

SL(5)662 – The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) (Amendment) (No. 2) Regulations 2020

Background and Purpose

These Regulations provide for rules on penalties in relation to infringements of Regulation (EU) 2016/2031 on protective measures against pests of plants and Regulation (EU) 2017/625 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products. These Regulations do so by making provision for civil sanctions.

The civil sanctions will sit alongside existing criminal sanctions. The civil sanctions consist of compliance, restoration and stop notices, fixed and variable monetary penalties, as well as the ability to accept third party undertakings and enforcement undertakings.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

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

Merits Scrutiny

The following point is 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 Senedd

It appears that civil penalties paid under these Regulations will be paid into the UK Consolidated Fund, not the Welsh Consolidated Fund.

We would welcome confirmation from the Welsh Government whether that is correct and, if it is, why are payments not made into the Welsh Consolidated Fund.



Implications arising from exiting the European Union

The substantive provisions of the EU Regulations mentioned above do not need to be implemented in the United Kingdom because they automatically have direct effect in the United Kingdom until the end of the transition period on 31 December 2020. However, domestic legislation (i.e. these Regulations) is required to supplement the EU Regulations. For example, these Regulations provide for the enforcement of the EU Regulations.

After the transition period ends on 31 December 2020, these Regulations and the EU Regulations will form part of retained EU law and, therefore, will continue to apply in Wales.

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 7 December 2020 and reports to the Senedd in line with the reporting point above and also to highlight issues as a result of the UK exiting the EU.

