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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order replaces the Plant Health (Wales) Order 2006 (S.I. 2006/1643 (W. 158)) and the Plant Health (*Phytophthora ramorum*) (Wales) Order 2006 (S.I. 2006/1344 (W. 134)).

It implements 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, 10.7.2000, p. 1) and related European Union plant health legislation. It also implements instruments including:

- (a) Commission Implementing Decision 2014/690/EU repealing Decision 2006/464/EC on provisional emergency measures to prevent the introduction into and the spread within the Community of *Dryocosmus kuriphilus* Yasumatsu (OJ No L 288, 2.10.2014, p. 5);
- (b) Commission Implementing Decision (EU) 2015/749 repealing Decision 2007/410/EC on measures to prevent the introduction into and the spread within the Community of Potato spindle tuber viroid (OJ No L 119, 12.5.2015, p. 25);
- (c) Commission Implementing Decisions (EU) 2015/789, (EU) 2016/764 and (EU) 2017/2352 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.) (OJ No L 125, 21.5.2015, p. 36), (OJ No L 126, 14.5.2016, p. 77) and (OJ No L 336, 16.12.2017, p. 31);
- (d) Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky) (OJ No 146, 11.6.2015, p. 16);
- (e) Commission Implementing Decision (EU) 2015/1199 recognising Bosnia and Herzegovina as being free from *Clavibacter michiganensis* ssp. *sepedonicus* (Spieckerman and Kotthof) Davis et al. (OJ No L 194, 22.7.2015, p. 42);
- (f) Commission Implementing Decisions (EU) 2016/715 and (EU) 2017/801 setting out measures in respect of certain fruits originating in certain third countries to prevent the introduction into and the spread within the Union of the harmful organism *Phyllosticta citricarpa* (McAlpine) Van der Aa (OJ No L 125, 13.5.2016, p. 16) and (OJ No L 120, 11.5.2017, p. 26);
- (g) Commission Implementing Decision (EU) 2016/1359 amending Implementing Decision 2012/270/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Epitrix cucumeris* (Harris), *Epitrix similaris* (Gentner), *Epitrix subcrinata* (Lec.) and *Epitrix tuberis* (Gentner) (OJ No L 215, 10.8.2016, p. 29);
- (h) Decision No 1/2015 of the Joint Committee on Agriculture concerning the amendment to Appendices 1, 2 and 4 to Annex 4 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (OJ No L 27, 1.2.2017, p. 155);
- (i) Commission Implementing Decision (EU) 2017/198 as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto (OJ No L 31, 4.2.2017, p. 29);
- (j) Commission Implementing Decision (EU) 2017/2374 setting out conditions for movement, storage and processing of certain fruits and their hybrids originating in third countries to prevent the introduction into the Union of certain harmful organisms (OJ No L 337, 19.12.2017, p. 60); and

- (k) Commission Implementing Directives (EU) 2017/1279 and (EU) 2017/1920 amending Annexes 1 to 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 (OJ No L 184, 15.7.2017, p. 33) and (OJ No L 271, 20.10.2017, p. 34).

Part 1 is introductory and includes definitions. Article 2(5) provides for references to the European Union instruments listed in that provision to be read as references to those instruments as amended from time to time.

Part 2 applies to plant pests and relevant material coming from countries outside the European Union, including relevant material from third countries coming via another part of the European Union where the Welsh Ministers have agreed to carry out certain checks on that material. “Relevant material” is defined in article 2(1).

Article 5 prohibits the landing in Wales of certain plant pests and relevant material and imposes restrictions on other relevant material which may be imported into Wales from third countries. Article 6 requires importers of controlled imports of relevant material to provide the Welsh Ministers with advance notice of their landing and article 7 requires those imports to be accompanied by the appropriate phytosanitary certificate. Articles 10 to 12 prohibit the removal of this relevant material from an area of plant health control until an inspector has inspected the material and is satisfied that the material can be discharged.

Article 8 exempts certain relevant material which is brought into Wales in a person’s baggage from the requirements in article 5 and other related requirements.

Part 3 applies to plant pests and relevant material from the European Union (whether originating in the European Union or in third countries). Articles 18 to 20 prohibit the introduction into Wales of certain plant pests and relevant material from another part of the European Union and contain prohibitions and restrictions on the movement of plant pests and relevant material and other activities in Wales. Article 21 requires certain relevant material to be accompanied by a plant passport when it is moved within Wales or consigned to another part of the European Union.

Part 4 imposes a requirement on plant traders to be registered in respect of any activity which they carry out and which is regulated by the Order (articles 25 to 28) and makes provision for the Welsh Ministers to authorise plant traders to issue plant passports (article 29).

Part 5 contains special arrangements governing relevant material from Switzerland.

Part 6 contains general enforcement powers given to plant health inspectors.

Part 7 imposes additional requirements in relation to certain solanaceous species (potatoes and tomatoes).

Part 8 makes provision for the Welsh Ministers to grant licences authorising activities which would otherwise be prohibited by the Order.

Part 9 requires certain plant pests which are present or suspected to be present in Wales to be notified to the Welsh Ministers or an inspector and makes provision for inspectors to request information about certain plant health matters.

Part 10 contain offences for non-compliance with the Order and with requirements imposed under article 46. Article 47 sets out the penalties for the offences. (Contravention of any prohibition on landing imposed by this Order is an offence under the Customs and Excise Management Act [1979 \(c. 2\)](#)).

Part 11 deals with revocations and transitional provisions.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.