

## EXECUTIVE NOTE

### THE PLANT HEALTH (IMPORT INSPECTION FEES) (SCOTLAND) AMENDMENT (NO. 2) REGULATIONS 2007 SSI 2007/499

#### Introduction

1. The above instrument is made by the Scottish Ministers in exercise of powers conferred by sections 2(2) of the European Communities Act 1972 and sections 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.

3. The purpose of introducing the Amendment Regulations is to add new trades to the list of reduced rate inspections in Schedule 2 of the 2005 Regulations (regulation 4(3) refers). In addition they extend charging authority to consignments consisting of EU transit goods in respect of which Scottish Ministers have agreed with the official body of point of entry of another Member State that certain checks be carried out in Scotland, and ensure that seeds of *solanaceous* plants (which include tomato, aubergine and petunia) are fully covered by the charging scheme.

#### Legislative Background

4. 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 Community<sup>1</sup> (“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.

5. The Directive was amended, among other amendments, by Council Directive 2002/89/EC of 28 November 2002.<sup>2</sup> 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.

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<sup>1</sup> This Directive can be found at <http://europa.eu.int/eur-lex/en/search/index.html>.

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

6. The Plant Health (Scotland) Order 2005 does not contain powers to charge fees. The present instrument is made under section 56(1) and (2) of the Finance Act 1973 which permits Scottish Ministers 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.

### **Policy background**

7. Each year Scotland imports from non-EU countries about 150 consignments of plants and plant products 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 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.

8. 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. 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).

9. 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 which allows lower levels of physical checks to be agreed on the basis of past experience of compliance. Where "reduced checks" apply, the Directive states that a proportionally reduced fee should be collected for every imported consignment. In the 2005 Regulations reduced checks applied to 32 trades. Following a review by the European Commission, reduced levels of inspection were agreed for a number of additional trades. These were implemented in Scotland by the Plant Health (Import Inspection Fees) (Scotland) Amendment Regulations 2007, which came into force on 31 March 2007. The present Regulations implement further changes which have been agreed by the European Commission, to take effect from 1 January 2008.

10. The Plant Health Directive requires that consignments subject to plant health controls be checked at the first point of entry to the EU. There is provision, however, subject to an agreement between the Member States involved, for the identity check and physical inspection element of these checks to be carried out in the Member State of final destination in cases where consignments are moved in transit between Member States. These Regulations extend charging authority to consignments consisting of EU transit goods in respect of which Scottish Ministers have agreed with the official body of point of entry for those goods, in accordance with Article 12(6) of the Plant Health (Scotland) Order 2005 that certain checks be carried out in Scotland. No such agreements have yet been made.

11. Seeds of *Solanaceae* are listed in Annex IVA1 of the Plant Health Directive as requiring certain controls when they are moved into or within Member States, but they are omitted from Annex V listing plants that require to be inspected. They therefore have to be specified separately in these regulations so that fees can be charged for carrying out import controls.

### **Impact**

12. These Amendment Regulations are not expected to have any significant impact on the number of inspections carried out in Scotland at present, and in the main they provide for reduced rate inspections, with correspondingly lower fees. It is therefore considered that a Regulatory Impact Assessment is not necessary.

Scottish Government  
Rural Directorate

1 November 2007