STATUTORY RULES OF NORTHERN IRELAND

2008 No. 442

PLANT HEALTH

The Plant Health (Amendment No.2) Order (Northern Ireland) 2008

Made - - - -	*12th November 2008*
Coming into operation	*4th December 2008*

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(**1**) and it appears to the Department of Agriculture and Rural Development(**2**) that it is expedient for the references to Commission Directive 2008/61/EC (establishing the conditions under which harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections)(**3**) to be construed as references to that instrument as amended from time to time.

The Department, in exercise of the powers conferred on it by sections 2 and 3 of the Plant Health Act (Northern Ireland) 1967(**4**), and in exercise of the powers conferred by paragraph 1A of Schedule 2 to the European Communities Act 1972(**5**) makes the following Order.

Citation and commencement

1. This Order may be cited as the Plant Health (Amendment No.2) Order (Northern Ireland) 2008 and shall come into operation on 4th December 2008.

Amendments to the Plant Health Order (Northern Ireland) 2006

2. The Plant Health Order (Northern Ireland) 2006(**6**) shall be amended in accordance with Article 3.

(**1**) 1972 c.68.
(**2**) Formerly the Department of Agriculture for Northern Ireland; see S.I. 1999/283 (N.I.1), Art. 3(4).
(**3**) O.J. No. L. 158, 18.6.2008, p.41.
(**4**) 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, paragraph 1; Section 3B was inserted by S.I. 1984/702 (N.I. 2) Art. 15(2).
(**5**) 1972 c. 68. Schedule 2, paragraph 1A, inserted by the Legislative and Regulatory Reform Act 2006 (c. 51), section 28, provides for the inclusion in subordinate legislation of references to European Community instruments as references to those instruments as amended from time to time.
(**6**) S.R. 2006 No. 82

Miscellaneous amendments

3.—(1) In article 2(1), for the definition of "Directive 2000/29/EC" substitute—

""Directive 2000/29/EC" means 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;"(**7**);

(2) In article 2(1) at the appropriate place in accordance with alphabetical order insert—

""seed potato" means any potato intended for planting.".".

(3) After article 19(2), insert—

"(3) Subject to article 22, no person shall land in Northern Ireland seed potatoes unless that person has given written notification to an inspector at least forty-eight hours prior to the intended date of landing in Northern Ireland of the seed potatoes, of their intention to land the seed potatoes and of—

(a) the intended time, date and means of introduction;

(b) the intended point of entry into Northern Ireland;

(c) their intended use and destination;

(d) their variety and quantity; and

(e) the producers' identification number or the reference number of the lot.

(4) Where an inspector is satisfied that a lot comprises seed potatoes grown elsewhere than in Northern Ireland and that no notification has been given as required by paragraph (3), then the inspector may serve a notice requiring the person introducing the potatoes to notify the Department within such period as is specified in the notice of the matters specified in paragraph (3)(a) to (e)."

(4) In article 22, after "article 19(1)(e), and (g)" insert "and (3)".

(5) After article 38, insert—

"PART 7A

MANAGEMENT ZONES FOR PLANT HEALTH PURPOSES

Measures for preventing the introduction of *Diabrotica virgifera* Le Conte

38A.—(1) Where there is a high risk of the introduction of *Diabrotica virgifera* Le Conte from any aircraft landing at an airport in Northern Ireland, the Department may designate a zone around the airport ("designated zone").

(2) A designated zone shall extend to a radius of at least 2500 metres around the runways of, or around any other areas where aircraft move within, an airport.

(3) The Department may revoke or vary a designation at any time.

(4) The Department shall take appropriate measures to notify any designation, revocation or variation to persons growing or intending to grow maize in a designated zone.

(5) Any person acting in the course of a business, trade or other undertaking and growing maize in a designated zone shall ensure that crops are rotated in such a way that maize is only grown once in any field during any period of two consecutive years.

(**7**) O.J. No. L 169, 10.7.2000, p.1, as last amended by Commission Directive 2008/64/EC, O.J. No. L 168, 28.6.2008, p..31

(6) Any premises which are partly inside and partly outside a designated zone shall be deemed to be wholly inside that zone for the purposes of this article.

(7) Paragraph (6) shall not apply in respect of any part of any premises which is situated outside Northern Ireland."

(6) In article 40—

(a) in paragraph (1) for "Directive 95/44/EC of 26th July 1995" substitute "Directive 2008/61/EC";

(b) in paragraphs (2), (6) and 7(a) for "Directive 95/44/EC" substitute "Directive 2008/61/EC"; and

(c) for paragraph 7(b) substitute—

"(b) "Directive 2008/61/EC" means Commission Directive 2008/61/EC establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V of Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections, as amended from time to time.".

(7) After article 44(1)(a)(v) insert—

"(vA) article 19(3);".

(8) After article 44(1)(a)(xiii) insert—

"(xiiiA) article 38A(5);".

(9) In Schedule 1, Part B, omit "4. *Heliothis armigera (Hübner)*".

(10) In Schedule 2, Part B, after item 10 under the heading "Insects, mites and nematodes" add—

"**11.**	Plants of *Dendranthema* (DC.) Des Moul, *Dianthus* L., *Pelargonium* l'Herit ex Ait and of the family *Solanaceae*, intending for planting other than seeds	*Helicoverpa armigera* (Hübner)".

(11) In Schedule 2, Part B, omit item 2 under the heading "Fungi".

(12) In Schedule 3, item 8 omit "Bulgaria"(**8**).

(13) In Schedule 4, in item 42 of Part A and in item 23 of Part B for "*Heliothis armigera* Hübner" substitute "*Helicoverpa armigera* (Hübner)".

(14) In Schedule 8, Part A—

(a) in item 2 omit "other than *Sorbus intermedia* (Ehrh.) Pers."; and

(b) for item 5(d) substitute—

"(d) seeds or bulbs of *Allium ascalonicum* L., *Allium cepa* L., *Allium schoenoprasum* L., *Helianthus annus*, *Lycopersicon lycopersicum*, *Medicago sativa* or *Phaseolus* intended for planting,".

Revocations

4. The following instruments are revoked—

(a) The Potatoes Originating in Germany (Notification) Order (Northern Ireland) 2002(**9**);

(**8**) "Bulgaria" was inserted by S.I. 2006/2307, article 2(14)
(**9**) S.R. 2002/7.