
WELSH STATUTORY INSTRUMENTS

2020 No. 206

The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020

PART 1

Introduction

Title, application and commencement

1. The title of these Regulations is the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020, they apply in relation to Wales and come into force on 27 March 2020.

Commencement Information

II Reg. 1 in force at 27.3.2020, see reg. 1

Interpretation: general

2.—(1) In these Regulations—

“the 2005 Order” (“*Gorchymyn 2005*”) means the Plant Health (Forestry) Order 2005 ^{M1};

“the 2018 Order” (“*Gorchymyn 2018*”) means the Plant Health (Wales) Order 2018 ^{M2};

“appropriate authority” (“*awdurdod priodol*”) means the Welsh Ministers, and is to be construed in accordance with regulation 6;

“commencement date” (“*dyddiad cychwyn*”) means the date on which these Regulations come into force;

“controlled consignment” (“*llwyth a reolir*”) means a consignment containing any plant, plant product or other object—

(a) which may not be brought into the Union territory without a phytosanitary certificate for export or a phytosanitary certificate for re-export pursuant to—

(i) Article 72 or 74 of the EU Plant Health Regulation,

(ii) an EU emergency decision, or

(iii) any other EU plant health rule, other than Article 73 of the EU Plant Health Regulation, or

(b) which was exported from the Union territory to a third country and is returning to the Union territory following the refusal by that third country to allow its entry into the country;

“controlled plant pest” (“*pla planhigion a reolir*”) means—

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- (a) a plant pest of a description specified in Annex 2, 3 or 4 to the Phytosanitary Conditions Regulation,
- (b) a plant pest of a description specified in an EU emergency decision, or
- (c) a plant pest subject to any other EU plant health rule ^[F1], including a potential quarantine plant pest within the meaning given in regulation 21(3)];

“Council Directive 2000/29/EC” (“*Cyfarwyddeb y Cyngor 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 ^{M3},

“EU emergency decision” (“*penderfyniad brys gan yr UE*”) means an instrument referred to in regulation 3(1);

“EU Plant Health Regulation” (“*Rheoliad Iechyd Planhigion yr UE*”) means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants ^{M4},

“EU plant health rule” (“*un o reolau iechyd planhigion yr UE*”) means a rule within the meaning given in Article 1(2)(g) of the Official Controls Regulation;

“ISPM 15” (“*SRFFF 15*”) means International Standard for Phytosanitary Measures No. 15 of March 2002 on Guidelines for regulating wood packaging material in international trade, prepared by the Secretariat of the International Plant Protection Convention established by the Food and Agriculture Organisation of the United Nations ^{M5};

“Official Controls Regulation” (“*Rheoliad Rheolaethau Swyddogol*”) means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, insofar as it applies to EU plant health rules ^{M6};

“Phytosanitary Conditions Regulation” (“*Rheoliad Amodau Ffytioiechydol*”) means Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants ^{M7};

“plant health inspector” (“*arolygydd iechyd planhigion*”) means an official plant health officer appointed by the Welsh Ministers;

“plant pest” (“*pla planhigion*”) means a pest within the meaning given in Article 1(1) and (2) of the EU Plant Health Regulation;

“regulated item” (“*eitem a reoleiddir*”) means—

- (a) any plant, plant product or other object to which an EU plant health rule applies, other than any plant, plant product or other object which is part of a controlled consignment, or
- (b) a controlled plant pest;

“Wales” (“*Cymru*”) means the combined area of the counties and county boroughs in Wales (see Parts 1 and 2 of Schedule 4 to the Local Government Act 1972 ^{M8}).

(2) Unless the context otherwise requires, words and expressions which are not defined in these Regulations and appear in the EU Plant Health Regulation or the Official Controls Regulation have the same meaning in these Regulations as they have in the EU Plant Health Regulation or the Official Controls Regulation (as the case may be).

Textual Amendments

- F1** Words in reg. 2(1) inserted (13.11.2020) by [The Official Controls \(Plant Health and Genetically Modified Organisms\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1134\)](#), regs. 1, **2(2)**

Commencement Information

- I2** Reg. 2 in force at 27.3.2020, see reg. 1

Marginal Citations

- M1** [S.I. 2005/2517](#); amended by [S.I. 2013/755](#) (W. 90). There are other amending instruments but none are relevant
- M2** [S.I. 2018/1064](#); there are amending instruments but none are relevant.
- M3** OJ No. L 169, 10.7.2000, p. 1, as last amended by Commission Implementing Directive (EU) 2019/523 (OJ No. L 86, 28.3.2019, p. 41).
- M4** OJ No. L 317, 23.11.2016, p. 4, amended by Regulation (EU) 2017/625 of the European Parliament and of the Council (OJ No. L 95, 7.4.2017, p. 1).
- M5** Available from the Secretariat of the International Plant Protection Convention, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/int>.
- M6** OJ No. L 95, 7.4.2017, p. 1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p. 4).
- M7** OJ No. L 319, 10.12.2019, p. 1.
- M8** [1972 c. 70](#).

Interpretation: EU instruments relating to plant health

3.—(1) In these Regulations—

“Commission Decision [98/109/EC](#)” (“*Penderfyniad y Comisiwn 98/109/EC*”) means Commission Decision [98/109/EC](#) authorising Member States temporarily to take emergency measures against the dissemination of *Thrips palmi* Karny as regards Thailand ^{M9};

“Commission Decision [2002/757/EC](#)” (“*Penderfyniad y Comisiwn 2002/757/EC*”) means Commission Decision [2002/757/EC](#) on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in ‘t Veld sp. nov. ^{M10};

“Commission Decision [2004/200/EC](#)” (“*Penderfyniad y Comisiwn 2004/200/EC*”) means Commission Decision [2004/200/EC](#) on measures to prevent the introduction into and the spread within the Community of Pepino mosaic virus ^{M11};

“Commission Implementing Decision 2011/787/EU” (“*Penderfyniad Gweithredu'r Comisiwn 2011/787/EU*”) means Commission Implementing Decision 2011/787/EU authorising Member States temporarily to take emergency measures against the dissemination of *Ralstonia solanacearum* (Smith) Yabuuchi et al. as regards Egypt ^{M12};

“Commission Implementing Decision 2012/138/EU” (“*Penderfyniad Gweithredu'r Comisiwn 2012/138/EU*”) means Commission Implementing Decision 2012/138/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Anoplophora chinensis* (Forster) ^{M13};

“Commission Implementing Decision 2012/270/EU” (“*Penderfyniad Gweithredu'r Comisiwn 2012/270/EU*”) means Commission Implementing Decision 2012/270/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix papa* sp.n., *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner) ^{M14};

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“Commission Implementing Decision 2012/535/EU” (“*Penderfyniad Gweithredu'r Comisiwn 2012/535/EU*”) means Commission Implementing Decision 2012/535/EU on emergency measures to prevent the spread within the Union of *Bursaphelenchus xylophilus* (Steiner et Buhner) Nickle et al. (the pine wood nematode) ^{M15};

“Commission Implementing Decision 2012/697/EU” (“*Penderfyniad Gweithredu'r Comisiwn 2012/697/EU*”) means Commission Implementing Decision 2012/697/EU as regards measures to prevent the introduction into and the spread within the Union of the genus *Pomacea* (Perry) ^{M16},

“Commission Implementing Decision (EU) 2015/789” (“*Penderfyniad Gweithredu'r Comisiwn (EU) 2015/789*”) means Commission Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.) ^{M17};

“Commission Implementing Decision (EU) 2015/893” (“*Penderfyniad Gweithredu'r Comisiwn (EU) 2015/893*”) means Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky) ^{M18};

“Commission Implementing Decision (EU) 2016/715” (“*Penderfyniad Gweithredu'r Comisiwn (EU) 2016/715*”) means Commission Implementing Decision (EU) 2016/715 setting out measures in respect of certain fruits originating in certain third countries to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (McAlpine) Van der Aa. ^{M19};

F2 ...

“Commission Implementing Decision (EU) 2018/638” (“*Penderfyniad Gweithredu'r Comisiwn (EU) 2018/638*”) means Commission Implementing Decision (EU) 2018/638 establishing emergency measures to prevent the introduction into and the spread within the Union of the harmful organism *Spodoptera frugiperda* (Smith) ^{M20};

“Commission Implementing Decision (EU) 2018/1503” (“*Penderfyniad Gweithredu'r Comisiwn (EU) 2018/1503*”) means Commission Implementing Decision (EU) 2018/1503 establishing measures to prevent the introduction into and the spread within the Union of *Aromia bungii* (Faldermann) ^{M21};

F3 ...

“Commission Implementing Decision (EU) 2019/1739” (“*Penderfyniad Gweithredu'r Comisiwn (EU) 2019/1739*”) means Commission Implementing Decision (EU) 2019/1739 establishing emergency measures to prevent the introduction into and the spread within the Union of Rose Rosette Virus ^{M22};

“Commission Implementing Decision (EU) 2019/2032” (“*Penderfyniad Gweithredu'r Comisiwn (EU) 2019/2032*”) means Commission Implementing Decision (EU) 2019/2032 establishing measures to prevent the introduction into and the spread within the Union of *Fusarium circinatum* Nirenberg & O'Donnell (formerly *Gibberella circinata*) ^{M23}.

[^{F4}“Commission Implementing Regulation (EU) 2020/885” (“*Rheoliad Gweithredu'r Comisiwn (EU) 2020/885*”) means Commission Implementing Regulation (EU) 2020/885 as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto;

“Commission Implementing Regulation (EU) 2020/1191” (“*Rheoliad Gweithredu'r Comisiwn (EU) 2020/1191*”) means Commission Implementing Regulation (EU) 2020/1191 establishing measures to prevent the introduction into and the spread within the Union of Tomato brown rugose fruit virus (ToBRFV).]

(2) References to the Phytosanitary Conditions Regulation and to the European Union instruments referred to in paragraph (1) are to be construed as references to those instruments as amended from time to time.

Textual Amendments

- F2** Words in reg. 3(1) omitted (13.11.2020) by virtue of [The Official Controls \(Plant Health and Genetically Modified Organisms\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1134\)](#), regs. 1, **2(3)(a)(i)**
- F3** Words in reg. 3(1) omitted (13.11.2020) by virtue of [The Official Controls \(Plant Health and Genetically Modified Organisms\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1134\)](#), regs. 1, **2(3)(a)(ii)**
- F4** Words in reg. 3(1) inserted (13.11.2020) by [The Official Controls \(Plant Health and Genetically Modified Organisms\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1134\)](#), regs. 1, **2(3)(b)**

Commencement Information

- I3** Reg. 3 in force at 27.3.2020, see reg. 1

Marginal Citations

- M9** OJ No. L 27, 3.2.1998, p. 47.
- M10** OJ No. L 252, 20.9.2002, p. 37, as last amended by Commission Implementing Decision (EU) 2016/1967 (OJ No. L 303, 10.11.2016, p. 21).
- M11** OJ No. L 64, 2.3.2004, p. 43.
- M12** OJ No. L 319, 2.12.2011, p. 112.
- M13** OJ No. L 64, 3.3.2012, p. 38, as amended by Commission Implementing Decision (EU) 2014/356/EU (OJ No. L 175, 14.6.2014, p. 38).
- M14** OJ No. L 132, 23.5.2012, p. 18, as last amended by Commission Implementing Decision (EU) 2018/5 (OJ No. L 2, 5.1.2018, p. 11).
- M15** OJ No. L 266, 2.10.2012, p. 42, as last amended by Commission Implementing Decision (EU) 2018/618 (OJ No. L 102, 23.4.2018, p. 17).
- M16** OJ No. L 311, 10.11.2012, p. 14.
- M17** OJ No. L 125, 21.5.2015, p. 36, as last amended by Commission Implementing Decision (EU) 2018/1511 (OJ No. L 255, 11.10.2018, p. 16).
- M18** OJ No. L 146, 11.6.2015, p. 16.
- M19** OJ No. L 125, 13.5.2016, p. 16, as last amended by Commission Implementing Decision (EU) 2019/449 (OJ No. L 77, 20.3.2019, p. 76).
- M20** OJ No. L 105, 25.4.2018, p. 31, as amended by Commission Implementing Decision (EU) 2019/1598 (OJ No. L 248, 27.9.2019, p. 86).
- M21** OJ No. L 254, 10.10.2018, p. 9.
- M22** OJ No. L 265, 18.10.2019, p. 12.
- M23** OJ No. L 313, 4.12.2019, p. 94.

Measures adopted pursuant to Article 30(1) of the EU Plant Health Regulation

4. Any reference in the EU Plant Health Regulation to a pest that is subject to the measures adopted pursuant to Article 30(1) includes the following plant pests—

- Epitrix cucumeris* (Harris), *Epitrix* papa. (Orlova-Bienkowskaja), *Epitrix* subcrinita (Lec.) or *Epitrix tuberis* (Gentner);
- Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyuma & Goto;
- Rose rosette virus;
- Tomato brown rugose fruit virus.

Status: Point in time view as at 13/11/2020.

Changes to legislation: There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020, PART 1. (See end of Document for details)

Commencement Information

I4 Reg. 4 in force at 27.3.2020, see reg. 1

Article 82 of the EU Plant Health Regulation: meaning of “close proximity”

5.—(1) For the purposes of Article 82 of the EU Plant Health Regulation, the premises of a registered operator are to be regarded as being in “close proximity” to other premises of that operator if any point on the boundary of its operative area, or of any of its operative areas, is within ten miles of any point on the boundary of the operative area, or of any of the operative areas, of the other premises.

(2) In paragraph (1), “operative area”, in relation to the premises of a registered operator, means—

- (a) in the case of premises which are used entirely by the registered operator to carry out one or more of the activities mentioned in Article 65(1) of the EU Plant Health Regulation, the area comprising those premises;
- (b) in the case of any other premises used by the registered operator to carry out one or more of the activities mentioned in Article 65(1) of the EU Plant Health Regulation, an area within the premises which is used by the registered operator to carry out any of those activities.

Commencement Information

I5 Reg. 5 in force at 27.3.2020, see reg. 1

Status:

Point in time view as at 13/11/2020.

Changes to legislation:

There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020, PART 1.