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WELSH STATUTORY INSTRUMENTS

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**2018 No. 1064**

The Plant Health (Wales) Order 2018 (revoked)

**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 <sup>M1</sup>;

“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;

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- (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 <sup>M2</sup>.

#### Marginal Citations

- M1** 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).
- M2** 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—
- (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.

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(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;

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- (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.
- (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;

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- (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);
- (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.

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