STATUTORY RULES OF NORTHERN IRELAND

2006 No. 66

PLANT HEALTH

The Plant Health (Wood and Bark) Order (Northern Ireland) 2006

Made - - - - 27th February 2006

Coming into operation 31st March 2006

The Department of Agriculture and Rural Development(**1**) in exercise of the powers conferred upon it by sections 2(**2**), 3(**3**), 3A(**4**), 3B(**5**), and 4(1)(**6**) of the Plant Health Act (Northern Ireland) 1967(**7**) and of all the 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 (Wood and Bark) Order (Northern Ireland) 2006 and shall come into operation on 31st March 2006.

General interpretation

2.—(1) In this Order—

"approved place of inspection" means a place of destination of relevant material approved by the Department under Article 16;

"area of plant health control" is defined in Article 9(2);

"authorised officer" means—

(**1**) Formerly the Department of Agriculture: see SI 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; s. 1979 c. 2 s. 177(1) and Sch. 4 Pt. II; and S.I. 1984/702 (N.I. 2 Art. 15(2)
(**3**) As amended by S.R.+O. (N.I.) 1972 No 351 Art. 3 and Sch. 2
(**4**) Inserted by S.I. 1975/1038 (N.I. 8) Art. 11(2)
(**5**) Inserted by S.I. 1984/702 (N.I. 2) Art. 15
(**6**) As amended by S.I. 1984/702 (N.I. 2) Art. 15(2)
(**7**) 1967 c. 28 (N.I)

(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

(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 translation of a phytosanitary certificate or a phytosanitary certificate for re-export is issued, or a public officer acting under the authority of such a representative;

"bark-free" means wood from which all bark, excluding the vascular cambium, ingrown bark around knots and bark pockets between rings of annual growth, has been removed;

"Commissioners" means the Commissioners of Her Majesty's Revenue and Customs;

"consignment" has the same meaning as in Article 2(1)(p) of the Directive where that term is used in Part 2 or in relation to any relevant material referred to in that Part;

"Customs Act" means the Customs and Excise Management Act 1979(**8**);

"Customs Code" means Council Regulation (EEC) No 2913/92 establishing the Community Customs Code(**9**);

"customs document" means a document required by the Commissioners for placing relevant material under one of the procedures specified in Article 4(16)(a), (d) to (g) of the Customs Code;

"debarked" means wood which has undergone a process by which some, but not necessarily all, of its bark has been removed;

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

"the Directive" means Council Directive 2000/29/EC 2000(**10**) 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(**11**), 2002/28/EC(**12**), 2002/36/EC(**13**), 2003/22/EC(**14**), 2003/47/EC(**15**), 2004/102/EC(**16**) and 2005/16/EC(**17**), Council Directives 2002/89/EC(**18**) and 2005/15/EC(**19**) and 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(**20**);

"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;

(**8**) 1979 c. 2.
(**9**) OJ No. L 302, 19.10.1992, p.1.
(**10**) OJ No. L 169, 10.7.2000, p.1.
(**11**) 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.
(**12**) 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.
(**13**) OJ No. L 116, 3.5.2002, P.16
(**14**) OJ No. L 78, 25.3.2003, p.10; and see associated Commission Directive 2003/21/EC, OJ No. L 78, 25.5.2003, p.8
(**15**) OJ No. L138, 5.6.2003, p.47; and see associated Commission Directive 2003/46/EC, OJ No. L138, 5.6.2003, p.45
(**16**) OJ No. L 309, 6.10.2004, p.9.
(**17**) OJ No. L 57, 3.3.2005 p.19; and see associated Commission Directive 2005/18/EC, OJ No. L 57, 3.3.2003, p.25.
(**18**) OJ No. L 355, 30.12.2002, p.45.
(**19**) OJ No. L 56, 2.3.2005, p.12.
(**20**) OJ No. L 236, 23.9.2003, p.33.

"dunnage" means—

(a) in Part A of Schedule 4 and in item 1(c)(ii) in Part B of Schedule 8, wood used to wedge or support non-wood cargo; and

(b) elsewhere in this Order, wood used to wedge or support any cargo;

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

"electronic communications" has the same meaning as in the Electronic Communications Act (Northern Ireland) 2001(**21**).

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

"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;

"forestry 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;

"identity check" means an examination of a consignment of relevant material for the purposes of determining whether it corresponds to its description in the documents that accompany it—

(a) in its entirety; or

(b) on the basis of one or more representative samples from the consignment or from each lot forming part of the consignment;

"importer", in relation to any 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 in possession of or beneficially interested in the pest or relevant material;

"industry certificate" means a certificate authorised by a Commission Decision referred to in Article 6(7) and which complies with the requirements of Article 14(2);

"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. 15" means International Standard for Phytosanitary Measures No. 15 of March 2002(**23**) on Guidelines for regulating wood packaging material in international trade, prepared

(**21**) 2001 (c. 9. (N.I.)), the definition of electronic communications in section 4(1) was amended by the Communications Act 2003 (c. 21), section 406(1) and Schedule 17, paragraph 170.
(**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.

by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations;

"isolated bark" means bark which has been removed or become detached from a living, felled or fallen tree or from any part of such tree;

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

"lot" has the same meaning as in Article 2(1)(o) of the Directive;

"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 the 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;

"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;

"official body of destination" has the same meaning as in Article 2(1)(l) of the Directive;

"official body of point of entry" has the same meaning as in Article 2(1)(k) of the Directive;

"official label" means a label that meets the relevant requirements set out in 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;

"pest" means a pathogen, or any living organism, other than a vertebrate animal, in any stage of its existence, which is injurious or likely to be injurious to any tree or wood and includes a culture of such pathogen or organism;

"phytosanitary certificate" means a certificate which complies with the relevant requirements of Articles 6 and 14;

"phytosanitary certificate for re-export" means a certificate which complies with the relevant requirements of Articles 6 and 14;

"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 health check" means an examination carried out under Article 11(3);

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

"plant passport" means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in 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;

"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 the Directive opposite the reference to the relevant material to which it relates;

"register" means the register of forestry traders maintained under Article 23(1);

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

"relevant material" means any wood or isolated bark;

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

"round wood" means wood which is not sawn lengthwise;

"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;

"USA" means the United States of America (except the state of Hawaii);

"wood", save where expressly provided otherwise, means—

(a) any wood which retains part or all of its natural round surface, with or without bark; or

(b) wood in the form of chips, particles, shavings, sawdust, wood waste or scrap; and

(c) whether or not satisfying the requirements of paragraphs (a) or (b)—

(i) dunnage,

(ii) wood packaging material;

"wood packaging material" means wood in the form of packing cases, boxes, crates, drums or similar packings, pallets, pallet collars, box pallets or other load boards in use in the transport of objects of any kind; and

"working day", in relation to the notice requirements in Articles 5(3)(b)(ii) and 15(3) and the period for which material may be detained under Article 13(1), means a period of twenty-four hours which is not a Saturday, Sunday, or a public holiday.

(2) "Transit", for the purposes of this Order—

(a) where it occurs in Article 11(6) or (7), has the same meaning as in Article 2(1)(r) of the Directive; and

(b) where it occurs anywhere else in the Order shall bear its ordinary meaning.

(3) Any reference in this Order to the European Community, to a member State or a third country includes a reference to a state, country, principality, province or region within the European Community, member State, or third country, as the case may be.