
EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which applies to Great Britain, revokes and supersedes the Import and Export (Plant Health) (Great Britain) Order 1980, the Plant Pests (Great Britain) Order 1980 and various other Orders listed in Schedule 9. The Order (together with Orders made by the Forestry Commission) implements Council Directive [77/93/EEC](#) (as amended by the instruments listed in Schedule 5) on protective measures against the introduction into the Member States of organisms harmful to plants or plant products, Council Directive [69/465/EEC](#) (OJNo. L323, 24.12.69, p.3) (OJ/SE 1969 (II), p.563) on the control of potato cyst eelworm and Council Directive [69/464/EEC](#) (OJ No. L323, 24.12.69, p.1) (OJ/SE 1969 (II), p.561) on the control of potato wart disease. The Order also imposes controls in respect of the import of agricultural machinery, genetically manipulated material and plants in tissue culture, in respect of direct trade in plants etc. with countries other than Member States and contains additional provisions to prevent the spread of plant pests in Great Britain.

The Order—

- (a) prohibits the landing of certain plant pests, plants, plant products, agricultural machinery, soil, growing medium and genetically manipulated material and specifies conditions under which other plants etc. may be landed (article 4);
- (b) prohibits the keeping, sale, planting, release, delivery or other disposal of certain plant pests, plants etc. and prohibits work involving genetic manipulation of a plant pest or genetically manipulated material (article 5);
- (c) contains various provisions concerning phytosanitary certificates and re-forwarding phytosanitary certificates (articles 3 and 6 to 11);
- (d) provides that certain plants etc. may be landed without a phytosanitary certificate if they are landed in the baggage of passengers or if they are directly consigned to Great Britain from Northern Ireland, the Channel Islands or the Isle of Man (article 8);
- (e) requires that certain plants and growing medium when exported to a Member State are to be accompanied by a phytosanitary certificate or a re-forwarding phytosanitary certificate (article 12);
- (f) requires notification of the presence of certain plant pests, plants etc. (articles 13 and 14);
- (g) enables plant health inspectors to take remedial or precautionary action where certain plant pests, plants etc. are or are likely to be landed in contravention of the Order or where certain plant pests, plants etc. are or are likely to be present on premises (article 15);
- (h) enables plant health inspectors to declare premises infected with certain plant pests and, in the case of wart disease of potatoes, to declare premises a safety zone (article 15(4) and (5));
- (i) enables plant health inspectors to enter premises, carry out examinations and take samples and to take remedial action where the requirements of notices served under the Order have not been complied with (articles 17 and 19);
- (j) restricts the planting and movement of potatoes (articles 21 and 22);
- (k) contains additional provisions to prevent spread of Colorado Beetle, red core disease of strawberries, fire blight disease, potato cyst nematode, wart disease of potatoes, beet cyst nematode and progressive wilt disease (articles 23 to 41);

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- (l) provides that anything prohibited by the Order may be done under the authority of a licence (article 42);
- (m) provides that officers of the Customs and Excise may detain plants, plant products etc. for examination by a plant health inspector (article 44);
- (n) enables a plant health inspector to seek information in respect of certain plant pests, plants, plant products etc. (article 45);
- (o) provides that the contravention of, or failure to comply with, any provisions of the Order (other than those relating to landing) shall be an offence punishable by a fine not exceeding £2,000 (articles 46 and 47). (Any person who lands articles in contravention of a prohibition imposed by this Order with intent to evade such prohibition is guilty of an offence under section 50(2) of the Customs and Excise Management Act 1979 (c. 2) and may be detained. A person guilty of such offence is liable, on summary conviction, to a penalty of £2,000 or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both, and, on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.)

In addition to numerous minor and drafting amendments, the Order makes the following changes of substance—

- (1) the provisions of the Order as to imports of certain plants, plant products etc. apply not only where they are directly consigned to Great Britain from a third country but also where they reach Great Britain via a Member State (article 4 and Schedules 2 and 3);
- (2) the conditions as regards imports of certain trees and shrubs from New Zealand, of chrysanthemum cuttings from Malta and Canary Islands and of dahlias from third countries have been set out in the Order as opposed to the previous practice of setting them out in licences (articles 4 and Schedule 3, Parts IIB and IIC);
- (3) import controls on pea seeds have been extended to Certified Seed of the First Generation (article 4 and Schedule 2, Part III);
- (4) the import requirement that rooted plants etc. should have been grown at a place of production free from Western Flower Thrips has been removed although plants etc. (whether imported or not) are still required to be free from that pest (articles 4 and 5 and Schedule 1, Part I);
- (5) revised controls have been introduced in respect of the import of plants in tissue culture (articles 3 and 4 and Schedules 2 and 3);
- (6) Scotland and certain counties in the north of England have been designated as the fire blight free region so as to provide protection in that region against fire blight (articles 5, 13 and 30 and Schedule 1, Part III);
- (7) the provisions concerning plants and plant products which may be landed in a passenger's baggage without a phytosanitary certificate have been revised (article 8);
- (8) re-exports of certain plants etc. to Member States are now required to be accompanied by the phytosanitary certificate issued in the country of origin as well as a re-forwarding phytosanitary certificate (article 12 and Schedule 4);
- (9) the requirement to notify the presence of plant pests has been extended to persons who become aware of such presence in the course of their duties or business (article 13);
- (10) notification by the responsible authority is required of the likely entry into, or presence in, a free zone of imported plant pests, plants etc. (article 14);
- (11) entry to private dwellings may be obtained only under the authority of a warrant granted by a justice of the peace or sheriff (article 20);

(12) the planting of the hop varieties Omega, Wye Target and Wye Yeoman outside “the specified area” is no longer prohibited (article 41);

(13) the maximum fine which may be imposed for an offence under the Order has been increased to £2,000 (article 47) (the provision enabling the imposition of 3 months imprisonment for offences relating to Colorado Beetle has not been re-enacted);

(14) generally, the protection afforded by the Order has been strengthened and its import controls have been extended to additional plants and to give protection against numerous additional plant pests (details of the changes may be obtained, free of charge, from Plant Health Division, Ministry of Agriculture, Fisheries and Food, Great Westminster House, Horseferry Road, London SW1P 2AE; Potatoes and Plant Health Branch, Department of Agriculture and Fisheries for Scotland (DAFS), Chesser House, 500 Gorgie Road, Edinburgh EH11 3AW; the plant health inspectorate in England and Wales and DAFS area offices in Scotland).