

# **EXPLANATORY MEMORANDUM TO THE PLANT HEALTH (IMPORT INSPECTION FEES) (WALES) (AMENDMENT) 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 amend the Plant Health (Import Inspection Fees) (Wales) Regulations 2006.

## **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.

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 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 2005. Similar but separate legislation operates in England, Scotland, and Northern Ireland.

The Plant Health Directive was amended, among other amendments, by Council Directive 2002/89/EC of 28 November 2002. Among the changes introduced by that 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. In broad terms these checks cover plants, potatoes, the major fruit other than bananas and grapes, cut flowers and some leafy vegetables.

Under the Directive, the required level for inspections is specified at 100%, except for certain trades subject to the Directive's "reduced checks" provision which allows lower levels of physical checks to be agreed on the basis of past experience of compliance. Under the 2006 Regulations reduced checks applied to 52 trades. The trades eligible for reduced levels of inspection are subject to an annual review by the European Commission. In May 2007, a total of 7 trades were removed from the list and the levels of inspection on 25 trades previously agreed under the reduced checks provision were either increased or decreased to take account of additional data on compliance. The Plant Health (Import Inspection Fees)(Wales)(Amendment) Regulations 2009 implement the latest changes agreed by the Commission Working Group held in June last year, which saw the addition of 2 new trades, the removal of 3 trades and changes to the levels of inspection on 12 trades previously agreed.

The Directive requires charges to be raised to cover the costs of those examinations, either through adoption of a scale of minimum charges set out in an Annex, or through a national system based on calculation of specified costs. Where "reduced checks" apply, the Directive states that a proportionally reduced fee should be collected for every imported consignment. Charges for these inspections, based on the minimum charges set out in the Directive, were introduced in Wales in April 2005 under the Plant Health (Import Inspection Fees) (Wales) Regulations 2005 and replaced in August 2006 by the Plant Health (Import Inspection Fees)(Wales) Regulations 2006, which were in turn amended in 2007.

## **5. Implementation**

It is intended that these Regulations should come into force on 23 March 2009. Similar legislation has already been implemented in England on 7 January 2009 and is under consideration in both Scotland and Northern Ireland.

## **6. Consultation**

A consultation on these Regulations was not deemed necessary as the original consultation in 2004, included the possibility of new trades being added to the reduced rate regime in the future.

## **7. Regulatory Impact Assessment**

A Regulatory Impact Assessment (RIA) has not been prepared as the RIA which was prepared in respect of the predecessor to the principal Regulations (S.I. 2005/906) foresaw changes to the fees for plant health import inspections to which these Regulations apply.