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STATUTORY INSTRUMENTS

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**2018 No. 71**

**PLANT HEALTH, ENGLAND**

**The Plant Health (England) (Amendment) Order 2018**

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

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<sup>M1</sup> and now vested in the Secretary of State<sup>M2</sup>.

**Marginal Citations**

- M1** 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.
- M2** 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](#).

**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<sup>M3</sup>, comes into force on 1st March 2018.
- (3) The remaining provisions come into force on 14th February 2018.

**Status:** Point in time view as at 14/02/2018.

**Changes to legislation:** There are currently no known outstanding effects for the The Plant Health (England) (Amendment) Order 2018 (revoked). (See end of Document for details)

#### Marginal Citations

**M3** S.I. 2015/610; relevant amending instruments are S.I. 2015/1827, 2016/104, 2017/8.

### 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 <sup>M4</sup>” insert “ and to pre-basic mother plants and pre-basic material referred to in Article 9(9) of that Decision ”.

#### Marginal Citations

**M4** OJ No L 125, 21.5.2015, p. 36, as last amended by Commission Implementing Decision (EU) 2017/2352 (OJ No L 336, 16.12.2017, p. 31).

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 ”;
  - (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: <ul style="list-style-type: none"> <li>(a) they meet the requirements specified in Article 9(8)(a) of Decision (EU) 2015/789; or</li> <li>(b) in the case of plants, other than seeds, intended for planting, of <i>Coffea</i>, <i>Lavandula dentata</i> L., <i>Nerium oleander</i> L., <i>Olea europaea</i> L., <i>Polygala myrtifolia</i> L. or <i>Prunus dulcis</i> (Mill.) D.A. Webb, they meet the requirements specified in the second subparagraph of Article 9(8) of that Decision</li> </ul> |
| 50B.  | Pre-basic mother plants as defined in Article 1(3) of Commission Implementing Directive 2014/98/EU <sup>M5</sup> or pre-basic material as defined in Article 2(5) of Council Directive 2008/90/EC <sup>M6</sup> which: <ul style="list-style-type: none"> <li>— belong to the species <i>Juglans regia</i> L., <i>Olea europaea</i> L., <i>Prunus amygdalus</i> Batsch, <i>P. amygdalus</i> x <i>P. persica</i>, <i>P. armeniaca</i> L., <i>P. avium</i> (L.) L., <i>P. cerasus</i> L., <i>P. domestica</i> L., <i>P. domestica</i> x <i>P. salicina</i>, <i>P. dulcis</i> (Mill.) D.A. Webb, <i>P. persica</i> (L.) Batsch, or <i>P. salicina</i> Lindley,</li> <li>— have been grown outside an area established in accordance with Article 4 of Decision (EU) 2015/789, and</li> <li>— have spent at least part of their life outside insect proof facilities</li> </ul> | The plants must be accompanied by an official statement that they meet the requirements specified in Article 9(9)(a) and (b) of Decision (EU) 2015/789”;  |

- (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, ”.

**Marginal Citations**

- M5** Commission Implementing Directive 2014/98/EU implementing Council Directive 2008/90/EC as regards specific requirements for the genus and species of fruit plants referred to in Annex 1 thereto,

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specific requirements to be met by suppliers and detailed rules concerning official inspections (OJ No L 298, 16.10.2014, p. 22).

- M6** Council Directive 2008/90/EC on the marketing of fruit propagating material and fruit plants intended for fruit production (OJ No L 267, 8.10.2008, p. 8), as last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ No L 189, 27.6.2014, p. 1).

7. In Part A of Schedule 6 and Part A of Schedule 7, after paragraph 16 insert—

“**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—

- (a) belong to the species *Juglans regia* L., *Olea europaea* L., *Prunus amygdalus* Batsch, *P. amygdalus* x *P. persica*, *P. armeniaca* L., *P. avium* (L.) L., *P. cerasus* L., *P. domestica* L., *P. domestica* x *P. salicina*, *P. dulcis* (Mill.) D.A. Webb, *P. persica* (L.) Batsch, or *P. salicina* Lindley;
- (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.”.

Department of Environment, Food and Rural  
Affairs  
23rd January 2018

*Gardiner of Kimble*  
Parliamentary Under Secretary of State

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Plant Health (England) Order 2015 (S.I. 2015/610) to implement Commission Implementing Decision (EU) 2017/2352 amending 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.) (OJ No L 336, 16.12. 2017, p. 31).

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.

**Status:**

Point in time view as at 14/02/2018.

**Changes to legislation:**

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