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## EXPLANATORY NOTE

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

The Plant Health (England) Order 2005 (“this Order”), which extends to England and Wales but applies only to England, revokes and consolidates with amendments the Plant Health (Great Britain) Order 1993 (SI 1993/1320) (in its application to England). This Order also implements—

- (a) Council Directive [2002/89/EC](#) (OJNo. 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;
- (b) 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;
- (c) 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](#);
- (d) 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;
- (e) Commission Directive [2005/17/EC](#) (OJ No. L57, 3.3.2005, p.23) amending certain provisions of Directive [92/105/EEC](#) concerning plant passports; and
- (f) 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.

This Order comes into force on 3rd October 2005.

Part 2 of this Order imposes restrictions and requirements on relevant material imported into England from third countries, including material coming via another country in the European Community where the Secretary of State has agreed to inspect that material in England. “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 England, article 6, which requires importers to provide the Secretary of State 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 England in a person’s baggage from these prohibitions and requirements.

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

*Status: This is the original version (as it was originally made).*

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 plant pest may spread.

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

Articles 16 to 18 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 this Order contains the prohibitions and restrictions that apply to relevant material coming to England from another part of the European Community (which includes other parts of the United Kingdom) and on the movement of that material within England. The requirements for such material to be accompanied by a plant passport are imposed by article 21.

Part 4 of this Order imposes a requirement on plant traders to be registered in respect of their activities (articles 25 to 28) and provides for the Secretary of State to be able to authorise them to issue plant passports (article 29).

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

Part 6 contains general enforcement powers given to plant health inspectors.

Part 7 imposes additional requirements in respect of certain solanaceous species (potatoes and tomatoes).

Part 8 provides for the Secretary of State to be able to license activities that would otherwise be prohibited by this Order.

Part 9 imposes requirements to notify the presence of certain pests to the Secretary of State.

Part 10 contains offences for non-compliance with this Order or with requirements imposed under it (article 45(1)); in relation to making statements or failing to disclose information for the purpose of procuring a plant health document (article 45(3)) and for dishonestly issuing, altering or re-using a plant passport (article 45(4)). (Contravention of any prohibition on landing imposed by this Order is an offence under the Customs and Excise Management Act 1979 (c. 2) and not under this Order.)

A person found guilty of an offence under this Order is liable on summary conviction to a fine of up to level 5 on the standard scale (article 46).

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 Plant Health Division, Defra, Foss House, Kings Pool, Peasholme Green, York YO1 7PX. A full regulatory impact assessment has not been produced for this Order as it has no impact on the costs for business.