1972. No. 67 [NC]

PLANT HEALTH

Importation of Plants, Plant Produce and Trees

ORDER, DATED 13TH MARCH 1972, MADE BY THE MINISTRY OF AGRICULTURE UNDER THE PLANT HEALTH ACT (NORTHERN IRELAND) 1967.

The Ministry of Agriculture in exercise of the powers conferred on it by Section 2 of the Plant 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.—(1) This Order may be cited as the Importation of Plants, Plant Produce and Trees Order (Northern Ireland) 1972.

(2) This Order shall come into operation on the 1st April 1972.

Revocation

2. The Importation of Plants, Plant Produce and Trees Order (Northern Ireland) 1967(b) and the Importation of Plants, Plant Produce and Trees (Amendment) Order (Northern Ireland) 1969(c) are hereby revoked.

Interpretation

3.—(1) In this Order—

"crop" includes seed, plant or any part thereof;

"importer" in relation to any produce includes any person who, whether as owner, consignor or consignee, agent or broker, is in possession of or in any wise entitled to the custody or control of the produce;

"inspector" means an officer of the Ministry of Agriculture authorised for the purposes of this Order;

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

"plants" means plants (including trees and bushes) or parts thereof, intended for growing, planting or propagation, but does not include potatoes, seeds or mushroom spawn;

"premises" includes any vehicle, vessel, aircraft, hovercraft, or freight container;

"produce" means—

(*a*) plants (including trees and bushes) or parts thereof, whether dead or alive and whether or not intended for growing, planting or propagation;

(*b*) seeds;

(*c*) fruit;

(*d*) vegetables;

(*e*) cut flowers;

(*f*) mushroom spawn;

(*g*) hay or straw other than hay or straw used as packing material;

(a) 1967. c. 28. (N.I.).
(b) S.R. & O. (N.I.) 1967, No. 95.
(c) S.R. & O. (N.I.) 1969, No. 147.

"raw fruit" does not include dried, dehydrated or deep-frozen fruit, and "raw" in relation to fruit of any particular description shall be construed accordingly;

"raw vegetables" does not include potatoes or dried, dehydrated, brined, pickled or deep-frozen vegetables of any other kind;

"unhealthy" means carrying or affected with any bacterium, fungus, mycoplasma, alga, virus or invertebrate animal destructive to agricultural or horticultural crops or to trees or bushes.

(2) Nothing in this Order shall be deemed to permit the landing in Northern Ireland of—

(*a*) any potato, potato plant or part thereof the landing of which is for the time being prohibited or restricted under the Importation and Planting of Potatoes Order (Northern Ireland) 1972(**d**), or

(*b*) any hay or straw or dried clover, lucerne, or sainfoin the landing of which is for the time being prohibited or restricted under the Importation of Hay, Straw and Grass Meal Order (Northern Ireland) 1962(**e**).

(3) Nothing in this Order shall be deemed to remove the restrictions imposed by the Importation of Foreign Vegetables Order (Northern Ireland) 1961(**f**).

Exception of certain produce

4. Article 5 shall not apply to any plants, seeds, raw fruit, raw vegetables or flowers, which have been grown in Great Britain, the Isle of Man, the Channel Islands or the Republic of Ireland or which, before importation into Northern Ireland, have been landed in any of the said countries in accordance with the importation regulations governing such landing.

Restrictions on the landing of plants and of certain seeds, raw fruit, raw vegetables and cut flowers

5.—(1) The landing in Northern Ireland of any particular plants, seeds, raw fruit or cut flowers described in the second column of Parts IA, IIA, IIIA, VA, or VIA of Schedule 1 is prohibited during the period of the year specified in the third column of the said Schedule opposite the description of such plants, seeds, raw fruit or cut flowers.

(2) The landing in Northern Ireland of any particular plants, seeds, raw fruit, raw vegetables or cut flowers described in the second column of Parts IB, IC, IIB, IIIB, IV, VB, or VIB of Schedule 1 is prohibited unless the conditions specified in the third column of the said Schedule opposite the description of such plants, seeds, raw fruit, raw vegetables or cut flowers are or have been complied with.

Phytosanitary certificates to accompany certain consignments

6.—(1) Where a consignment of plants, seeds, raw fruit, raw vegetables or cut flowers landed in Northern Ireland is required by this Order to be accompanied by a phytosanitary certificate, such certificate shall, in the case of a consignment of plants or cut flowers, be in the form set out in Schedule 2 and, in the case of a consignment of seeds, raw fruit or raw vegetables, be in the form set out in Schedule 3.

(2) The phytosanitary certificate shall have been duly completed and signed by or on behalf of an authorised officer of the Plant Protection Service of the country in which the plants, seeds, raw fruit, raw vegetables or flowers, as the case may be, were grown.

(**d**) S.R. & O. (N.I.) 1972, No. 24.
(**e**) S.R. & O. (N.I.) 1962, No. 62.
(**f**) S.R. & O. (N.I.) 1961, No. 28.

(3) If, in the description of the consignment in a phytosanitary certificate in the form set out in Schedule 2, the address of the consignee is not in Northern Ireland, the certificate shall include an additional declaration by the said authorised officer to the effect that the consignment is believed to conform with the current phytosanitary regulations of Northern Ireland.

(4) The examination referred to in a phytosanitary certificate in the form set out in Schedule 2 shall have been carried out not more than 14 days prior to the date of despatch of the consignment.

(5) A phytosanitary certificate in the form set out in Schedule 3 shall have been signed not more than 14 days prior to the date of despatch of the consignment.

(6) Where a consignment is accompanied by a supplemental certificate in accordance with Article 7, a facsimile copy of the phytosanitary certificate, endorsed by the Plant Protection Service of the country in which the plants, seeds, raw fruit, raw vegetables or cut flowers, as the case may be, were unloaded or landed as being a true copy, may accompany the consignment in place of the phytosanitary certificate itself.

Supplemental certificates to accompany certain consignments

7.—(1) Each consignment of plants, seeds, raw fruit, raw vegetables or cut flowers landed in Northern Ireland which is required by this Order to be accompanied by a phytosanitary certificate and which, or any part of which, before being so landed, was unloaded or landed in a country or countries other than that in which the plants, seeds, fruit, vegetables or cut flowers, as the case may be, were grown, shall also be accompanied in respect of each such country by a supplemental certificate in the form set out in Schedule 4.

(2) The supplemental certificate shall have been duly completed and signed by or on behalf of an authorised officer of the Plant Protection Service of the country in which the plants, seeds, raw fruit, raw vegetables or cut flowers have been unloaded or landed.

(3) The supplemental certificate shall have been signed not more than 14 days prior to the date of despatch of the consignment.

Further provisions as to phytosanitary and supplemental certificates

8.—(1) Where a phytosanitary certificate or a supplemental certificate is issued in a country of which the language is other than English it shall incorporate or be accompanied by a translation into the language of that country, which translation, if it is in a document separate from the certificate, shall have been duly completed and signed by or on behalf of the officer by whom or on whose behalf the certificate was signed.

(2) Except in the case of consignments imported by post, phytosanitary certificates and supplemental certificates shall be delivered to the proper officer at the same time as, and together with, the entry relating to the consignment.

In this paragraph the expression "proper officer" has the like meaning as in the Customs and Excise Act 1952(**g**) and the reference to the entry shall be construed as a reference to the entry, delivery of which is to be made in accordance with the provisions of that Act.

(**g**) 15 & 16 Geo. 6 and 1 Eliz. 2, c. 44.

(3) In the case of consignments imported by post such certificates shall be affixed to the package comprising the consignment or, if the consignment consists of more than one package, the certificate shall be affixed to one of the packages and copies thereof affixed to each of the remaining packages.

(4) No certificate issued by or on behalf of a state, provincial or other regional or local government authority of part of a country, or by or on behalf of any department, service or other organ of such authority shall be deemed to be a valid phytosanitary or supplemental certificate for the purposes of this Order unless such authority is the only one empowered to issue, in relation to such part of the country, phytosanitary or supplemental certificates to accord with the requirements of this Order.

Examination and sampling

9. An inspector, upon production if so required of his appointment or authority, may—

(*a*) enter any premises and examine and take samples of any consignment or part of a consignment of produce (including any soil or other growing medium, packing material and containers accompanying the produce) landed or likely to be landed or suspected by him to have been landed or to be likely to be landed in Northern Ireland, whether or not such consignment was or ought to have been accompanied by a certificate required by this Order.

(*b*) for the purposes of such examination, open, authorise any person to open on his behalf or require the importer or the person in charge of the produce to open any container, bundle or other package in the consignment or part of a consignment.

(*c*) if and so far as is necessary for the purposes of such examination, prohibit entirely, or to the extent indicated by him, the movement of any consignment or part of a consignment of produce which has been landed or is suspected by him to have been landed in Northern Ireland and

(*d*) enter any premises and examine and take samples of any plants which have been landed or are suspected by him to have been landed in Northern Ireland during the previous 12 months or which have been derived or are suspected by him to have been derived from plants or seeds which have been so landed.

Procedure when plants, seeds, raw fruit, raw vegetables or cut flowers are landed in contravention of this Order

10.—(1) Without prejudice to the provisions of the customs Acts as defined in the Customs and Excise Act 1952, if any consignment or part of a consignment of plants, seeds, raw fruit, raw vegetables or cut flowers is landed in Northern Ireland in contravention of this Order, the plants, seeds, raw fruit, raw vegetables or cut flowers comprising the consignment or part of a consignment, as the case may be, shall forthwith be destroyed by and at the expense of the importer unless they are immediately re-exported or are disposed of in accordance with the terms of a licence granted by the Ministry.

(2) Any destruction required by paragraph (1) shall be carried out by the importer to the satisfaction of an inspector at a place designated by an inspector and, except with the written authority of an inspector, none of the said plants, seeds, raw fruit, raw vegetables or cut flowers shall be moved other than to such place.

(3) If the importer shall have failed to destroy the said plants, seeds, raw fruit, raw vegetables or cut flowers in accordance with paragraph (1) or if he shall have failed to dispose of them in accordance with the terms of a licence granted as aforesaid, then, without prejudice to any proceedings under this Order consequent upon such failure, an inspector or a person acting on his instructions may enter any premises in which the plants, seeds, raw fruit, raw vegetables or cut flowers or any of them may be and may remove and destroy them and the cost of taking such steps shall be recoverable by the Ministry from the importer as a civil debt.

(4) In this Article "plants, seeds, raw fruit, raw vegetables or cut flowers" includes soil or any other growing medium, packing materials and containers.

Procedure in the case of landing of unhealthy produce

11.—(1) If it appears to an inspector that any produce in a consignment or part of a consignment likely to be landed in Northern Ireland is unhealthy, he may serve upon the importer or upon any person in control of the landing or unloading of the produce from a vessel, aircraft, vehicle, hovercraft or freight container a notice specifying the manner in which the landing or unloading is to be carried out and the precautions which are to be taken in the course thereof in order to prevent the spread of any pest or disease.

(2) If it appears to an inspector at any time that any produce in a consignment or part of a consignment landed in Northern Ireland is unhealthy, he may serve upon the importer a notice requiring him, within such time and in such manner as may be specified in the notice, to destroy the produce comprising the consignment or part of a consignment or such of it as may be so specified.

(3) Where a notice under paragraph (2) has been served upon an importer, an inspector may grant a licence authorising at the importer's own expense and risk, in lieu of the destruction required by the notice, the treatment or re-export or the disposal in some other manner of the produce or of such of it as may be specified in the licence, within such time, in such manner and subject to such conditions as may be so specified.

(4) Any destruction required by a notice served under paragraph (2) shall be carried out by the importer upon whom the notice is served to the satisfaction of an inspector at a place designated by an inspector and, except with the written authority of an inspector, none of the produce shall be moved other than to such place.

(5) If a notice under paragraph (2) has been served upon an importer and has not been superseded by a licence granted under paragraph (3) and the importer shall have failed to destroy any produce as required in the said notice, or if an importer to whom a licence has been granted under paragraph (3) shall have failed fully to comply with the terms and requirements thereof, then, without prejudice to any proceedings under this Order consequent upon such failure, an inspector or a person acting on his instructions may enter any premises in which the produce or any of it may be and may remove and destroy it and the cost of taking such steps shall be recoverable by the Ministry from the importer as a civil debt.

(6) This Article shall apply in relation to any plants which appear to an inspector to be unhealthy following an examination authorised by Article 9(*d*) and, in the application of this Article to any such plants, any reference to the importer shall be construed as including a reference to the person in charge of the plants.