

## **EXPLANATORY MEMORANDUM TO**

### **The Plant Health (Import Inspection Fees) Regulations (Northern Ireland) 2019**

#### **SR 2019 No.73**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under the European Communities Act 1972 and section 56(1), (2) and (5) of the Finance Act 1973 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. This Statutory Rule revokes and replaces The Plant Health (Import Inspection Fees) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 373) and the Plant Health (Import Inspection Fees) (Wood and Bark) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 380) which provide for fees to be charged for certain plant health inspections, namely documentary checks, identity checks and plant health checks (physical inspections), on certain plants and plant products imported from third countries.

#### **3. Background**

- 3.1. Council Directive 2000/29/EC on protective measures against the introduction into the EU of organisms (serious pests and diseases) harmful to plants or plant products and against their spread within the EU ("the Plant Health Directive") establishes the EU plant health regime. The Plant Health Directive is implemented in Northern Ireland by The Plant Health Order (Northern Ireland) 2018 (the principal Order) and similar but separate legislation implements the Plant Health Directive in the case of wood and bark matters. The Plant Health Directive (and therefore the principal Order) is updated frequently, to take account of new or revised risk assessments, pest interceptions, changes in distribution of pests and other developments. In England, Scotland and Wales, similar legislation implements the Plant Health Directive in respect of forestry and non-forestry matters.
- 3.2. The Plant Health Directive sets out the requirement for mandatory inspections (documentary checks, identity checks and physical inspection) on certain plants and plant produce and the obligation to charge fees for these inspections.
- 3.3. The required level of import inspections is set at 100%, except for certain plants and plant produce subject to reduced checks under Article 13d of the Directive, which allows lower levels of physical checks to be agreed on the basis of previous compliance. Where reduced checks apply, paragraph 2 of Article 13d states that a proportionally reduced fee should be collected for every imported consignment. The plants and plant produce

eligible for reduced levels of inspection are subject to an annual review by the European Commission.

- 3.4. The Plant Health Directive, as amended, states that member States may either set the fees on the basis of a detailed cost calculation or apply the standard (minimum) fee as specified in Annex VIIIa (Article 13d(2)). This Statutory Rule sets out revalorised fees based on the Euro/sterling exchange rate at 28 February 2019 (the most up to date rate possible in drafting the regulations). As the Department has opted to apply the standard fee, an uplift of 10% has been added to allow for exchange rate fluctuations and to ensure the fee does not fall below the minimum required. The recalculation of fees results in an increase for the documentary and identity checks from £6.11 to £6.61 and a similar percentage increase for physical plant health checks. The new charges are set out in Schedules 1 to 5 of the Regulations.

#### **4. Consultation**

- 4.1. A consultation has not been carried out on these Regulations as they implement a change in fees in line with the Euro/sterling exchange rate rather than fundamental changes to the regulatory scheme itself.

#### **5. Equality Impact**

- 5.1. The implementing measures will apply in equal measure to all Section 75 groups. It is not expected that any of these changes will impact differentially across any of the Section 75 groups.

#### **6. Regulatory Impact**

- 6.1. As the fees charged by the Department are the minimum permitted under Council Directive 2000/29/EC and are being revalorised in line with the official Euro conversation rate, it is not considered necessary to conduct a Regulatory Impact Assessment.

#### **7. Financial Implications**

- 7.1. There are no significant financial implications.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. This Statutory Rule does not have any human rights implications nor are they incompatible with EU law. The Order is therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

#### **9. EU Implications**

- 9.1. This legislation implements Article 13d of Council Directive 2000/29/EC and applies the minimum fee as specified in Annex VIIIa (Article 13d(2)).

#### **10. Parity or Replicatory Measure**

- 10.1. England, Scotland and Wales also charge fees for certain plant health examinations and reduced fees under Council Directive 2000/29/EC. However they have moved to full cost recovery.

#### **11. Additional Information**

- 11.1. As this Statutory Rule relies on powers conferred by section 2(2) of the European Communities Act 1972, it is necessary for it to be made prior to

EU exit and to come into operation immediately. This will result in a breach of the 21 day rule. The Examiner of Statutory Rules has been informed.