1981 No. 36

PLANT HEALTH

Import and Export (Potatoes) (Plant Health) Order (Northern Ireland) 1981

Made . . . . . *10th February 1981*

Coming into operation . . . *1st April 1981*

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The Department(**a**) of Agriculture, in exercise of the powers conferred on it by sections 2(1)(**b**), (2) and (3)(**c**), 3(1)(**b**), (2)(**b**), (3) and (4)(**d**) and 3A(**e**) of the Plant

(**a**) Formerly Ministry: *see* 1973 c. 36 s. 40 and Sch. 5 para. 8(1)
(**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(1)
(**d**) As amended by 1967 c. 29 (N.I.) s. 1(2) and Sch. Part II
(**e**) Inserted by S.I. 1975/1038 (N.I. 8) Art. 11(2)

Health Act (Northern Ireland) 1967(**a**) and of every other power enabling it in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Import and Export (Potatoes) (Plant Health) Order (Northern Ireland) 1981 and shall come into operation on 1st April 1981.

Revocations

2. The Importation and Planting of Potatoes Order (Northern Ireland) 1972(**b**) and the Importation and Planting of Potatoes (Amendment) Order (Northern Ireland) 1979(**c**) are hereby revoked.

Interpretation

3.—(1) In this Order—

"authorised officer" in relation to—

(*a*) the completion and signing of phytosanitary certificates and re-forwarding phytosanitary certificates;

(*b*) the completion and signing of translations of phytosanitary certificates and re-forwarding phytosanitary certificates;

(*c*) the certifying of copies,

means a representative of the plant protection service of the country in which such certificates, translations or copies are issued;

"consignment of potatoes" includes soil, packaging materials, packages or containers enclosing or accompanying potatoes;

"country" includes a part or a region of the United Kingdom, a Member State or a third country;

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

"Europe" includes the Canary Islands but does not include the Azores, Cyprus or Malta or the following regions of the Union of Soviet Socialist Republics, that is the Kazakh, Kirghiz, Tadzhik, Turkmen and Uzbek Soviet Socialist Republics and the following regions of the Russian Soviet Federal Socialist Republic, that is 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;

"European Community" includes the Isle of Man and the Channel Islands;

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

"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;

"immediate vicinity" means land contiguous to or surrounding a place of production which, if such land were affected by the pests set out in Schedule 1, might, in the opinion of the plant protection service, present a risk of contamination to plants at the place of production;

(**a**) 1967 c. 28 (N.I.)
(**b**) S.R. & O. (N.I.) 1972 No. 24
(**c**) S.R. 1979 No. 138
(**d**) 1979 c. 2

"importer" in relation to any potatoes, pest, genetically manipulated material or soil includes any person who, as owner, consignor, consignee, agent, broker or otherwise, is in possession of or is in any way entitled to the custody or control of the potatoes, pest, genetically manipulated material or soil;

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

"landed" means brought into Northern Ireland by any means whatsoever;

"Member State" means a Member State, other than the United Kingdom, of the European Community and does not include the Isle of Man or any of the Channel Islands;

"new potatoes" means potato tubers of varieties—

(*a*) which have been accepted for marketing in a Member State in accordance with the provisions of Council Directive 70/457/EEC(a); and

(*b*) which have been harvested before they are completely mature; and

(*c*) which have been marketed for eating immediately after their harvesting; and

(*d*) the skins of which at the time of landing can be easily removed by rubbing;

"non-indigenous" means not known, in the opinion of the Department, to be established in Northern Ireland;

"official", in relation to any testing or any other procedure required by this Order to be carried out in respect of any potatoes or soil, means carried out by or under the supervision of the plant protection service of the country in which the potatoes were grown or the soil originates;

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

"package or container" means—

(*a*) a box or sack either of which has been previously unused; or

(*b*) a box or crate either of which has been previously unused or either of which has been cleaned and disinfected since its previous use;

"pest" means a living organism other than a vertebrate animal, or a pathogen, which is injurious to any plant and includes a culture of such organism or pathogen;

"phytosanitary certificate" means a certificate in the form set out in Schedule 3 or an equivalent text in a language other than English;

"place of production" means a group of fields or plots of land which are normally worked as a unit together with any uncultivated land contiguous thereto;

"plant" includes cause, or permit, to be planted;

"potato" means any plant or any part of a plant, including tubers and true seed, of *Solanum tuberosum* L. or other tuber forming species or hybrids of the genus *Solanum* L.;

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

"re-forwarding phytosanitary certificate" means a certificate in the form set out in Schedule 4 or an equivalent text in a language other than English;

"seed potatoes" means potatoes which are planted, or are intended for planting, for the production of further potatoes;

(a) O.J. No. 666, 8.6.74 p. 56

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

"vehicle" means a structure in or on which persons or goods are transported by land;

"vessel" means a craft or structure in or on which persons or goods are transported by water;

"ware potatoes" means potato tubers (other than new potatoes or seed potatoes) of varieties which have been accepted for marketing in a Member State in accordance with the provisions of Council Directive 70/457/EEC but shall for the purposes of Article 4(2)(*b*) and paragraphs (2) and (7) of Schedule 2 include new potatoes landed between 1st September and 31st December in any calendar year.

(2) Nothing in this Order shall permit the landing of—

(*a*) plants, plant products or other objects the landing of which is prohibited or restricted under the Import and Export (Plants and Plant Products) (Plant Health) Order (Northern Ireland) 1981(**a**); or

(*b*) wood, isolated bark or other objects, the landing of which is prohibited or restricted under the Import and Export (Wood and Bark) (Plant Health) Order (Northern Ireland) 1981(**b**).

Prohibition on landing

4.—(1) Except as provided in paragraph (2) or Article 18 a person shall not land—

(*a*) a consignment of potatoes;

(*b*) a pest which is listed in Schedule 1;

(*c*) a non-indigenous pest whether or not it is listed in Schedule 1;

(*d*) a pest which has been subjected to genetic manipulation or any genetically manipulated material; or

(*e*) soil, other than peat, not being soil landed in association with a consignment of potatoes which:

(i) has been consigned to Northern Ireland from a third country;

(ii) originates outside Europe and has been consigned to Northern Ireland from a Member State and which has not been officially tested and found free from pests.

(2) Paragraph (1)(*a*) shall not apply to:

(*a*) a consignment of potatoes consisting of new potatoes in respect of which the requirements set out in Articles 5 and 6 have been complied with;

(*b*) a consignment of potatoes consisting of ware potatoes in respect of which the requirements set out in Articles 5 and 6 have been complied with;

(*c*) potatoes grown in the Republic of Ireland consigned through Northern Ireland to a destination outside Northern Ireland if without being unloaded in Northern Ireland they are moved direct from the place of entry to the place of exit.

Conditions for landing of new potatoes and ware potatoes

5. A person shall not land a consignment of potatoes consisting of new potatoes or ware potatoes unless those potatoes fulfil the conditions set out in Schedule 2.

(**a**) S.R. 1981 No. 38
(**b**) S.R. 1981 No. 37

Potatoes in containers

6.—(1) New potatoes or ware potatoes which are landed shall be securely packed in a package or container which is clearly marked with the name of the country in which those potatoes were grown.

(2) Except for the purpose of sale to the ultimate consumer or processing or as provided in paragraph (3) a person shall not remove new potatoes which have been landed or ware potatoes which have been landed from the package or container in which they have been packed in accordance with paragraph (1).

(3) A person shall not, except with the prior authority in writing of the Department, re-pack new potatoes which have been landed or ware potatoes which have been landed before such potatoes are distributed for sale by retail.

Certificates to accompany potatoes or soil on landing

7.—(1) Subject to the provisions of paragraph (2), a person shall not land a consignment of potatoes, consisting of either new potatoes or ware potatoes, which has been consigned to Northern Ireland or soil which is so consigned unless such consignment of potatoes or soil is accompanied by:

(*a*) a phytosanitary certificate issued in the country in which such potatoes were grown or such soil originates; and

(*b*) a re-forwarding phytosanitary certificate issued in each other country from which such consignment of potatoes or soil has been consigned prior to its landing.

(2) Paragraph (1)(*b*) shall not apply to a consignment of potatoes, consisting of either new potatoes or ware potatoes, which has been landed unless—

(*a*) such consignment of potatoes, before being consigned to Northern Ireland, has been stored, re-packed or split up in the country from which it has been re-exported; or

(*b*) the address of the consignee which is set out in the phytosanitary certificate accompanying the consignment of potatoes is not in Northern Ireland.

Requirements for export of potatoes

8.—(1) Subject to the provisions of Article 10(5), a person shall not export a consignment of potatoes to a place within a Member State unless such consignment of potatoes is accompanied by a phytosanitary certificate or a re-forwarding phytosanitary certificate and such certificate has been issued by the Department or an inspector immediately before the exportation of such consignment of potatoes.

(2) A person shall not export a consignment of potatoes to a third country unless such consignment of potatoes has been examined by an inspector immediately before its exportation and a phytosanitary certificate or a re-forwarding phytosanitary certificate has been issued in respect thereof.

(3) An application for a phytosanitary certificate or a re-forwarding phytosanitary certificate shall be made to the Department or an inspector with such information, in such form and in such manner as the Department may require.

General provisions concerning certificates

9.—(1) An inspection (other than an inspection for the purpose of making an official statement in respect of the requirements of Schedule 2) referred to in a phytosanitary certificate or a re-forwarding phytosanitary certificate shall be carried out not more than 14 days before the date of export of the consignment of potatoes which such certificate is to accompany.

(2) Without prejudice to the provisions of Article 8(1) and (2), a phytosanitary certificate or a re-forwarding phytosanitary certificate shall not be valid unless it is