

SCHEDULE

PART 2

MODIFICATIONS OF SUBORDINATE LEGISLATION

The Plant Health (Forestry) Order 2005

65.—(1) The Plant Health (Forestry) Order 2005(1) is amended as follows.

(2) In article 2 (general interpretation)—

(a) in the definition of “the appropriate authority”—

(i) in paragraph (a) omit “and Scotland”,

(ii) after paragraph (a) insert—

“(aa) the Scottish Ministers, in relation to Scotland,”,

(b) in the definition of “inspector” after “Commissioners” insert “or the Scottish Ministers”,

(c) in the definition of “relevant territory”—

(i) in paragraph (a) omit “and Scotland, and”,

(ii) after paragraph (b), insert—

“, and

(c) Scotland.”.

(3) In article 2A (inspectors)—

(a) in paragraphs (1)(a), (2)(a), (3)(a) and (6)(a)(i), (ii) and (iii) omit “or Scotland”,

(b) in paragraph (1), after sub-paragraph (a) insert—

“(aa) in relation to tree pests and relevant material landed in Scotland, by an inspector authorised by the Scottish Ministers,”,

(c) in paragraph (2), after sub-paragraph (a) insert—

“(aa) in relation to compliance with the provisions of this Order in Scotland, by an inspector authorised by the Scottish Ministers,”,

(d) in paragraph (3), after sub-paragraph (a) insert—

“(aa) in relation to premises or a free zone in Scotland, by an inspector authorised by the Scottish Ministers,”,

(e) in paragraph (5), after “the Commissioners” insert “, the Scottish Ministers”,

(f) in paragraph (6), after sub-paragraph (a) insert—

“(aa) by an inspector authorised by the Scottish Ministers in relation to—

(i) premises in Scotland in respect of which a notice has been served under this Order,

(ii) possession or control of tree pests or relevant material in Scotland, and

(iii) sale or other disposal of tree pests or relevant material in Scotland.”.

(4) In article 6 (advance notification of landing)—

(a) in paragraphs (1) and (2) omit “or Scotland” in each place where the words occur,

(b) after paragraph (1) insert—

(1) [S.I. 2005/2517](#), to which there are amendments not relevant to this Order.

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- “(1A) Subject to article 29(3), the landing in Scotland by any person of relevant material to which paragraph (2A) applies is prohibited unless notice is given to the Scottish Ministers in accordance with this article.”,
- (c) after paragraph (2) insert—
- “(2A) The prohibition on landing relevant material in paragraph (1A) applies to the landing in Scotland where Scotland is the point of entry of the material into the European Union of—
- (a) the relevant material mentioned in paragraph (2)(a) and (b), and
 - (b) any solid fuel wood to which paragraphs (2)(a) and (2)(b) do not apply and whose final destination is in Scotland.”.

(5) In article 8(1) (exceptions from certain prohibitions and requirements) after “Article 6(1)” insert “and (1A)”.

(6) In article 18 (prohibitions and restrictions on landing tree pests and relevant material)—

 - (a) in paragraph (3) omit the words “or Scotland”,
 - (b) after paragraph (3) insert—

“(3A) No person may bring any solid fuel wood into Scotland from another part of the European Union unless the Scottish Ministers are given notice in accordance with the requirements of Schedule 12.”.

(7) In article 24 (registers of forestry traders)—

 - (a) in paragraph (1)(a) omit “or Scotland”,
 - (b) after paragraph (1) insert—

“(1A) The Scottish Ministers shall maintain a register listing the particulars set out in paragraph (3) with respect to each forestry trader who—

 - (a) engages in any activity to which this Order applies at any premises in Scotland, and
 - (b) meets the requirements of this Part.”.

(8) In article 30(7) (examination, sampling and marking) after “as the case may be,” insert “the Scottish Ministers or”.

(9) In article 32(5) (actions which may be taken by an inspector) after “as the case may be,” insert “the Scottish Ministers or”.

(10) In article 36(2) (failure to comply with a notice) after “the Commissioners” insert “, the Scottish Ministers”.

(11) In article 40 (notification of the presence or suspected presence of certain tree pests)—

 - (a) in paragraph (1B) omit “or Scotland”,
 - (b) after paragraph (1B) insert—

“(1C) If the Scottish Ministers become aware of the presence or suspected presence of *Xylella fastidiosa* (Wells et al.) in any place or area in Scotland, the Scottish Ministers must ensure that any person having under their control trees which may be infected by *Xylella fastidiosa* (Wells et al.) is immediately informed of—

 - (a) its presence or suspected presence,
 - (b) the possible consequences arising from its presence or suspected presence, and
 - (c) measures to be taken as a result.”.

(12) In article 42A (power to share information for the purposes of the Order)—

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(a) after paragraph (1) insert—

“(1A) The Commissioners for Her Majesty’s Revenue and Customs may disclose any information in their possession to the Scottish Ministers for the purposes of this Order.”,

(b) in paragraph (2), for “Paragraph (1) is” substitute “Paragraphs (1) and (1A) are”.