STATUTORY RULES OF NORTHERN IRELAND

2002 No. 246

PLANT HEALTH

The Potatoes Originating in Egypt (Amendment) Regulations (Northern Ireland) 2002

Made - - - - - *19th July 2002*

Coming into operation *12th August 2002*

The Department of Agriculture and Rural Development, being a Department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2), and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Potatoes Originating in Egypt (Amendment) Regulations (Northern Ireland) 2002, and shall come into operation on 12th August 2002.

(2) The Interpretation Act (Northern Ireland) 1954(**c**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the Potatoes Originating in Egypt Regulations (Northern Ireland) 1998

2.—(1) The Potatoes Originating in Egypt Regulations (Northern Ireland) 1998(**d**) shall be amended in accordance with paragraphs (2) to (4).

(2) For regulation 5 (Powers of an inspector) there shall be substituted:

"**Powers of an inspector**

5.—(1) The provisions of this regulation are without prejudice to the circumstances in which an inspector may by virtue of the 1993 Order exercise the powers conferred by that Order.

(2) On having reasonable grounds for suspecting a contravention or likely contravention of regulation 3, an inspector may, for the purpose of these Regulations, exercise –

(*a*) the power conferred by Article 22(1) of the 1993 Order as read with Article 24(1) to (3) of that Order, as if a potato originating in Egypt were a plant landed or likely to be landed in contravention of that Order; and

(*b*) the power conferred by Article 22(2) of the 1993 Order as read with Article 24(1) to (3) of that Order, as if a potato originating in Egypt kept on or moved from premises, or likely to be so, were a plant kept on or moved from the premises in contravention of that Order.

(**a**) S.I. 2000/2812
(**b**) 1972 c. 68
(**c**) 1954 c. 33 (N.I.)
(**d**) S.R. 1998 No. 107, as amended by S.R. 1999 No. 212 and S.R. 2000 No. 108 and S.R. 2001 No. 32.

(3) On having reasonable grounds for suspecting a contravention or likely contravention of regulation 4, an inspector may, for the purpose of these Regulations, exercise the power conferred by Article 22(2) of the 1993 Order as read with Article 24(1) to (3) of that Order, as if a potato originating in Egypt processed at any premises in breach of these Regulations were a plant kept on or moved from the premises in contravention of that Order.

(4) An inspector may, for the purposes of checking compliance with these Regulations, exercise the powers conferred by Article 25 of the 1993 Order, as if checking compliance with that Order.

(5) Any notice served by virtue of this regulation in exercise of a power conferred by Article 22(1) or (2) of the 1993 Order shall have effect as if served under Article 22(1) or (2) of that Order, and Articles 24(3), 26 to 28, 46(1) and (3) and 47(1)(*a*), (*e*) and (2), shall apply accordingly.

(6) Any power conferred by Article 25 of the 1993 Order which is exercised by virtue of this regulation shall be treated as if that power had been exercised under the Order, and the provisions of that Order (including Article 47(1)(*a*), (*e*) and (2)) shall apply accordingly.".

(3) In paragraph (1) of regulation 5A (Fees in respect of the sampling of potatoes landed in Northern Ireland) for "a fee of £35", there shall be substituted "a fee of £37·50".

(4) In the Schedule, under the column headed "*Instrument*", after "Commission Decision 2000/568/EC", there shall be added "Commission Decision 2001/664/EC"(**a**), and under the column headed "*Reference*", after "O.J. No. L238, 22.9.00, p. 59", there shall be added "O.J. No. L233, 31.8.01, p. 49".

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 19th July 2002.

(L.S.) *L. G. McKibben*
A Senior Officer of the Department of Agriculture and Rural Development

(**a**) O.J. No. L233, 31.8.2001, p. 49

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations implement in Northern Ireland Commission Decision 2001/664/EC (O.J. No. L233, 31.8.2001, p. 49) amending Commission Decision 96/301/EC (O.J. No. L115, 9.5.1996, p. 47) ("the Decision") authorising Member States temporarily to take emergency measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt. They do so by adding to the list of instruments amending the Decision contained in the Schedule to the Potatoes Originating in Egypt Regulations (Northern Ireland) 1998 (S.R. 1998 No. 107) ("the Regulations") (regulation 2(4)). *Pseudomonas solanacearum* (Smith) Smith is now referred to as *Ralstonia solanacearum* Smith (Yabuuchi) et al. (see Council Directive 98/57/EC (O.J. No. L235, 20.7.1998, p. 1)) albeit that the reference to it in the Decision has not been amended. Decision 2001/664/EC renews the framework within which potatoes may be imported from Egypt into the territory of the European Community during the 2001/2002 season.

These Regulations also clarify the basis on which powers of inspectors under the Plant Health Order (Northern Ireland) 1993 may be used in respect of the Regulations (regulation 2(2)), and increase the fee payable by importers from whose potatoes samples are taken for testing for the presence of *Ralstonia solanacearum* Smith (Yabuuchi) et al. (regulation 2(3)). The fee increase from £35·00 to £37·50 reflects a rise in laboratory costs and is in line with inflation.

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