

2018 No. 132

PLANT HEALTH

The Plant Health (Export Certification) (Scotland) Order 2018

Made - - - - *25th April 2018*

Laid before the Scottish Parliament *27th April 2018*

Coming into force - - *1st June 2018*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3(1), (2) and (4) and 4A of the Plant Health Act 1967(a) and of all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) This Order may be cited as the Plant Health (Export Certification) (Scotland) Order 2018 and comes into force on 1st June 2018.

(2) This Order extends to Scotland only.

Interpretation

2. In this Order—

“certificate” means a phytosanitary certificate or a phytosanitary certificate for re-export;

“consignment” means a quantity of goods being covered by a single document required for customs formalities or for other formalities, such as a single phytosanitary certificate or single alternative document or mark and may be composed of one or more lots;

“inspector” means any person authorised by the Scottish Ministers to be an inspector for the purposes of the principal plant health Order;

“IPC document” means an intra-EU phytosanitary communication document, being an official document which—

- (a) is issued in relation to a consignment which is intended to be exported from another member State to a third country; and
- (b) communicates to the national plant protection organisations of other member States that certain phytosanitary procedures have been applied;

(a) 1967 c.8; sections 3(1) and (2) were amended by the European Communities Act 1972 (c.68), section 4 and schedule 4, paragraph 8; section 3(1) was also amended by S.I. 2011/1043, article 6(1); section 3(4) was substituted by the Criminal Justice Act 1982 (c.48), section 42 and amended by the Statute Law (Repeals) Act 1993 (c.50), schedule 1, part XIV; and section 4A was inserted by the Agriculture Act 1986 (c.49), section 3. Section 1(2) of the 1967 Act specifies the competent authorities for the purposes of the Act. The functions of the Secretary of State insofar as exercisable within devolved competence were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). The requirement to obtain Treasury consent was removed by section 55 of that Act.

“phytosanitary certificate” means a certificate which complies with the relevant requirements of articles 7 and 15 of the principal plant health Order(a);

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

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

“principal plant health Order” means the Plant Health (Scotland) Order 2005(b);

“soil” includes any medium used for the growing of plant material and “soil sample” is construed accordingly; and

“third country” means a country or territory other than one within the European Union.

Phytosanitary certificates for export of plants etc. to third countries

3.—(1) Any requirement of a third country for a plant, plant product or other object to be accompanied by a phytosanitary certificate, or a phytosanitary certificate for re-export, issued by an official national plant protection organisation whether for the purposes of—

- (a) Article V of the International Plant Protection Convention 1951(c); or
- (b) any arrangement corresponding to that Article,

may be met by the issue of such a certificate by an inspector to accompany that plant, plant product or other object, subject to an application and payment of a fee as mentioned in article 4.

(2) In connection with the issue, or proposed issue, of a certificate under paragraph (1), an inspector may—

- (a) carry out any of the services listed in column 2 of the table in the schedule which the inspector considers are necessary to meet the phytosanitary requirements of the third country; and
- (b) where appropriate, certify that a consignment has been inspected on the basis of a laboratory examination alone.

(3) An inspector may enter any premises, other than premises used wholly or mainly as a private dwelling, for the purpose of any examination or inquiry under this Order.

Fees for export certification services

4.—(1) A person who applies to the Scottish Ministers for a certificate or IPC document in relation to a plant, plant product or other object, must pay to the Scottish Ministers any fee prescribed in column 3 of the table in the schedule which corresponds to a service described in column 2 of the table which has been performed by an inspector in connection with that application.

(2) Paragraph (3) applies where—

- (a) a service listed in column 2 of the table in the schedule includes the issue of a certificate or IPC document; and
- (b) the application for the issue of the certificate or IPC document is refused by an inspector by reason of the results of any related inspection, examination or test.

(a) S.S.I. 2005/613; articles 7 and 15 were amended by S.I. 2011/1043, article 6(1); article 15 was also amended by S.S.I. 2016/83.

(b) S.S.I. 2005/613, as amended by S.S.I. 2006/474, S.S.I. 2007/415, S.S.I. 2007/498, S.S.I. 2008/300, S.S.I. 2008/350, S.S.I. 2009/153, S.S.I. 2010/206, S.S.I. 2010/342, S.I. 2011/1043, S.S.I. 2012/266, S.S.I. 2012/326, S.S.I. 2013/5, S.S.I. 2013/187, S.S.I. 2013/366, S.S.I. 2014/140, S.S.I. 2015/10, S.S.I. 2016/83 and S.S.I. 2018/112.

(c) Adopted in 1951 (Treaty Series No. 16 (1954), Cmd 9077) and revised in 1979 (Miscellaneous Series No. 1 (1981), Cmd 8108) and in 1997. The revised 1997 text entered into force in 2005 (1004/597/EC, Council Decision of 19th July 2004 approving the accession of the European Community to the International Plant Protection Convention, as revised and approved by Resolution 12/97 of the 29th Session of the FAO Conference in November 1997; OJ L 267 of 14/08/2004, p.39).

(3) A fee is still payable for the service mentioned in paragraph (2)(a) by the person mentioned in paragraph (1).

Offences and penalties

5.—(1) A person commits an offence if, for the purposes of procuring the issue of a certificate or IPC document under this Order, that person—

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

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Offences by bodies corporate etc.

6.—(1) Where—

- (a) an offence under article 5(1) has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual (as well as the body corporate, Scottish partnership or unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner;
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Revocations

7. The following Orders are revoked—

- (a) the Plant Health (Export Certification) (Scotland) Order 2004(**a**).
- (b) the Plant Health (Export Certification) (Scotland) Amendment Order 2007(**b**).

FERGUS EWING
A member of the Scottish Government

St Andrew’s House,
Edinburgh
25th April 2018

(a) S.S.I. 2004/248, as amended by S.S.I. 2007/137.
(b) S.S.I. 2007/137.

SCHEDULE

Articles 3(2) and 4

Applications for certificates: table of fees

<i>Column 1 No.</i>	<i>Column 2 Service</i>	<i>Column 3 Fee</i>
1	<p>(a) Issue of a phytosanitary certificate for the export of grain.</p> <p>(b) Pre-export laboratory testing of grain.</p>	<p>£25.00</p> <p>£70.00 per hour or any part thereof</p>
2	Pre-planting testing for the presence of potato cyst nematodes of one soil sample from a field, or part thereof, comprising not more than 4 hectares, or from a glass-house or container.	£40.00
3	<p>(a) Pre-export inspection of, and issue of a phytosanitary certificate for the export of, a consignment of bulbs (where the value of the consignment is more than £250.00), malt barley or oil seed rape, where an inspection at the premises of the grower is necessary.</p> <p>(b) Issue of a second or subsequent phytosanitary certificate for the export of such a consignment, where no additional inspection is required.</p> <p>(c) Pre-export laboratory testing for malt barley or oil seed rape.</p>	<p>£70.00</p> <p>£25.00</p> <p>£70.00 per hour or any part thereof</p>
4	<p>(a) Pre-export inspection of, and the issue of a phytosanitary certificate for the export of, a consignment of bulbs, ware potatoes, other plants and plant products (other than those mentioned in another entry of this table), where an inspection at the premises of the grower is necessary—</p> <p style="padding-left: 40px;">(i) where the value of the consignment is less than or equal to £250.00;</p> <p style="padding-left: 40px;">(ii) where the value of the consignment is more than £250.00.</p> <p>(b) Issue of a second or subsequent phytosanitary certificate for the export of a consignment of equal or lesser value to that mentioned in paragraph (a) of this entry, where an inspection is carried out at the same location on the same day.</p>	<p>£40.00</p> <p>£70.00</p> <p>£25.00</p>

5	<p>(a) Pre-export inspection of, and the issue of a phytosanitary certificate for the export of, used agricultural machinery to ensure that any machinery is free of any trace of soil or plant debris.</p> <p>(b) Issue of a second or subsequent phytosanitary certificate for the export of used agricultural machinery of equal or lesser value to that mentioned in paragraph (a) of this entry, where an inspection is carried out at the same location on the same day.</p>	<p>£70.00</p> <p>£25.00</p>
6	Pre-export inspection of, and the issue of a phytosanitary certificate for the export of, a consignment of bulbs, plants and plant products (other than seeds) delivered to the Scottish Government or for botanical research.	£35.00
7	Issue of a phytosanitary certificate for the export of a consignment containing plant products which are either dried, frozen or processed.	£25.00
8	Pre-export consignment testing of one soil sample for the presence of potato cyst nematodes and the issue of a phytosanitary certificate for the export of seed potatoes where such testing is necessary.	£40.00
9	<p>Growing season inspection of—</p> <p>(a) outdoor plants:</p> <p>(i) first 0.5 hectares, or part thereof;</p> <p>(ii) each additional 0.1 hectare, or part thereof, inspected on the same day as those under (i);</p> <p>(b) indoor plants:</p> <p>(i) first 5,000 or part thereof;</p> <p>(ii) each additional 1,000, or part thereof, up to a maximum of 70,000 per day, inspected on the same day as those under (i);</p> <p>(c) bulbs:</p> <p>(i) first 0.5 hectares, or part thereof;</p> <p>(ii) each additional 0.1 hectare, or part thereof, inspected on the same day as those under (i).</p>	<p>£40.00 per day</p> <p>£5.00</p> <p>£40.00 per day</p> <p>£5.00</p> <p>£40.00 per day</p> <p>£5.00</p>
10	<p>Pre-export testing of potato tuber samples—</p> <p>(a) for potato brown rot and ring rot:</p> <p>(i) brown rot visual test;</p> <p>(ii) brown rot latent test;</p> <p>(iii) ring rot latent test;</p> <p>(iv) combined brown rot and ring rot latent test;</p> <p>(b) for gangrene;</p> <p>(c) for potato viruses:</p>	<p>£55.00</p> <p>£158.00</p> <p>£158.00</p> <p>£170.00</p> <p>£95.00</p>

	(i) (aa) growing on test (200 tubers tested for 2 viruses);	£240.00
	(bb) growing on test (each additional 50 tubers or part thereof tested for 2 viruses);	£60.00
	(cc) testing for additional viruses (200 tubers);	£20.00 (per virus)
	(dd) testing for additional viruses (each additional 50 tubers or part thereof);	£5.00 (per virus)
	(ii) (aa) direct tuber test (200 tubers tested for 2 viruses);	£270.00
	(bb) direct tuber test (each additional 50 tubers or part thereof);	£63.00 (per virus)
	(cc) testing for additional viruses (200 tubers);	£20.00 (per virus)
	(dd) testing for additional viruses (each additional 50 tubers or part thereof);	£5.00 (per virus)
	(iii) (aa) leaf sample test (100 leaves tested for 4 viruses);	£155.00
	(bb) leaf sample test (each additional 50 leaves or part thereof tested for 4 viruses);	£78.00
	(cc) testing for additional viruses (100 leaves);	£10.00 (per virus)
	(dd) testing for additional viruses (each additional 50 leaves or part thereof).	£5.00 (per virus)
11	Pre-export testing for potato spindle tuber viroid.	£50.00 per hour or any part thereof
12	Any other pre-export laboratory testing, other than seed testing or testing of the commodities listed in entries 1(a) and 3(a) of this table.	£45.00 per hour or any part thereof
13	Growing crop inspection and pre-export seed testing work and the issue of a phytosanitary certificate in respect of seed samples.	£70.00 per hour or any part thereof
14	Issue of an IPC document.	£25.00
15	Issue of a phytosanitary certificate for re-export or a duplicate phytosanitary certificate or a phytosanitary certificate for re-export where the original has been lost, stolen, destroyed or materially damaged.	£15.00
16	Amending a certificate at the request of the exporter after issue.	£15.00

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the issue of phytosanitary certificates and phytosanitary certificates for re-export and for the provision of related services for the export of plants, plant products or other objects to third countries. It revokes and replaces the Plant Health (Export Certification) (Scotland) Order 2004 (S.S.I. 2004/248, as amended by S.S.I. 2007/137).

Phytosanitary certificates, phytosanitary certificates for re-export and IPC documents are required to accompany exports of certain plants, plant products or other objects to third countries.

The Order prescribes fees for the issue of these certificates and for related services (article 4 and the schedule). The Order authorises an inspector to enter any premises for the purpose of carrying out examinations or inquiries under the Order (article 3(3)).

Provision is made in the Order for offences in relation to procuring the issue of a phytosanitary certificates, phytosanitary certificates or IPC documents for re-export (article 5).

The fees prescribed by this Order are necessary to recover the costs expected to be incurred in the provision of the export services.

A partial business and regulatory impact assessment has been prepared for this Order and has been placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government, Directorate for Agriculture and Rural Economy, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD or at <http://www.gov.scot/Publications/2017/12/2001/348911>.

This table provides a comparison of changes to the fees previously set out in schedule 1 of the Plant Health (Export Certification) (Scotland) Order 2004 and now revised in the schedule to this Order (where the fees are equivalent):

<i>No.</i>	<i>Service</i>	<i>New Fee</i>	<i>Previous Fee</i>
1	(a) Issue of a phytosanitary certificate for the export of grain.	£25.00	£45.00
	(b) Pre-export laboratory testing of grain.	£70.00 per hour or any part thereof	-
2	Pre-planting testing for the presence of potato cyst nematodes of one soil sample from a field, or part thereof, comprising not more than 4 hectares, or from a glass-house or container.	£40.00	£69.00
3	(a) Pre-export inspection of, and issue of a phytosanitary certificate for the export of, a consignment of bulbs (where the value of the consignment is more than £250.00), malt barley or oil seed rape, where an inspection at the premises of the grower is necessary.	£70.00	-
	(b) Issue of a second or subsequent phytosanitary certificate for the export of such a consignment, where no additional inspection is required.	£25.00	-
	(c) Pre-export laboratory testing for malt barley or oil seed rape.	£70.00 per hour or any part thereof	-

4	<p>(a) Pre-export inspection of, and the issue of a phytosanitary certificate for the export of, a consignment of bulbs, ware potatoes, other plants or plant products (other than those mentioned in another entry of this table), where an inspection at the premises of the grower is necessary—</p> <p>(i) where the value of the consignment is where the value of the consignment is less than or equal to £250.00;</p> <p>(ii) where the value of the consignment is more than £250.00.</p> <p>(b) Issue of a second or subsequent phytosanitary certificate for the export of a consignment of equal or lesser value to that mentioned in paragraph (a) of this entry, where an inspection is carried out at the same location on the same day.</p>	<p>£40.00</p> <p>£70.00</p> <p>£25.00</p>	<p>-</p> <p>-</p> <p>£11.00</p>
5	<p>(a) Pre-export inspection of, and the issue of a phytosanitary certificate for the export of, used agricultural machinery to ensure that any machinery is free of any trace of soil or plant debris.</p> <p>(b) Issue of a second or subsequent phytosanitary certificate for the export of used agricultural machinery to ensure that any machinery is free of any trace of soil or plant debris.</p>	<p>£70.00</p> <p>£25.00</p>	<p>£62.00</p> <p>£11.00</p>
6	Pre-export inspection of, and the issue of a phytosanitary certificate for the export of, a consignment of bulbs, plants and plant products (other than seeds) delivered to the Scottish Government or for botanical research.	£35.00	-
7	Issue of a phytosanitary certificate for the export of a consignment containing plant products which are either dried, frozen or processed.	£25.00	£17.00
8	Pre-export consignment testing of one soil sample for the presence of potato cyst nematodes and the issue of a phytosanitary certificate for the export of seed potatoes where such testing is necessary.	£40.00	£30.50
9	<p>Growing season inspection of—</p> <p>(a) outdoor plants:</p> <p>(i) first 0.5 hectares, or part</p>	£40.00 per day	-

	<p>thereof;</p> <p>(ii) each additional 0.1 hectare, or part thereof, inspected on the same day as those under (i);</p> <p>(b) for indoor plants:</p> <p>(i) first 5,000 or part thereof;</p> <p>(ii) each additional 1,000, or part thereof, up to a maximum of 70,000 per day, inspected on the same day as those under (i);</p> <p>(c) for bulbs:</p> <p>(i) first 0.5 hectares or part thereof;</p> <p>(ii) each additional 0.1 hectare, or part thereof, inspected on the same day as those under (i).</p>	<p>£5.00</p> <p>£40.00 per day</p> <p>£5.00</p> <p>£40.00 per day</p> <p>£5.00</p>	<p>-</p> <p>£45.00</p> <p>-</p> <p>£45.00</p> <p>-</p>
10	<p>Pre-export testing of potato tuber samples—</p> <p>(a) for potato brown rot and ring rot:</p> <p>(i) brown rot visual test;</p> <p>(ii) brown rot latent test;</p> <p>(iii) ring rot latent test;</p> <p>(iv) combined brown rot and ring rot latent test;</p> <p>(b) for gangrene;</p> <p>(c) for potato viruses:</p> <p>(i) (aa) growing on test (200 tubers tested for 2 viruses);</p> <p>(bb) growing on test (each additional 50 tubers or part thereof tested for 2 viruses);</p> <p>(cc) testing for additional viruses (200 tubers);</p> <p>(dd) testing for additional viruses (each additional 50 tubers or part thereof);</p> <p>(ii) (aa) direct tuber test (200 tubers tested for 2 viruses);</p> <p>(bb) direct tuber test (each additional 50 tubers or part thereof);</p> <p>(cc) testing for additional</p>	<p>£55.00</p> <p>£158.00</p> <p>£158.00</p> <p>£170.00</p> <p>£95.00</p> <p>£240.00</p> <p>£60.00</p> <p>£20.00 (per virus)</p> <p>£5.00 (per virus)</p> <p>£270.00</p> <p>£63.00 (per virus)</p> <p>£20.00 (per virus)</p>	<p>£45.00</p> <p>£135.00</p> <p>£135.00</p> <p>£140.00</p> <p>£62.10</p> <p>£220.00</p> <p>£55.00</p> <p>£10.00 (per virus)</p> <p>£2.50 (per virus)</p> <p>£260.00</p> <p>£65.00 (per virus)</p> <p>£10.00 (per virus)</p>

	viruses (200 tubers); (dd) testing for additional viruses (each additional 50 tubers or part thereof); (iii) (aa) leaf sample test (100 leaves tested for 4 viruses); (bb) leaf sample test (each additional 50 leaves or part thereof tested for 4 viruses); (cc) testing for additional viruses (100 leaves); (dd) testing for additional viruses (each additional 50 leaves or part thereof).	£5.00 (per virus) £155.00 £78.00 £10.00 (per virus) £5.00 (per virus)	£5.00 (per virus) £45.00 £22.50 £1.50 (per virus) £3.00 (per virus)
11	Pre-export testing for potato spindle tuber viroid.	£50.00 per hour or any part thereof	£51.93 (per hour)
12	Any other pre-export laboratory testing, other than seed testing or testing of the commodities listed in entries 1(a) and 3(a) of this table.	£45.00 per hour or any part thereof	£40.64 (per hour)
13	Growing crop inspection and pre-export seed testing work and the issue of a phytosanitary certificate in respect of seed samples.	£70.00 per hour or any part thereof	£69.00 (per hour or any part thereof)
14	Issue of an IPC document.	£25.00	-
15	Issue of a phytosanitary certificate for re-export or a duplicate phytosanitary certificate or a phytosanitary certificate for re-export where the original has been lost, stolen, destroyed or materially damaged.	£15.00	£5.00
16	Amending a certificate at the request of the exporter after issue.	£15.00	-

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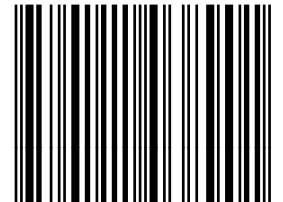
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