POLICY NOTE

THE PLANT HEALTH (IMPORT INSPECTION FEES) (SCOTLAND) AMENDMENT (NO. 2) REGULATIONS 2019

SSI 2019/425

1. The above instrument is made by the Scottish Ministers in exercise of powers conferred by section 56(1) and (2) of the Finance Act 1973. The instrument is subject to negative procedure.

2. Purpose of the instrument.

   The principal purpose of the instrument is to implement the new EU Plant Health Import Inspection Fees to be charged for certain plant health checks, namely documentary checks, identity checks and physical inspections, on certain plant products imported into Scotland from third counties which apply from 01 February 2020.

Policy Objectives

3. The policy objectives are to

   a. Amend the fees in regulations 3 and 4(1) and schedule 1 of the Plant Health (Import Inspection Fees)(Scotland) Regulations 2014 ("the 2014 Regulations") in particular to remove the charges for document and identity checks, leaving schedule 1 containing the fees for plant health checks (physical check) only.
   b. Include a new schedule 1 of the 2014 Regulations which contains new fee for the inspection of "Machinery and vehicles which have been operated for agricultural or forestry purposes". The fee covers the inspection to ensure they are clean and free from soil and plant debris to prevent plant pests or diseases from entering Scotland in this manner.
   c. Amend the list of reduced rate fees relating to regulations 3 and 4(2) and schedule 2 of the 2014 Regulations.
   d. List the fees for document and identity checks in new schedule 2A of the 2014 Regulations. These charges previously were included in schedule 1 which showed one fee charge for all plant health checks including the documentary and identity checks. The documentary and identity checks will now be listed separately to provide transparency and flexibility, including in relation to consignments where an inspection is carried out in a part of the UK before the consignment arrives in Scotland.

EU Legislative Background

4. Regulation (EU) 2016/2031 of the European Parliament of the Council (The Plant Health Regulation) and Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls (OCR) (the "EU Regulations") establish the current

plant health regime, enhance biosecurity and protect the environment by preventing the spread of harmful pests. These instruments also outline the measures on official controls to ensure that agri-food chain legislation for the protection of human health, animal health and welfare, and plant health, is correctly applied and enforced. They are implemented through the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019. Similar but separate legislation operates in England, Wales and Northern Ireland.

5. The EU Regulations came into force on 14 December 2019 and substantially replace the previous regime - Council Directive 2000/29/EC (OJ L 169, 10.7.2007, p.1) ("the Plant Health Directive") However, some parts of the Plant Health Directive remain in force including Article 13a which authorises Member States to perform documentary checks, identity checks and plant health checks on imports and Article 13d which allows the collection of fees to cover costs of these checks.

6. The introduction of a new fee for the inspection of "Machinery and vehicles which have been operated for agricultural or forestry purposes" implements Commission Implementing Directive (EU) 2019/523. This Implementing Directive inserted "machinery and vehicles which have been operated for agricultural or forestry purposes" into Annex V of the Plant Health Directive. As part of the changes made by the introduction of the Plant Health Regulation, on 14 December 2019 Annex V of the Plant Health Directive was replaced by Commission Implementing Regulation (EU) 2019/2072. "Machinery and vehicles which have been operated for agricultural or forestry purposes" is now listed in this Implementing Regulation.

Policy Background

7. Scotland imports consignments of plants and plant products from third countries which pose a risk of introducing new plant pests and diseases to European crops and ecosystems. Scottish Government inspectors check these imports to ensure that they comply with EU rules to minimise plant health risks.

8. The 2014 Regulations provide for fees to be charged for these inspections, namely documentary checks, identity checks and physical inspections (plant health checks). On occasion it is also necessary for samples to be examined by the official laboratory.

9. Previously the fee document, identity and physical checks were listed as a single fee under schedule 1. Schedule 1 has been amended to only include the fee for physical checks (plant health check). Document and identity checks are now listed separately under schedule 2A. This has been done to provide maximum flexibility in charging to accommodate the possibility that different checks may be carried out at different locations by different inspectors.

10. The level of examinations is set at 100%, except for those trades which have a history of compliance under the EU's arrangements and are thus considered to pose a lower risk. These trades, as decided by the EU, are permitted a reduced level of inspection and a reduced fee for plant health checks. An EU working group meets annually to consider dossiers of trades for reduced frequency checks and determines what reduced rate, if any, will apply.

11. The notification of products eligible for reduced inspections for period 01.02.2020 – 31.12.2020 has now been published by the Commission: https://ec.europa.eu/food/sites/food/files/plant/docs/ph_biosec_trade-non-eu_prods-recom-reduced-ph-checks_2020.pdf. As the notification introduces a new group titled "European Third Countries", amendments have been made to the 2014 Regulations to insert new definitions in relation to Europe, European Union and third countries.

12. This instrument amends schedules 1 and 2 also adding a new schedule 2A to the 2014 Regulations (Import Inspection Fees for Plant Health Checks (Reduced Rates)) to reflect the changes contained in the 2019 notification and revokes schedule 1 from the 2014 Regulations and the amended schedule 2 which was inserted by regulation 2(a) of the Plant Health (Import Inspection Fees) (Scotland) Amendment Regulations 2019.

Timing

13. The instrument will come into force on 22 February 2020.

Impact Assessments

14. The instrument will only have a limited impact on businesses in Scotland given that, currently, no plant health imports into Scotland fall within the scope of the reduced checks. We do not expect this to change in the foreseeable future, also our separation of the document, ID and Plant Health checks into different schedules does not change in cost of the overall fee. Therefore no business and regulatory impact assessment has been carried out. In any event, we are nevertheless required to reflect the EU reduced check provisions in domestic law.

Financial Effects

15. Minister for Rural Affairs and the Natural Environment confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Agriculture and Rural Economy Directorate
December 2019