

Partial Business and Regulatory Impact Assessment

Title of Proposal

The Plant Health (Export Certification) (Scotland) Order 2018

Purpose and intended effect

Background

In order to prevent the introduction of harmful pests and diseases, most countries outside the EU require that consignments of plants and plant products meet certain plant health standards before they are allowed entry. To support this, the consignments must be accompanied by a phytosanitary (plant health) certificate, issued in the exporting country. Consignments without this certificate will be rejected at the point of entry, i.e. destroyed or returned to the exporting country.

In most cases, depending on the requirement of the importing country, phytosanitary certificates can only be issued following satisfactory official inspection of the material for export. In some circumstances it may also be necessary for a sample to be examined by the official laboratory. In Scotland, the majority of these statutory inspections are carried out by Scottish Government inspectors, who are also responsible for issuing the certificates.

The Plant Health (Export Certification) (Scotland) Order 2004, as amended, sets charges for pre-export inspections, issuing of phytosanitary certificates, certificates for re-export and any associated laboratory work in support of the plants, plant products or other objects for export to countries outside the European Union. The current charges do not reflect the true cost to Government of providing the service.

Objective

In line with the Scottish Government policy on recovering the cost of Government services, the objective of this amendment is to contribute to a full cost recovery regime for the plant health inspection services. The intended aim is to make more efficient use of public resources by transferring the cost of the service from the taxpayer to those who benefit directly from the service (i.e. exporters of plant, plant products or other objects).

The policy will not compromise the Scottish Government's ability to meet its obligations under the International Plant Protection Convention (IPPC): the international plant health agreement which works to prevent the spread and introduction and spread of pests and diseases across international boundaries and to promote appropriate measures for their control.

Rationale for Government intervention

Although the service aims to be as efficient as possible, a recent review of the plant health export fees has established that the current charges set do not reflect the costs incurred of providing the service. There is a Government responsibility to remove the subsidy for exporters and the financial cost to taxpayers. The proposed fee arrangement has the ability to reduce the discrepancy.

This work contributes to the Scottish Government's *Wealthier and Fairer* strategic objective by creating a high quality, efficient public service to encourage trade with countries out with the EU and help Scotland's agriculture and horticulture industries achieve responsible and sustainable future growth. It also ensures that the cost of public services are met by those who benefit directly and the cost to Government is neutral.

Consultation

Within Government

We have consulted internally with colleagues in Policy, Finance, Science and Advice for Scottish Agriculture (SASA) and Rural Payments and Inspections Division (RPID) to establish the processes, procedures and costs currently involved in providing the export certification services and to seek their advice and comments on our proposals as they have developed.

Public Consultation

A public consultation will take place from 14 December 2017. Responses to the consultation will influence the decision on whether to adopt the proposed charges. If the proposed fees are adopted, they will be implemented on 31 March 2018.

Business

The consultation is relevant to a narrow and specific group of stakeholders who will be contacted directly about the consultation. It will also be placed on the Scottish Government website for wider awareness.

Fee Structure Options

To meet the stated aim of introducing a full cost recovery regime for the plant health export certification service, we have considered the following options:

1. Do Nothing (No change to current policy of partial cost recovery)

Under this option charges would remain at the existing cost. As with the current scenario, applicants would continue to gain access to the subsidised service. This would not meet the Scottish Government objective of achieving full cost recovery.

2. Streamline the service procedures and introduce fee amendments to achieve full cost recovery

This option would deliver the Scottish Government's aims to recover the full cost of the service. Fees would increase so that those who benefit from the service (i.e. exporters) would be required to meet the true costs of providing export certificates.

3. Remove individual certification, inspection and testing fees and introduce a fee based purely on time spent on inspection work.

This option would introduce a single combined fee, which would cover certificate processing work, growing season inspections, pre-export testing and any associated laboratory work. It would be applied on a pro rata basis. Adopting this option would simplify the current charging process, however the transparency element would be lost. It would not be clear from a combined fee, based on time, of the exact services that were being charged for. The inspectors would also be put under time related pressure from the industry which may have a detrimental effect on the quality of the service.

Preferred Option

Option 2 is preferred by the Scottish Government. It will achieve the objective of removing the financial cost of service provision from the general taxpayer, without compromising our international obligations.

Sectors and groups affected

The proposed amendments may present an additional cost to those exporting plants, plant products or other objects to be accompanied by a phytosanitary certificate issued by the Scottish Government, including businesses, scientific and academic institutions and private individuals.

Timing of New Fees

The Scottish Government's aim is to implement the revised fees at the earliest opportunity, however we would welcome your thoughts on this before a final decision is made. Question 2 of the Questionnaire in the consultation paper asks for any comments on timing and this should be used to highlight any potential impacts.

Costs

A cost review of inspections has been carried out to give an indication of the current level of recovery and what could be achieved under each of the proposed options. The level of recovery varies between the individual services in the charging schedule.

A table displaying the revised charging schedule proposed by the Scottish Government is attached at [Annex B](#). Each of the newly proposed fees was derived based on full economic costing. The level of fee includes salaries of the inspectors, facilities and equipment for the inspectors, sampling for

visual or laboratory inspection, laboratory testing, travel costs and administrative activities. Data extracted from the relevant TRAC (transparent approach to costing) reports was used where possible to calculate the staff cost elements.

A pragmatic approach has been taken to ensure that users of the service at a geographical disadvantage are not penalised. Also, where possible, costs have been reduced.

Further explanations for services which would see a significant structural or financial change are detailed below. This should be read in conjunction with the proposed fee schedule at [Annex B](#).

Grain

While the issuing of phytosanitary certificates is done by Scottish Government inspectors, inspections of grain for certification are undertaken by trade inspectors. The fee listed in the charging schedule has been reduced in line with other entries where an inspection does not contribute to the cost.

In order to meet certain import permit requirements, it is sometimes necessary for grain samples to be examined by the Official Seed Testing Station (OSTS) for the presence of particular seed-borne pests and diseases and/or for freedom from prohibited weed seeds. In line with achieving full cost recovery, a new fee of £70 per hour is proposed to cover any testing that may be required (see entry 10 in the proposed fee schedule).

Soil Sampling for Potato Cyst Nematode (PCN)

A flat rate fee is proposed in line with the intention to streamline and simplify the fee structure.

Bulbs, malt barley, oil seed rape, plants and plant products, ware potatoes and used agricultural machinery, where an inspection at the premises of the grower is necessary

It is no longer sustainable to maintain the current monetary value ranges which are used for bulbs, plants and plant products and ware potatoes. There are currently five charging levels, depending on the value of the consignment. We propose to reduce this to two. This maintains a reduced charge for those who export consignments of a lesser value.

The fee for used agricultural machinery, malt barley and oil seed rape have been incorporated into this entry.

Inspections of consignments of bulbs, malt barley and oil seed rape can be valid for up to 28 days. Within this time period, additional certificates can be issued without the need for further inspection. It is proposed that the cost of the initial inspection and phytosanitary certificate is increased to £70. A fee of £25 is proposed for the additional certificates where no inspection is required.

Bulbs, plants and plant products, other than seeds, delivered to Scottish Government Horticulture and Marketing Unit (HMU), or for botanical research

The entries for inspections of products delivered to HMU and for botanical research are listed separately in the current charging schedule. We propose to combine them. In recent years, fees for these services have rarely been used as the majority of inspections are carried out at the premises of the grower. We propose to introduce a flat rate instead of the current tiered structure.

Dried, frozen and processed plant products

Importing countries should not require phytosanitary certificates for plant products that have been processed to the point where they have no potential for introducing regulated pests, or for other commodities that do not require phytosanitary measures. There are occasions when some importing countries take a different view on technical justification for requiring a phytosanitary certificate. On these occasions certificates are issued in order to facilitate trade. Exporters who find themselves in this situation are urged to check with the importing country if a phytosanitary certificate is necessary.

The new fee reflects the administrative time required for processing and issuing the certificate.

Growing season inspection (GSI)

It is suggested that the charge for the first 0.5 ha (or part thereof) is reduced to £40.00. Any additional area will be charged per 0.1 ha (instead of 0.5 ha). This will allow a more accurate reflection of time and costs associated with inspection.

Growing season inspections relating to indoor and outdoor plants are rarely used and there is limited data to base the fees on. The charges for these have therefore been amended in line with bulbs to mirror the current regulations.

Intra-EU Phytosanitary Communication (IPC) Document

Introducing a new fee to allow charging for an IPC document is proposed. The EU, as a single market, allows people and business to move and trade freely across borders within the EU. In practical terms, for plants, plant products and other commodities, this means that shipments can be dispatched to other member states of the EU without special customs documentation. The IPC document is an official way to record phytosanitary requirements to allow consignments to be exported to third countries by other member states.

The IPC document is not a legal document and it is rarely used by member states, including Scotland and the rest of the UK, hence there is not currently a provision for charging for it under the Plant Health (Export Certification) (Scotland) Order 2004. Due to emerging markets, it may be needed more frequently in coming years and a fee for this document has been introduced as part of the proposed amendment to the export fee regime. Inclusion is necessary for consistency with the objective of achieving full cost recovery.

The processes involved in issuing an IPC document are similar to those of issuing a phytosanitary certificate and so the proposed charge is also £25. This is in line with the basic fee for issuing a phytosanitary certificate.

Amending a certificate at the request of the exporter after issue

There is not currently a fee associated with this service. In line with achieving full cost recovery, a charge should be introduced.

Scottish Firms Impact Test

The individuals and bodies who apply for use of the service will, of course, be affected by any proposal to increase fees and may have concerns. The proposed consultation based on this partial businesses and regulatory impact assessment will draw out the extent of these concerns and provide information to make a decision on future action. The level of fee will be the same regardless of the size of the institution involved. All affected parties will be consulted directly about the proposals and will be given the opportunity to comment. We will also identify a number of impacted businesses to discuss the proposed fees with face to face.

Competition Assessment

The competition filter has been applied and the conclusion is that there are no significant risks on competition. The proposals will not directly, or indirectly, limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously therefore a detailed assessment has not been prepared.

Test run of business forms

Changes to existing fees will not involve any new forms or changes to existing forms and therefore a test run is not required.

Newly introduced fees may require new forms however they would be very similar to those that already exist and therefore no test run is required.

Legal Aid Impact Test

An amendment to the export certification fees would not introduce new criminal sanctions or civil penalties so there are no implications for legal aid.

Enforcement, sanctions and monitoring

Compliance costs covered by this Regulation relate to provisions for plant health inspections, laboratory testing (where appropriate) and issuing of phytosanitary certificates for consignments which are exported from Scotland to third countries to ensure they are allowed entry to the

importing country. The Scottish Government carries out the collection of fees for the services provided. The income levels and fee rates are monitored and reviewed regularly.

Implementation and delivery plan

After a consultation period, subject to Ministerial approval, any change to the charges will be implemented by a Scottish Statutory Instrument in the form of a regulation amendment. It is intended that the new charges will come in to force in 31 March 2018.

Post-implementation review

With any fee increase, there is a clear requirement in the short term to monitor the effectiveness of the approach. The Scottish Government will assess the impact of the changes a year after implementation of any revised fees and review service delivery procedures as necessary.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

**Mr Fergus Ewing
Cabinet Secretary for the Rural Economy and Connectivity**

Scottish Government Contact point:

Romy Strachan
Scottish Government
Agriculture and Rural Economy
D Spur
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

T: 0300 244 9853

E: romy.strachan@gov.scot