

## **Explanatory Memorandum to the Plant Health (Fees) (Forestry) (Wales) (Amendment) (No.2) Regulations 2021**

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

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Plant Health (Fees) (Forestry) (Wales) (Amendment) (No.2) Regulations 2021. There are good reasons for making the provisions in this instrument and they are a reasonable course of action.

As this instrument is made under the European Union (Withdrawal) Act 2018 I have made the relevant statements as set out in the Annex.

Julie James MS  
**Minister for Climate Change**

15 July 2021

## **1. Description**

The Plant Health (Fees) (Forestry) (Wales) (Amendment) (No.2) 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 provides for inflationary increases in the fees for services in relation to plant passport authorities and applications for phytosanitary certificates (including phytosanitary certificates for re-export).

## **2. Explanations**

*What did any relevant EU law do before exit day?*

The 2019 Regulations set fees for delivery of plant health (forestry) services in Wales. Fees included in the 2019 Regulations apply to export certification services which are required to comply with third country entry requirements relating to plant health-controlled material. Also included are fees for inspections in connection with a plant passport authority. All businesses that use these services are charged a fee.

*Why is it being changed?*

Amendments are being made to provide for increases in the fees for services, in relation to Wales, to reflect an inflationary rise in the cost of providing those services since the introduction of those fees. There have been no changes to these fees since they were introduced.

*What will it now do?*

The instrument will allow the Forestry Commission, on behalf of the Welsh Ministers to recover more of its plant health costs through fees for services.

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

None.

## **4. Legislative background**

The instrument is being made by Welsh Ministers in exercise of the powers conferred by paragraph 4 of schedule 7 of the European Union (Withdrawal) Act 2018 to amend regulations that relate to fees that were originally made under the European Communities Act 1972.

This instrument is made under negative procedure as it relates to fee changes which solely relate to the value of money.

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.

## **5. Purpose and intended effect of the legislation**

The instrument makes amendment to increase the fees for services relating to plant passports and phytosanitary certification, to reflect an inflationary rise in the cost of providing those services since the introduction of those fees. These increased fees will mirror the regulatory changes being made in England which will come into force from 15 July 2021.

The instrument will allow the Forestry Commission, acting on behalf of Welsh Ministers, to recover more of its plant health costs through fees for services. The improvement in recovery of costs will apply to the application, examination, production and amendment of phytosanitary certificates to meet third country entry requirements as well as to the inspections in connection with a plant passport authority in Wales.

## **6. Consultation**

Stakeholders have not been consulted as all the amendments introduced by this instrument are inflationary increases and not policy changes.

## **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. An RIA has not been prepared for this instrument as it simply increases the annual fee in line with consumer price inflation. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.

## **7. Competition Assessment**

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

## ANNEX

### Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

#### **1. Appropriateness statement**

- 1.1 The Minister for Climate Change, Julie James, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Plant Health (Fees) (Forestry) (Wales) (Amendment) (No2) Regulations 2021 do no more than is appropriate”.

- 1.2 This is the case because the instrument ensures the current policy services for export certification to third countries and for plant health services within Wales is maintained.

#### **2. Good reasons**

- 2.1 The Minister for Climate Change, Julie James, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

- 2.2 It is Welsh Government policy to recover the cost of plant health services through fees and to make inflationary increases to fees as appropriate to achieve cost-recovery.

#### **3. Equalities**

- 3.1 The Minister for Climate Change, Julie James, has made the following statement(s):

This instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

- 3.2 The Minister for Climate Change, Julie James, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Julie James, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

#### **4. Explanations**

- 4.1 The explanations statement has been made in Paragraph 2 of this Explanatory Memorandum.