

**Explanatory Memorandum to The Plant Health (Fees) (Wales)  
(Amendment) Regulations 2015**

This Explanatory Memorandum has been prepared by the Natural Environment & Agriculture Team within the Natural Resources Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Plant Health (Fees) (Wales) (Amendment) Regulations 2015.

Rebecca Evans  
Deputy Minister for Farming and Food.

**17 March 2015**

## **1. Description**

The purpose of this instrument is to amend the Plant Health (Fees) (Wales) (Regulations 2014 (S.I. 2014 / 1792 (W. 185)) (“the 2014 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. This is a minor annual adjustment to reflect changes in inspection levels according to risk.

## **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

## **3. Legislative background**

This instrument is made in exercise of powers conferred by section 56(1) of the Finance Act 1973, which are now vested in the Welsh Ministers by virtue of section 59(5) of the Government of Wales Act 2006. These powers permit the Welsh Ministers to make regulations which require the payment of fees or other charges for the provision of any services or facilities or the issue of any authorisation, certificate or other document, in pursuance of any EU obligation. As such, this instrument requires Treasury consent which has been granted.

This instrument will follow the negative resolution procedure.

## **4. Purpose & intended effect of the legislation**

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 Community (“the Plant Health Directive”) establishes the EU plant health regime. The Plant Health Directive is implemented in Wales, for non-forestry matters, by the Plant Health (Wales) Order 2006 (S.I. 2006/1643 (W. 158)). Similar but separate legislation operates in England, Scotland and Northern Ireland.

The Plant Health Directive requires mandatory examinations (documentary checks, identity checks and physical inspection) on certain imported plants and plant produce. In broad terms these checks cover plants for planting, potatoes, major fruits other than bananas and grapes, cut flowers and some leafy vegetables.

Under the Plant Health Directive the required level for inspections is specified at 100%. However, there is provision for the level of physical inspection to be reduced for consignments of plant produce (e.g. cut flowers, fruit and vegetables) from specific third countries if there is evidence that material from that source has been found to be free from pests and diseases during trade

over a three year period. In plant health terms plant produce poses a significantly lower risk than planting/propagating material as it is not planted or propagated and is generally either consumed or disposed of away from agricultural and horticultural production sites. Planting material and potatoes are excluded from risk-targeted checks arrangements and are subject to the mandatory 100% inspection level.

A European Commission working group meets annually to consider applications from Member States for adjustments to inspection levels and reviews agreed levels using trade and interception data from Member States over the previous year. The working group makes recommendations for future inspection levels for consideration by the Plant Health Standing Committee. Levels of inspection 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. Since the risk-targeted checks regime was introduced in 2006 several trades which had been approved for reduced inspections have had that approval removed in response to interceptions of pests or diseases by Member States. None of those cases resulted in a pest or disease outbreak within the EU.

Implementation of the risk-targeted check provisions is discretionary. Member States can choose not to apply reduced inspection levels and continue to inspect all imported plants and plant produce. However, the reduced checks system reflects the principle of risk-targeting which Ministers have agreed should be a key objective to pursue in the context of the review of the EU plant health regime. Adopting these provisions saves around 30,000 inspections on low risk produce in Wales and England per year and allows resources to be focussed instead on targeting trade in planting/propagating material which represents the highest risks. It also means that inspections of material which is currently unregulated under the Plant Health Directive can be carried out, looking for evidence of emerging threats which can then be considered for incorporating in the EU plant health regime.

This evidence feeds into an EU process to consider actions in response to persistent interceptions, which may include Food and Veterinary Office audits to the exporting country concerned, or new import requirements (for instance, fresh peppers were previously unregulated under the EU plant health regime, but now require a phytosanitary certificate to be imported, in response to pest findings). A new EU working group has been established to monitor interception levels and make recommendations. The reduced frequency of import checks arrangements, therefore, allow the targeting of resources away from products which represent a very low risk, to those which represent a higher threat or where the plant health status is unknown.

The Plant Health Directive requires charges to be raised to cover the costs of those examinations, either through the adoption of a scale of minimum charges set out in an Annex, or through a national system based on the calculation of specified costs. Where "reduced checks" apply, the Plant Health Directive states that a proportionally reduced fee should be collected for every imported consignment.

Under the 2014 Regulations, reduced levels of inspection applied to 46 trades. The amendment Regulations will implement the latest changes recommended by the Commission's Reduced Checks Working Group held in June this year, which were agreed by the Plant Health Standing Committee in September. The outcome of this year's meeting was the agreement of increases in levels of inspection on 3 trades (to 100% in the case of mangos from Brazil) because of pest or disease findings or decreases in the volume of trade, with matching increases in fees, as follows:

- Citrus fruit from Tunisia (from 25% to 75%);
- Citrus fruit from Uruguay (from 15% to 75%); and
- Mangos from Brazil (from 50% to 100%).

An additional trade which was shown to pose a minimal plant health risk was accepted for reduced inspection levels. The inspection rate for consignments of the following has therefore decreased, with a matching decrease in fees:

- Capsicum from Morocco (from 100% to 10%).

Further evidence of compliance was available for 7 trades resulting in levels of inspection decreasing, with matching decreases in fees, as follows:

- Cut flowers of *Rosa* from Zambia (from 25% to 15%);
- Citrus fruit from Mexico (from 15% to 10%);
- Citrus fruit from Peru (from 15% to 10%);
- *Prunus* fruit from Turkey (from 15% to 10%);
- *Prunus* fruit from USA (from 15% to 10%);
- *Pyrus fruit* from Chile (from 25% to 15%); and
- *Psidium* from Brazil (from 100% to 75%).

The overall levels of import inspection fees are unchanged in these Regulations, which simply amend the trades subject to reduced checks or change the level of reduction for certain trades. Details of all the trades subject to reduced levels of physical inspection and the relevant fees will be included within a revised Schedule in the amendment Regulations.

There have been no direct imports of these products into Wales since the date of the European Commission notification and the making of these amendment Regulations.

The main stakeholders in England and Wales have been informed of these changes and a summary will be placed on the Animal and Plant Health Agency's website.

## **5. Consultation**

The original consultation in 2004, held prior to plant health inspection charges being introduced in earlier legislation (the Plant Health (Import Inspection

Fees) (Wales) Regulations 2006, (S.I. 2006/171)) outlined the possibility of changes and new trades being added to the reduced rate regime in the future. No further consultation has been carried out on these Regulations as they implement annual changes in fees in line with a predetermined level rather than fundamental changes to the regulatory regime itself.

## **6. Regulatory Impact Assessment**

An impact assessment has not been prepared for these Regulations as they implement annual changes in fees in line with a predetermined level rather than fundamental changes to the regulatory regime itself.

No impact on charities or voluntary bodies is foreseen.

No impact on the public sector is foreseen.

The Animal and Plant Health Agency, who are an executive agency of Defra, is responsible in Wales, on behalf of the Welsh Ministers, for provision of plant health statutory services to facilitate trade and prevent the introduction and spread of plant pests and diseases. Costs, therefore, are collated on an England and Wales basis and are not available in a disaggregated format.