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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1723 (W. 235)**

**PLANT HEALTH, WALES**

**The Plant Health (Forestry) (Amendment) (Wales) Order 2015**

*Made* - - - - 24 September 2015  
*Laid before the National*  
*Assembly for Wales* - - 29 September 2015  
*Coming into force* - - 20 October 2015

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) and paragraph 1A of Schedule 2 to the European Communities Act 1972(2).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(3). It appears to the Welsh Ministers that it is expedient for the references to the European Union instruments mentioned in article 2(a)(ii) and (vii) to be construed as references to those instruments as amended from time to time.

**Title, coming into force and interpretation**

- 1.—(1) The title of this Order is the Plant Health (Forestry) (Amendment) (Wales) Order 2015.
- (2) Articles 1 to 3 of this Order come into force on 20 October 2015.
- (3) Article 4 of this Order comes into force immediately after the coming into force of articles 1 to 3.
- (4) In this Order—
  - (a) “the 2005 Order” (“Gorchymyn 2005”) means the Plant Health (Forestry) Order 2005(4);
  - (b) “the 2013 Order” (“Gorchymyn 2013”) means the Plant Health (Forestry) (Amendment) (England and Scotland) Order 2013(5); and

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(1) 1967 c.8. Section 1(2) was amended by paragraph 43 of Schedule 2 to the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W.90)). The powers conferred by sections 2 and 3(1) are conferred on a “competent authority” which is defined in section 1(2) (for Wales) as the Welsh Ministers. Sections 2(1) and 3(1) were amended by paragraph 8 of Schedule 4 to the European Communities Act 1972 (c.68).

(2) 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).

(3) Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(4) S.I. 2005/2517.

(5) S.I. 2013/2691.

- (c) “the 2014 Order” (“Gorchymyn 2014”) means the Plant Health (Forestry) (Amendment) (England and Scotland) Order 2014(6).

### **Application of certain provisions of the 2005 Order in relation to Wales**

2. The following provisions of the 2005 Order apply in relation to Wales as they apply in relation to England and Scotland—

- (a) in article 2, the definitions of—
- (i) associated controlled dunnage (inserted by article 3(a) of the 2014 Order);
  - (ii) Decision 2012/138/EU(7) (substituted for the definition of Decision 2008/840/EU by article 3(a) of the 2013 Order);
  - (iii) dunnage (substituted by article 3(b) of the 2014 Order);
  - (iv) ISPMNo. 15(8) (substituted by article 3(c) of the 2014 Order);
  - (v) official documentation (inserted by article 3(b) of the 2013 Order);
  - (vi) protected zone (substituted by article 3(d) of the 2014 Order);
  - (vii) Regulation (EC) No 690/2008(9) (inserted by article 3(e) of the 2014 Order);
  - (viii) wood (amended by article 3(f) of the 2014 Order); and
  - (ix) wood packaging material (substituted by article 3(g) of the 2014 Order);
- (b) article 5(1)(c) (amended by article 4(1) of the 2014 Order);
- (c) article 5(1A) (inserted by article 4(2) of the 2014 Order);
- (d) article 6(2)(b)(ii) and (iii) (substituted by article 5 of the 2014 Order);
- (e) article 8(2)(c) and (d) (inserted by article 4 of the 2013 Order and amended by article 6 of the 2014 Order);
- (f) article 12(2)(aa) (inserted by article 7(a) of the 2014 Order);
- (g) article 12(2)(c) and (e) (substituted by article 7(b) of the 2014 Order);
- (h) article 18(1)(c) (amended by article 8(1) of the 2014 Order);
- (i) article 18(1A) (inserted by article 8(2) of the 2014 Order);
- (j) article 19(1)(aa) (inserted by article 9(a) of the 2014 Order);
- (k) article 19(1)(c) (amended by article 9(b) of the 2014 Order);
- (l) article 20(8) (inserted by article 5 of the 2013 Order and substituted by article 10 of the 2014 Order);
- (m) article 21 (substituted by article 6 of the 2013 Order and amended by article 11 of the 2014 Order);
- (n) article 31(5)(a) (amended by article 12 of the 2014 Order);
- (o) article 32(2)(a) (amended by article 13 of the 2014 Order);
- (p) article 40(2) (amended by article 14 of the 2014 Order);
- (q) article 41(2) (amended by article 15 of the 2014 Order);
- (r) article 42(2)(b) (amended by article 16 of the 2014 Order);

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(6) S.I. 2014/2420.

(7) Commission implementing Decision 2012/138/EU as regards emergency measures to prevent the introduction into and spread within the Union of *Anoplophora chinensis* (Forster), OJ No. L 64, 3.3.2012, p.38.

(8) Available from the IPPC Secretariat, AGPP FAO, Viale delle Terme di Caracalla, 00153, Rome Italy and at <https://www.ipps.int/core-activities/standards-setting/ispm#>.

(9) Commission Regulation (EC) No 690/2008 recognising protected zones exposed to particular plant health risks in the Community, OJ No. L 193, 22.7.2008. p.1.

- (s) Schedule 1 (amended by article 17 of the 2014 Order);
- (t) Schedule 1A (inserted by article 18 of the 2014 Order);
- (u) Part A of Schedule 2 (amended by article 7 of the 2013 Order and article 19 of the 2014 Order);
- (v) Schedule 4 (amended by article 20 of the 2014 Order);
- (w) Schedule 5 (amended by article 21 of the 2014 Order);
- (x) Schedule 6 (amended by article 10 of the 2013 Order and article 22 of the 2014 Order); and
- (y) Schedule 7 (amended by article 11 of the 2013 Order and article 23 of the 2014 Order).

**Revocation of certain provisions of the 2005 Order as they applied in relation to Wales immediately before 12 October 2015**

**3.** In consequence of article 2 of this Order, the following provisions of the 2005 Order are revoked as they applied in relation to Wales immediately before 12th October 2015—

- (a) in article 2—
  - (i) the definition of “Decision [2008/840/EC](#)”;
  - (ii) the definition of “dunnage”;
  - (iii) the definition of “ISPM No. 15”;
  - (iv) the definition of “protected zone”;
  - (v) in the definition of “wood”, paragraph (c); and
  - (vi) the definition of “wood packaging material”;
- (b) article 6(2)(b)(ii) and (iii);
- (c) article 8(2)(c), (d) and (e);
- (d) article 12(2)(c) and (e);
- (e) article 21;
- (f) in Schedule 1, under the heading “insects, mites and nematodes”, items 1a and 8a in the table;
- (g) in Schedule 2, in Part A, in the table—
  - (i) items 2 and 2a;
  - (ii) the entry in the third column of item 10; and
  - (iii) item 11;
- (h) in Schedule 2, in Part B, item 3 in the table;
- (i) in Schedule 4, in Part A, in the table—
  - (i) items 1 to 6;
  - (ii) the entry in paragraph (d) in the third column of item 7;
  - (iii) items 8 to 14A;
  - (iv) the entry in paragraph (b) in the third column of item 15;
  - (v) items 16 and 16A;
  - (vi) item 17;
  - (vii) item 19A;
  - (viii) in the third column of item 19B, the words “Without prejudice to the requirements in item 19A, the”;

- (ix) in items 22 and 23, in the third column of each item, the references to “24A”;
- (x) items 24 and 24A; and
- (xi) item 25;
- (j) in Schedule 4, in part B, in the table—
  - (i) in the third column of item 1, the words “*Ceratocystis fimbriata* f. sp. *Platani* Walter”;
  - (ii) items 5 and 5A;
  - (iii) items 5C and 5D; and
  - (iv) item 6;
- (k) in Schedule 5, in Part A—
  - (i) paragraph 2(b) and (c);
  - (ii) paragraph 2A;
  - (iii) paragraph 3(b) and (c); and
  - (iv) paragraph 4(a)(ii) to (vi);
- (l) in Schedule 6, in Part A, paragraphs 4A and 5;
- (m) in Schedule 6, in Part B, paragraphs 2 and 3(a)(ii);
- (n) in Schedule 7, in Part A, paragraphs 4A and 5; and
- (o) in Schedule 7, in Part B, paragraphs 2 and 4(a)(ii).

#### **Amendments of the 2005 Order**

- 4.—(1) In article 20(8) of the 2005 Order, for “England or Scotland” substitute “Great Britain”.
- (2) In Schedule 1A to the 2005 Order, in the second column of the table (description of protected zone), for “and Scotland” substitute “Scotland and Wales”.
- (3) In Part B of Schedule 2 to the 2005 Order, in the table—
  - (a) in the second column of item 3, for “England and Scotland” substitute “Great Britain”; and
  - (b) in the second column of item 4, for “England and Scotland” substitute “Great Britain”.

24 September 2015

*Carl Sargeant*  
Minister for Natural Resources, one of the Welsh  
Ministers

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## EXPLANATORY NOTE

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

This Order applies in relation to Wales certain provisions which have been made amending the Plant Health (Forestry) Order 2005 ([S.I. 2005/2517](#)) (“the 2005 Order”) in relation to England and Scotland. Those amendments were made by the Plant Health (Forestry) (England and Scotland) (Amendment) Order 2013 ([S.I. 2013/2691](#)) (“the 2013 Order”) and the Plant Health (Forestry) (England and Scotland) (Amendment) Order 2014 ([S.I. 2014/2420](#)) (“the 2014 Order”). Those Orders implemented in relation to England and Scotland certain provisions in Commission Implementing Directive 2014/78/EU of 17th June 2014 (OJ L 183, 24.6.2014, p. 23–48) and Commission Implementing Directive 2014/78/EU of 25th June 2014 (OJ L 186, 26.6.2014, p. 64–71). This Order implements those provisions in relation to Wales.

Article 2 of this Order provides that certain provisions of the 2005 Order which currently apply only in relation to England and Scotland, also apply in relation to Wales. As noted above, the provisions of the 2005 Order specified in article 2 are those which were inserted, substituted or amended by the 2013 Order or the 2014 Order (or in some cases both) in relation to England and Scotland.

Article 3 of this Order makes consequential amendments of the 2005 Order to revoke certain provisions which apply only in relation to Wales and which are now superseded by virtue of the provision made by article 2.

Article 4 of this Order (which comes into force immediately after the coming into force of articles 2 and 3) amends the 2005 Order to substitute references to England and Scotland with references to Great Britain.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.