

EXECUTIVE NOTE

THE PLANT HEALTH (IMPORT INSPECTION FEES) (SCOTLAND) AMENDMENT REGULATIONS 2007 SSI/2007/138

Introduction

1. The above instrument is made in exercise of powers conferred by section 2(2) of the European Communities Act 1972 and section 56(1) and (2) of the Finance Act 1973. The instrument is subject to negative resolution procedure.

Policy Objective

2. The Plant Health (Import Inspection Fees) (Scotland) Regulations 2005 (SSI 2005/216), which came into force on 6 May 2005, provide for fees to be charged for certain plant health examinations, namely documentary checks, identity checks and plant health checks (physical inspections), on certain plants and plant products imported into Scotland from third countries. The fees are set out in Schedules 1, 2 and 3 to the Regulations.

3. The purpose of introducing the Amendment Regulations is to add new trades to the list of reduced rate inspections in Schedule 2 (regulation 4(3) of the 2005 Regulations refers), and to remove regulation 6 from the 2005 Regulations which has now been contained in article 6 of the Plant Health (Scotland) Order 2005. The fees for import inspections, as set out in the 2005 Regulations, are not being increased.

Policy background

4. Each year Scotland imports from non-EU countries about 150 consignments of plants and plant produce which pose a risk of introducing new plant pests and diseases to European crops and ecosystems. Amendments to the Plant Health Directive¹, applicable from 1 January 2005, required significant changes to the way in which SEERAD inspectors check these imports to ensure they comply with EC rules and to minimise the plant health risks. In broad terms these checks cover plants, potatoes, the major fruit other than bananas and grapes, cut flowers and some leafy vegetables.

5. The Directive requires charges to be raised to cover the costs of those inspections, either through adoption of a scale of minimum charges set out in an Annex, or through a national system based on calculation of specified costs. Where “reduced checks” apply, the Directive states that a proportionally reduced fee should be collected for every imported consignment. Charges for these inspections, based on the minimum charges set out in the Directive, were introduced in Scotland in May 2005, under the Plant Health (Import Inspection Fees)(Scotland) Regulations 2005 (SSI 2005/216).

6. Under the Directive, the required level for inspections is specified at 100%, except for certain trades subject to the Directive’s “reduced checks” provision which allows lower levels of physical checks to be agreed on the basis of past experience of compliance. In the 2005 Regulations reduced checks apply to 32 trades, but following a review by the European Commission reduced levels of inspection have now been agreed for a number of additional

¹ Council Directive 2002/89, amending Council Directive 2000/29

trades. The original consultation included the possibility of new trades being added to the reduced rate regime in the future. Details of all the trades subject to reduced levels of physical inspection and the relevant fees are in Schedule 2 to the 2007 Regulations.

Legislative Background

7. 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 Community² (“the Plant Health Directive”) establishes the Community plant health regime. It contains measures to be taken in order to prevent the introduction into, and spread within, the Community of serious pests and diseases of plants and plant produce. The Directive is implemented in Scotland, for non-forestry matters, by the Plant Health (Scotland) Order 2005. Similar but separate legislation operates in England, Wales and Northern Ireland.

8. The Directive was amended, among other amendments, by Council Directive 2002/89/EC of 28 November 2002.³ Among the changes introduced by this Directive was clarification of the existing requirement for mandatory examinations (documentary checks, identity checks and physical inspection) on certain plants and plant produce and obligations to charge fees for these inspections.

9. SEERAD inspectors have powers to carry out these examinations under the Plant Health (Scotland) Order 2005 but that Order does not contain powers to charge fees. This instrument is made under section 56(1) of the Finance Act 1973 which permits a Government department to require the payment of fees or other charges for the provision of any services or facilities or the issue of any authorisation, certificate or other document, in pursuance of any Community obligation. The power is subject to Treasury consent.

Impact

10. It is anticipated that these Amendment Regulations will have negligible impact on the number of inspections carried out in Scotland at present and they are unlikely to impose any additional burden on existing resources. The fees for import inspections, provided for in the 2005 Regulations, are not being increased: rather, the purpose of introducing the Regulations is to add new trades to the list of reduced rate inspections in Schedule 2 (regulation 4(3) of the 2005 Regulations refers), and to remove regulation 6 from the 2005 Regulations which has now been contained in article 6 of the Plant Health (Scotland) Order 2005. It is therefore considered that a Regulatory Impact Assessment is not necessary.

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² This Directive can be found at <http://europa.eu.int/eur-lex/en/search/index.html>.

³ This Directive can be found at <http://europa.eu.int/eur-lex/en/search/index.html>.