

# Rural Affairs and Islands Committee

9th Meeting, 2024 (Session 6), Wednesday, 20 March

## Subordinate legislation

### Introduction

1. This paper supports the Committee's consideration of the draft Plant Health (Import Inspection Fees) (Scotland) Amendment Regulations 2024.

<b>Title of instrument:</b>	<a href="#">Plant Health (Import Inspection Fees) (Scotland) Amendment Regulations 2024</a>
<b>Type of instrument:</b>	Affirmative (see para 23 to 27)
<b>Laid date:</b>	19 February 2023
<b>Reporting deadline:</b>	29 March 2024
<b>Coming into force:</b>	30 April 2024
<b>Motion to approve:</b>	<a href="#">S6M-12218</a>
<b>Instrument drawn to Parliament's attention by DPLRC:</b>	<a href="#">No</a>
<b>Instrument made using powers conferred by:</b>	<a href="#">European Union (Withdrawal) Act 2018</a>
<b>Supporting documentation:</b>	Policy note – <b>Annexe A</b>

### Purpose of the instrument

2. These regulations amend the [Plant Health \(Import Inspections Fees\) \(Scotland\) Regulations 2014](#) to ensure that fees are charged for plant health checks on medium-risk commodities imported into Scotland from third countries, in line with the new [Border Target Operating Model \(BTOM\)](#). Plant health checks are carried out on high-risk consignments of imported plants and other objects into GB from certain countries, including EU Member States, Liechtenstein, and Switzerland. Businesses are charged for these plant health services to prevent the introduction and spread of harmful organisms.
3. This instrument is linked to a UK statutory instrument, [the Plant Health \(Fees\) \(England\) and Official Controls \(Frequency of Checks\) Amendments Regulations 2024 \(DEFRA PH/040\)](#), [the notification for](#) which the Committee considered at its

[meeting on 28 February 2024](#). The Committee agreed that the provisions set out in the notifications should be included in the UK SI.

4. The [Plant Health \(Fees\) \(England\) and Official Controls \(Frequency of Checks\) \(Amendment\) Regulations 2024](#) (SI PH/040) (and corresponding secondary legislation in Wales) will implement the second milestone of the BTOM across the UK from 30 April 2024. The BTOM proposes a new approach to sanitary and phytosanitary (SPS) controls at the border. The GB risk-targeted inspection regime was introduced in July 2022, allowing the frequency of plant health checks to be determined for specific trade import pathways based on the level of plant health risk to GB. The regime established new frequency of checks levels for each commodity dependent on the country of origin. The principal legislation governing the controls required on movement into GB of plants and plant products is set out in assimilated EU legislation, Regulation (EU) 2016/2031.
5. The fees in the 2024 Regulations align with the Scottish Government's approach to achieve full cost recovery of service delivery from businesses using these services. Reduced fees are applied to consignments eligible for reduced levels of physical checks. The 2024 Regulations set out fees based on the methodology from The Official Controls (Plant Health) (Frequency of Checks) Regulations 2022. Import fees for several commodities have been amended to reflect changes in risk levels, and these changes have also been applied in England and Wales (see schedule 1 of the instrument). Some commodities in Schedule 1 of the 2024 Regulations have had their 'country of origin' entries amended as they are no longer regulated from those countries.
6. Regulation 2(4) introduces new fees for documentary checks on certain goods from an EU Member State, Liechtenstein, or Switzerland. This is to align with the introduction of risk-based import checks on medium-risk goods under the BTOM, and the final stages of the Transitional Staging Period (TSP). Regulation 2(4) also provides that no fee is payable for checks on certain low-risk goods from these countries, while risk assessments are being conducted.
7. Goods entering through a West Coast Port (WCP) from any EU Member State, Liechtenstein, and Switzerland are exempt from fees for physical, identity, and documentary checks. This applies to consignments consisting solely of plants, plant products, and other objects, as detailed in Article 72(1) of Regulation (EU) 2016/2031. The Scottish ports listed under this regulation are Ayr, Greenock, and Cairnryan. This exemption does not apply to consignments from Liechtenstein that contain goods listed in Schedule 1 to the Official Controls (Plant Health) (Frequency of Checks) Regulations 2022 and Schedule 2A of the Import Fees Regulations. This is due to certain low-risk fruit and vegetable goods from Liechtenstein being part of the Northern Ireland Retail Movement Scheme (NIRMS), which requires full inspections.
8. Regulation 2(5) clarifies the countries to which additional fees apply for potatoes. Any imports of these potatoes must be checked and will incur an inspection fee.
9. Regulation 2(6) updates and corrects the import inspection fees for physical and identity checks, bringing medium-risk goods from the EU, Liechtenstein, and Switzerland into the existing fees and charges regime.

10. Regulation 2(8) updates the table of fees for documentary checks for certain goods from any EU Member State, Liechtenstein, or Switzerland to account for fees for checks on medium-risk goods.
11. The policy note, provided in Annexe A, sets out more detailed information.

## Consultation

12. Defra, representing the UK Plant Health Service, conducted a brief consultation with stakeholders across GB, including the UK Plant Health Advisory Forum (PHAF), whose members comprise the Fresh Produce Consortium and the Horticultural Trades Association (HTA). The Scottish Government informed Scottish importers dealing in plants and plant products about the consultation. The consultation was open for feedback for 10 weeks, during which three responses were received. Two of these responses were from Scottish businesses and they expressed no objections to the proposals.

## Impact assessments

13. The policy note states that a full impact assessment has not been prepared for this instrument because it does not set out new policy. Changes introduced by this instrument reflect the impact of EU Exit and the operation of the transitional period in relation to the risk-based control of SPS imports. Physical, identity and documentary fee rates have not been increased and therefore, no or no significant impact is expected on business as a result of the policy changes introduced under this instrument.
14. Businesses importing goods from the EU and certain other countries will now need to comply with certain import requirements, such as checks and subsequent fees, applied to all existing third countries.

## Consideration by the Delegated Powers and Law Reform Committee

15. [The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 27 February 2024 and agreed that no points arose.](#)

## Parliamentary procedure

16. Under the Scottish Parliament's Standing Orders (Rules 10.6.1 (a) and 10.10), the instrument is subject to affirmative resolution before it can be made. It is for the RAI Committee to recommend to the Parliament whether the instrument should be approved.
17. The Minister for Green Skills, Circular Economy and Biodiversity has, by motion [S6M-12218](#) (as set out in the agenda), proposed that the Committee should recommend the approval of this instrument.
18. The Minister and her officials will attend the meeting to explain the purpose and policy objective of the instrument and to answer any questions from members at **agenda item 1**. She will then be invited to speak to and move the motion seeking approval at **agenda item 2**. The formal debate on the motion may last for up to 90 minutes.
19. At the end of the debate, the Committee must decide whether it agrees or disagrees with the motion and then report to Parliament accordingly.
20. The lead committee must report its recommendation to the Parliament within 40 days of the SSI being laid; where the lead committee recommends the instrument be approved, the Parliamentary Bureau will propose a motion that the instrument be agreed.

## For decision

### 21. The Committee is invited to—

- **take evidence from the Minister and Scottish Government officials on the instrument (agenda item 1);**
- **invite the Minister to move, and then to debate, the motion on the instrument (agenda item 2); and**
- **delegate authority to the Convener to sign off the Committee's report on its consideration of the instrument to the Parliament.**

**Rural Affairs and Islands Committee clerks**  
**March 2024**

## Policy note

# The Plant Health (Import Inspection Fees) (Scotland) Amendment Regulations 2024 SSI 2024/XXX

1. The above instrument is made by the Scottish Ministers in exercise of powers conferred by paragraph 7 of schedule 4 and paragraph 21 of schedule 7 of the European Union Withdrawal Act 2018 (c. 16). The instrument is subject to affirmative procedure.

## Purpose of the Regulations

2. The Plant Health (Import Inspection Fees) (Scotland) Amendment Regulations 2024 (“the 2024 Regulations”) amend the Plant Health (Import Inspections Fees) (Scotland) Regulations 2014 (“the Import Fees Regulations”) to ensure that fees are charged for plant health checks on medium-risk commodities imported into Scotland from third countries, that align with the new Border Target Operating Model (BTOM). The instruments coming into force date is 30 April 2024.
3. This instrument is linked to a UK statutory instrument, The Plant Health (Fees) (England) and Official Controls (Frequency of Checks) Amendments Regulations 2024, “DEFRA PH/040”, which has been shared with the Scottish Parliament’s Rural Affairs and Islands Committee, to seek approval of Scottish Ministers providing consent to the making of UK secondary legislation affecting devolved areas.

## Policy Objectives

4. The 2024 Regulations make amendments to legislation in the field of plant health as it applies in Scotland. In particular, they amend The Plant Health (Import Inspection Fees) (Scotland) Regulations 2014, which together with The Plant Health (Export Certification) (Scotland) Order 2018, enable the Scottish Government to levy fees related to plant health, including fees concerning imports and exports of plants, plant products and other objects.
5. The purpose of this instrument is to implement, along with the DEFRA SI PH/040, the second milestone of the Border Target Operating Model (BTOM) that comes into effect on 30 April 2024. The BTOM proposes a new approach to sanitary and phytosanitary (SPS) controls applying to imports of live animals, animal products, high-risk food and feed of non-animal origin, plants and plant products at the border, and was published by the UK Government in August 2023.
6. The principal legislation governing the controls required on movement into Great Britain (GB) of plants and plant products is set out in assimilated EU legislation, namely Regulation (EU) 2016/2031 (“the Plant Health Regulation”) for plant health and the Official Controls Regulation for animal, plant and public health

(together “the EU Regulations”), and the additional legislation made under these Regulations.

7. Under Annex 6 of the Official Control Regulations, plant health checks are currently carried out on high-priority (also known as high-risk) consignments of imported plants, plant products and other objects imported into GB from certain countries, including EU Member States, Liechtenstein and Switzerland, and on regulated goods imported from all other third countries, on a risk-basis. Businesses are charged for these plant health services accordingly, to prevent the introduction and spread of organisms harmful to plants or plant products. The existing fees legislation ensures that the cost of plant health services, including import inspections, is recovered via fees.
8. UK SI PH/040 makes changes to the Official Controls Regulation to reflect the introduction of checks on certain medium-risk goods along with similar amendments to the Official Controls (Plant Health) (Frequency of Checks) Regulations 2022, which implemented the current risk- targeted inspection regime. The 2024 Regulations are being introduced to ensure the import inspection fees for plants and products in Scotland reflect the changes being introduced by the BTOM medium-risk checks (physical, identity and documentary) from 30 April 2024. The same BTOM medium-risk import checks will be applied in England and Wales from 30 April 2024.
9. The fees in the 2024 Regulations are in line with the Scottish Government’s approach to achieve the full cost recovery of service delivery from businesses using these services. For consignments eligible for reduced levels of physical checks, a proportionally reduced fee is applied to every imported consignment.
10. The GB risk-targeted inspection regime was introduced in July 2022 in the UK SI Official Controls (Plant Health) (Frequency of Checks) Regulations 2022, and it allows the frequency of plant health checks to be determined for specific trade import pathways based on the level of plant health risk to GB. The regime established new frequency of checks levels for each commodity dependent on the country of origin
11. The fees set out in Schedule 1 of the 2024 Regulations are determined on the methodology as set out by The Official Controls (Plant Health) (Frequency of Checks) Regulations 2022. The import fees in Schedule 1 for several commodities have been amended to reflect a change in their level of risk as determined by the GB risk-targeted inspection regime. The amended fees for these commodities have also been applied in England and Wales. The new medium-risk documentary check fees for specific commodities from the EU, Liechtenstein and Switzerland were also calculated using the methodology.
12. In the 2024 Regulations, some Schedule 1 commodities have had their ‘country of origin’ entries amended because the commodity is no longer regulated from that country of origin.
13. Regulation 2(4) provides new fees for documentary checks relating to certain plants, plant products or other objects originating in an EU Member State, Liechtenstein or Switzerland. This is to align with the introduction of risk-based import checks on medium-risk goods under the BTOM, and the final stages of the

Transitional Staging Period (TSP).

14. Regulation 2(4) also provides that no fee is payable for documentary, physical or identity checks relating to fruit and vegetables from EU member states, Liechtenstein, and Switzerland which are currently being treated as low-risk goods while risk assessments are being conducted. These goods are those listed in schedule 2A to the Plant Health (Amendment etc.) (EU Exit) Regulations 2020 imported before 30th October 2024.
15. Additionally, any goods entering through a West Coast Port (WCP) from any EU Member State, Liechtenstein and Switzerland will not be subject to fees for physical, identity and documentary checks. Regulation (2) (interpretation) lists the Scottish ports as Ayr, Greenock and Cairnryan. This exception applies to consignments originating in an EU Member State, Liechtenstein or Switzerland consisting solely of plants, plant products and other objects, and are detailed in the list established pursuant to Article 72(1) of Regulation (EU) 2016/2031.
16. These exemptions do not apply to consignments originating in Liechtenstein containing goods falling within schedule 1 to the Official Controls (Plant Health) (Frequency of Checks) Regulations 2022 and schedule 2A of the Import Fees Regulations. Certain low-risk fruit and veg goods that originate in Liechtenstein fall within the Northern Ireland Retail Movement Scheme (NIRMS), and goods from there must receive full inspections.
17. Regulation 2(5) clarifies the countries to which additional fees in respect of potatoes applies. Commission Implementing Decision 2019/1614 authorises Member States to provide for derogations from certain provisions of Council Directive 2000/29/EC in respect of potatoes, other than potatoes intended for planting, originating in the regions of Akkar and Bekaa of Lebanon. This derogation was initially deemed to be defunct and was not transposed into GB law. However, for trade purposes (mainly for England), operability amendments have been retained, and as such any imports of these potatoes must be checked and will incur an inspection fee. In Regulation (9), in Schedule 3 (additional fees), in column 2 of the table “and Lebanon” was inserted after “Egypt”. The 2024 Regulations amend, Schedule 3 for the reasons outlined above.
18. Regulation 2(6) updates and corrects the import inspection fees for physical and identity checks, in line with the risk-targeted inspection methodology, and to bring medium-risk goods from the EU, Liechtenstein and Switzerland in scope of the existing fees and charges regime for physical and identity checks to align with the BTOM.
19. Regulation 2(8) updates the table of fees for documentary checks for certain plants, plant products and other objects from any EU Member State, Liechtenstein or Switzerland. This change has been made to account for fees for documentary checks for medium-risk goods from any EU Member State, Liechtenstein or Switzerland as required by the BTOM. The documentary check fee to account for those cases where a reduced frequency of checks will apply (for example, for medium-risk goods from the EU, Liechtenstein and Switzerland). These checks are disappplied until 30 October 2024.
20. Grammatical errors arising from The Plant Health (Fees) (Miscellaneous

Amendment) (Scotland) Regulations 2022 have been corrected.

## EU Alignment Consideration

21. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU because it concerns measures regarding sanitary and phytosanitary controls on goods entering Great Britain from the EU, which are required as a consequence of no longer being an EU member. It is not considered that the changes included in this instrument would give rise to any difficulties were Scotland to seek to re-join the EU in the future.

## Consultation

22. A short consultation was undertaken by Defra on behalf of the UK Plant Health Service with GB-wide stakeholders, such as the UK Plant Health Advisory Forum (PHAF). PHAF members include the Fresh Produce Consortium and the Horticultural Trades Association (HTA). The Scottish Government also made Scottish importers who trade in plants and plant products aware of the consultation. The comment period was open for 10 weeks. Three responses were received, including two from Scottish businesses who raised no concerns with the proposals.

## Impact Assessments

23. There is no significant impact on business, charities or voluntary bodies. Businesses importing goods from the EU and certain other countries will now need to comply with certain import requirements, such as checks and subsequent fees, applied to all existing third countries. This is a result of the EU now being a third country.
24. A full Impact Assessment has therefore not been prepared for this instrument because it does not set out new policy. These changes are amendments that reflect the impact of EU Exit and the operation of the transitional period in relation to the risk-based control of SPS imports.
25. Physical, identity and documentary fee rates have not been increased. Therefore, no or no significant impact is expected on business as a result of the policy changes introduced under this instrument.
26. The 2024 Regulations do not alter the Scottish Government's current environmental policies and priorities, and therefore do not have a significant impact on the environment. The impact on business, charities or voluntary bodies is expected to be minimal.

## Financial Effects

27. The Minister for Green Skills, Circular Economy and Biodiversity confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary as the instrument has no significant and no financial effects on the Scottish

Government, local government or on business as with The Plant Health (Fees)  
(Miscellaneous Amendment) (Scotland) Regulations 2022<sup>1</sup>.

Scottish Government  
Agriculture and Rural Economy Directorate February 2024

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1 <https://www.legislation.gov.uk/ssi/2022/230/contents/made>