

## **POLICY NOTE**

### **THE PLANT HEALTH (EXPORT CERTIFICATION) (SCOTLAND) ORDER 2018**

**S.S.I. 2018/132**

#### **Introduction**

1. The above instrument is made by the Scottish Ministers in exercise of powers conferred by sections 3(1), (2) and (4), 4(1) and 4A of the Plant Health Act 1967. The instrument is subject to negative procedure.

#### **Purpose of the Instrument**

2. This instrument revokes and replaces the Plant Health (Export Certification) (Scotland) Order 2004 (SSI 2004/248, as amended by S.S.I. 2007/137). It also introduces a full cost recovery regime for the plant health inspection services and incorporates a fee associated with the issue of an intra-EU phytosanitary communication document.

#### **EU Legislative Background**

3. Council Directive 2000/29/EC (OJ L 169, 10.7.2007, p.1) (“the Plant Health Directive”) establishes the EU plant health regime. It contains measures to be taken in order to prevent the introduction into and spread within the EU of serious pests and diseases of plants and plant products. The Directive is implemented in Scotland for non-forestry matters by the Plant Health (Scotland) Order 2005 (SSI 2005/613, as last amended by the Plant Health (Scotland) Amendment Order 2018 (S.S.I. 2018/112). Similar but separate legislation operates in England, Wales and Northern Ireland.
4. Council Directive 2002/89/EC (OJ L 355, 30.12.2002, p.45) amended the Plant Health Directive to clarify the existing requirement for mandatory examinations on certain plants and plant products being imported into the EU and the obligation to charge fees for these inspections.

#### **Policy Background**

5. To prevent the introduction of harmful pests and diseases, most countries require that consignments of plants and plant products meet certain plant health standards before they are allowed entry. The export of consignments to most countries outside the EU must be accompanied by a phytosanitary (plant health) certificate which indicates compliance with the relevant importing country’s plant health requirements.
6. The Scottish Government are responsible for issuing certificates in Scotland. These certificates provide importing countries with the assurance that the consignment meets their plant health standards. Consignments without this certificate are likely to be rejected at the point of entry: destroyed or returned to the exporting country. In most cases, phytosanitary certificates can only be issued following satisfactory official inspection of the material for

export. In some circumstances, however, it may also be necessary for a sample to be examined by the official laboratory.

7. The Plant Health Act 1967 allows for the charging of fees for these services through the making of an order. In Scotland, The Plant Health (Export Certification) (Scotland) Order 2004, as amended, currently prescribes the fees for such services.

### **Policy Objective**

8. The current charges do not reflect the true cost to government of providing the service. In line with the Scottish Government policy on recovering the cost of government services, the objective of this Order 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 the user of the service (i.e. exporters of plant, plant products or other objects).
9. This instrument revokes the Plant Health (Export Certification) (Scotland) Order 2004 and the Plant Health (Export Certification) (Scotland) Amendment Order 2007. The revised structure of services offered and the corresponding fees are detailed in the schedule of the 2018 Instrument.
10. 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.

### **Timing**

11. The instrument will come into force on 1st June 2018. This date was selected to ensure that full cost recovery is in place as early as possible within this financial year whilst providing minimal disruption and impact on Scottish export businesses.

### **Business and Regulatory Impact Assessment**

12. The instrument will only impact on a narrow and specific group of stakeholders in Scotland therefore a partial business and regulatory impact assessment was carried out.
13. The proposed amendments may present an additional cost to those exporting plants, plant products or other objects which require to be accompanied by a phytosanitary certificate issued by the Scottish Government. This may include businesses, scientific and academic institutions and private individuals.

### **Consultation Exercise**

14. The consultation ran for 8 weeks from 14 December 2017 to 8 February 2018.

15. The consultation received 8 responses, all from organisations. Concerns were raised about the timings of the changes, due to the uncertainty surrounding Brexit and the proposed implementation date of 31 March 2018 as this fell within the export season for seed potatoes. Other concerns raised were the impact of fee increases on the revenue of Scottish export businesses. However, there was also an acceptance of the need for an increase in fees and an appreciation of the important work carried out by the inspectors, with a caveat that any increase should not be prohibitive for small businesses.
16. All concerned parties were consulted directly about the proposals and were given the opportunity to comment. The Scottish Government was able to discuss directly the proposed fees and the concerns, giving assurances as to the level of increase and the likely impact on their business.

### **Outcome**

17. With a need to ensure full cost recovery for services prescribed in this Instrument, the Scottish Government will move to implement the new fees structure as set out in the consultation paper. To ensure fairness and to minimise the impact of these changes the implementation date has been delayed from 31 March 2018 to 1 June 2018.
18. 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 through a post-implementation review and will review service delivery procedures as necessary.

Scottish Government

Directorate for Agriculture and Rural Economy (ARE)

25 April 2018