STATUTORY RULES OF NORTHERN IRELAND

2016 No. 259

PLANT HEALTH

The Plant Health (Amendment) Order (Northern Ireland) 2016

Made - - - -	*30th June 2016*
Coming into operation	*5th July 2016*

The Department of Agriculture, Environment and Rural Affairs(**1**) makes the following Order in exercise of the powers conferred by sections 2, 3, 3A and 3B(1) of the Plant Health Act (Northern Ireland) 1967(**2**), as read with paragraph 1A of Schedule 2(**3**) to the European Communities Act 1972.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(**4**), and it appears to the Department of Agriculture, Environment and Rural Affairs that it is expedient for references to the European Union instruments mentioned in article 3(a) and 3(b) to be construed as references to those instruments as amended from time to time.

Citation and commencement

1. This Order may be cited as the Plant Health (Amendment) Order (Northern Ireland) 2016, and comes into operation on 5th July 2016.

Amendment of the Plant Health Order (Northern Ireland) 2006

2. The Plant Health Order (Northern Ireland) 2006(**5**) is amended in accordance with articles 3 to 14.

(**1**) The Ministry of Agriculture became known as the Department of Agriculture by virtue of section 7(5) of the Northern Ireland Constitution Act (c.36), was renamed the Department of Agriculture and Rural Development by Article 3(4) of the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I.1) and was renamed the Department of Agriculture, Environment and Rural Affairs by section 1 of the Departments Act (Northern Ireland) 2016 (c.5).

(**2**) 1967 c.28 (N.I.); sections 2(1) and 3(1) were amended by S.R. & O (N.I.) 1972 No. 351, article 3 and Schedule 2. Section 2(2) was amended by 1979 c.2 section 177(1) and Schedule 4, Part II. Sections 2 and 3 were also amended by S.I. 1984/702 (N.I.2), Articles 15(2), 24 and Schedule.

(**3**) 1972 c.68 (N.I.). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and amended by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

(**4**) 1972 c.62. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7)

(**5**) S.R. 2006 No. 82. Relevant amending instruments are S.R. 2006 No. 165, S.R. 2006 No. 435, S.R. 2007 No. 483, S.R. 2008 No. 205, S.R. 2008 No. 442, S.R. 2008 No. 493, S.R. 2009 No. 179, S.R. 2010 No. 197, S.R. 2010 No. 307, S.R. 2011 No. 22, S.R. 2013 No. 7, S.R. 2013 No. 103, S.R. 2014 No. 172 and S.R. 2015 No. 128.

Article 2 (general interpretation)

3. In article 2(1)—

(a) after "Decision 2008/840/EC"(**6**), at the appropriate place insert—

""Decision 2012/270/EU" means Commission Implementing Decision 2012/270/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix similaris* (Gentner), *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner), as amended by Commission Implementing Decision 2014/679/EU amending Implementing Decision 2012/270/EU as regards its period of application and as regards the movement to packing facilities of potato tubers originating in areas demarcated in order to prevent the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix similaris* (Gentner), *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner) and as further amended from time to time;"(**7**)(**8**);

(b) after "Decision 2014/422/EU", at the appropriate place insert—

""Decision (EU) 2015/789" means Commission Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.), as last amended by Commission Implementing Decision (EU) 2016/764 amending Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction and the spread within the Union of *Xylella fastidiosa* (Wells et al.) and as further amended from time to time;"(**9**)(**10**)(**11**).

Article 15 (general provisions relating to certificates)

4. In article 15, omit paragraph (4).

Article 19 (prohibitions on landing plant pests and relevant material)

5. For paragraphs (3) to (5) of article 19(**12**) substitute—

"(3) Subject to article 22, a person shall not land in Northern Ireland any of the following potatoes unless that person has given written notification of the matters referred to in paragraph (4) to an inspector at least 48 hours prior to the intended date of their landing—

(a) seed potatoes grown in another member State or in Switzerland; or

(b) potatoes, other than seed potatoes, grown in Poland, Portugal, Romania or any part of Spain (other than the Canary Islands, Ceuta and Melilla).

(4) The matters are—

(a) the intended date and time of their landing;

(b) their intended point of entry;

(c) their intended use;

(d) their intended destination;

(e) their variety and quantity; and

(**6**) The Definition of "Decision 2008/840/EC" was inserted by S.R. 2011 No. 22, article 2(2).
(**7**) OJL 132, 23.5.2012, p.18.
(**8**) OJL 283, 27.9.2014, p.61-64.
(**9**) OJL 125, 21.5.2015, p.36.
(**10**) OJL 333, 19.12.2015, p.143.
(**11**) OJL 126, 14.5.2016. p. 77.
(**12**) Article 19(3) and (4) were substituted by Article 19(3) to (5) by S.R. 2013 No. 7, article 2(2).

(f) the identification number of the producer of the potatoes.".

Article 22 (exceptions from certain prohibitions and requirements)

6. In article 22—

(a) in paragraph (1), for "Article 19(1)(e), (f) and (g) and (4)" substitute "article 19(1)(e), (f) and (g) and (3)";

(b) after paragraph (2)(**13**), add—

"(3) The requirements in Article 21(1) and (5) which would apply by virtue of paragraph 11 of Part A of Schedules 6 and 7 to *Xylella* host plants within the meaning of Article 1(b) of Decision (EU) 2015/789 do not apply where the plants are being moved by a person acting for purposes outside the person's trade, business or profession and the person is acquiring them for personal use.".

Article 28 (conditions for maintaining registration as a plant trader)

7. In article 28—

(a) for the heading, substitute "Conditions for maintaining registration as a plant trader and other trade-related conditions";

(b) after paragraph (3), add—

"(4) A professional operator who supplies or is supplied with specified plants within the meaning of Article 1(c) of Decision (EU) 2015/789 which have been grown for at least part of their life in, or have been moved through, a demarcated area established in accordance with Article 4 of that Decision, shall—

(a) keep a record of each lot of the plants supplied by the professional operator and the name of the professional operator to whom the lot was supplied for three years from the date on which it was supplied;

(b) keep a record of each lot of the plants received by the professional operator and the name of the professional operator who supplied the lot for three years from the date on which it was received; and

(c) immediately following the dispatch or receipt of any such lot, notify the Department in writing of the details specified in Article 10(4) of Decision (EU) 2015/789 in respect of that lot.

(5) In paragraph (4), "professional operator" has the meaning given in Article 1(d) of Decision (EU) 2015/789.".

Article 41 (notification of the presence or suspected presence of certain plant pests)

8. In article 41—

(a) in paragraph (1), for "this Article" substitute "this paragraph";

(b) in paragraph (2), for "This Article" substitute Paragraph (1)";

(c) after paragraph (3), add—

"(4) If the Department becomes aware of the presence or suspected presence of *Xylella fastidiosa* (Wells et al.) in any place or area in Northern Ireland, the Department shall immediately inform any person having under their control plants which may be infected by *Xylella fastidiosa* (Wells et al.) of—

(**13**) Article 22(2) was substituted by S.R. 2006 No. 435, article 2(5).

(a) its presence or suspected presence;

(b) the possible consequences arising from its presence or suspected presence; and

(c) the measures to be taken as a result.".

Article 44 (offences)

9. In article 44(1)(a)(xi), for "Article 28(1)" substitute "article 28(1) or (4)".

Schedule 1 (plant pests which shall not be landed in or spread within Northern Ireland)

10.—(1) In Part A (plant pests not known to occur in any part of the European Community) of Schedule 1—

(a) under the heading "Insects, mites and nematodes", after item 15a(**14**) insert—

"15b.	*Epitrix subcrinita* (Lec) and *Epitrix tuberis* (Gentner)";

(b) under the heading "Bacteria", for item 2(**15**) substitute—

"2.	*Xylella fastidiosa* (Wells et al.)"

(2) In Part B (plant pests known to occur in the European Community) of Schedule 1—

under the heading "Insects, mites and nematodes", after item 1b(**16**) insert—

"1c.	*Epitrix cucumeris* (Harris) and *Epitrix similaris* (Gentner)"

Schedule 3 (relevant material which may not be landed in Northern Ireland if that material originates in certain third countries)

11. In Schedule 3, after item 17 add—

"18.	Plants, other than seeds, of *Coffea*, intended for planting	Costa Rica or Honduras"

Schedule 4 (restrictions on the landing in and movement within Northern Ireland of relevant material)

12.—(1) In Part A (relevant material, from third countries, which may only be landed in Northern Ireland if special requirements are satisfied) of Schedule 4—

(a) in the third column of item 36, after "36b" insert ", 36c";

(b) in the third column of item 36a, for "and 36b" substitute ", 36b and 36c";

(c) in the third column of item 36b, for "36a" substitute "36c";

(d) after item 36b(**17**) insert—

(**14**) Item 15a was inserted by S.R. 2006 No. 435, article 2(7), and substituted by S.R. 2015 No. 128, article 4(1)(a)(iii).
(**15**) Item 2 was originally item 1 and was renumbered item 2 by S.R. 2015 No. 128, article 4(1)(b).
(**16**) Item 1b was inserted by S.R. 2015 No. 128, article 4(2)(a).
(**17**) Item 36b was inserted by S.R. 2009 No. 179, article 2(8)(c), and substituted by S.R. 2015 No. 128, article 6(1)(i).

"36c.	Tubers of *Solanum tuberosum* L., including those intended for planting, originating in any third country where *Epitrix cucumeris* (Harris), *Epitrix similaris* (Gentner), *Epitrix subcrinita* (Lec.) or *Epitrix tuberis* (Gentner) is known to be present	Without prejudice to the requirements in items 33 to 36b, the tubers shall be accompanied by a phytosanitary certificate which includes an official statement under the heading "Additional declaration" in accordance with Section 1 of Annex 1 to Decision 2012/270/EU";

(e) after item 86(**18**) add—

"87.	Specified plants (within the meaning of Article 1(c) of Decision (EU) 2015/789) originating in any third country where the specified organism (within the meaning of Article 1(a) of that Decision) is not present	The national plant protection organisation of the third country concerned shall have notified the European Commission that the specified organism is not present in the country in accordance with Article 16(a) of Decision (EU) 2015/789; and The plants shall be accompanied by a phytosanitary certificate which includes an official statement under the heading "Additional declaration" in accordance with Article 16(b) of Decision (EU) 2015/789
88.	Specified plants (within the meaning of Article 1(c) of Decision (EU) 2015/789), originating in any third country where the specified organism (within the meaning of Article 1(a) of that Decision) is known to be present	The plants shall be accompanied by a phytosanitary certificate which includes: (a) in the case of plants originating in an area established as free from the specified organism by the national plant protection organisation of the country from which the plants originate in accordance with ISPMNo. 10 and the name of the area has been notified to the European Commission by the national plant protection organisation in accordance with Article 17(2)(a) of Decision (EU) 2015/789, the name of the area under the heading "place of origin"; (b) in the case of plants, other than plants which have been grown for the entire production cycle in vitro, originating in an area in which the

(**18**) Item 86 was inserted by S.R. 2015 No. 128, article 6(1)(z).