STATUTORY RULES OF NORTHERN IRELAND

2004 No. 183

PLANT HEALTH

The Potatoes Originating in Egypt Regulations (Northern Ireland) 2004

Made - - - -	*19th April 2004*
Coming into operation	*11th May 2004*

The Department of Agriculture and Rural Development, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2), and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Potatoes Originating in Egypt Regulations (Northern Ireland) 2004, and shall come into operation on 11th May 2004.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations –

"the Decision" means Commission Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt(**4**), which repeals Commission Decision 96/301/EC;

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

" the Order" means the Plant Health Order (Northern Ireland) 1993(**5**);

"phytosanitary certificate" has the same meaning as in Article 3(1) of the Order;

(**1**) S.I. 2000/2812
(**2**) 1972 c. 68
(**3**) 1954 c. 33 (N.I.)
(**4**) O.J. No. L2, 6.1.04, p. 50
(**5**) S.R. 1993 No. 256 as amended by S.R. 1994 No. 28, S.R. 1995 No. 164, No. 250 and No. 494, S.R.1996 No. 204 and No. 249, S.R. 1997 No. 110 and 397, S.R. 1998 No. 16, No. 146 and No. 315, S.R. 1999 No. 24, S.R. 2000 No. 126, S.R. 2001 No. 188 and No. 437, S.R. 2002 No. 273, S.R. 2003 No. 235 and No. 458

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

(3) In these Regulations –

(a) expressions which are also used in the Order shall have the same meaning as in the Order;

(b) other expressions which are also used in the Decision shall have the same meaning as in the decision.

Imports of potatoes originating in Egypt

3.—(1) A person shall not land into Northern Ireland any potatoes which he knows or has reasonable cause to suspect originated in Egypt, unless those potatoes are accompanied by a phytosanitary certificate issued in accordance with the requirements of paragraph 1(b)(xi) of the Annex to the Decision.

(2) The requirement imposed by point 35B of Section 1 of Part A of Schedule 4 to the Order (an official statement that potatoes originate in areas where *Ralstonia solanacearum* (Smith) Yabuuchi et al. is not known to occur) shall not apply to imports of potatoes originating in Egypt.

Approval of plants which process potatoes originating in Egypt

4.—(1) A person shall not process any potatoes originating in Egypt other than in a plant which has been approved by the Department for that purpose.

(2) Any approval under paragraph (1) shall be in writing. The Department may suspend or revoke by notice in writing any approval granted under paragraph (1).

(3) Applications for approval under paragraph (1) shall be in such a form and shall contain such information as the Department shall require.

(4) In this regulation –

"process" means the carrying out of any treatment, including washing.

(5) Paragraph (1) does not apply to the processing of potatoes in a shop, restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where food is packed or prepared for delivery to the final consumer.

Powers of an inspector

5.—(1) The provisions of this regulation are without prejudice to the circumstances in which an inspector may exercise the powers conferred by the Order.

(2) On having reasonable grounds for suspecting a contravention or likely contravention of regulation 3, an inspector may, for the purpose of these Regulations, exercise –

(a) the power conferred by Article 22(1) of the Order as read with Article 24(1) to (3) of the Order, as if a potato originating in Egypt were a plant landed or likely to be landed in contravention of that Order; and

(b) the power conferred by Article 22(2) of the 1993 Order as read with Article 24(1) to (3) of that Order, as if a potato originating in Egypt kept on or moved from premises, or likely to be so, was a plant kept or moved in contravention of that Order.

(3) On having reasonable grounds for suspecting a contravention or likely contravention of regulation 4, an inspector may, for the purpose of these Regulations, exercise the powers conferred by Article 22(2) of the Order as read with Article 24 of that Order, as if a potato originating in Egypt processed at any premises in breach of these Regulations was a plant kept or moved in contravention of that Order.

(4) Any notice served by virtue of this regulation in exercise of a power conferred by Article 22(1) or (2) of the Order shall have effect as if served under Article 22(1) or (2) of that Order, and Articles 24(3), 26 to 28, 46(1) and (3) and 47(1)(a), (e) and (2), shall apply accordingly.

(5) An inspector may, for the purposes of checking compliance with these Regulations, exercise the powers conferred by Article 25 of the Order, as if checking compliance with that Order.

(6) Any power conferred by Article 25 of the Order which is exercised by virtue of this regulation shall be treated as if that power had been exercised under the Order, and the provisions of that Order (including Article 47(1)(a), (e) and (2)) shall apply accordingly.

Charges in respect of the sampling of imports of potatoes

6.—(1) Where the power to take samples conferred by Article 25(a)(iii) of the Order is exercised by an inspector in relation to a consignment of potatoes originating in Egypt for the purpose of ascertaining whether, for the purposes of paragraphs 2 and 3 of the Annex to the Decision, those potatoes are infected with *Pseudomonas solanacearum* (Smith) Yabuuchi et al., the importer shall, subject to paragraph (2) pay a fee of £37·50 in relation to that consignment.

(2) A fee shall not be payable under paragraph (1) in relation to any consignment of potatoes where the power to take samples has previously been exercised for the purpose referred to in that paragraph in respect of other potatoes from the same village, in the case of the delta region, or basin, in the case of the desert regions during the same growing year.

(3) The fee prescribed by paragraph (1) shall be payable to the Department on demand.

Offences

7.—(1) A person who contravenes the requirement of regulation 3(1) (landing of potatoes originating in Egypt) or 4(1) (person processing potatoes otherwise than in an approved plant) without reasonable excuse, proof of which shall lie on him, shall be guilty of an offence.

(2) A person who, for the purpose of procuring the issue of a phytosanitary certificate or any approval under regulation 4(1) –

(a) knowingly or recklessly makes a false statement; or

(b) intentionally fails to disclose any material particular,

shall be guilty of an offence.

(3) A person guilty of an offence under paragraph (1) or (2) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Revocation of statutory provision

8. The statutory provisions specified in column 1 of the Schedule are hereby revoked.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 19th April 2004.

L.S.

David Small
A senior officer of the
Department of Agriculture and Rural
Development