

Final Business and Regulatory Impact Assessment

Title of Proposal

The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014

Purpose and Intended Effect

Background

The Plant Health (Import Inspection Fees) (Scotland) Regulations 2005 set charges to cover the costs of documentary, identity and plant health examinations of certain plants and plant products imported from countries outside the EU. These statutory examinations are carried out by Scottish Government Inspectors from the Rural Payments and Inspections Division and are intended to prevent the introductions of new plant pests and diseases into Scotland. The requirement to charge fees and the standard (minimum) charges for each genus inspected are set out in Council Directive 2000/29/EC. However, the current fees employed by Scotland do not reflect the true costs to Scottish Government of providing the service, thereby representing subsidy to importers and a cost to tax payers.

The 2005 Regulations also sets the minimum level of plant health checks which must be undertaken by member states on consignments of imported products. The required level of examinations for physical inspections is set by the EU at 100%, except for certain products, from specific countries, which have a history of compliance under the EU's arrangements and are thus considered to have a lower risk of introducing plant pests and diseases. Such products are permitted a reduced level of plant health check and subsequent reduced level of fee. The European Commission review the level of plant health checks for all products annually. The proposed Regulations reflect the changes implemented by the Commission Regulation 1756/2004.

Objective

The intended aim of this policy is to introduce a full cost recovery regime for the plant health import inspection services by making more efficient use of public monies and through removing the inadvertent support provided to importers through Government subsidy of statutory provision of plant health inspection services.

The policy will not compromise the Scottish Government's obligation to prevent the introduction and spread of plant pests and diseases into Scotland, the UK or the rest of the EU.

The new Regulations also include the effect of the changes to the level of plant health checks as implemented by Commission Regulation 1756/2004.

Rationale for Government

A fundamental principle of Scottish Government accounting procedure and practice is that fees and charges should be set for all statutory or commercial services and the financial objective of a statutory or commercial service should normally be full cost recovery with charges set accordingly. Scottish Ministers have given their assurance to

the Delegated Powers and Law Reform Committee of the Scottish Parliament that the statutory fees charged to cover the costs of documentary checks, identity checks and plant health checks of certain imports of plants are reviewed on an annual basis.

Our recent review of Plant Health Import Fees has established that the fees currently being charged by Scottish Government for these plant health checks do not fully reflect the actual costs incurred in providing the service. The fee increase recommended has the ability to reduce the discrepancy.

Full cost recovery will only be achieved if all actions and costs associated with the consignment inspection are recorded accurately. The Scottish Government recognises the responsibility it has to take action where it can help the people of Scotland by removing a taxpayer funded subsidy to industry. This ensures that any businesses which benefit from these plant health checks are paid for by the businesses in question and are not subsidised by the taxpayer. It is also important that the income from fees should be sufficient to provide an effective service to meet the level of demand.

This work contributes to Scottish Government's strategic objective – *Wealthier and Fairer* – by helping Scotland to protect our Scottish Agriculture and Horticulture production from plant diseases and outbreaks for future generations and to ensure the cost of public services are met by those who benefit directly and the cost to the Government are neutral.

Consultation

Within Government

We have consulted internally with colleagues in Policy, Finance, Science and Advice for Scottish Agriculture (SASA) and Rural Payment Inspectorate Directorate (RPID) to establish the processes, procedures and costs currently involved in providing the import inspection service and to seek their advice and comments on our proposals as they have developed.

Public Consultation

Although the principle of passing on the costs of administering services to users is well established, the rationale for any proposed increase in charges must be explained fully to those affected and an opportunity provided to them to make representations on the proposed increases. A 12-week public consultation was launched on 21 July 2014. Consultation documents were sent directly to key stakeholders and it was also placed on the Scottish Government website to capture a wider audience. Four responses were received in total. All referred to the impact any fee increase would have on businesses, however they indicated, in this case, that the impact would be minimal. Following consideration of the responses the necessary legislative process has begun and the new charges are due to be introduced from 14 January 2015.

Business

This consultation was relevant to a narrow and specific group of stakeholders which were provided with copies of the Consultation paper and the Partial Business and Regulatory Impact Assessment for comment.

Options for Imports Subject to Examination

Plant health controls are based on EU and Scottish legal provision. **Council Directive 2000/29/EC (Plant Health Directive)** establishes the EU plant health regime and contains measures to be taken to prevent the introduction and spread (within the EU) of serious pests and diseases of plants and plant products. This Directive is implemented in Scotland by the **Plant Health (Scotland) Order 2005**.

Council Directive 2002/89/EC introduced an extensive package of amendments to the Plant Health Directive including a requirement for member states to charge for plant health inspections on certain material imported from outside the EU and Provides for two charging options:

- Member states can charge according to a schedule of charges as set out in Annex VIII a of the Directive; or
- Member states can establish their own charges based on the actual costs of the inspections (relating to stipulated criteria)

Following a public consultation in 2004 it was agreed that the standard schedule of charges set out in the Directive should be adopted as a temporary solution in the UK, with a move later to full cost recover if the standard charges did not recover all costs involved. The charges applicable to products imported to Scotland were set out in **The Plant Health (Import Inspection Fees) (Scotland) Regulations 2005** (SSI 2005/216).

Amendments to the principal legislation followed in 2007 (twice), 2009 (twice), 2010 and 2011 to modify the type and origin of the plants or plant materials to be inspected in responses to the risk they posed. However, it should be noted that the fees currently levied in Scotland have not been increased since the laying of the principal legislation in 2005, when the new EU import regime was introduced.

It has become apparent that the standard charges do not recover the full costs of the service and, as such, Scottish Government should review the fees with a view to moving towards establishing charges based on the actual costs of the inspections.

We have now concluded our programme of desk based research to determine the actual costs to the Scottish taxpayer of providing the inspection service for imported consignments from non EU countries. The results indicate that since the 2010/2011 financial year, based on current import fee levels, the charges paid by business users of the service have met around 54% of the costs associated with providing the service.

To meet the stated aim of introducing a full cost recovery regime for the plant health import inspection service we have considered the following options:

Option 1: Do nothing

Under this option charges would remain in line with the EU standard schedule of charges, with the cost to importers only slightly increased to represent the current exchange rate between the Euro and the Pound. As with the current scenario the cost of service provision would only partially be recovered from business users.

Option 2: Increase fees by the historical rate of inflation.

Under this option the original charges set by The Plant Health (Import Inspection Fees)(Scotland) Regulations 2005 will be extrapolated using the historical data

available to reflect United Kingdom interest rates since 2005. As with Option 1, the cost of service provision would only partially be recovered from business users.

Option 3: Streamline the service procedures and adopt a new fee structure

Under this option it is proposed to simplify the fee structure to reflect the average time commitment of Scottish Government employees (inspectors, administrative and scientific grades) to conduct the statutory tasks. In addition, associated costs such as inspectors travel costs and any laboratory work will be recovered at full cost. Travel costs are calculated using the standard Scottish Government motor mileage plus the time costs of the inspector to travel to the consignment. The cost of laboratory work will reflect all procedures and applications associated with the identification of plant pests and diseases as requested by the inspector.

For the scheme to operate effectively and achieve the goal of full cost recovery the following will be necessary:

- Scottish Government inspectors accurately record all activities they undertake relating to the inspection of a consignment i.e. extended inspection time, out of hours inspection and all administrative work, especially actions in connection with requests to SASA for laboratory work or the disposal of a contaminated consignment.
- The inspection of the consignment will be conducted by an inspector of B1 grade from the closest Scottish Government Office to the consignment.
- On completion of all laboratory work, SASA should provide the Scottish Government Inspector with a full cost breakdown (including staff costs) associated with the laboratory work conducted to allow for the full costs to be passed on to the importer.

Sectors and groups affected

There are very few direct imports of plants or plant products from non EU countries into Scotland each year (see table under "Costs" below) therefore very few business will be affected. The increase in charges will be an additional cost to businesses who import fruit, vegetables (other than leafy vegetables), herbs, grain, seeds or potato tubers etc. into Scotland from countries outside the EU. Nurseries, scientific institutions and private individuals who import plants, bulbs, shrubs, seedlings, cuttings, tissue cultures, rhizomes etc. from comparable sources will be similarly affected.

Benefits

There are no real benefits associated with the adoption of either Option 1 or Option 2 with regard to the Scottish Government goal of achieving full cost recovery. Option 3 would introduce a full cost recovery regime for the import inspection services which would relieve the current burden to the public of subsidising this service. It is intended that this will be achieved by transferring the full costs of undertaking the import checks to the businesses using the service from 14 January 2015. The intention is to achieve this without compromising the Scottish Government's objectives under the EU Plant Health Directive to guard against the introduction of harmful plant pests and disease into the EU.

Costs

Inspections carried out over the last four full financial years have been costed to give an indication of the levels of recovery that could be achieved using each of the proposed options, as shown in the table below. The table also records the number of inspections carried out in Scotland over each of the four years. This is considerably smaller than the 80,000 inspections carried out by the Food and Environment Research Agency (Fera) who conduct these inspections in England and Wales. However, there was a significant increase in the number of import inspections carried out in Scotland last year in comparison to previous years. Due to current trends it is envisaged that from 2014 onwards, the amount of inspections necessary will be similar in number to that in the 2013/14 financial year.

Imports subject to examination

Year	Nos. of Inspections	Cost to provide current service	Fee rate: Option 1	Fee rate: Option 2	Fee rate: Option 3
2010/11	87	£5,481.02	£2,905.90	£3,310.66	£4,302.50
2011/12	37	£2,432.17	£1,262.47	£1,438.32	£1,857.00
2012/13	79	£5,095.70	£3,441.78	£3,921.18	£4,804.60
2013/14	137	£8,261.58	£4,915.61	£5,600.30	£8,396.20

It is evident that the first three years listed in the table would not have achieved full cost recovery using the new fee structure; however recent streamlining of Scottish Government services in this area is reflected in the figures for year 2013/14.

All companies using the import inspection services in Scotland are micro to small sized businesses. Given that the service and the charging scheme are long established none of the options should entail any additional administrative costs or capital investment on business. However there will be an increase in the operating costs for the businesses; the specific level of which will be dependent on the size, type and number of consignments imported throughout the year.

Options for Potato Imports from Third Countries

It is also intended to include fees for the inspection and sampling of potatoes, from specific areas within non EU countries, for quarantine organisms.

Commission Implementing Decisions 2011/787/EU and 2013/413/EU require samples of imports of potatoes, from specific areas of certain third countries, to be taken and tested. In line with the transition to full cost recovery, this should be included in The Plant Health (Import Inspection Fees) (Scotland).

Three options were also considered in reviewing the fees for imports of this nature:

Option 1: Do nothing

Under this option the charge would remain at the existing cost. As with the current scenario the cost of service provision would only partially be recovered from business users.

Option 2: Increase fees by the historical rate of inflation.

Under this option the existing charge would be increased in line with historical rates of inflation since 2005. As with Option 1, the cost of service provision would only

partially be recovered from business users.

Option 3: Streamline the service procedures and adopt a new fee structure

As with the Option 3 for Imports Subject to Examination, this option proposes to amend the fee to reflect the average time commitment of Scottish Government employees (inspectors, administrative and scientific grades) to conduct the tasks required. Associated costs, such as inspectors travel costs and any laboratory work, will also be recovered at full cost. Travel costs are calculated using the standard Scottish Government motor mileage plus the time costs of the inspector to travel to the consignment. The cost of laboratory work reflects all procedures and applications associated with the quarantine sampling and testing that is required under EU law for the import of potatoes from specific areas within third countries.

Sectors and groups affected

Scotland has never received any imports of consignments subject to quarantine control and there is no indication that this trend will change. However a specific audience of nurseries, scientific institutions and private individuals who may wish to use the service will be targeted for consultation. Given the current situation, an increase in this charge will not affect businesses in Scotland.

Benefits

Again, there are no real benefits associated with the adoption of either Option 1 or Option 2 with regard to the Scottish Government goal of achieving full cost recovery. Option 3 would introduce a full cost recovery regime for the import services which would relieve any potential burden to the public of subsidising this service. It is intended that this will be included with the Import Inspection Fees and implemented on 14 January 2015.

Costs

Although quarantine tests have never been carried out on potato imports from third countries, the same test has been performed on exports. SASA have provided a full breakdown of the costs associated with the laboratory work involved. The table below shows a comparison between the level of recovery that would be achieved using each of the stated options.

Potato imports from third countries subject to quarantine and sampling

Sample size	Cost to provide current service	Fee rate: Option 1	Fee rate: Option 2	Fee rate: Option 3
Up to 200 tubers per 25,000kg lot (or part thereof)	£152.00	£37.50	£48.80	£152.00

Scottish Firms Impact Test

The individuals and bodies who apply for the use of this service will of course be affected by any proposal to increase our fees, and may have concerns. The consultation, which was based on the Partial Business and Regulatory Impact Assessment drew out the extent of any concerns and formed the basis of our decision to introduce a new set of fees. The level of fee for the services provided will be the same regardless of the size of the institution involved. As in previous consultations of this nature any fees increase will ultimately be passed on to the end user.

Competition Assessment

The Competition Filter has been applied and the conclusion is that there is no significant risk of impact on competition. The proposals will not directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously therefore a detailed assessment has not been prepared.

Test run of business forms

Plant Health Import Inspection procedures are long established and forms are regularly reviewed. The change in fees does not involve any changes to forms and a test run of business forms is not required.

Legal Aid Impact Test

The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014 would not introduce new criminal sanctions or civil penalties, so there are no implications for legal aid.

We have spoken to the Scottish Government Access to Justice Team who have confirmed that there will be no implications for legal aid.

Enforcement, sanctions and monitoring

Compliance costs covered by this Regulation relate to provision for plant health checks of consignments of certain plants and plant products imported into Scotland from third countries, not to carry out these checks may result in harmful organism/pest and diseases being introduced to Scotland. Scottish Government carries out the collection of fees for these services and the plant health checks of the consignment. The income levels and fee rates are monitored and reviewed annually.

Failure to review fee rates could result in the charges being set and recovered which are less than the EU Euro equivalent standard rate, leading to a risk of infraction proceedings by the Commission.

Implementation and delivery plan

Following the consultation period, subject to Ministerial approval, the proposed increase in charges will be implemented by a Scottish Statutory Instrument in the form of a consolidating regulation: The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014. It is intended that the new legislation will come into force on 14 January 2015.

Post Implementation Review

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 Scottish Government assess the impact of the changes in a year after the implementation and review service delivery procedures as necessary.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:**Date:**

Richard Lochhead
Cabinet Secretary for Rural Affairs, Food and Environment

Scottish Government Contact point:

Romy Strachan
Agriculture and Rural Development Division
Plants, Horticulture and Potatoes
D Spur
Saughton House
Broomhouse Drive
EH11 3XD
0300 244 9853