STATUTORY INSTRUMENTS

2015 No. 1827

PLANT HEALTH, ENGLAND

The Plant Health (England) (Amendment) Order 2015

Made - - - -	*22nd October 2015*
Laid before Parliament	*27th October 2015*
Coming into force - -	*20th November 2015*

The Secretary of State makes this Order in exercise of—

(a) 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**); 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**). It appears to the Secretary of State that it is expedient for the references to the European Union instruments mentioned in article 3(a)(ii) to be construed as references to those instruments as amended from time to time.

Title and commencement

1. This Order may be cited as the Plant Health (England) (Amendment) Order 2015 and comes into force on 20th November 2015.

Amendment of the Plant Health (England) Order 2015

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

(**1**) 1967 c.8. Sections 2 and 3(1) were amended by the European Communities Act 1972 (c.68), Schedule 4, paragraph 8 and by S.I. 2011/1043, article 6(1). Section 2(2) was amended by the Customs and Excise Management Act 1979 (c.2), Schedule 4, paragraph 12. Section 2(3) was inserted by S.I. 1990/2371, Schedule 1, paragraph 1. The powers conferred by sections 2 and 3 are conferred on a "competent authority", which is defined in section 1(2). Section 1(2) was amended by article 4(1) of, and paragraph 43 of Schedule 2 to, the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/753). Section 1(2), as amended, defines the competent authority for England and Scotland as regards the protection of forest trees and timber from attack by pests as the Forestry Commissioners and otherwise, for England, as the Secretary of State.

(**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).

(**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 (c.7).

(**5**) S.I. 2015/610.

Article 2 (general interpretation)

3. In article 2—

(a) in paragraph (1)—

(i) omit the definition of "Decision 2007/410/EC";

(ii) for the definition of "Decision 2014/497/EU" substitute—

""Decision (EU) 2015/789" means Commission Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.)(**6**);

"Decision (EU) 2015/893" means Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky)(**7**);";

(b) in paragraph (5)—

(i) omit sub-paragraph (e);

(ii) for sub-paragraph (n) substitute—

"(n) Decision (EU) 2015/789;

(o) Decision (EU) 2015/893.".

Article 22 (exceptions from certain prohibitions and requirements)

4. In article 22—

(a) for paragraph (3) substitute—

"(3) The requirements in article 21(1) do not apply to plants intended for planting, other than seeds, which can only grow in water or soil that is permanently saturated with water, which originate in an area established in accordance with Article 5 of Decision 2012/697/EU and which are only being moved within that area.";

(b) for paragraph (5) substitute—

"(5) In paragraph (1), "excluded material" means any of the following material—

(a) plants of *Castanea* Mill. intended for planting;

(b) plants of *Fraxinus* L. intended for planting;

(c) plants, other than seeds, of *Platanus* L. intended for planting.".

Article 28 (conditions for maintaining registration as a plant trader)

5. In article 28—

(a) for the heading, substitute "Conditions for maintaining registration as a plant trader and other trade-related conditions";

(b) after paragraph (2), insert—

"(3) A professional operator who supplies or is supplied with specified plants within the meaning of Article 1(b) of Decision (EU) 2015/789 which have been grown for at least part of their life in, or have been moved through, an area established in accordance with Article 4 of that Decision, must—

(**6**) OJ No L 125, 21.5.2015, p36.
(**7**) OJ No L 146, 11.6.2015, p16.

(a) keep a record of each lot of the plants supplied by the professional operator and the name of the professional operator to whom the lot was supplied for three years from the date on which it was supplied;

(b) keep a record of each lot of the plants received by the professional operator and the name of the professional operator who supplied the lot for three years from the date on which it was received; and

(c) immediately following the dispatch or receipt of any such lot, notify the Secretary of State in writing of the details specified in Article 10(4) of Decision (EU) 2015/789 in respect of that lot.

(4) In paragraph (3), "professional operator" has the meaning given in Article 1(d) of Decision (EU) 2015/789."

Article 42 (notification of the presence or suspected presence of certain plant pests)

6. For paragraph (4) of article 42 substitute—

"(4) If the Secretary of State becomes aware of the presence or suspected presence of *Xylella fastidiosa* (Wells et al.) in any place or area in England, the Secretary of State must ensure that any person having under their control plants which may be infected by *Xylella fastidiosa* (Wells et al.) is immediately informed of—

(a) its presence or suspected presence;

(b) the possible consequences arising from its presence or suspected presence; and

(c) the measures to be taken as a result.".

Article 46 (offences)

7. In paragraph (1)(a)(xi) of article 46, after "article 28(1)", insert "or (3)".

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

8. In Part A (plant pests not known to occur in any part of the European Union) of Schedule 1, after item 2 under the heading "Bacteria", insert—

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

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

9. After item 15 of Schedule 3, insert—

"16.	Plants, other than seeds, of *Coffea*, intended for planting	Costa Rica or Honduras".

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

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

(a) omit item 90;

(b) in the third column of item 92, for "Section 1(A)" substitute "Section 1(B)";