L.N. 34 of 2005

PLANT QUARANTINE ACT, 2001
(ACT NO. XVII OF 2001)

Identity and Plant Health Checks of Plants, Plant Products or other Objects carried out at a place other than point of entry into the European Community Regulations, 2005

IN exercise of the powers conferred by article 32 of the Plant Quarantine Act, 2001, the Minister for Rural Affairs and the Environment has made the following regulations:-

Title and scope.

1. (1) The title of these regulations is the Identity and Plant Health Checks of Plants, Plant Products or other Objects carried out at a place other than point of entry into the European Community Regulations, 2005.

(2) The scope of these regulations is to transpose the provisions found in European Commission Directive 2004/103/EC on the 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:

Provided that Directive 2000/29/ EC has been transposed under the Plant Quarantine (Harmful Organisms) Regulations, Legal Notice 97 of 2004.

Applicability of regulations.

2. (1) These regulations shall apply to plants, plant products or other objects coming from third countries, listed in Part B of Annex V to Directive 2000/29/EC (hereinafter referred to as 'products concerned'). In the cases and circumstances defined by this Directive, Member States may lay down that those inspections referred to in Article 13a (1)(b)(ii) and (iii) of Directive 2000/29/EC on the products concerned may be carried out at another place. In the case of transit of non- Community goods referred to in Article 13c(2)(c) of Directive 2000/29/EC, the inspection may take place at the premises of the official body of destination, or at any place close by, when the conditions referred to in sub-regulation (2) are met. In cases referred to in Article 13c (2)

(d) of Directive 2000/29/EC, the inspection may take place at the place of destination such as place of production, when the conditions referred to in sub-regulation (2) are met.

(2) The conditions referred to in sub-regulation (1) shall be:

(a) when the official bodies of the point of entry and of destination, decide, where appropriate by agreement between the responsible official bodies of the Member States, that identity checks and plant health checks (hereinafter referred to as 'checks') could more meticulously be carried out at a place other than the point of entry into the Community or at a place close by, and

(b) when any importer or other person responsible for the places or the premises where the checks are to be carried out (hereinafter referred to as 'the applicant') of a consignment composed of the products concerned has the approval, through an approval procedure defined in regulation 3(2) for checks to be carried out at 'an approved place of inspection' which is either:

(i) in the case of transit of non-Community goods referred to in Article 13c(2)(c) of Directive 2000/29/EC, at –

(A) the premises of the official body of destination, or

(B) a place close by those premises and designated or approved by the customs authorities and by the responsible official body, or

(ii) in the cases referred to in Article 13c(2)(d) of Directive 2000/29/EC, at a place of destination approved by the official body and the customs authorities responsible for the area where that place of destination is located, and

(c) when specific guarantees and documents as regards the transport of a consignment composed of the products concerned (hereinafter referred to as 'the consignment'), to the approved place of inspection are met, and, where appropriate, minimum conditions concerning the storage of these products on these places of inspection are fulfilled.

(3) The specific guarantees, documents and minimum conditions referred to in sub-regulation 2(c) shall be:

(a) the packaging of the consignment or the means of transport used for this consignment shall be closed or sealed in such a way that the products concerned cannot cause infestation or infection during their transport to the approved place of inspection and will be such that their identity will remain unchanged. In duly reasoned cases the relevant official bodies of the Member States may allow consignments which are not closed or sealed, provided that the products concerned cannot cause infestation or infection during their transport to the approved place of inspection;

(b) the consignment shall be sent to the approved place of inspection. No change of the place of inspection is allowed, except following approval by the relevant official bodies of the point of entry and of the requested destination, and the customs authorities responsible for the area where the requested place of inspection is located;

(c) the consignment shall be accompanied by a 'Plant health movement document', prescribed in Article 13(1) of Directive 2000/29/EC, and contain the required information in accordance with the model in the Schedule to these regulations; the document shall be completed by typing or in handwritten legible capital letters or by electronic means in agreement with the relevant official bodies of point of entry and of destination and shall be in at least one of the official languages of the Community;

(d) the relevant headings of the document referred to in sub-regulation 3(c) shall be filled in and signed by the importer of the consignment under the supervision of the relevant official body of point of entry;

(e) in the cases referred to in sub-regulation 2(b) (i) (A), the storage of the consignment at the approved place of inspection shall be such that it is separated from both Community goods and from consignments infested or suspected to be infested by harmful organisms.

Approval procedure.

3. (1) The competent authority shall ensure that an approval procedure be established as specified in sub-regulations (2), (3) and (4) of this regulation to evaluate, and where appropriate to approve, the suitability in phytosanitary terms, of carrying out checks at places proposed as approved places of inspection.

(2) The procedure referred to in sub-regulation (1) shall indicate that, if the checks are to be carried out at approved places of

inspection, any applicant shall apply to the responsible official bodies in charge of carrying out such checks, requesting that checks be carried out at places mentioned in the request.

(3) The application shall include a technical dossier supplying the information necessary for evaluating the suitability of proposed places as an approved place of inspection, and covering, in particular:

(a) information relating to the products concerned intended to be imported and the places in which the imported products concerned will be stored or kept awaiting the final results of the checks, and in particular how separation referred to in regulation 2(3)(e) is to be secured, and

(b) where appropriate, when the products concerned are intended for a person to whom the status of 'authorised consignee' was granted and fulfil the conditions laid down in Article 406 of Commission Regulation (EEC) No 2454/93 or when the places concerned are subject to an authorisation as referred to in Article 497 of the said Regulation, relevant evidence thereof.

(4) Member States shall ensure that the application referred to in sub-regulation (2) shall be recorded and that the responsible official bodies shall:

(a) examine the information supplied in the application;

(b) evaluate the suitability for carrying out checks at the proposed places of inspection, which should fulfil minimum requirements which are at least those laid down in paragraph 3(b) and (c) of the Annex to Commission Directive 98/22/EC, or any further requirements which the Member States may impose in a non-discriminatory manner and which are justified in order to allow efficient inspections;

(c) respond to the applicant by either:

(i) indicating that the application is acceptable and that the places concerned are designated as approved place of inspection, or

(ii) indicating that the application is not acceptable and the reason therefore.

(5) The competent authority shall keep and make available to the Commission and to the Member States on request, the updated list of the approved places of inspection.

(6) Member States shall ensure that the responsible official bodies shall take the necessary measures if it is found that there are elements which would militate against the proper functioning of carrying out checks at the approved places of inspection situated in their territory. Member States shall notify the Commission and the Member States concerned of all significant cases of non-compliance with the conditions which apply to an approved place of inspection.

Obligations of importer.

4. The competent authority shall ensure that the importer of the consignments for which it was decided that checks of these consignments may be carried out at an approved place of inspection, shall be subject to the following obligations, without prejudice to those already laid down in Commission Directive 92/90/EEC:

(a) the importer shall notify the introduction of the products concerned sufficiently in advance to the relevant official body of destination, which notification shall contain in particular:

(i) the name, address and the location of the approved place of inspection;

(ii) the scheduled date and time of arrival at the approved place of inspection of the products concerned;

(iii) if available, the individual serial number of the plant health movement document referred to in regulation 2(3)(c);

(iv) if available, the date and place at which the plant health movement document referred to in regulation 2(3)(c) was drawn up;

(v) the name, the address and the official registration number of the importer;

(vi) the reference number of the phytosanitary certificate and/or phytosanitary certificate for re-export, or any other required phytosanitary document;

(b) the importer shall notify to the relevant official body of destination any changes as regards the information supplied pursuant to paragraph (a) hereof.

Minimum conditions to be satisfied.

5. The competent authority shall ensure that the checks of the products concerned carried out at the approved place of inspection satisfy minimum conditions which are at least those laid down in paragraphs 1, 2 and 3(a) of the Annex to Directive 98/22/EC, or any further requirements which the Member States may impose in a non-discriminatory manner and which are justified in order to allow efficient inspections.

Additional requirements.

6. The competent authority may lay down additional requirements deemed necessary to designate a proposed place as an approved place of inspection.

Co-operation to be ensured.

7. (1) Malta shall ensure cooperation, where applicable, between:

(a) the official body of point of entry and the official body of destination;

(b) the official body of point of entry and the customs office of point of entry;

(c) the official body of destination and the customs office of destination;

(d) the official body of point of entry and the customs office of destination by means of exchange of relevant information on the plants, plant products or other objects intended to be imported, their packaging and means of transport in written or electronic form using the Plant health movement document referred to in sub-regulation 2(3)(c).

(2) If the point of entry into Malta of the products concerned and the approved place of inspection are situated in different Member States, the consignment may be sent to and the checks may be carried out at an approved place of inspection on the basis of an agreement between the responsible official bodies of the Member States concerned. Evidence of the agreement between the responsible official bodies of the Member States concerned shall be recorded on the Plant health movement document.

(3) After the products have been inspected at the approved place of inspection, the official body of destination shall certify on the Plant health movement document, using a service stamp and a date, that the relevant identity and plant health checks referred to in Article 13a(1)(b)(ii) and (iii) of Directive 2000/29/EC have been carried out. The final outcome of these checks shall be shown in the box headed

'Decision'. This provision applies, *mutatis mutandis*, if the documentary checks referred to in Article 13c (2) (a) of Directive 2000/29/EC have also been complied with.

(4) If the outcome of the checks referred to in sub-regulation (3) is 'Release', the consignment and the accompanying Plant health movement document shall be presented to the customs authorities responsible for the area of the 'approved place of inspection' enabling the consignment to be placed under the relevant customs procedure referred to in Article 13(1) of Directive 2000/29/EC. The Plant health movement document shall no longer be required to accompany the consignment and this document or a copy thereof shall be kept for at least one year by the official body of point of destination.

(5) If the outcome of the checks referred to in sub-regulation (3) leads to the obligation to move the products concerned within the Community to a destination outside the Community, such products shall remain under Customs supervision until the re-export of the products has taken place.

SCHEDULE

<table>
<tr><td>1. Plant health movement document as referred to in Article 1(3)(c) of Commission Directive 2004/103</td><td colspan="2">2. PLANT HEALTH MOVEMENT DOCUMENT NO. EC. /…/…[1]</td></tr>
<tr><td colspan="3">3 Identification of consignment [2] – This consignment contains produce of phytosanitary relevance
Plant, plant product or other object (TARIC code): …….

Reference number(s) of required phytosanitary documentation:

Country of issue: ……..

Date of issue: …….

Distinguishing mark(s), numbers, number of packages, amount (weights/ units) ……

Reference number of required customs documentation:…….....</td></tr>
<tr><td colspan="3">4. Official registration number of importer: …….

I, the undersigned importer, hereby request the responsible official body to carry out the official identity checks and plant health checks of the abovementioned plants, plant products or other objects at the approved place of inspection listed below and I undertake to respect the rules and procedures set by the official responsible body.

Date, name and signature of importer…….</td></tr>
<tr><td>5.1 Point of entry:</td><td colspan="2">5.2 Countersigning by official body of point of entry (date, name, service stamp and signature):
……..</td></tr>
<tr><td colspan="3">6. Approved places of inspection [3]

A. …….. B (replaces A) …….

…… ……</td></tr>
<tr><td colspan="3">The plants, plants products or other objects are moved to the abovementioned place(s) of inspection in accordance with the agreement concluded between [4]

…….</td></tr>
<tr><td colspan="3">This consignment may not be moved to places other than those listed above unless this has been officially approved.</td></tr>
<tr><td>7. Documentary check ☐</td><td>8. Identity check ☐</td><td>9. Plant health check ☐</td></tr>
<tr><td>Place/date:
Name:
Service stamp/signature:</td><td>Place/date:
Name:
Service stamp/signature</td><td>Place/date:
Name:
Service stamp/signature</td></tr>
</table>

[1] Make reference to country code/number.
[2] Fill in box or make reference to information on Phytosanitary certificate which must be attached.
[3] Make reference to 'C' (Article 13c(2) (c) of Directive 2000/29/EC or 'D' (Article 13c(2) 9 (d) of Directive 2000/29/EC).
[4] When appropriate, give details on agreement between Member States' official services, either on a case-by-case agreement or on the basis of a longer-term agreement.

10. Decision:

☐ Release Place/date: ……..
Name:……..
Service/ stamp/signature ……..

Indicate EC plant passport (serial or week or batch) number where appropriate: ……..

☐ Official measure
- ☐ Refusal of entry
- ☐ Movement outside the Community
- ☐ Removal of infected/infested produce
- ☐ Destruction
- ☐ Quarantine period
- ☐ Appropriate treatment

Remark: ……
…….