

EXPLANATORY MEMORANDUM TO
THE PLANT HEALTH (FEES) (FORESTRY) (ENGLAND AND SCOTLAND)
REGULATIONS 2015

2015 No. 350

1. This explanatory memorandum has been prepared by the Forestry Commissioners and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations revoke and replace the Plant Health (Fees) (Forestry) Regulations 2006 (S.I. 2006/2697) (“the principal Regulations”) which provide for fees to be charged by the Forestry Commission for certain plant health services in the timber trade sector, including plant health examinations, namely documentary checks, identity checks and plant health checks, on certain wood, wood products and bark imported from third countries. They also make an adjustment to the fees to reflect changes in inspection levels that apply to imports of wood of maple from Canada.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 These Regulations remove the reduced rate fees for imports of wood of maple (*Acer saccharum*) from Canada in line with a minor annual adjustment to the levels of inspections required under article 13a of the Plant Health Directive .

4. Legislative Context

4.1 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 produce. The Plant Health Directive (Articles 13a and 13d) requires the National Plant Protection Organisation to carry out certain checks on imported plants and plant products, including certain types of wood and wood products, and to charge fees for those inspections. In most cases, it requires inspections to be carried out on all imports of controlled material.

4.2 The Plant Health Directive is implemented in Great Britain, with respect to certain wood, wood products and bark, by the Plant Health (Forestry) Order 2005 (S.I. 2005/2517) and the principal Regulations. For non-forestry matters, the Plant Health Directive is implemented in England by the Plant Health (Fees) (England) Regulations 2014 (S.I. 2014/601) and the Plant Health (England) Order 2005 (S.I. 2005/2530). Similar but separate legislation operates in Scotland, Wales and Northern Ireland.

4.3 The Plant Health Directive has been amended, among other amendments, by Council Directive 2002/89/EC (OJ No. L 355, 30.12.2002, p. 45). Among the changes introduced by this Directive was clarification of the existing requirement for mandatory examinations (documentary checks, identity checks and physical inspection) on certain plants and plant produce and obligations to charge fees for these

inspections. The Plant Health Directive, as amended, (Article 13a(2)) also contains a procedure for reducing the rate of inspections of certain plant imports and for charging a correspondingly reduced fee for inspections (Article 13d(2)).

4.4 The powers of inspectors of the Forestry Commissioners to carry out the checks on imports of controlled material are provided in the Plant Health (Forestry) Order 2005 and the authority to charge fees for these inspections is contained in the principal Regulations.

4.5 The purpose of these Regulations is to revoke and replace the principal Regulations which also provide for fees to be charged by the Forestry Commissioners for inspections in connection with an authority to issue plant passports under the Plant Health (Forestry) Order 2005, for applications for, and inspections related to, licences under that Order and for conducting certain remedial work under that Order. In addition, they include an adjustment to the fees to reflect the recent changes to reduced checks on imports of controlled material made under the Plant Health Directive.

5. Territorial Extent and Application

5.1 This instrument applies to England and Scotland.

6. European Convention on Human Rights

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

7. Policy background

- What is being done and why

7.1 A consolidation of the principal Regulations and the amendments made to those Regulations is being undertaken in relation to England and Scotland.

7.2 Additionally, a European Commission working group meets annually to consider applications from member States for reductions in inspection levels and reviews agreed levels using trade and interception data from member States over the previous year. Levels of inspection on trades from third countries can be increased or eligibility for any reduction withdrawn altogether if member States report any pest or disease problems identified with a trade approved for reduced checks or a trade is otherwise not eligible for a reduction.

7.3 Under the principal Regulations, reduced checks (75%) applied to one trade (wood of maple from Canada). These Regulations implement the latest changes recommended by the European Commission's Reduced Checks Working Group and agreed by the Plant Health Standing Committee, namely an agreement to increase the levels of inspection on this trade to 100% because of decreases in the volume of trade

7.4 Import levels of wood of maple from Canada amounted to less than 100 consignments from each country. Adopting these provisions means that there are now no controlled forest products to which reduced frequency inspection checks are applied in England and Scotland and no forest products to which reduced rate fees are applicable.

8. Consultation outcome

8.1 No formal consultation has been carried out on the removal of reduced rate fees on imports of wood from Canada as they implement annual changes in fees in line with a predetermined level rather than fundamental changes to the regulatory regime itself.

9. Guidance

9.1 The main stakeholders have been provided with guidance on the amendments to the legislation via the issue of an explanatory newsletter. An amendment to the more formal Plant Health Guide will be made in due course.

10. Impact

10.1 An impact assessment has not been prepared for these Regulations as the removal of the reduced rate fees in Schedule 3A to the principal Order implement annual changes in fees in line with a predetermined level, rather than make fundamental changes to the regulatory regime itself, and no other changes have been made to the fees specified in the principal Regulations.

11. Regulating small business

11.1 The legislation applies to small business.

12. Monitoring & review

12.1 A Trading Account detailing timber inspection expenditure and inspection fee income will be prepared at the end of the 2014/15 financial year and these accounts will be reviewed and if it is deemed necessary the fees will be adjusted by a further amendment to the fees. Stakeholders will be consulted should the fees need to be adjusted. The trades eligible for reduced levels of inspection are also subject to an annual review by the European Commission and this may result in adjustments to the fees.

13. Contact

13.1 Ian Brownlee at the Forestry Commission , Silvan House, 231 Corstorphine Road, Edinburgh, EH12 7AT Tel: 0300-067-5034 or email: ian.brownlee@forestry.gsi.gov.uk can answer any queries regarding the instrument.