



OFFERYNNAU STATUDOL
CYMRU

WELSH
STATUTORY INSTRUMENTS

2008 Rhif 2781 (Cy.248)

2008 No. 2781 (W.248)

**IECHYD PLANHIGION,
CYMRU**

**PLANT HEALTH,
WALES**

Gorchymyn Iechyd Planhigion
(Cymru) (Diwygio) 2008

The Plant Health (Wales)
(Amendment) Order 2008

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

(This note is not part of the Order)

Mae'r Gorchymyn hwn yn diwygio Gorchymyn Iechyd Planhigion (Cymru) 2006 (O.S. 2006/1643 (Cy.158)) ("y prif Orchymyn") er mwyn gweithredu—

This Order amends the Plant Health (Wales) Order 2006 (S.I. 2006/1643 (W.158)) ("the principal Order") so as to implement—

- Cyfarwyddeb y Comisiwn 2008/64/EC sy'n diwygio Atodiadau I i IV i Gyfarwyddeb y Cyngor 2000/29/EC ar fesurau amddiffynnol yn erbyn cyflwyno i'r Gymuned organeddau sy'n niweidiol i blanhigion neu gynhyrchion planhigion ac yn erbyn eu hymlediad o fewn y Gymuned (OJ Rhif L168, 28.6.2008, t.31) (erthygl 2(8), (9), (10) a (12));
- Cyfarwyddeb y Comisiwn 2008/61/EC sy'n sefydlu'r amodau y caniateir i organeddau, planhigion, cynhyrchion planhigion niweidiol penodol a gwrthrychau eraill a restrir yn Atodiadau I i V i Gyfarwyddeb y Cyngor 2000/29/EC gael eu cyflwyno i'r Gymuned neu barthau gwarchod penodol ohoni neu eu symud o'u mewn, at ddibenion arbrofi neu ddibenion gwyddonol ac ar gyfer gwaith ar ddetholiadau amrywogaethol (OJ Rhif L 158, 18.6.2008, t.41) (erthygl 2(6)); a
- Penderfyniad y Comisiwn 2008/86/EC, sef Penderfyniad Rhif 1/2008 y Cyd-bwyllgor ar Amaethyddiaeth a ffurfiwyd yn y Cytundeb rhwng y Gymuned Ewropeaidd a Chyddfederasiwn y Swistir ar Fasnach mewn Cynhyrchion Amaethyddol, sy'n gwneud newidiadau i'r rhestr o ddeunyddiau perthnasol sy'n dod o'r Swistir y gellir eu glanio yng Nghymru neu eu symud y tu mewn i Gymru os oes pasbort planhigion Swisaidd yn dod gyda hwy (erthygl 2(13)).
- Commission Directive 2008/64/EC amending Annexes I to IV 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 168, 28.6.2008, p.31) (article 2(8), (9), (10) and (12));
- 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 (OJ No L 158, 18.6.2008, p.41) (article 2(6)); and
- Commission Decision 2008/86/EC, being Decision No. 1/2008 of the Joint Committee on Agriculture set up by the Agreement between the European Community and the Swiss Confederation on Trade in Agricultural Products, which makes changes to the list of relevant material originating in Switzerland which may be landed in or moved within Wales if accompanied by a Swiss plant passport (article 2(13)).

Yn ychwanegol, mae'r Gorchymyn hwn—

- yn dirymu tri offeryn statudol sy'n ymwneud â gofynion hysbysu ar gyfer tatws hadyd a thatws bwyta o Aelod-wladwriaethau penodol ac mae'n mewnosod yn y prif Orchymyn ofynion hysbysu newydd o ran tatws hadyd o bob Aelod-wladwriaeth a'r Swistir (erthyglau 2(3) a (4) a (3); ac
- yn sefydlu mesurau i ddynodi parthau ar gyfer rheoli *Diabotica virgifera* Le Conte (erthygl 2(5)).

Mae torri'r gwaharddiad ar lanio a gyflwynir gan erthygl 2(3) yn dramgwydd o dan Ddeddf Rheoli Tollau Tramor a Chartref (p.2) ac nid o dan y prif Orchymyn.

Ni chafodd Asesiad Effaith Rheoleiddiol ei baratoi ar gyfer yr offeryn hwn.

In addition, this Order—

- revokes three statutory instruments concerned with notification requirements for seed and ware potatoes from certain member States and inserts into the principal Order new notification requirements with respect to seed potatoes from all member States and Switzerland (articles 2(3) and (4) and 3); and
- establishes measures to designate zones for the management of *Diabotica virgifera* Le Conte (article 2(5)).

Contravention of the prohibition on landing introduced by article 2(3) is an offence under the Customs and Excise Management Act 1979 (c.2) and not under the principal Order.

A Regulatory Impact Assessment has not been produced for this instrument.

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**IECHYD PLANHIGION,
CYMRU**

**PLANT HEALTH,
WALES**

**Gorchymyn Iechyd Planhigion
(Cymru) (Diwygio) 2008**

**The Plant Health (Wales)
(Amendment) Order 2008**

Gwnaed 22 Hydref 2008

Made 22 October 2008

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 23 Hydref 2008

*Laid before the National
Assembly for Wales* 23 October 2008

Yn dod i rym 17 Tachwedd 2008

Coming into force 17 November 2008

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adrannau 2, a 3(1), (2) a (4) o Ddeddf Iechyd Planhigion 1967(1) ac sydd bellach wedi'u breinio ynddynt hwy(2), a chan baragraff 1A o Atodlen 2 i Ddeddf y Cymunedau Ewropeaidd 1972(3), yn gwneud y Gorchymyn a ganlyn.

The Welsh Ministers, in exercise of the powers conferred by sections 2 and 3(1), (2) and (4) of the Plant Health Act 1967(1) and now vested in them(2), and by paragraph 1A of Schedule 2 to the European Communities Act 1972(3), make the following Order.

Mae'r Gorchymyn yn darparu at ddiben a grybwyllir yn adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 ac mae'n ymddangos i Weinidogion Cymru ei bod yn hwylus dehongli'r cyfeiriadau at offerynnau'r Gymuned Ewropeaidd yn y Gorchymyn hwn fel cyfeiriadau at yr offerynnau hynny fel y'u diwygir o bryd i'w gilydd.

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

Enwi, cymhwyso a chychwyn

1. Enw'r Gorchymyn hwn yw Gorchymyn Iechyd Planhigion (Cymru) (Diwygio) 2008, mae'n gymwys o ran Cymru a daw i rym ar 17 Tachwedd 2008.

Title, application, and commencement

1. The title of this Order is the Plant Health (Wales) (Amendment) Order 2008, it applies in relation to Wales and comes into force on 17 November 2008.

(1) 1967 p. 8; diwygiwyd adrannau 2(1) a 3(1) a (2) gan Ddeddf y Cymunedau Ewropeaidd 1972 Atodlen 4, paragraff 8; amnewidiwyd adran 3(4) gan adran 42 o Ddeddf Cyfiawnder Troseddol 1982 (p. 48).

(1) 1967 c. 8; sections 2(1) and 3(1) and (2) were amended by the European Communities Act 1972, Schedule 4, paragraph 8; section 3(4) was substituted by section 42 of the Criminal Justice Act 1982 (c. 48)

(2) Trosglwyddwyd swyddogaethau'r awdurdod cymwys y cyfeirir ato yn adrannau 2 a 3 o Ddeddf Iechyd Planhigion 1967, i'r graddau y maent yn arferadwy o ran Cymru, i Ysgrifennydd Gwladol Cymru gan Orchymyn Trosglwyddo o Swyddogaethau (Cymru) (Rhif.1) 1978 (O.S. 1978/272). Trosglwyddwyd swyddogaethau Ysgrifennydd Gwladol Cymru i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672). Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru o dan adran 162 o Ddeddf Llywodraeth Cymru 2006 (p.32) a pharagraff 30 o Atodlen 11 iddi.

(2) Functions of the competent authority referred to in sections 2 and 3 of the Plant Health Act 1967 were, so far as they are exercisable in relation to Wales, transferred to the Secretary of State for Wales by the Transfer of Functions (Wales) (No.1) Order 1978 (S.I. 1978/272). Functions of the Secretary of State for Wales transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Functions of the National Assembly for Wales transferred to the Welsh Ministers under section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(3) 1972 p. 68.

(3) 1972 c. 68.

Diwygiadau i Orchymyn Iechyd Planhigion (Cymru) 2006

2.—(1) Diwygir Gorchymyn Iechyd Planhigion (Cymru) 2006(1) fel a ganlyn.

(2) Yn erthygl 2(1), yn lle'r diffiniad o "Directive 2000/29/EC" rhodder—

""Directive 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;"(2)

(3) Ar ôl erthygl 19(2), mewnosoder—

"(3) Subject to article 22, no person may land in Wales seed potatoes grown, or suspected to have been grown, in another member State or in Switzerland unless written notification is provided to an inspector, at least two days prior to the intended date of introduction into Wales of the seed potatoes, of the intention to land the seed potatoes and of—

- (a) the intended time, date and means of introduction;
- (b) the intended point of entry into Wales;
- (c) their intended use and destination;
- (d) their variety and quantity; and
- (e) the producer's identification number."

(4) Yn erthygl 22, ar ôl "article 19(1)(e), (f) and (g)" mewnosoder "and (3)".

(5) Ar ôl erthygl 39, mewnosoder—

"PART 7A

MANAGEMENT ZONES FOR PLANT HEALTH PURPOSES

Measures for preventing the introduction of *Diabrotica virgifera* Le Conte

39A.—(1) Where there is a high risk of the introduction of *Diabrotica virgifera* Le Conte from any aircraft landing at an airport in Wales, the Welsh Ministers may designate a zone around the airport ("a designated zone").

(2) A designated zone must extend to a radius of at least 2500 metres around the runways of, or around any other areas where aircraft move within, an airport.

(3) The Welsh Ministers may revoke or vary a designation at any time.

(1) O.S. 2006/1643 (Cy.158), fel y'i diwygiwyd.

(2) OJ Rhif L 169, 10.7.2000, t.1, fel y'i diwygiwyd ddiwethaf gan Gyfarwydddeb y Comisiwn 2008/64/EC, OJ Rhif L 168, 28.6.2008, t.31.

Amendments to the Plant Health (Wales) Order 2006

2.—(1) The Plant Health (Wales) Order 2006(1) is amended as follows.

(2) In article 2(1), for the definition of "Directive 2000/29/EC" substitute—

""Directive 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;"(2)

(3) After article 19(2), insert—

"(3) Subject to article 22, no person may land in Wales seed potatoes grown, or suspected to have been grown, in another member State or in Switzerland unless written notification is provided to an inspector, at least two days prior to the intended date of introduction into Wales of the seed potatoes, of the intention to land the seed potatoes and of—

- (a) the intended time, date and means of introduction;
- (b) the intended point of entry into Wales;
- (c) their intended use and destination;
- (d) their variety and quantity; and
- (e) the producer's identification number."

(4) In article 22, after "article 19(1)(e), (f) and (g)" insert "and (3)".

(5) After article 39, insert—

"PART 7A

MANAGEMENT ZONES FOR PLANT HEALTH PURPOSES

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39A.—(1) Where there is a high risk of the introduction of *Diabrotica virgifera* Le Conte from any aircraft landing at an airport in Wales, the Welsh Ministers may designate a zone around the airport ("a designated zone").

(2) A designated zone must extend to a radius of at least 2500 metres around the runways of, or around any other areas where aircraft move within, an airport.

(3) The Welsh Ministers may revoke or vary a designation at any time.

(1) S.I. 2006/1643 (W.158) as amended.

(2) OJ No L 169, 10.7.2000, p.1, as last amended by Commission Directive 2008/64/EC, OJ No L 168, 28.6.2008, p.31.

(4) The Welsh Ministers must take appropriate measures to notify any designation, revocation or variation to persons growing or intending to grow maize in a designated zone.

(5) Any person acting in the course of a business, trade or other undertaking and growing maize in a designated zone must ensure that crops are rotated in such a way that maize is only grown once in any field during any period of two consecutive years.

(6) Any premises which are partly inside and partly outside a designated zone are deemed to be wholly inside that zone for the purposes of this article.

(7) Paragraph (6) does not apply in respect of any part of any premises which is situated outside Wales."

(6) Yn erthygl 41—

(a) ym mharagraff (1) yn lle "Directive 95/44/EC of 26 July 1995" rhodder "Directive 2008/61/EC";

(b) ym mharagraffau (2), (6) a (7)(a) yn lle "Directive 95/44/EC" rhodder "Directive 2008/61/EC"; ac

(c) yn lle paragraff 7(b) rhodder—

"(b)"Directive 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, as amended from time to time".

(7) Ar ôl erthygl 45(1)(xiii) mewnosoder—

"(xiiiA) article 39A(5);".

(8) Yn Atodlen 1, Rhan B hepgorer "4. *Heliothis armigera* (Hübner)".

(9) Yn Atodlen 2, Rhan B ar ôl eitem 10 o dan y pennawd "Insects, mites and nematodes" ychwaneger—

"11.	Plants of <i>Dendranthema</i> (DC.) Des Moul, <i>Dianthus</i> L., <i>Pelargonium</i> l' Hérit. ex Ait. and of the family <i>Solanaceae</i> , intended for planting, other than seeds	<i>Helicoverpa armigera</i> (Hübner)".
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(4) The Welsh Ministers must take appropriate measures to notify any designation, revocation or variation to persons growing or intending to grow maize in a designated zone.

(5) Any person acting in the course of a business, trade or other undertaking and growing maize in a designated zone must ensure that crops are rotated in such a way that maize is only grown once in any field during any period of two consecutive years.

(6) Any premises which are partly inside and partly outside a designated zone are deemed to be wholly inside that zone for the purposes of this article.

(7) Paragraph (6) does not apply in respect of any part of any premises which is situated outside Wales."

(6) In article 41—

(a) in paragraph (1) for "Directive 95/44/EC of 26 July 1995" substitute "Directive 2008/61/EC";

(b) in paragraphs (2), (6) and (7)(a) for "Directive 95/44/EC" substitute "Directive 2008/61/EC"; and

(c) for paragraph (7)(b) substitute—

"(b)"Directive 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, as amended from time to time".

(7) After article 45(1)(xiii) insert—

"(xiiiA) article 39A(5);".

(8) In Schedule 1, Part B omit "4. *Heliothis armigera* (Hübner)".

(9) In Schedule 2, Part B after item 10 under the heading "Insects, mites and nematodes" add—

"11.	Plants of <i>Dendranthema</i> (DC.) Des Moul, <i>Dianthus</i> L., <i>Pelargonium</i> l' Hérit. ex Ait. and of the family <i>Solanaceae</i> , intended for planting, other than seeds	<i>Helicoverpa armigera</i> (Hübner)".
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(10) Yn Atodlen 2, Rhan B hepgorer eitem 2 o dan y pennawd "Fungi".

(11) Yn Atodlen 3, eitem 8 hepgorer "Bulgaria,".

(12) Yn Atodlen 4—

- (a) yn eitem 41 o Ran A ac yn eitem 23 o Ran B yn lle "*Heliothis armigera* Hübner" rhodder "*Helicoverpa armigera* (Hübner)"; a
- (b) yn eitem 71 o Ran A ar ôl "corms," ychwaneger "bulbs".

(13) Yn Atodlen 8, Rhan A—

- (a) yn eitem 2 hepgorer "other than *Sorbus intermedia* (Ehrh.) Pers."; a
- (b) yn lle eitem 5(d) rhodder—
"(d)seeds or bulbs of *Allium ascalonicum* L., *Allium cepa* L., *Allium schoenoprasum* L., *Helianthus annuus*, *Lycopersicon lycopersicum*, *Medicago sativa* or *Phaseolus* intended for planting;"

(10) In Schedule 2, Part B omit item 2 under the heading "Fungi".

(11) In Schedule 3, item 8 omit "Bulgaria,".

(12) In Schedule 4—

- (a) in item 41 of Part A and in item 23 of Part B for "*Heliothis armigera* Hübner" substitute "*Helicoverpa armigera* (Hübner)"; and
- (b) in item 71 of Part A after "corms," add "bulbs".

(13) In Schedule 8, Part A—

- (a) in item 2 omit "other than *Sorbus intermedia* (Ehrh.) Pers."; and
- (b) for item 5(d) substitute—
"(d)seeds or bulbs of *Allium ascalonicum* L., *Allium cepa* L., *Allium schoenoprasum* L., *Helianthus annuus*, *Lycopersicon lycopersicum*, *Medicago sativa* or *Phaseolus* intended for planting;"

Dirymu

3. Dirymir yr offerynnau canlynol—

- (a) Gorchymyn Hysbysu ynghylch Tatws sy'n Deillio o'r Almaen (Cymru) 2001(1);
- (b) Gorchymyn Tatws o Wlad Pwyl (Hysbysu) (Cymru) 2004 (2); ac
- (c) Gorchymyn Tatws sy'n Tarddu o'r Iseldiroedd (Hysbysu) (Cymru) 2005(3).

Revocations

3. The following instruments are revoked—

- (a) the Potatoes Originating in Germany (Notification) (Wales) Order 2001(1);
- (b) the Polish Potatoes (Notification) (Wales) Order 2004(2); and
- (c) the Potatoes Originating in the Netherlands (Notification) (Wales) Order 2005(3).

Elin Jones

Y Gweinidog dros Faterion Gwledig, un o Weinidogion Cymru

Minister for Rural Affairs, one of the Welsh Ministers

22 Hydref 2008

22 October 2008

(1) O.S. 2001/3541 (Cy.288).

(2) O.S. 2004/2697 (Cy.236).

(3) O.S. 2005/1162 (Cy.77).

(1) S.I. 2001/3541 (W.288).

(2) S.I. 2004/2697 (W.236).

(3) S.I. 2005/1162 (W.77).

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