

1973 No. 1059

PLANT HEALTH

The Potato Cyst Eelworm (Great Britain) Order 1973

<i>Made</i>	- - -	14th June 1973
<i>Laid before Parliament</i>		25th June 1973
<i>Coming into Operation</i>		1st August 1973

The Minister of Agriculture, Fisheries and Food and the Secretary of State, in exercise of the powers conferred on them respectively by section 3(1), (2), (3) and (4) of the Plant Health Act 1967(a), as amended by section 92(2) of, and Part II of Schedule 3 to, the Criminal Justice Act 1967(b) and by section 4(1) of, and paragraph 8 of Schedule 4 to, the European Communities Act 1972(c) and as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972(d), and of all other powers enabling them in that behalf, hereby make the following order:—

Citation, extent and commencement

1. This order, which may be cited as the Potato Cyst Eelworm (Great Britain) Order 1973, shall apply to England and Wales and Scotland and shall come into operation on 1st August 1973.

Interpretation

2.—(1) In this order, unless the context otherwise requires—

“appropriate Minister” means, in the application of this order to England and Wales, the Minister of Agriculture, Fisheries and Food and, in its application to Scotland, the Secretary of State;

“approved resistant cultivar” means a cultivar approved for the time being by the appropriate Minister as being resistant to one or more pathotypes of potato cyst eelworm;

“inspector” means an officer authorised by the appropriate Minister for the purposes of this order;

“potato” means the tuber, or part thereof, or any part of the plant of *Solanum tuberosum* L. or other tuber-forming species or hybrids of *Solanum*;

“potato tuber” includes part thereof;

“potato cyst eelworm” means cyst-forming nematodes of the genus *Heterodera* that infest and multiply on potatoes, and includes all strains and pathotypes thereof;

“premises” includes any vehicle, vessel, aircraft, hovercraft or freight container.

(2) The Interpretation Act 1889(e) shall apply to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

(a) 1967 c.8.

(b) 1967 c. 80.

(c) 1972 c. 68.

(d) 1972 c. 62.

(e) 1889 c. 63.

(3) Any reference in this order to a numbered article shall be construed as a reference to the article bearing that number in this order.

Declaration of contaminated land

3.—(1) If it appears to the appropriate Minister in consequence of the examination of a sample of soil taken from any land for the purpose of preventing the spread of potato cyst eelworm or for any other purpose of this order that that land is infested with potato cyst eelworm, that Minister 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 potato cyst eelworm is present.

(2) Any notice served under paragraph (1) 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 potato cyst eelworm is present.

(3) A notice served under paragraph (1) of this article may, if it appears to the appropriate Minister, after examination of a sample of soil taken from the land to which the notice relates at such interval of time after the service of the notice or after a previous sampling as appears to that Minister to be appropriate, that potato cyst eelworm is no longer present on the land to which the notice relates, be withdrawn by that Minister by a notice in writing served on the occupier or other person in charge of that land.

Restrictions on the planting and disposal of potatoes and plants

4.—(1) No person shall plant or cause or permit to be planted any potatoes in any land in his occupation or under his charge to which a notice served under article 3(1) relates.

(2) No person shall remove for transplanting elsewhere from any land to which a notice served under article 3(1) relates any plants which have been grown or stored in or on that land.

5.—(1) If in consequence of the examination of a sample of the soil taken from any land by an inspector for the purposes of this order that land appears not to be contaminated by potato cyst eelworm, an inspector may issue a written certificate to that effect in relation to that land.

(2) Unless previously amended, modified or withdrawn, such a certificate shall remain in force until the expiration of 24 months from the taking of the sample mentioned in the certificate or until potatoes are planted in the land to which the certificate relates, whichever is the earlier.

(3) No person shall sell, offer or expose for sale, deliver or cause to be delivered or otherwise pass from his possession any potatoes grown by him and intended for planting unless immediately before the planting of the potatoes from which those potatoes were produced there was in force in relation to the land in which they were grown a written certificate issued in accordance with paragraph (1) of this article.

(4) The provisions of paragraph (3) of this article shall not apply in relation to any potatoes planted before the commencement of this order.

Misdescription of potatoes

6.—(1) No person shall sell or offer or expose for sale as being of approved resistant cultivars any potatoes which are not of approved resistant cultivars.

(2) A person shall not be liable to conviction for a failure to comply with,

or a contravention of, the terms or conditions of a notice or licence served or granted under this order relating to the planting of approved resistant cultivars if he proves to the satisfaction of the court that the potatoes were sold to him as potatoes of approved resistant cultivars and that he did not know that the potatoes were not of approved resistant cultivars.

Prohibition of keeping and release or disposal of potato cyst eelworm

7. No person shall keep, or release, deliver or otherwise dispose of, or cause to be kept, or released, delivered or otherwise disposed of, any culture of potato cyst eelworm except under and in accordance with the conditions of a licence granted by the appropriate Minister:

Provided that nothing in this article shall be deemed to prohibit the carrying out of tests to determine the presence or absence of potato cyst eelworm nor the delivery or release to or the keeping and disposal by the appropriate Minister of any culture of potato cyst eelworm for the purpose of laboratory examination or research.

Information to be given

8. The owner or occupier or other person in charge of land in respect of which there has been served a notice under article 3(1) shall, if so required in writing by an inspector, give him any information he may possess as to the crops grown on the land at any time, including the names of the varieties of any potatoes grown thereon and shall produce for inspection by the inspector any licences, declarations, certificates, records or invoices relating to the planting, sale or purchase of potatoes grown on the land.

Powers of entry and examination and sampling

9. An inspector, upon production if so required of his authority, may for the purpose of preventing the spread of potato cyst eelworm or for any other purpose of this order enter any land and any premises and examine and take and remove samples of any potatoes and plants and of any soil on that land or those premises.

Service of notices

10. For the purposes of this order a notice shall be deemed to be served on or given to any person if it is delivered to him personally or left for him at his last known place of abode or business, or sent through the post in a letter addressed to him there.

Licences

11. Notwithstanding any provisions of this order, any potatoes may be planted, sold, offered or exposed for sale or delivered or caused to be delivered and any plants may be removed under and in accordance with the conditions of a licence granted by the appropriate Minister or by an inspector.

Offences

12. Any person who fails to comply with, or acts in contravention of, this order or the terms or conditions of a notice or licence served or granted thereunder or who wilfully obstructs an inspector in the exercise of his powers under this order shall be liable on summary conviction to a penalty not exceeding £100 or, in respect of a second or subsequent offence, to a penalty not exceeding £200.

In Witness whereof the Official Seal of the Minister of Agriculture,
Fisheries and Food is hereunto affixed on 14th June 1973.

(L.S.)

Joseph Godber,
Minister of Agriculture,
Fisheries and Food.

12th June 1973.

Gordon Campbell,
Secretary of State for Scotland.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which applies throughout Great Britain, implements Directive 69/465/EEC of the Council (O.J. No. L. 323, 24.12.69, p.3 (O.J./S.E. 1969 (II), p. 563)) on the control of potato cyst eelworm.

This Order requires that seed potatoes intended for marketing may be produced only on land which is recognised after official soil examination to be free from potato cyst eelworm. It prohibits the planting of any potatoes in, or the removal of any plants for transplanting from, land declared by notice to be land infested with potato cyst eelworm. It also prohibits the keeping of cultures of potato cyst eelworm except under licence.

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