WELSH STATUTORY INSTRUMENTS

2005 No. 70 (W.8)

PLANT HEALTH, WALES

The Plant Health (Amendment) (Wales) Order 2005

Made - - - -	*18 January 2005*
Coming into force - -	*31 January 2005*

The National Assembly for Wales in exercise of the powers conferred on the Minister of Agriculture, Fisheries and Food by sections 2, 3(1) to (4) and 4(1) of the Plant Health Act 1967(**1**) as read with section 20 of the Agriculture (Miscellaneous Provisions) Act 1972(**2**) and now vested in the National Assembly for Wales(**3**) hereby makes the following Order:

Title, application and commencement

1.—(1) This Order may be cited as the Plant Health (Amendment) (Wales) Order 2005.

(2) This Order applies in relation to Wales and comes into force on 31 January 2005.

Commencement Information

I1 Art. 1 in force at 31.1.2005, see **art. 1(2)**

Amendment of the Plant Health (Great Britain) Order 1993

2. The Plant Health (Great Britain) Order 1993(**4**) is amended in its application to Wales in accordance with the Schedule .

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

(**2**) 1972 c. 62

(**3**) Section 1(2)(b) of the Plant Health Act 1967 provides that the competent authority in England and Wales for the purposes of that Act is the Minister of Agriculture, Fisheries and Food. By virtue of 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.

(**4**) S.I. 1993/1320; amended by S.I. 1993/3213, 1995/1358 and 2929, 1996/25, 1165 and 3242, 1997/1145 and 2907, 1998/349, 1121 and 2245 and 1999/2126 and 2726, 2001/2342, 2002/1067 and 2003/1157.

Commencement Information

I2 Art. 2 in force at 31.1.2005, see **art. 1(2)**

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**5**)

D. Elis-Thomas
The Presiding Officer of the National Assembly

18 January 2005

(**5**) 1998 c. 38.

SCHEDULE

Commencement Information
I3 Sch. in force at 31.1.2005, see **art. 1(2)**

(1) In article 2(1) —

(a) for the definition of "Directive 2000/29/EC", substitute the following:

""Directive 2000/29/EC" means Council Directive 2000/29/EC(**6**) of 8th May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community as amended by Commission Directives 2001/33/EC(**7**) of 8th May 2001, 2002/28/EC(**8**) of 19th March 2002, 2002/36/EC(**9**) of 29th April 2002, 2003/22/EC(**10**) of 24th March 2003, 2003/47/EC(**11**) of 4th June 2003, 2003/116/EC(**12**) of 4th December 2003, 2004/31/EC(**13**) of 17th March 2004, 2004/70/EC(**14**) of 28th April 2004 and Article 20 and Annex II of the Act concerning the Conditions of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded(**15**));";

(b) for the definition of "the Euro-Mediterranean area", substitute the following:

""the Euro-Mediterranean area" means the geographical area comprising Europe, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and Turkey;";

(c) for the definition of "Europe", substitute the following:

""Europe" includes the Canary Islands and Belarus, Moldova, the Ukraine and Russia (excluding the Regions of Buryat, Yakut and Tuva, the Altai, Khabarovsk, Drasnoyarsk and Maritime Krais and the Amur, Chita, Irkutsk, Kamchatka, Kemerovo, Kurgan, Magadan, Novosibirsk, Omsk, Sakhalin, Tomsk and Tyumen Oblasts) but does not include Turkey;";

(d) for the definition of "European Community", substitute the following:

""European Community" means the territories of the member States including the Isle of Man and the Channel Islands but excluding the Canary Islands, Ceuta, Melilla and the French Overseas Departments;";

(e) in the definition of "official statement" after the words "phytosanitary certificate", insert "or, in the case of imports from Switzerland of plants, plant products or other objects which are listed in Part A of Schedule 5A, by the issue of a Swiss plant passport";

(f) for the definition of "plant passport", substitute the following:

(**6**) OJ No. L 169, 10.7.2000, p. 1.
(**7**) OJ No. L 127, 9.5.2001, p. 42.
(**8**) OJ No. L 77, 20.3.2002, p. 23.
(**9**) OJ No. L 116, 3.5.2002, p. 16.
(**10**) OJ No. L 78, 25.3.2003, p. 10.
(**11**) OJ No. L 138, 5.6.2003, p. 47.
(**12**) OJ No. L 321, 6.12.2003, p. 36.
(**13**) OJ No. L 85, 23.3.2004, p. 18.
(**14**) OJ No. L 127, 29.4.2004, p. 97.
(**15**) O.J. No. L 236, 23.9.2003, p. 33.

""plant passport" means either:

(a) a label and, where appropriate, an accompanying document issued in the European Community containing the relevant information in Schedule 9 which gives evidence that the provisions of this Order relating to plant health standards and special requirements for plants and plant products moving within the European Community have been complied with, or

(b) except for the purposes of articles 11(3) and 14, a Swiss plant passport;"; and

(g) insert the following after the definition of "South America":

""Swiss plant passport" means a label and, where appropriate, an accompanying document, issued in Switzerland in accordance with Swiss legislation which:

(a) contains information which gives evidence that the legislation in Switzerland relating to plant health standards and special requirements for plants and plant products moving into and within Switzerland have been complied with; and

(b) relates to a plant, plant product or other object listed in Part A of Schedule 5A;".

(2) For article 3(1), sub-paragraph (e) substitute the following:

"(e) subject to the provisions of paragraph (2) of this article, any plant, plant product or other object which is of a description specified in section I of Part B of the Schedule 5 unless:

(i) it has been the subject of a satisfactory plant health inspection by an authorised officer in the country of origin or the consignor country and is accompanied by a valid phytosanitary certificate or, in the case of imports from Switzerland of plants, plant products or other objects which are listed in Part A of Schedule 5A, by a Swiss plant passport; or

(ii) in the case of imports from Switzerland, it is a plant, plant product or other object listed in Part B of Schedule 5A.".

(3) In article 9 after the words "phytosanitary certificate" as they appear in each of paragraphs (1) and (2), insert "or, in the case of imports from Switzerland of plants, plant products or other objects which are listed in Part A of Schedule 5A, a Swiss plant passport".

(4) In Article 11(2) after the words "directly consigned to Great Britain", insert the words "or, in the case of consignments from Switzerland of plants, plant products or other objects which are listed in Part A of Schedule 5A, a Swiss plant passport".

(5) In Schedule 1, Part B(a) (Insects, Mites and Nematodes, at All Stages of Their Development) —

(a) for item 1a, substitute the following:

"1a	*Daktulosphaira vitifoliae* (Fitch)	CY
1b	*Globodera pallida* (Stone) Behrens	FI, LV, SI, SK"; and

(b) in item 2 for the wording in the second column, substitute the following:

"E (Ibiza and Menorca), IRL, P (Azores and Madeira), FI (districts of Åland, Håme, Kymi, Pirkanmaa, Satakunta, Turku, Uusimaa), S (counties of Blekinge, Gotlands, Halland, Kalmar and Skåne), UK, CY, M".

(6) In Schedule 1, Part B(d) (Virus and Virus-Like Organisms) in item 1 for the wording in the second column, substitute the following:

"DK, F (Brittany), FI, IRL, LT, P (Azores), UK (Northern Ireland)".

(7) In Schedule 2, Part A, Section 1(a) (Insects, Mites and Nematodes, at All Stages of Their Development) delete item 14 .

(8) In Schedule 2, Part A, Section 2(a) (Insects, Mites and Nematodes, at All Stages of Their Development) after item 6 insert the following:

"6a	*Eutetranychus orientalis* Klein	Plants of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf. and their hybrids, other than fruit and seeds".

(9) In Schedule 2, Part A, Section 2(b) (Bacteria) in item 3 for the wording in the second column substitute the following:

"Plants of *Amelanchier* Med., *Chaenomeles* Lindl., *Cotoneaster* Ehrh., *Crataegus* L., *Cydonia* Mill., *Eriobotrya* Lindl., *Malus* Mill., *Mespilus* L., *Photinia davidiana* (Dcne.) Cardot, *Pyracantha* Roem., *Pyrus* L. and *Sorbus* L., intended for planting, other than seeds".

(10) In Schedule 2, Part B(b) (Bacteria) for item 2, substitute the following:

"**2.** *Erwinia amylovora* (Burr.) Winsl. et al.	Parts of plants, other than fruit, seeds and plants intended for planting, but i ncluding live pollen for pollination of Amelanchier Med., *Chaenomeles* Lindl., *Cotoneaster* Ehrh., *Crataegus* L., *Cydonia* Mill., *Eriobotrya* Lindl., *Malus* Mill., *Mespilus* L., *Photinia davidiana* (Dcne.) Cardot, *Pyracantha* Roem., *Pyrus* L. and *Sorbus* L.	E, F (Corsica), IRL, I (Abruzzi; Apulia; Basilicata; Calabria; Campania; Emilia-Romagna: provinces of Forlí-Cesena, Parma, Piacenza and Rimini; Friuli-Venezia Giulia; Lazio; Liguria; Lombardy; Marche; Molise; Piedmont; Sardinia; Sicily; Trentino-Alto Adige: autonomous province of Trento; Tuscany; Umbria; Valle d'Aosta; Veneto: except in the province of Rovigo the communes Rovigo, Polesella, Villamarzana, Fratta Polesine, San Bellino, Badia Polesine, Trecenta, Ceneselli, Pontecchio Polesine, Arquà Polesine, Costa di Rovigo, Occhiobello, Lendinara, Canda, Ficarolo, Guarda Veneta, Frassinelle Polesine, Villanova del Ghebbo, Fiesso Umbertiano, Castelguglielmo, Bagnolo di Po, Giacciano con Baruchella, Bosaro, Canaro, Lusia, Pincara, Stienta, Gaiba, Salara, and in the province of Padova the communes Castelbaldo, Barbona, Piacenza d'Adige,