

**EUROPEAN COMMUNITIES (INTRODUCTION OF ORGANISMS HARMFUL TO  
PLANTS OR PLANT PRODUCTS) (PROHIBITION) (AMENDMENT) REGULATIONS  
1993**

I, JOE WALSH, Minister for Agriculture, Food and Forestry, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), as adapted by the Agriculture and Food (Alteration of Name of Department and Title of Minister) Order, 1993 (S.I. No. 11 of 1993), and for the purpose of giving effect to Council Directive No. 91/683/EEC of 19 December 1991,<sup>1</sup> Commission Directive No. 92/70/EEC of 30 July 1992,<sup>2</sup> Commission Directive No. 92/76/EEC of 6 October 1992,<sup>3</sup> Commission Directive No. 92/90/EEC of 3 November 1992,<sup>4</sup> Council Directive No. 92/98/EEC of 16 November 1992,<sup>5</sup> Commission Directive No. 92/103/EEC of 1 December 1992,<sup>6</sup> Commission Directive No. 92/105/EEC of 3 December 1992,<sup>7</sup> Council Directive No. 93/19/EEC of 19 April 1993,<sup>8</sup> Commission Directive No. 93/50/EEC of 24 June 1993,<sup>9</sup> and Commission Directive No. 93/51/EEC of 24 June 1993,<sup>9</sup> hereby make the following Regulations:

REG 1

1. (1) These Regulations may be cited as the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) (Amendment) Regulations, 1993.

(2) The European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) Regulations, 1980 to 1992, and these Regulations may be cited together as the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibitions) Regulations, 1980 to 1993.

1O.J. No. L376 of 31.12.1991.

2O.J. No. L250 of 29.8.1992.

3O.J. No. L305 of 21.10.1992.

4O.J. No. L344 of 26.11.1992.

5O.J. No. L352 of 2.12.1992.

6O.J. No. L363 of 11.12.1992.

7O.J. No. L4 of 8.1.1993.

8O.J. No. L96 of 22.4.1993.

9O.J. No. L205 of 17.8.1993.

(3) These Regulations shall come into operation on the 1st day of January, 1994.

REG 2

2. In these Regulations "the Principal Regulations" means the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) Regulations, 1980 (S.I. No. 125 of 1980).

### REG 3

3. Regulation 2 of the Principal Regulations is hereby amended by the substitution in paragraph (1) in the definition of "the Directive" for "and Commission Directive No. 92/10/EEC of 19 February, 1992" (inserted by the European Communities (Introduction of Organisms Harmful to Plants or Plant Products (Prohibition) (Amendment) Regulations, 1992 (S.I. No. 214 of 1992)) of "Commission Directive No. 92/10/EEC of 19 February 1992" Council Directive No. 91/683/EEC of 19 December 1991, Commission Directive No. 92/70/EEC of 30 July 1992, Commission Directive No. 92/76/EEC of 6 October 1992, Commission Directive No. 92/90/EEC of 3 November 1992, Council Directive No. 92/98/EEC of 16 November 1992, Council Directive No. 92/103/EEC of 1 December 1992, Commission Directive No. 92/105/EEC of 3 December 1992, Council Directive No. 93/19/EEC of 19 April 1993, Commission Directive No. 93/50/EEC of 24 June 1993 and Commission Directive No. 93/51/EEC of 24 June 1993."

### REG 4

4. Regulations 3 (1) and 5 (1) of the Principal Regulations are hereby amended by the insertion after "introduce into the State", in each place where it occurs, of "or move within the State".

### REG 5

5. The following Regulation is hereby substituted for Regulation 4 of the Principal Regulations:

"4. A person shall not introduce into the State or move within the State:

( a ) any organism listed in the first column of part B of Annex I in respect of which the State is a protected zone, or

( b ) any plant or plant product listed in the second column of part B of Annex II which is contaminated by an organism which is listed in the first column thereof and in respect of which the State is a protected zone."

100.J. No. L70 of 17.3.1992.

### REG 6

6. Regulation 6 of the Principal Regulations is hereby amended—

( a ) in paragraph (1), by the insertion after "so specified" of "other than a Member State", and

( b ) by the substitution of the following paragraph for paragraph (2):

"(2) A person shall not introduce into the State or move within the State any plant, plant product or other object listed in the first column of part B of Annex III opposite the mention of the State in the second column of that part."

## REG 7

7. Regulation 8 of the Principal Regulations is hereby amended—

( a ) in paragraph (1), by the insertion after "introduce into the State" of "or move within the State", and

( b ) by the substitution of the following paragraph for paragraph (2):

"(2) A person shall not introduce into the State or move within the State any plant, plant product or other object listed in the first column of part B of Annex IV opposite the mention of the State in the third column of that Part unless the relevant special requirements specified in the second column of that part are complied with."

## REG 8

8. Regulation 10 of the Principal Regulations is hereby amended—

( a ) in paragraph (1), by the substitution of the following subparagraph for subparagraph (a):

"(a) (i) A person shall not move within the State or introduce from the State into another Member State any plant, plant product or other object listed in part A of Annex V without affording an authorised officer, in such manner as the Minister shall direct, an opportunity of examining the plant, plant product or other object together with the packing intended to be used in connection with such movement or introduction.

(ii) An examination under this Article shall be carried out in accordance with the provisions specified in the second subparagraph of paragraph 4 (inserted by 'Council' Directive No. 91/683/EEC of 19 December 1991), of Article 6 of the Directive."

( b ) in paragraph (2), by the substitution, in subparagraphs (a), (b) and (c), for "Part A", in each place where it occurs, of "Part A.II", and

( c ) in paragraph (3), by the substitution of the following subparagraph for subparagraph (a):

"(a) (i) A person shall not introduce into the State from another Member State, or introduce from the State into another Member State, or move within the State a plant, plant product or other object listed in part A.I. of Annex V unless it is accompanied by a plant passport valid for such introduction or movement and issued in accordance with the Directive.

(ii) A person shall not introduce into the State, or move within the State, a plant, plant product or other object listed in part A.II of Annex V which is a potential carrier of harmful organisms in respect of which the State is a protected zone unless it is accompanied by a plant passport valid for such introduction or movement and issued in accordance with the Directive or it has a final destination outside the State.

(iii) Persons engaged in the production of plants, plant products or other objects listed in part A of Annex V and commercial purchasers of such plants, plant products or other objects shall retain the

related plant passports for a period of not less than one year from the date of issue and shall make references to them in their business records."

#### REG 9

9. The Principal Regulations are hereby amended by the insertion of the following Regulations after Regulation 10:

"10A The Minister shall cause to be registered under an identifying registration number in a register established and maintained by the Minister—

( a ) persons who move within the State or introduce from the State into another Member State any plant, plant product or other object listed in part A of Annex V, and

( b ) importers of plants, plant products or other objects listed in part B of Annex V. whether or not they are the producers thereof, and

( c ) producers, collective warehouses or dispatching centres in the production zone of plants, plant products or other objects not listed in part A of Annex V but listed in the Annex to Commission Directive No. 93/50/EEC of 24 June 1993.

10B The Minister may, in so far as no spreading of harmful organisms is to be feared—

( a ) exempt small producers or processors whose entire production and sale of relevant plants, plant products and other objects are intended for final usage by persons on the local market in the State who are not professionally involved in plant production from registration under Regulation 10A of these Regulations, and

( b ) exempt the local movement of plants, plant products and other objects originating from producers exempted under paragraph (a) of this Regulation from examination under Regulation 10 (1) (a) of these Regulations."

#### REG 10

10. Regulation 11 of the Principal Regulations is hereby amended—

( a ) in paragraphs (1) and (2), by the insertion after "into the State", in each place where it occurs, of "from a country other than a member country", and

( b ) in paragraph (2) (a), by the substitution of "Article 7 or 8" for "Article 4, 5, 7, 8 or 9", and

( c ) by the insertion after paragraph (2A) (inserted by the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) (Amendment) Regulations, 1992 (S.I. No. 214 of 1992)) of the following paragraph:

"(2B) Paragraph (1) of this Regulation shall also apply in relation to the introduction into the State of—

( a ) any organism listed in the first column in part B of Annex I in respect of which the State is a protected zone,

( b ) any organism listed in the first column of part B of Annex II in respect of which the State is a protected zone and which is

present on a plant, plant product or other object listed in the second column of that part opposite the listing of that organism in the said first column, and

( c ) any plant or plant product or other object listed in the first column of part B of Annex IV opposite the mention of the State in the third column of that part."

#### REG 11

11. Regulation 12 of the Principal Regulations is hereby amended—

( a ) in paragraph (b), by the substitution of "Regulation 8, 10, or 11" for "Regulation 7, 8, 9, 10 or 11",

( b ) by the substitution of the following paragraph for paragraph (h):

"(h) if he is satisfied that an organism listed in Part A of Annex 1, or a plant, plant product or other object to which Regulation 5, 6 or 8 of these Regulations applies, is to be used for trials, work on varietal selection or other scientific purposes, direct that, subject to such terms and conditions (if any) as the Minister shall specify for the purpose of obviating the risk of harmful organisms spreading, Regulation 3, 5, 6 and 8 (or such of those Regulations as he may specify) of these Regulations shall not apply to such organism, plant, plant product or other object,". and

( c ) in paragraph (i), by the substitution of "reference numbers 1 or 6" for "reference numbers 1 or 5".

#### REG 12

12. Regulation 12A (1) (inserted by the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) (Amendment) Regulations, 1986 (S.I. No. 277 of 1986)) of the Principal Regulations is hereby amended by—

( a ) the substitution of the following paragraph for paragraph (a):

"(a) direct that Regulation 6 (1) of these Regulations shall not apply as respects part A. 11 of Annex III in the case of a specified consignment of plants of stolon-forming or tuber-forming species of *Solanum* L. or their hybrids, intended for planting, other than potato tubers (*Solanum tuberosum* L.) intended for planting,". and

( b ) in paragraph (b), the substitution of "reference number 25.2" for "reference number 24 (a)".

#### REG 13

13. Regulation 15 of the Principal Regulations is hereby amended by the substitution of the following paragraph for paragraph (1):

"(1) For the purpose of carrying out the checks specified in paragraphs 7 and 8 (which were inserted by Council Directive No. 91/683/EEC of 19 December 1991) of Article 11 of the Directive and ensuring compliance with the Directive, the obligations specified in

Article 2 of Commission Directive No. 92/90/EEC of 3 November 1992 and these Regulations, an authorised person may at all reasonable times—

- ( a ) enter and inspect any premises, railway or other vehicle, ship or vessel or aircraft,
- ( b ) inspect the contents of any container, in which he has reasonable grounds for believing that plants, plant products or other objects specified in Annex III, IV or V are moved, grown, produced, stored or offered for sale and—
- ( c ) examine and take samples of any organism, plant, plant product or object such as aforesaid which he finds in the course of his inspection, and
- ( d ) examine and take copies of any book or document or any other record in whatever form kept so found, or of extracts from any such record,
- ( e ) examine and copy any data or data material (within the meaning in each case of the Data Protection Act, 1988) he finds there, extract information from any such data and take extracts from any such material."

#### REG 14

14. Regulation 16A (inserted by the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) (Amendment) Regulations, 1989 (S.I. No. 92 of 1989)) is hereby amended by the substitution of "part B of Annex V" for "Annex V", in each place where it occurs.

#### REG 15

15. The following Regulation shall, as respects offences committed after the commencement of these Regulations be substituted for Regulation 17 of the Principal Regulations:

- "17. (1) A person who contravenes Regulation 3, 4, 5, 6, 8 or 11 (2) of these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.
- (2) A person guilty of an offence under Regulation 13 of these Regulations shall be liable on summary conviction to a fine not exceeding £1,000.
- (3) A person who contravenes Regulation 10 or 10A of these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.
- (4) A person who obstructs or interferes with an authorised person in the performance of his functions under these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.
- (5) A person who damages or defaces or alters in any way a plant passport referred to Regulation 10 (3) of these Regulations or a certificate referred to in Regulation 11 (2) of these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a

term not exceeding 6 months or to both."

REG 16

16. Regulation 19 (2) of the Principal Regulations is hereby amended by the substitution of the following subparagraph for subparagraph

(i):

"(i) The orders mentioned in subparagraph (ii) of this paragraph shall not apply in relation to organisms, plants, plant products, objects or wood referred to in Regulation 3 (1), 4, 5, 8, or 10 of these Regulations or in paragraph (1) or (2) of Regulation 6 of these Regulations and originating in a Member State or in free circulation in a Member State in conformity with the Directive."

REG 17

17. Regulations 5 (2), 7, 8 (3), 9 and 11 (3) and paragraphs (c) and (d) of Regulation 12 of the Principal Regulations are hereby revoked.

GIVEN under my Official Seal, this 22nd day of December, 1993.

JOE WALSH,  
Minister for Agriculture, Food  
and Forestry.

EXPLANATORY NOTE.

The Regulations adjust the existing controls on plants and plant products to comply with the amendments to Council Directive 77/93/EEC consequent on the completion of the Internal Market as contained in Council Directive 91/683/EEC and further amending directives.