

SCOTTISH STATUTORY INSTRUMENTS

2019 No. 421

The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019

PART 4

Official activities to prevent the establishment or spread of plant pests

Introduction

14.—(1) This Part applies if a plant health inspector suspects that a controlled plant pest or prohibited material is present or likely to be present, or becomes aware that a controlled plant pest or prohibited material is present, on any premises in Scotland.

(2) In this Part—

“premises” includes any place, including land, building, vehicle, vessel, aircraft, hovercraft, freight container, railway wagon, trailer or movable building or structure,

“prohibited material” means—

- (a) a plant, plant product or other object which is carrying or is infested by or infected with a controlled plant pest or which may be carrying or may be infested by or infected with a controlled plant pest,
- (b) a plant, plant product or other object the entry of which into [^{F1}Great Britain] is prohibited under [^{F2}a] plant health rule ^{F3} ...,
- (c) a plant, plant product or other object the movement of which ^{F4} ... into, within or from Scotland is prohibited under [^{F5}a] plant health rule ^{F6} ...

Textual Amendments

- F1** Words in reg. 14(2) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **15(1)(a)(i)** (with reg. 32)
- F2** Word in reg. 14(2) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **15(1)(a)(ii)** (with reg. 32)
- F3** Words in reg. 14(2) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **15(1)(a)(iii)** (with reg. 32)
- F4** Words in reg. 14(2) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **15(1)(b)(i)** (with reg. 32)
- F5** Word in reg. 14(2) substituted (31.12.2020) by The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **15(1)(b)(ii)** (with reg. 32)
- F6** Words in reg. 14(2) omitted (31.12.2020) by virtue of The Plant Health (EU Exit) (Scotland) (Amendment etc.) Regulations 2020 (S.S.I. 2020/466), regs. 1(1)(c), **15(1)(b)(iii)** (with reg. 32)

Commencement Information

I1 Reg. 14 in force at 14.12.2019, see reg. 1(1)

Notices in relation to controlled plant pests or prohibited material

15.—(1) A plant health inspector may serve a notice on the appropriate person—

- (a) requiring the appropriate person to treat, destroy or otherwise dispose of the controlled plant pest or prohibited material,
- (b) prohibiting for the period specified in the notice—
 - (i) the removal of any controlled plant pest or prohibited material from the premises, or
 - (ii) any activity which the inspector considers necessary to prohibit in order to prevent the establishment or spread of a controlled plant pest,
- (c) requiring the removal of any controlled plant pest or prohibited material from the premises, or
- (d) requiring the taking of any other steps, as specified in the notice, which the inspector considers necessary to eradicate the controlled plant pest or prevent its establishment or spread.

(2) If a plant health inspector has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of, or ensuring the eradication of, any controlled plant pest from any premises, the inspector may serve a notice on the occupier imposing any prohibition or requiring any reasonable step to be taken for that purpose.

(3) In paragraph (1), “appropriate person” means—

- (a) in the case of premises used by a professional operator, the professional operator,
- (b) in the case of any other premises—
 - (i) the occupier or any other person in charge of the premises,
 - (ii) any other person who is charge of the controlled plant pest or the prohibited material at those premises.

Commencement Information

I2 Reg. 15 in force at 14.12.2019, see [reg. 1\(1\)](#)

Action which may be taken by a plant health inspector

16.—(1) A plant health inspector may, on giving reasonable notice, enter any premises and any adjacent premises for the purpose of taking steps to—

- (a) eradicate, destroy or otherwise deal with any controlled plant pest,
- (b) prevent the spread of any controlled plant pest,
- (c) destroy, treat or otherwise deal with any infected material.

(2) A plant health inspector must, if requested to do so, produce evidence of the inspector's authority before entering any premises for the purposes specified in paragraph (1).

(3) Paragraph (1) does not apply to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier.

(4) A plant health inspector may be accompanied by such other persons ^{F7}... and may bring onto the premises such equipment and vehicles as the inspector considers necessary.

- (5) A person accompanying a plant health inspector under paragraph (4) may—
- (a) remain on the premises and from time to time re-enter the premises without a plant health inspector,
 - (b) bring onto the premises any equipment or vehicles that the person considers necessary,
 - (c) carry out work on the premises in a manner directed by a plant health inspector.
- (6) In paragraph (1)(c), “infected material” means—
- (a) a plant, plant product or other object which is carrying, or is infested by or infected with, a controlled plant pest or may be carrying or infected with a controlled plant pest,
 - (b) a plant, plant product or other object which is not carrying or is not infested by or infected with, a controlled plant pest but the presence or existence of which may, in the opinion of a plant health inspector, cause a controlled plant pest to spread or be spread.

Textual Amendments

- F7** Words in [reg. 16\(4\)](#) omitted (31.12.2020) by virtue of [The Plant Health \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/466\)](#), [regs. 1\(1\)\(c\)](#), **15(2)** (with [reg. 32](#))

Commencement Information

- I3** Reg. 16 in force at 14.12.2019, see [reg. 1\(1\)](#)

Establishment of demarcated areas and measures to be taken in those areas

17.—(1) [^{F8}Paragraph (2)] applies where the Scottish Ministers have officially confirmed the presence of a controlled plant pest which is not known to be present in Scotland or the presence of a controlled plant pest in an area of Scotland where it was not previously present.

- (2) The Scottish Ministers may by notice—
- (a) demarcate an area in relation to the presence of the controlled plant pest for the purpose of eradicating or containing the plant pest,
 - (b) specify the prohibitions or restrictions which are to apply to the demarcated area for that purpose.

[^{F9}(2A) Paragraph (2B) applies where the competent authority in relation to another territory of Great Britain—

- (a) has officially confirmed the presence in its territory of a plant pest to which Article 18 of the Plant Health Regulation applies; and
- (b) has notified the competent authority in relation to Scotland, in accordance with Article 18(4A) of the Plant Health Regulation, that a demarcated area should extend to or be established in Scotland.

(2B) The competent authority may by notice—

- (a) demarcate an area for the purpose of eradicating or containing the plant pest, or for the purpose of preventing the establishment of the pest in Scotland; or
- (b) confirm the proposed demarcation of an area in Scotland previously notified to the competent authority by another competent authority in accordance with Article 18(4A) of the Plant Health Regulation.

(2C) A notice under paragraph (2B) may specify the prohibitions or restrictions which are to apply to the demarcated area for any of the purposes specified in that paragraph.]

- (3) A notice under paragraph (2) [^{F10}or (2B)]—

- (a) must be in writing,
- (b) must describe the extent of the demarcated area,
- (c) must specify the date on which any such prohibitions or restrictions are to commence,
- (d) must be published in a manner appropriate to bring it to the attention of the public,
- (e) may be amended or revoked, in whole or in part, by further notice.

[^{F11}(4) In this regulation, “competent authority” has the meaning given by Article 2(6) of the Plant Health Regulation.]

Textual Amendments

- F8** Words in [reg. 17\(1\)](#) substituted (20.12.2022) by [The Plant Health and Trade in Animals and Related Products \(Amendment\) Regulations 2022 \(S.I. 2022/1367\)](#), regs. 1(1), **4(2)(a)**
- F9** [Reg. 17\(2A\)-\(2C\)](#) inserted (20.12.2022) by [The Plant Health and Trade in Animals and Related Products \(Amendment\) Regulations 2022 \(S.I. 2022/1367\)](#), regs. 1(1), **4(2)(b)**
- F10** Words in [reg. 17\(3\)](#) inserted (20.12.2022) by [The Plant Health and Trade in Animals and Related Products \(Amendment\) Regulations 2022 \(S.I. 2022/1367\)](#), regs. 1(1), **4(2)(c)**
- F11** [Reg. 17\(4\)](#) inserted (20.12.2022) by [The Plant Health and Trade in Animals and Related Products \(Amendment\) Regulations 2022 \(S.I. 2022/1367\)](#), regs. 1(1), **4(2)(d)**

Commencement Information

- I4** [Reg. 17](#) in force at 14.12.2019, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019, PART 4.