

SL(5)438 – The Plant Health (Wales) (Amendment) (No. 2) Order 2019

Background and Purpose

This Order amends the Plant Health (Wales) Order 2018 (S.I. 2018/1064) (W. 223) to introduce emergency measures to prevent the introduction into and spread of *Thaumetopoea processionea* L. (the Oak Processionary Moth (“OPM”)) within Wales.

This Order is necessary to ensure consistent plant health requirements within Great Britain, to maintain consistent biosecurity measures and ensure that the Welsh Ministers are able to apply the required prohibitions.

Procedure

Negative

Technical Scrutiny

No technical points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

One point is identified for reporting under Standing Order 21.3(ii) in respect of this instrument.

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.

The 21 day rule under the Statutory Instruments Act 1946 (incorporated in Schedule 10 of the Government of Wales Act 2006) provides that instruments should be laid 21 days before they come into force. This enables Members to seek to annul such instruments before they have effect, as confusion can be caused if legislation is annulled after it has been implemented. However, in this case, the Welsh Government consider that the circumstances justify a breach of that rule. The Minister for Finance and Trefnydd, as required under section 11A of the Statutory Instruments Act 1946, has notified the Presiding Officer of the breach so that the matter can be brought to the attention of Members.

The Explanatory Memorandum (“the EM”) sets out the reasons for the breach of the 21 day rule:

“To ensure controls that are aligned with the rest of Great Britain it has become necessary to breach the 21 day rule. Scotland laid an equivalent statutory instrument on the 12th July and it came into force on the 16th of July. England laid an equivalent statutory instrument on the 15th July and it came into force on the same day.

*Currently imports of certain plants of *Quercus* L., from regions where this pest is present are allowed in accordance with certain controls. However, findings in the wider environment in England and Wales have proved that these controls are not sufficient.*

OPM causes heavy defoliation leading to weakening of oak trees. Apart from the intrinsic damage (loss of growth and reduction in timber values) it is also regarded as an important contributor to long term decline of oak trees in several countries. Contact with the hairs of the caterpillars can also cause extreme irritation



for both humans and animals. The wider human health impacts of OPM can lead to school closures and closures of public places for recreation.

It is therefore necessary to introduce strengthened controls to reduce the risk of OPM being introduced and spread in Wales from imported oak plants.”

Implications arising from exiting the European Union

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

Government Response

A government response is not required.

The relevant Welsh Minister has written to the Llywydd to give notification of the 21 day rule breach and detailed reasons for the breach are given in the EM.

Legal Advisers

Constitutional and Legislative Affairs Committee

July 2019

