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## STATUTORY INSTRUMENTS

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# 2016 No. 104

## PLANT HEALTH, ENGLAND

### The Plant Health (England) (Amendment) Order 2016

*Made* - - - - *1st February 2016*  
*Laid before Parliament* *3rd February 2016*  
*Coming into force* - - *24th February 2016*

The Secretary of State makes this Order in exercise of the powers conferred by sections 2 and 3(1) and (4) of the Plant Health Act 1967(1) and now vested in the Secretary of State(2).

#### **Citation and commencement**

1. This Order may be cited as the Plant Health (England) (Amendment) Order 2016 and comes into force on 24th February 2016.

#### **Amendment of the Plant Health (England) Order 2015**

2. The Plant Health (England) Order 2015(3) is amended as follows.

#### **Article 15 (general provisions relating to certificates)**

3. In article 15(1), omit sub-paragraph (a).

#### **Article 19 (prohibitions on the introduction of plant pests and relevant material from the European Union)**

4. For paragraphs (6) to (9) of article 19 substitute—

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- (1) 1967 c.8; section 2 was amended by the European Communities Act 1972 (c.68), Schedule 4, paragraph 8(2)(a), the Customs and Excise Management Act 1979 (c.2), Schedule 4, paragraph 12 and S.I. 1990/2371, 2011/1043. Section 3(1) was amended by the European Communities Act 1972 (c.68), Schedule 4, paragraph 8(2)(a) and (b) and S.I. 2011/1043. Section 3(4) was substituted by the Criminal Justice Act 1982 (c.48), section 42 and amended by the Statute Law (Repeals) Act 1993 (c.50). The powers conferred by sections 2 and 3 are conferred on a “competent authority”, which is defined in section 1(2). Section 1(2) provides that the Secretary of State is the competent authority for England otherwise than as regards the protection of forest trees and timber from attack by pests.
- (2) The functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967, in so far as they were not exercisable in relation to Wales, were transferred to the Secretary of State by article 2(2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).
- (3) S.I. 2015/610, amended by S.I. 2015/1827.

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“(6) No person may bring any of the following potatoes into England unless written notification of the matters referred to in paragraph (7) is provided to an inspector at least two days prior to the intended date of their arrival—

- (a) seed potatoes grown or suspected to have been grown in another member State or in Switzerland; or
- (b) potatoes, other than seed potatoes, grown or suspected to have been grown in Poland, Portugal, Romania or any part of Spain which is within the European Union.

(7) The matters are—

- (a) the intended time and date of their arrival;
- (b) their intended use;
- (c) their intended destination;
- (d) their variety and quantity; and
- (e) the identification number of the producer of the potatoes.

(8) Paragraphs (1)(e), (f) and (g) and (6) are subject to article 22.”.

## Article 19A

5. After article 19 insert—

### “Notification of the landing of certain plants for planting

**19A.**—(1) A person who brings the following plants into England must notify an inspector in writing of the matters referred to in paragraph (2) prior to or no later than four days after the date of their arrival in England—

- (a) plants of *Castanea* Mill., *Fraxinus* L., *Pinus* L., *Platanus* L., *Prunus* L., *Quercus* L. or *Ulmus* L., intended for planting, which have been grown or are suspected to have been grown in another member State; or
- (b) plants of *Castanea* Mill., *Fraxinus* L., *Pinus* L., *Platanus* L., *Prunus* L., *Quercus* L. or *Ulmus* L., intended for planting, which have been grown or are suspected to have been grown in Switzerland and to which the requirements of article 6 do not apply.

(2) The matters are—

- (a) the intended date of their arrival or, if they have arrived in England, the date on which they first arrived in England;
- (b) their intended destination, or if they have arrived at their intended destination in England, their current location;
- (c) their genus and species;
- (d) the identification number of the supplier of the plants; and
- (e) the country from which they have been, or are to be, consigned.

(3) Paragraph (1) is subject to article 22.”.

## Article 22 (exceptions from certain prohibitions and requirements)

6. In article 22(4)—

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(4) Article 22(3) and (5) was amended by [S.I. 2015/1827](#), article 4.

(a) for sub-paragraph (a) of paragraph (1) substitute—

“(a) article 19(1)(e), (f) and (g) and (6);

(aa) article 19A(1);”;

(b) after paragraph (3) insert—

“(3A) The requirements in article 21(1) and (5) which would apply by virtue of paragraph 17 of Part A of Schedules 6 and 7 to *Xylella* host plants within the meaning of Article 1(b) of Decision (EU) 2015/789(5) do not apply where the plants are being moved by a person acting for purposes outside the person’s trade, business or profession and the person is acquiring them for personal use.”.

#### Article 46 (offences)

7. In article 46(1)(a)(6), after paragraph (v) insert—

“(va) article 19A(1);”.

#### Schedule 3 (relevant material which may not be introduced into England if that material originates in certain third countries)

8. In the table in Schedule 3(7)—

(a) for item 8 substitute—

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“8.	Tubers of species of <i>Solanum</i> L.,	Any third country other than Algeria,
	other than those specified in items 6	Bosnia and Herzegovina, Egypt, Israel,
	and 7	Libya, Morocco, Serbia, Switzerland,
		Syria, Tunisia or Turkey”;

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(b) in item 15, for “plantng” substitute “planting”;

(c) after item 16 insert—

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“17.	Plants, other than seeds or roots, India
	of <i>Colocasia</i> Schott, or plants,
	other than seeds, of <i>Momordica</i>
	L., <i>Solanum melongena</i> L. or
	<i>Trichosanthes</i> L.
18.	Plants, other than seeds, of <i>Capsicum</i> Ghana”.
	L., <i>Lagenaria</i> Ser., <i>Luffa</i> Mill.,
	<i>Momordica</i> L. or <i>Solanum</i> L., other
	than <i>Solanum lycopersicum</i> L.

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#### Schedule 4 (restrictions on the introduction into and movement within England of relevant material)

9.—(1) In the table in Part A of Schedule 4 (relevant material, originating in third countries, which may only be landed if special requirements are complied with)(8)—

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(5) OJ No L 125, 21.5.2015, p. 36, as amended by Commission Implementing Decision (EU) 2015/2417 (OJ No L 333, 19.12.2015, p. 143).

(6) There are amendments to article 46(1)(a), but none is relevant.

(7) Schedule 3 was amended by S.I. 2015/1827, article 9.

(8) Items 98 and 98A of Part A of Schedule 4 were inserted by S.I. 2015/1827, article 10(1)(d); there are other amendments to Part A of Schedule 4, but none is relevant.

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- (a) in the entry in column 3 of item 8, after “*Agrilus planipennis* Fairmaire” insert “for the purposes of point 11.4 of Section I of Annex IV Part A(9)”;
- (b) for item 97 substitute—

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<p>“97. Fruits of <i>Citrus</i> L., other than fruits of <i>Citrus aurantium</i> L., or fruits of <i>Fortunella</i> Swingle or <i>Poncirus</i> Raf., originating in South Africa</p>	<p>The fruits must be accompanied by:</p> <ul style="list-style-type: none"> <li>(a) in the case of fruits of <i>Citrus</i> L., other than fruits of <i>Citrus aurantium</i> L., or fruits of <i>Fortunella</i> Swingle or <i>Poncirus</i> Raf., an official statement that they originate in an area in South Africa which is recognised as being free from <i>Guignardia citricarpa</i> Kiely (all strains pathogenic to Citrus), as referred to in Article 3(2) of <a href="#">Decision 2006/473/EC(10)</a>, and which is mentioned on the phytosanitary certificate or phytosanitary certificate for re-export; or</li> <li>(b) in the case of fruits of <i>Citrus</i> L., other than fruits of <i>Citrus aurantium</i> L. or <i>Citrus latifolia</i> Tanaka, or fruits of <i>Fortunella</i> Swingle or <i>Poncirus</i> Raf., a phytosanitary certificate which includes an official statement under the heading “Additional declaration” in accordance with point 1 of the Annex to <a href="#">Decision 2014/422/EU(11)</a></li> </ul>
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- (c) in the entries in column 2 of items 98 and 98A, for “Article 1(b)” substitute “Article 1(c)”.

(2) In the table in Part B of Schedule 4 (relevant material, from the European Union, which may only be introduced into or moved within England if special requirements are complied with)(12)—

- (a) for item 51 substitute—

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<p>“51. Specified plants within the meaning of Article 1(c) of Decision (EU) 2015/789 which have been grown for at least part of their life in an area established in accordance with Article 4 of that Decision</p>	<p>The plants must be accompanied by an official statement that:</p> <ul style="list-style-type: none"> <li>(a) they have been grown in a site which meets the requirements specified in Article 9(2) of Decision (EU) 2015/789; and</li> <li>(b) they: <ul style="list-style-type: none"> <li>(i) meet the requirements specified in Article 9(3), (4) and (5) of that Decision; or</li> <li>(ii) in the case of dormant plants, other than seeds, of <i>Vitis</i> intended for planting, meet the requirements specified in Article 9(3), (4a) and (5) of that Decision</li> </ul> </li> </ul>
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- (b) after item 53 insert—

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(9) Part A of Annex IV to Council [Directive 2000/29/EC](#) (OJ No L 169, 10.7.2000, p. 1), as last amended by Regulation (EU) No 652/2014 (OJ No L 189, 27.6.2014, p. 1).

(10) OJ No L 187, 8.7.2006, p. 35, as last amended by Commission Implementing Decision (EU) 2015/1175 (OJ No L 189, 17.7.2015, p. 39).

(11) OJ No L 196, 3.7.2014, p. 21.

(12) Item 51 of Part B of Schedule 4 was substituted by [S.I. 2015/1827](#), article 10(2)(b); there are other amendments to Part B of Schedule 4, but none is relevant.

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- “54. Tubers of *Solanum tuberosum* L., including those intended for planting, originating in any area of Spain which is within the European Union, other than those originating in an area established in accordance with Article 5 of [Decision 2012/270/EU\(13\)](#) or the Balearic Islands The tubers must have been washed so that there is no more than 0.1% of soil remaining”.
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**Schedule 6 (prohibitions on the introduction into or movement within England of relevant material without a plant passport)**

**10.** In Part A of Schedule 6 (relevant material which may only be landed or moved within England if accompanied by a plant passport)(**14**), for paragraph 17 substitute—

“**17.** Specified plants within the meaning of Article 1(c) of Decision (EU) 2015/789 which have been grown for at least part of their life in an area established in accordance with Article 4 of that Decision or *Xylella* host plants within the meaning of Article 1(b) of that Decision which have never been grown in such an area.”.

**Schedule 7 (prohibitions on the consignment of relevant material to another part of the European Union without a plant passport)**

**11.** In Part A of Schedule 7 (relevant material which may only be consigned to another part of the European Union if accompanied by a plant passport)(**15**), for paragraph 17 substitute—

“**17.** Specified plants within the meaning of Article 1(c) of Decision (EU) 2015/789 which have been grown for at least part of their life in an area established in accordance with Article 4 of that Decision or *Xylella* host plants within the meaning of Article 1(b) of that Decision which have never been grown in such an area.”.

*Gardiner of Kimble*  
Lords Spokesman

Department for Environment, Food and Rural  
Affairs

1st February 2016

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(13) OJ No L 132, 23.5.2012, p. 18, as amended by Commission Implementing [Decision 2014/679/EU](#) (OJ No L 283, 27.9.2014, p. 61).

(14) Paragraph 17 of Part A of Schedule 6 was substituted by [S.I. 2015/1827](#), article 12(b); there are other amendments to Part A of Schedule 6, but none is relevant.

(15) Paragraph 17 of Part A of Schedule 7 was substituted by [S.I. 2015/1827](#), article 13(b); there are other amendments to Part A of Schedule 6, but none is relevant.

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## EXPLANATORY NOTE

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

This Order amends the Plant Health (England) Order 2015 ([S.I. 2015/610](#)) (“the principal Order”).

Article 5 makes provision requiring a person who lands certain plants intended for planting, which have been grown or are suspected to have been grown in another member State or in Switzerland, to give written notification to an authorised inspector prior to or no later than four days after the date of their landing in England. It replaces article 19(7) of the principal Order and extends to plants of *Prunus* L. intended for planting.

Article 9(2)(b) makes provision to prevent the introduction of *Epitrix* from any area in mainland Spain which is not demarcated under Commission Implementing Decision (EU) 2012/270/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix similaris* (Gentner), *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner) (OJ No L 132, 23.5.2015, p. 18). It amends Part B of Schedule 4 to the principal Order to prohibit the introduction of unwashed tubers of *Solanum tuberosum* L., including those intended for planting, from any such area.

The Order also implements:

- (a) Commission Implementing Decision (EU) 2015/1175 amending [Decision 2006/473/EC](#) as regards the recognition of the magisterial district of Gordonia in South Africa as being free from *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus) (OJ No L 189, 17.7. 2015, p. 39) (article 9(b) of the Order);
- (b) Commission Implementing Decision (EU) 2015/1199 recognising Bosnia and Herzegovina as being free from *Clavibacter michiganensis* ssp. *sepedonicus* (Spieckerman and Kotthof) Davis et al. (OJ No L 194, 22.7.2015, p. 42) (article 8(a) of the Order);
- (c) Commission Implementing Decision (EU) 2015/1849 on measures to prevent the introduction into and the spread within the Union of harmful organisms as regards certain vegetables originating in Ghana (OJ No L 268, 15.10.2015, p. 33) (article 8(c) of the Order);
- (d) Commission Implementing Decision (EU) 2015/2417 amending Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.) (OJ No L 333, 19.12.2015, p. 143) (articles 6(b), 9(1)(c), 9(2)(a), 10 and 11 of the Order); and
- (e) Commission Implementing Decision (EU) 2015/2434 amending Implementing [Decision 2014/237/EU](#) on measures to prevent the introduction into and the spread within the Union of harmful organisms as regards certain fruits and vegetables originating in India (OJ No L 334, 22.12.2015, p. 61) (article 8(c) of the Order).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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