WELSH STATUTORY INSTRUMENTS

2010 No. 1795 (W.171)

PLANT HEALTH, WALES

The Plant Health (Wales) (Amendment) Order 2010

Made - - - -	*12 July 2010*
Laid before the National Assembly for Wales - -	*13 July 2010*
Coming into force - -	*17 August 2010*

The Welsh Ministers in whom the powers conferred by sections 3 and 4(1) of the Plant Health Act 1967(**1**) are now vested(**2**) make the following Order in exercise of those powers.

Title, application and commencement

1. The title of this Order is the Plant Health (Wales) (Amendment) Order 2010. It comes into force on 17 August 2010 and applies in relation to Wales.

Amendments to the Plant Health (Wales) Order 2006

2. The Plant Health (Wales) Order 2006(**3**) is amended as follows.

Article 20 (prevention of the spread of plant pests)

3. In article 20(2) after "Part 6" insert "or 7".

Article 31 (examination, sampling and marking)

4. In article 31(1), after "for the purpose of", insert "determining whether any plant pest is present there (or for determining the distribution of any plant pest) or for the purpose of".

(**1**) 1967 c. 8; sections 3(1), (2) and (5) and 4(1) were amended by section 4 of, and paragraph 8 of Schedule 4 to, the European Communities Act 1972 (c. 68). Section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c. 48).

(**2**) Under the Transfer of Functions (Wales) (No 1) Order 1978 (S.I. 1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State; and under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) article 2 and Schedule 1, the functions transferred to the Secretary of State by the 1978 Order were transferred to the National Assembly for Wales. These functions were transferred from the National Assembly for Wales to the Welsh Ministers under section 162 of and paragraph 30(1) and (2) of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(**3**) 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) and S.I. 2009/1376 (W.137).

Article 38 (power to enter premises used wholly or mainly as a dwelling)

5. For article 38, substitute—

"**Power to enter premises used wholly or mainly as a dwelling**

38.—(1) Articles 31, 33 and 37 do not apply to admission to any premises used only as a private dwelling-house unless 24 hours' notice of the intended entry has been given to the occupier, or the entry is in accordance with a warrant granted under this article.

(2) If a justice of the peace, on sworn information in writing, is satisfied that there are reasonable grounds for entry into any premises under article 31, 33 or 37 and—

(a) admission has been refused, or a refusal is expected, and (in either case) that notice of the intention to apply for a warrant has been given to the occupier;

(b) asking for admission, or the giving of such a notice, would defeat the object of the entry;

(c) the case is one of urgency; or

(d) the premises are unoccupied or the occupier is temporarily absent,

the justice may by signed warrant authorise an inspector to enter the premises, if necessary by reasonable force.

(3) A warrant granted under this article is valid for one month.

(4) An inspector who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before entry.".

Article 45 (offences)

6. In article 45(1)(a)(**4**), for paragraphs (xv) and (xvi), substitute—

"(xv) article 42(1);

(xvi) article 43(1); or

(xvii) paragraphs 3, 4, 5 or 6 of Schedule 15;".

Schedule 15 (special measures for the control of Potato Cyst Nematode)

7. For Schedule 15, substitute the text contained in the Schedule to this Order.

Elin Jones
Minister for Rural Affairs, one of the Welsh Ministers

12 June 2010

(**4**) There are amendments to article 45(1)(a) that are not relevant to this Order.