

EXPLANATORY MEMORANDUM TO THE PLANT HEALTH (IMPORT INSPECTION FEES) (WALES) (AMENDMENT) (No.2) REGULATIONS 2009

This Explanatory Memorandum has been prepared by the Department for Rural Affairs and is laid before the National Assembly for Wales, in accordance with Standing Order 24.1.

1. Description

These Regulations replace earlier Regulations which provide for fees to be charged for certain plant health examinations, namely documentary checks, identity checks and plant health checks (physical inspections), on certain plants and plant products imported from third countries. The present Regulations amend some of the fees prescribed in the earlier Regulations.

2. Matters of special interest to the Subordinate Legislation Committee

None. These Regulations are to be made by the Welsh Ministers but require the consent of HM Treasury. That consent has been received.

3. Legislative Background

These Regulations are made under section 56(1) of the Finance Act 1973. Those powers are exercisable in relation to Wales by the Welsh Ministers by virtue of section 59(5) of the Government of Wales Act 2006. The powers contained in section 56(1) of the Finance Act 1973 are subject to Treasury consent, which has already been obtained.

4. Purpose and intended effect of the Legislation

The Regulations replace the 2006 Regulations which provide for fees to be charged for certain plant health examinations, namely documentary checks, identity checks and plant health checks (physical inspections), on certain plants and plant products imported from third countries. The present Regulations amend some of the fees prescribed in the 2006 Regulations.

- 4.2 The Regulations, which amend the Plant Health (Import Inspections Fees) (Wales) Regulations 2006, amend the fees to be charged for plant health examinations of certain imported material and also amend the list of trades eligible for reduced rate inspections. The amended fees are set out in regulation 4 and the Schedule of the present Regulations (amending

Schedule 2 to the original Regulations). The changes come into force on 1 January 2010.¹

- 4.3 Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community² (“the Plant Health Directive”) establishes the Community plant health regime. It contains measures to be taken in order to prevent the introduction into, and spread within, the Community of serious pests and diseases of plants and plant produce. The Directive is implemented in Wales, for non-forestry matters, by the Plant Health (Wales) Order 2006 (SI 2006 No. 1643). Similar but separate legislation operates in Scotland, Wales and Northern Ireland. For forestry matters the Directive has been implemented by the Plant Health (Fees) (Forestry) Regulations 2006, which applies throughout Great Britain.
- 4.4 The Directive was amended, among other amendments, by Council Directive 2002/89/EC of 28 November 2002.³ 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)).
- 4.5 The powers of Defra inspectors to carry out these examinations are provided in the Plant Health (Wales) Order 2006 but the authority to charge fees for these inspections is contained in separate legislation, currently the Plant Health (Import Inspection Fees) (Wales) Regulations 2006 (SI 2006 No. 2832) (“the 2006 Regulations”), as amended by the Plant Health (Import Inspection Fees) (Wales) (Amendment) Regulations 2007 (SI 2007 No. 1763), the Plant Health (Import Inspection Fees) (Wales) (Amendment) (No.2) Regulations 2007 (SI 2007 No. 3306) and the Plant Health (Import Inspection Fees) (Wales) (Amendment) Regulations 2009 (SI 2009 No. 398). The purpose of the present Regulations is to reflect further changes in certain charges.

5. Implementation

It is intended that these Regulations should come into force on 1 January 2010. Similar legislation has already under implementation in England² and is under consideration in both Scotland and Northern Ireland.

¹ Note that in England this amendment is being implemented in two stages; the first stage on 1 September 2009 and the second on 1 January 2010.

² This Directive can be found at <http://europa.eu.int/eur-lex/en/search/index.html>.

³ This Directive can be found at <http://europa.eu.int/eur-lex/en/search/index.html>.

6. Consultation

The original consultation in 2004 included the possibility of new trades being added to the reduced rate regime in the future. Details of all the trades subject to reduced levels of physical inspection and the relevant fees are in Schedule 2 to the 2008 Regulations.

7. Regulatory Impact Assessment

A Regulatory Impact Assessment (RIA) which was prepared in respect of the Plant Health (Import Inspection Fees) (Wales) Regulations 2006 foresaw changes to the fees for plant health import inspections to which these Regulations apply. The previous RIA therefore applies.