

2013 No. 2687

PLANT HEALTH, ENGLAND

The Plant Health (England) (Amendment) (No.3) Order 2013

Made - - - - *21st October 2013*

Laid before Parliament *21st October 2013*

Coming into force - - *11th November 2013*

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(a) and now vested in the Secretary of State(b); and
- (b) the powers conferred by paragraph 1A of Schedule 2 to the European Communities Act 1972(c).

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

Title and commencement

1. This Order may be cited as the Plant Health (England) (Amendment) (No.3) Order 2013 and comes into force on 11th November 2013.

Amendment of the Plant Health (England) Order 2005

2. The Plant Health (England) Order 2005(d) is amended as follows.

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- (a) 1967 c.8. Sections 2 and 3(1) were amended by the European Communities Act 1972 (c.68), Schedule 4, paragraph 8 and 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), 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.
 - (b) The functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were, so far as exercisable in relation to Wales, transferred to the Secretary of State by article 2 of, and Schedule 1 to, the Transfer of Functions (Wales) (No.1) Order 1978 (S.I. 1978/272). Those functions were transferred from the Secretary of State to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32). The remaining functions of the Minister of Agriculture, Fisheries and Food 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).
 - (c) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).
 - (d) S.I. 2005/2530; relevant amending instruments are S.I. 2006/2307, 2011/1043, 2012/2922, 2013/23, 1477.

Amendment of article 2 (general interpretation)

3. In article 2(1)(a)—

- (a) for the definition of “Decision 2006/473/EC”, substitute—

““Decision 2006/473/EC” means Commission Decision 2006/473/EC recognising certain third countries and certain areas of third countries as being free from *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus)(b), as amended from time to time;”;

- (b) after the definition of “official body of point of entry”, insert—

““official documentation” means documentation issued by or with the authority of the responsible official body of the member State in which the documentation is issued;”.

Amendment of article 8 (exceptions from certain prohibitions and requirements)

4. In article 8(2)(c)—

- (a) in sub-paragraph (a)(iii), for “or seeds of *Fraxinus* L.”, substitute “, *Castanea* Mill. or *Fraxinus* L.”;
- (b) in sub-paragraph (b)(ii), for “plants of *Fraxinus* L. intended for planting”, substitute “plants of *Castanea* Mill., *Fraxinus* L. or *Platanus* L. intended for planting”.

Amendment of article 19 (prohibitions on landing plant pests and relevant material)

5. In article 19(6)(d)—

- (a) in sub-paragraph (a), after “*Fraxinus* L.”, insert “*Pinus* L.”;
- (b) in sub-paragraph (b), after “*Castanea* Mill.”, insert “*Pinus* L.”.

Amendment of article 21 (requirements for plant passports)

6. After article 21(7), insert—

“(8) Subject to article 22(1), no person shall move within England or consign from England to another part of the European Union any relevant material of the following description unless it is accompanied by the appropriate documentation—

- (a) plants of *Castanea* Mill. intended for planting; or
- (b) plants, other than seeds, of *Platanus* L. intended for planting.

- (9) In paragraph (8), “appropriate documentation” means—

- (a) in the case of plants of *Castanea* Mill. intended for planting, official documentation confirming that they have been grown throughout their life in a place of production in a country in which *Cryphonectria parasitica* (Murrill) Barr is known not to occur or an area established and maintained as an area free from *Cryphonectria parasitica* (Murrill) Barr in accordance with ISPM No. 4;
- (b) in the case of plants, other than seeds, of *Platanus* L. intended for planting, official documentation confirming that they have been grown throughout their life in a place of production in a country in which *Ceratocystis fimbriata* f. spp. *platani* Walter is known not to occur or an area established and maintained as an area free from *Ceratocystis fimbriata* f. spp. *platani* Walter in accordance with ISPM No. 4.”.

(a) The definition of “Decision 2006/473/EC” was inserted by S.I. 2006/2307, article 2(2)(a). There are other amendments to article 2(1), but none is relevant.

(b) OJ No L 187, 8.7.2006, p.35.

(c) Article 8(2) was amended by S.I. 2012/2922, article 2(3).

(d) Article 19(6) was inserted by S.I. 2013/23, article 2(3).

Amendment of article 22 (exceptions from certain prohibitions and requirements)

7. For article 22(1)(a), substitute—

“(1) The following prohibitions and requirements shall not apply to small quantities of the following relevant material where it meets the conditions in paragraph (1A)—

- (a) in the case of relevant material, other than plants of *Castanea* Mill., *Fraxinus* L. or *Platanus* L. intended for planting—
 - (i) the prohibitions on landing in article 19(1)(e), (f) and (g), (4) and (7);
 - (ii) the prohibitions on movement in article 20(1)(e) and (f); and
 - (iii) the requirements in article 21(1), (2), (5) and (6);
- (b) in the case of plants of *Castanea* Mill. intended for planting—
 - (i) the prohibitions on landing in article 19(1)(e), other than the prohibition on the landing of plants of *Castanea* Mill. intended for planting unless the requirements in column 3 of item 6 of Part A of Schedule 4 have been complied with;
 - (ii) the prohibitions on landing in article 19(1)(f), other than the prohibition on the landing of plants of *Castanea* Mill. intended for planting unless the requirements in column 3 of item 4 of Part B of Schedule 4 have been complied with; and
 - (iii) the requirements in article 21(1) and (5);
- (c) in the case of plants of *Castanea* Mill. intended for planting which originate in Great Britain and have remained in Great Britain throughout their life—
 - (i) the prohibitions on movement under article 20(1)(e); and
 - (ii) the requirement in article 21(8)(a);
- (d) in the case of plants of *Castanea* Mill. intended for planting which originate in Great Britain, but have not remained in Great Britain throughout their life, the prohibitions on movement under article 20(1)(e), other than the prohibition on the movement of plants of *Castanea* Mill. intended for planting unless the requirements in column 3 of item 4 of Part B of Schedule 4 have been complied with;
- (e) in the case of plants of *Platanus* L. intended for planting—
 - (i) the prohibitions on landing in article 19(1)(e), other than the prohibition on the landing of plants, other than seeds, of *Platanus* L. intended for planting unless the requirements in column 3 of item 8 of Part A of Schedule 4 have been complied with;
 - (ii) the prohibitions on landing in article 19(1)(f), other than the prohibition on the landing of plants, other than seeds, of *Platanus* L. intended for planting unless the requirements in column 3 of item 5 of Part B of Schedule 4 have been complied with; and
 - (iii) the requirements in article 21(1) and (5);
- (f) in the case of plants of *Platanus* L. intended for planting which originate in Great Britain and have remained in Great Britain throughout their life—
 - (i) the prohibitions on movement under article 20(1)(e); and
 - (ii) the requirement in article 21(8)(b); or
- (g) in the case of plants of *Platanus* L. intended for planting which originate in Great Britain but have not remained in Great Britain throughout their life, the prohibitions on movement under article 20(1)(e), other than the prohibition on the movement of plants, other than seeds, of *Platanus* L. intended for planting unless

(a) Article 22(1) was amended by S.I. 2012/2922, article 2(4) and S.I. 2013/23, article 2(4).

the requirements in column 3 of item 5 of Part B of Schedule 4 have been complied with.

(1A) The conditions are that the relevant material—

- (a) does not show any signs of the presence of a plant pest;
- (b) is not intended for use in the course of a trade or business; and
- (c) is intended for household use.”.

Amendment of article 24 (general provisions relating to plant passports)

8. In article 24(5)(a), after “plant passport”, insert “or the official documentation”.

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

9. In Part B (plant pests known to occur in the European Union) of Schedule 2(b), for item 3 under the heading “Fungi”, substitute—

- “3. Plants of *Castanea* Mill. intended for planting or plants, other than seeds, of *Quercus* L. intended for planting *Cryphonectria parasitica* (Murrill) Barr”.

Amendment of Schedule 4 (restrictions on the landing in and movement within England of relevant material)

10.—(1) In Part A (relevant material, from third countries, which may only be landed in England if special requirements are satisfied) of Schedule 4(c)—

(a) for item 6, substitute—

- “6. Plants of *Castanea* Mill. intended for planting, which originate in any third country Without prejudice to the requirements in items 5, 6B, 60, 61 and 64, the plants shall be accompanied by a phytosanitary certificate or a phytosanitary certificate for re-export which includes under the heading “Additional declaration” an official statement that they have been grown throughout their life in:
- (a) a place of production in a country in which *Cryphonectria parasitica* (Murrill) Barr is known not to occur; or
 - (b) an area established and maintained as an area free from *Cryphonectria parasitica* (Murrill) Barr in accordance with ISPM No. 4
- 6A. Plants, other than seeds, of *Quercus* L. intended for planting, which originate in any third country Without prejudice to the requirements in items 4, 5, 60, 61 and 64, the plants shall be accompanied by an official statement that:
- (a) they originate in an area known to

(a) Article 24(5) was inserted by S.I. 2006/2307, article 2(6).

(b) Part B of Schedule 2 was amended by S.I. 2011/1043, article 4(1). There are other amendments to Part B of Schedule 2, but none is relevant.

(c) Item 6a was inserted by S.I. 2006/2307, article 2(15)(b). Item 16 was amended by S.I. 2006/2307, article 2(15)(f). There are other amendments to Part A of Schedule 4, but none is relevant.

be free from *Cryphonectria parasitica* (Murrill) Barr; or
(b) no symptoms of *Cryphonectria parasitica* (Murrill) Barr have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation”;

(b) item 6a is renumbered as item 6B;

(c) for item 8, substitute—

“8. Plants, other than seeds, of *Platanus* L. intended for planting, which originate in any third country

Without prejudice to the requirements in items 60, 61, 64, 81 and 82, the plants shall be accompanied by a phytosanitary certificate or a phytosanitary certificate for re-export which includes under the heading “Additional declaration” an official statement that they have been grown throughout their life in:
(a) a place of production in a country in which *Ceratocystis fimbriata* f. spp. *platani* Walter is known not to occur; or
(b) an area established and maintained as an area free from *Ceratocystis fimbriata* f. spp. *platani* Walter in accordance with ISPM No. 4”;

(d) in the third column of item 16, for “, 15a, 17, 17a and 18”, substitute “and 17 to 18”.

(2) In Part B (relevant material, from another part of the European Union, which may only be landed in or moved within England if special requirements are satisfied) of Schedule 4(a)—

(a) for item 4, substitute—

“4. Plants of *Castanea* Mill. intended for planting

Without prejudice to the requirements in item 4B, the plants shall be accompanied by official documentation confirming that they have been grown throughout their life in:
(a) a place of production in a country in which *Cryphonectria parasitica* (Murrill) Barr is known not to occur; or
(b) an area established and maintained as an area free from *Cryphonectria parasitica* (Murrill) Barr in accordance with ISPM No. 4

4A. Plants, other than seeds, of *Quercus* L. intended for planting

The plants shall be accompanied by an official statement that:
(a) they originate in an area known to be free from *Cryphonectria parasitica* (Murrill) Barr; or
(b) no symptoms of *Cryphonectria parasitica* (Murrill) Barr have been

(a) Part B of Schedule 4 was amended by S.I. 2011/1043, article 4(1). Item 4a was inserted by S.I. 2006/2307, article 2(16)(b). There are other amendments to Part B of Schedule 4, but none is relevant.

observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation”;

- (b) item 4a is renumbered as item 4B;
- (c) for item 5, substitute—

“5. Plants, other than seeds, of *Platanus* L. intended for planting

Without prejudice to the requirements in items 37 and 39, the plants shall be accompanied by official documentation confirming that they have been grown throughout their life in:

- (a) a place of production in a country in which *Ceratocystis fimbriata* f. spp. *platani* Walter is known not to occur; or
- (b) an area established and maintained as an area free from *Ceratocystis fimbriata* f. spp. *platani* Walter in accordance with ISPM No. 4”.

Amendment of Schedule 5 (relevant material from a third country for which a phytosanitary certificate may be required)

11. In Part A (relevant material which may only be landed in England if accompanied by a phytosanitary certificate) of Schedule 5(a), after paragraph 2, insert—

“**2A.** Seeds of *Castanea* Mill. intended for planting.”.

de Mauley

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

21st October 2013

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Plant Health (England) Order 2005 (S.I. 2005/2530).

Articles 4, 6 to 9, 10(1)(a) to (c) and 10(2) amend the existing control measures to prevent the introduction and spread of *Ceratocystis fimbriata* f. spp. *platani* Walter (a cause of plane canker stain) and *Cryphonectria parasitica* (Murrill) Barr (a cause of sweet chestnut blight). The revised control measures in relation to *Ceratocystis fimbriata* f. spp. *platani* Walter apply to the landing in and the movement within England, and the consignment from England to another part of the European Union, of plants, other than seeds, of *Platanus* L. intended for planting. The revised control measures in relation to *Cryphonectria parasitica* (Murrill) Barr apply to the landing in and the movement within England, and the consignment from England to another part of the European Union, of plants of *Castanea* Mill. intended for planting.

In addition:

- (a) article 3(a) implements Commission Implementing Decision 2013/253/EU amending Decision 2006/473/EC as regards the recognition of certain third countries and certain areas of third countries as being free from *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus) (OJ No L 145, 31.5.2013, p.35); and

(a) There are amendments to Part A of Schedule 5, but none is relevant.

- (b) article 5 makes provision prohibiting a person from landing in England plants of *Pinus* L. intended for planting unless prior written notification has been given to an authorised inspector.

Article 3(a) provides for references to Commission Decision 2006/473/EC (OJ No L 187, 8.7.2006, p.35) to be read as references to that Decision as amended from time to time.

Validation impact assessments of the effect that the revised control measures in relation to *Ceratocystis fimbriata* f. spp. *platani* Walter and *Cryphonectria parasitica* (Murrill) Barr and the landing notification requirement in relation to plants of *Pinus* L. intended for planting will have on the costs to business, the voluntary sector and the public sector are available from the Department for Environment, Food and Rural Affairs, Plant Health Policy Team, Sand Hutton, York YO41 1LX. They are also published with the Explanatory Memorandum for this instrument. An impact assessment has not been produced in relation to the other measures in this instrument as no impact on business or the private or voluntary sector is foreseen from these measures. The Explanatory Memorandum is available alongside the instrument at www.legislation.gov.uk.

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