

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 Krai 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;

“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

completed and signed by an authorised officer not more than 14 days before the date of export of the consignment of potatoes which such certificate is to accompany.

(3) In the case of potatoes grown within the European Community an official statement in respect of the requirements of Schedule 2 shall be deemed to have been given by the issue, in accordance with the provisions of this Order, of a phytosanitary certificate to accompany a consignment of potatoes.

(4) Where a phytosanitary certificate or a re-forwarding phytosanitary certificate is issued in a third country, the language of which country is other than English, such certificate shall incorporate or be accompanied by a translation in English of the text thereof which translation, if it is a document separate from such certificate, shall be completed and signed by an authorised officer.

(5) Subject to paragraph (6), where a consignment of potatoes has been consigned between two countries or more than two countries before it is consigned to Northern Ireland such consignment of potatoes may, in place of a certificate required by this Order, be accompanied by a copy of a certificate required by this Order which has been issued in the country from which such consignment of potatoes has been consigned to Northern Ireland if such copy certificate is certified by an authorised officer either as a true copy of the original or as a true copy of a certified copy of the original as the case may be.

(6) In the case of a re-forwarding phytosanitary certificate issued in the country from which the consignment of potatoes was consigned direct to Northern Ireland paragraph (5) shall not apply and the original re-forwarding phytosanitary certificate shall accompany such consignment.

(7) A phytosanitary certificate and any re-forwarding phytosanitary certificate shall be submitted by the importer to the proper officer at the same time as and together with the entry which relates to the consignment of potatoes in respect of which such certificate has been issued. In the case of a consignment of potatoes landed from a country other than Great Britain, the Isle of Man or any of the Channel Islands in this paragraph the expression "proper officer" has the meaning attached thereto in the Customs Act 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.

(8) A consignment of potatoes consisting of ware potatoes, which are landed from Great Britain, the Isle of Man or any of the Channel Islands shall immediately on landing be submitted by the importer together with a phytosanitary certificate and any re-forwarding phytosanitary certificate in respect of such consignment of potatoes for inspection at the office of the Department listed in Column 2 of Schedule 5 which is at the place of landing listed in Column 1 of Schedule 5 as a point of entry.

(9) A phytosanitary certificate or a re-forwarding phytosanitary certificate shall not be valid unless the authority (whether central, regional, municipal or local) of a country, or a department, service or other organ of such authority, which issues such certificate is the only one in relation to such country which is empowered to issue such certificate.

Exemptions

10.—(1) Only Articles 8, 9, 11, 19 and 20 shall apply in relation to potatoes grown in Northern Ireland unless such potatoes are exported from and are subsequently re-imported into Northern Ireland in which case all the provisions of this Order shall apply.

(2) New potatoes and ware potatoes either or both of which have been grown in Great Britain, the Isle of Man, any of the Channel Islands or the Republic of Ireland and which are landed are exempt from the requirements of paragraphs (8) and (12) of Schedule 2.

(3) Ware potatoes which have been grown in the Republic of Ireland or which have been consigned to and have met the import requirements of the Republic of Ireland are exempt from the requirements of paragraph (7) of Schedule 2.

(4) Phytosanitary certificates and re-forwarding phytosanitary certificates shall not be required to accompany a consignment of potatoes consisting of new potatoes which are landed if the potatoes therein were grown in Great Britain, the Isle of Man or any of the Channel Islands or were first consigned to and met the import requirements of such countries.

(5) Phytosanitary certificates and re-forwarding phytosanitary certificates shall not be required to accompany a consignment of potatoes from Northern Ireland to Great Britain, the Isle of Man or any of the Channel Islands.

Restrictions on sale for planting, and planting, of imported potatoes

11.—(1) Subject to the provisions of paragraph (3), a person shall not sell for planting or offer for sale for planting or expose for sale for planting or plant potatoes which have been—

- (i) grown in Northern Ireland and which have been exported from and subsequently re-imported into Northern Ireland; or
- (ii) grown outside Northern Ireland or derived from potatoes so grown:

except under and in accordance with the terms and conditions of a licence granted by the Department.

(2) If, in contravention of paragraph (1), potatoes as described therein are sold for planting or are offered for sale for planting or are exposed for sale for planting or are planted an inspector may by notice served on the person lawfully in possession, charge or control of such potatoes prohibit the use, removal, sale, offer for sale or exposure for sale of such potatoes and direct the manner in which such potatoes shall be dealt with or destroyed or, if such potatoes have been planted, require that they or the plants or crops derived therefrom be lifted and direct the manner in which they or such plants or crops shall be dealt with or destroyed.

(3) Paragraph (1) shall not apply to potatoes landed under and in accordance with the terms and conditions of a licence granted under Article 18 or potatoes derived from such potatoes.

Examination, sampling and marking

12. An inspector, upon production if so required of his authority, may for the purposes of this Order—

- (a) (i) enter and examine premises and mark any part thereof;
- (ii) examine, take samples of and mark a consignment of potatoes landed or reasonably believed by him to have been landed, whether or not such consignment of potatoes was, or ought to have been, accompanied by a certificate or licence required by this Order; and
- (iii) examine and take samples of a pest or genetically manipulated material either of which has been landed or is reasonably believed by him to have been landed;
- (b) for the purpose of the examination set out in paragraph (a), open or authorise a person to open on his behalf or require the importer or master of a vessel carrying such consignment of potatoes or pest or genetically manipulated material to open a freight container, package or container;
- (c) if and so far as it is necessary for the purpose of such examination, prohibit, either entirely or to the extent indicated by him by notice in writing, the movement of—

- (i) a consignment of potatoes or a pest or genetically manipulated material which has been landed or is reasonably believed by him to have been landed; and
 - (ii) any material or object by means of which in his opinion a pest is likely to be spread; and
 - (iii) the freight container or package or container in which such consignment of potatoes or pest or genetically manipulated material has been consigned;
- (d) enter premises and examine, take samples of and mark any consignment of potatoes or pest or genetically manipulated material which has been landed during the previous 12 months or any potatoes derived or reasonably believed by him to have been derived from a consignment of potatoes so landed.

Consignments landed in contravention of Order

13.—(1) If it appears to an inspector that a consignment of potatoes is in course of being or is about to be or is likely to be landed and that:

- (a) if landed, such consignment of potatoes would be landed in contravention of the provisions of this Order; or
- (b) such consignment of potatoes is not substantially free from a pest, freedom from which is not a condition set out in Schedule 2 in relation to that consignment of potatoes; or
- (c) such consignment of potatoes is carrying or infected with a non-indigenous pest;

he may serve upon the importer or any person in control of the landing or unloading of that consignment of potatoes from a vessel, aircraft, vehicle, hovercraft or freight container a notice:

- (i) prohibiting the landing or unloading of that consignment of potatoes; or
- (ii) setting out the manner in which the landing or unloading of that consignment of potatoes is to be carried out and the precautions which are to be taken in the course thereof and the further precautions which are to be taken following such landing or unloading; or
- (iii) requiring that, if landed or unloaded, the consignment of potatoes or such part thereof as may be set out in such notice be destroyed within such time and in such manner as may be set out in such notice.

(2) If it appears to an inspector at any time that a consignment of potatoes has been landed and that:

- (a) such landing is in contravention of the provisions of this Order; or
- (b) such consignment of potatoes is not substantially free from a pest, freedom from which is not a condition set out in Schedule 2 in relation to that consignment of potatoes; or
- (c) such consignment of potatoes is carrying or infected with a non-indigenous pest;

he may serve upon the importer a notice:

- (i) requiring him within such time and in such manner as may be set out in the notice to destroy the consignment of potatoes or such part thereof as may be set out in the notice so as to prevent the spread of any pest which appears to the inspector to have been landed with that consignment; or
 - (ii) requiring that the consignment of potatoes or such part thereof as may be set out in the notice shall not be removed from the premises set out in the notice.
- (3) A notice served under paragraph (2) on the grounds set out in sub-paragraphs (b) and (c) thereof requiring the destruction of a consignment of potatoes may

postpone such destruction for such period and subject to such conditions, if any, as may be set out in that notice.

(4) Where the destruction required by a notice served under paragraph (2) has been postponed in accordance with paragraph (3) the importer upon whom the notice was served may within the period set out in such notice destroy the pest carried by or infecting such consignment of potatoes. If however the importer upon whom the notice was served fails within the period set out in the notice to destroy that pest to the satisfaction of an inspector then the destruction required by the notice shall be carried out by the importer within two days following the expiry of the period set out in the notice or within such other period as may be set out in writing by an inspector.

(5) Destruction required by a notice served under paragraph (1) or (2) shall be carried out to the satisfaction of an inspector by the importer upon whom the notice is served at a place designated by an inspector and, except with the authority in writing of the Department or an inspector, the consignment of potatoes shall not be moved otherwise than direct to such place.

(6) A notice served under paragraph (2) requiring destruction may be amended or withdrawn by an inspector by a further notice in writing served upon the importer permitting within such period as may be set out in that further notice in lieu of such destruction the consignment of potatoes to be re-exported to the consignor if the inspector is satisfied that the importer will not attempt to land such consignment again and that such consignment will not present a plant health risk to the country of the consignor.

(7) Re-exportation pursuant to a notice served under paragraph (6) shall be carried out to the satisfaction of an inspector by the importer upon whom the notice is served from a place designated by an inspector and, except with the authority in writing of the Department or an inspector, the consignment of potatoes shall not be moved otherwise than direct to such place.

(8) A notice served under paragraph (1) or (2) may be amended or withdrawn by the Department or an inspector by a further notice in writing served upon the person upon whom the first notice was served.

(9) If an importer shall fail to comply with the requirements of a notice served under paragraph (1), (2), (6) or (8), then, without prejudice to any proceedings under this Order consequent upon such failure, an inspector or a person authorised by him for the purpose may, on production if so required of his authority, enter for the purposes of this Order any premises in which the consignment of potatoes to which the notice relates may be and take such steps as appear to the inspector to be necessary either to ensure that the requirements of the notice have been complied with or to remedy the consequences of the failure so to comply and the cost of the taking of such steps shall be recoverable as a civil debt by the Department from the person upon whom the notice was served.

(10) The provisions of this Article are without prejudice to the provisions of the Customs Act.

Pests or genetically manipulated material landed in contravention of Order

14.—(1) If it appears to an inspector that a pest or genetically manipulated material is in course of being or is about to be or is likely to be or has been landed in contravention of the provisions of this Order, he may serve upon the importer a notice, requiring him to destroy that pest or genetically manipulated material within such time and in such manner as may be set out in such notice and to take such steps to prevent the spread of such pest as may be set out in such notice.

(2) A notice served under paragraph (1) may be amended or withdrawn by the Department or an inspector by a further notice in writing served upon the person upon whom the first notice was served.

(3) If an importer shall fail to comply with the requirements of a notice served under paragraph (1) or (2) then, without prejudice to any proceedings under this Order consequent upon such failure, an inspector or a person authorised by him for the purposes may, on production if so required of his authority, for the purposes of this Order enter any premises in which the pest or genetically manipulated material to which the notice relates may be and take such steps as appear to the inspector to be necessary either to ensure that the requirements or conditions of the notice have been complied with or to remedy the consequences of the failure so to comply and the cost of the taking of such steps shall be recoverable as a civil debt by the Department from the person upon whom the notice was served.

(4) The provisions of this Article are without prejudice to the provisions of the Customs Act.

Persons authorised by an inspector

15. An inspector who authorises a person to take action as set out in Article 13(9) or Article 14(3) shall give instructions in writing to that person in sufficient detail as to the steps which appear to the inspector to be necessary for that person to take.

Restrictions on points of entry

16.—(1) A person shall not land a consignment of potatoes consigned from Great Britain, the Isle of Man or any of the Channel Islands at a place other than a place listed in Schedule 5 as a point of entry.

(2) If a consignment of potatoes is landed in contravention of paragraph (1) the importer shall retain such consignment of potatoes at the place of landing until it has been examined by an inspector. Following such examination the Department or an inspector, on production if so required of his authority, may in lieu of destruction or re-exportation as provided for in Article 13 authorise in writing the removal of such consignment of potatoes from the place of landing.

(3) The cost of retaining a consignment of potatoes at the place of landing in accordance with paragraph (2) shall be borne by the importer.

Officers of Customs and Excise

17.—(1) An inspector may, either orally or in writing, request an officer of Customs and Excise to prohibit the removal from the place of landing of a consignment of potatoes which has not been cleared from Customs charge until it has been examined by an inspector. A request under this paragraph which has been made orally shall be confirmed in writing.

(2) Where a request has been made under paragraph (1) the officer of Customs and Excise shall by notice in writing served upon the importer require that until such consignment of potatoes has been examined by an inspector it shall not be removed from the place set out in the notice and he shall at the same time send a copy of such notice to the inspector making the request referred to in paragraph (1).

(3) As soon as practicable after receipt of the copy of such notice an inspector shall examine such consignment of potatoes and shall in writing inform the officer of Customs and Excise of the terms of any notice served under this Order and of any action taken by the inspector in accordance with the provisions of this Order.

(4) Where a notice under paragraph (2) has been served a person shall not, except with the written consent of either such officer of Customs and Excise or an inspector, move contrary to the terms of such notice such consignment of potatoes prior to its inspection by an inspector.

Licences

18. Notwithstanding any provision in this Order a consignment of potatoes or a pest or genetically manipulated material or soil may be landed in accordance with the terms and conditions of a licence granted by the Department.

Information which may be required

19.—(1) A person who has, or has had, in his possession or control or under his charge a consignment of potatoes or pest or genetically manipulated material which the Department or an inspector knows to have been, or has reasonable cause to believe has been, landed or exported from Northern Ireland and a person who, as auctioneer, salesman or otherwise, has sold or offered for sale any such consignment of potatoes, pest or genetically manipulated material shall if so required by notice in writing from the Department or an inspector furnish to the Department or an inspector within the time set out in that notice such information as he may possess as to any person who has or has had, or is likely to have or to have had, any such consignment of potatoes or pest or genetically manipulated material in his possession, custody or control or under his charge.

(2) Information furnished under paragraph (1) shall not be available as evidence against the person furnishing the same in any prosecution under this Order except in respect of an alleged failure to comply with paragraph (1).

Offences

20.—(1) A person shall be guilty of an offence if he:

- (a) contravenes or fails to comply with a provision of this Order or a term or condition of a notice served or licence granted in accordance with the provisions of this Order;
- (b) (i) knowingly or recklessly makes a false statement for the purpose of obtaining a phytosanitary certificate or a re-forwarding phytosanitary certificate; or
- (ii) wilfully obstructs or impedes in the exercise of his powers under this Order an inspector or a person authorised by an inspector.

(2) An offence against this Order shall be punishable on summary conviction by a fine of not more than £100 for a first offence or £200 for a second or subsequent offence.

(3) Paragraphs (1) and (2) shall not apply to the landing of an article of any description the landing of which is prohibited by this Order and in respect of which a penalty may be imposed under the Customs Act.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 10th February 1981.

(L.S.)

D. J. Alexander

Assistant Secretary

SCHEDULE I

Article 4(1)

PESTS WHICH MAY NOT BE LANDED

PART I

Live organisms of the animal kingdom at all stages of their development

1. *Arrhenodes minutus* (Drury) — Oak Timber Worm.
2. *Cacoecimorpha pronubana* (Hübner) — Carnation Tortrix (moth).
3. *Cephalcia alpina* (Klug) — Larch Sawfly.
4. *Ceratitis capitata* (Wiedemann) — Mediterranean Fruit Fly.
5. *Comstockaspis perniciosus* (Comstock) (syn. *Quadraspidiotus perniciosus* (Comstock)) — San José Scale.
6. *Conotrachelus nenuphar* (Herbst) — Plum Curculio (weevil).
7. *Cydia molesta* (Busck.) (syn. *Laspeyresia molesta* (Busck.)) — Oriental Fruit Moth.
8. *Epichoristodes acerbella* (Walker) — African Carnation Tortrix (moth).
9. *Gilpinia hercyniae* (Hartig) — European Spruce Sawfly.
10. *Globodera rostochiensis* (Wollenweber) Behrens and *Globodera pallida* (Stone) Behrens — Potato Cyst Nematodes.
11. *Hylurgopinus rufipes* (Eichhoff) — Native Elm Bark Beetle.
12. *Hyphantria cunea* (Drury) — Fall Webworm.
13. *Leptinotarsa decemlineata* (Say) — Colorado Beetle.
14. *Liriomyza huidobrensis* (Blanchard) *L. sativa* Blanchard, *L. trifolii* (Burgess) and *Amauromyza maculosa* Malloch — American Leafminers.
15. *Popillia japonica* Newman — Japanese Beetle.
16. *Pristiphora abietina* (Christ) — Small Spruce Sawfly.
17. *Pseudopityophthorus minutissimus* (Zimmerman) and *P. pruinosus* (Eichhoff) — Oak Bark Beetles.
18. *Rhagoletis cingulata* (Loew) — North American Cherry Fruit Fly.
19. *Rhagoletis fausta* (Osten Sacken) — Black Cherry Fruit Fly.
20. *Rhagoletis pomonella* (Walsh) — Apple Fruit Fly.
21. *Scaphoideus luteolus* Van Duzee — White Banded Elm Leaf Hopper.
22. *Scolytus multistriatus* (Marsham) — Small Elm Bark Beetle.
23. *Scolytus scolytus* (Fabricius) — Large Elm Bark Beetle.
24. *Spodoptera littoralis* (Boisduval) — Mediterranean Climbing Cutworm.
25. *Spodoptera litura* (Fabricius) — Asian and Pacific Cutworm.

PART II

Bacteria

1. *Corynebacterium michiganense* pv *sepedonicum* (Spieck. and Kothh.) Dye and Kemp, the cause of Potato Ring Rot.
2. *Erwinia amylovora* (Burr.) Winsl. et al., the cause of Fire Blight of Rosaceae.
3. *Xanthomonas populi* Ridé and Ridé, the cause of Bacterial Canker of Poplar.

PART III

Cryptogams

1. *Angiosorus solani* Thirum and O'Brien, the cause of Potato Smut.
2. *Ceratocystis fagacearum* (Bretz) Hunt, the cause of Oak Wilt.
3. *Ceratocystis ulmi* (Buism.) C. Moreau, the cause of Dutch Elm Disease.
4. *Chrysomyxa arctostaphyli* Diet., the cause of Spruce Witches' Broom Rust.
5. *Cronartium comptoniae* Arthur, the cause of Sweet Fern Blister Rust of Pine.
6. *Cronartium fusiforme* Hedgc. and Hunt ex Cumm., the cause of Fusiform Rust of Pine.

7. *Cronartium quercuum* (Berk.) Miyabe ex Shirai, the cause of Pine-Oak Gall Rust.
8. *Endocronartium harknessi* (J. P. Moore) Y. Hiratsuka (syn. *Peridermium harknessi* J. P. Moore), the cause of Western Gall Rust of Pine.
9. *Endothia parasitica* (Murrill) P.J. and H.W. Anderson, the cause of Chestnut Blight.
10. *Guignardia loricata* (Saw.) Yamamoto and Ito, the cause of Shoot Blight of Larch.
11. *Hypoxyton pruinaum* (Klotzsche) Cke., the cause of Hypoxyton Canker of Poplar.
12. *Melampsora farlowii* (Arthur) Davis, the cause of Tsaga Needle Rust.
13. *Melampsora medusae* Thuem. (syn *M.albertensis* Arthur), the cause of Conifer-Aspen Rust.
14. *Mycosphaerella populorum* Thomp. (syn. *Septoria musiva* Peck), the cause of Septoria Canker of Poplar.
15. *Ophiostoma roboris* Georgescu and Teodoru, associated with Oak Vascular Mycosis.
16. *Phytophthora cinnamomi* Rands, the cause of Root Rots and Wilts.
17. *Poria weirii* Murr., the cause of Poria Root Rot.
18. *Synchytrium endobioticum* (Schilb.) Perc., the cause of Potato Wart Disease.
19. *Scleroderris lagerbergii* Gremmen, the cause of Pine Top Canker.
20. *Urocystis cepulae* Frost, the cause of Onion and Leek Smut.

PART IV

Viruses and virus-like pathogens

1. Harmful viruses and virus-like pathogens of the genera *Cydonia* Mill., *Fragaria* L., *Malus* Mill., *Prunus* L., *Pyrus* L., *Ribes* L. and *Rubus* L.:—
 - (a) Apple Proliferation Disease mycoplasma
 - (b) Apricot Chlorotic Leaf Roll Disease mycoplasma
 - (c) Cherry Rasp Leaf virus (American)
 - (d) Peach Mosaic virus (American)
 - (e) Peach Phony rickettsia
 - (f) Peach Rosette Disease mycoplasma
 - (g) Peach Yellowing Disease mycoplasma
 - (h) Pear Decline Disease mycoplasma
 - (i) Plum Line Pattern virus (American)
 - (j) Plum Pox (Sharka) virus
 - (k) Raspberry Leaf Curl viruses (American)
 - (l) Strawberry Latent "C" virus
 - (m) Strawberry Vein Banding virus
 - (n) Strawberry Witches' Broom Disease mycoplasma
 - (o) X Disease mycoplasma
 - (p) Other harmful viruses and virus-like pathogens of the genera *Cydonia* Mill., *Fragaria* L., *Malus* Mill., *Prunus* L., *Pyrus* L., *Ribes* L. and *Rubus* L. which are not known to occur within the European Community.
2. Harmful viruses and virus-like pathogens of potato:—
 - (a) Potato Spindle Tuber viroid
 - (b) Potato Yellow Dwarf virus
 - (c) Potato Yellow Vein virus
 - (d) Other harmful viruses and virus-like pathogens of potato which are not known to occur within the European Community.
3. Elm Phloem Necrosis Disease mycoplasma.
4. Rose Wilt Disease pathogen.
5. Tomato Bunchy Top viroid (syn. Potato Spindle Tuber viroid).
6. Tomato Ring Spot virus.
7. Harmful viruses and virus-like pathogens of grapevine (*Vitis* L.).

PART V

Phanerogams

Arceuthobium M.Bieb. — Non-European species of dwarf mistletoe.

SCHEDULE 2

Article 5

Conditions attaching to the landing of new potatoes and ware potatoes

(1) The potatoes in the consignment shall have been grown in and consigned from within Great Britain, the Isle of Man, any of the Channel Islands or any of the following countries:

Algeria	Lebanon
Austria	Libya
Belgium	Luxembourg
Cyprus	Malta
Egypt	Morocco
Federal Republic of Germany	Netherlands
France	Portugal
Greece	Republic of Ireland
Israel	Spain
Italy	Switzerland
	Tunisia

(2) The consignment of potatoes shall, in accordance with the provisions of Articles 7 and 9, be accompanied by a phytosanitary certificate and, as appropriate, one or more re-forwarding phytosanitary certificates.

(3) The potatoes in the consignment shall have been derived direct from potatoes certified as seed potatoes in the United Kingdom, the Isle of Man, any of the Channel Islands or any of the countries set out in paragraph (1).

(4) The consignment of potatoes shall be free from:

- (a) the pests listed in Schedule 1;
- (b) Potato Brown Rot (*Pseudomonas solanacearum*) (E. F. Smith) E. F. Smith;
- (c) Potato Tuber Moth (*Phthorimaea operculella*) (Zell);
- (d) Potato Tuber Nematode (*Ditylenchus destructor* Thorne); and
- (e) Tomato Spotted Wilt virus.

(5) Where the potatoes in the consignment were grown in a Member State, they shall in addition to complying with the requirements of paragraphs (2), (3), (4), (7), (8), (9), (10), (11) and (12) be accompanied by an official statement that they were grown:

- (a) in accordance with Community provisions to combat Potato Wart Disease (*Synchytrium endobioticum* (Schilb) Perc.) (a); and
- (b) either:
 - (i) in a country known to be free from Potato Ring Rot (*Corynebacterium michiganense* pv. *sepedonicum* (Spieck. and Kotth.) Dye and Kemp); or
 - (ii) in accordance with Community provisions to combat Potato Ring Rot (*Corynebacterium michiganense* pv. *sepedonicum* (Spieck. and Kotth.) Dye and Kemp) (b).

(6) Where the potatoes in the consignment were grown in a third country, they shall in addition to complying with the requirements of paragraphs (2), (3), (4), (7), (8), (9), (10), (11) and (12) be accompanied by an official statement that they were grown:

- (a) in a country known to be free from Potato Ring Rot (*Corynebacterium michiganense* pv. *sepedonicum* (Spieck. and Kotth.) Dye and Kemp) and from races other than the common European race, of Potato Wart Disease (*Synchytrium endobioticum* (Schilb) Perc.);
- (b) at a place of production at and in the immediate vicinity of which no symptoms of Potato Wart Disease (*Synchytrium endobioticum* (Schilb) Perc.) have been observed during the 30 years prior to the date on which the phytosanitary certificate accompanying such potatoes was issued; and
- (c) in a country in which Potato Spindle Tuber Viroid is not known to occur.

(7) Where some, or all, of the potatoes in the consignment are ware potatoes the consignment of potatoes shall be accompanied by an official statement that prior to export to Northern Ireland the potatoes comprised in such consignment were treated in a manner to

(a) Council Directive 69/464/EEC (O.J. No. L.323, 24.12.69 p. 1)

(b) Council Directive 80/665/EEC (O.J. No. L. 180, 14.7.80 p. 30)

suppress the faculty of germination and details of the treatment, including the name of the active ingredient, the application rate used and the date of treatment shall be recorded in the section provided for that purpose on the phytosanitary certificate.

- (8) A consignment of potatoes shall be accompanied by an official statement that:
- (a) prior to export to Northern Ireland the potatoes therein were riddled or washed under official supervision in an officially approved packing station in such manner as would remove any Colorado Beetles (*Leptinotarsa decemlineata* (Say)) and would prevent re-infestation therewith and were packed in clean packages or containers; and
 - (b) where the consignment of potatoes was stored prior to export to Northern Ireland such riddling or washing and packing was carried out before the potatoes in such consignment were so stored; and
 - (c) the consignment of potatoes has been freed from soil and officially examined to ensure freedom from Colorado Beetle (*Leptinotarsa decemlineata* (Say)) within the tubers.
- (9) A consignment of potatoes shall be accompanied by an official statement that the potatoes in the consignment were grown:
- (a) in an area in which during the last complete cycle of vegetation there has been no occurrence of Colorado Beetle (*Leptinotarsa decemlineata* (Say)) within 25 kilometres of the place of production; or
 - (b) at a place of production at which all potatoes grown have during the growing season been treated under official supervision with an insecticide specifically intended to control Colorado Beetle (*Leptinotarsa decemlineata* (Say)) so as to prevent contamination of the harvested crop therewith.
- (10) A consignment of potatoes shall contain by weight no more than 2% of soil.
- (11) Where the packages or containers in which a consignment of potatoes is packed are not new they shall:
- (a) be constructed in such manner and of such materials that they are capable of being effectively cleaned; and
 - (b) have been cleaned in accordance with an officially approved method.
- (12) The consignment of potatoes shall have been transported from the packing station to the consignee's premises in packages or containers which have been closed in such manner as shall prevent the entry therein of pests.

Form of Phytosanitary Certificate

Phytosanitary Certificate

PLANT PROTECTION SERVICE

of No.

This is to certify that the plants, parts of plants or plant products described below or representative samples of them were thoroughly examined on (date).....

..... by (name) an authorised officer of the (service)

and were found to the best of his knowledge to be substantially free from injurious diseases and pests; and that the consignment is believed to conform with the current phytosanitary regulations of the importing country both as stated in the additional declaration hereon and otherwise.

Fumigation or disinfection treatment (if any)

Date Treatment.....

Duration of Exposure..... Chemical and Concentration

Additional Declaration

..... 19.....

.....

(Signature)

.....

(Rank)

(Stamp of the Service)

Description of the Consignment

Name and address of exporter:.....

Name and address of consignee:.....

Number and description of packages:.....

Distinguishing marks:.....

Origin (Grown at)*.....

Means of conveyance:.....

Point of entry:.....

Quantity and name of produce:.....

Botanical name:.....

*State precise location.

Note: The certificate shall be completed in typescript or in block capitals.

Form of Re-forwarding Phytosanitary Certificate

No.

Re-forwarding Phytosanitary Certificate

PLANT PROTECTION SERVICE

of:..... (country of re-export)

To: Plant Protection Service(s)

of:.....(country (countries) of destination)

Description of Consignment

Name and address of exporter:.....

Name and address of consignee:.....

Number and description of packages:.....

Distinguishing marks:.....

Place of origin:.....

Declared means of conveyance:.....

Declared point of entry:.....

Name of produce and quantity declared:.....

Botanical name of plants:.....

This is to certify that the plants or plant products described above were imported into (country of re-export) from (country of origin) covered by phytosanitary certificate No. original certified true copy of which is attached to this certificate; that they are packed repacked in original containers new containers ; that based on the original phytosanitary certificate and additional inspection they are considered to conform with the current plant health regulations of the importing country and that during storage in.....(country of re-export) this consignment has not been subjected to the risk of infestation or infection.

(*) Tick appropriate box

Disinfestation and/or Disinfection Treatment

Date:..... Treatment:.....

Chemical (active ingredient):.....

Duration and temperature:.....

Concentration:.....

Additional information:.....

Additional declaration:.....

Place of issue:..... Name of Authorised Officer:.....

Date:.....

(Signature)

(Stamp of the Service)

(Rank)

Note: The certificate shall be completed in typescript or in block capitals.

Point of entry

1 <i>Point of entry</i>	2 <i>Office of the Department</i>
Belfast	Dufferin Road, Belfast, BT5 9AA
Larne.....	Redlands Road, Larne BT40 1AX
Londonderry	McFarland's Quay, Londonderry BT48 7QA
Warrenpoint	The Harbour Estate, Warrenpoint BT34 3JR

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order, which is made under the Plant Health Act (Northern Ireland) 1967 as amended in 1967, 1972 and 1975 replaces the Importation and Planting of Potatoes Order (Northern Ireland) 1972 as amended by the Importation and Planting of Potatoes Order (Northern Ireland) 1979.

The Order implements those provisions of Council Directive 77/93/EEC (O.J. No. L26, 31.1.77 p. 20), as amended by Directives 80/392/EEC and 80/393/EEC (O.J. No. L100, 17.4.80 p. 32) which set out controls on the movement of potatoes across the frontiers of the European Community.

In addition the Order sets out controls:

- (a) in respect of direct trade with third countries; and
- (b) on the movement of pests harmful to agricultural, horticultural or silvicultural crops.

The provisions of Council Directive 77/93/EEC which control the movement of plants and plant products are implemented by the Import and Export (Plants and Plant Products) (Plant Health) Order (Northern Ireland) 1981, and those provisions which control the movement of wood, timber and isolated bark are implemented by the Import and Export (Wood and Bark) (Plant Health) Order (Northern Ireland) 1981.

This Order:

- (a) prohibits the landing of certain potatoes, pests and soil (Article 4 and Schedule 1);
- (b) sets out the countries from which potatoes may be consigned (paragraph 1 of Schedule 2);
- (c) sets out the conditions under which a consignment of potatoes is permitted to be landed (Articles 5 and 6 and Schedule 2);
- (d) sets out the circumstances in which a consignment of potatoes is to be accompanied, when landed or exported from Northern Ireland, by a phytosanitary certificate and re-forwarding phytosanitary certificate, the form of such certificates and the manner in which such certificates are to be completed (Articles 7, 8 and 9 and Schedules 3 and 4);
- (e) prohibits the planting of potatoes grown outside Northern Ireland except under and in accordance with the terms and conditions of a licence (Article 11);
- (f) provides powers of entry, examination, sampling and marking (Article 12) and powers to enable remedial action to be taken when a consignment of potatoes or a pest or genetically manipulated material is landed or is about to be landed in contravention of the Order (Articles 13 and 14);
- (g) provides that a consignment of potatoes may be landed only at certain entry points (Article 16 and Schedule 5);
- (h) provides that officers of Customs and Excise may detain potatoes for examination by an inspector (Article 17);
- (i) provides that the landing of a consignment of potatoes otherwise prohibited by the Order may be authorised by licence (Article 18);
- (j) requires that persons having in their possession information regarding any consignment of potatoes or pest or genetically manipulated material landed in or exported from Northern Ireland may be required to disclose that information (Article 19);

(k) provides for offences in connection with this Order and sets out the penalties which may be imposed in respect of a contravention of or failure to comply with the Order (Article 20).