EXPLANATORY MEMORANDUM TO

THE PLANT HEALTH (EXPORT CERTIFICATION) (ENGLAND) (AMENDMENT) ORDER 2015

2015 No. 382

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The purpose of this instrument is to provide for an increase in the fees payable in relation to plant health export certification services provided by the Animal and Plant Health Agency (APHA) on behalf of Defra, as part of a move towards full cost recovery of such fees.

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

3.1 Following a public consultation in 2012, a phased increase in fees for plant health export certification services was initiated in 2013, with the intention of achieving full-cost recovery for these services by 2015. The Plant Health (Export Certification) (England) (Amendment) Order 2013 ("the 2013 Order") introduced the first step in that move towards full-cost recovery. This instrument introduces the third and final stage of an above inflation increase towards fees which achieve full cost recovery.

4. Legislative Context

4.1 In order to prevent the introduction of harmful pests and diseases most countries outside the EU require that consignments of plants, plant products and other related plant material must meet certain plant health standards before they are allowed entry. These standards are laid down by the relevant authorities in each country and vary from country to country.

4.2 Most of these countries require that consignments must be accompanied by a phytosanitary (plant health) certificate issued by the National Plant Protection Organisation (NPPO) in the exporting country. A phytosanitary certificate provides importing countries with an assurance that consignments meet their plant health standards. APHA is responsible for issuing certificates in England on behalf of Defra. Consignments without this certificate are likely to be rejected at the point of entry, destroyed or returned to the exporting country. In most cases, depending on the requirements of the importing country, phytosanitary certificates can only be issued following satisfactory official inspection of the material for export. In some circumstances it may also be necessary for a sample of the material to be examined by

the official laboratory, which for England is the Food and Environment Research Agency.

4.3 In line with the principle that the costs of services should be borne by users who benefit directly from a service, charges apply for export certification services provided under the Plant Health (Export Certification) (England) Order 2004 ("the principal Order[1]"). The Plant Health (Export Certification) (England) (Amendment) Order 2015 provides for increases in fees payable for such services and introduces the third and final stage of a phased move towards full cost recovery of such fees. The first step in the move towards full-cost recovery was introduced by the 2013 Order.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

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

7.1 APHA is responsible in England, on behalf of Defra, for the provision of plant health export certification services to facilitate trade and prevent the spread of plant pests and diseases. The principle of passing the costs on to users of this service is well established. Before 6 April 2013 fees for plant health export certification services had not increased for many years, resulting in income from business users being less than 19% of the cost of the service provision. Following a public consultation in 2012, the Government decided to introduce a phased increase in fees with the aim of achieving full cost recovery over three years, with 50% of the gap being closed in 2013 and the remainder in two stages in 2014 and 2015. This instrument implements the third stage of that move towards full cost recovery. Full details of the old and new fees are given in the Annex.

7.2 This instrument also provides for the charging of reduced rates for small businesses and individuals. This concession was introduced when charging for these services commenced and is targeted at small businesses and private individuals applying for certificates for one-off or relatively small volumes of commercial or non-commercial exports (e.g. amateur plant enthusiasts, universities or other non-commercial scientific establishments). This enables them to undertake a small number of exports at a rate equal to half that charged to other exporters. The rates apply to 'small exporters' whose cumulative charge for export services in any one financial year is equal to or less than £250. To be eligible for these concessionary rates an exporter must meet one of the following conditions when making an application for any export services: (1) the exporter must not be registered for VAT in respect of trade in plants, plant products or related materials,(2) the goods to be exported must not be a taxable supply, or (3) the exporter must not have exported goods certified with a total value of £5,000 or more in the previous financial year. As part of the consultation held in

[1] The Plant Health (Export Certification) (England) Order 2004 (S.I. 2004/1404).

2012 the rationale for maintaining this concessionary arrangement was revisited. In response to concerns raised by consultees that increased fees would have a significant impact, reducing or stopping the export activity of micro-businesses currently trading in small volumes of not-for-profit and commercial consignments to third countries, the concessionary rates for small exporters have been retained.

7.3 The principal Order will be consolidated when the fees are next revised, if not before.

8. Consultation outcome

8.1 A consultation on proposals to revise fees for export certification services ran from 27 September to 22 November 2012. The majority of respondents opposed any increase in fees but, in the event of any increase, preferred a phased increase to achieve full cost recovery over three years.

9. Guidance

9.1 Details of the new fees will be included on the Fera website; they are also specified in the instrument itself.

10. Impact

10.1 No impact on charities or voluntary bodies is foreseen.

10.2 No impact on the public sector is foreseen.

10.3 An impact assessment was prepared for the 2013 Order and is available at http://www.legislation.gov.uk/ukia/2013/1141/pdfs/ukia_20131141_en.pdf

11. Regulating small business

11.1 The legislation applies equally to all businesses trading in plant health controlled material, including small businesses. However, reduced rates apply to qualifying small businesses.

12. Monitoring & review

12.1 In addition to pre-consultation workshops, APHA has set up government-businesses taskforces whose main aim is the development of more efficient services with simple and transparent charges. This collaborative approach has been broadly welcomed by the industry. The possibility of a threshold for charges was discussed with the export task force and the approach accepted.

12.2 The levels of fees will be reviewed over the course of the next year with a view to making any adjustments in 2015 to ensure cost recovery is maintained.

13. Contact

Iain Johnstone (Plant Health Policy, Defra, Second Floor, Lancaster House, Hampshire Court, Newcastle Business Park, Newcastle Upon Tyne, NE4 7YH (Tel 0300 060 3806, e-mail iain.johnstone@defra.gsi.gov.uk) can answer any queries regarding the instrument.

PLANT HEALTH EXPORT CERTIFICATION FEES AND CHARGES

Annex

Schedule 3 - Services in respect of applications for certificates		**Current Fees**		**New Fees**	
		Fee (£s)	Fee (Small exporter) (£s)	Fee (£s)	Fee (Small exporter) (£s)
Services for consignments other than grain	Inspection and laboratory examination	58.92*	29.46*	65.24*	32.62*
	Minimum fee	117.84	58.92	130.48	65.24
	Laboratory examination only	32.93	16.47	36.35	18.18
	Issue of certificate where no inspection or laboratory examination required	12.53	6.27	13.87	6.94
Services for consignments other than grain	Monitoring of inspections and laboratory examination	53.78	26.89	59.53	29.74

Schedule 4 - Pre-export service

Pre-export inspection	44.88*	22.44*	49.68*	24.84
Minimum fee	89.75	44.88	99.36	49.68

*For each quarter hour or part thereof