

Explanatory Memorandum to The Plant Health (Wales) (Amendment) Order 2007

This Explanatory Memorandum has been prepared by the Rural Affairs Department and is laid before the National Assembly for Wales.

1. Description

This Order amends the Plant Health (Wales) Order 2006 ('the principal Order'), which contains measures to prevent the introduction and spread of harmful pests and diseases. It implements Commission Directives 2006/56/EC and 2006/63/EC and corrects minor errors in the principal Order.

2. Matters of special interest to the Subordinate Legislation Committee

None. This Order implements prescriptive Community obligations through Commission Directives 2006/56/EC and 2006/63/EC, which amends Council Directives 93/85/EEC and 98/57/EC.

3. Legislative Background

The Plant Health (Wales) (Amendment) Order 2007 implements Commission Directives 2006/56/EC and 2006/63/EC and amends Council Directives 93/85/EEC and 98/57/EC. Directives 93/85/EEC and 98/57/EC set out measures to be taken within Member States against potato ring rot (*Clavibacter michiganensis*) and potato brown rot (*Ralstonia solanacearum*) respectively. These Directives are implemented in Wales by the Plant Health (Wales) Order 2006. Similar but separate legislation operates in England, Scotland and Northern Ireland.

The Plant Health (Wales) (Amendment) Order 2007 is made under sections 2 and 3(1) of the Plant Health Act 1967.

This instrument is made using the negative resolution procedure.

4. Purpose and intended effect of legislation

Directives 2006/56/EC and 2006/63/EC update the requirements in the Annexes to Directives 93/85 and 98/57 which set out measures for disposal of contaminated and possibly contaminated material and control measures on contaminated places of production, including within demarcated zones. These changes reflect developments in the understanding of the biology, detection and identification procedures of the organisms and practical experience gained in disease control.

The Assembly Government is required to implement these Council Directives as soon as practically possible to ensure a consistent

approach against potato ring rot and potato brown rot control across the EU. The Plant Health and Seeds Inspectorate (PHSI), who operate in Wales on behalf of the Assembly Government, advise that non-implementation of these amendments would mean an increase in the threat to plant health in Wales.

5. Implementation

It is intended that this Amendment Order should come into force on 10 October 2007. Similar legislation was implemented in England on 1 August 2007 and is under consideration in Scotland and Northern Ireland. Apart from the application of improved disease management measures, no other significant effects are expected in Wales as a result of the implementation of these Regulations. However, failure to implement these amendments would lead to operational difficulties for PHSI, as it would need to apply separate regulatory regimes to the provision of services relating to this Amendment Order in England and Wales.

6. Consultation

A public consultation on this Amendment Order was not deemed necessary. The amendments implement Directives 2006/56/EC and 2006/63/EC on potato ring rot and brown rot respectively. Potato trade organisations in England and Wales have already been notified and have not raised any concerns about the minimal changes that will be imposed by the Directives and subsequent domestic legislation. Furthermore, given the limited scale of the horticulture industry in Wales and the potato sector in particular, there is a restricted target audience for the legislation. No specific consultation has been undertaken in either England or Scotland.

7. Regulatory Impact Assessment

A regulatory impact assessment has not been prepared, as the Amendment Order has no impact on the costs for business, local authority or the voluntary sector.