

**2012 No. 3033**

**PLANT HEALTH, ENGLAND**

**The Plant Health (England) (Amendment) (No.2) Order 2012**

*Made* - - - - *5th December 2012*

*Laid before Parliament* *6th December 2012*

*Coming into force* - - *7th December 2012*

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

**Title and commencement**

1. This Order may be cited as the Plant Health (England) (Amendment) (No.2) Order 2012 and comes into force on 7th December 2012.

**Amendment of the Plant Health (England) Order 2005**

2.—(1) The Plant Health (England) Order 2005(c) is amended as follows.

(2) For paragraph (3) of article 19 (prohibitions on landing plant pests and relevant material)(d), substitute—

“(3) Paragraph (4) applies to—

- (a) seed potatoes grown or suspected to have been grown in another member State or in Switzerland; or
- (b) potatoes, other than seed potatoes, grown or suspected to have been grown in Poland, Portugal, Romania or Spain.

(4) Subject to article 22, no person shall land in England any such potatoes unless written notification is provided to an inspector, at least two days prior to the intended date of introduction into England of the potatoes, of the intention to land the potatoes and of the matters contained in paragraph (5).

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(a) 1967 c. 8. Sections 2(1) and 3(1) were amended by the European Communities Act 1972 (c. 68), Schedule 4, paragraph 8. The powers conferred by sections 2 and 3 are conferred on a “competent authority”, which is defined in section 1(2), 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) Order (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, Food and Fisheries (Dissolution) Order 2002 (S.I. 2002/794).

(c) S.I. 2005/2530, amended by S.I. 2006/2307; 2007/1893, 2950, 3133; 2008/2411, 2765; 2009/587; 2010/1510, 2962 and 2012/697, 2922.

(d) Paragraph (3) of article 19 was inserted by S.I. 2008/2411, article 2(1) and (3).

(5) The matters are—

- (a) the intended time, date and means of introduction of the potatoes;
- (b) their intended point of entry into England;
- (c) their intended use and destination;
- (d) their variety and quantity; and
- (e) the producer's identification number.”.

(3) 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) in the third column of item 15 of the table, for “item 16” substitute “items 16 and 19a”;
- (b) in the third column of item 19 of the table, for “There shall be evidence” substitute “Without prejudice to item 19a, there shall be evidence”; and
- (c) after item 19 of the table, insert—

“19a	Tubers of <i>Solanum tuberosum</i> L., other than those mentioned in column 2 of items 16 to 18, which originate in Poland	Without prejudice to item 19, the tubers shall be accompanied by a certificate issued by the responsible official body of Poland confirming that they have been found to be free from <i>Clavibacter michiganensis</i> ssp <i>sepedonicus</i> (Spieckermann and Kotthoff) Davis <i>et al.</i> in official laboratory tests”.
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*de Mauley*

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

5th December 2012

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(a) Part B of Schedule 4 was amended by S.I. 2011/1043, article 4(1); there are other amendments to that Part, but none is relevant.

## EXPLANATORY NOTE

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

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

Article 2(2) makes provision to prohibit a person from landing certain potatoes in England unless prior written notification has been given to an authorised inspector.

Article 2(3) makes provision to require certain potatoes which originate in Poland and are imported into England to be accompanied by an official certificate confirming that the potatoes have been found to be free from *Clavibacter michiganensis* ssp *sepedonicus* (Spieckermann and Kotthoff) Davis *et al.* in official laboratory tests.

A preliminary impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Food and Environment Research Agency, Plant Health Policy Team, Sand Hutton, York YO41 1LX. It is also published with the Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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STATUTORY INSTRUMENTS

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