

EXECUTIVE NOTE

THE PLANT HEALTH (IMPORT INSPECTION FEES) (SCOTLAND) AMENDMENT REGULATIONS 2011 SSI/2011/311

Introduction

1. The above instrument is made by the Scottish Ministers in exercise of powers conferred by sections 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.
2. The instrument is subject to negative resolution procedure.

Policy Objective

3. 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. Usually 100% checks are required, but trades which are normally free of quarantine pests and diseases can qualify for reduced checks, and reduced fees.
4. The purpose of introducing the Amendment Regulations is to remove *Mangifera* (mango fruit) from Brazil from the list of reduced fees in Schedule 2 of the 2005 Regulations (regulation 4(3)) due to a high number of interceptions of non-European fruit flies on fruit entering the EU.

EU 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 (“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 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, but these are implemented by the principal Regulations.

Policy background

7. Each year Scotland imports from non-EU countries about 120 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 Plant Health Directive requires charges to be made 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 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. (Paragraph 2 of Article 13d also states that implementing measures may be adopted by comitology procedure to specify the level of the reduced fee, but no such measures have been adopted.) The trades eligible for reduced levels of inspection are subject to an annual review by the European Commission.

10. The latest changes agreed by the Commission Working Group held on 20 May 2011 require the change of one trade from 1 October 2011, which these Regulations implement in domestic law. A further 12 trades are to be changed from 1 January 2012. The Scottish Government is currently reviewing all plant health import and export fees to ensure they meet full cost recovery, and the remaining changes to reduced frequency checks will be included in any amendment resulting from that review. It is our intention to take the opportunity then to consolidate the Regulation.

11. The standard fees are unchanged by the present Regulations, which simply amend the trades subject to reduced checks or change the level of reduction for certain trades.

Timing

12. The change to 100% checks for Mangifera from Brazil is to take effect from 1 October 2011. In line with the 28 day rule, following Recess, the Amendment Regulations will come into force on 3 October 2011.

Impact

13. 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 and Environment Directorate
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