

EXPLANATORY MEMORANDUM TO
THE PLANT HEALTH ETC. (FEES) (ENGLAND) (AMENDMENT) REGULATIONS
2018

2018 No. 510

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 These Regulations amend the Plant Health etc. (Fees) (England) Regulations 2018 (S.I. 2018/289) which specify fees payable to the Secretary of State in the field of plant health and seed potatoes.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Seed potatoes produced and marketed in England and Wales must be certified under the Seed Potato Classification Scheme, which aims to provide assurance that seed potatoes delivered to buyers and growers meet the health and quality standards specified by the Seed Potatoes (England) Regulations 2015. The Regulations implement the requirements of Council Directive 2002/56/EC on the marketing of seed potatoes. In line with the principle that the costs of statutory services should be borne by users who benefit directly from a service, charges apply for the provision of seed potato certification services.
- 4.2 The Plant Health etc. (Fees) (England) Regulations 2018, which came into force on 6 April, implemented the outcome of a public consultation on proposed changes to fees for seed potato certification and other plant health services (i.e. import inspection, sampling and testing of potatoes originating in Egypt and the Lebanon, plant passporting, licensing and certification of fruit propagation material) provided by the Animal and Plant Health Agency in England and Wales. It has come to light that those regulations do not accurately reflect the way that some fees for seed potato certification services are to be applied. The Plant Health etc. (Fees) (England) (Amendment) Regulations 2018 correct the errors.

- 4.3 These Regulations are made in exercise of powers conferred by section 56(1) of the Finance Act 1973 (c. 51) which permits a Government department 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 EU obligation. As such, the Regulations require Treasury consent.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is to England and Wales.
5.2 The territorial application of this instrument is England.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The Plant Health etc. (Fees) (England) Regulations 2018, which came into force on 6 April, implemented the outcome of the public consultation on proposed changes to fees for import inspection, sampling and testing of potatoes originating in Egypt and the Lebanon, plant passporting, licensing, seed potato certification and fruit propagation material services provided by the Animal and Plant Health Agency in England and Wales. It has come to light that the regulations do not accurately reflect the way that some fees for seed potato certification are to be applied.
- 7.2 Fees for most growing season inspections of seed potato crops were previously charged on a hectare basis, with fees applied in half hectare increments and a minimum charge of one hectare. The intention was to carry those arrangements forward when applying the new fees from 6 April. Unfortunately the Plant Health etc. (Fees) (England) Regulations 2018 do not make this explicit and fail to mention the half hectare incremental charge.
- 7.3 In response to a request from the trade the regulations change the growing season inspection charges for pre-basic and approved stocks from a time-base to a hectare-base; the aim being to standardise charging for growing season inspections of seed potatoes and to simplify the fee structures. However, the fee for inspection of pre-basic tissue culture material was to remain time-based, as this is carried out on very small quantities of material. The Plant Health etc. (Fees) (England) Regulations 2018 do not reflect this, with the fee for inspection of pre-basic tissue culture material being shown as hectare-based.

8. Consultation outcome

- 8.1 A consultation on proposed changes to fees for statutory plant health services provided by the Animal and Plant Health Agency in England and Wales ran from 6th September to 31st October 2017. A summary of the key points and the government's response to the consultation has been published at GOV.UK.

9. Guidance

- 9.1 The main stakeholders have been informed and details of the new fees will be included on the APHA website. They are also specified in the instrument itself.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is minimal.
- 10.2 There is no impact on the public sector.
- 10.3 An impact assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to all businesses importing controlled plant health material, including small businesses.

12. Monitoring and review

- 12.1 Defra will continue to work with the government-businesses taskforces who have been engaged during the fee review with the aim of continuing to identify efficiencies and better ways of working in order to further drive down costs. This collaborative approach has been broadly welcomed by the industry.
- 12.2 The levels of fees will be reviewed over the course of the next year.

13. Contact

- 13.1 Iain Johnstone, Defra, Second Floor, Lancaster House, Hampshire Court, Newcastle Business Park, Newcastle Upon Tyne, NE4 7YH; Tel: 02080 265265; e-mail: iain.johnstone@fera.gsi.gov.uk can answer any queries regarding these Regulations.