STATUTORY INSTRUMENTS

2015 No. 1827

PLANT HEALTH, ENGLAND

The Plant Health (England) (Amendment) Order 2015

Made - - - -	*22nd October 2015*
Laid before Parliament	*27th October 2015*
Coming into force - -	*20th November 2015*

The Secretary of State makes this Order in exercise of—

(a) the powers conferred by sections 2 and 3(1) and (4) of the Plant Health Act 1967(**a**) and now vested in the Secretary of State(**b**); and

(b) 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(**d**). It appears to the Secretary of State that it is expedient for the references to the European Union instruments mentioned in article 3(a)(ii) to be construed as references to those instruments as amended from time to time.

Title and commencement

1. This Order may be cited as the Plant Health (England) (Amendment) Order 2015 and comes into force on 20th November 2015.

Amendment of the Plant Health (England) Order 2015

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

(**a**) 1967 c.8. Sections 2 and 3(1) were amended by the European Communities Act 1972 (c.68), Schedule 4, paragraph 8 and by S.I. 2011/1043, article 6(1). Section 2(2) was amended by the Customs and Excise Management Act 1979 (c.2), Schedule 4, paragraph 12. Section 2(3) was inserted by S.I. 1990/2371, Schedule 1, paragraph 1. The powers conferred by sections 2 and 3 are conferred on a "competent authority", which is defined in section 1(2). Section 1(2) was amended by article 4(1) of, and paragraph 43 of Schedule 2 to, the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/753). Section 1(2), as amended, defines the competent authority for England and Scotland as regards the protection of forest trees and timber from attack by pests as the Forestry Commissioners and otherwise, for England, as the Secretary of State.

(**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 the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

(**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**) Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(**e**) S.I. 2015/610.

Article 2 (general interpretation)

3. In article 2—

(a) in paragraph (1)—

(i) omit the definition of "Decision 2007/410/EC";

(ii) for the definition of "Decision 2014/497/EU" substitute—

""Decision (EU) 2015/789" means Commission 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.)(**a**);

"Decision (EU) 2015/893" means Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky)(**b**);";

(b) in paragraph (5)—

(i) omit sub-paragraph (e);

(ii) for sub-paragraph (n) substitute—

"(n) Decision (EU) 2015/789;

(o) Decision (EU) 2015/893.".

Article 22 (exceptions from certain prohibitions and requirements)

4. In article 22—

(a) for paragraph (3) substitute—

"(3) The requirements in article 21(1) do not apply to plants intended for planting, other than seeds, which can only grow in water or soil that is permanently saturated with water, which originate in an area established in accordance with Article 5 of Decision 2012/697/EU and which are only being moved within that area.";

(b) for paragraph (5) substitute—

"(5) In paragraph (1), "excluded material" means any of the following material—

(a) plants of *Castanea* Mill. intended for planting;

(b) plants of *Fraxinus* L. intended for planting;

(c) plants, other than seeds, of *Platanus* L. intended for planting.".

Article 28 (conditions for maintaining registration as a plant trader)

5. In article 28—

(a) for the heading, substitute "Conditions for maintaining registration as a plant trader and other trade-related conditions";

(b) after paragraph (2), insert—

"(3) A professional operator who supplies or is supplied with specified plants within the meaning of Article 1(b) of Decision (EU) 2015/789 which have been grown for at least part of their life in, or have been moved through, an area established in accordance with Article 4 of that Decision, must—

(a) keep a record of each lot of the plants supplied by the professional operator and the name of the professional operator to whom the lot was supplied for three years from the date on which it was supplied;

(**a**) OJ No L 125, 21.5.2015, p36.
(**b**) OJ No L 146, 11.6.2015, p16.

(b) keep a record of each lot of the plants received by the professional operator and the name of the professional operator who supplied the lot for three years from the date on which it was received; and

(c) immediately following the dispatch or receipt of any such lot, notify the Secretary of State in writing of the details specified in Article 10(4) of Decision (EU) 2015/789 in respect of that lot.

(4) In paragraph (3), "professional operator" has the meaning given in Article 1(d) of Decision (EU) 2015/789."

Article 42 (notification of the presence or suspected presence of certain plant pests)

6. For paragraph (4) of article 42 substitute—

"(4) If the Secretary of State becomes aware of the presence or suspected presence of *Xylella fastidiosa* (Wells et al.) in any place or area in England, the Secretary of State must ensure that any person having under their control plants which may be infected by *Xylella fastidiosa* (Wells et al.) is immediately informed of—

(a) its presence or suspected presence;

(b) the possible consequences arising from its presence or suspected presence; and

(c) the measures to be taken as a result.".

Article 46 (offences)

7. In paragraph (1)(a)(xi) of article 46, after "article 28(1)", insert "or (3)".

Schedule 1 (plant pests which may not be introduced into or spread within England)

8. In Part A (plant pests not known to occur in any part of the European Union) of Schedule 1, after item 2 under the heading "Bacteria", insert—

"3.	*Xylella fastidiosa* (Wells et al.)".	

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

9. After item 15 of Schedule 3, insert—

"16.	Plants, other than seeds, of *Coffea*, intended for planting	Costa Rica or Honduras".

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

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

(a) omit item 90;

(b) in the third column of item 92, for "Section 1(A)" substitute "Section 1(B)";

(c) in the third column of item 93 for "Section 1(B)" substitute "Section 1(A)";

(d) for item 98 substitute—

"98.	Specified plants within the meaning of Article 1(b) of Decision (EU) 2015/789 originating in any third country where the national plant protection organisation of that country has confirmed that *Xylella fastidiosa* (Wells et al.) is not present in the country in accordance with Article 16(a) of that Decision	The plants must be accompanied by a phytosanitary certificate which includes an official statement under the heading "Additional declaration" in accordance with Article 16(b) of Decision (EU) 2015/789
98A.	Specified plants within the meaning of Article 1(b) of Decision (EU) 2015/789 originating in any third country where *Xylella fastidiosa* (Wells et al.) is known to be present	The plants must be accompanied by a phytosanitary certificate which includes: (a) in the case of plants originating in an area which is free from *Xylella fastidiosa* (Wells et al.) and has been notified to the European Commission by the relevant national plant protection organisation in accordance with Article 17(2)(a) of Decision (EU) 2015/789, the name of the pest-free area under the heading "place of origin"; (b) in the case of plants which originate in an area in which *Xylella fastidiosa* (Wells et al.) is known to be present: (i) an official statement under the heading "Additional declaration" in accordance with Article 17(3) of that Decision; and (ii) the name of the site from which they originate under the heading "place of origin"
98B.	Plants, other than seeds, of *Mangifera* L. originating in India	The plants must be accompanied by a phytosanitary certificate which includes an official statement under the heading "Additional declaration" describing the appropriate measures taken to ensure freedom from harmful organisms
98C.	Specified plants within the meaning of Article 1(a) of Decision (EU) 2015/893 originating in any third country where *Anoplophora glabripennis* (Motschulsky) is known to be present	The plants must be accompanied by a phytosanitary certificate or a phytosanitary certificate for re-export which includes— (a) an official statement under the heading "Additional declaration" that they meet the requirements specified in point (1)(a), (b) or (c) of Section 1(A) of Annex II to Decision (EU) 2015/893; and (b) where point (1)(a) of that Section applies, the name of the relevant pest-free area under the heading "place of origin"".

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

(a) omit item 45;

(b) for item 51 substitute—

"51.	Specified plants within the meaning of Article 1(b) 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	The plants must be accompanied by an official statement that they: (a) have been grown in a site which meets the requirements specified in Article 9(2) of Decision (EU) 2015/789; and (b) meet the requirements specified in Article 9(3) to (5) of that Decision
51A.	Specified plants within the meaning of Article 1(a) of Decision (EU) 2015/893 which originate, or have been introduced into a place of production, in an area established in accordance with Article 7 of that Decision	The plants must be accompanied by an official statement that: (a) in the case of plants which originate in an area established in accordance with Article 7 of Decision (EU) 2015/893, they have been grown during a period of at least two years prior to their movement, or in the case of plants which are younger than two years, throughout their life, in a place of production which meets the requirements specified in point (1)(a) and (b) of Section 2(A) of Annex II to that Decision; and (b) they meet the requirements specified in point (1)(c) of that Section".

Schedule 5 (relevant material from a third country for which a phytosanitary certificate may be required)

11. In Part A (relevant material which may only be landed if accompanied by a phytosanitary certificate) of Schedule 5, after paragraph 13, insert—

"**13A.** Plants, other than seeds, of *Mangifera* L. originating in India.".

Schedule 6 (prohibitions on the introduction into or movement within England of relevant material without a plant passport)

12. In Part A (relevant material which may only be landed or moved within England if accompanied by a plant passport) of Schedule 6—

(a) omit paragraph 11;

(b) for paragraph 17 substitute—

"**17.** Specified plants within the meaning of Article 1(b) 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.

17A. Specified plants within the meaning of Article 1(a) of Decision (EU) 2015/893 which originate in a third country in which *Anoplophora glabripennis* (Motschulsky) is known to be present or which originate, or have been introduced into a place of production, in an area established in accordance with Article 7 of that Decision.".

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

13. In Part A (relevant material which may only be consigned to another part of the European Union if accompanied by a plant passport) of Schedule 7—

(a) omit paragraph 11;

(b) for paragraph 17 substitute—

"**17.** Specified plants within the meaning of Article 1(b) 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.

17A. Specified plants within the meaning of Article 1(a) of Decision (EU) 2015/893 which originate in a third country in which *Anoplophora glabripennis* (Motschulsky) is known to be present or which originate, or have been introduced into a place of production, in an area established in accordance with Article 7 of that Decision.".

George Eustice
Minister of State
22nd October 2015 Department for Environment, Food and Rural Affairs

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") to implement:

(a) Commission Implementing Decision (EU) 2015/237 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 39, 14.2.2015, p21);

(b) Commission Implementing Decision (EU) 2015/749 repealing Decision 2007/410/EC on measures to prevent the introduction into and the spread within the Community of Potato spindle tuber viroid (OJ No L 119, 12.5.2015, p25);

(c) Commission 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 125, 21.5.2015, p36); and

(d) Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky) (OJ No 146, 11.6.2015, p16).

The effect of article 3(b)(ii), which inserts two new EU instruments into the list in article 2(5) of the principal Order, is that references in the principal Order to Commission Implementing Decision (EU) 2015/789 and Commission Implementing Decision (EU) 2015/893 are to be read as references to those Decisions as amended from time to time.

Articles 10(1)(d) and 11 amend the principal Order so as to implement Commission Implementing Decision (EU) 2015/237.

Articles 10(1)(a) and (2)(a), 12(a) and 13(a) amend the principal Order to implement Commission Implementing Decision (EU) 2015/749.

Articles 4 to 9, 10(1)(d) and (2)(b), 12(b) and 13(b) amend the principal Order to implement Commission Implementing Decision (EU) 2015/789.

Articles 10(1)(d) and (2)(b), 12(b) and 13(b) amend the principal Order to implement Commission Implementing Decision (EU) 2015/893.

In addition, the Order makes other minor amendments to the principal Order.

An impact assessment has not been produced for this instrument as no impact on business or the private or voluntary sector is foreseen. The Explanatory Memorandum for this instrument is available alongside this instrument at www.legislation.gov.uk.

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