

SL(5)335 - The Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019

Background and Purpose

These Regulations (Part 2) make amendments (that come into effect the day after the day which they are made) to the Plant Health (Wales) Order 2018 (SI 2018/1064) to transpose certain provisions in the following:

- Council Directive 69/464/EEC on control of Potato Wart Disease
- Council Directive 93/85/EEC on the control of potato ring rot
- Council Directive 2007/33/EC on the control of potato cyst nematodes and repealing Directive 69/465/EEC

The provisions concern the planting of certain *solanaceous* species and the control of relevant plant pests.

In addition, Parts 3-5 of these Regulations (which come into force on exit day) make amendments to the following subordinate legislation relating to plant health in order to address failure of retained EU law to operate effectively and other deficiencies:

- The Plant Health (Wales) Order 2019 (SI 2018/1064)
- The Plant Health etc (Fees) (Wales) Regulations (SI 2018/1179)

These Regulations also revoke The Potatoes Originating in Egypt (Wales) Regulations (SI 2004/2245).

Procedure

Affirmative

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2

1. **Standing Order 21.2 (vii)– that there appear to be inconsistencies between the meaning of its English and Welsh texts.**

In regulation 4, of this instrument there is an error in the Welsh version at paragraph (o).

The English version says-

“Further investigations

13. If any suspected occurrence or confirmed presence of Potato cyst nematodes **in Wales** results from...”

The Welsh version says-

“Ymchwiliadau pellach



13. Os yw unrhyw achos a amheuir o Lyngyr tatws neu unrhyw achos o bresenoldeb Llyngyr tatws a gadarnhawyd yn deillio o..."

There is no reference to "in Wales" in the Welsh version.

2. Standing Order 21.2 (vii)– that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In regulation 27(a) the inserted sub-para (e) refers to the United Kingdom in the English text, but the Welsh text refers to Prydain Fawr (GB).

3. Standing Order 21.2 (vii)– that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In regulation 55(c) there is an error in the Welsh version. Paragraph (c) of that regulation inserts wording after paragraph 1A of Schedule 16 to the Plant Health (Wales) Order 2018. The inserted wording at 1AB(b) states-

'yn achos tatws hadyd a, phan fo'n briodol, **thatws** eraill, cynnal profion swyddogol ar samplau gan ddefnyddio'r dull a nodir yn EPPO PM 7/21'

This should state-

'yn achos tatws hadyd a, phan fo'n briodol, **datws** eraill, cynnal profion swyddogol ar samplau gan ddefnyddio'r dull a nodir yn EPPO PM 7/21'

4. Standing Order 21.2(vi) in respect of this instrument – that the drafting appears to be defective.

In regulation 34(iv) (aa) – there is no paragraph 13 of part E of the list of controlled material.

5. Standing Order 21.2(vi) in respect of this instrument – that the drafting appears to be defective.

In regulation 44 at paragraph (g), reference is made to 'Part A of Annex 3 to Commission Directive 2008/61/EC. It should refer to Annex III of Commission Directive 2008/61/EC in both the English and Welsh versions.

6. Standing Order 21.2(vi) in respect of this instrument – that the drafting appears to be defective.

In regulation 53(e)(ii) and (g) reference is made to 'Annex 3 to Directive 2007/33/EC'. It should refer to Annex III to Directive 2008/33/EC in the English version concerning regulation 53(e)(ii) and both the English and Welsh version concerning regulation 53(g).

7. Standing Order 21.2(vi) in respect of this instrument – that the drafting appears to be defective.

In regulation 54 at paragraph (e) in the two places it occurs, reference is made to 'Annex 3 to Directive 93/85/EEC' should refer to 'Annex III to Directive 93/85/EEC in both the English and Welsh versions.

Merits Scrutiny

The following point are identified for reporting under Standing Order 21.3 in respect of this instrument.



1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

These Regulations create two offences.

The amendments made by regulation 13 and regulation 48 include a new offence in relation to the new import requirements on plant health checking on arrival in Wales and provide the ability to enforce and prosecute serious cases of non-compliance.

An offence is also added to enforce any failure to comply with any requirement in a general notice issued by the Welsh Ministers under the Plant Health (Wales) Order 2018 in respect of a demarcated area under regulation 5(k) and regulation 48. EU decisions (retained direct EU legislation) require the Welsh Ministers to demarcate areas around a pest outbreak and take measures to eradicate and contain the outbreak.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

13 March 2019

