

## **POLICY NOTE**

### **THE PLANT HEALTH (IMPORT INSPECTION FEES) (SCOTLAND) REGULATIONS 2014**

**SSI 2014/338**

#### **Introduction**

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

#### **Purpose of the instrument**

2. This instrument revokes and replaces the Plant Health (Import Inspections Fees) (Scotland) Regulations 2005 (SSI 2005/216) (“the 2005 Regulations”). It consolidates amendments made to the 2005 Regulations and also:
  - introduces a full cost recovery regime for the plant health import inspection services;
  - updates the list of reduced fees in Schedule 2 to reflect the recently published list of products eligible for reduced inspection (as reviewed by the European Commission annually); and
  - incorporates the fees associated with imports of potatoes from Egypt and Lebanon into the main import inspection fees regulations

#### **Legislative Background**

##### *Import Inspection Fees*

3. Council Directive 2000/29/EC, ‘the Plant Health Directive’ establishes the European Union plant health regime. It contains measures to be taken in order to prevent the introduction into and spread within the EU 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 (SSI 2005 613). Similar but separate legislation operates in England, Wales and Northern Ireland.
4. Council Directive 2002/89/EC amends the Plant Health Directive to clarify the existing requirement for mandatory examinations on certain plants and plant produce being imported into the EU and the obligation to charge fees for these inspections. The Plant Health (Scotland) Order 2005 does not contain powers to charge fees however the provision of plant health inspection services for the purposes of the Plant Health Directive falls within the scope of section 56 of the Finance Act 1973. This instrument has therefore been made using that power.

### *Potatoes Originating in Egypt*

5. Specific controls are in place to reduce the risks to potato growers from brown rot, a serious disease of potatoes caused by the bacterium *Ralstonia solanacearum*, which occurs in Egypt, a significant exporter of early potatoes to the UK and other EU Member states. The disease can render a crop unusable and the finding of brown rot will make the land on which the potatoes were grown and the surrounding area subject to restriction, resulting in considerable economic loss.
6. The EU introduced a ban on imports of Egyptian potatoes with a policy of derogation under Commission Implementing Decision 2004/4/EC in respect of potatoes grown in certain areas of the country which were declared as pest-free. This decision was later repealed and replaced by Commission Implementing Decision 2011/787/EC, which permits imports of Egyptian potatoes subject to certain requirements.
7. The decision is implemented into domestic legislation by The Potatoes Originating in Egypt (Scotland) Regulations 2004 (as last amended by S.S.I 2012/37) which include provisions for the inspection and sampling of potatoes imported from 'pest free' areas to ascertain whether they are infected with brown rot. Regulation 6 of those regulations prescribed a fee for this statutory service. This instrument revokes regulation 6 and prescribes a higher fee for this inspection.

### *Potatoes Originating in Lebanon*

8. Similar controls are in place to protect against ring rot, caused by the bacterium *Clavibacter michiganensis* subsp *sepedonicus*, which is known to occur in the Akkar and Bekka regions of Lebanon. Commission Decision 2013/413/EU authorises Member states to provide for derogations in respect of potatoes originating these regions, providing certain requirements are adhered to; including that sampling and testing is carried out to ensure control of potato ring rot. This instrument introduces a fee for the inspection of potatoes imported from Lebanon.

## **Policy Background**

### *Import Inspection Fees*

9. Scotland regularly imports consignments of plants and plant products from non-EU countries which pose a risk of introducing new plant pests and diseases to European crops and ecosystems. Scottish Government inspectors check these imports to ensure they comply with EU rules to minimise plant health risks. These checks cover plants, potatoes, common fruits other than bananas and grapes, cut flowers and some leafy vegetables.

10. It is Government policy that where charges are levied they are set at a level to provide for full-cost recovery. It was estimated in 2005 (when these plant health import charges were first introduced) that the EU standard fees would fall some way short of what would be required to cover the cost of import inspections in Scotland. However, following public consultation, it was decided that in order to give the trade time to adapt to the additional cost and to allow data to be collected on the cost of carrying out import inspections the standard charges would be adopted as a temporary measure.
11. It was always the intention to move to full-cost recovery once the total expense associated with the import service could be assessed. This is now the case and a review of the fees charged for the service was recently undertaken. Article 13d of the Plant Health Directive is prescriptive about how fees are to be calculated. A detailed cost calculation was performed, with reference to the factors listed in Article 13d which include costs of salaries, laboratory testing and administrative activities.

#### *Reduced Rate Trades*

12. Under the Directive, the required level for import inspections is specified at 100%, except for certain trades subject to the Directive's "reduced checks" provision in Article 13d which allows lower levels of physical checks to be agreed on the basis of past experience of compliance. Where "reduced checks" apply, paragraph 2 of Article 13d of the Directive states that a proportionally reduced fee should be collected for every imported consignment. The trades eligible for reduced levels of inspection are subject to an annual review by the European Commission.
13. The final list of products eligible for reduced inspections for period 01.10.2014-15 has now been published by the Commission and can be viewed at: [ec.europa.eu/food/plant/plant\\_health\\_biosafety/trade\\_non\\_eu/docs/recommended\\_products\\_plant\\_checks\\_en.pdf](http://ec.europa.eu/food/plant/plant_health_biosafety/trade_non_eu/docs/recommended_products_plant_checks_en.pdf). This instrument prescribes fees which reflect the minimum percentage of consignments to be inspected in accordance with this list.

#### *Consolidation*

14. The 2005 Regulations have been amended on six occasions (by S.S.I.s 2007/138, 2007/499, 2009/8, 2009/305, 2010/405 and 2011/311). Accordingly, a decision was taken to consolidate the 2005 Regulations, while also implementing the latest agreed rates for inspection of certain material, introducing the new fee structure and making provision for the fees for quarantine testing of potatoes originating in Egypt and Lebanon.

#### **Timing**

15. This SSI will come into force on 15 January 2015.

#### **Consultation Outcome**

16. A 12 week consultation, setting out the proposal to increase statutory fees charged for plant health import inspections to allow full cost recovery, took place. The consultation paper was sent directly to individuals and organisations who use this service and placed on the Scottish Government website. All responses received refer to the impact any fee would have on businesses, however the majority indicated the impact would be minimal.

### **Business and Regulatory Impact Assessment**

17. A business and regulatory impact assessment was carried out and fee levels were prescribed to achieve the Scottish Government principle of seeking full cost recovery for statutory plant health fees. The legislation applies to all businesses importing controlled plant health material, including small businesses.

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