

## 2019 No. 49

### PLANT HEALTH

#### The Plant Health (Amendment) Order (Northern Ireland) 2019

*Made* - - - - *20th March 2019*

*Coming into operation* - *28th March 2019*

The Department of Agriculture, Environment and Rural Affairs(**a**) makes the following Order in exercise of the powers conferred by sections 2 and 3(1) of the Plant Health Act (Northern Ireland) 1967(**b**) and section 2(2) of and paragraph 1A of Schedule 2(**c**) to the European Communities Act 1972.

#### Citation and commencement

1. This Order may be cited as The Plant Health (Amendment) Order Northern Ireland) 2019 and shall come into operation on 28th March 2019.

#### Amendment of the Plant Health Order (Northern Ireland) 2018

2. The Plant Health Order (Northern Ireland) 2018 is amended in accordance with articles 3 to 10.

#### Article 2 (general interpretation)

3.—(1) In article 2—

(a) in paragraph (1), for the definition of “Decision 2015/789” substitute—

““Decision (EU) 2015/789” means Commission Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.);”(d);

(b) after the definition of “Decision (EU) 2018/638”(e) insert—

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- (a) The Ministry of Agriculture became known as the Department of Agriculture by virtue of section 7(5) of the Northern Ireland Constitution Act (c.36), was renamed the Department of Agriculture and Rural Development by Article 3(4) of the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I.1) and was renamed the Department of Agriculture, Environment and Rural Affairs by section 1 of the Departments Act (Northern Ireland) 2016 (c.5 (N.I.)).
- (b) 1967 c.28 (N.I.); sections 2(1) and 3(1) were amended by S.R. & O (N.I.) 1972 No. 351, article 3 and Schedule 2. Section 2(2) was amended by 1979 c.2 section 177(1) and Schedule 4, Part 11. Sections 2 and 3 were also amended by S.I. 1984/702 (N.I.2), Articles 15(2), 24 and Schedule.
- (c) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51) (the 2006 Act), section 27(1)(a) and the European Union (Amendment) Act 2008 (c.7) (the 2008 Act), the Schedule Part 1. Paragraph 1A of Schedule 2 was inserted by the 2006 Act, section 28, and was amended by the 2008 Act, the Schedule Part 1. Schedule 2(2) and paragraph 1A of Schedule 2 are prospectively repealed by the European Union (Withdrawal) Act 2018 (c.16), section 1 from exit day (see section 20 of that Act).
- (d) OJ No. L 125, 21.5.2015, p. 16, as amended by Commission Implementing Decisions OJ No. L 126, 14.5.2016, p. 77-84, OJ No. L 336, 16.12.2017, p. 31-44, OJ No. L 164, 29.6.2018, p. 49-50 and OJ No. L 255, 11.10.2018, p. 16-17.
- (e) OJ No. L 105, 25.4.2018, p. 31.

““Decision (EU) 2018/1503” means Commission Implementing Decision (EU) 2018/1503 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann);”(a);

(2) in paragraph (4), after paragraph (q) insert—

“;

(r) Decision (EU) 2018/1503.”.

**Article 7 (requirements for certificates)**

4. In article 7(1), for “notifiable material” substitute “notifiable relevant material”.

**Article 20 (notification of the landing of certain plants for planting)**

5. In article 20(1), in sub-paragraphs (a) and (b), in each place after “*Fraxinus* L.,” insert “*Olea europaea* L.”.

**Schedule 2 (relevant material which may not be introduced into or moved within Northern Ireland if that material is carrying or infected with plant pests)**

6. In Part B (plant pests known to occur in the European Union) of Schedule 2 under the heading “Viruses and virus-like organisms”, after item 5 insert—

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“5A.	Seeds of <i>Solanum lycopersicum</i> L.	Pepino mosaic virus”.
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**Schedule 3 (relevant material which may not be landed in Northern Ireland if that material originates in certain third countries)**

7. In the table in Schedule 3, omit item 18.

**Schedule 4 (restrictions on the landing in and movement within Northern Ireland of relevant material)**

8.—(1) In Part A (relevant material originating in third countries, which may only be landed in Northern Ireland if special requirements are complied with) of Schedule 4—

- (a) in the second column of item 67, after “Orchidaceae” insert “originating in any third country, other than Thailand;”;
- (b) after item 93 insert—

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“93A.	Cut flowers of Orchidaceae originating in Thailand	The cut flowers must be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which includes an official statement under the heading “Additional declaration” that they have been: (a) produced at a place of production which has been found to be free from <i>Thrips palmi</i> Karny in official inspections carried out at least monthly during the three months prior to export; or (b) subjected, as a consignment prior to export, to an appropriate
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(a) OJ No. L 254, 10.10.2018, p. 9.

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	<p>fumigation treatment to ensure freedom from thysanoptera.</p> <p>Where paragraph (b) applies, the specification of the fumigation treatment must also be included under the heading “Disinfestation and/or disinfection treatment” of the certificate”;</p>
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(c) after item 94 insert—

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“94A.	<p>Seeds of <i>Solanum lycopersicum</i> L. originating in any third country</p>	<p>The seeds must be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which includes an official statement under the heading “Additional declaration” that they have been obtained by means of an appropriate acid extraction method and that they:</p> <p>(a) originate in an area in which Pepino mosaic virus is known not to occur;</p> <p>(b) no symptoms of Pepino mosaic virus have been observed on the plants at the place of production during their complete cycle of vegetation; or</p> <p>(c) have undergone official testing for Pepino mosaic virus on a representative sample and using appropriate methods, and have been found in these tests to be free from Pepino mosaic virus”;</p>
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(d) omit item 103;

(e) after item 105 insert—

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“106.	<p>Specified plants within the meaning of Article 1(b) of Decision (EU) 2018/1503 originating in any third country where <i>Aromia bungii</i> (Faldermann) is known to be present</p>	<p>The plants must be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which includes an official statement under the heading “Additional Declaration”:</p> <p>(a) that the plants have been grown throughout their life in a place of production which is registered and supervised by the national plant protection organisation in the country of origin and situated in an area, established by that organisation, in accordance with ISPM No. 4 and mentioned under the entry “place of origin”; or</p> <p>(b) that the plants have been grown during a period of at least two years</p>
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prior to export, or, in the case of plants which are younger than two years, have been grown throughout their life, in a place of production established as free from *Aromia bungii* (Faldermann), in accordance with ISPM No. 4 and that the following conditions are fulfilled:

- (i) the place of origin is registered and supervised by the national plant protection organisation in the country of origin and mentioned ;
- (ii) the place of production has been subjected annually to at least two meticulous official inspections for any sign of *Aromia bungii* (Faldermann) carried out at appropriate times, and no signs of the organisms have been found;
- (iii) the place of production is with complete physical protection against the introduction of *Aromia bungii* (Faldermann), or has been subjected to appropriate preventive treatment and surrounded by a buffer zone with a radius of at least 4 km where official surveys for the presence or signs of *Aromia bungii* (Faldermann) are carried out annually at appropriate times;
- (iv) where the presence or signs of *Aromia bungii* (Faldermann) have been found, eradication measures under Article 6 of Decision 2018/1503 have been taken to restore the pest freedom of the buffer zone;
- (v) immediately prior to export, consignments of the plants have been subjected to a meticulous official inspection for the presence of *Aromia bungii* (Faldermann) , in particular in stems and branches of those plants. That inspection has included targeted destructive sampling under Article 11(b)(v) of Decision 2018/1503; or
- (c) that the plants have been grown from rootstocks which fulfil the requirements of point (b), grafted with scions which meet the following requirements:
  - (i) at the time of export, the grafted scions are no more than 1 cm in diameter at their thickest point;
  - (ii) the grafted plants have been inspected in accordance with point (b)(ii)”.

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(2) In Part B (relevant material, from the European Union, which may only be introduced into or moved within Northern Ireland if special requirements are complied with) of Schedule 4—

- (a) omit item 27;
- (b) after item 46 insert—

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“46A.	Seeds of <i>Solanum lycopersicum</i> L.	The seeds must be accompanied by an official statement that they have been obtained by means of an appropriate acid extraction method and that they: <ul style="list-style-type: none"><li>(a) originate in an area in which Pepino mosaic virus is known not to occur;</li><li>(b) no symptoms of Pepino mosaic virus have been observed on the plants at the place of production during their complete cycle of vegetation; or</li><li>(c) have undergone official testing for Pepino mosaic virus on a representative sample and using appropriate methods, and have been found in these tests to be free from Pepino mosaic virus”.</li></ul>
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**Schedule 5 (relevant material from a third country for which a phytosanitary certificate may be required)**

**9.** In Part A (relevant material which may only be landed if accompanied by a phytosanitary certificate) of Schedule 5—

- (a) omit paragraph 13 and insert (as the subsequent entry)—

“**13A.** Specified plants within the meaning of Article 1(b) of Decision (EU) 2018/638”;

- (b) after paragraph 14 insert—

“**15.** Specified plants within the meaning of Article 1(b) of Decision (EU) 2018/1503.”.

**Schedule 6 (prohibitions on the introduction into or movement within Northern Ireland of relevant material without a plant passport)**

**10.** In Part A (relevant material which may only be landed or moved within Northern Ireland if accompanied by a plant passport) of Schedule 6, after paragraph 18 insert—

“**19.** Specified plants within the meaning of Article 1(b) of Decision (EU) 2018/1503—

- (i) originating in an area demarcated under Article 5 of that Decision which have been grown during a period of at least two years prior to movement or, in the case of plants which are younger than two years, have been grown throughout their life, in a place of production which fulfils the requirements set out in paragraphs 2 to 5 of Article 7 of Decision (EU) 2018/1503;
- (ii) not originating in demarcated areas, but introduced into a place of production in such areas, which may be moved within the Union on condition that this place of production complies with the requirements set out in paragraphs 2 to 4 of Article 7 of Decision (EU) 2018/1503;

- (iii) imported from third countries where the specified organism is known to be present, under a certificate in accordance with Article 11 of Decision (EU) 2018/1503.”.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 20th March 2019.



*John Joe O'Boyle*  
A senior officer of the  
Department of Agriculture, Environment and Rural Affairs

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Plant Health Order (Northern Ireland) 2018 (S.R. 2018/184) (“the 2018 Order”) to—

- (a) amend article 20 of the 2018 Order which applies to certain plants intended for planting, which have been grown or are suspected to have been grown in another member State or in Switzerland. It requires the importer of any such plants to notify an authorised inspector in writing of their landing no later than four days after the date of their landing in Northern Ireland. The amendment extends these requirements to plants of *Olea europaea* L. (see article 5);
- (b) implement Commission Implementing Decision (EU) 2018/1503 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann) (see articles 3(1)(b), 8(1)(e), 9(b) and 10);
- (c) implement Commission Implementing Decision (EU) 2018/1511 amending Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.) (see article 3(1)(a));
- (d) amend the 2018 Order to ensure that the following EU instruments are correctly implemented—
  - (i) Commission Decision 98/109/EC authorising Member States temporarily to take emergency measures against the dissemination of *Thrips palmi* Karny as regards Thailand (OJ No. L 27, 3.2.1998, p. 47) (see article 8(1)(b));
  - (ii) Commission Decision 2004/200/EC on measures to prevent the introduction into and the spread within the Community of Pepino mosaic virus (OJ No. L 64, 2.3.2004, p. 43) (see articles 6 and 8(1)(c) and (2)(b));
- (e) update the 2018 Order to remove provisions in the Order which implement various EU instruments which are no longer in force.

This Order also makes minor amendments to references in the 2018 Order.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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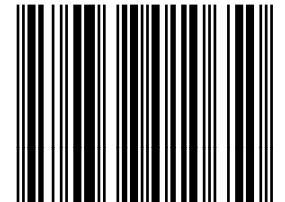
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