WELSH STATUTORY INSTRUMENTS

2009 No. 1376 (W.137)

PLANT HEALTH, WALES

The Plant Health (Wales) (Amendment) Order 2009

Made - - - -	*8 June 2009*
Laid before the National Assembly for Wales - -	*10 June 2009*
Coming into force - -	*1 July 2009*

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

Title and commencement

1. The title of this Order is the Plant Health (Wales) (Amendment) Order 2009. It comes into force on 1 July 2009 and applies in relation to Wales.

Amendments to the Plant Health (Wales) Order 2006

2.—(1) The Plant Health (Wales) Order 2006(**3**) 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;"(**4**).

(3) In Part A of Schedule 1, in the section "Insects, mites and nematodes"—

(a) after item 11 insert "11a *Dendrolimus sibiricus Tschetverikov*";

(b) for item 15 substitute "15 *Diabrotica virgifera zeae* Krysan & Smith"; and

(c) after item 26 insert "26a *Rhynchophorus palmarum* (L.)".

(**1**) 1967 c. 8; sections 2(1) and 3(1) were amended by the European Communities Act 1972 (c. 68), Schedule 4, paragraph 8.

(**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); relevant amending instruments are S.I. 2007/2716 (W.229), 2007/3305 (W.292), 2008/2781 (W.248) and 2008/2913 (W.257).

(**4**) OJ No L 169, 10.7.2000, p.1, as last amended by Commission Directive 2009/7/EC, OJ No L 40, 11.2.2009, p.12.

(4) In Part B of Schedule 1, in the section "Insects, mites and nematodes", after item 1 insert "1a *Diabrotica virgifera virgifera Le Conte*".

(5) In Part A of Schedule 2, in the section "Insects, mites and nematodes"—

(a) after item 1 insert—

"1a	Plants intended for planting, 1a other than plants in tissue culture and seeds, of *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA	*Agrilus planipennis* Fairmaire";

(b) omit item 23; and

(c) after item 26 insert—

"26a	Tubers of *Solanum tuberosum* L.	*Scrobipalpopsis solanivora* Povolny".

(6) In Part A of Schedule 2—

(a) in the section "Bacteria" in the second column in item 4 omit "fruit or";

(b) in the section "Fungi" after item 15 insert—

"15a	Plants of *Ulmus* L. and *Zelkova* L., intended for planting, other than seeds	*Stegophora ulmea* (Schweinitz: Fries) Sydow & Sydow"; and

(c) in the section "Viruses and virus-like organisms" after item 5 insert—

"5a	Plants of *Dendranthema* (DC.) Des Moul. and *Lycopersicon lycopersicum* (L.) Karsten ex Farw., intended for planting, other than seeds	Chrysanthemum stem necrosis virus".

(7) In Part B of Schedule 2, in the section "Insects, mites and nematodes"—

(a) after item 7 insert—

"7a	Plants of *Citrus* L., *Fortunella Swingle, Poncirus* Raf., and their hybrids, other than fruit and seeds	*Parasaissetia nigra* (Nietner)"; and

(b) after item 11(**5**) insert—

"12	Plants of Palmae, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following genera: *Brahea* Mart., *Butia* Becc., *Chamaerops* L., *Jubaea* Kunth, *Livistona* R. Br., *Phoenix* L., *Sabal* Adans., *Syagrus* Mart., *Trachycarpus* H. Wendl., *Trithrinax* Mart., *Washingtonia* Raf.	*Paysandisia archon* (Burmeister)".

(8) In Part A of Schedule 4—

(a) after item 7 insert—

"7a	Plants of *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., intended for planting, other than seeds and plants in tissue culture originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA	The plants shall be accompanied by an official statement that they: (a) have been grown throughout their life in an area free from *Agrilus planipennis* Fairmaire, established by the national plant protection organisation in accordance with ISPMNo. 4; or (b) have, for a period of at least two years prior to export, been grown in a place of production where no signs of *Agrilus planipennis* Fairmaire have been observed during two official inspections per year carried out at appropriate times, including immediately prior to export";

(b) in item 11, for "requirements in items 60, 61 and 64" in the right-hand column substitute "provisions applicable to the plants in item 7";

(c) after item 35 insert—

(**5**) Item 11 was inserted by S.I. 2008/2411, art. 2(1), (9).

"35a	Tubers of *Solanum tuberosum* L., other than those intended for planting	Without prejudice to the provisions applicable to tubers listed in items 32 to 34, the plants shall be accompanied by an official statement that the tubers originate in areas in which *Pseudomonas solanacearum* (Smith) Smith is not known to occur.
35b	Tubers of *Solanum tuberosum* L.	Without prejudice to the provisions applicable to tubers listed in items 32 to 35a, the plants shall be accompanied by an official statement that: (a) the tubers originate in a country where *Scrobipalpopsis solanivora* Povolny is not known to occur; or (b) the tubers originate in an area free from *Scrobipalpopsis solanivora* Povolny, established by the national plant protection organisation in accordance ISPM No. 4";

(d) omit item 39;

(e) after item 43 insert—

"43a	Plants of Dendranthema (DC.) Des Moul. and *Lycopersicon lycopersicum* (L.) Karsten ex Farw., intended for planting, other than seeds	Without prejudice to the requirements applicable to the plants listed in items 36, 37, 38, 41 to 43, the plants shall be accompanied by an official statement that: (a) the plants have been grown throughout their life in a country free from Chrysanthemum stem necrosis virus; (b) the plants have been grown throughout their life in an area established by the national plant protection organisation