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WELSH STATUTORY INSTRUMENTS

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**2018 No. 1064**

**The Plant Health (Wales) Order 2018 (revoked)**

**PART 10**

Offences

**Offences**

**46.**—(1) A person commits an offence if, without reasonable excuse, proof of which lies with the person—

(a) the person contravenes or fails to comply with—

- (i) article 6(1);
- (ii) article 9;
- (iii) article 10(1) or (2);
- (iv) article 16(2), (3) or (4);
- (v) article 17(6);
- (vi) article 19(1);
- (vii) article 20;
- (viii) article 21;
- (ix) article 24(3) or (4);
- (x) article 26;
- (xi) article 27(2);
- (xii) article 28(1) or (3);
- (xiii) article 39(1) or (2);
- (xiv) article 41(4);
- (xv) article 42(1);
- (xvi) article 43(1);
- (xvii) article 45(3); or
- (xviii) paragraphs 5, 8, 9 or 11 of Schedule 14;

(b) contravenes or fails to comply with a provision or condition of a notice served on the person or of a licence granted or of any direction given, under this Order; or

(c) intentionally obstructs an inspector or any person authorised by an inspector in exercise of the powers given to the inspector by or under this Order.

(2) A person commits an offence if, for the purpose of procuring the issue of a plant passport, a replacement plant passport, a phytosanitary certificate, a phytosanitary certificate for re-export or a licence under this Order, the person—

(a) knowingly or recklessly makes a statement which is false in a material particular; or

- (b) intentionally fails to disclose any material information.
- (3) A person commits an offence if the person—
  - (a) dishonestly issues a plant passport;
  - (b) dishonestly alters a plant passport; or
  - (c) dishonestly re-uses a plant passport.
- (4) It is a defence for a person charged with an offence under paragraph (1)(a)(xvii) to prove that the person reasonably believed—
  - (a) that the disclosure was lawful; or
  - (b) that the information had already and lawfully been made available to the public.
- (5) If an offence under this Order is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—
  - (a) any director, manager or secretary or other similar officer of the body corporate; or
  - (b) any person who was purporting to act in any such capacity,the person, as well as the body corporate, is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (6) For the purposes of paragraph (5), “director” (“*cyfarwyddwr*”) in relation to a body corporate whose affairs are managed by its members, includes a member of the body corporate.
- (7) Where an offence under this Order is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a partner, the partner, as well as the partnership, is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (8) Where the commission by any person of an offence under this Order is due to the act of default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.

**Status:**

Point in time view as at 28/03/2019. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the The Plant Health (Wales) Order 2018 (revoked), Section 46.