The Plant Health (England) (Amendment) Order 2018

Made - - - - 23rd January 2018
Laid before Parliament 24th January 2018
Coming into force
for the purpose specified in article 1(2) 1st March 2018
for all other purposes 14th February 2018

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

Citation and commencement

1.—(1) This Order may be cited as the Plant Health (England) (Amendment) Order 2018.
(2) Article 6(a), insofar as it inserts paragraph (b) of the third column of item 50A into Part B of Schedule 4 to the Plant Health (England) Order 2015(c), comes into force on 1st March 2018.
(3) The remaining provisions come into force on 14th February 2018.

Amendment of the Plant Health (England) Order 2015

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

3. In article 22(3A)—
(a) for “paragraph 17” substitute “paragraphs 16A and 17”;
(b) after “Article 1(b) of Decision (EU) 2015/789(d)” insert “and to pre-basic mother plants and pre-basic material referred to in Article 9(9) of that Decision”.

4. In article 28—
(a) in paragraph (3), for the words from “with specified plants” to “Article 4 of that Decision,” substitute “Xylella specified plants”;

(a) 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.
(b) 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 S.I. 2002/794.
(b) for paragraph (4) substitute—

“(4) In paragraph (3)—

(a) “professional operator” has the meaning given in Article 1(d) of Decision (EU) 2015/789;

(b) “Xylella specified plants” means—

(i) 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;

(ii) plants, other than seeds, intended for planting, of *Coffea*, *Lavandula dentata* L., *Nerium oleander* L., *Olea europaea* L., *Polygala myrtifolia* L. or *Prunus dulcis* (Mill.) D.A. Webb which have never been grown in an area established in accordance with Article 4 of Decision (EU) 2015/789.”.

5. In Part A of Schedule 4, in the third column of item 98, for paragraph (b) substitute—

“(b) be accompanied by a phytosanitary certificate which includes an official statement under the heading “Additional declaration”: 

(i) in accordance with Article 16(b) of that Decision; or

(ii) in the case of plants, other than seeds, intended for planting, of *Coffea*, *Lavandula dentata* L., *Nerium oleander* L., *Olea europaea* L., *Polygala myrtifolia* L. or *Prunus dulcis* (Mill.) D.A. Webb, in accordance with Article 16(b) and the second subparagraph of Article 16 of that Decision”.

6. In Part B of Schedule 4—

(a) after item 50 insert—

“50A. Host plants within the meaning of Article 1(b) of Decision (EU) 2015/789 which have never been grown in an area established in accordance with Article 4 of that Decision

The plants must be accompanied by an official statement that:

(a) they meet the requirements specified in Article 9(8)(a) of Decision (EU) 2015/789; or

(b) in the case of plants, other than seeds, intended for planting, of *Coffea*, *Lavandula dentata* L., *Nerium oleander* L., *Olea europaea* L., *Polygala myrtifolia* L. or *Prunus dulcis* (Mill.) D.A. Webb, they meet the requirements specified in the second subparagraph of Article 9(8) of that Decision

50B. Pre-basic mother plants as defined in Article 1(3) of Commission ImplementingDirective

The plants must be accompanied by an official statement that they meet the requirements specified in Article 9(9)(a)
2014/98/EU(a) or pre-basic material as defined in Article 2(5) of Council Directive 2008/90/EC(b) which:


— have been grown outside an area established in accordance with Article 4 of Decision (EU) 2015/789, and

— have spent at least part of their life outside insect proof facilities

(b) in the second column of item 51, after “Decision (EU) 2015/789” insert “, other than those belonging to the varieties specified in Annex III to that Decision,”.


“16A. Pre-basic mother plants as defined in Article 1(3) of Commission Implementing Directive 2014/98/EU or pre-basic material as defined in Article 2(5) of Council Directive 2008/90/EC which—


(b) have been grown outside an area established in accordance with Article 4 of Decision (EU) 2015/789; and

(c) have spent at least part of their life outside insect proof facilities.”.

Gardiner of Kimble
Parliamentary Under Secretary of State
23rd January 2018
Department of Environment, Food and Rural Affairs

EXPLANATORY NOTE
(This note is not part of the Order)


An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

