

## WELSH STATUTORY INSTRUMENTS

# 2020 No. 206

## The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020

### PART 1

#### Introduction

#### Title, application and commencement

1. The title of these Regulations is the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020, they apply in relation to Wales and come into force on 27 March 2020.

#### Commencement Information

II Reg. 1 in force at 27.3.2020, see reg. 1

#### Interpretation: general

2.—(1) In these Regulations—

“the 2005 Order” (“*Gorchymyn 2005*”) means the Plant Health (Forestry) Order 2005 <sup>M1</sup>;

“the 2018 Order” (“*Gorchymyn 2018*”) means the Plant Health (Wales) Order 2018 <sup>M2</sup>;

“appropriate authority” (“*awdurdod priodol*”) means the Welsh Ministers, and is to be construed in accordance with regulation 6;

“commencement date” (“*dyddiad cychwyn*”) means the date on which these Regulations come into force;

“controlled consignment” (“*llwyth a reolir*”) means a consignment containing any plant, plant product or other object—

(a) which may not be brought into [<sup>F1</sup>Great Britain] without a phytosanitary certificate for export or a phytosanitary certificate for re-export pursuant to—

(i) Article 72 or 74 of the <sup>F2</sup>... Plant Health Regulation,

(ii) <sup>F3</sup>...

(iii) any other <sup>F4</sup>... plant health rule, other than Article 73 of the <sup>F4</sup>... Plant Health Regulation, or

(b) which was exported from [<sup>F1</sup>Great Britain] to a third country and is returning to [<sup>F1</sup>Great Britain] following the refusal by that third country to allow its entry into the country;

“controlled plant pest” (“*pla planhigion a reolir*”) means—

- (a) a plant pest of a description specified in Annex 2, [F52A,] 3 or 4 to the Phytosanitary Conditions Regulation,
- (b) F6 ...
- (c) a plant pest subject to any other F7 ... plant health rule [F8, including a potential quarantine plant pest within the meaning given in regulation 21(3)];

“Council Directive 2000/29/EC” (“*Cyfarwyddeb y Cyngor 2000/29/EC*”) means Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community M3,

F9 ...

“EU Plant Health Regulation” (“*Rheoliad Iechyd Planhigion yr UE*”) means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants [F10 as it has effect in EU law] M4;

F11 ...

“ISPM 15” (“*SRFFf 15*”) means International Standard for Phytosanitary Measures No. 15 of March 2002 on Guidelines for regulating wood packaging material in international trade, prepared by the Secretariat of the International Plant Protection Convention established by the Food and Agriculture Organisation of the United Nations M5;

[F12 “Northern Ireland plant health label” has the meaning given in regulation 2 of the Windsor Framework (Plant Health) Regulations 2023]

“Official Controls Regulation” (“*Rheoliad Rheolaethau Swyddogol*”) means 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, insofar as it applies to F13 ... plant health rules M6;

“Phytosanitary Conditions Regulation” (“*Rheoliad Amodau Ffytoiechydol*”) means Commission Implementing Regulation (EU) 2019/2072 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants M7;

“plant health inspector” (“*arolygydd iechyd planhigion*”) means an official plant health officer appointed by the Welsh Ministers;

[F14 “Plant Health Regulation” (“*Rheoliad Iechyd Planhigion*”) means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants;]

[F15 “plant passport” (“*pasbort planhigion*”) means a passport which is a UK plant passport or other permitted plant passport;]

“plant pest” (“*pla planhigion*”) means a pest within the meaning given in Article 1(1) and (2) of the F16 ... Plant Health Regulation;

“regulated item” (“*eitem a reoleiddir*”) means—

- (a) any plant, plant product or other object to which [F17a] plant health rule applies, other than any plant, plant product or other object which is part of a controlled consignment, or
- (b) a controlled plant pest;

“Wales” (“*Cymru*”) means the combined area of the counties and county boroughs in Wales (see Parts 1 and 2 of Schedule 4 to the Local Government Act 1972 M8).

(2) Unless the context otherwise requires, words and expressions which are not defined in these Regulations and appear in the <sup>F18</sup>... Plant Health Regulation or the Official Controls Regulation have the same meaning in these Regulations as they have in the <sup>F18</sup>... Plant Health Regulation or the Official Controls Regulation (as the case may be).

### Textual Amendments

- F1** Words in reg. 2(1) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(i)(aa)**
- F2** Word in reg. 2(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(i)(bb)**
- F3** Words in reg. 2(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(i)(cc)**
- F4** Word in reg. 2(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(i)(dd)**
- F5** Word in reg. 2(1) inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(ii)(aa)**
- F6** Words in reg. 2(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(ii)(bb)**
- F7** Word in reg. 2(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(ii)(cc)**
- F8** Words in reg. 2(1) inserted (13.11.2020) by [The Official Controls \(Plant Health and Genetically Modified Organisms\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1134\)](#), regs. 1, **2(2)**
- F9** Words in reg. 2(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(iii)**
- F10** Words in reg. 2(1) inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(iv)**
- F11** Words in reg. 2(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(v)**
- F12** Words in reg. 2 inserted (1.10.2023) by [The Windsor Framework \(Enforcement etc.\) Regulations 2023 \(S.I. 2023/1056\)](#), regs. 1(2), **5(2)**
- F13** Word in reg. 2(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(vi)**
- F14** Words in reg. 2(1) inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(vii)**
- F15** Words in reg. 2(1) inserted (4.3.2021) by [The Plant Health \(Amendment\) \(Wales\) \(EU Exit\) Regulations 2021 \(S.I. 2021/239\)](#), regs. 1(2), **2(2)**
- F16** Word in reg. 2(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(viii)**
- F17** Word in reg. 2(1) substituted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(a)(ix)**
- F18** Word in reg. 2(2) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(2)(b)**

### Commencement Information

- I2** Reg. 2 in force at 27.3.2020, see [reg. 1](#)

### Marginal Citations

- M1** [S.I. 2005/2517](#); amended by [S.I. 2013/755](#) (W. 90). There are other amending instruments but none are relevant
- M2** [S.I. 2018/1064](#); there are amending instruments but none are relevant.

**Changes to legislation:** There are currently no known outstanding effects for the *The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020, PART 1.* (See end of Document for details)

- M3** OJ No. L 169, 10.7.2000, p. 1, as last amended by Commission Implementing Directive (EU) 2019/523 (OJ No. L 86, 28.3.2019, p. 41).
- M4** OJ No. L 317, 23.11.2016, p. 4, amended by Regulation (EU) 2017/625 of the European Parliament and of the Council (OJ No. L 95, 7.4.2017, p. 1).
- M5** Available from the Secretariat of the International Plant Protection Convention, AGPP-FAO, Viale Delle Terme di Caracalla, 00153, Rome, Italy and at <https://www.ippc.int/>.
- M6** OJ No. L 95, 7.4.2017, p. 1, amended by Commission Delegated Regulation (EU) 2019/478 (OJ No. L 82, 25.3.2019, p. 4).
- M7** OJ No. L 319, 10.12.2019, p. 1.
- M8** 1972 c. 70.

**Interpretation: EU instruments relating to plant health**

<sup>F19</sup>3. ....

**Textual Amendments**

**F19** Reg. 3 omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(3)**

**Measures adopted pursuant to Article 30(1) of the EU Plant Health Regulation**

<sup>F20</sup>4. ....

**Textual Amendments**

**F20** Reg. 4 omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(3)**

**Article 82 of the <sup>F21</sup>... Plant Health Regulation: meaning of “close proximity”**

5.—(1) For the purposes of Article 82 of the <sup>F22</sup>... Plant Health Regulation, the premises of a registered operator are to be regarded as being in “close proximity” to other premises of that operator if any point on the boundary of its operative area, or of any of its operative areas, is within ten miles of any point on the boundary of the operative area, or of any of the operative areas, of the other premises.

- (2) In paragraph (1), “operative area”, in relation to the premises of a registered operator, means—
  - (a) in the case of premises which are used entirely by the registered operator to carry out one or more of the activities mentioned in Article 65(1) of the <sup>F23</sup>... Plant Health Regulation, the area comprising those premises;
  - (b) in the case of any other premises used by the registered operator to carry out one or more of the activities mentioned in Article 65(1) of the <sup>F23</sup>... Plant Health Regulation, an area within the premises which is used by the registered operator to carry out any of those activities.

**Textual Amendments**

**F21** Word in reg. 5 heading omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(4)(a)**

**F22** Word in reg. 5(1) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(4)(b)**

**F23** Word in reg. 5(2) omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1628\)](#), regs. 1(2)(b), **4(4)(b)**

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**Commencement Information**

**I3** Reg. 5 in force at 27.3.2020, see reg. 1

**Changes to legislation:**

There are currently no known outstanding effects for the The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020, PART 1.