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

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

2021 No. 0000

EXITING THE EUROPEAN UNION

PLANT HEALTH, ENGLAND

SEEDS, ENGLAND

The Plant Health etc. (Fees) (England) (Amendment) Regulations 2021

Made - - - -	***
Coming into force - -	*1st June 2021*

The Secretary of State makes these Regulations, with the consent of the Treasury, in exercise of the powers conferred by section 14(1) of, and paragraph 7 of Schedule 4 to, the European Union (Withdrawal) Act 2018(**a**).

A draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament in accordance with paragraph 12(1) of Schedule 7 to the European Union (Withdrawal) Act 2018.

Citation and commencement

1. These Regulations may be cited as the Plant Health etc. (Fees) (England) (Amendment) Regulations 2021 and come into force on 1st June 2021.

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

2.—(1) The Plant Health etc. (Fees) (England) Regulations 2018(**b**) are amended as follows.

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

(a) for paragraphs (2) and (2A) substitute—

"(2) The fee payable by the importer of a third country consignment in respect of a documentary check of each phytosanitary certificate or phytosanitary certificate for re-export accompanying the consignment, is £5.25;

(**a**) 2018 c. 16; paragraph 21 of Schedule 7 was amended by section 41(4) and paragraphs 38 and 53 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(**b**) S.I. 2018/289; relevant amending instruments are S.I. 2019/786, 1257, 1488 and 2020/9.

(2A) The fees payable by the importer of a third country consignment in respect of liability to a physical check and identity check that may be carried out on the consignment (whether or not any such check is carried out) are—

(a) (subject to paragraphs (2B) to (2E)) in the case of a consignment originating in an EU Member State, Liechtenstein or Switzerland, where the consignment includes plants, plant products or other objects of one or more descriptions specified in column 1 of the table in Schedule 1A, and originates in a country specified in the corresponding entry in column 2 of that table—

(i) the fee or fees specified in column 3 of that table in respect of a physical check of plants or plant products of each such description contained in the consignment; and

(ii) the fee or fees specified in column 4 of that table in respect of an identity check of plants or plant products of each such description contained in the consignment;

(b) in the case of a consignment originating in any other country—

(i) in the case of a Schedule 2 cut flower consignment which includes one lot of cut flowers—

(aa) the fee specified in column 3 of the table in Schedule 2 in respect of a physical check of those cut flowers; and

(bb) the fee specified in column 4 of that table in respect of an identity check of those cut flowers;

(ii) in the case of a Schedule 2 cut flower consignment which includes two or more lots of cut flowers—

(aa) a fee equal to the highest of the fees specified in column 3 of the table in Schedule 2 in respect of a physical check of any of those lots; and

(bb) the fee specified in column 4 of that table in respect of an identity check which corresponds to the fee payable under sub-paragraph (aa);

(iii) in the case of a Schedule 2 fruit or vegetable consignment which includes one lot of fruit or vegetables—

(aa) the fee specified in column 3 of the table in Schedule 2 in respect of a physical check of those fruit or vegetables; and

(bb) the fee specified in column 4 of that table in respect of an identity check of those fruit or vegetables;

(iv) in the case of a Schedule 2 fruit or vegetable consignment which includes two or more lots of fruit or vegetables—

(aa) a fee equal to the highest of the fees specified in column 3 of the table in Schedule 2 in respect of a physical check of any of those lots; and

(bb) the fee specified in column 4 of that table in respect of an identity check which corresponds to the fee payable under sub-paragraph (aa);

(v) in the case of a consignment which includes—

(aa) plants or plant products of any other description specified in the table in column 1 of Schedule 2, or

(bb) machinery or vehicles which have been operated for agricultural or forestry purposes,

insofar as (in either case) they originate in a country specified in column 2 of that table, the fee or fees specified in columns 3 and 4 of that table in respect of a physical check and identity check, respectively, of the plants or plant products of each such description contained in the consignment (other than any also specified in Schedule 1), and (so far as relevant) of machinery or vehicles;

(vi) where the consignment includes plants, plant products or other objects of one or more descriptions specified in column 1 of the table in Schedule 1—

(aa) the fee or fees specified in column 2 of that table in respect of a physical check of plants, plant products or other objects of each such description contained in the consignment;

(bb) the fee or fees specified in column 3 of that table in respect of an identity check of plants, plant products or other objects of each such description contained in the consignment.".

(b) After paragraph (2A) insert—

"(2B) The fees payable under paragraph (2A)(a) in respect of liability to a physical check and identity check of cut flowers or fruit or vegetables are, irrespective of the number of lots contained in the consignment—

(a) in the case of a consignment including only cut flowers or only fruit or vegetables, those payable in respect of a single lot of the kind in question;

(b) in the case of a consignment including both cut flowers and fruit or vegetables, those payable in respect of a single lot of each kind.

(2C) The fees payable under paragraph (2A)(a) in respect of liability to a physical check and identity check of plants or plant products, so far as the plants or plant products are of a single relevant category and originate in the same country but fall within two or more descriptions specified in column 1 of the table in Schedule 1A, are the highest of the fees specified in respect of plants or plant products of any such description.

(2D) For the purpose of paragraph (2C), "relevant category", in relation to plants or plant products, means any of the following categories of plants or plant products—

(a) bark;

(b) bulbs;

(c) corms;

(d) plants intended for planting;

(e) rhizomes;

(f) seeds;

(g) tissue cultures;

(h) tubers (other than tubers of potatoes).

(2E) No fee is payable under paragraph (2A)(a) in respect of any consignment imported before 1st March 2022, where it would be payable in respect of any plants or plant products specified in Schedule 2A that are contained in that consignment.".

(3) For Schedule 1 substitute—

"SCHEDULE 1 Regulation 3(1) and (2A)(b)(vi)

Import inspection fees: Consignments originating in countries other than an EU Member State, Liechtenstein or Switzerland

Column 1 *Description of Plant, plant product or other object*	*Column 2* *Fee: Physical check (£)*	*Column 3* *Fee: Identity check (£)*
Cuttings, seedlings (except forestry reproductive material), young plants of strawberries or of vegetables	173.91	5.25
Shrubs, trees (other than cut Christmas trees), other woody nursery plants including forest reproductive material	182.38	5.25

(other than seed)		
Bulbs, corms, rhizomes, tubers, intended for planting (other than tubers of potatoes)	205.04	5.25
Seeds, tissue cultures	128.13	5.25
Other plants intended for planting, not specified elsewhere in this table	182.38	5.25
Cut flowers	42.75	5.25
Branches with foliage, parts of conifers (other than cut Christmas trees)	33.99	5.25
Cut Christmas trees	119.64	5.25
Leaves of plants, such as herbs, spices and leafy vegetables	71.68	5.25
Fruits, vegetables (other than leafy vegetables)	53.10	5.25
Tubers of potatoes	156.69	5.25
Soil and growing medium, bark	119.64	5.25
Grain	142.98	5.25
Other plants or plant products, not specified elsewhere in this table, except forest trees	22.73	5.25.".

(4) After Schedule 1, insert the following Schedule—

"SCHEDULE 1A Regulation 3(2A)(a)

Import inspection fees: consignments originating in an EU Member State, Liechtenstein or Switzerland

Column 1 *Plant, plant product or other object and genus (if applicable)*	*Column 2* *Country of origin*	*Column 3* *Fee: Physical check (£)*	*Column 4* *Fee: Identity check (£)*
Cuttings, seedlings (except forestry reproductive material), young plants of strawberries or of vegetables, not intended for final users[1]			
All genera	All[2]	173.91	5.25
Bulbs, corms, rhizomes, tubers, (other than tubers of potatoes), not intended for final users[1]			
All genera	All[2]	205.04	5.25
Bulbs, corms, rhizomes, tubers, (other than tubers of potatoes), intended for final users[1]			
All genera	All[2]	20.50	0.52
Seeds, not intended for final users[1]			
Allium cepa L.	All[2]	128.13	5.25
Allium porrum L.	All[2]	128.13	5.25
Castanea Mill.	All[2]	128.13	5.25
Capsicum spp. L.	All[2]	128.13	5.25
Helianthus annuus L.	All[2]	128.13	5.25
Medicago sativa L.	All[2]	128.13	5.25
Phaseolus cocineus	All[2]	128.13	5.25
Phaseolus vulgaris L.	All[2]	128.13	5.25
Solanum lycopersicum L.	All[2]	128.13	5.25
Solanum tuberosum L. (True potato seed)	All[2]	128.13	5.25

Vegetable seeds of *Pisum sativum* L. and *Vicia faba* L.	All[2]	128.13	5.25
Seeds of oil and fibre plants of—			
Brassica napus L.	All[2]	128.13	5.25
Brassica rapa L.	All[2]	128.13	5.25
Sinapis alba L.	All[2]	128.13	5.25
Glycine max (L.) Merrill	All[2]	128.13	5.25
Linum usitatissimum L.	All[2]	128.13	5.25
Seeds, intended for final users[1]			
Allium cepa L.	All[2]	6.40	0.26
Allium porrum L.	All[2]	6.40	0.26
Castanea Mill.	All[2]	6.40	0.26
Capsicum spp. L.	All[2]	6.40	0.26
Helianthus annuus L.	All[2]	6.40	0.26
Medicago sativa L.	All[2]	6.40	0.26
Phaseolus cocineus	All[2]	6.40	0.26
Phaseolus vulgaris L.	All[2]	6.40	0.26
Solanum lycopersicum L.	All[2]	6.40	0.26
Solanum tuberosum L. (True potato seed)	All[2]	6.40	0.26
Vegetable seeds of *Pisum sativum* L. and *Vicia faba* L.	All[2]	6.40	0.26
Seeds of oil and fibre plants of—			
Brassica napus L.	All[2]	6.40	0.26
Brassica rapa L.	All[2]	6.40	0.26
Sinapis alba L.	All[2]	6.40	0.26
Glycine max (L.) Merrill	All[2]	6.40	0.26
Linum usitatissimum L.	All[2]	6.40	0.26
Other seeds not specified elsewhere in this table			
All genera	All[2]	3.84	0.15
Tissue cultures, not intended for final users[1]			
All genera	All[2]	128.13	5.25
Tissue cultures, intended for final users[1]			
All genera	All[2]	6.40	0.26
Plants intended for planting (other than cut Christmas trees), not intended for final users[1]			
All genera	All[2]	182.38	5.25
Other plants intended for planting not specified elsewhere in this table, intended for final users[1]			
All genera	All[2]	18.23	0.52
Cut flowers			
All genera	All[2]	1.28	0.15
Branches with foliage, parts of Conifers other than bark or cut Christmas trees			
All genera	All[2]	1.02	0.15
Cut Christmas trees			
All genera	All[2]	3.58	0.15
Leaves of plants, such as herbs, spices and leafy vegetables			
All genera	All[2]	2.15	0.15
Fruit or vegetables			
All genera	All[2]	1.59	0.15

Tubers of potatoes			
Solanum tuberosum L. intended for planting (seed potatoes)	All[(2)]	156.69	5.25
Solanum tuberosum L. (ware potatoes)	Poland, Portugal or Romania	78.34	2.62
Solanum tuberosum L. (ware potatoes)	Spain	156.69	5.25
Solanum tuberosum L. (ware potatoes)	Any other EU Member State, Liechtenstein or Switzerland	4.70	0.15
Soil and growing medium, bark			
Bark of—			
Castanea Mill.	All[(2)]	5.98	0.26
Conifers (Pinales)	All[(2)]	5.98	0.26
Juglans L.	All[(2)]	5.98	0.26
Pterocarya Kunth.	All[(2)]	5.98	0.26
Soil and growing medium, bark			
Bark of all genera not specified elsewhere in this table	All[(2)]	3.58	0.15
Grain			
All genera	All[(2)]	4.28	0.15
Other plants or plant products not specified elsewhere in this table, other than forest trees, soil and growing medium			
All genera	All[(2)]	0.68	0.15
Machinery or vehicles which have been operated for agricultural or forestry purposes			
—	All[(2)]	5.98	0.26

[(1)] "Intended for final users" includes clearly packed and ready for supply to final users, identifiable as being for use by landscapers or contractors for planting at the final site of the plants and where additional packing or preparation (excluding multiplication, propagation or growing on) is required before making plants available to final users.

[(2)] "All" means any EU Member State, Liechtenstein or Switzerland.".

(5) For Schedule 2 substitute—

"SCHEDULE 2 Regulation 3(2A)(b)(i) to (v) and (3)

Import inspection fees: Reduced rates for consignments originating in countries other than an EU Member State, Liechtenstein or Switzerland

Column 1 *Plant, plant product or other object and genus (if applicable)*	*Column 2* *Country of origin*	*Column 3* *Fee: Physical check (£)*	*Column 4* *Fee: Identity check (£)*
Cut flowers			
Aster	Zimbabwe	32.06	3.93
Dianthus	Columbia	1.28	0.15
	Ecuador	6.41	0.78
	Kenya	2.14	0.26

	Turkey	6.41	0.78
Rosa	Columbia	1.28	0.15
	Ecuador	0.43	0.05
	Ethiopia	2.14	0.26
	Kenya	4.28	0.52
	Tanzania	21.38	2.62
	Zambia	4.28	0.52
Branches with foliage, parts of Conifers (other than cut Christmas trees)			
Phoenix	Costa Rica	17.00	2.62
Fruit			
Carica papaya	Any third country other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
Cydonia	Any third country in Europe[(1)] other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
Fragaria	Any third country other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
Malus	Any third country in Europe[(1)] other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
	Argentina	18.59	1.83
	Brazil	26.55	2.62
	Chile	2.66	0.26
	New Zealand	5.31	0.52
	South Africa	2.66	0.26
Persea Americana	Any third country other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
Prunus	Any third country in Europe[(1)] other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
	Argentina	39.83	3.93
	Chile	5.31	0.53
	Morocco	26.55	2.62
	Turkey	18.59	1.83
Prunus other than prunus persica	South Africa	5.31	0.26
Pyrus	Any third country in Europe[(1)] other than an EU Member State, Liechtenstein	2.66	0.26

	or Switzerland		
	Argentina	7.97	0.78
	Chile	7.97	0.78
	China	26.55	2.62
	South Africa	5.31	0.53
Ribes	Any third country in Europe[(1)] other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
Rubus	Any third country other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
Vaccinium	Any third country in Europe[(1)] other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
	Argentina	13.28	1.31
	Chile	5.31	0.53
	Peru	5.31	0.53
Vitis	Any third country other than an EU Member State, Liechtenstein or Switzerland	2.66	0.26
Vegetables			
Solanum lycopersicon	Canary Islands	2.66	0.26
	Morocco	2.66	0.26
Solanum melongena	Turkey	7.97	1.31
Machinery or vehicles which have been operated for agricultural or forestry purposes			
—	Any third country	5.98	0.26

[(1)] "Third country in Europe" includes Albania, Andorra, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Canary Islands, the Faeroe Islands, Georgia, Iceland, Moldova, Monaco, Montenegro, North Macedonia, Norway, Russia (only the following parts: Central Federal District (Tsentralny federalny okrug), Federal District (Severo-Zapadny federalny okrug), Southern Federal District (Yuzhny federalny okrug), North Caucasian Federal District (Severo-Kavkazsky federalny okrug) and Volga Federal District (Privolzhsky federalny okrug), San Marino, Serbia, Turkey and Ukraine).".

(6) After Schedule 2 insert—

"SCHEDULE 2A

Regulation 3(2E)

List of plants or plant products originating in an EU Member State, Liechtenstein or Switzerland subject to fees for physical checks and identity checks from 1st March 2022

1. Seeds referred to in Schedule 1A as falling within the description "**Other seeds not specified elsewhere in this table**".

2. Cut flowers.

3. Branches with foliage, parts of Conifers other than bark or cut Christmas trees.

4. Cut Christmas trees.

5. Leaves of plants, such as herbs, spices and leafy vegetables.

6. Fruit.

7. Vegetables.

8. Tubers of potatoes originating in any EU Member State (other than Portugal, Poland, Romania and Spain), Liechtenstein or Switzerland.

9. Bark of all genera other than *Castanea* Mill, conifers (Pinales), *Juglans* L and *Pterocarya* Kunth.

10. Grain.

11. Plants or plant products referred to in Schedule 1A as falling within the description "**Other plants or plant products not specified elsewhere in this table, other than forest trees, soil and growing medium**".".

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

We consent,

Name
Name
Date Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 14(1) of and paragraph 7 of Schedule 4 to the European Union (Withdrawal) Act 2018 (c. 16), and amend the Plant Health etc. (Fees) (England) Regulations 2018 (S.I. 2018/289) ("the 2018 Regulations"). They make modifications in consequence of the withdrawal of the United Kingdom from the European Union to certain fees payable to the Secretary of State in relation to inspections of imports of plants, plant products or other objects.

In particular—

(a) the fee payable by an importer in respect of each phytosanitary certificate or phytosanitary certificate for re-export accompanying a consignment is divided into separate fees payable in respect of a documentary check and an identity check (*regulation 2(2)(a)*);

(b) a new Schedule 1A is inserted into the 2018 Regulations to provide for fees payable by an importer in respect of a physical check and identity check of plants, plant products or other objects originating in an EU member State, Switzerland or Liechtenstein, including those which are subject to reduced checks, reflecting the level of inspection, based on the risk associated with those plants, plant products or other objects (*regulation 2(2)(a) and (4)*); and

(c) provision is made in Schedule 2 to the 2018 Regulations for reduced fees in respect of an identity check of plants, plant products or other objects originating in a third country other than an EU member State, Switzerland or Liechtenstein, reflecting the existing level of inspection (*regulation 2(2)(a) and (5)*).

The fees payable by virtue of new regulation 3(2A)(a) of the 2018 Regulations are not payable in respect of consignments imported before 1st March 2022, in respect of certain plants or plant products.

The fees applicable in respect of physical checks and identity checks of consignment of certain plants, plant products or other objects from EU member States, Liechtenstein or Switzerland reflect the frequency rates of those checks as set out in the Official Controls, Plant Health, Seeds and Seed Potatoes (Amendment etc.) Regulations 2021.

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

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