

Explanatory Memorandum to The Plant Health (Wales) (Amendment) (No. 3) Order 2014

This Explanatory Memorandum has been prepared by the Natural Environment & Agriculture Team within the Natural Resources, Culture and Sport Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Plant Health (Wales) (Amendment) (No. 3) Order 2014.

John Griffiths
Minister for Natural Resources, Culture and Sport

5 September 2014

1. Description

This Order amends the Plant Health (Wales) Order 2006 (S.I. 2006 No. 1643 (W 158)) (“the principal Order”), which contains measures to prevent the introduction and spread of harmful plant pests and diseases. It implements Commission Implementing Directives 2014/78/EU and 2014/83/EU and Commission Implementing Decision 2014/422/EU.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

3. Legislative background

The Welsh Ministers, as the competent authority in relation to Wales for the purposes of the Plant Health Act 1967 (the “Act”) may implement these Directives and Decision by making amendments to the Plant Health (Wales) Order 2006/1643 (the “principal Order”).

Amendments to the principal Order can be made if the Welsh Ministers think it is expedient for preventing the introduction and spread of pests in Wales, pursuant to section 2 and 3(1) of the Act.

This instrument will follow the negative resolution procedure.

4. Purpose & intended effect of the legislation

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 Community¹ (“the Plant Health Directive”) establishes the EU plant health regime. The Plant Health Directive is implemented in Wales by the Plant Health (Wales) Order 2006 and, in relation to forestry matters, by the Plant Health (Forestry) Order 2005 (S.I. 2005/2517) which extends to Great Britain. Similar but separate legislation to the principal Order operates in England, Scotland and Northern Ireland.

A number of EU instruments have been adopted which modify the annexes of the Plant Health Directive as a result of technical changes in the assessment of risks presented by particular pests and diseases and introduce new measures to address risks presented by other pests and diseases. These EU measures are summarised below:

Commission Implementing Directive 2014/78/EU amending Annexes I, II, III, IV and V to 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

- References to *Pseudomonas solanacearum* (Smith) Smith (Potato brown rot), *Lycopersicon lycopersicum* (L.) Karsten ex Farw. (Tomato), *Ceratocystis fimbriata* f. spp *plantaini* Walter (Plane wilt) and citrus greening bacterium are amended in line with the revised scientific denominations. *Pseudomonas solanacearum* (Smith) Smith is now referred to as *Ralstonia solanacearum* (Smith) Yabuuchi *et al.*, *Lycopersicon lycopersicum* (L.) Karsten ex Farw. is referred to as *Solanum lycopersicum* L., *Ceratocystis fimbriata* f. spp *plantaini* Walter (Plane wilt) is referred to as to *Ceratocystis plantaini* (J.M.Walter) Engelbr. & T.C. Harr and the Citrus greening bacterium is referred to as *Candidatus Liberibacter* spp., causal agent of Huanglongbing disease of citrus/citrus greening.
- *Agilus anxius* Gory (Bronze birch borer) and *Anthonomus eugenii* Cano (Pepper weevil) are added to the list of prohibited insects, mites and nematodes in Schedule 1A of the principal Order.

¹ This Directive can be found at <http://eur-lex.europa.eu/homepage.html?locale=en>

- *Dryocosmus kuriphilus* Yasumatsu (Chestnut gall wasp) and *Thaumtopoea processionea* L (Oak processionary moth) are added to the list of prohibited insects, mites and nematodes in Schedule 1A of the principal Order in relation to new UK protected zones.
- *Agrilus planipennis* Fairmaire (Emerald ash borer), *Candidatus Liberibacter* spp., causal agent of Huanglongbing disease of citrus/citrus greening (Asian citrus psyllid) and *Diaphorina citri* Kuway are moved from Schedule 2A of the principal Order to Schedule 1A and *Bursaphelenchus xylophilus* (Steiner and Bührer) Nickle *et al.* (Pine wood nematode). *Trioza erytreae* Del Guercio (African citrus psyllid) is moved from Schedule 2A to Schedule 1B.
- *Monilinia fructicola* (Winter) Honey (Brown rot of stone fruits) is deleted from Schedule 1A of the principal Order. *Ciborinia camelliae* Kohn (Camellia flower blight) is deleted from Schedule 2A. Citrus vein enation woody gall is deleted from Schedule 2B.
- The special requirements set out in Schedule 4A of the principal Order in relation to the import into Wales from third countries of plants, plant products and other objects which are likely to host the following harmful organisms are amended:

Agrilus anxius Gory, *Agrilus planipennis* Fairmaire, *Amauromyza maculosa* (Malloch), *Anthonomus eugenii* Cano, *Bemisia tabaci* Genn. (non-European populations), *Bursaphelenchus xylophilus* (Steiner and Bührer) Nickle *et al.*, Citrus greening bacterium, *Cryphonetica parasitica*, *Diaphorina citri* Kuway, *Ditylenchus dipsaci* (Kühn) Filipjev, *Helicoverpa armigera* (Hübner), *Liriomyza huidobrensis* (Blanchard), *Liriomyza sativae* (Blanchard), *Liriomyza trifolii* (Burgess), *Spodoptera eridania* (Cramer), *Spodoptera frugiperda* Smith, *Spodoptera litura* (Fabricius), *Spodoptera littoralis* (Boisd.), *Thrips palmi* Karny and *Trioza erytreae* Del Guercio.

- The special requirements set out in Schedule 4A of the principal Order in relation to the import into Wales from third countries and in Schedule 4B in relation to the movement into Wales from other Member States and movement within Wales of *Dendranthema* (DC.) Des Moul., *Dianthus* L. and *Pelargonium* l'Herit ex Ait are amended.
- New special requirements are introduced in Schedule 4B of the principal Order in relation to the movement into Wales from other Member States and movement within Wales of plants, plant products and other objects which are likely to host *Trioza erytreae* Del Guercio.
- New special requirements are introduced in Schedule 4B of the principal Order in relation to the movement into Wales from other Member States and movement within Wales of plants, plant products and other objects which are likely to host *Liriomyza huidobrensis* and *Liriomyza trifolii*.
- Council Directive 2007/33/EC establishes measures to be taken against European populations of potato cyst nematodes (*Globodera pallida* (Stone) Behrens and *Globodera rostochiensis* (Wollenweber) Behrens) in order to determine their distribution, to prevent their spread and to control them. The current provisions of Directive 2000/29/EC concerning potato cyst nematodes (*Globodera pallida* (Stone) Behrens and *Globodera rostochiensis* (Wollenweber) Behrens) have been updated to align with the requirements of Directive 2007/33/EC. Schedules 4A and 4B of the principal Order have been amended accordingly.
- The UK protected zone for plants of *Castanea* Mill., (Sweet chestnut) intended for planting, in relation to *Cryphonectria parasitica* (Sweet chestnut blight) is extended to

include the Isle of Man. A requirement for a phytosanitary certificate to accompany seeds of *Castanea* Mill. imported into Wales from third countries is added to Schedule 5B of the principal Order. Special requirements are introduced in Schedule 4C of the principal Order for the introduction into and movement within the protected zone of plants of *Castanea* Mill.

- A new protected zone is created for the UK in Schedule 4C of the principal Order in relation to plants of *Castanea* Mill. (Sweet chestnut), other than plants in tissue culture, fruit and seeds, with special requirements for their introduction into and movement within the zone to provide protection against *Dryocosmus kuriphilus* Yasumatsu.
- Seeds of *Citrus* L., *Fortunella* Swingle and *Poncirus* Raf., and their hybrids, leafy vegetables of *Limnophila* L. and *Eryngium*, leaves of *Manihot esculenta* Crantz, cut branches of *Betula* L. with or without foliage, cut branches of *Fraxinus* L., *Juglans ailantifolia* Carr, *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch. and *Pterocarya rhoifolia* Siebold & Zucc., with or without foliage, originating in Canada, China, Democratic People's Republic of Korea, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA, parts of plants, other than fruit and seeds, of *Amyris* P. Browne, *Casimiroa* La Llave, *Citropsis* Swingle & Kellerman, *Eremocitrus* Swingle, *Esenbeckia* Kunth, *Glycosmis* Correa, *Merrillia* Swingle, *Naringi* Adans., *Tetradium* Lour., *Toddalia* Juss. and *Zanthoxylum* L., parts of plants, other than fruit but including seeds, of *Aegle* Correa, *Aeglopsis* Swingle, *Afaegle* Engl., *Atlantia* Correa, *Balsamocitrus* Stapf, *Burkillanthus* Swingle, *Calodendrum* Thunb., *Choisya* Kunth, *Clausena* Burm. f., *Limonia* L., *Microcitrus* Swingle, *Murraya* J. Koenig ex L., *Pamburus* Swingle, *Severinia* Ten., *Swinglea* Merr., *Triphasia* Lour and *Vepris* Comm and fruits of *Capsicum* L. are added to list of material in Schedule 5A of the principal Order for which a phytosanitary certificate is required for import into Wales from third countries.
- Plants of *Asparagus officinalis*, *Casimiroa* La Llave, *Clausena* Burm. F., *Vepris* Comm. and *Zanthoxylum* L. and corms of *Dahlia* spp and *Lilium* spp.. are added to the list of material in Schedule 6A of the principal Order for which a plant passport is required for the introduction into Wales from other member states and movement within Wales.
- Plant passporting requirements are added to Schedule 6B of the principal Order for plants, other than seeds, of *Quercus* spp., other than *Quercus suber*, and for plants, other than fruit, of *Castanea* Mill. in relation to the introduction into the Welsh protected zone from other member states and movement within the protected zone.
- Plants of *Asparagus officinalis*, *Casimiroa* La Llave, *Clausena* Burm. F., *Vepris* Comm. and *Zanthoxylum* L. and corms of *Dahlia* spp and *Lilium* spp. are added to the list of material in Schedule 7A of the principal Order for which a plant passport is required for the movement of material to another part of the EU.
- Plant passporting requirements are added to Schedule 7B of the principal Order for plants, other than seeds, of *Quercus* spp., other than *Quercus suber*, and for plants, other than fruit, of *Castanea* Mill. in relation to the movement from Wales into a protected zone in another member state.

Commission Implementing Directive 2014/83/EU amending Annexes I, II, III, IV and V to 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

- A new protected zone is created for the UK in Schedule 4C of the principal Order in relation to plants of *Plantanus* L. (Plane), intended for planting, other than seeds, originating in the EU, or in Armenia, Switzerland or the USA, with special requirements

for their introduction into and movement within the zone to provide protection against *Ceratocystis plantaini* (J.M.Walter) Engelbr. & T.C. Harr.

- Plant passporting requirements are added to Schedule 6B of the principal Order for plants, other than seeds, of *Plantanus* L., intended for planting, in relation to the introduction into the Welsh protected zone from other Member States and movement within the protected zone.

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 spread within the Union of *Phyllosticta citricarpa* (McAlpine) Van der Aa.

- New special requirements are introduced in Schedule 4A of the principal Order in relation to the import into Wales from South Africa of fruits of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf., and their hybrids, other than fruits of *Citrus aurantium* L. and *Citrus latifolia* Tanaka.

5. Consultation outcome

This legislation implements EU legislation. The views of stakeholders were sought and taken into account during negotiations with the Commission and other Member States.

6. Regulatory Impact Assessment (RIA)

There has been no regulatory impact assessment undertaken as the amendments to the principal Order are technical changes only. There is no impact on charities or voluntary bodies foreseen or on the public sector.