
STATUTORY INSTRUMENTS

2005 No. 2517

The Plant Health (Forestry) Order 2005

PART 1

GENERAL

Title and commencement

1. This Order may be cited as the Plant Health (Forestry) Order 2005 and shall come into force on 1st October 2005.

General interpretation

2.—(1) In this Order—

“area of plant health control” is defined in article 10(2);

“authorised officer” means—

- (a) an authorised representative of the responsible official body of the country in which a plant passport is issued, a public servant acting under the authority of such a representative or a qualified agent employed by the responsible official body, in any case who shall be appropriately qualified;
- (b) a person permitted by Swiss legislation to issue a Swiss plant passport; or
- (c) an authorised representative of the responsible official body or the national plant protection organisation of the country in which a phytosanitary certificate or phytosanitary certificate for re-export or translation of a phytosanitary certificate or a phytosanitary certificate for re-export is issued, or a public officer acting under the authority of such a representative;

“bark-free” means wood from which all bark, excluding the vascular cambium, ingrown bark around knots and bark pockets between rings of annual growth, has been removed;

“Commissioners” means the Forestry Commissioners;

“consignment” has the same meaning as in Article 2(1)(p) of the Directive where that term is used in Part 2 or in relation to any relevant material referred to in that Part;

“Customs Act” means the Customs and Excise Management Act 1979(1);

“debarked” means wood which has undergone a process by which some, but not necessarily all, of its bark has been removed;

“the Directive” means Council Directive [2000/29/EC](#) of(2) on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community as amended by Commission Directives [2001/33/EC](#)(3),

(1) [1979 c. 2](#).

(2) OJ No. L 169, 10.7.2000, p.1.

(3) OJ No. L 127, 9.5.2001, p.42; and see the associated Commission Directive [2001/32/EC](#), OJ No. L 127, 9.5.2001, p.38.

2002/28/EC(4), 2002/36/EC(5), 2003/22/EC(6)2003/47/EC(7), 2004/102/EC(8) and 2005/16/EC(9), Council Directives 2002/89/EC(10) and 2005/15/EC(11) and Article 20 and Annex II of the Act concerning the Conditions of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded(12);

“dunnage” means—

- (a) in Part A of Schedule 4 and in item 3(c)(ii) in Part B of Schedule 8, wood used to wedge or support non-wood cargo; and
- (b) elsewhere in this Order, wood used to wedge or support any cargo;

“EC transit goods” means any relevant material introduced into Great Britain from a third country via another part of the European Community;

“Euro-Mediterranean area” means the geographical area comprising Europe, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and the area of Turkey east of the Bosphorus Strait known as Anatolia;

“Europe” includes European Russia, Belarus, Georgia, Ukraine, Turkey (except the area east of the Bosphorus Strait known as Anatolia), Kazakhstan (except the area east of the Ural river) and the Canary Islands;

“European Community” means the territories of the member States including the Isle of Man and the Channel Islands but excluding the Canary Islands, Ceuta, Melilla and the French Overseas Departments;

“forestry trader” means—

- (a) an importer of relevant material,
- (b) a producer of relevant material,
- (c) a person in charge of premises used for the storage, aggregation or dispatch of consignments of relevant material, or
- (d) a person who in the course of a trade or business divides up or combines consignments of relevant material;

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

“importer”, in relation to any tree pest or relevant material at any time between their landing from a third country and the time when they are discharged by an inspector under this Order, includes any owner or other person for the time being possessed of or beneficially interested in the tree pest or relevant material;

“inspector” means any person authorised by the Commissioners to be an inspector for the purposes of this Order;

“IPPC” means the International Plant Protection Convention 1951(13);

(4) OJ No. L 77, 20.3.2002, p.23; and see the associated Commission Directive 2002/29/EC, OJ No. L 77, 20.3.2002, p.26.

(5) OJ No. L 116, 3.5.2002, p.16.

(6) OJ No. L 78, 25.3.2003, p.10; and see associated Commission Directive 2003/21/EC, OJ No. L 78, 25.5.2003, p.8.

(7) OJ No. L 138, 5.6.2003, p.47; and see the associated Commission Directive 2003/46/EC, OJ No. L 138, 5.6.2003, p.45.

(8) OJ No. L 309, 6.10.2004, p.9.

(9) OJ No. L 57, 3.3.2005, p.19; and see the associated Commission Directive 2005/18/EC, OJ No. L 57, 3.3.2005, p.25.

(10) OJ No. L 355, 30.12.2002, p.45.

(11) OJ No. L 56, 2.3.2005, p.12.

(12) OJ No. L 236, 23.9.2003, p.33.

(13) Adopted in 1951 (Treaty Series No. 16 (1954), Cmd 9077) and revised in 1979 (Miscellaneous Series No. 1 (1981), Cmd 8108).

“ISPMNo. 15” means International Standard for Phytosanitary Measures No. 15 of March 2002⁽¹⁴⁾ on Guidelines for regulating wood packaging material in international trade, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations;

“isolated bark” means bark which has been removed or become detached from a living, felled or fallen tree or from any part of such tree;

“landed” means introduced into Great Britain by any means and includes imported by post, and “land” and “landing” shall be construed accordingly;

“lot” has the same meaning as in Article 2(1)(o) of the Directive;

“national plant protection organisation” means the service established by the government of a third country to discharge the functions specified in Article IV(1)(a) of the IPPC, details of which have been notified—

- (a) in the case of contracting parties to the IPPC, to the Director of the Food and Agriculture Organisation of the United Nations; and
- (b) in all other cases, to the European Commission;

“North America” means the geographical area comprising Canada, Mexico and the USA;

“official” in relation to any testing or other procedure required by this Order to be carried out in respect of any relevant material means carried out by or under the supervision of the responsible official body or the national plant protection organisation of the country in which the testing or other procedure is carried out and “officially” shall be construed accordingly;

“official body of destination” has the same meaning as in article 2(1)(l) of the Directive;

“official body of point of entry” has the same meaning as in article 2(1)(k) of the Directive;

“official label” means a label that meets the relevant requirements set out in Schedule 9, issued by or with the authority of the responsible official body for the member State in which the official label is issued;

“official statement” means a statement issued by an authorised officer or a statement included in a plant passport;

“phytosanitary certificate” means a certificate which complies with the relevant requirements of articles 7 and 15;

“phytosanitary certificate for re-export” means a certificate which complies with the relevant requirements of articles 7 and 15;

“place of production” means any premises, normally worked as a unit, together with any contiguous land in the same ownership or occupation as such premises;

“plant health check” means an examination carried out under article 12(3);

“plant health movement document” means a document which meets the requirements in Schedule 13;

“plant passport” means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in Schedule 9, issued by or with the authority of the responsible official body for the member State in which the plant passport is issued, and includes a replacement plant passport;

“planting” has the same meaning as in Article 2(1)(c) of the Directive;

“premises” includes any land, building, vehicle, vessel, aircraft, hovercraft, freight container or railway wagon;

(14) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00100 Rome, Italy and <http://www.ippc.int/IPP/En/default.htm>.

“producer” in relation to relevant material means a person who grows or makes the material in the course of a trade or business;

“protected zone” means a zone listed in the third column of Annex IV, Part B of the Directive opposite the reference to the relevant material to which it relates;

“register” means the register of forestry traders maintained under article 24(1);

“registered” in relation to a forestry trader means a trader whose particulars are listed in the register, and “registration” shall be construed accordingly;

“relevant material” means any tree, wood, isolated bark, soil or growing medium;

“responsible official body” means either the body described in paragraph (i) or the body described in paragraph (ii) of Article 2(1)(g) of the Directive;

“round wood” means wood which is not sawn lengthwise;

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

“Swiss plant passport” means a label and, where appropriate, an accompanying document, issued in Switzerland in accordance with Swiss legislation, which—

- (a) contains information which gives evidence that the legislation in Switzerland relating to plant health standards and special requirements for relevant material moving into and within Switzerland have been complied with; and
- (b) relates to relevant material listed in Part A of Schedule 8;

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

“tree” means a living tree or shrub, or a living part of a tree or shrub, at any stage of growth; and living parts of a tree shall include—

- (a) fruit or seed,
- (b) branches with or without foliage,
- (c) a tree or shrub that has been cut and which retains any foliage,
- (d) leaves or foliage,
- (e) a tree or shrub in tissue culture, and
- (f) bud wood, cuttings or scions;

“tree or shrub in tissue culture” means a tree or shrub growing in a clear liquid or clear solid aseptic culture medium in a closed transparent container;

“trees intended for planting” means trees which at the time of their landing in Great Britain are—

- (a) planted and are intended to remain planted or to be replanted, or
- (b) not planted but are intended to be planted;

“tree pest” means a pathogen, or any living organism, other than a vertebrate animal, in any stage of its existence, which is injurious or likely to be injurious to any tree or wood and includes a culture of such pathogen or organism;

“USA” means the United States of America (except the state of Hawaii);

“wood”, save where expressly provided otherwise, means—

- (a) any wood which retains part or all of its natural round surface, with or without bark; or
- (b) wood in the form of chips, particles, shavings, sawdust, wood waste or scrap; and
- (c) whether or not satisfying the requirements of paragraphs (a) or (b)—
 - (i) dunnage, or
 - (ii) wood packaging material; and

“wood packaging material” means wood in the form of packing cases, boxes, crates, drums or similar packings, pallets, pallet collars, box pallets or other load boards in use in the transport of objects of any kind.

(2) “Transit”, for the purposes of this Order—

(a) where it occurs in article 12(5) or (6), has the same meaning as in Article 2(1)(r) of the Directive; and

(b) where it occurs anywhere else in this Order shall bear its ordinary meaning.

(3) Any reference in this Order to the European Community, to a member State or a third country includes a reference to a state, country, principality, province or region within the European Community, member State, or third country, as the case may be.

(4) Any reference in this Order to a numbered article or a numbered Schedule with no corresponding reference to a specific instrument shall be construed as a reference to the article or Schedule so numbered in this Order.