

Explanatory Memorandum to the Plant Health (Wales)(Amendment) Order 2008.

This Explanatory Memorandum has been prepared by the Department for Rural Affairs 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 2008/64/EC and 2008/61/EC and Commission Decisions 2008/86/EC and 2006/564/EC and a corrigendum to Council Directive 2000/29/EC.

In addition it revokes three statutory instruments concerned with notification requirements for seed and ware potatoes from certain Member States and inserts into the principal Order new notification requirements with respect to seed potatoes from all Member States and Switzerland. It also establishes measures to designate zones for the management of *Diabrotica virgifera* Le Conte.

2. Matters of special interest to the Subordinate Legislation Committee.

None. This Order implements prescriptive Community obligations through Commission Directive 2008/64/EC, Commission Directive 2008/61/EC, Commission Decision 2008/86/EC and Commission Decision 2006/564/EC.

3. Legislative Background

The Plant Health (Wales) (Amendment) Order 2008 makes the necessary amendments to the Plant Health (Wales) Order 2006 to give effect to a number of Community instruments which have been adopted to implement Commission Directives 2008/64/EC, 2008/61/EC and Commission Decisions 2008/86 and 2006/564/EC. This Order also revokes statutory instruments concerned with notification requirements for seed and ware potatoes from certain Member States and inserts new notification requirements into the principal Order with respect to seed potatoes from all Member States and Switzerland.

The Plant Health (Wales) Order 2008 is made under sections 2 and 3(1), (2) and (4) of the Plant Health Act 1967.

4. Purpose and intended effect of legislation

Commission Directive 2008/64/EC downgrades the status of two pests – *Heliothis armigera* (Huber) and *Colletotrichum acutatum* (Simmonds)- recognising, new information from Member States on a more limited host range and, in the case of the latter, its widespread presence within the EU. It also makes minor changes to the list of areas recognised as protected zones

against certain organisms harmful to plant health in the Community; none of which apply to the UK.

Commission Directive 2008/61 EC repeals and replaces existing EU legislation which provides for the import and keeping of prohibited material for scientific and research purposes. The new directive is largely a codification of the previous version.

Commission Decision 2008/86/EC makes minor technical changes to the Appendices to Annex 4 of the agreement on trade in agricultural products between the EU and Switzerland, which enables plant material to be removed freely or with a plant passport between the EU and Switzerland where the two parties have equivalent legislation. The amendments reflect changes in the two parties' plant health legislation.

Corrigendum to Directive 2000/29/EC corrects an error in the main directive which failed to include bulbs in a list of material excluded from the need for specific measures prior to import to the EU.

The Order establishes measures as set out in Decision 2006/564/EC which includes various measures concerning *Diabrotica virgifera*, an important maize pest. The Decision requires that, within a one and a half mile radius around airports identified as being a high risk of introducing the pest, Member States must enforce a rotation so that maize is not grown more than once in two years.

In addition, the Order revokes three statutory instruments concerned with notification requirements for seed and ware potatoes from certain Member States.

The Assembly Government is required to implement Commission Directives 2008/64/EC, 2008/61/EC and Commission Decision 2008/86/EC and to incorporate measures set out in Commission Decision 2006/564/EC as soon as practically possible to prevent the introduction into and spread of serious pests and diseases of plants and plant produce within 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 17 November, 2008. Similar legislation was implemented in England on 1 October, 2008 and is currently under consideration in Scotland. Apart from the application of improved disease management measures, no other significant effects are expected in Wales as a result of implementation of these Regulations.

6. Consultation

- a. A joint England and Wales consultation to review the current statutory notification requirements for potatoes introduced into England and Wales from certain Member States was conducted and the only response from Wales was from the Farmers' Union of Wales, who in line with the only two responses in England, favoured an extension of the existing notification requirements to include seed potatoes introduced into England and Wales from any EU source. Overall though, the industry concluded that the limited burdens associated with notification were necessary to help prevent further outbreaks.

7. Regulatory Impact Assessment

A regulatory impact assessment has not been prepared, as the Amendment Order has minimal impact on the costs to private or voluntary sectors.