

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.