WELSH STATUTORY INSTRUMENTS

# 2008 No. 2781 (W.248)

# PLANT HEALTH, WALES

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

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| *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(**1**) and now vested in them(**2**), and by paragraph 1A of Schedule 2 to the European Communities Act 1972(**3**), 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.

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

**2.**—(1) The Plant Health (Wales) Order 2006(**4**) 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;"(**5**)

(**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 section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(**3**) 1972 c. 68.

(**4**) S.I. 2006/1643 (W.158) as amended.

(**5**) 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.

(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, 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 26 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".