
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

**The Plant Health (EU Exit) (Scotland)
(Amendment etc.) Regulations 2019**

PART 4

Fees: EU withdrawal

Amendment of the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014

72. In the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014(1)—

(a) for regulation 2(1)(interpretation) substitute—

“(1) In these Regulations—

“applicable checks” means the documentary check, identity check and plant health check which may be performed on a consignment;

“brought into Scotland” means introduced into Scotland by any means, including by post;

“consignment” means a quantity of goods covered by a single document required for customs or other formalities;

“documentary check” means an inspection to determine whether the consignment or lot is accompanied by the required documents;

“identity check” means an inspection to determine whether in its entirety or on one or more representative samples, the consignment or lot consists of or contains the plants, plant products or other objects, as declared on the required documents;

“intended for planting” means plants which are—

- (a) already planted and which are intended to remain planted or to be replanted after they are brought into Scotland; or
- (b) not planted at the time they are brought into Scotland but which are intended to be planted thereafter;

“lot” means a number of units of a single commodity, identifiable by its homogeneity of composition and origin and forming part of a consignment;

“normal working hours” means any time between the hours of 6 a.m. to 5 p.m. on any day except—

- (a) a Saturday;
- (b) a Sunday;
- (c) Easter Monday;
- (d) 26th December, if it is not a Saturday or Sunday;

- (e) 27th December, in a year in which 25th or 26th December is a Sunday; or
- (f) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971⁽²⁾;

“plants” has the same meaning as in the principal Order;

“plant health check” means an inspection to determine whether in its entirety or on one more representative samples, including the packaging and, where appropriate, the transport vehicles, the consignment or lot comply with the requirements laid down in the principal Order;

“plant products” has the same meaning as in the principal Order;

“Potato brown rot” has the same meaning as in the principal Order;

“principal Order” means the Plant Health (Scotland) Order 2005⁽³⁾;

“required documents” means the phytosanitary certificate or, as the case may be, the phytosanitary certificate for re-export, required by article 7 of the principal Order; and

“third country” means—

- (a) a country or territory outside the European Union, other than a territory within the British Islands; or
- (b) the European Union;”,

(b) in regulation 3(2) (application of the import inspection fee)—

- (i) in sub-paragraph (a)(i) for “the second column of Schedule 1” to the end, substitute “schedule 5 or schedule 7 of the principal Order”,
- (ii) for sub-paragraph (b) substitute—

“(b) is brought into Scotland from a third country.”,

(c) in regulation 4(2) (fees), in the words before sub-paragraph (a) omit “, or which, but for Article 13a(2) of the Directive (providing for checks to be carried out at reduced frequency), would have been required to be carried out”,

(d) in regulation 5 (additional fees in respect of Potatoes Originating in Egypt and Lebanon)—

- (i) in the heading, omit “and Lebanon”,
- (ii) in paragraph (1), omit “or (3)”,
- (iii) for paragraph (2) substitute—

“(2) This paragraph applies where potatoes originating in Egypt are brought into Scotland and a sample of those potatoes is taken in order to ascertain whether, for the purposes of item 6 of Part D of schedule 4 of the principal Order those potatoes are infected with Potato brown rot.”,

(iv) omit paragraph (3),

(e) in schedule 3 (additional fees)⁽⁴⁾ in column 2, omit “or Lebanon”.

Amendment of the Plant Health (Export Certification) (Scotland) Order 2018

73. In the Plant Health (Export Certification) (Scotland) Order 2018⁽⁵⁾—

- (a) in article 2 (interpretation)—

(2) 1971 c.80.

(3) S.S.I. 2005/613, as last amended by S.S.I. 2019/XX.

(4) Schedule 3 was substituted by S.S.I. 2015/392.

(5) S.S.I. 2018/132.

- (i) omit the definition of “IPC document”,
- (ii) for the definition of “principal plant health Order” substitute—
 - ““principal plant health Order” means the Plant Health (Scotland) Order 2005(6);”
- (iii) for the definition of “third country” substitute—
 - ““third country” means—
 - (a) a country or territory outside the European Union, other than a territory within the British Islands; or
 - (b) the European Union;”
- (b) in article 4(1) and (2) (fees for export certification services) omit “or IPC document” in each place where it occurs,
- (c) in article 5(1) (offences and penalties), omit “or IPC document”,
- (d) in the schedule (applications for certificates: table of fees), omit item 14.

Amendment of the Plant Health Fees (Scotland) Regulations 2008

- 74.** In the Plant Health Fees (Scotland) Regulations 2008(7)—
- (a) in regulation 2(1) (interpretation)—
 - (i) in the definition of “authority” for “plant passports” substitute “UK plant passports”,
 - (ii) for the definition of “the 2005 Order” substitute—
 - ““the 2005 Order” means the Plant Health (Scotland) Order 2005(8);”
 - (iii) omit the definition of “plant passport”,
 - (iv) after the definition of “premises” insert—
 - ““UK plant passport” has the meaning given to it in article 2(1) of the 2005 Order;”
 - (b) in the heading of regulation 3 (fees for inspections for plant passporting purposes), before “plant”, insert “UK”,
 - (c) in regulation 5A (fees for Potato Cyst Nematode testing) for “under article 39(8) (official soil tests for potato cyst nematode)” substitute “pursuant to paragraph 3(a) of schedule 15 of the 2005 Order (official investigations for potato cyst nematode)”, and
 - (d) in schedule 1 (fees for inspections for plant passporting purposes)—
 - (i) in the heading, before “plant” insert “UK”,
 - (ii) in column 1 of the table, for “plant passports” substitute “UK plant passports”.

Savings provision in relation to fees amendments

- 75.** Despite the provision made by regulations 72, 73 and 74—
- (a) an importer must pay to the Scottish Ministers any fee which, prior to the coming into force of regulation 72, was payable by that importer under regulation 3 or 5 of the Plant Health (Import Inspection Fees) (Scotland) Regulations 2014,

(6) S.S.I. 2005/613, as last amended by S.S.I. 2019/XX.

(7) S.S.I. 2008/153, as last amended by Part 2 of these Regulations.

(8) S.S.I. 2005/613.

- (b) a person must pay to the Scottish Ministers any fee which, prior to the coming into force of regulation 73, was payable by that person under article 4 of the Plant Health (Export Certification) (Scotland) Order 2018, and
- (c) any fee which, prior to the coming into force of regulation 74, required to be paid to the Scottish Ministers under regulation 3, 4, 5 or 5A of the Plant Health Fees (Scotland) Regulations 2008, must be paid to the Scottish Ministers.