WELSH STATUTORY INSTRUMENTS

2007 No. 3305 (W.292)

PLANT HEALTH, WALES

The Plant Health (Wales) (Amendment) (No. 2) Order 2007

Made - - - -	*22 November 2007*
Laid before the National Assembly for Wales - -	*23 November 2007*
Coming into force - -	*18 December 2007*

The Welsh Ministers make the following 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**);

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(**3**) and it appears to the Welsh Ministers that it is expedient for the references in the following Order to certain Decisions to be construed as references to those instruments as amended from time to time:

Title, commencement and application

1. The title of this Order is the Plant Health (Wales) (Amendment) (No.2) Order 2007; it applies in relation to Wales and comes into force on 18 December 2007.

Amendments to the Plant Health (Wales) Order 2006

2. The Plant Health (Wales) Order 2006(**4**) is amended as follows.

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

(**2**) Section 1(2)(b) of the Plant Health Act 1967 provides that the competent authority in England and Wales for the purposes of that Act is the Minister for Agriculture, Fisheries and Food. By virtue of the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I.1978/272), article 2(1) and Schedule 1, the functions of the Minister of Agriculture, Fisheries and Food under the Plant Health Act 1967 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State for Wales. These functions of the Secretary of State for Wales were then transferred to the National Assembly for Wales under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions transferred to the National Assembly for Wales by S.I. 1999/672 are now exercisable by the Welsh Ministers by virtue of section 162 and paragraph 30 of Schedule 11 of the Government of Wales Act 2006 c. 32.

(**3**) 1972 c. 68. Schedule 2, paragraph 1A, inserted by the Legislative and Regulatory Reform Act 2006 (c. 51), section 28, provides for the inclusion in subordinate legislation of references to European Community instruments as references to those instruments as amended from time to time.

(**4**) S.I. 2006/1643 (W.158), amended by S.I. 2007/2716 (W.229)

Prevention of the introduction into and spread within the European Community of *Rhynchophorus ferrugineus* **(Olivier)**

3.—(1) In article 2(1), at the appropriate place insert—

""Decision 2007/365/EC" means Commission Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier)(**5**), as amended from time to time;".

(2) In Part A of Schedule 1, after item 34 of "Insects, mites and nematodes" add—

"**35.** *Rhynchophorus ferrugineus* (Olivier)".

(3) In Part A of Schedule 4, after item 57 insert—

"57a.	Plants, other than fruit or seeds, having a diameter of the stem at the base of over 5cm of the species listed in Article 1(b) of Decision 2007/365/EC originating in any third country	Without prejudice to the requirements in item 57, the plants, including those collected from natural habitats, shall be accompanied by an official statement that the plants meet the requirements of paragraph (a), (b) or (c) of point 1 of the Annex to Decision 2007/365/EC".

(4) In Part B of Schedule 4, after item 6 insert—

"6a.	Plants, other than fruit or seeds, having a diameter of the stem at the base of over 5cm of the species listed in Article 1(b) of Decision 2007/365/EC	The plants shall be accompanied by an official statement that they have been grown in accordance with the specifications in paragraph (a), (b), (c) or (d) of point 2 of the Annex to Decision 2007/365/EC".

(5) In Part A of Schedule 5, Part A of Schedule 6 and Part A of Schedule 7, after item 1 insert—

"**1a.** Plants, other than fruit or seeds, having a diameter of the stem at the base of over 5cm of the species listed in Article 1(b) of Decision 2007/365/EC.".

Prevention of the introduction into and spread within the European Community of *Gibberella circinata* **Nirenberg & O'Donnell**

4.—(1) In article 2(1), at the appropriate place insert—

""Decision 2007/433/EC" means Commission Decision 2007/433/EC on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O'Donnell(**6**), as amended from time to time;".

(2) In Part A of Schedule 1, after item 17 of "Fungi" add—

"**18.** *Gibberella circinata* Nirenberg & O'Donnell".

(**5**) OJ No. L 139, 31.5.2007, p. 24.
(**6**) OJ No. L 161, 22.6.2007, p. 66.

(3) In Part A of Schedule 4, after item 2 insert—

"2a.	Plants intended for planting, including seeds and cones for propagation purposes, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC, originating in any third country	Without prejudice to the requirements in items 1, 2 and 3, the plants shall be accompanied by an official statement that— they originate in a place of production which is registered and supervised by the national plant protection organisation in the country of origin; and they meet the requirements of paragraph (a), (b) or (c) of point I of Annex I to Decision 2007/433/EC".

(4) In Part B of Schedule 4, after item 1 insert—

"1a.	Plants intended for planting, including seeds and cones for propagation purposes, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC	Without prejudice to the requirements in item 7 of Part A of Schedule 6, the plants shall be accompanied by an official statement that they have been grown in accordance with the specifications in paragraph (a), (b) or (c) of point II of Annex I to Decision 2007/433/EC".

(5) In Part A of Schedule 5, after item 1 insert—

"**1b.** Seeds and cones, intended for propagating, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC.".

(6) In Part A of Schedule 6 and Part A of Schedule 7, after item 1 insert—

"**1b.** Plants intended for planting, including seeds and cones intended for propagating, of the genera and species referred to in Article 1(2) of Decision 2007/433/EC.".

Prevention of the introduction and spread of Potato spindle tuber viroid

5.—(1) In article 2(1), at the appropriate place insert—

""Decision 2007/410/EC" means Commission Decision 2007/410/EC on measures to prevent the introduction into and spread within the Community of Potato spindle tuber viroid(**7**), as amended from time to time;".

(2) In Part A of Schedule 4, after item 37 insert—

"37a.	Plants, intended for planting,including seeds, of the genera and species referred to in Article 1 of Decision	The plants shall be accompanied by an official statement that—

(**7**) OJ No. L 155, 15.6.2007, p. 71.

	2007/410/EC, originating in any third country	(a) they originate in and have been grown throughout their life in a place of production which is registered and supervised by the national plant protection organisation in the country of origin; and (b) they meet the requirements of paragraph (a), (b), (c) or (d) of point 1 of the Annex to Decision 2007/410/ EC”.

(3) In Part B of Schedule 4, after item 20 insert—

“20a.	Plants, intended for planting, including seeds, of the genera and species referred to in Article 1 of Decision 2007/410/EC	The plants shall be accompanied by an official statement that they have been grown throughout their life or since their introduction into the European Community in a place of production which meets the requirements of paragraph (a), (b), (c) or (d) of point 2 of the Annex to Decision 2007/410/EC”.

(4) In Part A of Schedule 6 and Part A of Schedule 7—

(a) after item 3 insert—

“**3a.** Plants, intended for planting, including seeds, other than those in item 3, of the genera and species referred to in Article 1 of Decision 2007/410/EC.”; and

(b) for item 7(b) substitute—

“(b) plants of *Solanaceae*, other than seeds and other than those in items 3 and 3a, intended for planting;”.

Measures in respect of certain citrus fruits

6.—(1) In article 2(1), at the appropriate place insert—

““Decision 2004/416/EC” means Commission Decision 2004/416/EC on temporary emergency measures in respect of certain citrus fruits originating in Argentina or Brazil(**8**), as amended from time to time;”.

(2) In Part A of Schedule 4—

(a) in the second column of items 15 and 17, after third country add “, other than Brazil”;

(b) after item 15 add—

(**8**) OJ No. L 151, 30.4.2004, p. 76, amended by Commission Decision 2007/347/EC, OJ No. L 130, 22.5,.007, p. 46.

"15a.	Fruits of *Citrus* L., *Fortunella* Swingle or *Poncirus* Raf., originating in Brazil	Without prejudice to the requirements in items 14, 16 and 18, the fruits shall be accompanied by an official statement that they meet the requirements of paragraph (a) or (b) of point 1 and of point 3 of the Annex to Decision 2004/416/EC".

(c) in the third column of item 16, for "15, 17" substitute "15, 15a, 17, 17a";

(d) after item 17 add—

"17a.	Fruits of *Citrus* L., other than *Citrus aurantium* L., *Fortunella* Swingle or *Poncirus* Raf., originating in Brazil	Without prejudice to the requirements in items 14, 16 and 18, the fruits shall be accompanied by an official statement that they meet the requirements of paragraph (a) or (b) of point 2 and of point 3 of the Annex to Decision 2004/416/EC"; and

(e) in the third column of item 18, for "17" substitute "17a".

Miscellaneous amendments

7. In—

(a) article 2(1), for the definition of ""Directive 2000/29/EC" substitute ""Directive 2000/29/EC" means 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(**9**);"; and

(b) Part B of Schedule 7, in item 3 for "or Sorbus L." substitute ", *Sorbus* L. or *Vitis* L.".

Elin Jones
Minister for Rural Affairs, one of the Welsh Ministers

22 November 2007

(**9**) OJ No. L 169, 10.7.2000, p. 1, as last amended by Commission Directive 2007/41/EC, OJ No. L 169, 29.6.2007, p. 51.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Plant Health (Wales) Order 2006 (S.I.2006/1643) ("the principal Order") so as to implement the instruments below—

(a) Commission Decision 2007/365/EC on emergency measures to prevent the introduction into and the spread within the Community of *Rhynchophorus ferrugineus* (Olivier) (OJ No. L 139, 31.5.2007, p. 24);

(b) Commission Decision 2007/433/EC on provisional emergency measures to prevent the introduction into and the spread within the Community of *Gibberella circinata* Nirenberg & O'Donnell (OJ No. L 161, 22.6.2007, p. 66);

(c) Commission Decision 2007/410/EC on measures to prevent the introduction into and spread within the Community of Potato spindle tuber viroid (OJ No. L 155, 15.6.2007, p. 71);

(d) Commission Decision 2004/416/EC on temporary emergency measures in respect of certain citrus fruits originating in Argentina or Brazil (OJ No. L 151, 30.4.2004, p. 76), as amended by Commission Decision 2007/347/EC (OJ No. L 130, 22.5.2007, p. 46); and

(e) Commission Directive 2007/41/EC amending certain Annexes 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 (OJ No. L 169, 29.6.2007, p. 51).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 (c. 68) and references to the Decisions listed in (a), (b) and (c) are to be construed as references to those instruments as amended from time to time.

Articles 3, 4 and 5 make various amendments to Schedules 1, 4, 5, 6 and 7 to the principal Order so as to apply the restrictions on the landing in and movement within Wales of certain plant material (described in each article) from third countries and other parts of the European Community and the requirements for phytosanitary certificates and plant passports to the plant material listed in order to prevent the introduction into and spread within Wales of, respectively, the following plant pests: *Rhynchophorus ferrugineus* (Olivier), *Gibberella circinata* Nirenberg & O'Donnell, Potato spindle tuber viroid.

Article 6 amends Schedule 4 to the principal Order so as to apply special requirements in respect of certain citrus fruits originating in Brazil.

Article 7 amends the definition of "Directive 2000/29/EC" so as to incorporate within it Commission Directive 2007/41/EC and adds *Vitis* L. to the list of plants in Part B of Schedule 7 to the principal Order requiring a plant passport if they are to be consigned to a protected zone in another part of the European Community.

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