

## **Government Response to the draft LJCC report on The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020**

### **Reporting points 1-3**

These points focus on regulations 16(5), 28(8) and 31(5) that provide powers for persons accompanying plant health inspectors. Biosecurity is a national concern, the Animal and Plant Health Agency enforce the plant health regime across Great Britain and like provisions appear in equivalent legislation in England and Scotland. Regulations 16, 28 and 31 set out the plant health inspector's respective purpose. The plant health inspector may be accompanied by such other persons as they consider necessary to pursue that purpose. The powers of the persons accompanying a plant health inspector are limited, as indeed are the powers of the plant health inspector themselves, in that they can only be exercised in the pursuit of their purpose and in accordance with administrative law.

Article 8 (Right to respect for private and family life) of the European Convention on Human Rights is a qualified right. The right has a two-paragraph structure the second of which sets out the grounds on which interference with the right can be justified - several of those grounds including public safety, economic well-being of the country, prevention of crime and the protection of health can apply to biosecurity. Proportionality is the balance between individual and public interests - we appreciate the challenge of considering proportionality in the absence of context and hope the following paragraphs assist the Committee's appreciation of the mischief in mind.

Plant pests can impact on economic activity, human health, food security, biodiversity and the environment. The total asset value of the UK's woodlands was estimated in the Tree Health Resilience Strategy 2018 as £175 billion with an annual value of £4.9 billion. This figure monetises environmental and social aspects of trees and woodland as well as economic goods. In 2019 a journal was published which estimated the cost of managing ash dieback in the UK to be in the region of £15 billion. Half of which will be over the next 10 years and incorporates natural capital modelling as well as operational costs of felling the trees. Grassland is worth around £250 million to the Welsh economy annually, the arable sector contributes around £80 million and the horticulture sector around £172 million.

Decisive interventions are often imperative for biosecurity as plant pests can present a mobile threat - they can be distributed during trade and certain pests can fly. Powers of intervention are necessary as members of the public cannot be expected to have the knowledge, expertise or equipment to address plant pest infestations themselves. Plant health inspectors can engage other persons, usually specialist contractors (including arborists, auditors, experts in the operation of machinery to excavate soil/incinerate infested material) to assist them to ensure compliance with the plant health regime, to prevent the spread of and eradicate plant pests. Examples of plant pest infestations that have resulted in the engagement of other persons include:

Asian Longhorn beetle the beetle infests a wide range of broad-leaved trees, including species grown commercially for timber and fruit production. If established

the beetle can significantly alter forest and woodland ecosystems. In 2012 the beetle was detected in Kent and trees within 10 kilometres of the original infestation were felled. Felling contractors were engaged to assist the work and it was impractical for plant health inspectors to be present for the duration of the felling. As a result of this rapid eradication action, annual surveys found no evidence of the beetle's continuing presence.

Oak processionary moth the moth is a hazard to plant, animal and human health. It damages oak trees and has contributed to the loss of growth, reduction in timber values and long term decline of the tree in several countries. Contact with the hairs of the caterpillars can irritate the eyes and skin and cause breathing difficulties. Infestations can lead to the closure of public spaces. In 2012 the moth was detected in Cardiff. Specialist contractors were engaged to remove the caterpillar nests and fell the affected trees.

Meloidogyne fallax is a root-knot nematode. It has a wide host range and can cause considerable damage to potatoes, oyster plants, carrots and sports turf. In 2015 the pest was discovered at the Cardiff City Stadium. Swift action to contain and remove the pest by excavating soil from the pitch was assisted by specialist contractors to avoid the pitch being closed and a loss of revenue for the football club.

#### **Reporting point 4**

Commission Implementing Decision (EU) 2015/789, as originally published, had two Annexes. The Decision, as amended by Commission Implementing Decision (EU) 2017/2352 and as in force, has three Annexes.