
WELSH STATUTORY INSTRUMENTS

2018 No. 1064

The Plant Health (Wales) Order 2018

PART 1

General

General interpretation

2.—(1) In this Order—

“Annex II Part B” (“*Atodiad II Rhan B*”) means Part B of Annex II to [Directive 2000/29/EC](#);

“Annex IV Part A” (“*Atodiad IV Rhan A*”) means Part A of Annex IV to [Directive 2000/29/EC](#);

“Annex IV Part B” (“*Atodiad IV Rhan B*”) means Part B of Annex IV to [Directive 2000/29/EC](#);

“authorised officer” (“*swyddog awdurdodedig*”) means, as the context requires—

- (a) an authorised representative of the responsible official body of the country in which a plant passport is issued, a public servant acting under the authority of such a representative or a qualified agent employed by the responsible official body, in any case who must be appropriately qualified; or
- (b) an authorised representative of the responsible official body or the national plant protection organisation of the country in which a phytosanitary certificate or phytosanitary certificate for re-export or a translation of a phytosanitary certificate or phytosanitary certificate for re-export is issued, or a public officer acting under the authority of such a representative;

“citrus fruits for processing” (“*ffrwythau sitrws ar gyfer eu prosesu*”) means fruits of *Citrus* L., *Fortunella* Swingle, *Poncirus* Raf., *Microcitrus* Swingle, *Naringi* Adans., or *Swinglea* Merr., which originate in a third country and are destined for industrial processing into juice in the European Union;

“consignment” (“*llwyth*”) has the same meaning as in Article 2(1)(p) of [Directive 2000/29/EC](#) where that term is used in Part 2 or in relation to any relevant material referred to in that Part;

“the Customs Act” (“*y Ddeddf Dollau*”) means the Customs and Excise Management Act 1979(1);

“[Decision 2002/757/EC](#)” (“*Penderfyniad 2002/757/EC*”) means Commission [Decision 2002/757/EC](#) on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in't Veld sp. nov(2);

(1) [1979 c. 2](#), as amended by Parts 1 and 2 of Schedule 4 to the Finance Act [1984 \(c. 43\)](#); there are other amendments but none are relevant.

(2) OJ No L 252, 20.9.2002, p. 37, as amended by Commission Implementing [Decision 2013/782/EU](#) (OJ No L 346, 20.12.2013, p. 69).

“Decision 2004/416/EC” (“*Penderfyniad 2004/416/EC*”) means Commission Decision 2004/416/EC on temporary emergency measures in respect of certain citrus fruits originating in Argentina or Brazil(3);

“Decision 2006/473/EC” (“*Penderfyniad 2006/473/EC*”) means Commission Decision 2006/473/EC recognising certain third countries and certain areas of third countries as being free from *Xanthomonas campestris* (all strains pathogenic to Citrus), *Cercospora angolensis* Carv. et Mendes and *Guignardia citricarpa* Kiely (all strains pathogenic to Citrus)(4);

“Decision 2007/365/EC” (“*Penderfyniad 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);

“Decision 2007/433/EC” (“*Penderfyniad 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);

“Decision 2012/138/EU” (“*Penderfyniad 2012/138/EU*”) means Commission Implementing Decision 2012/138/EU as regards emergency measures to prevent the introduction into and the spread within the Union of *Anoplophora chinensis* (Forster)(7);

“Decision 2012/270/EU” (“*Penderfyniad 2012/270/EU*”) means Commission 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 papa* sp.n, *Epitrix subcrinita* (Lec.) and *Epitrix tuberis* (Gentner)(8);

“Decision 2012/697/EU” (“*Penderfyniad 2012/697/EU*”) means Commission Implementing Decision 2012/697/EU as regards measures to prevent the introduction into and the spread within the Union of the genus *Pomacea* (Perry)(9);

“Decision 2014/422/EU” (“*Penderfyniad 2014/422/EU*”) means Commission Implementing Decision 2014/422/EU setting out measures in respect of certain citrus fruits originating in South Africa to prevent the introduction into and the spread within the Union of *Phyllosticta citricarpa* (McAlpine) Van der Aa(10);

“Decision (EU) 2015/789” (“*Penderfyniad (EU) 2015/789*”) means Commission Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.)(11);

“Decision (EU) 2015/893” (“*Penderfyniad (EU) 2015/893*”) means Commission Implementing Decision (EU) 2015/893 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky)(12);

“Decision (EU) 2016/715” (“*Penderfyniad (EU) 2016/715*”) means Commission Implementing Decision (EU) 2016/715 setting out measures in respect of certain fruits

(3) OJ No L 151, 30.4.2004, p. 76, as amended by Commission Implementing Decision 2013/67/EU (OJ No L 31, 31.1.2013, p. 75).

(4) OJ No L 187, 8.7.2006, p. 35, as amended by Commission Implementing Decision (EU) 2015/1175 (OJ No L 189, 17.7.2015, p. 39).

(5) OJ No L 139, 31.5.2007, p. 24, as last amended by Commission Decision 2010/467/EU (OJ No L 226, 28.8.2010, p. 42).

(6) OJ No L 161, 22.6.2007, p. 66.

(7) OJ No L 64, 3.3.2012, p. 38, as amended by Commission Implementing Decision 2014/356/EU (OJ No L 175, 14.6.2014, p. 38).

(8) OJ No L 132, 23.5.2012, p. 18, as amended by Commission Implementing Decision 2014/679/EU (OJ No L 283, 27.9.2014, p. 61).

(9) OJ No L 311, 10.11.2012, p. 14.

(10) OJ No L 196, 3.7.2014, p. 21.

(11) OJ No L 125, 21.5.2015, p. 36, as amended by Commission Implementing Decision (EU) 2016/764 (OJ No L 126, 14.5.2016, p. 77).

(12) OJ No L 146, 11.6.2015, p. 16.

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**(13)**;

“Decision (EU) 2017/198” (“*Penderfyniad (EU) 2017/198*”) means 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**(14)**;

“Directive 93/85/EEC” (“*Cyfarwyddeb 93/85/EEC*”) means Council Directive 93/85/EEC on the control of potato ring rot**(15)**;

“Directive 98/57/EC” (“*Cyfarwyddeb 98/57/EC*”) means Council Directive 98/57/EC on the control of *Ralstonia solanacearum* (Smith) Yabuuchi *et al.***(16)**;

“Directive 2000/29/EC” (“*Cyfarwyddeb 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**(17)**;

“Directive 2007/33/EC” (“*Cyfarwyddeb 2007/33/EC*”) means Council Directive 2007/33/EC on the control of potato cyst nematodes and repealing Directive 69/465/EEC**(18)**;

“Directive 2008/61/EC” (“*Cyfarwyddeb 2008/61/EC*”) means Commission Directive 2008/61/EC establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections**(19)**;

“early potatoes” (“*tatws cynnar*”) means potatoes which are harvested before they are completely mature, marketed immediately after they have been harvested and whose skins can be easily removed without peeling;

“EU transit agreement” (“*cytundeb tramwy UE*”) means an agreement within the meaning of article 12(4) or (5);

“EU transit goods” (“*nwyddau tramwy yr UE*”) means any relevant material introduced into Wales from a third country via another part of the European Union;

“Euro-Mediterranean area” (“*ardal Ewrop a Môr y Canoldir*”) means the geographical area comprising Europe, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia and the area of Turkey east of the Bosphorus Strait known as Anatolia;

“Europe” (“*Ewrop*”) includes Belarus, the Canary Islands, Georgia, Kazakhstan (except the area east of the Ural river), Russia (except the regions of Tyumen, Chelyabinsk, Irkutsk, Kemerovo, Kurgan, Novossibirsk, Omsk, Sverdlovsk, Tomsk, Chita, Kamchatka, Magadan, Amur and Skhalin, the territories of Krasnoyarsk, Altay, Khabarovsk and Primarie, and the republics of Sakha, Tuva and Buryatia), Ukraine and Turkey (except the area east of the Bosphorus Strait known as Anatolia);

“European Union” (“*yr Undeb Ewropeaidd*”) means the territories of the member States including the Isle of Man and the Channel Islands, but excluding the Canary Islands, Ceuta, Melilla and the French Overseas Departments;

(13) OJ No L 125, 13.5.2016, p. 16, as amended by Commission Implementing Decision (EU) 2017/801 (OJ No L 120, 11.5.2017, p. 26).

(14) OJ No L 31, 4.2.2017, p. 29.

(15) OJ No L 259, 18.10.1993, p. 1, as amended by Commission Directive 2006/56/EC (OJ No L 182, 4.7.2006, p. 1).

(16) OJ No L 235, 21.8.1998, p. 1, as amended by Commission Directive 2006/63/CE (OJ No L 206, 27.7.2006, p. 36).

(17) OJ No L 169, 10.7.2000, p. 1, as amended by Commission Implementing Directive (EU) 2017/1279 (OJ No L 184, 15.7.2017, p. 33).

(18) OJ No L 156, 16.6.2007, p. 12.

(19) OJ No L 158, 18.6.2008, p. 41.

“fruit” (“*ffrwythau*”) means fruit in the botanical sense but does not include dried, dehydrated, lacquered or deep frozen fruit;

“importer” (“*mewnforiwr*”), in relation to any plant pest or relevant material at any time between their landing from a third country and the time when they are discharged by an inspector under this Order, includes any owner or other person for the time being in possession of or beneficially interested in the plant pest or relevant material;

“inspector” (“*arolygydd*”) means any person authorised by the Welsh Ministers to be an inspector for the purposes of this Order;

“IPPC” (“*CRhWP*”) means the International Plant Protection Convention 1951⁽²⁰⁾;

“ISPM No. 4” (“*SRFFf Rhif 4*”) means International Standard for Phytosanitary Measures No. 4 of November 1995 on the requirements for the establishment of pest free areas, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations⁽²¹⁾;

“ISPM No. 10” (“*SRFFf Rhif 10*”) means International Standard for Phytosanitary Measures No. 10 of October 1999 on requirements for the establishment of pest free places of production and pest free production sites, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations⁽²²⁾;

“ISPM No. 31” (“*SRFFf Rhif 31*”) means International Standard for Phytosanitary Measures No. 31 of April 2008 on methodologies for sampling consignments, prepared by the Secretariat of the IPPC established by the Food and Agriculture Organisation of the United Nations⁽²³⁾;

“landed” (“*wedi ei lanio*”) means introduced into Wales by any means, including by post, and “land” (“*glanio*”) and “landing” (“*glanio*”) is to be construed accordingly;

“national plant protection organisation” (“*sefydliad gwarchod planhigion cenedlaethol*”) means the service established by the government of a third country to discharge the functions specified in Article IV(1)(a) of the IPPC, details of which have been notified—

- (a) in the case of contracting parties to the IPPC, to the Director of the Food and Agriculture Organisation of the United Nations; and
- (b) in all other cases, to the European Commission;

“North America” (“*Gogledd America*”) means the geographical area comprising Canada, Mexico and the USA;

“nursery” (“*meithrinfa*”) means premises wholly or partly used for the cultivation or keeping of plants for the purpose of transplantation or removal to other premises;

“official” (“*swyddogol*”), in relation to any testing or other procedure required by this Order to be carried out in respect of any relevant material, means carried out by or under the supervision of the responsible official body or the national plant protection organisation of the country in which the testing or other procedure is carried out and “officially” (“*swyddogol*”) is to be construed accordingly;

“official documentation” (“*dogfennaeth swyddogol*”) means documentation issued by or with the authority of the responsible official body of the member State in which the documentation is issued;

(20) Adopted in 1951 (Treaty Series No. 16 (1954), Cmd 9077) and last revised in 1997 (Miscellaneous Series No. 15 (2003), Cmd 5945).

(21) Available from the IPPC Secretariat, Food and Agriculture Organization of the United Nations, AGDI, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/en/core-activities/standards-setting/ispms/>.

(22) Available from the IPPC Secretariat, Food and Agriculture Organization of the United Nations, AGDI, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/en/core-activities/standards-setting/ispms/>.

(23) Available from the IPPC Secretariat, Food and Agriculture Organization of the United Nations, AGDI, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/en/core-activities/standards-setting/ispms/>.

“official label” (“*label swyddogol*”) means a label that meets the relevant requirements set out in Part A or B of Schedule 9, issued by or with the authority of the responsible official body for the member State in which the official label is issued;

“official statement” (“*datganiad swyddogol*”) means a statement issued by an authorised officer or a statement included in a plant passport;

“place of production” (“*man cynhyrchu*”) means any premises, normally worked as a unit, together with any contiguous land in the same ownership or occupation as such premises;

“plant” (“*planhigyn*”) means a living plant (including a fungus or shrub) or a living part of a plant (including a living part of a fungus or shrub), at any stage of growth, but excluding forest trees or forest shrubs; and living parts of a plant include—

- (a) fruit
- (b) seed;
- (c) vegetables, other than those preserved by deep freezing;
- (d) tubers, corms, bulbs or rhizomes;
- (e) cut flowers;
- (f) branches with or without foliage;
- (g) a plant or shrub that has been cut and which retains any foliage;
- (h) leaves or foliage;
- (i) a plant or shrub in tissue culture;
- (j) live pollen;
- (k) bud wood;
- (l) cuttings; and
- (m) scions;

“plant health check” (“*gwiriad iechyd planhigion*”) means an examination carried out under article 12(2);

“plant health movement document” (“*dogfen symud iechyd planhigion*”) means a document which meets the requirements in Schedule 12;

“planting” (“*plannu*”) has the same meaning as in Article 2(1)(c) of [Directive 2000/29/EC](#);

“plant or shrub in tissue culture” (“*planhigyn neu lwyn mewn meithriniaid meinwe*”) means a plant or shrub growing in a clear liquid or clear solid aseptic culture medium in a closed transparent container;

“plant passport” (“*pasbort planhigion*”) means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in Part A or B of Schedule 9, issued by or with the authority of the responsible official body for the member State in which the plant passport is issued, and includes a replacement plant passport;

“plant pest” (“*pla planhigion*”) means any living organism, other than a vertebrate animal, in any stage of its existence which is injurious or likely to be injurious to any plant or plant product;

“plant product” (“*cynnyrch planhigion*”) has the same meaning as in Article 2(1)(b) of [Directive 2000/29/EC](#);

“plant trader” (“*masnachwr planhigion*”) means—

- (a) an importer of relevant material;
- (b) a producer of relevant material;

- (c) a person in charge of premises used for the storage, aggregation or dispatch of consignments of relevant material; or
- (d) a person who in the course of a trade or business divides up or combines consignments of relevant material;

“potato” (“*taten*”) means any tuber or true seed or any other plant of *Solanum tuberosum* L. or other tuber-forming species of the genus *Solanum* L.;

“Potato brown rot” (“*Pydredd coch tatws*”) means either the disease of potatoes caused by *Ralstonia solanacearum* (Smith) Yabuuchi *et al.* or that bacterium, as the context requires;

“Potato cyst nematode” (“*Llyngyr tatws*”) means any cyst-forming nematode of the species *Globodera pallida* (Stone) Behrens or *Globodera rostochiensis* (Wollenweber) Behrens that infests and multiplies on potatoes and any strains or pathotypes of such nematode;

“Potato ring rot” (“*Pydredd cylch tatws*”) means either the disease of potatoes which is caused by the bacterium *Clavibacter michiganensis* (Smith) Davis *et al.* spp. *Sependonicus* (Spieckermann and Kothhoff) Davis *et al.* or that bacterium, as the context requires;

“Potato wart disease” (“*Clefyd y ddafaden tatws*”) means either the disease of potatoes which is caused by the fungus *Synchytrium endobioticum* (Schilbersky) Percival or that fungus, as the context requires;

“premises” (“*mangre*”) includes any land, building, vehicle, vessel, aircraft, hovercraft, freight container or railway wagon;

“producer” (“*cynhyrhydd*”), in relation to relevant material, means a person who grows or makes the material in the course of a trade or business;

“protected zone” (“*parth gwarchod*”) means a member State or an area in a member State which is recognised as a protected zone exposed to particular plant health risks for the purposes of [Directive 2000/29/EC](#), as listed in Annex I to Regulation [\(EC\) No 690/2008](#);

“phytosanitary certificate” (“*tystysgrif ffytoiechydol*”) means a certificate in the form set out in Part A of Schedule 10, which complies with the requirements in article 15(1) and (2);

“phytosanitary certificate for re-export” (“*tystysgrif ffytoiechydol ar gyfer ailallforio*”) means a certificate in the form set out in Part B of Schedule 10, which complies with the requirements in article 15(1) and (2);

“register” (“*cofrestr*”) means the register of plant traders maintained under article 25(1);

“registered” (“*cofrestredig*”), in relation to a plant trader, means a trader whose particulars are listed in the register, and “registration” (“*cofrestru*”) is to be construed accordingly;

“Regulation [\(EC\) No 690/2008](#)” (“*Rheoliad (EC) Rhif 690/2008*”) means [Commission Regulation \(EC\) No 690/2008](#) recognising protected zones exposed to particular plant health risks in the Community⁽²⁴⁾;

“relevant material” (“*deunydd perthnasol*”) means any plant, plant product, soil or growing medium;

“responsible official body” (“*corff swyddogol cyfrifol*”) means either the body described in paragraph (i) or a body described in paragraph (ii) of Article 2(1)(g) of [Directive 2000/29/EC](#);

“seed” (“*hadau*”) means seed in the botanical sense other than seed not intended for planting;

“Seed Potatoes Regulations” (“*Rheoliadau Tatws Hadyd*”) means the Seed Potatoes (Wales) Regulations 2016⁽²⁵⁾;

(24) OJ No L 193, 22.7.2008, p. 1, as amended by Commission Implementing Regulation (EU) No 707/2014 (OJ No L 186, 26.6.2014, p. 56).

(25) S.I. 2016/106 (W. 52), amended by S.I. 2017/596 (W. 139).

“South America” (“*De America*”) means the geographical area comprising Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, French Guyana, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela;

“Swiss plant passport” (“*pasbort planhigion y Swistir*”) means a label and, where appropriate, an accompanying document, issued in Switzerland in accordance with Swiss legislation, which—

- (a) contains information which gives evidence that the legislation in Switzerland relating to plant health standards and special requirements for relevant material moving into and within Switzerland have been complied with; and
- (b) relates to relevant material listed in Part A of Schedule 8;

“third country” (“*trydedd wlad*”) means a country or territory other than one within the European Union; and

“the USA” (“*UDA*”) means the United States of America except the state of Hawaii.

(2) Unless expressly provided otherwise, any reference in this Order to a genus or species is to be construed as a reference to that genus or species or to any of its hybrids.

(3) Any reference in this Order to the European Union, to a member State or a third country includes a reference to a state, country, principality, province or region within the European Union, member State, or third country, as the case may be.

(4) Any reference in this Order to a numbered article or a numbered Schedule with no corresponding reference to a specific instrument is to be construed as a reference to the article or Schedule so numbered in this Order.

(5) References to the following European Union instruments are to be construed as references to those instruments as amended from time to time—

- (a) [Decision 2002/757/EC](#);
- (b) [Decision 2004/416/EC](#);
- (c) [Decision 2006/473/EC](#);
- (d) [Decision 2007/365/EC](#);
- (e) [Decision 2007/433/EC](#);
- (f) [Directive 2008/61/EC](#);
- (g) [Regulation \(EC\) No 690/2008](#);
- (h) [Decision 2012/138/EU](#);
- (i) [Decision 2012/270/EU](#);
- (j) [Decision 2012/697/EU](#);
- (k) [Decision 2014/422/EU](#);
- (l) [Decision \(EU\) 2015/789](#);
- (m) [Decision \(EU\) 2015/893](#);
- (n) [Decision \(EU\) 2016/715](#);
- (o) [Decision \(EU\) 2017/198](#).