

SL(6)024 – The Plant Health (Fees) (Forestry) (Wales) (Amendment) (No. 2) Regulations 2021

Background and Purpose

These Regulations are made by the Welsh Ministers pursuant to paragraph 7 of Schedule 4 to the European Union (Withdrawal) Act 2018 (the “**2018 Act**”) and amend the Plant Health (Fees) (Forestry) (Wales) Regulations 2019 (the “**2019 Regulations**”).

The Regulations provide for increases in the fees payable to the Welsh Ministers for services in relation to plant passport authorities and applications for phytosanitary certificates (including phytosanitary certificates for re-export) to reflect an inflationary rise in the cost of providing those services since the introduction of those fees.

The Regulations come into force on 5 August 2021.

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

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.

Regulation 2(3) of the subject Regulations substitutes Schedule 4A to the 2019 Regulations. In accordance with Regulation 3(5A) of the 2019 Regulations, Schedule 4A prescribes fees payable in connection with certain applications for a phytosanitary certificate for export (or re-export).

1. Schedule 4A (prior to amendment by these Regulations) included provision for fees to be charged for, “*The examination or testing of plants, plant products or other objects and associated activities...*”.
2. As amended by the subject Regulations, that description is replaced with, “*The examination or testing of wood, wood products, isolated bark or used forestry machinery and associated activities....*”.



The Welsh Government is asked to confirm whether the updated terminology amends the basis on which fees may be charged in accordance with Schedule 4A. If the scope for charging fees is amended by these Regulations, the Regulations would appear to be subject to the draft affirmative approval procedure in accordance with paragraph 1(8) of Schedule 7 to the 2018 Act, as applied by paragraph 12(3) of that Schedule.

Merits Scrutiny

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

1. Standing Order 21.3(i) – that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment.

The Regulations provide for increases in fees charged for services as set out above.

Welsh Government response

Technical Scrutiny point 1:

The 2019 Regulations relate to forestry as a distinct subclass of plants. The amendment provides improved clarity and consistency with the English Government's version of these regulations but does not amend the basis on which fees are charged in any way. The amendment does not give rise to any policy change and the legal effect remains the same as previously.

Fees for equivalent checks of plants generally are set out in Schedule 4A of the Plant Health etc. (Fees) (Wales) Regulations 2018.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 13 September 2021 and reports to the Senedd in line with the reporting points above.

