

EXECUTIVE NOTE

THE PLANT HEALTH (EXPORT CERTIFICATION) (SCOTLAND) AMENDMENT ORDER 2007 SSI/2007/137

Introduction

1. The above instrument is made by the Scottish Ministers in exercise of powers conferred by section 2(2) of the European Communities Act 1972 and all other powers enabling them in that behalf. The instrument is subject to negative resolution procedure.

Policy Objective

2. To increase the charges made to industry in respect of charges for pre-export testing and growing season inspection work, including the issue of phytosanitary certificates, related to seed certification for export purposes.

Background

3. Around the world there are many plant pests and diseases which, if they were to become established, could cause serious damage to crops and plants. To guard against the spread of harmful organisms official controls apply to the export, movement and keeping of plants, plant pests and other material from the UK to third countries. These controls are based on EC and GB legal provisions.

4. SEERAD issues phytosanitary certificates and phytosanitary certificates for re-export for the movement of plant, plant products, etc to third countries to fulfil domestic obligations under the International Plant Protection Convention 1997. The inspection and testing work associated with this is a chargeable service provided by the Scottish Agricultural Science Agency (SASA) on SEERAD's behalf.

5. The Plant Health (Export Certification) (Scotland) Order 2004 prescribes the fees for the issue of such certificates and for services performed in this connection, including inspection, examination and test.

6. In a situation of this kind it would be reasonable to expect that the charges applied in respect of the work being done would normally be sufficient to recover the costs likely to be incurred as a result of this work. However, for the 2005-6 financial year there was a disparity in relation to the cost of issuing phytosanitary certificates for export certification purposes, which were processed at below full cost recovery. A fundamental principle of Scottish Executive accounting procedure and practice is that fees and charges should be set for all statutory and commercial services and the financial objective of a statutory or commercial service should normally be full cost recovery with charges set accordingly. This objective is not currently being met, and the increase in fees will address this.

Consultation

7. The principle of passing on the costs of administering our services to users of such services is well established. Although the number of users in this particular case is small, the rationale for any proposed increase in charges must be explained fully to those affected and an opportunity provided to make representations against the proposed increase. This was achieved through a consultation of the users of the service which ran from 3 August to 3 November 2006, and was undertaken in accordance with Scottish Executive good practice. The consultation paper discussed three possible charging options including SEERAD's preferred option of removing individual certificate, inspection and testing fees and introducing a single fee based purely on time spent on certificate production and testing and inspection work (where appropriate).

8.1 The consultation commenced on 3 August 2006 and continued until 3 November. 119 consultees were invited to comment: of these, only 3 chose to do so.

8.2 Responses were received from:

Poyntzfield Herb Nursery, Dingwall, Ross-shire
Northern Peat & Moss Co, Peterhead, Aberdeenshire
Scottish Crop Research Institute, Dundee

8.3 The first responder – Poyntzfield Herb Nursery – commented that he considered that charging for plant health matters leads to increased bureaucracy which in turn leads to greater costs to the taxpayer, and therefore no charges should be made.

8.4. The other 2 respondees – Northern Peat & Moss Co and SCRI – were content to accept our proposition that the preferred option referred to at 4.7.3 above presented the best and fairest way forward.

Impact

9. It is recognised that the individuals and bodies who apply for phytosanitary certificates and related inspections will be affected by any increase in charges for export certification work, and a principal objective of the consultation was to draw out the extent of any concerns about the proposed increase in charges. In light of comments received during consultation and the limited response rate it was considered that SEERAD's preferred option provided an acceptable way forward for all concerned. The option should meet full cost recovery for plant health export certification services and should ensure that SEERAD continues to have co-operation from applicants in this area of its work. A Regulatory Impact Assessment has been prepared.

Scottish Executive Environment and Rural Affairs Department
AF: EPHAS – Plant Health

March 2007

Proposed amendments to the Plant Health (Export Certification) (Scotland) Order 2004

REGULATORY IMPACT ASSESSMENT

1. Title of proposal

Increase in charges for pre-export testing and growing season inspection, including the issue of phytosanitary certificates, in respect of seed certification work for export purposes.

2. Purpose and intended effect

- Objective

2.1 To increase the charges made to industry in respect of charges for pre-export testing and growing season inspection work, including the issue of phytosanitary certificates, related to seed certification for export purposes.

- Background

2.2 Around the world there are many plant pests and diseases which, if they were to become established, could cause serious damage to crops and plants. To guard against the spread of harmful organisms official controls apply to the export, movement and keeping of plants, plant pests and other material from the UK to third countries. These controls are based on EC and GB legal provisions.

2.3 SEERAD issues phytosanitary and re-forwarding certificates for the movement of plant, plant products, etc to third countries to fulfil domestic obligations under the International Plant Protection Convention 1997. The inspection and testing work associated with this is a chargeable service provided by the Scottish Agricultural Science Agency (SASA) on SEERAD's behalf.

2.4 The Plant Health (Export Certification) (Scotland) Order 2004 prescribes the fees for the issue of such certificates and for services performed in this connection, including inspection, examination and test.

- Rationale for government intervention

2.5 In a situation of this kind it would be reasonable to expect that the charges applied in respect of the work being done would normally be sufficient to recover the costs likely to be incurred as a result of this work. However, for the 2005-6 financial year there was a disparity in relation to the cost of issuing phytosanitary certificates for export certification purposes, which were processed at below full cost recovery. A fundamental principle of Scottish Executive accounting procedure and practice is that fees and charges should be set for all statutory and commercial services and the financial objective of a statutory or commercial service should normally be full cost recovery with charges set accordingly. This objective is not currently being met, and the increase in fees will address this.

3. Consultation

- Within government

3.1 The initial RIA made it clear that an inter-departmental consultation was not considered to be necessary, and none has been conducted..

- Public consultation

3.2 The principle of passing on the costs of administering our services to users of such services is well established. Although the number of users in this particular case is small, the rationale for any proposed increase in charges must be explained fully to those affected and an opportunity provided to make representations against the proposed increase. This was achieved through a consultation of the users of the service which ran from 3 August to 3 November 2006, and was undertaken in accordance with Scottish Executive good practice.

4. Options

4.1 The charges for export certification work as set out in the 2004 Order comprise a certificate issue fee (£20 for consignments with a value up to £200, or £25 where the cost of the consignment is greater than £200), plus a pre-export seed testing fee of £30 per hour for laboratory work and £36 per hour for growing season inspections.

4.2 In order better to explain the options for a proposed increase in these charges and recommended course of action, it is relevant in the first instance to refer to actual costs of export certification services for the last financial year (2005-6), bearing in mind there are two sets of hourly fees for different inspections.

4.3 In the last financial year 12 phytosanitary certificates were issued, resulting in 11 laboratory inspections and one growing crop inspection. The cost of laboratory inspections was £1,140.06, generating income of £763.30 (cost recovery of 67%), and the cost of the one growing crop inspection was £294.49 which provided an income of £144 (cost recovery of 49%).

4.4 It can readily be seen, therefore, that there is a considerable disparity between the costs associated with seed certification work for export purposes and the fees charged as set out in the 2004 Order.

4.5 Based on the fees set out in the 2004 Order cost recovery for the issue of certificates has remained relatively stable over the last three years at 61%. The process is as efficient as possible to ensure an effective service. In the period prior to the 2004 Order no fees were charged and SASA undertook an exercise to minimise the technical work involved, examining the minimum quantity required under international protocols and limiting tests to those required by the importing country.

4.6 Three options were set out for consideration in the consultation document (repeated below for ease of reference). However, it was recognised that if full cost recovery for seed export certification work was to be effected sensibly and sympathetically, there were only 2 options which offered realistic solutions.

The options were:

- maintaining the *status quo*;
- maintaining the certificate fee and increasing the hourly fee; or
- removing individual certificate, inspection and testing fees and introducing a single fee based purely on time spent on certificate production and testing and inspection work.

4.7 The options in greater detail

4.7.1 *Maintaining the status quo (Option 1)*

This did not address the fact that the fees currently being charged do not satisfy the financial objective of ensuring that the Scottish Executive's fees for commercial or statutory services are set in such a way as to ensure full cost recovery.

4.7.2 *Maintaining certificate fee and increasing the hourly costs only (Option 2)*

Increasing the hourly fees for export seed testing and growing crop inspections whilst maintaining current certificate fees was considered. The effect of this is shown in Table 1 below. However, although this would have been one option for securing full cost recovery, increasing individual testing and inspection fees in this way, especially in regard to growing crop inspections which can last 4 hours or longer, would favour the larger enterprise at the expense of the small exporter, and we felt that this would be inequitable.

4.7.3 *Removing individual certificate, inspection and testing fees and introducing a single fee based purely on time spent on certificate production and testing and inspection work (where appropriate¹) (Option 3)*

Adopting this option would provide for better transparency and would simplify the current charging process considerably. Based on the 2005-6 costs of providing this service, it is calculated that full cost recovery would be provided by a combined fee of £69 per hour which covers certificate processing work, growing crop inspection and pre-export seed testing. This fee would be applied on a *pro rata* basis, *ie* if the certification and testing work took only 30 minutes in total the fee charged would be £34.50 – half the hourly rate. Certification *etc* work lasting 1½ hours would be charged in the sum of £103.50; and so on.

¹ At the time of Growing Season Inspections (GSI) no certificate is produced.

Table 1. Increase in costs per certificate if applying Option 2 or Option 3.

Certificate Number	2005-2006 income based on charges in 2004 Order	Option 2 – cost per certificate	% increase	Option 3 – cost per certificate	% increase
1	35.00	48.06	37	34.27	-2
2	35.30	48.62	38	34.96	-1
3	67.40	108.67	61	108.30	61
4	89.90	150.76	68	159.70	78
5	67.40	108.67	61	108.30	61
6	47.60	71.63	50	63.06	32
7	52.70	81.17	54	74.72	42
8	52.60	76.63	46	63.06	20
9	52.60	76.63	46	63.06	20
10	50.20	72.14	44	57.58	15
11	212.60	380.29	79	440.06	107
12 (GSI)	144.00	211.28	47	227.52	58
		Average increase	58	Average increase	58

4.8 Both options 2 and 3 involve an increase in fees which is necessary to effect full cost recovery.

5. Costs and benefits

- Sectors and groups affected

5.1 Of the 11 phytosanitary certificates issued in 2005-2006, four were issued to publicly funded scientific institutes; one was issued to a registered charity; three were issued to small specialist horticultural companies; and three were issued to a large seed merchant. (No certificate is issued at the time of a Growing Season Inspection.)

- Benefit

5.2 As has already been stated, the principle of passing on the costs of administering our services to users of such services is well established. The benefit to SEERAD of implementing the increases outlined above will be achievement of full cost recovery.

- Disadvantage

5.3 The increases average 58% but in a very few specific instances could be much higher where, for example, the time required to carry out pre-export certification work or a growing crop inspection is significantly in excess of the norm. However, here again it needs to be stressed that these increases are necessary if the export certification service which SEERAD offers is to be provided on a non-loss making basis.

- Costs

5.4 On the basis of 2005-2006 figures the new fees would result in an income of £1,435. There would be no other costs to the businesses who require this service other than those outlined in the table above. There would be no reduced costs for SEERAD but the increase in fees will satisfy the financial objective of ensuring that the Scottish Executive's fees for commercial or statutory services are set in such a way as to ensure full cost recovery.

6. Small Firms Impact Test

6.1 It was recognised that the individuals and bodies who apply for the use of the export certification service would of course be affected by any proposal to increase our fees, and might have concerns. A principal objective of the consultation which was based on the initial Regulatory Impact Assessment was, therefore, to draw out the extent of these concerns in order to help inform our future action. All affected parties were consulted directly about these proposals and were given the opportunity to comment on them. The consultation period commenced in August 2006 and ran for 12 weeks: a summary of responses received is given at paragraph 9.

7. Competition assessment

7.1 The Competition Filter has been applied and the conclusion is that there is no significant risk of impact on competition. A detailed assessment has therefore not been prepared.

8. Enforcement, sanctions and monitoring

8.1 Compliance monitoring for laboratory tests is carried out by SASA who place considerable emphasis on working closely with the trade and other plant health authorities.

8.2 That said, any failure to comply with any of the provisions of the importing country plant health requirements would result in goods being refused entry into the importing country, or the importer being given the option of re-exporting the goods at his own expense, or goods even being destroyed.

8.3 Once the proposed fee increases are implemented, their effect will be monitored and reviewed by SEERAD annually.

9. Summary of responses received during consultation

9.1 The consultation commenced on 3 August 2006 and continued until 3 November. 119 consultees were invited to comment: of these, only 3 chose to do so.

9.2 Responses were received from:

Northern Peat & Moss Co, Peterhead, Aberdeenshire
Scottish Crop Research Institute, Dundee
Poyntzfield Herb Nursery, Dingwall, Ross-shire

9.3 Two respondents – Northern Peat & Moss Co and SCRI – were content to accept our proposition that the preferred option referred to at 4.7.3 above presented the best and fairest way forward.

9.4 The remaining respondent – Poyntzfield Herb Nursery – expressed the view that charging for plant health matters leads to increased bureaucracy which in turn leads to greater costs to the taxpayer, and therefore no charges should be made.

10. Implementation and delivery plan

10.1 Subject to Ministerial approval, the proposed increase in charges will be implemented via Scottish Statutory Instrument in the form of an amendment to the Plant Health (Export Certification) (Scotland) Order 2004. It is intended that the amending legislation will come into force on 31 March 2007. The export certification charging regime is administered by SASA who are responsible for delivering the service on SEERAD's behalf and who will be required to ensure that implementation of the increase in charging is effected timeously in order to optimise the Department's primary objective of providing this service on a full cost recovery basis.

11. Post-implementation review

11.1 As with any fee increase, there is a clear requirement in the short term to monitor the effectiveness of this approach. It will be recommended that SASA assess the impact of the changes in the charges at least annually and review service delivery procedures as necessary and to determine whether full cost recovery is being achieved as anticipated. Such monitoring will be undertaken in close liaison with SEERAD-EPHAS. A full review will be carried out within 5 years of the new charges being introduced.

12. Summary and recommendation

12.1 As noted at 2.5, for the 2005-6 financial year there was a disparity in relation to the cost of issuing phytosanitary certificates for export certification purposes, which were processed at below full cost recovery. A fundamental principle of Scottish Executive accounting procedure and practice is that fees and charges should be set for all statutory and commercial services and the financial objective of a statutory or commercial service should normally be full cost recovery with charges set accordingly. This objective is not currently being met, and the proposed increase in fees for grant and renewal of certain licences, as discussed at 4.7.3, will address this.

12.2 In light of comments received during consultation there is a strong presumption, based on the limited response rate and the generally supportive line taken by 2 of the 3 of respondents, that the recommended Option 3 – *ie* removing individual certificate, inspection and testing fees and introducing a single fee based purely on time spent on certificate production and testing and inspection work (where appropriate) – provides an acceptable way forward for all concerned. It is considered that this option should meet full cost recovery for plant health export certification work, and should ensure that SEERAD continues to have co-operation from applicants regarding its work in this area.

13. Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed

Date

Minister's name, title, department

ROSS FINNIE
Minister for Environment and Rural Development

March 2007