STATUTORY INSTRUMENTS

2018 No. 910

PLANT HEALTH, ENGLAND

The Plant Health (England) (Amendment) (No. 3) Order 2018

Made - - - -	*24th July 2018*
Laid before Parliament	*30th July 2018*
Coming into force - -	*21st August 2018*

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

Citation and commencement

1. This Order may be cited as the Plant Health (England) (Amendment) (No. 3) Order 2018 and comes into force on 21st August 2018.

Amendment of the Plant Health (England) Order 2015

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

3. In article 2(1), after the definition of "official statement" insert—

> "the OPM protected zone" means the area in England which is within the protected zone described in point 16 under heading (a) of Annex 1 to Regulation (EC) No 690/2008(**d**)".

4. In article 21—

(a) in paragraph (2)—

(i) after "within," insert "a protected zone in";

(ii) for "England as a" substitute "that";

(b) in paragraph (4)—

(i) after "within" insert "a protected zone in";

(ii) for "England as a" substitute "that";

(c) omit paragraph (7);

(**a**) 1967 c. 8; section 2 was amended by paragraph 8(2)(a) of Schedule 4 to the European Communities Act 1972 (c. 68), Part 1 of the table in paragraph 12 of Schedule 4 to the Customs and Excise Management Act 1979 (c. 2) and S.I. 1990/2371, 2011/1043. Section 3(1) was amended by paragraph 8(2)(a) and (b) of Schedule 4 to the European Communities Act 1972 and S.I. 2011/1043. The powers conferred by sections 2 and 3(1) 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.

(**b**) 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 S.I. 2002/794.

(**c**) S.I. 2015/610; relevant amending instruments are S.I. 2015/1827, 2017/8, 1220 and 2018/320.

(**d**) OJ No L 193, 22.7.2008, p. 1, as last amended by Commission Implementing Regulation (EU) 2018/791 (OJ No L 136, 1.6.2018, p. 1).

(d) after paragraph (10) insert—

"(11) In paragraphs (2) and (4), "protected zone in England" means any part of a protected zone which is in England.".

5. In Part C of Schedule 1, for the entry in column 2 substitute "the OPM protected zone".

6. In Part C of Schedule 4—

(a) after the heading insert—

"Interpretation of Part C

In this Part, in item 7, "excluded zone" means the area in England which is not within the OPM protected zone.".

(b) after item 6 insert—

"7.	Plants, other than fruit or seeds, of *Quercus* L., other than *Quercus suber*, intended for planting, whose girth at 1.2 m above the root collar is 8 cm or more, other than— —any such plants entering England via a point of entry in the excluded zone which are not in the course of their consignment to the OPM protected zone, or —any such plants originating in the excluded zone which do not move from the excluded zone into the OPM protected zone	The plants must be accompanied by an official statement that: (a) they have been grown throughout their life in places of production in countries in which *Thaumetopoea processionea* L. is not known to occur; (b) they have been grown throughout their life in a protected zone which is recognised as a protected zone for *Thaumetopoea processionea* L. or in an area free from *Thaumetopoea processionea* L., established by the national plant protection organisation in accordance with ISPM No. 4; (c) they have been produced in nurseries which, along with their vicinity, have been found free from *Thaumetopoea processionea* L. on the basis of official inspections carried out as close as practically possible to their movement and official surveys of the nurseries and their vicinity have been carried out at appropriate times since the beginning of the last complete cycle of vegetation to detect larvae and other symptoms of *Thaumetopoea processionea* L.; or (d) they have been grown throughout their life in a site with complete physical protection against the introduction of *Thaumetopoea processionea* L. and have been inspected at appropriate times and found to be free from *Thaumetopoea processionea* L.".

Gardiner of Kimble
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

24th July 2018

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Plant Health (England) Order 2015 (S.I. 2015/610) to introduce emergency measures to prevent the introduction of *Thaumetopoea processionea* L. (the Oak Processionary

Moth) into the area in England which is recognised as a protected zone for this harmful plant pest. In particular, the Order imposes additional requirements on the introduction of certain plants of *Quercus* L. into the protected zone and on their movement within that zone.

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

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