
WELSH STATUTORY INSTRUMENTS

2020 No. 206

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

PART 3

**Official controls on controlled consignments from third countries
and other official controls on goods from third countries**

Derogations to the requirement to give prior notification in accordance with Article 1(1) of Commission Implementing Regulation (EU) 2019/1013

7.—(1) The responsible operator of a controlled consignment which is to be brought into Wales by air must have notified the appropriate authority of the consignment’s expected arrival at least four working hours before its expected arrival in Wales.

(2) In the case of any controlled consignment which consists, in whole or in part, of unprocessed logs or sawn or chipped wood and is to be brought into Wales at a point of entry which only has a temporary border control post, the responsible operator must have notified the Welsh Ministers of the consignment’s arrival at least three working days before its expected arrival in Wales.

(3) Article 1(1) of Commission Implementing Regulation (EU) 2019/1013 does not apply to any responsible operator of a controlled consignment referred to in paragraph (1) or (2).

(4) In this regulation—

“Commission Implementing Regulation (EU) 2019/1013” (*“Rheoliad Gweithredu’r Comisiwn (EU) 2019/1013”*) means Commission Implementing Regulation (EU) 2019/1013 on prior notification of consignments of certain categories of animals and goods entering the Union⁽¹⁾;

“responsible operator” (*“gweithredwr cyfrifol”*), in relation to a controlled consignment, means an operator who is required to ensure that the consignment is presented for official controls at the border control post of first arrival into the Union in accordance with Article 47(5) of the Official Controls Regulation;

“temporary border control post” (*“safle rheoli dros dro ar y ffin”*) means a border control post in Wales which has been exempted from the obligations in Article 64(3)(a), (c) and (f) of the Official Controls Regulation pursuant to Article 4 of Commission Delegated Regulation (EU) 2019/1012 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by derogating from the rules on the designation of control points and from the minimum requirements for border control posts⁽²⁾;

“working day” (*“diwrnod gwaith”*) means any day, other than—

- (a) a Saturday or Sunday,
- (b) Christmas Day or Good Friday, or

(1) OJ No. L 165, 21.6.2019, p. 8.

(2) OJ No. L 165, 21.6.2019, p. 4.

- (c) a bank holiday in Wales under the Banking and Financial Dealings Act 1971⁽³⁾; “working hour” (“*awr waith*”) means a period of one hour during a day which in Wales is a working day, and “working hours” includes hours during more than one working day.

Suspicion of non-compliance

8.—(1) This regulation applies where a plant health inspector suspects that a controlled consignment or a regulated item is likely to be, or has been, brought into Wales from a third country in contravention of an EU plant health rule or that any such consignment or item may not otherwise comply with an EU plant health rule.

(2) A plant health inspector must serve a notice on the operator who is responsible for the controlled consignment or regulated item—

- (a) placing the consignment or item under official detention, and
- (b) prohibiting the entry of the consignment or item into the Union territory,

pending the outcome of official controls to confirm or eliminate the suspicion referred to in paragraph (1).

(3) This regulation applies to any controlled consignment or regulated item whether or not its ultimate destination is in Wales.

Consignments not correctly presented for official controls

9. Where a plant health inspector suspects or is aware that a controlled consignment has not been presented for official controls in accordance with Article 47(1) of the Official Controls Regulation, or in accordance with the other requirements referred to in Article 66(6) of that Regulation, the plant health inspector must serve a notice on the operator who is responsible for the consignment recalling the consignment and placing the consignment under official detention.

Official measures in relation to non-compliant consignments or consignments which pose a risk to plant health

10.—(1) This regulation applies to—

- (a) any controlled consignment or regulated item which, in the opinion of a plant health inspector, has been brought into Wales from a third country in contravention of an EU plant health rule,
- (b) any controlled consignment or regulated item which has been brought into Wales from a third country and which does not otherwise comply with an EU plant health rule, or
- (c) any consignment which has been brought into Wales from a third country and which, in the opinion of a plant health inspector, poses a risk to plant health in Wales or to any other part of the Union territory.

(2) A plant health inspector must serve a notice on the operator who is responsible for the consignment or item—

- (a) placing the consignment or item under official detention, and
- (b) setting out the measures which the operator must take in relation to the consignment or item.

(3) 1971 c. 80, to which there are amendments not relevant to these Regulations.

Notices under regulation 8, 9 or 10

11.—(1) A notice under regulation 8, 9 or 10 may include any of the following—

- (a) the measures that the responsible operator must take in relation to the consignment or item to isolate or quarantine the consignment or item or otherwise deal with the risk to plant health arising from the consignment or item;
- (b) where a plant health inspector requires the consignment or item to be destroyed or otherwise disposed of, re-exported or treated, the measures that the responsible operator must take to destroy or otherwise dispose of, re-export or treat the consignment or item;
- (c) any other measures which the plant health inspector considers are appropriate in the light of the suspected or known contravention or the risk to plant health in Wales or to any other part of the Union territory arising from the consignment or item.

(2) In paragraph (1), “responsible operator” is to be construed in accordance with regulation 8, 9 or 10 (as the case may be).

Border control posts: authorisation of inspection centres and commercial storage facilities

12.—(1) The appropriate authority may grant a permit which authorises—

- (a) the use of a facility which is located within a border control post as an inspection centre for the purposes of carrying out official controls and other official activities on controlled consignments and other regulated items on their arrival at the border control post;
- (b) the use of commercial storage facilities within the close vicinity of a border control post as a place at which identity checks and physical checks may be performed on controlled consignments and other regulated items on their arrival at the border control post.

(2) An application for a permit must be made to the appropriate authority by the operator of the facility or commercial storage facilities in the manner and form required by the appropriate authority.

(3) A permit may only be granted under paragraph (1)(a) if the appropriate authority is satisfied that the facility complies with the requirements specified in respect of inspection centres in Article 8 of Regulation (EU) 2019/1014.

(4) A permit may only be granted under paragraph (1)(b) if the appropriate authority is satisfied that the commercial storage facilities comply with the requirements specified in respect of commercial storage facilities in Article 3(11) of Regulation (EU) 2019/1014.

(5) A permit granted under paragraph (1)(a) or (b) must be in writing and may be granted—

- (a) subject to conditions;
- (b) for an indefinite period or a specified period.

(6) A permit granted under paragraph (1)(a) or (b) may include provision permitting the appropriate authority to modify, suspend or revoke the permit at any time by notice in writing.

(7) In this regulation, “Regulation (EU) 2019/1014” means Commission Implementing Regulation (EU) 2019/1014 to lay down detailed rules on minimum requirements for border control posts, including inspection centres, and for the format, categories and abbreviations to use for listing border control posts and control points(4).

Transitional provision: approved places of inspection

13.—(1) The appropriate authority may during the relevant period authorise—

- (a) the transportation of a controlled consignment to an approved place of inspection, and

(4) OJ No. L 165, 21.6.2019, p. 10.

- (b) the performance of identity checks and plant health checks by a plant health inspector at an approved place of inspection.
- (2) The operator who is responsible for a controlled consignment that is destined for an approved place of inspection must—
- (a) by notice in writing give the appropriate authority the particulars set out in paragraph (3) no later than three working days before the consignment arrives in Wales,
 - (b) ensure that the consignment, its packaging and the vehicle in which it is transported are closed or sealed in such a way that there is no risk of the plants, plant products or objects in the consignment causing infestation, infection or contamination or a change occurring in the contents of the consignment, and
 - (c) ensure that the consignment is accompanied by a plant health movement document.
- (3) The particulars are—
- (a) the name, address and location of the approved place of inspection to which the consignment is destined,
 - (b) the scheduled date and time of arrival of the consignment at the place referred to in subparagraph (a),
 - (c) if available, the individual serial number of the plant health movement document in relation to that consignment,
 - (d) if available, the date and place at which that plant health movement document was drawn up,
 - (e) the name, address and registration number of the operator, and
 - (f) the reference number of the phytosanitary certificate or phytosanitary certificate for re-export required in relation to the consignment pursuant to Article 72(1) or 74(1) of the EU Plant Health Regulation.
- (4) The operator must notify the appropriate authority immediately in writing of any changes to the particulars which the operator has given under paragraph (2)(a).
- (5) The notice must be given to the appropriate authority at the address given by the appropriate authority from time to time for the purposes of this regulation.
- (6) An appropriate authority may for the purposes of paragraph (1) approve a place to which a controlled consignment may be destined as a place at which identity checks and plant health checks may be performed by a plant health inspector during the relevant period.
- (7) An application for approval under paragraph (6) must be made to the appropriate authority in the manner and form required by the appropriate authority.
- (8) An approval may be granted subject to conditions, including conditions relating to the storage of controlled consignments, and may be withdrawn at any time if the appropriate authority no longer considers that the place to which the approval relates is suitable for the purpose for which the approval was given.
- (9) The appropriate authority may only approve a place as an approved place of inspection if the place has been approved by the Commissioners for Her Majesty's Revenue and Customs for use as a temporary storage facility.
- (10) In this regulation—
- “approved place of inspection” (*“man arolygu a gymeradwywyd”*) means a place which was approved as a place of inspection by an appropriate authority under article 17(1) of the 2005 Order or the 2018 Order before the commencement date and which remains approved by virtue of regulation 54(1), or a place approved under paragraph (6);

“plant health movement document” (“*dogfen symud iechyd planhigion*”) means a document in the form set out in the Annex to Commission [Directive 2004/103/EC](#) on identity and plant health checks of plants, plant products or other objects, listed in Part B of Annex V to Council [Directive 2000/29/EC](#), which may be carried out at a place other than the point of entry into the Community or at a place close by and specifying the conditions related to these checks⁽⁵⁾;

“relevant period” (“*cyfnod perthnasol*”) means the period beginning on the commencement date and ending immediately before 14 December 2020;

“temporary storage facility” (“*cyfleuster storio dros dro*”) means a temporary storage facility within the meaning of Article 148 of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code⁽⁶⁾;

“working hour” (“*awr waith*”) has the meaning given in regulation 7(4).

⁽⁵⁾ OJ No. L 313, 12.10.2004, p. 16.

⁽⁶⁾ OJ No. L 269, 10.10.2013, p. 1, as last amended by Regulation (EU) 2019/632 of the European Parliament and of the Council (OJ No. L 111, 25.4.2019, p. 54).