

STATUTORY INSTRUMENTS

2019 No. 1488

The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019

PART 6 **E+W**

Amendments to secondary legislation relating to plant health fees in England

The Plant Health (Export Certification) (England) Order 2004 **E+W**

- 33.** In the Plant Health (Export Certification) (England) Order 2004 ^{M1}—
- (a) in article 3(2)(a), for “of the services listed in the first column of Schedule 3” substitute “services”;
 - (b) omit article 4;
 - (c) omit Schedule 3.

Commencement Information

I1 Reg. 33 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M1 [S.I. 2004/1404](#), amended by [S.I. 2005/3480](#), 2014/609, 2015/382, 2018/286, 2019/1257.

The Plant Health (Export Certification) (Forestry) (Great Britain) Order 2004 **E+W**

- 34.** In the Plant Health (Export Certification) (Forestry) (Great Britain) Order 2004 ^{M2}—
- (a) in article 3(2)(a), for “of the services listed in the first column of Schedule 3” substitute “services”;
 - (b) omit article 4;
 - (c) omit Schedule 3.

Commencement Information

I2 Reg. 34 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M2 [S.I. 2004/1684](#), amended by [S.I. 2013/755](#) (W. 90), 2019/734.

The Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006 **E+W**

- 35.** In the Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006 ^{M3}—

- (a) omit article 7;
- (b) omit Schedule 1.

Commencement Information

I3 Reg. 35 in force at 14.12.2019, see **reg. 1(1)**

Marginal Citations

M3 [S.I. 2006/2695](#), amended by [S.I. 2013/755](#) (W. 90), 2019/734.

The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015 **E+W**

36.—(1) The Plant Health (Fees) (Forestry) (England and Scotland) Regulations 2015 ^{M4} are amended as follows.

(2) After regulation 1 insert—

“Interpretation: England

1A.—(1) In these Regulations, insofar as they apply in relation to England—

“approved place of inspection” has the meaning given in article 3 of the Order;

“controlled consignment” means a consignment which—

- (a) is introduced into England from a third country; and
- (b) consists of, or includes—
 - (i) isolated bark of a type that is described in the lists of the Phytosanitary Conditions Regulation that apply for the purposes of Articles 72(1) and 74(1) of the EU Plant Health Regulation, or in a decision adopted before 14th December 2019 by the European Commission pursuant to Article 16(3) of 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 ^{M5}; or
 - (ii) wood of a type that is described in the lists or a decision mentioned in paragraph (i), other than wood packaging material which is actually in use in the transport of objects of all kinds;

“the EU Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants ^{M6};

“licence” means an authorisation for the purposes of any derogation described in Article 8(1) or 48(1) of the EU Plant Health Regulation;

“the Phytosanitary Conditions Regulation” means the implementing act adopted by the European Commission pursuant to Articles 5(2), 32(3), 37(2) and (4), 40(2), 41(2), 53(2), 54(2), 72(1), 73, 74(2), 79(2) and 80(2) of the EU Plant Health Regulation;

“plant passport authority” means an authorisation described in Article 89(1) of the EU Plant Health Regulation;

“the Order” means the Plant Health (Forestry) Order 2005 ^{M7};

“remedial notice” means a notice served under article 31(1) or (4) of the Order;

“remedial work” means any steps taken by a person for the purposes of complying with a remedial notice, or by an inspector under article 32(1) of the Order;

“WPM authorisation” means an authorisation described in Article 98(1) of the EU Plant Health Regulation.

(2) Words and expressions which are not defined in these Regulations and which appear in the EU Plant Health Regulation or in 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^{M8} have the same meaning in these Regulations as they have in the EU instrument in question.”.

(3) In regulation 2, in the heading, at the end insert “ : **Scotland** ”.

(4) In regulation 3—

(a) after paragraph (5) insert—

“(5A) The fee payable in connection with an application to the Forestry Commissioners for a phytosanitary certificate for export or phytosanitary certificate for re-export is the fee specified in Schedule 4A.

(5B) The fee payable in connection with an application to the Forestry Commissioners for a WPM authorisation is the fee specified in Schedule 4B.”.

Commencement Information

I4 Reg. 36 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M4 [S.I. 2015/350](#), amended by [S.I. 2019/734](#).

M5 OJ No. L 169, 10.7.2000, p.1, last amended by Commission Implementing Directive (EU) 2019/523 (OJ No. L 86, 28.3.2019, p.41).

M6 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).

M7 [S.I. 2005/2517](#); relevant amending instruments are [S.I. 2013/755](#) (W. 90), 2014/2420, 2019/734.

M8 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).

E+W

37. After Schedule 4 insert—

“SCHEDULE 4A **E+W**

Regulation 3(5A)

Fees in connection with an application for a phytosanitary certificate for export or phytosanitary certificate for re-export: England

(1) Service

The consideration of an application, including the issue, where appropriate, of a phytosanitary certificate for export or a phytosanitary certificate for re-export

The examination or testing of wood, wood products, isolated bark or used forestry machinery and associated activities (including travelling and office time):

(2) Fee

£15.00

- (a) up to and including the first hour; £27.00
- (b) thereafter, for each additional 15 minutes or part thereof £7.50.

SCHEDULE 4B **E+W**

Regulation 3(5B)

Fees in connection with an application for a WPM authorisation: England

<i>(1) Type of application</i>	<i>(2) Fee</i>
Application for a WPM authorisation, other than a renewal of an existing WPM authorisation	£400.00
Application for a renewal of an existing WPM authorisation	£120.00
Application for a re-assessment for the purposes a WPM authorisation	£120.00 ^{M9} .

Commencement Information

I5 Reg. 37 in force at 14.12.2019, see [reg. 1\(1\)](#)

The Plant Health etc. (Fees) (England) Regulations 2018 **E+W**

- 38.**—(1) The Plant Health etc. (Fees) (England) Regulations 2018^{M9} are amended as follows.
- (2) For regulation 2 substitute—

“**2.**—(1) In these Regulations, “the EU Plant Health Regulation” means Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants^{M10}.”

(2) Words and expressions which are not defined in these Regulations and appear in the EU Plant Health Regulation or in 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^{M11} have the same meaning in these Regulations as they have in the EU instrument in question.”.

- (3) In regulation 3—
- (a) in paragraph (1), for “listed in Schedule 5 to the 2015 Order” substitute “described in the lists of the Phytosanitary Conditions Regulation that apply for the purposes of Articles 72(1) and 74(1) of the EU Plant Health Regulation”;
 - (b) in paragraph (3)—
 - (i) for sub-paragraphs (a) and (aa) substitute—
 - “(a) “controlled plant pest” means—

- (i) a plant pest of a description specified in the lists of the Phytosanitary Conditions Regulation that apply for the purposes of Articles 5(2), 32(3) and 37(2) of the EU Plant Health Regulation;
 - (ii) any other plant pest of a description specified in a decision adopted before 14th December 2019 by the European Commission pursuant to Article 16(3) of 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^{M12};
- (aa) “Europe” includes Belarus, the Canary Islands, Georgia, Kazakhstan (except the area east of the Ural river), Russia (except the regions of Tyumen, Chelyabinsk, Irkutsk, Kemerovo, Kurgan, Novossibirsk, Omsk, Sverdlovsk, Tomsk, Chita, Kamchatka, Magadan, Amur and Skhalin, the territories of Krasnoyarsk, Altay, Khabarovsk and Primarie, and the republics of Sakha, Tuva and Buryatia), Ukraine and Turkey (except the area east of the Bosphorus Strait known as Anatolia);”;
- (ii) after sub-paragraph (ab) insert—
- “(aba) “the Phytosanitary Conditions Regulation” means the implementing act adopted by the European Commission pursuant to Articles 5(2), 32(3), 37(2) and (4), 40(2), 41(2), 53(2), 54(2), 72(1), 73, 74(2), 79(2) and 80(2) of the EU Plant Health Regulation;”;
- (iii) omit sub-paragraph (c).
- (4) In regulation 4—
- (a) in paragraph (2), in the words before sub-paragraph (a), after “out” insert “ by, or on behalf of, the Secretary of State ”;
 - (b) in paragraph (6)(a), omit “conferred under article 29 of the 2015 Order”.
- (5) In regulation 5—
- (a) in paragraph (1)—
 - (i) in sub-paragraph (a), at the end insert “ made to the Secretary of State ”;
 - (ii) in sub-paragraph (b), at the end insert “ granted by the Secretary of State ”;
 - (b) in paragraph (5), for “a licence described in article 40 or 41 of the 2015 Order” substitute “ an authorisation for the purposes of any derogation described in Article 8(1) or 48(1) of the EU Plant Health Regulation ”.
- (6) After regulation 5 insert—

“Export certification services and pre-export services: fees

5A.—(1) The fees specified in the table in Schedule 4A (“the table”) are payable in respect of the services described in column 1 of the table by a person who applies to the Secretary of State for a certificate or a pre-export service.

- (2) The amount of the fee in respect of any service described in column 1 of the table is—
- (a) in the case of a small exporter who, at the date of the application, has only been liable during the financial year in which the application is made to pay fees of £750 or less in respect of the services described in column 1 of the table, the amount specified in the corresponding entry in column 2 of the table;
 - (b) in any other case, the amount specified in the corresponding entry in column 3 of the table.

(3) The fees specified in columns 2 and 3 of the table in respect of an inspection of a consignment or an audit of a grain inspection are payable for each 15 minutes (or part thereof) spent in carrying out the inspection or audit and any associated activities, subject to the minimum fees specified in those entries.

(4) Where a person submits an application for a certificate or a pre-export service or a request to amend a certificate in paper form (and not online), the following additional fee is payable in respect of the application or request—

- (a) in the case of a small exporter who, at the date of the application or request, has only been liable during the financial year in which the application or request is made to pay fees of £750 or less in respect of the services described in column 1 of the table, £7.88;
- (b) in any other case, £15.76.

(5) In this regulation—

“certificate” means either a phytosanitary certificate for export or a phytosanitary certificate for re-export;

“pre-export service” means any plant health inspection or examination, including by the taking of samples, which is required to be carried out in relation to a plant, plant product or other object which is to be exported to a third country in order to satisfy the phytosanitary requirements of the third country, other than any such inspection or examination required for the issue of a certificate;

“small exporter” means a person who—

- (a) in the financial year in which the application or request is made—
 - (i) is not a taxable person for the purposes of the Value Added Tax Act 1994^{M13}; or
 - (ii) does not make a taxable supply of plants, plant products, seeds, soil or agricultural machinery for the purposes of the Value Added Tax Act 1994; or
- (b) in the financial year preceding the year in which the application or request is made, exported goods which were accompanied by a certificate the total value of which was less than £5,000.”.

(7) In regulation 6(1), for “inspector” substitute “ official plant health officer ”.

(8) Omit regulation 7.

(9) In regulation 11—

- (a) in paragraph (1)—
 - (i) in the words before sub-paragraph (a), for “registered plant trader” substitute “ registered professional operator ”;
 - (ii) in sub-paragraph (b), for “trader’s” substitute “operator’s”;
- (b) omit paragraph (2).

(10) After Schedule 4 insert—

“SCHEDULE 4A **E+W**

Regulation 5A

Fees for export certification services and pre-export services

(1) Service

(2) Fee - Small Exporter (£)

(3) Fee – other Exporter (£)

Inspection of consignment	31.90 for each 15 minutes (or part thereof), subject to a minimum fee of 63.80	63.80 for each 15 minutes (or part thereof), subject to a minimum fee of 127.60
Audit of a grain inspection	13.20 for each 15 minutes (or part thereof), subject to a minimum fee of 26.40	26.40 for each 15 minutes (or part thereof), subject to a minimum fee of 52.80
Laboratory examination (including laboratory testing)	16.78 per sample tested	33.56 per sample tested
Issue of certificate	12.76 per certificate	25.52 per certificate
Amendment of a certificate at the request of the exporter	7.88 per certificate	15.76 per certificate”.

Commencement Information

I6 Reg. 38 in force at 14.12.2019, see [reg. 1\(1\)](#)

Marginal Citations

M9 [S.I. 2018/289](#), amended by [S.I. 2018/510](#), 2019/180, 1257.

M10 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).

M11 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).

M12 OJ No. L 169, 10.7.2000, p.1, last amended by Commission Implementing Directive (EU) 2019/523 (OJ No. L 86, 28.3.2019, p.41).

M13 [1994 c. 23](#).

Changes to legislation:

There are currently no known outstanding effects for the The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019, PART 6.