WELSH STATUTORY INSTRUMENTS

2004 No. 2697 (W.236)

PLANT HEALTH, WALES

The Polish Potatoes (Notification) (Wales) Order 2004

Made - - - -	*19 October 2004*
Coming into force - -	*20 October 2004*

In exercise of the powers conferred by sections 2, 3(1), (2) and (4) and 4(1) of the Plant Health Act 1967(**1**), as read with section 20 of the Agricultural (Miscellaneous Provisions) Act 1972(**2**), and now vested in the National Assembly for Wales, the National Assembly for Wales makes the following Order:

Title, commencement and application

1.—(1) This Order may be cited as The Polish Potatoes (Notification) (Wales) Order 2004, it applies in relation to Wales and comes into force on 20 October 2004.

Interpretation

2. In this Order—

"inspector" ("*arolygydd*") means any person authorised to be an inspector for the purposes of the principal Order;

"the principal Order" ("*y prif orchymyn*") means the Plant Health (Great Britain) Order 1993(**3**);

"Polish potatoes" ("*tatws o wlad Pwyl*") means potatoes which were grown in Poland during 2003 or subsequently;

"potato" ("*taten*") means any tuber or true seed or any other plant of Solanum tuberosum L. or other tuber-forming species or hybrid of the genus Solanum L.; and

"seed potato" ("*taten hadyd*") means any potato intended for planting.

(**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). 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.

(**2**) 1972 c. 62.

(**3**) 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, 2001/2343, 2002/1067 and 2003/1157.

Notification of imports

3.—(1) A person must not, in the course of business, import into Wales potatoes which that person knows to be or has reasonable cause to suspect to be Polish potatoes unless that person has given written notification to an inspector, at least two days prior to the intended date of introduction into Wales of the potatoes, of his or her intention to import the potatoes and of:

(a) the proposed time, date and means of introduction;

(b) the proposed point of entry into Wales;

(c) the intended use of the potatoes;

(d) in the case of seed potatoes or potatoes intended for processing, the proposed destination of the potatoes;

(e) the variety of the potatoes;

(f) the quantity of potatoes; and

(g) the producer's identification number or the reference number of the lot.

(2) Any person who, after 30th April 2004 and before the coming into force of this Order, imported, in the course of business, Polish potatoes into Wales must , so far is as reasonably practicable and no later than 15 November 2004, give written notification to an inspector of—

(a) the date the potatoes were imported;

(b) the point of entry;

(c) the intended use of the potatoes;

(d) in the case of seed potatoes or potatoes intended for processing, the destination or proposed destination of the potatoes;

(e) the variety of the potatoes;

(f) the quantity of potatoes; and

(g) the producer's identification number or the reference number of the lot.

(3) In this article, "processing" ("*prosesu*") means any industrial treatment, including grading, sorting, washing and packing, whether for retail sale or not.

Powers of an inspector

4.—(1) The provisions of this article are without prejudice to the circumstances in which an inspector may by virtue of the principal Order exercise the powers conferred by that Order.

(2) On having reasonable grounds for suspecting a contravention or likely contravention of article 3, an inspector may, for the purpose of this Order, exercise—

(a) the power conferred by article 22(1) of the principal Order as read with article 24(1) to (3) of the principal Order, as if a Polish potato were a plant landed or likely to be landed in contravention of the principal Order; and

(b) the power conferred by article 22(2) of the principal Order as read with article 24(1) to (3) of the principal Order, as if a Polish potato kept on or moved from premises, or likely to be so, were a plant kept on or moved from the premises in contravention of the principal Order.

(3) An inspector may, for the purposes of checking compliance with this Order, exercise the powers conferred by article 25 of the principal Order, as if checking compliance with the principal Order.