# 1987 No. 9

# PLANT HEALTH

## Potatoes (Prohibition on Landing) Order (Northern Ireland) 1987

*Made* . . . . . *15th January 1987*

*Coming into operation* . . *16th February 1987*

The Department of Agriculture, in exercise of the powers conferred on it by sections 2(**a**), 3(1)(**a**), 3A(**b**), 3B(1)(**c**) and 4(1)(**d**) of the Plant Health Act (Northern Ireland) 1967(**e**) and of every other power enabling it in that behalf, hereby makes the following Order:

*Citation and commencement*

**1.** This Order, which may be cited as the Potatoes (Prohibition on Landing) Order (Northern Ireland) 1987 shall come into operation on 16th February 1987.

*Interpretation*

**2.** In this Order—

"consignment" means the whole or any part of a consignment of potatoes including soil or any other growing medium, packaging material or containers enclosing or accompanying the potatoes;

"Customs Act" means the Customs and Excise Management Act 1979(**f**);

"importer" in relation to any consignment includes any person who, whether as owner, consignor or consignee, agent or broker, is in possession of or in any way entitled to the custody or control of the consignment;

"inspector" means an officer of the Department authorised in writing by the Department for the purposes of this Order;

"landing" means to bring into Northern Ireland by any means whatsoever;

"potato" means any plant or any part of a plant, including tubers and true seed, of *Solanum tuberosum* L. or other tuber forming species or hybrids of the genus *Solanum* L.;

"premises" includes any building (other than a private dwelling-house), land, vehicle, vessel, aircraft, hovercraft or freight container.

---

(**a**) As amended by S.R. & O. (N.I.) 1972 No. 351 Art. 3 and Sch. 2; 1979 c. 2, S. 177(1) and Sch. 4 Pt. II; and S.I. 1984/702 (N.I. 2) Art. 15(2)
(**b**) Inserted by S.I. 1975/1038 (N.I. 8) Art. 11(2)
(**c**) Inserted by S.I. 1984/702 (N.I. 2) Art. 15(2)
(**d**) As amended by S.I. 1984/702 (N.I. 2) Art. 15(2)
(**e**) 1967 c. 28 (N.I.)
(**f**) 1979 c. 2

*Prohibition on landing*

**3.** Except as provided in Article 7 the landing of a consignment grown in, consigned from or which has passed through the Federal Republic of Germany is hereby prohibited.

*Examination and sampling*

**4.** An inspector, upon production if so required of his authority, may for the purposes of this Order:—

(*a*) enter any premises and examine and take samples of any consignment landed or likely to be landed or reasonably suspected by him to have been landed;

(*b*) take the following steps relating to the examination and sampling set out in paragraph (*a*)—

(i) open or authorise any person to open on his behalf or require the importer or the person in charge of the consignment to open any container, bundle or other package in the consignment;

(ii) prohibit, either entirely or to the extent indicated by him by notice in writing, the movement of the consignment.

*Consignments landed in contravention of Order*

**5.**—(1) If it appears to an inspector that a consignment is in the course of being landed or is likely to be landed and that if landed, such consignment would be landed in contravention of the provisions of this Order he may serve upon the importer or any person in control of the landing or unloading of that consignment from a vehicle, vessel, aircraft, hovercraft or freight container a notice prohibiting the landing or unloading of that consignment or requiring that, if landed or unloaded, the consignment be destroyed within such time and in such manner and at such place as may be set out in the notice.

(2) If it appears to an inspector at any time that a consignment has been landed and that such landing is in contravention of the provisions of this Order he may serve upon the importer a notice requiring him within such time and in such manner and at such place as may be set out in the notice to destroy the consignment or, if it is considered appropriate by the inspector, to re-export the consignment and take such other steps as may be set out in the notice to prevent the spread of Potato Ring Rot (*Corynebacterium michiganense* pv *sepedonicum* (Spieck. and Kotth.) Dye and Kemp).

(3) A notice served under paragraph (1) or (2) requiring the destruction of a consignment may postpone such destruction for such period and subject to such conditions, if any, as may be set out in that notice.

(4) Destruction required by a notice served under paragraph (1) or (2) shall be carried out to the satisfaction of an inspector by the person upon whom the notice is served and, except with the authority in writing of the Department or an inspector, the consignment shall not be moved otherwise than direct to the place designated in the notice.

(5) A notice served under paragraph (1) or (2) may be amended or withdrawn by the Department or an inspector by a further notice served upon the person upon whom the first notice was served.

(6) If a person shall fail to comply with the requirements of a notice served under paragraph (1), (2) or (5) then without prejudice to any proceedings under this Order consequent upon such failure, an inspector or a person authorised by him for the purpose may, on production if so required of his authority, enter for the purposes of this Order any premises in which the consignment to which the notice relates may be and take such steps as appear to the inspector to be necessary either to ensure that the requirements of the notice have been complied with or to remedy the consequences of the failure so to comply and the cost of the taking of such steps shall be recoverable as a civil debt by the Department from the person upon whom the notice was served.

(7) An inspector who authorises a person to take action as set out in paragraph (6) shall give instructions in writing to that person as to the steps which appear to the inspector to be necessary for that person to take.

*Information which may be required*

**6.**—(1) A person who has or has had in his possession or under his charge any consignment which the Department or an inspector knows or reasonably suspects to have been landed, and a person who as auctioneer, salesman or otherwise, has sold or offered for sale any such consignment shall, if so required by notice in writing by the Department or inspector, give to the Department or inspector within the time set out in that notice all such information as he may possess as to any person who has or has had or is likely to have or is likely to have had the said consignment in his possession, custody or control or under his charge.

(2) Information furnished under paragraph (1) shall not be available as evidence against the person furnishing the same in any prosecution under this Order, except in respect of an alleged failure to comply with paragraph (1).

*Licences*

**7.** Notwithstanding the prohibition in Article 3, a consignment may be landed in accordance with the conditions of a licence granted by the Department to give exemption from that prohibition.

*Offences*

**8.**—(1) A person shall be guilty of an offence if he:

(*a*) contravenes a provision of this Order or any term or condition of a notice served or licence granted in accordance with the provisions of this Order;

(*b*) wilfully obstructs or impedes in the exercise of his powers under this Order an inspector or a person authorised by an inspector.

(2) An offence under paragraph (1) shall be punishable on summary conviction by a fine not exceeding £2,000(**a**).

**9.** The provisions of this Order are without prejudice to the provisions of the Customs Act imposing penalties or liability to forfeiture.

(a) The amount was set by S.R. 1984 No. 253 Art. 2 which amended S.I. 1984/703 (N.I. 3)

Sealed with the Official Seal of the Department of Agriculture on 15th January 1987.

(L.S.) *B. R. Cummings*
Assistant Secretary

---

EXPLANATORY NOTE

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

This Order which comes into force on 16th February 1987 prohibits the landing in Northern Ireland of consignments of potatoes grown in, consigned from or which have passed through the Federal Republic of Germany, on account of recent findings of Potato Ring Rot (Article 3).

The Order—

(*a*) provides powers of entry, examination and sampling and powers to enable remedial action to be taken where such a consignment is landed or is likely to be landed or is reasonably suspected by an inspector of the Department of Agriculture to have been landed in contravention of the Order (Articles 4 and 5);

(*b*) provides that persons having in their possession information regarding any such consignment landed in Northern Ireland may be required to disclose that information (Article 6);

(*c*) provides that the landing of such a consignment, the landing of which is prohibited by this Order, may be authorised by licence (Article 7);

(*d*) makes a contravention of the Order or the wilful obstruction or impeding of an inspector of the Department of Agriculture or a person authorised by such an inspector an offence punishable on summary conviction by a fine not exceeding £2,000 (Article 8).

Any person who lands potatoes in contravention of this Order, with intent to evade the prohibition contained in it, is also guilty of an offence under Section 50(2) of the Customs and Excise Management Act 1979 (c. 2) and may be detained. A person guilty of such an offence is liable on summary conviction to a penalty of £2,000 or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both, or, on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.

---

**1987 Nos. 10, 11**

These Orders have been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. Summaries are given in the List of Statutory Rules of a Local Character under the heading ROADS.