

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

This Explanatory Memorandum has been prepared by the Plant Health and Environment Protection Branch within the Economy, Skills and Natural Resources Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020. I am satisfied that the benefits justify the likely costs.

Lesley Griffiths
Minister for Environment, Energy and Rural Affairs
5 March 2020

PART 1

1. Description

- 1.1 This instrument implements part of the EU Smarter Rules for Safer Food (“SRSF”) package of regulations, a set of three EU regulations for the protection against animal disease and plant pests. The package will modernise, simplify and improve existing health and safety standards for the agri-food chain, taking a risk-based approach to animal, plant and public health protection, introducing more efficient pest and disease control measures.
- 1.2 The specific purpose of this instrument is to supplement two EU Regulations: Regulation (EU) 2016/2031 on protective measures against pests of plants (“the EU Plant Health Regulation”) and Regulation (EU) 2017/2031 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 (“the EU Official Controls Regulation”).
- 1.3 This instrument will enable official controls and other official activities relating to plant health rules to be carried out in accordance with these Regulations and action to be taken to enforce these rules. It will also enable official controls relating to the deliberate release into the environment of genetically modified organisms (GMOs) for the purpose of food and feed production, to be carried out in accordance with the EU Official Controls Regulation.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 This instrument makes short amendments to Regulations, which have been before the Committee, the Official Controls (Animals, Feed and Food, Plant Health Fees etc.) (Wales) Regulations 2020.

3. Legislative background

3.1 The EU Plant Health Regulation and the EU Official Controls Regulation (“the EU Regulations”) applied directly from 14 December 2019. They replaced Council Directive 2000/29/EC on protective measures against the introduction into the EU of organisms harmful to plants or plant products and against their spread within the EU. The Directive is implemented in Wales by the Plant Health (Wales) Order 2018 (S.I. 2018/1064)(W.223)) and, in relation to forestry matters, by the Plant Health (Forestry) Order 2005 (S.I. 2005/2517) which extends to Great Britain. Similar but separate legislation to these Orders operates in Scotland, England and Northern Ireland.

3.2 The EU Regulations and the tertiary legislation made under these Regulations was directly applicable in the United Kingdom from 14 December 2019. Whilst domestic legislation is not needed to implement the substantive provisions in this EU legislation, supplementary domestic provisions are necessary to ensure the competent authority in Wales is able to carry out its obligations under the EU Regulations. It also ensures the competent authority is able to enforce these

Regulations and implement derogations to various provisions in the EU legislation which are available to Member States. This instrument contains these supplementary domestic provisions for both plant health and the deliberate release of GMOs. It additionally revokes a number of existing plant health orders, such as the Plant Health (Wales) Order 2018 and the Plant Health (Forestry) Order 2005. There will be separate but parallel legislation for England, Northern Ireland, and Scotland.

3.3 This instrument is related to the Official Controls (Animal, Feed and Food, Plant Health Fees etc.) (Wales) Regulations 2020, which contains enforcement powers to implement the EU Official Controls Regulations in areas other than plant health and the deliberate release of GMOs. The Welsh Ministers have made other statutory instruments in relation to the EU Official Controls Regulations: the Official Feed and Food Controls (Wales) (Miscellaneous Amendments) Regulations 2019; the Meat (Official Control Charges) (Wales) (Amendment) Regulations 2019 and the Fishery Products (Official Control Charges) (Wales) (Amendment) Regulations 2019.

4. Purpose and intended effect of the legislation

4.1 The EU Regulations establish controls and restrictions, which apply to the import from third countries (countries which are not EU Member States), and internal movement within and between EU Member States, of certain plants, plant pests and other material (such as soil) to help reduce biosecurity risk, strengthen the current plant health regime and protect the environment from the spread of harmful pests and diseases.

4.2 There are no other policy options available as the EU Regulations are directly applicable during the Implementation Period established by the European Union (Withdrawal Agreement) Act 2020. The UK is legally obliged under the EU Regulations to ensure that it has sufficient powers to enforce the EU Regulations.

4.3 The EU Regulations revise and improve the current EU plant health legislation. The revised legislation will protect domestic agriculture, horticulture, forestry, parks, gardens and the environment by preventing the entry of harmful plant pests and diseases.

4.4 Part 2 of the instrument designates the Welsh Ministers as the competent authority in Wales for the purposes of the EU Regulations.

4.5 Part 3 makes further provision in relation to consignments of plants, plant products and other objects from third countries, which are subject to official controls and other official activities, on their entry into the EU.

4.6 Part 4 contains powers to enable plant health inspectors appointed by the Welsh Ministers to take measures to prevent the establishment or spread of harmful plant pests in Wales.

4.7 Part 5 imposes additional temporary measures to prevent the entry of certain harmful plant pests into Wales or their establishment in, or spread within, Wales. These measures will further enhance the UK's biosecurity against these pests. This

is permitted under the EU Plant Health Regulation where the UK is faced with an imminent threat of a plant pest entering its territory but the EU has not put in place measures to mitigate that risk or existing EU measures are not considered sufficient to mitigate this risk. The temporary measures include those targeted at plants, plant pests or plant products from third countries and from within the EU and were previously included in the Plant Health (Wales) Order 2018.

4.8 Part 6 makes further provision in relation to the registration of professional operators and the granting of authorisations to professional operators by the Welsh Ministers.

4.9 Part 7 imposes additional requirements in relation to certain solanaceous species (potatoes) to implement the existing EU Control Directives relating to potato wart disease, potato cyst nematodes, potato ring rot and potato brown rot. The detailed requirements are set out in Schedule 2 of the instrument and replicate the existing provisions implementing those Directives in Article 39 of, and Schedules 13 to 16 to, the Plant Health (Wales) Order 2018. Schedule 2 sets out the measures to be taken by the competent authority to control and eradicate these potato pests and diseases, as well as certain prohibitions relating to the planting of potatoes. This maintains existing EU and UK regimes outlining measures on potato control.

4.10 Part 8 imposes additional notification requirements in respect of certain plants and plant products, which are to be brought into Wales. The purpose of notification requirements in regulations 24 and 26 is to facilitate effective official checks of plants and plant products considered to pose a significant risk to plant health in the UK. The notification facilitates intelligence about the introduction of these plants and plant products and facilitates targeted checks of that material. The notification requirements in regulation 25 are required under EU legislation where Member States authorise the introduction of citrus fruits for industrial processing.

4.11 Part 9 sets out general powers of plant health inspectors to enable them to perform official controls and other official activities and enforce the EU Plant Health Regulation, the Official Controls Regulation and these Regulations, including powers of entry and inspection.

4.12 Part 10 sets out miscellaneous provisions, which set out circumstances in which a notice should be served by the competent authority and the enforcement action to be taken by that competent authority.

4.13 Part 11 contains offences and penalties for non-compliance with specified provisions of the EU Plant Health Regulation, the Official Controls Regulation and other EU legislation, as well as the specified provisions of these Regulations.

4.14 These provisions replicate the enforcement mechanisms and penalties for non-compliance set out in the Plant Health (Wales) Order 2018, the Plant Health (Forestry) Order 2005 and other existing domestic plant health legislation. Whilst the EU Plant Health Regulation and EU Official Controls Regulation will not result in any significant changes to the existing EU plant health regime, the new EU Regulations will introduce some new processes, which will necessitate the creation of additional offences to ensure overall consistency.

4.15 The offences included in these Regulations relate to:

- contravention or failure to comply with specified provisions, a provision or condition of a statutory plant health notice, a provision or condition of an authorisation or permit or conditions of a written direction given by the competent authority (Regulations 38 and 39);
- provision of false or misleading information (Regulation 41);
- improper use of plant passports or phytosanitary certificates (Regulation 42);
- obstruction (Regulation 43); and
- disclosure of information held by Her Majesty's Revenue and Customs (HMRC) (Regulation 44), which is an either way offence.

4.16 The penalties for any offence under these Regulations mirror those included in the Plant Health (Wales) Order 2018 and the Plant Health (Forestry) Order 2005 and are non-custodial (unlimited fines), except for the penalty, which applies to the non-disclosure of certain information received from HMRC under information gateway provisions. This penalty for this either way offence includes custodial terms.

4.17 Part 12 deals with minor and consequential amendments to secondary legislation, revocations and transitional provisions in relation to plant health legislation.

4.18 Part 13 makes amendments to a previous instrument, the Official Controls (Animals, Feed and Food, Plant Health Fees etc.) (Wales) Regulations 2020. One amendment adds a reference to the deliberate release into the environment of GMOs for the purpose of food and feed production to the scope of "relevant legislation" as defined in regulation 2(1) of that instrument. The effect is to extend the designation of the Welsh Ministers as competent authority under the EU Official Controls Regulation, and to extend the relevant provisions in relation to enforcement in that instrument to the deliberate release of GMOs. Another amendment corrects a minor error in the text of regulation 13 of that instrument.

4.19 Schedule 5 sets out the amendments made by this instrument to secondary legislation, including the Marketing of Vegetable Plant Material Regulations 1995, the Marketing of Ornamental Plant Propagating Material Regulations 1999, the Forest Reproductive Material (Great Britain) Regulations 2002, the Seed Potatoes (Wales) Regulations 2016, the Marketing of Fruit Plant and Propagating Material (Wales) Regulations 2017 and the Plant Health (Fees) (Forestry) (Wales) Regulations 2019.

4.20 Schedule 6 lists the orders revoked by this instrument, which include the Plant Health (Wales) Order 2018, the Plant Health (Forestry) Order 2005, the Plant Health (Export Certification) (Wales) Order 2006, the Plant Health (Export Certification) (Forestry) (Great Britain) Order 2004 and the Plant Health (Wood Packaging Material Marking) (Forestry) Order 2006.

5. Consultation

5.1 There has been no formal consultation on this instrument as it only makes minor changes to current practice. With regard to GMOs, there has been no formal consultation on this instrument as it makes no significant changes to the current official control practices.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

Policy

6.1 The two policy changes are:

- a) Creation of new (or continuation of existing) criminal sanctions to ensure future enforcement of the new EU Regulations: addresses negative externality risks by ensuring there is full compliance with new EU PHR (e.g. additional certification) requirements;
- b) UK specific tightly defined definition of “close proximity” threshold for plant passporting: addresses information failure (by improving information on plant biosecurity and traceability of plants being moved at distance within the UK, where currently these plants cannot be traced) and sharpens incentives to improve plant biosecurity

6.2 There are no other policy options available as the EU Regulations are directly applicable during the Implementation Period established by the European Union (Withdrawal Agreement) Act 2020. The UK is legally obliged under the EU Regulations to ensure that it has sufficient powers to enforce the EU Regulations.

6.3 Areas where specific policy options have been made in areas requiring domestic legislation include:

Fees and Charges

6.4 More data is required before new fees and charges can be introduced, therefore, no new fees and charges will be introduced at this stage and there will be no impact on businesses.

Sanctions and Penalties.

6.5 The preferred option is to only use criminal sanctions, so the existing sanctions will remain in place and any new sanctions introduced will be criminal based. This option results in changes for business and, therefore, the impact is analysed below:

6.6 There are **four** policy options on the sanctions approach for enforcing the new plant health aspects of SRSF. Currently, the UK uses non-custodial criminal sanctions for plant health related matters. This is as opposed to civil sanctions, which can cover financial penalties as well as remedial action.

6.7 **Option 1**, the preferred option, is to only use criminal sanctions, so the existing sanctions will remain in place and any new sanctions introduced will be criminal based. This is essentially keeping the existing system, which is the simplest for officials to retain given the industry’s familiarity with such a system. In the future, this sanctions approach will be reviewed, with the possible phasing in of civil

sanctions at a later date if deemed appropriate. This approach will have negligible impact on the criminal justice system or industry. Consequentially, impacts of the instrument's sanction provisions are only quantified in terms of familiarisation costs in this RIA.

6.8 **Option 2** is to retain existing criminal sanctions with the addition of civil sanctions.

6.9 **Option 3**, is to use only civil sanctions which would be easy to apply but are limited in scope and flexibility (and would have been a huge upheaval of the current regime).

6.10 **Option 4**, is to maintain all current criminal sanctions and not introduce any additional sanctions for the new areas.

Exemptions to registration requirements

6.11 This exemption will continue to be applied as it is currently. Therefore, this results in no changes in the current regime and, therefore, there is no impact to business.

6.12 The PHR's provisions on the official register of professional operators (Article 65.3) sets out those operators who fulfil certain criteria can be exempted from authorisation.

6.13 The same article introduces a new provision for Member States not to apply this exemption if they so choose. The businesses, which would be impacted by removal of the exemption, are small, numerous and difficult to trace. There are two policy options:

6.14 **Option 1**, the preferred option, is to choose not to routinely apply the new provision and continue to allow the exemption to these operators. This would not preclude introducing requirements in the future for such operators if a specific biosecurity risk was identified, which meant such measures were proportionate.

6.15 **Option 2** is to apply the new provision and not allow the exception to these operators. This is deemed onerous and not necessary at this stage. The operators related to this exemption present a low biosecurity risk and the uplifted resource required to register them would be disproportionate to this risk. In addition, there would be additional costs to these operators.

Issuing Plant Passports at the Place of Destination or Point of Entry

6.16 The preferred option results in no changes in the current regime and, therefore, there is no impact to business.

6.17 Some regulated goods will require a Plant Passport (PP) when they reach the UK from a third country.

6.18 If the plant or plant product requires a PP, the Phytosanitary Certificate (PC), which it already holds, will need to be replaced by a PP upon entry to the UK.

6.19 Under Article 94(1) this can take place at the place of destination once the consignment has cleared official controls at the border. This is what happens currently. Furthermore, under Article 84(3) it states that operators may issue PPs at premises, which are not their own where Article 94(1) applies, if they are authorised to do so.

6.20 There is a derogation under Article 94(2) for a PC to be certified at the place of entry and accompany the consignment up until a PP is issued (only within that Member State). However, this is unfeasible for the UK, as in most cases consignments do not travel with their original PC, so a certified copy could not be issued. Therefore, the derogation will not be applied.

Close Proximity

6.21 The preferred option of defining close proximity as a 10-mile radius, results in changes for business and, therefore, the impact is analysed.

6.22 Under PHR Article 82, there is an option to exempt the movement of plants between premises of the same professional operator from requiring PPs if those premises are within close proximity. The definition of close proximity is at the discretion of the Member State.

6.23 Our recommendation of close proximity would be premises within a 10-mile radius, on the basis it was favoured by some stakeholders, it is a reasonable definition of close proximity, has little legal risk if challenged, and it provides high levels of biosecurity. It is similar to an existing measures based on operators moving material within the same locality but it would have the advantage of not affecting stakeholders whose premises lay on county lines and of standardising the approach across all operators. This definition will be reviewed to ensure it is appropriate.

6.24 Alternative options proposed following stakeholder engagement, include a 50-mile radius, or defining the entire UK as being in close proximity. Some other EU Member states favour this approach as it can be easier to implement but we have decided the biosecurity benefits of this approach outweigh these arguments.

Justice System Impact Assessment

6.25 A Justice System Impact Assessment has been completed. The number of cases brought forward for enforcement action is anticipated to be minimal. There have been no cases in recent years using the existing criminal offences in the Plant Health (Wales) Order 2018 and the Plant Health (Forestry) Order 2005 (as it applies to Wales). Most contraventions are successfully dealt with through statutory plant health notices and informal warnings.

7. Costs and benefits

The costs and benefits have been assessed against a baseline ‘business as usual’ scenario in which no policy changes are made.

Assessment of Costs to Businesses and Authorities

EU Official Controls Regulation – The Criminal Sanctions Future Enforcement Regime

7.1 The current working assumption is that criminal sanctions will be used¹ – all existing sanctions would remain and then new criminal sanctions would be introduced where needed for exports and the provision of information to travellers and clients of postal services etc.

7.2 If we assume businesses will fully comply with these criminal sanctions we, therefore, need to assess the impact for all plant health related businesses, which are affected by the need to familiarise themselves with these new criminal sanctions:

- There will be a more specific requirement to those businesses who currently don’t need to comply with particular criminal sanctions, to familiarise themselves with the new offences, which these criminal sanctions will apply (for exports and provision of information to travellers and clients of postal services);
- There may also be a general requirement across all plant health related businesses to familiarise themselves with any general edits to phrases, definitions and references in the legislation.

7.3 We estimate there are around 23,470 businesses affected in Wales. We estimate around 3,123 of these Welsh businesses may require more time to familiarise themselves with the new criminal sanctions as they export (and a further 29 Authorities, made up of 22 Local Authorities, 2 Port Authorities and 5 OCR laboratories). The remaining 20,347 businesses are expected only to familiarise themselves more generally.

7.4 We assume the 3,123 specific businesses and 29 Authorities will need two hours on average (given that there will be guidance on Gov.uk and a work-through for stakeholders to disseminate and simplify for businesses) for 1 employee to familiarise themselves with the new criminal sanctions at a one-off year 1 cost of £34.62 per business (£17.31 x 2 hours)². For the other 20,347 businesses, we assume they will need ½ hour per company for one employee to familiarise themselves more generally at a one-off year 1 cost of £8.33 per business³.

¹ Essentially this option would be the same as the existing system. It would utilise the statutory plant health notices, which are a device, which can be used in all cases and offers perhaps the most flexibility to deal with any situation that arises. It would also likely be the easiest option for officials to introduce and to implement given the familiarity with such a system.

² Average of median wages for “Managers and directors in retail and wholesale” (£11.48 per hour) and “Administrative occupations: Office managers and supervisors” (£15.15 per hour), ASHE 2019. A 30% uplift to account for non-wage labour costs is then applied to the average.

³ Either 2 hours or ½ hour for 1 employee has been used as an average across all affected businesses, which we judge to be sensible assumption given that there will be supplementary guidance and dissemination efforts to help businesses familiarise

Type of Business (affected in England)	Number of Businesses Affected	Time Cost	Total Year 1 Cost
General PH Related	295	0.5 hours	£2553.23
Import/Exporter business	74	2 hours	£2561.88
Authorities	29	2 hours	£1004
Total Cost Across Businesses	398		£6119.11

EU PH Regulation – Close Proximity Rule for plant passporting

7.5 “Close proximity” (for the purposes of the movement of plants, plant products and other objects between premises of the same authorised operator) can be defined specifically by individual Member States and a 10-mile radius has been chosen in order to reduce plant biosecurity risks. Also, in practical terms, it was deemed to be closer to the meaning/purpose of the Regulations than the other options presented as definitions of close proximity.

7.6 We need to assess the extent this creates an additional plant passporting requirement across businesses who trade in plants/plant products, given that, for many of these traded commodities, this is a much tighter definition of close proximity than under existing legislation (e.g. conifer timber with bark can currently be moved anywhere within GB subject to a ‘local movement exemption’, based on the UK’s interpretation of existing regulations, and so no PPs have been required).

7.7 Timber

Since 14 December 2019, it has been a requirement to provide PP for movements of timber within Wales (or indeed GB). Forestry Commission estimate around 26,000 movements within Wales per year would additionally require a PP (based on 650,000 green tonnes of conifer timber with bark⁴ and 25 tonnes carried per load. A 10% reduction is applied to take into account the 10-mile radius resulting in around 23,400 PPs.

Timber Type	Overall Quantity	Plant Passports per Load	Plant Passports	PPs (10% reduction)
Conifer with Bark	650,000 tonnes	25 tonnes per lorry	26,000	23,400
Total			26,000	23,400

7.9 On this basis, we can estimate the costs involved to businesses in Wales for these additional PPs. The costs relate to the time needed to complete these additional PPs. If we again assume a wage of £17.31 per hour (as above) and that

themselves. We should note that some businesses may take less time and others businesses may either take more time or use more than 1 employee.

⁴ FC Statistics 2018 (Table 2.12, consumption of softwood by country, 2017 data)

the time need to complete a PP is around 5 minutes⁵, then the time cost is estimated at £1.44 per PP. If we apply this to 23,400 PPs, then this results in a **cost to businesses of £33,696 per year**.

[Note that if we do not apply the 10% reduction, then the estimated number of additional PPs would be 26,000 reported above, resulting in a £37,440 per year cost to businesses.]

Plants and Plant Products (excluding Timber)

7.10 The data is not readily available to estimate additional PP requirements for plants/plant products, because of the more tightly defined close proximity threshold, as there is currently no official data collection required. This is further complicated by the method of transport. PPs will be required for either individual plants, per tray of the same plants, per pallet of the same plants or per truck/lorry containing the same plants.

7.11 It has been estimated a business time cost per PP of £1.44 per based on the assumption it would take five minutes to complete each PP.

Assessment of Benefits to Businesses

7.12 We do not expect any additional benefits from the criminal sanctions future enforcement regime (as full compliance is already assumed).

7.13 The tighter definition of close proximity, resulting in this additional plant passporting requirement, is expected to sharpen incentives to reduce the risks of plant pests and diseases through improved plant biosecurity information and traceability. The overall value of maintaining healthy plants and trees in the UK is £9bn per year⁶ and we would expect this sharpening of incentives to contribute to the protection of this overall value to society.

7.14 The main biosecurity benefit will arise from the implementation of the directly applicable Plant Health Regulations. The directly applicable aspects are out of scope of this assessment, although the instrument allows these Regulations to be enforced.

Brief Assessment of Distributional Impacts

7.15 There are unlikely to be any significant distributional impacts arising from this instrument. We believe there is nothing in the instrument that will lead to transfers between different interest groups, businesses or sectors.

⁵ Likely to be an overestimate (given that FC envisage that PPs will be pre-populated, printed and included on a delivery note)

⁶ Comprised of an estimated £4bn of Gross Value Added (GVA) from crop and horticulture sectors, £1bn of GVA from forestry and logging sector, and around £4bn of social/environmental value from forestry and trees from carbon sequestration, air pollution absorption, biodiversity, recreation and landscape value (excluding many elements that cannot easily be monetised – water quality/availability, noise, flood and heat reduction, physical and mental wellbeing, and cultural, symbolic education benefits). Estimates are based on Agriculture in the UK, Forestry Statistics and Tree Health Resilience Strategy publications.

Brief Assessment of Small Business Impacts

7.16 Familiarisation costs resulting from the new criminal sanctions, at the level of an individual firm, are assumed to be relatively low (up to £34.62 for an individual firm, based on the £17.31 per hour cost documented in the section, which estimates these costs above). Although such cost may affect smaller businesses relatively more, they are still small costs per business. In addition, the costs of additional PPs as a result of the new more tightly defined close proximity threshold are expected mainly to affect the larger-scale businesses in the sector.

Wider impacts on Competent Authorities

7.17 The rules introduced by the EU Regulations are directed at national enforcement authorities and professional operators in industry, ranging from retailers to plant breeders, etc. Competent authorities would benefit from implementation of the EU Regulations as an improved legal framework that sets out all official controls rules in one place. National administrations tasked with official controls and other official duties (phytosanitary monitoring and action) will also benefit from improved and more effective enforcement tools.

Wider impacts on Professional Operators

7.18 Operators (from across a wide spectrum e.g. retailers, plant, growers and traders) will benefit from the increased efficiency of competent authorities resulting from streamlining and simplification of the legislative framework and from the risk based operation of the administrations. In particular, OCR provisions specify that competent authorities minimise administrative burdens and operational disruption for operators when performing controls. Subsequently operators will also be called upon to contribute to the financing of the national control systems through control fees. The mandatory fees system remains essentially the same as the current one, in other words the scope of the mandatory fees has not been expanded by the OCR, although the scope of regulated material has been expanded by the PHR. Furthermore, operators will benefit from a higher level of transparency about the method and data used to establish fees and the amount applied to each category of operators.

Wider national impacts

7.19 This instrument will allow for the successful implementation of the EU Regulations, which aim to ensure a high level of health and safety standards along the agri-food chain by providing a consistent approach. The EU Regulations will contribute to more consistent and effective enforcement of plant health law. In doing so there will be increased standards of biosecurity and environmental protection and wider benefits across all levels of the food production chain (including final consumer). The official controls that the instrument enables will also strengthen the risk-based approach to protection of biosecurity, which is a key interest.

8. Consultation

8.1 There has been no formal consultation on this instrument as it only makes minor changes to current practice.

9. Competition Assessment

9.1 A competition assessment was conducted and it was concluded the regulation is unlikely to have a significant detrimental effect on competition.

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	Yes
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

10. Post implementation review

10.1 The monitoring of the instrument will be through the normal course of business as no substantive changes to the current procedures or standards are being introduced.