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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Plant Health (Forestry) (Great Britain) Order 2005 (“the Order”) revokes and consolidates with amendments the Plant Health (Forestry) (Great Britain) Order 1993 ([SI 1993/1283](#)). The Order also implements—

- (a) Commission Directive [2002/36/EC](#) (OJNo. L116, 3.5.2002, p.16) amending certain Annexes to Council Directive [2000/29/EC](#) on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community;
- (b) Council Directive [2002/89/EC](#) (OJ No. L355, 30.12.2002, p.45) amending Directive [2000/29/EC](#) on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community;
- (c) Commission Directive [2003/47/EC](#) (OJ No. L138, 5.6.2003, p.47) amending Annexes II, IV and V to Council Directive [2000/29/EC](#) on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community;
- (d) 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 (OJ No. L236, 23.9.2003, p.33);
- (e) Commission Decision [2004/278/EC](#) (OJ No. L87, 25.3.2004, p.31) on the Community position on the amendment of the Appendices to Annex 4 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products;
- (f) Commission Directive [2004/102/EC](#) (OJ No. L309, 6.10.2004, p.9) amending Annexes II, III, IV and V to Council Directive [2000/29/EC](#) on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community;
- (g) Commission Directive [2004/103](#) (OJ No. L313, 12.10.2004, p.16) on 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;
- (h) Commission Directive [2004/105/EC](#) (OJ No. L319, 20.10.2004, p.9) determining the models of phytosanitary certificates or phytosanitary certificates for re-export accompanying plants, plant products or other objects from third countries and listed in Council Directive [2000/29/EC](#);
- (i) Council Directive [2005/15/EC](#) (OJ No. L56, 2.3.2005, p.12) amending Annex IV to Directive [2000/29/EC](#) on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread in the Community;

*Status: This is the original version (as it was originally made).*

- (j) Commission Directive [2005/16/EC](#) (OJ No. L57, 3.3.2005, p.19) amending Annexes I to V to Council Directive [2000/29/EC](#) on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community;
- (k) Commission Directive [2005/17/EC](#) (OJ No. L57, 3.3.2005, p.23) amending certain provisions of Directive [92/105/EEC](#) concerning plant passports;
- (l) Commission Directive [2005/18/EC](#) (OJ No. L57, 3.3.2005, p.25) amending Directive [2001/32/EC](#) as regards certain protected zones exposed to particular plant health risks in the Community; and
- (m) Commission Decision [2005/260/EC](#) (OJ No. L78, 24.3.2005, p.50) which comprises Decision No 2/2005 of the Joint Committee on Agriculture set up by the Agreement between the European Community and the Swiss Confederation on trade in agricultural products concerning the amendments to the Appendices to Annex 4.

The Order comes into force on 1st October 2005.

Part 2 of the Order imposes restrictions and requirements on relevant material imported into Great Britain from third countries, including material coming via another country in the European Community where the Forestry Commissioners have agreed to inspect that material in Great Britain. “Relevant material” is defined in article 2.

The principal controls are in article 5, which contains general prohibitions and restrictions on relevant material being landed in Great Britain, article 6, which requires importers to provide the Forestry Commissioners with advance notice of landing of relevant material and article 7, which imposes requirements for relevant material to be accompanied by a phytosanitary certificate. Article 8 exempts certain relevant material which is brought into Great Britain in a person’s baggage from these prohibitions and restrictions.

Article 9 imposes requirements relating to the contents, display and presentation of documents required to accompany relevant material.

Articles 10 to 12 provide that certain relevant material shall not be removed from an area of plant health control (defined in article 10(2)) until, having satisfied himself as to the matters specified in article 12, an inspector has discharged that material.

Articles 13 and 14 provide for an officer for Revenue and Customs to be able to detain relevant material from which an inspector considers a tree pest may spread.

Article 15 contains general requirements to be met by phytosanitary documentation.

Articles 16 and 17 introduce provisions to allow relevant material to be inspected at its place of destination provided that place is approved by the relevant authorities and the material is accompanied by a plant health movement document.

Part 3 of the Order contains the prohibitions and restrictions that apply to relevant material coming to Great Britain from another part of the European Community and to movement of that material within Great Britain. The requirements for such material to be accompanied by a plant passport are imposed by article 20.

Part 4 of the Order imposes a requirement on forestry traders to be registered in respect of their activities (articles 24 to 27) and provides for the Forestry Commissioners to be able to authorise them to issue plant passports (article 28).

Part 5 contains special arrangements governing trade in relevant material between Great Britain and Switzerland.

Part 6 contains general enforcement powers given to inspectors.

Part 7 provides for the Forestry Commissioners to be able to license activities that would otherwise be prohibited by the Order.

Part 8 imposes requirements to notify the presence of certain pests to the Forestry Commissioners.

Part 9 imposes offences for non-compliance with the Order or with requirements imposed under it (article 43(1)); in relation to making statements or failing to disclose information for the purpose of procuring a plant health document (article 43(3)) and for dishonestly issuing, altering or re-using a plant passport (article 43(4)). (Contravention of any prohibition on landing imposed by the Order is an offence under the Customs and Excise Management Act 1979 (c. 2) and not under the Order.)

A person found guilty of an offence under the Order is liable on summary conviction to a fine of up to level 5 on the standard scale (article 44).

A transposition note has been prepared and placed in the library of each House of Parliament. Copies of the transposition note can be obtained from the Forestry Commission, 231 Corstorphine Road, Edinburgh, Scotland, EH12 7AT. A full regulatory impact assessment has not been produced for this Order as it has no impact on the costs for business.