Minister or an inspector and shall as soon as reasonably practicable after giving such notice confirm it in writing.

(2) This article applies to—

- (a) any plant pest which is of a description specified in Schedule 1 or 2;
- (b) any plant pest which is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain;
- (c) any plant, plant product or other object specified in the first column of Part A of Schedule 3;
- (d) any plant, plant product or other object specified in Part A or Part B of Schedule 5. which have been, or are likely to be, landed in Great Britain, and have not been cleared from Customs charge.

(3) In this article "the responsible authority" and "free zone" have the same meaning as in the Customs Act<sup>[10]</sup>.

**Actions which may be required by an inspector**

22.—(1) If an inspector has reasonable grounds for suspecting that any plant pest,

plant, plant product, or other object is likely to be, or has been, landed in Great Britain in contravention of this Order he may by notice in writing served on the importer or any person in charge of the vessel, aircraft, vehicle, hovercraft or freight container from which any plant pest, plant, plant product, or other object is likely to be or has been landed—

- (a) prohibit the landing;
- (b) specify the manner in which the landing is to be carried out and the precautions which are to be taken during and subsequent to the landing;
- (c) require the plant pest, plant, plant product, or other object to be treated, re-exported, returned to its point of origin, destroyed or otherwise disposed of in such a manner and within such reasonable time as may be specified in the notice;
- (d) prohibit the removal of the plant pest, plant, plant product, or other object from premises specified in the notice;
- (e) require the removal of the plant pest, plant, plant product, or other object to premises specified in the notice in such manner and within such reasonable time as may be so specified;
- (f) require the taking of such other steps, specified in the notice, as appear to the inspector to be necessary to prevent the introduction or spread of any plant pest in such manner and within such reasonable time as may be specified in the notice.

(2) If an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises—

- (a) a plant pest of a description specified in Part A of Schedule 1, Part A of Schedule 2 or where appropriate Part B of Schedule 1 or 2;
- (b) any plant pest which is not normally present in Great Britain and in respect of which there is, in the opinion of the inspector, an imminent danger of its spreading or being spread in Great Britain;
- (c) any plant, plant product, or other object which is carrying or is infected with, or which may be carrying or infected with, a plant pest mentioned in sub-paragraph (a) or (b) of this paragraph;
- (d) any plant pest, plant, plant product or other object kept, planted or moved in contravention of this Order;
- (e) any genetically modified plant pest,

he may by notice in writing served on the occupier or other person in charge of the premises or of any of the things mentioned in sub-paragraphs (a) to (e) of this paragraph—

- (i) require any of the objects so mentioned to be treated, destroyed or otherwise disposed of in such manner and within such reasonable time as may be specified in the notice;
- (ii) prohibit the removal of those objects from premises specified in the notice or impose such other prohibitions as appear to the inspector to be necessary to prevent the spread of any plant pest;
- (iii) require the removal of those objects to premises specified in the notice in such manner and within such reasonable time as may be so specified;
- (iv) require the taking of such other steps, specified in the notice, as appear to the inspector to be necessary to prevent the spread of any plant pest in such manner and within such reasonable time as may be specified in the notice.

(3) If an inspector has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of or ensuring the eradication of any plant pest from the premises mentioned in paragraph (2) of this Article he may by notice in writing served on the occupier or other person in charge of any other premises impose such prohibitions and require the taking of such reasonable steps, specified in the notice, as

appear to him to be necessary for that purpose, such steps to be taken in such manner and in such reasonable time as may be specified in the notice.

### **Actions which may be taken by an inspector**

**23.**—(1) Without prejudice to the provisions of Article 22, and subject to Article 28, if an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises—

- (a) a plant pest of a description specified in Part A of Schedule 1 or 2 or, where appropriate, Part B of Schedule 1 or 2;
- (b) any plant pest not normally present in Great Britain and in respect of which there is in the opinion of an inspector an imminent danger of its spreading or being spread in Great Britain;
- (c) any plant, plant product, or other object, which is carrying or infected with, or which may be carrying or infected with, a plant pest referred to in sub-paragraph (a) or (b) of this Article,

he may after giving the occupier or other person in charge of the premises reasonable notice of his intention and upon production if so required of his authority enter such premises and either on those premises or elsewhere take steps—

- (i) to destroy or treat in some other way any plant, plant product, or other object referred to in sub-paragraph (c) of this article;
- (ii) to destroy any plant pest referred to in sub-paragraphs (a) or (b) of this paragraph and to prevent the spread of any such plant pest.

(2) An inspector on entering any premises under paragraph (1) of this article may take with him such other persons including, but not limited to, representatives of the European Commission, and such equipment and vehicles as are necessary for the purpose of facilitating the exercise of his powers under that paragraph, and such other persons whether or not accompanied by the inspector, upon production if so required of their authority given in that behalf by an inspector, may remain on the land and from time to time re-enter with such equipment and vehicles as aforesaid, and carry out such work for the purposes aforesaid and in such manner as the inspector may direct.

### **Miscellaneous provisions as to notices**

**24.**—(1) A notice served under paragraph (1) or (2) of article 22 may specify one or more requirements or alternative requirements.

(2) A notice served under paragraph (1)(c) or (2)(e)(i) of article 22 requiring any plant pest, plant, plant product, or other object to be treated, re-exported, returned to its point of origin, destroyed or otherwise disposed of may contain provisions deferring the treatment, re-exportation, return, destruction or disposal for such period and subject to such conditions, if any, as may be specified in the notice.

(3) Any treatment, re-exportation, return, destruction or disposal required by a notice served under article 22 shall be carried out by the person on whom the notice is served to the satisfaction of an inspector from or at a place designated by an inspector and, except with the written authority of an inspector or any other authorised officer, none of the plant pests, plants, plant products or other objects shall be moved otherwise than directly from or to such a place.

(4) An inspector may amend or withdraw a notice served by an inspector under this Order, or having effect as if so served, by a further notice served on the person on whom the original notice was served or on the person who is the occupier or in charge of the premises in respect of which the further notice is intended to be served. The amendment or withdrawal of a notice may be subject to such conditions, if any, as the inspector considers expedient to impose for the purpose of preventing the introduction or spread of any plant pest or re-infection with the plant pest to which

the original notice relates.

(5) A notice under this Order may be served on any person either—

- (i) by delivering it to him personally; or
- (ii) by leaving it for him at his last known place of abode or business; or
- (iii) by sending it through the post addressed to him at his last known place of abode or business.

(6) A notice under this Order may—

- (i) in the case of a body corporate, be served on the secretary or clerk of that body at the address of the registered or principal office of that body;
- (ii) in the case of a partnership, be served on a partner or on a person having the control or management of the partnership business or, in Scotland, the firm at the principal office of the partnership.

### **Examination, sampling and marking**

**25.**—(1) Subject to article 28, an inspector may, on production if so required of his authority—

- (a) at all reasonable times for the purpose of ascertaining whether any plant pest of a description specified in Schedule 1 or 2, or a plant pest which is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain, exists on any premises, or for any other purpose of this Order, including checking compliance with it, enter any premises, examine and mark any part of the premises or any objects on the premises and examine, take samples of, photograph or mark any plant pest, plant, plant product or other object and anything which has been or may have been in contact therewith;
- (b) for the purposes of the examinations referred to in sub-paragraph (a) of this paragraph, open, authorise any person to open on his behalf or require the owner or any person in charge of any such container, bundle or other package to open, in such manner as the inspector may specify, the container or other package;
- (c) if and so far as is necessary for the purposes of the examinations referred to in sub-paragraph (a) of this paragraph prohibit entirely or to such extent as he may indicate the movement of any plant pest, plant, plant product, container, bundle, other package or any material or object by means of which in his opinion a plant pest may spread.

(2) An inspector on entering any premises under paragraph (1) of this article may take with him such other persons, including, but not limited to, representatives of the European Commission, and such equipment and vehicles as are necessary for the purpose of facilitating the exercise of his powers under that paragraph, and such other persons whether or not accompanied by the inspector, upon production if so required of their authority given in that behalf by an inspector, may remain on the land and from time to time re-enter with such equipment and vehicles as aforesaid, and carry out such work for the purposes aforesaid and in such manner as the inspector may direct.

### **Information as to compliance with notices**

**26.**—(1) The person on whom a notice has been served under this Order or under an Order revoked by this Order shall, if so required by an inspector, immediately inform the inspector in writing whether the requirements of the notice have been complied with and, if they have been complied with, of the details of the steps taken in order to comply with those requirements.



(2) Any information given under this article shall not be used as evidence against the person giving the information in any prosecution, except in respect of an alleged failure to comply with this Article.

### **Failure to comply with a notice**

**27.**—(1) If any person fails to comply with the requirements of a notice served or having effect as if served under this Order then, without prejudice to any proceedings consequent upon such failure, an inspector may, subject to Article 28, and on production if so required of his authority, at all reasonable times for the purposes of this Order enter any premises in which any plant pest, plant, plant product or other object to which the notice relates may be present and take or cause to be taken such steps as appear to him to be necessary either to ensure compliance with the requirements of the notice or to remedy the consequences of the failure to carry them out and all reasonable costs of taking such steps shall be recoverable by the appropriate Minister as a debt from the person on whom the notice was served.

(2) An inspector entering any premises under paragraph (1) of this Article may take with him such persons, including, but not limited to, representatives of the European Commission, and such equipment and vehicles as are necessary for the purpose of facilitating the exercise of his powers under that paragraph, and such other persons whether or not accompanied by the inspector, upon production if so required of their authority given in that behalf by an inspector, may remain on the land and from time to time re-enter with such equipment and vehicles as aforesaid, and carry out such work for the purposes aforesaid and in such manner as the inspector may direct.

### **Power to enter premises used wholly or mainly as a dwelling**

**28.**—(1) The power to enter premises conferred by articles 23, 25 and 27 of this Order may be exercised by an inspector to enter premises used wholly or mainly as a dwelling only if he has been granted a warrant by—

- (a) in England and Wales, a justice of the peace; or
- (b) in Scotland, a sheriff or a justice of the peace.

(2) A justice of the peace or sheriff may grant a warrant under paragraph (1) of this article only if he is satisfied

- (a) that admission to any premises has been refused, or is likely to be refused, or that the case is one of urgency, or that a request for admission might prejudice the purpose of the entry; and
- (b) that there are reasonable grounds for entry under Article 23, 25 or 27, as the case may be.

(3) A warrant granted under paragraph (1) of this Article shall remain in force—

- (a) for one month; or
  - (b) until the purpose for which the warrant is granted has been fulfilled,
- whichever period is the shorter.

### **Monitoring**

**29.**—(1) An inspector shall examine the documents referred to in item 2 of Schedule 10 to this Order at least once in each calendar year to ensure that each business, individual or other organisation listed in the official register is complying with the requirements specified in that Schedule.

(2) An inspector shall examine, at least once in each calendar year, for the purpose of conferring the authority to issue plant passports, plants, plant products or other

objects specified in Part A of Schedule 5 which are propagated, grown, traded or landed by any business, individual or other organisation listed in the official register. Examinations required under this paragraph shall, where possible, be made on the premises where such propagating, growing, trading or landing is carried out.

### **Licences**

**30.** Notwithstanding the provisions of this Order, any plant pest, plant, plant product or other object may be landed, kept, released, delivered, sold, planted or otherwise disposed of in Great Britain and any other thing prohibited by this Order may be done under the authority of a licence, whether general or specific or subject to conditions, granted by the appropriate Minister in exercise of any derogation whether specific or general permitted by Directive 77/93/EEC.

### **Powers of an officer of Customs and Excise**

**31.—(1)** An inspector may request an officer of Customs and Excise (either orally or in writing) to prohibit the removal of any plant pest, plant, plant product or other object which has not been cleared from Customs charge until it has been examined by an inspector and such request may identify the plant pest, plant, plant product or other object in any way. A request made orally under this paragraph shall be confirmed in writing.

(2) Where a request has been made under paragraph (1) of this article, the officer of Customs and Excise shall, by notice in writing served upon the importer, require that, until the plant pest, plant, plant product or other object has been examined by an inspector, it shall not be removed from the place specified in the notice and he shall at the same time inform an inspector of the contents of the notice.

(3) An inspector shall, without undue delay, examine any plant pest, plant, plant product or other object in respect of which a notice has been served by an officer of Customs and Excise under this article and shall advise that officer in writing of the terms of any notice issued and of any other action taken by the inspector in accordance with this Order.

(4) Where an officer of Customs and Excise has served a notice under paragraph (2) of this article prohibiting removal of any plant pest, plant, plant product or other object, nothing to which the notice relates shall be removed by any person except with the written authority of either the said officer or an inspector.

### **Information to be given**

**32.—(1)** Any person who—

(a) is the owner or occupier or other person in charge of premises in respect of which a notice has been served under this Order;

(b) has or has had or is reasonably suspected by an inspector or any other officer of the appropriate Minister to have or have had in his possession or under his charge—

(i) any plant pest which is of a description specified in Schedule 1 or 2, or

(ii) any plant pest which is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain, or

(iii) any plant, plant product or other object carrying or infected with a plant pest mentioned in paragraph (1)(b)(i) or (ii) of this Article, or

(iv) any plant, plant product or other object which an inspector or any other officer of the Minister knows to have been landed or suspects has been landed in, or exported to a third country from Great Britain, or

(v) any plant, plant product or other object which an inspector or any other officer of the Minister knows or has reasonable cause to believe to have been moved from elsewhere in the European Community into, or within, Great Britain,

(c) as auctioneer, salesman or otherwise, has sold, offered for sale or otherwise disposed of any of the things mentioned in sub-paragraph (b) of this article, shall, if so required by an inspector or any other officer of the appropriate Minister by notice in writing, give to the said inspector or officer within such reasonable time as may be specified in that notice, any information he may possess as to plants grown or products stored at any time on the premises mentioned in sub-paragraph (a) of this article, as to any of the things mentioned in sub-paragraph (b) of this article and as to the persons who have or have had or are likely to have or have had any of the last mentioned things in their possession or under their charge, and shall produce for examination by an inspector or other officer, any licences, declarations, certificates, records, invoices or other documents relating to such things.

(2) Any information given under this article shall not be used as evidence against the person giving the information in any prosecution, except in respect of an alleged failure to comply with this Article.

**Offences**

**33.**—(1) A person shall be guilty of an offence if, without reasonable excuse, proof of which shall lie on him,—

- (a) subject to paragraph (2) below, he contravenes or fails to comply with a provision of this Order;
- (b) he contravenes or fails to comply with a provision or condition of a notice served, or licence granted, under this Order;
- (c) he intentionally obstructs an inspector or any person authorised by an inspector in the exercise of his powers given by or under this Order.

(2) Paragraph (1)(a) above shall not apply where an article of any description is landed in Great Britain in contravention of a prohibition in this Order.

(3) A person shall be guilty of an offence if, for the purpose of procuring the authority to issue a plant passport or a replacement plant passport, or obtaining the issue of a phytosanitary certificate, a reforwarding phytosanitary certificate or a licence 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.

(4) A person shall be guilty of an offence if he dishonestly issues a false plant passport.

(5) A person shall be guilty of an offence if he dishonestly alters a plant passport affixed to a plant, plant product or other object, or re-uses a plant passport.

(6) A person guilty of an offence under paragraph (1), (3), (4) or (5) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**The Customs Act**

**34.** The provisions of this Order shall apply without prejudice to the Customs Act.

**Revocation**

**35.** The instruments listed in Schedule 17 are revoked.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

20th May 1993.

*John Selwyn Gummer*

Minister of Agriculture, Fisheries and Food

*Hector Monro*

Parliamentary Under Secretary of State, Scottish Office

18th May 1993

*David Hunt*

Secretary of State for Wales

19th May 1993

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*Notes:*

[1] 1967 c. 8; sections 2(1), 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). [back](#)

[2] 1972 c. 62. [back](#)

[3] In the case of the Secretary of State for Wales by virtue of S.I. 1978/272. [back](#)

[4] 1979 c. 2. [back](#)

[5] OJ No. L26, 31.1.77, p.20, as corrected by the Corrigenda published in OJ No. L130, 29.5.79, p.32. [back](#)

[6] By the Channel Tunnel (Amendment of Agriculture, Fisheries and Food Import Legislation) Order 1990 (S.I. 1990/2371) this expression includes reference to importation through the tunnel system. [back](#)

[7] O.J. No. L250, 29.8.92, p.37. [back](#)

[8] S.I. 1993/1283. [back](#)

[9] S.I. 1991/2206. [back](#)

[10] 1979 c. 2. [back](#)

Explanatory Note

