

2014 No. 1463 (W. 144)

PLANT HEALTH, WALES

**The Plant Health (Miscellaneous
Amendments) (Wales) Regulations
2014**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to plant health legislation applying in Wales.

Regulation 2 amends the Potatoes Originating in Egypt (Wales) Regulations 2004 (S.I. 2004/2245) (W.209) to enforce Commission Implementing Decision 2011/787/EU (OJ No L 319, 2.12.2011, p.112), which concerns emergency measures which may be taken against the dissemination of *Ralstonia solanacearum* (Smith) Yabuuchi et al. as regards potatoes originating in Egypt.

Regulation 3 provides for an information gateway between Her Majesty's Revenue and Customs (HMRC) and the Welsh Ministers for the purposes of the Plant Health (Wales) Order 2006 (S.I. 2006/1643) (W.158) and for an offence in relation to wrongful disclosure of information.

Regulation 4 makes amendments to the Plant Health (Wales) Order 2006 to enforce Decision 1/2010 of the Joint Committee on Agriculture (2011/83/EU) (OJ No L 32, 8.2.2011, p.9), which relates to plant health controls on trade in plant material with Switzerland.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result it was not considered necessary to carry out a Regulatory Impact Assessment as to the likely costs and benefits of complying with these Regulations.

2014 No. 1463 (W. 144)

PLANT HEALTH, WALES

**The Plant Health (Miscellaneous
Amendments) (Wales) Regulations
2014**

Made 5 June 2014

Laid before the National Assembly for Wales

9 June 2014

Coming into force 4 July 2014

The Welsh Ministers are designated⁽¹⁾ for the purposes of making regulations under section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the common agricultural policy of the European Union and they make the following Regulations in exercise of the powers conferred by that section:

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Plant Health (Miscellaneous Amendments) (Wales) Regulations 2014. They come into force on 4 July 2014 and apply in relation to Wales.

(2) In these Regulations, “the PHO” means the Plant Health (Wales) Order 2006⁽³⁾.

Amendment of the Potatoes Originating in Egypt (Wales) Regulations 2004

2.—(1) The Potatoes Originating in Egypt (Wales) Regulations 2004⁽⁴⁾ are amended as follows.

(1) S.I. 2010/2690.
(2) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1)(a), and the European Union (Amendment) Act 2008 (c.7), Part 1 of the Schedule.
(3) S.I. 2006/1643 (W.158).
(4) S.I. 2004/2245 (W.209).

(2) In regulation 2 (interpretation), for the definition of “the Decision” substitute —

““the Decision” (“*y Penderfyniad*”) means Commission Implementing Decision 2011/787/EU authorising Member States temporarily to take emergency measures against the dissemination of *Ralstonia solanacearum* (Smith) Yabuuchi et al. as regards Egypt⁽¹⁾”;

(3) In paragraph (1) of regulation 3 (imports of potatoes originating in Egypt), for “paragraph 1(b)(xi)” substitute “paragraph 2.2(c).”

Amendment of the PHO: information gateway

3.—(1) After article 44 of the PHO, insert —

“Power to share information for the purposes of the Order

44A.—(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.”.

(2) In article 45 of the PHO (offences)—

(a) in paragraph (1)(a)—

(i) insert—

“(xviii) article 44A(3)”; and

(b) after paragraph (4) insert—

“(4A) It is a defence for a person charged with an offence under paragraph (1)(a)(xviii) to prove that the person reasonably believed—

- (a) that the disclosure was lawful; or

(1) OJ No L 319, 2.12.2011, p.112.

(b) that the information had already and lawfully been made available to the public.”.

(3) For article 46 of the PHO substitute—

“Penalties

46.—(1) Except as provided by paragraph (2), a person guilty of an offence under this Order 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 45(1)(a)(xviii) is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both; or

(b) on summary conviction, to imprisonment for a term not exceeding three months, to a fine not exceeding the statutory maximum or to both.”.

Amendment of the PHO: Switzerland

4.—(1) Schedule 8(1) (Swiss plant passports) to the PHO is amended as follows.

(2) In Part A—

(a) for paragraph 1 substitute—

“**1.** Plants, other than seeds, of *Beta vulgaris* L., *Camellia* sp., *Hummulus lupulus* L., *Viburnum* spp., *Prunus* L. not including *Prunus laurocerasus* L. or *Prunus lusitanica* L., and *Rhododendron* spp. not including *Rhododendron simsii* Planch, intended for planting.”;

(b) in paragraph 5, after sub-paragraph (e) insert—

“(ea) plants of *Palmae*, intended for planting and having a diameter of the stem at the base of over 5 cm and belonging to the following genera or species: *Areca catechu* L., *Arenga pinnata* (Wurmb) Merr., *Borassus flabellifer* L., *Brahea* Mart., *Butia* Becc., *Calamus merrillii* Becc., *Caryota maxima* Blume ex Mart., *Caryota cumingii* Lodd, ex Mart., *Chamaerops* L., *Cocos nucifera* L., *Corypha elata* Roxb., *Corypha gebang* Mart., *Elaeis guineensis* Jacq., *Jubaea* Kunth., *Livistona* R. Br., *Metroxylon*

(1) Schedule 8 was amended by S.I 2008/2781 (W.248). Article 2(13)(b).

sagu Rottb., *Oreodoxa regia* Kunth.,
Phoenix L., *Sabal* Adans., *Syagrus*
Mart., *Trachycarpus* H. Wendl.,
Trithrinax, *Washingtonia* Raf.; or”.

(3) In Part B—

(a) for paragraph 1 substitute—

“1. Plants, other than seeds, intended for planting, other than *Clausena* Burm. f. and *Murraya* Koenig ex L.”; and

(b) in paragraph 5(c), for “*Quercus* L or *Solidago* L.” substitute “*Quercus* L., *Rhododendron* spp., not including *Rhododendron simsii* Planch, *Solidago* L. or *Viburnum* spp.”.

Alun Davies

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Welsh Ministers

5 June 2014