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STATUTORY RULES OF NORTHERN IRELAND

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**2018 No. 184**

**The Plant Health Order (Northern Ireland) 2018**

**PART 1**

**General**

**Citation and commencement**

1. This Order may be cited as the Plant Health Order (Northern Ireland) 2018 and comes into operation on 1st December 2018.

**General interpretation**

2.—(1) In this Order—

“Annex II Part B” means Part B of Annex II to [Directive 2000/29/EC](#);

“Annex IV Part A” means Part A of Annex IV to [Directive 2000/29/EC](#);

“Annex IV Part B” means Part B of Annex IV to [Directive 2000/29/EC](#);

“authorised officer” means, as the context requires—

- (a) an authorised representative of the responsible official body of the country in which a plant passport is issued, a public servant acting under the authority of such a representative or a qualified agent employed by the responsible official body, in any case who must be appropriately qualified; or
- (b) an authorised representative of the responsible official body or the national plant protection organisation of the country in which a phytosanitary certificate or phytosanitary certificate for re-export or a translation of a phytosanitary certificate or phytosanitary certificate for re-export is issued, or a public officer acting under the authority of such a representative;

“citrus fruits for processing” means fruits of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf., *Microcitrus* Swingle, *Naringi* Adans., or *Swinglea* Merr., which originate in a third country and are destined for industrial processing into juice in the European Union;

“consignment” has the same meaning as in Article 2(1)(p) of [Directive 2000/29/EC](#) where that term is used in Part 2 or in relation to any relevant material referred to in that Part;

“Customs Act” means the Customs and Excise Management Act 1979(1);

“[Decision 2002/757/EC](#)” means Commission [Decision 2002/757/EC](#) on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Mann in’t Veld sp. nov(2);

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(1) 1979 c.2, as amended by the Finance Act 1984, Schedule 4, Parts 1 and 11; there are other amendments but none is relevant.  
(2) OJ No L 252, 20.9.2002, p37, as last amended by Commission Implementing Decision (EU) 2016/1967 (OJ No L 303, 10.11.2016).

“[Decision 2006/473/EC](#)” means Commission [Decision 2006/473/EC](#) recognising certain third countries and certain areas of third countries as being free from *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus)(**3**);

“[Decision 2007/433/EC](#)” means Commission [Decision 2007/433/EC](#) on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O’Donnell(**4**);

“[Decision 2012/138/EU](#)” means Commission Implementing [Decision 2012/138/EU](#) as regards emergency measures to prevent the introduction into and the spread within the Union of *Anoplophora chinensis* (Forster)(**5**);

“[Decision 2012/270/EU](#)” means Commission Implementing [Decision 2012/270/EU](#) as regards emergency measures to prevent the introduction into and the spread within the Union of *Epitrix >cucumeris* (Harris), *Epitrix >papa* sp. n., *Epitrix >subcrinita* (Lec.) and *Epitrix >tuberis* (Gentner), as amended by Commission Implementing [Decision 2014/679/EU](#) amending [Decision 2012/270/EU](#) as regards its period of application and as regards the movement to packing facilities of potato tubers originating in areas demarcated in order to prevent the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix papa* sp. n., *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner)(**6**);

“[Decision 2012/697/EU](#)” means Commission Implementing [Decision 2012/697/EU](#) as regards measures to prevent the introduction into and the spread within the Union of the genus *Pomacea* (Perry)(**7**);

“[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.) as amended by Commission Implementing [Decision \(EU\) 2016/764](#) and as last amended by Commission Implementing [Decision \(EU\) 2018/927](#)(**8**);

“[Decision \(EU\) 2015/893](#)” means Commission Implementing [Decision \(EU\) 2015/893](#) as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora >glabripennis* (Motschulsky)(**9**);

“[Decision \(EU\) 2016/715](#)” means Commission Implementing [Decision \(EU\) 2016/715](#) setting out measures in respect of certain fruits originating in certain third countries to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (McAlpine) Van der Aa, as amended by Commission Implementing [Decision \(EU\) 2017/801](#) and as last amended by Commission Implementing [Decision \(EU\) 2018/85](#)(**10**);

“[Decision \(EU\) 2017/198](#)” means Commission Implementing [Decision \(EU\) 2017/198](#) as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto(**11**);

“[Decision \(EU\) 2018/638](#)” means Commission Implementing [Decision \(EU\) 2018/638](#) establishing emergency measures to prevent the introduction into and the spread within the Union of the harmful organism *Spodoptera frugiperda* (Smith)(**12**);

(3) OJ No L 187, 8.7.2006, p35, as last amended by Commission Implementing [Decision \(EU\) 2016/696](#) (OJ No L 120, 5.5.2016, p33).

(4) OJ No L 161, 22.6.2007, p66.

(5) OJ No L 64, 3.3.2012, p38, as last amended by Commission Implementing [Decision 2014/356/EU](#) (OJ No L 175, 14.6.2014, p38).

(6) OJ No L 132, 23.5.2012, p18, as last amended by Commission Implementing [Decision 2018/5](#) (OJ No L 2, 5.1.2018, p. 11).

(7) OJ No L 311, 10.11.2012, p. 14.

(8) OJ No L 125, 21.5.2015, p. 36.

(9) OJ No L 146, 11.6.2015, p. 16.

(10) OJ No L 125, 13.5.2016, p. 16.

(11) OJ No L 31, 4.2.2017, p. 29.

(12) OJ No L 105, 25.4.2018, p. 31.

- “Department” means the Department of Agriculture, Environment and Rural Affairs;
- “[Directive 93/85/EEC](#)” means Council [Directive 93/85/EEC](#) on the control of potato ring rot(**13**);
- “[Directive 98/57/EC](#)” means Council [Directive 98/57/EC](#) on the control of *Ralstonia >solanacearum* (Smith) Yabuuchi *et >al*(**14**);
- “[Directive 2000/29/EC](#)” means Council [Directive 2000/29/EC](#) on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community(**15**);
- “[Directive 2007/33/EC](#)” means Council [Directive 2007/33/EC](#) on the control of potato cyst nematodes and repealing [Directive 69/465/EEC](#)(**16**);
- “[Directive 2008/61/EC](#)” means Commission [Directive 2008/61/EC](#) establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council [Directive 2000/29/EC](#) may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections(**17**);
- “[Directive 2008/90/EC](#)” means Council [Directive 2008/90/EC](#) on the marketing of fruit plant propagating material and fruit plants intended for fruit production, as amended by Commission [Decision 2010/777/EU](#) and as last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material(**18**);
- “[Directive 2014/98/EU](#)” means Commission Implementing [Directive 2014/98/EU](#) implementing Council [Directive 2008/90/EC](#) as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections(**19**);
- “early potatoes” means potatoes which are harvested before they are completely mature, marketed immediately after they have been harvested and whose skins can be easily removed without peeling;
- “EU transit agreement” means an agreement within the meaning of article 12(4) or (5);
- “EU transit goods” means any relevant material introduced into Northern Ireland from a third country via another part of the European Union;
- “Euro-Mediterranean area” means the geographical area comprising Europe, Algeria Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and the area of Turkey east of the Bosphorus Strait known as Anatolia;
- “Europe” includes Belarus, the Canary Islands, Georgia, Kazakhstan (except the area east of the Ural river), Russia (except the regions of Tyumen, Chelyabinsk, Irkutsk, Kemerovo, Kurgan, Novossibirsk, Omsk, Sverdlovsk, Tomsk, Chita, Kamchatka, Magadan, Amur and Skhalin, the territories of Krasnoyarsk, Altay, Khabarovsk and Primarie, and the republics of Sakha, Tuva and Buryatia), Ukraine and Turkey (except the area east of the Bosphorus Strait known as Anatolia);

(13) OJ No L 259, 18.10.1993, p. 1, as amended by Commission [Directive 2006/56/EC](#) (OJ No L 182, 4.7.2006, p. 1).

(14) OJ No L 235, 21.8.1998, p. 1, as amended by Commission [Directive 2006/63/EC](#) (OJ L 206, 27.7.2006, p. 36).

(15) OJ No L 169, 10.7.2000, p. 1, as last amended by Commission Implementing Directive (EU) 2017/1920 (OJ No L 271, 20.10.2017, p.34).

(16) OJ No L 156, 16.6.2007, p. 12.

(17) OJ No L 158, 18.6.2008, p. 41.

(18) OJ No L 267, 8.10.2008, p. 8, as amended by Commission [Decision 2010/777/EU](#) (OJ No L 332, 16.12.2010, p. 40) and Regulation (EU) No 652/2014 (OJ No L 189, 27.6.2014, p. 1).

(19) OJ No L 298, 16.10.2014, p. 22.

“European Union” means the territories of the member States including the Isle of Man and the Channel Islands, but excluding the Canary Islands, Ceuta, Melilla and the French Overseas Departments;

“fruit” means fruit in the botanical sense but does not include dried, dehydrated, lacquered or deep frozen fruit;

“importer”, in relation to any plant pest or relevant material at any time between their landing from a third country and the time when they are discharged by an inspector under this Order, includes any owner or other person for the time being in possession of or beneficially interested in the plant pest or relevant material;

“inspector” means any person authorised by the Department to be an inspector for the purposes of this Order;

“IPPC” means the International Plant Protection Convention 1951<sup>(20)</sup>;

“ISPM No. 4” means International Standard for Phytosanitary Measures No. 4 of November 1995 on the requirements for the establishment of pest free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations<sup>(21)</sup>;

“ISPM No. 10” means International Standard for Phytosanitary Measures No. 10 of October 1999 on requirements for the establishment of pest free places of production and pest free production sites, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations<sup>(22)</sup>;

“ISPM No 31” means International Standard for Phytosanitary Measures No. 31 of April 2008 on methodologies for sampling consignments, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations, as last published on 14 January 2016<sup>(23)</sup>;

“landed” means introduced into Northern Ireland by any means, including by post, and “land” and “landing” is to be construed accordingly;

“national plant protection organisation” means the service established by the government of a third country to discharge the functions specified in Article IV(1)(a) of the IPPC, details of which have been notified—

- (a) in the case of contracting parties to the IPPC, to the Director of the Food and Agriculture Organisation of the United Nations; and
- (b) in all other cases, to the European Commission;

“North America” means the geographical area comprising Canada, Mexico and the USA;

“nursery” means premises wholly or partly used for the cultivation or keeping of plants for the purpose of transplantation or removal to other premises;

“official”, in relation to any testing or other procedure required by this Order to be carried out in respect of any relevant material, means carried out by or under the supervision of the responsible official body or the national plant protection organisation of the country in which the testing or other procedure is carried out and “officially” is to be construed accordingly;

“official documentation” means documentation issued by or with the authority of the responsible official body of the member State in which the documentation is issued;

<sup>(20)</sup> Adopted in 1951 (Treaty Series No. 16 (1954), Cmd 9077 and last revised in 1997 (Miscellaneous Series No. 15 (2003), Cmd 5945).

<sup>(21)</sup> Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.

<sup>(22)</sup> Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153 Rome, Italy and <https://www.ippc.int/int>.

<sup>(23)</sup> Available from the IPPC Secretariat, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/en>.

“official label” means a label that meets the relevant requirement sets out in Part A or B of Schedule 9, issued by or with the authority of the responsible official body for the member State in which the official label is issued;

“official statement” means a statement issued by an authorised officer or a statement included in a plant passport;

“phytosanitary certificate” means a certificate in the form set out in Part A of Schedule 10, which complies with the requirements in article 15(1) and (2);

“phytosanitary certificate for re-export” means a certificate in the form set out in Part B of Schedule 10, which complies with the requirements in article 15(1) and (2);

“place of production” means any premises, normally worked as a unit, together with any contiguous land in the same ownership or occupation as such premises;

“plant” means a living plant (including a fungus, tree or shrub) or a living part of a plant (including a living part of a fungus, tree or shrub), at any stage of growth; and living parts of a plant include—

- (a) fruit;
- (b) seed;
- (c) vegetables, other than those preserved by deep freezing;
- (d) tubers, corms, bulbs or rhizomes;
- (e) cut flowers;
- (f) branches with or without foliage;
- (g) a plant, tree or shrub that has been cut and which retains any foliage;
- (h) leaves or foliage;
- (i) a plant, tree or shrub in tissue culture;
- (j) live pollen;
- (k) bud wood;
- (l) cuttings; and
- (m) scions;

“planting” has the same meaning as in Article 2(1)(c) of Directive 2000/29;

“plant health check” means an examination carried out under article 12(2);

“plant health movement document” means a document which meets the requirements in Schedule 12;

“plant or shrub in tissue culture” means a plant or shrub growing in a clear liquid or clear solid aseptic culture medium in a closed transparent container;

“plant passport” means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in Part A or B of Schedule 9, issued by or with the authority of the responsible official body for the member State in which the plant passport is issued, and includes a replacement plant passport;

“plant pest” means any living organism, other than a vertebrate animal, in any stage of its existence which is injurious or likely to be injurious to any plant or plant product;

“plant product” has the same meaning as in Article 2(1)(b) of [Directive 2000/29/EC](#);

“plant trader” means—

- (a) an importer of relevant material;
- (b) a producer of relevant material;

- (c) a person in charge of premises used for the storage, aggregation or dispatch of consignments of relevant material; or
- (d) a person who in the course of a trade or business divides up or combines consignments of relevant material;

“potato” means any tuber or true seed or any other plant of *Solanum >tuberosum* L. or other tuber-forming species of the genus *Solanum* L.;

“Potato brown rot” means either the disease of potatoes caused by *Ralstonia >solanacearum* (Smith) Yabuuchi *et al.* or that bacterium, as the context requires;

“Potato cyst nematode” means any cyst-forming nematode of the species *Globodera >pallida* (Stone) Behrens or *Globodera >rostochiensis* (Wollenweber) Behrens that infests and multiplies on potatoes and any strains or pathotypes of such nematode;

“Potato ring rot” means either the disease of potatoes which is caused by the bacterium *Clavibacter >michiganensis* (Smith) Davis *et al.* spp. *Sepandonicus* (Spiekermann and Kotthoff) Davis *et al.* or that bacterium, as the context requires;

“Potato wart disease” means either the disease of potatoes which is caused by the fungus *Synchytrium >endobioticum* (Schilbersky) Percival or that fungus, as the context requires;

“premises” includes any land, building, vehicle, vessel, aircraft, hovercraft, freight container or railway wagon;

“producer”, in relation to relevant material, means a person who grows or makes the material in the course of a trade or business;

“protected zone” means a member State or an area in a member State which is recognised as a protected zone exposed to particular plant health risks for the purposes of [Directive 2000/29/EC](#), as listed in Annex I to Regulation (EC) No. 690/2008;

“register” means the register of plant traders maintained under article 26(1);

“registered”, in relation to a plant trader, means a trader whose particulars are listed in the register, and “registration” is to be construed accordingly;

“Regulation (EC) No. 690/2008” means [Commission Regulation \(EC\) No. 690/2008](#) recognising protected zones exposed to particular plant health risks in the Community, as amended by Commission Regulation (EU) 2018/791(24);

“relevant material” means any plant, plant product, soil or growing medium;

“responsible official body” means either the body described in paragraph (i) or a body described in paragraph (ii) of Article 2(1)(g) of [Directive 2000/29/EC](#);

“seed” means seed in the botanical sense other than seed not intended for planting;

“Seed Potatoes Regulations” means the Seed Potatoes Regulations (Northern Ireland) 2016(25);

“South America” means the geographical area comprising Argentina, Bolivia, Brazil, Chile, Columbia, Ecuador, French Guyana, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela;

“Swiss plant passport” means a label and, where appropriate, an accompanying document, issued in Switzerland in accordance with Swiss legislation, which—

- (a) contains information which gives evidence that the legislation in Switzerland relating to plant health standards and special requirements for relevant material moving into and within Switzerland have been complied with; and

(24) OJ No L 193, 22.7.2008, p. 1, as last amended by Commission Implementing Regulation (EU) 2018/791 (OJ No L 136, 1.6.2018, p. 1).

(25) [S.R. 2016 No. 190](#).

(b) relates to relevant material listed in Part A of Schedule 8;

“third country” means a country or territory other than one within the European Union; and

“the USA” means the United States of America except the state of Hawaii.

(2) Unless expressly provided otherwise, any reference in this Order to a genus or species is to be construed as a reference to that genus or species or to any of its hybrids.

(3) Any reference in this Order to the European Union, to a member State or a third country includes a reference to a state, country, principality, province or region within the European Union, member State, or third country, as the case may be.

(4) References to the following European Union instruments are to be construed as references to those instruments as amended from time to time—

- (a) [Decision 2002/757/EC](#);
- (b) [Decision 2004/416/EC](#);
- (c) [Decision 2006/473/EC](#);
- (d) [Decision 2007/433/EC](#);
- (e) [Directive 2008/61/EC](#);
- (f) [Directive 2008/90/EC](#);
- (g) [Regulation \(EC\) No. 690/2008](#);
- (h) [Decision 2012/138/EU](#);
- (i) [Decision 2012/270/EU](#);
- (j) [Decision 2012/697/EU](#);
- (k) [Directive 2014/98/EU](#);
- (l) [Decision 2014/422/EU](#);
- (m) [Decision \(EU\) 2015/789](#);
- (n) [Decision \(EU\) 2015/893](#);
- (o) [Decision \(EU\) 2016/715](#);
- (p) [Decision \(EU\) 2017/198](#);
- (q) [Decision \(EU\) 2018/638](#).