1989 No. 154

PLANT HEALTH

Plant Health (Wood and Bark) Order (Northern Ireland) 1989

Made . . . . . *26th April 1989*

Coming into operation . . *20th May 1989*

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The Department of Agriculture, in exercise of the powers conferred on it by sections 2(**a**), 3(1)(**b**), 3A(**c**), 3B(1)(**d**) and 4(1)(**e**) of the Plant Health Act (Northern Ireland) 1967(**f**) and of all powers enabling it in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Plant Health (Wood and Bark) Order (Northern Ireland) 1989 and shall come into operation on 20th May 1989.

Interpretation

2.—(1) In this Order—

"authorised officer" means —

(*a*) in relation to a certificate or a translation or copy of a certificate issued in Northern Ireland, an inspector; and

(*b*) in relation to a certificate or a translation or copy of a certificate issued in a place other than Northern Ireland, a representative of the Plant Protection Service of the country in which such certificate, translation or copy is issued;

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

"Directive 77/93/EEC" means Council Directive of 21st December 1976 on protective measures against the introduction into Member States of organisms harmful to plants or plant products(**h**) as amended by the instruments listed in Schedule 6;

(**a**) 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)
(**b**) As amended by S.R. & O. (N.I.) 1972 No. 351 Art, 3 and Sch. 2
(**c**) Inserted by S.I. 1975/1038 (N.I. 8) Art. 11(2)
(**d**) Inserted by S.I. 1984/702 (N.I. 2) Art. 15(2)
(**e**) As amended by S.I. 1984/702 (N.I. 2) Art. 15(2)
(**f**) 1967 c. 28 (N.I.)
(**g**) 1979 c. 2
(**h**) O.J. No. L26, 31.1.77, p. 20 as corrected by the Corrigenda published in O.J. No. L130/32, 29.5.79

"dunnage" means loose wood used as a support for cargo;

"Euro-Mediterranean area" means the geographical area comprising Europe, Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Libya, Malta, Morocco, Syria, Tunisia and Turkey;

"Europe" includes the Canary Islands but does not include Cyprus, Turkey or the following regions of the Union of Soviet Socialist Republics namely Kazakh, Kirghiz, Tadzhik, Turkmen and Uzbek Soviet Socialist Republics and the following regions of the Russian Soviet Federal Socialist Republic, namely the Buryat, Yakut and Tuva Autonomous Soviet Socialist Republics, the Altai, Khabarovsk, Krasnoyarsk and Maritime Krais and the Amur, Chita, Irkutsk, Kamchatka, Kemerovo, Kurgan, Magadan, Novosibirsk, Omsk, Sakhalin, Tomsk and Tyumen Oblasts;

"genetically manipulated material" means material derived from any activity which has involved genetic manipulation and which has resulted or, in the opinion of the Department, is likely to result in the production of a pest, or any activity which has involved genetic manipulation of a pest and includes any material which contains a pest which has been genetically manipulated;

"genetic manipulation" means the formation of new combinations of heritable material by the insertion of nucleic acid molecules, produced by whatever means outside the cell, into any virus, bacterial plasmid or other vector system so as to allow their incorporation into a host organism in which they do not naturally occur but in which they are capable of continued propagation;

"importer" in relation to any wood, isolated bark, pest, genetically manipulated material or used forestry machinery includes:—

(*a*) any person who, (whether as owner, consignor, consignee, agent, broker or otherwise), is in possession of or in any way entitled to the custody or control of the wood, isolated bark, pest, genetically manipulated material or used forestry machinery; and

(*b*) any person by whose action the wood, isolated bark, pest, genetically manipulated material or used forestry machinery is likely to be or has been landed;

"inspector" means an officer of the Department authorised in writing by the Department for the purposes of this Order;

"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 brought into Northern Ireland by any means whatsoever;

"log" means the trunk of any felled or fallen tree which has been trimmed or any length of such trunk which has been trimmed, or any branch, or any length of such branch, which has been trimmed, severed from a living or felled or fallen tree;

"Member State" means a Member State of the European Community other than the United Kingdom and does not include the Isle of Man, the Channel Islands, the French overseas departments, the Canary Islands, Ceuta or Melilla;

"mill certificate of debarking" means a certificate duly completed by a representative of a supplier of wood for export (including a wood shipping agent), being a supplier authorised by the Plant Protection Service of the exporting country, under arrangements approved by the Department, completed substantially in the form set out in Part III of Schedule 5 or the equivalent written in a language other than English;

"North America" means the geographical area comprising Canada, Mexico and the United States of America (except the State of Hawaii);

"occupier" means any person in occupation of or in charge of any premises whether he has an estate in the said premises or not;

"official" in relation to any testing or any other procedure required by this Order to be carried out in respect of any wood or isolated bark, means carried out by or under the supervision of the Plant Protection Service of the country in which the testing or other procedure is carried out;

"official statement" means a statement by an authorised officer made on a phytosanitary certificate or a re-forwarding phytosanitary certificate;

"pest" means a pathogen or a living organism (other than a vertebrate animal) in any stage of its existence which is injurious to any tree or the wood thereof including a culture of such organism or pathogen and includes any containers which have been in contact with such pest or culture;

"phytosanitary certificate" means a certificate duly completed either in the form set out in Part I of Schedule 5 or an equivalent text in a language other than English;

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

"re-forwarding phytosanitary certificate" means a certificate duly completed either in the form set out in Part II of Schedule 5 or an equivalent text in a language other than English;

"third country" means a country or territory other than a Member State, the United Kingdom, the Isle of Man or the Channel Islands; and

"wood" means any log, sawn wood and any dunnage, pallet, spacer, container or other packing material consisting of wood, which retains some or all of its bark or any part of the rounded surface of the tissues immediately below the bark and shall also include wood chips, particles, sawdust, wood waste or scrap.

(2) Any reference in this Order to a particular pest shall be construed as a reference to that pest in any stage of its existence.

(3) Any reference in this Order to a Member State, third country, Great Britain, the Isle of Man or the Channel Islands, includes a reference to a state, province or region within that Member State, third country, Great Britain, the Isle of Man or the Channel Islands.

Prohibition on landing of wood, isolated bark, pests etc.

3. The landing of the following is prohibited, namely—

(*a*) any pest listed in Schedule 1;

(*b*) any wood, isolated bark or used forestry machinery carrying or infected with a pest listed in Schedule 1;

(*c*) any isolated bark or used forestry machinery listed in column (1) of Schedule 2 which originates in a country specified opposite thereto in column (2) of that Schedule;

(*d*) any wood or isolated bark listed in column (1) of Schedule 3 if any of the conditions specified opposite thereto in column (2) of that Schedule are not complied with;

(*e*) any genetically manipulated material; or

(*f*) any pest not associated with a consignment of wood, isolated bark or used forestry machinery (except insofar as wood or isolated bark are necessary to land or sustain the life of such pest) being a pest which is not normally present in Northern Ireland and which is injurious to wood in Northern Ireland.

Prohibition on keeping etc. of wood, isolated bark, pests etc.

4.—(1) Subject to the provisions of this Order a person shall not in Northern Ireland:—

(*a*) knowingly keep, sell, release, deliver or otherwise dispose of, or knowingly cause or permit to be kept, sold, released, delivered or otherwise disposed of:—

(i) any pest listed in Schedule 1;

(ii) any wood, isolated bark or used forestry machinery carrying or infected with a pest listed in Schedule 1;

(iii) any wood, isolated bark or used forestry machinery landed in contravention of Article 3(*c*) or (*d*);

(iv) any genetically manipulated material; or

(v) any pest not associated with wood, isolated bark or used forestry machinery (except insofar as wood or isolated bark are necessary to sustain the life of such pest) being a pest which is not normally present in Northern Ireland and which is injurious to wood in Northern Ireland; or

(*b*) engage in any activity which involves genetic manipulation of a pest or engage in any activity which to his knowledge involves genetically manipulated material.

(2) Nothing in paragraph (1)(*a*) shall prohibit a person from destroying or delivering to an inspector any such wood, isolated bark, pest, genetically manipulated material or used forestry machinery as is referred to in that paragraph.

Phytosanitary certificates and mill certificates of debarking

5.—(1) Subject to paragraphs (2) and (3), where by virtue of Article 3(*d*) the landing of any wood or isolated bark is prohibited unless that wood or isolated bark is accompanied by a phytosanitary certificate or mill certificate of debarking, that certificate shall have been issued in the country in which such wood or isolated bark was grown.