

## **S.I. No. 320/2010 — European Communities (Potato Cyst Nematodes) Regulations 2010.**

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 2nd July, 2010.*

I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Council Directive 2007/33/EC of 11 June 2007<sup>1</sup>, hereby make the following regulations:

### *Citation*

1. These Regulations may be cited as the European Communities (Potato Cyst Nematodes) Regulations 2010.

### *Interpretation*

2. (1) In these Regulations—  
“authorised officer” means—

- (a) A person appointed under the European Communities (Agriculture, Fisheries and Food) (Compliance) Regulations 2009 ( S.I. No. 424 of 2009 ) as amended by the European Communities (Marketing Standards) (Crops and Oils) Regulations 2010 ( S.I. No. 153 of 2010 ),
- (b) a member of the Garda Síochána, or
- (c) an officer of Customs and Excise;

“demarcated field” means a field subject to a notice under Regulation 4;

“Directive” means Council Directive 2007/33/EC of 11 June 2007;

“Minister” means Minister for Agriculture, Fisheries and Food.

(2) A word or expression that is used in the Directive and is also used in these Regulations has, in these Regulations, the same meaning as it has in the Directive.

### *Measures to control potato cyst nematodes*

3. (1) A person shall not introduce or cause or permit another person to introduce material containing potato cyst nematodes into the State unless prior written approval has been granted by the Minister.

(2) A person shall not have in his or her possession or control or move within the State material containing potato cyst nematodes that has been introduced into the State in contravention of paragraph (1) unless prior written approval has been granted by the Minister.

### *Demarcated field*

4. (1) If the Minister has reasonable cause to believe that potato cyst nematodes are present in a field, the Minister shall serve a notice in writing on the occupier or other person in charge of the field specifying—

- (a) each field to which the notice applies, and
- (b) demarcating the boundaries of each field to which the notice applies.

(2) A notice may not be revoked until it is confirmed, pursuant to there-sampling and testing measures set out in Section III (C) of Annex III of the Directive, that Potato Cyst Nematodes are no longer present in the field.

(3) The Minister shall officially record a notice under paragraph (1).

### *Prohibition on planting of potatoes*

5. (1) A person shall not—

- (a) sow potatoes that are intended for the production of seed potatoes in a demarcated field, or
- (b) sow or store a plant listed in Annex I of the Directive that is intended for replanting in a demarcated field.

(2) An authorised officer, by notice in writing containing the measures set down in Section III(A) of Annex III to the Directive, may authorise the sowing of a plant listed in point 2 of Annex I to the Directive.

*Control of contaminated seed potatoes*

6. (1) A person shall not sow seed potatoes or plants listed in point 1 of Annex I to the Directive that come from a demarcated field, or have been in contact with soil from a demarcated field, unless prior written approval has been granted by the Minister.

(2) A person shall not sow a plant listed in point 2 to Annex I to the Directive that have come from a demarcated field, or have been in contact with soil from a demarcated field, unless prior written approval has been granted by the Minister.

(3) A written approval shall contain the measures set out in Section III (A) of Annex III to the Directive.

*Authorised officer*

7. The European Communities (Agriculture, Fisheries and Food) (Compliance) Regulations 2009 ( S.I. No. 424 of 2009 ) as amended by the European Communities (Marketing Standards) (Crops and Oils) Regulations 2010 ( S.I. No. 153 of 2010 ) apply to these Regulations.

*Offences*

8. (1) A person who contravenes or causes or permits a contravention of Regulation 3, 5, 6(1) or 6(2) commits an offence.

(2) A person who commits an offence under these Regulations is liable on summary conviction, to a fine not exceeding €5,000, or to imprisonment for a term not exceeding 6 months, or to both.

(3) An offence under these Regulations may be prosecuted by the Minister.

(4) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purported to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the offence.

(5) If the affairs of a body corporate are managed by its members, paragraph (4) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

L.S.

GIVEN under my Official Seal,

24 June 2010.

BRENDAN SMITH,

Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations provide measures for the control of potato cyst nematodes.

1 O.J. L156 of 16.6.2007, p.12

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