
WELSH STATUTORY INSTRUMENTS

2019 No. 735 (W. 138)

**EXITING THE EUROPEAN UNION, WALES
PLANT HEALTH, WALES**

The Plant Health (Forestry) (Miscellaneous
Amendments) (Wales) (EU Exit) Regulations 2019

Made - - - - 6pm on 26 March
2019
Coming into force in accordance with regulation 1(2)

The Welsh Ministers make these Regulations in exercise of the powers conferred by section 8(1) of, and Schedule 2 to, the European Union (Withdrawal) Act 2018(1).

In accordance with paragraph 1(8) of Schedule 7 to that Act, a draft of this instrument has been laid before and approved by the National Assembly for Wales.

PART 1

Introductory

Title, commencement and application

1.—(1) The title of these Regulations is the Plant Health (Forestry) (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

(2) These Regulations come into force on exit day.

(3) These Regulations apply in relation to Wales.

PART 2

Amendment of the Forest Reproductive (Great Britain) Regulations 2002

2.—(1) The Forest Reproductive Material (Great Britain) Regulations 2002(2) are amended as follows.

(1) 2018 c. 16.

(2) S.I. 2002/3026, relevant amending instruments are S.I. 2006/2530, 2011/1043, 2013/755 (W. 90), and S.I. 2019/xxx (W.xx).

- (2) Regulation 2 is amended in accordance with paragraphs (3) and (4).
- (3) In paragraph (2)—
- (a) after the definition of “approved basic material” insert—

““approved non-EU third country” means a country listed in Part 1A of Schedule 13;”;
 - (b) omit the definition of “Council [Decision 2008/971/EC](#)”;
 - (c) after the definition of “crossing design” insert—

““the Department” has the meaning given in the NI Regulations;”;
 - (d) omit the definition of “EC classification”;
 - (e) omit the definition of “EU-approved third countries”;
 - (f) in the definition of “genetically modified organism”, for the words from “Article 2(1)” to the end substitute “section 106 of the Environmental Protection Act 1990(3)”;
 - (g) in the definition of “Master Certificate”—
 - (i) in paragraph (b), for the words from “official body for Northern Ireland” to the end substitute “Department in accordance with regulation 13 of the NI Regulations”;
 - (ii) in paragraph (d)—
 - (aa) for “EU-approved” substitute “approved non-EU”;
 - (bb) for the words from “a relevant” to the end substitute “the Department in accordance with the NI Regulations”;
 - (iii) in paragraph (e), for “an official body of a member State” substitute “the Department”;
 - (h) omit the definition of “the Mediterranean climatic region”;
 - (i) after the definition of “National Register” insert—

““the NI Regulations” means the Forest Reproductive Material Regulations (Northern Ireland) 2002(4);”;
 - (j) in the definition of “official body”—
 - (i) omit paragraph (b);
 - (ii) in paragraph (c), after “in relation to” insert “an approved non-EU third country or”;
 - (k) omit the definition of “plant passport”;
 - (l) in the definition of “region of provenance”, for “in accordance with Article 9 of the Directive by another official body” substitute “pursuant to regulation 5 of the NI Regulations by the Department”;
 - (m) for the definition of “third countries” substitute—

““third country” means a country or territory outside the United Kingdom;”.
- (4) Omit paragraphs (4A) to (6).
- (5) In regulation 4—
- (a) in paragraph (1)(c), omit “subject to paragraph (1A)”;
 - (b) omit paragraph (1A).
- (6) In regulation 7(4)—

(3) [1990 c. 43](#); section 106 was amended in relation to England by the Human Fertilisation and Embryology Act 2008 (c. 22), section 60 and by [S.I. 2002/2443](#) and [2009/2232](#).

(4) [S.R. 2002 No. 404](#).

- (a) omit sub-paragraph (b);
- (b) after sub-paragraph (b) insert—
 - “(c) as regards Wales, consent to the marketing of the basic material has been given by the Welsh Ministers in accordance with the Genetically Modified Organisms (Deliberate Release) (Wales) Regulations 2002(5).”.
- (7) In regulation 14(4)—
 - (a) in sub-paragraph (a)—
 - (i) in paragraph (ii)—
 - (aa) for “any other official body of a member State” substitute “the Department”;
 - (bb) for “the official body in accordance with Article 10 of the Directive” substitute “the Department in accordance with regulation 7 of the NI Regulations”;
 - (ii) in paragraph (iii), for “an EU-approved” substitute “a member State, an approved non-EU”;
 - (b) in sub-paragraph (b), after paragraph (i) insert—
 - “(ia) in the case of forest reproductive material derived from basic material approved by the Department, has the meaning given in regulation 7(5) of the NI Regulations;”.
- (8) In regulation 17—
 - (a) in paragraph (1)—
 - (i) in sub-paragraph (b)—
 - (aa) omit “or another member State”;
 - (bb) for “Article 14 of the Directive” substitute “regulation 19 of the NI Regulations”;
 - (ii) after sub-paragraph (b) insert—
 - “(ba) in the case of forest reproductive material produced in a member State and imported into Wales, it has met the requirements as to entry into Wales set out in regulation 25;”;
 - (iii) in sub-paragraph (c), for “EU-approved” substitute “approved non-EU”;
 - (iv) omit sub-paragraph (d);
 - (v) after sub-paragraph (e) insert—
 - “(ea) in the case of forest reproductive material imported into Northern Ireland, it met the requirements set out in the NI Regulations as to entry into Northern Ireland and was accompanied on its entry into Wales by the supplier’s label or document required by regulation 19 of the NI Regulations;”;
 - (vi) omit sub-paragraph (f);
 - (b) omit paragraph (12).
- (9) In regulation 18(3), in sub-paragraph (c), for “the Directive” substitute “any provision made under retained EU law relating to forest reproductive material or under the Plant Varieties and Seeds Act 1964(6)”.

(5) 2002/3188 (W. 304), amended by S.I. 2005/1913 (W. 156); there are other amending instruments but none is relevant. The functions of the National Assembly for Wales under these Regulations are vested in the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(6) 1964 c. 14.

- (10) In regulation 19—
- (a) in paragraph (1)—
 - (i) in sub-paragraph (e), omit “, another member State”;
 - (ii) omit sub-paragraph (h) and the preceding “and”;
 - (iii) omit sub-paragraph (i);
 - (b) in paragraph (3), for “EU-approved” substitute “approved non-EU”.
- (11) In the heading to Part 6, for “Between Great Britain and elsewhere in the European Union” substitute “within the United Kingdom”.
- (12) In regulation 21, for “Northern Ireland”, in each place where it occurs (including the heading), substitute “another part of the United Kingdom”.
- (13) Omit regulation 22.
- (14) In regulation 23—
- (a) in the heading, at the end, insert “or within Great Britain”;
 - (b) for “Northern Ireland” substitute “another part of the United Kingdom”;
 - (c) for “required by Article 14 of the Directive” substitute “setting out the particulars required under regulation 19 of these Regulations or regulation 19 of the NI Regulations”.
- (15) Omit regulation 24.
- (16) In regulation 25—
- (a) in paragraphs (1) and (2), for “an EU-approved” substitute “a member State, an approved non-EU”;
 - (b) in paragraph (6), for “an EU-approved” substitute “a member State or an approved non-EU”.
- (17) In regulation 26(3)(a)(vii), at the beginning insert “UK”.
- (18) In regulation 27—
- (a) in paragraph (2)—
 - (i) omit “, including representatives of the Commission of the European Union”;
 - (ii) omit “, or for facilitating the checks required under Article 16(6) of the Directive”;
 - (b) in paragraph (3), omit “the Commission of the European Union or”.
- (19) In regulation 34(2), omit “or European Community”.
- (20) In the model certificate in Schedule 6—
- (a) for “ISSUED IN ACCORDANCE WITH [DIRECTIVE 1999/105/EC](#)” substitute—
“ISSUED IN ACCORDANCE WITH THE OECD FOREST AND PLANT SCHEME AND THE FOREST REPRODUCTIVE MATERIAL (GREAT BRITAIN) REGULATIONS 2002”;
 - (b) for “MEMBER STATE:” substitute “UNITED KINGDOM”;
 - (c) for “No EC:/(MEMBER STATE CODE)/(No)” substitute “UK (No.)”;
 - (d) for “EC Directive” substitute “OECD Forest Seed and Plant Scheme moving in International Trade and the Forest Reproductive Material (Great Britain) Regulations 2002”;
 - (e) for “EC Certificate” substitute “UK or OECD Certificate”.
- (21) In the model certificate in Schedule 7—
- (a) for “ISSUED IN ACCORDANCE WITH [DIRECTIVE 1999/105/EC](#)” substitute—

- “ISSUED IN ACCORDANCE WITH THE OECD FOREST AND PLANT SCHEME AND THE FOREST REPRODUCTIVE MATERIAL (GREAT BRITAIN) REGULATIONS 2002”;
- (b) for “MEMBER STATE:” substitute “UNITED KINGDOM”;
 - (c) for “No EC:/(MEMBER STATE CODE)/ (No.)” substitute “UK (No.)”;
 - (d) for “EC Directive” substitute “OECD Forest Seed and Plant Scheme and the Forest Reproductive Material (Great Britain) Regulations 2002”;
 - (e) for “EC Certificate” substitute “UK or OECD Certificate”.
- (22) In the model certificate in Schedule 8—
- (a) for “ISSUED IN ACCORDANCE WITH **DIRECTIVE 1999/105/EC**” substitute—
“ISSUED IN ACCORDANCE WITH THE OECD FOREST AND PLANT SCHEME AND THE FOREST REPRODUCTIVE MATERIAL (GREAT BRITAIN) REGULATIONS 2002”;
 - (b) for “MEMBER STATE:” substitute “UNITED KINGDOM”;
 - (c) for “No EC:/(MEMBER STATE CODE)/ (No.)” substitute “UK (No.)”;
 - (d) for “EC Directive” substitute “OECD Forest Seed and Plant Scheme and the Forest Reproductive Material (Great Britain) Regulations 2002”;
 - (e) for “EC Certificate” substitute “UK or OECD Certificate”.
- (23) In Schedule 9—
- (a) in paragraph 1(b), omit “EC”, in both places where it occurs;
 - (b) in the table in paragraph 2(b), omit the first row and the last three rows.
- (24) Omit Schedule 10.
- (25) In Schedule 13—
- (a) in paragraph 1, for “an EU-approved” substitute “a member State, an approved non-EU”;
 - (b) in paragraph 2—
 - (i) before the definition of “OECD Certificate of Provenance” insert—
““OECD Certificate of Identity” means a certificate of identity issued in accordance with the rules of the OECD Scheme;”;
 - (ii) in the definition of “permitted material”—
 - (aa) before paragraph (a) insert—
“(za) in the case of forest reproductive material produced in a member State, forest reproductive material which has been certified by the relevant official body in accordance with Article 12 of the Directive or the OECD Scheme;”;
 - (bb) in paragraph (a), for “EU-approved” substitute “approved non-EU”;
 - (c) after Part 1 insert—

“PART 1A

Approved non-EU third countries

1. Canada

2. Norway
3. Serbia
4. Switzerland
5. Turkey
6. United States

PART 1B

Scope of Part 1B

2A. This Part applies to consignments of permitted material produced in a member State.

General requirements

- 2B.** A consignment of permitted material must be accompanied by—
- (a) a copy of the Master Certificate issued by the relevant official body under Article 12 of the Directive;
 - (b) a label or document which complies with the requirements in Article 14 of the Directive;
 - (c) an OECD Certificate of Provenance or OECD Certificate of Identity issued in relation to the permitted material; or
 - (d) a label or document completed by the supplier of the consignment containing—
 - (i) the supplier's name;
 - (ii) all of the information contained in the OECD Certificate of Provenance or OECD Certificate of Identity; and
 - (iii) in relation to any seed lot which is accompanied by an OECD Certificate of Provenance or an OECD Certificate of Identity, the information specified in paragraph 2D.
- 2C.** Where the permitted material is accompanied by an OECD Certificate of Provenance or OECD Certificate of Identity, or a label or document referred to in paragraph 2B(d), an OECD label must be attached to each seed lot and to each consignment of planting stock.
- 2D.** The OECD label attached to the seed lot and any supplier's document accompanying the seed lot must contain the following additional information in relation to the seed lot assessed, so far as is practicable in all the circumstances, using internationally accepted techniques—
- (a) the percentage by weight of pure seed, other seed and inert matter;
 - (b) the germination percentage of pure seed or, where it is impossible or impracticable to assess the germination percentage, the viability percentage assessed by reference to a method which must be described;
 - (c) the weight of 1000 pure seeds;
 - (d) the number of germinable seeds per kilogram of the seed, or where it is impossible or impracticable to assess the number of germinable seeds, the number of viable seeds per kilogram;

- (e) in the case of a seed lot of closely related species which does not reach a minimum species purity of 99%, the species purity.

2E. But the OECD label and supplier's document may omit the following information—

- (a) any information mentioned in paragraph 2D(a) to (e) which is yet to be ascertained by testing the seed using internationally accepted techniques;
- (b) in the case of a seed lot containing seed which has been harvested from the current season's crop, any information mentioned in paragraph 2D(b) or (d) which is not yet available;
- (c) in the case of seed which is to be marketed in quantities no greater than those specified for the species or artificial hybrid of the seed in Schedule 11, the information mentioned in paragraph 2D(b) or (d).

2F. All seed must be consigned in sealed packages.”

PART 3

Amendment of the Plant Health (Forestry) Order 2005

3. The Plant Health (Forestry) Order 2005(7) is amended as follows.

4. In article 2—

(a) in paragraph (1)—

(i) at the appropriate places insert—

““appropriate UK plant health authority” means—

- (a) in relation to timber and forest pests in England, the Forestry Commissioners;
- (b) otherwise in relation to England, the Secretary of State;
- (c) in relation to Wales, the Welsh Ministers;
- (d) in relation to Scotland, the Scottish Ministers;
- (e) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
- (f) in relation to the Bailiwick of Guernsey, the States of Guernsey;
- (g) in relation to the Bailiwick of Jersey, the Department of Environment of the Bailiwick of Jersey;
- (h) in relation to the Isle of Man, the Department of Environment, Food and Agriculture of the Isle of Man;”;

““CD territory” means the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man;”;

““the list of controlled material” means Schedule 6 to the Plant Health Regulations;”;

““the list of pest free area controlled material” means Schedule 7 to the Plant Health Regulations;”;

(7) S.I. 2005/2517, amended by S.I. 2006/2696, 2008/644, 2009/594, 2009/3020, 2012/2707, 2013/755 (W. 90), 2013/2691, 2014/2420, 2016/1167, 2017/1178 and 2018/1048.

“the list of prohibited infested material” means Schedule 2 to the Plant Health Regulations;”;

“the list of prohibited material” means Schedule 3 to the Plant Health Regulations;”;

“the list of prohibited plant pests” means Schedule 1 to the Plant Health Regulations;”;

“the list of regulated material” means Schedule 4 to the Plant Health Regulations;”;

“NI Order” means the Plant Health Order (Northern Ireland) 2018(8);”;

“NI (Wood and Bark) Order” means the Plant Health (Wood and Bark) Order (Northern Ireland) 2006(9);”;

“pest free area” means that part of a UK pest free area that is in Wales or, where the UK pest free area includes two or more separate parts of Wales, each such part;”;

“the Plant Health Regulations” means the Plant Health (EU Exit) Regulations 2019(10);”;

“regulated tree pest” means—

- (a) a tree pest of a description specified in Part A, B or D of the list of prohibited plant pests;
- (b) a tree pest of a description specified in Part C of the list of prohibited plant pests which relates to a pest free area;
- (c) a tree pest of a description specified in column 2 of Part A, B or D of the list of prohibited infested material;
- (d) a tree pest of a description specified in column 2 of Part C of the list of prohibited infested material which relates to a pest free area;”;

“UK pest free area” means an area in the United Kingdom which has been established as a pest free area in accordance with ISPM No. 4;”;

“UK plant passport” means a label and, where appropriate, an accompanying document that meets the relevant requirements set out in Schedule 9, issued by or with the authority of the appropriate UK plant health authority, and includes any replacement of such a passport;”;

“UK territory” means England, Wales, Scotland or Northern Ireland;”;

(ii) omit the definitions of “area of plant health control” and “associated controlled dunnage”;

(iii) in the definition of “authorised officer”, for paragraphs (a) to (c) substitute—

- “(a) in relation to a UK plant passport, an inspector acting under the authority of the appropriate UK plant health authority; or
- (b) in relation to a phytosanitary certificate or phytosanitary certificate for re-export, an authorised representative of, or a public officer acting under, the national plant protection organisation of the country in which a phytosanitary certificate or phytosanitary certificate for re-export or a translation of a phytosanitary certificate or phytosanitary certificate for re-export is issued;”;

(8) N.I.S.R. 2018/184.

(9) N.I.S.R. 2006/66.

(10) S.I. 2019/XXX.

- (iv) omit the definition of “bark-free”;
- (v) for the definition of “consignment” substitute—
 - ““consignment” means a quantity of goods covered by a single document required for customs or other formalities;”;
- (vi) omit the definition of “debarked”;
- (vii) omit the definitions from “[Decision 2002/757/EC](#)” to “[Decision \(EU\) 2015/893](#)”;
- (viii) omit the definitions of “the Directive”, “dunnage”, “EC transit goods”, “Euro-Mediterranean area” and “Europe”;
- (ix) in the definition of “European Union”, omit “including the Isle of Man and the Channel Islands”;
- (x) omit the definition of “fruit”;
- (xi) in the definition of “importer”, for “landing” substitute “consignment”;
- (xii) omit the definitions of “isolated bark” and “landed”;
- (xiii) for the definition of “lot” substitute—
 - ““lot” means a number of units of a single commodity, identifiable by its homogeneity of composition and origin, which form part of a consignment;”;
- (xiv) in the definition of “national plant protection organisation”, for “European Commission”, substitute “national plant protection organisation of the United Kingdom”;
- (xv) omit the definition of “North America”;
- (xvi) in the definition of “official”, for “responsible official body” substitute “appropriate UK plant health authority”;
- (xvii) omit the definitions of “official body of destination”, “official body of point of entry” and “official documentation”;
- (xviii) in the definition of “official label”, for the words from “responsible” to the end substitute “appropriate UK plant health authority”;
- (xix) in the definition of “official statement”, for “plant passport” substitute “UK plant passport”;
- (xx) omit the definition of “OPM protected zone”;
- (xxi) in the definitions of “phytosanitary certificate” and “phytosanitary certificate for reexport”, for “articles 7 and” substitute “article”;
- (xxii) omit the definitions of “plant health check”, “plant health movement document” and “plant passport”;
- (xxiii) for the definition of “planting” substitute—
 - ““planting” means any operation for the placing of plants to ensure their subsequent growth, reproduction or propagation;”;
- (xxiv) omit the definition of “protected zone”;
- (xxv) omit the definition of “[Regulation \(EC\) No 690/2008](#)”;
- (xxvi) omit the definitions of “responsible official body” and “round wood”;
- (xxvii) omit the definitions of “solid fuel wood” and “Swiss plant passport”;
- (xxviii) for the definition of “third country” substitute—
 - ““third country” means—

- (a) a country or territory outside the European Union, other than a territory within the British Islands; or
 - (b) the European Union;”;
- (xxix) omit the definition of “tree or shrub in tissue culture”;
- (xxx) omit the definition of “the USA”;
- (b) omit paragraph (2);
 - (c) omit paragraph (3A);
 - (d) omit paragraph (5);
 - (e) after paragraph (5) insert—
 - “(6) As regards Wales, words and expressions which are not defined in this Order and which appear in the Plant Health Regulations have the same meaning in this Order as they have in the Plant Health Regulations.”
5. In article 2A—
- (a) in paragraph (1)(a), omit “England or”;
 - (b) after paragraph (1) insert—
 - “(1A) The functions of an inspector under articles 9, 10A, 12, 12A, 13, 23 and 31(1) to (3) are exercisable in relation to tree pests and relevant material which are brought into a point of entry that is located in Wales, by an inspector authorised by the Welsh Ministers.”;
 - (c) in paragraph (3)(a), omit “England or”;
 - (d) after paragraph (3) insert—
 - “(3A) The functions of an inspector under articles 31(4) to (7), 32, 40 and 41A are exercisable in relation to premises or a free zone in Wales, by an inspector authorised by the Welsh Ministers.”.
6. In article 3—
- (a) at the appropriate places insert—
 - ““correct phytosanitary certificate”, in relation to notifiable relevant material, means a phytosanitary certificate or phytosanitary certificate for re-export which has been issued—
 - (a) in the manner specified in article 7(2) to (5); and
 - (b) in respect of the relevant prescribed requirements;”;
 - ““designated area of plant health control”, in relation to notifiable relevant material, means a place close to a point of entry which has been designated as an area of plant health control by the Welsh Ministers and the Commissioners for Her Majesty’s Revenue and Customs;”;
 - ““EU transit material” means any notifiable relevant material from a third country, other than a country or territory in the European Union, which is consigned to the United Kingdom via the European Union and which was not, on its entry into the European Union, subject to—
 - (a) the formalities described in Article 13a of [Directive 2000/29/EC\(11\)](#); or
 - (b) to other similar official controls under [Regulation \(EU\) 2017/625](#) of the European Parliament and of the Council, as it has effect in EU law(12);”;

(11) OJ No. L 169, 10.7.2000, p. 1, as last amended by [Commission Implementing Directive \(EU\) 2017/1920](#) (OJ No. L 271, 20.10.2017, p. 34).

(12) OJ No. L 095, 7.4.2017, p. 1.

““notifiable relevant material” means any relevant material—

- (a) of a description specified in Schedule 5 to the Plant Health Regulations;
- (b) of a description specified in Schedule 7 to the Plant Health Regulations, originating in a third country;”;

““notified EU material” means any notifiable relevant material originating in the European Union or Switzerland which is intended to be, or has been, consigned to the United Kingdom from the European Union or Switzerland via a point of entry in Wales and whose arrival in Wales has been notified to the Welsh Ministers in accordance with article 6(A1);”;

““point of entry” means—

- (a) in the case of relevant material which arrives by air, the airport at which the material first arrives in the United Kingdom;
- (b) in the case of relevant material which arrives by maritime or fluvial transport, the port at which the material first arrives in the United Kingdom;
- (c) in the case of relevant material which arrives by rail, the rail freight terminal at which the material first arrives in the United Kingdom;
- (d) in the case of relevant material which arrives by road, the initial destination of the material after its arrival in the United Kingdom;”;

““prescribed requirements”, in relation to any notifiable relevant material, means—

- (a) the requirements specified in respect of the material in article 5; or
- (b) in the case of any material which is destined for a UK pest free area which includes Northern Ireland, but not England or Wales, the requirements specified in respect of that material in article 4 of the Plant Health (Wood and Bark) Order (Northern Ireland) 2006⁽¹³⁾ or article 5 of the Plant Health Order (Northern Ireland) 2018⁽¹⁴⁾;”;

““relevant Plant Health Order” means—

- (a) in relation to relevant material destined for England, the Plant Health (England) Order 2015 and the Plant Health (Forestry) (England) Order 2005 in its application to England;
- (b) in relation to relevant material destined for Wales, the Plant Health (Wales) Order 2018⁽¹⁵⁾ and the Plant Health (Forestry) Order 2005 in its application to Wales;
- (c) in relation to relevant material destined for Scotland, the Plant Health (Scotland) Order 2005⁽¹⁶⁾ and the Plant Health (Forestry) Order 2005 in its application to Scotland;
- (d) in relation to relevant material destined for Northern Ireland, the Plant Health (Wood and Bark) (Phytophthora ramorum) Order (Northern Ireland) 2005⁽¹⁷⁾, the Plant Health (Wood and Bark) Order (Northern Ireland) 2006 or the Plant Health Order (Northern Ireland) 2018;”;

““trade documents” in relation to a consignment of notifiable relevant material, means the invoice, delivery note, consignment note or other similar document;”;

⁽¹³⁾ S.R. 2006 No. 66, amended by S.R. 2009 No. 340, S.R. 2010 No. 48, S.R. 2012 No. 400, S.R. 2015 No. 129.

⁽¹⁴⁾ S.R. 2018 No. 184.

⁽¹⁵⁾ S.I. 2018/1064 (W. 223).

⁽¹⁶⁾ S.S.I. 2005/613, amended by S.S.I. 2006/474, 2007/415, 498, 2008/300, 350, 2009/153, 2010/206, 342, 2012/266, 326, 2013/5, 187, 366, 2014/140, 2015/10, 2016/83, 2018/112, 283.

⁽¹⁷⁾ S.R. 2005 No. 252.

- (b) for “approved place of inspection” substitute—
 - ““approved place of inspection”, as regards Wales, means a place which has been approved by the Welsh Ministers under article 17A or, in relation to other UK territories, by the appropriate UK plant health authority under equivalent provisions of the relevant Plant Health Order;”;
- (c) omit the definitions of the “Customs Code” and “customs document”;
- (d) omit the definitions of “identity check” and “industry certificate”.

7. Omit article 4.

8. After article 4 insert—

“Application of Part 2: Wales

4A. This Part applies to plant pests and relevant material which are brought into Wales from a third country, whether directly or via another UK territory.”

9. In article 5—

- (a) in the heading for “landing” substitute “bringing in”;
- (b) at the beginning insert—
 - “(A1) No person may bring any of the following into Wales—
 - (a) any tree pest of a description specified in Part A, B or D of the list of prohibited plant pests;
 - (b) any relevant material of a description specified in column 2 of Part A, B or D of the list of prohibited infested material which is carrying or infected with a tree pest of a description specified in the corresponding entry in respect of that description of relevant material in column 3;
 - (c) any tree pest which, although not specified in Part A, B or D of the list of prohibited plant pests, or in column 3 of Part A, B or D of the list of prohibited infested material, is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain;
 - (d) any relevant material of a description specified in column 2 of Part A or B of the list of prohibited material which originates in a third country specified in the corresponding entry in respect of that description of relevant material in column 3;
 - (e) any relevant material of a description specified in column 2 of Part A or D of the list of regulated material, unless the requirements specified in the corresponding entries in respect of that description of relevant material in column 3 are complied with;
 - (f) in the case of any relevant material which is destined for a pest free area, any tree pest of a description specified in column 2 of Part C of the list of prohibited plant pests which relates to that pest free area;
 - (g) in the case of any relevant material which is destined for a pest free area specified in column 4 of Part C of the list of prohibited infested material, any relevant material of a description specified in the corresponding entry in column 2 of Part C of that list which is carrying or infested with a tree pest of a description specified in the corresponding entry in column 3;
 - (h) in the case of any relevant material which is destined for a pest free area specified in column 4 of Part C of the list of regulated material, any relevant material of a description specified in the corresponding entry in column 2 of that Part,

unless the requirements specified in the corresponding entries in respect of that relevant material in column 3 are complied with.”;

- (c) omit paragraphs (1) and (1A);
- (d) in paragraph (2), after “paragraph” insert “(A1)(d) or”;
- (e) after paragraph (2) insert—

“(3) The prohibitions in paragraph (A1)(b) to (h) do not apply to relevant material which enters a point of entry that is located in another UK territory and is discharged in that territory in accordance with article 11 of the NI (Wood and Bark) Order or article 12 of any other relevant Plant Health Order.”

10. In article 6—

- (a) in the heading, for “landing” substitute “arrival”;
- (b) at the beginning insert—

“(A1) No person may bring any notifiable relevant material into a point of entry that is located in Wales, unless notice is given in accordance with this article.”;
- (c) omit paragraphs (1) and (2);
- (d) in paragraph (3)—
 - (i) in the words before sub-paragraph (a), after “paragraph” insert “(A1) or”;
 - (ii) in the words after sub-paragraph (b), for “the relevant material is landed” substitute “its arrival”;
- (e) in paragraph (4), after “paragraph” insert “(A1) or”;
- (f) in paragraph (5)—
 - (i) after “paragraph”, in the first place it occurs, insert “(A1) or”;
 - (ii) for “landing” substitute “arrival”.

11. After article 6 insert—

“EU transit material: Wales

6.—(1) No person may bring any EU transit material into a RoRo port that is located in Wales, unless that material is destined for a single approved place of inspection.

(2) Paragraph (1) is subject to article 8(A1).

(3) In this article, “RoRo port” means—

- (a) a RoRo listed location within the meaning of regulation 130 of the Customs (Import Duty) (EU Exit) Regulations 2018(18); or
- (b) if a notice has not been published pursuant to regulation 130(1) of those Regulations, a point of entry that—
 - (i) predominantly services roll-on/roll-off ferries operating between Wales and a member State; and
 - (ii) is listed in a notice published by the Welsh Ministers from time to time.”

12. In article 7—

- (a) at the beginning insert—

“(A1) Subject to article 8 and to paragraph (6), no person may bring any notifiable relevant material into a point of entry that is located in Wales unless the material is

accompanied by one of following certificates which certifies that the material meets the prescribed requirements—

- (a) a phytosanitary certificate issued in the country in which that material originates or in the country from which it was consigned;
- (b) where paragraph (2) applies, by a phytosanitary certificate for re-export.”;
- (b) omit paragraph (1);
- (c) omit paragraph (4);
- (d) in paragraph (6)—
 - (i) in the words before sub-paragraph (a), for “paragraph (1) does” substitute “paragraph (A1) and paragraph (1) do”;
 - (ii) in sub-paragraph (a), for “landed in” substitute “brought into”;
 - (iii) in sub-paragraph (b)—
 - (aa) for “landed in” substitute “brought into”;
 - (bb) for “European Union” substitute “United Kingdom”;
- (e) omit paragraph (7).

13. In article 8—

- (a) at the beginning insert—
 - “(A1) The provisions referred to in paragraph (A2) do not apply to—
 - (a) any tree or wood described in paragraph (2) originating in any third country, other than the European Union or Switzerland, which is brought into England in the baggage of a passenger or other traveller coming from any such third country and meets the conditions in paragraph (A3); or
 - (b) any small quantity of relevant material originating in the European Union or Switzerland which is brought into England in the baggage of a passenger or other traveller coming from the European Union or Switzerland and meets the conditions in paragraph (A3).
 - (A2) The provisions are—
 - (a) article 5(A1)(e) and (h);
 - (b) article 6(A1);
 - (c) article 6A(1);
 - (d) article 7(A1);
 - (e) article 10A;
 - (f) article 12A.
 - (A3) The conditions are that the relevant material—
 - (a) does not show any signs of the presence of a tree pest;
 - (b) is not intended for use in the course of a trade or business;
 - (c) is intended for household use; and
 - (d) in the case of any tree or wood originating in a third country, other than the European Union or Switzerland, has been grown in or consigned from the Euro-Mediterranean area.”;
- (b) omit paragraph (1);
- (c) in paragraph (2), in the words before sub-paragraph (a), after “to in” insert “paragraph (A1) or”.

14. In article 9—

(a) at the beginning insert—

“(A1) The following documents must be delivered to an inspector by the importer of a consignment of notifiable relevant material within three days of the date of its arrival in Wales—

- (a) any phytosanitary certificate or phytosanitary certificate for re-export which is required under article 7(A1) to accompany the consignment of notifiable relevant material; and
- (b) in the case of notified EU material, the trade documents which accompany the consignment.

(B1) The importer of a consignment of notifiable relevant material must include in a customs document relating to the consignment—

- (a) a statement that “this consignment contains produce of phytosanitary relevance”;
- (b) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export which is required under article 7(A1) to accompany the consignment; and
- (c) the registration number of the importer.”;

(b) omit paragraphs (1) and (2);

(c) after paragraph (3) insert—

“(4) Paragraph (A1) does not apply to any notifiable relevant material which is in the course of its consignment to an approved place of inspection in another UK territory.

(5) In paragraph (B1), “customs document” means a document required by the Commissioners for Her Majesty’s Revenue and Customs for placing relevant material under a Customs procedure within the meaning of section 3(3) of the Taxation (Cross-border Trade) Act 2018(19).”.

15. Omit article 10.

16. After article 10 insert—

“Prohibitions applying to notifiable relevant material on entry: Wales

10A.—(1) This article applies to notifiable relevant material, other than notified EU material, which is brought into a point of entry that is located in Wales.

(2) No person may move any notifiable relevant material or cause any notifiable relevant material to be moved from its point of entry unless the material is being moved to a designated area of plant health control or an approved place of inspection.

(3) No person may remove or cause any notifiable relevant material to be removed from its point of entry, or where the material is moved to a designated area of plant health control or an approved place of inspection in Wales, the designated area of plant health control or approved place of inspection, unless an inspector has discharged the material under article 12 or the removal of the material is permitted under Part 6.

(4) Any notifiable relevant material which is being held at a point of entry or a designated area of plant health control under paragraph (3) must be stored by the importer under the supervision and in accordance with the instructions of an inspector.

(5) The importer is liable for the costs of storing the notifiable relevant material pending its release.”.

17. In article 11—

- (a) in the words before paragraph (a), after “article 10(1)” insert “and the prohibition imposed by article 10A(3)”;
- (b) in paragraph (c), for “European Union”, substitute “United Kingdom”.

18. In article 12—

- (a) at the beginning insert—
 - “(A1) Paragraph (B1) applies to any notifiable relevant material, other than notified EU material, which is brought into a point of entry that it is located in Wales and is not in the course of its consignment to an approved place of inspection in another UK territory.
 - (B1) An inspector may discharge notifiable relevant material from its point of entry, designated area of plant health control or approved place of inspection in Wales if the inspector is satisfied that—
 - (a) the material meets the prescribed requirements;
 - (b) the relevant material corresponds with the description given to it in the phytosanitary certificate or phytosanitary certificate for re-export which accompanied the material on entry; and
 - (c) the relevant material is accompanied by the correct phytosanitary certificate.”;
- (b) omit paragraphs (1) and (2);
- (c) in paragraph (3), after “the matters” insert “in paragraph (B1)(a)”;
- (d) omit paragraph (4);
- (e) after paragraph (4) insert—
 - “(4A) An inspector may, for the purpose of being satisfied as to matters in paragraph (B1)(b), carry out an examination of a consignment of relevant material to determine whether it corresponds to its description in the documents that accompany it.”;
- (f) omit paragraphs (5) and (6);
- (g) in paragraph (7)—
 - (i) in the words before sub-paragraph (a), after “referred to” insert “in paragraph (B1)(c) or”;
 - (ii) in sub-paragraph (a), after “article” insert “9(A1) or”;
 - (iii) omit sub-paragraph (b) and the preceding “; and”;
- (h) in paragraph (8)—
 - (i) for “a plant health check” substitute “an examination under paragraph (3)”;
 - (ii) for “checks” substitute “examination”.

19. After article 12 insert—

“Requirements applicable to notified EU material: Wales

12A.—(1) This article applies to notified EU material which is brought into a point of entry that is located in Wales.

(2) An inspector must carry out an examination of—

- (a) the phytosanitary certificate or phytosanitary certificate for re-export accompanying a consignment of notified EU material to confirm that the consignment is accompanied by the correct phytosanitary certificate; and
- (b) the trade documents that accompany the consignment to confirm that those documents correspond to the description of the relevant material in the phytosanitary certificate or phytosanitary certificate for re-export.”

20. In article 14(1), for the words from “under” to the end substitute “subject to the control of an officer of Revenue and Customs within the meaning of Schedule 1 to the Taxation (Cross-border Trade) Act 2018”.

21. In article 15—

- (a) omit paragraph (2);
- (b) in paragraph (3)—
 - (i) in sub-paragraph (a), omit “the responsible official body or”;
 - (ii) in sub-paragraph (b), for “one of the official languages of the European Union” substitute “English or Welsh”;
 - (iii) omit sub-paragraph (c);
 - (iv) in sub-paragraph (d), for “Plant Protection Organisations of the Member States of the European Union”, substitute “the Plant Protection Organisation of the United Kingdom”;
- (c) omit paragraph (4);
- (d) after paragraph (4) insert—

“(4A) Where in relation to any relevant material of a description specified in column 2 of Part A, C or D of the list of regulated material, more than one set of entry requirements is specified in the corresponding entry in column 3 of Part A, C or D of that list, the phytosanitary certificate or phytosanitary certificate for re-export issued in respect of any relevant material of that description must specify under the heading “Additional declaration” which particular requirement has been complied with.”

22. Omit article 16.

23. After article 16 insert—

“Requirements to be met by relevant material destined for an approved place of inspection: Wales

16A.—(1) This article applies to notifiable relevant material, other than notified EU material, which is destined for an approved place of inspection.

(2) Any relevant material to which this article applies may not be moved within Wales unless—

- (a) it is accompanied by a copy of the phytosanitary certificate or phytosanitary certificate for re-export which accompanied the material on its entry into the United Kingdom;
- (b) its packaging and the vehicle in which it is transported is sealed in such a way that there is no risk of the relevant material causing infestation, infection or contamination or a change occurring in the identity of the material or, where the material is destined for an approved place of inspection in Wales, its movement has been otherwise authorised by the Welsh Ministers.

(3) The importer of any relevant material which is destined for an approved place of inspection in Wales must give the Welsh Ministers notice of the following particulars no later than three working days before the material is brought into the United Kingdom—

- (a) the name, address and location of the approved place of inspection to which the relevant material is destined;
- (b) the scheduled date and time of arrival of the relevant material at the approved place of inspection;
- (c) the name, address and registration number of the importer;
- (d) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export required under article 7 to accompany the relevant material.

(4) The importer must notify the Welsh Ministers immediately of any changes to the particulars which the importer has given under paragraph (3).

(5) The notice must be given to the Welsh Ministers at the address given by the Welsh Ministers for the purposes of this article.”

24. Omit article 17.

25. After article 17 insert—

“Approved places of inspection: Wales

17A.—(1) The Welsh Ministers may approve premises which are not located at a point of entry or are not part of a designated area of plant health control as a place at which appropriate checks may be carried out by an inspector in respect of notifiable relevant material, other than notified EU material.

(2) An application for approval under paragraph (1) may be made to the Welsh Ministers by an importer or other person responsible for those premises in such form and containing such information as the Welsh Ministers may specify.

(3) An approval may be granted subject to conditions, including conditions relating to the storage of the relevant material and may be withdrawn at any time if the Welsh Ministers no longer consider that the premises to which the approval relates are suitable for the purpose for which the approval was given.

(4) The Welsh Ministers may only approve premises as an approved place of inspection in respect of notifiable relevant material, other than EU transit material, if the premises have been designated or approved by the Commissioners for Her Majesty’s Revenue and Customs for that purpose.

(5) In the case of any other premises, the Welsh Ministers may only approve those premises as an approved place of inspection for the purpose of carrying out appropriate checks in respect of EU transit material.

(6) In this article, “appropriate checks”, in relation to a consignment of notifiable relevant material, means—

- (a) an examination of the phytosanitary certificate or phytosanitary certificate for re-export accompanying the consignment to determine whether it is the correct phytosanitary certificate;
- (b) an examination of the consignment to determine whether it corresponds to its description in the trade documents that accompany it;
- (c) an examination of the consignment and its packaging, and where necessary, the vehicle transporting the consignment to determine whether it meets the prescribed requirements.”

26. In Part 3, in the heading, omit “Community”.

27. Omit articles 18 and 19.

28. After article 19 insert—

“Prevention of the spread of tree pests: Wales

19A.—(1) This article applies to Wales.

(2) No person may knowingly keep, store, sell, plant or move or knowingly cause or permit to be kept, stored, planted, sold or moved—

- (a) any tree pest of a description specified in Part A, B or D of the list of prohibited plant pests;
- (b) any relevant material of a description specified in column 2 of Part A, B or D of the list of prohibited infested material which is carrying or infected with a plant pest of a description specified in the corresponding entry in column 3;
- (c) any tree pest which, although not specified in Part A, B or D of the list of prohibited plant pests, or in column 3 of Part A, B or D of the list of prohibited infested material, is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain;
- (d) any relevant material of a description specified in column 2 of Part E of the list of regulated material which originates in the United Kingdom or a CD territory unless the requirements specified in the corresponding entries in respect of that description of relevant material in column 3 are complied with;
- (e) any relevant material originating in a third country which is brought into Wales in contravention of article 5(A1)(d) or (e).

(3) No person may knowingly keep, store, plant, sell or move within a pest free area or knowingly cause or permit to be kept, stored, planted, sold or moved within such an area—

- (a) any tree pest of a description specified in column 2 of Part C of the list of prohibited plant pests which relates to the pest free area;
- (b) in the case of any pest free area which is, or is included in, a UK pest free area specified in column 4 of Part C of the list of prohibited infested material, any relevant material of a description specified in the corresponding entry in column 2 of that Part which is carrying or infested with a tree pest of a description specified in the corresponding entry in column 3;
- (c) any relevant material originating in a third country which is brought into a pest free area in contravention of article 5(A1)(h);
- (d) in the case of any pest free area which is, or is included in, a UK pest free area specified in column 4 of Part C of the list of regulated material, any relevant material of a description specified in the corresponding entry in column 2 of that Part which originates in the United Kingdom or a CD territory, unless the requirements specified in the corresponding entries in respect of that relevant material in column 3 are complied with.

(4) The prohibitions in paragraphs (2) and (3) do not apply to any tree pest or relevant material which is required to be kept, stored or moved in compliance with a requirement imposed by an inspector under Part 6 or 7.

(5) In this article, “move” means “move or otherwise dispose of”, and “moved” is to be construed accordingly.”

29. Omit article 20.

30. After article 20 insert—

“Requirements for UK plant passports: Wales

20A.—(1) No person may move any of the following relevant material into or within Wales unless it is accompanied by a UK plant passport—

- (a) any relevant material of a description specified in the list of controlled material which originates in the United Kingdom or a CD territory;
- (b) any relevant material that has been discharged by the Commissioners under article 12(1) or by another appropriate UK plant health authority in an equivalent manner;
- (c) in the case of any notifiable relevant material originating in the European Union or Switzerland which was brought into a point of entry in the United Kingdom, any relevant material specified in the list of controlled material which originates in the European Union or Switzerland and was notified to the Commissioners in accordance with article 6(1), or to the appropriate UK plant health authority in accordance with equivalent requirements under the relevant Plant Health Order.

(2) No person may move any of the following relevant material into or within a pest free area unless it is accompanied by a UK plant passport which is valid for that pest free area or the UK pest free area of which it is a part—

- (a) any relevant material of a description, specified in the list of pest free area controlled material in respect of the relevant UK pest free area, which originates in the United Kingdom or a CD territory;
- (b) any relevant material of a description specified in the list of pest free area controlled material in respect of the relevant UK pest free area that has been discharged by the Commissioners under article 12(1) or by another appropriate UK plant health authority in an equivalent manner;
- (c) in the case of any notifiable relevant material originating in the European Union or Switzerland which was brought into a point of entry in the United Kingdom, any relevant material specified in the list of pest free area controlled material in respect of the relevant UK pest free area which—
 - (i) originates in the European Union or Switzerland; and
 - (ii) was notified to the Commissioners in accordance with article 6(1), or to the appropriate UK plant health authority in accordance with equivalent requirements under the relevant Plant Health Order

(3) No person may consign from Wales to another UK territory or a CD territory any of the following relevant material originating in Wales unless it is accompanied by a UK plant passport—

- (a) in the case of relevant material destined for Northern Ireland or England, any relevant material of a description specified in the list of controlled material;
- (b) in the case of relevant material destined for a place in Northern Ireland or England which is within a UK pest free area, any relevant material of a description, specified in the list of pest free area controlled material in respect of that UK pest free area;
- (c) in the case of relevant material destined for Scotland, any relevant material of a description specified in Part A of Schedule 6 to the Plant Health (Forestry) Order 2005;

- (d) in the case of relevant material destined for a place in Scotland which is within a UK pest free area, any relevant material of a description specified in Part B of Schedule 6 to the Plant Health (Forestry) Order 2005 in respect of that UK pest free area;
- (e) in the case of relevant material destined for a CD territory, any relevant material of a description specified for the purposes of this paragraph in the applicable plant health legislation of that CD territory.

(4) In the case of any relevant material originating in a place of production in Wales, a UK plant passport may only be issued in respect of that material if the material has been subjected to a satisfactory inspection at the place of production.

(5) The requirements in paragraphs (1)(b) and (2)(b) do not apply to any notified EU material moving from its point of entry to its first destination in the United Kingdom if it is accompanied by a copy of the phytosanitary certificate or phytosanitary certificate for re-export which accompanied the material on its entry into the United Kingdom.

(6) In paragraphs (1) and (2), “relevant Plant Health Order” has the same meaning as in Part 2 (see article 3).”

31. In article 21—

- (a) in paragraph (1)—
 - (i) omit “prohibitions on landing in article 18(1)(e), (f) and (g) and (3) and the”;
 - (ii) after “plant passport” insert “or, as regards Wales, article 20A(1)(a), (2)(a) and (3)”;
- (b) omit paragraph (2A).

32. Omit article 22.

33. After article 22 insert—

“Validity of UK plant passports: Wales

22A.—(1) This article applies to relevant material of a description specified in the list of pest free area controlled material which relates to a pest free area and which is moved through a pest free area to a destination outside the relevant UK pest free area.

- (2) The requirements in article 20A(2) do not apply if the relevant material—
 - (a) originates outside the relevant UK pest free area;
 - (b) is accompanied during its transit through the pest free area by a document of a type normally used for trade purposes which certifies that the material originates outside the relevant UK pest free area and is in transit to a final destination outside the relevant UK pest free area and the conditions in paragraph (3) are met.
- (3) The conditions are that—
 - (a) the packaging in which the relevant material is transported and any vehicle which is used to transport the material is free from soil and plant debris and any relevant tree pest;
 - (b) the material was sealed immediately after packaging or, where appropriate, after loading, and remains sealed during its journey through the relevant UK pest free area;
 - (c) the nature or construction of the packaging in which the material is transported and any vehicle which is used to transport the material are sufficient to ensure that there is no risk of any relevant tree pest which may be present in or on the relevant material escaping.

- (4) In this article—
- (a) “relevant UK pest free area”, in relation to any relevant material of a description specified in the list of pest free area controlled material, means the pest free area which is, or is part of, the UK pest free area that has been designated in respect of that material;
 - (b) “relevant tree pest”, in relation to a UK pest free area, means the tree pest in respect of which the UK pest free area has been designated.”
- 34.** In article 23—
- (a) in the heading, for “plant passports” substitute “UK plant passports”;
 - (b) in paragraphs (1) to (4), for “plant passport”, in each place it occurs, substitute “UK plant passport”;
 - (c) in paragraph (4)(b)(ii), at the end insert “or, as regards Wales, a regulated tree pest”.
- 35.** In Part 4, in the heading, for “PLANT PASSPORTS” substitute “UK PLANT PASSPORTS”.
- 36.** In article 24, omit paragraph (4).
- 37.** In article 28—
- (a) in the heading and paragraphs (1), (4), (5) and (6), for “plant passports”, in each place it occurs, substitute “UK plant passports”;
 - (b) in paragraph (7), omit “or” after sub-paragraph (a) and after sub-paragraph (b) insert—
 - “(c) as regards Wales, a regulated tree pest.”
- 38.** Omit Part 5.
- 39.** In article 30—
- (a) in paragraph (1)(b), for “plant passport” substitute “UK plant passport”;
 - (b) in paragraph (7), omit “, including representatives of the European Commission,”.
- 40.** After article 30 insert—

“Emergency measures: Wales

- 30A.**—(1) Where a regulated tree pest is found to be present in Wales, the Welsh Ministers may by notice—
- (a) demarcate an area in relation to that infestation for the purpose of eradicating or containing that tree pest; and
 - (b) specify the prohibitions and restrictions which are to apply in the demarcated area for that purpose.
- (2) A notice under paragraph (1)—
- (a) must be in writing,
 - (b) must describe the extent of the demarcated area,
 - (c) must specify the date on which any such prohibitions or restrictions are to commence,
 - (d) must be published in a manner appropriate to bring it to the attention of the public, and
 - (e) may be amended or revoked, in whole or in part, by further notice.”
- 41.** In article 31—
- (a) in paragraph (1), for “landed” substitute “brought into a point of entry located”;

- (b) in paragraph (2)—
 - (i) in sub-paragraph (a), for “landed” substitute “brought into the point of entry”;
 - (ii) in sub-paragraph (b), for “landed” substitute “brought in”;
 - (c) in paragraph (3)—
 - (i) in sub-paragraph (a), for “landing” substitute “bringing in”;
 - (ii) in sub-paragraph (b)—
 - (aa) for “the landing is to be carried out” substitute “any tree pest or relevant material is to be brought in”;
 - (bb) for “to the landing” substitute “to its entry”;
 - (d) in paragraph (5)—
 - (i) in sub-paragraph (a), at the end insert “or, as regards Wales, a regulated plant pest”;
 - (ii) omit sub-paragraph (c) and the preceding “and”;
 - (e) in paragraph (6)(b)—
 - (i) omit “or 18”;
 - (ii) at the end insert “or, as regards Wales, article 19A”.
- 42.** In article 32—
- (a) in paragraph (2)(a), at the end insert “or, as regards Wales, a regulated tree pest”;
 - (b) in paragraph (4), omit “, including representatives of the European Commission,”.
- 43.** In article 36(2), omit “, including representatives of the European Commission,”.
- 44.** In article 38—
- (a) in paragraph (1)—
 - (i) for “landed,” substitute “imported into or”;
 - (ii) before sub-paragraph (a) insert—
 - “(za) in the case of any licence granted by the Welsh Ministers, in exercise of any derogation permitted by Schedule 8 to the Plant Health Regulations;”;
 - (iii) omit sub-paragraphs (a) and (b);
 - (b) in paragraph (2), for “(1)(b)” substitute “(1)”;
 - (c) omit paragraph (3).
- 45.** In article 39—
- (a) in the heading, omit “permitted by [Directive 2008/61/EC](#)”;
 - (b) at the beginning insert—
 - “(A1) The Welsh Ministers must by licence authorise the importation, movement or keeping of any tree pest or relevant material for any activity for trial or scientific purposes or for work on varietal selections in Wales, where the importation, movement or keeping of the tree pest or relevant material for any such purpose would otherwise be prohibited by this Order, if the Welsh Ministers—
 - (a) have received an application for a licence containing the information set out in Part A of Schedule 13A; and
 - (b) are satisfied that the general conditions set out in Part B of Schedule 13A are met in relation to the application.

- (B1) A licence granted under paragraph (A1) must be in writing and include—
- (a) the conditions specified in Part C of Schedule 13A which are relevant to any tree pest or relevant material that is the subject of the activities to which the licence relates;
 - (b) any other conditions as the Welsh Ministers may determine in relation to licence quarantine measures that are appropriate in respect of those activities.”;
- (c) omit paragraphs (1) and (2);
- (d) in paragraph (3), after “under” insert “paragraph (B1)(b) or”;
- (e) in paragraph (4), after “under” insert “paragraph (A1) or”;
- (f) in paragraph (5), after “this Order” insert “or, as regards Wales, any regulated tree pest”;
- (g) omit paragraph (6);
- (h) in paragraph (7)—
- (i) after sub-paragraph (a) insert—
 - “(aa) “licence quarantine measures”, as regards Wales, means the measures specified in Part D of Schedule 13A.”;
 - (ii) omit sub-paragraph (b).

46. In article 40—

- (a) omit paragraph (2);
- (b) after paragraph (2) insert—
 - “(2A) In paragraph (1), “notifiable tree pest”, as regards Wales, means a regulated tree pest or any other tree pest, which is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain.”

47. Omit article 41.

48. After article 41 insert—

“Notification of the likely entry into, or presence in, a free zone of tree pests or relevant material: Wales

41A.—(1) The responsible authority for a free zone in Wales who knows or suspects that any of the following is likely to be brought into the free zone, or is present in the free zone and has not been cleared out of charge, must immediately give notice of that fact to the Welsh Ministers or an inspector—

- (a) any regulated tree pest;
- (b) any other tree pest which is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain;
- (c) any relevant material of a description specified in column 2 of Part A or B of the list of prohibited material which originates in a third country specified in the corresponding entry in respect of that description of relevant material in column 3.

(2) Where a person gives notice in accordance with paragraph (1) orally, the person must confirm it in writing as soon as reasonably practicable.

(3) In this article, “responsible authority” and “free zone” have the same meaning as in the Customs Act.”

49. In article 42—

- (a) in paragraph (2)(b)—

- (i) in paragraph (i), at the end insert “or, as regards Wales, any regulated tree pest”;
- (ii) in paragraph (ii), at the end insert “or, as regards Wales, any tree pest, other than a regulated tree pest, which is not normally present in Great Britain and which is likely to be injurious to trees in Great Britain”;
- (b) in paragraph (4), after “certificates,” insert “UK”.

50. In article 43(1)—

- (a) in sub-paragraph (a), after paragraph (i) insert—
 - “(ia) article 6A,”;
- (b) in sub-paragraph (b), for “or”, in the third place it occurs, substitute “a prohibition or restriction in a notice published, a provision or condition of a”.

51. After article 45 insert—

“Transitional provision: UK plant passports

45A.—(1) An authorisation to issue plant passports which has been granted and has effect immediately before exit day in relation to Wales continues to apply on or after exit day as if it were an authorisation to issue UK plant passports.

(2) In the case of any plant passport that has been issued in respect of any relevant material before exit day for the purposes of the movement of that material in Wales which takes place before and after exit day, the plant passport is to be treated as if it were a UK plant passport and references to a UK plant passport are to be construed accordingly.”

52. Omit Schedules 1 to 8.

53. In Schedule 9—

- (a) in the heading, for “plant passports” substitute “UK plant passports”;
- (b) in paragraphs 1 and 2, for “plant passport”, in both places it occurs, substitute “UK plant passport”;
- (c) in paragraph 3, for “plant passports”, in both places it occurs, substitute “UK plant passports”;
- (d) in paragraph 4(1)—
 - (i) in the words before sub-paragraph (a), for “plant passport” substitute “UK plant passport”;
 - (ii) for sub-paragraph (a) substitute—
 - “(a) in English and Welsh, and”;
- (e) in paragraphs 5 and 6, for “plant passport”, in both places it occurs, substitute “UK plant passport”;
- (f) in paragraph 7—
 - (i) for sub-paragraph (a) substitute—
 - “(a) the title “UK plant passport”;
 - (ii) omit sub-paragraph (b);
 - (iii) in sub-paragraph (c), for the words from “responsible” to the end substitute “appropriate UK plant health authority”;
 - (iv) in sub-paragraphs (d) to (g), for “plant passport”, in each place it occurs, substitute “UK plant passport”;
 - (v) in sub-paragraph (h)—

- (aa) for “protected zone”, in both places it occurs, substitute “UK pest free area”;
 - (bb) for “ZP” substitute “PFA”;
 - (vi) in sub-paragraph (i), for “plant passport”, in each place it occurs, substitute “UK plant passport”;
 - (vii) in sub-paragraph (j), for “relevant territory” substitute “United Kingdom or a CD territory”.
- 54.** In Schedule 12, in Part A—
- (a) in paragraph 1, omit “, other than solid fuel wood,”;
 - (b) omit paragraph 2;
 - (c) omit Part C.
- 55.** Omit Schedule 13.
- 56.** After Schedule 13 insert—

“SCHEDULE 13A

Article 39(A1), (B1), (7)(aa)

Licences for trial or scientific purposes or for work on varietal selections

- 1.** In this Schedule, “specified activity” means any activity for trial or scientific purposes or for work on varietal selections.

PART A

Information to be included in an application for a scientific licence

- 2.** The name and address of the person responsible for the proposed specified activity.
- 3.** The following details in relation to the relevant material and plant pests to be used in the specified activity—
- (a) their scientific name or names;
 - (b) the type of relevant material;
 - (c) the quantity of relevant material;
 - (d) the place of origin of the relevant material;
 - (e) the place at which the relevant material is to be first stored or planted after its official release (where relevant);
 - (f) the proposed method of destruction or treatment of the relevant material on completion of the specified activity (where relevant);
 - (g) in the case of any relevant material or plant pest which is to be imported from a third country, its proposed point of entry into the United Kingdom.
- 4.** In the case of any relevant material to be used in the specified activity, appropriate documentary evidence to confirm its place of origin.
- 5.** The duration, nature and objectives of the proposed specified activity, including a summary and a specification of the work to be conducted.
- 6.** The address and description of the specific site or sites at which the proposed specified activity is to be carried out.

PART B

General conditions to be met in relation to an application for a scientific licence

7. The nature and objectives of the specified activity comply with the concept of trial or scientific purposes or for work on varietal selections.
8. The premises and the facilities at the site or sites at which the specified activity is to be carried out meet any conditions relating to their quarantine.
9. The personnel carrying out the specified activity have appropriate scientific and technical qualifications.

PART C

Licence conditions relating to any plant pest or relevant material to be used in a specified activity

10. For the purposes of article 39(B1)(a), the conditions are that—
 - (a) in the case of any relevant material, the material is accompanied on its entry into the United Kingdom by a letter of authority which has been issued by the relevant national plant protection organisation on the basis of appropriate documentary evidence as regards the place of origin of the material;
 - (b) in the case of any relevant material of a description specified in Schedule 5 to the Plant Health Regulations, the material is, wherever possible, accompanied on its entry into the United Kingdom, by a phytosanitary certificate issued in the country of origin which—
 - (i) confirms that the material is free from any regulated plant pest, other than any plant pest whose importation is authorised by the licence;
 - (ii) includes the statement under the heading “Additional declaration”, “This material is imported under article 39 of the Plant Health (Forestry) Order 2005”; and
 - (iii) includes the name of any authorised plant pest; and
 - (c) the relevant material is held under quarantine containment conditions and on arrival is directly and immediately moved to the site or sites specified in the licence.

PART D

Licence quarantine measures

11. The licence quarantine measures are—
 - (a) in the case of the premises, facilities and working procedures which relate to the specified activity:
 - (i) the physical isolation of any plant pests or relevant material being used in the specified activity from all other plant pest and relevant material, including control of vegetation in surrounding areas, where appropriate;
 - (ii) the designation of a contact person responsible for the specified activity;
 - (iii) the implementation of restrictions on access to the premises and facilities being used in relation to the specified activity and, where appropriate, to the area surrounding those premises and facilities, to named personnel only;

- (iv) the appropriate identification of the premises and facilities being used, indicating the type of activities and the personnel responsible;
- (v) the maintenance of a register of the activities performed and a manual of operating procedures, including procedures in the event of escape of plant pests from containment;
- (vi) the maintenance of appropriate security and alarm systems; and
- (vii) the implementation of—
 - (aa) appropriate control measures to prevent the introduction into and the spread of plant pests within the premises being used;
 - (bb) controlled procedures for sampling, and for transfer of any relevant material between premises and facilities being used;
 - (cc) controls for the disposal of waste, soil and water, as appropriate;
 - (dd) appropriate hygiene and disinfection procedures and facilities for personnel, structures and equipment;
 - (ee) appropriate measures and facilities for disposal of experimental material;
 - (ff) appropriate indexing (including testing) facilities and procedures; and
- (b) other appropriate quarantine measures according to the specific biology and epidemiology of the type of material involved and the activities approved, including—
 - (i) the maintenance of facilities accessible to authorised personnel via a separate room with two interlocking doors;
 - (ii) the maintenance of facilities under negative air pressure,
 - (iii) the use of escape-proof containers with appropriate mesh size and other barriers;
 - (iv) the maintenance of the material in isolation from other plant pests and material;
 - (v) the maintenance of any material for breeding in breeding cages with manipulation devices;
 - (vi) the prohibition on any interbreeding of the plant pest with indigenous strains or species;
 - (vii) the implementation of controls on the continuous culture of the plant pest;
 - (viii) the maintenance of the plant pest under conditions that strictly control the multiplication of the plant pest;
 - (ix) the implementation of procedures to check the purity of cultures of the plant pest for freedom from parasites and other plant pests;
 - (x) the implementation of appropriate control programmes for the material to eliminate possible vectors;
 - (xi) in the case of *in vitro* activities, the implementation of controls on the handling of the material under sterile conditions;
 - (xii) the maintenance of the plant pest in conditions to ensure that it cannot spread via any vector; and
 - (xiii) the seasonal isolation of the material to ensure that the activities are done during periods of low plant health risk.”

PART 4

Amendment of the Plant Health (Fees) (Forestry) (Wales) Regulations 2019

57.—(1) The Plant Health (Fees) (Forestry) (Wales) Regulations 2019⁽²⁰⁾ are amended as follows.

(2) In regulation 2(1)—

(a) for the definition of “controlled consignment” substitute—

““controlled consignment” (*“llwyth a reolir”*) means a consignment which includes, or which an inspector considers includes—

(a) isolated bark of a description specified in Schedule 5 to the Plant Health (EU Exit) Regulations 2019;

(b) wood of a description specified in that Schedule, other than wood packaging material which is actually in use in the transport of all kinds of objects;”;

(b) omit the definition of “the Directive”;

(c) for the definition of “documentary check” substitute—

““documentary check” (*“gwiriad dogfennol”*) means an examination for the purposes of article 12(B1)(c) or 12A(2)(a) of the Order;”;

(d) for the definition of “identity check” substitute—

““identity check” (*“gwiriad adnabod”*) means an examination for the purposes of article 12(B1)(b) or 12A(2)(b) of the Order;”;

(e) for the definition of “plant health check”, substitute—

““plant health check” (*“gwiriad iechyd planhigion”*) means an examination for the purposes of article 12(B1)(a) of the Order;”;

(f) in the definition of “plant passport authority”, after “issue” insert “UK”.

26 March 2019 at 6pm

Lesley Griffiths
Minister for Environment, Energy and Rural
Affairs, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of, and Schedule 2 to, the European Union (Withdrawal) (Act) 2018 (c. 16) 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 the Forest Reproductive (Great Britain) Regulations 2002, the Plant Health (Forestry) Order 2005 and the Plant Health (Fees) (Forestry) (Wales) Regulations 2019.

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.