

SL(6)463 – The Plant Health etc. (Miscellaneous Fees) (Amendment) (Wales) Regulations 2024

Background and Purpose

The Plant Health etc. (Miscellaneous Fees) (Amendment) (Wales) Regulations 2024 is made under powers conferred by the European Union (Withdrawal) Act 2018 (“the Withdrawal Act”) to amend legislation in the field of plant health and tree health fees.

The instrument makes amendments to the Plant Health etc. (Fees) (Wales) Regulations 2018 and the Plant Health (Fees) (Forestry) (Wales) Regulations 2019 which apply in relation to Wales. It aligns fees for plants and plant products with the frequency of checks changes occurring Great Britain-wide following implementation of the Borders Target Operating Model (TOM). The instrument will also amend fees associated with documentary checks as a result to the amendment of identity and physical checks.

The changes to the frequency of checks and introduction of risk-based import checks on medium-risk goods from EU member states, Liechtenstein, and Switzerland, from 30 April 2024 are being delivered by the Plant Health (Fees) (England) and Official Controls (Plant Health) (Frequency of Checks) (Amendment) Regulations 2024.

These Regulations will also correct an error to the Plant Health etc. (Fees) (Wales) Regulations 2018 made in Schedule 1 of the Plant Health etc. (Fees) (Amendment) (Wales) (EU Exit) (No. 2) Regulations 2022 where multiple fees were being charged for mixed consignments. The policy intention was to include all categories of plants for planting under one category, however the legislation resulted in fees being charged incorrectly and by category rather than a consignment. The amendment will ensure all categories of plants for planting fall under one category, this will ensure only one flat rate fee is applied to consignments consisting of plants for planting.

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

The following three points are identified for reporting under Standing Order 21.2 in respect of this instrument.

- 1. Standing Order 21.2(vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts**



In regulation 2(3), in the new Schedule 1, in the entry for “Pyrus”, in column 2, there is a difference between the English and Welsh texts. In the English text, the list of countries beginning with “Any third country other than...” ends with “Liechtenstein, **South Africa or Switzerland**”. However, the country “South Africa” is missing from the Welsh text so that the corresponding list in the translation ends with “Liechtenstein or Switzerland”.

2. Standing Order 21.2(vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts

In regulation 3, there is a difference between the English and Welsh texts. In the words in parentheses after “Schedule 1”, the English text states “(fees in connection with a plant passport authority)”. However, the meaning of the translation in the corresponding place in the Welsh text is “(fees for inspections in connection with a plant passport authority)”. Therefore, the Welsh text includes additional words meaning “for inspections” as found in the existing heading of Schedule 1 to the Plant Health (Fees) (Forestry) (Wales) Regulations 2019..

3. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

In regulation 2(5), in the new Schedule 2B, in the shoulder note, it refers to “Regulation 3(2)(a)”. However, it should refer to “Regulation 3(2)(a) **and (b)**” because Schedule 2B is referred to in both sub-paragraphs (a) and (b) of the new paragraph (2) in regulation 3 of the Plant Health etc. (Fees) (Wales) Regulations 2018, which has been substituted by regulation 2(2)(a) of these Regulations.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

6 March 2024

