**1973. No. 266** **[NC]**

# PLANT HEALTH

## Wart Disease of Potatoes

ORDER, DATED 1ST AUGUST 1973, MADE BY THE MINISTRY OF AGRICULTURE UNDER SECTION 3 OF THE PLANT HEALTH ACT (NORTHERN IRELAND) 1967.

The Ministry of Agriculture on behalf of the Secretary of State in exercise of the powers conferred on it by section 3 of the Plant Health Act (Northern Ireland) 1967(**a**) as amended by the European Communities (Agriculture) Order (Northern Ireland) 1972(**b**) 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 Wart Disease of Potatoes (Northern Ireland) Order 1973 and shall come into operation on the 1st day of August 1973.

*Revocation*

**2.** The Black Scab in Potatoes (Northern Ireland) Order 1959(**c**) is hereby revoked.

*Interpretation*

**3.** In this Order, unless the context otherwise requires—

"Ministry" means the Ministry of Agriculture for Northern Ireland;

"approved immune variety" means a variety approved for the time being by the Ministry as being immune from Wart Disease;

"conveyance" includes any vehicle, ship, boat, vessel, aircraft, hovercraft and freight container;

"Wart Disease" means either the disease affecting potatoes which is caused by Synchytrium endobioticum (Schilb.) Perc. and known as Wart Disease of potatoes or the organism *Synchytrium endobioticum* as the context may require;

"occupier" means any person using land for the purpose of or in connection with growing potatoes thereon whether he has an estate in the said lands or not;

"owner", when not also occupier, means the person from whom the occupier holds the land;

"packages" includes boxes, pallets, sacks and baskets;

"inspector" means an officer authorised by the Ministry for the purposes of this order;

"potato" means the tuber, or part thereof, or any part of the plant of *Solanum tuberosum L.* or of other tuber-forming species of Solanum as well as the haulms of such tubers;

"potato tuber" includes part thereof;

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(**a**) 1967. c. 28 (N.I.).
(**b**) S.R. & O. (N.I.) 1972, No. 351.
(**c**) S.R. & O. (N.I.) 1959, No. 174.

"safety zones" means the areas defined in the First Schedule or any area in respect of which a notice is served or has effect as if served under Article 5.

*Notification of disease*

**4.** Every person having in his possession, or in his charge, any potatoes diseased or suspected of being diseased, shall forthwith notify the fact to the Ministry. Where practicable a specimen tuber showing the disease, or suspected disease, shall accompany the notification.

*Declaration of contaminated land or a safety zone*

**5.**—(1) If it appears to the Ministry that wart disease is present on any land, the Ministry may serve on the occupier or other person in charge of the land a notice in writing declaring the land to be land on which wart disease is present and thereafter, until the said notice is withdrawn in accordance with paragraph (4) of this article, the land shall be deemed for the purposes of this order to be land on which wart disease is present.

(2) The Ministry may serve on the occupier or other person in charge of land which surrounds, adjoins or is in close proximity to land on which wart disease is present a notice declaring the first mentioned land to be a safety zone.

(3) Any notice served under paragraph (1) or (2) of this article may define by reference to a map or plan or otherwise the extent of the land declared in the notice to be land on which wart disease is present or to be a safety zone, as the case may be.

(4) Any notice served, or having effect as if served, under any order which is revoked by this order, being a notice declaring land to be land on which wart disease is present or a notice applying the provisions of any such order to land, shall continue to have effect as if it were a notice served under paragraph (2) of this article, and any such notice or any notice served under paragraph (1) of this article may, if it appears to the Ministry that wart disease is no longer present on the land, or any part of the land, to which the notice relates, be withdrawn as respects that land, or that part of the land, by the Ministry by a notice in writing served on the occupier or other person in charge of that land and the last mentioned notice may impose such conditions, if any, as appear to the Ministry expedient to prevent a further occurrence of wart disease and that last mentioned notice may be amended, modified or withdrawn by the Ministry by a further notice in writing served on the occupier or other person in charge of the land to which the further notice relates.

(5) Any notice served under paragraph (2) of this article may, if it appears to the Ministry that wart disease is no longer present on the land surrounded by or adjoining or in close proximity to the land to which the notice relates, be withdrawn by the Ministry by a notice in writing served on the occupier or other person in charge of that land.

*Measures for the prevention of the spread of the disease*

**6.**—(1) The Ministry shall be notified immediately of any sale, transfer or letting of the land referred to in the notice served under paragraphs 1 and 2 of Article 5 or any part of such land and shall at the same time be furnished with the name and address of the new owner or occupier.

(2) Any person on whom a notice has been served shall forthwith notify the Ministry if he acquires, or becomes the occupier of, any land out of the area specified in the notice.

(3) Within the safety zones or within any area specified in any notice it shall not be lawful to supply or to use as manure, or to spread on the land or to put into or upon any manure heap, either alone or mixed with other material, any potatoes, any cleanings or any sweepings of potato houses or of potato stores or of potato pits.

*Restrictions on the planting and disposal of potatoes and plants*

**7.**—(1) No person shall plant or cause or permit to be planted any potatoes in any land in his occupation or under his charge on which wart disease is present.

(2) No person shall plant or cause or permit to be planted in any safety zone any potatoes which are not of an approved immune variety, or, in the case of any land which surrounds, adjoins or is in close proximity to land on which wart disease of any race other than the common European race is present and in respect of which the Ministry so directs by notice in writing served on the person aforesaid, any potatoes whatsoever except such variety or varieties, if any, as the Ministry may authorise in writing to be planted in the said land.

(3) No person shall remove for transplanting elsewhere from any land on which wart disease is present any plants which have been grown or stored in or on that land.

(4) No person shall sell or offer or expose for sale or deliver or cause or permit to be delivered or otherwise pass from his possession for any purpose or plant or cause or permit to be planted any potatoes visibly affected with wart disease: Provided that nothing in this paragraph shall be deemed to prohibit the delivery, or giving of possession, of any such potatoes to the Ministry or to an inspector.

(5) No person shall sell or offer or expose for sale for planting or deliver or cause to be delivered for planting or cause or permit to be planted any potatoes from a crop in any part of which wart disease has been found to be present.

(6) Potatoes grown within a safety zone shall not be supplied or used for planting in Northern Ireland elsewhere than in the safety zone in which they were grown except under licence issued by the Ministry or an inspector.

**8.**—(1) No person shall permit potatoes to remain in or on land in his occupation or under his charge if they have been planted in contravention of this order and their removal or destruction is required by notice in writing served on him by the Ministry. Any such notice may state the time within which and the manner in which the removal or destruction shall be completed.

(2) If any person shall fail to remove or destroy any potatoes in compliance with a notice served on that person under paragraph (1) of this article, without prejudice to any proceedings under this order consequent upon such failure, an inspector or a person authorised by him for the purpose may remove or destroy them and the cost of so doing shall be recoverable summarily by the Ministry as a debt due from the person on whom the notice was served.

*Restriction on movement of potatoes*

**9.**—(1) Potatoes shall not be moved from or through the districts described in the First Schedule, or from any area specified in any notice, except under and subject to the conditions of a licence issued by the Ministry.

(2) If any potatoes are loaded, moved or delivered in contravention of this order or in contravention of a licence issued by the Ministry the Ministry may dispose of them or cause them to be disposed of together with any packages in which they are, or have been contained, in such manner as the Ministry shall think fit, and for that purpose the Ministry may remove or cause such potatoes with such packages to be removed to such place and in such manner as may be thought fit, or, in the alternative, may by notice require the consignee or other person in charge of or in possession thereof to remove and to dispose of the said potatoes and such packages in such manner and within such period of time as the notice shall specify. The cost of taking such steps shall be recoverable summarily by the Ministry as a debt due from the aforesaid person.

*Misdescription of potatoes*

**10.**—(1) No person shall sell or offer or expose for sale as potatoes of an approved immune variety any potatoes which are not of an approved immune variety.

(2) A person shall not be liable to conviction for a contravention of article 7(2) if he proves to the satisfaction of the court that the potatoes were sold to him as potatoes of an approved immune variety and that he did not know that the potatoes were not of an approved immune variety.

*Power to require the fencing off and treatment of land contaminated by wart disease*

**11.**—(1) Where the Ministry or an inspector becomes aware of or has reasonable cause to suspect the presence in or on land of a race of wart disease other than the common European race, the Ministry or an inspector may serve on the occupier or other person in charge of that land a notice in writing requiring him to erect and at all times thereafter to maintain on that land such fences, and to treat that land, in such manner and within such time as may be specified in the notice.

(2) A notice served under this article may at any time be amended, modified or withdrawn by the Ministry or by an inspector by a further notice in writing served on the occupier or other person in charge of the land to which the further notice relates.

*Restriction on the removal of soil from land contaminated by wart disease*

**12.** No person shall remove, or cause or permit to be removed, any soil from land on which wart disease is present, or from any premises on such land, so that it may be used or disposed of where wart disease is not present, except in accordance with the conditions of a licence granted by the Ministry.

*Powers of entry, examination and sampling*

**13.**—(1) An inspector upon production if so required of his authority may, for the purpose of this order, enter any land and any premises and examine and take samples of any potatoes and of any soil on that land or those premises.

(2) The person in charge of or in possession of any potatoes or conveyance or land shall give all reasonable facilities for the examination of potatoes and for the taking of samples thereof and where potatoes are found in any conveyance shall bring the conveyance to any place that may be designated by an inspector for the purposes of examination, and shall, if required, unload the potatoes at that place.

(3) In this article and in article 14 the expression "premises" includes any vehicle, vessel, aircraft, hovercraft or freight container.

*Power to deal with diseased or suspected potatoes, potato plants and certain plant and equipment*

**14.**—(1) An inspector may at any time serve on the occupier or other person in charge of land on which wart disease is present a notice in writing requiring him to destroy to the satisfaction of an inspector potato plants grown on the land on which wart disease is present.

(2) An inspector may at any time serve on—

(*a*) any person having in his possession or under his charge potato tubers which are affected with wart disease, or which are on any premises or in a store, clamp, pit, bag or other receptacle with potato tubers so affected, or which the inspector has reason to believe to have been on any premises or in a store, clamp, pit, bag or other receptacle with potato tubers so affected or otherwise exposed to infection with wart disease;

(*b*) the occupier or other person in charge of land on which the inspector has reason to believe there have been potato tubers which are or have been affected with wart disease or potato tubers which have been on any premises or in a store, clamp, pit, bag or other receptacle with potato tubers so affected or otherwise exposed to infection with wart disease;

a notice in writing—

(i) requiring the aforesaid occupier or person to treat in such manner and within such time as may be specified in the notice the premises on which the potato tubers are or are reasonably believed to have been in any of the aforesaid circumstances and such plant or equipment as may be so specified, being plant or equipment which has been used in connection with the potato tubers, and

(ii) requiring the aforesaid occupier or person to treat or destroy such of the potato tubers and such packing materials and receptacles used for the storage or conveyance of the potato tubers in such manner and within such time as may be specified in the notice, and

(iii) prohibiting the removal of the potato tubers, the soil and debris riddled from the potato tubers and any packing materials, plant, equipment or receptacles used for the storage, conveyance or handling of the potato tubers or otherwise used in connection with the potato tubers from the premises on which they are when the notice is served and prohibiting the moving of any vehicle or freight container from the place where it is when the notice is served except, in each case, under such conditions, prescribed in the notice, as the inspector may consider necessary to prevent the spread of wart disease.