STATUTORY INSTRUMENTS

2017 No. 1220

PLANT HEALTH, ENGLAND

The Plant Health (England) (Amendment) (No. 2) Order 2017

Made - - - -	*4th December 2017*
Laid before Parliament	*8th December 2017*
Coming into force - -	*1st January 2018*

The Secretary of State makes this Order in exercise of—

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

(b) the powers conferred by paragraph 1A of Schedule 2 to the European Communities Act 1972(**3**).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(**4**) and it appears to the Secretary of State that it is expedient for the references to the European Union instrument mentioned in article 3(a)(ii) to be construed as references to that instrument as amended from time to time.

Citation and commencement

1. This Order may be cited as the Plant Health (England) (Amendment) (No. 2) Order 2017 and comes into force on 1st January 2018.

Amendment of the Plant Health (England) Order 2015

2. The Plant Health (England) Order 2015(**5**) is amended as follows.

(**1**) 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.

(**2**) 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).

(**3**) 1972 c. 68; paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51) and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7) and S.I. 2007/1388.

(**4**) 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.

(**5**) S.I. 2015/610, amended by S.I. 2015/1827, 2016/104, 2017/8.

Article 2 (general interpretation)

3. In article 2—

(a) in paragraph (1)—

(i) omit the definition of "Decision 2012/756/EU(**6**)";

(ii) after the definition of "Decision (EU) 2016/715" insert—

"Decision (EU) 2017/198" means Commission Implementing Decision (EU) 2017/198 as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto(**7**);";

(iii) after the definition of "ISPM No. 10" insert—

""ISPM No. 31" means International Standard for Phytosanitary Measures No. 31 of April 2008 on methodologies for sampling consignments, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations(**8**);";

(iv) for the definition of "Seed Potatoes Regulations" substitute—

""Seed Potatoes Regulations" means the Seed Potatoes (England) Regulations 2015(**9**);";

(b) in paragraph (5)—

(i) omit sub-paragraph (l);

(ii) after sub-paragraph (p) insert—

"(q) Decision (EU) 2017/198.".

Article 3 (interpretation of Part 2)

4. In article 3, for the definition of "Customs Code" substitute—

""Customs Code" means Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code(**10**);".

Article 9 (presentation and display of documents)

5. In article 9(5), for "Article 4(16)(a) and (d) to (g)" substitute "Article 5(16)(a) and (b)".

Article 14 (power of an officer for Revenue and Customs)

6. In article 14(1)—

(a) for "if the material, container, package or cargo—" substitute "if the material, container, package or cargo is under customs supervision pursuant to Article 134 of the Customs Code";

(b) omit sub-paragraphs (a) and (b).

(**6**) OJ No L 335, 7.12.2012, p. 49.
(**7**) OJ No L 31, 4.2.2017, p. 29.
(**8**) The latest published version is available from the IPPC Secretariat, Food and Agriculture Organization of the United Nations, AGDI, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at https://www.ippc.int/en/core-activities/standards-setting/ispms/.
(**9**) S.I. 2015/1953.
(**10**) OJ No L 269, 10.10.2013, p. 1, as amended by Regulation (EU) 2016/2339 of the European Parliament and of the Council (OJ No L 354, 23.12.2016, p. 32).

Article 17 (approved places of inspection)

7. In article 17(5)(a), for the words from ", as referred to" to the end substitute "within the meaning of Article 148 of the Customs Code".

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

8.—(1) In Part A of Schedule 1—

(a) under the heading "Insects, mites and nematodes"—

(i) after item 9 insert—

"9A.	*Bactericera cockerelli* (Sulc.)";

(ii) after item 22 insert—

"22A.	*Keiferia lycopersicella* (Walsingham)";

(iii) after item 33 insert—

"33A.	*Saperda candida* Fabricius";

(iv) after item 39 insert—

"39A.	*Thaumatotibia leucotreta* (Meyrick)";

(b) under the heading "Bacteria"—

(i) omit item 3;

(ii) at the end insert—

"4.	*Xanthomonas citri* pv. *aurantifolii*
5.	*Xanthomonas citri* pv. *citri";*

(c) under the heading "Fungi"—

(i) after item 12 insert—

"12A.	*Phyllosticta citricarpa* (McAlpine) Van der Aa";

(ii) in item 13, for "Ell. and Ev." substitute "Ellis & Everhart";

(d) under the heading "Viruses and virus-like organisms"—

(i) omit item 1;

(ii) in item 2, omit "Potato spindle tuber viroid,".

(2) In Part B of Schedule 1—

(a) under the heading "Insects, mites and nematodes", in item 10, for "*Popilia*" substitute "*Popillia*";

(b) under the heading "Bacteria", after item 2 insert—

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

(c) under the heading "Viruses and virus-like organisms", after item 2 insert—

"2A.	*Candidatus* Phytoplasma ulmi".

(3) In Part C of Schedule 1, in the second column of the table—

(a) after "Epsom and Ewell," insert "Guildford,";

(b) for "and West Berkshire" substitute ", West Berkshire and Woking".

Schedule 2 (relevant material which may not be introduced into or moved within England if that material is carrying or infected with plant pests)

9.—(1) In Part A of Schedule 2—

(a) under the heading "Insects, mites and nematodes", in the entry in the third column of item 5, for "*Aonidella*" substitute "*Aonidiella*";

(b) under the heading "Bacteria"—

(i) in the entry in the second column of item 2, for "*mais*" substitute "*mays*";

(ii) omit item 3;

(c) under the heading "Fungi", omit item 11.

(2) In Part B of Schedule 2—

(a) under the heading ""Insects, mites and nematodes"—

(i) after item 9 insert—

"9A.	Plants of *Palmae*, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following genera: *Brahea* Mart., *Butia* Becc., *Chamaerops* L., *Jubaea* Kunth., *Livistona* R. Br., *Phoenix* L., *Sabal* Adans., *Syagrus* Mart., *Trachycarpus* H. Wendl., *Trithrinax* Mart. or *Washingtonia* Raf.	*Paysandisia archon* (Burmeister)*";*

(ii) after item 10 insert—

"10A.	Plants of *Palmae*, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following taxa: *Areca catechu* L., *Arenga pinnata* (Wurmb) Merr., *Bismarckia* Hildebr. & H. Wendl., *Borassus flabellifer* L., *Brahea armata* S. Watson, *Brahea edulis* H. Wendl., *Butia capitata* (Mart.) Becc., *Calamus merrillii* Becc., *Caryota maxima* Blume, *Caryota cumingii* Lodd. Ex Mart., *Chamaerops humilis* L., *Cocos nucifera* L., *Copernicia* Mart., *Corypha* utan Lam., *Elaeis guineenis* Jacq., *Howea forsteriana* Becc., *Jubaea chilensis* (Molina) Baill., *Livistona australis* C. Martius, *Livistona decora* (W. Bull) Dowe, *Livistonia rotundifolia* (Lam.) Mart., *Metroxylon sagu* Rottb., *Phoenix canariensis* Chabaud,	Rhynchophorus ferrugineus *(Olivier)*

	Phoenix dactylifera L., *Phoenix reclinata* Jacq., *Phoenix roebelenii* O'Brien, *Phoenix sylvestris* (L.) Roxb., *Phoenix theophrasti* Greuter, *Pritchardia* Seem. & H. Wendl., *Ravenea rivularis* Jum. & H. Perrier, *Roystonea regia* (Kunth) O.F. Cook, *Sabal palmetto* (Walter) Lodd. ex Schult. & Schult. f., *Syagrus roman-zoffiana* (Cham.) Glassman, *Trachycarpus fortunei* (Hook.) H. Wendl. or *Washingtonia* Raf.	
10B.	Plants, other than fruit or seeds, of *Pinus* L., intended for planting	*Thaumetopoea pityocampa* Denis & Schiffermüller";

(iii) omit item 13;

(b) under the heading "Bacteria", in the entry in the third column of item 8, for "*Xanthomonas campestris* pv. *pruni* (Smith) Dye" substitute "*Xanthomonas arboricola* pv. *pruni* (Smith) Vauterin *et al.*";

(c) under the heading "Viruses and virus-like organisms"—

(i) after item 2 insert—

"2A.	Plants, other than seeds, of *Ulmus* L., intended for planting	*Candidatus* Phytoplasma ulmi";

(ii) after item 7 insert—

"7A.	Plants of *Solanum lycopersicum* L., *Capsicum annuum* L. or *Capsicum frutescens* L., intended for planting, or plants of *Solanum tuberosum* L.	Potato spindle tuber viroid".

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

10. In Schedule 3, omit item 17.

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

11.—(1) In Part A of Schedule 4—

(a) in the entry in the third column of item 13, for "Elm phlöem necrosis mycoplasm" substitute "*Candidatus* Phytoplasma ulmi";

(b) after item 13 insert—

"13A.	Plants, other than scions, cuttings, plants in tissue culture, pollen or seeds, of *Amelanchier* Medik., *Aronia* Medik., *Cotoneaster* Medik., *Crataegus* L., *Cydonia* Mill., *Malus* Mill., *Prunus* L., *Pyracantha* M. Roem., *Pyrus* L. or	The plants must be accompanied by an official statement that: (a) they have been grown throughout their life in an area free from *Saperda candida* Fabricius, established by the national plant protection organisation in the country of origin in accordance with ISPM No. 4, and which is mentioned