WELSH STATUTORY INSTRUMENTS

2010 No. 2976 (W.247)

PLANT HEALTH, WALES

The Plant Health (Wales) (Amendment) (No. 2) Order 2010

Made - - - -	*15 December 2010*
Laid before the National Assembly for Wales - -	*15 December 2010*
Coming into force - -	*5 January 2011*

The Welsh Ministers in whom the powers conferred by sections 2 and 3 of the Plant Health Act 1967(**1**) are now vested(**2**) make this Order in exercise of those powers and paragraph 1A of Schedule 2 to the European Communities Act 1972(**3**).

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 inserted by this Order into the Plant Health (Wales) Order 2006(**4**) to Commission Decision 2008/840/EC on emergency measures to prevent the introduction into and the spread within the European Union of *Anoplophora chinensis* (Forster)(**5**) to be construed as references to that Decision as amended from time to time.

Title, application and commencement

1. The title of this Order is the Plant Health (Wales) (Amendment) (No. 2) Order 2010. It comes into force on 5 January 2011 and applies in relation to Wales.

Amendments to the Plant Health (Wales) Order 2006

2.—(1) The Plant Health (Wales) Order 2006 is amended as follows.

(**1**) 1967 c. 8; sections 2(1) and 3(1), (2) and (5) were amended by section 4 of, and paragraph 8 of Schedule 4 to, the European Communities Act 1972 (c. 68). Section 2(2) was amended by section 177(1) of, and paragraph 12 of Schedule 4 to, the Customs and Excise Management Act 1979 (c. 2). Section 2(3) was inserted by article 2(1) of, and Schedule 1 to, S.I. 1990/2371.

(**2**) The functions of the Minister for Agriculture, Fisheries and Food under the Plant Health Act 1967 (c. 8) were so far as exercisable in relation to Wales, transferred to the Secretary of State by article 2 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. 1997/672). 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).

(**3**) 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

(**4**) S.I. 2006/1643 (W. 158), as amended by S.I. 2007/2716 (W. 229), S.I. 2007/3305 (W. 292), S.I. 2008/2781(W. 248), S.I. 2008/2913 (W. 257), S.I. 2009/1376 (W. 137) and S.I. 2010/1795 (W. 171).

(**5**) OJ No L 300, 11.11.2008, p.36; as amended by Commission Decision 2010/380 OJ No L 174, 9.7.2010, p.46.

(2) In article 2(1)(**6**), after the definition of "Decision 2007/433/EC", insert—

""Decision 2008/840/EC" means Commission Decision 2008/840/EC on emergency measures to prevent the introduction into and the spread within the European Union of *Anoplophora chinensis* (Forster), as amended from time to time;".

(3) In the table in Schedule 3(**7**), for the entry in column (3) corresponding to item 10, substitute—

"Belarus, Moldova, Russia, Turkey, Ukraine and any third country not in mainland Europe, other than Egypt, Israel, Libya, Morocco or Tunisia".

(4) In the table in Schedule 3, after item 15, insert the text contained in the following table—

"16	Plants for planting, other than seeds, of Acer spp. until the end of April 2012	China.".

(5) In the table in Schedule 4(**8**), Part A—

(a) for the entry in column (2) corresponding to item 52, substitute—

"Soil or growing medium that—

(a) is attached to, or accompanies, plants for the purpose of sustaining the vitality of those plants;

(b) consists—

(i) wholly or partly of soil or any solid organic substance such as parts of plants or humus (including peat or bark); or

(ii) partly of any solid inorganic substance; and

(c) originates from—

(i) Belarus, Georgia, Moldova, Russia, Turkey or the Ukraine; or

(ii) any country outside Europe, other than Algeria, Egypt, Israel, Libya, Morocco or Tunisia"; and

(b) for item 81, substitute the text contained in the following table—

"**81.** Specified plants within the meaning of Article 1(a) of Decision 2008/840/EC originating in China	Without prejudice to the requirements in Schedule 3, items 4, 12 and 14 and items 11, 12, 19, 20, 22, 23, 27, 28, 29, 30, 48, 50, 51, 52, 55, 60, 61, 64, 65 and 70 of Part A of this Schedule the plants must be accompanied by an official statement containing the information in point (1) of Section I(B) of Annex 1 to Decision 2008/840/EC and the place of production of those plants must comply with the requirements set out in Article 2a(1)(c) of Decision 2008/840/EC
82. Specified plants within the meaning of Article 1(a) of Decision 2008/840/EC originating in any third country where *Anoplophora chinensis*	Without prejudice to the requirements in Schedule 3, items 4, 12 and 14 and items 11, 12, 19, 20, 22, 23, 27, 28, 29, 30, 48, 50, 51, 52, 55, 60, 61, 64, 65 and 70 of Part A of this

(**6**) There are amendments to this article that are not relevant to this Order.
(**7**) There are amendments to Schedule 3 that are not relevant to this Order.
(**8**) There are amendments to Schedule 4 that are not relevant to this Order.