WELSH STATUTORY INSTRUMENTS

2007 No. 2716 (W.229)

PLANT HEALTH, WALES

The Plant Health (Wales) (Amendment) Order 2007

Made - - - -	*18 September 2007*
Laid before the National Assembly for Wales - -	*19 September 2007*
Coming into force - -	*10 October 2007*

The Welsh Ministers make this Order in exercise of the powers conferred by sections 2 and 3(1) of the Plant Health Act 1967(**1**), now vested in them(**2**):

Title, commencement, extent and application

1.—(1) The title of this Order is the Plant Health (Wales) (Amendment) Order 2007.

2. It applies in relation to Wales and comes into force on 10 October 2007.

Amendments to the Plant Health (Wales) Order 2006

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

(2) In article 2(1) (general interpretation) after the definition of "Customs Act", insert—

"Decision 2006/473/EC means Commission Decision 2006/473/EC recognising certain third countries and certain areas of third countries as being free from *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus);";

(3) In article 2(1), for the definitions of "Directive 93/85/EC" and "Directive 98/57/EC", substitute—

""Directive 93/85/EEC" means Council Directive 93/85/EEC(**4**) on the control of potato ring rot;

"Directive 98/57/EC" means Council Directive 98/57/EC(**5**) on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.;".

(**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**) Functions of the Minister of Agriculture, Fisheries and Food 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 are exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
(**3**) S.I. 2006/1643 (W.158).
(**4**) OJ No. L 259, 18.10.1993, p.1, as last amended by OJ No. L 182, 4.7.2006, p.1.
(**5**) OJ No. L 235, 21.8.1998, p.1, as last amended by OJ No. L 206, 27.7.2006, p.36.

(4) In article 2(1) in the definition of "protected zone", before "means" insert "otherwise" and after "means" delete "otherwise".

(5) In article 22(2) after "article 21(1)" substitute "or" for the word "and".

(6) In article 39(2)(c) (miscellaneous provisions for certain solanaceous species), for "Directive 93/85/EC", substitute "Directive 93/85/EEC".

(7) For paragraph (3) of article 42 (notification of the presence or suspected presence of certain plant pests), substitute—

"(3) Where any plant pest referred to in paragraph 2(b), (c) or (d) is specified in Schedule 18, it must be notifiable under paragraph (1) where—

(a) it is a subspecies or strain normally present in Great Britain and is found on the premises of a registered plant trader; or

(b) it is a subspecies or strain not normally present in Great Britain and is found on any premises.".

(8) In article 45(1)(a)(xiii), after 39(1) insert "to (4)".

(9) After item 15 of "Insects, mites and nematodes" in Schedule 1 Part A insert—

"**15a.** *Dryocosmus kuriphilus Yasumatsu"*

(10) In item 15 of "Viruses and virus-like organisms" in Schedule 2, Part B, substitute "producers" for the word "production".

(11) In Schedule 4, Part A —

(a) in the third column of item 6, for "items 5, 60, 61 and 64," substitute "items 5, 6a, 60, 61, and 64.";

(b) after item 6 insert —

"6a	Plants, other than fruit or seeds, of *Castanea* Mill, intended for planting, originating in any third country	Without prejudice to the requirements in items 5, 6, 51, 55, 60 and 61, the plants shall be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which states under the rubric "Additional declaration" that they have been grown throughout their life in places of production: (a) in countries where *Dryocosmus kuriphilus* Yasumatsu is not known to occur; or (b) in an area of areas, established by the national plant protection organisation in the country of origin, as being free from *Dryocosmus kuriphilus* Yasumatsu, in accordance with ISPMNo. 4, and

		that area shall be mentioned in the phytosanitary certificate or phytosanitary certificate for re-export under the rubric "Place of origin"";"

(c) for the wording in the third column of item 12, substitute —

"Without prejudice to the requirements in items 19, 21 to 23, 27 to 30, 60, 61 and 64, the plants shall be accompanied by an official statement that they originate in a country known to be free from *Monilinia fructicola* (Winter) Honey";

(d) in the third column of item 15, after "(all strains pathogenic to *Citrus*)" in paragraph (a), insert "as referred to in Article 1(1) of Decision 2006/473/EC";

(e) in the third column of item 15, after "(all strains pathogenic to *Citrus*)" in paragraph (b), insert "as referred to in Article 1(2) of Decision 2006/473/EC";

(f) in the third column of item 16, after "Carv et Mendes" in paragraph (a), insert "as referred to in Article 2 of Decision 2006/473/EC";

(g) in the third column of item 17, after "(all strains pathogenic to *Citrus*)" in paragraph (a), insert "as referred to in Article 3(1) of Decision 2006/473/EC";

(h) in the third column of item 17, after "(all strains pathogenic to *Citrus*)" in paragraph (b), insert "as referred to in Article 3(2) of Decision 2006/473/EC";

(i) in the third column of item 29, after "vegetation" in paragraph (b), substitute "and" for "or"; and

(j) in the second column of item 37, after "*Solanaceae*," insert "intended for planting,".

(12) In Part A (relevant material, from third countries, which may only be landed in Wales if special requirements are satisfied) of Schedule 4, in the third column of item 77, for "a country", substitute "an area or areas".

(13) In Schedule 4, Part B —

(a) in the third column of item 4, for "The plants shall be accompanied by an official statement that", substitute "Without prejudice to the requirements in item 4(a), the plants shall be accompanied by an official statement that"; and

(b) After item 4 insert —

"4a	Plants, other than fruit or seeds of *Castanea* Mill, intended for planting	Without prejudice to the requirements in item 4, the plants shall be accompanied by an official statement that: (a) they have been grown throughout their life or since their introduction into the Community in a place of production in a member State where *Dryocosmus kuriphilus* Yasumatsu is not known to occur; or

	(b) they have been grown throughout their life or since their introduction into the Community in a place of production in an area or areas, established by the responsible official body in a member State, as being free from *Dryocosmus kuriphilus* Yasumatsu, in accordance with ISPM No. 4".

(14) In paragraph 1(c) of Schedule 5, Part A, for "Capsicum subsp Helianthus annuus L, Lycopersicon lycopersicon (L) Karsten ex Farw," substitute "Solanaceae, Helianthus annuus L,".

(15) In paragraph 1 of Schedule 6, Part A and of Schedule 7, Part A, after "*Amelanchier* Med," insert "*Castanea* Mill,".

(16) In paragraph 7(a) of Schedule 6, Part A and of Schedule 7, Part A, omit "*Castanea* Mill,".

(17) In Schedule 16 (special measures for the control of potato ring rot)—

(a) in paragraph 1, in the definition of "certified seed potatoes", for "seed potatoes", substitute "pre-basic seed potatoes, basic seed potatoes or certified seed potatoes";

(b) in paragraph 2, for "Directive 93/85/EC", substitute "Directive 93/85/EEC";

(c) for paragraph 3, substitute—

"**3.** Material can be required to be disposed of—

(a) by destruction; or

(b) by any other measure that complies with paragraph 1 of Annex IV to Directive 93/85/EEC.";

(d) in paragraph 4—

(i) for "Directive 93/85/EC", substitute "Directive 93/85/EEC";

(ii) in paragraph (b), for "paragraph 5", substitute "paragraph 2 of Annex IV to Directive 93/85/EEC";

(e) omit paragraph 5;

(f) in paragraphs 6, 7 and 9, for "Directive 93/85/EC", substitute "Directive 93/85/EEC";

(g) for paragraph 10(b) and (c), substitute—

"(b) in the first potato cropping season following the period referred to in paragraph (a), that potatoes may be planted, for ware production only, provided that the field has been free from volunteer potato plants and other naturally found host plants of Potato Ring Rot for at least the two consecutive growing years prior to planting; and

(c) in the potato cropping season which follows that referred to in paragraph (b) and following an appropriate rotation cycle (which must be at least two years where potatoes are planted for seed production), that potatoes may be planted, for seed or ware production.";

(h) for paragraph 11(b), substitute—