

Agenda – Interim Subordinate Legislation Committee

Meeting Venue:

For further information contact:

Video Conference via Zoom

P Gareth Williams

Meeting date: 7 June 2021

Committee Clerk

Meeting time: 10.30

0300 200 6565

SeneddSubordinateLegislation@senedd.wales

In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health. This meeting will be broadcast live on www.Senedd.TV

Informal pre-meeting (10.00–10.30)

- 1 Introduction, apologies, substitutions and declarations of interest**
10.30

- 2 Committee Remit**
10.30–10.40 (Pages 1 – 6)
ISLC(6)–01–21 – Paper 1 – Committee remit

- 3 Motion under Standing Order 17.42 to resolve to exclude the public from Item 4**
10.40

- 4 Committee procedures and ways of working**
10.40–11.00 (Pages 7 – 33)
ISLC(6)–01–21 – Paper 2 – Ways of working
ISLC(6)–01–21 – Paper 3 – Merits report for Statutory Instruments laid but not formally scrutinised by the Legislation, Justice and Constitution Committee in the Fifth Senedd



5 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

11.00–11.05

(Pages 34 – 35)

ISLC(6)–01–21 – Paper 4 – Statutory instruments with clear reports

Made Negative Resolution Instruments

5.1 SL(6)007 – The Relaxation of School Reporting Requirements (Wales) (Coronavirus) Regulations 2021

6 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3

11.05–11.15

Made Negative Resolution Instruments

6.1 SL(6)002 – The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 7) Regulations 2021

(Pages 36 – 45)

ISLC(6)–01–21 – Paper 5 – Report

ISLC(6)–01–21 – Paper 6 – Regulations

ISLC(6)–01–21 – Paper 7 – Explanatory Memorandum

ISLC(6)–01–21 – Paper 8 – Letter from the Minister for Health and Social Services, 11 May 2021

6.2 SL(6)004 – The Health Protection (Coronavirus, International Travel, Operator Liability and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021

(Pages 46 – 73)

ISLC(6)–01–21 – Paper 9 – Report

ISLC(6)–01–21 – Paper 10 – Regulations

ISLC(6)–01–21 – Paper 11 – Explanatory Memorandum

ISLC(6)–01–21 – Paper 12 – Letter from the First Minister, 14 May 2021

Draft Affirmative Resolution Instruments

**6.3 SL(6)005 – The Plant Health etc. (Fees) (Wales) (Amendment) Regulations
2021**

(Pages 74 – 96)

ISLC(6)–01–21 – Paper 13 – Report

ISLC(6)–01–21 – Paper 14 – Regulations

ISLC(6)–01–21 – Paper 15 – Explanatory Memorandum

**6.4 SL(6)006 – The Plant Health (Fees) (Forestry) (Wales) (Amendment)
Regulations 2021**

(Pages 97 – 106)

ISLC(6)–01–21 – Paper 16 – Report

ISLC(6)–01–21 – Paper 17 – Regulations

ISLC(6)–01–21 – Paper 18 – Explanatory Memorandum

Interim Subordinate Legislation Committee remit

June 2021

Purpose

1. The paper sets out the remit and responsibilities of the Interim Subordinate Legislation Committee.

Recommendation

2. The Committee is invited to note its remit.

Background

3. The rules and procedures of the Senedd are laid out in Standing Orders. Standing Order 16.1 requires the Senedd to establish committees with power within their remit to:

“(i) examine the expenditure, administration and policy of the government and associated public bodies;

(ii) examine legislation;

(iii) undertake other functions specified in Standing Orders; and

(iv) consider any matter affecting Wales.”

4. In doing this, the Business Committee has to ensure that every area of responsibility of the Welsh Government and associated public bodies, and all matters relating to the legislative competence of the Senedd and functions of the Welsh Ministers and of the Counsel General, are subject to committee scrutiny.



Committee remit

- 5.** The remit of this Committee, as agreed by the Senedd on 26 May 2021, is:
to carry out the functions of the responsible committee set out in Standing Order 21.
- 6.** Standing Order 21 is attached at Annex 1.

Annex 1: Standing Order 21 – Constitutional and Legislative Affairs

Committee or Committees

21.1 In proposing the remits of committees under Standing Order 16.2 or 16.3, the Business Committee must ensure that responsibility for the functions in Standing Order 21 is assigned to a committee or committees (referred to within Standing Order 21 as “a responsible committee”).

Functions

21.2 A responsible committee must consider all statutory instruments or draft statutory instruments required by any enactment to be laid before the Senedd and report on whether the Senedd should pay special attention to the instrument or draft on any of the following grounds:

- i. that there appears to be doubt as to whether it is intra vires;
- ii. that it appears to make unusual or unexpected use of the powers conferred by the enactment under which it is made or to be made;
- iii. that the enactment which gives the power to make it contains specific provisions excluding it from challenge in the courts;
- iv. that it appears to have retrospective effect where the authorising enactment does not give express authority for this;
- v. that for any particular reason its form or meaning needs further explanation;
- vi. that its drafting appears to be defective or it fails to fulfil statutory requirements;
- vii. that there appear to be inconsistencies between the meaning of its English and Welsh texts;
- viii. that it uses gender specific language;
- ix. that it is not made or to be made in both English and Welsh;
- x. that there appears to have been unjustifiable delay in publishing it or laying it before the Senedd; or
- xi. that there appears to have been unjustifiable delay in sending notification under section 4(1) of the Statutory Instruments Act 1946 (as modified).

21.3 A responsible committee may consider and report on whether the Senedd should pay special attention to any statutory instrument or draft statutory instrument required by any enactment to be laid before the Senedd on any of the following grounds:

- 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;
- ii. that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd;
- iii. that it is inappropriate in view of the changed circumstances since the enactment under which it is made or is to be made was itself passed or made; or
- iv. [Standing Order removed by resolution in Plenary on 24 March 2021]
- v. that it imperfectly achieves its policy objectives.

21.3A Standing Orders 21.2 and 21.3 do not apply to any draft statutory instrument laid before the Senedd to which paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018 or paragraph 9 of Schedule 5 to the European Union (Future Relationship) Act 2020 applies.

21.3B A responsible committee must report on the appropriate procedure to apply to any draft statutory instrument laid before the Senedd to which paragraph 4 of Schedule 7 to the European Union (Withdrawal) Act 2018 or paragraph 9 of Schedule 5 to the European Union (Future Relationship) Act 2020 applies.

21.3C The responsible committee under Standing Order 21.3B must report on the appropriate procedure using the following criteria:

- i. whether the memorandum is sufficiently clear and transparent about why the government is of the opinion that the negative resolution procedure should apply;
- ii. whether the memorandum is sufficiently clear and transparent as to the changes that are being made by the regulations;
- iii. whether there has been adequate consultation on the regulations;

- iv. whether the memorandum is sufficiently clear and transparent about the impact the regulations may have on equality and human rights;
- v. whether the regulations raise matters of public, political or legal importance; and
- vi. any other matters the committee considers appropriate.

21.4 A responsible committee must make any report under Standing Order 21.2 or 21.3 in respect of any statutory instrument or draft statutory instrument no later than 20 days after the instrument or draft has been laid.

21.4A Where the enactment requiring the statutory instrument or draft statutory instrument to be laid before the Senedd specifies timings in relation to the Senedd's consideration of the statutory instrument or draft statutory instrument, then:

- i. the time limit in Standing Order 21.4 does not apply;
- ii. the Business Committee may establish and publish a timetable for the responsible committee or committees to report.

21.4B A responsible committee must make any report under Standing Order 21.3B in respect of any relevant draft statutory instrument no later than 14 days after a draft of the instrument has been laid. Standing Order 21.4A(ii) does not apply to those draft statutory instruments.

21.5 In calculating for the purposes of Standing Order 21.4 or 21.4B any period of days, no account is to be taken of any time during which the Senedd is dissolved or is in recess for more than 4 days.

21.6 Standing Orders 21.2 and 21.3 do not apply to proposed or draft Orders in Council to be made, in accordance with Standing Order 25, under section 109 of the Act or subordinate legislation subject to Special Senedd Procedure under Standing Order 28.

21.7 A responsible committee may consider and report on:

- i. any other subordinate legislation laid before the Senedd other than that subject to Special Senedd Procedure under Standing Order 28;
- ii. the appropriateness of provisions in Senedd Bills and in Bills for Acts of the United Kingdom Parliament that grant powers to make subordinate legislation to the Welsh Ministers, the First Minister or the Counsel General;

- iii. any statutory instrument consent memorandum laid in relation to a relevant statutory instrument under Standing Order 30A;
- iv. the exercise of commencement powers by the Welsh Ministers;
- v. any legislative matter of a general nature within or relating to the competence of the Senedd or Welsh Ministers; or
- vi. draft legislation which is the subject of consultation.

21.8 [Standing Order removed by resolution in Plenary on 24 March 2021]

21.9 [Standing Order removed by resolution in Plenary on 24 March 2021]

21.10 [Standing Order removed by resolution in Plenary on 24 March 2021]

21.11 [Standing Order removed by resolution in Plenary on 24 March 2021]

Document is Restricted

Merits report for Statutory Instruments laid but not formally scrutinised by the Legislation, Justice and Constitution Committee in the Fifth Senedd

April 2021

Each of the following statutory instruments was laid before the Senedd at a point that did not allow them to be properly considered by the Fifth Senedd's Legislation, Justice and Constitution Committee.

Standing Orders include a requirement for there to be “a responsible committee” and for that committee to report on statutory instruments within 20 days of being laid.

In the Sixth Senedd, it is unlikely that the responsible Committee will be established in time to consider all statutory instruments laid (and not reported on) at the end of the Fifth Senedd within the 20-day reporting deadline. The 40-day deadline, within which the Senedd is able to annul instruments subject to the negative procedure, may also have passed before the incoming responsible Committee can consider these instruments.

In these circumstances, the instruments would not have been subject to any Senedd scrutiny procedure and the opportunity for Senedd Members to table motions to annul any of the instruments may be lost.



Therefore, the Legislation, Justice and Constitution Committee has agreed to report under Standing Order 21.3 that the Senedd should pay special attention to these Statutory Instruments because they give rise to an issue of public policy likely to be of interest to the Senedd (namely that they may by-pass the usual scrutiny arrangements for Statutory Instruments).

SL(5)797 - The Accounts and Audit (Wales) (Amendment) Regulations 2021

Procedure: Negative

These Regulations amend the Accounts and Audit (Wales) Regulations 2014 (“the 2014 Regulations”).

The 2014 Regulations made provision regarding the audit and accounts of local government bodies in Wales which are required to be audited by the Auditor General for Wales pursuant to section 13 of the *Public Audit (Wales) Act 2004*.

These Regulations provide that corporate joint committees established by Regulations made under Part 5 of the *Local Government and Elections (Wales) Act 2021* are subject to the provisions of the 2014 Regulations where relevant.

Date Made: 17 March 2021

Date Laid: 18 March 2021

Coming into force date: 8 April 2021

20 days ends: 16 May 2021

40 days ends: 4 June 2021

SL(5)800 - The Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) (Amendment) Regulations 2021

Procedure: Negative

These Regulations amend the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 (“the principal Regulations”). The principal Regulations apply to meetings of executives of county and county borough councils in Wales which are operating executive arrangements under Part 2 of the *Local Government Act 2000*.

These Regulations amend the principal Regulations to reflect the fact meetings of executives and their committees may be held partly or solely through remote means. They also require notices and agendas for executive meetings, reports

connected with those meetings, written statements of executive decisions, reports considered when taking executive decisions and background papers to be published on an authority's website, although background papers are not required to be published on the website of an authority if it would not be reasonably practicable to do so.

Date Made: 18 March 2021

Date Laid: 19 March 2021

Coming into force date: 1 May 2021

20 days ends: 17 May 2021

40 days ends: 5 June 2021

SL(5)801 - The Bee Diseases and Pests Control (Wales) (Amendment) Order 2021

Procedure: Negative

This Order amends the Bee Diseases and Pests Control (Wales) Order 2006 ("the 2006 Order") which makes provision for the control of pests and diseases affecting bees.

Article 2 inserts article 2A into the 2006 Order. Article 2A requires persons owning or in charge of a hive to report the presence of any species of Varroa mite in that hive to the Welsh Ministers.

Date Made: 17 March 2021

Date Laid: 19 March 2021

Coming into force date: 21 April 2021

20 days ends: 17 May 2021

40 days ends: 5 June 2021

SL(5)802 - The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 4) Regulations 2021

Procedure: Negative

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (the "International Travel Regulations"). The International Travel Regulations impose requirements on persons entering Wales after having been abroad.

From 15 February 2021, the Welsh Government introduced a ban on travellers arriving into Wales if they had been in a “red list country” (those listed in Schedule 3A of the International Travel Regulations) in the previous 10 days. Travellers must arrive at one of the designated ports of entry in England (or Scotland) and remain there in managed isolation for 10 days before travelling on to Wales. In addition, for arrivals from “amber list countries” (those not in the Common Travel Area of Ireland, Isle of Man or the Channel Islands, or on the list of red list of countries) exemption from isolation was made more restrictive so that isolation for 10 days is required but a person may leave isolation for a limited period for work purposes.

These Regulations:

- remove Portugal and Mauritius from the red list, but add Oman, Qatar, Ethiopia and Somalia;
- amend the list of reasons to leave isolation for those who arrived from an amber list country;
- increase the isolation requirements for arrivals from red list countries;
- amend enforcement provisions for immigration officers and police in respect of people who have been in red list countries.

Date Made: 19 March 2021

Date Laid: 19 March 2021

Coming into force date: 20 March 2021

20 days ends: 17 May 2021

40 days ends: 5 June 2021

SL(5)803 - The Town and Country Planning (Strategic Development Plan) (Wales) Regulations 2021

Procedure: Negative

Section 60M(1) of the *Planning and Compulsory Purchase Act 2004* requires a corporate joint committee, to which Part 6 of that Act applies by virtue of regulations made under Part 5 of the *Local Government and Elections (Wales) Act 2021*, to prepare a strategic development plan (“SDP”) for its area.

These Regulations are split into 6 parts and make the following provision:

- Part 1 deals with general matters;
- Part 2 deals with the preparation and revision of an SDP;
- Part 3 deals with the steps that must be taken following revocation of an SDP;
- Part 4 makes provision for the review of an SDP every six years;
- Part 5 deals with the content and publication of an annual monitoring report;
- Part 6 provides for requirements as to the availability of documents.

Date Made: 18 March 2021

Date Laid: 22 March 2021

Coming into force date: 28 February 2022

20 days ends: 20 May 2021

40 days ends: 8 June 2021

SL(5)804 – The Agricultural Holdings (Units of Production) (Wales) Order 2021

Procedure: Negative

This Order prescribes units of production for the assessment of the productive capacity of agricultural land situated in Wales and sets out the amount which is to be regarded as the net annual income from each such unit for the year 12 September 2019 to 11 September 2020 for certain purposes of the *Agricultural Holdings Act 1986*.

Date Made: 19 March 2021

Date Laid: 22 March 2021

Coming into force date: 12 April 2021

20 days ends: 20 May 2021

40 days ends: 8 June 2021

SL(5)805 - The Sea Fishing (Penalty Notices) (Wales) (Amendment) Order 2021

Procedure: Negative

This Order amends the Sea Fishing (Penalty Notices) (Wales) Order 2019 (“the 2019 Order”) in consequence of amendments made by the *Fisheries Act 2020* (“the 2020 Act”).

The 2019 Order creates a scheme for the issuing and payment of penalty notices for specified offences related to sea fishing (“penalty offences”).

The 2020 Act makes provision for access of foreign vessels to fisheries in Wales and the Welsh zone, and for the licensing of fishing vessels by the Welsh Ministers. It also revokes provisions in other legislation which governed those matters. This Order therefore updates the list of penalty offences contained in the 2019 Order by removing references to offence provisions which have been revoked by provisions in the 2020 Act and including references to the relevant new provisions.

The 2020 Act also provides the Welsh Ministers with powers to make orders relating to the exploitation of sea fisheries resources and provides that a breach of those orders is an offence. This Order therefore adds that offence to the list of penalty offences specified in the 2019 Order.

Date Made: 22 March 2021

Date Laid: 23 March 2021

Coming into force date: 14 April 2021

20 days ends: 21 May 2021

40 days ends: 9 June 2021

SL(5)806 - The Government of Maintained Schools (Training Requirements for Governors) (Wales) (Amendment) Regulations 2021

Procedure: Negative

The Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013 (“the 2013 Regulations”) set out the training requirements for governors at maintained schools in Wales. Under the 2013 Regulations all newly appointed, re-appointed, newly elected or re-elected governors must attend training on school performance data within one year of

their appointment or election. Non-completion of the training would result in a six month suspension, and if the training was not completed within that six month suspension period ultimately the governor would be disqualified.

The purpose of the Regulations is to amend the definition of “school performance data training” in the 2013 Regulations so that it refers to the latest training document published by the Welsh Ministers for governors on understanding school performance data. The Regulations also provide that:

- any governor who has completed the training using the revised 2020 training document before these Regulations come into force is to be treated as meeting the school performance data training requirements under the 2013 Regulations;
- any governor who has completed the mandatory data training specified under the 2013 Regulations before these regulations come into force does not have to repeat the training in accordance with these Regulations.

Date Made: 19 March 2021

Date Laid: 23 March 2021

Coming into force date: 14 April 2021

20 days ends: 21 May 2021

40 days ends: 9 June 2021

SL(5)807 - Code of Practice on the Delivery of Autism Services

Procedure: Draft Negative

The Social Services and Well-being (Wales) Act 2014 ('the 2014 Act') provides the legal framework for improving the well-being of people who need care and support, and carers who need support.

The draft code was laid before the Senedd on 24 March 2021. In accordance with section 146 of the 2014 Act, if, before the end of a period of 40 days, the Senedd resolves not to approve the draft, the Welsh Ministers must not issue the code (or revised code) in the form of that draft. If no such resolution is made before the end of that period, the Welsh Ministers must issue the code (or revised code) in the form of the draft, and the code (or revised code) comes into force on the date appointed by order of the Welsh Ministers. According to the Explanatory

Memorandum, the intention is for the Code to come into force on 1 September 2021.

The code describes how local authorities must exercise their social services functions (which are defined in Schedule 2 to the 2014 Act) in accordance with the requirements in the code in relation to autistic people and their parents and carers who need care and support.

The code also applies to and constitutes guidance in respect of the exercise of health services functions by local health boards and NHS trusts in accordance with the National Health Service (Wales) Act 2006 and describes how the relevant health bodies must exercise their respective functions when providing services to autistic people, their parents and carers.

Date Made:

Date Laid: 24 March 2021

Coming into force date: on the date appointed by order of the Welsh Ministers

20 days ends: 22 May 2021

40 days ends: 10 June 2021

SL(5)808 - The Coronavirus Act 2020 (Residential Tenancies: Extension of Period of Protection from Eviction) (Wales) Regulations 2021

Procedure: Negative

Section 81 and Schedule 29 to the *Coronavirus Act 2020* (“the 2020 Act”) provide protection from eviction from a residential tenancy.

The Regulations amend paragraph 1(1) of Schedule 29 to the 2020 Act by extending until 30 June 2021 the relevant period during which Schedule 29 applies.

The effect of these changes will be to extend, for a further three months, the period during which landlords, in most circumstances, will need to provide tenants with increased notice before starting possession proceedings in the courts.

Date Made: 22 March 2021

Date Laid: 24 March 2021

Coming into force date: 31 March 2021

20 days ends: 22 May 2021

40 days ends: 10 June 2021

SL(5)809 - The Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) (Amendment) Regulations 2021

Procedure: Negative

These Regulations amend the Meat Preparations (Amendment and Transitory Modification) (Wales) (EU Exit) Regulations 2021 to extend the temporary suspension of the requirement for meat preparations imported into Wales from establishments situated in the EEA member States, the Faroe Islands, Greenland or Switzerland to be deep frozen, by changing the date of 31 March 2021, and extending it to 30 September 2021. This aligns with the approach being taken by Defra and the Scottish Government.

Date Made: 22 March 2021

Date Laid: 24 March 2021

Coming into force date: 30 March 2021

20 days ends: 22 May 2021

40 days ends: 10 June 2021

SL(5)810 - The Trade in Animals and Related Products (Wales) (Amendment) (EU Exit) Regulations 2021

Procedure: Made Affirmative

The 2021 Regulations amend the 1 April 2021 date in paragraphs 5(3) and 6(1)(c) of Schedule 5 to the Trade in Animals and Related Products (Wales) Regulations 2011 (“the 2011 Regulations”) changing it to 1 July 2021. Schedule 5 was inserted into the 2011 Regulations by regulation 32 of the Trade in Animals and Related Products (Wales) (Amendment) (EU Exit) Regulations 2020.

Paragraph 5(3) of Schedule 5 to the 2011 Regulations relates to the pre-notification requirement for relevant goods consisting of products of animal origin.

Paragraph 6(1)(c) of Schedule 5 relates to the requirement that relevant goods consisting of products of animal origins be accompanied by an appropriate health certificate for third country imports in the form published by the Welsh Ministers or the Secretary of State.

These amendments are needed to ensure alignment with changes being made shortly by the UK Government on a Great Britain basis to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 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. These proposed changes will in effect delay the introduction of documentary and physical checks at designated Border Control Posts.

Date Made: 22 March 2021

Date Laid: 24 March 2021

Coming into force date: 31 March 2021

28 day approval period ends: 27 May 2021

SL(5)811 - The Food, Animal Feed and Seeds (Miscellaneous Amendments and Transitional Provisions) (Wales) (EU Exit) Regulations 2021

Procedure: Negative

These Regulations amend the following Statutory Instruments relating to food and feed hygiene and safety, food compositional standards and labelling and seeds:

- The Food Hygiene (Wales) Regulations 2006;
- The Quick-frozen Foodstuffs (Wales) Regulations 2007;
- The Seed Marketing (Wales) Regulations 2012;
- The Food Additives, Flavourings, Enzymes and Extraction Solvents (Wales) Regulations 2013;
- The Honey (Wales) Regulations 2015;
- The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016;
- The Caseins and Caseinates (Wales) Regulations 2016.

The amendments are required to address deficiencies arising from EU Exit and ensure that the statute book can operate effectively following the UK's exit from the EU.

Date Made: 23 March 2021
Date Laid: 24 March 2021
Coming into force date: 14 April 2021
20 days ends: 22 May 2021
40 days ends: 10 June 2021

SL(5)812 - The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (Wales) Order 2021

Procedure: Negative

The Town and Country Planning (General Permitted Development) Order 1995 (the “GPDO”), as amended, allows some development to be undertaken, within certain parameters, without the need to submit a planning application. This is known as “permitted development”.

This Order amends the GPDO to temporarily relax planning control for specified development. The Explanatory Memorandum indicates that this is being done to support the reopening of businesses and their efforts to create safe environments in light of the Covid-19 pandemic.

Date Made: 23 March 2021
Date Laid: 24 March 2021
Coming into force date: 30 April 2021
20 days ends: 22 May 2021
40 days ends: 10 June 2021

SL(5)813 - The Countryside Access (Local Access Forums) (Wales) (Coronavirus) Regulations 2021

Procedure: Negative

These Regulations amend the Countryside Access (Local Access Forums) (Wales) Regulations 2001 to make temporary provision in relation to the administration of Local Access Forums to ensure that they are able to continue to meet and take decisions during the period of disruption caused by the coronavirus pandemic.

Date Made: 24 March 2021
Date Laid: 26 March 2021
Coming into force date: 1 May 2021

20 days ends: 24 May 2021

40 days ends: 12 June 2021

SL(5)814 - The Regulated Services (Annual Returns) (Wales) (Amendment) (Coronavirus) Regulations 2021

Procedure: Negative

The *Regulation and Inspection of Social Care (Wales) Act 2016* ('the 2016 Act') provides the statutory framework for the regulation and inspection of social care services and the regulation of the social care workforce in Wales.

These Regulations, made under the 2016 Act, make changes to the Regulated Services (Annual Returns) (Wales) Regulations 2017. Their purpose is to delay, until 26 May 2022, the requirement for providers of regulated services to submit an annual return to the Welsh Ministers (in practice, Care Inspectorate Wales) in respect of any the financial years 2018-19, 2019-20 and 2020-21 during which they have been registered under the 2016 Act. The Regulations also reduce the required content for the annual returns for the financial years 2018-19, 2019-20 and 2020-21.

Date Made: 24 March 2021

Date Laid: 26 March 2021

Coming into force date: 16 April 2021

20 days ends: 24 May 2021

40 days ends: 12 June 2021

SL(5)815 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 6) Regulations 2021

Procedure: Made Affirmative

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 ("the principal Regulations") to move the whole of Wales to Alert Level 3 and to temporarily modify how Alert Level 3 operates (until the end of the day of 11 April 2021). This is achieved by inserting a new Schedule 3A into the principal Regulations, and making necessary amendments to the principal Regulations to ensure that references to Schedule 3 are treated as if replaced by references to Schedule 3A.

The effect is that every part of Wales is an Alert Level 3 area from immediately before the beginning of the day on 27 March 2021.

The temporary Alert Level 3 restrictions under Schedule 3A are different in a number of respects from the Schedule 3 restrictions that would usually apply to an Alert Level 3 area. The temporarily modified Alert Level 3 restrictions provide (among other things) that until the end of the day on 11 April 2021:

- Stay local restrictions are lifted in Wales and replaced with restrictions on leaving or entering Wales without a reasonable excuse.
- Self-contained accommodation can reopen. Accommodation can only be let to members of the same household and their support bubble.
- Up to 6 people (not including children under 11 or carers) from no more than 2 households may gather outdoors. This includes in private gardens.
- Outdoor organised activities for children under 18 will be allowed.
- Outdoor spaces of a scheduled monument or a registered historic park or garden, can reopen.
- Libraries and archives can reopen.

The Regulations also amend Schedule 5 to the principal Regulations to make temporary modifications to enable the enforcement of the restrictions in Schedule 3A.

Date Made: 26 March 2021

Date Laid: 26 March 2021

Coming into force date: 27 March 2021

28 day approval period ends: 31 May 2021

SL(5)817 - The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 5) Regulations 2021

Procedure: Negative

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (the “International Travel Regulations”). The International

Travel Regulations impose requirements on persons entering Wales after having been abroad.

From 15 February 2021 the Welsh Government introduced a ban on travellers arriving into Wales if they had been in a “red list country” (those listed in Schedule 3A of the International Travel Regulations) in the previous 10 days. Travellers must arrive at one of the designated ports of entry in England (or Scotland) and remain there in managed isolation for 10 days before travelling on to Wales. In addition, for arrivals from “amber list countries” (those not in the Common Travel Area of Ireland, Isle of Man or the Channel Islands, or on the list of red list of countries) exemption from isolation was made more restrictive so that isolation for 10 days is required but a person may leave isolation for a limited period for work purposes.

These Regulations:

- add Bangladesh, Kenya, Pakistan and the Philippines to the red list of countries;
- allow hauliers who have been in a “red list” country to enter Wales;
- introduce a bespoke testing arrangement for UK and non-UK hauliers;
- allow boarding school students to isolate at school if they have arrived from a “red list” country;
- allow a person to leave isolation after 14 days if a test result has not been returned from the laboratory.

Date Made: 8 April 2021

Date Laid: 8 April 2021

Coming into force date: 9 April 2021

20 days ends: 26 May 2021

40 days ends: 15 June 2021

SL(5)818 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 7) Regulations 2021

Procedure: Made Affirmative

The Regulations amend

- The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (“the principal Regulations”);

- The Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (“the Public Health Information Regulations”).

These Regulations amend the principal Regulations to temporarily modify how Alert Level 3 operates in Wales. The period of the temporary modifications already in place (see SL SL(5)815 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 6) Regulations 2021) has been extended until the end of the day on 25 April 2021.

In particular these Regulations make further temporary modifications:

- removing the restrictions on canvassing for elections, although canvassers are subject to a duty to take all reasonable measures to minimise the risk of exposure to, and spread of, coronavirus when carrying out this activity and, when taking those measures they must have regard to guidance issued by the Welsh Ministers;
- permitting non-essential retail to reopen;
- permitting close contact services to reopen, including mobile services in people’s homes such as mobile hairdressers (a new definition of close contact services has been included at regulation 57(1)(da));
- removing the restrictions to now allow for wedding ‘show-arounds’ by appointment in premises used as venues for wedding, civil partnership and alternative wedding ceremonies, or for celebrations of the same, which are otherwise required to close;
- removing restrictions so as to allow crematoriums to be fully open.

These Regulations remove the current restrictions on travel within the UK and into/from the Common Travel Area (CTA), and place new restrictions and requirements on international travel (which apply in all Alert Levels). This includes:

- restrictions to prohibit international travel without a reasonable excuse. A person who attempts to travel to a destination outside the CTA without a reasonable excuse is guilty of an offence and may be subject to a Fixed Penalty of £5,000;
- a person who is at an embarkation point (for example, an airport) and is seeking to leave the CTA and has a reasonable excuse for doing so, must now, if requested, provide a completed international travel declaration form stating the reasons for travelling. A person who fails to complete a

declaration form (or who provides false or misleading information on the form) may be subject to a Fixed Penalty of £60.

Other technical, minor and consequential amendments, including to provide for the enforcement of the new provisions on international travel, are also made by these Regulations.

In consequence of the amendments described in relation to international travel, the Regulations also amend the Public Health Information Regulations. The Public Health Information Regulations ensure that travellers are made aware of the travel requirements and public health guidance that are in force in Wales. The Public Health Information Regulations are amended so that operators of relevant services departing from Wales to a destination outside the CTA are required to advise travellers of the restriction on leaving Wales to such a destination, and the requirement to complete an international travel declaration form. This information is to be provided at the time of booking and at least 24 hours prior to the scheduled departure.

Date Made: 9 April 2021

Date Laid: 9 April 2021

Coming into force date: 12 April 2021

28 day approval period ends: 3 June 2021

SL(5)819 - The Education (Student Finance) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2021

Procedure: Negative

These Regulations (“the 2021 Regulations”) amend:

- The Education (Fees and Awards) (Wales) Regulations 2007;
- The Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provision) (Wales) Regulations 2015;
- The Education (Student Support) (Wales) Regulations 2017;
- The Education (Postgraduate Master’s Degree Loans) (Wales) Regulations 2017;
- The Education (Student Support) (Wales) Regulations 2018;

- The Education (Postgraduate Doctoral Degree Loans) (Wales) Regulations 2018;
- The Education (Student Support) (Postgraduate Master's Degrees) (Wales) Regulations 2019.

The above-mentioned regulations underpin the system of financial support for students who are ordinarily resident in Wales and taking designated courses of higher education, set out the categories of person who are eligible for home fee status, authorise rules of eligibility in relation to certain awards connected to education and training and set out the categories of person who are able to benefit from capped tuition fees.

The 2021 Regulations make amendments related to EU Exit which are necessary as a result of the Withdrawal Agreements and to implement the Welsh Government's policy on student finance for the 2021/22 academic year.

Date Made: 19 April 2021

Date Laid: 22 April 2021

Coming into force date: 25 April 2021

20 days ends: 26 May 2021

40 days ends: 15 June 2021

SL(5)820 - The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 6) Regulations 2021

Procedure: Negative

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (the "International Travel Regulations"). The International Travel Regulations impose requirements on persons entering Wales after having been abroad.

From 15 February 2021 the Welsh Government introduced a ban on travellers arriving into Wales if they had been in a "red list country" in the previous 10 days. Travellers must arrive at one of the designated ports of entry in England (or Scotland) and remain there in managed isolation for 10 days before travelling on to Wales.

These Regulations add India to the "red list" of countries. These Regulations also allow couriers of human blood, tissues and organs who have been in a "red list"

country to enter Wales and allow health or care professionals who have been in a “red list” country to enter Wales and isolate in Wales.

Date Made: 22 April 2021

Date Laid: 22 April 2021

Coming into force date: 23 April 2021

20 days ends: 26 May 2021

40 days ends: 15 June 2021

SL(5)821 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 8) Regulations 2021

Procedure: Made Affirmative

These Regulations amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 (“the principal Regulations”) to temporarily modify how Alert Level 3 operates in Wales. The period of the temporary modifications already in place (see SL(5)818 - The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 7) Regulations 2021) is extended until the end of the day on 2 May 2021.

These Regulations make further temporary modifications:

From 24 April 2021:

- The restrictions on gathering with others outdoors are relaxed to allow a maximum of 6 people (not including children under 11 or carers) to gather from no more than 6 households.

From 26 April 2021:

- People may gather outdoors for the purposes of participating in formally organised activities involving up to 30 people (this involves a designated person being responsible for the activity, all reasonable measures being taken to minimise the spread of coronavirus while undertaking the activity and no consumption of alcohol). Formally organised activities can include protesting and picketing, which can take place without a limit on the number of people present at all Alert Levels apart from Alert Level 4.
- Certain businesses including visitor attractions and swimming pools will be allowed to reopen their premises for outdoor activities, including the

consumption of food and drink outdoors (from 6.00 am onwards that day).

- Provided the act took place on or after 26 March 2020, outdoors gatherings of up to 30 people are allowed to celebrate the solemnisation of a marriage, formation of a civil partnership or an alternative wedding ceremony, or the life of a deceased person.
- People gathering when working in people's homes, for example by tradespeople, is allowed without it needing to be necessary or without the need for a "reasonable alternative" (unless at Alert Level 4).
- "Pilot" events may now be organised with the permission of the Welsh Ministers.

Date Made: 23 April 2021

Date Laid: 23 April 2021

Coming into force date: 24 and 26 April 2021 (see above)

28 day approval period ends: 3 June 2021

Agenda Item 5

Statutory Instruments with Clear Reports

7 June 2021

SL(6)007 – The Relaxation of School Reporting Requirements (Wales) (Coronavirus) Regulations 2021

Procedure: Made Negative

These Regulations amend a number of existing regulations relating to school reporting requirements, in response to the impact on schools of coronavirus. These are:

- The School Governors' Annual Reports (Wales) Regulations 2011 ("the Annual Report Regulations");
- The Head Teacher's Report to Parents and Adult Pupils (Wales) Regulations 2011 ("the Reporting Regulations");
- The School Information (Wales) Regulations 2011 ("the School Information Regulations"); and
- The School Performance Information (Wales) Regulations 2011 ("the School Performance Regulations").

The Welsh Government considers that schools, local authorities and governing bodies may be unable to comply with certain statutory reporting requirements, and that such requirements may also pose a disproportionate administrative burden on those responsible.

The Annual Report Regulations set out the information that must be published by a school governing body in an annual report. Therefore, regulation 2(2) of these Regulations inserts a new regulation into the Annual Report Regulations the effect of which is that the following information for the 2020-2021 school year is not required to be published in any governors' annual report—

- paragraph 6 of Schedule 2 to the Annual Report Regulations (the summary of secondary school performance),
- paragraph 7 of Schedule 2 to the Annual Report Regulations (the numbers of authorised and unauthorised pupil absences), and
- paragraph 8(b) of Schedule 2 to the Annual Report Regulations (further information relating to authorised and unauthorised pupils absences).

A consequential amendment is also made to the Annual Report Regulations in relation to the requirements of the short form of the annual report.

The Reporting Regulations make provision in respect of the report the head teacher of a maintained school is required to send to parents and adult pupils each school year and the additional information a parent may request from the head teacher. Not all children have



attended school throughout the year and many pupils and teachers have worked and studied remotely for extended periods of time. This presents challenges for teachers in respect of the full content that would ordinarily be included in the report to parents and adult pupils. Regulation 3 of these Regulations inserts a new provision into the Reporting Regulations the effect of which is to amend the obligations on the head teachers, in respect of the specified content of reports, so that they are obligated to use their reasonable endeavours to comply with those obligations.

The School Information Regulations prescribe the information that must be published by local authorities and schools in a school prospectus. The Welsh Government considers that the extended periods of home learning and working for many pupils and teachers will have had a negative impact on the quality of some of the data regulated by the School Information Regulations, particularly the data on pupil absences. As such, the Welsh Government considers that this should not be published in a school prospectus. Regulation 4 of these Regulations disapplies the obligation on a school governing body to include in any school prospectus the data set out in paragraph 30 of Schedule 3 to those Regulations (data relating to pupil absences) in respect of the 2020-2021 school year.

The School Performance Regulations regulate the transfer of information relating to the educational performance of pupils from head teachers to school governing bodies, local authorities and the Welsh Ministers. The Welsh Government considers that extended periods of home learning for many pupils, and home working for teachers, will have a negative impact on the quality of some of the data regulated by the School Performance Regulations. Many schools will not have completed the foundation phase and key stage assessments and the collection of this data by Welsh Ministers, via local authorities, will not take place for the 2020-2021 school year. Regulation 5 of these Regulations disapplies the obligations on a school to supply the prescribed information relating to the 2020-2021 school year to local authorities, and on local authorities to supply that information to the Welsh Ministers.

Parent Act: Education Act 1996, Education Act 1997, Education Act 2002

Date Made: 23 May 2021

Date Laid: 25 May 2021

Coming into force date: 18 June 2021



Senedd Cymru

Pwylgor Is-ddeddfwriaeth Dros Dro

—

Welsh Parliament

Interim Subordinate Legislation Committee

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Agenda Item 6.1

SL(6)002 - The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 7) Regulations 2021

Background and Purpose

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (the "International Travel Regulations").

The International Travel Regulations impose requirements on persons entering Wales after having been abroad. They include a requirement for persons arriving in Wales to isolate for a period determined in accordance with those Regulations.

These Regulations amend Schedule 3A to the International Travel Regulations, which contains the list of countries and territories subject to additional measures. Non-exempt persons are prohibited from entering Wales where they have been in a country or territory listed in Schedule 3A within the last 10 days of arrival, pursuant to regulation 12E of the International Travel Regulations. Regulation 2 adds Maldives, Nepal and Turkey to the list in Schedule 3A.

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

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a "made negative" instrument is laid before the Senedd and the date the instrument



comes into force), and the explanation for the breach provided by Vaughan Gething MS, Minister for Health and Social Services (as he then was), in a letter to the Llywydd dated 11 May 2021.

In particular, we note the following in the letter:

“Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.”

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note the Welsh Government’s justification for any potential interference with human rights. In particular, we note the following paragraph in the Explanatory Memorandum:

“The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights; the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.”

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

“Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.”

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Interim Subordinate Legislation Committee

27 May 2021



Senedd Cymru
Pwylgor Is-ddeddfwriaeth Dros Dro

Welsh Parliament

Interim Subordinate Legislation Committee

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W E L S H S T A T U T O R Y
I N S T R U M E N T S

2021 No. 568 (W. 156)

PUBLIC HEALTH, WALES

**The Health Protection
(Coronavirus, International Travel)
(Wales) (Amendment) (No. 7)
Regulations 2021**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (S.I. 2020/574 (W. 132)) (the “International Travel Regulations”).

The International Travel Regulations impose requirements on persons entering Wales after having been abroad. They include a requirement for persons arriving in Wales to isolate for a period determined in accordance with those Regulations.

These Regulations amend Schedule 3A to the International Travel Regulations, which contains the list of countries and territories subject to additional measures. Non-exempt persons are prohibited from entering Wales where they have been in a country or territory listed in Schedule 3A within the last 10 days of arrival, pursuant to regulation 12E of the International Travel Regulations. Regulation 2 adds Maldives, Nepal and Turkey to the list in Schedule 3A.

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

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2021 No. 568 (W. 156)

PUBLIC HEALTH, WALES

**The Health Protection
(Coronavirus, International Travel)
(Wales) (Amendment) (No. 7)
Regulations 2021**

Made at 2.26 p.m. on 11 May 2021

Laid before *Senedd*
Cymru at 5.45 p.m. on 11 May 2021

Coming into force at 4.00 a.m. on 12 May 2021

The Welsh Ministers, in exercise of the powers conferred on them by sections 45B and 45P(2) of the Public Health (Control of Disease) Act 1984⁽¹⁾, make the following Regulations.

Title and coming into force

1.—(1) The title of these Regulations is the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 7) Regulations 2021.

(2) These Regulations come into force at 4.00 a.m. on 12 May 2021.

Amendment of the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020

2. In Schedule 3A (countries and territories subject to additional measures) to the Health

(1) 1984 c. 22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14). The function of making regulations under Part 2A is conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister as respects Wales, is the Welsh Ministers.

Protection (Coronavirus, International Travel)
(Wales) Regulations 2020(1), at the appropriate
place insert—

“Maldives”

“Nepal”

“Turkey”.

Vaughan Gething

Minister for Health and Social Services, one of the
Welsh Ministers

At 2.26 p.m. on 11 May 2021

(1) S.I. 2020/574 (W. 132), amended by S.I. 2020/595 (W. 136), S.I. 2020/714 (W. 160), S.I. 2020/726 (W. 163), S.I. 2020/804 (W. 177), S.I. 2020/817 (W. 179), S.I. 2020/840 (W. 185), S.I. 2020/868 (W. 190), S.I. 2020/886 (W. 196), S.I. 2020/917 (W. 205), S.I. 2020/942, S.I. 2020/944 (W. 210), S.I. 2020/962 (W. 216), S.I. 2020/981 (W. 220), S.I. 2020/1015 (W. 226), S.I. 2020/1042 (W. 231), S.I. 2020/1080 (W. 243), S.I. 2020/1098 (W. 249), S.I. 2020/1133 (W. 258), S.I. 2020/1165 (W. 263), S.I. 2020/1191 (W. 269), S.I. 2020/1223 (W. 277), S.I. 2020/1232 (W. 278), S.I. 2020/1237 (W. 279), S.I. 2020/1288 (W. 286), S.I. 2020/1329 (W. 295), S.I. 2020/1362 (W. 301), S.I. 2020/1477 (W. 316), S.I. 2020/1521 (W. 325), S.I. 2020/1602 (W. 332), S.I. 2020/1645 (W. 345), S.I. 2021/20 (W. 7), S.I. 2021/24 (W. 8), S.I. 2021/46 (W. 10), S.I. 2021/48 (W. 11), S.I. 2021/50 (W. 12), S.I. 2021/66 (W. 15), S.I. 2021/72 (W. 18), S.I. 2021/95 (W. 26), S.I. 2021/154 (W. 38), S.I. 2021/305 (W. 78), S.I. 2021/361 (W. 110), S.I. 2021/454 (W. 144) and S.I. 2021/500 (W. 149).

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 7) Regulations 2021

This Explanatory Memorandum has been prepared by 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 Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 7) Regulations 2021.

Vaughan Gething
Minister for Health and Social Services

11 May 2021

1. Description

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”).

2. Matters of special interest to Senedd Cymru

Coming into force

In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations do not adhere to the 21 day convention. This is necessary owing to the risk posed in relation to coronavirus and in particular variant strains of the same, from passengers travelling to the UK. The changes made by these Regulation continue the four nation approach to international travel and ensure continuing alignment with England and the other nations.

European Convention on Human Rights

The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights; the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

3. Legislative background

The Public Health (Control of Disease) Act 1984 (“the 1984 Act”), and regulations made under it, provide a legislative framework for health protection in England and Wales. These Regulations are made in reliance on the powers in sections 45B and 45P(2) of the 1984 Act. The Explanatory Memorandum to the International Travel Regulations provides further information on these powers¹.

4. Purpose and intended effect of the legislation

The latest Joint Biosecurity Centre (JBC) risk assessments (6 May 2021) for Maldives, Nepal and Turkey show that the risks have increased and that these countries should now be added to the “red list” of countries. Travellers from those countries would not be permitted entry to Wales but instead would have to enter through a designated port in England or Scotland and remain in managed quarantine there for 10 days before travelling onto Wales. Direct flights will be prohibited but none are expected.

The Welsh Ministers consider that these amendments are proportionate to what they seek to achieve, which is to respond to a serious and imminent threat to public health.

¹ Available at: <https://business.senedd.wales/documents/s101833/EM%20SL5556%20-%20The%20Health%20Protection%20Coronavirus%20International%20Travel%20Wales%20Regulations%202020.pdf>

5. Consultation

Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.

6. Regulatory Impact Assessment (RIA)

There has been no regulatory impact assessment in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health.



Ein cyf/Our ref MA/VG/1650/21

Elin Jones, MS
Llywydd
Senedd Cymru
Cardiff Bay
CF99 1SN

11 May 2021

Dear Elin,

The Health Protection (Coronavirus, International Travel) (Wales) (Amendment) (No. 7) Regulations 2021

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this Statutory Instrument will come into force less than 21 days after it has been laid. A copy of the instrument and the Explanatory Memorandum that accompanies the Regulations are attached for your information.

This statutory instrument amends the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020.

From 15 February the Welsh Government introduced a ban on travellers arriving into Wales if they had been in a “red list country” in the previous 10 days. They must arrive at one of the designated ports of entry in England (or Scotland) and remain there in managed isolation for 10 days before travelling on to Wales. In addition, for arrivals from “amber list countries” exemption from isolation was made more restrictive so that isolation for 10 days is generally required but a person may leave isolation for a limited period for work purposes.

These Regulations add Maldives, Nepal and Turkey to the “red list” of countries.

Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.

I am copying this letter to the Minister for Finance and Trefnydd, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

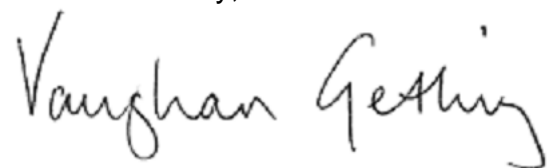
Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Vaughan.Gething@llyw.cymru
Correspondence.Vaughan.Gething@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Yours sincerely,

A handwritten signature in black ink that reads "Vaughan Gething". The signature is written in a cursive style with a large initial 'V' and a long, sweeping tail on the 'g'.

Vaughan Gething AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Agenda Item 6.2

SL(6)004 - The Health Protection (Coronavirus, International Travel, Operator Liability and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021

Background and Purpose

These Regulations amend:

- Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the International Travel Regulations”);
- Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021 (“the Operator Liability Regulations”); and
- the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (the “Public Health Information Regulations”).

The International Travel Regulations impose requirements on persons entering Wales after having been abroad. They include a requirement for persons arriving in Wales from non-exempt countries or territories to isolate for a period determined in accordance with these Regulations.

These Regulations amend the International Travel Regulations to introduce a three level traffic light system of risk ratings for countries and territories and associated isolation and testing requirements for people who have arrived from those different destinations.

After the addition of Maldives, Nepal and Turkey to the red list from 04:00 hours on Wednesday 12 May the red list and amber list of countries remain unchanged as do the requirements for managed quarantine (where necessary) and isolation and testing before and after arrival.

These Regulations create a new category of a green list for countries and territories where the requirements will be to have a pre-departure test before travelling, to complete a passenger locator form and to have one post-arrival test on or before Day 2 but isolation will not be required.

In addition, these Regulations add Australia, Brunei, Falkland Islands, Faroe Islands, Gibraltar, Iceland, Israel, New Zealand, Portugal, Singapore, South Georgia and the South Sandwich Islands and St Helena, Tristan de Cunha, Ascension Island to the green list of countries and territories.



These Regulations also make associated changes to the Public Health Information Regulations so that the information operators of relevant services are required to provide to travellers arriving into Wales from outside the common travel area is updated to take account of the introduction of the green list arrangements.

These Regulations also make minor amendments to the Operator Liability Regulations to reflect the easing of the restrictions on international travel.

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

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

The Committee welcomes the amendments made to the Public Health Information Regulations by Part 4 of these Regulations which sets out the specified information that operators must provide to passengers entering the UK concerning the easing of restrictions on international travel. This includes the signposting to the guidance in respect of public health requirements to each nation of the UK that an individual must adhere on entering each UK nation.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note the Welsh Government's justification for any potential interference with human rights. In particular, we note the following paragraph in the Explanatory Memorandum:

"The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights; the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate."



3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

“Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.”

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Interim Subordinate Legislation Committee

27 May 2021



Senedd Cymru

Pwylgor Is-ddeddfwriaeth Dros Dro

–

Welsh Parliament

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Interim Subordinate Legislation Committee

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2021 No. 584 (W. 161)

PUBLIC HEALTH, WALES

**The Health Protection
(Coronavirus, International Travel,
Operator Liability and Public
Health Information to Travellers)
(Wales) (Miscellaneous
Amendments) Regulations 2021**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (S.I. 2020/574 (W. 132)) (the “International Travel Regulations”), the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021 (S.I. 2021/40 (W. 11)) (“the Operator Liability Regulations”) and the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020 (S.I. 2020/574 (W. 132)) (the “Public Health Information Regulations”).

The International Travel Regulations impose requirements on persons entering Wales after having been abroad. They include a requirement for persons arriving in Wales from non-exempt countries or territories to isolate for a period determined in accordance with those Regulations.

Part 2 of these Regulations amends the International Travel Regulations. Regulations 3 to 8 make provision in relation to booking and undertaking tests for persons arriving into Wales having travelled outside the common travel area in the previous 10 days. Persons travelling into Wales having been in an exempt country or territory listed in Schedule 3 to the International Travel Regulations are required to book and undertake a day 2 test, whereas persons travelling from a non-exempt country or territory must book and undertake a day 2 and day 8 test. Provision is also made relating to failure to take tests and the

consequences of test results. Regulations 9 to 14 make consequential amendments in light of the provisions in regulations 3 to 8.

Regulation 15 adds countries and territories to the list of exempt countries and territories in Schedule 3 to the International Travel Regulations.

The Operator Liability Regulations impose requirements on persons operating international passenger services (“operators”) arriving into Wales from outside the common travel area. In accordance with those requirements operators must, for example, ensure that passengers travelling on such services possess notification of a negative test result and have made arrangements to take further tests following their arrival.

In consequence of the amendments made to the International Travel Regulations by these Regulations, Part 3 of these Regulations makes minor amendments to the Operator Liability Regulations to reflect the easing of the restrictions on international travel.

The Public Health Information Regulations impose requirements on operators of international passenger services coming from outside the common travel area to an airport, heliport or seaport in Wales to provide passengers with specified public health information.

In consequence of the amendments made to the International Travel Regulations by these Regulations, Part 4 of these Regulations amends the specified public health information that operators must provide to passengers prior to and during travel into Wales.

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

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2021 No. 584 (W. 161)

PUBLIC HEALTH, WALES

The Health Protection
(Coronavirus, International Travel,
Operator Liability and Public
Health Information to Travellers)
(Wales) (Miscellaneous
Amendments) Regulations 2021

Made at 2.40 p.m. on 14 May 2021

Laid before *Senedd*
Cymru at 6.00 p.m. on 14 May 2021

Coming into
force at 6.00 a.m. on 17 May 2021

The Welsh Ministers, in exercise of the powers conferred on them by sections 45B, 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984(1), make the following Regulations.

PART 1

General

Title, interpretation and coming into force

1.—(1) The title of these Regulations is the Health Protection (Coronavirus, International Travel, Operator Liability and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021.

(2) These Regulations come into force at 6.00 a.m. on 17 May 2021.

(1) 1984 c. 22. Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14). The function of making regulations under Part 2A is conferred on “the appropriate Minister”. Under section 45T(6) of the 1984 Act the appropriate Minister as respects Wales, is the Welsh Ministers.

(3) In these Regulations—

“the International Travel Regulations” (“*y Rheoliadau Teithio Rhyngwladol*”) means the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020(1);

“the Operator Liability Regulations” (“*y Rheoliadau Atebolrwydd Gweithredwyr*”) means the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021(2);

“the Public Health Information Regulations” (“*y Rheoliadau Gwybodaeth Iechyd y Cyhoedd*”) means the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020(3).

PART 2

Amendments to the International Travel Regulations

Amendments to the International Travel Regulations

2. The International Travel Regulations are amended in accordance with regulations 3 to 15.

New regulation 6AB (requirement to book and undertake tests)

3. For regulations 6B and 6C substitute—

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- (1) S.I. 2020/574 (W. 132), amended by S.I. 2020/595 (W. 136), S.I. 2020/714 (W. 160), S.I. 2020/726 (W. 163), S.I. 2020/804 (W. 177), S.I. 2020/817 (W. 179), S.I. 2020/840 (W. 185), S.I. 2020/868 (W. 190), S.I. 2020/886 (W. 196), S.I. 2020/917 (W. 205), S.I. 2020/942, S.I. 2020/944 (W. 210), S.I. 2020/962 (W. 216), S.I. 2020/981 (W. 220), S.I. 2020/1015 (W. 226), S.I. 2020/1042 (W. 231), S.I. 2020/1080 (W. 243), S.I. 2020/1098 (W. 249), S.I. 2020/1133 (W. 258), S.I. 2020/1165 (W. 263), S.I. 2020/1191 (W. 269), S.I. 2020/1223 (W. 277), S.I. 2020/1232 (W. 278), S.I. 2020/1237 (W. 279), S.I. 2020/1288 (W. 286), S.I. 2020/1329 (W. 295), S.I. 2020/1362 (W. 301), S.I. 2020/1477 (W. 316), S.I. 2020/1521 (W. 325), S.I. 2020/1602 (W. 332), S.I. 2020/1645 (W. 345), S.I. 2021/20 (W. 7), S.I. 2021/24 (W. 8), S.I. 2021/46 (W. 10), S.I. 2021/48 (W. 11), S.I. 2021/50 (W. 12), S.I. 2021/66 (W. 15), S.I. 2021/72 (W. 18), S.I. 2021/95 (W. 26), S.I. 2021/154 (W. 38), S.I. 2021/305 (W. 78), S.I. 2021/361 (W. 110), S.I. 2021/454 (W. 144), S.I. 2021/500 (W. 149) and S.I. 2021/568 (W. 156).
- (2) S.I. 2021/48 (W. 11), amended by S.I. 2021/72 (W. 18), S.I. 2021/171 (W. 39) and S.I. 2021/305 (W. 78).
- (3) S.I. 2020/595 (W. 136) amended by S.I. 2020/714 (W. 160), S.I. 2020/1118 (W. 253), S.I. 2020/1521 (W. 325), S.I. 2021/72 (W. 18), S.I. 2021/171 (W. 39) and S.I. 2021/457 (W. 145).

“Requirement to book and undertake tests

6AB.—(1) This regulation applies to a person (“P”) aged 5 or over who—

- (a) arrives in Wales,
- (b) has, within the period of 10 days ending with the day of P’s arrival in Wales, been outside the common travel area, and
- (c) is not a person described in—
 - (i) paragraph 1(1)(a) to (k) of Schedule 2 who satisfies the conditions in paragraph 1(2) of that Schedule;
 - (ii) paragraphs 2 to 16, and 36 of Schedule 2;
 - (iii) paragraph 14 of Schedule 5.

(2) In this Part—

- (a) a “day 2 test” is a test complying with paragraph 1 of Schedule 1C which is undertaken in the circumstances described in paragraph 1A of that Schedule;
- (b) a “day 8 test” is a test complying with paragraph 2 of Schedule 1C which is undertaken in the circumstances described in paragraph 2A of that Schedule;
- (c) a “public test provider” is a person who provides or administers a test exercising powers under the National Health Service (Wales) Act 2006, the National Health Services Act 2006, the National Health Service (Scotland) Act 1978, or the Health and Personal Social Services (Northern Ireland) Order 1972;
- (d) “testing package” means—
 - (i) in respect of a person to whom regulation 7(1) or 8(1) applies, a booking for a day 2 test and a day 8 test;
 - (ii) in respect of a person (“P”) who arrives in Wales having been in an exempt country or territory listed in Schedule 3 within the period of 10 days ending with the day of P’s arrival in Wales, a booking for a day 2 test.

(3) Where P is an adult, P must on arrival in Wales possess a testing package arranged with a public test provider—

- (a) for P, and

- (b) for a child aged 5 or over for whom P has responsibility and with whom P is travelling.

(4) Where P is an adult who arrives in Wales without possessing a testing package required under paragraph (3), P must as soon as practicable obtain a testing package.

(5) A test is not to be treated as having been arranged in accordance with this regulation unless—

- (a) the person arranging the tests notified the public test provider that the tests were being arranged for the purposes of this regulation, and
- (b) the information in Schedule 1B was provided to the public test provider in relation to P.

(6) When the tests are arranged, the public test provider must provide a test reference number—

- (a) to P, and
- (b) to any person who arranges tests on P's behalf.

(7) Subject to paragraph (8), where P—

- (a) is an adult, they must undertake the tests in accordance with their testing package;
- (b) is a child aged 5 or over, an adult with responsibility for P must, so far as reasonably practicable, ensure that P undertakes the tests in accordance with the testing package.

(8) Where P's day 2 test generates a positive result, P is not required to undertake a day 8 test.

(9) Where P does not undertake a test as required by this regulation by reason of a reasonable excuse, P must, as soon as practicable after the matters giving rise to the reasonable excuse no longer apply, undertake a test ("a replacement test") complying with the requirements that apply to the test that was missed.

(10) Where a replacement test is undertaken instead of—

- (a) a day 2 test, P is to be treated as if they had undertaken a day 2 test in accordance with this regulation;
- (b) a day 8 test, P is to be treated as if they had undertaken a day 8 test in accordance with this regulation.

(11) A person who possesses a testing package must provide evidence of it if requested by an immigration officer or a constable.”

New regulations 6DA and 6DB (requirement to isolate on failure to take tests)

4. For regulation 6D substitute—

“Requirement to isolate on failure to take tests: travellers from non-exempt countries and territories

6DA.—(1) This regulation applies in respect of a person (“P”) to whom regulations 6AB(1) and either 7(1) or 8(1) apply.

(2) This paragraph applies where—

(a) P fails to undertake a day 8 test, and

(b) either—

(i) P fails to undertake a day 2 test, or

(ii) P’s day 2 test generates a negative or inconclusive result.

(3) Where paragraph (2) applies, the last day of P’s isolation under regulation 7 or 8 is the last day of the period of 14 days beginning with the day after the day on which P was last in a non-exempt country or territory (and regulation 12 does not apply for the purposes of determining the last day of P’s isolation).

(4) Where paragraph (2) applies but P subsequently takes a test to which paragraph (5) applies and—

(a) the result is positive, regulation 6E applies as if the test had been undertaken in accordance with regulation 6AB;

(b) the result is negative, regulation 6G applies as if—

(i) P had taken a day 2 test and a day 8 test in accordance with regulation 6AB, and

(ii) both tests were negative.

(5) This paragraph applies to a day 8 test that is taken—

(a) before the end of P’s isolation period as it would have been determined under regulation 12 if paragraph (2) did not apply, but

(b) not before the end of the seventh day after the day on which P arrives in Wales.

Requirement to isolate on failure to take tests: travellers from exempt countries and territories

6DB.—(1) This regulation applies in respect of a person (“P”) to whom regulation 6AB(1) applies but to whom neither regulation 7(1) nor 8(1) applies.

(2) This paragraph applies where P fails to take a day 2 test.

(3) Where paragraph (2) applies, P is to be treated as if the requirements of regulation 7 applied and P must enter into and remain in isolation in accordance with that regulation until the last day of the period of 14 days beginning with the day after the day on which P was last in a country or territory listed in Schedule 3.

(4) Where paragraph (2) applies but P subsequently takes a test to which paragraph (5) applies and—

(a) the result is positive, regulation 6E applies as if the test had been undertaken in accordance with regulation 6AB;

(b) the result is negative, P is no longer required to isolate in accordance with regulation 7.

(5) This paragraph applies to a test which—

(a) complies with the requirements for a day 2 test in paragraph 1 of Schedule 1C,

(b) is arranged in accordance with regulation 6AB(5), and

(c) is undertaken within 10 days of the day on which P arrived in Wales.”

Substitution of regulation 6E (consequences of positive test result)

5. For regulation 6E (consequences of positive test result) substitute—

“**6E.** Where a test taken by a person (“P”) in accordance with regulation 6AB is positive—

(a) where P is a person—

(i) to whom regulation 7(1) or 8(1) applies, the last day of P’s isolation under regulation 7 or 8 is the last day of the period of 10 days beginning with the day on which P took the test (and regulation 12 does not apply for the purposes of determining the last day of P’s isolation), or

- (ii) to whom regulation 7(1) or 8(1) does not apply, P is to be treated as if the requirements of regulation 7 applied and P must enter into and remain in isolation in accordance with that regulation until the last day of the period of 10 days beginning with the day on which P took the test, and
- (b) regulation 10(3) (isolation requirement ceasing to apply to P when P leaves Wales) of these Regulations and, subject to regulation 6I, regulation 6 or 7, as appropriate, of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020⁽¹⁾ do not apply in relation to P.”

Amendments to regulation 6F

6. In regulation 6F (consequences of positive result for person residing in same premises)—

- (a) in paragraph (1), for “regulation 6C” substitute “regulation 6AB”;
- (b) in paragraph (3)(a), for “regulation 6C(1)(b)” substitute “regulation 6AB”;
- (c) in paragraph (3)(b), for “regulation 6C(1)(a)” substitute “regulation 6AB”.

Amendment to regulation 6G

7. In regulation 6G(1)(a) (consequences of not receiving result of day 8 test before end of isolation period), for “regulation 6C(1)” substitute “regulation 6AB”.

New regulations 6HA and 6HB (consequences of receiving inconclusive test result)

8. For regulation 6H (consequences of receiving inconclusive test result) substitute—

“Consequences of receiving inconclusive test result: travellers from non-exempt countries and territories

6HA.—(1) This regulation applies in respect of a person (“P”) to whom regulations 6AB(1) and either 7(1) or 8(1) apply.

(2) This paragraph applies where the result of a test taken by P in accordance with regulation 6AB is inconclusive.

⁽¹⁾ S.I. 2020/1609 (W. 335).

(3) Where paragraph (2) applies, the last day of P's isolation under regulation 7 or 8 is—

- (a) the last day of the period of 10 days beginning with the day P took the test, or
- (b) where P takes a test to which paragraph (5) applies and the result of the test is negative, the later of—
 - (i) the last day of the period of 10 days beginning with the day after the day on which P was last in a non-exempt country or territory, or
 - (ii) the day on which P receives the negative result, or
- (c) where P takes a test to which paragraph (5) applies and the result of the test is positive, the last day of the period of 10 days beginning with the day P took the test.

(4) Where paragraph (3)(c) applies, P is not required to take a day 8 test in accordance with regulation 6AB.

(5) This paragraph applies to—

- (a) a day 8 test taken in accordance with regulation 6AB;
- (b) a test which—
 - (i) complies with the requirements for a day 8 test in paragraph 2 of Schedule 1C,
 - (ii) is arranged in accordance with regulation 6AB(5), and
 - (iii) is taken—
 - (aa) before the end of P's isolation period as it would have been determined under regulation 12 if paragraph (1) did not apply, but
 - (bb) before the end of the seventh day after the day on which P arrives in Wales.

Consequences of receiving inconclusive test result: travellers from exempt countries and territories

6HB.—(1) This regulation applies in respect of a person (“P”) to whom regulation 6AB(1) applies but to whom neither regulation 7(1) nor 8(1) applies.

(2) This paragraph applies where the result of a test taken by P in accordance with regulation 6AB is inconclusive.

(3) Where paragraph (2) applies, P is to be treated as if the requirements of regulation 7 applied and P must enter into and remain in isolation in accordance with that regulation until the last day of the period of 10 days beginning with the day after the day on which P was last in a country or territory listed in Schedule 3.

(4) Where paragraph (2) applies but P subsequently takes a test to which paragraph (5) applies and—

(a) the result is positive, regulation 6E applies as if the test had been undertaken in accordance with regulation 6AB;

(b) the result is negative, P is no longer required to isolate in accordance with regulation 7.

(5) This paragraph applies to a test which—

(a) complies with the requirements for a day 2 test in paragraph 1 of Schedule 1C,

(b) is arranged in accordance with regulation 6AB(5), and

(c) is undertaken within 10 days of the day on which P arrived in Wales.”

Amendments to regulation 14

9. In regulation 14 (offences)—

(a) in paragraph (1)(h), for “6B and 6C” substitute “6AB”;

(b) in paragraph (1)(i), for “6D” substitute “6DA and 6DB”;

(c) in paragraph (1B), for “6B, 6C” substitute “6AB”;

(d) in paragraph (1C), for “regulation 6B” substitute “regulation 6AB”;

(e) in paragraph (1D), for “regulation 6C” substitute “regulation 6AB”.

Amendments to regulation 16

10. In regulation 16 (fixed penalty notices)—

(a) in paragraph (6)(ab), for “regulation 6D” substitute “regulation 6DA or 6DB”;

(b) in paragraph (6AB)—

(i) for “regulation 6B(3) or (5)” substitute “regulation 6AB(3)”;

(ii) for “regulation 6C(1) or (3)”, in both places it occurs, substitute “regulation 6AB(7)”.

Amendments to regulation 17

11. In regulation 17(2)(a) (use and disclosure of information)—

- (a) in paragraph (iii)—
 - (i) in the words before sub-paragraph (aa), for the words from “arranges” to the end substitute “arranges or takes a test under regulation 6AB”;
 - (ii) in sub-paragraph (bb)—
 - (aa) for “regulation 6B(2)(c)” substitute “regulation 6AB(2)(c)”;
 - (bb) for “regulation 6B(6)” substitute “regulation 6AB(6)”;
 - (iii) in sub-paragraph (dd), for “regulation 6C” substitute “regulation 6AB”;
- (b) in paragraph (iv), for “regulation 6B(8)” substitute “regulation 6AB(11)”;
- (c) in paragraph (v), for “regulation 6C” substitute “regulation 6AB”.

Amendments to Schedule 1

12. In Schedule 1 (passenger information), in paragraph 3—

- (a) for “regulation 6B” substitute “regulation 6AB”;
- (b) for “regulation 6B(7)” substitute “regulation 6AB(6)”.

Amendments to Schedule 1B

13. In Schedule 1B (booking information)—

- (a) in the shoulder note, for “Regulation 6B” substitute “Regulation 6AB”;
- (b) for paragraph 2(a) substitute—
 - “(aa) P’s home address;
 - (ab) where P is a person to whom regulation 7(1) or 8(1) applies, the address at which they intend to isolate (if different from their home address);
 - (ac) where P is a person to whom regulation 7(1) or 8(1) does not apply, the address or addresses where they intend to stay during the period of 10 days beginning on the day after the date of their arrival in the United Kingdom;”.

Amendments to Schedule 1C

14. In Schedule 1C (mandatory testing after arrival in Wales)—

(a) in the shoulder note, for “Regulation 6B” substitute “Regulation 6AB”;

(b) after paragraph 1 insert—

“**1A.** The circumstances mentioned in regulation 6AB(2)(a) are that P undertake the day 2 test no later than the end of the second day after the day on which P arrived in Wales.”;

(c) after paragraph 2 insert—

“**2A.** The circumstances mentioned in regulation 6AB(2)(b) are that P undertake the day 8 test no later than the end of the seventh day after the day on which P arrived in Wales.”

Amendments to Schedule 3

15. In Schedule 3 (exempt countries and territories outside the common travel area)—

(a) in Part 1, for “No countries, territories or parts of countries or territories are specified in this Part” substitute the following entries—

“Australia

Brunei Darussalam

Faroe Islands

Gibraltar

Iceland

Israel

New Zealand

Portugal

Singapore”;

(b) in Part 2, for “No territories are specified in this Part” substitute the following entries—

“Falkland Islands, South Georgia and the South Sandwich Islands

Saint Helena, Ascension and Tristan da Cunha”.

PART 3

Amendments to the Operator Liability Regulations

Amendments to the Operator Liability Regulations

16. The Operator Liability Regulations are amended in accordance with regulations 17 to 19.

Amendment to regulation 4

17. In regulation 4 (interpretation), in the definition of “notification of post arrival testing arrangements”, for “regulation 6B” substitute “regulation 6AB”.

Amendments to regulation 5A

18. In regulation 5A(2)(a) (requirement to ensure passengers possess notification of post arrival testing)—

- (a) for “regulation 6B” substitute “regulation 6AB”;
- (b) for “(requirement to arrange tests before arriving in Wales)” substitute “(requirement to book and undertake tests)”.

Amendment to regulation 9

19. In regulation 9(2)(a) (power to use and disclose information), for “6B” substitute “6AB”.

PART 4

Amendments to the Public Health Information Regulations

Amendments to the Public Health Information Regulations

20. The Public Health Information Regulations are amended in accordance with regulations 21 to 25.

Amendments to regulation 2

21. In regulation 2 (interpretation)—

- (a) in the definition of “authorised person”, in paragraphs (a) and (b), omit “or departing”;
- (b) omit the definition of “outbound international passenger service”.

Amendments to regulation 3

22. In regulation 3 (provision of information before booking and at check-in)—

- (a) for paragraph (2)(a) substitute—

“(a) in the case of a facility provided for booking travel online—

- (i) the information set out in Part 1 of the Schedule which must be embedded in a prominent place so that it is visible prior to a booking being made,
- (ii) a link to <https://gov.wales/testing-people-travelling-wales-coronavirus-covid-19>,

- (iii) a link to <https://www.gov.uk/provide-journey-contact-details-before-travel-uk>,
 - (iv) a link to <https://gov.wales/categories-persons-exempt-or-excepted-specific-travelling-requirements>,
 - (v) a link to <https://www.gov.uk/uk-border-control>,
 - (vi) a link to <https://www.nidirect.gov.uk/articles/coronavirus-covid-19-international-travel-advice>,
 - (vii) a link to <https://www.gov.scot/publications/coronavirus-covid-19-international-travel-quarantine/pages/overview/>, and
 - (viii) a link to <https://gov.wales/travelrules;>”;
- (b) for paragraph (2)(b) substitute—
- “(b) in the case of a facility provided for checking in online—
- (i) the information set out in Part 1 of the Schedule which must be embedded in a prominent place so that it is visible prior to the check-in being completed,
 - (ii) a link to <https://gov.wales/testing-people-travelling-wales-coronavirus-covid-19>,
 - (iii) a link to <https://www.gov.uk/provide-journey-contact-details-before-travel-uk>,
 - (iv) a link to <https://gov.wales/categories-persons-exempt-or-excepted-specific-travelling-requirements>,
 - (v) a link to <https://www.gov.uk/uk-border-control>,
 - (vi) a link to <https://www.nidirect.gov.uk/articles/coronavirus-covid-19-international-travel-advice>,
 - (vii) a link to <https://www.gov.scot/publications/coronavirus-covid-19-international-travel-quarantine/pages/overview/>, and
 - (viii) a link to <https://gov.wales/travelrules;>”;
- (c) in paragraph (2)(c)(ii)(cc), for “regulation 6B” substitute “regulation 6AB”;
- (d) omit paragraphs (2A), (2B) and (2C);
- (e) in paragraph (3), for “paragraphs (1) and (2A)” substitute “paragraph (1)”.

Amendments to regulation 3A

23. In regulation 3A (provision of information prior to departure)—

- (a) in paragraph (4)(a)(vi), for “regulation 6B” substitute “regulation 6AB”;
- (b) for paragraph (4)(b) substitute—
 - “(b) where the information is provided by email—
 - (i) the information set out in Part 1 of the Schedule,
 - (ii) a link to <https://gov.wales/testing-people-travelling-wales-coronavirus-covid-19>,
 - (iii) a link to <https://www.gov.uk/provide-journey-contact-details-before-travel-uk>,
 - (iv) a link to <https://gov.wales/categories-persons-exempt-or-excepted-specific-travelling-requirements>,
 - (v) a link to <https://www.gov.uk/uk-border-control>,
 - (vi) a link to <https://www.nidirect.gov.uk/articles/coronavirus-covid-19-international-travel-advice>,
 - (vii) a link to <https://www.gov.scot/publications/coronavirus-covid-19-international-travel-quarantine/pages/overview/>, and
 - (viii) a link to <https://gov.wales/travelrules;>”;
- (c) omit paragraphs (6) to (9).

Amendments to regulation 6

24. In regulation 6 (offences)—

- (a) in paragraph (1), omit “(7),”;
- (b) in paragraph (2), omit “or (7),”.

Substitution of the Schedule

25. For the Schedule substitute—

“SCHEDULE

Regulations 3, 3A and 4

Part 1

The information to be provided for the purposes of regulations 3(2)(a)(i), 3(2)(b)(i), 3(2)(c)(i), 3A(4)(b)(i) and 3A(4)(c) is—

“Essential information to enter the UK

Everyone entering the UK (including UK nationals and residents) must provide proof of a negative COVID-19 test taken within 3 days prior to direct departure to the UK.

Fill in your passenger locator form up to 48 hours before arrival. You must declare all countries you have visited or transited through in the 10 days prior to your arrival in the UK on your passenger locator form.

What you have to do after you arrive depends on the countries you have visited or transited through.

Before departure, check the list of red, amber and green countries as the list can change regularly.

Red list passengers

Book a Managed Quarantine Package

Complete a passenger locator form

You may not enter the UK unless you are a British or Irish National, or you have residence rights in the UK. You must enter through a designated port of entry and quarantine in a government approved hotel for 10 days.

Amber list passengers

Book tests for day 2 and 8

Complete a passenger locator form

Make plans to self-quarantine in private accommodation for 10 full days after arrival (or full duration of stay if less than 10 days).

Green list passengers

Book a test for day 2

Complete a passenger locator form

These measures apply to all persons (including UK nationals and residents) arriving in the UK from outside the common travel area comprising the United Kingdom, Ireland, the Isle of Man, and the Channel Islands. The British Overseas Territories are not in the common travel area. Public health requirements may vary depending upon in which nation of the UK you're staying.

England: <https://www.gov.uk/uk-border-control>

Northern Ireland:

<https://www.nidirect.gov.uk/articles/coronavirus-covid-19-international-travel-advice>

Scotland:

<https://www.gov.scot/publications/coronavirus-covid-19-international-travel-quarantine/pages/overview/>

Wales: <https://gov.wales/travelrules>

Failure to comply with these measures is a criminal offence and you could be fined. There are a limited set of exemptions from these measures. Check the list of exemptions carefully. You may be fined if you fraudulently claim an exemption.”

Part 2

The statement to be provided for the purposes of regulation 4 is—

(a) Welsh language version—

“Dyma neges iechyd y cyhoedd ar ran asiantaethau iechyd y cyhoedd y Deyrnas Unedig.

Os ydych wedi bod mewn gwlad oren neu goch o fewn y 10 niwrnod diwethaf, neu wedi tramwyo drwy wlad o'r fath, rhaid ichi fynd i gwarantín am y 10 niwrnod cyntaf ar ôl ichi gyrraedd. Mae hyn er mwyn eich diogelu chi ac eraill.

Symptomau'r coronafeirws yw peswch cyson newydd, tymheredd uchel neu golli eich synnwyr blasu neu aroglí arferol, neu newid yn eich synnwyr blasu neu aroglí arferol. Os ydych yn profi unrhyw un o'r symptomau hyn, ni waeth pa mor ysgafn ydynt, fe'ch cynghorir i wneud eich hunan yn hysbys i'r criw.

Camau syml y gallwch eu cymryd i helpu i'ch diogelu chi eich hun a'ch teulu yw:

Gwisgo masg

Golchi eich dwylo

Osgoi cyffwrdd â'ch wyneb â'ch dwylo

Cadw pellter cymdeithasol

Dal peswch a thisian mewn hances bapur a'i gwaredu ar unwaith.”;

(b) English language version—

“The following is a public health message on behalf of the UK’s public health agencies.

If you have been in or transited through an amber or red country within the previous 10 days you must quarantine for the first 10 days after you arrive. This is to protect yourself and others.

The symptoms of coronavirus are a new continuous cough, a high temperature or a loss of, or change in, normal sense of taste or smell. If you experience any of these symptoms, however mild, you are advised to make yourself known to the crew.

Simple measures you can take to help protect yourself and family are:

Wear a mask

Wash your hands

Avoid touching your face with your hands

Practice social distancing

Catch coughs and sneezes in a tissue and dispose of it immediately.”;

(c) the statement in paragraph (a) or (b) translated into an officially recognised language of the country of departure.”

Mark Drakeford

First Minister, one of the Welsh Ministers

At 2.40 p.m. on 14 May 2021

Explanatory Memorandum to the Health Protection (Coronavirus, International Travel, Operator Liability and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021

This Explanatory Memorandum has been prepared by 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 Health Protection (Coronavirus, International Travel, Operator Liability and Public Health Information to Travellers) (Wales) (Miscellaneous Amendments) Regulations 2021.

Mark Drakeford
First Minister

14 May 2021

1. Description

These Regulations amend the:

- [Health Protection \(Coronavirus, International Travel\) \(Wales\) Regulations 2020](#) (“the International Travel Regulations”);
- [Health Protection \(Coronavirus, International Travel, Pre-Departure Testing and Operator Liability\) \(Wales\) \(Amendment\) Regulations 2021](#) (“the Operator Liability Regulations”); and
- the [Health Protection \(Coronavirus, Public Health Information for Persons Travelling to Wales etc.\) Regulations 2020](#) (the “Public Health Information Regulations”).

2. Matters of special interest to the Senedd

Coming into force

In accordance with section 11A(4) of the Statutory Instruments Act 1946, the Llywydd has been informed that the Regulations do not adhere to the 21 day convention. This is necessary owing to the risk posed in relation to coronavirus and in particular variant strains of the same, from passengers travelling to the UK. The changes made by these Regulation continue the four nation approach to international travel and ensure continuing alignment with England and the other nations.

European Convention on Human Rights

The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights; the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

The Government considers that the Operator Liability Regulations and the Public Health Information Regulations do not engage any of the individual rights under the Human Rights Act 1998 and the European Convention on Human Rights. And, to the extent that any such rights may be engaged, the Government considers that the interference is minimal and can be justified as being necessary and proportionate to achieve a legitimate aim. The amendments to the Operator Liability Regulations and the Public Health Information Regulations made by these Regulations do not change the engagement of individual rights.

3. Legislative background

The Public Health (Control of Disease) Act 1984 (“the 1984 Act”), and regulations made under it, provide a legislative framework for health protection in England and Wales. These Regulations are made in reliance on the powers in sections 45B, 45F(2) and 45P(2) of the 1984 Act. The Explanatory Memoranda to the [International](#)

[Travel Regulations](#), the [Operator Liability Regulations](#) and the [Public Health Information Regulations](#) provide further information on these powers.

4. Purpose and intended effect of the legislation

These Regulations amend the International Travel Regulations to introduce a three level traffic light system of risk ratings for countries and territories and associated isolation and testing requirements for people who have arrived from those different destinations. After the addition of Maldives, Nepal and Turkey to the red list from 04:00 hours on Wednesday 12 May the red list and amber list of countries remain unchanged as do the requirements for managed quarantine (where necessary) and isolation and testing before and after arrival. These Regulations create a new category of a green list for countries and territories where the requirements will be to have a pre-departure test before travelling, to complete a passenger locator form and to have one post-arrival test on or before Day 2 but isolation will not be required.

These Regulations add Australia, Brunei, Falkland Islands, Faroe Islands, Gibraltar, Iceland, Israel, New Zealand, Portugal, Singapore, South Georgia and the South Sandwich Islands and St Helena, Tristan de Cunha, Ascension Island to the green list of countries and territories.

These Regulations also make associated changes to the Public Health Information Regulations so that the information operators of relevant services are required to provide to travellers arriving into Wales from outside the common travel area is updated to take account of the introduction of the green list arrangements.

These Regulations also make minor amendments to the Operator Liability Regulations to reflect the easing of the restrictions on international travel.

The Welsh Ministers consider that these amendments are proportionate to what they seek to achieve, which is to respond to a serious and imminent threat to public health.

5. Consultation

Given the serious and imminent threat arising from coronavirus and the need for an urgent public health response, there has been no public consultation in relation to these Regulations.

6. Regulatory Impact Assessment (RIA)

There has been no regulatory impact assessment in relation to these Regulations due to the need to put them in place urgently to deal with a serious and imminent threat to public health.



Elin Jones, MS
Llywydd
Senedd Cymru
Cardiff Bay
CF99 1SN

14 May 2021

Dear Elin

The Health Protection (Coronavirus, International Travel, Operator Liability and Public Health Information to Travellers) (Wales) (Miscellaneous Amendment) Regulations 2021

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this Statutory Instrument will come into force from 06:00 hours Monday 17 May, less than 21 days after it has been laid. A copy of the instrument and the Explanatory Memorandum that accompanies it are attached for your information.

This statutory instrument amends the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020, the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021 and the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020.

These Regulations introduce a three level traffic light system of risk ratings for countries and territories and associated isolation and testing requirements for people who have arrived from those different destinations.

Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
YP.PrifWeinidog@llyw.cymru • ps.firstminister@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I am copying this letter to the Minister for Rural Affairs, North Wales and Trefnydd, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive style with a large initial 'M'.

MARK DRAKEFORD

Agenda Item 6.3

SL(6)005 – The Plant Health etc. (Fees) (Wales) (Amendment) Regulations 2021

Background and Purpose

The Plant Health etc. (Fees) (Wales) (Amendment) Regulations 2021 (“the Regulations”) will make amendments to the Plant Health etc. (Fees) (Wales) Regulations 2018 (“the 2018 Regulations”) which apply in relation to Wales.

The Regulations provide for fees to be charged for plant health checks on commodities imported into Wales from EU Member States, Switzerland and Liechtenstein. Plant health checks (documentary, identity and physical) are carried out on regulated consignments imported into Wales from non-EU countries. The highest risk commodities are subject to 100% documentary, identity and physical checks. The level of identity and physical checks on other commodities is based on risk.

Fees are applied for checks under the 2018 Regulations. For consignments eligible for reduced levels of physical checks a proportionally reduced fee is applied to every imported consignment.

From 1 January 2021 plant health checks are also being carried out on consignments of regulated plants, plant products and other objects imported from EU member States, Switzerland and Liechtenstein. Under a phased approach, higher risk goods are subject to documentary, identity and physical checks from January. Documentary, identity and physical checks on other regulated plants, plant products and other objects will be phased in through 2021 and 2022.

In line with the standard approach that the full cost of service delivery be recovered from businesses using these services, these Regulations apply fees for checks on imports of regulated plants, plant products and other objects from EU Member States, Switzerland and Liechtenstein. In order to give businesses time to adjust to the new arrangements, the fees for documentary, identity and physical checks on the higher risk goods will not be applied until June 2021. Fees for identity and physical checks on the remaining regulated goods from EU Member States, Switzerland and Liechtenstein will be applied from 1 March 2022.

Under the 2018 Regulations there is a single combined fee for a documentary and identity check, reflecting the fact that both those checks were previously carried out at 100% on all consignments. Under the current rules the frequency of the identity check is linked to that of the physical check; so any reduction in the level of physical inspection will also apply to the identity check. These Regulations provide for a separate fee for documentary and identity checks for all consignments.

These Regulations do not make any other changes to existing fees for checks on consignments imported from non-EU countries other than Switzerland and Liechtenstein.

The Explanatory Memorandum notes that similar changes are to be introduced by the UK and Scottish governments.



The Regulations also make amendments to provide an exemption from the payment of fees for pre-export and export certification services where goods are moving from Wales to a business or private individual in Northern Ireland. The exemption also applies to movements of goods by private individuals in their passenger baggage. This is to ensure that trade between Wales and Northern Ireland is not subject to additional plant health costs.

Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following two points are 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.

These Regulations amend the fees payable to the Welsh Ministers in the circumstances described above.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

The Interim Committee notes and welcomes the fact that the Welsh Government has carried out a consultation exercise in relation to the content of the majority of the Regulations. However, we note the following paragraphs in the Explanatory Memorandum:

“Stakeholders have not been consulted regarding the exemption from the payment of fees for pre-export and export certification services where goods are moving from Wales to a business or private individual in Northern Ireland, as these amendments are considered technical operability amendments and provide an exemption to the payment of fees.”

Welsh Government response

A Welsh Government response is not required.



Legal Advisers
Interim Subordinate Legislation Committee
27 May 2021



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.

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**

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>of 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	0.15	
	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	0.26	

	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

Explanatory Memorandum to the Plant Health etc. (Fees) (Wales) (Amendment) Regulations 2021

This Explanatory Memorandum has been prepared by the Rural Development & Legislation Division within the Department for Environment, Skills and Natural Resources of the Welsh Government and is laid before the Senedd 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) (Wales) (Amendment) Regulations 2021.

Julie James MS
Minister for Climate Change
18 May 2021

Part 1

1. Description

The Plant Health etc. (Fees) (Wales) (Amendment) Regulations 2021 (the “instrument”) will make amendments to the Plant Health etc. (Fees) (Wales) Regulations 2018 (“the 2018 Regulations”) which apply in relation to Wales. It provides for fees to be charged for plant health checks on commodities imported into Wales from EU member States, Switzerland and Liechtenstein. It also amends the relevant pre-export and export certification fees to ensure they do not apply for movements of goods between Wales and Northern Ireland.

2. Matters of special interest to the Senedd

None.

3. Legislative background

The instrument is being made by the Welsh Ministers 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.

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 specify fees payable to the Welsh Ministers in relation to plant health services, including import inspection services, provided in Wales.

The Protocol of Ireland / Northern Ireland means Northern Ireland remains in the EU plant health regime. Therefore, all movements of regulated plants between GB and Northern Ireland must meet EU third country requirements, including being accompanied by a phytosanitary certificate. If pre-exit fees related to production of phytosanitary certificates were not amended, they would apply in full to trade in regulated plants, plant products and other objects between Wales and Northern Ireland. This

would add additional costs to businesses when carrying out trade within the UK internal market.

The 2018 Regulations set fees for delivery of plant health services in Wales by the Welsh Ministers. This includes fees for pre-export and export certification services required to comply with third country entry requirements relating to plant health controlled material.

4. Purpose and intended effect of the legislation

Plant health checks (documentary, identity and physical) are carried out on regulated consignments imported into Wales from non-EU countries. The highest risk commodities are subject to 100% documentary, identity and physical checks. The level of identity and physical checks on other commodities is based on risk.

Fees are applied for checks under the 2018 Regulations. For consignments eligible for reduced levels of physical checks a proportionally reduced fee is applied to every imported consignment.

From 1 January 2021 plant health checks are also being carried out on consignments of regulated plants, plant products and other objects imported from EU member States, Switzerland and Liechtenstein. Under a phased approach, higher risk goods are subject to documentary, identity and physical checks from January. Documentary, identity and physical checks on other regulated plants, plant products and other objects will be phased in through 2021 and 2022.

In line with the standard approach that the full cost of service delivery be recovered from businesses using these services, this instrument applies fees for checks on imports of regulated plants, plant products and other objects from EU member States, Switzerland and Liechtenstein. In order to give businesses time to adjust to the new arrangements, the fees for documentary, identity and physical checks on the higher risk goods will not be applied until June 2021. Fees for identity and physical checks on the remaining regulated goods from EU member States, Switzerland and Liechtenstein, as set out in Schedule 2A, will be applied from 1 March 2022.

Under the 2018 Regulations there is a single combined fee for a documentary and identity check, reflecting the fact that both those checks were previously carried out at 100% on all consignments. Under Regulation (EU) 2017/625 the frequency of the identity check is linked to that of the physical check; so any reduction in the level of physical inspection will also apply to the identity check. This instrument provides for a separate fee for documentary and identity checks for all consignments.

This instrument does not make any other changes to existing fees for checks on consignments imported from non-EU countries other than Switzerland and Liechtenstein.

Similar changes are to be introduced by the UK and Scottish governments.

This Instrument makes amendments to provide an exemption from the payment of fees for pre-export and export certification services where goods are moving from Wales to a business or private individual in Northern Ireland. The exemption also applies to movements of goods by private individuals in their passenger baggage.

The instrument will ensure that trade between Wales and Northern Ireland is not subject to additional plant health costs.

5. Consultation

Whilst a formal consultation with stakeholders was not carried out by the UK Government, the UK Government have engaged extensively with stakeholders, including GB bodies which represent interests in Wales, throughout 2020, regarding the planned changes following the end of the Transition period. This included explanations of the planned charging regime for EU imports in October 2020 and was followed with details of the changes in December 2020. EU imports were also discussed in detail with the UK trade bodies, including the National Farmers' Union, Horticultural Trades Association and Fresh Produce Consortium during this period as well. Very limited feedback was received; mainly asking for clarification on how the new fees will be applied.

A consultation was conducted by the Welsh Government. It ran from 12 February to 16 April 2021 and engaged bodies including the National Farmers Union, Royal Horticultural Society, Agriculture and Horticulture Development Board, Horticulture Trades Association, British Potato Trade Association, National Trust, Grow Wales/Tyfu Cymru, Confederation of Forestry Industries, Fresh Produce Consortium, Woodland Trust and the British Society of Plant Breeders. Very limited feedback was received: mainly supportive of the alignment of plant health enforcement across England and Wales and concerned about the application of fees as business adjusts to the UK leaving the EU. The responses were considered and, on balance, it was concluded that they did not detract from the policy objectives of the instrument.

Stakeholders have not been consulted regarding the exemption from the payment of fees for pre-export and export certification services where goods are moving from Wales to a business or private individual in Northern Ireland, as these amendments are considered technical operability amendments and provide an exemption to the payment of fees.

6. Regulatory Impact Assessment (RIA)

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. The instrument implements changes that are consequential to the UK's withdrawal from the EU and introduces a consistent approach to fees charged for plants imported from EU countries and non-EU countries. The instrument does not introduce policy changes to the regulatory regime itself.

There are no significant financial implications. The legislation applies equally to all businesses importing controlled plant health material, including small businesses. The risk of introducing harmful organisms is not mitigated by the size of the business.

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.

SL(6)006 – The Plant Health (Fees) (Forestry) (Wales) (Amendment) Regulations 2021

Background and Purpose

These Regulations will make amendments to the Plant Health (Fees) (Forestry) (Wales) Regulations 2019 (“the 2019 Regulations”) which apply in relation to Wales.

These Regulations make amendments to provide an exemption from the payment of fees for pre-export and export certification services where goods are moving from Wales to a business or private individuals in Northern Ireland. The exemption also applies to movements of goods by private individuals.

These Regulations also amend an error in Schedule 3 of the 2019 Regulations, where the reference was to weight whereas the reference should have been to volume. This means that Schedule 3 will be consistent with the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015.

Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

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

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

We note there has been no consultation on these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

“Stakeholders have not been consulted regarding the exemption from the payment of fees for pre-export and export certification services where goods are moving from Wales to a business or private individual in Northern Ireland, as these amendments are considered technical operability amendments and provide an exemption to the payment of fees.”



Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Interim Subordinate Legislation Committee

2 June 2021



Senedd Cymru

Pwylgor Is-ddeddfwriaeth Dros Dro

—

Welsh Parliament

Interim Subordinate Legislation Committee

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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

**The Plant Health (Fees) (Forestry)
(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 paragraphs 21(a) and (b) of Schedule 7 to the European Union (Withdrawal) Act 2018 (c. 16) and amend the Plant Health (Fees) (Forestry) (Wales) Regulations 2019 (S.I. 2019/497 W.114) (the “2019 Regulations”).

Regulation 2 amends the 2019 Regulations to provide an exemption from the payment of fees otherwise payable to the Welsh Ministers in respect of applications to the Forestry Commission for a phytosanitary certificate for export (or re-export) in certain circumstances.

The exemption in regulation 2 ceases to have effect at the end of 31 December 2022.

Regulation 3 amends the units referred to for item 2 in the table in Schedule 3 of the 2019 Regulations in order to correct an error.

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.

In accordance with paragraph 12(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of these Regulations has been laid before Senedd Cymru.

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

**The Plant Health (Fees) (Forestry)
(Wales) (Amendment) Regulations
2021**

Made

*Coming into force the day after the day on
which they are made*

The Welsh Ministers make these Regulations in exercise of the powers conferred by paragraph 7 of Schedule 4 and paragraphs 21(a) and (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 (Fees) (Forestry) (Wales) (Amendment) Regulations 2021 and they come into force on the day after the day on which they are made.

Amendment to the Plant Health (Fees) (Forestry) (Wales) Regulations 2019

2.—(1) The Plant Health (Fees) (Forestry) (Wales) Regulations 2019⁽¹⁾ are amended as follows.

(2) In regulation 2, after the definition of “plant passport authority”, 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;”.

(3) In regulation 3—

(a) in paragraph (5A), at the beginning, insert “Subject to paragraph (5C),”;

(b) after paragraph (5B), insert—

“(5C) The fee specified in Schedule 4A is 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.

(1) SI 2019/497 W.114

(5D) Paragraph (5C) ceases to have effect at the end of 31 December 2022.”.

3. In the table in paragraph 1 of Schedule 3 in relation to item 2 (*Wood (other than wood in the form of isolated bark, wood shavings, wood chips or sawdust)*) in the third column (unit);

- (1) replace “25000kg with “100m³”; and
- (2) replace “1000kg” with “m³”.

Name

Minister for Climate Change, one of the Welsh Ministers

Date

Explanatory Memorandum to the Plant Health (Fees) (Forestry) (Wales) (Amendment) Regulations 2021

This Explanatory Memorandum has been prepared by the Rural Development & Legislation Division within the Department for Environment, Skills and Natural Resources of the Welsh Government and is laid before the Senedd 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 (Fees) (Forestry) (Wales) (Amendment) Regulations 2021.

Julie James MS
Minister for Climate Change
18 May 2021

Part 1

1. Description

The Plant Health (Fees) (Forestry) (Wales) (Amendment) Regulations 2021 (the “instrument”) will make amendments to the Plant Health (Fees) (Forestry) (Wales) Regulations 2019 (“the 2019 Regulations”) which apply in relation to Wales. It amends the relevant pre-export and export certification fees to ensure they do not apply for movements of goods between Wales and Northern Ireland.

2. Matters of special interest to the Senedd

None.

3. Legislative background

The instrument is being made by the Welsh Ministers 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.

This instrument is subject to the draft affirmative procedure.

Article 80 of Regulation (EU) 2017/625 makes provision for competent authorities to be able to charge fees or charges to cover the costs of official controls and other official activities, including export certification. The Plant Health (Fees) (Forestry) (Wales) Regulations 2019 (“the 2019 Regulations”) specify fees payable to the Welsh Ministers in relation to plant health (forestry) services, including export certification and inspections in connection with a plant passport authority, provided in Wales.

The Protocol of Ireland / Northern Ireland means Northern Ireland remains in the EU plant health regime. Therefore, all movements of regulated plants between GB and Northern Ireland must meet EU third country requirements, including being accompanied by a phytosanitary certificate. If pre-exit fees related to production of phytosanitary certificates were not amended, they would apply in full to trade in regulated plants, plant products and other objects between Wales and Northern Ireland. This would add additional costs to businesses when carrying out trade within the UK internal market.

4. Purpose and intended effect of the legislation

This Instrument makes amendments to provide an exemption from the payment of fees for pre-export and export certification services where goods are moving from Wales to a business or private individuals in Northern Ireland. The exemption also applies to movements of goods by private individuals in their passenger baggage.

The instrument will ensure that trade between Wales and Northern Ireland is not subject to additional plant health costs.

The Regulations also amend an error in Schedule 3 of the 2019 Regulations where the reference was to weight whereas the reference should have been to volume. This means that Schedule 3 will be consistent with the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015.

5. Consultation

Stakeholders have not been consulted regarding the exemption from the payment of fees for pre-export and export certification services where goods are moving from Wales to a business or private individual in Northern Ireland, as these amendments are considered technical operability amendments and provide an exemption to the payment of fees.

6. Regulatory Impact Assessment (RIA)

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.

Competition Assessment

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