

EXPLANATORY MEMORANDUM TO

The Northern Ireland Poultry Health Assurance Scheme (Fees) (Amendment) Order (Northern Ireland) 2013

S.R. 2013 No. 117

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture and Rural Development to accompany the above named Statutory Rule (the Rule) which is laid before The Northern Ireland Assembly.
- 1.2 The Rule is made under powers conferred by:
 - (a) Section 2(2) of the European Communities Act 1972 in relation to the Common Agricultural Policy of the European Community; and
 - (b) Articles 8(1), (2) and (5) of the Diseases of Animals (Northern Ireland) Order 1981, as amended.
- 1.3 The Rule is subject to the negative resolution procedure.
- 1.4 The Rule complies with the 21 day rule, and will come into operation on 1 June 2013.

2. Purpose

- 2.1 The Northern Ireland Poultry Health Assurance Scheme Order (Northern Ireland) 2011 (S.R. 2011 No. 436) provides the legal basis for the Department of Agriculture and Rural Development to charge a fee for activities required under Council Directive 2009/158/EC (on animal health conditions governing intra-Community trade in, and imports from third countries, of poultry and hatching eggs) relating to the operation of the Northern Ireland Poultry Health Assurance Scheme (NIPHAS).
- 2.2 The fees charged for the Scheme have remained at the same level since April 2010. The existing legislation needs to be amended to enable the Department to update the fees to a level that will achieve full cost recovery in the 2013/14 financial year.
- 2.3 The Rule substitutes the Schedule to the Northern Ireland Poultry Health Assurance Scheme (Fees) Order (Northern Ireland) 2012 (S.R. 2012 No. 305), setting out the new fees.

3. Background

- 3.1 DARD has operated the Northern Ireland Poultry Health Assurance Scheme (NIPHAS) since 1999. The main purpose of the Scheme is to implement a system of approval for establishments officially recognised as meeting the requirements of Council Directive 2009/158/EC (as amended) on animal health conditions governing EU intra-Community trade in, and imports from third countries of, live poultry and hatching eggs
- 3.2 The existing fees charged for operating the Scheme were established under the Animals and Animal Products (Import and Export) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010 No. 380) for the financial year 2010/11. Although a new Fees Order - the Northern Ireland Poultry Health Assurance Scheme (Fees) Order (Northern Ireland) 2011 (S.R. 2011 No. 435) - was made in December 2011 and was subsequently revoked and replaced by the Northern Ireland Poultry Health Assurance Scheme (Fees) Order (Northern Ireland) 2012 (S.R. 2012 No. 305), there has been no uplift to the fees in the financial years 2011/12 and 2012/13. The amending Rule enables the Department to recover full costs for the provision of the service.

4. Consultation

- 4.1 A consultation exercise on the proposed legislation commenced on 17 September 2012 and closed on 10 December 2012. A total of four responses to the consultation were received and a consultation response document was prepared.

5. Equality Impact

- 5.1 In accordance with DARD's obligations under Section 75 of the Northern Ireland 1998, the equality implications of the Rule have been assessed. A screening exercise was carried out on the proposed legislation. The outcome was that an Equality Impact Assessment was not considered necessary and the Department considers that the Rule will not result in any equality differentials amongst Section 75 groups.

6. Regulatory Impact

- 6.1 A Regulatory Impact Assessment has been carried out.
- 6.2 The businesses affected are those to whom the fees set out in the Rule are directly applicable. They apply to all poultry flock owners who, voluntarily, wish to either:

- (i) Export more than 20 birds or hatching eggs to another European Member State; and / or
- (ii) Sell birds or other hatching eggs to other Northern Ireland Poultry Health Assurance Scheme members; and / or
- (iii) Export to certain third countries that require compliance with European Council Directive 2009/158/EC.

6.3 The fees apply equally across the industry and the Rule does not introduce any new procedures or regulatory requirements with which the relevant businesses are not already complying. Fees will be levied through existing mechanisms.

6.4 The Department is content that the legislation meets commitments to Better Regulations.

7. Financial Implications

7.1 The Rule allows the Department to uplift the fees charged for the operation of NIPHAS to comply with government policy of full cost recovery.

7.2 The Department of Finance and Personnel has considered and agreed the fees uplift.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Rule deals with animal disease control and does not have any human rights implications, nor is it incompatible with EU law. The Rule is therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 In Britain, there is an equivalent Poultry Health Scheme (PHS) to ensure compliance with Directive 2009/158/EC. DEFRA has recently completed a review of the fees charged for its scheme and is in the process of introducing new legislation to enable a fees uplift.

10.2 The Department of Agriculture, Food and the Marine in the Republic of Ireland operates a Poultry Health Scheme to comply with Council Directive 2009/158/EC obligations, but does not charge its operators any fees.

11. Additional Information

11.1 Not applicable.

12. Contact

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