



Llywodraeth Cymru
Welsh Government

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **The Plant Health and Trade in Animals and Related Products
(Amendment) Regulations 2022**

DATE **20 December 2022**

BY **Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd**

Members of the Senedd will wish to be aware we are giving consent to the Secretary of State to exercise a subordinate legislation-making power in a devolved area in relation to Wales.

Agreement was sought by Mark Spencer MP, Minister of State for Defra, to make a Statutory Instrument (SI) titled The Plant Health (Amendment) (EU Exit) Regulations 2022 to apply in relation to Great Britain.

The above titled SI will be made by the Secretary of State in exercise of powers conferred section 8(1) of EUWA. Paragraph 21 of Schedule 7 of EUWA provides power allowing consequential amendments to be made to regulations as necessary (in this case, following the amendment of the Plant Health Regulations).

The Regulations were laid before Parliament on 19 December 2022. The commencement dates for the measures are split into urgent measures (the power to introduce demarcated areas) which are scheduled to come into force on the 20 December and non-urgent measures (minor drafting error relating to Lebanon potatoes) to come into force on 4 February 2023.

Any impact the SI may have on the Senedd's legislative competence and/or the Welsh Ministers' executive competence

Previous Plant Health Amendments put in place previous corrections required to the regulatory regime for plant health. These broadened the executive competence of the Welsh Ministers by conferring functions on them (in their capacity as the 'Competent Authority' for Wales) without encumbrance. The Minister will wish to note that the Regulations do not transfer any functions to the Secretary of State.

The purpose of the amendments

The Regulations enable the establishment of demarcated areas outside of the country in which plant pests or diseases have been found. These are important biosecurity measures which are put in place during plant pest or disease outbreaks which restrict the movement of timber, plants for planting or forestry material.

This is needed as current legislation does not allow a demarcated area to be established based on the findings of a pest within another GB territory. This means when one nation has a plant pest or disease outbreak alongside the border, currently the other nation has no power to bring in demarcated areas as a biosecurity measure.

The regulations also correct minor drafting errors within The Animals, Food, Plant Health, Plant Propagating Material and Seeds (Miscellaneous Amendments etc.) Regulations 2022 relating to Lebanon Potatoes not for planting.

The Regulations and accompanying Explanatory Memorandum, setting out the detail of the provenance, purpose and effect of the amendments is available here:

<https://www.legislation.gov.uk/ukxi/2022/1367/contents/made>

Why consent has been given

Consent has been given for the UK Government in relation to demarcated areas as the provisions could not be made by Welsh Ministers in exercise of our own powers as the power to amend is consequential on an amendment being made by the Secretary of State. As the Welsh Regulations are made under section 2(2) of the European Communities Act 1972, under section 8 of the European Union (Withdrawal) Act (EUWA) 2018 these Regulations can be amended by a Minister of the Crown.

Consent has been given in relation to Lebanon potatoes to make these corrections on behalf of Wales for reasons of efficiency, expediency and to protect biosecurity. The amendments have been considered fully and there is no divergence in policy.