POLICY NOTE

THE PLANT HEALTH (IMPORT INSPECTION FEES) (SCOTLAND) AMENDMENT (NO. 2) REGULATIONS 2024

SSI 2024/XXX

The above instrument is made by the Scottish Ministers in exercise of powers conferred by paragraph 7 of schedule 4 and paragraph 21 of schedule 7 of the European Union Withdrawal Act 2018 (c. 16). The instrument is subject to affirmative procedure.

Purpose of the Regulations:

The Plant Health (Import Inspection Fees) (Scotland) Amendment (No.2) Regulations 2024 ("the 2024 Regulations") amend the Plant Health (Import Inspections Fees) (Scotland) Regulations 2014 ("the Import Fees Regulations") delaying the introduction of fees relating to inspection checks (physical, identity or documentary) for certain commodities entering Scotland from the EU, Liechtenstein and Switzerland. The instrument coming into force date is 31 October 2024.

This instrument is linked to a UK statutory instrument, The Official Controls (Extension of Transitional Periods) and Plant Health (Frequency of Checks) (Miscellaneous Amendments) Regulations 2024, "Defra OFC/021/R", which has been shared with the Scottish Parliament's Rural Affairs and Islands Committee, to seek approval of Scottish Ministers providing consent to the making of UK secondary legislation affecting devolved areas.

Policy Objectives

The 2024 Regulations make amendments to legislation in the field of plant health as it applies in Scotland. In particular, they amend The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014, which together with The Plant Health (Export Certification) (Scotland) Order 2018, enable the Scottish Government to levy fees related to plant health, including fees concerning imports and exports of plants, plant products and other objects.

Regulation 2 of the 2024 Regulations amends regulation 4(8)(a) of the Import Fees Regulations delaying the introduction of **fees for** physical, identity or documentary checks for medium-risk fruit and vegetable goods from the EU, Liechtenstein and Switzerland from '30 October 2024' until '1 July 2025'.

Similarly, regulation 4(8)(b) will be amended to delay the introduction of fees on import checks on goods originating in the EU, Liechtenstein and Switzerland into Scotland via West Coast Ports (WCP) until 1 July 2025. The UK Government's 'Border Target Operating Model' (BTOM) is a new risk-based approach to Sanitary and Phytosanitary (SPS) controls applying to imports of live animals, animal products, high-risk food and feed of non-animal origin, plants and plant products at the border.

The principal legislation governing the controls required on movement into Great Britain (GB) of plants and plant products is set out in assimilated law, namely Regulation (EU) 2016/2031 ("the Plant Health Regulation") for plant health and the Official Controls Regulation for

animal, plant and public health (together "the EU Regulations"), and the additional legislation made under these Regulations. The main aims of the BTOM for plants and plant products are to protect plant biosecurity, and to support trade. To achieve this, the intention is to reduce the administrative burden for trade, particularly for low-risk goods that do not require pre-notification or a Phytosanitary Certificate (an official plant health certificate). It will only apply to a select group of fruit and vegetables in which pre-notification will no longer apply, or at least until full risk-assessments have been conducted by the technical working group under the UK Plant Health Services which consist of representation from DEFRA, Scottish & Welsh Governments and DAERA. Due to the amount of goods that were to be reviewed it was necessary to undertake the risk-assessment in stages giving priority to goods that pose the highest biosecurity risks. Fruit and vegetable produce that fall into the medium-risk category are categorised as low-risk until the full review of goods is completed.

In addition, import inspection checks were phased in allowing businesses time to adapt to the new SPS measures. The second phase of changes set out in the BTOM were introduced on 30 April 2024. This meant all imports of medium-risk plants and plant products from the EU, Liechtenstein and Switzerland will undergo official controls (identity and physical checks). Medium-risk fruit and vegetables were exempt from checks and charges until 30 October 2024 when phase two was introduced because it was expected all risk-assessments would be completed by then. Concurrently, goods entering Scotland from these territories via a WCP were being delayed to provide extra time for some Border Control Posts (BCP) on the west coast to become operational.

The UK Government has been engaging with UK and EU businesses to address their concerns regarding the original 30 October 2024 date. It was concluded it would be beneficial to all parties involved (without compromising the objectives of the BTOM) to extend the easement date for medium-risk fruit and vegetables to 1st July 2025, and to delay checks on certain goods from the European Union, Switzerland and Liechtenstein arriving in Scotland/GB through WCPs, as this would allow more time for operational readiness and completion of risk-assessments of the medium risk goods.

The delay to implementation of import checks means the application of associated fees for medium-risk fruit and vegetables imported from the European Union, Switzerland and Liechtenstein will not take place in Scotland/GB until 1 July 2025. The same applies to goods arriving into WCP from the EU, Switzerland and Liechtenstein until 1 July 2025. Similar but separate amendments are being carried out by DEFRA and the Welsh Government.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights:

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, The Plant Health (Import Inspection Fees) (Scotland) Amendment (No.2) Regulations 2024 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU because it concerns measures regarding sanitary and phytosanitary controls on goods entering Great Britain from the EU, which are required as a consequence of no longer being an EU member. It is not considered that the changes included in this instrument would give rise to any difficulties were Scotland to seek to re-join the EU in the future.

Consultation

There was a short, targeted stakeholder engagement conducted by Defra on behalf of all GB administrations on the proposed amendments to extending the EU medium risk fruit and vegetables and West Coast Port easements. The engagement focused on stakeholders such as the UK Plant Health Advisory Forum, which includes the Fresh Produce Consortium, the Horticultural Trades Association, and other Scottish representatives. At the same time, the Scottish Government made Scottish importers who traded in regulated plant and plant products aware of the consultation and plans.

The consultation ran from 13 May 2024 to 3 June 2024. Defra confirmed one response was received; from the National Farmers' Union, which sought clarity on the definition of medium risk fruit and vegetables as they considered this to be insufficiently clearly set out in the engagement documents. Defra have provided further information to the NFU to provide clarity and this will also be provided in the publication of the consultation response which is expected in early September.

In addition, Defra, again on behalf of the Scottish and Welsh Government, ran a separate consultation regarding the extension of the TSP, which sought views amending the end date of the TSP from 31 January 2025 to 1 July 2025. This ran for one week, between 30 July and 6 August 2024. It was sent to the same stakeholders as for the above easements but was extended to other businesses who are involved with the import of live animals, animal products, such as the International Meat Trade Association and the British Horse Council. It was confirmed that six responses were received, all from stakeholder trade associations. Four were supportive of the proposed changes, noting that it was preferable to businesses for new controls to be introduced with adequate notice to allow business planning, whilst two of the responses sought additional information on the extension of TSP arrangements. No responses were received from Scottish businesses.

The intention is to publish the consultation responses on the UK Plant Health Portal early September 2024. This will include detail of the stakeholder feedback and the response.

Impact Assessments

There is no significant impact on business, charities or voluntary bodies. A full Business and Regulatory Impact Assessment has therefore not been prepared for this instrument because it does not set out new policy. The amendments in this SSI reflect the impact of EU Exit in relation to the risk-based control of SPS imports.

A Child Rights and Wellbeing Impact Assessment (CRWIA) was conducted, and it was deemed that the 2024 Regulations have no impact on children's rights or wellbeing.

Physical, identity and documentary fee rates are entirely waived during the easement period. Therefore, no or no significant impact is expected on business as a result of the policy changes introduced under this instrument.

The 2024 Regulations do not alter the Scottish Government's current environmental policies and priorities, and therefore do not have a significant impact on the environment. The impact on business, charities or voluntary bodies is expected to be minimal.

Financial Effects

The Minister for Agriculture and Connectivity confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary as the instrument has no significant and no financial effects on the Scottish Government, local government or on business as with The Plant Health (Import Inspection Fees) (Scotland) Amendment Regulations 2024[1].

Scottish Government
Agriculture and Rural Economy Directorate
September 2024

[1] https://www.legislation.gov.uk/ssi/2024/123/contents/made