
STATUTORY INSTRUMENTS

2005 No. 2517

The Plant Health (Forestry) Order 2005

PART 9

OFFENCES

Offences

43.—(1) A person shall be guilty of an offence if without reasonable excuse, proof of which shall lie with him—

- (a) subject to paragraph (2), he contravenes or fails to comply with—
 - (i) article 6(1);
 - (ii) article 9;
 - (iii) article 10(1) or (4);
 - (iv) article 16(2) or (3);
 - (v) article 19(1);
 - (vi) article 20;
 - (vii) article 23(3) or (4);
 - (viii) article 25(1);
 - (ix) article 26(2) or (3);
 - (x) article 27(1);
 - (xi) article 35;
 - (xii) article 39(4);
 - (xiii) article 40(1); and
 - (xiv) article 41(1);
- (b) he contravenes or fails to comply with a provision or condition of a notice served, or licence granted or of any direction given, under this Order; or
- (c) he intentionally obstructs an inspector or any person authorised by an inspector in exercise of his powers given by or under this Order.

(2) Paragraph 1(a) shall not apply where an article of any description is landed in Great Britain in contravention of a prohibition in this Order⁽¹⁾, other than the prohibition in article 6(1).

(3) A person shall be guilty of an offence if, for the purpose of procuring the issue of a plant passport or a replacement plant passport, a phytosanitary certificate, a phytosanitary certificate for re-export or a licence under this Order, he—

- (a) knowingly or recklessly makes a statement which is false in a material particular, or

(1) Sections 49 and 50 of the Customs and Excise Management Act 1979 (c. 2) provide respectively for forfeiture of goods improperly imported and penalties for improper importation of goods.

(b) intentionally fails to disclose any material information.

(4) A person shall be guilty of an offence if he—

(a) dishonestly issues a plant passport; or

(b) dishonestly alters a plant passport, or re-uses a plant passport.

(5) Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

(a) any director, manager or secretary or other similar officer of the body corporate; or

(b) any person who was purporting to act in any such capacity,

he, as well as the body corporate, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(6) For the purposes of paragraph (5), “director” in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(7) Where an offence under this Order is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or attributable to any neglect on the part of, a partner, he, as well as the partnership, shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

(8) Where the commission by any person of an offence under this Order is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.

Penalties

44. A person guilty of an offence under this Order shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.