STATUTORY INSTRUMENTS

2004 No. 1452

PLANT HEALTH, ENGLAND

The Polish Potatoes (Notification) (England) Order 2004

Made - - - -	*27th May 2004*
Laid before Parliament	*27th May 2004*
Coming into force - -	*24th June 2004*

The Secretary of State, in relation to England, in exercise of the powers conferred by sections 2, 3(1), (2) and (4) and 4(1) of the Plant Health Act 1967(**a**) as read with section 20 of the Agricultural (Miscellaneous Provisions) Act 1972(**b**), and now vested in her, makes the following Order:

Title, commencement, extent and application

1.—(1) This Order may be cited as The Polish Potatoes (Notification) (England) Order 2004 and shall come into force on 24th June 2004.

(2) This Order extends to England and Wales but applies only in relation to England.

Interpretation

2. In this Order—

"inspector" means any person authorised to be an inspector for the purposes of the principal Order;

"the principal Order" means the Plant Health (Great Britain) Order 1993(**c**);

"Polish potatoes" means potatoes which were grown in Poland during 2003 or subsequently;

"potato" means any tuber or true seed or any other plant of *Solanum tuberosum* L. or other tuber-forming species or hybrid of the genus *Solanum* L.; and

"seed potato" means any potato intended for planting.

(**a**) 1967 c. 8; sections 2(1) and 3(1) and (2) were amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 8; section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c. 48). Under the Transfer of Functions (Wales) (No.1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State; and under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1, the functions transferred to the Secretary of State by the 1978 Order were transferred to the National Assembly for Wales. Under article 2(1) and (2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), the remaining functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were transferred to the Secretary of State.

(**b**) 1972 c. 62.

(**c**) S.I. 1993/1320; amended by S.I. 1993/3213, 1995/1358 and 2929, 1996/25, 1165 and 3242, 1997/1145 and 2907, 1998/349, 1121 and 2245 and 1999/2126 and 2726, 2001/2343, 2002/1067 and 2003/1157.

Notification of imports

3.—(1) No person shall, in the course of business, import into England potatoes which he knows to be or has reasonable cause to suspect to be Polish potatoes unless he has given written notification to an inspector, at least two days prior to the intended date of introduction into England of the potatoes, of his intention to import the potatoes and of:

(a) the proposed time, date and means of introduction;

(b) the proposed point of entry into England;

(c) the intended use of the potatoes;

(d) in the case of seed potatoes or potatoes intended for processing, the proposed destination of the potatoes;

(e) the variety of the potatoes;

(f) the quantity of potatoes; and

(g) the producer's identification number or the reference number of the lot.

(2) Any person who, after 30th April 2004 and before the coming into force of this Order, imported, in the course of business, Polish potatoes into England shall, so far is as reasonably practicable and no later than 8th July 2004, give written notification to an inspector of—

(a) the date the potatoes were imported;

(b) the point of entry;

(c) the intended use of the potatoes;

(d) in the case of seed potatoes or potatoes intended for processing, the destination or proposed destination of the potatoes;

(e) the variety of the potatoes;

(f) the quantity of potatoes; and

(g) the producer's identification number or the reference number of the lot.

(3) In this article, "processing" means any industrial treatment, including grading, sorting, washing and packing, whether for retail sale or not.

Powers of an inspector

4.—(1) The provisions of this article are without prejudice to the circumstances in which an inspector may by virtue of the principal Order exercise the powers conferred by that Order.

(2) On having reasonable grounds for suspecting a contravention or likely contravention of article 3, an inspector may, for the purpose of this Order, exercise—

(a) the power conferred by article 22(1) of the principal Order as read with article 24(1) to (3) of the principal Order, as if a Polish potato were a plant landed or likely to be landed in contravention of the principal Order; and

(b) the power conferred by article 22(2) of the principal Order as read with article 24(1) to (3) of the principal Order, as if a Polish potato kept on or moved from premises, or likely to be so, were a plant kept on or moved from the premises in contravention of the principal Order.

(3) An inspector may, for the purposes of checking compliance with this Order, exercise the powers conferred by article 25 of the principal Order, as if checking compliance with the principal Order.

(4) Any notice served by virtue of this article shall have effect as if served under article 22(1) or (2) of the principal Order, and articles 24(4) to (6), 26 to 28, 32 and 33(1)(b) and (c) and (6) of the principal Order shall apply accordingly.

(5) Any power conferred by article 25 of the principal Order which is exercised by virtue of this article shall be treated as if that power had been exercised under the principal Order, and the provisions of the principal Order (including article 33(1)(c) and (6)) shall apply accordingly.

Offences

5.—(1) A person shall be guilty of an offence if, without reasonable excuse, proof of which shall lie on him, he contravenes or fails to comply with a requirement of article 3.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

27th May 2004

Ben Bradshaw
Parliamentary Under Secretary of State
Department for Environment,
Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which comes into force on 24th June 2004, places certain notification requirements upon persons importing potatoes from Poland which have been grown during 2003 or later.

Article 3 requires any person importing Polish potatoes into England in the course of business to give at least two days' notice in writing to a Plant Health inspector of the Department for Environment, Food and Rural Affairs, providing specified details as to, among other things, when and where the potatoes are to be introduced into England (article 3(1)). It also requires persons who imported such potatoes into England after 30th April 2004 but before the coming into force of this Order to provide to an inspector, so far as is reasonably practicable, specified information of a similar nature no later than 8th July 2004 (article 3(2)).

Article 4 provides that, for the purpose of checking compliance with or enforcing this Order, an inspector may exercise certain powers conferred by the Plant Health (Great Britain) Order 1993 ("the principal Order").

Article 5 provides that a person shall be guilty of an offence if, without reasonable excuse, he contravenes or fails to comply with a requirement of article 3.

No Regulatory Impact Assessment has been prepared for this Order.

£3.00

© Crown copyright 2004

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.
E0774 6/2004 140774T 19585

ISBN 0-11-049357-5

9 780110 493572