Annex C

EXPLANATORY MEMORANDUM TO

THE PLANT HEALTH (AMENDMENT NO 2) ORDER (NORTHERN IRELAND)

2010 No. 232

Introduction

1. The Department of Agriculture and Rural Development(**1**), in exercise of the powers conferred on it by sections 3(1)(**2**) of the Plant Health Act (Northern Ireland) 1967(**3**), and of every other power enabling it in that behalf, makes the above-named Order, which is subject to negative resolution.

2. Description

2.1 This SI proposes to amend the Plant Health Order (Northern Ireland) 2006 by removing certain townlands previously scheduled as safety zones to protect against spread of potato wart disease. The Order lifts restrictions on the growing of potatoes in the former safety zones as provided in Article 2.

3. Matters of special interest to the Examiner of Statutory Rules

3.1 None

4. Legislative Background

4.1 This Order amends the Plant Health Order (Northern Ireland) 2006 by removing certain townlands previously scheduled as safety zones to protect against spread of potato wart disease.

5. Consultation

5.1 No consultation was conducted as the provisions of the Order places no financial burden on industry.

6. Territorial Extent and Application

6.1 This instrument applies to Northern Ireland.

7. European Convention on Human Rights

(**1**) Formerly the Department of Agriculture for Northern Ireland; *see* S.I. 1999/283 (N.I. 1) Art. 3(4)
(**2**) Inserted by S.I. 1984/702 (N.I. 2) Art. 15(2)
(**3**) 1967 c. 28 (N.I.)

7.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

8. Section 24 of the Northern Ireland Act 1998

8.1 The proposed legislation has been screened for these issues and none were identified.

9. Equality Impact

9.1 These regulations will apply in equal measures to all Section 75 groups. It is not expected that any of these changes will impact differently across any of the Section 75 groups.

10. Regulatory Impact

10.1 A Regulatory Impact Assessment has not been prepared for this Statutory Rule as it has no impact on business, charities or voluntary bodies.

10.2 This Order allows producers to grow different varieties of potatoes on land previously restricted by the Plant Health Order (Northern Ireland) 2006, Schedule 14, Part B.

11. Financial Implications

11.1 There are no financial implications.

12. Policy background

12.1 In spring 2000 DARD started a programme of sampling and biological diagnosis (bioassay) of soil from land that was historically declared to be infected with potato wart disease. These tests have been carried out in line with an internationally agreed protocol (*Synchytrium endobioticum*, soil tests and descheduling of previously infested plots: Phytosanitary procedure 99/7340) to determine freedom from the presence of viable sporangia of *S. endobioticum*, the pathogenic agent of Potato Wart Disease.

12.2 In 2009 staff from DARD's Quality Assurance Branch (QAB) and Applied Plant Science Division (APSD) completed a bioassay for presence of viable sporangia of *S endobioticum* in soil sampled from fields scheduled as being infested with *S endobioticum*. As a result of these tests, QAB and AFBI APSD staff concluded that no viable incoculum exists in relation to growing areas throughout the 117 townlands in certain areas in the Ards Peninsula, Mid-Ulster and Ballycastle Areas.It is therefore no longer necessary to have these areas scheduled as safety zones in which the growing of non-immune potato varieties is prohibited.

13. Contact

Renee McDowell at the Department of Agriculture Tel: 02890 520855 or e-mail: renee.mcdowell@dardni.gov.uk can answer any queries regarding the instrument.

Equality and **Human Rights** Screening Template

December 2007

Department of
Agriculture and
Rural Development
www.dardni.gov.uk

DARD Equality and **Human Rights** Screening Template

DARD has a statutory duty to screen. This includes our strategies and plans, policies, legislative developments; and new ways of working such as – the introduction, change or end of an existing service, funding arrangement or facility. This screening template is designed to help business areas consider the likely equality and human rights impacts of their proposed decisions on DARD's customers, service users, staff and visitors.

Section A - asks you to provide details about the policy / decision that is being screened.

Section B - has 4 key questions that require you to consider the likely impact on Section 75 equality groups. Details of all consultation activity should be recorded.

Section C - has 4 key questions in relation to obligations under the Disability Discrimination Order and the Human Rights Act.

Section D - is the formal record of the screening decision. It is important that all efforts to consult and consider evidence are recorded precisely throughout the entire screening process, in accordance with the terms of the Guidance Note at the end of the document.

 Click on the Word icon to download the Screening Guidance

Section A

Details about the policy / decision to be screened

Title of policy / decision to be screened:-

The Plant Health (Amendment No.2) Order (Northern Ireland) 2010

Brief description of policy / decision to be screened:-

This legislation removes certain townlands previously scheduled as safety zones to protect against the spread of potato wart disease. The Order lifts restrictions on the growing of potatoes in the former safety zones as provided in Article 2.

Aims and objectives of the policy / decision to be screened:-

In 2000 DARD began a programme of sampling and biological analysis of soil from land that has historically been declared infested with potato wart disease in order to remove where possible any restrictions, since the restrictions have now been in place for some decades. These tests have been carried out in line with an internationally agreed protocol (Synchytrium endobioticum, soil tests and descheduling of previously infested plots: Phytosanitary procedure 99/7340) to determine freedom from the prescence of viable sporangia of S. endobioticum, the pathogen agent of potato wart disease.

Where these tests result in no viable sporangia of S. endobioticum, the clear townlands are declared free of the pathogen and it is no longer necessary to have these areas scheduled as safety zones in which the growing of non-immune potato varieties is prohibited.

On whom will the policy / decision impact:-

There are currently 108 seed potato growers in Northern Ireland. This will impact on only a small number of these, mainly in Counties Down, Antrim and the Limavady area.

It is anticipated that there will be inspection of crops for 108 seed producers in NI during 2010

Section B

1. Is there any evidence of higher or lower participation or uptake by different groups?

	Yes	No	Don't know
Religious belief	☐	☒	☐
Political opinion	☐	☒	☐
Racial group	☐	☒	☐
Age	☐	☒	☐
Marital status	☐	☒	☐
Sexual orientation	☐	☒	☐
Gender	☐	☒	☐
Disability	☐	☒	☐
Dependants	☐	☒	☐

Evidence held? Outline all supporting evidence:

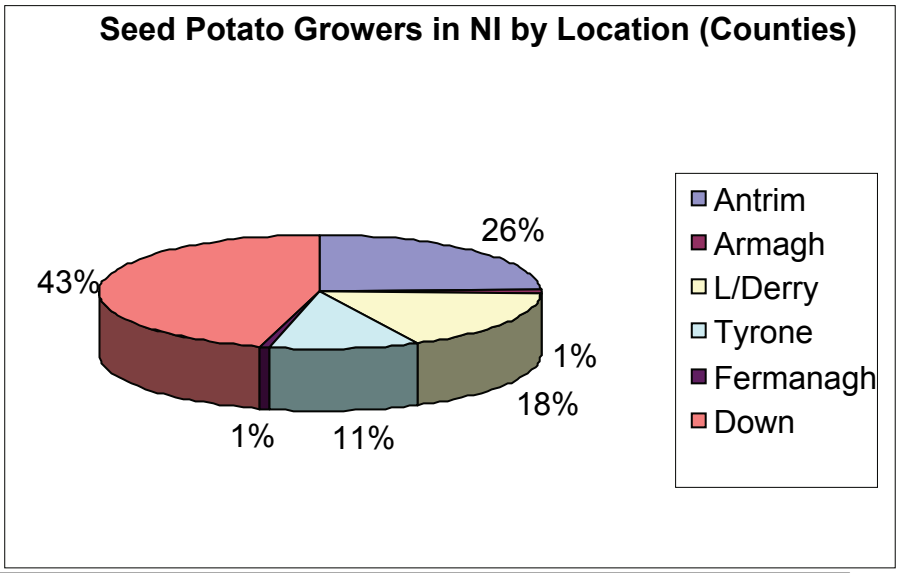
This policy is specific to a small number of potato growers. There is some limited evidence that there is no higher or lower participation or uptake by the different Section 75 groups.

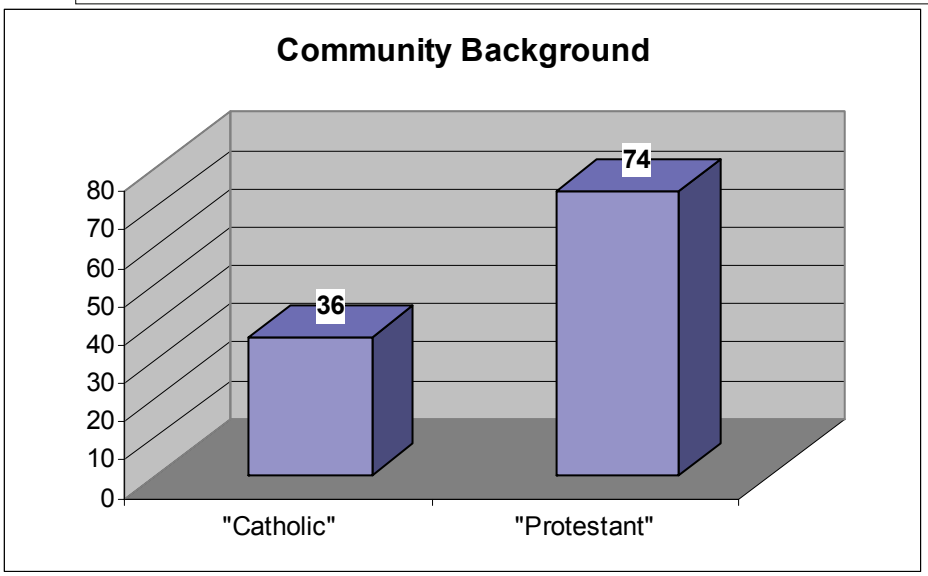
The Crops Inspectorate has concluded that there is no imbalance across the Section 75 equality groups regarding social, economic and environmental aspects.The Crops Inspectorate, which has most on the ground contact with the industry, has concluded:

"we have no recorded data as such on the sector's social aspects. It is considered that the ware sector roughly reflects the religion breakdown of the Northern Ireland agricultural community. The seed potato sector has tended to remain in the hands of the Protestant community and one could hazard a guess of 85% Protestant, 15% Catholic, however one Catholic grower actually accounts for about 10% of the seed crop. The potato sector generally has never been perceived to be closely identified with one particular community".

The attached chart gives details of location (by County) and perceived community background of the seed potato growers (108)

NI SEED POTATO GROWERS BY LOCATION / PERCEIVED COMMUNITY BACKGROUND - AUG 2008





No evidence held? Outline how you will obtain it:

We have solicited further evidence through comments from stakeholders on equality and human rights issues as part of the consultation process on other recent legislation, such as the growing crop fees Regulations, along the following lines: "Under Section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

The consultation has been screened in terms of equality and it has been concluded that the proposed measures will not have any differential impact on the groups listed above. We would, however, welcome any comments on the equality aspects of the consultation."

No comments were received.

2. Do different groups have different needs, experiences, issues and priorities in relation to this policy issue?

	Yes	No	Don't know
Religious belief	☐	☒	☐
Political opinion	☐	☒	☐
Racial group	☐	☒	☐
Age	☐	☒	☐
Marital status	☐	☒	☐
Sexual orientation	☐	☒	☐
Gender	☐	☒	☐
Disability	☐	☒	☐
Dependants	☐	☒	☐

Evidence held? Outline all supporting evidence:

Crop Fees Regulations were consulted upon in 2008 and no expressions of different needs, experiences, issues or priorities were expressed in relation to the Seed Potatoes (Crop Fees) Regulations in general.

DARD's Crops Inspectorate has concluded that there is no imbalance across the Section 75 equality groups regarding social, economic and environmental aspects. The Crops Inspectorate, which has most on the ground contact with the industry, has concluded:

"we have no recorded data as such on the sector's social aspects. It is considered that the ware sector roughly reflects the religion breakdown of the Northern Ireland agricultural community. The seed potato sector has tended to remain in the hands of the Protestant community and one could hazard a guess of 85% Protestant, 15% Catholic, however one Catholic grower actually accounts for about 10% of the seed crop. The potato sector generally has never been perceived to be closely identified with one particular community".

There is the anecdotal evidence of officials, gleaned from familiarity with the sector, which suggests there is no evidence of higher or lower participation or uptake by different Section 75 groups.

Other evidence: on Section 75 groups in farms in general in Section 7.3 of "Farmers and Farm Families in NI - 2001/2" report by Sheila Magee (DARD). This includes statistics on Section 75 categories by farm size or general type but it holds no specific information on the potato sector in particular. There is no more recent information (other than consultations, as referred to below).

No evidence held? Outline how you will obtain it:

We have solicited further evidence through comments from stakeholders on equality and human rights issues as part of the consultation process on other recent legislation, such as the growing crop fees Regulations, along the following lines: "Under Section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

The consultation has been screened in terms of equality and it has been concluded that the proposed measures will not have any differential impact on the groups listed above. We would, however, welcome any comments on the equality aspects of the consultation."

No comments were received.

3. Consultation is an integral part of policy development and policy screening. Have consultations with relevant groups, organisations or individuals indicated that policies of this type create problems that are specific to them?

	Yes	No	Don't know
Religious belief	☐	☒	☐
Political opinion	☐	☒	☐
Racial group	☐	☒	☐
Age	☐	☒	☐
Marital status	☐	☒	☐
Sexual orientation	☐	☒	☐
Gender	☐	☒	☐
Disability	☐	☒	☐
Dependants	☐	☒	☐

Evidence held? Outline all supporting evidence:

This policy is specific to a small number of potato growers. It is not to be consulted upon, but the recent growing crops fees Regulations were, as they are annually when the fees are increased to reflect full cost recovery. In recent consultations, no individuals or organisations representing growers have responded expressing difficulties being caused by the increase of fees. The consultation on the 2008 increase of fees (which included a reduction in the late rate fee) resulted in responses accepting the proposed changes in fees from the main sector bodies (Northern Ireland Potato Industry Stakeholders' Forum and UFU). The evidence of these consultations suggests that this policy does not create problems that are specific to any of the different Section 75 groups.

Other evidence: on Section 75 groups in farms in general in Section 7.3 of "Farmers and Farm Families in NI - 2001/2" report by Sheila Magee (DARD). This includes statistics on Section 75 categories by farm size or general type but it holds no specific information on the potato sector in particular. There is no more recent information, other than the consultation responses.

No responses were received concerning the 2009 Regulations.

No evidence held? Outline how you will obtain it:

We have solicited further evidence through comments from stakeholders on equality and human rights issues as part of the consultation process on other recent legislation, such as the growing crops fees Regulations, along the following lines: "Under Section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

The consultation has been screened in terms of equality and it has been concluded that the proposed measures will not have any differential impact on the groups listed above. We would, however, welcome any comments on the equality aspects of the consultation."

No responses were received.

4. In relation to implementing this policy, is there an opportunity to better promote equality of opportunity or good relations by altering the policy or by working with others in Government or in the larger community?

	Yes	No	Don't know
Religious belief	☐	☒	☐
Political opinion	☐	☒	☐
Racial group	☐	☒	☐
Age	☐	☒	☐
Marital status	☐	☒	☐
Sexual orientation	☐	☒	☐
Gender	☐	☒	☐
Disability	☐	☒	☐
Dependants	☐	☒	☐

Evidence held? Outline all supporting evidence:

Evidence of recent consultations with the sector on other issues, such as the growing crops fees Regulations: no problems raised by stakeholders or others during public consultation exercises on recent fees increases/changes (in 2008, 2006 and 2005).

Anecdotal evidence: opinion of officials from familiarity with the sector (as mentioned above) suggests there is no evidence for either positive or negative discrimination towards any of these groupings.

No evidence held? Outline how you will obtain it:

We have solicited further evidence through comments from stakeholders on equality and human rights issues as part of the consultation process on other recent legislation, such as the growing crops fees Regulations, along the following lines: "Under Section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

The consultation has been screened in terms of equality and it has been concluded that the proposed measures will not have any differential impact on the groups listed above. We would, however, welcome any comments on the equality aspects of the consultation."

No responses were received.

Section C

DARD also has legislative obligations to meet under the Disability Discrimination Order and Human Rights Act. Questions 5 -9 relate to these two areas.

Consideration of Disability Duties

5. Does this proposed policy / decision provide an opportunity for DARD to better promote positive attitudes towards disabled people?

Explain your assessment in full
No. Not applicable.

6. Does this proposed policy / decision provide an opportunity for DARD to actively increase the participation by disabled people in public life?

Explain your assessment in full
No. Not applicable.

Consideration of Human Rights

7. Indicate below (by placing an X in the appropriate box) any *adverse impacts* of the policy / decision in relation to the Human Rights Articles as set out in the European Convention of Human Rights.

Right to Life	**Article 2**	☐
Prohibition of torture, inhuman or degrading treatment	**Article 3**	☐
Prohibition of slavery and forced labour	**Article 4**	☐
Right to liberty and security	**Article 5**	☐
Right to a fair and public trial	**Article 6**	☐
Right to no punishment without law	**Article 7**	☐
Right to respect for private and family life, home and correspondence	**Article 8**	☐
Right to freedom of thought, conscience and religion	**Article 9**	☐
Right to freedom of expression	**Article 10**	☐
Right to freedom of assembly and association	**Article 11**	☐
Right to marry and to found a family	**Article 12**	☐
The prohibition of discrimination	**Article 14**	☐
Protection of property	**Protocol 1 Article 1**	☐
Right to education	**Protocol 1 Article 2**	☐
Right to free and secret elections	**Protocol 1 Article 3**	☐

8. **Please explain any adverse impacts on human rights that you have identified**

None identified.

9. **Please indicate any ways which you consider the policy positively promotes human rights**

None identified.

Section D

Formal Record of Screening Decision

Title of Proposed Policy / Decision being screened –
The Plant Health (Amendment No.2) Order (Northern Ireland) 2010

I can confirm that the proposed policy / decision has been screened for –

☒ equality of opportunity and good relations

☒ disabilities duties; and

☒ human rights issues

On the basis of the answers to the screening questions, I recommend that this policy / decision is –

☒ *Screened Out – No EQIA necessary

☐ *Screened In – Necessary to conduct a full EQIA

*(please check appropriate box above)

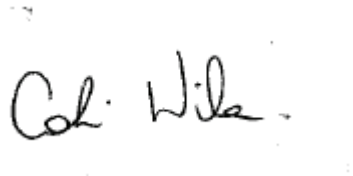
Screening assessment completed by (Staff Officer level) -

Name: COLIN WILSON Grade: SO

Date 1 June 2010

Branch: Farm Policy Branch

Signature: please insert a scanned image of your signature below



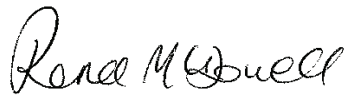
Screening decision approved by (must be G7 or above) -

Name: Peter Toner Grade: 7

Date: 1 June 2010

Branch: Farm Policy Branch

Signature: please insert a scanned image of your signature below



for Peter Toner

Please save the completed screening form within TRIM

Strategic Management DARD - Equality Promotion & Implementation - Equality Schemes - Equality Screening of Departmental Policies.tr5

and also forward the TRIM reference for the signed electronic copy to Equality Branch at equalitybranch@dardni.gov.uk

For more information about screening, contact –

DARD Equality Branch
Room 509
Dundonald House
Upper Newtownards Road
Belfast BT4 3SB

Telephone 028 9052 4435
Textphone 028 9052 4420

Or check out our intranet site
http://dardintranet/coord_intranet/EqualityBranch/index.shtml



Department of
Agriculture and
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MÄNNYSTRIE O
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