

## **Explanatory Memorandum to the Plant Health etc. (Fees) (Amendment) (Wales) (EU Exit) Regulations 2022**

This Explanatory Memorandum has been prepared by the Landscapes, Nature and Forestry Division within the Department for Economy, Skills and Natural Resources of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Plant Health etc. (Fees) (Amendment) (Wales) (EU Exit) Regulations 2022.

Julie James MS  
**Minister for Climate Change**  
25 January 2022

# Part 1

## 1. Description

The Plant Health etc. (Fees) (Amendment) (Wales) (EU Exit) Regulations 2022 will make amendments to The Plant Health etc. (Fees) (Wales) Regulations 2018 (“the 2018 Regulations”) which apply in relation to Wales. It aligns the timing of the imposition of certain fees in Wales with the extended transitional staging period.

## 2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

## 3. Legislative background

The instrument is being made by the Welsh Ministers in exercise of the powers conferred by paragraph 7(2) of Schedule 4 and paragraphs 12 and 21(b) of Schedule 7 to the European Union (Withdrawal) Act 2018.

This instrument is subject to the draft affirmative procedure.

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), establish controls and restrictions which apply to the import and internal movement of certain plants, plants pests and other material. The purpose of these Regulations is to help reduce biosecurity risk and protect the environment from the spread of harmful pests.

Article 79 of Regulation (EU) 2017/625 requires the charging of fees for certain official controls, including plant health checks on certain regulated imported consignments. The 2018 Regulations (as amended) specify fees payable to the Welsh Ministers in relation to plant health services, including import inspection services, provided in Wales.

Annex 6 to Regulation (EU) 2017/625 provides the meaning of the transitional staging period.

## 4. Purpose and intended effect of the legislation

Documentary, identity and physical checks on regulated plants, plant products and other objects were due to be phased in through 2021/22 as part of the transitional staging period which set out what sanitary and phytosanitary (SPS) checks would be due and on what date for all high priority and non-high priority plants and plant products.

As part of recent changes the transition staging period has been extended with a revised date for the required SPS checks to now be introduced from 1 July 2022. These changes were achieved through an amendment to The Official Controls (Extension of Transitional Periods) (England and Wales) (Amendment) (No. 2) Regulations 2021 which came into force 30 December 2021, following Welsh Government consent. The revised timetable reflects the challenges the pandemic has placed upon global supply chains for the imports and food supply sectors.

These changes encompass the required physical and ID SPS checks for both high-priority and non-high priority plants and plant products, which will begin from the revised date of 1 July 2022 and as such results in a single date from which all Official Control Regulations checks will apply to all SPS goods imported to GB from the EU.

However, there remains a further consequential amendment necessary to ensure that the requisite importation plant fees are not charged to businesses in Wales ahead of the new 1st July 2022 implementation date. The current implementation date for fees in Wales is set in legislation as 1 March 2022.

In order to align the introduction of fees in Wales with other Official Control Regulation checks, and with the rest of GB, an amendment to our domestic legislation governing plant health fees is needed. By using the European Union (Withdrawal) Act 2018, the necessary changes can be made to the 2018 Regulations.

## **5. Consultation**

Whilst there is no requirement in respect of consultation within the European Union (Withdrawal) Act 2018, in December 2021 the UK Government issued a short, targeted consultation via email, also on behalf of Welsh Ministers, to more than 120 key stakeholders, including those in Wales. No responses opposing the proposals were received.

## **6. Regulatory Impact Assessment (RIA)**

The Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment. The Regulations represent a 'technical amendment' to legislation and not a change in policy to the regulatory regime itself. As stated in 3.2 of the Welsh Ministers' Code, a factual amendment which does not alter the policy (or its impact) in any significant way - as is the case with these Regulations - qualifies as an exemption.

There are no significant financial implications. The delay to the introduction of fees contained within legislation applies equally to all businesses importing controlled plant health material, including small businesses.

There is no, or no significant, impact on business, charities or voluntary bodies.

With regard to the Government of Wales Act 2006 this legislation has no impact on statutory partners (sections 72-75) or the statutory duties (sections 77-79).

The amendments in this instrument maintain the current policy for intra-UK trade; that full export and pre-export services should not be an additional financial burden to businesses when moving goods within the UK internal market.

### **Competition Assessment**

The Regulations are not expected to impact on levels of competition in Wales or the competitiveness of Welsh businesses.