

EXECUTIVE NOTE

THE PLANT HEALTH (SCOTLAND) ORDER 2005 S.S.I. 2005/613

Introduction

1. The above instrument is made by the Scottish Ministers in exercise of powers conferred by sections 2, 3 and 4(1) of the Plant Health Act 1967, as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972. The instrument is subject to negative resolution procedure.

Policy Objective

2. The Plant Health (Scotland) Order 2005 revokes and consolidates, with amendments, the Plant Health (Great Britain) Order 1993 (“the 1993 Order”) in its application to Scotland. It also implements: Council Directive 2002/89/EC; Commission Directives 2004/103/EC, 2004/105/EC, 2005/16/EC and 2005/17/EC; and Commission Decision 2005/260/EC.

Background

3. The Plant Health Directive (2000/29/EC) establishes the Community plant health regime. It contains measures to prevent the introduction into, and spread within, the Community of serious pests and diseases of plants and plant produce. The Directive has been implemented in Great Britain, for non-forestry matters, by the 1993 Order.

4. The 1993 Order has been amended many times in order to transpose changes in the technical annexes of the Plant Health Directive and was overdue for consolidation, to ensure transparency. Since devolution within the United Kingdom, the 1993 Order has been amended separately for England, Wales and Scotland, and the opportunity has now been taken to complete the separation into different Plant Health Orders for each territory. The Plant Health (Scotland) Order 2005 will consolidate the various amendments made to the existing 1993 Order and will also implement the changes to the Plant Health Directive introduced by the Community instruments referred to in paragraph 2. A brief explanatory note on each of these is set out below.

4.1. Council Directive 2002/89/EC – introduces: clarification of the existing requirement for mandatory examinations (documentary checks, identity checks and plant health checks) on certain plants and plant produce imported from non-EU countries; obligations to charge fees for these inspections; and a requirement for advance notification of the arrival of consignments from the importer to the plant health service. SEERAD inspectors already carry out examinations using powers under the 1993 Order. However, the 1993 Order does not contain powers to charge import inspection fees, or to require advance notification of imports. The Plant Health (Import Inspection Fees) (Scotland) Regulations 2005 (S.S.I 2005/216), which came into force in May 2005, introduced powers to charge fees for import inspections.

4.2. Commission Directive 2004/103/EC – is related to Directive 2002/89/EC and concerns identity and plant health checks of plants, plant products or other objects, listed in Part B of Annex V to Council Directive 2000/29/EC, which may be carried out at a place

other than the point of entry into the Community or at a place close by and specifying the conditions related to these checks.

4.3 Commission Directive 2004/105/EC – provides models of the phytosanitary certificates that must be used to accompany consignments of controlled plants and plant produce imported from outside the EU. In broad terms, this includes plants, potatoes, the major fruits other than bananas and grapes, cut flowers and some leafy vegetables.

4.4 Commission Directive 2005/16/EC – amends Annexes I to V to Council Directive 2000/29/EC to reflect a change in the status of certain pests and diseases within certain Member States.

4.5 Commission Directive 2005/17/EC – relates to Directive 92/105/EEC which established procedures for the issue of plant passports which are required for the movement of certain plants, plant products and other objects within the Community. Directive 2005/17/EC amends these procedures in respect of some seeds which have been officially certified, to allow for the certification label to also be deemed to be the plant passport subject to certain conditions.

4.6 Commission Decision 2005/260/EC – amends Commission Decision 2004/278/EC. It specifies: those products for which equivalence exists and which may be traded with a plant passport rather than a phytosanitary certificate; those products for which equivalence does not exist and therefore remain subject to phytosanitary certification; and those products not subject to any plant health measures.

EC Reasoned Opinions

5. The European Commission's Reasoned Opinions of 5 July 2005 invited the United Kingdom to take the necessary measures to comply with certain Directives which relate to the regime of plant health import checks set out in Council Directive 2000/29/EC, as amended by Council Directive 2002/89. The UK's reply to the Commission advised that transposition of the Directives referred to would be effected through the various UK Plant Health Orders which would replace the 1993 Order, and that in Scotland the necessary legislation (*ie* the Plant Health (Scotland) Order 2005) would be in place by December 2005. This timetable must be strictly adhered to if we are to avoid the risk of infraction proceedings.

Impact

6. The impact on Scottish growers arising from implementation of the new Order is expected to be negligible. In the circumstances no Regulatory Impact Assessment is necessary.

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EPHAS – Plant Health

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