

2005 No. 296

PLANT HEALTH

**The Dutch Potatoes (Notification) Order
(Northern Ireland) 2005**

Made - - - - - *14th June 2005*

Coming into operation *6th July 2005*

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

Citation and commencement

1. This Order may be cited as the Dutch Potatoes (Notification) Order (Northern Ireland) 2005 and shall come into operation on 6th July 2005.

Interpretation

2. In this Order –

“Dutch potato” means any potato which was grown in the Netherlands during 2004 or subsequently;

“Dutch seed potato” means any Dutch potato intended for planting;

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

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

“premises” has the same meaning as in the principal Order; and

“the principal Order” means the Plant Health Order (Northern Ireland) 1993(g).

Notification of imports

3.—(1) No person shall, in the course of business, import into Northern Ireland potatoes which he knows to be or has reasonable cause to suspect to be Dutch potatoes unless he has

(a) Formerly the Department of Agriculture for Northern Ireland; see S.I. 1999/283 (N.I. 1), Art. 3(4)
(b) 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)
(c) As amended by S.R. & O. (N.I.) 1972 No. 351 Art. 3 and Sch. 2
(d) Inserted by S.I. 1984/702 (N.I. 2) Art. 15(2)
(e) As amended by S.R. & O. (N.I.) 1972 No. 351 Art. 3 and Sch. 2 and S.I. 1984/702 (N.I. 2) Art. 15(2)
(f) 1967 c. 28 (N.I.)
(g) S.R. 1993 No. 256 as amended by S.R. 1994 No. 28, S.R. 1995 No. 164, No. 250 and No. 494, S.R. 1996 No. 204 and No. 249, S.R. 1997 No. 110 and No. 397, S.R. 1998 No. 16, No. 146 and No. 315, S.R. 1999 No. 24, S.R. 2000 No. 126, S.R. 2001 No. 188 and No. 437, S.R. 2002 No. 273, S.R. 2003 No. 235 and No. 458, and S.R. 2004 No. 415

given written notification to an inspector, at least two days prior to the intended date of introduction into Northern Ireland of the potatoes, of his intention to import the potatoes and of –

- (a) the proposed time, date and means of introduction;
- (b) the proposed point of entry into Northern Ireland;
- (c) the intended use of the potatoes;
- (d) the proposed destination of the potatoes;
- (e) the variety of the potatoes;
- (f) the quantity of potatoes; and
- (g) the producer's identification number.

(2) Any person who, after 1st September 2004 and before the coming into operation of this Order, imported, in the course of business, Dutch seed potatoes into Northern Ireland shall, so far as is as reasonably practicable and no later than 20th July 2005, give written notification to an inspector of –

- (a) the date the potatoes were imported;
- (b) the point of entry;
- (c) the intended use of the potatoes;
- (d) the destination or proposed destination of the potatoes;
- (e) the variety of the potatoes;
- (f) the quantity of potatoes; and
- (g) the producer's identification number.

Powers of an inspector

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

(2) If an inspector knows or has reasonable grounds for suspecting that any Dutch potatoes are likely to be, or have been, landed in Northern Ireland in contravention of Article 3(1), he may –

- (a) for the purpose of checking compliance with the principal Order; or
- (b) for the purpose of exercising any of his powers under paragraph (4),

and on production of his authority if so required, take the steps in paragraph (3).

(3) The steps referred to in paragraph (2) are –

- (a) to require any person, including any person in charge of the vessel, aircraft, vehicle, hovercraft or freight container from which the potatoes are likely to be landed or have been landed, to move the potatoes to any premises; or
- (b) to prohibit any such person from moving, treating or destroying the potatoes or any container or package.

(4) For the purpose of checking compliance with this Order, an inspector may, on production of his authority if so required and at all reasonable times, enter any premises and –

- (a) examine, photograph or mark any part of the premises or any object on the premises, including any potatoes;
- (b) take samples of or from any potatoes or any container or package; and
- (c) inspect, make copies of or, for the purpose of making copies, remove any documents or records (in whatever form they may be held) relating to the production of or trade in any potatoes.

(5) An inspector may, for the purpose of exercising any of his powers under paragraph (4), open, or authorise any person to open on his behalf, any container or package or require the owner or any person in charge of any container or package to open it, in such manner as the inspector may specify.

(6) Where any such document or record as is mentioned in paragraph (4)(c) is kept by means of a computer, an inspector may –

- (a) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the document or record; and
- (b) require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require.

Offences

5.—(1) A person shall be guilty of an offence if, without reasonable excuse, proof of which shall lie on him –

- (a) he contravenes or fails to comply with a requirement of Article 3; or
- (b) he intentionally obstructs an inspector or any person authorised by an inspector in exercise of his powers under Article 4.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 14th June 2005.

(L.S.)

David Small

A senior officer of the Department of Agriculture and Rural Development

EXPLANATORY NOTE

(This note is not part of the Order)

This Order places certain notification requirements upon persons importing potatoes from the Netherlands which have been grown during 2004 or later.

Article 3 requires any person importing Dutch potatoes, grown during 2004 or later, into Northern Ireland in the course of business to give at least two days' notice in writing to a Plant Health inspector of the Department of Agriculture and Rural Development, providing specified details as to, among other things, when and where the potatoes are to be introduced into Northern Ireland (Article 3(1)). It also requires persons who imported Dutch seed potatoes into Northern Ireland after 1st September 2004 but before the coming into operation of this Order to provide to an inspector, so far as is reasonably practicable, specified information of a similar nature no later than 20th July 2005 (Article 3(2)).

Article 4 provides inspectors with powers, for the purpose of checking compliance with this Order or the Plant Health Order (Northern Ireland) 1993 ("the principal Order"), to require the movement of potatoes to any premises or to prohibit the movement, treatment or destruction of potatoes or any container or package. For the purposes of checking compliance with this Order, inspectors also have a power to enter premises in order to carry out examinations or inspections of certain items found there. These provisions are without prejudice to the circumstances in which an inspector may by virtue of the principal Order exercise the powers conferred by that Order.

Article 5 provides that a person shall be guilty of an offence if, without reasonable excuse, he contravenes or fails to comply with a requirement of Article 3 or he intentionally obstructs an inspector or any person authorised by an inspector in exercise of his powers under Article 4.

No Regulatory Impact Assessment has been prepared for this Order.

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