

This Statutory Instrument has been made in part to correct an error in S.I. 2018/289 and is being issued free of charge to all known recipients of that Statutory Instrument.

Draft Regulations laid before Parliament under paragraph 12(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2022 No. XXXX

PLANT HEALTH, ENGLAND

SEEDS, ENGLAND

**The Plant Health etc. (Miscellaneous Fees) (Amendment)
(England) Regulations 2022**

Made - - - - *****

Coming into force - - *22nd July 2022*

The Secretary of State makes these Regulations in exercise of the powers conferred by paragraphs 1 and 7 of Schedule 4 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018(a).

In accordance with paragraph 12(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

In accordance with paragraphs 3(1) and 10 of Schedule 4 to that Act, the Treasury have consented to the making of these Regulations.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Plant Health etc. (Miscellaneous Fees) (Amendment) (England) Regulations 2022 and come into force on 22nd July 2022.

(2) They extend to England and Wales, but apply in relation to England only.

Amendment of the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015

2.—(1) The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015(b) are amended as follows.

(2) In regulation 3 (fees), in paragraph (5D), for “2022” substitute “2023”.

(a) 2018 c. 16; paragraph 21 of Schedule 7 was amended by paragraph 53(2) of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(b) S.I. 2015/350; relevant amending instruments are S.I. 2019/1488, 2021/623.

Amendment of the Plant Health etc. (Fees) (England) Regulations 2018

3.—(1) The Plant Health etc. (Fees) (England) Regulations 2018(a) are amended as follows.

(2) In regulation 3 (import inspection fees)—

(a) in paragraph (1)—

(i) for “are described in” substitute “fall within”;

(ii) omit the words from “or any machinery” to the end;

(b) for paragraph (2A) substitute—

“(2A) Subject to paragraphs (2B), (2C) and (2E), the fees payable by the importer of a third country consignment in respect of liability to a physical check and identity check that may be carried out on the consignment (whether or not any such check is carried out) are, where a consignment includes plants, plant products or other objects of a description specified in column 1 of the table, which originate in a country specified in the corresponding entry in column 2 of the table—

(a) the fee specified in column 3 of the table in respect of a physical check of plants, plant products or other objects of each such description included in the consignment; and

(b) the fee specified in column 4 of the table in respect of an identity check of plants, plant products or other objects of each such description included in the consignment.”;

(c) for paragraph (2B) substitute—

“(2B) The fees specified under paragraph (2A) in respect of liability to a physical check and identity check of cut flowers, fruit, vegetables or leaves are payable in respect of a single lot of the kind in question.”;

(d) for paragraph (2C) substitute—

“(2C) Where a consignment includes two or more plants, plant products or other objects falling within a single category specified in column 1 of the table, the fee payable under paragraph (2A) in respect of liability to a physical check or identity check of the plants, plant products or other objects within the category in question is—

(a) so far as the consignment includes two or more lots either of cut flowers or of fruit, vegetables or leaves—

(i) the fee payable in respect of a single lot of cut flowers or of fruit, vegetables or leaves (as the case may be); or

(ii) where different amounts are specified in relation to the lots in question, a fee equal to the highest of the fees relating to liability to a physical check or identity check (as the case may be);

(b) so far as the consignment includes any other plants, plant products or other objects which originate in the same country—

(i) the fee payable in respect of a single plant, plant product or other object of any of the descriptions in question; or

(ii) where different amounts are specified in relation to those plants, plant products or other objects, a fee equal to the highest of the fees relating to liability to a physical check or identity check (as the case may be).”;

(e) omit paragraph (2D);

(f) for paragraph (2E) substitute—

“(2E) No fee is payable under paragraph (2A) in respect of any consignment originating in an EU Member State, Liechtenstein or Switzerland that is imported before the end of the

(a) S.I. 2018/289; relevant amending instruments are S.I. 2019/1257, 1488, 2020/9, 1482, 2021/623, 625, 1443.

transitional staging period, in respect of any plants or plant products specified in Schedule 2A that are contained in the consignment.”;

(g) after paragraph (2E), insert—

“(2F) Where an inspector suspects that a third country consignment is infected with a controlled plant pest and takes a sample from the consignment for laboratory testing to confirm whether the pest is present, the fee payable by the importer of the third country consignment is £147.35 for each sample tested.

(2G) For the purposes of this regulation, the table and Schedule 2A—

- (a) “leaves” means vegetables, herbs and spices, so far as they take the form of leaves with or without stems or stalks attached, and the loose leaves of any other plants;
- (b) “vegetables”, except in sub-paragraph (a), means vegetables other than in so far as they take the form of leaves.”;

(h) for paragraph (3) substitute—

“(3) In this regulation—

- (a) “category”, in relation to anything specified in column 1 of the table, means a grouping which is listed in column 1 in bold typeface;
- (b) “controlled plant pest” means a GB quarantine pest, a provisional GB quarantine pest, a PFA quarantine pest or a GB regulated non-quarantine pest(a);
- (c) “description”, in relation to anything specified in column 1 of the table, means the specific description in respect of which a fee is specified;
- (d) “lot” means one or more units of a single commodity, identifiable by its homogeneity of composition and origin, which form part of a consignment;
- (e) “the table” means the table in Schedule 1;
- (f) “third country consignment” means a consignment that is introduced into England from a third country;
- (g) “the transitional staging period” has the meaning given in Annex 6 to Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products(b).”.

(3) In regulation 5A (export certification services and pre-export services: fees), in paragraph (4B), for “2022” substitute “2023”.

(4) For Schedule 1 substitute the Schedule 1 contained in Schedule 1 to these Regulations.

(5) Omit Schedules 1A and 2.

(6) For Schedule 2A substitute the Schedule 2A contained in Schedule 2 to these Regulations.

Date *Name*
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

We consent

Date *Name*
Name
Two of the Lords Commissioners of Her Majesty’s Treasury

(a) “GB quarantine pest”, “GB regulated non-quarantine pest”, “PFA quarantine pest” and “provisional GB quarantine pest” are defined in Article 2(32), (33), (37) and (40), respectively, of EUR 2016/2031 (as amended by S.I. 2020/1482). Those definitions apply for the purposes of S.I. 2018/289 by virtue of regulation 2(2) of that S.I.

(b) Annex 6 is inserted into EUR 2017/625 by S.I. 2020/1481 and amended by S.I. 2021/429, 809, 1096 and 1443.

SCHEDULE 1

Regulation 3(4)

“SCHEDULE 1 Regulation 3(2A) and (2C)

Import inspection fees

<i>Column 1</i> <i>Category and description of plant, plant product or other object</i>	<i>Column 2</i> <i>Country of origin</i>	<i>Column 3</i> <i>Fee: Physical check (£)</i>	<i>Column 4</i> <i>Fee: Identity check (£)</i>
Bulbs, corms, rhizomes, tubers (other than tubers of potatoes), onions, shallots, garlic, leeks and other alliaceus vegetables, dormant, not in substrate			
<i>All genera</i> intended for planting, other than commercial flower production, and not intended for final users ⁽¹⁾	Any third country	205.04	5.25
<i>All genera</i> intended for planting, and intended for commercial flower production, or for final users ⁽¹⁾	Any third country	20.50	0.52
Cuttings, seedlings, intended for planting, not specified or included elsewhere in this table			
<i>All genera</i>	Any third country	32.15	1.57
Woody plants⁽²⁾ (other than any specified or included elsewhere in this table), intended for planting			
<i>All genera</i>	Any third country	32.15	1.57
Non-woody plants⁽³⁾ (other than any specified or included elsewhere in this table), intended for planting, and intended for final users⁽¹⁾			
<i>All genera</i>	Any third country	32.15	1.57
Indoor plants⁽⁴⁾			
<i>All genera</i>	Any third country	32.15	1.57
Other plants intended for planting, not specified or included elsewhere in this table			
<i>All genera</i>	Any third country	32.15	1.57
Cut flowers			
<i>Dendranthema</i> (DC.) Des Moul. (<i>Chrysanthemum</i> L.)	Any EU Member State, Liechtenstein or Switzerland	1.28	0.15
	Columbia or Ecuador	21.37	2.62
	Any third country other than an EU Member State, Columbia, Ecuador, Liechtenstein or Switzerland	2.13	0.26
<i>Eryngium</i> Tournier ex Linnaeus.	Any EU Member	1.28	0.15

	State, Liechtenstein or Switzerland		
	Any third country other than an EU Member State, Liechtenstein or Switzerland	4.27	0.52
<i>Lisianthus L.</i>	Any third country	4.27	0.52
<i>Rosa L.</i>	Any EU Member State, Colombia, Ecuador, Liechtenstein or Switzerland	1.28	0.15
	Canada, India, Mexico or the USA	21.37	2.62
	Any third country other than an EU Member State, Canada, Colombia, Ecuador, India, Liechtenstein, Mexico, Switzerland or the USA	2.13	0.26
<i>Solidago L.</i>	Any EU Member State, Liechtenstein or Switzerland	1.28	0.15
	Any third country other than an EU Member State, Liechtenstein or Switzerland	4.27	0.52
<i>Other genera not specified or included elsewhere in this table</i>	Any EU Member State, Liechtenstein or Switzerland	1.28	0.15
	Any third country other than an EU Member State, Liechtenstein or Switzerland	2.13	0.26
Branches with foliage, parts of Conifers (other than bark or cut Christmas trees)			
<i>All genera</i>	Any EU Member State, Liechtenstein or Switzerland	1.01	0.15
	Any third country other than an EU Member State, Liechtenstein or Switzerland	1.69	0.26
Fruit, vegetables, leaves			
<i>Momordica L.</i>	Any EU Member State, Liechtenstein or Switzerland	1.59	0.15
	Any third country	26.55	2.62

	other than an EU Member State, Liechtenstein or Switzerland		
<i>Ocimum L.</i>	Any EU Member State, Liechtenstein or Switzerland	2.15	0.15
	Any third country other than an EU Member State, Liechtenstein or Switzerland	35.84	2.62
<i>Solanaceae</i> Juss. (other than <i>Solanum tuberosum L.</i>)	Any EU Member State, Liechtenstein or Switzerland	1.59	0.15
	Any third country other than an EU Member State, Liechtenstein or Switzerland	26.55	2.62
<i>Solanum melongena L.</i>	Any EU Member State, Liechtenstein or Switzerland	1.59	0.15
	Turkey	15.93	1.57
	Any third country other than an EU Member State, Liechtenstein, Switzerland or Turkey	2.65	0.26
<i>Other genera or species of fruit or vegetables not specified or included elsewhere in this table</i>	Any EU Member State, Liechtenstein or Switzerland	1.59	0.15
	Any third country other than an EU Member State, Liechtenstein or Switzerland	2.65	0.26
<i>Other leaves not specified or included elsewhere in this table</i>	Any EU Member State, Liechtenstein or Switzerland	2.15	0.15
	Any third country other than an EU Member State, Liechtenstein or Switzerland	3.58	0.26
Seeds (for sowing), tissue cultures			
<i>All genera, for trials or testing</i>	Any third country	12.81	0.52
<i>Brassicaceae</i> (other than for trials or testing)	Argentina, Australia, Bolivia, Brazil, Chile, New Zealand or Uruguay	128.13	5.25
	Any third country other than Argentina, Australia,	6.40	0.26

	Bolivia, Brazil, Chile, New Zealand or Uruguay		
<i>Capsicum</i> spp. L. (other than for trials or testing)	Any third country	128.13	5.25
<i>Poaceae</i> (other than for trials or testing)	Argentina, Australia, Bolivia, Brazil, Chile, New Zealand or Uruguay	128.13	5.25
	Any third country other than Argentina, Australia, Bolivia, Brazil, Chile, New Zealand or Uruguay	6.40	0.26
<i>Secale</i> L. (other than for trials or testing)	Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, South Africa or the USA	128.13	5.25
	Any third country other than Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, South Africa or the USA	6.40	0.26
<i>Solanum lycopersicum</i> L. (other than for trials or testing)	Any third country	128.13	5.25
<i>Solanum tuberosum</i> L. (True seed) (other than for trials or testing)	Any third country	128.13	5.25
<i>Trifolium</i> spp. (other than for trials or testing)	Argentina, Australia, Bolivia, Brazil, Chile, New Zealand or Uruguay	128.13	5.25
	Any third country other than Argentina, Australia, Bolivia, Brazil, Chile, New Zealand or Uruguay	6.40	0.26
<i>Triticum</i> L. (other than for trials or testing)	Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, South Africa or the USA	128.13	5.25
	Any third country other than Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, South Africa or the USA	6.40	0.26
X <i>Triticosecale</i> Wittm. ex A. Camus (other than for trials or testing)	Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan,	128.13	5.25

	South Africa or the USA		
	Any third country other than Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, South Africa or the USA	6.40	0.26
<i>Other genera or species not specified or included elsewhere in this table</i>	Any third country	6.40	0.26
Grain (other than seeds for sowing)			
<i>Secale L.</i>	Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, South Africa or the USA	142.98	5.25
<i>Triticum L.</i>	Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, South Africa or the USA	142.98	5.25
X <i>Triticosecale</i> Wittm. ex A. Camus	Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, South Africa or the USA	142.98	5.25
Tubers of potatoes			
<i>Solanum tuberosum L.</i> (seed potatoes)	Any third country	156.69	5.25
<i>Solanum tuberosum L.</i> (ware potatoes)	Egypt, Poland, Portugal or Romania	78.34	2.62
	Spain	156.69	5.25
	Any third country other than Egypt, Poland, Portugal, Romania or Spain	4.70	0.15
Cut Christmas trees (less than 3 metres in height)			
<i>All genera</i>	Any EU Member State, Liechtenstein or Switzerland	3.58	0.15
	Any third country other than an EU Member State, Liechtenstein or Switzerland	5.98	0.26
Machinery or vehicles which have been operated for agricultural or forestry purposes	Any third country	5.98	0.26

(1) "Intended for final users" means intended, by evidence from the packaging, labelling or by other means, for direct supply to final users.

(2) "Woody plants" means plants which have a woody or partly woody stem, and includes all trees, forest reproductive material (other than seed), shrubs and palms, and those vines and

perennial herbs with woody or partly woody stems; and for this purpose “perennial herbs” means herbs for which the average life exceeds two years.

⁽³⁾ “Non-woody plants” means plants which are not woody plants.

⁽⁴⁾ “Indoor plants” means plants which appear from their packaging, labelling or by other means to be intended for direct supply to final users for indoor use or use in aquaria.”

SCHEDULE 2

Regulation 3(6)

“SCHEDULE 2A

Regulation 3(2E)

List of plants and plant products originating in an EU Member State, Liechtenstein or Switzerland subject to fees for physical checks and identity checks from the end of the transitional staging period

1. Branches with foliage, parts of Conifers other than bark or cut Christmas trees.
2. Cut Christmas trees.
3. Cut flowers.
4. Fruit.
5. Grain, other than seeds for sowing.
6. Leaves.
7. Seeds other than—
 - (a) seeds of—
 - (i) *Allium cepa* L.,
 - (ii) *Allium porrum* L.,
 - (iii) *Castanea* Mill.,
 - (iv) *Capsicum* spp. L.,
 - (v) *Helianthus annuus* L.,
 - (vi) *Medicago sativa* L.,
 - (vii) *Phaseolus cocineus*.,
 - (viii) *Phaseolus vulgaris* L.,
 - (ix) *Solanum lycopersicum* L.,
 - (x) *Solanum tuberosum* L. (True potato seed).
 - (b) Vegetable seeds of *Pisum sativum* L. and *Vicia faba* L.
 - (c) Seeds of oil and fibre plants of—
 - (i) *Brassica napus* L.,
 - (ii) *Brassica rapa* L.,
 - (iii) *Sinapis alba* L.,
 - (iv) *Glycine max* (L.) Merrill,
 - (v) *Linum usitatissimum* L.
8. Vegetables.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015 (S.I. 2015/350) (“the 2015 Regulations”) and the Plant Health etc. (Fees) (England) Regulations 2018 (S.I. 2018/289) (“the 2018 Regulations”). The amendments apply in relation to England only.

In particular—

- (a) they amend the 2015 Regulations and the 2018 Regulations to extend to 31st December 2023 the duration of exemptions from the payment of certain fees in respect of certain consignments of plants, plant products or other objects to be transported to Northern Ireland: respectively, fees in respect of applications to the Forestry Commissioners for a phytosanitary certificate for export (or re-export), and fees in respect of certain pre-export services (regulations 2 and 3(3)); and
- (b) they amend the 2018 Regulations in relation to the fees payable by an importer of a consignment originating in a third country in respect of liability to physical checks and identity checks of plants, plant products or other objects, to reflect the frequency rates of such checks and in respect of certain plants for planting, to provide for a flat rate fee.

They also provide for a transitional period during which fees are not payable for liability to physical checks and identity checks of certain plants and plant products originating in certain third countries, and changes to the categorisation of certain plants and plant products (regulation 3(2) and (4) to (6)).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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