

1982 No. 79

PLANT HEALTH

Plant Pests Order (Northern Ireland) 1982

Made 12th March 1982

Coming into operation 16th April 1982

The Department(a) of Agriculture, in exercise of the powers conferred on it by sections 3(1),(2)(b), (3) and (4)(c) and 3A(d) of the Plant Health Act (Northern Ireland) 1967(e) 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 Plant Pests Order (Northern Ireland) 1982 and shall come into operation on 16th April 1982.

Revocation

2. The Orders listed in the Schedule are hereby revoked.

Interpretation

3. In this Order—

“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;

“inspector” means an officer of the Department authorised in writing by the Department for the purpose of this Order;

“non-indigenous pest” means a pest which, in the opinion of the Department, is not known to be established in Northern Ireland at the date of commencement of this Order and includes any culture of *Synchytrium endobioticum* (Schilb) Perc., the cause of Potato Wart Disease;

“plant” includes any tree, wood or bush and any seed or other part of a plant or cultivated fungus and includes soil or other growing medium, packing material or container associated therewith;

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

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

(a) Formerly Ministry: *see* Northern Ireland Constitution Act 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 Sch. 2

(c) As amended by 1967 c. 29 (N.I.) s. 1(2) Sch. Part II

(d) Inserted by S.I. 1975/1038 (N.I. 8) Art. 11(2)

(e) 1967 c. 28 (N.I.)

“wood” means all wood of trees, whether living or not, including the bark thereof.

Notification of the presence or suspected presence of non-indigenous pests

4. The occupier or other person in charge of any premises who knows or has reason to suspect that Potato Ring Rot (*Corynebacterium michiganense* pv *sepedonicum* (Spieck. and Kotth.) Dye and Kemp) or San José Scale (*Comstockaspis perniciosa* (Comstock) syn *Quadraspidiotus perniciosus* (Comstock)) or any other non-indigenous pest is present thereon shall forthwith give to the Department notice in writing of the presence or suspected presence thereof.

Prohibitions relating to non-indigenous pests and genetic manipulation

5.—(1) Except under and in accordance with the terms of a licence granted by the Department, no person shall—

- (a) knowingly keep, or release, deliver or otherwise dispose of, or cause to be kept, or released, delivered or otherwise disposed of—
 - (i) any non-indigenous pest or any plant carrying or infected with any such pest; or
 - (ii) any pest which has been subjected to genetic manipulation or any genetically manipulated material;
- (b) engage in any activity involving the genetic manipulation of a pest or engage in any activity which involves genetic manipulation which in the opinion of the Department is likely to result in the production of a pest.

(2) Nothing in the sub-paragraph 1(a) shall be deemed to prohibit the killing or destruction or delivery to the Department of any plant, pest or genetically manipulated material which is referred to in that sub-paragraph.

Examination, sampling and marking

6. An inspector, on production if so required of his authority, may enter at all reasonable times for the purpose of examination or enquiry or for any other purpose of this Order upon any premises—

- (a) in which he has reasonable grounds for suspecting that there is present—
 - (i) a plant carrying or infected with, or likely to be carrying or infected with, any non-indigenous pest;
 - (ii) a non-indigenous pest;
 - (iii) a pest which has been subjected to genetic manipulation or any genetically manipulated material,
 and may examine the said premises and examine and take samples of any plant, pest, soil or genetically manipulated material and may also mark the said premises and mark any plant (whether or not carrying or infected with any pest), pest or genetically manipulated material which may be there and any containers associated therewith;
- (b) to ascertain the distribution of a particular non-indigenous pest.

Remedial and precautionary measures

7.—(1) If an inspector has reasonable grounds for suspecting that there is present on any premises—

- (a) a plant carrying or infected with, or likely to be carrying or infected with, a non-indigenous pest;
- (b) a non-indigenous pest;
- (c) a pest which has been subjected to genetic manipulation or any genetically manipulated material,

he may serve upon the occupier or other person in charge of the premises a notice requiring him, within such time or during such period at such place and in such manner as may be set out in the notice, to take such steps at his own cost—

- (i) to destroy any such plant which is referred to in sub-paragraph (1)(a) or any non-indigenous pest which is, or is suspected by the inspector to be, carrying or infected with any such pest or to prevent the spread of any such pest; or
 - (ii) to destroy any such pest which is referred to in sub-paragraph (1)(b) or (1)(c) or any genetically manipulated material or to prevent the spread of any such pest or genetically manipulated material,
- as may also be set out in the notice.

(2) If an inspector has reasonable grounds for suspecting that there is present on any premises a plant carrying or infected with a non-indigenous pest he may serve upon the occupier or other person in charge of any premises which adjoin or are likely to be infected from the first-mentioned premises a notice in writing requiring him to take such steps, at his own cost, as appear to the inspector to be necessary to prevent the spread of that non-indigenous pest from within those first-mentioned premises.

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

(4) If the occupier or person in charge of the premises shall fail to comply with the requirements of a notice served under paragraph (1) or (2) (including, where relevant, a notice which has been amended under paragraph (3)) 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, upon production if so required of his authority, for the purposes of this Order enter such premises and take such steps as appear to such inspector to be necessary either to ensure compliance with the requirements of the said notice or to remedy the consequences of the failure to carry them out, and the cost of taking such steps shall be recoverable by the Department as a civil debt from the person on whom the notice was served.

(5) An inspector who authorises a person to act in accordance with the provisions of paragraph (4) shall give in writing to such person precise instructions as to the steps which appear to the inspector to be necessary.

Information which may be required

8.—(1) Every person who has or has had or is reasonably suspected by the Department or by an inspector to have or to have had in his possession or under his charge a non-indigenous pest or any plant carrying or infected with a non-indigenous pest or a pest which has been subject to genetic manipulation or any genetically manipulated material and every person who, as auctioneer, salesman or otherwise, has sold or offered for sale or is reasonably suspected by the Department or by an inspector to have sold or offered for sale any such non-indigenous pest or plant or genetically manipulated material shall, if so required by a demand in writing by the Department or an inspector, give to the Department or an inspector as the case may be, within the time set out in the demand, all such information as he possesses as to the persons who have or have had or are likely to have or have had any pest, plant or genetically manipulated material to which the said demand relates in their possession or in their custody or control.

(2) Any information given under this Article shall not be available as evidence against the person giving the same in any prosecution under this Order except in respect of an alleged failure to comply with this Article.

Offences

9.—(1) A person shall be guilty of an offence if he contravenes or fails to comply with a provision of this Order or a term or condition of any notice served or licence granted in accordance with the provisions of this Order.

(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.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 12th March 1982.

(L.S.)

D. J. Alexander

Assistant Secretary

SCHEDULE

Article 2

Orders Revoked

- The American Gooseberry Mildew and Black Currant Mite (Ireland) Order 1912(a).
The Sale of Diseased Plants (Northern Ireland) Order 1927(b).
The Sale of Diseased Plants (Northern Ireland) Order 1936(c).
The Fruit Trees Pests (Northern Ireland) Order 1938(d).
The Destructive Pests and Diseases of Plants Order (Northern Ireland) 1966(e).

-
- (a) S.R. & O. 1912 No. 1720 (p. 110)
(b) S.R. & O. (N.I.) 1927 No. 138 (p. 25)
(c) S.R. & O. (N.I.) 1936 No. 40 (p. 75)
(d) S.R. & O. (N.I.) 1938 No. 140 (p. 97)
(e) S.R. & O. (N.I.) 1966 No. 313

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order revokes and supersedes the American Gooseberry Mildew and Black Currant Mite (Ireland) Order 1912, the Sale of Diseased Plants (Northern Ireland) Order 1927, the Sale of Diseased Plants (Northern Ireland) Order 1936, the Fruit Tree Pests (Northern Ireland) Order 1938 and the Destructive Pests and Diseases of Plants Order (Northern Ireland) 1966.

This Order—

- (a) requires notification to the Department of the presence of Potato Ring Rot and San José Scale or any other non-indigenous pest (Article 4);
- (b) prohibits, except under licence, the keeping or disposal of non-indigenous pests, pests which have been subjected to genetic manipulation and any activity involving the genetic manipulation of a pest (Article 5);
- (c) provides powers of entry, examination and sampling (Article 6) and powers to enable remedial and precautionary action to be taken (Article 7);
- (d) provides that information regarding a non-indigenous pest or genetically manipulated material may be required to be divulged (Article 8);
- (e) sets out the penalties which may be imposed in respect of contraventions of or failures to comply with the Order (Article 9).