
WELSH STATUTORY INSTRUMENTS

2018 No. 1064

The Plant Health (Wales) Order 2018 (revoked)

PART 1

General

Title, commencement and application

- 1.—(1) The title of this Order is the Plant Health (Wales) Order 2018.
- (2) This Order applies in relation to Wales and comes into force on 2 November 2018.

General interpretation

- 2.—(1) In this Order—

“Annex II Part B” (“*Atodiad II Rhan B*”) means Part B of Annex II to Directive [2000/29/EC](#);
“Annex IV Part A” (“*Atodiad IV Rhan A*”) means Part A of Annex IV to Directive [2000/29/EC](#);
“Annex IV Part B” (“*Atodiad IV Rhan B*”) means Part B of Annex IV to Directive [2000/29/EC](#);
“authorised officer” (“*swyddog awdurdodedig*”) means, as the context requires—

- (a) an authorised representative of the responsible official body of the country in which a plant passport is issued, a public servant acting under the authority of such a representative or a qualified agent employed by the responsible official body, in any case who must be appropriately qualified; or
- (b) an authorised representative of the responsible official body or the national plant protection organisation of the country in which a phytosanitary certificate or phytosanitary certificate for re-export or a translation of a phytosanitary certificate or phytosanitary certificate for re-export is issued, or a public officer acting under the authority of such a representative;

“citrus fruits for processing” (“*ffrwythau sitrws ar gyfer eu prosesu*”) means fruits of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf., *Microcitrus* Swingle, *Naringi* Adans., or *Swinglea* Merr., which originate in a third country and are destined for industrial processing into juice in the European Union;

“consignment” (“*llwyth*”) has the same meaning as in Article 2(1)(p) of Directive [2000/29/EC](#) where that term is used in Part 2 or in relation to any relevant material referred to in that Part;

“the Customs Act” (“*y Ddeddf Dollau*”) means the Customs and Excise Management Act 1979 ^{M1};

“Decision [2002/757/EC](#)” (“*Penderfyniad 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 ^{M2};

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Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Wales) Order 2018 (revoked). (See end of Document for details)

“Decision [2004/416/EC](#)” (“*Penderfyniad 2004/416/EC*”) means Commission Decision [2004/416/EC](#) on temporary emergency measures in respect of certain citrus fruits originating in Argentina or Brazil ^{M3};

“Decision [2006/473/EC](#)” (“*Penderfyniad 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) ^{M4};

“Decision [2007/365/EC](#)” (“*Penderfyniad 2007/365/EC*”) means Commission Decision [2007/365/EC](#) on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier) ^{M5};

“Decision [2007/433/EC](#)” (“*Penderfyniad 2007/433/EC*”) means Commission Decision [2007/433/EC](#) on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O'Donnell ^{M6};

“Decision [2012/138/EU](#)” (“*Penderfyniad 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) ^{M7};

“Decision [2012/270/EU](#)” (“*Penderfyniad 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) ^{M8};

“Decision [2012/697/EU](#)” (“*Penderfyniad 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) ^{M9};

“Decision [2014/422/EU](#)” (“*Penderfyniad 2014/422/EU*”) means Commission Implementing Decision [2014/422/EU](#) setting out measures in respect of certain citrus fruits originating in South Africa to prevent the introduction into and the spread within the Union of *Phyllosticta citricarpa* (McAlpine) Van der Aa ^{M10};

“Decision (EU) [2015/789](#)” (“*Penderfyniad (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.) ^{M11};

“Decision (EU) [2015/893](#)” (“*Penderfyniad (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) ^{M12};

“Decision (EU) [2016/715](#)” (“*Penderfyniad (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 ^{M13};

“Decision (EU) [2017/198](#)” (“*Penderfyniad (EU) 2017/198*”) means Commission Implementing Decision (EU) [2017/198](#) as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto ^{M14};

“Directive [93/85/EEC](#)” (“*Cyfarwyddeb 93/85/EEC*”) means Council Directive [93/85/EEC](#) on the control of potato ring rot ^{M15};

“Directive [98/57/EC](#)” (“*Cyfarwyddeb 98/57/EC*”) means Council Directive [98/57/EC](#) on the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.* ^{M16};

“Directive 2000/29/EC” (“*Cyfarwyddeb 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^{M17};

“Directive 2007/33/EC” (“*Cyfarwyddeb 2007/33/EC*”) means Council Directive 2007/33/EC on the control of potato cyst nematodes and repealing Directive 69/465/EEC^{M18};

“Directive 2008/61/EC” (“*Cyfarwyddeb 2008/61/EC*”) means Commission Directive 2008/61/EC establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections^{M19};

“early potatoes” (“*tatws cynnar*”) means potatoes which are harvested before they are completely mature, marketed immediately after they have been harvested and whose skins can be easily removed without peeling;

“EU transit agreement” (“*cytundeb tramwy UE*”) means an agreement within the meaning of article 12(4) or (5);

“EU transit goods” (“*nwyddau tramwy yr UE*”) means any relevant material introduced into Wales from a third country via another part of the European Union;

“Euro-Mediterranean area” (“*ardal Ewrop a Môr y Canoldir*”) means the geographical area comprising Europe, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and the area of Turkey east of the Bosphorus Strait known as Anatolia;

“Europe” (“*Ewrop*”) includes Belarus, the Canary Islands, Georgia, Kazakhstan (except the area east of the Ural river), Russia (except the regions of Tyumen, Chelyabinsk, Irkutsk, Kemerovo, Kurgan, Novossibirsk, Omsk, Sverdlovsk, Tomsk, Chita, Kamchatka, Magadan, Amur and Skhalin, the territories of Krasnoyarsk, Altay, Khabarovsk and Primarie, and the republics of Sakha, Tuva and Buryatia), Ukraine and Turkey (except the area east of the Bosphorus Strait known as Anatolia);

“European Union” (“*yr Undeb Ewropeaidd*”) 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;

“fruit” (“*ffrwythau*”) means fruit in the botanical sense but does not include dried, dehydrated, lacquered or deep frozen fruit;

“importer” (“*mewnforiwr*”), in relation to any plant pest or relevant material at any time between their landing from a third country and the time when they are discharged by an inspector under this Order, includes any owner or other person for the time being in possession of or beneficially interested in the plant pest or relevant material;

“inspector” (“*arolygydd*”) means any person authorised by the Welsh Ministers to be an inspector for the purposes of this Order;

“IPPC” (“*CRhWP*”) means the International Plant Protection Convention 1951^{M20};

“ISPM No. 4” (“*SRFFf Rhif 4*”) means International Standard for Phytosanitary Measures No. 4 of November 1995 on the requirements for the establishment of pest free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations^{M21};

“ISPM No. 10” (“*SRFFf Rhif 10*”) means International Standard for Phytosanitary Measures No. 10 of October 1999 on requirements for the establishment of pest free places of production and pest free production sites, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations^{M22};

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“ISPM No. 31” (“*SRFFf Rhif 31*”) means International Standard for Phytosanitary Measures No. 31 of April 2008 on methodologies for sampling consignments, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations^{M23};

“landed” (“*wedi ei lanio*”) means introduced into Wales by any means, including by post, and “land” (“*glanio*”) and “landing” (“*glanio*”) is to be construed accordingly;

“national plant protection organisation” (“*sefydliad gwarchod planhigion cenedlaethol*”) means the service established by the government of a third country to discharge the functions specified in Article IV(1)(a) of the IPPC, details of which have been notified—

- (a) in the case of contracting parties to the IPPC, to the Director of the Food and Agriculture Organisation of the United Nations; and
- (b) in all other cases, to the European Commission;

“North America” (“*Gogledd America*”) means the geographical area comprising Canada, Mexico and the USA;

“nursery” (“*meithrinfa*”) means premises wholly or partly used for the cultivation or keeping of plants for the purpose of transplantation or removal to other premises;

“official” (“*swyddogol*”), in relation to any testing or other procedure required by this Order to be carried out in respect of any relevant material, means carried out by or under the supervision of the responsible official body or the national plant protection organisation of the country in which the testing or other procedure is carried out and “officially” (“*swyddogol*”) is to be construed accordingly;

“official documentation” (“*dogfennaeth swyddogol*”) means documentation issued by or with the authority of the responsible official body of the member State in which the documentation is issued;

“official label” (“*label swyddogol*”) means a label that meets the relevant requirements set out in Part A or B of Schedule 9, issued by or with the authority of the responsible official body for the member State in which the official label is issued;

“official statement” (“*datganiad swyddogol*”) means a statement issued by an authorised officer or a statement included in a plant passport;

“place of production” (“*man cynhyrchu*”) means any premises, normally worked as a unit, together with any contiguous land in the same ownership or occupation as such premises;

“plant” (“*planhigyn*”) means a living plant (including a fungus or shrub) or a living part of a plant (including a living part of a fungus or shrub), at any stage of growth, but excluding forest trees or forest shrubs; and living parts of a plant include—

- (a) fruit
- (b) seed;
- (c) vegetables, other than those preserved by deep freezing;
- (d) tubers, corms, bulbs or rhizomes;
- (e) cut flowers;
- (f) branches with or without foliage;
- (g) a plant or shrub that has been cut and which retains any foliage;
- (h) leaves or foliage;
- (i) a plant or shrub in tissue culture;
- (j) live pollen;
- (k) bud wood;
- (l) cuttings; and

(m) scions;

“plant health check” (“*gwiriad iechyd planhigion*”) means an examination carried out under article 12(2);

“plant health movement document” (“*dogfen symud iechyd planhigion*”) means a document which meets the requirements in Schedule 12;

“planting” (“*plannu*”) has the same meaning as in Article 2(1)(c) of Directive 2000/29/EC;

“plant or shrub in tissue culture” (“*planhigyn neu lwyn mewn meithriniad meinwe*”) means a plant or shrub growing in a clear liquid or clear solid aseptic culture medium in a closed transparent container;

“plant passport” (“*pasbort planhigion*”) means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in Part A or B of Schedule 9, issued by or with the authority of the responsible official body for the member State in which the plant passport is issued, and includes a replacement plant passport;

“plant pest” (“*pla planhigion*”) means any living organism, other than a vertebrate animal, in any stage of its existence which is injurious or likely to be injurious to any plant or plant product;

“plant product” (“*cynnyrch planhigion*”) has the same meaning as in Article 2(1)(b) of Directive 2000/29/EC;

“plant trader” (“*masnachwr planhigion*”) means—

- (a) an importer of relevant material;
- (b) a producer of relevant material;
- (c) a person in charge of premises used for the storage, aggregation or dispatch of consignments of relevant material; or
- (d) a person who in the course of a trade or business divides up or combines consignments of relevant material;

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

“Potato brown rot” (“*Pydredd coch tatws*”) means either the disease of potatoes caused by *Ralstonia solanacearum* (Smith) Yabuuchi *et al.* or that bacterium, as the context requires;

“Potato cyst nematode” (“*Llyngyr tatws*”) means any cyst-forming nematode of the species *Globodera pallida* (Stone) Behrens or *Globodera rostochiensis* (Wollenweber) Behrens that infests and multiplies on potatoes and any strains or pathotypes of such nematode;

“Potato ring rot” (“*Pydredd cylch tatws*”) means either the disease of potatoes which is caused by the bacterium *Clavibacter michiganensis* (Smith) Davis *et al.* spp. *Sependonicus* (Spieckermann and Kotthoff) Davis *et al.* or that bacterium, as the context requires;

“Potato wart disease” (“*Clefyd y ddafaden tatws*”) means either the disease of potatoes which is caused by the fungus *Synchytrium endobioticum* (Schilbersky) Percival or that fungus, as the context requires;

“premises” (“*mangre*”) includes any land, building, vehicle, vessel, aircraft, hovercraft, freight container or railway wagon;

“producer” (“*cynhyrhydd*”), in relation to relevant material, means a person who grows or makes the material in the course of a trade or business;

“protected zone” (“*parth gwarchod*”) means a member State or an area in a member State which is recognised as a protected zone exposed to particular plant health risks for the purposes of Directive 2000/29/EC, as listed in Annex I to Regulation (EC) No 690/2008;

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“phytosanitary certificate” (“*tystysgrif ffytoiechydol*”) means a certificate in the form set out in Part A of Schedule 10, which complies with the requirements in article 15(1) and (2);

“phytosanitary certificate for re-export” (“*tystysgrif ffytoiechydol ar gyfer ailallforio*”) means a certificate in the form set out in Part B of Schedule 10, which complies with the requirements in article 15(1) and (2);

“register” (“*cofrestr*”) means the register of plant traders maintained under article 25(1);

“registered” (“*cofrestedig*”), in relation to a plant trader, means a trader whose particulars are listed in the register, and “registration” (“*cofrestru*”) is to be construed accordingly;

“Regulation (EC) No 690/2008” (“*Rheoliad (EC) Rhif 690/2008*”) means Commission Regulation (EC) No 690/2008 recognising protected zones exposed to particular plant health risks in the Community ^{M24};

“relevant material” (“*deunydd perthnasol*”) means any plant, plant product, soil or growing medium;

“responsible official body” (“*corff swyddogol cyfrifol*”) means either the body described in paragraph (i) or a body described in paragraph (ii) of Article 2(1)(g) of Directive 2000/29/EC;

“seed” (“*hadau*”) means seed in the botanical sense other than seed not intended for planting;

“Seed Potatoes Regulations” (“*Rheoliadau Tatws Hadyd*”) means the Seed Potatoes (Wales) Regulations 2016 ^{M25};

“South America” (“*De America*”) means the geographical area comprising Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, French Guyana, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela;

“Swiss plant passport” (“*pasbort planhigion y Swistir*”) 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 relevant material moving into and within Switzerland have been complied with; and
- (b) relates to relevant material listed in Part A of Schedule 8;

“third country” (“*trydedd wlad*”) means a country or territory other than one within the European Union; and

“the USA” (“*UDA*”) means the United States of America except the state of Hawaii.

(2) Unless expressly provided otherwise, any reference in this Order to a genus or species is to be construed as a reference to that genus or species or to any of its hybrids.

(3) Any reference in this Order to the European Union, to a member State or a third country includes a reference to a state, country, principality, province or region within the European Union, member State, or third country, as the case may be.

(4) Any reference in this Order to a numbered article or a numbered Schedule with no corresponding reference to a specific instrument is to be construed as a reference to the article or Schedule so numbered in this Order.

(5) References to the following European Union instruments are to be construed as references to those instruments as amended from time to time—

- (a) Decision 2002/757/EC;
- (b) Decision 2004/416/EC;
- (c) Decision 2006/473/EC;
- (d) Decision 2007/365/EC;

- (e) Decision [2007/433/EC](#);
- (f) Directive [2008/61/EC](#);
- (g) Regulation (EC) No [690/2008](#);
- (h) Decision [2012/138/EU](#);
- (i) Decision [2012/270/EU](#);
- (j) Decision [2012/697/EU](#);
- (k) Decision [2014/422/EU](#);
- (l) Decision (EU) [2015/789](#);
- (m) Decision (EU) [2015/893](#);
- (n) Decision (EU) [2016/715](#);
- (o) Decision (EU) [2017/198](#).

Marginal Citations

- M1** [1979 c. 2](#), as amended by Parts 1 and 2 of Schedule 4 to the [Finance Act 1984 \(c. 43\)](#); there are other amendments but none are relevant.
- M2** OJ No L 252, 20.9.2002, p. 37, as amended by Commission Implementing Decision [2013/782/EU](#) (OJ No L 346, 20.12.2013, p. 69).
- M3** OJ No L 151, 30.4.2004, p. 76, as amended by Commission Implementing Decision [2013/67/EU](#) (OJ No L 31, 31.1.2013, p. 75).
- M4** OJ No L 187, 8.7.2006, p. 35, as amended by Commission Implementing Decision (EU) [2015/1175](#) (OJ No L 189, 17.7.2015, p. 39).
- M5** OJ No L 139, 31.5.2007, p. 24, as last amended by Commission Decision [2010/467/EU](#) (OJ No L 226, 28.8.2010, p. 42).
- M6** OJ No L 161, 22.6.2007, p. 66.
- M7** OJ No L 64, 3.3.2012, p. 38, as amended by Commission Implementing Decision [2014/356/EU](#) (OJ No L 175, 14.6.2014, p. 38).
- M8** OJ No L 132, 23.5.2012, p. 18, as amended by Commission Implementing Decision [2014/679/EU](#) (OJ No L 283, 27.9.2014, p. 61).
- M9** OJ No L 311, 10.11.2012, p. 14.
- M10** OJ No L 196, 3.7.2014, p. 21.
- M11** OJ No L 125, 21.5.2015, p. 36, as amended by Commission Implementing Decision (EU) [2016/764](#) (OJ No L 126, 14.5.2016, p. 77).
- M12** OJ No L 146, 11.6.2015, p. 16.
- M13** OJ No L 125, 13.5.2016, p. 16, as amended by Commission Implementing Decision (EU) [2017/801](#) (OJ No L 120, 11.5.2017, p. 26).
- M14** OJ No L 31, 4.2.2017, p. 29.
- M15** OJ No L 259, 18.10.1993, p. 1, as amended by Commission Directive [2006/56/EC](#) (OJ No L 182, 4.7.2006, p. 1).
- M16** OJ No L 235, 21.8.1998, p. 1, as amended by Commission Directive [2006/63/CE](#) (OJ No L 206, 27.7.2006, p. 36).
- M17** OJ No L 169, 10.7.2000, p. 1, as amended by Commission Implementing Directive (EU) [2017/1279](#) (OJ No L 184, 15.7.2017, p. 33).
- M18** OJ No L 156, 16.6.2007, p. 12.
- M19** OJ No L 158, 18.6.2008, p. 41.
- M20** Adopted in 1951 (Treaty Series No. 16 (1954), Cmd 9077) and last revised in 1997 (Miscellaneous Series No. 15 (2003), Cmd 5945).

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- M21** Available from the IPPC Secretariat, Food and Agriculture Organization of the United Nations, AGDI, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/en/core-activities/standards-setting/ispm/>.
- M22** Available from the IPPC Secretariat, Food and Agriculture Organization of the United Nations, AGDI, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/en/core-activities/standards-setting/ispm/>.
- M23** Available from the IPPC Secretariat, Food and Agriculture Organization of the United Nations, AGDI, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/en/core-activities/standards-setting/ispm/>.
- M24** OJ No L 193, 22.7.2008, p. 1, as amended by Commission Implementing Regulation (EU) No 707/2014 (OJ No L 186, 26.6.2014, p. 56).
- M25** [S.I. 2016/106](#) (W. 52), amended by [S.I. 2017/596](#) (W. 139).

PART 2

Imports from third countries

Interpretation of Part 2

3. In this Part—

“approved place of inspection” (“*man arolygu cymeradwy*”) means a place which has been approved by the Welsh Ministers under article 17;

“area of plant health control” (“*ardal rheolaeth iechyd planhigion*”), in relation to notifiable relevant material which has been landed, means—

- (a) its point of entry; or
- (b) where the material has been moved under appropriate customs procedures to a designated area of plant health control or an approved place of inspection, the designated area of plant health control or the approved place of inspection;

“the Customs Code” (“*y Cod Tollau*”) means Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code ^{M26};

“designated area of plant health control” (“*ardal rheolaeth iechyd planhigion ddynodedig*”) means a place close to a point of entry which has been designated as an area of plant health control by the Welsh Ministers and the Commissioners for Her Majesty's Revenue and Customs;

“notifiable relevant material” (“*deunydd perthnasol hysbysadwy*”) means any relevant material—

- (a) of a description specified in Part A of Schedule 5; or
- (b) of a description specified in Part B of Schedule 5 and which is—
 - (i) specified in column 2 of Part C of Schedule 4;
 - (ii) listed in the second column of Annex II Part B and in the course of its consignment to a protected zone that is recognised as a protected zone for the plant pests specified in respect of that relevant material in the first column of Annex II Part B; or
 - (iii) listed in the first column of Annex IV Part B and in the course of its consignment to a protected zone that is recognised as a protected zone for the plant pests specified in respect of that relevant material in Annex IV Part B;

“official body of destination” (“*corff swyddogol y gyrchfan*”) has the same meaning as in Article 2(1)(l) of Directive [2000/29/EC](#);

“point of entry” (“*man cyrraedd*”) means—

- (a) in the case of relevant material which arrives by air, the airport at which the material first arrives;
- (b) in the case of relevant material which arrives by maritime or fluvial transport, the port at which the material first arrives; or
- (c) in the case of relevant material which arrives by rail, the rail freight terminal at which the material first arrives;

“working day” (“*diwrnod gwaith*”), in relation to the notice requirements in articles 6(2)(c) (ii) and 16(3) and the period for which material may be detained under article 14(1), means a period of twenty-four hours which is not a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday in Wales under the Banking and Financial Dealings Act 1971 ^{M27}.

Marginal Citations

M26 OJ No L 269, 10.10.2013, p. 1, as amended by Regulation (EU) 2016/2339 of the European Parliament and of the Council (OJ No L 354, 23.12.2016, p. 32).

M27 1971 c. 80, to which there are amendments not relevant to this Order.

Application of Part 2

4. This Part—

- (a) applies to plant pests and relevant material which are introduced into Wales from a third country, either directly or via another part of the European Union; and
- (b) only applies to EU transit goods in respect of which the Welsh Ministers are responsible for certain matters by virtue of an EU transit agreement.

Prohibitions and restrictions on landing plant pests and relevant material

5.—(1) No person may land—

- (a) any plant pest of a description specified in Schedule 1;
 - (b) any relevant material of a description specified in column 2 of Schedule 2 which is carrying or infected with a plant pest of a description specified in any entry in respect of that description of relevant material in column 3 of Schedule 2;
 - (c) any plant pest which, although not specified in Schedule 1 or in column 3 of Schedule 2, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain;
 - (d) any relevant material of a description specified in column 2 of Schedule 3 which originates in a third country specified in the entry in respect of that description of relevant material in column 3 of Schedule 3;
 - (e) any relevant material of a description specified in column 2 of Part A of Schedule 4, unless the requirements specified in the entries in respect of that description of relevant material in column 3 of Part A of Schedule 4 are complied with; or
 - (f) any relevant material of a description specified in column 2 of Part C of Schedule 4, unless the requirements specified in the entries in respect of that description of relevant material in column 3 of Part C of Schedule 4 are complied with.
- (2) The prohibition in paragraph (1)(d) does not apply to any relevant material which is—

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- (a) in the course of its consignment between two third countries under appropriate customs procedures and without any change in customs status; and
 - (b) transported in such a way as to prevent the accidental escape of plant pests.
- (3) Paragraph (1)(e) does not apply to any relevant material which is prohibited from being landed under paragraph (1)(d).
- (4) Paragraph (1)(e) and (f) is subject to article 8(1).

Advance notification of landing

6.—(1) No person may land any notifiable relevant material, where Wales is its point of entry into the European Union, unless notice is given in accordance with this article.

(2) A notice must—

- (a) be in accordance with the requirements of Schedule 11;
- (b) be given to the Welsh Ministers at the specified address; and
- (c) be given in time to arrive at the specified address—
 - (i) in the case of any relevant material brought by air, at least four working hours before the relevant material is landed; and
 - (ii) in any other case, at least three working days before the relevant material is landed.

(3) In the case of citrus fruits for processing, the names, addresses and locations of the premises at which the fruits are to be processed must be included under item 13 of the notice set out in Schedule 11.

(4) If a person can reasonably show that it was not possible to give notice in accordance with paragraph (2)(c) because the person was not aware that the material had been consigned, the person may give notice as soon as is reasonably practicable.

(5) Paragraph (1) is subject to articles 8(1), 16 and 30(3).

(6) In this article—

- (a) “specified address” (“*cyfeiriad penodedig*”) means the address given by the Welsh Ministers from time to time for the purposes of this article;
- (b) “working hour” (“*awr waith*”) means a period of one hour during a working day.

Requirements for certificates

7.—(1) No person may land any notifiable relevant material unless the material is accompanied by a phytosanitary certificate or a phytosanitary certificate for re-export, as specified in paragraphs (2) to (5).

(2) In the case of transit material which has been split up, combined with other consignments or repackaged, the relevant material must be accompanied by a phytosanitary certificate for re-export which was issued in the country of transit.

(3) In the case of transit material which has or may have been exposed to infection or contamination by any plant pest, is not the same material as in the original consignment or which has been processed so as to change its nature, the relevant material must be accompanied by a phytosanitary certificate which was issued in the country of transit.

(4) In the case of relevant material of a description listed in the first column of Annex IV Part B where the requirement or requirements specified in an entry in respect of that description of relevant material in the second column of Annex IV Part B can only be fulfilled in the country in which the relevant material originates, the relevant material must be accompanied by a phytosanitary certificate which was issued in the country of origin.

(5) In any other case, the relevant material must be accompanied by a phytosanitary certificate which was issued in the country in which that material originates or from which it was consigned.

(6) The phytosanitary certificate must be the original certificate and the phytosanitary certificate for re-export must be the original certificate or a copy of the original certificate certified by an authorised officer.

(7) Paragraph (1) does not apply to any relevant material which—

- (a) is in the course of its consignment between two third countries under appropriate customs procedures or has been consigned to Wales from another part of the European Union via a third country;
- (b) does not undergo any change in customs status; and
- (c) is transported in such a way as to prevent the accidental escape of plant pests.

(8) Paragraph (1) is subject to articles 8(1) and 30(1) and (2).

(9) In paragraphs (2) and (3), “transit material” (“*deunydd tramwy*”) means relevant material consigned to Wales via a third country by way of transit.

Exceptions from certain prohibitions and requirements

8.—(1) The following provisions do not apply to any exempt items which are introduced into Wales in the baggage of a passenger or other traveller if the items meet the conditions in paragraph (2)

- (a) article 5(1)(e) and (f);
- (b) article 6(1);
- (c) article 7(1);
- (d) article 10(1).

(2) The conditions are that the exempt items—

- (a) do not show any signs of the presence of a plant pest;
- (b) are not intended for use in the course of a trade or business; and
- (c) are intended for household use.

(3) In this article—

- (a) “exempt items” (“*eitemau esempt*”) means—
 - (i) fruit and raw vegetables (other than potatoes), weighing no more than two kg in total;
 - (ii) a single bouquet of cut flowers (which may include parts of plants);
 - (iii) packets of seeds, other than seeds of potatoes or *Fraxinus* L., not exceeding five packets in total;
 - (iv) bulbs, corms, tubers, other than potatoes, and rhizomes, grown in and consigned from the Euro-Mediterranean area and weighing no more than two kg in total; or
 - (v) plants for planting, other than bulbs, corms, tubers or rhizomes or plants of *Fraxinus* L. intended for planting, grown in and consigned from the Euro-Mediterranean area and not exceeding five in total;
- (b) “packet of seeds” (“*pecyn o hadau*”) means a packet of seeds of a type normally sold to the consumer other than for use in the course of a trade or business or a packet of seeds of a similar size.

Presentation and display of documents

9.—(1) Any phytosanitary certificate or phytosanitary certificate for re-export which is required under article 7 to accompany a consignment of notifiable relevant material must be delivered by the importer to an inspector within three days of its landing.

(2) An importer of a consignment of notifiable relevant material must include in a customs document relating to the consignment—

- (a) a statement that “this consignment contains produce of phytosanitary relevance”;
- (b) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export which is required under article 7 to accompany the consignment; and
- (c) the registration number of the importer.

(3) In the case of a consignment which includes notifiable relevant material and which is imported into Wales by post, the importer must ensure that any phytosanitary certificate or phytosanitary certificate for re-export which is required under article 7 to accompany the consignment is affixed to the outside of the package of the relevant material.

(4) But if the consignment consists of more than one package of notifiable relevant material, the importer must ensure that the certificate is affixed to the outside of one of the packages of notifiable relevant material and that copies of the certificate are affixed to the outside of each of the remaining packages of notifiable relevant material in the consignment.

(5) In paragraph (2), “customs document” (“*dogfen dollau*”) means a document required by the Commissioners for Her Majesty’s Revenue and Customs for placing relevant material under one of the procedures specified in Article 5(16)(a) and (b) of the Customs Code.

Prohibition on the removal of relevant material from its area of plant health control

10.—(1) No person may remove any notifiable relevant material or cause any notifiable relevant material to be removed from its area of plant health control unless an inspector has discharged the material under article 12 or the removal of the material is permitted under Part 6.

(2) Any notifiable relevant material which is being held at a point of entry or a designated area of plant health control under paragraph (1) must be stored by the importer under the supervision and in accordance with the instructions of an inspector.

(3) The importer is liable for the costs of storing the notifiable relevant material pending its release.

Exceptions from the prohibition on the removal of relevant material from its area of plant health control

11. Article 10(1) does not apply to—

- (a) any relevant material which is in the course of its consignment between two third countries under appropriate customs procedures without any change in customs status and which is transported in such a way as to prevent the accidental escape of plant pests;
- (b) any relevant material which is consigned to Wales from another part of the European Union via a third country without any change in customs status and which is transported in such a way as to prevent the accidental escape of plant pests;
- (c) any relevant material which is subject to article 8(1);
- (d) any relevant material which is subject to article 30(3).

Plant health discharge

12.—(1) An inspector may discharge notifiable relevant material from its area of plant health control if the inspector is satisfied—

- (a) that the relevant material is free from any plant pest of a description specified in Schedule 1;
- (b) in the case of relevant material in the course of its consignment to a protected zone, that the relevant material is free from any plant pest listed in respect of that protected zone in the first column of Annex I to Regulation (EC) No 690/2008;
- (c) in the case of relevant material of a description specified in column 2 of Schedule 2, that the relevant material is not carrying or infected with a plant pest of a description specified in any entry in respect of that description of relevant material in column 3 of Schedule 2;
- (d) in the case of relevant material which is listed in the second column of Annex II Part B and in the course of its consignment to a protected zone that is recognised as a protected zone for the plant pests listed in respect of that relevant material in the first column of Annex II Part B, that the relevant material is not carrying or infected with the plant pests;
- (e) in the case of relevant material listed in Annex III Part B to Directive 2000/29/EC, that the relevant material is not in the course of being consigned to a protected zone for *Erwinia amylovora* (Burr) Winsl *et al.*;
- (f) in the case of relevant material of a description specified in column 2 of Part A or C of Schedule 4, that the relevant material complies with the requirements specified in the entries in respect of that description of relevant material in column 3 of Part A or C of Schedule 4 and, where there is one or more alternative requirement in any such entry, the requirement declared in the phytosanitary certificate or phytosanitary certificate for re-export;
- (g) in the case of relevant material which is listed in the first column of Annex IV Part B and in the course of its consignment to a protected zone that is recognised as a protected zone for the plant pests specified in the entries in respect of that relevant material in the second column of Annex IV Part B, that the relevant material complies with the requirements listed in respect of those entries and, where there is one or more alternative requirement in any such entry, the requirement declared in the phytosanitary certificate or phytosanitary certificate for re-export;
- (h) that the relevant material corresponds with the description given to it in the phytosanitary certificate or phytosanitary certificate for re-export; and
- (i) that the relevant material is accompanied by the phytosanitary certificate or phytosanitary certificate for re-export required under article 7 and, where appropriate, by a plant health movement document.

(2) An inspector may, for the purpose of being satisfied as to the matters referred to in paragraph (1)(a) to (g), carry out an examination of a consignment of relevant material and its packaging and, where necessary, the vehicle transporting the consignment.

(3) An inspector may, for the purpose of being satisfied as to the matters referred to in paragraph (1)(h), carry out an examination of a consignment of relevant material to determine whether it corresponds to its description in the documents that accompany it.

(4) In the case of notifiable relevant material which is in the course of its consignment to another part of the European Union and is subject to an agreement between the Welsh Ministers and the official body of destination in relation to its consignment to its final place of destination, the inspector need only be satisfied as to the matters referred to in paragraph (1)(i) and any other matters referred to in paragraph (1)(a) to (h) which are the Welsh Ministers' responsibility under the agreement.

Status: Point in time view as at 02/11/2018.

Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Wales) Order 2018 (revoked). (See end of Document for details)

(5) In the case of EU transit goods which are subject to an agreement between the Welsh Ministers and the official body of entry for those goods, the inspector need only be satisfied as to those matters referred to in paragraph (1)(a) to (h) which are the Welsh Ministers' responsibility under the agreement.

(6) Where the inspector is satisfied that the relevant material may be discharged from its area of plant health control, the inspector must—

- (a) stamp the phytosanitary certificate or phytosanitary certificate for re-export relating to the relevant material with the official stamp of the Welsh Ministers and the date on which the certificate was delivered in accordance with article 9(1); and
- (b) where applicable, complete the relevant headings of the plant health movement document.

(7) An inspector may, for the purpose of performing a plant health check, require the occupier or other person in charge of the premises in which the check is to take place to provide—

- (a) where appropriate, suitable areas of inspection;
- (b) adequate lighting; and
- (c) inspection tables.

(8) In this article—

- (a) “examination” (“*archwilio*”), in relation to a consignment of relevant material, means an examination of the consignment in its entirety or on the basis of one or more representative samples from the consignment or from each lot forming part of the consignment;
- (b) “lot” (“*lot*”) has the same meaning as in Article 2(1)(o) of Directive [2000/29/EC](#).

Request to an officer for Revenue and Customs for material to be detained

13.—(1) Where an inspector has reasonable grounds for suspecting that there is a risk that a plant pest may spread from any relevant material, the inspector may request an officer for Revenue and Customs to exercise the power in article 14(1) for the purpose of enabling the inspector to enforce any provision of this Order.

(2) A request under article 13(1)—

- (a) may identify the relevant material in any way; and
- (b) must be made in writing or be made orally and confirmed in writing.

(3) Where an inspector issues a notice or takes any other action under this Order in respect of relevant material detained by an officer for Revenue and Customs under article 14(1), the inspector must advise the officer of the notice or action.

Power of an officer for Revenue and Customs

14.—(1) An officer for Revenue and Customs may, where requested by an inspector in accordance with article 13(1), detain for not more than two working days any relevant material or any container, package or cargo of any kind which has been or may have been in contact with that material and which is referred to in that request, if the material, container, package or cargo is under customs supervision pursuant to Article 134 of the Customs Code.

(2) The Commissioners for Her Majesty's Revenue and Customs may give directions as to how any relevant material detained under paragraph (1) is to be dealt with during the period of its detention.

(3) The importer of any relevant material detained under paragraph (1) is responsible for the costs of storing the material during the period of its detention.

General provisions relating to certificates

15.—(1) A phytosanitary certificate or phytosanitary certificate for re-export which accompanies notifiable relevant material under article 7 must—

- (a) have been completed not more than 14 days before the date of the dispatch of the consignment of relevant material which it accompanies;
- (b) have been issued by the responsible official body or the national plant protection organisation of the country of export or re-export in accordance with the provisions of Article V(1) of the IPPC;
- (c) have been completed by an authorised officer;
- (d) have been issued in one of the official languages of the European Union;
- (e) where it has been issued in a language other than English, incorporate or be accompanied by a translation into the English language, which, if the translation is a document separate from the certificate, has been completed and signed by an authorised officer;
- (f) be addressed to the “Plant Protection Organisations of the Member States of the European Union”; and
- (g) have been completed in typescript or block capitals.

(2) Where in relation to any relevant material of a description specified in column 2 of Part A or C of Schedule 4, one or more alternative requirement is specified in an entry in respect of that description of relevant material in column 3 of Part A or C of that Schedule, the phytosanitary certificate or phytosanitary certificate for re-export issued in respect of any relevant material of that description must specify under the heading “Additional declaration” which particular requirement has been complied with by reference to the relevant position in Section I of Annex IV Part A or Annex IV Part B.

Requirements to be met by EU transit goods or relevant material destined for an approved place of inspection

16.—(1) This article applies to notifiable relevant material which—

- (a) is subject to an agreement referred to in article 12(4);
- (b) is subject to an agreement referred to in article 12(5) and which has not been discharged or released from its area of plant health control under article 10(1); or
- (c) is destined for an approved place of inspection.

(2) Any relevant material to which this article applies may not be moved within Wales, or where applicable, from Wales to any other place within the European Union, unless—

- (a) its packaging and the vehicle in which it is transported is sealed in such a way that there is no risk of the relevant material causing infestation, infection or contamination or a change occurring in the identity of the material; or
- (b) its movement has been authorised by the Welsh Ministers.

(3) The importer of any relevant material to which this article applies, other than relevant material whose destination is elsewhere in the European Union, must give to the Welsh Ministers notice of the following particulars no later than five working days before the material is landed—

- (a) the name, address and location of the approved place of inspection or designated area of plant health control to which the relevant material is destined or, if not destined for an approved place of inspection or a designated area of plant health control, its intended point of entry into Wales;
- (b) the scheduled date and time of arrival of the relevant material at the place referred to in sub-paragraph (a);

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Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Wales) Order 2018 (revoked). (See end of Document for details)

- (c) if available, the individual serial number of any plant health movement document required by article 17(6)(a);
 - (d) if available, the date and place at which that plant health movement document was drawn up;
 - (e) the name, address and registration number of the importer; and
 - (f) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export required under article 7 to accompany the relevant material.
- (4) The importer must notify the Welsh Ministers immediately of any changes to the particulars which the importer has given under paragraph (3).
- (5) The notice must be given to the Welsh Ministers at the address given by the Welsh Ministers from time to time for the purposes of this article.

Approved places of inspection and requirements for plant health movement documents

Approved places of inspection

17.—(1) The Welsh Ministers may approve a place to which notifiable relevant material may be destined as a place at which plant health checks and identity checks may be carried out by an inspector in respect of that material.

(2) An application for approval under paragraph (1) may be made to the Welsh Ministers by an importer or other person responsible for that place in such form and containing such information as the Welsh Ministers may specify.

(3) An approval may be granted subject to conditions, including conditions relating to the storage of the relevant material or to EU transit goods, and may be withdrawn at any time if the Welsh Ministers no longer consider that the place to which the approval relates is suitable for the purpose for which the approval was given.

(4) The Welsh Ministers may only approve a place as an approved place of inspection if the place has been approved by the Commissioners for Her Majesty's Revenue and Customs for use as a temporary storage facility.

(5) In this article—

- (a) “temporary storage facility” (“*cyfleuster storio dros dro*”) means a temporary storage facility within the meaning of Article 148 of the Customs Code;
- (b) “identity check” (“*gwiriad adnabod*”) means an examination carried out under article 12(3).

Requirements for plant health movement documents

(6) No person may move any of the following notifiable relevant material unless it is accompanied by a plant health movement document—

- (a) notifiable relevant material which is subject to an EU transit agreement and is being moved to its area of plant health control in Wales;
- (b) notifiable relevant material which is subject to an agreement referred to in article 12(4) and is being moved within Wales or from Wales to any other place within the European Union.

PART 3

Internal EU controls on movement

Prohibitions on the introduction of plant pests and relevant material from the European Union

18.—(1) No person may introduce any of the following plant pests and relevant material into Wales from another part of the European Union—

- (a) any plant pest of a description specified in Schedule 1;
- (b) any relevant material of a description specified in column 2 of Schedule 2 which is carrying or infected with a plant pest of a description specified in any entry in respect of that description of relevant material in column 3 of Schedule 2;
- (c) any plant pest which, although not specified in Schedule 1 or in column 3 of Schedule 2, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain;
- (d) any relevant material of a description specified in column 2 of Schedule 3 which originates in a third country specified in the entry in respect of that description of relevant material in column 3 of Schedule 3;
- (e) any relevant material of a description specified in column 2 of Part A of Schedule 4, unless the requirements specified in the entries in respect of that description of relevant material in column 3 of Part A of Schedule 4 are complied with;
- (f) any relevant material of a description specified in column 2 of Part B of Schedule 4, unless the requirements specified in the entries in respect of that description of relevant material in column 3 of Part B of Schedule 4 are complied with;
- (g) any relevant material of a description specified in column 2 of Part C of Schedule 4, unless the requirements specified in the entries in respect of that description of relevant material in column 3 of Part C of Schedule 4 are complied with.

(2) Paragraph (1) applies to the specified plant pests and relevant material whether they originate in another part of the European Union or a third country.

(3) But paragraph (1) does not apply to any relevant material of a description specified in column 2 of Part A or C of Schedule 4 to which Part 2 applies.

(4) Paragraph (1)(e) and (f) does not apply to any relevant material which is prohibited from being introduced into Wales under paragraph (1)(d).

(5) No person may bring any of the following potatoes into Wales unless written notification of the matters referred to in paragraph (6) is provided to an inspector at least two days prior to the intended date of their arrival—

- (a) seed potatoes grown or suspected to have been grown in another member State or in Switzerland; or
- (b) potatoes, other than seed potatoes, grown or suspected to have been grown in Poland, Portugal, Romania or any part of Spain which is within the European Union.

(6) The matters are—

- (a) the intended time and date of their arrival;
- (b) their intended use;
- (c) their intended destination;
- (d) their variety and quantity; and
- (e) the identification number of the producer of the potatoes.

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(7) In the case of notifiable citrus fruits, the person who is introducing the fruits into the European Union via a point of entry in another part of the European Union must provide written notification to the Welsh Ministers at the specified address, prior to their arrival at that point of entry, of—

- (a) the expected date of their introduction into the European Union;
- (b) their point of entry into the European Union;
- (c) their volume;
- (d) the identification numbers of their containers;
- (e) the names, addresses and the locations of the premises in Wales at which they are to be processed.

(8) Paragraphs (1)(e), (f) and (g) and (5) are subject to article 22.

(9) In this article—

“notifiable citrus fruits” (“*ffrwythau sitrws hysbysadwy*”) means citrus fruits for processing which are to be introduced into the European Union via a point of entry in another member State and processed into juice in Wales;

“specified address” (“*cyfeiriad penodedig*”) means the address given by the Welsh Ministers from time to time for the purposes of paragraph (7).

Notification of the landing of certain plants for planting

19.—(1) A person who brings the following plants into Wales must notify an inspector in writing of the matters referred to in paragraph (2) prior to or no later than four days after the date of their arrival in Wales—

- (a) plants of *Castanea* Mill., *Fraxinus* L., *Pinus* L., *Platanus* L., *Prunus* L., *Quercus* L. or *Ulmus* L., intended for planting, which have been grown or are suspected to have been grown in another member State; or
- (b) plants of *Castanea* Mill., *Fraxinus* L., *Pinus* L., *Platanus* L., *Prunus* L., *Quercus* L. or *Ulmus* L., intended for planting, which have been grown or are suspected to have been grown in Switzerland and to which the requirements of article 6 do not apply.

(2) The matters are—

- (a) the intended date of their arrival or, if they have arrived in Wales, the date on which they first arrived in Wales;
- (b) their intended destination, or if they have arrived at their intended destination in Wales, their current location;
- (c) their genus, species and quantity;
- (d) the identification number of the supplier of the plants; and
- (e) the country from which they have been, or are to be, consigned.

(3) Paragraph (1) is subject to article 22.

Prevention of the spread of plant pests

20.—(1) No person may knowingly keep, store, plant, sell or move or knowingly cause or permit to be kept, stored, planted, sold or moved—

- (a) any plant pest of a description specified in Schedule 1;
- (b) any relevant material of a description specified in column 2 of Schedule 2 which is carrying or infected with a plant pest of a description specified in any entry in respect of that description of relevant material in column 3 of Schedule 2;

- (c) any plant pest which, although not specified in Schedule 1 or in column 3 of Schedule 2, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain;
- (d) any relevant material introduced into Wales in contravention of article 5(1)(d), (e) or (f) or article 18(1)(d), (e), (f) or (g);
- (e) any relevant material of a description specified in column 2 of Part B of Schedule 4 which originates in Great Britain, unless the requirements specified in the entries in respect of that description of relevant material in column 3 of Part B of Schedule 4 are complied with;
- (f) any relevant material of a description specified in column 2 of Part C of Schedule 4 which originates in Great Britain, unless the requirements specified in the entries in respect of that description of relevant material in column 3 of Part C of Schedule 4 are complied with;
- (g) any relevant material introduced into Wales from England or Scotland which, if it had been introduced from a third country or another part of the European Union, would have contravened article 5(1)(d), (e) or (f) or article 18(1)(d), (e), (f) or (g).

(2) The prohibitions in paragraph (1) do not apply to any plant pest or relevant material which is required to be kept, stored or moved in compliance with a requirement imposed by an inspector under Part 6 or 7.

(3) Paragraph (1)(e) and (f) is subject to article 22.

(4) In this article, “move” (“*symud*”) means move or otherwise dispose of, and “moved” (“*symud*”) is to be construed accordingly.

Requirements for plant passports

21.—(1) No person may introduce into, or move within, Wales any relevant material of a description specified in Part A of Schedule 6 where it comprises EU transit goods or originates in Wales or elsewhere in the European Union, unless the relevant material is accompanied by a plant passport and, if originating in Wales, has been the subject of a satisfactory inspection at the place of production.

(2) No person may introduce into, or move within, Wales any relevant material of a description specified in Part B of Schedule 6 where it comprises EU transit goods or originates in Wales or elsewhere in the European Union, unless the relevant material is accompanied by a plant passport which is valid for Wales as a protected zone and, if originating in Wales, has been the subject of a satisfactory inspection at the place of production.

(3) No person may move within Wales any relevant material which has been discharged under article 12 and which is of a description specified in Part A of Schedule 6, unless it is accompanied by a plant passport.

(4) No person may move within Wales any relevant material which has been discharged under article 12 and which is of a description specified in Part B of Schedule 6, unless it is accompanied by a plant passport which is valid for Wales as a protected zone.

(5) No person may consign from Wales to another part of the European Union any relevant material of a description specified in Part A of Schedule 7, unless the relevant material is accompanied by a plant passport.

(6) No person may consign from Wales to a protected zone in another part of the European Union any relevant material of a description specified in Part B of Schedule 7, unless the relevant material is accompanied by a plant passport which is valid for that protected zone.

(7) No person may move within Wales or consign from Wales to a protected zone in another part of the European Union which is recognised as a protected zone in relation to *Thaumetopoea processionea* L., any plants, other than seeds, of *Quercus* spp., other than *Quercus suber*, intended

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for planting, unless they are accompanied by official documentation confirming that they are free from *Thaumetopoea processionea* L.

(8) The requirements in paragraphs (1) and (2) do not apply in relation to the introduction into Wales of relevant material in respect of which the Welsh Ministers have agreed, under an EU transit agreement, to carry out a plant health check.

(9) Paragraphs (1), (2), (5) and (6) are subject to article 22.

(10) Paragraphs (2) and (4) are subject to article 23.

Exceptions from certain prohibitions and requirements

22.—(1) The following provisions do not apply to small quantities of relevant material, other than excluded material, if the relevant material meets the conditions in paragraph (2)—

- (a) article 18(1)(e), (f) and (g) and (5);
- (b) article 19(1);
- (c) article 20(1)(e) and (f); and
- (d) article 21(1), (2), (5) and (6).

(2) The conditions are that the relevant material—

- (a) does not show any signs of the presence of a plant pest;
- (b) is not intended for use in the course of a trade or business; and
- (c) is intended for household use.

(3) The requirements in article 21(1) do not apply to plants intended for planting, other than seeds, which can only grow in water or soil that is permanently saturated with water, which originate in an area established in accordance with Article 5 of Decision 2012/697/EU and which are only being moved within that area.

(4) The requirements in article 21(1) and (5) which would apply by virtue of paragraphs 16 and 17 of Part A of Schedules 6 and 7 to *Xylella* host plants within the meaning of Article 1(b) of Decision (EU) 2015/789 and to pre-basic mother plants and pre-basic material referred to in Article 9(9) of that Decision do not apply where the plants are being moved by a person acting for purposes outside the person's trade, business or profession and the person is acquiring them for personal use.

(5) The Welsh Ministers may exempt from the prohibition on movement in article 21(1) or (2) the movement of relevant material which originates in Great Britain if the Welsh Ministers are satisfied that—

- (a) the movement is made locally by small producers or processors whose entire production and sale of such material is intended for final usage by persons on the local market who are not professionally involved in plant production; and
- (b) there is no risk of plant pests spreading or being spread as a result of that movement.

(6) In paragraph (1), “excluded material” (“*deunydd eithriedig*”) means any of the following material—

- (a) plants of *Castanea* Mill. intended for planting;
- (b) plants of *Fraxinus* L. intended for planting;
- (c) plants, other than seeds, of *Platanus* L. intended for planting.

Validity of plant passports for Wales

23.—(1) This article applies to relevant material of a description specified in Part B of Schedule 6 which is moved from a place in Wales, or through Wales, to a destination outside Wales.

- (2) The requirements in article 21(2) and (4) do not apply if the relevant material—
 - (a) originates in Great Britain; or
 - (b) is accompanied during its transit through Wales by a document of a type normally used for trade purposes which certifies that the material originates outside Wales and is in transit to a final destination outside Wales and the conditions in paragraph (3) are met.
- (3) The conditions are that—
 - (a) the packaging in which the relevant material is transported and any vehicle which is used to transport the material is free from soil and plant debris and any relevant plant pest in relation to which Wales is a protected zone;
 - (b) the material was sealed immediately after packaging or, where appropriate, after loading, and remains sealed during the transit of the material through Wales; and
 - (c) the nature or construction of the packaging in which the material is transported and any vehicle which is used to transport the material are sufficient to ensure that there is no risk of any relevant plant pest which may be present in or on the relevant material escaping.

General provisions relating to plant passports

24.—(1) Any alteration or erasure in a plant passport automatically invalidates the plant passport unless the alteration or erasure is certified by an authorised officer or the plant trader authorised under article 29 to issue the plant passport, in either case by initialling the alteration or erasure by hand.

(2) A plant passport relating to any relevant material is to be treated as accompanying that relevant material only if the plant passport is affixed to the relevant material, its packaging or the vehicle transporting it by an authorised officer, by the plant trader authorised to issue it or by an inspector.

(3) Where a plant passport comprises an official label and is to be affixed by the plant trader who is authorised to issue the plant passport, the plant trader must affix it in such a way that it cannot be re-used.

(4) A person may only issue a replacement plant passport to replace a plant passport issued in respect of a consignment if—

- (a) the consignment has been divided up, the consignment or part of the consignment has been combined with another consignment or the plant health status of the consignment has been changed; and
- (b) the person is satisfied that the relevant material to which the replacement plant passport will relate can be identified and is free from any risk of infestation by a plant pest of a description specified in Schedule 1 or in column 3 of Schedule 2.

(5) A plant passport or official documentation which accompanies any relevant material in accordance with article 21 must be retained by the person who is the final user of the relevant material or who uses the relevant material in the course of a trade or business.

PART 4

Registration of plant traders and authority to issue plant passports

Register of plant traders

25.—(1) The Welsh Ministers must maintain a register listing the following particulars in relation to each plant trader who meets the requirements of this Part—

- (a) the name of the plant trader;

Status: Point in time view as at 02/11/2018.

Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Wales) Order 2018 (revoked). (See end of Document for details)

- (b) the name of any other person responsible for making the application for the plant trader under article 27;
 - (c) the trading name of the plant trader, if different from the name of the plant trader;
 - (d) details of the activities to which this Order applies and which the plant trader engages in or intends to engage in;
 - (e) the address of each premises at which the plant trader engages in or intends to engage in those activities; and
 - (f) a registration number unique to the plant trader.
- (2) The register must be open to inspection by the European Commission.

Obligation to register

26.—(1) No plant trader may engage in any activity to which this Order applies at any premises unless the plant trader is registered in respect of the activity at those premises.

(2) But a plant trader need not be registered in respect of any activity to which this Order applies if—

- (a) the plant trader is a producer; and
- (b) all of the relevant material which the plant trader produces and sells is intended for final use by persons on the local market who are not involved in plant production in the course of a trade or business.

Registration requirements

27.—(1) An application for registration must—

- (a) be made in writing to the Welsh Ministers; and
- (b) be in such form and contain such information as the Welsh Ministers may reasonably require for the purpose of considering the application.

(2) A plant trader must immediately notify the Welsh Ministers in writing if—

- (a) before the plant trader has been registered, there is any change in the circumstances of the plant trader recorded in the plant trader's application for registration; or
- (b) there is any change in the particulars listed in the register in relation to the plant trader.

(3) The Welsh Ministers may only register a plant trader in respect of an activity or premises if the Welsh Ministers are satisfied that the plant trader is able and willing to comply with the conditions in article 28(1).

(4) The Welsh Ministers must notify a plant trader when the plant trader has been registered.

Conditions for maintaining registration as a plant trader and other trade-related conditions

28.—(1) A registered plant trader must—

- (a) keep an accurate plan of each of the plant trader's registered premises;
- (b) keep a record of all relevant material which is—
 - (i) purchased by the plant trader;
 - (ii) brought onto any of the plant trader's registered premises for the purpose of storing, planting or producing the material on those premises; or
 - (iii) produced on, or dispatched from, any of the plant trader's registered premises;

- (c) keep each document which the plant trader has created or received and which relates to the records referred to in sub-paragraph (b) for at least one year from the date on which the plant trader created or received it;
 - (d) designate an individual (whether the plant trader or another person) who is technically experienced in relation to the registered activities and the related plant health matters affecting the registered premises and who is available to liaise with the Welsh Ministers in relation to matters arising under this Order;
 - (e) examine each of the registered premises and the relevant material at those premises at such times and in the manner specified in any guidelines issued from time to time by the Welsh Ministers;
 - (f) make a declaration that the plant trader is able and willing to comply with the conditions specified in sub-paragraphs (a) to (e) at any time and in any form that the Welsh Ministers require; and
 - (g) comply with any other conditions specified by the Welsh Ministers which the Welsh Ministers consider necessary for the purpose of assessing the presence of or the spread of any plant pest on any of the plant trader's registered premises by reason of the condition of those premises.
- (2) If the Welsh Ministers are satisfied that a registered plant trader has failed to comply with any of the conditions specified in paragraph (1), the Welsh Ministers may suspend the plant trader's registration until the Welsh Ministers are satisfied that the plant trader is able and willing to comply with those conditions.
- (3) A professional operator who supplies or is supplied *Xylella* specified plants must—
- (a) keep a record of each lot of the plants supplied by the professional operator and the name of the professional operator to whom the lot was supplied for three years from the date on which it was supplied;
 - (b) keep a record of each lot of the plants received by the professional operator and the name of the professional operator who supplied the lot for three years from the date on which it was received; and
 - (c) immediately following the dispatch or receipt of any such lot, notify the Welsh Ministers in writing of the details specified in Article 10(4) of Decision (EU) 2015/789 in respect of that lot.
- (4) In paragraph (3)—
- (a) “professional operator” (“*gweithredwr proffesiynol*”) has the meaning given in Article 1(d) of Decision (EU) 2015/789;
 - (b) “*Xylella* specified plants” (“*planhigion penodedig Xylella*”) means—
 - (i) specified plants within the meaning of Article 1(b) of Decision (EU) 2015/789 which have been grown for at least part of their life in, or have been moved through, an area established in accordance with Article 4 of that Decision;
 - (ii) plants, other than seeds, intended for planting, of *Coffea*, *Lavandula dentata* L., *Nerium oleander* L., *Olea europaea* L., *Polygala myrtifolia* L. or *Prunus dulcis* (Mill.) D.A. Webb which have never been grown in an area established in accordance with Article 4 of Decision (EU) 2015/789.

Authority to issue plant passports

29.—(1) A registered plant trader who wishes to issue plant passports in relation to relevant material which is to be moved from any premises in Wales must apply in writing to the Welsh Ministers for the authority to do so.

Status: Point in time view as at 02/11/2018.

Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Wales) Order 2018 (revoked). (See end of Document for details)

(2) The applicant must provide the Welsh Ministers with any details which the Welsh Ministers reasonably require about the relevant material.

(3) The Welsh Ministers may carry out any examination of the relevant material and the premises from which the material is to be moved which the Welsh Ministers consider necessary in relation to the application.

(4) The Welsh Ministers may only grant an authorisation to issue plant passports if, having regard to any examination of the relevant material and premises which are the subject of the application, the Welsh Ministers are satisfied—

- (a) that the premises and the relevant material are free from any relevant plant pests; and
- (b) where any requirements are specified under this Order in relation to the relevant material, those requirements have been complied with.

(5) An authorisation to issue plant passports granted by the Welsh Ministers must be given in writing and may be granted subject to such conditions as the Welsh Ministers consider appropriate to ensure that any relevant requirements under this Order are complied with in relation to the relevant material, including the territories for which the plant passports to be issued will be valid.

(6) The Welsh Ministers may suspend the operation of an authorisation to issue plant passports entirely or in relation to specified premises or specified relevant material if, having regard to any examination of the premises of the registered plant trader and any relevant material there, the Welsh Ministers are not satisfied—

- (a) that the premises or the relevant material are free from any relevant plant pests; and
- (b) where any requirements are specified under this Order in relation to the relevant material, that those requirements have been complied with.

(7) The Welsh Ministers may suspend the operation of, or vary an authorisation to issue plant passports, to the extent that the Welsh Ministers consider necessary if satisfied that the registered plant trader has failed to—

- (a) notify the Welsh Ministers in accordance with article 27(2) of any change in the particulars registered in relation to the plant trader;
- (b) comply with any of the conditions specified in article 28(1);
- (c) comply with any conditions in the authorisation granted under paragraph (5); or
- (d) comply with a requirement in a notice served on the plant trader under article 32.

(8) In this article “relevant plant pest” (“*pla planhigion perthnasol*”) means—

- (a) a plant pest of a description specified in Schedule 1; or
- (b) in relation to any relevant material of a description specified in column 2 of Schedule 2, a plant pest of a description specified in any entry in respect of that description of relevant material in column 3 of that Schedule which is present on the relevant material.

PART 5

Swiss trade and Swiss plant passports

Exceptions to the requirements in articles 6, 7 and 10

30.—(1) The requirements in article 7 for certain relevant material to be accompanied by a phytosanitary certificate do not apply to any relevant material which is of a description specified in Part B, but not Part A, of Schedule 8 and which is introduced into Wales from Switzerland.

(2) In the case of any relevant material which is of a description specified in Part A of Schedule 8 and which is consigned directly from Switzerland to Wales, any requirements in article 7 for the relevant material to be accompanied by a phytosanitary certificate are satisfied if the material is accompanied by a Swiss plant passport.

(3) The requirements in articles 6 and 10 do not apply to any relevant material which is—

- (a) of a description specified in Part B, but not in Part A, of Schedule 8 and which is introduced into Wales from Switzerland; or
- (b) accompanied by a Swiss plant passport pursuant to paragraph (2).

(4) In the case of any relevant material which is of a description specified in Part A of Schedule 8 and which is introduced into Wales from Switzerland via another part of the European Union, any requirement in Part 3 for the relevant material to be accompanied by a plant passport is satisfied if the material is accompanied by a Swiss plant passport.

PART 6

Measures to control the landing of relevant material and prevent the spread of plant pests

Examination, sampling and marking

31.—(1) An inspector may enter any premises at all reasonable times for the purpose of—

- (a) determining the presence or the distribution of a plant pest on the premises;
- (b) checking compliance with any provision of this Order;
- (c) carrying out an examination of a plant trader's premises (including relevant material, documents or records on the premises) in connection with the plant trader's authorisation or application for authorisation to issue plant passports under article 29;
- (d) otherwise enforcing the provisions of this Order.

(2) An inspector acting under paragraph (1) must, if requested to do so, show evidence of their authority to act.

(3) Paragraph (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling, unless 24 hours' notice has been given to the occupier.

(4) Paragraph (1) does not affect any right of entry conferred by a warrant issued by a justice of the peace.

(5) An inspector who enters premises for a purpose specified in paragraph (1) or under a warrant issued by a justice of the peace may—

- (a) examine, photograph or mark any part of the premises or any object on the premises;
- (b) take samples of or from any plant pest or relevant material, or from any container or package, or from any material which has been or may have been in contact with a plant pest or relevant material;
- (c) inspect or make copies of any documents or records (in whatever form they may be held) relating to the production of or trade in any relevant material.

(6) An inspector may, for the purpose of exercising a power conferred under paragraph (5), open or authorise any person to open on behalf of the inspector any container or package or require the owner or any person in charge of any container or package to open it in the manner specified by the inspector.

Status: Point in time view as at 02/11/2018.

Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Wales) Order 2018 (revoked). (See end of Document for details)

(7) An inspector may prohibit the movement, treatment or destruction of any plant pest, relevant material, container or package or any material which may have been in contact with a plant pest or relevant material where this is necessary to enable the inspector to exercise the powers conferred by paragraph (5).

(8) Where any document or record referred to in paragraph (5)(c) is kept by means of a computer, an inspector may—

- (a) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the record or document;
- (b) require any person who is in charge of or is otherwise concerned with the operation of the computer, apparatus or material to give the inspector any assistance which the inspector reasonably requires.

(9) An inspector may destroy or otherwise dispose of any sample taken under paragraph (5)(b) where the sample is no longer required by the inspector under this Order.

(10) An inspector may be accompanied by such other persons, including representatives of the European Commission, and may bring onto the premises such equipment and vehicles, as the inspector considers necessary.

(11) A person accompanying an inspector under paragraph (10)—

- (a) may remain on the premises and from time to time re-enter the premises without the inspector;
- (b) bring onto the premises any equipment or vehicle that the person considers necessary;
- (c) carry out work on the premises in the manner directed by an inspector.

(12) A person accompanying an inspector under paragraph (10) must, if so requested, show evidence of their authority given in that behalf by the Welsh Ministers.

Actions which may be required by an inspector

32.—(1) If an inspector has reasonable grounds for suspecting that any plant pest or relevant material is likely to be or has been introduced into Wales in contravention of this Order, the inspector may serve a notice on an appropriate person.

(2) An appropriate person is—

- (a) a plant trader or other person who is in possession of or who is in any way entitled to the custody or control of the plant pest or relevant material; or
- (b) any person who is in charge of the premises at which the plant pest or relevant material is held or is likely to be held on its landing.

(3) A notice under paragraph (1) may—

- (a) prohibit the landing of any plant pest or relevant material;
- (b) specify the manner in which the landing of any plant pest or relevant material is to be carried out and the precautions which are to be taken during and subsequent to landing;
- (c) require any plant pest or relevant material to be treated, re-exported, destroyed or otherwise disposed of;
- (d) prohibit the removal of any plant pest or relevant material from the premises for the period specified in the notice and, where appropriate, impose any other prohibitions which the inspector considers necessary to prevent the introduction or spread of any plant pest;
- (e) require the removal of any plant pest or relevant material from the premises specified in the notice;

- (f) require the taking of any other steps, as may be specified in the notice, which the inspector considers necessary to prevent the introduction or spread of any plant pest.
- (4) If an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises any controlled plant pest or prohibited material, the inspector may serve a notice on the occupier or any other person in charge of the premises or the plant pest or relevant material.
- (5) A notice under paragraph (4) may—
- (a) require any controlled plant pest or prohibited material to be treated, re-exported, destroyed or otherwise disposed of;
 - (b) prohibit the removal of any controlled plant pest or prohibited material from the premises for the period specified in the notice and, where appropriate, impose any other prohibitions which the inspector considers necessary to prevent the introduction or spread of any controlled plant pest;
 - (c) require the removal of any controlled plant pest or prohibited material from the premises specified in the notice;
 - (d) require the taking of any other steps, as specified in the notice, which the inspector considers necessary to prevent the introduction or spread of any controlled plant pest.
- (6) If an inspector has reasonable grounds for believing that it is necessary for the purpose of preventing the spread of or ensuring the eradication of any controlled plant pest from the premises mentioned in paragraph (4), the inspector may serve a notice on the occupier or a person in charge of any other premises, imposing any prohibition or requiring any reasonable step to be taken for that purpose.
- (7) In this article—
- (a) “controlled plant pest” (“*pla planhigion a reolir*”) means—
 - (i) a plant pest of a description specified in Schedule 1 or in column 3 of Schedule 2;
 - (ii) a plant pest which is not normally present in Great Britain, but in respect of which the inspector considers that there is an imminent danger of the plant pest spreading or being spread in Great Britain; or
 - (iii) a plant pest which is not normally present in another part of the European Union, but in respect of which the inspector considers that there is an imminent danger of the plant pest spreading or being spread to another part of the European Union;
 - (b) “prohibited material” (“*deunydd gwaharddedig*”) means—
 - (i) relevant material which is carrying or is infected with, or which may be carrying or infected with, a controlled plant pest; or
 - (ii) relevant material the landing of which is prohibited under article 5 or 18 or the movement of which in Wales is prohibited under article 20.

Actions which may be taken by an inspector

- 33.**—(1) If an inspector has reasonable grounds for suspecting that there is present or likely to be present on any premises any controlled plant pest or infected material, the inspector may, on serving reasonable notice, enter the premises and on the premises or elsewhere take steps to—
- (a) destroy any controlled plant pest;
 - (b) prevent the spread of any controlled plant pest;
 - (c) destroy any infected material; or
 - (d) treat any infected material.

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(2) An inspector acting under paragraph (1) must, if requested to do so, show evidence of their authority to act.

(3) Paragraph (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling, unless 24 hours' notice has been given to the occupier.

(4) Paragraph (1) does not affect any right of entry conferred by a warrant issued by a justice of the peace.

(5) An inspector may be accompanied by such other persons, including representatives of the European Commission, and may bring onto the premises such equipment and vehicles, as the inspector considers necessary.

(6) A person accompanying an inspector under paragraph (5)—

- (a) may remain on the premises and from time to time re-enter the premises without the inspector;
- (b) bring onto the premises any equipment or vehicle which the person considers necessary;
- (c) carry out work on the premises in the manner directed by an inspector.

(7) A person accompanying an inspector under paragraph (5) must, if so requested, show evidence of their authority given in that behalf by the Welsh Ministers.

(8) In this article—

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

- (i) a plant pest of a description specified in Schedule 1 or in column 3 of Schedule 2; or
- (ii) a plant pest which is not normally present in Great Britain, but in respect of which the inspector considers that there is an imminent danger of the plant pest spreading or being spread in Great Britain;

(b) “infected material” (“*deunydd heintiedig*”) means—

- (i) relevant material which is carrying or is infected with, or which may be carrying or infected with, a controlled plant pest; or
- (ii) relevant material which is not carrying or infected with, but in respect of which the inspector considers that there is an imminent danger of the plant pest spreading or being spread.

Miscellaneous provisions as to notices

34.—(1) A notice served under paragraph (1) or (4) of article 32 may specify one or more requirements or alternative requirements.

(2) Any requirement specified in a notice under paragraph (1), (4) or (6) of article 32 must be carried out in the manner and within such reasonable time as the inspector may specify in the notice.

(3) Any treatment, re-export, destruction or disposal which is required by a notice served under article 32 must be carried out, or arranged to be carried out, to the satisfaction of an inspector, by the person on whom the notice was served from or at the place specified in the notice.

(4) Any plant pest or relevant material which is required by a notice served under article 32 to be moved to a place specified in the notice may not be moved to the designated place except in the manner specified in the notice.

(5) An inspector may amend or withdraw a notice served by an inspector under this Order by a further notice.

(6) A notice under paragraph (5) may be subject to any conditions which the inspector considers necessary to prevent the introduction or spread of any plant pest or re-infection or re-infestation by the plant pest to which the original notice relates.

(7) Any notice served under this Part may define by reference to a map or plan or otherwise the extent of the premises referred to in the notice.

(8) An inspector may, by notice, require the owner or any other person who appears to be in charge of the premises to which a notice served under article 32 relates—

- (a) to notify the Welsh Ministers of any change in the occupation of the premises, and the date of the change and the name of the new occupier; and
- (b) to inform the new occupier of the premises of the contents of the notice.

Service of notices

35.—(1) A notice under this Order which is to be served on a registered plant trader must be served by—

- (a) delivering it personally; or
- (b) leaving it for, or sending it by post to, the trader at the address of the trader's registered premises or, if the trader has more than one address in the register, at the trader's principal address in the register.

(2) A notice under this Order which is to be served on any other person may be served by—

- (a) delivering it personally; or
- (b) leaving it for, or sending it by post to, them at their last known place of abode or business.

(3) If a notice under this Order is to be served on the occupier or other person in charge of premises, and the last known place of abode or address of that person cannot be ascertained after reasonable enquiry, the notice may be served on that person by addressing it to “the occupier” and leaving it conspicuously affixed to an object on the premises for a period of seven days.

(4) A notice under this Order may—

- (a) in the case of a body corporate (other than a limited liability partnership), be served on the secretary or clerk of that body at the address of the registered or principal office of that body;
- (b) in the case of a partnership (other than a limited liability partnership, but including a Scottish partnership), be served on a partner or a person having the control or management of the partnership business at the address of the principal office of the partnership; or
- (c) in the case of a limited liability partnership, be served on a member of the partnership at the address of the registered or principal office of the partnership.

(5) For the purposes of paragraph (4), the principal office of a company registered outside the United Kingdom or a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

Information as to compliance with notices

36. A notice served under this Order may require the person on whom the notice is served to inform the inspector immediately whether the requirements of the notice have been complied with and, if they have, to provide the inspector with details of the steps taken to comply with those requirements.

Failure to comply with a notice

37.—(1) If a person fails to comply with a notice served on that person under this Order, an inspector may enter any affected premises at all reasonable times to take or cause any steps to be taken which the inspector considers necessary to ensure compliance with the notice or to remedy the consequences of the failure to carry them out.

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(2) An inspector acting under paragraph (1) must, if requested to do so, show evidence of their authority to act.

(3) Paragraph (1) does not apply in relation to any premises which are used wholly or mainly as a private dwelling, unless 24 hours' notice of the intended entry has been given to the occupier.

(4) Paragraph (1) does not affect any right of entry conferred by a warrant issued by a justice of the peace.

(5) An inspector acting under paragraph (1) may be accompanied by such other persons, including representatives of the European Commission, and may bring onto the premises such equipment and vehicles, as the inspector considers necessary.

(6) A person accompanying an inspector under paragraph (5)—

(a) may remain on the premises and from time to time re-enter the premises without the inspector;

(b) bring onto the premises any equipment or vehicle which the person considers necessary;

(c) carry out work on the premises in the manner directed by the inspector.

(7) A person accompanying an inspector under paragraph (5) must, if so requested, show evidence of their authority given in that behalf by the Welsh Ministers.

(8) Where an inspector takes any steps under paragraph (1), the Welsh Ministers may recover, as a debt from the person on whom the notice was served, all reasonable costs incurred in taking those steps.

(9) In this article, “affected premises” (*“mangre yr effeithir arni”*) means any premises in or on which any plant pest or relevant material to which the notice relates may be present.

Right of entry conferred by a warrant issued by a justice of the peace

38.—(1) A justice of the peace may by signed warrant permit an inspector to enter premises under article 31, 33 or 37, if necessary by reasonable force, if the justice, on sworn information in writing, is satisfied that—

(a) there are reasonable grounds to enter those premises; and

(b) any of the conditions in paragraph (2) are met.

(2) The conditions are that—

(a) entry to the premises has been, or is likely to be, refused and notice of the intention to apply for a warrant has been given to the occupier;

(b) asking for admission to the premises, or giving notice of the intention to apply for a warrant, would defeat the object of the entry;

(c) entry is required urgently;

(d) the premises are unoccupied or the occupier is temporarily absent.

(3) A warrant is valid for one month.

(4) An inspector who enters any unoccupied premises must leave them as effectively secured against unauthorised entry as they were before entry.

PART 7

Certain solanaceous species: planting and control of relevant plant pests

Miscellaneous provisions for certain solanaceous species

39.—(1) No person may knowingly plant, or knowingly cause or permit to be planted, any potatoes or any potatoes produced from those potatoes, which have been grown in a third country, other than Switzerland.

(2) No person may knowingly plant or knowingly cause or permit to be planted any potatoes unless—

- (a) they derive in direct line from potato material which has been obtained under an officially approved programme in the European Union or Switzerland;
 - (b) they have been found to be free from Potato brown rot in official tests using the methods set out in Annex II to Directive [98/57/EC](#); and
 - (c) they have been found to be free from Potato ring rot in official tests using the methods set out in Annex I to Directive [93/85/EEC](#).
- (3) The following have effect in relation to the control of certain plant pests—
- (a) Schedule 13 (special measures for the control of Potato wart disease);
 - (b) Schedule 14 (special measures for the control of Potato cyst nematode);
 - (c) Schedule 15 (special measures for the control of Potato ring rot); and
 - (d) Schedule 16 (special measures for the control of Potato brown rot).

(4) Where the presence of Potato brown rot is confirmed to be present on a sample taken in accordance with Articles 2 and 5 of Directive [98/57/EC](#), an inspector may demarcate a zone in accordance with Article 5(1)(a)(iv) or 5(1)(c)(iii) of that Directive to prevent the spread of that plant pest.

PART 8

Licences

Licences to carry out activities prohibited by this Order

40.—(1) Notwithstanding any other provision of this Order, any plant pest or relevant material may be introduced into, or kept, stored, planted, moved or otherwise disposed of in, Wales and any other thing prohibited by this Order may be done under the authority of a licence granted by the Welsh Ministers—

- (a) in exercise of any derogation permitted by Directive [2000/29/EC](#); or
 - (b) for trial or scientific purposes, or for work on varietal selections, in relation to a domestic quarantine plant pest.
- (2) A licence granted under paragraph (1)(b) must be in writing and may be granted—
- (a) subject to conditions;
 - (b) for an indefinite period or a specified period.

(3) In this article, “domestic quarantine plant pest” (“*pla planhigion cwarantin domestig*”) means a plant pest which is not of a description listed in Annex I or II to Directive [2000/29/EC](#) and which is not normally present in, and is likely to be injurious to plants, in Great Britain.

Licences for trial or scientific purposes or for work on varietal selections permitted by Directive 2008/61/EC

41.—(1) The Welsh Ministers must by licence authorise the introduction, movement or keeping of any plant pest or relevant material for any activity for trial or scientific purposes or for work on varietal selections, where the introduction, movement or keeping of the plant pest or relevant material for any such purpose would otherwise be prohibited by this Order, if the Welsh Ministers—

- (a) have received an application for a licence containing the information set out in Article 1(2) of Directive 2008/61/EC; and
- (b) are satisfied that the general conditions set out in Annex I to that Directive are met in relation to the application.

(2) A licence granted under paragraph (1) must be in writing and include—

- (a) any conditions laid down in Article 2(2) of Directive 2008/61/EC which are relevant to any plant pest or relevant material that is the subject of the activities to which the licence relates; and
- (b) any other conditions specifying quarantine measures under paragraph 2(a) of Annex I to that Directive or further quarantine measures under paragraph 2(b) of Annex I to that Directive as the Welsh Ministers may determine.

(3) The Welsh Ministers must revoke a licence granted under paragraph (1) where it is established to the satisfaction of the Welsh Ministers that the licensee has not complied with or met any condition of the licence which is imposed under paragraph (2)(b).

(4) On the conclusion of any activities to which a licence granted under paragraph (1) relates, the licensee must, unless otherwise authorised by the Welsh Ministers under paragraph (5)—

- (a) destroy or sterilise any plant pest or relevant material that was the subject of the activities and any other relevant material which has come into contact with or which may have been contaminated by any such plant pest or relevant material; and
- (b) sterilise or clean in any manner specified by the Welsh Ministers, the premises and facilities at which the activities were carried out.

(5) The Welsh Ministers may authorise the licensee to refrain from destroying any relevant material under paragraph (4)(a) if the Welsh Ministers are satisfied that it has been subject to appropriate quarantine measures and has been found, in any manner specified by the Welsh Ministers, to be free from the plant pests specified in Schedule 1 and in column 3 of Schedule 2 and from other plant pests considered by the Welsh Ministers to pose a risk.

(6) For the purpose of paragraph (2), references to the responsible official body in Article 2(2) of, and Annex I to, Directive 2008/61/EC are to be taken to refer to the Welsh Ministers.

(7) In this article, “appropriate quarantine measures” (“*mesurau cwarantin priodol*”) means—

- (a) in the case of relevant material for which quarantine measures are specified in Part A of Annex III to Directive 2008/61/EC, those measures; and
- (b) in the case of any other relevant material, any quarantine measures, including testing, as may be specified by the Welsh Ministers.

PART 9

Notifications, provision and exchange of information

Notification of the presence or suspected presence of certain plant pests

42.—(1) The occupier or other person in charge of premises who becomes aware of or suspects that any notifiable plant pest is present on the premises, or any other person who in the course of their duties or business becomes aware of or suspects that a notifiable plant pest is present on any premises, must immediately notify the Welsh Ministers or an inspector of its presence or suspected presence.

(2) A notice under paragraph (1) may first be given orally, but must be confirmed in writing as soon as reasonably practicable.

(3) In this article, “notifiable plant pest” (“*pla planhigion hysbysadwy*”) means—

- (a) a plant pest, other than a plant pest of a description specified in Schedule 17, which—
 - (i) is of a description specified in Schedule 1;
 - (ii) is of a description specified in column 3 of Part A of Schedule 2;
 - (iii) is of a description specified in column 3 of Part B of Schedule 2 and which is present on, or appears to an inspector to have been in contact with, relevant material of a description specified in the entry in respect of that plant pest in column 2 of Part B of Schedule 2; or
 - (iv) although not of a description specified in Schedule 1 or 2, is not normally present in Great Britain and is likely to be injurious to plants in Great Britain;
- (b) a plant pest of a description specified in Schedule 17 which—
 - (i) is a sub-species or strain normally present in Great Britain and which has been found on the premises of a registered plant trader;
 - (ii) is a sub-species or strain not normally present in Great Britain and which has been found on any premises; or
 - (iii) is also specified in column 3 of Part A of Schedule 2 and which is present on, or appears to an inspector to have been in contact with, relevant material of a description specified in the entry in respect of that plant pest in column 2 of Part A of Schedule 2.

(4) If the Welsh Ministers become aware of the presence or suspected presence of *Xylella fastidiosa* (Wells et al.) in any place or area in Wales, the Welsh Ministers must ensure that any person having under their control plants which may be infected by *Xylella fastidiosa* (Wells et al.) is immediately informed of—

- (a) its presence or suspected presence;
- (b) the possible consequences arising from its presence or suspected presence; and
- (c) the measures to be taken as a result.

Notification of the likely entry into, or presence in, a free zone of plant pests or relevant material

43.—(1) The responsible authority for a free zone in Wales must immediately notify the Welsh Ministers of any notifiable item which it knows or suspects—

- (a) is likely to enter the free zone; or
- (b) is present in the free zone and has not been cleared out of charge under the Customs Act.

Status: Point in time view as at 02/11/2018.

Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Wales) Order 2018 (revoked). (See end of Document for details)

(2) A notice under paragraph (1) may first be given orally, but must be confirmed in writing as soon as reasonably practicable.

(3) In this article—

- (a) “free zone” (“*parth rhydd*”) has the same meaning as in the Customs Act;
- (b) “notifiable item” (“*eitem hysbysadwy*”) means—
 - (i) a plant pest which is of a description specified in Schedule 1 or in column 3 of Schedule 2;
 - (ii) a plant pest which, although not specified in Schedule 1 or 2, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain; or
 - (iii) relevant material of a description specified in column 2 of Schedule 3 which originates in a country specified in the entry in respect of that description of relevant material in column 3 of that Schedule;
- (c) “the responsible authority” (“*yr awdurdod cyfrifol*”) has the same meaning as in the Customs Act.

Information to be given

44.—(1) An inspector or any other officer of the Welsh Ministers may by notice in writing require an appropriate person to give to the inspector or officer, within the time specified in the notice, any information which the person may possess as to—

- (a) the plants grown or products stored at any time on the premises in respect of which a notice has been served under this Order;
- (b) any plant pest or relevant material referred to in paragraph (4)(b); and
- (c) the persons who have had or are likely to have had any plant pest or relevant material referred to in paragraph (4)(b) in their possession or under their charge.

(2) The time within which the information is required to be given to the inspector or other officer must be reasonable.

(3) An appropriate person must produce for examination by the inspector or other officer any licence, official statement, certificate, plant passport, record, invoice or other document relating to a plant pest or any relevant material specified in the notice.

(4) In this article, “appropriate person” (“*person priodol*”) means—

- (a) a person who is the owner, occupier or other person in charge of premises in respect of which a notice has been served under this Order;
- (b) a person who has, has had, or is reasonably suspected by the inspector or officer to have or have had, possession or charge of—
 - (i) a plant pest of a description specified in Schedule 1 or in column 3 of Schedule 2;
 - (ii) a plant pest which, although not specified in Schedule 1 or 2, is not normally present in Great Britain and which is likely to be injurious to plants in Great Britain;
 - (iii) any relevant material carrying or infected with a plant pest referred to in paragraph (i) or (ii); or
 - (iv) any relevant material which the inspector or officer knows or suspects to have been landed in or exported from Wales; or
- (c) a person who, as auctioneer, salesman or otherwise, has sold, offered for sale or otherwise disposed of a plant pest referred to in sub-paragraph (b)(i) or (ii).

Power to share information for the purposes of the Order

45.—(1) The Commissioners for Her Majesty's Revenue and Customs may disclose any information in their possession to the Welsh Ministers for the purposes of this Order.

(2) Paragraph (1) is without prejudice to any other power of the Commissioners to disclose information.

(3) No person, including a servant of the Crown, may disclose any information received from the Commissioners under paragraph (1) if—

- (a) the information relates to a person whose identity is specified in the disclosure or can be deduced from the disclosure;
- (b) the disclosure is for a purpose other than specified in paragraph (1); and
- (c) the Commissioners have not given their prior consent to the disclosure.

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.

Status: Point in time view as at 02/11/2018.

Changes to legislation: There are currently no known outstanding effects for the The Plant Health (Wales) Order 2018 (revoked). (See end of Document for details)

(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.

Penalties

47.—(1) A person guilty of an offence under this Order (other than an offence under article 46(1)(a)(xvii)) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person guilty of an offence under article 46(1)(a)(xvii) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding three months, to a fine not exceeding the statutory maximum or to both.

PART 11

Miscellaneous

The Customs Act

48. The provisions of this Order apply without prejudice to the Customs Act.

Revocation and transitional provisions

49.—(1) The Plant Health (Wales) Order 2006^{M28} and the Orders specified in Schedule 18 are revoked.

(2) Any notice issued or licence, authorisation or other approval granted under the Plant Health (Wales) Order 2006 and which has effect at the coming into force of this Order remains in force as if it were issued or granted under this Order.

(3) Entries which are on the register kept under article 25(1) of the Plant Health (Wales) Order 2006 immediately before this Order comes into force are to be treated as if entered on the register under article 25(1) of this Order.

Marginal Citations

M28 S.I. 2006/1643 (W. 158), as amended by S.I. 2007/2716 (W. 229), 2007/3305 (W. 292), 2008/2781 (W. 248), 2008/2913 (W. 257), 2009/1376 (W. 137), 2010/1795 (W. 171), 2010/2976 (W. 247), 2012/3143 (W. 315), 2013/888 (W. 100), 2013/2939 (W. 287), 2014/521 (W. 62), 2014/1186 (W. 115), 2014/1463 (W. 144) and 2014/2368 (W. 231).

9 October 2018

Hannah Blythyn
Minister for Environment under authority of
the Cabinet Secretary for Energy, Planning and
Rural Affairs, one of the Welsh Ministers

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