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STATUTORY RULES OF NORTHERN IRELAND

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**2010 No. 307**

**PLANT HEALTH**

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

*Made* - - - - *8th September 2010*

*Coming into force* - - *8th September 2010*

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

**Title and commencement**

1. This Order may be cited as the Plant Health (Amendment No.3) Order (Northern Ireland) 2010 and comes into force on 8th September 2010.

**Amendments to the Plant Health Order (Northern Ireland) 2006**

2. The Plant Health Order (Northern Ireland) 2006 (**f**) is amended as follows.

**Article 20 (prevention of the spread of plant pests)**

3. In article 20(2) after “Part 6” insert “or 7”.

**Article 31 (examination, sampling and marking)**

4. In article 31(1), after “for the purpose of”, insert “determining whether any plant pest is present there (or for determining the distribution of any plant pest) or for the purpose of”.

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(a) Formerly the Department of Agriculture for Northern Ireland; see [S.I. 1999/283](#) (N.I.I) 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.) 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.](#)) 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.](#)) Art.15(2)  
(e) [1967 c28](#) (N.I.)  
(f) [S.R. 2006 No.82](#), as amended by S.R.2006 No.82, S.R.2006 No.165, S.R.2006 No.435, S.R.2007 No.333, S.R.2007 No.483, S.R.2008 No.205, S.R.2008 No.442, S.R.2008 No.493 and S.R.2009 No.179

**Article 44 (offences)**

5. In article 44(1)(a)(g), for paragraphs (xv) and (xvi), substitute—
- “(xv) article 41(1);
  - (xvi) article 42(1); or
  - (xvii) paragraphs 3, 4, 5 or 6 of Schedule 15;”

**Schedule 15 (special measures for the control of Potato Cyst Nematode)**

6. For Schedule 15, substitute the text contained in the Schedule to this Order.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 8th  
September 2010

*John Speers*  
A senior officer of the Department of  
Agriculture and Rural Development

## SCHEDULE

Article 6

### “SCHEDULE 15

Article 38(6)

Special measures for the control of European populations of Potato Cyst Nematode

#### **Interpretation and application of Schedule 15**

1.—(1) In this Schedule—

“Directive [2007/33/EC](#)” means Council Directive [2007/33/EC](#) on the control of potato cyst nematodes and repealing Directive [69/465/EEC](#);

“demarcated field” means a field in respect of which a notice served under paragraph 2 is in force.

(2) This Schedule applies when the Department confirms, following an official investigation for the purposes of Article 4 of Directive [2007/33/EC](#) or an official survey for the purposes of Article 6 of that Directive, that a field is infested with a European population of Potato Cyst Nematode.

#### **Demarcation of the field**

2.—(1) An inspector shall serve a notice in writing on the occupier or other person in charge of the field—

(a) specifying the field to which the notice applies; and

(b) demarcating the boundaries of that field.

(2) The notice may not be withdrawn until it is confirmed, pursuant to the re-sampling and testing measures set out in Section III(C) of Annex III to Directive [2007/33/EC](#), that Potato Cyst Nematode is no longer present in the field.

#### **Prohibition on planting of potatoes**

3.—(1) A person shall not—

(a) plant in a demarcated field any potatoes that are intended for the production of seed potatoes; or

(b) plant or store in a demarcated field any plant listed in Annex I to Directive [2007/33/EC](#) that is intended for replanting.

(2) But an inspector may authorise the planting of any plants listed in point 2 of Annex I to that Directive.

(3) An authorisation under this paragraph shall be by notice in writing and shall contain the measures set out in Section III(A) of Annex III to that Directive.

#### **Suppression of Potato Cyst Nematode**

4. A person shall not plant in a demarcated field any potatoes that are not intended for the production of seed potatoes unless that person has taken all reasonable steps to suppress Potato Cyst Nematode in that field.

#### **Controls on contaminated seed potatoes etc.**

5.—(1) A person shall not plant any seed potatoes or any plants listed in point 1 of Annex I to Directive [2007/33/EC](#) that come from a demarcated field, or have been in contact with soil from a demarcated field, unless authorised to do so by an inspector.

(2) An authorisation under this paragraph shall be by notice in writing and shall contain such measures as the inspector thinks necessary to decontaminate those seed potatoes or plants.

#### **Controls on contaminated bulbs etc.**

6.—(1) A person shall not plant any plants listed in point 2 of Annex I to Directive [2007/33/EC](#) that come from a demarcated field, or have been in contact with soil from a demarcated field, unless authorised to do so by an inspector.

(2) An authorisation under this paragraph shall be by notice in writing and shall contain the measures set out in Section III(A) of Annex III to that Directive.”

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### **EXPLANATORY NOTE**

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

This Order amends the Plant Health Order (Northern Ireland) 2006 ([S.R. 2006/82](#)) (“the principal Order”) to implement Council Directive [2007/33/EC](#) on the control of potato cyst nematodes and repealing Directive [69/465/EEC](#) (OJ No L 156, 16.6.2007, p12). Directive [2007/33/EC](#) introduces measures to detect and control European populations of Potato Cyst Nematode.

The Schedule to this Order replaces Schedule 15 to the principal Order to implement the control measures in that Directive. Paragraph 2 provides for the demarcation of fields infested with Potato Cyst Nematode. Paragraph 3 prohibits the planting in the demarcated field of potatoes intended for the production of seed potatoes. It also controls the planting in the demarcated field of specified plants intended for replanting. Paragraph 4 prohibits the planting in the demarcated field of potatoes not intended for the production of seed potatoes unless all reasonable steps are taken to suppress Potato Cyst Nematode in that field. Paragraphs 5 and 6 impose controls on the planting of potatoes and other plants that come from a demarcated field.

Article 4 of the Order amends the powers of entry in article 31 of the principal Order to provide powers of entry to determine if plant pest is present on any premises.

An impact assessment has not been produced for this Order as no impact on the private or voluntary sectors is foreseen. A transposition note is available from the Department of Agriculture and Rural Development, Farm Policy Branch, Room 910, Dundonald House, Ballymiscaw, Belfast BT4 3SB and it is annexed to the Explanatory Memorandum that is available alongside the Order on the OPSI website.