STATUTORY INSTRUMENTS

2001 No. 3194

PLANT HEALTH

The Potatoes Originating in Germany (Notification) (England) Order 2001

Made - - - - -	*19th September 2001*
Laid before Parliament	*24th September 2001*
Coming into force - -	*15th October 2001*

The Minister of Agriculture, Fisheries and Food in relation to England, in exercise of the powers conferred on her 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 Agriculture (Miscellaneous Provisions) Act 1972(**b**) hereby makes the following Order:

Title, extent and commencement

1. This Order may be cited as the Potatoes Originating in Germany (Notification) (England) Order 2001, shall extend to England, and shall come into force on 15th October 2001.

Interpretation

2.—(1) 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**);

"German potatoes" has the meaning given to it in article 3(1);

"Germany" means the Federal Republic of Germany;

"originating in Germany" means grown in Germany during the year 2001 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.

(2) A reference in this Order to a numbered article is a reference to the article so numbered in this Order unless otherwise stated.

(**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) and further amended by section 17(1) of the Criminal Justice Act 1991 (c. 53); 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 article 2(a) and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) these functions, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales.

(**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, 1999/2126 and 2726 and 2001/2342.

Notification of imports

3.—(1) No person shall import into England German potatoes, that is to say, any potatoes which he knows or has reasonable cause to suspect to have originated in Germany, 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;

(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 September 2001 and before the coming into force of this Order, imported German potatoes into England shall, no later than 29th October 2001, 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 German 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 German 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(1)(a) to (c) and 25(2) of the principal Order, as if checking compliance with the principal Order.

(4) Any notice served by virtue of this article in exercise of a power conferred by article 22(1) or (2) of the principal Order 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), (2) 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)(a) and (c), (2) and (6) (offences)) shall apply accordingly.

Whitty
Parliamentary Under Secretary,
Department for Environment,
Food and Rural Affairs

19th September 2001

EXPLANATORY NOTE

(This note is not part of the Order)

This Order places certain notification requirements upon persons importing potatoes from Germany which have been grown during 2001 or later. The Order requires importers bringing such potatoes into England on or after 15th October 2001 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, *inter alia,* the landing and intended use of the potatoes (article 3(1)). It also requires importers of German potatoes which arrived in England between 1st October 2001 and the coming into force of the Order on 15th October 2001 to provide to an inspector specified information of a similar nature no later than 29th October 2001 (article 3(2)).

This Order provides that an inspector who has reasonable grounds for suspecting a contravention of its provisions may exercise in respect of German potatoes certain enforcement powers conferred by article 22 of the Plant Health (Great Britain) Order 1993 ("the principal Order") as read with article 24(1) to (3) of that Order (article 4(2)). An inspector acting under this Order may also exercise powers to check compliance (by examining, sampling and marking property and/or premises) which are conferred by article 25, other than article 25(1)(d), of the principal Order (article 4(3)). Any notice served or power exercised under article 4 of this Order, where the power to do so is conferred by the principal Order, has the same effect as if served or exercised under the relevant article of the principal Order (articles 4(4) and (5)) so that once a notice is served or other power exercised, the relevant consequential provisions of the principal Order, including provisions as to offences, take effect.

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