

2007 No. 2716 (W.229)

PLANT HEALTH, WALES

The Plant Health (Wales)
(Amendment) Order 2007

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedules 16 and 17 to the Plant Health (Wales) Order 2006 (S.I. 2006/1643 (W.158)) (“the principal Order”). The Schedules, which implement Council Directive 93/85/EEC (OJ No. L 259, 18.10.1993, p.1) and Council Directive 98/57/EC (OJ No. L 235, 21.8.1998, p.1), contain special measures on the control of Potato Ring Rot and *Ralstonia solanacearum* respectively.

The amendments to Schedule 16, in article 2(6), give effect to Commission Directive 2006/56/EC (OJ No. L 182, 4.7.2006, p.1) which amends the Annexes to Council Directive 93/85/EEC. Similarly, the amendments to Schedule 17, in article 2(7) and (8), give effect to Commission Directive 2006/63/EC (OJ No. L 206, 27.7.2006, p.36) which amends Annexes II to VII to Council Directive 98/57/EC. The amendments to both Schedules update requirements for the disposal of contaminated and possibly contaminated material, for the control measures required in contaminated places of production and, in the case of *Ralstonia solanacearum*, for such measures within demarcation zones.

The Order, in article 2(2) to (5), also makes minor and drafting amendments to the principal Order.

A full regulatory impact assessment has not been produced for this instrument.

2007 No. 2716 (W.229)

PLANT HEALTH, WALES

The Plant Health (Wales)
(Amendment) Order 2007

Made 14 September 2007.

Laid before the National Assembly for Wales

17 September 2007

Coming into force 10 October 2007

The Welsh Ministers make this Order in exercise of the powers conferred by sections 2 and 3(1) of the Plant Health Act 1967⁽¹⁾, now vested in them⁽²⁾:

Title, commencement, extent and application

1.—(1) The title of this Order is the Plant Health (Wales) (Amendment) Order 2007.

2. It applies in relation to Wales and comes into force on 10 October 2007.

Amendments to the Plant Health (Wales) Order 2006

3.—(1) The Plant Health (Wales) Order 2006⁽³⁾ is amended as follows.

(2) In article 2(1) (general interpretation) after the definition of “Customs Act”, insert-

“Decision 2006/473/EC means Commission Decision 2006/473/EC(d) recognising certain third countries and certain areas of third countries as being free from *Xanthomonas campestris* (all strains pathogenic to Citrus),

⁽¹⁾ 1967 c. 8; sections 2(1) and 3(1) were amended by the European Communities Act 1972 (c. 68), Schedule 4, paragraph 8.

⁽²⁾ Functions of the Minister of Agriculture, Fisheries and Food transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Functions of the National Assembly for Wales are exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

⁽³⁾ S.I. 2006/1643 (W.158).

Cercospora angolensis Carv et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus);”;

(3) In article 2(1), for the definitions of “Directive 93/85/EC” and “Directive 98/57/EC”, substitute—

““Directive 93/85/EEC” means Council Directive 93/85/EEC(1) on the control of potato ring rot;

“Directive 98/57/EC” means Council Directive 98/57/EC(2) on the control of *Ralstonia solanacearum* (Smith) Yabuuchi et al.”;

(4) In article 2(1) in the definition of “protected zone”, before “means” insert “otherwise” and after “means” delete “otherwise”.

(5) In article 22(2) after “article 21(1)” substitute “or” for the word “and”.

(6) In article 39(2)(c) (miscellaneous provisions for certain solanaceous species), for “Directive 93/85/EC”, substitute “Directive 93/85/EEC”.

(7) For paragraph (3) of article 42 (notification of the presence or suspected presence of certain plant pests), substitute—

“(3) Where any plant pest referred to in paragraph 2(b), (c) or (d) is specified in Schedule 18, it must be notifiable under paragraph (1) where—

- (a) it is a subspecies or strain normally present in Great Britain and is found on the premises of a registered plant trader; or
- (b) it is a subspecies or strain not normally present in Great Britain and is found on any premises.”.

(8) In article 45(1)(a)(xiii), after 39(1) insert “to (4)”.

(9) After item 15 of “Insects, mites and nematodes” in Schedule 1 Part A insert-

“15a *Dryocosmus kuriphilus* Yasumatsu”

(10) In item 15 of “Viruses and virus-like organisms” in Schedule 2, Part B, substitute “producers” for the word “production”.

(11) In Schedule 4, Part A —

- (a) in the third column of item 6, for “items 5, 60, 61 and 64,” substitute “items 5, 6a, 60, 61, and 64.”;
- (b) after item 6 insert —

(1) OJ No. L 259, 18.10.1993, p.1, as last amended by OJ No. L 182, 4.7.2006, p.1.

(2) OJ No. L 235, 21.8.1998, p.1, as last amended by OJ No. L 206, 27.7.2006, p.36.

“6a	Plants, other than fruit or seeds, of <i>Castanea</i> Mill, intended for planting, originating in any third country	Without prejudice to the requirements in items 5, 6, 51, 55, 60 and 61, the plants shall be accompanied by a phytosanitary certificate or phytosanitary certificate for re-export which states under the rubric “Additional declaration” that they have been grown throughout their life in places of production: (a) in countries where <i>Dryocosmus kuriphilus</i> Yasumatsu is not known to occur; or (b) in an area of areas, established by the national plant protection organisation in the country of origin, as being free from <i>Dryocosmus kuriphilus</i> Yasumatsu, in accordance with ISPM No. 4, and that area shall be mentioned in the phytosanitary certificate or phytosanitary certificate for re-export under the rubric “Place of origin””;
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- (c) for the wording in the third column of item 12, substitute —

“Without prejudice to the requirements in items 19, 21 to 23, 27 to 30, 60, 61 and 64, the plants shall be accompanied by an official statement that they originate in a country known to be free from *Monilinia fructicola* (Winter) Honey”;

- (d) in the third column of item 15, after “(all strains pathogenic to Citrus)” in paragraph (a), insert “as referred to in Article 1(1) of Decision 2006/473/EC”;
- (e) in the third column of item 15, after “(all strains pathogenic to Citrus)” in paragraph

- (b), insert “as referred to in Article 1(2) of Decision 2006/473/EC”;
- (f) in the third column of item 16, after “Carv et Mendes” in paragraph (a), insert “as referred to in Article 2 of Decision 2006/473/EC”;
- (g) in the third column of item 17, after “(all strains pathogenic to *Citrus*)” in paragraph (a), insert “as referred to in Article 3(1) of Decision 2006/473/EC”;
- (h) in the third column of item 17, after “(all strains pathogenic to *Citrus*)” in paragraph (b), insert “as referred to in Article 3(2) of Decision 2006/473/EC”;
- (i) in the third column of item 29, after “vegetation” in paragraph (b), substitute “and” for “or”; and
- (j) in the second column of item 37, after “*Solanaceae*,” insert “intended for planting.”

(12) In Part A (relevant material, from third countries, which may only be landed in Wales if special requirements are satisfied) of Schedule 4, in the third column of item 77, for “a country”, substitute “an area or areas”.

(13) In Schedule 4, Part B —

- (a) in the third column of item 4, for “The plants shall be accompanied by an official statement that”, substitute “Without prejudice to the requirements in item 4(a), the plants shall be accompanied by an official statement that”; and
- (b) After item 4 insert —

“4a	Plants, other than fruit or seeds of <i>Castanea</i> Mill, intended for planting	Without prejudice to the requirements in item 4, the plants shall be accompanied by an official statement that: (a) they have been grown throughout their life or since their introduction into the Community in a place of production in a member State where <i>Dryocosmus kuriphilus</i> Yasumatsu is not known to occur; or (b) they have been grown throughout their life or since their introduction into the Community in a place of production in an area or areas, established by the
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		responsible official body in a member State, as being free from <i>Dryocosmus kuriphilus</i> Yasumatsu, in accordance with ISPM No. 4”.
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(14) In paragraph 1(c) of Schedule 5, Part A, for “*Capsicum* subsp *Helianthus annuus* L, *Lycopersicon lycopersicon* (L) Karsten ex Farw,” substitute “*Solanaceae*, *Helianthus annuus* L,”.

(15) In paragraph 1 of Schedule 6, Part A and of Schedule 7, Part A, after “*Amelanchier* Med,” insert “*Castanea* Mill,”.

(16) In paragraph 7(a) of Schedule 6, Part A and of Schedule 7, Part A, omit “*Castanea* Mill,”.

(17) In Schedule 16 (special measures for the control of potato ring rot)—

(a) in paragraph 1, in the definition of “certified seed potatoes”, for “seed potatoes”, substitute “pre-basic seed potatoes, basic seed potatoes or certified seed potatoes”;

(b) in paragraph 2, for “Directive 93/85/EC”, substitute “Directive 93/85/EEC”;

(c) for paragraph 3, substitute—

“3. Material can be required to be disposed of—

(a) by destruction; or

(b) by any other measure that complies with paragraph 1 of Annex IV to Directive 93/85/EEC.”;

(d) in paragraph 4—

(i) for “Directive 93/85/EC”, substitute “Directive 93/85/EEC”;

(ii) in paragraph (b), for “paragraph 5”, substitute “paragraph 2 of Annex IV to Directive 93/85/EEC”;

(e) omit paragraph 5;

(f) in paragraphs 6, 7 and 9, for “Directive 93/85/EC”, substitute “Directive 93/85/EEC”;

(g) for paragraph 10(b) and (c), substitute—

“(b) in the first potato cropping season following the period referred to in paragraph (a), that potatoes may be planted, for ware production only, provided that the field has been free from volunteer potato plants and other naturally found host plants of Potato Ring Rot for at least the two

- consecutive growing years prior to planting; and
- (c) in the potato cropping season which follows that referred to in paragraph (b) and following an appropriate rotation cycle (which must be at least two years where potatoes are planted for seed production), that potatoes may be planted, for seed or ware production.”;
- (h) for paragraph 11(b), substitute—
- “(b) in the first potato cropping season following the period referred to in paragraph (a), that potatoes may be planted, for seed or ware production, provided that the field has been free from volunteer potato plants and other naturally found host plants of Potato Ring Rot for at least the two consecutive growing years prior to planting.”;
- (i) in paragraph 12—
- (i) for “Directive 93/85/EC”, substitute “Directive 93/85/EEC”;
- (ii) for paragraphs (b) and (c), substitute—
- “(b) in the second growing year following the period referred to in (a) that—
- (i) certified seed potatoes; or
- (ii) seed potatoes officially tested for the absence of Potato Ring Rot and grown under official control at a place of production which is not designated by an inspector as contaminated for the purposes of Article 5(1)(a) of Directive 93/85/EEC,
- may be planted, for seed or ware production;
- (c) for at least the third growing year following the period referred to in paragraph (a), that certified seed potatoes or seed potatoes grown under official control from certified seed potatoes may be planted, for seed or ware production; and
- (d) from the date of receipt of the notice for the growing years referred to in paragraphs (a), (b) and (c), measures shall be taken to eliminate volunteer potato plants and naturally found host plants of Potato Ring Rot.”;
- (j) in paragraphs 13 and 16, for “Directive 93/85/EC”, substitute “Directive 93/85/EEC”.

(18) In Part A (special measures for the control of *Ralstonia solanacearum*) of Schedule 17—

- (a) in paragraph 1, in the definition of “certified seed potatoes”, after “means”, insert “pre-basic seed potatoes, basic seed potatoes or”;
- (b) in paragraph 2(b), for “used or disposed of in accordance with paragraph 3”, substitute “subjected to a provision in paragraph 1 of Annex VI to that Directive”;
- (c) omit paragraph 3;
- (d) in paragraph 4(b), for “paragraph 5”, substitute “paragraph 2 of Annex VI to that Directive”;
- (e) omit paragraph 5;
- (f) in paragraph 10—
 - (i) in paragraph (a)(ii)(aa), for “and plants”, substitute “, plants and true seeds”;
 - (ii) for paragraphs (b) and (c), substitute—
 - “(b) in the first potato cropping season following the period referred to in paragraph (a), that potatoes may be planted, for ware production only, provided that the field or unit of production has been free from volunteer potato and tomato plants and other host plants including solanaceous weeds for at least the two consecutive growing years prior to planting; and
 - (c) in the potato or tomato cropping season which follows that referred to in paragraph (b), that there must be an appropriate rotation cycle which shall be at least two years where seed potatoes are planted.”;
- (g) in paragraph 11—
 - (i) in paragraph (a)(i), after “other”, insert “naturally found”;
 - (ii) in paragraph (b), for the words after “paragraph (a)” to the end of that paragraph, substitute “that potatoes may be planted, for seed or ware production”;
- (h) in paragraph 12(a), for “or potato plants”, substitute “, potato plants or true seeds”;
- (i) in paragraph 14, after paragraph (a), omit “and” and insert—
 - “(aa) where the authorisation is granted for tomato production, production shall be from seed which meets the requirements of Directive

2000/29/EC(1) or, if vegetatively propagated, from tomato plants produced from such seed and grown under official control; and”;

(j) for paragraph 15, substitute—

“15. Where a place of production is designated by an inspector to be contaminated for the purposes of Article 5(1)(a)(ii) of Directive 98/57/EC and with regard to any fields at that place other than those referred to in paragraph 9 the inspector is satisfied that the risk of volunteer potato and tomato plants and other naturally found host plants of *R solanacearum* has been eliminated, the notice referred to in paragraph 8 may require that with regard to such fields—

(a) from the date of receipt of the notice and for one growing year following the start of the next growing year—

(i) potato tubers, potato plants and true seeds and other host plants of *R solanacearum* must not be planted save that, in the case of potato tubers, certified seed potatoes may be planted for ware production only;

(ii) tomato plants grown from seed which meets the requirements of Directive 2000/29/EC may be planted, for fruit production only;

(b) in the first growing year following that specified in paragraph (a)—

(i) if potatoes are to be planted, only certified seed potatoes or seed potatoes officially tested for the absence of *R solanacearum* and grown under official control at a place of production which is not designated by an inspector as contaminated for the purposes of Article 5(1)(a)(ii) of Directive 98/57/EC may be planted, for seed or ware production;

(ii) in the case of tomatoes, only tomato plants grown from seed which meets the requirements of Directive 2000/29/EC or, if vegetatively propagated, from tomato plants produced from such seed and grown under official control at a place of production

(1) OJ No. L 169, 10.7.2000, p.1 as last amended by OJ No. L 88, 25.3.2006, p.9.

which is not designated by an inspector as contaminated for the purposes of Article 5(1)(a)(ii) of Directive 98/57/EC may be planted, for plant or fruit production;

(c) in the second growing year following that specified in paragraph (a) and, where appropriate, in any subsequent growing year which may be specified in the notice—

(i) if potatoes are to be planted, only certified seed potatoes or seed potatoes grown under official control from certified seed potatoes may be planted, for seed or ware production;

(ii) if tomatoes are to be planted, only tomato plants grown from seed which meets the requirements of Directive 2000/29/EC or tomato plants grown from such plants under official control may be planted, for plant or fruit production; and

(d) from the date of the receipt of the notice and in each of the growing years referred to in this paragraph, measures shall be taken to eliminate volunteer potato plants and other naturally found host plants of *R solanacearum* as appropriate.”;

(k) in paragraph 16, for “throughout the subsequent growing years up to and including the first potato or tomato cropping season permitted by paragraph 10(b) or 11(b)”, substitute “after the first subsequent growing year”.

(19) In Part B (demarcation of zones for the control of *Ralstonia solanacearum*) of Schedule 17, in paragraph 6(a)—

(a) in sub-paragraph (ii), for “may be planted”, substitute “or seed potatoes grown under official control may be planted”;

(b) after sub-paragraph (ii), omit “and”;

(c) at the end of sub-paragraph (iii), insert “, or a system of cleansing and, where appropriate, disinfection shall be carried out between the handling of seed and ware potatoes”;

(d) after sub-paragraph (iii), insert—

“and

(iv) with regard to tomato crops in the zone, only tomato plants grown

from seed which meets the requirements of Directive 2000/29/EC or, if vegetatively propagated, tomato plants produced from such seed and grown under official control may be planted;”.

Elin Jones

Minister for Rural Affairs, one of the Welsh Ministers

14 September 2007.