Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Plant Health (England) (Amendment) Order 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2016 No. 104

PLANT HEALTH, ENGLAND

The Plant Health (England) (Amendment) Order 2016

Made - - - -	*1st February 2016*
Laid before Parliament	*3rd February 2016*
Coming into force - -	*24th February 2016*

The Secretary of State makes this Order in exercise of the powers conferred by sections 2 and 3(1) and (4) of the Plant Health Act 1967(**1**) and now vested in the Secretary of State(**2**).

Citation and commencement

1. This Order may be cited as the Plant Health (England) (Amendment) Order 2016 and comes into force on 24th February 2016.

Amendment of the Plant Health (England) Order 2015

2. The Plant Health (England) Order 2015(**3**) is amended as follows.

Article 15 (general provisions relating to certificates)

3. In article 15(1), omit sub-paragraph (a).

Article 19 (prohibitions on the introduction of plant pests and relevant material from the European Union)

4. For paragraphs (6) to (9) of article 19 substitute—

(**1**) 1967 c.8; section 2 was amended by the European Communities Act 1972 (c.68), Schedule 4, paragraph 8(2)(a), the Customs and Excise Management Act 1979 (c.2), Schedule 4, paragraph 12 and S.I. 1990/2371, 2011/1043. Section 3(1) was amended by the European Communities Act 1972 (c.68), Schedule 4, paragraph 8(2)(a) and (b) and S.I. 2011/1043. Section 3(4) was substituted by the Criminal Justice Act 1982 (c.48), section 42 and amended by the Statute Law (Repeals) Act 1993 (c.50). The powers conferred by sections 2 and 3 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**) S.I. 2015/610, amended by S.I. 2015/1827.

"(6) No person may bring any of the following potatoes into England unless written notification of the matters referred to in paragraph (7) is provided to an inspector at least two days prior to the intended date of their arrival—

(a) seed potatoes grown or suspected to have been grown in another member State or in Switzerland; or

(b) potatoes, other than seed potatoes, grown or suspected to have been grown in Poland, Portugal, Romania or any part of Spain which is within the European Union.

(7) The matters are—

(a) the intended time and date of their arrival;

(b) their intended use;

(c) their intended destination;

(d) their variety and quantity; and

(e) the identification number of the producer of the potatoes.

(8) Paragraphs (1)(e), (f) and (g) and (6) are subject to article 22.".

Article 19A

5. After article 19 insert—

"**Notification of the landing of certain plants for planting**

19A.—(1) A person who brings the following plants into England must notify an inspector in writing of the matters referred to in paragraph (2) prior to or no later than four days after the date of their arrival in England—

(a) plants of *Castanea* Mill., *Fraxinus* L., *Pinus* L., *Platanus* L., *Prunus* L., *Quercus* L. or *Ulmus* L., intended for planting, which have been grown or are suspected to have been grown in another member State; or

(b) plants of *Castanea* Mill., *Fraxinus* L., *Pinus* L., *Platanus* L., *Prunus* L., *Quercus* L. or *Ulmus* L., intended for planting, which have been grown or are suspected to have been grown in Switzerland and to which the requirements of article 6 do not apply.

(2) The matters are—

(a) the intended date of their arrival or, if they have arrived in England, the date on which they first arrived in England;

(b) their intended destination, or if they have arrived at their intended destination in England, their current location;

(c) their genus and species;

(d) the identification number of the supplier of the plants; and

(e) the country from which they have been, or are to be, consigned.

(3) Paragraph (1) is subject to article 22.".

Article 22 (exceptions from certain prohibitions and requirements)

6. In article 22(**4**)—

(**4**) Article 22(3) and (5) was amended by S.I. 2015/1827, article 4.

(a) for sub-paragraph (a) of paragraph (1) substitute—

"(a) article 19(1)(e), (f) and (g) and (6);

(aa) article 19A(1);";

(b) after paragraph (3) insert—

"(3A) The requirements in article 21(1) and (5) which would apply by virtue of paragraph 17 of Part A of Schedules 6 and 7 to *Xylella* host plants within the meaning of Article 1(b) of Decision (EU) 2015/789(**5**) do not apply where the plants are being moved by a person acting for purposes outside the person's trade, business or profession and the person is acquiring them for personal use.".

Article 46 (offences)

7. In article 46(1)(a)(**6**), after paragraph (v) insert—

"(va) article 19A(1);".

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

8. In the table in Schedule 3(**7**)—

(a) for item 8 substitute—

"8.	Tubers of species of *Solanum* L., other than those specified in items 6 and 7	Any third country other than Algeria, Bosnia and Herzegovina, Egypt, Israel, Libya, Morocco, Serbia, Switzerland, Syria, Tunisia or Turkey";

(b) in item 15, for "plantng" substitute "planting";

(c) after item 16 insert—

"17.	Plants, other than seeds or roots, of *Colocasia* Schott, or plants, other than seeds, of *Momordica* L., *Solanum melongena* L. or *Trichosanthes* L.	India
18.	Plants, other than seeds, of *Capsicum* L., *Lagenaria* Ser., *Luffa* Mill., *Momordica* L. or *Solanum* L., other than *Solanum lycopersicum* L.	Ghana".

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

9.—(1) In the table in Part A of Schedule 4 (relevant material, originating in third countries, which may only be landed if special requirements are complied with)(**8**)—

(**5**) OJ No L 125, 21.5.2015, p. 36, as amended by Commission Implementing Decision (EU) 2015/2417 (OJ No L 333, 19.12.2015, p. 143).
(**6**) There are amendments to article 46(1)(a), but none is relevant.
(**7**) Schedule 3 was amended by S.I. 2015/1827, article 9.
(**8**) Items 98 and 98A of Part A of Schedule 4 were inserted by S.I. 2015/1827, article 10(1)(d); there are other amendments to Part A of Schedule 4, but none is relevant.