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STATUTORY INSTRUMENTS

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**2015 No. 610**

**The Plant Health (England) Order 2015**

**PART 6**

**Measures to control the landing of relevant material and prevent the spread of plant pests**

**Examination, sampling and marking**

- 31.**—(1) An inspector may enter any premises at all reasonable times for the purpose of—
- (a) determining the presence or the distribution of a plant pest on the premises;
  - (b) checking compliance with any provision of this Order;
  - (c) carrying out an examination of a plant trader's premises (including relevant material, documents or records on the premises) in connection with the plant trader's authorisation or application for authorisation to issue plant passports under article 29;
  - (d) otherwise enforcing the provisions of this Order.
- (2) An inspector acting under paragraph (1) must, if requested to do so, show evidence of their authority to act.
- (3) Paragraph (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling, unless 24 hours' notice has been given to the occupier.
- (4) Paragraph (1) does not affect any right of entry conferred by a warrant issued by a justice of the peace.
- (5) An inspector who enters premises for a purpose specified in paragraph (1) or under a warrant issued by a justice of the peace may—
- (a) examine, photograph or mark any part of the premises or any object on the premises;
  - (b) take samples of or from any plant pest or relevant material, or from any container or package, or from any material which has been or may have been in contact with a plant pest or relevant material;
  - (c) inspect or make copies of any documents or records (in whatever form they may be held) relating to the production of or trade in any relevant material.
- (6) An inspector may, for the purpose of exercising a power conferred under paragraph (5), open or authorise any person to open on behalf of the inspector any container or package or require the owner or any person in charge of any container or package to open it in the manner specified by the inspector.
- (7) An inspector may prohibit the movement, treatment or destruction of any plant pest, relevant material, container or package or any material which may have been contact with a plant pest or relevant material where this is necessary to enable the inspector to exercise the powers conferred by paragraph (5).
- (8) Where any document or record referred to in paragraph (5)(c) is kept by means of a computer, an inspector may—

- (a) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the record or document;
- (b) require any person who is in charge of or is otherwise concerned with the operation of the computer, apparatus or material to give the inspector any assistance which the inspector reasonably requires.

(9) An inspector may destroy or otherwise dispose of any sample taken under paragraph (5)(b) where the sample is no longer required by the inspector under this Order.

(10) An inspector may be accompanied by such other persons, including representatives of the European Commission, and may bring onto the premises such equipment and vehicles, as the inspector considers necessary.

(11) A person accompanying an inspector under paragraph (10)—

- (a) may remain on the premises and from time to time re-enter the premises without the inspector;
- (b) bring onto the premises any equipment or vehicle that the person considers necessary;
- (c) carry out work on the premises in the manner directed by an inspector.

(12) A person accompanying an inspector under paragraph (10) must, if so requested, show evidence of their authority given in that behalf by the Secretary of State.

#### **Actions which may be required by an inspector**

**32.**—(1) If an inspector has reasonable grounds for suspecting that any plant pest or relevant material is likely to be or has been introduced into England in contravention of this Order, the inspector may serve a notice on an appropriate person.

(2) An appropriate person is—

- (a) a plant trader or other person who is in possession of or who is in any way entitled to the custody or control of the plant pest or relevant material; or
- (b) any person who is in charge of the premises at which the plant pest or relevant material is held or is likely to be held on its landing.

(3) A notice under paragraph (1) may—

- (a) prohibit the landing of any plant pest or relevant material;
- (b) specify the manner in which the landing of any plant pest or relevant material is to be carried out and the precautions which are to be taken during and subsequent to landing;
- (c) require any plant pest or relevant material to be treated, re-exported, destroyed or otherwise disposed of;
- (d) prohibit the removal of any plant pest or relevant material from the premises for the period specified in the notice and, where appropriate, impose any other prohibitions which the inspector considers necessary to prevent the introduction or spread of any plant pest;
- (e) require the removal of any plant pest or relevant material from the premises specified in the notice;
- (f) require the taking of any other steps, as may be specified in the notice, which the inspector considers necessary to prevent the introduction or spread of any plant pest.

(4) If an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises any controlled plant pest or prohibited material, the inspector may serve a notice on the occupier or any other person in charge of the premises or the plant pest or relevant material.

- (5) A notice under paragraph (4) may—
- (a) require any controlled plant pest or prohibited material to be treated, re-exported, destroyed or otherwise disposed of;
  - (b) prohibit the removal of any controlled plant pest or prohibited material from the premises for the period specified in the notice and, where appropriate, impose any other prohibitions which the inspector considers necessary to prevent the introduction or spread of any controlled plant pest;
  - (c) require the removal of any controlled plant pest or prohibited material from the premises specified in the notice;
  - (d) require the taking of any other steps, as specified in the notice, which the inspector considers necessary to prevent the introduction or spread of any controlled plant pest.

(6) If an inspector has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of or ensuring the eradication of any controlled plant pest from the premises mentioned in paragraph (4), the inspector may serve a notice on the occupier or a person in charge of any other premises, imposing any prohibition or requiring any reasonable step to be taken for that purpose.

- (7) In this article—
- (a) “controlled plant pest” means—
    - (i) a plant pest of a description specified in Schedule 1 or in column 3 of Schedule 2;
    - (ii) a plant pest which is not normally present in Great Britain, but in respect of which the inspector considers that there is an imminent danger of the plant pest spreading or being spread in Great Britain; or
    - (iii) a plant pest which is not normally present in another part of the European Union, but in respect of which the inspector considers that there is an imminent danger of the plant pest spreading or being spread to another part of the European Union;
  - (b) “prohibited material” means—
    - (i) relevant material which is carrying or is infected with, or which may be carrying or infected with, a controlled plant pest; or
    - (ii) relevant material the landing of which is prohibited under article 5 or 19 or the movement of which in England is prohibited under article 20.

### **Actions which may be taken by an inspector**

**33.**—(1) If an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises any controlled plant pest or infected material, the inspector may, on serving reasonable notice, enter the premises and on the premises or elsewhere take steps to—

- (a) destroy any controlled plant pest;
- (b) prevent the spread of any controlled plant pest;
- (c) destroy any infected material; or
- (d) treat any infected material.

(2) An inspector acting under paragraph (1) must, if requested to do so, show evidence of their authority to act.

(3) Paragraph (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling, unless 24 hours’ notice has been given to the occupier.

(4) Paragraph (1) does not affect any right of entry conferred by a warrant issued by a justice of the peace.

(5) An inspector may be accompanied by such other persons, including representatives of the European Commission, and may bring onto the premises such equipment and vehicles, as the inspector considers necessary.

(6) A person accompanying an inspector under paragraph (5)—

- (a) may remain on the premises and from time to time re-enter the premises without the inspector;
- (b) bring onto the premises any equipment or vehicle which the person considers necessary;
- (c) carry out work on the premises in the manner directed by an inspector.

(7) A person accompanying an inspector under paragraph (5) must, if so requested, show evidence of their authority given in that behalf by the Secretary of State.

(8) In this article—

(a) “controlled plant pest” means—

- (i) a plant pest of a description specified in Schedule 1 or in column 3 of Schedule 2; or
- (ii) a plant pest which is not normally present in Great Britain, but in respect of which the inspector considers that there is an imminent danger of the plant pest spreading or being spread in Great Britain;

(b) “infected material” means—

- (i) relevant material which is carrying or is infected with, or which may be carrying or infected with, a controlled plant pest; or
- (ii) relevant material which is not carrying or infected with, but in respect of which the inspector considers that there is an imminent danger of the plant pest spreading or being spread.

#### **Miscellaneous provisions as to notices**

**34.**—(1) A notice served under paragraph (1) or (4) of article 32 may specify one or more requirements or alternative requirements.

(2) Any requirement specified in a notice under paragraph (1), (4) or (6) of article 32 must be carried out in the manner and within such reasonable time as the inspector may specify in the notice.

(3) Any treatment, re-export, destruction or disposal which is required by a notice served under article 32 must be carried out, or arranged to be carried out, to the satisfaction of an inspector, by the person on whom the notice was served from or at the place specified in the notice.

(4) Any plant pest or relevant material which is required by a notice served under article 32 to be moved to a place specified in the notice may not be moved to the designated place except in the manner specified in the notice.

(5) An inspector may amend or withdraw a notice served by an inspector under this Order by a further notice.

(6) A notice under paragraph (5) may be subject to any conditions which the inspector considers necessary to prevent the introduction or spread of any plant pest or re-infection or re-infestation by the plant pest to which the original notice relates.

(7) Any notice served under this Part may define by reference to a map or plan or otherwise the extent of the premises referred to in the notice.

(8) An inspector may, by notice, require the owner or any other person who appears to be in charge of the premises to which a notice served under article 32 relates—

- (a) to notify the Secretary of State of any change in the occupation of the premises, and the date of the change and the name of the new occupier; and

- (b) to inform the new occupier of the premises of the contents of the notice.

### **Service of notices**

**35.**—(1) A notice under this Order which is to be served on a registered plant trader must be served by—

- (a) delivering it personally; or
- (b) leaving it for, or sending it by post to, the trader at the address of the trader’s registered premises or, if the trader has more than one address in the register, at the trader’s principal address in the register.

(2) A notice under this Order which is to be served on any other person may be served by—

- (a) delivering it personally; or
- (b) leaving it for, or sending it by post to, them at their last known place of abode or business.

(3) If a notice under this Order is to be served on the occupier or other person in charge of premises, and the last known place of abode or address of that person cannot be ascertained after reasonable enquiry, the notice may be served on that person by addressing it to “the occupier” and leaving it conspicuously affixed to an object on the premises for a period of seven days.

(4) A notice under this Order may—

- (a) in the case of a body corporate (other than a limited liability partnership), be served on the secretary or clerk of that body at the address of the registered or principal office of that body;
- (b) in the case of a partnership (other than a limited liability partnership, but including a Scottish partnership), be served on a partner or a person having the control or management of the partnership business at the address of the principal office of the partnership; or
- (c) in the case of a limited liability partnership, be served on a member of the partnership at the address of the registered or principal office of the partnership.

(5) For the purposes of paragraph (4), the principal office of a company registered outside the United Kingdom or a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

### **Information as to compliance with notices**

**36.** An inspector may require a person on whom a notice has been served under this Order to immediately inform the inspector whether the requirements of the notice have been complied with and, if they have, to provide the inspector with details of the steps taken to comply with those requirements.

### **Failure to comply with a notice**

**37.**—(1) If a person fails to comply with a notice served on that person under this Order, an inspector may enter any affected premises at all reasonable times to take or cause any steps to be taken which the inspector considers necessary to ensure compliance with the notice or to remedy the consequences of the failure to carry them out.

(2) An inspector acting under paragraph (1) must, if requested to do so, show evidence of their authority to act.

(3) Paragraph (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling, unless 24 hours’ notice of the intended entry has been given to the occupier.

(4) Paragraph (1) does not affect any right of entry conferred by a warrant issued by a justice of the peace.

(5) An inspector acting under paragraph (1) may be accompanied by such other persons, including representatives of the European Commission, and may bring onto the premises such equipment and vehicles, as the inspector considers necessary.

(6) A person accompanying an inspector under paragraph (5)—

- (a) may remain on the premises and from time to time re-enter the premises without the inspector;
- (b) bring onto the premises any equipment or vehicle which the person considers necessary;
- (c) carry out work on the premises in the manner directed by the inspector.

(7) A person accompanying an inspector under paragraph (5) must, if so requested, show evidence of their authority given in that behalf by the Secretary of State.

(8) Where an inspector takes any steps under paragraph (1), the Secretary of State may recover, as a debt from the person on whom the notice was served, all reasonable costs incurred in taking those steps.

(9) In this article, “affected premises” means any premises in or on which any plant pest or relevant material to which the notice relates may be present.

### **Right of entry conferred by a warrant issued by a justice of the peace**

**38.**—(1) A justice of the peace may by signed warrant permit an inspector to enter premises under article 31, 33 or 37, if necessary by reasonable force, if the justice, on sworn information in writing, is satisfied that—

- (a) there are reasonable grounds to enter those premises; and
- (b) any of the conditions in paragraph (2) are met.

(2) The conditions are that—

- (a) entry to the premises has been, or is likely to be, refused and notice of the intention to apply for a warrant has been given to the occupier;
- (b) asking for admission to the premises, or giving notice of the intention to apply for a warrant, would defeat the object of the entry;
- (c) entry is required urgently;
- (d) the premises are unoccupied or the occupier is temporarily absent.

(3) A warrant is valid for one month.

(4) An inspector who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before entry.