
STATUTORY INSTRUMENTS

2012 No. 697

PLANT HEALTH, ENGLAND

**The Plant Health (Miscellaneous
Amendments) (England) Regulations 2012**

<i>Made</i>	- - - -	<i>3rd March 2012</i>
<i>Laid before Parliament</i>		<i>9th March 2012</i>
<i>Coming into force</i>	- -	<i>1st April 2012</i>

The Secretary of State is a Minister designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to the common agricultural policy of the European Union, and makes these Regulations in exercise of the powers conferred by that section.

Title, commencement and interpretation

1.—(1) These Regulations may be cited as the Plant Health (Miscellaneous Amendments) (England) Regulations 2012 and come into force on 1st April 2012.

(2) In these Regulations, “the PHO” means the Plant Health (England) Order 2005(3).

Amendment of the Potatoes Originating in Egypt (England) Regulations 2004

2.—(1) The Potatoes Originating in Egypt (England) Regulations 2004(4) are amended as follows.

(2) In regulation 2 (interpretation), for the definition of “the Decision” substitute—

““the Decision” means Commission Implementing Decision 2011/787/EU authorising member States temporarily to take emergency measures against the dissemination of *Ralstonia solanacearum* (Smith) Yabuuchi et al. as regards Egypt(5);”.

(3) In paragraph (1) of regulation 3 (imports of potatoes originating in Egypt), for “paragraph 1(b)(xi)” substitute “paragraph 2.2(c)”.

(4) In regulation 6 (charges in respect of the sampling of imports of potatoes), for “paragraph 3” substitute “paragraph 5”.

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- (1) [S.I. 1972/1811](#). The function of the former Minister of Agriculture of making regulations under section 2(2) of the European Communities Act 1972 was transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 ([S.I. 2002/794](#)).
- (2) [1972 c.68](#); section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 ([c.51](#)), section 27(1)(a), and the European Union (Amendment) Act 2008 ([c.7](#)), Part 1 of the Schedule.
- (3) [S.I. 2005/2530](#); relevant amendments were made by [S.I. 2006/2307](#), [2008/2411](#) and [2010/1510](#).
- (4) [S.I. 2004/1165](#).
- (5) OJ No L 319, 2.12.2011, p.112.

Amendment of the PHO: information gateway

3.—(1) After article 44 of the PHO, insert—

“Power to share information for the purposes of the Order

44A.—(1) The Commissioners for Her Majesty’s Revenue and Customs may disclose any information in their possession to the Secretary of State for the purposes of this Order.

(2) Paragraph (1) is without prejudice to any other power of the Commissioners to disclose information.

(3) No person, including a servant of the Crown, may disclose any information received from the Commissioners under paragraph (1) if—

- (a) the information relates to a person whose identity is specified in the disclosure or can be deduced from the disclosure;
- (b) the disclosure is for a purpose other than specified in paragraph (1); and
- (c) the Commissioners have not given their prior consent to the disclosure.”.

(2) In article 45 of the PHO (offences)—

(a) in paragraph (1)(a)—

- (i) at the end of paragraph (xiv) omit “or”, and
- (ii) after that paragraph insert—

“(xiva) article 44A(3); or”; and

(b) after paragraph (4) insert—

“(4A) It is a defence for a person charged with an offence under paragraph (1)(a) (xiva) to prove that the person reasonably believed—

- (a) that the disclosure was lawful; or
- (b) that the information had already and lawfully been made available to the public.”.

(3) For article 46 of the PHO substitute—

“Penalties

46.—(1) Except as provided by paragraph (2), a person guilty of an offence under this Order is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person guilty of an offence under article 45(1)(a)(xiva) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding three months, to a fine not exceeding the statutory maximum or to both.”.

Amendment of the PHO: Switzerland

4.—(1) Schedule 8(6) (Swiss plant passports) to the PHO is amended as follows.

(2) In Part A—

(a) for paragraph 1 substitute—

“1. Plants, other than seeds, of *Beta vulgaris* L., *Camellia* sp., *Humulus lupulus* L., *Viburnum* spp., *Prunus* L. not including *Prunus laurocerasus* L. or *Prunus lusitanica* L., and *Rhododendron* spp. not including *Rhododendron simsii* Planch, intended for planting.”; and

(b) in paragraph 5, after sub-paragraph (e) insert—

“(ea) plants of *Palmae*, intended for planting and having a diameter of the stem at the base of over 5 cm and belonging to the following genera or species: *Areca catechu* L., *Arenga pinnata* (Wurmb) Merr., *Borassus flabellifer* L., *Brahea* Mart., *Butia* Becc., *Calamus merrillii* Becc., *Caryota maxima* Blume ex Mart., *Caryota cumingii* Lodd. ex Mart., *Chamaerops* L., *Cocos nucifera* L., *Corypha elata* Roxb., *Corypha gebang* Mart., *Elaeis guineensis* Jacq., *Jubaea* Kunth., *Livistona* R. Br., *Metroxylon sagu* Rottb., *Oreodoxa regia* Kunth., *Phoenix* L., *Sabal* Adans., *Syagrus* Mart., *Trachycarpus* H. Wendl., *Trithrinax* Mart., *Washingtonia* Raf.; or”.

(3) In Part B—

(a) for paragraph 1 substitute—

“1. Plants, other than seeds, intended for planting, other than *Clausena* Burm. f. and *Murraya* Koenig ex L.”; and

(b) in paragraph 5(c), for “*Quercus* L. or *Solidago* L.” substitute “*Quercus* L., *Rhododendron* spp., not including *Rhododendron simsii* Planch, *Solidago* L. or *Viburnum* spp.”.

Taylor of Holbeach
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

3rd March 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to plant health legislation applying in England.

Regulation 2 amends the Potatoes Originating in Egypt (England) Regulations 2004 ([S.I. 2004/1165](#)) to enforce Commission Implementing Decision 2011/787/EU (OJ No L 319, 2.12.2011, p.112), which concerns emergency measures which may be taken against the dissemination of *Ralstonia solanacearum* (Smith) Yabuuchi et al. as regards potatoes originating in Egypt.

Regulation 3 provides for an information gateway between HMRC and the Secretary of State for the purposes of the Plant Health (England) Order 2005 ([S.I. 2005/2530](#)) and for an offence in relation to wrongful disclosure of information.

Regulation 4 makes amendments to the Plant Health (England) Order 2005 to enforce Decision 1/2010 of the Joint Committee on Agriculture (2011/83/EU) (OJ No L 32, 8.2.2011, p.9), which relates to plant health controls on trade in plant material with Switzerland.

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