

2012 No. 392

PLANT HEALTH

**The Plant Health (Amendment No.3) Order (Northern Ireland)
2012**

Made - - - - - *26th October 2012*

Coming into operation - - - - - *26th October 2012*

The Department of Agriculture and Rural Development^(a) makes the following Order, in exercise of the powers conferred by sections 2, 3(1) and 4(1) of the Plant Health Act (Northern Ireland) 1967^(b) and the powers conferred by paragraph 1A of Schedule 2 to the European Communities Act 1972^(c).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972. It appears to the Department that it is expedient for the references to Commission Directive 2008/61/EC (establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work or varietal selections)^(d) to be construed as references to that instrument as amended from time to time.

Citation and commencement

1. This Order may be cited as The Plant Health (Amendment No.3) Order (Northern Ireland) 2012 and comes into operation on 26th October 2012.

Amendments of the Plant Health Order (Northern Ireland) 2006

2.—(1) The Plant Health Order (Northern Ireland) 2006^(e) is amended in accordance with paragraphs (2) to (14).

(2) In article 2(1)(interpretation) after the definition of “IPPC”, insert—

““ISPM No 4” means International Standard for Phytosanitary Measures No 4 of November 1995 on the requirements for the establishment of pest-free areas, prepared

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- (a) The Department of Agriculture for Northern Ireland was renamed the Department of Agriculture and Rural development by Article 3(4) of the Departments (Northern Ireland) Order 1999 S.I. 1999/283 (N.I.1).
- (b) 1967 c.68 (N.I.); sections 2 and 4(1) were amended by S.R. & O. (N.I.) 1972 No. 351, art. 3 and Sch.2. Section 2(2) was amended by 1979 c.2, s.177(1) and Sch.4, Pt II. Sections 2, 3 and 4(1) were amended by S.I. 1984/702 (N.I.2), Arts. 15(2), 24 and Sch. Section 3B was inserted by S.I. 1984/702 (N.I.2) Art. 15(2). Section 3B(1A) was inserted by 2010 c.10 (N.I.), s.14(2).
- (c) 1972 c.68.Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51)
- (d) OJ No L 158, 18.6.2008, p 41
- (e) S.R.2006 No.82. as amended by .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; S.R. 2009 No. 179; S.R. 2010 No.197; S.R. 2010 No.232; S.R. 2011 No.22; S.R. 2011 No.233; S.R. 2011 No.352; S.R. 2012 No.133 and S.R. 2012 No.241.

by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(a);”.

(3) In article 8(2)(b)(vi) (exceptions from certain prohibitions and requirements) for “except in bonsai form” substitute “other than seedlings of *Fraxinus* L. and seedlings in bonsai form”.

(4) In article 22(1) (exceptions from certain prohibitions and requirements), after “small quantities of any relevant material”, insert “other than plants of *Fraxinus* L. intended for planting”.

(5) For Article 39 (licences to carry out prohibited activities), substitute—

“39.—(1) Notwithstanding any of the provisions of this Order, any tree pest or relevant material may be landed, kept, stored, sold, planted, moved or otherwise disposed of in Northern Ireland and any other thing prohibited by this Order may be done under the authority of a licence, whether general or specific, granted by the Department—

- (a) in exercise of any derogation permitted by the Directive 2000/29/EC; or
- (b) for trial or scientific purposes, or for work on varietal selections, in relation to a domestic quarantine plant pest.

(2) A licence granted under article 39(1)(b) must be in writing and may be granted—

- (a) subject to conditions;
- (b) for an indefinite period or a specified period.

(3) In this article, “domestic quarantine plant pest” means a plant pest not listed in Annex I or Annex II to Directive 2000/29/EC, which is not normally present in Northern Ireland, but is likely to be injurious to plants in Northern Ireland.”

(6) In the heading of article 40 (licences for trial or scientific purposes and for work on varietal selections), after “varietal selections”, insert “permitted by Directive 2008/61/EC”.

(7) In article 40—

- (a) In paragraphs (1), (2) and (6), for “Directive 95/44/EC” substitute “Directive 2008/61/EC” in each place occurring; and
- (b) For paragraph (7)(b) substitute—

“(b) “Directive 2008/61/EC” means Commission Directive 2008/61/EC establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes 1 to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections, as amended from time to time”.

(8) In Part A of Schedule 1 (plant pests which shall not be landed in or spread within Northern Ireland), after item 1 under the heading “fungi”, insert—

“1a. *Chalara fraxinea* T. Kowalski, including its teleomorph *Hymenoscyphus pseudoalbidus* a cause of ash dieback”

(9) In Part A of Schedule 4 (relevant material from third countries which may only be landed in Northern Ireland if special requirements are satisfied), after item 1a(b), insert—

“1b Plants intended for planting of *Fraxinus* L. *Chalara fraxinea* T.Kowalski, including its teleomorph *Hymenoscyphus pseudoalbidus*, a cause of ash dieback”

(10) In Part A of Schedule 4 (relevant material from third countries which may only be landed in Northern Ireland if special requirements are satisfied)—

- (a) in the second column of item 8(a) of the table, for “The plants shall be accompanied by an official statement” substitute “Without prejudice to item 8(a), the plants shall be accompanied by an official statement”; and

(a) Available from IPPC Secretariat, AGPP-FAO. Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/>.

(b) Item 1(a) was inserted by SR 2009/179, article 2(5)(a)

(b) after item 8a(a), insert—

- “8b. Plants intended for planting of *Fraxinus* L. which originate in a third country
- Without prejudice to the requirements in item 8a, the plants must be accompanied by a phytosanitary certificate which has been issued by national plant protection organisation of the country from which the plants originate and which includes under the heading “Additional Declaration” an official statement that the plants have been grown throughout their life in an area which has established and is maintained as an area free from *Chalara fraxinea* T. Kowalski (including its teleomorph *Hymenoscyphus pseudoalbidus*) in accordance with ISPM No.4;”

(11) In Part B of Schedule 4 (relevant material from another part of the European Community which may only be landed in or moved within Northern Ireland if special requirements are satisfied) after item 8 of the table, insert—

- “8a. Plants intended for planting of *Fraxinus* L.
- The plants must be accompanied by an official statement that they have been grown throughout their life in an area which has been established and is maintained as an area free from *Chalara fraxinea* T. Kowalski (including its teleomorph *Hymenoscyphus pseudoalbidus*) in accordance with ISPM No.4.”

(12) In Part A of Schedule 5 (relevant material which may only be landed in Northern Ireland if accompanied by a phytosanitary certificate), after item 1b(b), insert—

- “1c. Seeds intended for planting of *Fraxinus* L.
- 1d. Parts of plants, other than fruits and seeds, of *Fraxinus* L.”

(13) In Part A of Schedule 6 (relevant material from Northern Ireland or elsewhere in the European Community which may only be landed in or moved within Northern Ireland if accompanied by a plant passport) after paragraph 5 insert—

- “7a. Plants of *Fraxinus* L. intended for planting”

(14) In Part A of Schedule 7 (relevant material which may only be consigned to another part of the European Community if accompanied by a plant passport), after paragraph 5, insert—

- “7a. Plants of *Fraxinus* L. intended for planting”

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 26th October 2012



Norman Fulton
A senior officer of the
Department of Agriculture and Rural Development

(a) Item 8a was inserted by SR 2009/179 article 2(a) 8a
(b) Item 1b was inserted by S.R. 2008/205 article 3(5)

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 introduce emergency measures to prevent the introduction and spread of *Chalara fraxinea* T. Kowalski, including its teleomorph *Hymenoscyohus pseudoalbidus*, a cause of ash dieback. In particular, the amendments which this Order makes to the principal Order are to:

- (a) prohibit the landing in and the movement within Northern Ireland of *Chalara fraxinea* T. Kowalski (article 2(8));
- (b) prohibit the landing in and the movement within Northern Ireland of plants intended for planting of *Fraxinus* L. which are infected with *Chalara fraxinea* T. Kowalski (article 2(9));
- (c) impose additional requirements on the landing and movement within Northern Ireland of plants intended for planting of *Fraxinus* L. (article 2(10) to (14)); and
- (d) impose additional requirements on the consignment from Northern Ireland to other parts of the European Union of plants intended of planting of *Fraxinus* L. (article 2(14)).

The definition of plants in article 2(1) of the principal Order includes fungus, tree or shrub including seeds.

This Order also:

- (a) implements Commission Directive 2008/61/EC (establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections) (OJ No L 158, 18.6.2008, p 41), which replaced Commission Directive 95/44/EC (OJ No L 184, 3.8.1995, p 34)((article 2(7)); and
- (b) confers powers on the Department to grant licences for trial or scientific purposes or for work on varietal selections in relation to certain plant pests (article 2(5)).

Article 2(7) makes the references to Commission Directive 2008/61/EC in the principal Order ambulatory.

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