

Constitutional Affairs Committee

CA(3)-01-11

CA 512: The Plant Health (Import Inspection Fees) (Wales) Regulations 2010

Procedure: Negative

These Regulations revoke and remake the Plant Health (Import Inspection Fees) (Wales) (No. 2) Regulations 2006. These Regulations implement Article 13d of Council Directive 2000/29/EC which requires Member States to charge fees to cover the costs of documentary, identity and plant health checks of certain imports of plants, plant products and other objects from third countries set out in the Directive.

Technical Scrutiny

Under Standing Order 15.2 the Assembly is invited to pay special attention to this instrument:-

1. Regulation 1 (3) of the Welsh text states that the Regulations come into force on 1 January 2010.

Standing Order 15.2 (vi) that its drafting appears to be defective or it fails to fulfil statutory requirements.

2. Regulation 1 (2) of the English text and regulation 1 (2) of the Welsh text contain differing provisions so any direct cross referencing from one version to another could not be correctly interpreted. The correct equivalent provision to regulation 1 (2) of the English version in the Welsh text arises at regulation 1 (3). Standing Order 15.2 (vi) that its drafting appears to be defective or it fails to fulfil statutory requirements.

3. The Welsh text at regulation 5 (d) contains an incorrect title in respect of the Regulations being revoked. The correct title should be that contained at regulation 5 (e) in the English version of the text where the Regulations are referred to as "the Plant Health (Import Inspection Fees) (Wales) (Amendment) (No. 2) Regulations 2009". The Welsh version refers to these Regulations as "Rheoliadau Iechyd Planhigion (Ffioedd Arolygu Mewnforio) (Cymru) (Rhif 2) (Diwygio) 2009, which in English means "the Plant Health (Import Inspection Fees) (Wales) (No. 2) (Amendment) Regulations 2009".

Standing Order 15.1 (vi) that its drafting appears to be defective or it fails to fulfil statutory requirements.

Merits Scrutiny

No points are identified for reporting under Standing Order 15.3 in respect of this instrument.

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The Government has responded as follows:

The Government intends to correct the points raised in the Report upon publication for the following reasons:

The coming into force date in regulation 1(2) of the Welsh text is clearly an error, and capable of correction on the basis that the coming into force date in the headings of both the English and Welsh texts of the Regulations is stated to be 1 January 2011 / 1 Ionawr 2011.

Further in the English text at regulation 1(2) the coming into force date is correctly cited as 1 January 2011. Therefore there can be no doubt as to the correct coming into force date.

The order of regulations 1(2) and (3) in the Welsh text will be re-ordered on publication to match the order in the English text. This does not affect the operative provisions of regulation 1 as a whole, but will allow correct cross referencing between the two texts.

The Welsh title of the Plant Health (Import Inspection Fees) (Wales) (Amendment) (No.2) Regulations 2009 in regulation 5(d) (Welsh text) is an error capable of correction as there can be no doubt as to which Regulations are intended to be captured by this reference. The footnote to that Regulation specifies that it is S.I. 2009/3140 (W.273) (namely the Plant Health (Import Inspection Fees) (Wales) (Amendment) (No.2) Regulations 2009). Further the English text at regulation 5(e) correctly states the title of the 2009 Regulations and has the corresponding footnote, therefore there can be no doubt as to the correct intention of regulation 5(d) of the Welsh text of the Regulations.