STATUTORY RULES OF NORTHERN IRELAND

# 2006 No. 82

# PLANT HEALTH

## The Plant Health Order (Northern Ireland) 2006

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| *Made - - - -* | *6th March 2006* |
| *Coming into operation* | *31st March 2006* |

The Department of Agriculture and Rural Development(**1**), in exercise of the powers conferred by sections 2(**2**), 3(**3**), and 4(1)(**4**) of the Plant Health Act (Northern Ireland) 1967(**5**) and of all other powers enabling it in that behalf, hereby makes the following Order:

## PART 1

## GENERAL

### Citation and Commencement

**1.** This Order may be cited as the Plant Health Order (Northern Ireland) 2006 and shall come into operation on 31st March 2006.

### General interpretation

**2.**—(1) In this Order—

"area of plant health control" is defined in Article 10(2);

"authorised officer" means—

(a) an authorised representative of the responsible official body of the country in which a plant passport is issued, a public servant acting under the authority of such a representative or a qualified agent employed by the responsible official body, in any case who shall be appropriately qualified;

(b) a person permitted by Swiss legislation to issue a Swiss plant passport; or

(**1**) Formerly the Department of Agriculture for Northern Ireland; *see* S.I. 1999/283 (N.I. 1)Art. 3(4)
(**2**) As amended by S.R. & O. (N.I.) 1972 No 351 Art. 3 and Sch. 2; 1979 c. 2, s. 177 (1) and Sch. 4 Pt. II; and S.I. 1984/702 (N.I. 2) Art. 15(2)
(**3**) Section 3(1) was amended by S.R. & O. (N.I.) 1972 No 351 Art. 3 and Sch. 2; Section 3B was inserted by S.I. 1984/702 (N.I. 2) Art. 15(2)
(**4**) As amended by S.R. & O. (N.I.) 1972 No 351 Art. 3 and Sch. 2 and S.I. 1984/702 (N.I. 2) Art. 15(2)
(**5**) 1967 c. 28 (N.I.)

(c) an authorised representative of the responsible official body or the national plant protection organisation of the country in which a phytosanitary certificate or phytosanitary certificate for re-export or a translation of a phytosanitary certificate or phytosanitary certificate for re-export is issued, or a public officer acting under the authority of such a representative;

"consignment" means a quantity of goods being covered by a single document required for customs formalities or for other formalities under this Order, and may be composed of one or more lots;

"Customs Act" means the Customs and Excise Management Act 1979(**6**);

"Department" means the Department of Agriculture and Rural Development;

"Directive 93/85/EC" means Council Directive 93/85/EC(**7**)on the control of Potato Ring Rot;

"Directive 98/57/EC" means Council Directive 98/57/EC(**8**) on the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al*.;

"Directive 2000/29/EC" means Council Directive 2000/29/EC(**9**) on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community as amended by Commission Directives 2001/33/EC(**10**), 2002/28/EC(**11**), 2002/36/EC(**12**), 2003/22/EC(**13**),

2003/47/EC(**14**), 2003/116/EC(**15**), 2004/31/EC(**16**), 2004/70/EC(**17**), 2004/102/EC(**18**), 2005/16/EC(**19**), Council Directive 2002/89/EC(**20**) and by Article 20 and Annex II of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded(**21**);

"documentary check" means an examination to determine that the consignment or lot is accompanied by the required certificates, alternative documents or marks, as specified in Article 13(1)(ii) of the Directive;

"early potatoes" means potatoes which are harvested before they are completely mature, marketed immediately after they have been harvested and whose skins can be easily removed without peeling;

"EC transit goods" means any relevant material introduced into Northern Ireland from a third country via another part of the European Community;

"Euro-Mediterranean area" means the geographical area comprising Europe, Algeria, Ceuta, Egypt, Israel, Jordan, Lebanon, Libya, Melilla, Morocco, Syria, Tunisia and the area of Turkey east of the Bosphorus Strait known as Anatolia;

(**6**) 1979 c. 2.
(**7**) OJ No. L 259, 18.10.1993, p.1.
(**8**) OJ No. L235, 21.8.1998, p.1.
(**9**) OJ No. L 169, 10.7.2000, p.1.
(**10**) OJ No. L 127, 9.5.2001, p.42; and see the associated Commission Directive 2001/32/EC, OJ No. L 127, 9.5.2001, p.38.
(**11**) OJ No. L 77, 20.3.2002, p.23; and see the associated Commission Directive 2002/29/EC, OJ No. L 77, 20.3.2002, p.26.
(**12**) OJ No. L 116, 3.5.2002, p.16.
(**13**) OJ No. L 78, 25.3.2003, p.10; and see the associated Commission Directive 2003/21/EC, OJ No. L 78, 25.3.2003.
(**14**) OJ No. L 138, 5.6.2003, p.47; and see the associated Commission Directive 2003/46/EC, OJ No. L 138, 5.6.2003, p.45.
(**15**) OJ No. L 321, 6.12.2003, p. 36.
(**16**) OJ No. L 85, 23.3.2004, p.18; and see the associate Commission Directive 2004/32/EC, OJ No. L 85, 23.3.2004.
(**17**) OJ No. L 127, 29.4.2004. p.97.
(**18**) OJ No. L 309, 6.10.2004, p.9.
(**19**) OJ No. L 57, 3.3.2005, p.19; and see the associated Commission Directive 2005/18/EC, OJ No. L 57, 3.3.2005, p.25.
(**20**) OJ No. L 355, 30.12.2002, p.45.
(**21**) OJ No. L 236, 23.9.2003, p.33.

"Europe" includes European Russia, Belarus, Georgia, Ukraine, Turkey (except the area east of the Bosphorus Strait known as Anatolia), Kazakhstan (except the area east of the Ural river) and the Canary Islands;

"European Community" means the territories of the member States including the Isle of Man and the Channel Islands but excluding the Canary Islands, Ceuta, Melilla and the French Overseas Departments;

"fruit" means fruit in the botanical sense but does not include dried, dehydrated, lacquered or deep frozen fruit;

"importer", in relation to any plant pest or relevant material at any time between their landing from a third country and the time when they are discharged by an inspector under this Order, includes any owner or other person for the time being possessed of or beneficially interested in the plant pest or relevant material;

"inspector" means any person authorised by the Department to be an inspector for the purposes of this Order;

"IPPC" means the International Plant Protection Convention 1951(**22**);

"ISPMNo. 4" means International Standard for Phytosanitary Measures No. 4 of February 1996(**23**) on Requirements for the establishment of pest free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations;

"ISPM No. 10" means International Standard for Phytosanitary Measures No. 10 of October 1999(**24**) on Requirements for the establishment of pest free places of production and pest free production sites, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations;

"landed" means introduced into Northern Ireland by any means and includes imported by post, and "land" and "landing" shall be construed accordingly;

"lot" means a number of units of a single commodity, identifiable by its homogeneity of composition and origin, and forming part of a consignment;

"national plant protection organisation" means the service established by the government of a third country to discharge the functions specified in Article IV(1)(a) of the IPPC, details of which have been notified—

(a) in the case of contracting parties to the IPPC, to the Director of the Food and Agriculture Organisation of the United Nations; and

(b) in all other cases, to the European Commission;

"North America" means the geographical area comprising Canada, Mexico and the USA;

"nursery" means premises wholly or partly used for the cultivation or keeping of plants for the purpose of transplantation or removal to other premises;

"occupier" in relation to any premises means any person in occupation of or in charge of those premises whether he has an estate in them or not;

"official" in relation to any testing or other procedure required by this Order to be carried out in respect of any relevant material means carried out by or under the supervision of the responsible official body or the national plant protection organisation of the country in which the testing or other procedure is carried out and "officially" shall be construed accordingly;

(**22**) Adopted in 1951 (Treaty Series No. 16 (1954), Cmd 9077) and revised in 1979 (Miscellaneous Series No. 1(1981), Cmd 8108).
(**23**) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00100 Rome, Italy and http://www.ippc.int/IPP/En/default.htm.
(**24**) Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00100 Rome, Italy and http://www.ippc.int/IPP/En/default.htm.

"official body of destination" means the responsible official body in a Member State in charge of the area where the 'customs office of destination is situated;

"official body of point of entry" means the responsible official body in a Member State in charge of the point of entry;

"official label" means a label that meets the relevant requirements set out in Part A or B of Schedule 9, issued by or with the authority of the responsible official body for the member State in which the official label is issued;

"official statement" means a statement issued by an authorised officer or a statement included in a plant passport;

"phytosanitary certificate" means a certificate which complies with the relevant requirements of Articles 7 and 15;

"phytosanitary certificate for re-export" means a certificate which complies with the relevant requirements of Articles 7 and 15;

"place of production" means any premises, normally worked as a unit, together with any contiguous land in the same ownership or occupation as such premises;

"plant" means a living plant (including a fungus, tree or shrub), or a living part of a plant (including a living part of a fungus, tree or shrub), at any stage of growth; and living parts of a plant shall include—

(a) fruit or seed,

(b) vegetables, other than those preserved by deep freezing,

(c) tubers, corms, bulbs or rhizomes,

(d) cut flowers,

(e) branches with or without foliage,

(f) a plant, tree or shrub that has been cut and which retains any foliage,

(g) leaves or foliage,

(h) a plant, tree or shrub in tissue culture,

(i) live pollen, and

(j) bud wood, cuttings or scions;

"plant health check" means an examination carried out under Article 12(3);

"plant health movement document" means a document which meets the requirements in Schedule 13;

"planting" means any operation for the placing of plants to ensure their subsequent growth, reproduction or propagation;

"plant or shrub in tissue culture" means a plant or shrub growing in a clear liquid or clear solid aseptic culture medium in a closed transparent container;

"plant passport" means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in Part A or B of Schedule 9, issued by or with the authority of the responsible official body for the member State in which the plant passport is issued, and includes a replacement plant passport;

"plant pest" means any pathogen or living organism, other than a vertebrate animal, in any stage of its existence, which is injurious or likely to be injurious to any plant, plant product or tree;

"plant product" means products of plant origin, unprocessed or having undergone simple preparation, in so far as these are not plants;

"plant trader" means—

(a) an importer of relevant material,

(b) a producer of relevant material,

(c) a person in charge of premises used for the storage, aggregation or dispatch of consignments of relevant material, or

(d) a person who in the course of a trade or business divides up or combines consignments of relevant material;

"potato" means any tuber or true seed or any other plant of *Solanum tuberosum* L. or other tuber-forming species of the genus *Solanum* L.;

"Potato Cyst Nematode" means any cyst-forming nematode of the species *Globodera pallida* Stone Behrens or *Globodera rostochiensis* (Wollenweber) Behrens that infests and multiplies on potatoes and any strains or pathotypes of such nematode;

"Potato Ring Rot" means either the disease of potatoes which is caused by the bacterium *Clavibacter michiganensis* subsp. *Sepedonicus* (Spieckermann and Kotthoff) Davis *et al.* or that bacterium, as the context may require;

"Potato Wart Disease" means either the disease of potatoes which is caused by the fungus *Synchytrium endobioticum* (Schilbersky) Percival or that fungus as the context may require;

"premises" includes any land, building (other than a private dwelling house), vehicle, vessel, aircraft, hovercraft, freight container or railway wagon;

"producer", in relation to relevant material, means a person who grows or makes the material in the course of a trade or business;

"protected zone" means a zone listed in the third column of Annex IV, Part B of Directive 2000/29/EC opposite the reference to the relevant material to which that zone relates;

"register" means the register of plant traders maintained under Article 25(1);

"registered", in relation to a plant trader, means a trader whose particulars are listed in the register, and "registration" shall be construed accordingly;

"relevant material" means any plant, plant product, tree, soil or growing medium;

"responsible official body" means either the body described in paragraph (i) or the body described in paragraph (ii) of Article 2(1)(g) of Directive 2000/29/EC;

"seed" means seed in the botanical sense other than seed not intended for planting;

"Seed Potatoes Regulations" means the Seed Potatoes Regulations (Northern Ireland) 2001(**25**);

"South America" means the geographical area comprising Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, French Guyana, Guyana, Paraguay, Peru, Surinam, Uruguay and Venezuela;

"Swiss plant passport" means a label and, where appropriate, an accompanying document, issued in Switzerland in accordance with Swiss legislation, which—

(a) contains information which gives evidence that the legislation in Switzerland relating to plant health standards and special requirements for relevant material moving into and within Switzerland have been complied with; and

(b) relates to relevant material listed in Part A of Schedule 8;

"third country" means a country or territory other than one within the European Community; and

(**25**) S.R. 2001 No. 188;