1983 No. 425

PLANT HEALTH

Chrysanthemum (Temporary Prohibition on Landing) Order (Northern Ireland) 1983

Made	*29th December 1983*
Coming into operation . . .	*31st December 1983*

The Department of Agriculture, in exercise of the powers conferred on it by sections 2(1)(**a**), (2) and (3)(**b**), 3(1)(**a**), (2)(**a**), (3) and (4)(**c**), 3A(**d**) and 4(1)(**a**) of the Plant Health Act (Northern Ireland) 1967(**e**) and of every other power enabling it in that behalf, hereby makes the following Order:

Citation, commencement and duration

1. This Order, which may be cited as the Chrysanthemum (Temporary Prohibition on Landing) Order (Northern Ireland) 1983 shall come into operation on 31st December 1983 and shall cease to have effect on 30th March 1984.

Interpretation

2. In this Order—

"consignment" means the whole or any part of a consignment of pot plants or cut flowers of florists' chrysanthemum (species, hybrids and cultivars of *Dendranthema* (DC.) Desmoul) including soil or any other growing medium, packaging material or containers enclosing or accompanying the pot plants or cut flowers of florists' chrysanthemum;

"Customs Act" means the Customs and Excise Management Act 1979(**f**);

"importer" in relation to any consignment includes any person who, whether as owner, consignor or consignee, agent or broker, is in possession of or in any way entitled to the custody or control of the consignment;

"inspector" means an officer of the Department authorised in writing by the Department for the purposes of this Order;

"landing" means to bring into Northern Ireland by any means whatsoever;

"premises" includes any building (other than a private dwelling-house), land, vehicle, vessel, aircraft, hovercraft or freight container.

Prohibition of landing

3. Except as provided in Article 7 the landing of a consignment grown in, consigned from or which has passed through the Netherlands is hereby prohibited.

Examination and sampling

4. An inspector, upon production if so required of his authority, may for the purposes of this Order:—

(**a**) As amended by S.R. & O. (N.I.) 1972 No. 351 Art. 3 and Sch. 2
(**b**) Inserted by S.I. 1975/1038 (N.I. 8) Art. 11(1)
(**c**) As amended by 1967 c. 29 (N.I.) s. 1(2) and Sch. Part II
(**d**) Inserted by S.I. 1975/1038 (N.I. 8) Art. 11(2)
(**e**) 1967 c. 28 (N.I.)
(**f**) 1979 c. 2

(*a*) enter any premises and examine and take samples of any consignment landed or likely to be landed or reasonably suspected by him to have been landed;

(*b*) take the following steps relating to the examination and sampling set out in paragraph (*a*)—

(i) open or authorise any person to open on his behalf or require the importer or the person in charge of the consignment to open any container, bundle or other package in the consignment;

(ii) prohibit, either entirely or to the extent indicated by him by notice in writing, the movement of the consignment.

Consignments landed in contravention of Order

5.—(1) If it appears to an inspector that a consignment is in the course of being landed or is likely to be landed and that if landed, such consignment would be landed in contravention of the provisions of this Order he may serve upon the importer or any person in control of the landing or unloading of that consignment from a vehicle, vessel, aircraft, hovercraft or freight container a notice prohibiting the landing or unloading of that consignment or requiring that, if landed or unloaded, the consignment be destroyed within such time and in such manner and at such place as may be set out in the notice.

(2) If it appears to an inspector at any time that a consignment has been landed and that such landing is in contravention of the provisions of this Order he may serve upon the importer a notice requiring him within such time and in such manner and at such place as may be set out in the notice to destroy the consignment or, if it is considered appropriate by the inspector, to re-export the consignment and take such other steps as may be set out in the notice to prevent the spread of Chrysanthemum White Rust (*Puccinia horiana* P. Henn.).

(3) A notice served under paragraph (1) or (2) requiring the destruction of a consignment may postpone such destruction for such period and subject to such conditions, if any, as may be set out in that notice.

(4) Destruction required by a notice served under paragraph (1) or (2) shall be carried out to the satisfaction of an inspector by the person upon whom the notice is served and, except with the authority in writing of the Department or an inspector, the consignment shall not be moved otherwise than direct to the place designated in the notice.

(5) A notice served under paragraph (1) or (2) may be amended or withdrawn by the Department or an inspector by a further notice served upon the person upon whom the first notice was served.

(6) If a person shall fail to comply with the requirements of a notice served under paragraph (1), (2) or (5) then without prejudice to any proceedings under this Order consequent upon such failure, an inspector or a person authorised by him for the purpose may, on production if so required of his authority, enter for the purposes of this Order any premises in which the consignment to which the notice relates may be and take such steps as appear to the inspector to be necessary either to ensure that the requirements of the notice have been complied with or to remedy the consequences of the failure so to comply and the cost of the taking of such steps shall be recoverable as a civil debt by the Department from the person upon whom the notice was served.

(7) An inspector who authorises a person to take action as set out in paragraph (6) shall give instructions in writing to that person as to the steps which appear to the inspector to be necessary for that person to take.

(8) The provisions of this Article are without prejudice to the provisions of the Customs Act.

Information which may be required

6.—(1) A person who has or has had in his possession or under his charge any consignment which the Department or an inspector knows or reasonably suspects to have been landed, and a person who as auctioneer, salesman or otherwise, has sold or offered for sale any such consignment shall, if so required by notice in writing by the Department or inspector, give to the Department or inspector within the time set out in that notice all such information as he may possess as to any person who has or has had or is likely to have or is likely to have had the said consignment in his possession, custody or control or under his charge.

(2) Information furnished under paragraph (1) shall not be available as evidence against the person furnishing the same in any prosecution under this Order, except in respect of an alleged failure to comply with paragraph (1).

Licences

7. Notwithstanding any provision in this Order, a consignment may be landed in accordance with the conditions of a licence granted by the Department.

Offences

8.—(1) A person shall be guilty of an offence if he contravenes a provision of this Order or any term or condition of a notice served or licence granted in accordance with the provisions of this Order.

(2) An offence under paragraph 1 shall be punishable on summary conviction by a fine of not more than £100 for a first offence or £200 for a second or subsequent offence.

(3) Paragraphs (1) and (2) shall not apply to the landing of a consignment the landing of which is prohibited by this Order and in respect of which a penalty may be imposed under the Customs Act.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 29th December 1983.

(L.S.) *R. E. Aiken*

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order prohibits for the period commencing 31st December 1983 until 30th March 1984 the landing in Northern Ireland of consignments of pot plants or cut flowers of florists' chrysanthemum grown in, consigned from or which have passed through the Netherlands (Article 3).

The Order—

(*a*) provides powers of entry, examination and sampling and powers to enable remedial action to be taken where such a consignment is landed or is likely to be landed or is reasonably suspected by an inspector of the Department of Agriculture to have been landed in contravention of the Order (Articles 4 and 5);

(*b*) provides that persons having in their possession information regarding any such consignment landed in Northern Ireland may be required to disclose that information (Article 6);

(*c*) provides that the landing of such a consignment, the landing of which is prohibited by this Order, may be authorised by licence (Article 7);

(*d*) makes a contravention of the Order an offence (Article 8).

Any person who lands pot plants or cut flowers of florists' chrysanthemum in contravention of this Order, with intent to evade the prohibition contained in it, is guilty of an offence under section 50(2) of the Customs and Excise Management Act 1979 (c. 2) and may be detained. A person guilty of such an offence is liable on summary conviction to a penalty of £1,000 or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both, or, on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 2 years, or to both.