

## SCHEDULE

### PART 2

#### MODIFICATIONS OF SUBORDINATE LEGISLATION

##### **The Plant Varieties and Seeds Tribunal Rules 1974**

**57.**—(1) The Plant Varieties and Seeds Tribunal Rules 1974(1) are amended as follows.

(2) In rule 2 (interpretation), in the definition of “respondent authority” after sub-paragraph (a) (ii) insert—

“(iii) the Scottish Ministers, where the appeal is made against their decision.”.

(3) In Schedule 1, in the introductory words to Form 8, after “[Forestry Commissioners]” insert “[Scottish Ministers]”.

(4) In paragraph 1(c) of Form 8, after “[Forestry Commissioners]” insert “[the Scottish Ministers]”.

##### **The Road Vehicles (Construction and Use) Regulations 1986**

**58.**—(1) Regulation 37 (audible warning instruments) of the Road Vehicles (Construction and Use) Regulations 1986(2) is amended as follows.

(2) After paragraph (5)(c) insert—

“(ca) owned by the Scottish Ministers for the purposes of their functions under the Forestry and Land Management (Scotland) Act 2018 and used from time to time for the purposes of fighting fires,”.

##### **The Road Vehicles Lighting Regulations 1989**

**59.**—(1) Regulation 3(2) (interpretation) of the Road Vehicles Lighting Regulations 1989(3) is amended as follows.

(2) In the table, in the definition of “Emergency vehicle”, in column 2, after paragraph (da) insert—

“(db) a vehicle owned by the Scottish Ministers for the purposes of their functions under the Forestry and Land Management (Scotland) Act 2018 and used from time to time for the purposes of fighting fires,”.

##### **The Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999**

**60.**—(1) The Schedule to the Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999(4) is amended as follows.

(2) In the table, omit the entries in columns 1 and 2 for the Forestry Commissioners.

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(1) S.I. 1974/1136, to which there are amendments not relevant to this Order.

(2) S.I. 1986/1078, to which there are amendments not relevant to this Order.

(3) S.I. 1989/1796, to which there are amendments not relevant to this Order.

(4) S.I. 1999/1319, to which there are amendments not relevant to this Order.

**The Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999**

61.—(1) The Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999(5) is amended as follows.

- (2) In Schedule 1 (cross-border public authorities) omit “Forestry Commissioners”.
- (3) Schedule 12 (Forestry Commissioners) is revoked.

**The Scotland Act 1998 (Cross-Border Public Authorities) (Forestry Commissioners) Order 2000**

62. The Scotland Act 1998 (Cross-Border Public Authorities) (Forestry Commissioners) Order 2000(6) is revoked.

**The Forest Reproductive Material (Great Britain) Regulations 2002**

63.—(1) The Forest Reproductive Material (Great Britain) Regulations 2002(7) are amended as follows.

- (2) In regulation 2 (interpretation)—
  - (a) in the definition of “authorised officer”—
    - (i) in sub-paragraph (a) after “Regulations;”, omit “and”,
    - (ii) after sub-paragraph (a) insert—

“(aa) a person authorised by the Scottish Ministers to exercise their powers and execute their functions under these Regulations, and”,
  - (b) in the definition of “Master Certificate”—
    - (i) in sub-paragraph (d), after “regulation 25(5) and (6)”, insert “, a Master Certificate issued by the Scottish Ministers in accordance with regulation 25A(5) and (6),”,
    - (ii) in sub-paragraph (e) after “regulation 25(5),” insert “a Master Certificate issued by the Scottish Ministers in accordance with regulation 25A(5),”,
  - (c) in the definition of “region of provenance” after “the Commissioners” insert “, the Scottish Ministers,”,
  - (d) in the definition of “relevant territory”—
    - (i) in sub-paragraph (a) omit “and Scotland, and”,
    - (ii) after sub-paragraph (a) insert—

“(aa) Scotland, and”,
  - (e) in paragraph (6) after “the Commissioners” insert “, the Scottish Ministers”.
- (3) In regulation 5 (demarcation of regions of provenance in respect of certain basic material)—
  - (a) in paragraph (1) omit “and Scotland” in each case where the words occur,
  - (b) after paragraph (1A) insert—

“(1AA) The Scottish Ministers shall demarcate regions of provenance in Scotland in respect of each of the species listed in Schedule 1 which exist in Scotland and shall allocate to each region of provenance an identity code.”,
  - (c) in paragraph (2) after “Commissioners” insert “, the Scottish Ministers”.

(5) [S.I. 1999/1747](#), to which there are amendments not relevant to this Order.

(6) [S.I. 2000/746](#), to which there are amendments not relevant to this Order.

(7) [S.I. 2002/3026](#). The definition of “authorised officer” in regulation 2 was substituted by [S.I. 2013/755](#).

- (4) In regulation 6 (establishment and maintenance of the National Register)—
- (a) after paragraph (1A) insert—
- “(1AA) The Scottish Ministers shall maintain that part of the National Register recording basic material approved by them under regulation 7.”,
- (b) in paragraph (2) after “Commissioners” insert “, the Scottish Ministers”.
- (5) In regulation 7(11) (approval of basic material for use in the production of forest reproductive material) for sub-paragraph (b) substitute—
- “(b) the Scottish Ministers, in relation to basic material located in Scotland,
- (c) the Commissioners, in relation to basic material located in England.”.
- (6) In regulation 11(4) (collection of forest reproductive material) for sub-paragraph (b) substitute—
- “(b) the Scottish Ministers, in relation to the collection, production or marketing of forest reproductive material in Scotland,
- (c) the Commissioners, in relation to the collection, production or marketing of forest reproductive material in England.”.
- (7) In regulation 16 (registration of suppliers of forest reproductive material)—
- (a) in paragraph (1A)—
- (i) for “two” substitute “three”,
- (ii) in sub-paragraph (b) omit “or Scotland”,
- (iii) at the end insert—
- “(c) a part maintained by the Scottish Ministers which shall record suppliers whose principal place of business or trade is in Scotland.”,
- (b) in paragraph (1B)—
- (i) after sub-paragraph (a) insert—
- “(aa) the Scottish Ministers, in relation to a supplier whose principal place of business or trade is in Scotland,”,
- (ii) in sub-paragraph (b) omit “or Scotland”,
- (c) in paragraph (6) after “Commissioners” insert “, the Scottish Ministers”.
- (8) In regulation 17(1)(c) (forest reproductive material which may be marketed)—
- (a) after “the Commissioners” insert “or the Scottish Ministers”,
- (b) for “regulation 25(5) and (6);” substitute “regulation 25(5) and (6) or, as the case may be, regulation 25A(5) and (6);”.
- (9) In regulation 18(1) (licences) in sub-paragraphs (a) and (b) omit “or Scotland”.
- (10) After regulation 18 insert—

**“Licences: Scotland**

**18A.—**(1) The Scottish Ministers may authorise a registered supplier by licence to—

- (a) market forest reproductive material in Scotland which would otherwise be prohibited under regulation 17(1), or
- (b) import into Scotland forest reproductive material which would otherwise be prohibited under regulation 25A.
- (2) The licence shall be in writing and may be granted—

- (a) subject to conditions,
- (b) for a definite or an indefinite period.
- (3) The Scottish Ministers may give an authorisation under paragraph (1)(a) or (b) only—
  - (a) if the forest reproductive material is to be marketed for use in tests, for scientific purposes or for genetic conservation purposes,
  - (b) if the forest reproductive material consists of seed units which are clearly shown not to be intended for forestry purposes, or
  - (c) in exercise of a derogation permitted by the Directive.
- (4) The Scottish Ministers may also give an authorisation under paragraph (1)(a) if the forest reproductive material is to be marketed for use in selection work.
- (5) If the Scottish Ministers decline to give an authorisation under paragraph (1), they shall give the applicant their reasons for doing so in writing.”.
- (11) In regulation 25 (prohibition against imports of forest reproductive material into England or Scotland from third countries) omit “or Scotland” in each place where the words occur in paragraphs (1), (2), (3) and (4).
- (12) After regulation 25 insert—

**“Prohibition against imports of forest reproductive material into Scotland from third countries**

- 25A.—**(1) No person may import forest reproductive material into Scotland from a third country for the purpose of marketing it unless—
- (a) it has been produced in an EU-approved third country or a permitted third country,
  - (b) it is permitted material, and
  - (c) the requirements set out in Schedule 13 are met on entry.
- (2) A person intending to import permitted material into Scotland from an EU-approved third country or a permitted third country shall notify the Scottish Ministers of the arrival of the material at least three days before the intended date of its arrival into Scotland.
- (3) The notification to the Scottish Ministers shall be—
- (a) in writing, and
  - (b) contain the following details in relation to the material:—
    - (i) its anticipated point of entry into Scotland, and
    - (ii) its anticipated date and time of arrival into Scotland.
- (4) After the permitted material has been imported into Scotland, the owner of that material may apply to the Scottish Ministers for a Master Certificate in relation to the material.
- (5) If the Scottish Ministers are satisfied that the requirements set out in Schedule 13 have been met in relation to the permitted material, the Scottish Ministers shall issue a Master Certificate for the material to its owner.
- (6) In the case of permitted material from an EU-approved third country, a Master Certificate issued under paragraph (5) shall—
- (a) be based on the OECD Certificate of Provenance, and
  - (b) indicate that the material has been imported under an equivalence regime.
- (7) In this regulation, “OECD Certificate of Provenance” and “permitted material” have the meanings given in paragraph 2 of Schedule 13.”.
- (13) In regulation 26 (keeping and production of documents)—

- (a) in paragraphs (2) and (3)(b) in each case after “the Commissioners” insert “, the Scottish Ministers”;
  - (b) in paragraph (5) after “the Welsh Ministers” insert “or the Scottish Ministers”.
- (14) In regulation 27(1) (powers to inspect and take samples) after “the Commissioners” insert “, the Scottish Ministers”.
- (15) In regulation 32 (appeals)—
- (a) after “the Commissioners” where the words first occur, insert “, the Scottish Ministers”;
  - (b) in paragraph (1)(h), for “the Commissioners or” substitute “the Commissioners’, Scottish Ministers’ or”;
  - (c) in paragraph (3) after “the Commissioners” insert “, the Scottish Ministers”.

#### **The Plant Health (Export Certification) (Forestry) (Great Britain) Order 2004**

**64.**—(1) The Plant Health (Export Certification) (Forestry) (Great Britain) Order 2004<sup>(8)</sup> is amended as follows.

- (2) In article 2 (interpretation)—
- (a) in the definition of “the appropriate authority”—
    - (i) in paragraph (a) omit “and Scotland”;
    - (ii) after paragraph (a) insert—
      - “(aa) in relation to Scotland, the Scottish Ministers, and”;
  - (b) in the definition of “authorised officer”—
    - (i) in paragraph (a) omit “and Scotland”;
    - (ii) after paragraph (a) insert—
      - “(aa) in relation to Scotland, an officer of the Scottish Ministers or any person, whether or not an officer of the Scottish Ministers, authorised by the Scottish Ministers to be an inspector for the purposes of the Plant Health (Forestry) Order 2005.”.

#### **Plant Health (Forestry) Order 2005**

**65.**—(1) The Plant Health (Forestry) Order 2005<sup>(9)</sup> is amended as follows.

- (2) In article 2 (general interpretation)—
- (a) in the definition of “the appropriate authority”—
    - (i) in paragraph (a) omit “and Scotland”;
    - (ii) after paragraph (a) insert—
      - “(aa) the Scottish Ministers, in relation to Scotland”;
  - (b) in the definition of “inspector” after “Commissioners” insert “or the Scottish Ministers”;
  - (c) in the definition of “relevant territory”—
    - (i) in paragraph (a) omit “and Scotland, and”;
    - (ii) after paragraph (b), insert—
      - “, and
      - (c) Scotland”.

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<sup>(8)</sup> S.I. 2004/1684, to which there are amendments not relevant to this Order.

<sup>(9)</sup> S.I. 2005/2517, to which there are amendments not relevant to this Order.

- (3) In article 2A (inspectors)—
- (a) in paragraphs (1)(a), (2)(a), (3)(a) and (6)(a)(i), (ii) and (iii) omit “or Scotland”,
  - (b) in paragraph (1), after sub-paragraph (a) insert—
    - “(aa) in relation to tree pests and relevant material landed in Scotland, by an inspector authorised by the Scottish Ministers,”
  - (c) in paragraph (2), after sub-paragraph (a) insert—
    - “(aa) in relation to compliance with the provisions of this Order in Scotland, by an inspector authorised by the Scottish Ministers,”
  - (d) in paragraph (3), after sub-paragraph (a) insert—
    - “(aa) in relation to premises or a free zone in Scotland, by an inspector authorised by the Scottish Ministers,”
  - (e) in paragraph (5), after “the Commissioners” insert “, the Scottish Ministers”,
  - (f) in paragraph (6), after sub-paragraph (a) insert—
    - “(aa) by an inspector authorised by the Scottish Ministers in relation to—
      - (i) premises in Scotland in respect of which a notice has been served under this Order,
      - (ii) possession or control of tree pests or relevant material in Scotland, and
      - (iii) sale or other disposal of tree pests or relevant material in Scotland,”
- (4) In article 6 (advance notification of landing)—
- (a) in paragraphs (1) and (2) omit “or Scotland” in each place where the words occur,
  - (b) after paragraph (1) insert—
    - “(1A) Subject to article 29(3), the landing in Scotland by any person of relevant material to which paragraph (2A) applies is prohibited unless notice is given to the Scottish Ministers in accordance with this article.”
  - (c) after paragraph (2) insert—
    - “(2A) The prohibition on landing relevant material in paragraph (1A) applies to the landing in Scotland where Scotland is the point of entry of the material into the European Union of—
      - (a) the relevant material mentioned in paragraph (2)(a) and (b), and
      - (b) any solid fuel wood to which paragraphs (2)(a) and (2)(b) do not apply and whose final destination is in Scotland.”
- (5) In article 8(1) (exceptions from certain prohibitions and requirements) after “Article 6(1)” insert “and (1A)”.
- (6) In article 18 (prohibitions and restrictions on landing tree pests and relevant material)—
- (a) in paragraph (3) omit the words “or Scotland”,
  - (b) after paragraph (3) insert—
    - “(3A) No person may bring any solid fuel wood into Scotland from another part of the European Union unless the Scottish Ministers are given notice in accordance with the requirements of Schedule 12.”
- (7) In article 24 (registers of forestry traders)—
- (a) in paragraph (1)(a) omit “or Scotland”,
  - (b) after paragraph (1) insert—

“(1A) The Scottish Ministers shall maintain a register listing the particulars set out in paragraph (3) with respect to each forestry trader who—

- (a) engages in any activity to which this Order applies at any premises in Scotland, and
- (b) meets the requirements of this Part.”.

(8) In article 30(7) (examination, sampling and marking) after “as the case may be,” insert “the Scottish Ministers or”.

(9) In article 32(5) (actions which may be taken by an inspector) after “as the case may be,” insert “the Scottish Ministers or”.

(10) In article 36(2) (failure to comply with a notice) after “the Commissioners” insert “, the Scottish Ministers”.

(11) In article 40 (notification of the presence or suspected presence of certain tree pests)—

- (a) in paragraph (1B) omit “or Scotland”,
- (b) after paragraph (1B) insert—

“(1C) If the Scottish Ministers become aware of the presence or suspected presence of *Xylella fastidiosa* (Wells et al.) in any place or area in Scotland, the Scottish Ministers must ensure that any person having under their control trees which may be infected by *Xylella fastidiosa* (Wells et al.) is immediately informed of—

- (a) its presence or suspected presence,
- (b) the possible consequences arising from its presence or suspected presence, and
- (c) measures to be taken as a result.”.

(12) In article 42A (power to share information for the purposes of the Order)—

- (a) after paragraph (1) insert—

“(1A) The Commissioners for Her Majesty’s Revenue and Customs may disclose any information in their possession to the Scottish Ministers for the purposes of this Order.”,

- (b) in paragraph (2), for “Paragraph (1) is” substitute “Paragraphs (1) and (1A) are”.

### **The Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006**

**66.**—(1) The Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006(10) is amended as follows.

(2) In article 2 (interpretation)—

- (a) in the definition of “inspector” after “Commissioners” insert “or the Scottish Ministers”,
- (b) in the definition of “the appropriate authority”—
  - (i) in sub-paragraph (a) omit “and Scotland”,
  - (ii) after sub-paragraph (a) insert—

“(aa) the Scottish Ministers, in relation to Scotland;”.

(3) In Schedule 2, in the form of certificate, after “FC SEAL”, before the Appendix, insert—

“[[or, as appropriate]

Signed on behalf of the Scottish Ministers

.....]”.

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(10) [S.I. 2006/2695](#), to which there are amendments not relevant to this Order.

### **The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009**

67.—(1) Schedule 1 to the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009<sup>(11)</sup> is amended as follows.

(2) In the entry for the Forestry Commission, in columns 2 and 3, omit “or Scotland”.

### **The Infrastructure Planning (Compulsory Acquisition) Regulations 2010**

68.—(1) Schedule 2 to the Infrastructure Planning (Compulsory Acquisition) Regulations 2010<sup>(12)</sup> is amended as follows.

(2) In the entry for the Forestry Commission, in column 2, after “in England” omit “or Scotland”.

### **Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011**

69.—(1) Schedule 1 to the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011<sup>(13)</sup> is amended as follows.

(2) In the entry for the Forestry Commission, in columns 2 and 3, after “in England” omit “or Scotland”.

### **The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015**

70.—(1) The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015<sup>(14)</sup> are amended as follows.

(2) In regulation 2 (interpretation), in the definition of “plant passport authority”, after “Forestry Commissioners” insert “or the Scottish Ministers”.

(3) In regulation 3 (fees)—

(a) in paragraph (1) for “Fees” substitute “In relation to England, fees”,

(b) after paragraph (1) insert—

“(1A) In relation to Scotland, fees payable under this regulation are payable to the Scottish Ministers.”.

### **Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015**

71.—(1) Schedule 1 to the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015<sup>(15)</sup> is amended as follows.

(2) In the entry for the Forestry Commission, in column 2, omit “or Scotland”.

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(11) [S.I. 2009/2264](#), to which there are amendments not relevant to this Order.

(12) [S.I. 2010/104](#), to which there are amendments not relevant to this Order.

(13) [S.I. 2011/2055](#), to which there are amendments not relevant to this Order.

(14) [S.I. 2015/350](#).

(15) [S.I. 2015/462](#), to which there are amendments not relevant to this Order.