

**2008 No. 2781 (W. 248)**

**PLANT HEALTH, WALES**

**The Plant Health (Wales)  
(Amendment) Order 2008**

**EXPLANATORY NOTE**

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

This Order amends the Plant Health (Wales) Order 2006 (S.I. 2006/1643 (W.158)) (“the principal Order”) so as to implement—

- Commission Directive 2008/64/EC amending Annexes I to IV to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ No L 168, 28.6.2008, p31) (article 2(8), (9), (10) and (12));
- Commission Directive 2008/61/EC establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections (OJ No L 158, 18.6.2008, p41) (article 2(6)); and
- Commission Decision 2008/86/EC, being Decision No. 1/2008 of the Joint Committee on Agriculture set up by the Agreement between the European Community and the Swiss Confederation on Trade in Agricultural Products, which makes changes to the list of relevant material originating in Switzerland which may be landed in or moved within Wales if accompanied by a Swiss plant passport (article 2(13)).

In addition, this Order—

- revokes three statutory instruments concerned with notification requirements for seed and ware potatoes from certain member States and inserts into the principal Order new notification requirements with respect to seed potatoes from all member States and Switzerland (articles 2(3) and (4) and 3); and
- establishes measures to designate zones for the management of *Diabotica virgifera* Le Conte (article 2(5)).

Contravention of the prohibition on landing introduced by article 2(3) is an offence under the Customs and Excise Management Act 1979 (c.2) and not under the principal Order.

A Regulatory Impact Assessment has not been produced for this instrument.

**2008 No. 2781(W.248)**

**PLANT HEALTH, WALES**

**The Plant Health (Wales)  
(Amendment) Order 2008**

*Made* 22 October 2008

*Laid before the National Assembly for Wales*

23 October 2008

*Coming into force* 17 November 2008

The Welsh Ministers, in exercise of the powers conferred by sections 2 and 3(1), (2) and (4) of the Plant Health Act 1967<sup>(1)</sup> and now vested in them<sup>(2)</sup>, and by paragraph 1A of Schedule 2 to the European Communities Act 1972<sup>(3)</sup>, make the following Order.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for the references to European Community instruments in this Order to be construed as references to those instruments as amended from time to time.

**Title, application, and commencement**

**1.** The title of this Order is the Plant Health (Wales) (Amendment) Order 2008, it applies in relation to Wales and comes into force on 17 November 2008.

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- (1) 1967 c. 8; sections 2(1) and 3(1) and (2) were amended by the European Communities Act 1972, Schedule 4, paragraph 8; section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c. 48)
- (2) Functions of the competent authority referred to in sections 2 and 3 of the Plant Health Act 1967 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State for Wales by the Transfer of Functions (Wales) (No 1) Order 1978 (S.I. 1978/272). Functions of the Secretary of State for Wales transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Functions of the National Assembly for Wales transferred to the Welsh Ministers under s162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
- (3) 1972 c. 68.

## **Amendments to the Plant Health (Wales) Order 2006**

**2.**—(1) The Plant Health (Wales) Order 2006<sup>(1)</sup> is amended as follows.

(2) In article 2(1), for the definition of “Directive 2000/29/EC” substitute—

““Directive 2000/29/EC” means Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community;”<sup>(2)</sup>

(3) After article 19(2), insert—

“(3) Subject to article 22, no person may land in Wales seed potatoes grown, or suspected to have been grown, in another member State or in Switzerland unless written notification is provided to an inspector, at least two days prior to the intended date of introduction into Wales of the seed potatoes, of the intention to land the seed potatoes and of—

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

(4) In article 22, after “article 19(1)(e), (f) and (g)” insert “and (3)”.

(5) After article 39, insert—

### **“PART 7A**

#### **MANAGEMENT ZONES FOR PLANT HEALTH PURPOSES**

##### **Measures for preventing the introduction of *Diabrotica virgifera* Le Conte**

**39A.**—(1) Where there is a high risk of the introduction of *Diabrotica virgifera* Le Conte from any aircraft landing at an airport in Wales, the Welsh Ministers may designate a zone around the airport (“a designated zone”).

(2) A designated zone must extend to a radius of at least 2500 metres around the runways of,

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<sup>(1)</sup> S.I. 2006/1643 (W.158) as amended.

<sup>(2)</sup> OJ No L 169, 10.7.2000, p 1, as last amended by Commission Directive 2008/64/EC, OJ No L 168, 28.6.2008, p 31.

or around any other areas where aircraft move within, an airport.

(3) The Welsh Ministers may revoke or vary a designation at any time.

(4) The Welsh Ministers must take appropriate measures to notify any designation, revocation or variation to persons growing or intending to grow maize in a designated zone.

(5) Any person acting in the course of a business, trade or other undertaking and growing maize in a designated zone must ensure that crops are rotated in such a way that maize is only grown once in any field during any period of two consecutive years.

(6) Any premises which are partly inside and partly outside a designated zone are deemed to be wholly inside that zone for the purposes of this article.

(7) Paragraph (6) does not apply in respect of any part of any premises which is situated outside Wales.”.

(6) In article 41—

(a) in paragraph (1) for “Directive 95/44/EC of 26th July 1995” substitute “Directive 2008/61/EC”;

(b) in paragraphs (2), (6) and (7)(a) for “Directive 95/44/EC” substitute “Directive 2008/61/EC”; and

(c) for paragraph (7)(b) substitute—

“(b) “Directive 2008/61/EC” means Commission Directive 2008/61/EC establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections, as amended from time to time”.

(7) After article 45(1)(xiii) insert—

“(xiiiA) article 39A(5);”.

(8) In Schedule 1, Part B omit “4. *Heliothis armigera* (Hübner)”.

(9) In Schedule 2, Part B after item 10 under the heading “Insects, mites and nematodes” add—

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| “11. | Plants of <i>Dendranthema</i> (DC.) Des Moul, <i>Dianthus</i> L., <i>Pelargonium</i> | <i>Helicoverpa armigera</i> (Hübner)”. |
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|  | l'Hérit. ex Ait. and of the family <i>Solanaceae</i> , intended for planting, other than seeds |  |
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(10) In Schedule 2, Part B omit item 2 under the heading “Fungi”.

(11) In Schedule 3, item 8 omit “Bulgaria,”.

(12) In Schedule 4—

(a) in item 41 of Part A and in item 23 of Part B for “*Heliothis armigera* Hübner” substitute “*Helicoverpa armigera* (Hübner)”; and

(b) in item 71 of Part A after “corms,” add “bulbs”.

(13) In Schedule 8, Part A—

(a) in item 2 omit “other than *Sorbus intermedia* (Ehrh.) Pers.”; and

(b) for item 5(d) substitute—

“(d) seeds or bulbs of *Allium ascalonicum* L., *Allium cepa* L., *Allium schoenoprasum* L., *Helianthus annuus*, *Lycopersicon lycopersicum*, *Medicago sativa* or *Phaseolus* intended for planting;”.

## Revocations

3. The following instruments are revoked—

(a) the Potatoes Originating in Germany (Notification) (Wales) Order 2001(1);

(b) the Polish Potatoes (Notification) (Wales) Order 2004(2); and

(c) the Potatoes Originating in the Netherlands (Notification) (Wales) Order 2005(3).

*Elin Jones*

Minister for Rural Affairs, one of the Welsh Ministers

22 October 2008

(1) S.I. 2001/3541 (W.288).

(2) S.I. 2004/2697 (W.236).

(3) S.I. 2005/1162 (W.77).

