

2006 No. 435

PLANT HEALTH

**The Plant Health (Amendment No. 2) Order (Northern Ireland)
2006**

Made - - - - - *2nd November 2006*

Coming into operation - - - - - *1st December 2006*

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

Citation and commencement

1. This Order may be cited as the Plant Health (Amendment No. 2) Order (Northern Ireland) 2006 and shall come into operation on 1st December 2006.

Amendment of the Plant Health Order (Northern Ireland) 2006

2.—(1) The Plant Health Order (Northern Ireland) 2006(f) is amended in accordance with paragraphs 2 to 15.

(2) In Article 2(1)—

(a) after the definition of “Customs Act”, insert—

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

(b) in the definition of “Directive 2000/29/EC” after “2005/16/EC,” insert “2005/77/EC(h), 2006/35/EC(i),”;

(c) for the definition of “Europe”, substitute—

““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,

(a) Formerly the Department of Agriculture for Northern Ireland; see S.I. 1999/238 (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) Section 3(1) was amended by S.R. & O. (N.I.) 1972 No. 351 Art. 3 and Sch. 2; Section 3B was inserted by S.I. 1984/702 (N.I. 2) Art. 15(2)

(d) 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)

(e) 1967 c.28 (N.I.)

(f) S.R. 2006 No. 82 as amended by S.R. 2006 No. 165

(g) O.J. No. L 187, 8.7.2006, p.35, as corrected in O.J. No. L 196, 18.7.2006, p.26.

(h) O.J. No. L 296, 12.11.2005, p.17.

(i) O.J. No. L 88, 25.3.2006, p.9; and see the associated Commission Directive 2006/36/EC, O.J. No. L 88, 25.3.2006, p.13.

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);” and

(d) in the definition of “protected zone”, before “means” insert “, unless expressly provided otherwise, ”.

(3) At the beginning of Article 2(3) add “Unless expressly provided otherwise,”.

(4) In Article 12(2)—

(a) after sub-paragraph (a), insert—

“(aa) if in the course of its consignment to a protected zone listed in the second column of Annex I Part B of Directive 2000/29/EC, that the relevant material is free from any plant pest of a description specified in the first column opposite the reference to that protected zone;” and

(b) after sub-paragraph (c), insert—

“(cc) if listed in the first column of Annex III Part B of the Directive 2000/29/EC, that the relevant material is not in the course of its consignment to a protected zone listed in the second column opposite the reference to the relevant material;”.

(5) In Article 22, for paragraph (2), substitute—

“(2) The Department may exempt from the prohibitions on movement in Article 21(1) or (2) the movement of relevant material which originates in Northern Ireland where it is satisfied that—

(a) the movement is made locally by small producers or processors whose entire production and sale of such material is intended for final usage by persons on the local market who are not professionally involved in plant production; and

(b) there is no risk of the spread of plant pests.”.

(6) At the end of Article 24, add—

“(5) Any person who—

(a) is the final user of relevant material; and

(b) uses the relevant material in the course of a trade or business,

shall retain the plant passport which accompanies the relevant material in accordance with Article 21 for one year.”.

(7) After item 15 of “Insects, mites and nematodes” in Schedule 1, Part A, insert—

“15a. *Dryocosmus kuriphilus* Yasumatsu”.

(8) In item 15 of “Viruses and virus-like organisms” in Schedule 2, Part B, for the words after “evidence” to the end of that item, substitute “that they are intended for sale to professional tobacco producers, *Solanum melongena* L., or *Solanum tuberosum* L., intended for planting”.

(9) After “New Guinea hybrids” in item 15 of “Viruses and virus-like organisms” in Schedule 2, Part B, insert “of”.

(10) In Schedule 4, Part A—

(a) in the third column of item 7, for “items 5, 6, 61, 62 and 65” substitute “items 5, 6, 7a, 61, 62 and 65”;

(b) after item 7 insert—

“7a Plants, other than fruit or seeds, of *Castanea* Mill., intended for planting, originating in any third country

Without prejudice to the requirements in items 6, 7, 52, 56, 61 and 62, the plants shall be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which states under the rubric “Additional declaration” that they have been grown throughout their life in places of production:

- (a) in countries where *Dryocosmus kuriphilus* Yasumatsu is not known to occur; or
 - (b) in an area or areas, established by the national plant protection organisation in the country of origin, as being free from *Dryocosmus kuriphilus* Yasumatsu, in accordance with ISPM No. 4, and that area shall be mentioned in the phytosanitary certificate or phytosanitary certificate for re-export under the rubric “Place of origin”;
- (c) for the wording in the third column of item 13, substitute—
- “Without prejudice to the requirements in items 20, 22 to 24, 28 to 31, 61, 62 and 65, the plants shall be accompanied by an official statement that they originate in a country known to be free from *Monilinia fructicola* (Winter) Honey”;
- (d) in the third column of item 16, after “(all strains pathogenic to Citrus)” in paragraph (a), insert “as referred to in Article 1(1) of Decision 2006/473/EC”;
 - (e) in the third column of item 16, after “(all strains pathogenic to Citrus)” in paragraph (b), insert “as referred to in Article 1(2) of Decision 2006/473/EC”;
 - (f) in the third column of item 17, after “Carv. and Mendes” in paragraph (a), insert “as referred to in Article 2 of Decision 2006/473/EC”;
 - (g) in the third column of item 18, after “(all strains pathogenic to Citrus)” in paragraph (a), insert “as referred to in Article 3(1) of Decision 2006/473/EC”;
 - (h) in the third column of item 18, after “(all strains pathogenic to Citrus)” in paragraph (b), insert “as referred to in Article 3(2) of Decision 2006/473/EC”;
 - (i) in the second column of item 38, after “*Solanaceae*,” insert “intended for planting,”.

(11) In Schedule 4, Part B—

- (a) in the third column of item 4, for “The plants shall be accompanied by an official statement that”, substitute “Without prejudice to the requirements in item 4(a), the plants shall be accompanied by an official statement that”; and

- (b) after item 4 insert—

“4a Plants, other than fruit or seeds of *Castanea* Mill., intended for planting

Without prejudice to the requirements in item 4, the plants shall be accompanied by an official statement that:

- (a) they have been grown throughout their life or since their introduction into the Community in a place of production in a member State where *Dryocosmus kuriphilus* Yasumatsu is not known to occur; or
- (b) they have been grown throughout their life or since their introduction into the Community in a place of production in an area or areas, established by the responsible official body in a member State, as being free from *Dryocosmus kuriphilus* Yasumatsu, in accordance with ISPM No. 4”.

(12) In paragraph 1(c) of Schedule 5, Part A, for “*Capsicum* spp. *Helianthus annuus* L., *Lycopersicon lycopersicum* (L.) Karsten ex Farw.,” substitute “*Solanaceae, Helianthus annuus* L.”.

(13) In paragraph 1 of Schedule 6, Part A and of Schedule 7, Part A, after “*Amelanchier* Med.,” insert “*Castanea* Mill.”.

(14) In paragraph 7(a) of Schedule 6, Part A and of Schedule 7, Part A, omit “*Castanea* Mill.”.

(15) In paragraph 1 of Schedule 17, Part B, after “shall”, on the first occasion where it occurs, insert “, where it considers it necessary to ensure that any provision of paragraph 6 is complied with,”.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 2nd November 2006.



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 amends The Plant Health Order (Northern Ireland) 2006 (SR 2006/82) (“the principal Order”), to implement—

(1) Commission Directive 2006/35/EC of 24th March 2006 amending Annexes I to IV to 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 (O.J. No. L 88, 25.3.2006, p.9);

(2) Commission Decision 2006/473/EC of 5th July 2006 recognising certain third countries and areas 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) (OJ No. L 187, 8.7.2006, p. 35); and

(3) Commission Decision 2006/464/EC of 27th June 2006 on provisional emergency measures to prevent the introduction into and the spread within the Community of *Dryocosmus kuriphilus* Yasumatsu (O.J. No. L 183, 5.7.2006, p. 29).

The Order also makes minor amendments to the principal Order, the main changes of which are to—

- (a) amend and insert certain definitions (Article 2(2));
- (b) amend the matters as to which an inspector has to be satisfied before he can discharge from an area of plant health control any material which is destined for a protected zone in Annex IB or Annex IIIB of Directive 2000/29 (Article 2(4));
- (c) amend the local movement exemption to make it a discretionary exemption which takes account of plant health risk (Article 2(5));
- (d) require certain commercial users of plant material to retain plant passports for one year (Article 2(6));
- (e) prohibit the landing in and spread within Northern Ireland of *Dryocosmus kuriphilus* Yasumatsu and impose additional requirements on the landing and movement of *Castanea* Mill. intended for planting (Article 2(11), (15) (a) and (b) and (16));
- (f) amend the provisions relating to countries and areas recognised as free from *Xanthomonas campestris*, *Cercospora angolensis* and *Guignardia citricarpa* (Article 2(15)(d) to (h));
- (g) require seeds of all *Solanaceae* to be accompanied by a phytosanitary certificate (Article 2(12)); and
- (h) limit the circumstances in which the Department is required to publish the demarcation of zones for the control of *Ralstonia solanacearum* (Article 2(15)).