2001 No. 3574

PLANT HEALTH, ENGLAND

The Potatoes Originating in Egypt (Amendment) (England) Regulations 2001

Made - - - - -	*4th November 2001*
Laid before Parliament	*8th November 2001*
Coming into force - -	*30th November 2001*

The Secretary of State, being designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the common agricultural policy of the European Community, acting in exercise of the powers conferred on her by the said section 2(2), hereby makes the following Regulations:

Title, extent and commencement

1. These Regulations may be cited as the Potatoes Originating in Egypt (Amendment) (England) Regulations 2001, shall extend to England and shall come into force on 30th November 2001.

Amendment of the Potatoes Originating in Egypt Regulations 1998

2.—(1) The Potatoes Originating in Egypt Regulations 1998(**c**) shall be amended in their application to England in accordance with paragraphs (2) to (4) below.

(2) For regulation 5 (Powers of an Inspector) there shall be substituted:

"Powers of an Inspector

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

(2) On having reasonable grounds for suspecting a contravention or likely contravention of regulation 3, an inspector may, for the purpose of these Regulations, exercise—

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

(b) the power conferred by article 22(2) of the Order as read with article 24(1) to (3) of the Order, as if a potato originating in Egypt 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 Order.

(**a**) S.I. 1972/1811.
(**b**) 1972 c. 68.
(**c**) S.I. 1998/201, as amended by S.I. 1998/3167, S.I. 2000/22 and 2963

(3) On having reasonable grounds for suspecting a contravention or likely contravention of regulation 4, an inspector may, for the purpose of these Regulations, exercise the power conferred by article 22(2) of the Order as read with article 24(1) to (3) of the Order, as if a potato originating in Egypt processed at any premises in breach of these Regulations were a plant kept on or moved from the premises in contravention of the Order.

(4) An inspector may, for the purposes of checking compliance with these Regulations, exercise the powers conferred by article 25 of the Order, as if checking compliance with the Order.

(5) Any notice served by virtue of this regulation in exercise of a power conferred by article 22(1) or (2) of the Order shall have effect as if served under article 22(1) or (2) of the Order, and articles 24(4) to (6), 26 to 28, 32 and 33(1), (2) and (6) of the Order shall apply accordingly.

(6) Any power conferred by article 25 of the Order which is exercised by virtue of this regulation shall be treated as if that power had been exercised under the Order, and the provisions of the Order (including article 33(1)(a) and (c), (2) and (6) (offences)) shall apply accordingly.".

(3) In paragraph (1) of regulation 5A (Charges in respect of the sampling of imports of potatoes) for "a fee of £35," there shall be substituted "a fee of £37.50,".

(4) In the Schedule, under the column headed *"Instrument",* after "Commission Decision 2000/568/EC", there shall be added "Commission Decision 2001/664/EC"(**a**), and under the column headed *"Reference"*, after "OJ No. L238, 22.9.00, p. 59", there shall be added "OJ No. L233, 31.8.01, p. 49".

Whitty
Parliamentary Under Secretary
4th November 2001 Department for Environment, Food and Rural Affairs

(**a**) OJ No. L233, 31.8.2001, p. 49.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to England, implement Commission Decision 2001/664/EC(**a**) amending Commission Decision 96/301/EC(**b**) ("the Decision") authorising member States temporarily to take emergency measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt. They do so by adding to the list of instruments amending the Decision contained in the Schedule to the Potatoes Originating in Egypt Regulations 1998 (SI 1998/201) ("the Regulations") (regulation 2(4)). *Pseudomonas solanacearum* Smith (Smith) is now referred to as *Ralstonia solanacearum* Smith (Yabuuchi) et al. (see Council Directive 98/57/EC (OJ No. L235, 21.9.1998, p. 1)) albeit that the reference to it in the Decision has not been amended. Decision 2001/664/EC renews the framework within which potatoes may be imported from Egypt into the territory of the European Community during the 2001/2002 season.

These Regulations also clarify the basis on which powers of inspectors under the Plant Health (Great Britain) Order 1993 may be used in respect of the Regulations (regulation 2(2)), and increase the fee payable by importers from whose potatoes samples are taken for testing for the presence of *Ralstonia solanacearum* Smith (Yabuuchi) et al. (regulation 2(3)). The fee increase reflects a rise in laboratory costs and is in line with inflation.

(**a**) OJ No. L233, 31.8.2001, p. 49.
(**b**) Commission Decision 96/301/EC, OJ No. L115, 9.5.1996, p. 47.

STATUTORY INSTRUMENTS

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