

Draft Regulations laid before Senedd Cymru under paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2021 No. (W.)

**EXITING THE EUROPEAN
UNION, WALES**

PLANT HEALTH, WALES

SEEDS, WALES

**The Plant Health etc. (Fees) (Wales)
(Amendment) Regulations 2021**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by paragraph 7 of Schedule 4 and paragraph 21(b) of Schedule 7 to the European Union (Withdrawal) Act 2018 (c. 16) and amend the Plant Health etc. (Fees) (Wales) Regulations 2018 (S.I. 2018/1179) (W. 238) (“the 2018 Regulations”).

They make modifications, in consequence of the withdrawal of the United Kingdom from the European Union, to certain fees payable to the Welsh Ministers in relation to inspections of imports of plants, plant products or other objects.

In particular—

- (a) the fee payable by an importer in respect of each phytosanitary certificate or phytosanitary certificate for re-export accompanying a consignment is divided into separate fees payable in respect of a documentary check and an identity check (*regulation 2(2)(a) and (b)*);
- (b) a new Schedule 1A is inserted into the 2018 Regulations to provide for fees payable by an importer in respect of a physical check and identity check of plants, plant products or

other objects originating in an EU member State, Switzerland or Liechtenstein, including those which are subject to reduced checks, reflecting the level of inspection, based on the risk associated with those plants, plant products or other objects (*regulation 2(2)(b) and (5)*); and

- (c) Schedule 2 is substituted in the 2018 Regulations to provide for reduced fees in respect of an identity check of plants, plant products or other objects originating in a third country other than an EU member State, Switzerland or Liechtenstein, reflecting the existing level of inspection (*regulation 2(2)(b) and (6)*).

The fees payable by virtue of new regulation 3(2A)(a) of the 2018 Regulations are not payable in respect of consignments imported before 1 March 2022, in respect of certain plants or plant products.

The fees applicable in respect of physical checks and identity checks of consignments of certain plants, plant products or other objects from EU member States, Liechtenstein or Switzerland reflect the frequency rates of those checks as set out in the Official Controls, Plant Health, Seeds and Seed Potatoes (Amendment etc.) Regulations 2021 (S.I. 2021/426).

These Regulations also provide an exemption from the payment of fees otherwise payable in respect of certification and pre-export services on phytosanitary consignments in certain circumstances. The exemption ceases to have effect at the end of 31 December 2022 (*regulation 2(3)*).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

Draft Regulations laid before Senedd Cymru under paragraph 1(8) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of Senedd Cymru.

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2021 No. (W.)

**EXITING THE EUROPEAN
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PLANT HEALTH, WALES

SEEDS, WALES

**The Plant Health etc. (Fees) (Wales)
(Amendment) Regulations 2021**

Made ***

*Coming into force in accordance with
regulation 1*

The Welsh Ministers make these Regulations in exercise of the powers conferred by paragraph 7 of Schedule 4 and paragraph 21(b) of Schedule 7 to the European Union (Withdrawal) Act 2018(1).

A draft of this instrument has been laid before and approved by Senedd Cymru in accordance with paragraph 1(8) of Schedule 7 to that Act(2).

(1) 2018 c. 16; see paragraph 8 of Schedule 4 for the meaning of “appropriate authority”. Paragraph 21 of Schedule 7 was amended by section 41(4) and paragraphs 38 and 53(2) of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(2) The reference in the European Union (Withdrawal) Act 2018 to the National Assembly for Wales now has effect as a reference to Senedd Cymru by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

Title and commencement

1. The title of these Regulations is the Plant Health etc. (Fees) (Wales) (Amendment) Regulations 2021 and they come into force on the day after the day on which they are made.

Amendment of the Plant Health etc. (Fees) (Wales) Regulations 2018

2.—(1) The Plant Health etc. (Fees) (Wales) Regulations 2018⁽¹⁾ are amended as follows.

(2) In regulation 3 (import inspection fees)—

(a) for paragraph (2) substitute—

“(2) The fee payable by the importer of a third country consignment in respect of a documentary check of each phytosanitary certificate or phytosanitary certificate for re-export accompanying the consignment, is £5.25.”

(b) after paragraph (2) insert—

“(2A) The fees payable by the importer of a third country consignment in respect of liability to a physical check and identity check that may be carried out on the consignment (whether or not any such check is carried out) are—

(a) (subject to paragraphs (2B) to (2E)) in the case of a consignment originating in an EU Member State, Liechtenstein or Switzerland, where the consignment includes plants, plant products or other objects of one or more descriptions specified in column 1 of the table in Schedule 1A, and originates in a country specified in the corresponding entry in column 2 of that table—

(i) the fee or fees specified in column 3 of that table in respect of a physical check of plants or plant products of each such description contained in the consignment; and

(ii) the fee or fees specified in column 4 of that table in respect of an identity check of plants or plant products of each such description contained in the consignment;

(b) in the case of a consignment originating in any other country—

⁽¹⁾ S.I. 2018/1179 (W. 238); relevant amending instruments are S.I. 2019/1378 (W. 244), S.I. 2020/44 (W. 5), S.I. 2020/69 (W. 10) and S.I. 2020/1628 (W. 342).

- (i) in the case of a Schedule 2 cut flower consignment which includes one lot of cut flowers—
 - (aa) the fee specified in column 3 of the table in Schedule 2 in respect of a physical check of those cut flowers; and
 - (bb) the fee specified in column 4 of that table in respect of an identity check of those cut flowers;
- (ii) in the case of a Schedule 2 cut flower consignment which includes two or more lots of cut flowers—
 - (aa) a fee equal to the highest of the fees specified in column 3 of the table in Schedule 2 in respect of a physical check of any of those lots; and
 - (bb) the fee specified in column 4 of that table in respect of an identity check which corresponds to the fee payable under subparagraph (aa);
- (iii) in the case of a Schedule 2 fruit or vegetable consignment which includes one lot of fruit or vegetables—
 - (aa) the fee specified in column 3 of the table in Schedule 2 in respect of a physical check of those fruit or vegetables; and
 - (bb) the fee specified in column 4 of that table in respect of an identity check of those fruit or vegetables;
- (iv) in the case of a Schedule 2 fruit or vegetable consignment which includes two or more lots of fruit or vegetables—
 - (aa) a fee equal to the highest of the fees specified in column 3 of the table in Schedule 2 in respect of a physical check of any of those lots; and
 - (bb) the fee specified in column 4 of that table in respect of an identity check which

corresponds to the fee payable under subparagraph (aa);

(v) in the case of a consignment which includes—

(aa) plants or plant products of any other description specified in the table in column 1 of Schedule 2, or

(bb) machinery or vehicles which have been operated for agricultural or forestry purposes,

insofar as (in either case) they originate in a country specified in column 2 of that table, the fee or fees specified in columns 3 and 4 of that table in respect of a physical check and identity check, respectively, of the plants or plant products of each such description contained in the consignment (other than any also specified in Schedule 1), and (so far as relevant) of machinery or vehicles;

(vi) where the consignment includes plants, plant products or other objects of one or more descriptions specified in column 1 of the table in Schedule 1—

(aa) the fee or fees specified in column 2 of that table in respect of a physical check of plants, plant products or other objects of each such description contained in the consignment;

(bb) the fee or fees specified in column 3 of that table in respect of an identity check of plants, plant products or other objects of each such description contained in the consignment.

(2B) The fees payable under paragraph (2A)(a) in respect of liability to a physical check and identity check of cut flowers or fruit or vegetables are, irrespective of the number of lots contained in the consignment—

- (a) in the case of a consignment including only cut flowers or only fruit or vegetables, those payable in respect of a single lot of the kind in question;
- (b) in the case of a consignment including both cut flowers and fruit or vegetables, those payable in respect of a single lot of each kind.

(2C) The fees payable under paragraph (2A)(a) in respect of liability to a physical check and identity check of plants or plant products, so far as the plants or plant products are of a single relevant category and originate in the same country but fall within two or more descriptions specified in column 1 of the table in Schedule 1A, are the highest of the fees specified in respect of plants or plant products of any such description.

(2D) For the purpose of paragraph (2C), “relevant category”, in relation to plants or plant products, means any of the following categories of plants or plant products—

- (a) bark;
- (b) bulbs;
- (c) corms;
- (d) plants intended for planting;
- (e) rhizomes;
- (f) seeds;
- (g) tissue cultures;
- (h) tubers (other than tubers of potatoes).

(2E) No fee is payable under paragraph (2A)(a) in respect of any consignment imported before 1 March 2022, where it would be payable in respect of any plants or plant products specified in Schedule 2A that are contained in that consignment.”.

(3) In regulation 5A (export certification services and pre-export services: fees)—

- (a) at the beginning of paragraph (1), insert “ Subject to paragraph (4A),”;
- (b) after paragraph (4), insert—

“(4A) The fees specified in Schedule 4A are not payable in respect of a consignment to be transported to Northern Ireland—

- (a) by a person acting otherwise than in the course of a business, where the consignment is not to be placed on the market; or
- (b) for delivery to—

- (i) a professional operator whose principal place of business is in Northern Ireland; or
- (ii) any person resident in Northern Ireland, where the consignment is not to be placed on the market or used for the purposes of any business.

(4B) Paragraph (4A) ceases to have effect at the end of 31 December 2022.”.

- (c) in paragraph (5), at the appropriate place, insert—

““professional operator” means any person, governed by public or private law, involved professionally in, and legally responsible for, one or more of the following activities concerning plants, plant products and other objects—

- (a) planting;
- (b) breeding;
- (c) production, including growing, multiplying and maintaining;
- (d) introduction into, and movement within and out of Northern Ireland;
- (e) making available on the market;
- (f) storage, collection, dispatching and processing.”.

(4) For Schedule 1 substitute—

“SCHEDULE 1 Regulation 3(1) and (2A)(b)(vi)

Import inspection fees: Consignments originating in countries other than an EU Member State, Liechtenstein or Switzerland

<i>Column 1</i> <i>Description of Plant, plant product or other object</i>	<i>Column 2</i> <i>Fee: Physical check (£)</i>	<i>Column 3</i> <i>Fee: Identity check (£)</i>
Cuttings, seedlings (except forestry reproductive material), young plants of strawberries or of vegetables	173.91	5.25
Shrubs, trees (other than cut Christmas trees), other woody nursery plants including forest reproductive material (other than seed)	182.38	5.25
Bulbs, corms, rhizomes, tubers, intended for planting (other than tubers of potatoes)	205.04	5.25
Seeds, tissue cultures	128.13	5.25
Other plants intended for planting, not specified elsewhere in this table	182.38	5.25
Cut flowers	42.75	5.25
Branches with foliage, parts of conifers (other than cut Christmas trees)	33.99	5.25
Cut Christmas trees	119.64	5.25
Leaves of plants, such as herbs, spices and leafy vegetables	71.68	5.25
Fruits, vegetables (other than leafy vegetables)	53.10	5.25
Tubers of potatoes	156.69	5.25
Soil and growing medium, bark	119.64	5.25
Grain	142.98	5.25
Other plants or plant products, not specified elsewhere in this table, except forest trees	22.73	5.25.”.

(5) After Schedule 1, insert the following Schedule—

“SCHEDULE 1A Regulation 3(2A)(a)

Import inspection fees: consignments originating in an EU Member State, Liechtenstein or Switzerland

<i>Column 1</i> <i>Plant, plant product or other object and genus (if applicable)</i>	<i>Column 2</i> <i>Country of origin</i>	<i>Column 3</i> <i>Fee: Physical check (£)</i>	<i>Column 4</i> <i>Fee: Identity check (£)</i>
Cuttings, seedlings (except forestry reproductive material), young plants of strawberries or of vegetables, not intended for final users⁽¹⁾			
<i>All genera</i>	All ⁽²⁾	173.91	5.25
Bulbs, corms, rhizomes, tubers, (other than tubers of potatoes), not intended for final			

users⁽¹⁾			
<i>All genera</i>	All ⁽²⁾	205.04	5.25
Bulbs, corms, rhizomes, tubers, (other than tubers of potatoes), intended for final users⁽¹⁾			
<i>All genera</i>	All ⁽²⁾	20.50	0.52
Seeds, not intended for final users⁽¹⁾			
<i>Allium cepa</i> L.	All ⁽²⁾	128.13	5.25
<i>Allium porrum</i> L.	All ⁽²⁾	128.13	5.25
<i>Castanea</i> Mill.	All ⁽²⁾	128.13	5.25
<i>Capsicum</i> spp. L.	All ⁽²⁾	128.13	5.25
<i>Helianthus annuus</i> L.	All ⁽²⁾	128.13	5.25
<i>Medicago sativa</i> L.	All ⁽²⁾	128.13	5.25
<i>Phaseolus cocineus</i>	All ⁽²⁾	128.13	5.25
<i>Phaseolus vulgaris</i> L.	All ⁽²⁾	128.13	5.25
<i>Solanum lycopersicum</i> L.	All ⁽²⁾	128.13	5.25
<i>Solanum tuberosum</i> L. (True potato seed)	All ⁽²⁾	128.13	5.25
Vegetable seeds of <i>Pisum sativum</i> L. and <i>Vicia faba</i> L.	All ⁽²⁾	128.13	5.25
Seeds of oil and fibre plants of—			
<i>Brassica napus</i> L.	All ⁽²⁾	128.13	5.25
<i>Brassica rapa</i> L.	All ⁽²⁾	128.13	5.25
<i>Sinapis alba</i> L.	All ⁽²⁾	128.13	5.25
<i>Glycine max</i> (L.) Merrill	All ⁽²⁾	128.13	5.25
<i>Linum usitatissimum</i> L.	All ⁽²⁾	128.13	5.25
Seeds, intended for final users⁽¹⁾			
<i>Allium cepa</i> L.	All ⁽²⁾	6.40	0.26
<i>Allium porrum</i> L.	All ⁽²⁾	6.40	0.26
<i>Castanea</i> Mill.	All ⁽²⁾	6.40	0.26
<i>Capsicum</i> spp. L.	All ⁽²⁾	6.40	0.26
<i>Helianthus annuus</i> L.	All ⁽²⁾	6.40	0.26
<i>Medicago sativa</i> L.	All ⁽²⁾	6.40	0.26
<i>Phaseolus cocineus</i>	All ⁽²⁾	6.40	0.26
<i>Phaseolus vulgaris</i> L.	All ⁽²⁾	6.40	0.26
<i>Solanum lycopersicum</i> L.	All ⁽²⁾	6.40	0.26
<i>Solanum tuberosum</i> L. (True potato seed)	All ⁽²⁾	6.40	0.26
Vegetable seeds of <i>Pisum sativum</i> L. and <i>Vicia faba</i> L.	All ⁽²⁾	6.40	0.26
Seeds of oil and fibre plants of—			
<i>Brassica napus</i> L.	All ⁽²⁾	6.40	0.26
<i>Brassica rapa</i> L.	All ⁽²⁾	6.40	0.26
<i>Sinapis alba</i> L.	All ⁽²⁾	6.40	0.26
<i>Glycine max</i> (L.) Merrill	All ⁽²⁾	6.40	0.26
<i>Linum usitatissimum</i> L.	All ⁽²⁾	6.40	0.26
Other seeds not specified elsewhere in this table			
<i>All genera</i>	All ⁽²⁾	3.84	0.15
Tissue cultures, not intended for final users⁽¹⁾			
<i>All genera</i>	All ⁽²⁾	128.13	5.25

Tissue cultures, intended for final users⁽¹⁾			
<i>All genera</i>	All ⁽²⁾	6.40	0.26
Plants intended for planting (other than cut Christmas trees), not intended for final users⁽¹⁾			
<i>All genera</i>	All ⁽²⁾	182.38	5.25
Other plants intended for planting not specified elsewhere in this table, intended for final users⁽¹⁾			
<i>All genera</i>	All ⁽²⁾	18.23	0.52
Cut flowers			
<i>All genera</i>	All ⁽²⁾	1.28	0.15
Branches with foliage, parts of Conifers other than bark or cut Christmas trees			
<i>All genera</i>	All ⁽²⁾	1.02	0.15
Cut Christmas trees			
<i>All genera</i>	All ⁽²⁾	3.58	0.15
Leaves of plants, such as herbs, spices and leafy vegetables			
<i>All genera</i>	All ⁽²⁾	2.15	0.15
Fruit or vegetables			
<i>All genera</i>	All ⁽²⁾	1.59	0.15
Tubers of potatoes			
<i>Solanum tuberosum</i> L. intended for planting (seed potatoes)	All ⁽²⁾	156.69	5.25
<i>Solanum tuberosum</i> L. (ware potatoes)	Poland, Portugal or Romania	78.34	2.62
<i>Solanum tuberosum</i> L. (ware potatoes)	Spain	156.69	5.25
<i>Solanum tuberosum</i> L. (ware potatoes)	Any other EU Member State, Liechtenstein or Switzerland	4.70	0.15
Soil and growing medium, bark			
Bark of—			
<i>Castanea</i> Mill.	All ⁽²⁾	5.98	0.26
Conifers (Pinales)	All ⁽²⁾	5.98	0.26
<i>Juglans</i> L.	All ⁽²⁾	5.98	0.26
<i>Pterocarya</i> Kunth.	All ⁽²⁾	5.98	0.26
Soil and growing medium, bark			
<i>Bark of all genera not specified elsewhere in this table</i>	All ⁽²⁾	3.58	0.15
Grain			
<i>All genera</i>	All ⁽²⁾	4.28	0.15
Other plants or plant products not specified elsewhere in this table, other than forest trees, soil and growing medium			
<i>All genera</i>	All ⁽²⁾	0.68	0.15
Machinery or vehicles which have been operated for agricultural or forestry purposes			
—	All ⁽²⁾	5.98	0.26

⁽¹⁾ “Intended for final users” includes clearly packed and ready for supply to final users, identifiable as being for use by landscapers or contractors for planting at the final site of the plants and where additional packing or preparation (excluding multiplication, propagation or growing on) is required before making plants available to final users.

⁽²⁾ “All” means any EU Member State, Liechtenstein or Switzerland.”.

(6) For Schedule 2 substitute—

“SCHEDULE 2 Regulation 3(2A)(b)(i) to (v) and
(3)

Import inspection fees: Reduced rates for consignments originating in countries other than an EU Member State, Liechtenstein or Switzerland

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Plant, plant product or other object and genus (if applicable)</i>	<i>Country of origin</i>	<i>Fee: Physical check (£)</i>	<i>Fee: Identity check (£)</i>
Cut flowers			
<i>Aster</i>	Zimbabwe	32.06	3.93
<i>Dianthus</i>	Columbia	1.28	0.15
	Ecuador	6.41	0.78
	Kenya	2.14	0.26
	Turkey	6.41	0.78
	<i>Rosa</i>	Columbia	1.28
<i>Rosa</i>	Ecuador	0.43	0.05
	Ethiopia	2.14	0.26
	Kenya	4.28	0.52
	Tanzania	21.38	2.62
	Zambia	4.28	0.52
Branches with foliage, parts of Conifers (other than cut Christmas trees)			
<i>Phoenix</i>	Costa Rica	17.00	2.62
Fruit			
<i>Carica papaya</i>	Any third country other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
<i>Cydonia</i>	Any third country in Europe ⁽¹⁾ other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
<i>Fragaria</i>	Any third country other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
<i>Malus</i>	Any third country in Europe ⁽¹⁾ other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
	Argentina	18.59	1.83
	Brazil	26.55	2.62
	Chile	2.66	0.26
	New Zealand	5.31	0.52
	South Africa	2.66	0.26
	<i>Persea Americana</i>	Any third country	2.66

	other than an EU Member State, Liechtenstein or Switzerland		
<i>Prunus</i>	Any third country in Europe ⁽¹⁾ other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
	Argentina	39.83	3.93
	Chile	5.31	0.53
	Morocco	26.55	2.62
	Turkey	18.59	1.83
<i>Prunus other than prunus persica</i>	South Africa	5.31	0.26
<i>Pyrus</i>	Any third country in Europe ⁽¹⁾ other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
	Argentina	7.97	0.78
	Chile	7.97	0.78
	China	26.55	2.62
	South Africa	5.31	0.53
<i>Ribes</i>	Any third country in Europe ⁽¹⁾ other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
<i>Rubus</i>	Any third country other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
<i>Vaccinium</i>	Any third country in Europe ⁽¹⁾ other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
	Argentina	13.28	1.31
	Chile	5.31	0.53
	Peru	5.31	0.53
<i>Vitis</i>	Any third country other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
Vegetables			
<i>Solanum lycopersicon</i>	Canary Islands	2.66	0.26
	Morocco	2.66	0.26
<i>Solanum melongena</i>	Turkey	7.97	1.31
Machinery or vehicles which have been operated for agricultural or forestry purposes			
—	Any third country	5.98	0.26

⁽¹⁾ “Third country in Europe” includes Albania, Andorra, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Canary Islands, the Faeroe Islands, Georgia, Iceland, Moldova, Monaco, Montenegro, North Macedonia, Norway, Russia (only the following parts: Central Federal District (Tsentralny federalny okrug), Northwestern Federal District (Severo-Zapadny federalny okrug), Southern Federal District (Yuzhny federalny okrug), North Caucasian Federal District (Severo-Kavkazsky federalny okrug) and Volga Federal District (Privolzhsky federalny okrug), San Marino, Serbia, Turkey and Ukraine).”.

(7) After Schedule 2, insert the following Schedule —

“SCHEDULE 2A

Regulation 3(2E)

List of plants or plant products originating in an EU Member State, Liechtenstein or Switzerland subject to fees for physical checks and identity checks from 1 March 2022

1. Seeds referred to in Schedule 1A as falling within the description “**Other seeds not specified elsewhere in this table**”.
2. Cut flowers.
3. Branches with foliage, parts of Conifers other than bark or cut Christmas trees.
4. Cut Christmas trees.
5. Leaves of plants, such as herbs, spices and leafy vegetables.
6. Fruit.
7. Vegetables.
8. Tubers of potatoes originating in any EU Member State (other than Portugal, Poland, Romania and Spain), Liechtenstein or Switzerland.
9. Bark of all genera other than *Castanea* Mill, conifers (Pinales), *Juglans* L and *Pterocarya* Kunth.
10. Grain.
11. Plants or plant products referred to in Schedule 1A as falling within the description “**Other plants or plant products not specified elsewhere in this table, other than forest trees, soil and growing medium**”.”.

Name

Minister for Climate Change, one of the Welsh Ministers

Date