



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2004 Rhif 2245 (Cy.209)

2004 No. 2245 (W.209)

**IECHYD PLANHIGION,
CYMRU**

**PLANT HEALTH,
WALES**

**Rheoliadau Tatws sy'n Tarddu o'r
Aifft (Cymru) 2004**

**The Potatoes Originating in Egypt
(Wales) Regulations 2004**

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn, sy'n berthnasol i Gymru yn unig, yn cydgrynhoi gyda diwygiadau Reoliadau Tatws sy'n Tarddu o'r Aifft 1998 ("Rheoliadau 1998"). Mae'r Rheoliadau yn gweithredu Penderfyniad y Comisiwn 2004/4/EC sy'n awdurdodi Aelod-wladwriaethau i gymryd mesurau ychwanegol dros dro yn erbyn lledaenu *Pseudomonas solanacearum* (Smith) Smith (a elwir bellach yn *Ralstonia solanacearum* (Smith) Yabuuchi et al.) o ran yr Aifft ("y Penderfyniad"). Dim ond os cydymffurfiwyd â'r mesurau sydd wedi'u gosod yn y Penderfyniad y mae'r Penderfyniad yn caniatáu i datws sy'n tarddu o'r Aifft, ac eithrio tatws hadyd, gael eu mewnfurio i'r Gymuned Mae'n cydgrynhoi ac yn dirymu Penderfyniad y Comisiwn 96/301/EC (fel y'i diwygiwyd).

These Regulations, which apply in relation to Wales, consolidate with amendments the Potatoes Originating in Egypt Regulations 1998 ("the 1998 Regulations"). The Regulations implement Commission Decision 2004/4/EC authorising Member States temporarily to take additional measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith (now known as *Ralstonia solanacearum* (Smith) Yabuuchi et al.) as regards Egypt ("the Decision"). The Decision permits potatoes originating in Egypt, other than seed potatoes, to be imported into the Community only if the measures laid down in the Decision are complied with. It consolidates and repeals Commission Decision 96/301/EC (as amended).

Mae Rheoliad 3(1) yn gwneud darpariaeth ynglŷn â'r dystysgrif ffytoiechydol sy'n ofynnol o dan Orchymyn Iechyd Planhigion (Prydain Fawr) 1993 ("y Gorchymyn") sydd i fynd gyda mewnfurion cloron tatws i Gymru ac y mae mewnfurion o'r fath yn cael eu gwahardd hebddi. Yn achos tatws sy'n tarddu o'r Aifft, rhaid i'r dystysgrif gydymffurfio â'r gofynion ychwanegol sydd wedi'u gosod gan y Penderfyniad. Mae unrhyw berson sy'n mewnfurio tatws o'r fath heb dystysgrif ffytoiechydol ddilys, yn groes i'r gwaharddiad sydd wedi'i osod gan Orchymyn 1993, gyda'r bwriad o osgoi'r gwaharddiad, yn euog o dramgwydd o dan adran 50(3) o Ddeddf Rheoli Tollau Tramor a Chartref 1979 (p.2) a chaniateir ei arestio.

Regulation 3(1) makes provision in respect of the phytosanitary certificate required by the Plant Health (Great Britain) Order 1993 ("the Order") to accompany imports of potato tubers into Wales and without which such imports are prohibited. In the case of potatoes originating in Egypt, the certificate must comply with the additional requirements imposed by the Decision. Any person who imports such potatoes without a valid phytosanitary certificate, in contravention of the prohibition imposed by the 1993 Order, with intent to evade such prohibition, is guilty of an offence under section 50(3) of the Customs and Excise Management Act 1979 (c.2) and may be arrested.

Mae unrhyw berson a geir yn euog o dramgwydd o'r fath o dan adran 50(3) yn agored, o'i gollfarnu'n

Any person found guilty of such an offence under section 50(3) is liable, on summary conviction, to a

ddiannod, i gosb o £5,000 neu dair gwaith gwerth y nwyddau, p'un bynnag yw'r mwyaf, neu i garchariad am gyfnod nad yw'n hwy na chwe mis, neu'r ddau; neu, o'i gollfarnu ar dditiad, i gosb o unrhyw swm, neu i garchariad am gyfnod nad yw'n hwy na saith mlynedd, neu'r ddau.

Mae'r tramgwydd hwn o dan adran 50(3) yn disodli tramgwydd tebyg o fewnforio tatws yn groes i Reoliadau 1998, a oedd wedi'i gynnwys yn y Rheoliadau hynny.

Mae Rheoliad 3(2) yn dileu, o ran mewnforion tatws sy'n tarddu o'r Aifft, y gofyniad o dan Orchymyn 1993 i ddatganiad swyddogol bod y tatws yn tarddu o ardaloedd lle nad yw'n hysbys bod *Ralstonia solanacearum* (Smith) Yabuuchi et al. yn digwydd.

Mae Rheoliad 4 yn gosod gofyniad bod mangreoedd, (ac eithrio mangreoedd penodol sy'n cael eu defnyddio ar gyfer pacio neu baratoi tatws i'w cyflwyno i'r defnyddiwr olaf) sy'n cael eu defnyddio i drin tatws sy'n tarddu o'r Aifft, yn cael eu cymeradwyo at y diben hwnnw gan Gynulliad Cenedlaethol Cymru. Mae methu â chydymffurfio â'r gofyniad hwn yn dramgwydd sy'n peri bod y tramgwyddwr yn agored ar gollfarn ddiannod i ddirwy nad yw'n fwy na lefel 5 ar y raddfa safonol (sef £5,000 ar hyn o bryd) (rheoliad 7).

Mae Rheoliad 5 yn gwneud darpariaeth ar gyfer gorfodi'r Rheoliadau drwy archwilwyr ac mae rheoliad 6 yn darparu pŵer i Gynulliad Cenedlaethol Cymru godi ffi o £37.50 am gymryd samplau o datws sy'n tarddu o'r Aifft i ddarganfod a ydynt wedi'u heintio â *Ralstonia solanacearum* (Smith) Yabuuchi et al. yn unol â'r Penderfyniad. Mae hyn heb ei newid o'r ffi a oedd yn daladwy am samplu o'r fath o dan Reoliadau 1998.

Mae Arfarniad Rheoliadol wedi'i baratoi ac mae ar gael oddi wrth yr Is-Adran Polisi Iechyd Anifeiliaid a Phlanhigion, Cynulliad Cenedlaethol Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

penalty of £5,000 or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or, on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 7 years, or to both.

This section 50(3) offence replaces a similar offence of importing potatoes in breach of the 1998 Regulations, contained in those Regulations.

Regulation 3(2) removes, in respect of imports of potatoes originating in Egypt, the requirement under the 1993 Order for imports of potatoes to be accompanied by an official statement that the potatoes originate in areas where *Ralstonia solanacearum* (Smith) Yabuuchi et al. is not known to occur.

Regulation 4 imposes a requirement for premises (other than certain premises used for the packing or preparation of potatoes for delivery to the final consumer) used for treating potatoes originating in Egypt to be approved for that purpose by the National Assembly for Wales. Failure to comply with this requirement is an offence carrying liability on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000) (regulation 7).

Regulation 5 makes provision for the enforcement of the Regulations by inspectors and regulation 6 provides the National Assembly for Wales with a power to charge a fee of £37.50 for the taking of samples from potatoes originating in Egypt to ascertain whether they are infected with *Ralstonia solanacearum* (Smith) Yabuuchi et al. in accordance with the Decision. This is unchanged from the fee payable in respect of such sampling under the 1998 Regulations.

A Regulatory appraisal has been prepared and is available from the Animal and Plant Health Policy Division, National Assembly for Wales, Cathays Park, Cardiff, CF10 3NQ.

2004 Rhif 2245 (Cy.209)

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IECHYD PLANHIGION,
CYMRUPLANT HEALTH,
WALESRheoliadau Tatws sy'n Tarddu o'r
Aifft (Cymru) 2004The Potatoes Originating in Egypt
(Wales) Regulations 2004*Wedi'i wneud*

31 Awst 2004

Made

31 August 2004

Yn dod i rym

1 Medi 2004

Coming into force

1 September 2004

Mae Cynulliad Cenedlaethol Cymru, gan ei fod wedi'i ddynodi(a) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(b) mewn perthynas â pholisi amaethyddol cyffredin y Gymuned Ewropeaidd, drwy arfer y pwerau a roddwyd iddo gan yr adran 2(2) a enwyd, drwy hyn yn gwneud y Rheoliadau canlynol:

The National Assembly for Wales, being designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, in exercise of the powers conferred on it by the said section 2(2), hereby makes the following Regulations:

Enwi, cymhwyso a chychwyn

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Tatws sy'n Tarddu o'r Aifft (Cymru) 2004; maent yn gymwys mewn perthynas â Chymru a deuant i rym ar 1 Medi 2004.

Citation, application and commencement

1.-(1) These Regulations may be cited as the Potatoes Originating in Egypt (Wales) Regulations 2004; they apply in relation to Wales and come into force on 1 September 2004.

Dehongli

2. Yn y Rheoliadau hyn -

ystyr "archwilydd" ("*inspector*") yw unrhyw berson sydd wedi'i awdurdodi i fod yn archwilydd at ddibenion y Gorchymyn;

ystyr "y Gorchymyn" ("*the Order*") yw Gorchymyn Iechyd Planhigion (Prydain Fawr) 1993(c);

ystyr "y Penderfyniad" ("*the Decision*") yw Penderfyniad y Comisiwn 2004/4/EC sy'n awdurdodi Aelod-wladwriaethau, dros dro, i gymryd mesurau brys yn erbyn lledaenu *Pseudomonas solanacearum* (Smith) Smith o ran yr Aifft(ch);

Interpretation

2. In these Regulations -

"the Decision" ("*y Penderfyniad*") means Commission Decision 2004/4/EC authorising Member States temporarily to take emergency measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards Egypt(c);

"inspector" ("*archwilydd*") means any person authorised to be an inspector for the purposes of the Order;

"the Order" ("*y Gorchymyn*") means the Plant Health (Great Britain) Order 1993(d);

"phytosanitary certificate" ("*tystysgrif*")

(a) O.S. 1999/2788.

(b) 1972 p.68.

(c) O.S. 1993/1320; fel y'i diwygiwyd gan O.S. 1993/3213, 1995/1358 a 2929, 1996/25, 1165 a 3242, 1997/1145 a 2907, 1998/349, 1121 a 2245, 1999/2641 (Cy.8), 2001/2500 (Cy.203), 2001/3761 (Cy.310), 2002/1805 (Cy.175) a 2003/1851 (Cy. 201).

(ch) OJ Rhif L2, 6.1.2004, t.50.

(a) S.I. 1999/2788.

(b) 1972 c.68.

(c) OJ No. L2, 6.1.2004, p.50.

(d) S.I. 1993/1320; as amended by S.I. 1993/3213, 1995/1358 and 2929, 1996/25, 1165 and 3242, 1997/1145 and 2907, 1998/349, 1121 and 2245, 1999/2641 (W.8), 2001/2500 (W.203), 2001/3761 (W.310), 2002/1805 (W.175) and 2003/1851 (W.201).

ystyr "taten" ("*potato*") yw unrhyw gloronen *Solanum tuberosum* L; ac

mae i "tystysgrif ffytoiechydol" yr un ystyr â "*phytosanitary certificate*" yn erthygl 2(1) o'r Gorchymyn.

Mewnforion Tatws sy'n tarddu o'r Aifft

3.-(1) At ddibenion erthygl 3(1)(e) o'r Gorchymyn dim ond os yw'n cydymffurfio â pharagraff 1(b)(xi) o'r atodiad i'r Penderfyniad y bydd tystysgrif ffytoiechydol ar gyfer tatws sy'n tarddu o'r Aifft yn dystysgrif ffytoiechydol ddilys.

(2) Ni fydd y gofyniad sy'n cael ei osod gan bwynt 25.8 o Adran 1 o Ran A Atodlen 4 i'r Gorchymyn (datganiad swyddogol bod tatws yn tarddu o ardaloedd lle nad yw'n hysbys bod *Ralstonia solanacearum* (Smith) Yabuuchi et al. yn digwydd) yn gymwys i fewnforion tatws sy'n tarddu o'r Aifft.

Cymeradwyo mangroedd ar gyfer trin tatws sy'n tarddu o'r Aifft

4.-(1) Yn ddarostyngedig i baragraff (4), ni chaiff neb, wrth gynnal busnes, gyflawni unrhyw driniaeth, gan gynnwys golchi, ar datws sy'n tarddu o'r Aifft ac eithrio mewn mangre y mae'r Cynulliad Cenedlaethol Cymru wedi'i chymeradwyo'n ysgrifenedig at y diben hwnnw.

(2) Rhaid i geisiadau am y gymeradwyaeth sy'n ofynnol o dan baragraff (1) gael eu cyflwyno'n ysgrifenedig i Gynulliad Cenedlaethol Cymru.

(3) Caiff Cynulliad Cenedlaethol Cymru atal neu ddirymu yn ysgrifenedig unrhyw gymeradwyaeth a roddwyd yn unol â pharagraff (1).

(4) Nid yw paragraff (1) yn gymwys i bacio neu baratoi tatws mewn siop, bwyty, ffreutur, clwb, tafarn, ysgol, ysbyty neu sefydliad tebyg (gan gynnwys cerbyd neu stondin sefydlog neu symudol) i'w gyflwyno i'r defnyddiwr olaf.

Pwerau archwilydd

5.-(1) Nid yw darpariaethau'r rheoliad hwn yn lleihau effaith y pwerau a roddwyd i archwilydd gan y Gorchymyn.

(2) Pan fo ganddo sail resymol dros amau bod rheoliad 4(1) wedi'i dorri neu'n debyg o gael ei dorri, caiff archwilydd arfer y pŵer a roddwyd gan erthygl 22(2) o'r Gorchymyn o'i ddarllen ynghyd ag erthygl 24(1) i (3) o'r Gorchymyn, fel petai taten sy'n tarddu o'r Aifft yn blanhigyn sy'n cael ei gadw neu ei symud yn groes i'r Gorchymyn.

(3) Bydd unrhyw hysbysiad a gyflwynir yn rhinwedd paragraff (2) yn cael effaith fel petai wedi'i gyflwyno o dan erthygl 22(2) o'r Gorchymyn a bydd erthyglau 24(4) i (6), 26 i 28, 32 a 33(1)(b) ac (c) a (6) o'r

ffytoiechydol") has the same meaning as in article 2(1) of the Order; and

"potato" ("*taten*") means any tuber of *Solanum tuberosum* L.

Imports of Potatoes originating in Egypt

3.-(1) For the purposes of article 3(1)(e) of the Order a phytosanitary certificate in respect of potatoes originating in Egypt will be a valid phytosanitary certificate only if it complies with paragraph 1(b)(xi) of the annex to the Decision.

(2) The requirement imposed by point 25.8 of Section 1 of Part A of Schedule 4 to the Order (an official statement that potatoes originate in areas where *Ralstonia solanacearum* (Smith) Yabuuchi et al. is not known to occur) will not apply to imports of potatoes originating in Egypt.

Approval of premises for treatment of potatoes originating in Egypt

4.-(1) Subject to paragraph (4), no person may carry out in the course of business any treatment, including washing, of potatoes originating in Egypt other than in premises that the National Assembly for Wales has approved in writing for that purpose.

(2) Applications for the approval required by paragraph (1) must be made in writing to the National Assembly for Wales.

(3) The National Assembly for Wales may suspend or revoke in writing any approval granted pursuant to paragraph (1).

(4) Paragraph (1) does not apply to the packing or preparation of potatoes in a shop, restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) for delivery to the final consumer.

Powers of an inspector

5.-(1) The provisions of this regulation are without prejudice to the powers conferred on an inspector by the Order.

(2) On having reasonable grounds for suspecting a contravention or likely contravention of regulation 4(1), an inspector may exercise the power conferred by article 22(2) of the Order as read with article 24(1) to (3) of the Order, as if a potato originating in Egypt was a plant kept or moved in contravention of the Order.

(3) Any notice served by virtue of paragraph (2) will have effect as if served under article 22(2) of the Order and articles 24(4) to (6), 26 to 28, 32 and 33(1)(b) and

Gorchymyn yn gymwys yn unol â hynny.

(4) Caiff archwilydd, er mwyn gwirio cydymffurfedd â rheoliad 4(1), arfer y pwerau a roddwyd gan erthygl 25 o'r Gorchymyn, fel petai'n gwirio cydymffurfedd â'r Gorchymyn.

(5) Bydd arfer pŵer yn rhinwedd paragraff (4) yn cael ei drin fel arfer y pŵer at ddibenion y Gorchymyn a bydd erthyglau 28 a 33(1)(c) yn gymwys yn unol â hynny.

Ffioedd am samplu mewnforion tatws

6. Pan fo'r pŵer i gymryd samplau a roddwyd gan erthygl 25(1)(a) o'r Gorchymyn yn cael ei arfer gan archwilydd mewn perthynas â thatws sy'n tarddu o'r Aifft er mwyn darganfod, at ddibenion paragraff 3 o'r Atodiad i'r Penderfyniad, a yw'r tatws hynny wedi'u heintio â *Ralstonia solanacearum* (Smith) Yabuuchi et al., rhaid i'r mewnforiwr, os gofynnir iddo wneud hynny, dalu i Gynulliad Cenedlaethol Cymru, ffi o £37.50 am bob eitem a samplwyd.

Tramgwyddau

7.-(1) Bydd person yn euog a dramgwydd os yw'n torri rheoliad 4(1) neu'n methu cydymffurfio ag ef heb esgus rhesymol ac ar y person hwnnw y bydd baich profi bod ganddo'r esgus rhesymol hwnnw.

(2) Bydd person sy'n euog o dramgwydd o dan baragraff (1) yn agored o'i gollfarnu'n ddiannod i ddirwy heb fod yn fwy na lefel 5 ar y raddfa safonol.

Dirymu

8.-(1) Mae'r Rheoliadau canlynol wedi'u dirymu o ran Cymru -

- (a) Rheoliadau Tatws sy'n Tarddu o'r Aifft 1998(a); a
- (b) Rheoliadau Tatws sy'n Tarddu o'r Aifft (Diwygio) 1998(b).

(2) Mae'r Rheoliadau canlynol wedi'u dirymu -

- (a) Rheoliadau Tatws sy'n Deillio o'r Aifft (Diwygio) (Cymru) 2000(c);
- (b) Rheoliadau Tatws sy'n Deillio o'r Aifft (Diwygio) (Cymru) 2001(ch); ac
- (c) Rheoliadau Tatws sy'n Deillio o'r Aifft (Diwygio) (Cymru) 2002(d).

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- (a) O.S. 1998/201, fel y'i diwygiwyd gan O.S. 1998/3167, 2000/22 a 2963, 2001/3574 a 2002/2902.
 - (b) O.S. 1998/3167.
 - (c) O.S. 2000/350.
 - (ch) O.S. 2001/2356 (Cy.194).
 - (d) O.S. 2002/120 (Cy.14).

(c) and (6) of the Order will apply accordingly.

(4) An inspector may, for the purpose of checking compliance with regulation 4(1), exercise the powers conferred by article 25 of the Order, as if checking compliance with the Order.

(5) The exercise of a power by virtue of paragraph (4) will be treated as the exercise of the power for the purposes of the Order and articles 28 and 33(1)(c) and (6) of the Order will apply accordingly.

Charges in respect of the sampling of imports of potatoes

6. Where the power to take samples conferred by article 25(1)(a) of the Order is exercised by an inspector in respect of potatoes originating in Egypt in order to ascertain whether, for the purposes of paragraph 3 of the Annex to the Decision, those potatoes are infected with *Ralstonia solanacearum* (Smith) Yabuuchi et al., the importer must, if required, pay to the National Assembly for Wales a fee of £37.50 in respect of each lot sampled.

Offences

7.-(1) A person will be guilty of an offence if, without reasonable excuse, proof of which will lie on that person, he or she contravenes or fails to comply with regulation 4(1).

(2) A person guilty of an offence under paragraph (1) will be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Revocations

8.-(1) The following Regulations are revoked in respect of Wales -

- (a) the Potatoes Originating in Egypt Regulations 1998(a); and
- (b) the Potatoes Originating in Egypt (Amendment) Regulations 1998(b).

(2) The following Regulations are revoked -

- (a) the Potatoes Originating in Egypt (Amendment) (Wales) Regulations 2000(c);
- (b) the Potatoes Originating in Egypt (Amendment) (Wales) Regulations 2001(d); and
- (c) the Potatoes Originating in Egypt (Amendment) (Wales) Regulations 2002(e).

-
- (a) S.I. 1998/201, as amended by S.I. 1998/3167, 2000/22 and 2963, 2001/3574 and 2002/2902.
 - (b) S.I. 1998/3167.
 - (c) S.I. 2000/350.
 - (d) S.I. 2001/2356 (W.194).
 - (e) S.I. 2002/120 (W.14).

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(a).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(a).

31 Awst 2004

31 August 2004

John Marek

Dirprwy Lywydd y Cynulliad Cenedlaethol

The Deputy Presiding Officer of the National
Assembly

(a) 1998 p.38.

(a) 1998 c.38.

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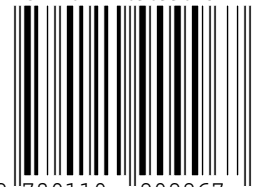
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