

SL(5)670 – The Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020

Background and Purpose

These Regulations are made in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of plant health. Part 2 amends domestic legislation relating to plant health. Part 3 contains a revocation.

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(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

There is a requirement under paragraph 4(a) of Schedule 2 to the European Union (Withdrawal) Act 2018 for the Welsh Ministers to consult the Secretary of State regarding regulations that are due to come into force prior to Implementation Period (IP) completion day. Parts 1 and 3 of these regulations will come into force immediately before IP completion day.

In accordance with this requirement, the Secretary of State has been consulted through a separate letter on 20 November 2020.

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

These Regulations set out and amend complex and intricate rules on plant health. We have been unable to work out the reasoning behind some of the changes, in particular changes to various fees under regulations 2(7) and 2(8). We would be grateful if the Welsh Government



could briefly explain why these specific fees are being omitted from the Plant Health etc. (Fees) (Wales) Regulations 2018.

Implications arising from exiting the European Union

These Regulations amend the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020, which give effect to Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants, and the plant health aspects of Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls. They also amend the Plant Health etc. (Fees) (Wales) Regulations 2018.

These Regulations and the EU Regulations will form part of retained EU law after IP completion day (i.e. the end of the implementation period, on 31 December 2020).

Welsh Government response

Merits Scrutiny

Point 2

The Committee seeks clarification of the reason for the omissions of regulation 6A (Potatoes originating in Lebanon: fee) and entries relating to Citrus, Mangifera and Passiflora in the table in Schedule 2 (Import inspection fees: reduced rates) to the Plant Health etc. (Fees) (Wales) Regulations 2018 ('the Fees Regulations') made by regulations 2(7) and 2(8) of the Plant Health (Amendment etc.) (Wales) (EU Exit) Regulations 2020.

Regulation 6A of the Fees Regulations reflects Commission Implementing Decision (EU) 2019/1614 authorising Member States to provide for derogations from certain provisions of Council Directive 2000/29/EC in respect of potatoes, other than potatoes intended for planting, originating in the regions of Akkar and Bekaa of Lebanon. Due to the higher level of potato protections in the UK the derogation has not been used and, as such, is not being retained.

Entries relating to Citrus, Mangifera and Passiflora in the table in Schedule 2 to the Fees Regulations reflect the protection of crops grown in and relevant to the EU. Their omission reflects that domestic legislation is being amended to adjust its focus toward risks to crops grown in and relevant to Great Britain.

Equivalent provisions are proposed by the UK Government and are found in regulation 4 of the draft Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (a link to which is provided below for the Committee's ease of reference).

<https://www.legislation.gov.uk/ukdsi/2020/9780348214949/regulation/4>

Legal Advisers

Legislation, Justice and Constitution Committee
9 December 2020

