

## EXECUTIVE NOTE

### THE PLANT HEALTH (IMPORT INSPECTION FEES) (SCOTLAND) AMENDMENT REGULATIONS 2009 No. 8

#### 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) 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). It also corrects the effect of minor typographical errors in the principal Regulation by removing the definition of “official body of point of entry”, in accordance with the agreement given to SLC.

4. The Scottish Government has been working closely with Defra colleagues on this matter to ensure a consistency of approach to fees and it is that requirement which has determined the timetable for bringing these Regulations into force.

#### Legislative Background

5. Council Directive 2000/29/EC on protective measures against the introduction into the European 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. 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.

6. Council Directive 2002/89/EC amends the Plant Health Directive to clarify the existing requirement for mandatory examinations on certain plants and plant produce and the obligation to charge fees for these inspections.

7. 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

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

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**

8. 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.

The Plant Health 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 the Directive, 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. The trades eligible for reduced levels of inspection are subject to an annual review by the European Commission and the Regulations are amended accordingly. Previous changes were implemented by the Plant Health (Import Inspection Fees) (Scotland) Amendment Regulations 2007 (SSI 2007/138) and the Amendment (No 2) Regulations 2007 (SSI 2007/499). The current Regulations implement the latest changes agreed by the Commission Working Group held in June 2008, namely addition of 2 new trades, the removal of 3 trades and changes to the levels of inspection on 12 trades previously agreed. Annex 2 of the principal Regulations is replaced in its entirety to avoid any confusion.

10. The rate for charging fees is unchanged in the present Regulations, which simply amend the trades subject to reduced checks or change the level of reduction for certain trades.

## **Impact**

11. These Amendment Regulations do not have any impact on businesses in Scotland. None of the plant health imports into Scotland qualify for reduced checks and we do not expect this to change in the foreseeable future. A Regulatory Impact Assessment has therefore not been carried out.

Scottish Government  
Rural Directorate  
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